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Copyright, 1935. The National Association of Broadcasters

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HEALTH-O-QUALITY PRODUCTS CO.

On receipt of inquiry from member stations, it has been learned that the Federal Trade Commission late in 1934 entered into a stipulation with the Health-O-Quality Products Co., Cincinnati, Ohio. The stipulation, No. 0770, is entitled "Stipulation of Facts with Vendor-Advertiser and Agreement to Cease and Desist—False and Misleading Advertising, Toilet Preparations." Copies may be obtained from the Federal Trade Commission or through NAB headquarters.

FEDERAL TRADE COMMISSION ACTIVITIES

Complaints

The Federal Trade Commission has alleged unfair competition in complaints issued against the following companies. In each case, the respondent will be given an opportunity to appear at a hearing to show cause why a cease and desist order should not be issued.

No. 2551. Chicago Silk Co., Chicago, Ill. The complaint alleges that the company distributes through the mails certain literature, instructions and sales outfits, including paper punch cards and the premiums to be awarded by lot of chance, constituting unfair competition through the use of a lottery. Hearing October 18.

No. 2552. Vernon White & Co., Thayer Sales Corp., Federal Pure Food Co., and T. E. Hanshaw, all of Chicago, Ill. The complaint alleges misrepresentations in the sale of a food product in the promotion of the sale of their product "Yum-Yum." Hearing October 18.

No. 2254. J. C. Hickson & Co., Miami, Florida. The complaint alleges unfair competition in advertising its citrus fruits as "Indian River" fruit, when in fact it was not grown in the Indian River region in Florida. Hearing October 25.

No. 2256. Peters Serum Co., Kansas City, Mo. The complaint alleges improper use of the word "Manufacturer" in its advertising literature. Although the Peters Company manufactures serums and bacterins for inoculation of livestock and poultry against disease, the complaint points out that it also deals in a line of veterinary remedies and preparations purchased from other dealers. Hearing October 25.

No. 2257. Thayer Pharmacal Company and Thayer Sales Corporation, 2944 W. Lake Street, Chicago. The complaint alleges unfair representations in the sale of cosmetics, in that the respondent is alleged to have advertised a massage cream as "Turtle Oil Cream," when in fact turtle oil or oil derived from turtles does not constitute the whole or even a substantial part of the oil content of this cream. Hearing November 1.

Dismissal

No. 2253. G. A. Goebel Company, Inc., Chicago, Ill. The complaint charging unfair representations in the sale of military uniforms and insignia, was dismissed on consideration of the record.

Stipulations

No. 1455. Leading Drug Corporation, of New York City, agrees to cease using advertisements having a tendency to deceive

buyers into the belief that the company manufactures or compounds all of the products it sells, or any except those it does actually manufacture or compound.

No. 1456. Sinclair G. Stanley, of Chicago, trading as Z. G. Herbs Company and engaged in preparing a product compounded from herbs and designated "Z. G. Herbs Tea No. 17" or "Z. G. Herbs Tea No. 17, Extra Strong," will abandon the use of advertising matter which tends to deceive purchasers into believing that his product is a remedy or cure or possesses such therapeutic properties or value as to be properly represented or referred to as a competent and adequate treatment for stomach troubles, nervousness, gallstones, or other ailments, when this is not true. The Commission, on August 10, 1935, announced the closing of a formal case against the respondent concerning charges covering the same allegations included in the stipulation because of the fact that Stanley had entered into a stipulation to cease and desist from the practices alleged.

No. 0900. Louis Ball and Mark Burke, of Wilkes-Barre, Pa., trading as Dr. Webber Co., and selling a treatment for obesity, agree to stop representing that the preparation is either safe or absolutely harmless, that it contains no harmful ingredients, and that it is a tonic or produces wonderful or marked tonic effects. This preparation was advertised as having been "tried and tested on both sides of the sea."

No. 0901. The Certified Crystals Sales Co., of Charleston, W. Va., in its stipulation, admits making various representations and asserts that it has definitely discontinued advertising and selling its commodity, but that should it at any time resume such advertising it will follow the rules of the Federal Trade Commission. Particularly, it will not advertise that "Certified Crystals" are a competent or effective treatment for a substantial number of ailments, including rheumatism, neuritis and lumbago.

No. 1457. Herman L. Gold, trading as Kantrun Manufacturing Company, Chicago, Ill., agrees to cease representing in advertisements that the use of his chemical compound for treating silk, chiffon and rayon hosiery, and lingerie, makes possible the prevention of runs, snags and breaks.

No. 1458. Pamies & Sons, Inc., St. Augustine, Fla., according to its stipulation, maintained a cigar factory at Tampa, Fla., prior to 1932, then moved to St. Augustine where it continued to manufacture cigars. The firm, Ricardo & Co., Inc., of St. Augustine, is owned by Pamies & Sons, Inc., and the officers and directors of the two corporations are the same. In their stipulation these respondents agree to cease and desist from using the word "Tampa" on brands or labels affixed to their products or the containers of the products, or in any way that tends to deceive buyers into believing that their cigars are made in Tampa, Fla., or in the territory immediately surrounding known as the "Tampa District," when this is not a fact.

No. 1459. Hibriten Furniture Co., Lenoir, N. C., agrees to stop using the word "walnut," either independently or in connection with other words, in its advertising matter so as to imply that the products so described are derived from the trees of the walnut family, when this is not true.

No. 1460. A. W. Faber, Inc., Newark, N. J., agrees to stop advertising to the effect that it manufactures a certain type of pencil which it sells, when this is not true.

No. 1462. E. J. Pritchett, Dallas, Texas, an individual trading as Diamond Specialty Company, engaged in the printing business, including the sale and distribution of calling cards, agrees to cease and desist from using in his advertising matter the word "engraved," either alone or in connection with the word "process," in a manner tending to deceive buyers into the belief that the product he sells is engraved or embossed or is the result of impressions made from inked engraved plates, when this is not true. Pritchett, according to the stipulation, did not use the process known as "engraving" or "embossing."

No. 1463. Michael J. Friedman, Chicago, an individual trading as Crown Spirits Company, and engaged in the bottling, blending and rectifying of wines, liquors and cordials, agrees to stop using the word "manufacturers" on letterheads, invoices and in advertising, or in any way which may deceive buyers into believing that he owns, controls and operates a factory wherein the products he sells are manufactured, when this is not true.

No. 1464. Harry G. Kuechle, Minneapolis, an individual trading as Double-Wear Shoe Company, agrees to abandon the use in his catalogues, order blanks or other literature, of the phrase "From factory to wearer," or any similar phrase which may have a tendency to confuse or deceive purchasers into the belief that Kuechle manufactures the products he sells or owns and operates the factory in which they are made. Kuechle also stipulates that he will stop employing in his advertising a picture of a factory or buildings implying that the products sold by him are made in such factory or buildings, or that they are owned and operated by him. He will cease representations to the effect that his selling method eliminates jobbers' and wholesalers' profits, when this is not true.

No. 1465. S. & M. Cut Rate Stores, Inc., Washington, D. C., will discontinue the listing of its corporate and trade name in the Washington telephone directory under the classified heading of "Army and Navy Goods Business" and from employing the phrase "Army and Navy Goods" in its advertising or in any way which may have a tendency to deceive buyers into the belief that the products which it sells consist in substantial part of Army and Navy surplus products, when this is not true.

No. 1461. Henry R. Simmons and Rutledge Simmons, Jr., New York City, tr/as Henry Ginnel & Co. The respondents agree to stop selling or placing in the hands of others for sale products to which are affixed tags bearing what purport to be retail selling prices but which are exaggerated and fictitious.

No. 1499. Oklahoma Publishing Co., Oklahoma City, has entered into a stipulation with the Federal Trade Commission to cease and desist from entering into special contracts for sale of its advertising space and from giving discounts or rebates to advertisers as a reward for their refusal to buy advertising space from competitors.

Cease and Desist Order

No. 2492. White Cross Laboratories, Inc., Chicago, Ill. According to the consent cease and desist order entered into with the Federal Trade Commission, the respondent agrees to discontinue alleged misrepresentation in the sale of "Turtle Oil" cream.

BROADCASTING PHONOGRAPH RECORDS

An interesting and important decision on the subject of copyright and of broadcasting of sound records was received this week from the Department of State. It is a decision of the Royal Hungarian Supreme Court in the case of Hungarian Radio Company versus Gramophone Company, Limited, of London.

The decision is especially interesting at this time because of the suit recently brought by Fred Waring against Radio Station WDAS, Philadelphia (See NAB REPORTS, Sept. 26, 1935, p. 968).

The decision in full text follows:

Translation

A final decision in a law suit was given on January 30, 1935, under No. 9.P.41702/934/1, before the Budapest Royal Court, which suit was instituted by the Magyar Telefonhíradó és Rádió R. T., plaintiff, represented by Dr. Louis Ludinszky, a Budapest attorney, against the Budapest Representative of the Gramophone Co. Ltd., defendant, represented by Dr. Herbert Trebits, a Budapest attorney, concerning the non-existence of author's right. An appeal was filed on March 4, 1935, against the judgment of the Budapest Royal Court on the basis of article 18, Law VIII of 1925, under P.I. 41702/1934/10. A hearing of the case having taken place on May 24, 1935, the Royal Hungarian Supreme Court rendered the following judgment:

The Royal Hungarian Supreme Court dismissed the appeal of the defendant with costs (250 gold pengő).

The reasons are the following:

I. The fact that the plaintiff in a letter dated August 8, 1934, noted from a letter of defendant dated August 2, 1934, that the defendant forbids the use of the records of its factory for radio broadcasting can only be understood to mean that the plaintiff acknowledged the fact that the defendant forbade the use of the

records, but it cannot be inferred that the plaintiff acknowledged the protest as justified and binding.

There is therefore no basis for the defendant's claim, submitted also in his appeal, that the plaintiff through an agreement to this effect, obliged himself to acknowledge the protest as justified and binding.

Consequently in the law suit filed on the basis of article 130 of the Code of Civil Procedure the question had to be examined, whether, in consideration of the protection granted to performing artists under the copyright law, the broadcasting of an artist's performance through gramophone records is subject to the permission of the gramophone factory, owing to a transfer of rights of the performing artist.

Therefore, the Court had to ascertain what constitutes the legal status of the performing artist in the use and utilization of his artistic performance.

The performing artist does not create, but only brings before the public an already existing work of art in an artistic performance. The performing artist is therefore not entitled to copyright protection, although an adequate protection of the performance of an artist who shows individual conception and style must undoubtedly be provided.

At a conference held at Rome for the revision of the Bern convention the hope was expressed that the various governments should consider the possibility of establishing rules for the protection of the rights of performing artists, because at this conference the proposition that the copyright of the performing artists be assured, was not adopted, since a majority opposed it on the basis that the performing artist is not considered the author of a "composition."

The defendant is basing his claim, that the performance of an artist recorded for mechanical performance comes also under the provisions established for works (compositions) entitled to copyright, on article 8 of the Copyright Law.

This provision of the Law, however, can not be interpreted as meaning what the defendant claims.

According to article 8 of the Copyright Law, "Translations, adaptations, including adaptation of the performance of an artist for mechanical production (article 6, par. 9.), also re-arrangements (revisions), etc., enjoy the same right as the original works (compositions) without infringement of the rights of the original author."

According to the official explanation of the law by the Cabinet Minister who introduced the bill in Parliament, the artistic adaptation of a composition reflects the adapted work through the personal artistic performance of the artist, by way of gramophones or similar instruments.

The above mentioned article 8 protecting adaptations, revisions, etc., actually refers to the adaptations, revisions, etc., mentioned in article 6, par. 10, and consequently it protects the adapter, revisor, etc., who adds his own creating work to the original by which certain changes are effected in it, whereas, on the other hand, an artistic "adaptation" by somebody who merely performs, reflects the original work in an unchanged form in his performance and hence in no sense does he create a new work, however artistic or individual his performance may be.

Although the ministerial interpretations regarding article 8 acknowledges the performing artist as the author of the artistic adaptation, it is plain that in the sense of the Copyright Law, he can not be considered as the author of the composition.

Though it is true that the provision of article 8 of the Hungarian Copyright Law regarding the performing artist might have been drafted under the influence of the respective provisions of the German and Austrian copyright laws, which consider the activity of the performing artist as completing the performed work, and the artist himself as author of the completion, this fact can not be taken into consideration when interpreting the respective provisions of the Hungarian Copyright Law for the reason that the fiction which considers the result of the performing artist's activity as a work in itself, is steadily losing ground as appears from the draft of the German Copyright Law issued in 1932.

And though the convention of Bern, and subsequently the convention of Rome in article 2, paragraph 2, gives the same right to adaptations as to original compositions, it obviously did not mean the activity of the performing artist also, as otherwise there would not have been submitted to the Rome conference, which led to the conclusion of the convention, a special motion to provide a certain copyright protection for performing artists, and when this motion was overruled, the conference would not have merely expressed the wish that the various governments consider

the possibility of making rules by which performing artists may assert their claims.

Therefore the defendant's standpoint, that the Rome convention in paragraph 2 of article 2 also assured to the performing artist the protection extended to the author in article 11/a according to which the author has the exclusive right to permit the performance of his compositions for the general public through the radio, is erroneous. There is a sharp difference between adaptation—i. e., the activity of an author (composer) who creates a work (composition)—mentioned under article 8 of the copyright law and procedure contained in article 6, paragraph 10, on the one hand and the mention in article 8 of "adaptation connected with artistic activity" to which article 8 of the Hungarian Copyright Law also endeavored to assure a certain protection not closely defined. Such protection was permissible within article 8 to adaptations mentioned in article 6, paragraph 10.

Since the extent of this protection can not be ascertained from the Law itself, it is the task of the Court to draw the limits of this protection by interpreting the Law in accordance with present day ideas.

Article 8 protects an artistic performance intended for mechanical representation and refers in this connection to paragraph 9 of article 6 which makes the author's consent a condition of the transmission of his work to instruments of mechanical representation and their stationary or exchangeable parts (records, cylinders, films, etc.).

Such instruments of mechanical representation are the gramophone, the film, but also the radio.

The Royal Supreme Court does not share in this respect the view of the Royal Court of Justice, according to which broadcasting of the work can not be considered a transmission to a mechanical instrument in the sense of paragraph 9 of article 6, since recording of a work by a mechanical instrument is understood by the term "transmission."

The law does not specify that the transmission must be effected through an instrument which records it; such a constriction of the law would not be justified in view of the necessity of the protection of radio broadcasting.

According to the correct interpretation of the provision of the law in question, transmission of the work to any instrument which reproduces it through mechanical means is understood.

The sound waves of speech, song and music before the microphone cause corresponding changes of electrical current in the microphone; these changes, taken up and strengthened by the sender, are broadcast as radio waves into the space by the antenna and, in the receiver, through its own antenna, these electrical waves cause changes of current which bring about adequate sound waves in the ear-apparatus or loudspeaker. The ear apparatus or loudspeaker, therefore, transmit the speech, song or music through a mechanical process, consequently broadcasting of such performance is nothing but transmission in the sense of paragraph 9 of article 6 to an apparatus capable of mechanical reproduction, i. e., performance. Radio broadcasting is therefore not only a transmission but also a reproduction through mechanical means of the sound.

When the Copyright Law was enacted, the legislator drafting article 6, paragraph 9, had in mind the gramophone records and mechanical apparatus then existing (mentioned in article 13, paragraph one, point 1 of the Bern agreement), and he could not have thought of the radio, the importance of which was not known at that time. There is, however, no reason why article 6, paragraph 9, of the Copyright Law should not now be applied also to the radio, since by giving such an interpretation to the above-quoted paragraph the Hungarian authors also enjoy the right of broadcasting their works through the radio to which the authors of foreign works are entitled in our country under articles 4 and 6 of the Rome convention.

This interpretation of article 6, paragraph 9, therefore on the one hand includes the protection granted to the author by article 13, paragraph 1, point 1 of the Rome convention (in which the convention mentions only the gramophone and apparatuses which record the work), and on the other hand also includes the protection which article 11/a of the Rome convention deemed necessary to mention specially. In applying the provisions of the convention within the competence of article 6, paragraph 9, of the Copyright Law, the cases mentioned in article 13, paragraph 1, point 1, must therefore be separated from those mentioned in article 11/a.

With regard to the above, and according to a correct interpretation of the provision of article 8 which considers the performing artist's work for mechanical production entitled to the same

protection as the original work, the performing artist has the exclusive right to permit that the reproduction of his artistic performance by gramophone, film or similar apparatus, be duplicated and be brought into circulation, and that it be *directly* transmitted to the public—for instance from a concert hall, where the artist is performing in person—through the radio or the telephone news service. The permission to transmit the performance of an artist by gramophone records (films) is considered to include the permission of multiplication, publication and circulation of the transmission, unless the contrary follow from the particular circumstances of the case.

II. A further question is whether gramophone records made with the permission of the performing artist may be used for public performance or for radio broadcasting without his permission.

Articles 49-55 of the Hungarian Copyright Law grant exclusive author's right of the public performance of their work only to the authors of plays, musical plays, and musical compositions, and article 74 to the authors of motion picture plays.

Though article 51 of the Copyright Law refers to article 8, the protection of the public performance of plays, musical plays, and musical compositions revised, adapted, translated according to article 6, paragraph 10, and article 7 was evidently intended, and not the protection of the performance of an artist reproduced by gramophone record or other similar apparatus, which, according to the above, can not be considered as coming under the same category as a "work" (musical composition, etc.).

For the same reason no protection of the performing artist against public performance can be inferred from the provisions contained in articles 54 and 74 of the Copyright Law which stipulates that the provisions of article 8 are to be correspondingly applied also to the public performance of plays, musical plays, and musical compositions, as well as of motion picture productions.

Considering further that according to article 53 of the Copyright Law the author of the text of a musical composition has no right to object to the public performance of a record made with his permission, it is obvious that the Law did not intend to make the use of the records for public performance dependent on a permission of the performing artist whose part is generally less important than that of the author of the text.

The Court of Justice was correct in stating that article 52 of the Copyright Law was intended to provide protection only to the authors of plays, musical plays and musical compositions regarding the public performance through a mechanical apparatus, but not to the performing artists.

Hence, according to our Copyright Law, gramophone records or films rightfully made of the performance of an artist may be used for public performance without his permission.

If the performing artist has no exclusive right of public performance of his work recorded by gramophone or film, it may be justly inferred that the right of broadcasting his performance through the radio can not depend on his permission either.

III. The view as taken by the Supreme Court that the permission of the performing artist is not required for the broadcasting of gramophone records through the radio is based further on the following considerations:

The permission of the composer of a musical composition is certainly required for the public performance or broadcasting over the radio of a gramophone record made of his copyrighted work.

If, besides the permission of the composer the permission of the performing artist would be also required, composers would be unfairly hampered in selling and disposing of their compositions, because while it is usually not difficult to obtain the permission of composers through their various organizations established for this purpose, the difficulties to obtain the permission of the performing artist would, for various reasons, be almost insuperable.

It is also to be considered that the performing artists receive a proper fee for their performances when these are recorded, and there are no reasons deserving consideration why they should be reserved a participation in the utilization—which also includes public performance and broadcasting over the radio—of the records made with their permission. The fee paid to the artist for recording may also be considered a fee for the use of the record for public performance and radio broadcasting.

The draft of the German Copyright Law published in 1932 desires to limit, explicitly referring to foreign legislative acts, the protection granted to the performing artist in a way that his exclusive rights do not extend to the use of mechanical instruments, gramophone records, films, made and put into circulation with his permission for public performance or radio broadcasting.

IV. Therefore, when article 8 of our Law provides that the performance of a performing artist enjoy the same protection as

original compositions, it does not thereby indicate that the protection granted to the performing artist is identical with that enjoyed by the author in every respect and in its full extent; it merely indicates that he too is entitled to protection greater than that afforded by ordinary Civil Law; hence he may demand the application of legal procedure defined in article 18 of the Copyright Law, to anybody who violates his rights.

Notwithstanding that the production of a performing artist cannot be termed a composition of original work and notwithstanding that the performing artist cannot be considered as an author in the sense of the Copyright Law, article 8 of the latter assures to the production of the performing artist a protection not clearly defined but nevertheless equal to that assured to original compositions; hence the performing artists being thus specially favored, the practice of the Court cannot extend the limits of the protection granted to the performing artist beyond justified limits.

Accordingly, article 8 of the Copyright Law shall be correctly interpreted, upon comparison with other provisions of the Law, to the effect that the performing artist has the exclusive right to permit that his artistic performance recorded by gramophone, film or other similar apparatuses be duplicated, published and put into circulation and at the same time he has the exclusive right to permit the broadcasting of his artistic performance directly through the radio, but his permission is not required in order that records or films which have been lawfully made of his artistic performance and put into circulation, may be used for public performance or broadcasting through the radio. It is further self-evident that, in the case of a personal public performance of a performing artist, his permission is required for a *direct* radio broadcasting of his performance; no such permission is needed, however, for the public performance or radio broadcasting of artistic performances rightfully recorded for gramophones (in films) and put into circulation. There is no need to discuss here the cases in which the consent of the performing artist to a transmission of his performance over the radio may be taken for granted, owing to circumstances and common sense.

V. As according to the above the Rome convention does not deal with the right of the performing artist, and does not consider the performing artist as composer (author), article 4 of the convention can therefore not be applied to the performance of the artist. Foreign artists, therefore, cannot refer to article 4 of the convention.

The Hungarian Copyright Law—according to its correct interpretation—does therefore not require the permission of the performing artist for the public performance and radio broadcasting of gramophone records lawfully made and put into circulation and accordingly—lacking an international agreement to the contrary—it is of no consequence whether the performing artist is a Hungarian or foreign subject or whether the records were made in Hungary or in other countries. Accordingly, gramophone records made of the performance of foreign artists may be performed publicly in Hungary or broadcast over the radio without their consent.

In view of the principles outlined above, the defendant cannot rightfully protest, on the grounds that the performing artists assigned to him their rights in regard to their artistic performance, against the broadcasting in Hungary, without his consent, of gramophone records of artistic performances. Consequently, an inscription affixed on records by the defendant to the effect that broadcasting of the record without his permission is prohibited, puts the plaintiff under no legal obligation since there was no contract between plaintiff and defendant. Nobody can acquire extra-contractual rights against third persons by one-sided declarations if there are no rules granting him such right.

VI. As regards the defense of the defendant based upon unfair competition, the view of the Royal Court is correct that, although the plaintiff collects a fee from his subscribers, he does not compete with the defendant, in the latter's capacity of producer and distributor of the records, by the broadcasting of gramophone records through the radio. Since, according to the above, the plaintiff has the right to broadcast through the radio the sound records put into circulation by the defendant, without the permission of the latter, there can be no question of any unfair competition on the part of the plaintiff by such broadcasting.

VII. Taking all this into consideration the Royal Court correctly decreed that the defendant has no right to forbid the broadcasting through the Hungarian Radio of sound records put into circulation by him and to make their broadcasting dependent on his permission; further, that the inscription on the sound records forbidding their broadcasting through the radio has no legal effect against the plaintiff and the latter is not obliged to comply with the restrictive order. As the appeal of defendant was unsuccessful,

therefore, the Royal Supreme Court orders the payment of the expenses incurred by the appeal according to Civil Law Procedure Articles 508 and 543.

Budapest, May 24, 1935.

(Signed) Dr. Stephen Osvald, Chief Judge of the Royal Hungarian Supreme Court, Dr. Desider Alföldy, Master in Chancery, Edward Ulrich, Dr. Ralph Ludwig, Dr. Joseph Brandt.

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Securities & Exchange Commission under the Securities Act:

- General Mines Corporation, Spokane, Wash. (2-1654, Form A-1)
- Foresight Foundation, Inc., Philadelphia, Pa. (2-1655, Form C-1)
- R. W. Smith, Inc., Wilmington, Del. (2-1657, Form A-1)
- Penryn Gold Mines Company, Spokane, Wash. (2-1659, Form A-1)
- Arkansas Southern Oil Company, Inc., El Dorado, Ark. (2-1660, Form A-1)
- National Rubber Machinery Co., Akron, Ohio. (2-1661, Form A-2)
- Gold & Silver Circle Mines, Inc., Midas, Nev. (2-1662, Form A-1)
- The Baltimore Dairy Company, Baltimore, Md. (2-1663, Form A-1)
- Committee for Holders of Corpus Christi Co., Corpus Christi, Tex. (2-1665, Form D-1)
- Signode Steel Strapping Company, Chicago, Ill. (2-1666, Form A-2)
- The Brush-Moore Newspapers, Inc., Canton, Ohio. (2-1667, Form A-2)
- Committee for Quincy Station P. O. Bldg., Corporation, St. Louis, Mo. (2-1668, Form D-1)

RECOMMENDS CHANGE FOR WILL

Broadcasting Station WILL, Urbana, Ill., applied to the Federal Communications Commission for change of frequency, power and hours. The station operates on 890 kilocycles, 250 watts and 1,000 watt LS, sharing time with KUSD and KFNF. The station asked for 580 kilocycles, 1,000 watts LS and daytime hours. This was granted by the Commission but subsequently Station WIBW filed a protest and hearing was called before an Examiner.

Examiner P. W. Seward in Report I-111 recommends that the original grant of the Commission be affirmed. The Examiner found that granting the application of WILL would not curtail the advertising of WIBW as claimed by that station. He states that granting of the application would be in the public interest and so recommends.

DENIAL RECOMMENDED OF WSYR-WSYU APPLICATION

Station WSYR-WSYU, Syracuse, N. Y., applied to the Federal Communications Commission for authorization to move the transmitter locally, to install new equipment and to increase its operating power from 250 to 1,000 watts.

Examiner Ralph L. Walker in Report I-112 recommends that the application be denied. He found that the granting of the application "would result in further increasing the over quota condition of a state now having more than its equitable share of nighttime broadcast facilities."

FOOD AND DRUGS ADMINISTRATION DENOUNCES DINITROPHENOL

The following release has been issued by the Department of Agriculture concerning dinitrophenol:

Blindness from the use of dinitrophenol for reducing weight has not stopped the use of the drug in spite of repeated warning, says W. G. Campbell, Chief of the Federal Food and Drug Administration.

The eye cataracts observed in dinitrophenol poisoning develop with a rapidity and malignancy hitherto unknown, and result in total blindness within a comparatively short time. This drug may produce acute poisoning, the symptoms of which are nausea, stomach and intestinal distress, sweating, flushed skin, high fever, rapid breathing, and muscular rigor followed by death. The drug also damages the liver, kidneys, heart and sensory nerves. It produces

agranulocytosis, a blood disorder also noted in cases of poisoning with amidopyrine, a common ingredient of medicines for the relief of pain.

The Food and Drugs Act, according to Mr. Campbell, is practically inoperative against this public health hazard. He says, "The only application of the law to these products is through some misstatement of fact or some false and fraudulent curative claim in the labeling. In any event, the law can be invoked only when the product has been transported across a state line."

"There is little doubt," continues Mr. Campbell, "that the cases of progressive blindness recently reported in California are the result of medication with dinitrophenol. It is to be regretted that the present Federal law is silent with respect to the control of dangerous drugs."

Of all the products containing dinitrophenol now on the market, only one has been confiscated under the Food and Drugs Act, the Administration reports. That was "Slim," against which legal action was brought because of a label claim that it was "safe to use," whereas medical opinion is unanimous to the contrary. This proceeding was approved by Mr. Campbell, who states that in the absence of affirmative control over dangerous drugs, and to achieve one of the essential objects of the Food and Drugs Act—the protection of the public health—it is the purpose of the Administration to take advantage of any available legal technicality in proceeding against all products containing dinitrophenol. This, he points out, is contrary to the usual practice of the Administration in enforcing the Food and Drugs Act.

Dinitrophenol is sold under many fanciful names sometimes accompanied by a statement of the presence of the drug itself. Some of the names under which it has been or is now being sold are reported by the Food and Drug Administration as follows: Nitromet, Dinitrolac, Nitra-Phen, Dinitriso, Formula 281, Dinitrore, Nox-Ben-Ol, Re-Du, Aldinol, Dinitrenal, Prescription No. 17, Slim, Dinitrole, Tabolin and Redusols.

"It is interesting to note," said Mr. Campbell, "that all the so-called reducing preparations on the market fall into three categories: first, laxatives that deny the body the benefit of its food intake, as the salts, crystals and herb teas; second, obvious frauds that depend for effect upon the stringent diets prescribed as part of the 'treatment,' as 'Syl-Vette' and 'Stardom's Hollywood Diet'; and third, the unquestionably effective but dangerous articles containing thyroid or dinitrophenol, both of which act by speeding up the utilization of food. All of them are unwarranted impositions upon the public, which cannot evaluate claims made for the preparations, and cannot readily appreciate the harm that may result from careless use of the products."

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, October 7, 1935

- NEW—Joplin Broadcasting Co., Pittsburg, Kans.—C. P., 1200 kc., 100 watts, daytime.
- NEW—Pittsburg Publishing Co., Pittsburg, Kans.—C. P., 1500 kc., 100 watts, unlimited time.
- NEW—William S. Thellman, New Castle, Pa.—C. P., 1420 kc., 100 watts, daytime.
- NEW—Chanute Broadcasting Co., R. B. Smith, R. E. Highley, C. M. Brobst, Partners, Chanute, Kans.—C. P., 1500 kc., 100 watts, daytime.
- NEW—Harold F. Foraker and Ray D. Luzadder, d/b as The Wichita Broadcasting Co., Wichita, Kans.—C. P., 1500 kc., 100 watts, unlimited.

Tuesday, October 8, 1935

- NEW—Luther E. Gibson, d/b as Times-Herald Publishing Co., Vallejo, Calif.—C. P., 850 kc., 250 watts, daytime.

Wednesday, October 9, 1935

- NEW—Dudley J. Connolly, Elliott Knight, Roy W. Knight, and Fred Sullivan, d/b as Dudley J. Connolly & Co., Chattanooga, Tenn.—C. P., 1200 kc., 100 watts, daytime.
- WBHS—Virgil V. Evans, Huntsville, Ala.—C. P., 1200 kc., 100 watts, unlimited time. Present assignment: 1200 kc., 100 watts, 6/7 time; requests authority to move to Chattanooga, Tenn.

WBHS—Virgil V. Evans, Huntsville, Ala.—Renewal of license, 1200 kc., 100 watts, shares with WFBC-WBHS 6/7 time.

Thursday, October 10, 1935

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

- Examiner's Report No. I-78:
NEW—2826—B4-P-329—Head of the Lakes Broadcasting Co., Virginia, Minn.—C. P., 1370 kc., 100 watts, unlimited time.
- Examiner's Report No. I-46:
NEW—2766—B4-P-273—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—C. P., 1010 kc., 1 KW, unlimited time.

FURTHER HEARING BEFORE AN EXAMINER

- NEW—KWIL Broadcasting Co., Williston, N. Dak.—C. P., 1500 kc., 100 watts, specified hours.

Friday, October 11, 1935

- NEW—Springfield Newspapers, Inc., Springfield, Mo.—C. P., 710 kc., 1 KW, daytime.
- NEW—Ralph Perez Perry, Santurce, Puerto Rico.—C. P., 1340 kc., 250 watts, unlimited time.

APPLICATIONS GRANTED

- KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Granted C. P. to make changes in equipment and change method of modulation from low to high.
- WOOD—Kunsky-Trendle Broadcasting Corp., Grand Rapids, Mich.—Granted authority to install automatic frequency control.
- WXYZ—Kunsky-Trendle Broadcasting Corp., Detroit, Mich.—Granted authority to install automatic frequency control.
- WFBC—Greenville News-Piedmont Co., Greenville, S. C.—Granted modification of C. P. approving transmitter site at Piedmont Highway, U. S. 29, Greenville, S. C., extend commencement date to 30 days after grant and completion date to 180 days thereafter.
- WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted modification of C. P. to extend completion date to January 17, 1936.
- WHN—Marcus Loew Booking Agency, New York City.—Granted renewal of license for the regular period; 1010 kc., 1 KW, unlimited.
- WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Granted license to cover C. P. authorizing changes in equipment and increase in day power to 250 watts.
- WJAY—The Cleveland Radio Broadcasting Corp., Cleveland, Ohio—Granted C. P. to install new equipment, move studio location to 1311 Terminal Tower, Cleveland, and transmitter locally to site to be determined with Commission's approval.
- KINY—Edwin A. Kraft, d/b as Northwest Radio Advertising Co., Juneau, Alaska—Granted modification of license to change name from Edwin A. Kraft, d/b as Northwest Radio Advertising Co. to Edwin A. Kraft.
- KSO—Cedar Rapids Broadcast Co., Des Moines, Iowa—Granted C. P. approving transmitter site to north of Des Moines, Iowa; extend commencement date to 60 days after grant and completion date to 180 days thereafter.
- KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Granted modification of C. P. to extend completion date to January 19, 1936.
- WTAQ—Gillette Rubber Co., Green Bay, Wis.—Granted consent to voluntary assignment of C. P. to WHBY, Inc.
- WNYC—City of New York, Dept. of Plant and Structures, New York City—Granted C. P. to move transmitter site locally foot of Greenpoint Ave. and East River, Brooklyn, and make changes in antenna.
- NEW—Brown Radio Service & Lab. (Gordon P. Brown, Owner), Rochester, N. Y.—C. P. amended, removed from hearing docket and granted, for new station to operate on 1210 kc., 100 watts, daytime.
- NEW—Don Lee Broadcasting System, Portable-Mobile (Los Angeles).—Granted C. P. (temporary broadcast pickup); frequencies 1646, 2690, 2190, 2830 kc., 100 watts.

KNEF—Radio Service Corp. of Utah, Portable-Mobile (Salt Lake City, Utah).—Granted license to cover C. P. (temporary broadcast pickup); frequencies 1646, 2090, 2830 kc., 200 watts.

WOEG—General Electric Co., Portable-Mobile (Schenectady, N. Y.).—Granted license to cover C. P. for temporary broadcast pickup service; frequencies 1606, 2020, 2102 and 2760 kc., 50 watts.

SET FOR HEARING

NEW—Eagle Rock Broadcasting Co. (Charles A. Butler, E. Kaufman), Eagle Rock, Calif.—C. P., already in hearing docket, amended to read: 600 kc., 250 watts, daytime.

NEW—James R. Doss, Jr., Tuscaloosa, Ala.—C. P., already in hearing docket, amended to read: 1200 kc., 100 watts, daytime.

KLO—Interstate Broadcasting Corp., Ogden, Utah.—C. P., already in hearing docket, amended to read: Move transmitter to site to be determined by the Commission, make changes in equipment, increase power from 500 watts to 1 KW, and make changes in antenna.

WBAA—Purdue University, W. Lafayette, Ind.—Modification of license already in hearing docket amended to read: change specified hours of operation to daily except Sunday: 10 a. m. to 2 p. m.; Saturday, 2 to 5 p. m., except November and December: 2 to 4:30 p. m.; January: 2 to 4:45 p. m.

WBHS—Virgil V. Evans, Huntsville, Ala.—C. P. already in hearing docket, amended to read: change hours of operation from 6/7 time to daytime only; transmitter site to be determined subject to Commission's approval.

WBEN—WBEN, Inc., Buffalo, N. Y.—Application for C. P. to make changes in equipment and increase operating power from 1 to 5 KW night and day. To be heard by Division en banc.

MISCELLANEOUS

WCOP—Joseph M. Kirby, Boston, Mass.—Denied request for special temporary authority to operate from local sunset to 7 p. m., EST, for period beginning September 29, and ending in no event later than October 28, pending action on formal application to change frequency and increase hours of operation from daytime and from LS to 8 p. m., EST.

KOOS—H. H. Hanseth, Inc., Marshfield, Ore.—Denied request for special temporary authority to operate from local sunset to 8 p. m., PST, for period beginning October 9, ending not later than November 7, in order to broadcast community and civic programs.

NEW—W. A. Patterson, Chattanooga, Tenn.—Granted authority to take depositions in re application for new station to operate on 1420 kc., 100 watts.

WJAR—The Outlet Co., Providence, R. I.—Denied petition to reconsider action in designating application for hearing, to increase its power to 1 KW, employing directional antenna.

KFSG—Echo Park Evangelistic Assn., Los Angeles, Cal.—Application for renewal of license heretofore designated for hearing, was reconsidered and granted, since applicant for facilities of this station withdrew his petition.

ACTION ON EXAMINER'S REPORTS

KPJM—Ex. Rep. No. 1-70: Scott & Sturm, Prescott, Ariz.—Denied as in cases of default, application for renewal of license to operate on 1500 kc., 100 watts, unlimited time, sustaining Examiner P. W. Seward. Order effective November 26, 1935.

KTFI—Ex. Rep. No. 1-75: Radio Broadcasting Corp., Twin Falls, Idaho.—Remanded to docket for further hearing.

NEW—Ex. Rep. No. 1-89: Hauser Radio Co., Ventura, Calif.—Dismissed with prejudice, application for C. P. to operate on 1310 kc., 100 watts, unlimited time, sustaining Examiner P. W. Seward.

WGES—Ex. Rep. No. 1-98: Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted application for renewal of license to operate on 1360 kc., 500 watts night, 1 KW LS Sundays, 3/7 time, sustaining Examiner R. H. Hyde. Order effective November 12, 1935.

WSBC—Ex. Rep. No. 1-99: WSBC, Inc., Chicago, Ill.—Granted renewal of license to operate on 1210 kc., 100 watts, S.H., sustaining Examiner R. H. Hyde. Order effective November 12, 1935.

NEW—Ex. Rept. No. 1-100: Oklahoma Press Pub. Co., Muskogee, Okla.—Granted oral argument to be held December 4, 1935. Also granted request for oral argument to the Pittsburgh Publishing Co., which was permitted to appear at hearing and cross examine in re interference in this case.

ACTION IN SO-CALLED BROOKLYN CASE AND OTHER INVOLVED APPLICATIONS

Upon consideration of the applications, the record in this case, Examiner's Reports Nos. 539 and 1-40, the exceptions filed thereto, and the oral argument had, the Broadcast Division this day found that public interest, convenience and necessity would be served by granting the following applications in the manner indicated:

WBBC—Ex. Rep. Nos. 1-40 and 539: Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Modification of license requesting facilities of stations WARD and WVFW (formerly WFOX). Application granted in part, so as to authorize operation of station WBBC on the 1400 kc. frequency, sharing time equally with Brooklyn Daily Eagle Broadcasting Co., Inc.

WBBC—Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Renewal of license. Application granted.

WBBC—Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Renewal of auxiliary transmitter license. Application granted.

NEW—Brooklyn Daily Eagle Broadcasting Co., Inc., Brooklyn, N. Y.—C. P. for new station to operate on 1400 kc. with 500 watts, unlimited time, requesting facilities of stations WARD, WBBC, WVFW and WLTH. Application granted in part, so as to authorize operation of a new station on 1400 kc., with power of 500 watts, sharing equally with WBBC.

WHAZ—Rensselaer Polytechnic Inst., Troy, N. Y.—Renewal of license. Application granted.

WFAB—Fifth Ave. Broadcasting Corp., New York City—Renewal of license. Application granted.

WBBR—Peoples Pulpit Assn., Brooklyn, N. Y.—Renewal of license. Application granted.

Upon consideration of the applications, the record in this case, Examiner's Reports Nos. 539 and 1-40, the exceptions filed thereto, and the oral argument had, the Broadcast Division this day found that public interest, convenience and necessity would not be served by granting the applications in the following cases:

WARD—Ex. Rep. No. 1-40, 539: United States Broadcasting Corp., Brooklyn, N. Y.—C. P. to make changes in equipment; 1400 kc., 500 watts, dividing time with WFOX, WLTH and WBBC. Application denied.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Modification of license to change hours to unlimited time, requesting facilities of WFOX, WLTH and WBBC. Application denied.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Renewal of license, 1400 kc., 500 watts, sharing time with WFOX, WLTH and WBBC. Application denied.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Voluntary assignment of license from U. S. Broadcasting Corp. to Broadcasters of Brooklyn, Inc. Application denied.

WLTH—Voice of Brooklyn, Inc., Brooklyn, N. Y.—Renewal of license, 1400 kc., 500 watts, sharing time with WARD, WFOX and WBBC. Application denied.

WLTH—Voice of Brooklyn, Inc., Brooklyn, N. Y.—Voluntary assignment of license from Voice of Brooklyn, Inc., to Broadcasters of Brooklyn, Inc. Application denied.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Modification of license to change hours of operation to unlimited time, requesting facilities of WARD, WLTH and WBBC. Application denied.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Renewal of license. Application denied.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Voluntary assignment of license from Paramount Broadcasting Corp. to Broadcasters of Brooklyn, Inc. Application denied.

NEW—Ex. Rep. No. 1-40: Arde Bulova and Norman K. Winston, Brooklyn, N. Y.—C. P. for new station to operate on 1400 kc., 500 watts, unlimited time, requesting facilities of WARD, WBBC, WLTH and WVFW. Application denied.

WEVD—Debs Memorial Radio Fund, Inc., New York City.—Modification of license to change hours of operation from sharing with WBBR, WFAB and WHAZ to unlimited time, 1300 kc., 1 KW power. Application denied.

The order as entered herein shall be effective at 3 A. M., Eastern Standard Time, November 15, 1935.

The Commission will issue and publish at a subsequent date an opinion setting forth a statement of facts appearing of record and the grounds for the decision herein reached.

ACTION ON ADDITIONAL EXAMINERS' REPORTS

- WMBC—Ex. Rep. No. 1-92: Michigan Broadcasting Co., Detroit, Mich.—Granted oral argument for November 1, 1935, on application for C. P. to change frequency from 1420 kc. to 1300 kc., power from 100 watts, 250 watts LS, to 500 watts.
- WHBL—Press Publishing Co., Sheboygan, Wis.—Application for modification of license to change frequency from 1410 kc., to 1300 kc., power from 500 watts to 250 watts, and time from sharing with WROK to unlimited.
- NEW—Ex. Rep. No. 1-93: Brackett, Breed & Laport, d/b as Conn. Valley Broadcasting Co., Springfield, Mass.—Granted oral argument for November 21, 1935, on application for C. P. to operate on 1140 kc., 500 watts, limited time.
- NEW—Ex. Rep. No. 1-96: Charles C. Theis, Wichita, Kans.—Granted oral argument, date to be determined, on application for C. P. for new station to operate on 1210 kc., 100 watts, unlimited time.
- NEW—Ex. Rep. No. 1-97: Hartford Broadcasting Co., Inc., Hartford, Conn.; and NEW—Worcester Broadcasting Co., Inc., Worcester, Mass.; and NEW—Hartford Times, Inc., Hartford, Conn.—Granted oral argument to be held on December 4, 1935, application for new station, frequency 1200 kc., 100 watts, unlimited.

APPLICATIONS RECEIVED

First Zone

- WPRO—Cherry & Webb Broadcasting Company, Providence, 630 R. I.—Construction permit to install new equipment and increase power from 250 watts to 500 watts, 1 KW local sunset.
- WHDL—Olean Broadcasting Co., Inc., Olean, N. Y.—Construction permit to install new equipment, change frequency from 1420 kc. to 1260 kc., power from 100 watts to 250 watts, and move transmitter from Exchange National Bank Bldg., corner Union and Laurens Sts., Olean, New York, to town of Allegany, New York.
- WHDL—Olean Broadcasting Co., Inc., Olean, N. Y.—Authority to 1420 transfer control of corporation from Olean Broadcasting Co., Inc., to the Olean Times-Herald Corp., 123 shares of common stock.

Second Zone

- NEW—The Times Dispatch Publishing Co., Inc., Richmond, Va.— 1500 Construction permit for a new broadcast station to be operated on 1500 kc., 100 watts, unlimited time. Amended: Antenna to be determined.

Third Zone

- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Con- 1180 struction permit to make equipment changes.
- WMFO—James R. Doss, Jr., Decatur, Ala.—Modification of license 1370 to change hours of operation from daytime to unlimited time, using 100 watts power.
- KCRC—Enid Radiophone Company, Enid, Okla.—License to cover 1370 construction permit (B3-P-379) for equipment changes.
- KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.— 1420 License to cover construction permit (B3-P-179) for new station on 1420 kc., 100 watts, daytime.

KNET—Palestine Broadcasting Association, Bonner Frizzell, John 1420 C. Welch, Wm. M. Keller, Palestine, Tex.—Modification of construction permit (B3-P-216) for approval of antenna, move studio from 315 W. Spring St. to O'Neill Hotel, Palestine, Tex., and transmitter from one mile east of city limits to O'Neill Hotel, Palestine, Tex.

NEW—C. W. Snider, Wichita Falls, Tex.—Construction permit for 1500 a new broadcast station to operate on 1500 kc., 100 watts, unlimited time. Amended to change hours of operation from unlimited to daytime only.

WKY—WKY Radiophone Company, Oklahoma City, Okla.—Con- struction permit for a new general experimental station to operate on 31600, 35600, 38600, 41000 kc., 100 watts.

KILU—Arkansas Radio and Equipment Company, Little Rock, Ark.—Renewal of license for broadcast pickup station.

Fourth Zone

NEW—Bismarck Tribune Company, Bismarck, N. Dak.—Con- 550 struction permit for a new broadcast station to operate on 550 kc., power 1 KW, 5 KW local sunset, unlimited time, requesting all facilities of station KFYZ, with studio to be located at Bismarck, N. Dak., and transmitter, to be determined, at Apple Creek Township, North Dakota.

NEW—A. Staneart Graham, E. V. Baxter, Norman Baxter, d/b as 790 Pittsburg Broadcasting Co., Pittsburg, Kans.—Construction permit for a new broadcast station to be operated on 1500 kc., 100 watts, unlimited time. Amended to change frequency from 1500 kc. to 790 kc., power from 100 watts to 1 KW, hours of operation from unlimited to daytime; also make changes in equipment.

NEW—Mason City Globe Gazette Co., Mason City, Iowa.—Con- 1210 struction permit for a new broadcast station to be operated on 1210 kc., power 100 watts, unlimited time.

WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, 1500 Ill.—Construction permit to install new equipment and increase power from 100 watts to 100 watts, 250 watts local sunset.

WNEI—Indianapolis Power and Light Company (Portable).— Modification of license to change frequencies to 1646, 2190, 2830, 2090 kc., of broadcast pickup station.

Fifth Zone

KPOF—Pillar of Fire (a corp.), Denver, Colo.—License to cover 880 construction permit (B5-P-554) to build a new transmitter and make equipment changes.

NEW—Christina M. Jacobson, d/b as The Valley Electric Co., San 1090 Luis Obispo, Calif.—Construction permit for a new station to operate on 1090 kc., 250 watts, daytime. Amended as to antenna.

NEW—John A. Stump, Fairbanks, Alaska.—Construction permit 1210 for new station to operate on 1210 kc., 50 watts, specified hours. Amended to change power from 50 watts to 100 watts, 250 watts local sunset, unlimited time; make antenna and equipment changes; transmitter site to be determined, Fairbanks, Alaska, and studio to be located at First and Clay Sts., Fairbanks, Alaska.

NEW—F. W. Atkinson, Watsonville, Calif.—Construction permit 1310 for a new station to operate on 1310 kc., 250 watts, daytime.

NEW—Fresno Broadcasting Co., Fresno, Calif.—Construction per- 1410 mit for a new broadcast station to be operated on 1410 kc., power 500 watts, 1 KW local sunset, unlimited time.

CORRECTION

NAB REPORTS for September 19, 1935, listed W6XAR erroneously as owned by Westinghouse whereas the license has been issued to Julius Brunton & Sons Company, San Francisco.



The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

NAB REPORTS

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MPPA LETTER RELATING TO THE RECORDING OF RADIO PROGRAMS

All stations are believed to have received a circular letter dated September 23, from the Music Publishers' Protective Association, New York City, relating to the recording of radio programs.

The NAB does not agree with MPPA's claims in this matter. Protest has been made to MPPA and assurance has been given the Managing Director that no action will be taken before the NAB is given opportunity to be heard.

PRESIDENT APPOINTS COMMITTEES

President Fitzpatrick this week appointed the following committees:

Commercial Committee

Arthur B. Church, Chairman, KMBC, Kansas City, Missouri; Edwin M. Spence, WBAL, Baltimore, Maryland; H. K. Boice, WABC, New York, N. Y.; Edgar Kobak, WJZ, New York, N. Y.; I. R. Lounsbury, WGR-WKBW, Buffalo, New York; H. K. Carpenter, WHK, Cleveland, Ohio; W. W. Gedge, WMBC, Detroit, Michigan; Martin B. Campbell, WFAA, Dallas, Texas; Hugh A. L. Half, WOAI, San Antonio, Texas; Herbert Hollister, WLBF, Kansas City, Kansas; John J. Gillin, Jr., WOW, Omaha, Nebraska; Harold Wheelahan, WSMB, New Orleans, Louisiana; Campbell Arnoux, WTAR, Norfolk, Virginia; S. A. Cisler, WJTL, Atlanta, Georgia; D. E. Kendrick, WIRE, Indianapolis, Indiana; J. O. Maland, WHO, Des Moines, Iowa; C. Ellsworth Wylie, KHJ, Los Angeles, California; Ralph R. Brunton, KJBS, San Francisco, California; Fred A. Palmer, WBNS, Columbus, Ohio; C. W. Myers, KOIN, Portland, Oregon; Carl Haverlin, KFI, Los Angeles, California.

Engineering Committee

J. A. Chambers, Chairman, WLW, Cincinnati, Ohio; C. W. Horn, WEA, New York, N. Y.; E. K. Cohan, WABC, New York, N. Y.; E. L. Gove, WHK, Cleveland, Ohio; John E. Burrell, KJBS, San Francisco, California; J. H. DeWitt, Jr., WSM, Nashville, Tennessee; Carl Meyers, WGN, Chicago, Illinois; John E. Fetzer, WKZO, Kalamazoo, Michigan; John V. L. Hogan, W2XR, New York, N. Y.; H. C. Harvey, KFAB, Lincoln, Nebraska; James M. Nassau, WIBG, Philadelphia, Pennsylvania; L. A. Benson, WIL, St. Louis, Missouri; Hugh S. McCartney, WCCO, Minneapolis, Minnesota; J. L. Middlebrooks, WAPI, Birmingham, Alabama; Gerald W. Cooke, WBAL, Baltimore, Maryland.

A PROPOSAL AND ANSWER ON RATE CUTTING

THE PROPOSAL:

"RADIO ASSOCIATES
1430 Broadway
New York, N. Y.

October 5th, 1935.

"Sales Manager
Radio Station WSOC
Charlotte, N. C.
Dear Sir:

"We are preparing a new type of Radio campaign. This plan consists of six fifteen-second announcements daily. For this service we are able to offer you \$15.00 per week less the customary fifteen percent (15%).

"We are fully aware that the price is well below your local rate card but this is additional business that we are in a position to obtain for you only because of this attractive low rate.

"If you are interested in joining our group of stations in this new venture kindly advise us at once so that we can include you in our prospectus.

Very truly yours,
(signed) John H. Moses
RADIO ASSOCIATES."

THE ANSWER:

"RADIO STATION WSOC
INCORPORATED

Charlotte, N. Carolina
October 8, 1935

"Mr. John H. Moses,
Radio Associates,
1430 Broadway,
New York, N. Y.
Dear Mr. Moses:

"We have your offer of a 'NEW TYPE' of radio campaign under date of October 5th. This seems to us to be somewhat of a misstatement—your proposition is not a 'new type' of campaign; it is one of the oldest form of 'chiseling.'

"No doubt you will find a certain group of stations who will fall for your bait—I hope, however, that their number will become increasingly small—for there are that class in every line of business, both stations and representatives. As for WSOC, we are distinctly not interested in cutting rates or making concessions. We know from results produced that our medium is worth the rates we publish. If it were not we would publish a new rate card.

Sincerely,
(signed) E. J. Gluck
E. J. Gluck, President."

FEDERAL TRADE COMMISSION ACTIVITIES

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

Complaints

No. 2567. D. Blum & Co., New York City. The respondent is alleged to have advertised that its "O. K. Chemical Dry Cleaning Fluid" will have no injurious effect on the most delicate materials. According to the complaint, use of the respondent's products on certain fabrics will have an injurious effect and will leave rings or spots. Hearing, November 8.

No. 2568. Willard B. Casterline, Chicago, Illinois. Sales methods involving a game of chance are alleged in a complaint against the respondent, trading as Casterline Brothers, engaged in the sale of candy to wholesalers and retailers.

Stipulations

No. 1466. Imperial Manufacturing Co., New York City and Newark, N. J., has entered into a stipulation to cease and desist from use of the words "triple Coated" to describe its product, a carbon paper, when, in fact, the stipulation sets out that the product was not coated with carbon in three times in the process of manufacturing so as to be properly referred to as "triple coated."

No. 1468. Charles McMahon, Camden, N. J. Respondent agrees to cease representing in advertisements that certain equipment will be included in the price paid for outfits of gymnastic equipment and physical culture courses in instances where this is not true.

No. 1469. Clay-Adams Company, Inc., New York City. In the sale of hypodermic syringes, the respondent agrees to cease and desist from obliterating marks showing the country of origin on the individual boxes and cartons in which the syringes are packed, and substituting therefor small and indistinct rubber-stamp markings.

No. 1474. Wonder-Mist Polish Co., Melrose, Mass. Respondent agrees to stop representing that its product "can be used on any kind of cloth or fabric as it neither injures the fabric or cloth," that the product "will not harm the finest fabric," and to stop making other similar representations implying that the colors of fabrics or materials dyed with non-fast or fugitive dyes will not be impaired or injured by application of this company's fluid.

No. 1475. Harry and Benjamin Rattner, tr/as "A-One Products Company" and "Messner Chemical Company," and R. W. Chemical Corporation, New York City. Respondents agree to cease using on labels affixed to their products the words "Stain Remover" either independently or in connection with other words so as to imply that the fluid removes stains of all kinds from fabrics when this is not true.

No. 1476. Hy-Test Cement Co., Philadelphia, Pa., manufacturing a mortar cement and selling it under the name "Hy-Test," has entered into a stipulation with the Commission agreeing to stop the circulation in interstate commerce of Bureau of Standards report No. 683 on tests of mortar cement, bearing any mark or designation whereby the identity of any participant can be ascertained.

The company also agreed to cease and desist from violation of any Bureau of Standards regulations for conducting tests, either for associations of manufacturers or otherwise, whereby any unfair advantage over competitors is sought or gained.

The Hy-Test Cement Co., according to the stipulation, was one of the manufacturers whose product was used in making tests described in Research Paper No. 683. The stipulation points out that this company, disregarding the request of the Bureau of Standards, distributed Research Paper No. 683 as a means of advertising its products, causing the page number and designation in the report of Hy-Test cement to be stamped thereon, with the result that officials of the Bureau were embarrassed, the practicability of the continuance of their system in such cases was jeopardized, and the company obtained an unfair advantage over its competitors who participated in such tests.

No. 1477. Success Manufacturing Co., Gloucester, Mass., refrigerator manufacturer, agreed to cease and desist from use of the words "All Steel" and "Built throughout with non-rustible steel" to represent its products, implying that the refrigerators are made wholly of steel, when this is not true. The stipulation points out that the products were made partly of other materials than steel and were a type with wooden frames known to the trade as "metal-clad."

No. 1478. Seeley's (Rupture) Establishment, Ltd., Chicago, distributor of trusses or appliances for hernia or rupture, agreed to cease and desist from representations which may have a tendency to confuse purchasers into believing that the Federal Trade Commission has issued or is proceeding toward issuance of a cease and desist order against a named individual or concern for the purpose of restraining such individual or concern from alleged unfair trade practices, when this is not true. The respondent also agreed to cease and desist from printing findings, orders or other public records of the Federal Trade Commission unless the whole of such documents be printed in full and in the exact wording of the Commission without interpretation of, addition to or subtraction from, as entered by the Commission. The stipulation provides that in no case shall such findings, orders or other public record be used or published by the respondent for the purpose or with the effect of disparaging or injuring the business of a competitor who has complied with the Commission's orders, stipulations or directions.

No. 1479. Hall & Ruckel, Inc., Brooklyn, N. Y., manufacturing depilatory creams and powders, deodorants and tooth powders, agreed to abandon representations in advertising that its product "X-Bazin" will permanently remove surplus hair, will discourage, devitalize, or lessen the future growth of surplus hair, or that it is a safe, harmless, non-irritating or mild preparation. The company will also stop alleging that the product is endorsed by scientists or physicians, when this is not true.

No. 1480. The Enequist Chemical Co., Inc., Brooklyn, N. Y., distributor of chemicals including those used in photo engraving, electrotyping, electroplating and in the fur and textile industries, agreed to forego use of its slogan, "Enequist Chemicals Since 1904," implying that the company has been in business selling Enequist chemicals since 1904 or that it is associated or connected with Seldner & Enequist, Inc., of Brooklyn, or that it has been engaged in such business for a length of time in excess of what is actually the fact.

Seldner & Enequist, Inc., was incorporated in 1917 to carry on the business theretofore conducted since about 1902 under the name Seldner & Enequist. The Enequist Chemical Co., Inc., according to the stipulation, is in no way associated with Seldner & Enequist, Inc., and was organized in or about August, 1930.

No. 1481. Morris Senderowitz, Morris H. Senderowitz and A. M. Senderowitz, of Allentown, Pa., trading as Royal Manufacturing Co., engaged in the manufacture of men's underwear, agree to stop printing on bands or labels affixed to their products the words "vat-dyed," when the products are not vat dyed, and the words "fast colors," implying that the products are made from cloth dyed with fast dyes so as not to fade by exposure to the air or by washing, when this is not true. The co-partners also agree to stop improper use of the word "broad-cloth" either independently or in connection with the word "genuine" in describing certain of their products.

No. 1482. Buddy Manufacturing, Inc., of New York City, makers of women's dresses, agree to stop using the word "Linene" in such way as to mislead purchasers into the belief that products so marked or described are made of the fibre of the flax plant, when this is not true.

No. 0903. John D. Myers, of Kansas City, trading as John Sterling Remedy Company and selling treatments for venereal ailments, agrees to stop representing that either of his preparations is a competent treatment or effective remedy. According to medical opinion furnished the Commission, the respondent's preparations are neither a specific nor a competent treatment for such diseases in any stages, nor is the mixture of ingredients therapeutically correct.

No. 0904. H. B. Laymon, of Spencer, Indiana, trading as World's Products Company, a dealer in counter card merchandise and medicines, agrees to stop advertising that a salesperson or dealer can sell the respondent's merchandise to every store, make quick sales, get steady repeat orders, or that the respondent's articles are new or of proven quality, or that they have no competition.

No. 0905. Glandular Laboratories of America, Inc., of New York City, agrees, in the sale of "Diutacid" and "Sesocrin," to stop representing that either preparation is free from drugs or that Diutacid is a competent treatment or an effective remedy for weak or run down condition, nervousness, or premature old age, or that Sesocrin is an effective remedy for disorders of the pituitary or thyroid glands, or for conditions of senility or neurasthenia. The respondent will also discontinue use of the term "Laboratories" as part of its corporate name, and of the phrase, "gland vitalizing."

No. 0906. The Thomas Chemical Company, Inc., of Lynchburg, Va., agrees to cease asserting that its preparation called "Curen" is a competent or effective treatment for athlete's foot, impetigo and other skin troubles, unless limited to minor irritations of the skin.

No. 0907. Ethel J. Cayce, of Berkley, Calif., trading as Rejuvene Manufacturing Company, selling a cosmetic called "Rejuvene," agrees to stop alleging that this preparation is composed of healthful or beautifying herbs, until such is the fact, and that it will normalize the skin or keep it in a healthy condition so long as the pores are filled with gum. The respondent further agrees to stop using the word "manufacturing" as part of her trade name until such time as she may in fact own, operate or control the plant used to manufacture the product sold.

No. 0908. Samuel Janowsky, of Chicago, trading as Randall Spinal Institute, will stop representing that his medicinal device called "Spinal Exerciser" will correct abnormal spinal conditions, reduce large abdomen, lift stooping shoulders, and aid in the correction of other ailments. According to medical opinion furnished

the Commission, the device will not correct abnormal conditions of the spine, or various other ailments specified. The stipulation points out that if used by one afflicted with spinal tuberculosis, it would be definitely harmful.

No. 0909. H. A. Hopkins, Boston, tr/as Hopkins Hosiery Co. Respondent agrees to stop representing that samples are furnished by him to agents or salespersons for less than the cost to manufacture; that a salesperson can collect 75 cents from every home, and that any article is "free" so long as a purchase of other merchandise is required and the price thereof is included in the purchase.

No. 0910. L. Heumann & Co., Inc., New York City, selling two medicinal preparations, agrees to stop advertising that either of the products, alone or in combination, is a remedy or competent treatment for rheumatism or gout, unless the reference is limited to relief of the aches and pains caused by those ailments. This respondent will also cease asserting that its tablets (Rimagot Tablets) will eliminate uric acid from the body, or that they will dissolve uric acid.

No. 0911. Evans Manufacturing Co., Cincinnati, dealing in a floor wax and floor waxer, will abandon advertising that the device works as efficiently as any \$50 machine and that sales persons will earn any amount "just for demonstrating" the machine. The stipulation points out that agents do not receive anything for demonstrating the device and that contrary to the respondent's advertising, the device is not worth \$14.10 and is not sent "free" to agents. Furthermore, according to the stipulation, the article is not as efficient as any \$50 machine.

No. 0912. Certane Company, Inc., Los Angeles, vendor of various feminine hygiene preparations, agrees to discontinue representing by inference or direct statement that any of its preparations or any combination thereof is a contraceptive or a scientific method of feminine hygiene or a scientific discovery.

No. 0913. H. L. Williams, trading as Williams S. L. K. Laboratories, Kansas City, Mo., and selling a formula and compound for stomach, liver and kidney troubles, also rheumatism, sciatica and neuritis, agrees to stop representing that the formula is a competent treatment or effective remedy for these and other diseases. According to medical opinion furnished the Commission, the Williams formula is not a competent treatment for the disorders specified in the advertising, and the compound is not an effective remedy for rheumatism, neuritis or sciatica.

No. 0914. Porter S. Hamilton, trading as Loistol Co., Portland, Me., agrees to stop representing that an ointment for relief of skin troubles called "Loistol" is either a competent treatment or effective remedy for eczema, rashes, cuts or cold sores and that it will relieve other skin disorders unless the assertion is limited to minor irritations, and that it is a new and guaranteed product.

No. 0915. Emergency Laboratories and Poslam Company, New York City, stipulates that it will cease and desist from representing that its medicated ointment called "Poslam" is a competent treatment for eczema and other skin ailments and to stop designating its ointment as "concentrated Poslam" unless and until the ointment shall have been prepared according to two or more standards of substantially different degrees of strength.

No. 0916. Nacor Medicine Company, Indianapolis, selling a treatment for asthma called "Nacor," agrees to stop asserting that the medicine is a competent treatment or remedy unless these representations are limited in reference to relief from attacks and paroxysms of asthma. Other representations of similar character will be discontinued, according to the stipulation. This respondent agreed that in promoting the sale of its medicine as a relief for bronchial troubles, it would include in direct connection with these sales a warning to the effect that the medicine is not for use by any person having tuberculosis.

No. 0917. Charles Cluthe & Sons, Bloomfield, N. J., engaged in selling a mechanical appliance for treatment of rupture called "Cluthe's Comfort Truss," agrees to stop advertising that by use of such appliances rupture troubles can be overcome and operations avoided, unless in the latter representation the assertion is limited to reducible ruptures. Other similar assertions of like import will also be discontinued.

No. 0918. Rosaline Mayer, trading as Kleerplex, New York City, and selling a product for treating skin diseases, will abandon use of advertising which represents that the Kleerplex products, either as a balm or a wash, will dissolve blackheads, refine large pores or clear up muddy, sallow or blemished skin. The respondent also agrees to stop advertising that Kleerplex "gets at the cause" of skin afflictions and "penetrates" the skin, and to stop making other assertions of like import.

No. 0919. North American Institute, Chicago, Ill., agrees

to stop advertising that its home training course will enable a student, without regard to his or her educational attainments or ability, to become an outstanding speaker or conquer stage fright, timidity or fear. The stipulation points out that various representations made as to what this course will do for any person, without regard to his qualifications, are "extravagant, fanciful, and in many cases manifestly impossible."

No. 0920. Hed-Aid, Inc., Detroit, vendor-advertiser of a headache and neuralgia preparation, agrees to stop advertising that its tablets are a safe or sure relief for headache and will not harm or depress the heart or affect the stomach.

No. 0921. Schieffelin & Co., Inc., New York City, agrees to discontinue unfair advertising of its floor waxes, paste and furniture cream (Vernax No Rub Floor Wax).

No. 0922. Marion Products, Inc., Marion, Ohio, agrees to cease and desist from making unfair representations of a beverage substitute for coffee called "Grains of Wealth" which, according to the stipulation, it will no longer advertise as better than coffee or as indistinguishable from the finest and best coffee obtainable.

LICENSE RENEWAL APPLICATIONS DUE

According to FCC Rule 27, licenses issued to broadcasting stations operating on 1370, 1420 and 1500 kilocycles expire January 1, necessitating filing of renewal applications on or before November 1, 1935.

WSAR INCREASED POWER RECOMMENDED

Broadcasting Station WSAR, Fall River, Mass., applied to the Federal Communications Commission for authority to increase its power from 250 to 1,000 watts. The station operates unlimited time on 1450 kilocycles.

Examiner Melvin H. Dalberg, in Report No. I-106 recommends that the application be granted. He found that granting of the application would permit the station to expand its service, that it appears qualified to make the change and "there is apparently no objection to the granting of the application by reason of quota conditions. Further, it is not believed that other licensed stations would be adversely affected by interference and that the granting of the application would serve public interest, convenience and necessity."

WMBH APPLICATION DISMISSAL RECOMMENDED

Station WMBH, Joplin, Mo., applied to the Federal Communications Commission for special experimental authorization. When the case came on for hearing counsel for the applicant moved that the application be dismissed without prejudice.

Examiner Ralph E. Walker, in Report No. I-113 recommends that the motion be granted for dismissal without prejudice.

DENIAL OF NEW CALIFORNIA STATION RECOMMENDED

A. Tornek, operating under the trade name of the Metro Broadcasting Company applied to the Federal Communications Commission for a construction permit to erect a new station at Los Angeles, Cal., to use 820 kilocycles, 250 watts and to share time with WHAS.

Examiner P. W. Seward in Report No. I-114 recommends that the application be denied. He found that the applicant is not qualified to construct and operate such a station, that granting of the request would cause "serious and objectionable interference to existing stations" and "that it is not shown that a need for general radio service exists in the area proposed to be served."

RECOMMENDS NEW NEW YORK STATION

The Knox Broadcasting Company, Inc., applied to the Federal Communications Commission for a construction permit for a new station at Schenectady, N. Y., to use 1240 kilocycles, 1,000 watts power and unlimited time on the air.

Examiner P. W. Seward, in Report No. I-116 has recommended that the application be granted. He found that there is need in the area for additional service in so far as local interest is concerned. The Examiner found also that granting of the application would not cause any objectionable interference and that it would be in the public interest.

WKJC CHANGES RECOMMENDED

The Lancaster (Pa.) Broadcasting Service, Inc., (Station WKJC) filed an application with the Federal Communications Commission asking that it be allowed to assign its license to the Associated Broadcasters, Inc. The latter applied for permission to move the station from Lancaster to Easton, Pa. Also Associated Broadcasters, Inc., requested approval of the Commission to transfer 70 per cent of its capital stock to Mason-Dixon Radio Group, Inc.

Examiner George H. Hill in Report No. I-115 has recommended that the application of the Lancaster Broadcasting Service to assign the license to Associated Broadcasters be granted; that permission be granted to move the station and that the application of Associated Broadcasters for the transfer of control of the corporation by transferring 70 per cent of the stock to the Mason-Dixon Radio Group, Inc., be granted.

FEDERAL COMMUNICATIONS COMMISSION ACTIONS

HEARING CALENDAR

Monday, October 14, 1935

- WGST—Georgia School of Technology, Atlanta, Ga.—Modification of license, **890 kc.**, 1 KW, unlimited time. Present assignment: **890 kc.**, 500 watts, 1 KW LS, unlimited time.
- WJAR—The Outlet Co., Providence, R. I.—Modification of license, **890 kc.**, 1 KW, unlimited time. Present assignment: **890 kc.**, 250 watts night (SA), 500 watts day.
- KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—C. P., **890 kc.**, 500 watts, 1 KW LS, unlimited time. Present assignment: **890 kc.**, 250 watts, 500 watts LS, unlimited time.
- WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—Modification of license, **890 kc.**, 500 watts, 1 KW LS, unlimited time (requests facilities of WMMN). Present assignment: **1450 kc.**, 500 watts, 1 KW LS, unlimited time.
- WMMN—A. M. Rowe, Inc., Fairmont, W. Va.—Renewal of license, **890 kc.**, 250 watts, 500 watts LS, unlimited time.

HEARING BEFORE THE BROADCAST DIVISION

- KNX—Western Broadcast Co., Los Angeles, Calif.—Renewal of license, **1050 kc.**, 50 KW, unlimited time.
- KFRC—Don Lee Broadcasting System, San Francisco, Calif.—Renewal of license, **610 kc.**, 1 KW, unlimited time.
- WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Renewal of license, **620 kc.**, 1 KW, 5 KW LS, unlimited time.

Tuesday, October 15, 1935

- NEW—Review Publishing Co. (Pearl B. Robinson, Sole Owner), Moscow, Idaho.—C. P., **1310 kc.**, 100 watts, unlimited.
- NEW—Roberts MacNab Hotel Co., Jamestown, N. Dak.—C. P., **1310 kc.**, 100 watts, unlimited time.

Wednesday, October 16, 1935

- NEW—Robert E. Cole, d/b as Washington Broadcasting Co., Washington, Pa.—C. P., **1350 kc.**, 250 watts, daytime.
- WADC—Allen T. Simmons, Tallmadge, Ohio.—C. P., **1320 kc.**, 1 KW, 5 KW LS, unlimited time. Present assignment: **1320 kc.**, 1 KW, 2½ KW LS, unlimited time.

Thursday, October 17, 1935

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-60:

- WSIX—2814—B3-P-227—Jack M. Draughon, Louis R. Draughon, d/b as 638 Tire & Vulcanizing Co., Springfield, Tenn.—C. P. to move transmitter; **1370 kc.**, 100 watts, unlimited time.
- NEW—2756—B3-P-252—Nashville Broadcasting Corp., Nashville, Tenn.—C. P., **1370 kc.**, 100 watts, unlimited time.
- NEW—2878—B4-P-384—Evansville On the Air, Inc., Evansville, Ind.—C. P., **1370 kc.**, 100 watts, unlimited time.

Commissioner Brown's Report:

- 2636—B3-FP-2—Mrs. Nellie H. Morris and W. C. Morris, working as "Hotel Eagle," Eagle Pass, Tex.—Authority to transmit programs from Hotel Eagle, Eagle Pass, Tex., over XEPN.
- 2835—B3-FP-5—Universal Advertising Agency, Laredo, Tex.—Authority to transmit programs to all Mexican stations through Station XENT.

HEARING BEFORE AN EXAMINER

- KOL—Seattle Broadcasting Co., Seattle, Wash.—Modification of license, **1270 kc.**, 1 KW, 5 KW LS, unlimited time. Present assignment: **1270 kc.**, 1 KW, 2½ KW LS, unlimited time.

APPLICATIONS GRANTED

- WIBA—Badger Broadcasting Co., Inc., Madison, Wis.—Granted C. P. to make changes in equipment, install new antenna system, and increase power to 1 KW night, 5 KW day.
- WDZ—James L. Bush, Tuscola, Ill.—Granted modification of C. P. approving antenna and transmitter sites at 1½ miles north

of Tuscola on U. S. 45 and 1 mile 600 feet east RFD, Tuscola, Ill.; extend commencement date to 30 days after grant and completion date to 180 days thereafter.

WJW—WJW, Inc., Akron, Ohio.—Granted license to cover C. P. authorizing installation of new equipment and increasing day power to 250 watts; **1210 kc.**, 100 watts night.

KIUN—Jack W. Hawkins and Barney H. Hubbs, Pecos, Tex.—Granted license to cover C. P., **1420 kc.**, 100 watts, unlimited time.

WLBK—WLBK Broadcasting Co., Kansas City, Kans.—Granted license to cover C. P., **1420 kc.**, 100 watts, unlimited time.

WKAQ—Radio Corporation of Porto Rico, San Juan, P. R.—Granted C. P. to move transmitter locally, approximately 3.7 miles southeast of present location, and make changes in antenna.

WNBZ—Earl J. Smith and William Mace, d/b as Smith & Mace, Saranac Lake, N. Y.—Granted license to cover C. P. authorizing changes in equipment and increase in day power to 100 watts; **1290 kc.**, daytime hours.

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Granted license to cover C. P., **1420 kc.**, 100 watts, daytime.

KELD—T. H. Barton, El Dorado, Ark.—Granted license to cover C. P., **1370 kc.**, 100 watts, unlimited.

WTAW—Agricultural and Mechanical College of Texas, College Station, Tex.—Granted modification of license to make changes in specified hours from 12:20 to 12:50 p. m. daily except Sundays; Mondays and Fridays, 8 to 9 p. m.; Sundays, 8:30 to 9:30 a. m.; to 11:25 a. m. to 12 noon daily except Sundays; Mondays, 8 to 9 p. m.; Sundays, 8:30 to 9:30 a. m.; Fridays, 4:30 to 5:30 p. m.

WLEZ—The Norfolk Daily News, Portable (Norfolk, Nebr.)—Granted modification of license (temporary broadcast pickup), to add frequencies **1622, 2060, 2790 kc.**

WCBA—B. Bryan Musselman, Allentown, Pa.—Granted modification of license to increase power from 250 watts to 500 watts for auxiliary transmitter. (Station WCBA uses transmitter of WSAW as auxiliary on **1440 kc.**, 250 watts night, 250 watts day, S-WSAN.)

WSAN—WSAN, Inc., Allentown, Pa.—Granted modification of license to increase power of auxiliary transmitter from 250 watts to 500 watts for auxiliary transmitter.

WEED—William Avera Wynne, Rocky Mount, N. C.—Granted modification of license to change studio location to corner Nashville Highway (Route 64) and Stoney Creek Road, just outside of Rocky Mount city limits.

KCRC—Enid Radiophone Co., Enid, Okla.—Granted renewal of license, **1370 kc.**, 100 watts night, 250 watts day, shares equally with Station KGFG.

NEW—Miami Valley Broadcasting Corp., Portable-Mobile (Miami, Fla.) (2 applications)—Granted C. P., frequencies **31100, 34600, 37600, 40600 kc.**, 2.5 watts, unlimited time.

NEW—Havens & Martin, Inc., Portable-Mobile (Richmond, Va.)—Granted C. P., frequencies **31100, 34600, 37600, 40600 kc.**, 20 watts, unlimited time.

NEW—Honolulu Broadcast Co., Inc., Portable-Mobile (Honolulu, T. H.)—Granted C. P., **31100, 34600, 37600, 40600 kc.**, 20 watts, unlimited time.

W2XIL-W2XIM—General Electric Co., Portable-Mobile (Schenectady, N. Y.)—Granted license to cover C. P. (exp. gen. exp.), frequencies **31100, 34600, 37600, 40600 kc.**, 2 watts.

KIKK—S. H. Patterson, Portable (Colorado Springs, Colo.)—Granted license to cover C. P. (temporary broadcast pickup), frequencies **1646, 2090, 2190, 2830 kc.**, 6.3 watts.

W3XAD—RCA Manufacturing Co., Inc., Camden, N. J.—Granted modification of license to change station from fixed to portable.

W3XAI—RCA Manufacturing Co., Inc., Camden, N. J.—Granted modification of license to change station from fixed to portable.

WNEI—Indianapolis Power & Light Co., Indianapolis, Ind. (Portable)—Granted modification of license to change frequencies to **1646, 2090, 2190 and 2830 kc.**

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KGHF, Pueblo, Colo.; KGNC, Amarillo, Tex.; KGNF, North Platte, Nebr.; KGNO, Dodge City, Kans.; KID, Idaho Falls, Idaho; KIDO, Boise, Idaho; KLO, Ogden, Utah; KLRA, Little Rock, Ark.; KLS, Oakland, Calif.; KMO, Tacoma, Wash.; KOH, Reno, Nev.; KOMA, Oklahoma City, Okla.; KOY, Phoenix, Ariz.; KQV, Pitts-

burgh, Pa.; KRNT, Des Moines, Iowa; WKBW, Buffalo, N. Y.; WLAC, Nashville, Tenn.; WMBD, Peoria, Ill.; WNBR, Memphis, Tenn.; WSAI, Cincinnati; WSBT, South Bend, Ind.; WSPD, Toledo, Ohio; WTAQ, Eau Claire, Wis.; WTFI, Athens, Ga.; KALE, Portland, Ore.; KDEN, Casper, Wyo.; KECA, Los Angeles, Calif.; KFH, Wichita, Kans.; KFJR, Portland, Ore.; KGDY, Huron, S. Dak.; WAAB, Boston; WADC, Tallmadge, Ohio; WAWZ, Zarephath, N. J.; WBCM, Bay City, Mich.; WBNS, Columbus, Ohio; WCOA, Pensacola, Fla.; WCSC, Charleston, S. C.; WDRC, Hartford, Conn.; WFBC, Greenville, S. C.; WFBL, Syracuse, N. Y.; WHEC, Rochester, N. Y.; WHK, Cleveland, Ohio; WHOM, Jersey City, N. J.; WHP, Harrisburg, Pa.; WIOD-WMBF, Miami, Fla.; WIRE, Indianapolis, Ind.; WHBL, Sheboygan, Wis.; WJSV, Alexandria, Va.; WROK, Rockford, Ill.; WSAN and auxiliary, Allentown, Pa.; WCBA and auxiliary, Allentown, Pa.; KXYZ, Houston, Tex.; KSO, Des Moines, Iowa; KTBS, Shreveport, La.; KTRH, Houston, Tex.; KTUL, Tulsa, Okla.

KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Granted renewal of license for the period ending April 1, 1936.

WASH—Kunsky-Trendle Broadcasting Corp., Grand Rapids, Mich.—Granted renewal of license for the period ending April 1, 1936.

W3XDD—Bell Telephone Laboratories, Inc., Whippany (Morris Co.), N. J.—Granted renewal of special experimental station license for the period October 29, 1935, to expire January 29, 1936, in exact conformity with existing license.

W2XBH—Radio Pictures, Inc., Long Island City, N. Y.—Granted renewal of special experimental station license for the period November 1, 1935, to expire February 1, 1936.

WIEK-WIEL—Atlantic Broadcasting Corp., Portable-Mobile—Granted renewal of broadcast pickup station license for temporary service effective November 1, 1935, to expire November 1, 1936, in exact conformity with existing license.

WQER-WQET—Georgia School of Technology, Portable-Mobile.—Granted renewal of broadcast pickup station license for temporary service effective November 1, 1935, to expire November 1, 1936, in exact conformity with existing license.

WIEO-WIEW-WIEX-WMEF—National Broadcasting Co., Inc., Portable-Mobile.—Granted renewal of broadcast pickup station license for temporary service effective November 1, 1935, to expire November 1, 1936, in exact conformity with existing license.

WMFS—National Broadcasting Co., Inc., Portable-Mobile, Chicago.—Granted renewal of broadcast pickup station license for temporary service effective November 1, 1935, to expire November 1, 1936, in exact conformity with existing license.

WHER—Westinghouse Electric and Manufacturing Co., Portable-Mobile.—Granted renewal of broadcast pickup station license for temporary service effective November 1, 1935, to expire November 1, 1936, in exact conformity with existing license.

SET FOR HEARING

WOWO—Main Auto Supply Co., Fort Wayne, Ind.—Application for C. P. to install new equipment; increase power from 10 to 25 KW night, 10 KW day.

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Application for modification of license to change frequency from 950 kc. to 630 kc., power from 250 watts day to 250 watts day and night, and time from daytime to unlimited.

KOOS—H. H. Hanseth, Inc., Marshfield, Ore.—Application for modification of license to change power from 250 watts daytime to 250 watts night, and time of operation from daytime to unlimited.

KFOX—Nichols & Warinner, Inc., Long Beach, Calif.—Application for C. P. to install new equipment, increase day power from 1 to 5 KW, install new antenna.

KMPC—Beverly Hills Broadcasting Corp., Beverly Hills, Calif.—Special experimental authority to operate on 710 kc., with power of 500 watts, unlimited time, to end of license period—February 1, 1936. (To be heard by the Broadcast Division.)

WJBC—Wayne Hummer and Harry Dee, d/b as Kaskaskia Broadcasting Co., Bloomington, Ill.—Application for C. P. to make changes in equipment, increase day power from 100 to 250 watts, and install new antenna.

NEW—Continental Radio Co., Columbus, Ohio.—Application for C. P. for new station, 1310 kc., 100 watts, unlimited time; site to be determined.

WCBS—WCBS, Inc., Springfield, Ill.—Application for modification of license to change hours of operation from S. H. to unlimited.

NEW—Golden Empire Broadcasting Co., Redding, Calif.—C. P. amended so as to read: 1200 kc., 100 watts, unlimited time.

MISCELLANEOUS

WMFO—James R. Doss, Jr., Decatur, Ala.—Denied special authority to operate from local sunset to 6 p. m., CST, Sundays during month of October.

WATR—The WATR Company, Inc., Waterbury, Conn.—Denied special temporary authority to operate from 7 to 10 p. m., EST, October 8, 1935.

NEW—Mutual Broadcasting System, Inc., New York City.—Granted extension of present temporary authority to furnish programs by wire to CKLW, Windsor, Canada, until 3 a. m., November 1, 1935.

NEW—Golden Empire Broadcasting System, Redding, Calif.—Denied petition asking Commission to reconsider and grant without hearing application for new station to operate on 1200 kc., 100 watts, unlimited time.

WTMJ—The Journal Company, Milwaukee, Wis.—Denied petition asking Commission to reconsider and grant renewal of license. Application for renewal to be heard October 14, 1935.

WLEU—Leo J. Omelian, Erie, Pa.—Reconsidered and granted license to cover construction permit which was designated for hearing June 4, 1935.

ACTION ON EXAMINER'S REPORT

WMBH—Ex. Rep. No. 1-113: Joplin Broadcasting Co., Joplin, Mo.—Dismissed without prejudice application for special experimental authority, sustaining Examiner R. L. Walker.

ACTION ON EXAMINER'S REPORT TAKEN OCTOBER 1, 1935

WRJN—Ex. Rep. No. 1-94: Racine Broadcasting Corp., Racine, Wis.—Granted C. P. to install new equipment and increase day power from 100 to 250 watts; 1370 kc., 100 watts night, unlimited time. Order effective November 5, 1935. Examiner P. W. Seward sustained.

APPLICATIONS DISMISSED

The following applications, heretofore set for hearing, were dismissed at request of applicants:

NEW—Luther E. Gibson, d/b as Times-Herald Publishing Co., Vallejo, Calif.—C. P., 850 kc., 250 watts, daytime.

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Modification of license, 890 kc., 500 watts, unlimited time.

NEW—Dean R. Richardson, Watertown, N. Y.—C. P., 1340 kc., 250 watts, unlimited time.

APPLICATION DENIED

NEW—Chanute Broadcasting Co., R. B. Smith, R. E. Highley, C. M. Brobst, Partners, Chanute, Kans.—C. P., 1500 kc., 100 watts, daytime, heretofore set for hearing, was denied as in cases of default for failure to file an appearance in accordance with Rule 48 (c).

APPLICATIONS RECEIVED

First Zone

WNYC—City of New York, Department of Plant and Structures, 810 New York, N. Y.—Construction permit to install new equipment; increase power from 1 KW to 5 KW to sunset, New York, and from sunset, New York, use 1 KW to sunset at Minneapolis; move transmitter from Centre and Duane Sts. to Victory Blvd. and Travis Ave., New Springville Park, N. Y. Amended to make antenna changes, omit request for 5 KW power, and move transmitter from Centre and Duane Sts., N. Y., to foot of Greenpoint Ave. and East River, Brooklyn, N. Y.

WELI—Patrick J. Goode, New Haven, Conn.—License to cover 900 construction permit (B1-P-80) as modified for a new station.

WHOM—New Jersey Broadcasting Corp., Jersey City, N. J.—1450 License to cover construction permit (B1-P-3) for equipment changes and move of transmitter.

WIEH—Knickerbocker Broadcasting Co., Portable.—Modification of license to add frequencies 2150, 2060 and 2790 kc.

WIEG—Knickerbocker Broadcasting Co., Portable.—Modification of license to add frequencies 1622, 2060 and 2790 kc.

National Broadcasting Co., Inc., New York, N. Y.—Authority to transmit sustaining programs to foreign stations (Canada, Mexico, Cuba, and Puerto Rico).

Second Zone

- WJR—WJR, The Goodwill Station, Detroit, Mich.—Authority to **750** determine operating power by direct measurement of antenna.
- WJR—WJR, The Goodwill Station, Detroit, Mich.—License to **750** cover construction permit (B2-P-540) to make equipment changes and increase power from 10 KW to 50 KW.
- NEW—Saginaw Broadcasting Co., Saginaw, Mich.—Construction **1200** permit for a new station to be operated on **1200 kc.**, 100 watts night, 250 watts day, specified hours.
- WCAE—WCAE, Inc., Pittsburgh, Pa.—Authority to transfer con- **1220** trol of corporation from Pitt Radio Corp. to Pitt Publishing Co., 10 shares of common stock.
- WRAW—Reading Broadcasting Co., Reading, Pa.—Construction **1310** permit to install new equipment, move transmitter from 460 Schuylkill Ave. to 6th and Penn Sts., Reading, Pa.
- WHAT—Independence Broadcasting Co., Inc., Philadelphia, Pa.— **1310** Modification of license requesting change of operating time from share WTEL one-third time to two-thirds time, if and when WTEL vacates **1310 kc.** WHAT not to operate when WCAM is operating.
- NEW—WFIL Broadcasting Co., Portable-Mobile.—Construction **1310** permit for a new general experimental station to be operated on **31100, 34600, 37600, 40600 kc.**, 1 watt.
- NEW—WFIL Broadcasting Co., Portable-Mobile.—License to **1310** cover above.
- NEW—WFIL Broadcasting Co., Portable-Mobile.—Construction **1310** permit for a new station (general experimental) to be operated on **31100, 34600, 37600, 40600 kc.**, 1 watt.
- NEW—WFIL Broadcasting Co., Portable-Mobile.—License to **1310** cover above.
- NEW—Shenandoah Valley Broadcasting Corp., Portable-Mobile.— **1310** Construction permit for a new broadcast pickup station on **1622, 2060, 2150, 2790 kc.**, 60 watts.

Third Zone

- NEW—J. W. Birdwell, Johnson City, Tenn.—Construction permit **1200** for a new station to be operated on **1200 kc.**, 100 watts, unlimited time. Amended to change frequency from **1200 kc.** to **1370 kc.**, name from J. W. Birdwell & S. R. Jennings to J. W. Birdwell, transmitter site from corner Market and Roan Sts., Hotel John Sevier, Johnson City, Tenn., to site to be determined, Johnson City, Tenn., and make changes in equipment. To use directional antenna.
- KFPM—Voice of Greenville, Greenville, Tex.—Construction permit **1310** to make equipment changes, increase power from 15 watts to 50 watts, change hours from specified to unlimited, change call letters to KVOG. Amended to change hours from unlimited to daytime.
- WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Modifica- **1370** tion of construction permit (B3-P-18) authorizing changes in equipment and increase in day power from 100 watts to 250 watts, requesting to move transmitter site 1.1 mile, Jacksonville, Fla., and extend commencement date 30 days after grant and completion date 6 months thereafter.
- NEW—Times Publishing Co., Publishers of Wichita Daily Times & **1420** Record News, Wichita Falls, Tex.—Construction permit for a new station, frequency between **550 kc.** and **1500 kc.**, 100 watts, unlimited time. Amended to change frequency from between **550 kc.** and **1500 kc.** to **1420 kc.**; transmitter site to be determined, Wichita Falls, Tex.; and make equipment changes.
- NEW—A. E. Hughes, d/b as Valdosta Broadcasting Co., Valdosta, **1500** Ga.—Construction permit for a new station to be operated on **1500 kc.**, 100 watts, daytime. Amended to change time from daytime to unlimited and make changes in equipment.
- WIEF—Miami Broadcasting Co., Inc., Miami, Fla.—Modification **1500** of license to add frequencies **1646, 2090, 2190 and 2830 kc.**, and delete **1622 kc.** and **2150 kc.**
- KILB—International Broadcasting Corp., Portable.—Modification **1500** of license to add frequencies **1646, 2090, 2190, 2830 kc.** Delete **2150 kc.**

Fourth Zone

- WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—License **670** to use old main transmitter for auxiliary purposes.
- KMMJ—The M. M. Johnson Co., Clay Center, Nebr.—Construction **740** permit for changes in equipment and increase in power from 1 KW to $2\frac{1}{2}$ KW. Amended to make changes in antenna.
- WCAZ—Superior Broadcasting Service, Inc., Carthage, Ill.—Modi- **1020** fication of license to change from specified hours daytime to unlimited daytime.
- NEW—Saint Cloud Broadcasting Co., by Emmons L. Abeles, Secy.,

- 1300** Saint Cloud, Minn.—Construction permit for a new station to be operated on **1200 kc.**, 100 watts, unlimited time.
- KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.— **1230** Construction permit to install new equipment and increase power from 250 watts night, 500 watts day, to 1 KW day and night.
- KLPM—John B. Cooley, Minot, N. Dak.—Voluntary assignment **1240** of license to Northwest Radio Service, Inc. (Lessee).
- KROC—Southern Minnesota Broadcasting Co., Rochester, Minn.— **1310** License to cover construction permit (B4-P-178) as modified for a new station.
- NEW—Midway Broadcast Co., by Emmons L. Abeles, Secy., Eau **1310** Claire, Wis.—Construction permit for a new station to be operated on **1310 kc.**, 100 watts, unlimited time.
- KSCJ—Perkins Brothers Co. (The Sioux City Journal), Sioux City, **1330** Iowa.—Construction permit to install auxiliary equipment for emergency operation, using 50 watts power. Amended to operate on 250 watts instead of 50 watts.
- KSCJ—Perkins Brothers Co. (The Sioux City Journal), Sioux City, **1330** Iowa.—Construction permit to make changes in equipment. Amended to make antenna and equipment changes; move transmitter from First and Bluff Sts., Sioux City, Iowa, to Sioux City, Iowa; increase hours of operation from simultaneous day WTAQ, specified hours night, to unlimited time; and power from 1 KW night, $2\frac{1}{2}$ KW day, to 1 KW night, 5 KW day.
- NEW—C. E. Wilkinson, Mason City, Iowa.—Construction permit **1370** for a new station to be operated on **1370 kc.**, 100 watts, unspecified hours. Amended to change frequency from **1370 kc.** to **1370 kc.**; time from unspecified hours to unlimited; make equipment changes; change transmitter site from 2 miles west of Mason City, Iowa, to center of business district, Mason City, Iowa.
- WJBL—Commodore Broadcasting, Inc., Decatur, Ill.—Modifica- **1370** tion of license to change hours of operation from share WJBC to unlimited, and frequency from **1200 kc.** to **1370 kc.**
- WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Authority to **1410** transfer control of corporation from Rockford Broadcasters, Inc., to Rockford Consolidated Newspapers, Inc., 255 shares of common stock.
- WHFC—WHFC, Inc., Cicero, Ill.—Construction permit to install **1420** new equipment and increase day power from 100 watts to 250 watts. Amended to make antenna and equipment changes.
- WJER—The Journal Co. (The Milwaukee Journal), Milwaukee, **1420** Wis.—Modification of license to add the frequencies **2020 and 2760 kc.**
- KIFI—George W. Young, Minneapolis, Minn.—Modification of **1420** license to add frequencies **2060 and 2790 kc.**
- KIFF—Missouri Broadcasting Corp., St. Louis, Mo.—Modification **1420** of license to include frequencies **2060 and 2790 kc.**

Fifth Zone

- KVL—KVL, Inc., Seattle, Wash.—Construction permit to make **1070** changes in equipment; change frequency from **1370 kc.** to **1070 kc.**; power from 100 watts to 250 watts; hours of operation from share KRKO to daytime only. Amended to make changes in antenna.
- KGDM—E. F. Peffer, Stockton, Calif.—Modification of construc- **1100** tion permit (B5-P-14) authorizing move of transmitter and increase in power, requesting extension of completion date to 12-16-35.
- NEW—E. E. Long Piano Co., a partnership of R. R. Long, E. A. **1200** Van Vechten, and P. G. Green, San Luis Obispo, Calif.—Construction permit for a new station to be operated on **1200 kc.**, 100 watts, unlimited time.
- NEW—Alex F. Suss, Marysville, Calif.—Construction permit for a **1210** new station to be operated on **1210 kc.**, 100 watts, unlimited time.
- NEW—Cache Valley Broadcasting Co., Logan, Utah.—Construc- **1370** tion permit for a new station to be operated on **1370 kc.**, 100 watts, unlimited time.
- KHBC—Honolulu Broadcasting Co., Ltd., Hilo, Hawaii.—Modifi- **1400** cation of construction permit (B5-P-552) as modified for a new station, requesting change in frequency from **1420 kc.** to **1400 kc.**, power from 100 watts to 250 watts, install new equipment, extend commencement date to 60 days after grant and completion date to 6 months thereafter.
- KDON—Richard Field Lewis, Del Monte, Calif.—Voluntary as- **1400** signment of construction permit from Richard Field Lewis to Monterey Peninsula Broadcasting Co.

The National Association of Broadcasters

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THE ALLOCATION SITUATION

Current speculation relative to the plans of the Federal Communications Commission for revising its Rules and Regulations concerning allocation of broadcasting facilities has prompted several member stations to request further information. Particular interest centers about the expected report and recommendations of the FCC Engineering Department to the Commission based on the survey of secondary coverage conducted earlier this year.

Except for the addition of the three high-fidelity experimental broadcasting channels, there has been no modification of the allocation system established in 1928. At that time, 40 clear channels, 40 regional channels, 4 high-power regional channels and 6 local channels were established and certain standards of interference, geographical separation, etc., were set up for governing the assignments to individual stations operating on the various channels. The system admittedly has provided an arrangement of broadcasting stations rendering a high degree of public service. There have been, however, continual attacks on the wisdom of setting aside 40 channels for clear channel use.

In August, 1934 (NAB REPORTS, August 8, 1934), a group of thirteen independently owned clear channel broadcasting stations jointly petitioned the Federal Communications Commission asking for an investigation of clear channel service and a re-statement of policy concerning them. The Commission was requested to embark upon an investigation of secondary coverage and other technical phases of service rendered by clear channel stations.

Contrary to most expectations, the Commission on October 30, 1934, announced its intention to conduct a thorough investigation of secondary coverage. Following several informal conferences, a plan was formulated for a cooperative survey, under the general supervision of the FCC Engineering Department, financed by clear channel licensees and by the Commission.

The survey comprised a mail survey of rural listeners, a personal interview of rural and small town listeners in conjunction with field intensity surveys, both conducted by the FCC; and the operation of 58 fixed recording field intensity meters financed by contributions from the majority of clear channel licensees (estimated cost: \$50,000).

The field intensity recorders, maintained in ten locations throughout the United States, began operating shortly after February 1, 1935, and continuously recorded signal intensities of clear channel stations until May 31, 1935. The tremendous task of compiling and analyzing the large amount of data has at the present time reached about 75 per cent completion.

It is expected that the compilation of data will be finished in four to six weeks from the present date. Allowing another month for the Engineering Department to prepare its final report and recommendations would mean that the Commission should receive the Engineering Department proposals during the middle of the month of December, 1935.

As it seems highly doubtful that such modifications in the broadcasting system as may be proposed can be put into effect through a change in the FCC Rules and Regulations without a general hearing, it is reasonable to expect that the Commission will conduct a hearing after allowing a reasonable length of time for the parties concerned to prepare for it. It would seem that at least a month will be required after the hearing for the Commission to hand down its

decision. From these considerations, it appears highly improbable that a final declaration of Commission policy will be forthcoming before April, 1936, and possibly not then.

As most of the anticipated recommendations of the Engineering Department involve new construction, for some of which development work is incomplete, it seems safe to estimate the time required for putting into effect the changes of Rules and Regulations, if any, to be not less than two years from the present date.

While the filing of applications for facilities expected to be created is, of course, premature, it is recommended that station managers observe carefully the developments within the next few months, all of which will be outlined promptly in NAB REPORTS.

Although the report and recommendations of the Engineering Department have not passed the discussion stage and have not as yet been reduced to writing, an informed estimate of their principal features would include the following recommended changes in existing Rules and Regulations:

1. Reduction of the number of clear channels from 40 to about 25, and the removal of the 50-kilowatt restriction on power to allow the use of 500 kilowatts or more.
2. On the remaining 15 channels at present known as clear channels, the use of 50 kilowatts at the dominant station with duplication when such duplicated operation will not interfere with the service of the dominant station according to standards for this purpose to be set up by the Commission.
3. Horizontal increases of night power to 5 kilowatts by stations operating on certain of the regional frequencies having adequate geographical separation between stations.
4. On regional frequencies having less than normal geographical separation between stations, the adjustment of distance tables so that more or less uniform separations may exist throughout the country. There is some thought of separate distance tables for each frequency.
5. Opening of 1510 kilocycles for 100-watt stations, making room for about 50 such stations which may be required to adhere to certain specifications regarding antennas.
6. Continuation for the time being of the experimental high-fidelity broadcasting channels 1530, 1550 and 1570 kilocycles.
7. The net result is expected to amount to a revision of the Rules and Regulations applicable to power and equipment including antennas; and it is expected that there will be few if any changes in frequency assignments.

NAB BOARD MEETS

The Board of Directors of the National Association of Broadcasters has been scheduled to meet at the St. Regis Hotel, New York City, Thursday, October 17, 1935.

FEDERAL TRADE COMMISSION ACTION

Stipulations 1488 to 1491, Inclusive

Two companies and two individuals selling various commodities in interstate commerce have entered into stipulations with the Federal Trade Commission to abandon unfair practices in the sale of their goods.

The parties entering stipulations are: Murray L. Linday, of New York City, selling a hair preparation; Cecil O'Banion, of Canmer, Ky., a dealer in tobacco seed; F. Jacobson & Sons, New York City, shirt manufacturers; and Clean Home Products, Inc., of Chicago, selling a cleaning fluid.

No. 1488. Murray L. Linday, trading as Linday Laboratory, agreed to stop representing that most forms of scalp trouble would be eliminated by use of "Linday's New Hair Compound," and that lost hair would be regrown, and other similar representations. The stipulation says that these assertions were material misrepresentations having a tendency to deceive the purchasing public.

No. 1489. Cecil O'Banion, engaged in the growing and production of tobacco seed, will no longer use in advertising matter the words "Halley's Special," as applied to tobacco seed, in any way

which may tend to deceive buyers into believing that the seeds so described are produced by Dr. Samuel H. Halley or his successors. Dr. Halley, according to the stipulation, was engaged in growing tobacco seeds and experimented for the improvement of various strains, originating a type of burley tobacco which had desirable qualities, demand, and good will.

No. 1490. F. Jacobson & Sons, shirt manufacturers, will cease advertising that they are custom shirt makers and will stop use of the words "custom shirt makers" in any way which may tend to deceive buyers. According to the stipulation, the shirts sold by this firm and referred to in the stipulation were "ready-made."

No. 1491. Clean Home Products, Inc., agrees to abandon use of the phrase "No Stain" on labels affixed to its product "Paris Dry Cleaner" implying that application of the fluid to certain fabrics will not result in appearance of a stain, mark or ring on the materials. The corporation also agrees to stop using on labels any representations to the effect that a spot can be removed from fabrics and materials to which the liquid is applied, when this is not true.

WWAE LICENSE RENEWAL RECOMMENDED

Broadcasting Station WWAE, operating on a frequency of 1200 kilocycles, 100 watts power, and sharing time with WFAM, applied to the Federal Communications Commission for license renewal.

Examiner R. H. Hyde, in Report No. I-118, recommended that the renewal license be granted. The Examiner states that "the service of Station WWAE, as a whole, may be characterized as a local metropolitan service of acceptable quality, but certain commercial broadcasts identified as 'Dr. Schyman' and 'Pur-Erb' products contained fraudulent representations and were in fact inimical to the public interest. The present service, which the applicant proposes to continue, appears to meet the requirement that the station serves the public interest."

SECURITY ACT REGISTRATIONS

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

- Ludlum Steel Company, Watervleit, N. Y. (2-1687, Form A-2)
- Poulin Gold Mines, Ltd., Montreal, Canada. (1-1688, Form A-1)
- Electric Smelters, Inc., Central City, Colo. (2-1690, Form A-1)
- Coulson Consolidated Gold Mines, Ltd., Toronto, Canada. (2-1691, Form A-1)
- Lewis American Airways, Inc., Denver, Colo. (2-1692, Form A-1)
- Calway Corporation, Houston, Tex. (2-1692, Form A-1)
- Frye Investment Company, Seattle, Wash. (2-1694, Form E-1)
- Blackburn-Pattison Mines, Ltd., Toronto, Canada. (2-1695, Form A-1)
- Texla Oil Corporation, San Antonio, Tex. (2-1696, Form A-1)

WBHS DISMISSAL RECOMMENDED

Broadcasting Station WBHS, Huntsville, Ala., operating on a frequency of 1200 kilocycles, 100 watts power, and 6/7 time, applied to the Federal Communications Commission for daytime hours and permission to move to Chattanooga.

Examiner P. W. Seward, in Report No. I-119, recommended that the application be dismissed with prejudice. The Examiner states that at the hearing counsel representing the applicant made a motion that the application be dismissed.

RECOMMENDS NEW MICHIGAN STATION

The Wayne Broadcasting Company applied to the Federal Communications Commission for a construction permit to erect a broadcasting station at Hamtramck, Mich., using 1370 kilocycles, 100 watts power, and daytime hours.

Examiner P. W. Seward, in Report No. I-117, recommends that the application be granted. The Examiner found that there is a need in the area "for additional daytime service." It is stated that the proposed station "would limit the primary service area of Station WIBM . . . but that said interference would be considered slight as compared to the benefits resulting to the proposed area served." The Examiner states also that construction of the proposed new service would be in the public interest.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Thursday, October 24, 1935

HEARING BEFORE THE BROADCAST DIVISION

WLWL—Missionary Society of St. Paul the Apostle, New York, N. Y.—Modification of license, 810 kc., 5 KW, unlimited

time (requests facilities of WNYC and WCCO). Present assignment: 1100 kc., 5 KW, specified hours.

WNYC—City of New York, Department of Plants and Structures, New York, N. Y.—Renewal of license, 810 kc., 500 watts, daytime.

WCCO—Northwestern Broadcasting, Inc., Minneapolis, Minn.—Renewal of license, 810 kc., 50 KW, unlimited time.

WWL—Loyola University, New Orleans, La.—Renewal of license, 850 kc., 10 KW, specified hours.

WWL—Loyola University, New Orleans, La.—Extension of special authority; 850 kc., 10 KW, unlimited time. Present assignment: 850 kc., 10 KW, specified hours, S.A. for unlimited time.

KWKH—International Broadcasting Corp., Shreveport, La.—Renewal of license, 850 kc., 10 KW, specified hours.

WBAP—Carter Publications, Inc., Fort Worth, Tex.—Renewal of license, 800 kc., 50 KW, share with WFAA.

WFAA—A. H. Belo Corporation, Dallas, Tex.—Renewal of license, 800 kc., 50 KW, share with WBAP.

WVO—International Broadcasting Corp., New York, N. Y.—Renewal of license, 1130 kc., 1 KW, daytime.

WPG—WPG Broadcasting Corp., Atlantic City, N. J.—Renewal of license, 1100 kc., 5 KW, specified hours.

WVO—International Broadcasting Corp., New York, N. Y.—C. P., 1130 kc., 1 KW, unlimited except from 6 to 8 p. m., except hours assigned to WLWL on 1100 kc. Present assignment: 1130 kc., 1 KW, daytime, 6 a. m. to 6 p. m.

WJJD—WJJD, Inc.—Modification of license, 1130 kc., 5 KW after sunset, Salt Lake City; 20 KW 6 a. m. to 8:30 p. m., specified hours. Present assignment: 1130 kc., 20 KW, limited time.

NEW—J. David Stern, New York, N. Y.—C. P., 810 kc., 500 watts, 6 a. m. to sunset of WCCO (requests facilities of WNYC).

APPLICATIONS GRANTED

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted C. P. to make changes in equipment.

NEW—J. B. Roberts, Gastonia, N. C.—Granted C. P. for new station, 1420 kc., 100 watts, unlimited; transmitter and studio location to be determined subject to Commission's approval.

KGER—Consolidated Broadcasting Corp., Ltd., Long Beach, Calif.—Granted renewal of license for a period of 60 days; 1360 kc., 1 KW, unlimited.

KGIR—KGIR, Inc., Butte, Mont.—Granted renewal of license, 1340 kc., 1 KW, 1½ KW from local sunrise to local sunset only, unlimited time.

WNEW—Wodaam Corp., Newark, N. J.—Granted renewal of license, 1250 kc., 1 KW, with an additional 1½ KW from local sunrise to local sunset only; shares with WHBI. WHBI 1/7 time and 6/7 time WNEW.

KGB—Don Lee Broadcasting System, San Diego, Calif.—Granted renewal of license for a period of 60 days; 1330 kc., 1 KW, unlimited.

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Granted extension of special experimental authority to operate synchronously with station WBBM from local sunset at Lincoln to midnight, from September 1, 1935, to February 1, 1936.

WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Granted authority to determine operating power by direct measurement of antenna input.

WPRP—Julio M. Conesa, Ponce, P. R.—Granted modification of C. P. to extend completion date to 12-18-35.

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Granted license to cover C. P.; 670 kc., 50 KW, unlimited time.

WFLA-WSUN—Clearwater Chamber of Commerce and St. Petersburg Chamber of Commerce, Clearwater, Fla.—Granted license to cover C. P.; 620 kc., 1 KW night, 5 KW day, unlimited time.

WISN—Hearst Radio, Inc., Milwaukee, Wis.—Granted license to cover special temporary authority to use the formerly licensed main transmitter as auxiliary transmitter of station WISN, to be operated with power of 250 watts at 1217 W. Wisconsin Ave., Milwaukee, Wis.

WKBV—KNOX Radio Corp., Richmond, Ind.—Granted C. P. to move transmitter location 279 feet on U. S. Highway 27, which is approximately 2 miles north of Richmond, and install new radiating system.

NEW—Shenandoah Valley Broadcasting Corp., Portable-Mobile (Harrisonburg, Va.)—Granted C. P. (B/C Temp.), frequencies 1622, 2060, 2150, 2790 kc., 60 watts.

W1XAL—World Wide Broadcasting Corp., Boston, Mass.—Granted C. P. to install an auxiliary 3-KW transmitter.

- NEW—WCAU Broadcasting Co., Portable-Mobile (Philadelphia, Pa.)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 50 watts.
- NEW—WKY Radiophone Co., Oklahoma City, Okla.—Granted C. P. (exp. gen. exp.), frequencies 31600, 35600, 38600, 41000 kc., 100 watts.
- NEW—Ben S. McGlashan, Portable-Mobile, Los Angeles, Calif.—Granted C. P. (exp. gen. exp. B/C pickup), frequencies 31100, 34600, 37600 and 40600 kc., 100 watts.
- NEW—Ben S. McGlashan, Los Angeles, Calif.—Granted C. P. (exp. gen. exp.), frequencies 31600, 35600, 38600 and 41000 kc., 100 watts.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

- KSCJ, Sioux City, Iowa; WBIG, Greensboro, N. C.; WCKY, Covington, Ky.; WEVD, New York City.; WGAR, Cleveland, Ohio; WHIS, Bluefield, W. Va.; WKBH, La Crosse, Wis.; WSAR, Fall River, Mass.; WSMK, Dayton, Ohio.
- KRKD—Radio Broadcasters, Inc., Los Angeles, Calif.—Granted renewal of license for auxiliary for period ending April 1, 1936.
- WCAD—St. Lawrence University, Canton, N. Y.—Granted renewal of license for period ending April 1, 1936.

SET FOR HEARING

- WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, Ill.—Application for C. P. to install new equipment, increase day power from 100 to 250 watts.
- NEW—F. W. Atkinson, Watsonville, Calif.—Application for C. P. for new station, 1310 kc., 250 watts, daytime. site to be determined.
- KVSO—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Application for C. P. to make changes in equipment; change power and hours of operation from 100 watts daytime to 100 watts night, 250 watts day, and unlimited time.
- NEW—Continental Radio Co., Toledo, Ohio.—Application for C. P. for new station, 1210 kc., 100 watts night, 250 watts day, unlimited time, transmitter and studio location to be determined with Commission's approval.
- NEW—A. W. Hayes, Erie, Pa.—Application for C. P. for new station (resubmitted and amended) requests directional antenna for night time only; 1270 kc., 500 watts night, 1 KW day, unlimited.
- NEW—A. O. Jenkins, Jacksonville, Fla.—Application for C. P., already in hearing docket, amended to read: 1200 kc., 100 watts, unlimited time.
- WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Application for C. P., already in hearing docket, amended so as to read: 1230 kc., 250 watts night, 500 watts day, unlimited.
- KGFG—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Application for modification of license, already in hearing docket, amended to read: 1370 kc., 100 watts, unlimited time.
- KIT—Carl E. Haymond, Yakima, Wash.—Application for voluntary assignment of license from Carl E. Haymond to Valley Broadcasters, Inc.
- NEW—C. A. Rowley, Ashtabula, Ohio.—Application for C. P. for new station, 1200 kc., 100 watts, daytime.
- NEW—Clyde E. Britton, Lima, Ohio.—Application for C. P. for new daytime station, 950 kc., 250 watts.

ACTION ON EXAMINERS' REPORTS

- NEW—Ex. Rep. No. 1-46: The Journal Company, Milwaukee, Wis.—Denied C. P. for new station to operate on 1010 kc., 1 KW, unlimited time. Examiner R. H. Hyde sustained. Order effective November 26, 1935.
- NEW—Ex. Rep. No. 1-78: Head of the Lakes Broadcasting Co., Virginia, Minn.—Granted C. P. for new station, 1370 kc., 100 watts, unlimited time. Examiner R. H. Hyde sustained. Order effective November 26, 1935.
- WWJ—Ex. Rep. No. 1-109: The Evening News Assn., Inc., Detroit, Mich.—Granted C. P. to move transmitter, install new equipment, and increase power from 1 KW day to 5 KW day; 920 kc., 1 KW night, unlimited time. Examiner Geo. H. Hill sustained. Order effective November 19, 1935.
- WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Granted C. P. to make changes in equipment, move transmitter and studio, and increase day power from 500 watts to 1 KW. Examiner Hill sustained. Order effective November 19, 1935.

APPLICATIONS DISMISSED

The following applications, heretofore set for hearing, were dismissed at request of applicants:

- WSCN—Ormand O. Black and Mary Collett Black, Birmingham, Ala.—C. P., 590 kc., 1 KW, unlimited time.
- NEW—Philco Radio & Television Corp., Philadelphia, Pa.—C. P. for special experimental station, 42000, 56000, 60000, 86000 kc., 250 watts, unlimited time.

APPLICATIONS DENIED

The following applications, heretofore set for hearing, were denied as in cases of default for failure to file an appearance in accordance with Rule 48 (c):

- NEW—Palmer Broadcasting Syndicate, Inc., Cheyenne, Wyo.—C. P., 1210 kc., 100 watts, unlimited time.
- NEW—Clark Standiford, Fresno, Calif.—C. P., 1370 kc., 100 watts, daytime.

MISCELLANEOUS

- WDRC—WDRC, Inc., Hartford, Conn.—Denied request for special temporary authority to operate with 5 KW daytime, using present antenna system, for period October 8, 1935, and continuing until new antenna system is completed.
- WNBX—WNBX Broadcasting Corp., Springfield, Vt.—Reconsidered and set aside order of September 17, 1935, granting application for full time operation and granted temporary license for period not to exceed 90 days. In meantime WHIO, Dayton, and WNBX must conduct field strength tests to determine with accuracy questions of interference and stations must submit report of tests to Commission.
- NEW—Paul Heitmeyer, Salt Lake City, Utah.—Denied motion to strike from record petition of intervention filed on behalf of KSL, Salt Lake City.
- KFYR—Meyer Broadcasting Co., Bismarck, N. Dak.—Granted rehearing before Broadcast Division on application for renewal of license to be held January 14, 1936, to provide opportunity to applicant to present any additional or new testimony. Effective date of Commission's decision denying renewal postponed indefinitely.
- KSL—Radio Service Corp. of Utah., Salt Lake City, Utah.—Granted petition to intervene and become a party to hearing of application of Mountain States Broadcasting Corp. for new station at Salt Lake City; also granted petition to intervene at hearing of application of Paul Heitmeyer for new station at Salt Lake City.
- NEW—J. C. and E. W. Lee, d/b as Riverside Broadcasting Co., Riverside, Calif.—Denied request that Commission immediately consider application for new station and grant the same in accordance with Examiner's Report filed May 17, 1935. Applicant seeks to erect new station to operate on 820 kc., 250 watts, daytime. Immediate action impossible because application of Metro Broadcasting Co. for new station at East Los Angeles, on same frequency, not disposed of.
- KMJ—James McClatchy Company, Fresno, Calif.—Granted petition to intervene and be made party respondent in opposition to the applications of Harold H. Hanseth, Docket No. 2911; Miles J. Hansen, Docket No. 2981; Clark Standiford, Docket No. 3010; and Julius Brunton & Sons So., Docket No. 3165, for new stations.

APPLICATIONS RECEIVED

First Zone

- NEW—Northern Commercial Co., Fairbanks, Alaska.—Construction permit for a new station to be operated on 550 kc., 250 watts, unlimited time.
- WSYR—WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Construction permit to install a new 250-watt transmitter.
- WBSO—Broadcasting Service Organization, Inc., Needham, Mass.—920 Authority to transfer control of corporation from Babson's Statistical Organization, Inc., to Geo. A. Crockwell, Wm. H. Eynon, and James K. Phelan, 1,000 shares common stock.
- WCOP—Joseph M. Kirby, Boston, Mass.—Modification of license 1130 to change frequency from 1120 kc. to 1130 kc.; hours of operation from daytime to specified hours (daytime and from local sunset to 8 p. m., EST), using 500 watts. Amended to change hours of operation from specified hours to limited until local sunset at KSL, Salt Lake City, Utah.

- NEW—Watertown Broadcasting Corp., Watertown, N. Y.—Construction permit for a new station to be operated on **1270 kc.**, 250 watts, daytime.
- WHEC—WHEC, Inc., Rochester, N. Y.—Construction permit to **1430** install new equipment (also antenna) and move transmitter from 65 Broad St., Rochester, N. Y., to 183 Main St., East Rochester, N. Y.
- WKEM—Hearst Radio, Inc., New York, N. Y.—Modification of license to add frequencies **2060** and **2790 kc.**
- WLEB—WOKO, Inc., Albany, N. Y.—Modification of license to add frequencies **2090**, **2190** and **2830 kc.**
- WJEP—Stromberg-Carlson Telephone Mfg. Co., Rochester, N. Y.—Modification of license to delete frequencies **1622**, **2060**, **2150**, **2790 kc.**, and add **1606**, **2020**, **2102**, **2760 kc.**
- W2XHI—Bamberger Broadcasting Service, Inc., Newark, N. J.—Modification of construction permit for a new general experimental station to extend date of commencement to 1-27-36 and date of completion to 4-27-36.

Second Zone

- WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Construction **880** permit to install new equipment, increase power from 250 watts to 500 watts day and night. Amended: Equipment changes.
- WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, **1200** Mich.—Construction permit to make changes in equipment.
- WKBZ—Karl L. Ashbacher, Muskegon, Mich.—Modification of **1200** license to change frequency from **1500 kc.** to **1200 kc.**
- WASH—Kunsky Trendle Broadcasting Corp., Grand Rapids, Mich. **1270** —Construction permit to install new transmitter, increase power from 500 watts to 1 KW; antenna changes. Amended: Transmitter site to be determined.
- WOOD—Kunsky Trendle Broadcasting Corp., Grand Rapids, Mich. **1270** —Construction permit to make equipment changes, increase power from 500 watts to 1 KW; antenna changes. Amended: Transmitter site to be determined.
- WCMI—Ashland Broadcasting Co., Ashland, Ky.—Construction **1350** permit to install new equipment; change frequency from **1310 kc.** to **1350 kc.**, or any frequency FCC deems best; increase power from 100 watts to 1 KW day and night. Amended: Requesting frequency of **1350 kc.**
- WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—**1420** Construction permit to make changes in equipment, increase day power from 100 watts to 250 watts. Consideration under Rule 6.
- WGAR—The WGAR Broadcasting Company, Cleveland, Ohio.—**1450** Authority to transfer control of corporation from G. A. Richards, Leo. Fitzpatrick, John F. Patt, and P. M. Thomas to WJR, The Goodwill Station (a Michigan corporation), 1,000 shares of common stock.
- WKFB—The Evening News Association, on aircraft.—Modification of license to add frequencies **1606**, **2020**, **2102**, and **2760 kc.**, and delete frequency **2150 kc.**
- NEW—Philco Radio & Television Corp., Philadelphia, Pa.—Construction permit for special experimental station to be operated on **42000-56000**, **60000-86000 kc.**, 250 watts.
- W3XE—Philadelphia Storage Battery Company, Philadelphia, Pa.—Assignment of radio station license from Philadelphia Storage Battery Co. to Philco Radio & Television Corporation.
- NEW—Scranton Broadcasters, Inc., Portable.—Construction permit for new general experimental station to be operated on **31100**, **34600**, **37600**, **40600**, **86000-400000 kc.**, 100 watts. Amended to delete frequencies **86000-400000 kc.**

Third Zone

- NEW—Ruth W. Adcock and S. E. Adcock, d/b as General Broadcasters, Rossville, Ga.—Construction permit for a new station to be operated on **580 kc.**, 250 watts, daytime.
- NEW—Ruth W. Adcock and S. E. Adcock, d/b as General Broadcasters, Johnson City, Tenn.—Construction permit for a new station to be operated on **600 kc.**, 250 watts, daytime.
- NEW—C. G. Hill, Geo. D. Walker, Susan H. Walker, Winston **1250** Salem, N. C.—Construction permit for a new station to be operated on **1250 kc.**, 250 watts, daytime.
- KFPL—C. C. Baxter, Dublin, Tex.—Modification of construction **1310** permit (B3-P-345) authorizing changes in equipment; increase in power; transmitter site and antenna to be determined; requesting extension of commencement date from 6-16-35 to 12-17-35, and completion date from 12-16-35 to 6-17-36.

- WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—**1310** License to cover construction permit (B3-P-376) as modified for a new station.
- NEW—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—Construction permit for a new station to be operated on **1330 kc.**, 1 KW, unlimited time. Amended to change name from Caller Times Publishing Co. to Gulf Coast Broadcasting Co.; change power from 1 KW to 250 watts, 500 watts day; and make equipment changes.
- WNRA—Muscle Shoals Broadcasting Corp., Muscle Shoals, Ala.—**1420** Modification of license to move studio from corner 2nd Street and Woodward Ave., Highland Park, Muscle Shoals, Ala., to Mezzanine Floor of Sheffield Hotel, corner 5th Street and Montgomery Ave., Sheffield, Ala.
- KIJG—Eagle Broadcasting Co., Inc., Mobile.—Modification of license to add frequencies **1622**, **2060**, **2790 kc.**

Fourth Zone

- WNAX—The House of Gurney, Inc., Yankton, S. Dak.—License **570** to cover construction permit (B4-P-172) as modified to make changes in equipment, increase power, and move transmitter.
- KGDY—The Voice of South Dakota, Huron, S. Dak.—Modification **1340** of license to change hours of operation from daytime to unlimited, using 250 watts power. Amended to make changes in antenna.
- NEW—Northern Iowa Broadcasting Co., Inc., Mason City, Iowa.—**1420** Construction permit for a new station on **1420 kc.**, 100 watts night, 250 watts day, unlimited time. Amended to decrease day power from 250 watts to 100 watts.

Fifth Zone

- KLZ—The Reynolds Radio Co., Inc., Denver, Colo.—Modification **560** of construction permit (5-P-B-3274) as modified for approval of transmitter site at Pecos and Jewell Sts. (outside city limits), Denver, Colo. (same as now licensed), and extend commencement date from 8-24-35 to 60 days after grant and completion date 180 days thereafter. Amended to change transmitter site to near Denver, Colo., and approval of antenna.
- KOL—Seattle Broadcasting Co., Inc., Seattle, Wash.—Modification **920** of license to increase power from 1 KW, 2½ KW day, to 1 KW, 5 KW day. Amended: Change frequency from **1270 kc.** to **920 kc.** contingent upon granting of KOMO's application for **760 kc.**
- NEW—Ventura County Star, Inc., Merced Star Publishing Co., **1200** Inc., Ventura, Calif.—Construction permit for a new station to be operated on **1200 kc.**, 250 watts, daytime.
- NEW—Tulare-Kings Counties Associates, Chas. A. Whitmore, Pres., **1200** Visalia, Calif.—Construction permit for a new station to be operated on **1200 kc.**, 250 watts, daytime.
- NEW—John A. Stump, Fairbanks, Alaska.—Construction permit **1210** for a new station to be operated on **1210 kc.**, 50 watts, specified hours. Amended to change power from 50 watts to 100 watts, 250 watts day; hours of operation from specified hours to unlimited; changes in equipment and antenna, giving transmitter site to be determined.
- NEW—Union-Tribune Publishing Co., San Diego, Calif.—Construction **1420** permit for a new station to be operated on **1420 kc.**, 100 watts night, 250 watts day, unlimited time.
- KUJ—KUJ, Inc., Walla Walla, Wash.—Construction permit to **1450** change frequency from **1370 kc.** to **1450 kc.**; power from 100 watts to 1 KW; install new equipment and move transmitter from Second and Rose Sts., Walla Walla, Wash., to County Road and College Ave., Walla Walla, Wash. Amended to change frequency from **1450 kc.** to **1250 kc.**
- NEW—Don Lee Broadcasting System, Portable-Mobile, Los Angeles, Calif.—Construction permit for general experimental station to be operated on **31100**, **34600**, **37600**, **40600**, **86000-400000**, **401000 kc.** and above, 100 watts. Amended to delete frequencies **86000-400000**, **401000 kc.** and above.
- NEW—Don Lee Broadcasting System (Portable-Mobile), San Francisco, Calif.—Construction permit for general experimental station to be operated on **31100**, **34600**, **37600**, **40600**, **86000-400000**, **401000 kc.** and above, 100 watts. Amended to delete frequencies **86000-400000**, **401000 kc.** and above.
- KIFT—Julius Brunton & Sons Co., Portable and Mobile.—Modification of license to add frequencies **1622**, **2060** and **2790 kc.**
- KIEL—Fisher's Blend Station, Inc., Portable in Washington State.—Modification of license to add frequencies **1606**, **2020**, **2102**, **2760 kc.** Delete **1622** and **2150 kc.**

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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ASCAP TRIAL JANUARY 6

NAB Headquarters was advised this week that the Government will resume the trial of the case United States vs. American Society of Composers, Authors and Publishers on January 6, 1936.

NAB BOARD MEETS

The Board of Directors of the National Association of Broadcasters held a meeting in New York City on October 17, 1935. The agenda for the meeting included, in addition to the regular routine matters, reports on Federal and State legislation, state litigation and ASCAP. The ASCAP problem will be the subject of a personal letter to the members.

BOARD SELECTS CHICAGO FOR NEXT CONVENTION

The NAB Board of Directors at a meeting held on October 17, selected the City of Chicago, Illinois, as the place for the next annual membership meeting of the National Association of Broadcasters. The directors agreed that the convention should be held during the last half of July after the Democratic and Republican National Conventions. The exact date and the hotel are to be agreed upon by the members of the Executive Committee.

NORMA-LITE REDUCING TABLETS

The Norma-lite Company of Des Moines, Iowa, has sent out a circular letter concerning the product Norma-lite, a reducing tablet, soliciting radio time on a contingent basis and requesting prompt consideration by stations "so we can complete early arrangements and provide continuities which have had the OK of the Federal Radio Commission."

The statement concerning approval by the Federal Radio Commission of continuities is misleading. The Federal Communications Commission does not approve or disapprove radio continuities and member stations are cautioned against any such statement made by any advertiser. Further, the proposal submitted by the Norma-lite Company is in direct conflict with the provisions contained in Paragraph 6 of the NAB Code of Ethics which prohibits the acceptance of any business on a cost per inquiry, contingent or percentage basis.

WILL ROGERS MEMORIAL

James W. Baldwin, Managing Director, this week mailed to stations suggested continuities to be used by all stations in informing the public concerning the Will Rogers Memorial Fund. Stations are urged to give their fullest cooperation in this matter.

ANSWER IN WDAS CASE FILED THIS WEEK

James W. Baldwin, Managing Director, conferred this week in Philadelphia with the lawyers engaged in the trial of the case brought by Fred Waring against the WDAS Broadcasting Station, Inc. (See NAB REPORTS, Vol. 3, No. 45.) This case is of the greatest importance to the members of the Association. The NAB is represented in the case by William A. Schnader, former Attorney General of the State of Pennsylvania. The answer will be filed on Saturday of this week. Every effort has been made to perfect the record in the case so as to fully protect the interests of the members in any appellate action.

MEMBERSHIP APPLICATIONS APPROVED

The Board of Directors, at a meeting held on October 17, approved the following applications for membership in the Association: Station WTAD, Illinois Broadcasting Corporation, Quincy, Illinois; Station WNEL, Juan Piza, San Juan, Puerto Rico; Station WMFR, Hart and Nelson, High Point, North Carolina; Station WBNY, Roy L. Albertson, Buffalo, New York; Station WCPO, Scripps-Howard Newspapers, Cincinnati, Ohio.

McNARY GRANTED LEAVE OF ABSENCE

James W. Baldwin, Managing Director, announced this week that James C. McNary, Technical Director of the NAB, has been given a leave of absence to act as technical adviser to the clear channel group in connection with the study being given to the secondary coverage survey by the FCC.

This secondary coverage survey was undertaken more than a year ago under a cooperative arrangement between the FCC and a group of stations.

At the second conference held in November 1934, between representatives of the Commission and the stations, Mr. McNary was designated as coordinator by all participants and has been closely identified with the collection of technical data since that time.

The fact-finding survey having been completed, the next step involves interpretations of the data which have been collected. To perform this task, certain of the participating stations have requested that Mr. McNary be relieved by the NAB so that he may devote his full time in their interests. It was explained by Mr. Baldwin that under this arrangement the NAB is not committed to any proposals which may be made.

Mr. McNary was granted a leave of absence commencing October 21, 1935.

FCC AMENDS RULE 131

The FCC this week adopted the following modification to Rule 131:

"Rule 131 (a) All applicants for new, additional, or different broadcast facilities and all licensees requesting authority to move the location of the station shall specify a radiating system the efficiency of which complies with the requirements of good engineering practice for the class and power of the station.

"(b) The Commission will publish from time to time specifications deemed necessary to meet the requirements of good engineering practice.

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

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

The Commission issued the following release describing the amended rule:

Minimum Antenna Heights Required for Broadcast Stations Pursuant to Rule 131

"A review of the antenna systems employed by broadcast stations reveal that there are now many antennas in use that the radiating efficiency does not comply with the requirements of good engineering practice. In many cases a material improvement in the coverage of the station could be accomplished by erecting an efficient radiating system. This increase in coverage may be more than could be accomplished by doubling the power.

"It is the obligation of the licensee of every station to make efficient usage of the assignment granted by the Commission. It is not the intention of the Commission at this time to require all stations with questionable radiating systems to install antennas having the required efficiency, but it is the intention not to grant additional facilities to licensees of broadcast stations unless they are making efficient usage of the assignment already granted. That is, the licensee of a broadcast station requesting more power, change in time of operation, different frequency, or move of the transmitter, must have an antenna for the assignment requested that meets with the minimum requirements before favorable consideration will be given.

"The attached graph shows the minimum physical height of antenna proper or minimum effective field intensity that stations must have before additional facilities will be granted.

"These minimum actual physical vertical heights of antennas permitted to be installed are shown by curves A, B, C, and D of Figure 1 as follows:

- A—Local Channel Stations, 100 watts night and day or 100 watts night and 250 watts day, or a minimum effective field intensity at one mile of 40 mv/m for 100 watts.
- B—Regional Channel, limited time, day, etc., Stations 250 watts to 1000 watts night and day, or a minimum effective field intensity at one mile of 150 mv/m for 1 kilowatt.
- C—All stations other than Dominant Clear Channel Stations having an operating power night or day greater than one kilowatt and less than 25 kilowatts, or a minimum effective field intensity at one mile of 175 mv/m for one kilowatt.
- D—All Dominant Clear Channel Stations and all other stations having a maximum operating power night or day of over 10 kilowatts, or a minimum effective field intensity at one mile of 200 mv/m for one kilowatt.

"The heights given on the graph for the antenna apply regardless of whether the antenna is located on the ground or on a building. Except for the reduction of shadows locating the antenna on a building does not necessarily increase the efficiency. In applying these curves the maximum operating power shall determine which curve is applicable.

"In case it is contended that the required antenna efficiency can be obtained without antennas of the height specified, a complete field intensity survey must be supplied to the Commission showing that the field intensity at a mile without attenuation fulfills at least the minimum requirements. This field survey must be made by a qualified engineer using equipment of acceptable accuracy.

"To obtain the maximum efficiency of which any antenna is capable, a good ground or counterpoise system must be employed.

"At the present state of the art, it appears that where a vertical radiator is employed the ground system should consist of radial wires at least $\frac{1}{4}$ wave length long. There should be as many of these radials as practicable and in no event less than 70. These wires should be buried only deep enough to provide mechanical protection (not greater than 12 inches). However, they should not be permitted to rest on the surface.

"In many cases a counterpoise or combination counterpoise and ground system may be superior to a ground, especially where a good ground cannot be obtained.

"It should be borne in mind that the above specifications are the minimum and where possible better antenna and ground systems should be installed.

"Before any change is made in the antenna, details should be submitted to the Commission for approval in order that it may be definitely determined that the installation will meet the requirements of Rule 131 and that it does not constitute an objectionable hazard to air commerce. These data may be submitted by letter setting out full details."

The curves attached to the above release are substantially the same as those published in NAB REPORTS for June 7, 1935.

WREN LOSES APPEAL

The United States Supreme Court on Monday refused to grant an appeal to broadcasting station WREN from a decision of the old Federal Radio Commission.

Broadcasting Station WHB, Kansas City, Kans., asked the Radio Commission for an experimental license for evening hours. The case was designated for hearing by the Commission and in the meantime WREN asked permission to intervene in the case which was refused by the Commission.

WREN then appealed to the Supreme Court of the District of Columbia asking for an injunction to restrain the Commission from holding the hearing without granting WREN permission to intervene. The Commission asked the same Court to dismiss the appeal. The Supreme Court denied the motion of the Commission to dismiss the case, whereupon the Commission filed an appeal in the Court of Appeals of the District of Columbia, which Court overruled the Supreme Court. Station WREN then asked the United States Supreme Court for a review of the case which has just been denied.

CHANGE FOR WKAR RECOMMENDED

Broadcasting Station WKAR, East Lansing, Mich., applied to the Federal Communications Commission to change its frequency from 1040 to 850 kilocycles and to change its hours of operation from specified daytime hours to daytime until sunset WWL.

Examiner P. W. Seward, in Report No. I-121 has recommended that the application be granted. He found that a need does exist for service in the area proposed to be served and that the interests of no existing station will be adversely affected by reason of interference. The Examiner found that granting the application would be in the public interest.

RECOMMENDS DENIAL OF WALA AND KGFI APPLICATIONS

Broadcasting Station WALA, Mobile, Ala., applied to the Federal Communications Commission to allow a power increase from 500 to 1,000 watts while KGFI, Corpus Christi, Texas, asked to construct a new transmitter, to operate unlimited time with 1,000 watts power using 1380 kilocycles, instead of its present assignment of 1500 kilocycles, with 100 watts night power and 250 watts to local sunset.

Examiner Ralph L. Waker, in Report No. I-120, has recommended that both applications be denied. He found that although WALA's programs are "diversified and meritorious," that the granting of the application for increased power "would result in objectionable interference with existing stations" and that it "would further increase the already over-quota night condition of the third zone." In connection with KGFI the Examiner found also that if the application were granted that it would "result in objectionable interference with an existing station and in further increasing the over-quota status of the State of Texas and the third zone."

NEW QUOTA TABLES

QUOTA FACILITIES DUE AND ASSIGNED TO BROADCAST STATIONS AS OF OCTOBER 21, 1935

First Zone—Night

State	Due	Assigned	Units Over or Under	Percent Over or Under
Conn.	2.13	1.92	— 0.21	— 10
Del.	0.32	0.20	— 0.12	— 38
D. C.	0.64	0.60	— 0.04	— 6
Maine	1.06	0.99	— 0.07	— 7
Md.	2.16	1.98	— 0.18	— 8
Mass.	5.63	5.16	— 0.47	— 8
N. H.	0.62	0.43	— 0.19	— 31
N. J.	5.36	4.105	— 1.255	— 23
N. Y.	16.69	18.23	+ 1.54	+ 9
R. I.	0.91	0.90	— 0.01	— 0
Vt.	0.48	0.56	— 0.08	+ 17
Total	36.00	35.075	— 0.925	— 3

First Zone—Day

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Conn.	3.85	3.44	- 0.41	- 11
Del.	0.57	0.33	- 0.24	- 42
D. C.	1.16	0.90	- 0.26	- 22
Maine	1.91	1.42	- 0.49	- 26
Md.	3.91	4.10	+ 0.19	+ 5
Mass.	10.17	6.75	- 3.42	- 34
N. H.	1.11	0.80	- 0.31	- 28
N. J.	9.67	5.055	- 4.615	- 48
N. Y.	30.14	21.16	- 8.98	- 30
R. I.	1.65	1.00	- 0.65	- 39
Vt.	0.86	0.86	- 0.00	- 0
Total	65.00	45.815	-19.185	- 30

Second Zone—Night

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ky.	3.38	3.95	+ 0.57	+ 17
Mich.	6.25	5.05	- 1.20	- 19
Ohio	8.58	9.83	+ 1.25	+ 15
Pa.	12.43	12.38	- 0.05	- 0
Va.	3.13	4.65	+ 1.52	+ 49
W. Va.	2.23	2.19	- 0.04	- 2
Total	36.00	38.05	+ 2.05	+ 6

Second Zone—Day

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ky.	6.10	4.25	- 1.85	- 30
Mich.	11.28	6.66	- 4.62	- 41
Ohio	15.50	12.31	- 3.19	- 20
Pa.	22.45	14.85	- 7.60	- 34
Va.	5.64	6.19	+ 0.55	+ 10
W. Va.	4.03	4.30	+ 0.27	+ 7
Total	65.00	48.56	-16.44	- 25

Third Zone—Night

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ala.	3.32	2.735	- 0.585	- 18
Ark.	2.32	2.67	+ 0.35	+ 15
Fla.	1.84	3.65	+ 1.81	+ 98
Ga.	3.64	4.26	+ 0.62	+ 17
La.	2.63	5.40	+ 2.77	+105
Miss.	2.52	1.32	- 1.20	- 48
N. Car.	3.97	4.19	+ 0.22	+ 6
Okla.	3.00	3.51	+ 0.51	+ 17
S. Car.	2.18	1.30	- 0.88	- 40
Tenn.	3.28	6.05	+ 2.77	+ 84
Texas	7.30	11.14	+ 3.84	+ 53
Total	36.00	46.225	+10.225	+ 28

Third Zone—Day

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ala.	5.99	4.685	- 1.305	- 22
Ark.	4.19	4.75	+ 0.56	+ 13
Fla.	3.32	5.30	+ 1.98	+ 60
Ga.	6.58	5.20	- 1.38	- 21
La.	4.75	5.60	+ 0.85	+ 18
Miss.	4.55	2.42	- 2.13	- 47
N. Car.	7.17	4.85	- 2.32	- 32
Okla.	5.42	5.20	- 0.22	- 4
S. Car.	3.93	2.70	- 1.23	- 31
Tenn.	5.92	7.65	+ 1.73	+ 29
Texas	13.18	14.06	+ 0.88	+ 7
Total	65.00	62.415	- 2.585	- 4

Fourth Zone—Night

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ill.	10.14	11.14	+ 1.00	+ 10
Ind.	4.30	3.64	- 0.66	- 15
Iowa	3.28	5.37	+ 2.09	+ 64
Kans.	2.50	2.49	- 0.01	- 0
Minn.	3.41	4.18	+ 0.77	+ 23
Mo.	4.82	5.24	+ 0.42	+ 9
Nebr.	1.83	2.21	+ 0.38	+ 21
N. Dak.	0.90	0.90	+ 0.00	+ 0
S. Dak.	0.92	0.86	- 0.06	- 7
Wisc.	3.90	3.37	- 0.53	- 14
Total	36.00	39.40	+ 3.40	+ 9

Fourth Zone—Day

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ill.	18.30	15.82	- 2.48	- 14
Ind.	7.77	5.69	- 2.08	- 27
Iowa	5.93	8.26	+ 2.33	+ 39
Kans.	4.51	3.77	- 0.74	- 16
Minn.	6.15	5.77	- 0.38	- 6
Mo.	8.70	9.64	+ 0.94	+ 11
Nebr.	3.30	6.02	+ 2.72	+ 82
N. Dak.	1.63	1.35	- 0.28	- 17
S. Dak.	1.66	2.13	+ 0.47	+ 28
Wisc.	7.05	6.43	- 0.62	- 9
Total	65.00	64.88	- 0.12	- 0

Fifth Zone—Night

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ariz.	1.32	1.27	- 0.05	- 4
Calif.	17.18	19.47	+ 2.29	+ 13
Colo.	3.13	4.61	+ 1.48	+ 47
Idaho	1.35	1.50	+ 0.15	+ 11
Mont.	1.63	2.15	+ 0.52	+ 32
Nev.	0.27	0.30	+ 0.03	+ 11
N. Mex.	1.28	1.13	- 0.15	- 12
Ore.	2.89	4.12	+ 1.23	+ 42
Utah	1.54	3.30	+ 1.76	+114
Wash.	4.73	7.63	+ 2.90	+ 61
Wyo.	0.68	0.40	- 0.28	- 41
Total	36.00	45.88	+ 9.88	+ 27

Fifth Zone—Day

State	Due	Assigned	Units	
			Over or Under	Percent Over or Under
Ariz.	2.38	1.69	- 0.69	- 29
Calif.	31.02	23.37	- 7.65	- 25
Colo.	5.66	5.25	- 0.41	- 7
Idaho	2.43	2.05	- 0.38	- 16
Mont.	2.94	2.95	+ 0.01	+ 0
Nev.	0.49	0.30	- 0.19	- 39
N. Mex.	2.31	2.95	+ 0.64	+ 28
Ore.	5.21	6.19	+ 0.98	+ 19
Utah	2.78	3.30	+ 0.52	+ 19
Wash.	8.54	9.39	+ 0.85	+ 10
Wyo.	1.24	0.40	- 0.84	- 68
Total	65.00	57.84	- 7.16	- 11

FEDERAL TRADE COMMISSION ACTION

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

Complaints

No. 2570. Complaint issued against **W. J. Thompson, Inc.,** New York City, publisher of "The Gentlewoman," a magazine,

alleging that the respondent either has used exaggerated assertions in advertising or has concealed facts that should have been disclosed.

In conducting a subscription contest the respondent is alleged to have made misleading representations or to have omitted to give essential facts necessary to prevent the reader from obtaining a false impression of the contest.

No. 2571. American Safety Razor Corporation, of Brooklyn, said to be the second largest manufacturer of razor blades in the world, is named as respondent in a complaint alleging violation of the Clayton Act through discrimination in prices made to certain customers.

Although the customers are not named, the complaint charges that the respondent, particularly during the last five years, has discriminated in price and is now doing so between different purchasers of its products by giving to some of them lower prices than to others competitively engaged in the resale of those products. The discriminations in price were concealed from the other and unfavored purchasers, according to the complaint.

Nos. 2572 and 2574. Complaints issued against the **Commercial Silk Mills and Cameo Silk Mills, Inc., of New York City,** alleging unfair use of the word "mills" in their trade names, when in fact they do not manufacture the product they sell. This usage is alleged to deceive purchasers into believing that these companies own mills, and that by dealing with them the buyer will save the middleman's profit.

No. 2573. Unfair appropriation of a well-established trade name is alleged in a complaint issued against **International Sheffield Works, Inc., of New York City,** a manufacturer of silver-plated hollow ware for sale to jobbers and retail jewelry stores.

According to the complaint, use of the name "Sheffield" in this company's corporate name has a tendency to deceive buyers into believing that its products are "Sheffield," when in fact they are not manufactured in accordance with the process used in making Sheffield silver or silver plate, nor are they manufactured in Sheffield, England.

Three companies dealing in dress goods, rayon, cotton and knitted wear, respectively, have been served with complaints alleging unfair methods of competition in the sale of such products.

No. 2577. Frank Livingston, of Brattleboro, Vermont, dealing in dress goods under the name **Berkshire Textile Company,** is alleged to have misrepresented certain conditions of sale of his products. The complaint says that although he advertised by means of the words "direct to you," the respondent did not ship merchandise to the consumer direct from a factory.

No. 2578. Bear Mill Manufacturing Company, Inc., of New York City, engaged in supplying rayons and cottons to commission weavers, who, in turn, manufacture or weave the material into fabrics, is charged with using the words "mill" and "manufacturing" in its corporate name, when in fact it did not make the products it sold and did not own, control or operate a mill or factory. The use of these words is said to have misled purchasers into believing that by dealing with this respondent they would have saved a middleman's profit.

No. 2579. Lur-Eye Products, Inc., New York City, a distributor of cosmetic specialties, advertises its "Lur-Eye Lash Developer" in newspapers, periodicals and radio broadcasts. However, the complaint alleges that the preparation did not have the medicinal qualities claimed in such quantities as to produce the results promised, and did not contain ingredients of such nature as to warrant representations concerning the growth of eyelashes and the changing of texture thereof.

No. 2580. A complaint against **Duncombe Research Laboratory, Highland Park, Mich.,** alleges that its product, variously termed "Germex," "Epi-Phi," and "Hindoo Prescription," is represented as a remedy or cure for diseases such as cancer, arthritis, ulcers, pernicious anemia, and others. It was advertised, for example, that "in cancer cases the pain is relieved in 24 hours," and that the product was a "non-poisonous antiseptic destroying parasites and bacteria."

According to the complaint, Germex does not possess the therapeutic value or medicinal properties assigned to it by the respondent, the product being at most an antiseptic wash or application.

No. 2581. A complaint against **Eton Knitting Corporation, New York City,** wholesalers and retailers of wearing apparel knitted or crocheted from yarn, such as hats, caps, berets, sweaters, and other articles, alleges that this respondent represented that the products it sold had been knitted, crocheted, or manufactured by it, when in fact the company did not perform these operations and did not own, operate or control a plant in which were knitted, crocheted or manufactured the products it sold. The complaint points out that a substantial number of retailers and wholesalers

believe that crocheted or knitted wearing apparel purchased from the manufacturer is of higher quality than such apparel bought from dealers, and that in buying from manufacturers they eliminate a middleman's profit.

No. 2582. Unfair competition in the sale of a dairy feed is alleged in a complaint issued against **Pratt Food Company, of Philadelphia,** a corporation trading in interstate commerce and having mills in Philadelphia; Hammond, Ind.; Buffalo, N. Y.; and Guelph, Ontario.

The company is charged with advertising, among other things, that the use of "Super-iodized B. P. Dairy Feed" will decrease the amount of necessary feed, and is highly effective in the control and elimination of Bang's disease. The complaint alleges that the company advertises Super-iodized milk to be a purer, richer and more nutritious milk.

No. 2583. Alleging unfair competition in the sale of shirts, a complaint has been issued against Sam Fisher, trading as **Holly-wood Shirt Company,** with headquarters at **No. 8 Allen Street, New York City.**

The complaint alleges that the respondent falsely represented that shirts offered for sale by him were first quality broadcloth, genuine broadcloth, and the finest broadcloth; that he was the manufacturer thereof; and that there was but one profit between manufacturer and wearer. Fisher is alleged to have made other unfair representations regarding his products.

No. 2584. Misuse of the name of a government agency to advertise a product, and other unfair practices, are alleged in a complaint against the **Union Pencil Company, Inc., of 305 Broadway, New York City,** a distributor of imprinted and advertising pencils.

The complaint charges the respondent with falsely asserting that it holds a certificate of merit issued by the Bureau of Standards, and that its pencil product has been tested by that bureau, when, according to the complaint, the respondent holds no such certificate issued by the Bureau of Standards or any other governmental agency.

No. 2585. Misuse of fruit names in the sale of candy is alleged as an unfair method of competition in a complaint issued against **Alfred Mendell, of Ozone Park, New York,** a manufacturer and dealer in confectionery.

Mendell is alleged to have had printed on cartons containing his products called "fruit pops" the fruit names, pineapple, raspberry, lime, orange and lemon, when in fact, according to the complaint, the candy was not flavored with these fruits but with synthetic flavors and ingredients other than the fruits mentioned.

No. 2586. A complaint alleges that **Radiator Specialty Company, of Charlotte,** advertised a cleaning fluid called "Perfo" as safe to use on the most delicate fabrics, asserting that it would absorb spots and leave no rings. The complaint points out that in fact the use of the product on certain fabrics does harm and affect their colors by causing them to bleed or run and under certain conditions does result in the appearance of a spot or ring.

No. 2588. A complaint has been issued against **R. H. Sharot, of New York City,** trading as Modex Mills Company and distributing hosiery, dresses and various items of merchandise to customers in foreign countries.

Sharot is charged with using the word "mills" in his trade name when in fact he does not manufacture the product he sells.

No. 2589. A complaint has been issued against the **Thomasville Chair Company,** charging it with advertising its products as "mahogany" and "walnut" when in fact, according to the complaint, they are made of woods other than mahogany and walnut.

No. 2590. A complaint was issued against **Brenner Paper Manufacturing, Inc., of New York City,** charging that throughout its business transactions since March, 1935, this company has represented itself as a paper manufacturer when in fact it is a converter and printer. The respondent is given until Friday, November 29, to show cause why the Commission should not issue against it an order to cease and desist from the representations alleged.

Stipulations

Trade practices deemed to be unfair will be discontinued by the following companies entering into stipulations with the Federal Trade Commission: Barse Manufacturing Co., Chicago; Vess Dry Co., New York City; Raven Silk Co., Chicago; Federal Service Training Bureau, Detroit, and Johnson-Smith & Co., Racine, Wis.

No. 1483. Barse Manufacturing Co., manufacturing cloth bags, agrees to cease and desist from imitating the shape, size, color

and appearance of sweeper bags manufactured by The Hoover Company, of North Canton, Ohio, and from displaying thereon the word "Hoover" without at the same time adding in plain, legible type the explanation that the product is not made by The Hoover Company.

No. 1484. **Vess Dry Co.**, manufacturing flavors and concentrates for use in preparing soft drinks, will abandon use of names of flavors to designate its products, implying that they are composed of the juice of fruits, when this is not true. Provision is made that if fruit names are used to describe a synthetic flavor, then they shall be immediately preceded by the word "Imitation" in conspicuous type.

No. 1485. **Henry O. Victor**, trading as Raven Silk Co., distributor of women's hosiery and lingerie, also men's shirts and hosiery, agrees to stop furnishing to customers the means of conducting a gift enterprise, lottery or scheme of chance whereby an article is given as a premium in consideration of the purchase of any other article, or whereby the price to be paid for an article is determined by lot or chance. This respondent also agrees to cease furnishing to any individual, club or other organization certain products at varying prices which prices, to his knowledge, have been fixed and determined by lottery or scheme of chance.

No. 1486. **R. D. Dodge**, operating as Federal Service Training Bureau, will abandon use of the words "Federal Service" or "Bureau" as part of its trade name, implying that he represents or has official connection with the United States Civil Service Commission or that his organization is a bureau or agency of the United States Government. Dodge also agrees to discontinue misleading representations in reference to the number of civil service employees of the government and other details connected with the employment of government personnel.

No. 1487. **A. Johnson Smith**, engaged in selling by mail order various articles of merchandise, including a revolving date stamp, and doing business as Johnson-Smith & Co., agrees to cease and desist from pictorially or otherwise representing in catalogs that he has in stock the "Crown" and "Quality" revolving date stamps and is prepared to fill orders for them, when this is not true. Smith stipulates that he will stop using these two words in any way implying that his products are manufactured by Hill-Independent Manufacturing Co., when this is not true. The Hill-Independent Manufacturing Co., of Germantown, Pa., has for several years manufactured revolving date stamps under the names "Quality" and "Crown."

No. 0923. Unethical advertising practices in the sale of a cleansing compound called "Foamol" will be discontinued by **A. F. Walke, of Cincinnati**, trading as **Keelow Laboratories**. Under a stipulation entered into, Walke agrees to stop asserting that Foamol will "clean without work" and that "any and all soils will disappear instantly" when Foamol is used. He will also stop asserting that this product "will leave worn articles as fresh and full of wear-resisting vitality as when brand new." Other similar representations will be abandoned, according to the stipulation.

No. 0924. Under a stipulation entered into, **Jay F. Davis, of New York City**, trading as **Psych-Occult Institute** and under other names and dealing in curios, perfumes, astrological charts and miscellaneous merchandise, agrees to cease and desist from unfair advertising practices.

Among other representations, Davis agreed to cease alleging that he would personally advise purchasers of his products concerning business affairs, love, health and other subjects, unless in fact such personal advice or personal consideration were actually to be extended, according to the stipulation.

Cease and Desist Orders

No. 2232. The Commission has ordered **Rayson Service Bureau, of Denver, Colo.**, and others, operating a correspondence school teaching United States Civil Service subjects, to cease and desist from certain representations regarding positions offered under Civil Service, and, specifically, to cease and desist from:

Including in follow-up or other advertising matter concerning a forestry course, any reference to the national forests, the Federal forest service, or positions in this service, unless and until either the United States Civil Service Commission shall resume announcement of examinations for the position of ranger in this service, or the respondents shall declare in follow-up literature that the course is neither adapted nor designed to aid students to obtain positions as ranger.

Nos. 2241 and 2262. Unfair competition in the red cedar shingle trade is prohibited by the cease and desist orders issued against **Quality Shingle Company, Inc.**, and **Oakland Shingle Com-**

pany, both of **Edmonds, Wash.**, and **C. V. Gray**, trading as **Gray Lumber & Shingle Co.**, **Seattle**.

The order directs each company to cease using the term "extra clear" in connection with the sale or advertisement of its products, unless and until the shingles so sold shall be free from defects and blemishes, including sapwood content.

No. 2274. Unfair competition in the sale of a body brace for use in the relief and cure of diseases is prohibited in an order to cease and desist issued against the **Natural Body Brace Co., Salina, Kansas**.

In the sale of its product called "natural body brace," the Natural Body Brace Company is directed to stop representing that the use of this device can overcome illnesses such as backache, curvatures, nervousness, indigestion, colitis, kidney, bladder and liver trouble, neuritis and lung trouble.

No. 2298. The **Bronson Shoe Company of Minneapolis, Minn.**, a distributor selling directly to consumers through agents and by mail, has been ordered to cease and desist from advertising that it owns or operates a shoe factory, and that prices at which it sells its products to the consumer are manufacturers' wholesale prices.

No. 2387. Unfair competition in the sale of coupons redeemable in silver or silverware, china or chinaware, is prohibited in an order to cease and desist issued against **Security Silverware Distributors, Inc., of Chicago**, and **William C. Steffy and Lorena Steffy**, as its officers and individually and also the company and the individuals, trading as **Atlas Globe China Company, Advertising Department**, and as **Bordeaux China Company**.

The order directs that in the sale of certificates, coupons or tickets redeemable or purporting to be redeemable in china, chinaware, silver or silverware, the respondents cease using the words "Advertising Department" following the name **Atlas Globe China Company** and following the name **Bordeaux China Company**, or in connection with other names, unless and until these parties are connected with or related to the companies named.

No. 2522. An order to cease and desist has been issued against **Gottlieb Brothers, Manufacturers of Silk Underwear, Inc., of New York City**, directing this company to stop representing women's underwear and undergarments by labels, or otherwise, as "100% pure silk," unless and until these garments are made entirely of silk.

No. 2525. The Commission has issued an order against **Davis Knitting Mills, Inc., of New York City**, a wholesaler of men's and boys' knitted outerwear, directing it to cease and desist from use of the words "Mills" or "Knitting Mills" in its trade name. The respondent company had refrained from contesting the proceeding, consenting to issuance of an order to cease and desist.

No. 2556. An order has been issued against **Peters Serum Company, of Kansas City, Mo.**, requiring that company to stop advertising that it manufactures all of its products, or that purchasers can save the middleman's profits by buying this company's products, unless these assertions are true.

Waiving hearings on the allegations of the Commission's complaint and refraining from contesting the proceeding, the respondent consented to issuance of the order to cease and desist.

SECURITY ACT REGISTRATIONS

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

- American Radio & Television Corporation, New York City. (2-1700, Form A-1)
- 117 West 7th St. Corporation, New York City. (2-1701, Form E-1)
- General Ore Reduction Corporation, San Diego, Calif. (2-1700, Form A-1)
- North Central Gas Company, Casper, Wyo. (2-1704, Form A-1)

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, October 28, 1935

- NEW—Eastern Utah Broadcasting Co., Sam G. Weiss, Price, Utah.—C. P., 1420 kc., 100 watts, unlimited time.
- NEW—Paul R. Heitmeyer, Cheyenne, Wyo.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.
- NEW—Paul R. Heitmeyer, Salt Lake City, Utah.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Mountain States Broadcasting Corp., Salt Lake City, Utah.—C. P., 550 kc., 500 watts, unlimited time.

NEW—Wyoming Radio Educational Assn., Lester G. Baker, Pres., Cheyenne, Wyo.—C. P., 630 kc., 500 watts, 1 KW LS, unlimited time.

Tuesday, October 29, 1935

NEW—Duluth Broadcasting Co., Duluth, Minn.—C. P., 1200 kc., 100 watts, unlimited time.

NEW—Fountain of Youth Properties, Inc., St. Augustine, Fla.—C. P., 1210 kc., 100 watts, unlimited time.

Wednesday, October 30, 1935

NEW—Albert E. Davis, Brownwood, Tex.—C. P., 1200 kc., 100 watts, unlimited time.

NEW—Pampa Daily News, Inc., Pampa, Tex.—C. P., 1200 kc., 100 watts, daytime.

NEW—Bell Broadcasting Co., Temple, Tex.—C. P., 1370 kc., 100 watts, daytime.

Friday, November 1, 1935

WFBM—Indianapolis Power & Light Co., Indianapolis, Ind.—C. P., 1230 kc., 1 KW, 5 KW LS, unlimited time.

WHBU—Anderson Broadcasting Corporation, Anderson, Ind.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Herbert Lee Blye, Lima, Ohio.—C. P., 1210 kc., 100 watts, daytime only.

WTFI—Liberty Broadcasting Co., Athens, Ga.—C. P., 1450 kc., 500 watts, unlimited time.

APPLICATIONS GRANTED

WRAW—Reading Broadcasting Co., Reading, Pa.—Granted C. P. to install new equipment and move transmitter locally.

KNET—Palestine Broadcasting Assn., Palestine, Tex.—Granted modification of C. P. to move transmitter and studio locations to .78 miles northeast of Court House on east side of State Highway No. 43 and corner S. Magnolia, Hoxie and S. Sycamore Streets; also approve antenna.

WHOM—New Jersey Broadcasting Corp., Jersey City, N. J.—Granted license to cover C. P. authorizing local move of station and installing new equipment; 1450 kc., 250 watts, unlimited time.

KIFI—George W. Young, Portable, Minneapolis, Minn.—Granted modification of license (temp. broadcast pickup) to add frequencies 2060 and 2790 kc.; also granted renewal of license for the period ending November 1, 1936.

WIEH—Knickerbocker Broadcasting Co., Inc., Portable (New York City).—Granted modification of license (temp. broadcast pickup) to add frequencies 2150, 2790, 2060 kc.; also granted renewal of license for the period ending November 1, 1936.

WIEG—Knickerbocker Broadcasting Co., Inc., Portable (New York City).—Granted modification of license (temp. broadcast pickup) to add frequencies 1622, 2060, 2790 kc.; also granted renewal of license for the period ending November 1, 1936.

KILB—International Broadcasting Corp., Portable (Shreveport, La.).—Granted modification of license (temp. broadcast pickup) to delete frequency 2150 and add 1646, 2090, 2190, 2830 kc.; also granted renewal of license for period ending November 1, 1936.

KIIH—KFAB Broadcasting Co., Portable (Lincoln, Nebr.).—Granted modification of license (temp. broadcast pickup service) to add frequencies 1646, 2090, 2190, 2830 kc.; also granted renewal of license for period ending November 1, 1936.

WNEI—Indianapolis Power & Light Co., Portable (Indianapolis, Ind.).—Granted renewal of license (temp. broadcast pickup station), frequencies 1646, 2090, 2190, 2830 kc.

WELI—Patrick J. Goode, New Haven, Conn.—Granted license to cover C. P. as modified for new station to operate on 900 kc., 500 watts, daytime only.

KROC—Southern Minnesota Broadcasting Co., Rochester, Minn.—Granted license to cover C. P. as modified for a new station to operate on 1310 kc., 100 watts, unlimited time.

KCRC—Enid Radiophone Co., Enid, Okla.—Granted license to cover C. P. authorizing changes in equipment.

WJER—The Journal Company (Milwaukee Journal), Portable-Mobile, Milwaukee, Wis.—Granted modification of license to add frequencies 2020 and 2760 kc. to frequencies in present assignment, broadcast pickup service; also granted renewal of license.

WHB—WHB Broadcasting Co., Kansas City, Mo.—Granted extension of present license for period of 60 days; 860 kc., 1 KW, daytime.

KGMB—Honolulu Broadcasting Co., Ltd., Waikiki, Honolulu, T. H.—Granted extension of present license for period of 60 days; 1320 kc., 250 watts, unlimited.

WINS—Hearst Radio, Inc., New York City.—Granted extension of present license for period of 60 days; 1180 kc., 1 KW, limited time.

WJR—WJR, The Goodwill Station, Detroit, Mich.—Granted license to cover C. P. authorizing changes in equipment and increase in power from 10 to 50 KW; 750 kc., unlimited time.

WNAX—The House of Gurney, Inc., Yankton, S. Dak.—Granted license to cover C. P. authorizing transmitter location; 570 kc., 1 KW night, 5 KW day, unlimited time.

KSCJ—Perkins Bros. Co., The Sioux City Journal, Sioux City, Iowa.—Granted C. P. to install auxiliary equipment for emergency purposes only, to operate with 250 watts.

WSYR—WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted C. P. to install new equipment.

WNRA—Muscle Shoals Broadcasting Corp., Muscle Shoals, Ala.—Granted modification of license to move studio from Muscle Shoals to Sheffield, Ala.

KDON—Richard Field Lewis, Del Monte, Calif.—Granted modification of C. P. to make changes in equipment.

WLEB—WOKO, Inc., Mobile.—Granted modification of license to add frequencies 2090, 2190, 2830 kc.; also granted renewal of license in accordance with same for period ending November 1, 1936.

WIEF—Miami Broadcasting Co., Portable-Mobile (Miami, Fla.).—Granted modification of license to add frequencies 1646, 2090, 2190 and 2830 kc.

W2XDV—Atlantic Broadcasting Corp., New York City.—Granted modification of license (exp. gen. exp.) for authority to operate by remote control in accordance with Rule 213.

WJEP—Stromberg-Carlson Tel. Mfg. Co., Portable-Mobile (Rochester, N. Y.).—Granted modification of license to delete frequencies 1622, 2060, 2150, 2790 kc. and add frequencies 1606, 2020, 2102, 2760 kc.; also granted renewal of license for the period ending November 1, 1936.

KIJG—Eagle Broadcasting Co., Inc., Mobile (Corpus Christi, Tex.).—Granted modification of license to add frequencies 1622, 2060 and 2790 kc.; also granted renewal of license for the period ending November 1, 1936.

KIEL—Fisher's Blend Station, Inc., Portable (Seattle, Wash.).—Granted modification of broadcasting pickup station to add frequencies 1606, 2020, 2102, 2760 kc. and delete frequencies 1622 and 2150 kc.; also granted renewal of license for the period ending November 1, 1936.

WKEM—Hearst Radio, Inc., Portable-Mobile (New York City).—Granted modification of license to add frequencies 2060 and 2790 kc.; also granted renewal of license in accordance with modification for period ending November 1, 1936.

SET FOR HEARING

NEW—Merced Star Publishing Co., Merced, Calif.—Application for C. P. for new station, 1040 kc., 250 watts, daytime, site to be determined subject to approval of Commission.

NEW—Mrs. C. A. S. Heaton, Las Vegas, Nev.—Application for C. P. for new station, 1420 kc., 100 watts, unlimited.

NEW—Alfred C. Matthews, Cape May, N. J.—Application for C. P. for new station, 1420 kc., 100 watts, specified hours.

NEW—E. E. Long Piano Co., partnership of R. R. Long, E. A. Van Vechten and P. G. Green, San Luis Obispo, Calif.—Application for C. P. for new station, 1200 kc., 100 watts, unlimited hours, site to be determined subject to Commission's approval.

WEAN—The Shepard Broadcasting Service, Inc., Providence, R. I.—Application for C. P. to install new equipment, move transmitter locally, site to be determined, and increase power from 500 watts to 1 KW.

NEW—The Press Co., Inc., Publishers of the Knickerbocker Press and Albany News, Schenectady, N. Y.—Application for C. P.

for new station, **1210 kc.**, 100 watts, daytime, site to be determined subject to approval of Commission.

NEW—J. W. Stanford, d/b as Brunswick Broadcasting Co., Brunswick, Ga.—Application for C. P. for new station, **1310 kc.**, 100 watts, unlimited time.

NEW—J. Laurence Martin, Tucumcari, N. Mex.—Application for C. P. for new station, **1200 kc.**, 100 watts, unlimited time, site to be determined.

NEW—Joseph C. Morrow, Oakland, Calif.—Application for C. P. for new station, **1150 kc.**, 250 watts, daytime, site to be determined subject to Commission's approval.

NEW—Struble, Strong & Fagan, The Dalles, Ore.—Application for C. P. for new station, **1200 kc.**, 100 watts, unlimited time.

NEW—A Staneart Graham, E. V. Baxter, Norman Baxter, d/b as Pittsburg Broadcasting Co., Pittsburg, Kans.—C. P., already in hearing docket, amended to read: **790 kc.**, 1 KW day. Daytime only.

WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—Application for C. P. to make changes in equipment, increase day power from 100 to 250 watts.

ACTION ON EXAMINERS' REPORTS

NEW—Ex. Rept. No. 1-51: WMAN Broadcasting Co., Mansfield, Ohio.—Denied C. P. for new broadcast station to operate on **1370 kc.**, 100 watts, unlimited time. Examiner Geo. H. Hill sustained. Order effective December 3, 1935.

WJTL—Ex. Rept. No. 1-90: Oglethorpe University, Atlanta, Ga.—Granted renewal of license, **1370 kc.**, 100 watts, unlimited time; also granted voluntary assignment of license from Oglethorpe University to J. W. Woodruff and S. A. Cisler, Jr., d/b as Atlanta Broadcasting Co. Examiner J. P. Bramball sustained. Order effective November 26, 1935.

KIEM—Ex. Rept. No. 1-101: Redwood Broadcasting Co., Inc., Eureka, Calif.—Granted C. P. to change equipment, move transmitter, change frequency from **1210 kc.** to **1450 kc.**, increase power from 100 to 500 watts, unlimited time. Examiner P. W. Seward sustained. Order effective December 3, 1935.

NEW—Ex. Rept. No. 1-103: Pacific Acceptance Corp., San Diego, Calif.—Granted C. P. for new station to operate on **1200 kc.**, 100 watts, daytime. Examiner P. W. Seward sustained. Order effective December 10, 1935.

WLBC—Ex. Rept. No. 1-107: Donald A. Burton, Muncie, Ind.—Granted C. P. to make changes in equipment and increase power from 50 to 100 watts night and 100 watts to 250 watts day; simultaneous day, share WTRC night. Examiner R. L. Walker sustained. Order effective December 10, 1935.

WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted C. P. to make changes in equipment and increase in power from 50 to 100 watts night and 100 to 250 watts day; **1310 kc.**; simultaneous with WLBC, share night with WLBC. Examiner Walker sustained in part. Order effective December 10, 1935.

WKJC—Associated Broadcasters, Inc., Lancaster, Pa. **WKJC**—Lancaster Broadcasting Service, Inc., Lancaster, Pa.—Ex. Rept. No. 1-115: Granted transfer of control of corporation from Steinman Hardware Co. to Mason Dixon Radio Group, Inc. Also granted C. P. to move studio and transmitter (site to be determined), and granted voluntary assignment of license from Lancaster Broadcasting Service, Inc., to Associated Broadcasters, Inc.; **1200 kc.**, 100 watts night, 250 watts day, share with WKBO. Examiner Geo. H. Hill sustained. Order effective Oct. 29, 1935.

WBHS—Ex. Rept. No. 1-119: Virgil V. Evans, Huntsville, Ala.—Dismissed with prejudice application for C. P. to move transmitter and studio and change hours of operation from 6/7 to daytime; **1200 kc.**, 100 watts. Examiner P. W. Seward sustained. Order effective October 22, 1935.

ACTION ON CASE HEARD BY COMMISSIONER BROWN

T. Yount, d/b as Universal Advertising Agency, Larado, Tex.—Denied authority to transmit programs to all stations in Mexico. Commissioner Brown's recommendations sustained. Order effective December 3, 1935.

MISCELLANEOUS

KABR—Aberdeen Broadcast Co., Aberdeen, S. Dak.—Denied request for special authority to operate from 5:45 to 11 p. m. for the period beginning October 25 and ending October 31,

1935, pending completion of antenna equipment in order to broadcast special features and football games.

KMTR—KMTR Radio Corp., Los Angeles, Calif.—C. P. authorizing changes in modulation system, heretofore granted, was retired to the closed files for want of prosecution.

NEW—W. L. Gleeson, Salinas, Calif.—C. P., **1310 kc.**, 100 watts, unlimited time, heretofore set for hearing, was denied as in cases of default for failure to file an appearance and statement of facts in accordance with Rule 48 (c).

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Rescinded action of September 24, 1935, designating application for hearing, and granted extension of C. P. with modifications as to installation of new equipment and such further reasonable time for the installation of the equipment.

APPLICATIONS RECEIVED

First Zone

WCAO—Monumental Radio Co., Baltimore, Md.—Construction **600** permit to install new equipment.

WNYC—City of New York, Department of Plant & Structures, **810** New York, N. Y.—Construction permit to use Western Electric 106 B Transmitter as auxiliary for emergency and test purposes; move transmitter to 29 Ft. Green Place, Brooklyn, N. Y.

WHBI—May Radio Broadcast Corp., Newark, N. J.—Modification of license to increase day power from $2\frac{1}{2}$ to 5 KW.

WMFL—National Broadcasting Co., Inc., Bound Brook, N. J.—**1606** Modification of license to add frequency **1606 kc.**

Second Zone

NEW—Herman Radner, Lansing, Mich.—Construction permit for **1210** a new station to be operated on **1210 kc.**, 100 watts, 250 watts daytime, unlimited time, facilities of WJIM if and when WJIM's application B2-P-698 for WGAR's facilities is granted.

WCOL—WCOL, Inc., Columbus, Ohio.—License to cover construction permit (B2-P-374) to make changes in equipment and move transmitter.

WSPD—Toledo Broadcasting Co., Toledo, Ohio.—Authority to de-**1340** termine operating power by direct measurement of antenna.

NEW—The Crosley Radio Corp., Portable.—Construction permit for new general experimental station on **31100, 34600, 37600, 40600 kc.**, 2 watts.

NEW—The Crosley Radio Corp., Portable.—License to cover the above.

NEW—The Crosley Radio Corp., Portable-Mobile.—Construction permit for new general experimental station on **31100, 34600, 37600, 40600 kc.**, 5 watts.

NEW—The Crosley Radio Corp., Portable-Mobile.—License to cover above.

NEW—The Crosley Radio Corp., Portable.—Construction permit for new general experimental station on **31100, 34600, 37600, 40600 kc.**, 1 watt.

NEW—The Crosley Radio Corp., Portable.—License to cover the above.

Third Zone

WNOX—WNOX, Inc., Knoxville, Tenn.—Voluntary assignment of **560** license from WNOX, Inc., to Continental Radio Co.

WSGN—Ormond O. Black and Mary Collett Black, Birmingham, **1310** Ala.—Voluntary assignment of license from Ormond O. Black and Mary Collett Black to R. B. Broyles, tr/as R. B. Broyles Furniture Co.

KTRH—KTRH Broadcasting Co., Houston, Tex.—License to cover **1330** construction permit (B3-P-405) for new equipment, change frequency, and increase power.

KELD—T. H. Barton, El Dorado, Ark.—Modification of license **1370** to change studio location from Exchange Bldg., El Dorado, Ark., to Country Club Colony, $1\frac{1}{2}$ miles north of El Dorado, Ark.

Fourth Zone

WOW—Woodmen of the World Life Ins. Association, Omaha, **590** Nebr.—Modification of construction permit (B4-MP-236) authorizing move of transmitter, installation of new equipment and increase in power, to extend completion date to 12-15-35.

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Modification of construction permit (B4-P-8) as modified for equipment changes; change frequency from **1070 kc.** to **1020 kc.**, power from 100 to 250 watts; move transmitter, to further request change in equipment; extend commencement date 30 days after grant and completion date 180 days thereafter (contingent upon granting of B4-APL-1, filed under name of WDZ Broadcasting Co.)

WDZ—James L. Bush, Tuscola, Ill.—Voluntary assignment of **1070** permit and license from James L. Bush to WDZ Broadcasting Co.

KWBG—W. B. Greenwald, The Nations Center Broadcasting Co., **1120** Inc., Hutchinson, Kans.—Construction permit to install new equipment; change frequency from **1420 kc.** to **1120 kc.**; increase power from 100 watts to 1 KW; move transmitter from 101 East Ave. A, Hutchinson, Kans., to Hutchinson, Kans. (Filed under new name.)

NEW—William A. Reed, Waterloo, Iowa.—Construction permit for **1310** new station to be operated on **1310 kc.**, 100 watts, 250 watts day, unlimited time.

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—License **1310** to cover construction permit (B4-P-330) as modified for new station.

KWBG—W. B. Greenwald, Hutchinson, Kans.—Voluntary assignment of license from W. B. Greenwald to The Nation's Center Broadcasting Co., Inc.

NEW—Northern Iowa Broadcasting Co., Inc., Mason City, Iowa.—**1420** Construction permit for new station to be operated on **1420 kc.**, 100 watts, unlimited time. Amended: St. and No. of transmitter site to be determined, Mason City, Iowa; antenna to be determined; equipment changes.

KSO—Cedar Rapids Broadcast Co., Des Moines, Iowa.—License to

1430 cover construction permit (B4-MP-225) as modified for new equipment, increase of power, and move of transmitter.

W9XAA—Chicago Federation of Labor, Chicago, Ill.—Construction permit to change location of station to 39th St. near Warwick, York Township, DuPage Co., Ill.

Fifth Zone

KIRO—Queen City Broadcasting Co., Seattle, Wash.—Extension **710** of special experimental authorization to operate on **710 kc.**, 500 watts, unlimited time, to 2-1-36.

KGDM—E. F. Peffer, Stockton, Calif.—License to cover construction permit (B5-P-14) as modified to move transmitter, install new equipment, and increase power.

KDON—Richard Field Lewis, Del Monte, Calif.—Modification of **1210** construction permit (B-P-B-3184) authorizing a new station on **1210 kc.**, 100 watts, unlimited time, requesting changes in equipment.

NEW—John A. Stump, Fairbanks, Alaska.—Construction permit **1210** for a new station to be operated on **1210 kc.**, 100 watts, 250 watts local sunset, unlimited time. Amended: Studio and transmitter sites to be determined, Fairbanks, Alaska.

KUJ—KUJ, Inc., Walla Walla, Wash.—Construction permit to **1250** change frequency from **1370 kc.** to **1250 kc.**, power from 100 watts to 1 KW; install new equipment; move transmitter from Second and Rose Sts, Walla Walla, Wash., to County Road and College Ave., Walla Walla, Wash. Amended to change transmitter site and antenna to be determined.

KRKO—Lee E. Mudgett, Everett, Wash.—Voluntary assignment **1370** of license from Lee E. Mudgett to Seattle Broadcasting Co.

KIEO—Airfan Radio Corporation, Ltd., San Diego, Calif.—Modification of license to add frequencies **1606, 2020, 2102, 2760 kc.**, and delete frequency **2150 kc.**

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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FCC REGULATIONS GOVERNING REGIONALS MAY BE CHANGED

A public hearing involving proposed changes in the regulations affecting regional frequencies is expected to be announced shortly by the Broadcast Division of the FCC. It is understood that a recommendation by the Engineering Division, made several months ago, will serve as the basis for the hearing.

The proposed modifications, according to information received from unofficial sources, would divide the forty regional frequencies into three groups: those stations operating on the frequencies 590, 610, 620, 900, 920, 940 and 950 kilocycles would be permitted to increase their nighttime power to 5 kilowatts; the second group of stations operating on the frequencies 1010, 1220, 1230, 1240, 1250, 1260, 1270, 1280, 1290, 1300, 1320, 1330, 1340, 1350, 1360, 1380 and 1390 kilocycles would be permitted to operate with power not to exceed 1 kilowatt nighttime and not to exceed 5 kilowatts daytime and would be protected to their 1 millivolt line at night and to their one-half millivolt line daytime; a third group of stations operating on the frequencies 550, 560, 570, 580, 600, 630, 780, 880, 890, 930, 1120, 1400, 1410, 1430, 1440 and 1450 kilocycles, would be permitted to operate with nighttime power ranging from 250 watts to 1 kilowatt and with day power not exceeding 5 kilowatts and would be protected to their 4 millivolt line.

GEORGE HOGAN

Howard W. Davis, General Manager of radio station KMAC, San Antonio, Texas, will appreciate information as to the whereabouts of George Hogan, an announcer.

FCC CONSIDERS ITALIAN BROADCAST

The Commission en banc on October 23rd adopted the following resolution, proposed by Commissioner Payne:

"I move that the Commission obtain the facts as far as they relate to the American communications companies under regulation of this commission, as to the alleged cancellation of a broadcast to this country from Geneva by Delegate Baron Pompeo Aloisi, on October 10, 1935."

RECOMMENDS RENEWING WOCL LICENSE

Broadcasting Station WOCL, Jamestown, N. Y., applied to the Federal Communications Commission for renewal of its license which was designated for hearing by the Commission. The station operates on a frequency of 1210 kilocycles, 50 watts power and unlimited time.

Examiner Melvin H. Dalberg in Report No. I-122 recommends that the license be renewed. The Examiner found that the practices of the station do not constitute a violation of the provisions of the Communications Act or of the rules of the Commission. He found also that the station "is constructed and being operated in accordance with the Rules and Regulations of the Commission and of good engineering practice". It is also operating in the public service, the Examiner states.

RECOMMENDS AGAINST NEW INDIANA STATION

The Hammond-Calumet Broadcasting Corporation filed an application with the Federal Communications Commission asking for a construction permit for a new broadcasting station to be erected at Hammond, Ind., to use 1480 kilocycles, 5,000 watts power and daytime hours of operation.

Examiner Ralph L. Walker in Report No. I-123 has recommended that the application be denied. Among other things the

NOTES FOR THE SALES STAFF

In spite of some decline in the national non-network field September broadcast advertising continued strong. All portions of the medium experienced an increase over the corresponding period of 1934. Total broadcast advertising was 23.9% over last September and 43.2% over the corresponding month of 1933. (See Highlights of the Month, page 1006.)

The marked increase in national non-network radio set advertising should be watched with interest. (See 12. Radios, page 1007.)

Local stations will find encouragement in the increase in business reported over August and in the marked increase in advertising over the corresponding months of 1933 and 1934. (See Non-network Trends, page 1007.)

Household equipment, clothing, automotive, accessory and food advertising are the fields continuing to show strength. (See detailed analyses of sponsor trends, page 1007.)

The very marked gain in local transcription and record advertising seems to indicate that the transcription libraries are being used by local sponsors. (See Non-network Advertising by Type of Rendition, page 1007.)

JOLLIFFE RESIGNS AS CHIEF ENGINEER OF FCC

Dr. C. B. Jolliffe, Chief Engineer of the Federal Communications Commission, submitted his resignation to the Commission on October 30, 1935, to be effective November 12, 1935.

Dr. Jolliffe was appointed Chief Engineer of the Federal Radio Commission March 1, 1930. He was subsequently appointed Chief Engineer of the Federal Communications Commission when that body superseded the Federal Radio Commission.

It is understood that Dr. Jolliffe will accept a position with the Radio Corporation of America as Engineer in Charge of the Central Frequency Bureau of that Corporation; and that he will have charge of all national and international matters relating to the allocation of frequencies for the Radio Corporation of America and its subsidiaries including the National Broadcasting Company.

Examiner found that "the operation of a station as proposed with the equipment described in the application, would result in objectionable interference with at least one existing station." It is also pointed out by the Examiner that the proposed station would be well within the metropolitan area of Chicago which area receives adequate radio service now.

KLS CHANGE RECOMMENDED

Broadcasting Station KLS, Oakland, Cal., applied to the Federal Communications Commission to change its frequency from 1140 to 1280 kilocycles, and to change its hours of operation from daytime to unlimited. The station operates with 250 watts power.

Examiner John P. Bramhall in Report No. I-124 has recommended that the application be granted. He found that there is need in the area for additional nighttime service, and that the interest of no other station would be adversely affected by the granting of the application. The Examiner states further that "there are no applications pending at this time which involve the increase of either state or zone quotas." Also he found that the granting of the application would be in the public interest.

SUGGESTS DENIAL OF TELEVISION APPLICATION

The National Television Corporation applied to the Federal Communications Commission for a construction permit to erect an experimental visual broadcast station in New York City.

Examiner R. H. Hyde in Report No. I-125 has recommended that the application be denied. The Examiner states that "it does not appear from the evidence presented in this proceeding that the applicant's proposed use of the frequency assignment of 2000-2100 kilocycles would contribute substantially toward the progress of the radio art. * * * In this connection it appears that other frequency assignments allocated for experimental visual broadcasting, allowing substantially greater frequency spread, are better suited to the service."

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2575. Unfair competition through misrepresentation of the efficiency of electric light bulbs is alleged in a complaint against **Lightmore Appliance Corporation of New York City**, a manufacturer of incandescent lamps, and **Solar-Ray Lamp Co., Inc., of New York City**, a distributor.

According to the complaint, figures printed by the respondents on the bulbs sold by them, representing the numbers of watts, were either greatly in excess of or less than the actual watt measurement of the lamps, and the respondents knew, or with ordinary care should have known, that their lamps were falsely branded.

No. 2576. A complaint has been issued against **Pennsylvania Whiskey Distributing Corporation, of Brooklyn, N. Y.**, alleging representation of the company as a distiller by abbreviation of the word "Distributing" to "Dist." in its corporate name, and in other ways, when in fact it is not a distiller.

The complaint also charges the respondent with falsely representing its own warehouse receipts and contracts for bonded liquor as official United States Internal Revenue bonded warehouse receipts.

No. 2587. Alleging a conspiracy to fix prices of lobsters obtained from Canadian and American waters and shipped throughout the United States, a complaint has been issued against the **Associated Lobster Dealers of Massachusetts** and several of its officers and members.

A combination resulting in the suppression of competition in the capture, purchase, sale and distribution of Canadian and domestic lobsters, by means of this unincorporated association and agreements between its officers and members, is alleged in the complaint. Charging the association and its members with conspiring together to standardize and fix from day to day the price at which the Canadian supply of lobsters is bought from the fishermen in the Boston market, and to arbitrarily divide this supply among the wholesaler respondents in accordance with agreements made, the complaint points out that lobsters derived from Canadian waters off the coast of New Brunswick and Nova Scotia constitute approximately 80 per cent of the entire lobster supply of the United States.

No. 2591 and 2592. Two companies selling garments have been served with complaints alleging unfair methods of competition.

Arco Shirt Corporation, New York, is charged with advertising itself a manufacturer when, the complaint alleges, it operates no factory; and **Harford Frocks, Inc., of Cincinnati**, is alleged to have misrepresented the conditions of employment and remunerations of agents who sell its goods.

No. 2593. Prize contests conducted by unfair competitive methods are alleged in a complaint issued against the **Health-O Quality Products Co., Cincinnati**, distributor of toilet preparations, cosmetics and flavoring extracts.

The complaint alleges that the respondent, in its advertising, has falsely created the impression that a certain final or grand prize would be given the person sending in the best answer to a propounded question and that there was nothing else for a contestant to do other than send in the best answer. Other misleading representations are also alleged.

No. 2594. Alleging unfair competition in the sale of a cleaning fluid, a complaint has been issued against **Afta Solvents Corporation of New York City**.

The complaint charges that the respondent falsely represented that "Afta Spot Remover" would remove foreign matter from fabrics; that such removal would leave no "ring" and would not injure the material or its color. These representations are alleged to be untrue and to have the effect of unfairly diverting trade from competitors to the respondents.

No. 2595. Threats and intimidations made in bad faith, with the effect of substantially injuring or embarrassing competitors, are alleged in a complaint issued against **Henry S. Blumenthal of Jackson Heights, Queens, N. Y.**, and the **Ribbonew Corporation of America**, manufacturer and distributor of a device for rejuvenating worn-out typewriter ribbons.

The complaint says the respondents, especially Blumenthal, issued letters threatening patent infringement suits or other litigation against purchasers or users of competitors' products, claiming these products to be infringements on the respondents' products, and warning purchasers of the respondents' intention to institute suits against them. According to the complaint, these warnings were not made in good faith, nor on probable or reasonable cause, but with the intention and effect of causing trade to be unfairly diverted from competitors.

No. 2596. Misrepresentation in the sale of incandescent lamps is alleged as an unfair method of competition in a complaint issued against **Grand Gaslight, Inc., of New York City**, a distributor of lamps for general lighting service.

Unfair representation that the respondent is a manufacturer and that purchasers of its products would obtain a direct-from-factory price and save a middleman's profit, is charged in the complaint.

No. 2597. A complaint has been issued against **Sanderson Adjustment Bureau, Inc., of Atlanta**, and **H. J. Sullivan**, its president and treasurer, operating as "**Creditors Protective Service**," charging unfair methods of competition in the sale of a collection system for the use of merchants, professional men and others in collecting unpaid accounts.

This bureau, according to the complaint, appropriated a system of form collection letters originally compiled by F. R. Sanderson, organizer of the bureau, and made use of Sanderson's portfolio of reference letters and testimonials, without his permission.

No. 2599. The **Diamond Match Company, of New York City and Baltimore**, has been served with a complaint charging unfair competition through misrepresentation of matches sold in interstate commerce.

Matches known as "Strike Anywhere Matches" were sold as "Safety First Diamond Matches," according to the complaint. This is alleged to have been unfair competition with manufacturers of "safety matches" which can be lighted only upon the friction surface of the box thereof, as well as unfair competition with other manufacturers of "strike anywhere matches" which can be lighted on any friction surface.

Stipulations

The Commission has announced the following cease and desist orders:

No. 0925. **Harry Burke, trading as Burksons, Chicago**, and selling a lubricating oil designated "Double Duty Durol", agrees to stop making representations such as: That the product is the only improvement in graphoid lubrication in three years; that it is the sensation product of thirty-five years' chemical engineering experience, or the lubrication sensation of the age, and that it steps miles ahead of competition. According to scientific advice received by the Commission, the product will not materially in-

crease the speed of a car and will do little if any more than other standard lubricants.

No. 0926. Ollie McMullin, trading as Tilden McMullin Company, Sedalia, Mo., and selling a treatment for coughs and colds, bronchial and similar ailments called "McMullin's Formula", agrees to stop representing this product as a competent remedy and from making other similar advertising assertions. Medical opinion furnished the Commission was that the preparation was "without therapeutic value in the conditions mentioned in the advertising."

No. 0927. Modern Appliances, Inc., Chicago, dealing in a device for opening cigarette packages, agrees to stop representing or holding out as an opportunity for prospective salesmen any amount in excess of what has actually been made by respondent's salespersons under normal conditions. In a stipulation, this company admits making the representations alleged and asserts it has definitely discontinued advertising the commodity and does not at present intend to resume such advertising.

No. 0928. Standard Homeopathic Company, Los Angeles, sells a treatment for constipation called "Tindini". The stipulation says the Commission, after an investigation, has reason to believe the company's advertising is exaggerated and misleading. A medical report to the Commission says the preparation contains psyllium seed to absorb moisture, but is not possessed of unusual properties and is not a cure or competent treatment for constipation.

No. 0929. National Ad-Gum Company, Cincinnati, selling a chewing gum with the dispenser's advertisement on the wrapper, agrees to cease making unmodified representations or claims of agents' earnings in excess of the average earnings of the company's active full-time salespersons.

No. 0930. Hollywood Motion Picture Self Training Course, La Crescenta, Calif., is said to have advertised in part as follows:

"Mr. Keepers, who is recognized as an authority on all matters pertaining to motion picture photography and projection, is the originator of self-training home study for the art and science of cinematography and sound projection. His experience in these lines of endeavor dates back to 1900, when he started with Thomas A. Edison, at Orange, N. J.; at the very birth of the motion picture in America."

The stipulation points out that in fact Keepers' experience does not date back to 1900 and that he did not start with Edison and that other representations made by Keepers were exaggerated and misleading. Keepers agreed to stop representing that he is a recognized authority on motion pictures; that his course is being studied all over the world; that many theatre owners or managers are interested in the course, and other representations.

No. 0931. Beebe Laboratories, Inc., St. Paul, vendor-advertiser of a compound for treating poultry infested with worms, agrees to stop representing that the compound is a competent treatment for this ailment, unless the representations are limited in certain respects indicated in the stipulation.

No. 0932. Ella Jewell, Inc., of Akron, Ohio, vendor-advertiser of a mechanical device for the treatment of foot troubles designated "Toe Tie," agrees to stop representing that it is a "miracle" invention; that it will end the misery of tired aching feet, and other representations. Medical advice received by the Commission was to the effect that the respondent's article would be of doubtful value for deformity of toes and would afford no support to the arch of the foot, the point at which most mechanical devices are aimed for relief of aching feet.

No. 0933. Premier Coil Cleaner Manufacturing Company, of Chicago, selling a machine for cleaning beer coils, agrees to cease making unmodified representations of earnings or profits in excess of the average full-time earnings of customer-salesmen under normal conditions. The company agrees to stop using the word "manufacturing" in its corporate name, until such time as it manufactures the product offered for sale.

No. 0934. Dr. A. W. Daggett, S. M. Sweeney, and E. C. Groves, of Pasadena, Calif., operating as The Smad Company, sell an ointment for treating athlete's foot and other foot afflictions. The respondent agrees to stop certain representations in advertising, including the assertion that use of Smad for athlete's foot permanently destroys the fungus growth, or insures against a recurrence of the trouble. According to medical information received by the Commission, no remedy is a sure cure for fungus infections of the feet, and the respondent's preparation was tested and given a ten days' trial without effect upon the disease mentioned.

No. 0935. John C. Coles, of Chicago, trading as Business Ownership Institute and selling a correspondence course in and

an outfit for the cleaning and pressing of clothes, agrees to stop representing that the respondent grants exclusive territorial rights to subscribe for the home study course; that the respondent will show how to get a cleaning and pressing outfit for a limited time, unless and until the time limit is actually set, and other representations. After investigation it was found that many of the respondent's advertising representations were exaggerated and misleading.

No. 0936. Ralph C. Curtiss, of Chicago, trading as Illinois Manufacturing Laboratories and selling a product for adding power and efficiency to motor fuel called "Miracle Gas Compound," agrees to stop representing that this preparation used in any kind of gasoline makes a high-powered non-carbon-forming fuel; that two gallons of gasoline treated with the product will give the mileage of three gallons, and other representations. The respondent also agrees not to make unmodified assertions regarding the earnings of sales agents.

No. 0937. C. H. Hadlock, of Chicago, operating as Haldon Products Company, engaged in selling carded merchandise, agrees to stop representing that certain quilled toothpicks offered for sale are antiseptic, and that merchandise of a value of \$1.20 or other denominations is sold for eighteen cents, or other greatly reduced prices.

No. 0938. Spokane Chemical Company, of Spokane, Wash., dealer in a saline product called "Solcano," offered as a treatment for rheumatism, arthritis, and other troubles, agrees to stop advertising it, among other things, as a competent remedy or that it will "safeguard complexions" or that it is "mineralized sunshine." Medical opinion received by the Commission points out that the preparation is but a saline laxative the value of which is limited to the relief of occasional constipation, and that the therapeutic claims made for it are unwarranted.

No. 0939. Willard Tablet Company, Inc., Chicago, selling a treatment for ulcers of the stomach and other diseases, advertised over a Kansas radio station and through other media. According to the stipulation, the treatment was advertised as "intended to correct the cause of your trouble and improve your health." However, from investigation made, the Commission has reason to believe the respondent's advertising to be exaggerated and misleading. The company agreed to stop asserting that Willard Treatment is a treatment for ulcers of the stomach, unless the representations are limited to conditions caused by hyperacidity. Other assertions of like import will be discontinued.

No. 0940. The U. S. School of Music, New York, selling a course of home study in music lessons advertised that it had taught 700,000 people to play—"more than any other school on earth." From an investigation it was found there was no proof that the respondent had taught that many persons to play music and that other assertions made in the company's advertising were also incorrect and misleading. The respondent agrees to stop the unfair advertising specified.

No. 0941. Republic Paint & Varnish Works, Chicago, agrees to cease representing that its "Uni-Spar Phenolite Varnish" possesses elasticity or resiliency so amazing that dried film can be crumpled in the hand without a wrinkle, or smoothed out again without a crack, and that the product is the most durable indestructible finish that can be applied, and impervious to spilled perfume, alcohol, or liquor.

No. 0942. Woodbury College, Inc., Los Angeles, conducting a correspondence course in costume designing, agrees to stop unfair representations as to the price of its course; agrees, in advertising its costume designing department, to cease asserting that the college has celebrated its fiftieth anniversary or any anniversary exceeding the actual age of the costume designing department, and other representations such as that noted movie stars or other prominent persons will be counsellors and advisers of students, until such time as this is true. The school also agrees to stop making unmodified representations of earnings in excess of what its active students or graduates achieve under normal conditions.

No. 2217. Unfair representation in the sale of shoes is prohibited in an order to cease and desist issued against Morris Shoe Company, Inc., New York City.

The order directs the shoe company to stop using the word "Doctor" or the abbreviation "Dr." in a trade name or designation for shoes, or in any other way which may tend to mislead buyers into believing that the shoes are made in accordance with the design or under the supervision of a doctor, when this is not true.

No. 2491. Unfair competition through imitation of the packages, labels, brand names or advertising of a competitor, is prohibited in an order to cease and desist issued against Vincent Maggiore, of Canton, Ohio, trading as Amo-Line Company.

Maggiore is directed to cease imitating the packages, labels and brand names of the Climalene Co. of Canton, and from use, in

connection with the sale and advertising of a cleanser and water softener, of the name "Amo-Line."

No. 2501. Misrepresentation of the size and facilities of a business is prohibited as an unfair method of competition in an order against **K & E DeLuxe Padded Van Co., Inc.**, and **United Van Service**, both of **Jersey City, N. J.**

Among representations banned by the Commission in its order is the advertisement that either company owns or possesses 1,250, 1,200 or 1,000 vans, trucks or motor carriers, or any number of vehicles in excess of the actual number owned.

Complaints Dismissed

Nos. 2541 and 2441. The Commission has dismissed complaints against two liquor distributing companies, alleging unfair competition through representation of distributors as distillers.

Complaint against **Distillers' Distributing Company**, a wholesaler, of **Denver, Colo.**, was dismissed following receipt of certified information that the company had changed its corporate name to "Reuler-Lewin, Inc.," completely discontinuing use of its former name, **Distillers' Distributing Company**. The Commission deemed that further proceeding against the company was not necessary in the public interest.

In the case of **Imperial Distilling Corporation**, a liquor dealer, of **Hoboken, N. J.**, the Commission learned that the respondent had sold its equipment, surrendered its revenue stamps, allowed its rectifier's permits to expire, and discontinued all operations in which it was engaged at the time the Commission's complaint was issued.

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

- Avon Gold Mines, Ltd., Montreal, Canada. (2-1705, Form A-1)
- Miller Wholesale Drug Company, Cleveland, Ohio. (2-1706, Form A-2)
- Eaton & Howard Management Fund, Boston, Mass. (2-1707, Form A-1)
- Investors Fund of America, Inc., Jersey City, N. J. (2-1708, Form A-1)
- Airway Cargo Express, Inc., Wilmington, Del. (2-1709, Form A-1)
- Cape & Vineyard Electric Co., Falmouth, Mass. (2-1710, Form A-2)
- Livingston Mining Company, Boulder, Colo. (2-1711, Form A-1)
- Cimarron Petroleum Trust, Tulsa, Okla. (2-1712, Form A-1)
- Automobile Finance Company, Pittsburgh, Pa. (2-1713, Form A-1)
- Distilled Liquors Corporation, New York City. (2-1714, Form A-1)

BROADCAST ADVERTISING IN SEPTEMBER

Highlights of the Month

September broadcast advertising showed conflicting trends. Total volume amounted to \$5,669,856 and remained at approximately the same level as during the preceding month. National network volume showed the principal increase, while national non-network advertising declined materially as against August.

All forms of broadcast advertising remained above the September 1934 level. Total broadcast advertising was 23.9% greater than during the corresponding month of the preceding year and 43.2% more than in September 1933.

Total non-network advertising declined 13.9% as against August. This was due principally to decreased clear channel and regional station business. Principal declines occurred in the basic national network territory embracing the eastern and north-central parts of the country.

Local station volume rose 25.9% as compared with August and was 56.0% greater than during September of last year. Advertising over this class of station was double the September 1933 volume.

In the non-network field, the heaviest declines as compared with August occurred in electrical transcription and live talent business. These types of advertising, however, remained materially above the 1934 level.

The marked gain in local transcription and record vol-

ume, as compared with the preceding month and as against September 1934, is especially to be noted.

Gains in national network advertising were fairly general. Clothing, gasoline and accessory advertising showed the principal increases in the regional network field. Increased radio set advertising constituted the principal bright spot in the national non-network field. Local business was spotty, with clothing and department store advertising showing the principal increases.

Comparison with September 1934 indicates food, accessory and tobacco advertising to have experienced the greatest gains in the national network field. Automotive, food, tobacco and radio set advertising have made the strongest showing in the national non-network field. Local broadcast advertising trends continued to be the same as those shown during the past few months.

Total Broadcast Advertising

Broadcast advertising over stations and networks during September is found in Table I:

TABLE I
TOTAL BROADCAST ADVERTISING

Class of Business	1935 Gross Time Sales		
	August	September	Cumulative Jan.-Sept.
National networks	\$2,939,097	\$3,337,018	\$35,571,567
Regional networks	82,993	81,108	722,102
National non-network	1,347,440	963,430	12,198,988
Local	1,267,960	1,288,300	13,738,665
Total	\$5,637,490	\$5,669,856	\$62,231,322

Total broadcast advertising increased 0.6% as against August. National network volume rose 13.5% and local advertising 1.6%. National non-network volume declined 28.5% and regional network business 2.3%.

Comparison with 1933 and 1934

Total broadcast advertising was 23.9% greater than during the corresponding month of last year. Gains were as follows: national networks 40.0%, national non-network advertising 23.2%, and local broadcast advertising 9.6%.

Compared with September 1933, total broadcast advertising experienced a gain of 43.2%. National network volume rose 58.7%, regional network business 29.8%, national non-network volume 47.2%, and local broadcast advertising 9.5%.

Comparison with Other Media

Advertising volume in major media is presented in Table II:

TABLE II
ADVERTISING VOLUME BY MAJOR MEDIA

Advertising Medium	1935 Gross Time and Space Sales		
	August	September	Cumulative Jan.-Sept.
Radio broadcasting	\$5,637,490	\$5,669,856	\$62,231,322
National Magazines ¹	7,387,939	9,248,763	92,668,575
National farm papers	305,231	486,552	4,105,308
Newspapers ²	37,385,000	41,998,000	370,928,000
Total	\$50,706,660	\$57,403,171	\$529,933,205

¹ Publishers' Information Bureau.

² Estimated.

The usual seasonal trends occurred in all media. National magazine volume increased 25.2% as compared with the preceding month. National farm paper advertising rose 59.4% and newspaper volume increased 12.3%.

Radio still continues to make the strongest showing as compared with the preceding year. Newspaper lineage increased 5.2% as compared with last September, while national farm paper advertising rose 12.6%. Magazine volume declined 3.1%.

In the newspaper field retail advertising rose 6.9% and general advertising 3.3%. Department store advertising increased 6.3%.

Non-network Advertising

General non-network advertising declined 13.9% as compared with August and rose 15.0% as against September of the preceding year. The principal declines during the month were in the clear channel and regional groups and in the eastern and north-central areas.

Clear channel non-network volume decreased 28.5% and regional volume 10.6%. Clear channel non-network business was 4.4% ahead of last September and regional station advertising 11.6%.

Local station volume was 25.9% above August, showed a gain of 56.0% as compared with the corresponding month of 1934, and was nearly double the September 1933 volume.

Non-network advertising by power of station is found in Table III:

TABLE III

NON-NETWORK ADVERTISING BY POWER OF STATION

Power of Station	1935 Gross Time Sales		
	August	September	Cumulative Jan.-Sept.
Over 1,000 watts	\$1,201,000	\$858,350	\$12,028,315
250-1,000 watts	1,061,900	949,680	10,262,495
100 watts	352,500	443,700	3,646,853
Total	\$2,615,400	\$2,251,730	\$25,937,663

Declines in non-network advertising were fairly general throughout the country. The South Atlantic-South Central Area, however, showed the greatest strength, decreasing but 3.1% as compared with August. New England-Middle Atlantic volume was approximately one-third below September of last year, while North Central and Far Western advertising increased by approximately three-eighths. Southern volume was practically double that of September 1934.

Non-network advertising by major geographical districts is found in Table IV:

TABLE IV

NON-NETWORK ADVERTISING BY GEOGRAPHICAL DISTRICTS

Geographical District	1935 Gross Time Sales		
	August	September	Cumulative Jan.-Sept.
New England-Middle Atlantic Area	\$613,800	\$513,315	\$6,664,152
South Atlantic-South Central Area	342,280	331,530	4,003,098
North Central Area	1,103,520	913,340	9,919,307
Pacific and Mountain Area	555,800	493,545	5,351,106
Total	\$2,615,400	\$2,251,730	\$25,937,663

Non-network Advertising by Type of Rendition

General declines were experienced in the national non-network field as compared with the preceding month. Transcription volume dropped 26.0%, live talent business 33.7%, and announcements 17.1%.

Transcription volume remained 38.5% greater than in September 1934, while live talent business showed an increase of 20.9%. Announcement volume declined 1.2% as against the same month of last year.

Local transcription volume increased 14.0% over August, while announcement business rose 8.6%. Live talent and record volume declined approximately 6.0%, respectively.

Local transcription business was 51.4% greater than during last September, while record volume gained 66.5%. Local announcement business was 25.0% ahead of the corresponding month of last year, while live talent business declined 9.8%.

Broadcast advertising by types of rendition is presented in Table V:

TABLE V

NON-NETWORK BROADCAST ADVERTISING BY TYPE OF RENDITION

Type of Rendition	1935 Gross Time Sales						
	National Non-network		Local		Total		Cumulative Jan.-Sept.
	August	September	August	September	August	September	
Electrical transcriptions	\$474,600	\$350,980	\$103,800	\$118,300	\$578,400	\$469,280	\$5,438,678
Live talent programs	686,320	454,740	594,400	559,625	1,280,720	1,014,365	12,362,870
Records	6,540	8,495	59,710	56,375	66,250	64,870	621,951
Announcements	179,980	149,215	510,050	554,000	690,030	703,215	7,514,164
Total	\$1,347,440	\$963,430	\$1,267,960	\$1,288,300	\$2,615,400	\$2,251,730	\$25,937,663

TABLE VI

RADIO BROADCAST ADVERTISING BY TYPE OF SPONSORING BUSINESS (September, 1935)

Type of Sponsoring Business	Gross Time Sales				
	National Networks	Regional Networks	National Non-network	Local	Total
1a. Amusements	—	—	\$2,540	\$37,800	\$40,340
1-2. Automobiles and accessories:					
(1) Automobiles	\$166,370	—	149,280	46,110	361,760
(2) Accessories, gas and oils	388,882	\$9,955	52,885	74,400	526,122
3. Clothing and apparel	38,789	7,490	25,980	197,870	270,129
4-5. Drugs and toilet goods:					
(4) Drugs and pharmaceuticals	392,246	5,023	127,900	37,075	562,244
(5) Toilet goods	730,837	440	37,710	17,500	786,487
6-8. Food products:					
(6) Foodstuffs	740,667	18,191	236,375	171,130	1,166,363
(7) Beverages	224,322	990	55,920	74,030	355,262
(8) Confections	42,145	200	6,900	5,635	54,880
9-10. Household goods:					
(9) Household equipment and furnishings	27,068	6,163	41,845	154,300	229,376
(10) Soap and kitchen supplies	149,822	3,432	48,410	2,100	203,764
11. Insurance and financial	40,274	580	12,275	45,360	98,489
12. Radios	67,330	—	24,850	12,950	105,130
13. Retail establishments	—	—	7,760	123,520	131,280
14. Tobacco products	183,980	22,188	26,600	4,920	237,688
15. Miscellaneous	144,286	6,456	106,200	283,600	540,542
Total	\$3,337,018	\$81,108	\$963,430	\$1,288,736	\$5,669,856

and advantage of exception to the manifold errors, uncertainties and other imperfections in the Plaintiff's Bill of Complaint contained, for answer thereto, or to so much and such part thereof as it is advised is material or necessary for it to answer,

Respectfully Showeth:

1. Denied. Defendant has no knowledge as to the averment that the plaintiff is substantially the sole and exclusive owner and conductor of the Orchestra known as "Waring's Pennsylvanians," and has no means of obtaining any information regarding the truthfulness of said averment and therefore demands proof thereof at the trial of this issue.

2. Denied. Defendant denies that the plaintiff is and has been for a long time past a unique and individual artist and performer in his field as an orchestra conductor and is an interpretative musical artist, but, on the contrary, avers that musical selections can be and have been interpreted, rendered, played and performed by other musicians and orchestras in the same or similar manner as interpreted, rendered, played and performed by the plaintiff, and that the plaintiff's performances and interpretations are not unique and individual in the sense that no one else can perform and interpret the same musical selections which the plaintiff performs and interprets. Defendant has no knowledge of the international reputation of the plaintiff, and has no means of ascertaining the truth thereof, and therefore demands proof thereof.

3. Denied. Defendant denies that the plaintiff's interpretive performances are entirely unique and individual to himself, for the reasons set forth in Paragraph 2 hereof; and denies that his performances are "generally so recognized by the public and that they are specifically recognized as his own personal and individual interpretations and are, therefore, unique," for the reasons set forth in Paragraph 2 hereof, and for the further reason that the general public, including musicians, is unable to recognize the plaintiff's orchestra performing, as distinguished from other orchestras, for the reason that other orchestras and musicians are able to give similar performances of the same musical selections.

4. Denied. Defendant avers that Waring's Pennsylvanians is not unlike any other orchestra or body of musicians, and is not unusual or different from any other group of musicians banded together or playing together under a name identifying the group or orchestra. That the musical performances of the said Waring's Pennsylvanians are not unlike the musical performances of other orchestras, nor is their performance of musical selections unusual in the sense that musical selections cannot be rendered or performed by other musicians and orchestras in the same or similar manner. That musical performances by Waring's Pennsylvanians cannot be recognized by the general public as the performances of any particular group of musicians or orchestra. Defendant has no knowledge of the international reputation of either the plaintiff or Waring's Pennsylvanians, and has no means of ascertaining the truth thereof, and therefore demands proof thereof.

5. Admitted.

6. Admitted.

7. Defendant admits that it did on July 2nd, 1935, play and give renditions of Victor phonograph records entitled, "I'm Young and Healthy" and "You're Getting to be a Habit with Me," which the plaintiff and his Orchestra rendered for the R. C. A. Victor Company, Inc., as an employee.

8. Defendant avers that said records contained the following: "This record is not licensed for radio broadcast," and further avers that the allegations contained in this Paragraph are wholly immaterial, for the reasons more fully set forth hereafter under "New Matter."

9. Defendant denies that plaintiff has a common-law right of property or any other right of property in and to his interpretation of the musical numbers specified in Paragraph 7, or in or to the said phonograph records, as more specifically hereinafter set forth under "New Matter."

10. Defendant admits that plaintiff has never expressly granted permission to the defendant to broadcast his records for commercial purposes and that it has never accounted to him for the use of said records, but avers that these allegations are wholly immaterial for the reasons more fully set forth hereafter under "New Matter."

11. Denied. Defendant denies that its use of the said records is a serious menace to the business, interests, rights, contractual engagements and income of the plaintiff and avers that it is immaterial whether the use by it for broadcasting purposes of the said records is a serious menace to the business, interests, rights, contractual engagements and income of the plaintiff, for reasons set forth hereafter under "New Matter."

12. Defendant denies that the use of the records to which plaintiff refers in his Bill of Complaint is illegal and that the defendant's continued use of said records will seriously injure the contractual rights and property rights of the plaintiff, and will cause other irreparable damage to the plaintiff's property rights. On the contrary, defendant avers that plaintiff does not have any contractual rights or property rights in the records to which he refers in the Bill of Complaint, and that he will not be damaged irreparably or otherwise by defendant's continued use of said records for broadcasting purposes in the operation of its business.

Defendant avers that if the prayer of the Plaintiff, as set forth in the Bill of Complaint, is granted, it will be denied its property rights and its right to the lawful use of its property.

New Matter

Further answering, the defendant avers on information and belief:

13. That the plaintiff performed for the making of the Victor phonograph records to which he refers in Paragraph 7 of his Bill of Complaint under a contract between the plaintiff and RCA Victor Company, Inc., by the terms of which the plaintiff, for himself and on behalf of each and all of the members of his orchestra, granted to RCA Victor Company, Inc., the right at any time and all times to manufacture, advertise and license or sell in all parts of the world records of the performances by plaintiff's orchestra of the selections of which said Victor records were made, including the right to produce and reproduce the recorded performances of the orchestra by any and all mechanical, electrical or other means of disseminating or transmitting the same, with the further right on the part of RCA Victor Company, Inc., to make use of plaintiff's name and photograph, and the name of his orchestra and photographs of the members of his orchestra, in connection with the manufacture, advertising and licensing or sale of such records in any and every way in connection with sound reproduction and transmission, granting to the RCA Victor Company, Inc., all rights and equities of the plaintiff and of his orchestra, and of each of its members in and to the matrices and records upon which the performances were reproduced.

14. That plaintiff at the time said records were made, or at any other time, was not the copyright proprietor of "I'm Young and Healthy" and "You're Getting to be a Habit with Me," but that said copyright proprietor thereof was M. Witmark & Sons, the publisher of said selections.

15. That the plaintiff did not have a license from the owner of said copyrights to reproduce, perform or arrange the said musical selections at any time mentioned in the Bill of Complaint.

16. That said M. Witmark & Sons granted to RCA Victor Company, Inc., the right, license, privilege and authority to use the musical compositions, "I'm Young and Healthy" and "You're Getting to be a Habit with Me", and the words and music of both of said compositions in the recording and manufacturing of said phonograph records.

17. That prior to the time that said records were made, M. Witmark & Sons, the copyright owners of the compositions entitled, "I'm Young and Healthy" and "You're Getting to be a Habit with Me", and Al Dubin and Harry Warren, the authors of the words and music of said songs, had granted to the American Society of Composers, Authors and Publishers the performing rights of said musical compositions and all of the words and music thereof, and the right to license others publicly to perform said musical selections.

18. That at the time said records were made and at the time the performances complained of were given, the defendant was the holder of a valid license from the "American Society of Composers, Authors and Publishers" to publicly perform said songs together with the words and music thereof.

19. That for plaintiff's services in playing the musical selections "I'm Young and Healthy" and "You're Getting to be a Habit with Me" for the RCA Victor Company, Inc., he received a monetary consideration of Two Hundred Fifty Dollars (\$250.) per selection, which was paid to him by check of the National Broadcasting Company, Inc., and on which was written, "In full settlement for services." Said check was duly accepted and deposited by the plaintiff, without objections.

20. That after playing said selections for RCA Victor Company, Inc., to enable it to make phonograph records thereof, the plaintiff had no rights of any kind in said records and RCA Victor Company, Inc., was not bound to plaintiff by contract or otherwise, to limit in any way the use which purchasers of said records might make thereof.

21. That defendant purchased the phonograph records to which plaintiff refers in his Bill of Complaint from a dealer in such records, namely, Weymann & Company, Philadelphia, Pa., which had an unlimited, unqualified right to dispose of the same to the public without any contractual or other obligation to limit the use which the purchaser might make of the records thus purchased.

22. That prior to the purchase by the defendant of the said phonograph records, thousands of the said records were sold throughout the United States, including the vicinity of Philadelphia.

23. That at the time the plaintiff performed said musical numbers for said records, plaintiff knew that said phonograph records would be so sold to the public and that they would be used for broadcast purposes.

24. That prior to the playing of said records, defendant announced that the numbers about to be played were mechanical reproductions of plaintiff's rendition of said selections.

25. That plaintiff is and at all times has been fully aware of the facts hereinbefore set forth under "New Matter" and has, therefore, no basis whatever for instituting this action against the defendant.

Wherefore defendant prays your Honorable Court to dismiss the Bill of Complaint and to award to the defendant its costs and damages for being compelled to defend against this action.

WDAS BROADCASTING STATION, INC.

By W. MAURICE STEPPACHER,

COMMONWEALTH OF PENNSYLVANIA,

City and County of Philadelphia, ss:

W. Maurice Steppacher, being duly sworn according to law, doth depose and say that he is Secretary and Treasurer of WDAS Broadcasting Station, Inc., the defendant named in the foregoing Answer, and that the facts set forth in the foregoing Answer and New Matter are true and correct, to the best of his knowledge, information and belief.

W. MAURICE STEPPACHER.

Sworn to and subscribed before me this 26th day of October, 1935.

EDNA F. SCHWARTZ,
Notary Public.

My Commission expires March 2, 1937.
(Seal.)

A. T. & T. PETITIONS FOR REARGUMENT IN MATTER CONCERNING INSTALLATION OF COAXIAL CABLE

The American Telephone and Telegraph Company and the New York Telephone Company has filed with the FCC (29) a petition to reopen for the purpose of hearing reargument by counsel for petitioners and of reconsidering the order of the Commission heretofore entered in the case involving the installation of an experimental Coaxial Cable between New York City and Philadelphia.

The text of the petition follows:

Before the

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of the Petition of the AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND THE NEW YORK TELEPHONE COMPANY in connection with the Installation of Experimental Coaxial Cable between New York, New York, and Philadelphia, Pennsylvania

PETITION FOR REARGUMENT
Docket No. 3065

Come now the American Telephone and Telegraph Company and New York Telephone Company, the petitioners herein, and respectfully petition the Commission to reopen said cause for the purpose of hearing reargument by counsel for petitioners, and of reconsidering the order of the Commission heretofore entered herein in the respects hereinafter set forth; and in support of said petition respectfully show:

1. Petitioners filed their petition with the Commission on May 14, 1935, and after hearing thereon was duly held on July 15, 1935, the Commission on July 24, 1935, made and entered its final decision entitled "Findings and Order," and thereafter, on August 14, 1935, its "Report and Order," incorporating therein said "Findings and Order."

2. In said petition and through counsel at the hearing petitioners suggested to the Commission that it had no jurisdiction

over the subject matter thereof and prayed a finding of the Commission to that effect and that the petition be dismissed upon that ground. Petitioners respectfully state that it appears from their said petition, from all the evidence taken and proceedings had before the Commission, from the said "Findings and Order" of July 24, 1935, and the said "Report and Order" of August 14, 1935, that the proposed coaxial cable project is purely experimental, and the Commission therefore has no authority over or with respect to said project and no jurisdiction to entertain the said petition, either under the second proviso of Section 214 (a) of the Communications Act, or any other of the provisions of said section, or under any provision of said Act. Petitioners respectfully aver that they are advised that it thereupon became and was the duty of the Commission to dismiss said petition for want of jurisdiction and proceed no further in said cause and that it was error for the Commission to take and retain jurisdiction for consideration of the merits thereof, and to make and enter said "Findings and Order" and said "Report and Order."

Petitioners hereby renew their said plea to the jurisdiction of the Commission. If, nevertheless, after reargument and reconsideration thereof, the Commission shall be of the opinion that said plea to the jurisdiction is without merit in law and shall overrule the same, then the petitioners, praying an exception to said ruling, respectfully assign error to the following provisions of the Commission's said "Findings and Order" and said "Report and Order," in the respects and upon the grounds herein stated.

3. In the third paragraph of said "Findings" (which by the terms of the order, as construed by petitioners, have the force and effect of conditions) the Commission imposed the following conditions to be binding upon petitioners in the prosecution of said project:

"During the experimental state of the coaxial cable under consideration parties interested in the transmission of television images should have access to and the use of the said cable for the use of experiments for themselves provided the petitioners and such other parties may agree upon terms and conditions whereby such access and use may be accorded by the petitioners and had by the other parties; and in case the petitioners and other parties can not agree upon such terms and conditions, such other parties may apply to the Commission for rules and regulations whereby they may have access to and the use of said coaxial cable for their proper purposes and uses";

"Under these circumstances the coaxial cable in its demonstration period can not be used by the petitioners for the development of the right to television patents, to the exclusion of other parties having access to the coaxial cable through agreement with the petitioners or by order of the Commission, and under the circumstances proposed herein the Commission is of the opinion that the petitioners can not monopolize the experimental advantages, features and uses of the coaxial cable to the disadvantage, exclusion and detriment of other parties";

Petitioners complain of the said conditions, in that they are in excess of the authority of the Commission. It has, however, been the intention of petitioners, as appears from the testimony of Dr. Frank B. Jewett at the hearing, to allow other responsible parties who have suitable apparatus for sending and receiving television images to have reasonable access to the cable for television experiments and the development of television inventions by them, to be accorded to them by petitioners upon fair and reasonable terms. In these circumstances, and in deference to the expressed view of the Commission that it should have authority to make rules and regulations governing such access and use, as set forth in the above Findings, petitioners will offer no objection to the reasonable exercise of such authority by the Commission with due regard to petitioners' experimental use of the cable in other fields of communication as well as in the field of television, provided, however, that said conditions are restated and clarified to the following effect:

(a) The words "the coaxial cable in its demonstration period can not be used by petitioners for the development of the right to television patents, to the exclusion of other parties having access to the coaxial cable" are believed to be ambiguous, and it is respectfully submitted that such words might be construed to mean that petitioners could not acquire any exclusive rights to their own inventions such as would ordinarily flow from the grant of a patent. It is to be made clear that petitioners' right to take out patents upon their own inventions is not denied or impaired.

(b) The said findings further state that "parties interested in the transmission of television images should have access to and the use of the said cable for the use of experiments for themselves." In order to avoid any misunderstanding as to the

meaning, scope and effect of these words, it is to be made clear that "access" is only for the purpose of enabling such parties to connect appropriate television sending or receiving apparatus to the terminal apparatus of the cable so as to be able to use the cable for experiments in the sending or receiving of television images by means of their own apparatus. In short, petitioners have no objection to making the cable, with which petitioners themselves would experiment, available to the use of other parties for the purpose of connecting their sending or receiving television apparatus to the terminals of petitioners' cable and of experimentally testing said apparatus, such access to be thus limited.

4. The last paragraph of the Commission's Findings provides that:

"* * * and the Commission hereby asserts its right to make any other and further order, whether supplemental to or derogatory of the order now being issued, and the Commission hereby serves notice that it reserves the right to revoke the order about to be issued, either in whole or in part, after hearing upon 10 days' notice to the petitioners."

The Order of the Commission authorizes petitioners to install the coaxial cable "pursuant to the Findings above made," and further provides that it is "subject to amendment or annulment as above stated," and that "the present order and the privileges granted thereby may be declared null and void by the Commission after a hearing before it."

Petitioners are required by the express provisions of the Order, before they are permitted to avail themselves of the authority therein granted, to file with the Commission their acceptance of the Order.

Plaintiffs complain of said provisions and respectfully aver that they are in excess of the power of the Commission, in that they constitute an assertion of authority in the Commission to impose other terms and conditions, the nature of which cannot now be foreseen by petitioners, to halt the project at any stage and without regard to the expense theretofore incurred or commitments made by petitioners, and would in terms bind petitioners to the blind acceptance thereof in advance. Said provision should be either stricken from the Findings and Order or amended so as to protect the property rights of the petitioners.

5. The first paragraph of the Commission's findings (which are made conditions of the order) provides:

"The petitioners will, before attempting to use" the coaxial cable "in public service, apply for permission to do so and later abide by such order as the Commission may make after a full and complete hearing held pursuant to notice";

Said condition in terms requires petitioners to agree to abide by an order, without limitation, which the Commission may hereafter see fit to make, after due notice and hearing, in connection with any placing in public service of the said coaxial cable facilities; petitioners thus being required to enter into a present commitment to accept and abide by any order to be made in the future in a proceeding not yet instituted, the terms of which are as yet unknown.

Petitioners submit that if said condition is to be construed as simply requiring petitioners to accept any lawful order or requirement made and entered by the Commission pursuant to an application filed by petitioners at any later date, it is surplusage and meaningless. If, however, the condition is taken according to its plain words and is deemed to vest in the Commission any power in excess of that referred to above, it is unlawful. In either case the condition should be amended by eliminating therefrom the provision that petitioners will "later abide by such order as the Commission may make."

6. The order of the Commission imposes the following condition:

"A report" shall "be filed by the petitioners on the fifteenth day of each month furnishing in detail information relative to all the activities in connection with the cable during the preceding month."

Said condition is couched in such broad language as may be construed to require petitioners to publish information which is properly confidential concerning their research activities in connection with developments and ideas still in the laboratory or experimental stage, the premature disclosure of which would make such information available to others whose use of it would deprive petitioners of the fruits of their own research. Said provision should be clarified so as to remove the possibility of such a construction and preserve the legitimate rights and interests of petitioners in this respect.

7. One of the findings of the Commission, stated in the first paragraph of Findings, is "that the petitioners propose to carry on the experiment at their own expense and without cost to the

public," and petitioners are required by the order of the Commission to assent thereto.

Petitioners respectfully state that they are in doubt as to the meaning and intent of said finding. In this connection petitioners refer to the averments of the original petition herein (particularly pages 4-6 thereof) and to the statement of counsel for the petitioners at the hearing in answer to the question of Commissioner Walker bearing on this point (see page 16 of the stenographer's official report of proceedings). It there appears in substance that petitioners do not propose to capitalize any part of the cost of the project during the experimental period and until petitioners are authorized by the Commission to use the cable in permanent commercial service; that in the interim certain costs initially estimated at approximately \$360,000 are to be carried in suspense accounts until the final proper distribution thereof in the accounts is determined; that certain other costs estimated to amount to about \$220,000 are to be currently charged to development expense; that these are very rough estimates; and that it is not possible to state definitely the proportions of the total expenditures which should be charged ultimately to development expense and to capital accounts.

The entire cost of the project from first to last will, of course, be borne by petitioners and be properly apportioned between them. It is the understanding of petitioners that such cost should ultimately appear in the expense accounts and the capital accounts, except that if it should ultimately turn out that no part thereof is to be capitalized the entire amount should go to expense.

If the above finding of the Commission is not intended to be in conflict with the understanding of petitioners as stated, then they have no objection to it. Otherwise it should either be stricken out or corrected and clarified.

8. The order of the Commission imposes the following conditions:

The order "shall not become effective for any purpose whatsoever until the petitioners file herein their acceptance of the order and their assurance that they will do nothing under the order contrary to the terms and conditions thereof without first submitting their proposal to the Commission and receiving the express sanction thereof";

Petitioners respectfully object to this provision. If and in so far as the order is within the lawful authority of the Commission, petitioners are bound to comply with it, and their acceptance and assurance can add nothing to the obligations and sanctions it imposes. If and in so far as the order exceeds the Commission's lawful powers, petitioners ought not and cannot lawfully be required to submit to it.

9. Petitioners respectfully submit that unless the said conditions hereinbefore referred to in Sections 3, 4, 5, 6, 7 and 8 hereof are clarified, amended, or vacated, so as to remove the objections hereinbefore referred to, they and each of them are unlawful and void. They and each of them exceed the lawful power and authority of the Commission, constitute an attempt on the part of the Commission to usurp the right of petitioners to manage their property and business, and said conditions, if enforced, will deny to petitioners due process of law and will result in a taking of their property in contravention of the Fifth Amendment of the Constitution of the United States.

Wherefore, Petitioners respectfully pray that the Commission reopen the said matter for reargument by counsel and consider the merits of said petition and the objections hereinabove raised to said order; that it dismiss the original petition for want of jurisdiction of the subject matter; or in the event it determine that it has such jurisdiction, it clarify, modify, or vacate the conditions of said order herein complained of, so as to remove petitioners' objections and correct the errors herein assigned.

Dated at New York, New York, October 28, 1935.

AMERICAN TELEPHONE AND TELEGRAPH
COMPANY,
By C. P. COOPER,
Vice President.

NEW YORK TELEPHONE COMPANY,
By H. C. CARPENTER,
Vice President.

ALAN J. McBEAN,
FRANK QUIGLEY,
EDWARD W. BEATTIE,
Attorneys for Petitioners.

C. M. BRACELEN,
S. WHITNEY LONDON,
Of Counsel.

STATE OF NEW YORK,
County of New York, ss:

C. P. Cooper, being duly sworn, deposes and says: That he is a Vice President of the American Telephone and Telegraph Company, one of the petitioners herein; that he has read the foregoing petition, and knows the contents thereof; that the same are true as stated, except as to matters and things, if any, stated on information and belief, and as to those matters and things, he believes them to be true.

C. P. COOPER.

Subscribed in my presence and sworn to before me by the Affiant, above named, this 28th day of October, 1935.

(Seal.)

CHARLES M. DEAL.

Notary Public, Kings Co., No. 363, Reg. No. 7148. Cert. Filed in N. Y. Co., No. 393, Reg. No. 7-D-225. Commission expires March 30, 1937.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Tuesday, November 5, 1935

- NEW—Julius Brunton & Sons Co., Fresno, Calif.—C. P., 980 kc., 250 watts, daytime.
NEW—Harold H. Hanseth, Fresno, Calif.—C. P., 1410 kc., 1 KW, unlimited time.
KMED—Mrs. W. J. Virgin, Medford, Ore.—Modification of license, 1410 kc., 250 watts, specified hours (6 a. m.-9 p. m.).
NEW—Miles J. Hansen, Fresno, Calif.—C. P., 1420 kc., 100 watts, unlimited time.
NEW—Clark Standiford, Visalia, Calif.—C. P., 1310 kc., 100 watts, unlimited time.
NEW—W. H. Kindig, Hollywood, Calif.—C. P., 1300 kc., 1 KW, shares with KFAC (requests facilities of KFAC).
KFAC—Los Angeles Broadcasting Co., Inc., Los Angeles, Calif.—Renewal of license, 1300 kc., 1 KW, unlimited time.
NEW—Golden Empire Broadcasting Co., Sacramento, Calif.—C. P., 1310 kc., 100 watts, unlimited time.
NEW—California Sales Contract Co., San Francisco, Calif.—C. P., 1280 kc., 500 watts, 1 KW LS, unlimited time.
NEW—Wm. B. Smullin, Sacramento, Calif.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited time.
NEW—Golden Empire Broadcasting Co., Redding, Calif.—C. P., 1200 kc., 100 watts, unlimited time.
NEW—Royal Miller, Sacramento, Calif.—C. P., 1210 kc., 100 watts, daytime.

Thursday, November 7, 1935

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-53:

- NEW—L. M. Kennett, Indianapolis, Ind.—C. P., 600 kc., 1 KW, daytime.

Examiner's Report No. I-61:

- NEW—J. L. Scroggin, St. Joseph, Mo.—C. P., 1310 kc., 100 watts, unlimited time.
NEW—News Broadcasting Co., St. Joseph, Mo.—C. P., 1310 kc., 100 watts, unlimited time.

Examiner's Report No. I-44:

- KMAC—W. W. McAllister, San Antonio, Tex.—Special experimental authority, 940 kc., 1 KW, unlimited time. Present assignment: 1370 kc., 100 watts, shares with KONO.
KFYO—T. E. Kirksey, tr/as Kirksey Brothers, Lubbock, Tex.—C. P., 940 kc., 500 watts, unlimited time. Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited time.
KGKL—KGKL, Inc., San Angelo, Tex.—C. P., 940 kc., 500 watts, 1 KW LS, unlimited time. Present assignment: 1370 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. I-77:

- NEW—H. K. Glass, M. C. Kirkland, Eustis, Fla.—C. P., 1310 kc., 100 watts, 6 a. m. to local sunset.
NEW—Lake Region Broadcasting Co, Lakeland, Fla.—C. P., 1310 kc., 100 watts, unlimited time.

NEW—G. D. Coff, Tampa, Fla.—C. P., 1500 kc., 100 watts, unlimited time.

NEW—Robert Louis Sanders, Palm Beach, Fla.—C. P., 1420 kc., 100 watts, unlimited time.

NEW—Hazlewood, Inc., West Palm Beach, Fla.—C. P., 1200 kc., 100 watts, unlimited time.

Friday, November 8, 1935

KFH—The Radio Station KFH Co., Wichita, Kans.—C. P., 1300 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1300 kc., 1 KW, unlimited time.

APPLICATIONS GRANTED

WHEC—WHEC, Inc., Rochester, N. Y.—Granted C. P. to move transmitter locally and install new equipment.

WJR—WJR, The Goodwill Station, Detroit, Mich.—Granted authority to determine licensed power by direct measurement of antenna input.

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Granted modification of C. P. to move transmitter locally, extend commencement date to 30 days after grant and completion date to 6 months thereafter.

WSPD—The Toledo Broadcasting Co., Toledo, Ohio.—Granted authority to determine licensed power by direct measurement of antenna input.

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Granted license to use old main transmitter for auxiliary purposes.

KEHE—Evening Herald Publishing Co., Los Angeles, Calif.—Granted renewal of license for the regular period.

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—Granted license to cover C. P. covering new station; 1310 kc., 100 watts, daytime.

KSUN—Copper Electric Co., Inc., Lowell, Ariz.—Granted modification of license to change hours of operation from daytime to unlimited.

WAAW—Omaha Grain Exchange, Omaha, Nebr.—Granted extension of present license for period of 60 days.

NEW—Don Lee Broadcasting System, Portable-Mobile (San Francisco)—Granted C. P., frequencies 31100, 34600, 37600, 40600 kc., 100 watts.

NEW—WCB D, Inc., Portable-Mobile (Waukegan, Ill.)—Granted C. P., (exp. gen. exp.) service, frequencies 31100, 34600, 37600, 40600 kc., 5 watts.

NEW—Scranton Broadcasters, Inc., Portable (Scranton, Pa.)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 100 watts.

NEW—RCA Manufacturing Co., Inc., Camden, N. J.—Granted license to cover C. P. for visual broadcasting service, frequencies 42000-56000, 60000-86000 kc., 30 KW.

KIEO—Airfan Radio Corp., Ltd., Portable (San Diego, Calif.)—Granted modification of license (temporary broadcast pickup) to add frequencies 1606, 2020, 2102, 2760 kc. and delete 3150 kc. Also granted renewal of license in accordance with modification.

KIFT—Julius Brunton & Sons Co., Mobile (San Francisco)—Granted modification of license (temporary broadcast pickup) to add frequencies 1622, 2060, 2790 kc. Also granted renewal of license for the period ending November 1, 1936.

WIEF—Miami Broadcasting Co., Miami, Fla. (Portable-Mobile)—Granted renewal of broadcast pickup station license in accordance with modification granted October 22, 1935.

SET FOR HEARING

WOOD—Kunsky Trendle Broadcasting Corp., Grand Rapids, Mich.—Application for C. P. to move transmitter location to site to be determined, make changes in equipment, and increase operating power from 500 watts to 1 KW; install new antenna.

NEW—Christina M. Jacobson, d/b as The Valley Electric Co., San Luis Obispo, Calif.—Application for C. P. for new station; 1090 kc., 250 watts, daytime.

WKRC—WKRC, Inc., Cincinnati, Ohio.—Application for modification of C. P. to extend commencement date from 4-29-35 to 7-29-35 and extend completion date from 7-29-35 to 10-29-35. Also modification of C. P. to make changes in equipment, increase day power to 5 KW, extend commencement date to 60 days after grant and completion date to 180 days thereafter.

WSMB—WSMB, Inc., New Orleans, La.—Application for renewal of license, **1320 kc.**, 500 watts, unlimited time, 500 watts additional.

NEW—C. W. Snider, Wichita Falls, Tex.—C. P., already in hearing docket, amended to read: **1500 kc.**, 100 watts, daytime, transmitter site to be determined subject to approval of Commission.

KFRC—Voice of Longview, Longview, Tex.—Special experimental authority to operate on **1210 kc.**, 100 watts, unlimited time, facilities of KWEA.

WASH—Kunsky-Trendle Broadcasting Corp., Grand Rapids, Mich.—Application for C. P. to move transmitter to site to be determined subject to approval of Commission; make changes in equipment and increase power from 500 watts to 1 KW.

NEW—Saint Cloud Broadcasting Co., by Emmons L. Abeles, Secy., St. Cloud, Minn.—Application for C. P. for new station, **1200 kc.**, 100 watts, unlimited time.

NEW—Midway Broadcast Co., by Emmons L. Abeles, Secy., Eau Claire, Wis.—Application for C. P. for new station, **1310 kc.**, 100 watts, unlimited time, site to be determined.

WCOP—Joseph M. Kirby, Boston, Mass.—Application for modification of license to change frequency from **1120 kc.** to **1130 kc.**; increase hours of operation from daytime to limited until LS at KSL, Salt Lake City.

KGDE—Charles L. Jaren, Fergus Falls, Minn.—Application for renewal of license, **1200 kc.**, 100 watts night, 250 watts day, unlimited time.

KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Application for renewal of license, frequency **1240 kc.**, 500 watts night, 1 KW day, unlimited time. S.A. power 1 KW night. (Place of hearing to be determined.)

KXL—KXL Broadcasters, Portland, Ore.—Application for renewal of license, **1420 kc.**, 100 watts, with an additional 150 watts from local sunrise to LS only. Shares time with KBPS-KXL 6/7 time and KBPS 1/7 time. (Place of hearing to be determined.)

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KDYL, Salt Lake City; KFBB, Great Falls, Mont; KFIO, Spokane, Wash.; KOIN, Portland, Ore.; KGW, Portland, Ore.; KYA, San Francisco.

The following stations were granted renewal of licenses on a temporary basis only to conform to the Commission's action of October 1, 1935, with reference to these stations' applications for renewals, for the term November 1 to 15, 1935:

WBBR, Brooklyn, N. Y.; WFAB, New York City; WHAZ, Troy, N. Y.; WARD, Brooklyn; WVFW, Brooklyn; WBBC and auxiliary, Brooklyn; WLTH, Brooklyn.

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Renewal of license granted on a temporary basis only for the period Nov. 1 to Nov. 12, 1935, to conform to the Commission's action of Oct. 1, 1935, with reference to this station.

KFAC—Los Angeles Broadcasting Co., Inc., Los Angeles, Cal.—Granted renewal of license on a temporary basis only subject to such action as the Commission may take on pending application for renewal.

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Granted renewal of license on a temporary basis only subject to whatever action may be taken by the Commission upon the application of this station for renewal of license and upon the petition of WSPD in opposition to the granting of renewal of license to this station.

KCRC—Enid Radiophone Co., Enid, Okla.—Present license extended to Dec. 1, 1935, pending action on application for renewal.

WALA—Pape Broadcasting Corp., Inc., Mobile, Ala.—Granted renewal of license for the regular period.

WBNX—The Standard Cahill Co., Inc., New York City—Granted renewal of license for the regular period.

WORK—York Broadcasting Co., York, Pa.—Granted renewal of license for the regular period.

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted renewal of license for the regular period.

WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Granted renewal of license for the regular period.

KILU—Ark. Radio & Equipt. Co., Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

KIIV—Charles L. Jaren, Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

KIGA—National Battery Broadcasting Co., Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

WKFB—The Evening News Association, aboard Aircraft NC-799-W—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

WMFL—National Broadcasting Co., Inc., Bound Brook, N. J.—Present license of broadcast pickup station in temporary service was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

KIEF-KIEG—Seattle Broadcasting Co., Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

KIFF—Missouri Broadcasting Corp., Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

KIIS—Harris Co. Broadcast Co., Portable—Present license of broadcast pickup station in temporary service, was extended for one month from Nov. 1 to Dec. 1, 1935, on a temporary basis only, subject to such action as may be taken upon the application for renewal pending before it.

W10XFH—National Broadcasting Co., Inc., Portable-Mobile (On Stratosphere Balloon)—Present license extended for a period of one month to Dec. 1, 1935, upon a temporary basis only, subject to such action as may be taken upon pending application for renewal.

ACTION ON EXAMINER'S REPORT

WSYR-WSYU—Ex. Rep. No. 1-112: Central New York Broadcasting Corp., Syracuse, N. Y.—Granted C. P. to install new equipment, move transmitter from Syracuse to Nedrow, New York, increase power from 250 watts to 1 KW, unlimited time; directional antenna. Order effective Dec. 17, 1935. Examiner R. L. Walker reversed.

MISCELLANEOUS

KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Denied special authority to operate from 5 to 6 p. m., CST, during month of November, in order to broadcast special program.

KROC—Radio Sales Corp., Seattle, Wash.—Denied special authority to operate from local sunset to 5:30 p. m., PST, on Nov. 1, 7, 8, 14, 15, 21 and 22, 1935, in order to broadcast local high school football games.

WHFC—WHFC, Inc., Cicero, Ill.—Redesignated for hearing application for C. P. to authorize installation of new equipment and a vertical radiator and to increase day power to 250 watts.

WEHS—WEHS, Inc., Cicero, Ill.—Designated for hearing in connection with WHFC case, application to increase day power to 250 watts and to change antenna.

WKBI—WKBI, Inc., Cicero, Ill.—Designated for hearing in connection with WHFC case, application to increase day power to 250 watts and to change antenna.

The Commission denied the associated petition of the three foregoing licensees to grant, without hearing, applications to increase day power of each to 250 watts.

KGKO—Wichita Falls Broadcasting Co., Wichita Falls, Tex.—Suspended grant and set for hearing application for re-

removal of transmitter and studio from Wichita Falls to Fort Worth, Texas, because of protests of station KTAT, Fort Worth, and the Chambers of Commerce of Wichita Falls, Iowa Park, Burkburnett, Electra, Graham, Quanah, Vernon, Seymour, all of Texas, and the Chamber of Commerce of Frederick and Temple, Okla.

- KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Denied request to move from hearing docket application to increase day power from 1 KW to 5 KW and to move transmitter to new site to be approved by the Commission.
- NEW—Monocacy Broadcasting Co., Rockville, Md.—Denied petition asking Commission to reconsider and make final the original grant for a new station made July 2, 1935. The Commission suspended this grant and designated application for hearing on Sept. 24, 1935.
- KGFF—KGFF Broadcasting Co., Inc., Shawnee, Okla.—Granted authority to install new equipment, increase day power to 250 watts and move transmitter locally, subject to Commission's approval of site, antenna and ground system.

APPLICATIONS RECEIVED

First Zone

- WICC—Southern Connecticut Broadcasting Corp., Bridgeport, 600 Conn.—Authority to install automatic frequency control.
- WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Modification of license to increase power from 500 watts to 1 KW.
- WCOP—Joseph M. Kirby, Boston, Mass.—Voluntary assignment 1120 of license to Massachusetts Broadcasting Corp.
- WCAM—City of Camden, Camden, N. J.—Authority to determine 1280 operating power by direct measurement of antenna.
- WMEX—The Northern Corp., Boston, Mass.—Construction permit 1470 to move transmitter from Powder Horn Hill, Boston, Chelsea, Mass., to a site to be determined; install new equipment; change frequency from 1500 kc. to 1470 kc.; and increase power from 100 watts night, 250 watts daytime, to 5 KW day and night.
- NEW—E. Anthony & Sons, Inc., Fairhaven, Mass.—Construction permit for general experimental station for 31600, 35600, 37600, 41000 kc., 100 watts.
- NEW—Shepard Broadcasting Service, Inc., Quincy, Mass.—Construction permit for general experimental station for 31600, 35600, 38600, 41000 kc., 500 watts.

Second Zone

- NEW—American Broadcasting Corp. of Ohio, Cleveland, Ohio.— 880 Construction permit to erect a new broadcast station at a site to be determined, Cleveland, Ohio, to be operated on 880 kc., 1 KW, unlimited time.
- WAVE—WAVE, Inc., Louisville, Ky.—Construction permit to 940 move transmitter from Brown Hotel, Louisville, Ky., to a site to be determined, near Louisville, Ky., install new equipment, and increase power from 1 KW to 5 KW.
- NEW—L. Martin Courtney, Toledo, Ohio.—Construction permit 1290 for a new station to be operated on 1290 kc., 100 watts, unlimited time. Amended: Change frequency from 1290 kc. to 1420 kc., and make equipment changes.
- WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Authority 1290 to determine operating power by direct measurement of antenna power.
- NEW—Monumental Radio Co., Baltimore, Md.—Construction permit for general experimental station for 31600, 35600, 38600, 41000 kc., 300 watts.

Third Zone

- WMFN—Attala Broadcasting Corp., Clarksdale, Miss.—Construction 1210 permit to make changes in equipment (antenna); move

transmitter from Chamber of Commerce Bldg., Clarksdale, Miss., to corner 3rd and Delta, McWilliams Bldg., Clarksdale, Miss., and studio from Chamber of Commerce Bldg., Clarksdale, Miss., to corner 3rd and Yazoo Ave., Clarksdale, Miss.

- WAGF—John T. Hubbard and Julian C. Smith, d/b as Dothan 1370 Broadcasting Co., Dothan, Ala.—License to cover construction permit (B3-P-294) as modified for equipment changes, change power from 100 to 250 watts, time from daytime and specified hours Sunday to daytime only. Amended re hours of operation.
- KIIS—Harris County Broadcast Co., Portable.—Modification of license to add frequencies 2060 and 2790 kc.
- W4XBM—WPTF Radio Co., Portable-Mobile.—License to cover construction permit for a new general experimental station.

Fourth Zone

- NEW—KFAD Broadcasting Co., Bismarck, N. Dak.—Construction 550 permit for a new station to be operated on 550 kc., 1 KW, 5 KW day, unlimited time. Requests facilities of KFJR.
- WDAY—WDAY, Inc., Fargo, N. Dak.—Modification of license 940 to increase power from 1 KW, 5 KW day, to 5 KW day and night.
- WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Modification of construction permit authorizing 1020 kc., 250 watts daytime, and move of transmitter, requesting changes in equipment and extension of commencement and completion dates. Amended to request further changes in equipment.
- WTAQ—WHBY, Inc., Green Bay, Wis.—Modification of construction permit (B4-P-369) to install new equipment, (directional antenna), move transmitter, change hours of operation to unlimited, to further request changes in equipment. Extend commencement date 30 days after grant and completion date 180 days thereafter.
- NEW—Herbert Hollister, Emporia, Kans.—Construction permit 1500 for a new station to be operated on 1500 kc., 100 watts, unlimited time.

Fifth Zone

- KOIN—KOIN, Inc., Portland, Ore.—Modification of license requesting 940 increase in power from 1 KW night, 5 KW daytime, to 5 KW day and night.
- KFWB—Warner Bros. Broadcasting Corp., Hollywood, Calif.— 950 Modification of license requesting an increase in power from 1 KW night, 2½ KW daytime, to 5 KW day and night.
- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Construction 1120 permit to make changes in equipment, increase power from 100 watts to 250 watts, and change hours of operation from daytime to unlimited.
- NEW—Peninsula Newspapers, Inc., Merced Star Publishing Co., 1160 Palo Alto, Calif.—Construction permit for a new station on 1160 kc., 250 watts, day.
- NEW—Ventura County Star, Inc., Merced Star Publishing Co., 1200 Inc., Ventura, Calif.—Construction permit for a new station to be operated on 1200 kc., 250 watts, daytime. Amended to change frequency from 1200 kc. to 1170 kc.
- KRNR—Southern Oregon Publishing Co., Roseburg, Ore.—Modification 1500 of construction permit (B5-P-434) authorizing a new station to be operated on 1500 kc., 100 watts, daytime, for approval of transmitter site at corner of Oak and Jackson Sts., Roseburg, Ore., and approval of antenna.
- KIEF—Seattle Broadcasting Co., Seattle, Wash.—Modification of license to add frequencies 1646, 2090, 2190, 2830 kc. and delete frequencies 1622 and 2150 kc.
- KIEG—Seattle Broadcasting Co., Seattle, Wash.—Modification of license to add frequencies 1646, 2090, 2830 kc. and delete 1622 and 2150 kc.

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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RECOMMENDS AGAINST NEW WASHINGTON STATION

The Bellingham Publishing Company applied to the Federal Communications Commission for a construction permit for a new broadcasting station to be erected at Bellingham, Wash., to use 1420 kilocycles, 100 watts power and unlimited time on the air.

Examiner John P. Bramhall, in Report No. I-127, recommends that the application be denied. The Examiner states in his report that "the evidence shows that the applicant, through the publication of numerous articles reflecting upon the honesty and integrity of public officials and upon the morals and private lives of the citizens of Bellingham and Whatcom County, has been the source of discord and dissension and has been inimical to the general welfare of the community, and that applicant has failed to establish the need for additional broadcast facilities in the area proposed to be served." He found also that granting of the application would not be in the public interest.

INCREASED POWER RECOMMENDED FOR KGBU

Broadcasting Station KGBU, Ketchikan, Alaska, applied to the Federal Communications Commission to increase its power from 500 watts to 1,000 watts nighttime and 5,000 watts daytime. The station now operates unlimited time on a frequency of 900 kilocycles.

Examiner Melvin H. Dalberg recommends that the application be granted "provided the applicant complies with the recommendations of the Engineering Department of this Commission with respect to antenna construction." The Examiner states that granting the application will allow the station to expand its service area and to supply a stronger signal and better service. No interference would be caused by the power increase, he states.

TEXAS STATION RECOMMENDED

F. N. Pierce applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Taylor, Texas, while Eugene DeBorgory, trading as the Tem-Bel Broadcasting Company, applied to the Commission for a permit to erect a station at Temple, Texas. Both applications were for 1310 kilocycles, 100 watts power and daytime hours of operation.

Examiner Ralph L. Walker, in Report No. I-129, recommends that the Pierce application be denied and that the DeBorgory application be granted. The Examiner states that the applicant Pierce "has failed to establish that he is legally, technically and financially

qualified to construct and operate a station, nor is any proposed plan of operation shown." He found that DeBorgory is qualified to erect and operate such a station as proposed and further that local daytime service in this area appears to be needed. The erection will cause no interference with existing stations, he found also.

TENNESSEE STATION RECOMMENDED

Dudley J. Connolly & Company has applied to the Federal Communications Commission for a construction permit for a new broadcasting station to be erected at Chattanooga, Tenn., to use 1200 kilocycles, 100 watts power and daytime hours of operation.

Examiner P. W. Seward, in Report No. I-130, recommends that the application be granted. The Examiner found that the applicant is qualified to erect and operate such a station, that there is a need for additional local service during daytime hours in that area, and that the erection of such a station would not cause interference with existing stations.

COAXIAL CABLE CASE REOPENED

At a General Session of the Federal Communications Commission it was decided to reopen the application of the American Telephone and Telegraph Company for permission to construct an experimental coaxial cable from New York to Philadelphia for broad band transmission.

This action followed a petition of the American Telephone and Telegraph Company asking permission for "reargument" of the recent order of the Commission granting permission for the construction of the cable under certain conditions.

The Commission not only granted the request of the applicant but decided to permit a re-hearing of the case before the entire Commission at the earliest practical date open on the Commission's docket, which is November 25, beginning at 10 A. M., at the Commission's offices, Washington, D. C.

RECOMMENDS DISMISSAL OF UTAH APPLICATION

The Mountain States Broadcasting Corporation applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Salt Lake City, Utah, to use 550 kilocycles, 500 watts power and unlimited time.

Examiner P. W. Seward, in Report No. I-131, has recommended that the application be dismissed without prejudice. When the application came on for hearing, counsel for the applicant presented a motion to dismiss the application without prejudice.

J. J. MOORE, PRESIDENT OF NATIONAL FEATURE SERVICE

A member will appreciate information, care of the NAB, showing the present address of Mr. J. J. Moore, President of National Feature Service.

BROADCASTING IN BUSINESS CENSUS

Commercial broadcasting will be included in a census of American business which will be undertaken early next January simultaneously with the biennial census of manufactures, according to the Department of Commerce. It will cover the calendar year 1935.

The Department states that the census will provide a national picture of the number of stations, volume of business, persons employed, wages paid, and other facts.

In making a plea for help in this census, Secretary of Commerce, Roper, is sending out the following statement:

"We have consulted a large number of business men and representatives of business organizations in the drafting and revision of our schedules, and every effort has been made to simplify the in-

quiries. We have endeavored to avoid any questions that will annoy or antagonize the business man and have limited the amount of detail, in order that you may have no additional expense in making up your report.

"We ask for the cooperation and assistance of the business men of the United States in this undertaking and assure each of you that your individual report will be held *absolutely confidential*. Only sworn employees of the Bureau of the Census will be permitted to examine your report and no information will be given to any person, whether in Government service or private life, which would disclose, exactly or approximately, any of the facts or figures in your report. The information will be used for *statistical purposes only*.

RECOMMENDATIONS ON NEW UTAH STATIONS

Applications were made to the Federal Communications Commission in connection with proposed new stations in Utah as follows:

1. The application of Utah Radio Educational Society for a construction permit, requesting authority to construct a new radio broadcast station at Salt Lake City, Utah, to operate on the 1450-kilocycle frequency, with power of 1 kilowatt, unlimited time.

2. The application of Louis H. Callister for a construction permit, requesting authority to construct a new radio broadcast station at Provo, Utah, to operate on the 1200-kilocycle frequency, with power of 100 watts, unlimited time.

3. The application of Paul Q. Callister for a construction permit, requesting authority to construct a new radio broadcast station at Salt Lake City, Utah, to operate on the 1370-kilocycle frequency, with power of 100 watts, unlimited time.

4. The application of Great Western Broadcasting Association, Inc., for a construction permit, requesting authority to construct a new radio broadcast station at Logan, Utah, to operate on the 1500-kilocycle frequency, with power of 100 watts, unlimited time.

5. The application of Great Western Broadcasting Association, Inc., for a construction permit, requesting authority to construct a new radio broadcast station at Provo, Utah, to operate on the 1210-kilocycle frequency, with power of 100 watts, unlimited time.

6. The application of Munn Q. Cannon for a construction permit, requesting authority to construct a new radio broadcast station at Logan, Utah, to operate on the 1210-kilocycle frequency, with power of 100 watts, unlimited time.

7. The application of Jack Powers, Frank C. Carman, David G. Smith, and Grant Wrathall, doing business as Utah Broadcasting Company, for a construction permit, requesting authority to construct a new radio broadcast station at Salt Lake City, Utah, to operate on the 1500-kilocycle frequency, with power of 100 watts, unlimited time.

8. The application of Cache Valley Broadcasting Service Company, J. A. and J. M. Reeder and L. R. Jensen, for a construction permit, requesting authority to construct a new radio broadcast station at Logan, Utah, to operate on the 1370-kilocycle frequency, with power of 100 watts, unlimited time.

Examiner George H. Hill made the following recommendations on the applications:

1. That the application of Utah Radio Educational Society for a construction permit be denied.

2. That the application of Louis H. Callister for a construction permit be dismissed with prejudice.

3. That the application of Paul Q. Callister for a construction permit be denied.

4. That the application of Great Western Broadcasting Association, Inc., requesting authority to construct and operate a new station at Logan, Utah, be denied.

5. That the application of Great Western Broadcasting Association, Inc., for a construction permit, requesting authority to construct and operate a new station at Provo, Utah, be granted.

6. That the application of Munn Q. Cannon for a construction permit be dismissed with prejudice.

7. That the application of Jack Powers, Frank C. Carman, David G. Smith, and Grant Wrathall, doing business as Utah Broadcasting Company, for a construction permit be granted.

8. That the application of Cache Valley Broadcasting Service Company, J. A. Reeder, J. M. Reeder, and L. R. Jensen, for a construction permit be denied.

A. T. & T. MODIFIES TARIFF

The Telephone Division of the Federal Communications Commission on Wednesday (6) granted special permission (No. 180) to the American Telephone & Telegraph Company, to revise, effective November 3, 1935, original page No. 178 of the Tariff F. C. C.

No. 4, to change its regulations so that instead of only one radio station, more than one such station in the same exchange, served by means of Schedule C radio broadcast program transmission channel facilities, may be connected as an extension to Schedule B radio broadcast program transmission channel facilities, on less than statutory notice.

FCC RULE 139 AMENDED

The Federal Communications Commission, Broadcast Division, at a regular meeting held on October 29, amended Rule 139 to read as follows:

- "Rule 139 (a) A licensee of a broadcast station will not be authorized to operate a transmitter unless it is capable of delivering satisfactorily the authorized power with a modulation of at least 85 per cent. When the transmitter is operated with 85 per cent modulation, not over 10 per cent combined audio frequency harmonics shall be generated by the transmitter.
- (b) All broadcast stations shall, on and after November 1, 1936, have in operation a modulation monitor approved by the Commission.
- (c) The operating percentage of modulation of all stations shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice and in no case less than 85 per cent on peaks of frequent recurrence during any selection which normally is transmitted at the highest level of the program under consideration.
- (d) The Commission will, from time to time, publish the specifications, requirements for approval, and a list of approved modulation monitors."

Rule 139, as amended, section (b), requires all broadcast stations to have in operation on and after November 1, 1936, a modulation monitor approved by the Commission. The modulation monitors will be approved by type after tests at the Bureau of Standards in the same manner that frequency monitors, as required by Rule 145, are approved. Any manufacturer desiring to submit a monitor for approval should supply the Commission with full details and if the specifications appear to meet the requirements, the Commission will request the Bureau of Standards to issue shipping instructions. Below are given the specifications that the modulation monitor must meet to be tested at the Bureau of Standards before it will be approved by the Commission. Approval will be given based on the test data taken at the Bureau, but the Bureau of Standards does not approve and disapprove the monitor as this is entirely in the hands of the Commission.

The specifications pursuant to Rule 139, section (d), are as follows:

1. A DC meter for setting the average rectified carrier at a specific value and to indicate changes in carrier intensity during modulation.
2. A peak indicating light or similar device that can be set at any predetermined value from 50 to 120 per cent modulation to indicate on positive peaks, and/or from 50 to 100 per cent negative modulation.
3. A semi-peak indicator with a meter having the characteristics given below shall be used with a circuit such that peaks of modulation of duration between 40 and 90 milliseconds are indicated to 90 per cent of full value and the discharge rate adjusted so that the pointer returns from full reading to 10 per cent of zero within 500 to 800 milliseconds. A switch shall be provided so that this meter will read either positive or negative modulation and, if desired, in the center position it may read both in a full-wave circuit. The characteristics of the indicating meter are as follows:
Speed—The time for one complete oscillation of the pointer shall be 290 to 350 milliseconds. The damping factor shall be between 16 and 200. The useful scale length shall be at least 2.3 inches. The meter shall be calibrated for modulation from 0 to 110 per cent and in decibels below 100 per cent with 100 per cent being 0 DB.
The accuracy of the reading on percentage of modulation shall be ± 2 per cent for 100 per cent modulation, and ± 4 per cent of full scale reading at any other percentage of modulation.
4. The frequency characteristics curve shall not depart from a straight line more than $\pm \frac{1}{2}$ DB from 30 to 10,000 cycles. The amplitude distortion or generation of audio harmonics shall be kept to a minimum.
5. The modulation meter shall be equipped with appropriate terminals so that an external peak counter can be readily connected.

6. Modulation will be tested at 115 volts \pm 5 per cent and 60 cycles, and the above accuracies shall be applicable under these conditions.

7. All specifications not already covered above, and the general design, construction, and operation of these units must be in accordance with good engineering practice.

MPPA LETTER RELATING TO THE RECORDING OF RADIO PROGRAMS

There is printed below for the information of members a letter received from Mr. John G. Paine, Agent and Trustee of Music Publishers' Protective Association with reference to the manufacture of records by broadcasting stations. (See NAB REPORTS, October 10, 1935, page 985.)

"In reference to our recent conference, we have had quite a few discussions following it and have reached the conclusion that for the present we are not going to press our rights in connection with the manufacture of records.

"We feel, however, that the point brought up by this discussion is one that should not be lost sight of because it is going to be difficult for us to know how far a radio station may find it necessary to invade our copyright in order to carry on its own business.

"We who deal in copyrights are so accustomed to dividing up the rights that what may seem a simple situation to us may appear to be a very complicated situation to a user. But we divide these rights, not because of any arbitrary desire to do so, but because the users as a rule want to get the rights for as low a price as possible, and therefore we are trying to meet their desires in this particular and give them just what they think they need.

"Thus if a talking machine company comes to us and asks us for the right to make a record we work out a license for them to do that which they want to do. If they should then reprint the words of the song contained on the record, on their record label, we would feel that they were going beyond the license that we had granted them and would feel perfectly justified in saying, 'We did not give you a right to reprint; you did not ask us for that. If you want a right to reprint we are perfectly willing to work out the license to do so but certainly we cannot give you two rights under the copyright and charge you only for one.' This seems such a fair and equitable and businesslike principle that I cannot see how it can possibly be objected to.

"It is not a sufficient answer to say that we ought to work out a license fee in the beginning which would permit all of these collateral uses to be made so that no question would arise subsequently, because it may be entirely possible that talking machine company number one desires to use both the right to reproduce and the right to reprint, whereas talking machine company number two desires to use only the right to mechanically reproduce and does not desire the right to reprint, and it would not be fair to talking machine company number two to ask them to pay a fee which would give them the right to reprint when they don't want the right to reprint. They should only be required to pay for that right which they themselves want to use.

"Applying this to the problem at hand it seems to me that where a radio station has a license to publicly perform, that if by any chance it should be considered that the fee that they pay for this license includes also the right to manufacture records, and if they should eventually reach the conclusion that they ought to reprint their programs as a matter of record, and go on the assumption that the fee that they pay, permits them also to reprint the words of copyrighted songs, that we will find ourselves in a very serious situation because those stations that do not care to make records or to reprint their programs will feel that the fee they pay is out of proportion because all they want is the right to publicly perform and we are charging a fee which will permit them to do more than publicly perform in the event that they want to, but they don't want to.

"However, I am persuaded that we ought not to raise this question now because to do so might cause not only embarrassment but very serious confusion, and it is not our desire to do either. I am content, therefore, with your promise of cooperation in this matter, and I am sure that the stations will feel very inclined to view this matter in a sensible way after it has been presented to them, and that they will not wish to take advantage of this situation in which we find ourselves."

ROME CONFERENCE TO CONSIDER PROTECTION OF PHONOGRAPH RECORDS

The Department of State has been informed that an International Conference will be convened at Rome, December 9, 1935,

for the purpose of considering the protection of phonograph records. A translation of a preliminary draft convention which it is proposed to discuss at the conference follows:

Preliminary Draft of a Convention for Constituting an International Union for the Protection of Disks and Other Sound-Records

I

The countries to which the Convention applies are constituted a Union for the protection of disks and all other sound-records.

II

The term "sound-record" (*phonogramme*) is applied to any multiple production of articles intended to reproduce words, musical sounds, songs, noises and, in general, all sounds.

III

The registration of words, musical sounds, songs, noises, and in general, all sounds for instruments used for reproducing them mechanically (phonograms) shall give rise, in favor of the producer of the sound-record to:

1. The right to forbid the reproduction of the sound-record without his authorization, either directly or indirectly, by any methods whatever of duplication;

2. The right to require an equitable remuneration in the case of any utilization of a sound record by radiophony, cinematography and television and that such utilization be effected according to the rules of good technique;

3. The right to oppose such utilization when it appears that it takes place under such conditions as to cause grave prejudice to his artistic or technical interests.

The enjoyment and exercise of these rights shall not be subject to any formality.

The countries to which the Convention applies retain the power to protect sound records by broader provisions than those contemplated by the Convention. In particular, there is reserved to them power to extend protection in favor of phonographic producers to all or to a part of the cases where the sound-record placed on sale for the use of private individuals is used in places open to the public.

In so far as the contracting countries use the powers mentioned above, the producers of the sound-record under the jurisdiction of one of the contracting countries may demand the application of a broader provision which may be laid down by the legislation of a contracting country.

IV

The modalities, and in particular civil or penal sanctions appropriate for assuring the security of these rights, shall be determined by the national legislations of the countries of the Union. In particular, it is for such legislations to specify whether the agreements for fixing the equitable remuneration due, by virtue of Paragraph 1, No. 2, of the foregoing Article, to the phonographic producer should flow from special understandings arrived at in each case between the interested parties or from inter-professional conventions binding on all, as well as to decide which is the competent authority for fixing in the case of absence of such friendly understandings or conventions, the rate of an equitable remuneration.

V

The protection contemplated in Article 3 above shall be for at least¹ (50) years, dating from the first of January of the year when the sound-record was put on sale with reservation of the power of all countries of the Union to grant a longer period of protection. Nevertheless, the nationals of countries who allow only a duration of protection amounting to (50) years cannot claim, in the countries of the Union the legislation of which provides for a longer period, the benefit of such protection.

VI

Sound-record producers who are nationals of one of the countries of the Union shall enjoy in countries other than the countries

¹The French 'au mois' is translated "at least" as it is thought to be a misprint for "au moins".—TR.

of origin of the phonographic production the protection which the respective laws now extend or may extend subsequently to their nationals as well as any other protection granted by the Convention.

The country in which the original sound record is developed shall be considered as the country of the producer.

VII

The provisions of the Convention cannot in any way prejudice the right which belongs to the Government of each country of the Union to allow the supervision or the prohibition by measures of domestic legislation of the placing on sale, the distribution and the use in places open to the public of any phonographic production with respect to which the competent authority may have to exercise such right.

VIII

(To be drafted.) Organization and attributions of an International Bureau for the Protection of the Rights of Producers of Disks and Other Sound Records.

RADIO SELLS TAXES

How the Supervisor of Taxation for Guilford County, North Carolina, regards radio is explained in the following letter:

"The County of Guilford through its Tax Department went on the Air during the month of April in a unique feature, something that this county regards as a precedent, with a view of selling taxes on the air.

"Our purpose in this program was to inform the tax paying public what was required in the listing of real and personal property and acquainting them with what is required and their duties in making their returns for taxation.

"As to the results of this program, during the month of April, which the County Supervisor of Taxation explained in his weekly talks on taxation, will probably never be known from a material standpoint, but we do realize that it was one of the finest mediums of advertising that this County has ever undertaken. We feel that the radio played an important factor in the number of those listing their taxes. It is known that we have more people listed this year than any previous year and we contribute the increased numbers largely to our radio broadcasts, and this is evidenced by the large numbers of people complimenting the service as well as inquiries concerning their taxation problems and stating that they heard the broadcast.

"We wish to compliment the North Carolina Broadcasting Company in their efforts to cooperate with Guilford County's Tax Department in putting over this program of which we are more than satisfied with the results obtained therefrom."

COURT DECISION IN KVL TAX CASE

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON SOUTHERN DIVISION

KVL, Inc. a Corporation, Complainant,

vs.

The Tax Commission of the State of Washington, Thomas S. Hedges, T. M. Jenner, and H. H. Hennessee, Members of Said Commission; William B. Severyns, Sheriff of King County, Washington; Clarence D. Martin, Governor of Washington; G. W. Hamilton, Attorney-General for the State of Washington, Defendants,

Seattle Broadcasting Company, a corporation, Intervening Complainant

In Equity. No. 550

Memorandum Decision Upon Application for Interlocutory Injunction and Motions to Dismiss Bills of Complaint.

Filed Oct. 30, 1935.

Clarence C. Dill and Kenneth C. Davis, 1514 Northern Life Tower, Seattle. Solicitors for Complainant.

Byers, Westberg & James, 310 Marion Bldg., Seattle; Solicitors for Intervening Complainant.

G. W. Hamilton, Atty. General, State of Wash., Olympia; R. G. Sharpe, Asst. Atty. General, State of Wash., Olympia; Attorneys for defendants except William B. Severyns, Sheriff of King County, Washington.

Before Garrecht, Circuit Judge, and Cushman and Bowen, District Judges.

This suit is one under Sec. 266 of the Judicial Code (Title 28, U.S.C.A., 380).

Both the Amended Bill of Complaint and the Bill of Complaint in Intervention ask that the act of the State Legislature, providing for a Radio Broadcasting Tax, (Chapter 180, Title X, Sec. 74, Washington Session Laws of 1935, pages 748 and 749), be declared to violate Article I, Sec. 8, Clause 3 of the Constitution as being a burden upon and interference with interstate and foreign commerce.

An interlocutory injunction is asked restraining defendants from the enforcement of the state statute.

The defendants, other than the Sheriff of King County, have moved for the dismissal of both bills of complaint upon grounds presently to be stated.

Complainant and Intervening Complainant are both Washington corporations.

Complainant alleges that it owns and operates, under a license from the United States Government, Radio Station KVL, located in Seattle, Washington; that the Federal Communications Commission has licensed and assigned to the complainant a frequency of 1,370 kilocycles and a maximum rated carrier power output of 100 watts.

Intervening Complainant alleges that it owns and operates, under a license from the United States Government, Radio Station KOL, located in Seattle, Washington, and the Federal Communications Commission has licensed and assigned to the complainant a frequency of 1270 kilocycles and a maximum rated carrier power output of 2500 watts.

The complaints allege that the United States Government has, by the Federal Communications Act of 1934 (48 Stat. 1064) preempted the field of radio broadcasting.

The two complaints are substantially identical in the following allegations, with exceptions indicated where material:

VI

That the essential elements of radio communication consists of the transmitter, the connecting medium or the ether, and the receiving mechanism; that the electrical magnetic waves are projected by complainant's transmitter at the speed of 'light' and irrespective of the amount of power used the range and distance of the electrical impulses sent out is theoretically and in fact unlimited; that it is not only impractical but impossible to confine these electrical impulses, in the present state of science, within State or National boundaries; that these electrical magnetic waves pass thru space and travel for great distances into other states and foreign countries to unknown but numerous receiving instruments; that the receiving mechanism, or receiving set, detects the oncoming radio waves which are projected from complainant's transmitter and they are thus amplified into audible sounds; that the science of radio broadcasting has determined that radio signals may even become inaudible within just a few miles of complainant's transmitter, yet they may, and in fact do, travel indefinitely far beyond the audible range and thus they pass over State and National boundaries and cause interference with radio commerce in other states; that the operation of any type of radio transmitter will, and does, create interference in the neighborhood of the transmitter with signals coming in from other stations located in other states; that the electrical impulses projected and continuously sent out from complainant's transmitter are interstate in character and power; that the equipment of the complainant's Broadcasting Station, the transmitter, its studio, the operating and program staff, its sales organization, all exist for the purpose of sending out and modulating this continuous stream of electrical impulses in interstate commerce; that these electrical impulses cannot be restricted or confined in the slightest degree to any one state or territory, nor can they be segregated from interstate commerce into that of intrastate commerce, no matter what the intent of the person operating a radio transmitter might be.

VII

* * * ; that for purposes of regulation, the Communications Commission divided the United States, pursuant to the authority granted them, into five zones, the fifth zone embracing the following states * * * Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, * * *

VIII

That the Communications Commission has assigned certain quotas to each of said five zones, which quotas limit and designate the radio frequency bands, types or stations, and their power for each of said zones; that the complainant has been assigned, as aforesaid, a frequency band of "(Here the language of the Amended Bill of Complaint is '1370 kilocycles', and that of the Bill of Complaint in Intervention, '1270 kilocycles') 'and due to the natural scarcity and limited number of these bands in existence, and in order that complainant's facilities may not cause interference among the radio stations in the several zones, that the complainant must' (Here the language of the Amended Bill of Complaint is 'Share time equally with radio Station KRKO of Everett, Washington', and that of the Bill of Complaint in Intervention, 'decrease its power output from 2500 watts to 1000 watts each day at sundown so as not to interfere specifically with Station KVOR at Colorado Springs, Colorado') 'that the radio frequency bands assigned to the radio stations in the aforesaid zones represent bands of wave lengths to be used only by certain designated stations therein; that only a limited number of radio stations can broadcast simultaneously in a certain zone and such assignments of frequency waves as has been thus far made by the Federal Communications Commission in the fifth zone are designed to eliminate interference between stations on the several frequency bands in the several zones which include states and territories other than the State of Washington.

IX

That the complainant's broadcasting has covered a service area into certain parts of "(Here the language of the Amended Bill of Complaint is 'the Dominion of Canada, Montana and Oregon', and that of the Bill of Complaint in Intervention, 'Alaska, the Dominion of Canada, Washington, California, Idaho, Wyoming, Montana, Oregon')", and on the high seas adjacent to the State of Washington; that complainant's broadcasting business has furnished an effective and valuable medium of communication to many forms of industry, and complainant's business of radio broadcasting has become an important factor in the lives of the people of the State of Washington and to people in adjacent states and territories in matters involving economics, political government, informative news and educational features; that the facilities of complainant's Radio Station" (Here the Amended Bill of Complaint reads "KVL", and the Bill of Complaint in Intervention, "KOL") "are subject at all times to the use of the Government of the United States, as occasion requires, for communications from the President of the United States to the people; that the facilities of the complainant are subject to the prior right of the Federal Government in times of National Emergency, and for purposes of National Defense; that the facilities of this station are held available for the distress signals of ships on the high seas, and the broadcasting from complainant's station is regulated by the Communications Commission in such a manner, so as not to interfere with radio communications from ship to shore and shore to ship in times of distress." (Here the Bill of Complaint in Intervention adds: "That complainant's station is also operated as an integral part of a chain of broadcasting stations through which the same broadcasting material is simultaneously broadcast in many different states over a territory extended from Coast to Coast.")

X

That the value of the broadcasting station operated by complainant is approximately" (Here the language of the Amended Bill of Complaint is "Fifty Thousand (\$50,000.00) Dollars," and the Bill of Complaint in Intervention, "\$250,000.00") "that the complainant is permitted by the Communications Commission to sell time to patrons at so much per

radio minute or hour consumed in order that a station may pay for the programs which it renders to the public free of charge; that a large portion of time is not sold but complainant is nevertheless required by the Federal Communications Commission to occupy the time allotted to it in actual broadcasting of programs even though the time is unsold and said operation results in a net loss to complainant.

XI

That the revenue of complainant comes from National, State and Local advertising; that while the advertisers and patrons commonly refer to their purchase as "Radio Time" yet the commodity actually purchased and allotted to this advertiser is the right to modulate for a certain length of time the electrical impulses which are being continuously sent out from complainant's transmitter on a certain fixed radio frequency; that these continuous electrical impulses transcend state lines and there is no known science by which these radio electrical impulses can be segregated and confined to, or within, any one state or territory; and no matter what the intent of the broadcaster may be, he cannot in the slightest degree restrict or curb this continuous flow of electrical impulses in interstate commerce because every electrical impulse transcends state lines, regardless of the specific use to which it may be put; * * *

XII

That the complainant is engaged exclusively and solely in foreign and interstate commerce, and the complainant cannot discontinue its intrastate business without being compelled to withdraw from its interstate and foreign business and commerce; that it is impossible for complainant to separate and segregate its *intrastate* from its *interstate* business; * * *

* * * ; that the Defendants herein as well as the Collectors of said tax have not, either jointly or severally, sufficient means to satisfy or respond to any judgment for the recovery of said tax if Complainant was forced to pay the same; nor would said Defendants and collectors of said tax be able to respond to any judgment against them for the large and substantial damages which would accrue to Complainant, if said Defendants or their agents are not restrained and enjoined from enforcing said tax, or attempting to collect the same; and, unless Defendants and their agents are enjoined herein, the Complainant will be subjected to a multiplicity of law suits, all of which would involve great expense and damage to Complainant's business; that said taxes accrue in bi-monthly installments and the resulting harassment of Complainant and a seizure of Complainant's equipment by said Defendants and the tax collecting officers, would injure the good-will of Complainant's business should Complainant refuse to pay said taxes, and which Complainant does refuse to pay, in that, a seizure or execution on Complainant's property would prevent Complainant from Broadcasting and Complainant would lose its "listening audience"; that the multiplicity of suits and actions which would result from Complainant's refusal to pay said taxes and the loss of its right to broadcast would subject Complainant to an ultimate loss of its business, which is valued at the sum of" (Here the Amended Bill of Complaint alleges: "Fifty Thousand (\$50,000) Dollars" and the Bill of Complaint in Intervention, "\$250,000.00").

* * * * *

Among the grounds for dismissal alleged by Defendants are the following:

(1) That it appears upon the face of said bills of complaint that the same do not state facts sufficient to constitute a valid cause of action in equity against these defendants, either severally or jointly with the other defendant.

(2) That all monies either now or hereafter collected by or through the defendant's or any of them under and by virtue of said chapter 180, Laws of Washington for 1935, are and will be collected solely and entirely for the State of Washington for its support, and the maintenance and support of its existing governmental institutions, and to enable it to perform its governmental functions, and that each and every act, present or prospective, performed by the defendants or either or any of them in carrying out and enforcing the provisions of said chapter 180, is and will be the act of the State of Washington, and that said suit is therefore in truth and in fact a suit against the State of Washington, and hence that said suit, under the express provisions of the 11th amendment of the Constitution

of the United States, cannot be maintained in the above entitled court.

(3) That this court, sitting as a court of equity, has no jurisdiction of the subject matter of this suit, in that it appears on the face of said bills of complaint that complainants have a plain, speedy and adequate remedy at law as to the cause or causes of action set forth in said bills.

COMPLAINANT and INTERVENING COMPLAINANT cite: 1935 Washington Session Laws, Chapter 180, Title X, Sections 74 to 77, inclusive; Article 1, Section 8, Constitution of the United States; The Communications Act of 1934, Federal Radio Act of 1927; Report of Master in Chancery, with Findings, Conclusions and Recommendations, in Cause No. 780, United States vs. Dr. Henry Clay Allison, District Court, Northern District of Texas, Fort Worth Division, dated November 18th, 1933, Act of August 13th, 1912; Radio Act of 1927, as amended in 1932; Whitehurst v. Grimes, 21 Fed. (2d) 787; United States v. American Bond & Mortgage Co. et al., 31 Fed. (2d) 448; Gibbons v. Ogden, 9 Wheat. 1, 68; Pensacola Telegraph Co., 96 U. S. 1, 9; Western Union Telegraph Co. v. Pendleton, 122 U. S. 347, 356; International Text Book Co. v. Pigg, 217 U. S. 91, 106, 107; 24 Op. 100, 101; Marconi Wireless Telegraph Company of America v. Commonwealth, 218 Mass. 558; Minnesota Rate Case, 230 U. S. 352; American Express Co. v. United States, 212 U. S. 522; State Freight Tax, 15 Wall. 232, 21 L. Ed. 146; Henderson et. al. v. Mayor of New York et. al., 92 U. S. 259, 23 L. Ed. 543; Walling v. Michigan, 116 U. S. 446, 29 L. Ed. 691; Welton v. Missouri, 91 U. S. 275, 282; County of Mobile v. Kimball, 102 U. S. 691, 697; Brown v. Houston, 114 U. S. 622, 631; Atlantic and Pacific Telegraph Co. v. Philadelphia, 190 U. S. 160, 47 L. Ed. 995; Barrett v. City of New York, 232 U. S. 14, 58 L. Ed. 483; Postal Telegraph Co. v. Adams, 155 U. S. 688, 39 L. Ed. 311; Leloup v. Port of Mobile, 127 U. S. 640, 32 L. Ed. 311; Western Union Telegraph Co. v. Kansas, 216 U. S. 1, 54 L. Ed. 355; Ozark Pipe Line Corporation v. Monier et al., 266 U. S. 555, 69 L. Ed. 439; Detroit International Bridge Co. v. Corporation Tax Appeal Board, 79 Supreme Court Advance Opinions, 337 (294 U. S. 83); Cooney v. Mountain States Telephone Company, 294 U. S. 384; Station WBT, Inc. v. Poulnot, 46 Fed. (2d) 671; Technical Radio Laboratory v. Federal Radio Commission, 36 Fed. (2d) 111; Federal Radio Commission v. Nelson Bros. Bond & Mortgage Co. (Station WIBO), 289 U. S. 266; Trinity Methodist Church South v. Federal Radio Commission, 62 Fed. (2d) 850; Duncan v. United States, 48 Fed. (2d) 128; American Bond & Mortgage Co. v. United States, 52 Fed. (2d) 318; Van Dusen v. Dept. of Labor and Industries, 158 Wash. 414; White v. Federal Radio Commission, 29 Fed. (2d) 113; General Elec. Co. v. Federal Radio Commission, 31 Fed. (2d) 630; City of New York v. Federal Radio Commission, 36 Fed. (2d) 115; KFKB Broadcasting Association v. Federal Radio Commission, 47 Fed. (2d) 670; Journal Co. v. Federal Radio Commission, 48 Fed. (2d) 461; Nelson Bros. Bond & Mortgage Co. (Station WIBO) v. Federal Radio Commission, 62 Fed. (2d) 854; Eastern Ohio Gas Co. v. Tax Commission of Ohio, 283 U. S. 465; Sprout v. City of South Bend, 277 U. S. 163; Philadelphia & Southern Mail Steamship Co. v. Pennsylvania, 122 U. S. 326; State v. Northern Express Co., 80 Wash. 309, 141 Pac. 757; Crew Levick Company v. Pennsylvania, 245 U. S. 292; People ex rel The Connecting Terminal R. R. Co. v. Millar, 178 N. Y. 194; Nutt v. Ellerbe et al., 56 Fed. (2d) 1058; United States Express Co. v. Minnesota, 223 U. S. 335; South Carolina Power Co. v. South Carolina Tax Commission, 60 Fed. (2d) 528; People ex rel Pennsylvania Railroad Co. v. Wample, 138 N. Y. 1; Anglo-Chilean Nitrate Sales Corporation v. State of Alabama, 288 U. S. 218; Di Santo v. Pennsylvania, 273 U. S. 34; Educational Films Corporation of America v. Ward et al., 282 U. S. 379; Fox Film Corporation v. Doyal et al., 286 U. S. 123; Galveston, Houston & San Antonio Railway Co. v. Texas, 210 U. S. 217; Helson & Randolph v. Kentucky, 279 U. S. 245; New Jersey Bell Telephone Co. v. Board of Taxes & Assessments of the State of New Jersey, 280 U. S. 338; Norfolk & Western Railroad Co. v. Pennsylvania, 136 U. S. 114; Northwestern Mutual Life Ins. Co. v. Wisconsin, 275 U. S. 136; A. G. Spalding & Bros. v. Edwards, 262 U. S. 66; Texas & New Orleans Railroad Co. v. Sabine Tram Co., 227 U. S. 111; United States Glue Co. v. Town of Oak Creek, 247 U. S. 321; Title 28, U. S. C. A., Sec. 41 (1); Title 28, U. S. C. A., Sec. 380; American Airways v. Wallace, 57 Fed. (2d) 877; Title 28, U. S. C. A., Sec. 41, Paragraph 8; Rubin Electrical Company v. Poulnot, 46 Fed. (2d) 676; Ray v. Poulnot, 46 Fed. (2d) 676; Ray v. Poulnot, 46 Fed. (2d) 677; Federal Compress Co. v. McLean, 291 U. S. 17; Williams v. Talladega, 226 U. S. 404; Healy

v. Ratta, 54 Sup. Ct. 700; Grosjean v. Musser, 74 Fed. (2d) 741; Mathes v. Rodges, 284 U. S. 521, 52 S. Ct. 217, 76 L. Ed. 447; Nutt v. Ellerbe, 56 Fed. (2d) 1058; Gypsy Oil Co. v. Oklahoma Tax Commission, 6 F. Supp. 6; First National Bank v. Richmond, 39 Fed. 309; 149 U. S. 769 (appeal dismissed); Title 12, U. S. C. A., Sec. 548, Notes on page 371; Fisher's Blend Station v. State Tax Commission, 82 Wash. Dec. 123; Atlanta v. Oglethorpe University, 178 Georgia 379, 173 S. E. 110; Eastern Ohio Gas Company v. Tax Commission of Ohio, 283 U. S. 465; Federal Communications Commission v. Nelson, 289 U. S. 267; James v. U. S. Shipping Board, 12 Fed. (2d) 89; Young & Jones v. Hiawatha Gin and Mfg. Co., 17 Fed. (2d) 193; Davis v. Age-Herald Publishing Co., 293 Fed. 591; Postal Telegraph Co. v. City of Mobile, 179 Fed. 955; Haskell v. Cowham, 187 Fed. 403; New Jersey Bell Tel. Co. v. State Board of Taxes and Assessments of New Jersey, 280 U. S. 338, 50 Sup. Ct. 111; Station WBT v. Poulnot, 46 Fed. (2d) 671; Federal Radio Commission v. Nelson Bros. Bond and Mortgage Co. (Station WIBO), 289 U. S. 266, 53 Sup. Ct. 627; Whitehurst v. Grimes, Chief of Police, et al., 21 Fed. (2d) 787; Cooney v. Mountain States Telephone & Telegraph Co., 58 Sup. Ct. 477 (294 U. S. 384); Fisher's Blend Station v. State Tax Commission, 82 Wash. Dec. 123.

DEFENDANTS, other than William B. Severyns, Sheriff of King King County, Washington; cite: Section 24 of the Judicial Code (Title 28, U. S. C. A., Sec. 41, paragraphs 1 and 8); Communications Act of 1934 (Title 47, U. S. C. A., Ch. 5; Mason's U. S. Code Ann. Supl. No. 3, Title 47, ch. 5, p. 1185); Williams v. Talladega, 226 U. S. 404; Federal Compress Co. v. McLean, 291 U. S. 17; Fisher's Blend Station Tax Commission, 82 Wash. Dec. 123; Louis D. Rubin Electrical Co. v. Poulnot, 46 Fed. (2d) 676; Ray v. Poulnot, 46 Fed. (2d) 677; Healy v. Ratta, 292 U. S. 263; Grosjean v. Musser, 74 Fed. (2d) 741; Lawrence v. Ry. Co., 274 U. S. 588, 595; Hooper v. California, 155 U. S. 648; N. Y. Life Ins. Co. v. Deer Lodge County, 231 U. S. 502; Federal Club v. National League, 259 U. S. 200; Blumenstock Bros. Adv. Agency v. Curtis Pub. Co., 252 U. S. 443; Cheney Bros. Co. v. Massachusetts, 246 U. S. 147, 155; Jell-O Co. v. Landes, 20 Fed. (2d) 120; Packer Corporation v. Utah, 285 U. S. 105, 112; Eales v. City of Barboursville, 177 Ky. 216, 197 S. W. 634; Michigan Law Review, June 1928, Vol. 26, pp. 920-921; Hump Hairpin Mfg. Co. v. Emerson, 258 U. S. 290, 294-5; Lehigh Valley Railroad v. Pennsylvania, 145 U. S. 192; Cornell Steamboat Co. v. Sohmer, 235 U. S. 549; Missouri Pac. R. Co. v. Stroud, 267 U. S. 404; Keokuk & Hamilton Bridge Co. v. Salm, 258 U. S. 122; People's Nat. Bk. v. Maryel, 191 U. S. 272; Raymond v. Chicago Tract. Co., 207 U. S. 20, 38; Henderson Bridge Co. v. Kentucky, 166 U. S. 150; Detroit International Bridge Co. v. Corporation Tax Appeal Board, 294 U. S. 83, 55 S. Ct. 332; Atlanta v. Oglethorpe University, 178 Ga. 379, 173 S. E. 110, affirmed 178 S. E. 156 and dismissed on motion of appellant, 55 Sup. Ct. 642; Federal Radio Commission v. Nelson Bros. etc. Co., 289 U. S. 266; Trinity Methodist Church South v. Federal Radio Commission, 62 Fed. (2d) 850; Duncan v. United States, 48 Fed. (2d) 128; United States v. American Bond & Mortgage Co., 31 Fed. (2d) 448; American Bond and Mortgage Co. vs. United States, 52 Fed. (2d) 318; Stafford v. Wallace, 258 U. S. 495, 517; Binderup v. Pathe Exchange, 263 U. S. 291, 311; Swift and Company v. United States, 196 U. S. 375, 400; Van Dusen v. Dept. of Labor and Industries, 158 Wash. 414; 15 C. J. 940; M. H. B. Co. v. Desmond, 151 Wash. 344, 350; State v. Keokuk, etc. R. Co., 99 Mo. 30, 12 S. W. 290, 293, affirmed 152 U. S. 301; WBT, Inc. v. Poulnot, 46 Fed. (2d) 671; Cooney v. Mt. States Tel. & Tel. Co., 294 U. S. 384, 79 L. Ed. 498, 55 Sup. Ct. 477; Pacific Express Co. v. Seibert, 142 U. S. 339; Western Union Tel. Co. v. Alabama, 132 U. S. 472; Ratterman v. Western Union Tel. Co., 127 U. S. 411; Ohio River & W. R. Co. v. Dittney, 232 U. S. 576; People ex rel. Cornell S. Co. v. Sohmer, 235 U. S. 549; State v. Northern Exp. Co., 80 Wash. 309; Great Northern Ry. Co. v. State, 147 Wash. 630; Bowman v. Continental Oil Co., 256 U. S. 642; Whitehurst v. Grimes, 21 Fed. (2d) 787.

Cushman, District Judge:

Chapter 180 of the Washington Session Laws of 1935, pages 748, 749, 837, 846 and 847, in part, provides:

Title X. Radio Broadcasting Tax

"Sec. 74. From and after the first day of May, 1935, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in the business of radio broadcasting. As to such persons the amount of the

tax with respect to such business shall be equal to the gross income of the business multiplied by the rate of one-half of one per cent.

"Sec. 76. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which the tax accrued. * * *

"Sec. 198. All taxes, penalties and interest imposed under the provisions of this act shall be paid in full before any action may be instituted in any court to contest all or any part of such tax, penalties or interest. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax or penalty imposed by this act, or any part thereof, except upon the ground that the assessment thereof was in violation of the Constitution of the United States or that of the State of Washington."

Title XIX. Allocation of Revenues

"Sec. 211. The state treasurer, upon receipt of any payments of tax, penalty, interest or fees collected under the provisions of this act and of the several titles hereof, shall first deposit to the credit of the general fund the amount of any expenditures from said fund, not previously repaid, on account of refunds of taxes, interest and costs appropriated under the provisions of section 215 of this act and shall deposit the balance thereof to the credit of the following funds:

- 17.91% thereof to the state emergency relief fund;
- 58.51% thereof to the state current school fund;
- 19.05% thereof to the state general fund;
- 3.47% thereof to the University of Washington fund;
- 0.46% thereof to the Washington State College fund;
- 0.265% thereof to the Bellingham Normal School fund;
- 0.045% thereof to the Cheney Normal School fund;
- 0.28% thereof to the Ellensburg Normal School fund."

The "Communications Act of 1934," Section 1 (48 Stat. 1064—Title 47, U. S. C. A., 151, 1934 Cumulative Annual Pocket Part), provides:

"For the purpose of regulating interstate and foreign commerce in communications by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the 'Federal Communications Commission', which shall be constituted as hereinafter provided; and which shall execute and enforce the provisions of this chapter."

The case is not one within the 11th Amendment. This court has jurisdiction and the second ground of the Motions is untenable. In re Tyler, Petitioner, 149 U. S. 164-190 and 191; Pennoyer v. McConaughy, 140 U. S. 1-8, 9 and 10; Osborn v. United States Bank, 9 Wheat. 738-846 to 858. See also: Fitts v. McGhee, 172 U. S. 516-529 and 530; Mississippi Railroad Comm. v. Illinois Central Railroad Company, 203 U. S. 335-340.

In East Ohio Gas Co. v. Tax Commission of Ohio, et al., 283 U. S. 465 at 470 the Court said:

* * * * *

"It is elementary that a State can neither lay a tax on the act of engaging in interstate commerce nor on gross receipts therefrom. Pullman Co. v. Richardson, 261 U. S. 330, 338. New Jersey Tel. Co. v. Tax Board, 280 U. S. 338, 346."

* * * * *

In the present suit the tax being upon the gross receipts of the business, which is solely radio broadcasting, the question remains—Is radio broadcasting interstate commerce? The question has received an authoritative answer.

In Radio Commission v. Nelson Brothers Bond & Mortgage Co. (Station WIBO), 289 U. S. 266, at 279 and 282, the Court said:

* * * * *

"No question is presented as to the power of the Congress, in its regulation of interstate commerce, to regulate radio

communications. No state lines divide the radio waves, and national regulation is not only appropriate but essential to the efficient use of radio facilities."

* * * * *

"That the Congress had the power to give this authority to delete stations" (the deleted station being in one state and the kc. frequency of the deleted station having been assigned to a station in another state) "in view of the limited radio facilities available and the confusion that would result from interferences, is not open to question."

* * * * *

See also: Whitehurst v. Grimes, 21 Fed. (2d) 787; Duncan v. United States, 48 Fed. (2d) 128; Station WBT v. Poulnot, 46 Fed. (2d) 671-675.

The Bills of Complaint allege that segregation of intrastate business from interstate business and complainants' withdrawal from their intrastate business are all impossible. Such allegations are taken as true at this stage of the proceedings. It follows that if these allegations be true and the nature of the business and of radio activity and communication is as described in the bills of complaint, the statute imposing the tax is invalid, imposing, as it does, a direct burden on interstate commerce. Cooney v. Mountain States Tel. Co., 294 U. S. 384-392; Ratterman v. Western U. Tel. Co., 127 U. S. 411; Western U. Tel. Co. v. Alabama, 132 U. S. 472; William v. Talledega, 226 U. S. 404; Whitehurst v. Grimes, 21 Fed. (2d) 787.

If the holding of the Washington State Supreme Court in Fisher's Blend Station, Inc. v. The State Tax Commission, et al., 82 Wash. Dec. 123, is in any respect opposed to the conclusion herein reached, we conclude that our determination—the case being one arising under the commerce clause—should be controlled by the decisions of the Federal courts herein cited rather than by such decision.

The affidavits filed in support of the applications for interlocutory injunctions are found to support the quoted allegations of the complaints concerning the interstate character of radio communication and complainants' business and the irreparable nature of the damage that would be suffered by complainants if the legislative act attacked was enforced.

The Motions to Dismiss will be denied and interlocutory injunctions will issue.

Any order or orders embodying rulings herein directed will be tentatively settled upon notice before the local judge.

The Clerk is directed to notify the attorneys for the parties of the filing of the foregoing decision.

FRANCIS A. GARRECHT,
Circuit Judge.
EDWARD E. CUSHMAN,
District Judge.
JOHN C. BOWEN,
District Judge.

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Netherlands: Judgment of the District Court of Amsterdam of 18 December, 1934. (Reprint from monthly bulletin, Series No. 5389-A, 16 October, 1935, Union Internationale De Radiodiffusion Geneve.)

"The social purport of the concentration of the functions of intermediary in the matter of musical copyright in the hands of a single bureau leads to a restriction of the rights of the author in the general interest.

"It is no longer a question, in the exercise of the rights of representations borrowed from the civil law by a monopolist intermediary institution, of the ordinary exercise of a private right, but social elements intervene which oppose themselves to a purely selfishly conceived exercise of right by the monopolist representative."

Facts (summarized)

The plaintiff society "BUMA" has at its disposal a very extensive so-called "repertory" of musical works by reason of the fact that composers and other owners of copyrights in musical works have entrusted such rights, either directly or through the intermediary of their national organization, for protection and exploitation in the Netherlands to BUMA, to which society permission has been given in the Netherlands by Ministerial Order, to the exclusion of all other persons, to carry on the business of intermediary in the matter of musical copyright.

The Dutch broadcasting company AVRO broadcast or caused to be broadcast from the Hilversum broadcasting station the musical works named in the summons on the dates therein mentioned.

BUMA bases its claims against AVRO on the alleged infringements of its "repertory" committed by AVRO by such broadcastings, against which AVRO defends itself by:

(a) Denying that the works named in the summons belong to the repertory of BUMA. (b) Disputing that, even if that were so, BUMA would have the right to make the claims which it makes and particularly to demand a judicial injunction with penalty, as is claimed in the summons under 2 and 3, and this on grounds which may be summed up as follows:

1. That BUMA, during the negotiations which have been carried on between it and the four broadcasting organizations in regard to the amount to be paid for copyright royalties for 1934, approved of the broadcasting by the broadcasting companies of music belonging to the BUMA repertory, and by its formal prohibition of 22 May, 1934, clearly did not intend a real prohibition, but merely the reservation of a right to compensation;

2. That since the amendment of the Copyright Law in 1931, by which, as a consequence of the revision of the Berne Convention in 1928, article 17bis was inserted in the Copyright Law, the former absolute character of copyright must be held to have been relaxed;

3. That the BUMA repertory is indefinite and accordingly the prohibition would also be altogether indefinite;

4. That in the demand for a judicial injunction against the broadcasting of music belonging to the BUMA repertory there would be *in casu* an abuse of right. The facts were not disputed, and were therefore considered by the Court as established.

Grounds of Decision (summarized)

As regards the denial by AVRO that the musical works named in the summons belong to the BUMA repertory, the Court held that it appeared from the documents produced that the copyrights in these works had been assigned by the persons entitled to the society BUMA. In other words, the works broadcast and named in the summons belong to the plaintiff's repertory and the copyright in them has been entrusted to the plaintiff for protection and exploitation.

The court, however, considered that the question was not *how many* infringements AVRO had committed, but rather whether this was a case of *infringement* of copyright, or in other words whether the broadcasting of the seven musical works by AVRO was *unlawful*.

On this point the Court pronounced judgment as follows:

"Considering, as regards this point, that, in the opinion of the Court, it is clear from the letter of 22 May, 1934, from BUMA to Mr. Dubois, the representative of the four broadcasting companies, that BUMA intended from that moment expressly to withhold its permission for the broadcasting of musical works belonging to its repertory from the four broadcasting companies including AVRO;

Considering however that AVRO further alleges that BUMA was not entitled so to do by reason of an arrangement made in regard to the permission of musical broadcasting during the negotiations between BUMA and the broadcasting companies relating to the royalties to be paid for 1934;

That AVRO however here only refers to the promise made in a letter of 25 January, 1934 (document 8) to the Government Commissioner, which letter contains no other promise than that BUMA "will bring no action before the coming discussions have taken place," which has by no means so far reaching a meaning as AVRO seeks to give it;

Considering that in this connection for the question of the lawfulness of the broadcasts—importance further attaches to the point of the defence of AVRO (indicated above under (b) (2)), in which AVRO appeals to the change in character which musical copyright is said to have undergone through the amendment of the Copyright Law in 1931 (insertion of article 17bis)*;

* This article is as follows:

"We reserve the right to regulate by decree having the effect of public administrative regulations the conditions of exercise of copyright in a literary, scientific or artistic work as regards the publication of such work by broadcasting.

"Such regulation shall respect the moral rights of the author. In the event of its permitting such publication without the consent of the author, it shall recognise his right to an equitable remuneration."

That this defense must clearly be understood in the sense that BUMA, since such amendment of the law, has no longer the right to prohibit broadcasting of its repertory, since musical copyright, as regards the right of broadcasting, is no longer the *exclusive* right of the author to publish his work, but only comprises a right to a reasonable compensation with freedom for others to broadcast all music;

Considering that the Court cannot share this conception of AVRO;

That on the contrary, as appears from the history of the passing of the law for the ratification of the revised Berne Convention, the legislation clearly started from the principle that the broadcasting of a work in common with other rights is the *exclusive right* of the *author* (which is expressly laid down in par. 1 of article 11bis of the revised Convention), but that the possibility is left open, subject to the observance of certain conditions, for such right to be restricted by the national legislator;

That further, at the time of the passing of this Law and of the Law for the amendment of the Copyright Law in connection with the revision of the Berne Convention, it was clearly stated that by the insertion of article 17bis in our legislation nothing was amended in regard to copyright, but only a possibility of amendment was provided for, in that a regulation of the protection of copyright as regards broadcasting might be made by general administrative regulations, which would amount to a limitation of the right to broadcast in its character as an exclusive right of the author;

That, inasmuch as no such regulation has yet been made in this country, the right to broadcast still subsists as an exclusive right of the author, on exactly the same footing as other exclusive rights of the author;

Considering that on the foregoing grounds it must be held that the broadcasting of the seven musical works named belonging to the repertory of BUMA carried out by AVRO after the said letter of 22 May, 1934, was unlawful;

That accordingly the claim by BUMA in the summons under 1 is allowable so far as concerns these seven musical works;

That it makes no difference in this respect that AVRO denies having been in fault in this, since it was not placed in a position to ascertain whether it was acting in conflict with the BUMA repertory, inasmuch as it is not here a question of a claim for damages arising out of an unlawful act, but a claim for the establishment of an infringement of copyright;

Considering in the next place, as regards the judicial injunction demanded by BUMA against AVRO forbidding it "by means of broadcasting, to publish or cause to be published music in which composers or other persons entitled who are affiliated to the plaintiff are in possession of copyright", with the claim annexed thereto for the imposition of a penalty for every day on which such prohibition is contravened;

That against this demand are directed more particularly the defences of AVRO mentioned above under (b) 3 and 4, and in the first place the defence, further elaborated in the argument, that (the contents of) the repertory of BUMA are unknown, so that such a prohibition as is asked for would be altogether indefinite;

Considering as regards this point:

That, as appears from the foregoing considerations, it has been established in the action that the copyrights in the above named seven musical works have been entrusted to BUMA for protection and exploitation;

That it has *not*, however, been established in these proceedings in respect of what other musical works the copyrights have been entrusted to BUMA for protection;

That BUMA has not restricted its demand for a judicial injunction against further infringements of rights to the copyrights in respect of which it has been established in these proceedings that they are in its hands (and that infringements of them have been committed), but very generally extends it to all the copyrights which it has in its hands, without its being established in these proceedings what rights these are;

That it has become the established judicial practice in this country that the party against whom judgment is given may by judgment be forbidden in the future also to infringe the *right established in the said judgment* of the party in whose favor such judgment is given;

That as regards rights, however, as to which nothing is established by the judgment between the parties, the foundation for the issue of an injunction against infringement is lacking;

That in the connection such a notion as "repertory" of BUMA can lead to no result as this is merely a collective name for all the musical works of which the copyrights have been entrusted to

BUMA for exploitation and protection, and the infringement of the repertory only consists in the infringement of the individual copyrights the infringement of which has been established in these proceedings;

That the "Buma repertory" as a collective notion could only have any significance in this connection, if it had been established in the action that *all* conceivable musical works form part of it, so that ignorance as to particular musical works could have no meaning but BUMA itself admits that this is not the case;

That a prohibition of infringement of rights, which does not attach itself to particular rights established in the concrete, would be altogether vague, and the disputes which would arise in the application of such a prohibition, not only as to the question whether there is an act of infringement of right, but also and in the first place as to the question whether there is a right that can be infringed, would go far beyond the notion of a dispute as to execution properly so called and the possibility of execution of the judgment of the penalty awarded without further title would in such case certainly not be justified;

Considering that on these grounds the general judicial injunction demanded by BUMA against the publication of music in which composers or other persons entitled who are affiliated to the plaintiff are in possession of copyright, cannot be allowed;

Considering that the Court finds no grounds for issuing an injunction against publication even in respect of the individual musical works as to which it has been established in these proceedings that the copyrights in the same have been entrusted to BUMA for protection;

Considering moreover that, in addition to the above mentioned grounds, the following considerations, in connection with the appeal made by AVRO to abuse of right, oppose themselves to the application of the legal remedy chosen in this matter by BUMA;

Considering that the special circumstances which lie at the basis of these proceedings, as they appear from the documents and have been brought out in the arguments, point in the direction of an abuse of right in demanding a prohibition of musical broadcasting in this matter;

Considering moreover that the monopoly position of BUMA as an intermediary office in the matter of musical copyright and the well nigh vital importance which its repertory possesses for the broadcasting companies, and further the unmistakable suitability of the BUMA repertory for broadcasting by the Netherlands broadcasting companies, gives this legal remedy an altogether different significance in the hands of BUMA than in the hands of the individual author who seeks to preserve his rights from infringement;

Considering that in this connection it must be borne in mind that the concentration in this country of the functions of intermediary in the matter of musical copyright in the hands of a single, monopolistic intermediary bureau, as appears from the preparatory proceedings for the legal regulation in question, did *not* take place for the purpose of providing stronger weapons for the selfish ends of private copyright, but on the contrary motive was the general interest in organizing cooperation in the domain of musical copyright with its ideal values;

That precisely the social purport of this concentration leads to a restriction (in the general interest) of the rights of the author (parallel with the tendency expressed in article 17bis of the Copyright Law), inasmuch as, in the exercise of the rights of representation borrowed from the civil law by a *monopolist intermediary institution*, it is no longer a question of the ordinary exercise of a private right, but social elements intervene which oppose themselves to a purely selfishly conceived exercise of right by the monopolist representative;

Considering that an exercise of right such as BUMA now contemplates involves a complete failure to appreciate this tendency and the social significance of BUMA's being entrusted as the sole Netherlands institution with the function of intermediary in the matter of musical copyright;

That moreover the legal remedy chosen (where other less objectionable legal remedies are available) proceeds, as indeed BUMA does not conceal, from a purely selfish standpoint of private right, in regard to which the monopoly position of BUMA is utilized as a welcome accretion of power for furthering the commercial interests of the authors represented by the society, to make the authors' right felt in the most rigorous manner, whereby BUMA, as a consequence of the very concentration of rights of representation in its hands, is able to exert an exorbitant preponderance in a domain where such an unrestricted exercise of power must be regarded as impermissible in the general interest;

That accordingly it must be held that this application of the legal remedy of a judicial injunction by BUMA in its dispute with the Netherlands broadcasting companies in regard to the tariff to be enforced, is not in agreement with the *social object* which has become proper to the rights of representation, concentrated in the hands of BUMA as the monopolist intermediary bureau for musical copyright, so that here, so far as rights are established or may be established, it is a question of exceeding such rights;

Considering that, since only the claim under 1 can be allowed, there is no ground for declaring this judgment enforceable on delivery, inasmuch as this decision, being purely declaratory, is not susceptible of execution.

The Society BUMA has given notice of appeal from this judgment.

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

Eastern Cuba Sugar Corp. Protective Committee. (2-1717, Form D-1)

Fort Lyon Canal Company, Las Animas, Colo. (2-1718, Form A-2)

Canadian Utilities, Ltd., Calgary, Canada. (2-1720, Form A-1)

Bretonna Corporation, New York City. (2-1721, Form E-1)

Black & Decker Manufacturing Company, Towson, Md. (2-1722, Form A-2)

Commercial Banking Corporation, Philadelphia, Pa. (2-1723, Form A-2)

FEDERAL TRADE COMMISSION ACTION

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

Complaints

No. 2191. Broadening the scope of a complaint issued several months ago against the Building Material Dealers Alliance, of Pittsburgh and Cleveland, and others, an amended supplemental complaint has been issued against these respondents, including for the first time as respondents the Lime & Cement Exchange of Baltimore City; Middle Atlantic Council of Builders Supply Associations, Baltimore; Maryland Builders Supply Association, Baltimore; National Federation of Builders Supply Associations, Pittsburgh; and the officers, councillors and members of these organizations.

Both the original and amended complaints charge the respondent organizations with forming a combination to compel distribution of building materials through "recognized" dealers affiliated with the respondents, and other practices. The amended complaint contains a new charge—that of fixing and establishing, by agreement, schedules of uniform prices for the sale of building materials and builders' supplies. The complaint alleges that prices thus established were enhanced beyond the price which would prevail under natural and normal competition, in the absence of both price agreements and the agreements confining business to so-called "regular" dealers. The complaint also alleges that the respondents required members and "recognized" dealers to enhance and increase their volume of business and profits by maintaining this price program and by other concerted action.

No. 2598. Trade practices deemed to constitute unfair competition in the sale of neckwear are alleged in a complaint against **McCurrah Organization, Inc., of New York City**, a manufacturer of neckwear.

Neckties sold by this company are alleged to have been advertised and sold under the Irish name, "Kerry Poplin," when in fact, according to the complaint, the products to which these words were applied were not made by the hand-weaving process used in making poplin in Ireland. Also, the complaint charges, these ties were not woven in Kerry County or elsewhere in Ireland so as to justify the use of the words on the labels, but were made by machinery in the United States.

No. 2600. Misrepresentation of the sanitary properties of absorbent cotton is alleged as an unfair method of competition in a complaint issued against **Gotham Aseptic Laboratory Co., Inc., of Long Island City, New York.**

Engaged in the manufacture, sale and distribution of surgical supplies, including absorbent cotton, which is sold chiefly to retail drug stores, jobbers and members of the medical profession, the respondent is alleged to have caused certain of its absorbent cotton to be labeled as "sterilized" and as "manufactured under the strictest sanitary conditions and from the finest quality obtainable."

No. 2601. Alleging unfair competition in the sale of women's dresses, a complaint has been issued against **Fashion Frocks, Inc., of Cincinnati.**

The complaint alleges that amounts advertised by the respondent as compensation for women sales agents far exceeds that which can be earned in normal times and that, contrary to the company's advertising, the respondent does not give salespersons free dresses, but they obtain them, if at all, when they earn a certain commission.

Stipulations

The Commission has issued the following cease and desist orders:

No. 0943. United Factories, of Kansas City, Mo., dealer in oil burners, has entered into a stipulation to discontinue certain unfair advertising practices. The company agrees to stop representing that its product is "the greatest household invention of the age," that it will give a lifetime of service, that it will not smoke or get out of order, and other representations.

No. 0944. Wain's Laboratory, Inc., of Los Angeles, selling a treatment for asthma and hay fever, agrees to stop designating it as capable of helping a person in any climate or without dieting, to breathe freely, sleep soundly, or live comfortably, and to discontinue asserting that the preparation is free from all dangerous drugs and has overcome asthma or hay fever for thousands, and other representations.

No. 0945. Forest Hill Pharmaceutical Co., Inc., of Cleveland, in selling a weight reducing product, agrees to stop asserting that its preparation is safe to take or does no harm to the user. The company will also cease representing that the use of thyroid and cathartics is dangerous unless in direct connection with this assertion it is made known that dinitrophenol, the active ingredient of the respondent's product, is also dangerous. Other similar representations will be discontinued.

No. 0946. Master Drugs, Inc., of Omaha, Nebr., agrees to stop representing that the aspirin it sells "brings more efficient relief in ten minutes, as compared with the half hour to an hour's time that is required by ordinary aspirin," and that full medical strength is to be found only in this company's aspirin tablets, known as "Lord's Aspirin." Other representations regarding the powers of this product will be discontinued.

No. 0947. Saffrin's Products Co., of Minneapolis, selling flavoring products, cosmetics and similar articles, agrees to stop representing that a prospective agent or salesperson can make a sale every time he rings a doorbell or at every house solicited; that this company's vanilla flavoring is triple strength; or that the kind of flavoring sold by the respondent is recommended by the United States Department of Agriculture.

No. 0948. Applied Arts Corporation, of Grand Rapids, Mich., engaged in selling a device for defrosting windshields, stipulates that it will not make unmodified representations of earnings in excess of the average earnings of its active, full-time salespersons, and will not hold out as a chance for prospective salespersons any amount in excess of what actually has been accomplished by regular salespersons.

No. 0949. Universal Photographers, Inc., of New York City, selling a correspondence course in photography, will no longer assert in its advertising that there are 34,487 publishers in this country who buy photographs regularly; that they buy 7,000,000 photographs a year, or that photography offers more money, or more opportunities to go places or do things than any other line of endeavor in the world. The respondent will also cease advertising that "membership" in the Universal Photographers, Inc., includes a "press card" which entitles one to the "usual courtesies."

No. 0950. Arthur Wood & Company, of St. Louis, selling "Jumbo Turkey Boards," will cease making unmodified representations of earnings in excess of the average returns to active full-time salespersons.

No. 0951. Chicago Technical College, of Chicago, selling a home-study course in drafting and building, will no longer advertise that the courses it offers by correspondence will equip a person for his work to the same degree that a similar four-year university course would do, and that only through Chicago Technical College can a person obtain college training at home, or that this course is the "swift, sure way to succeed in drafting."

No. 0952. American School of Photography, of Chicago, stipulates that it will stop advertising that anyone, regardless of age, intellectual or educational qualifications, can master its course, and that the course can "beat" or excel a course studied in a resident school. The respondent will also cease making unmodified representations of earnings of its students or graduates.

No. 2038. L. & C. Mayers Co., Inc., of New York City, dealer in and manufacturer of jewelry, has been ordered to cease and desist from representing itself, in its catalogues and otherwise, as a wholesale jeweler or wholesaler in certain classes of its business.

Findings in this case are that representations of the respondent implying that it is a wholesaler have deceived buyers into believing that the company's products are sold at wholesale prices, and that those who purchase from the respondent may thus save the retailer's profit.

No. 2518. An order to cease and desist has been issued against the **Crescent Shoe Company, Inc.,** 133 Duane Street, New York City, prohibiting use of the word "Doctor" in connection with the trade name of shoes sold by that company.

The order bans use of the word "Doctor" in advertising these shoes in any way which may tend to deceive buyers into believing that the shoes are made in accordance with the design or under the supervision of a doctor, or that they contain special orthopedic features.

No. 2535. Henry Ross, of New York City, trading as **Tivoli Clothes** and under other names, has been ordered to cease and desist from unfair trade practices in the sale of men's clothing.

Among practices prohibited is the advertisement of garments as "All Wool," or "Fashion Tailored to Fit," or "Tailored on Fifth Avenue," unless and until the garments are actually made from the quality of woolen and other materials represented and in the manner or at the place represented.

FEDERAL COMMUNICATIONS COMMISSION ACTION

No meeting was held this week by the Broadcast Division of the Commission, owing to the absence from the city of two members of the Division. Action which was scheduled for this week will be taken at the regular meeting next Tuesday.

HEARING CALENDAR

Tuesday, November 12, 1935

WCAO—The Monumental Radio Co., Baltimore, Md.—Modification of license, **600 kc.**, 1 KW, unlimited time. Present assignment: **600 kc.**, 500 watts, 1 KW LS, unlimited time.

WICC—Southern Connecticut Broadcasting Corp., Bridgeport, Conn.—Modification of license, **600 kc.**, 1 KW, specified hours. Present assignment: **600 kc.**, 500 watts night, C. P. for 1 KW daytime, specified hours.

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Modification of license, **610 kc.**, 1 KW, unlimited time. Present assignment: **610 kc.**, 500 watts (SA for 1 KW daytime), unlimited time.

NEW—E. L. Clifford, Pottsville, Pa.—C. P., **580 kc.**, 250 watts, daytime.

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Modification of license, **560 kc.**, 1 KW, unlimited time. Present assignment: **560 kc.**, 500 watts (1 KW LS SA), unlimited time.

Wednesday, November 13, 1935

NEW—W. A. Patterson, Chattanooga, Tenn.—C. P., **1420 kc.**, 100 watts, daytime.

WMC—Memphis Commercial Appeal, Inc., Memphis, Tenn.—C. P., **780 kc.**, 1 KW, 5 KW LS, unlimited time. Present assignment: **780 kc.**, 1 KW, 2½ KW LS, unlimited time.

NEW—Duluth Broadcasting Co., Duluth, Minn.—C. P., **1200 kc.**, 100 watts, unlimited time.

Thursday, November 14, 1935

NEW—Springfield Newspapers, Inc., Springfield, Mo.—C. P., **710 kc.**, 1 KW, daytime.

HEARING BEFORE THE BROADCAST DIVISION

WAIU—Associated Radiocasting Corp., Columbus, Ohio.—Renewal of license, **640 kc.**, 500 watts, limited with KFI.

APPLICATIONS RECEIVED

First Zone

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—**710** License to cover construction permit (B1-P-479) for an auxiliary transmitter.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Modification of construction permit (B1-P-427) to extend completion date to 12-26-35.

WCSH—Congress Square Hotel Co., Portland, Maine.—Modification of license to increase power from 1 KW, 2½ KW LS, to 5 KW day. Amended to request 5 KW day and night.

WHN—Marcus Loew Booking Agency, New York, N. Y.—Modification of construction permit (B1-P-336) to make equipment changes, increase day power from 1 KW to 5 KW, to further request changes in equipment and extend commencement date to date of grant and completion date 180 days thereafter.

WFBL—Onondaga Radio Broadcasting Corporation, Syracuse, 1360 N. Y.—Authority to install automatic frequency control.

NEW—New England Radio Corp., Bridgeport, Conn.—Construction permit for a new station on 1370 kc., 100 watts, daytime operation. Amended to make equipment changes.

NEW—Bamberger Broadcasting Service, Inc., Portable-Mobile.—Construction permit for broadcast pickup purposes to use 31100, 34600, 37600, 40600 kc., 5 watts. A3 emission.

NEW—General Electric Company, Portable-Mobile.—Construction permit for a new general experimental station on 31100, 34600, 37600, 40600 kc., 15 watts.

Second Zone

WMMN—A. M. Rowe, Inc., Fairmont, W. Va.—Modification of construction permit (B2-P-506) install new equipment, increase power, transmitter site to be determined, to further request antenna changes, approval of transmitter site at 3¼ miles west of Fairmont, W. Va., and extend commencement date to 30 days after grant and completion date 180 days thereafter.

NEW—Saginaw Broadcasting Co., Saginaw, Mich.—Construction permit for a new station on 1200 kc., 100 watts, 250 watts LS. Amended to request 100 watts day and night and equipment changes.

WCAE—WCAE, Inc., Pittsburgh, Pa.—License to cover construction permit (B2-P-198) as modified for new equipment and increase power.

WCAE—WCAE, Inc., Pittsburgh, Pa.—License to use old transmitter as auxiliary transmitter.

WHIO—Miami Valley Broadcasting Corp., Dayton, Ohio.—Construction permit to install new equipment and increase power from 1 KW to 1 KW, 5 KW LS.

WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—License to cover construction permit (B2-P-148) as modified to move transmitter and make equipment changes.

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Authority to install automatic frequency control.

Third Zone

NEW—J. R. Maddox and Dr. W. B. Hair, d/b as Chattanooga Broadcasting Company, Chattanooga, Tenn.—Construction permit for a new station on 590 kc., 1 KW, unlimited time.

NEW—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—Construction permit for new station on 1330 kc., 250 watts, 500 watts local sunset, unlimited time. Amended to change frequency from 1330 kc. to 880 kc.

NEW—Wilton Harvey Pollard, Huntsville, Ala.—Construction permit for a new station on 1200 kc., 100 watts, unlimited time, requesting facilities of station WBHS.

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Modification of construction permit (B3-P-695) for equipment changes, to further request equipment changes, change frequency from 1200 kc. to 1210 kc.; move transmitter from 512-516 S. Grand St. to Renwick St., Monroe, La.; extend commencement date 90 days and completion date 90 days thereafter.

WMFN—Attala Broadcasting Corp., Clarksdale, Miss.—Construction permit to make changes in equipment (antenna); move transmitter from Chamber of Commerce Building to McWilliams Building, 3rd and Delta, Clarksdale, Miss., and studio from Chamber of Commerce Building to corner of 3rd and Yazoo Avenue, Clarksdale, Miss. Amended to change transmitter site to corner of 3rd and Yazoo Avenue, Clarksdale, Miss.

KFPM—Voice of Greenville, Greenville, Tex.—Construction permit to make equipment changes, increase power from 15 watts to 50 watts, change hours of operation from specified hours to

daytime, and change call letters to KVOG. Amended to make further equipment changes and to change power from 50 watts to 100 watts.

NEW—Pampa Daily News, Inc., Pampa, Tex.—Construction permit for new station on 1200 kc., 100 watts, daytime operation. Amended to request change of frequency from 1260 kc. to 1310 kc.

NEW—Emilio Delfillo Ramirez, Mayaguez, Puerto Rico.—Construction permit for new station on 1370 kc., 100 watts, 250 watts local sunset, limited time. Amended to make changes in equipment and to change hours of operation from limited time to specified hours.

NEW—Douglas G. Boozer and Jack Richards, Brunswick, Ga.—Construction permit for a new station on 1420 kc., 100 watts, daytime operation. Amended to make equipment changes and to add to name Brunswick Radio Broadcast Station.

NEW—Athens Times, Inc., Athens, Ga.—Construction permit for a new station on 1450 kc., 500 watts, unlimited time, requesting facilities of station WTFI.

NEW—The Attala Broadcasting Corp., Kosciusko, Miss.—Construction permit for a relay broadcast station on 6040, 11830, 17760 kc., 100 watts.

Fourth Zone

NEW—International Typographical Union of North America, Indianapolis, Ind.—Construction permit for new station on 560 kc., 1 KW, 5 KW local sunset, unlimited time, requesting facilities of station WIND.

WFBM—Indianapolis Power and Light Company, Indianapolis, Ind. 1230 —License to cover construction permit (B4-P-144) as modified to make equipment changes and move transmitter and studio.

KFJM—University of North Dakota, Grand Forks, N. Dak.—Construction permit to make changes in equipment; change frequency from 1370 kc. to 1410 kc.; and increase power from 100 watts to 1 KW, 5 KW local sunset. Amended to make further changes in equipment and antenna; also to change power to 1 KW day and night.

KABR—Aberdeen Broadcast Company, Aberdeen, S. Dak.—Construction permit to make equipment changes and to move transmitter locally, from Lake Wylie to Wylie Park, Aberdeen, S. Dak.

KIIV—Charles L. Jaren, Fergus Falls, Minn.—Modification of license to add frequencies 2060 and 2790 kc.

Fifth Zone

KNX—Western Broadcast Company, Los Angeles, Calif.—Construction permit to make changes in equipment and increase power from 50 KW to 250 KW. Amended re equipment changes, move studio from 1559 N. Vine St. to 5939 Sunset Blvd., Los Angeles, Calif., and request 500 KW power instead of 250 KW.

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Construction permit to make equipment changes (antenna); move studio from 220 Broadway to 622 S. W. Salmon St., Portland, and transmitter from same site to Oak Park, Portland, Ore.

KRKD—Radio Broadcasters, Inc., Los Angeles, Calif.—License to cover construction permit (B5-P-88) as modified for new equipment and increase in power.

NEW—B. A. Thompson, Santa Cruz, Calif.—Construction permit for a new station on 1210 kc., 100 watts, 250 watts local sunset, unlimited time. Amended to change frequency to 1310 kc. and to make equipment changes.

NEW—Donald A. Wike and H. E. Studebaker, Baker, Ore.—Construction permit for a new station on 1370 kc., 100 watts, 250 watts local sunset, unlimited time. Request frequency of KUJ contingent upon KUJ being granted another frequency, as applied for.

NEW—Kidd Brothers, K. K. Kidd and A. C. Kidd, Taft, Calif.—Construction permit for a new station on 1420 kc., 100 watts, daytime operation. Amended to request equipment changes and changing studio and transmitter sites.

NEW—Oregon State Agricultural College (Portable-Mobile).—Construction permit for new general experimental station on 31100, 34600, 37600, 40600, 86000, 400000 kc., 5 watts.

NEW—Nichols and Warinner, Inc. (Portable-Mobile).—Construction permit for new general experimental station on 31100, 34600, 37600, 40600 kc., 30 watts.



The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.
 JAMES W. BALDWIN, Managing Director

NAB REPORTS

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Vol. 3 - No. 52
 NOVEMBER 9, 1935

BROADCAST ADVERTISING DURING THE THIRD QUARTER OF 1935

Principal Developments

Broadcast advertising during the third quarter of the current year showed a gain of 33.2% as compared to the corresponding period of 1934. Sales of broadcasting facilities to advertisers during the first nine months of 1935 were 22.3% above the level of the same period of the preceding year.

Important gains were experienced by all portions of the medium, with national non-network and regional network advertising showing the greatest improvement.

Non-network advertising increased on all sizes of stations. Clear channel and local station volume showed the greatest gains.

The largest increase in non-network advertising occurred in the South Atlantic-South Central Area and in the Pacific and Mountain Area.

Transcription and live talent volume experienced the greatest gains in the national non-network field, while transcription and record volume showed the most pronounced improvement in the local broadcast advertising field.

Food, confectionery, household equipment, and tobacco advertising experienced the greatest gains in the national network field. Regional network advertising showed marked increases both as to volume and variety of business.

In the national non-network field, automotive, food, confectionery, soap, and tobacco advertising registered the greatest rise. Automotive, clothing, and house furnishing advertising were the principal sponsor groups to show gains in the local field.

General retail advertising experienced an increase of 47.6% as compared with the corresponding period of 1934. Department store volume rose 29.2%.

Broadcast Advertising Volume

Broadcast advertising volume over various portions of the medium during the third quarter of the current year is found in Table I.

TABLE I

TOTAL BROADCAST ADVERTISING VOLUME

Class of Business	Gross Time Sales Third Quarter	
	1934	1935
National networks	\$7,304,237	\$9,451,157
Regional networks	133,581	256,203
National non-network	2,147,775	3,607,935
Local	3,294,849	3,840,055
Total	\$12,880,442	\$17,155,350

Regional network advertising showed the greatest gain over the corresponding period of the preceding year. Volume in this field rose 92.1%. National network volume gained 29.4%, national non-network advertising 68.0%, and local advertising 16.5%.

The sale of broadcasting facilities to advertisers during the first nine months of the current year exceeded those of the corresponding period of 1934 by 21.8%. Gains in various portions of the medium were as follows: National networks 21.3%, regional networks 16.0%, national non-network advertising 24.5%, and local broadcast advertising 18.5%.

Comparison with Other Media

Radio broadcasting continues to show the greatest improvement over the corresponding period of the preceding year. Whereas broadcast advertising volume increased 33.2%, newspaper advertising rose 6.0%, and national farm paper volume 6.7%. National magazine advertising decreased 0.5%. National magazine volume was 7.4% greater during the first nine months of the current year and during the corresponding period of 1934. Farm paper volume showed an increase of 4.4% and newspaper lineage a rise of 2.4%.

Details regarding advertising volume over major media are found in Table II.

TABLE II

ADVERTISING VOLUME BY MAJOR MEDIA

Advertising Medium	Gross Time and Space Sales Third Quarter	
	1934	1935
Radio broadcasting	\$12,880,442	\$17,123,410
National magazines ¹	24,837,024	24,713,755
National farm papers	1,060,717	1,132,083
Newspapers ²	109,712,900	116,317,000
Total	\$148,491,083	\$159,346,248

¹ Publishers' Information Bureau.

² Estimated.

Non-network Advertising

Total non-network advertising rose 36.8% as compared with the third quarter of last year. Non-network advertising over clear channel and high-powered regional stations, those of more than 1,000 watts in power, increased 43.4%. Regional station advertising, stations of between 250 and 1,000 watts in power, rose 27.2%. Local station volume experienced a gain of 46.8% as compared to the corresponding quarter of the previous year.

Gains in non-network advertising over various sizes of stations during the first nine months of the current year as compared with the corresponding period of 1934 were as follows: Clear channel stations 24.6%, regional stations 16.5%, and local stations 26.0%.

Non-network volume by various classes of stations is shown in Table III.

TABLE III

NON-NETWORK BROADCAST ADVERTISING BY POWER OF STATION

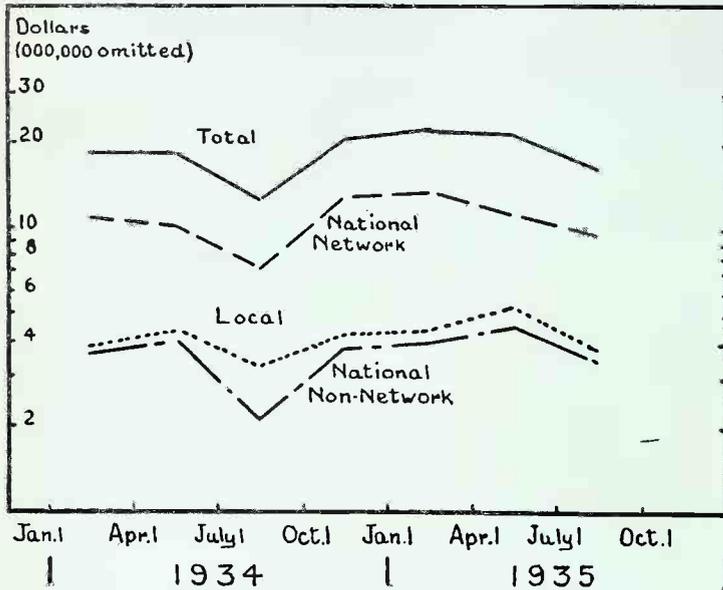
Power of Station	Gross Time Sales Third Quarter	
	1934	1935
Over 1,000 watts	\$2,244,822	\$3,219,350
250-1,000 watts	2,380,212	3,028,440
100 watts	817,590	1,200,200
Total	\$5,442,624	\$7,447,990

Non-network advertising in the South Atlantic-South Central Area was double that of the corresponding period of last year. Non-network volume in the North Central Area rose 49.1%, while that in the Pacific and Mountain Area increased 73.1%. Non-network volume in the New England-Middle Atlantic Area was 10.3% below the third quarter of 1934. Trends in the geographical distribution of non-network advertising have tended to be the same during the third quarter of the present year as they were during the preceding six months.

Non-network advertising by geographical districts is found in Table IV.

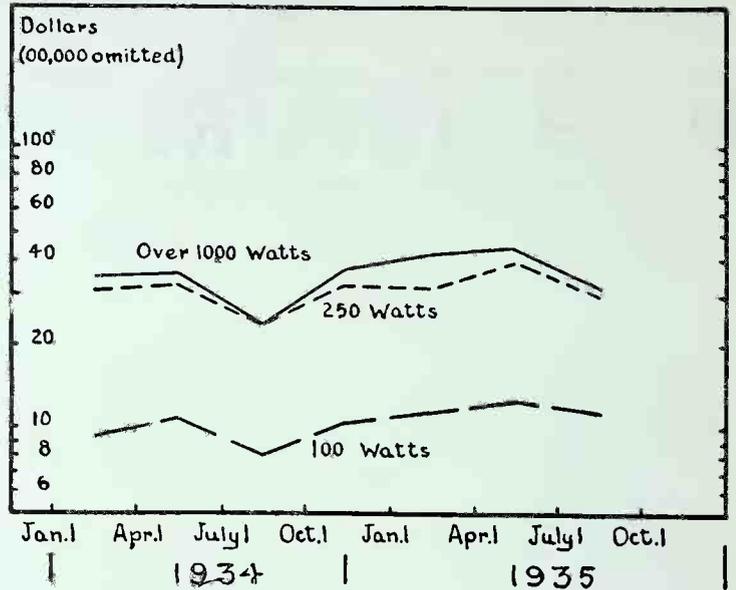
RADIO BROADCAST ADVERTISING VOLUME BY QUARTERS

January, 1934 to October, 1935



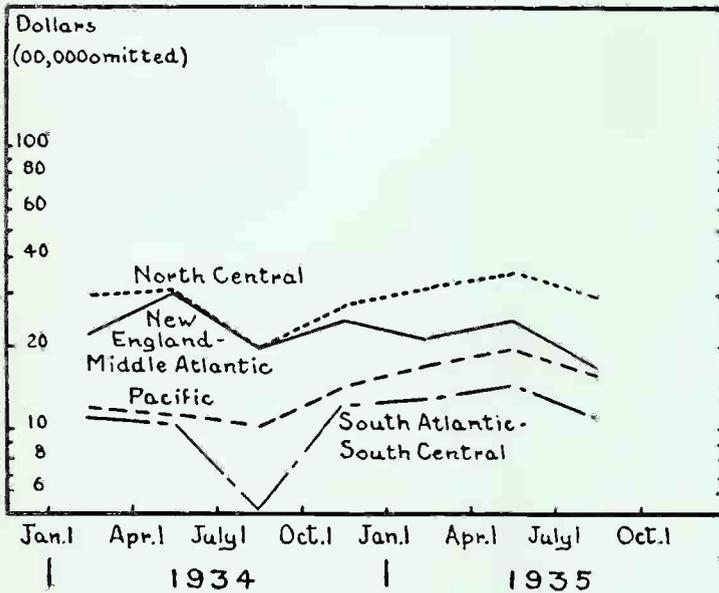
NON-NETWORK ADVERTISING BY STATION POWER (QUARTERLY)

January, 1934 to October, 1935



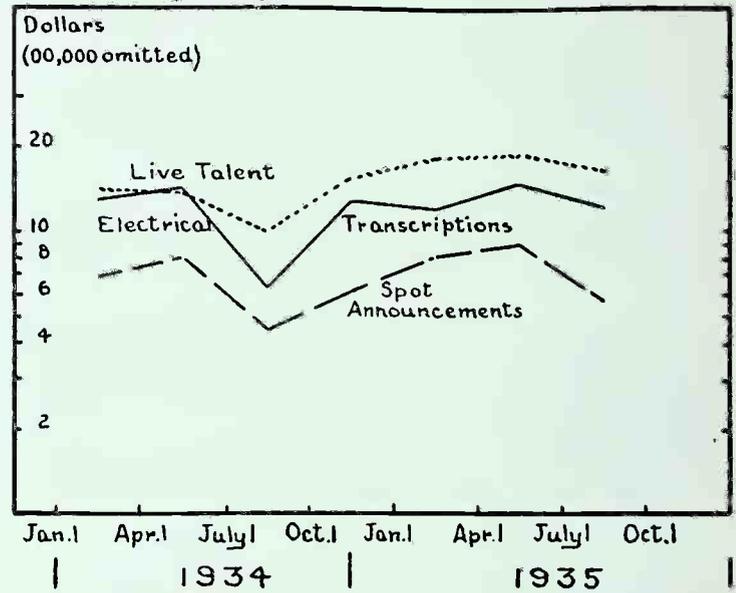
NON-NETWORK ADVERTISING BY GEOGRAPHICAL DISTRICTS (QUARTERLY)

January, 1934 to October, 1935



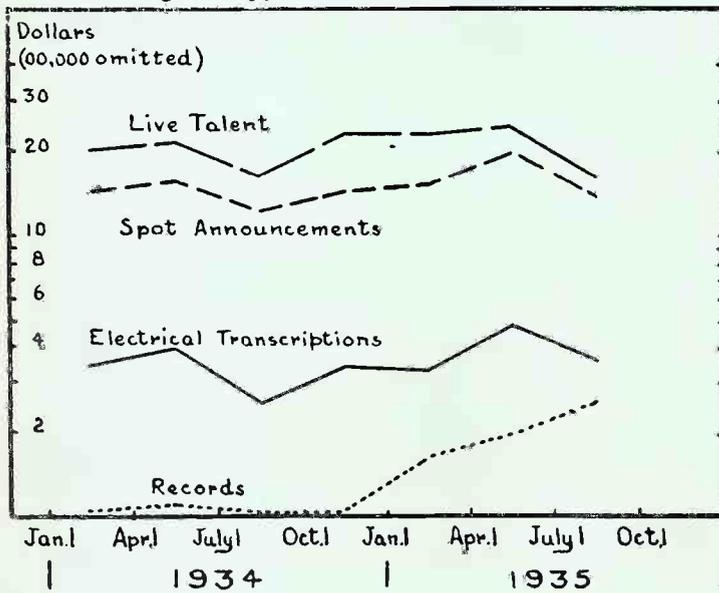
NATIONAL NON-NETWORK ADVERTISING BY TYPE OF RENDITION (QUARTERLY)

January, 1934 to October, 1935



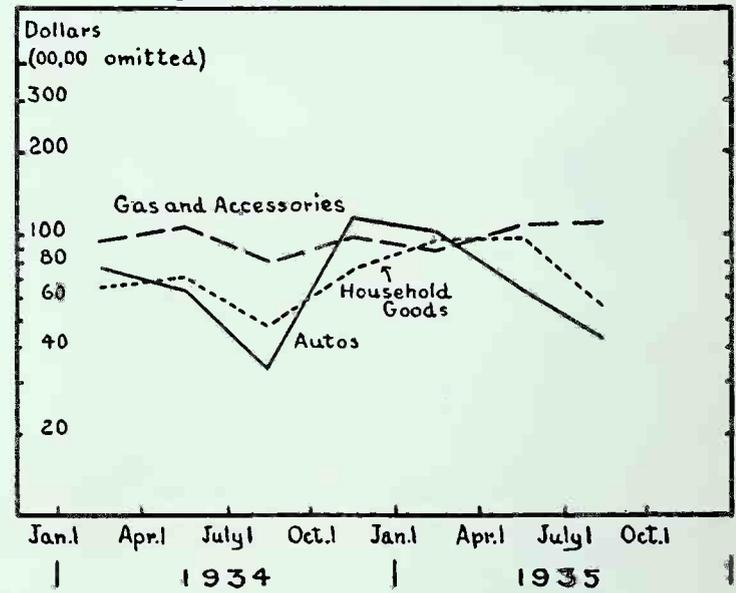
LOCAL ADVERTISING BY TYPE OF RENDITION (QUARTERLY)

January, 1934 to October, 1935

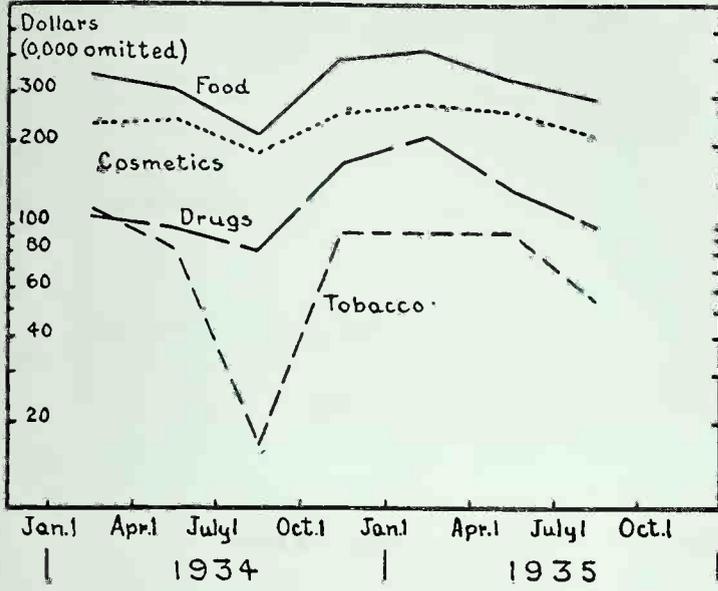


NATIONAL NETWORK ADVERTISING BY PRODUCT CLASSES (QUARTERLY)

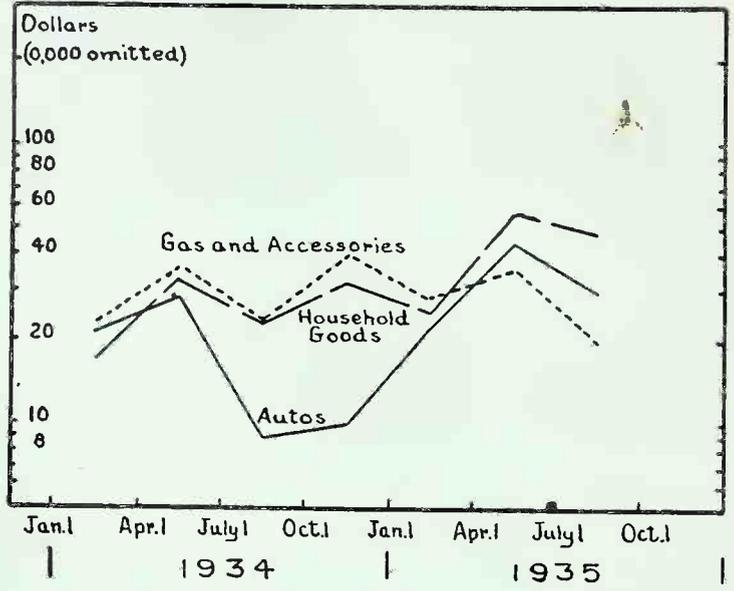
January, 1934 to October, 1935



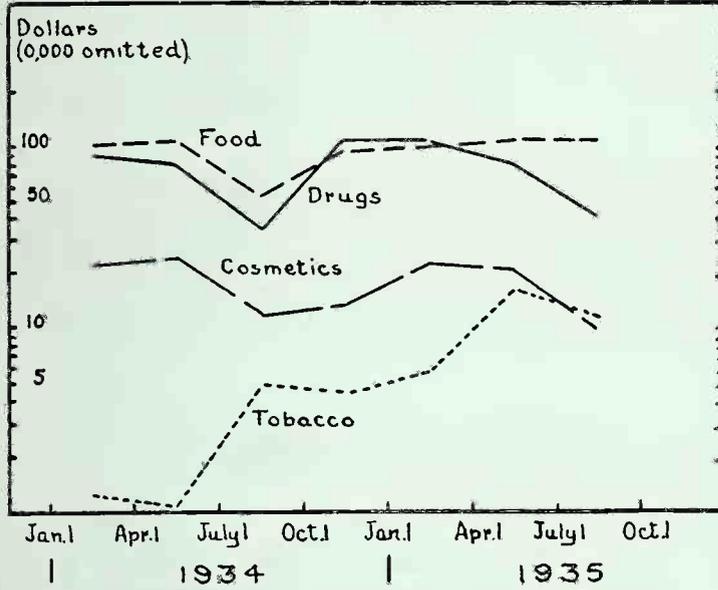
NATIONAL NETWORK ADVERTISING BY PRODUCT CLASSES (QUARTERLY)
January, 1934 to October, 1935



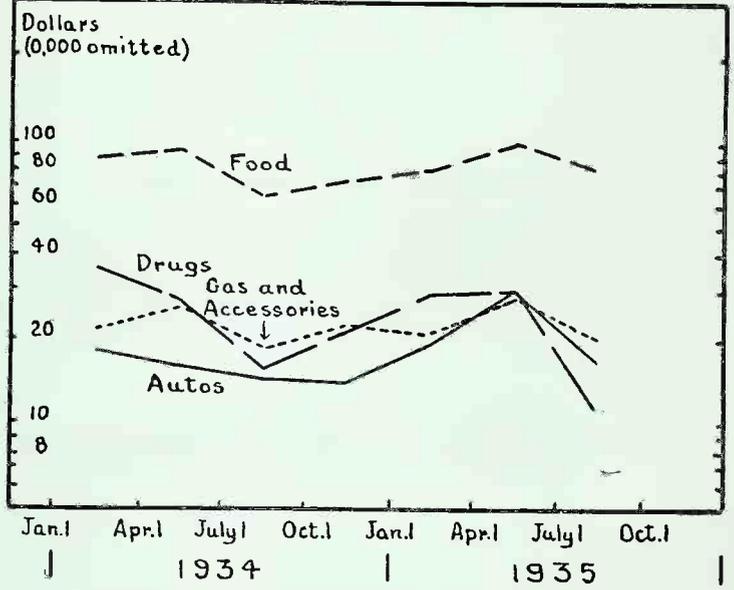
NATIONAL NON-NETWORK ADVERTISING BY PRODUCT CLASSES (QUARTERLY)
January, 1934 to October, 1935



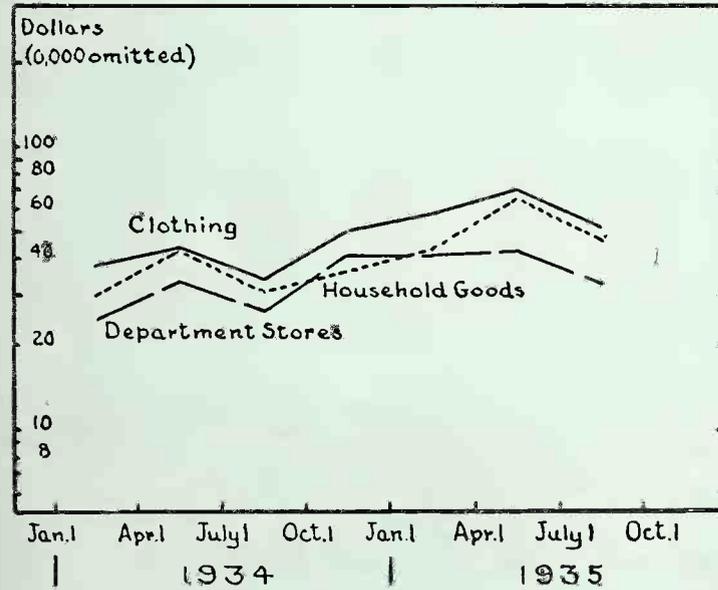
NATIONAL NON-NETWORK ADVERTISING BY PRODUCT CLASSES (QUARTERLY)
January, 1934 to October, 1935



LOCAL ADVERTISING BY PRODUCT CLASSES (QUARTERLY)
January, 1934 to October, 1935



LOCAL ADVERTISING BY PRODUCT CLASSES (QUARTERLY)
January, 1934 to October, 1935



BROADCAST ADVERTISING BY RETAIL ESTABLISHMENTS (QUARTERLY)
January, 1934 to October, 1935

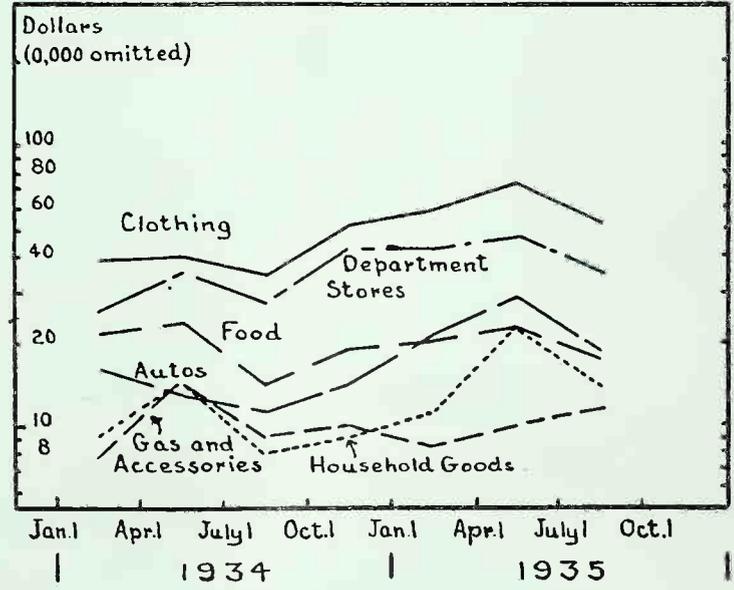


TABLE IV

NON-NETWORK BROADCAST ADVERTISING BY GEOGRAPHICAL DISTRICTS

Geographical District	Gross Time Sales Third Quarter	
	1934	1935
New England-Middle Atlantic Area	\$1,982,376	\$1,777,065
South Atlantic-South Central Area	547,696	1,102,390
North Central Area	1,973,661	2,943,600
Pacific and Mountain Area	938,891	1,624,935
Total	\$5,442,624	\$7,447,990

Advertising by Types of Rendition

Transcription and live talent volume continued to show the most marked improvement in the national non-network field. Transcription volume during the third quarter of the current year increased 93.1% over the corresponding period of 1934, while live

talent volume rose 74.7%. Announcement business increased 22.6%.

In the local field, transcription volume and record business showed the greatest increases. Transcriptions rose 46.4% as compared with the third quarter of last year, while record volume gained 85.0%. Live talent remained unchanged, while announcement business increased 24.8%.

The trends in the use of various types of rendition have caused slight changes in their relative importance in non-network advertising as compared with the first six months of the current year. During the past quarter, transcriptions represented 31.6% of national non-network volume, live talent programs 44.5%, and announcements 23.4%. In the local field transcriptions represented 9.4% of the total, live talent programs 45.2%, records 4.4%, and announcements 40.0%. In both the national and local talent fields the proportion of business accounted for by announcements increased by approximately one-tenth.

Compared with the first nine months of last year, transcription volume rose 16.2%, live talent business 23.9%, records 76.0%, and announcements 20.5%.

Details regarding broadcast advertising by various types of rendition are found in Table V.

TABLE V

NON-NETWORK BROADCAST ADVERTISING BY TYPE OF RENDITION

Type of Rendition	National Non-network		Third Quarter Gross Time Sales Local		Total	
	1934	1935	1934	1935	1934	1935
Electrical transcriptions	\$655,028	\$1,264,750	\$251,545	\$368,190	\$906,573	\$1,632,940
Live talent programs	1,019,570	1,780,765	1,719,664	1,719,860	2,739,234	3,545,625
Records	5,325	19,405	90,505	167,440	95,830	186,800
Announcements	467,852	573,825	1,233,135	1,539,565	1,700,987	2,082,625
Total	\$2,147,775	\$3,991,945	\$3,294,849	\$3,840,055	\$5,442,624	\$7,447,990

Broadcast Advertising Sponsorship

Principal developments in this field during the third quarter of the current year have been an increase in all forms of automotive advertising, a rise in national network and non-network food volume, a marked increase in national network and local household equipment advertising, decided gains in national and regional net-

work and national non-network tobacco volume, an increase in local and regional network clothing advertising, a considerable rise in national network and national non-network confectionery advertising, and in national non-network soap and kitchen supply advertising.

Volume of advertising placed by various types of sponsors is found in Table VI.

TABLE VI

RADIO BROADCAST ADVERTISING BY TYPE OF SPONSORING BUSINESS

Type of Sponsoring Business	National network		Regional network		Third Quarter Gross Time Sales National non-network		Local		Total	
	1934	1935	1934	1935	1934	1935	1934	1935	1934	1935
1a. Amusements	—	—	—	—	\$13,693	\$17,815	\$138,842	\$128,420	\$154,535	\$146,235
1-2. Automobiles and accessories:										
(1) Automobiles	\$345,479	\$436,926	—	\$1,684	91,483	507,470	147,245	178,225	584,207	1,124,305
(2) Accessories, gas and oils	813,804	1,132,201	\$39,331	38,898	257,829	208,495	185,765	211,230	1,298,739	1,590,824
3. Clothing and apparel	91,406	73,557	5,928	15,496	65,534	79,620	352,742	517,400	515,610	686,073
4-5. Drugs and toilet goods:										
(4) Drugs and pharmaceuticals	817,737	1,042,179	3,153	13,709	365,424	415,700	165,733	117,145	1,352,047	1,588,733
(5) Toilet goods	1,946,961	2,184,615	3,810	440	138,721	105,520	46,140	55,045	2,135,632	2,345,620
6-8. Food products:										
(6) Foodstuffs	1,471,439	2,208,737	28,557	61,606	419,268	892,075	474,898	536,555	1,699,954	3,698,973
(7) Beverages	690,071	605,794	12,319	3,794	105,021	197,380	179,295	263,115	986,706	1,070,083
(8) Confections	46,920	100,531	650	650	14,465	46,935	6,655	24,105	68,690	172,221
9-10. Household goods:										
(9) Household equipment and furnishings	47,883	77,692	424	18,613	88,445	126,355	292,545	466,380	429,297	689,040
(10) Soap and kitchen supplies	436,832	474,769	—	13,626	155,786	362,990	22,408	12,325	615,026	873,710
11. Insurance and financial	112,503	96,494	6,955	1,508	33,110	57,615	98,242	132,720	250,810	288,337
12. Radios	129,448	172,202	—	—	20,870	36,815	25,270	34,235	174,548	243,292
13. Retail establishments	—	—	—	860	7,030	22,670	272,399	337,370	279,429	360,900
14. Tobacco products	177,734	554,490	—	66,168	53,700	120,840	5,873	16,705	237,307	758,203
15. Miscellaneous	175,950	280,970	32,455	19,151	318,506	409,600	878,787	809,080	1,395,698	1,518,801
Total	\$7,304,237	\$9,451,157	\$133,581	\$256,203	\$2,147,775	\$3,607,935	\$3,294,849	\$3,840,491	\$12,880,452	\$17,155,350

Detailed analysis of the trends in the various fields of sponsorship is as follows:

1a. **Amusements.** A decline of 5.4% compared to corresponding period of 1934. Local down 7.5% and national up 30.1%.

1. **Automotive.** Total volume up 92.5%. National network volume up 26.5%, national non-network advertising 457.1%, and local 21.1%.

2. **Gasoline and accessories.** Total volume up 22.5% as compared to corresponding quarter of last year. National network volume up 39.1% and local 13.7%. National non-network volume down 19.1% and regional network volume 1.1%.

3. **Clothing.** Total volume up 33.0%. National network volume down 19.8%. Regional network volume up 161.4%, national non-network advertising 21.5%, and local 88.7%.

4. **Drugs and pharmaceuticals.** Total volume up 17.5%. National network volume up 27.4%, regional networks 334.8%, and national non-network 13.8%. Local advertising down 29.3%.

5. **Toilet goods.** Gain in total volume over third quarter of last year 9.8%. National network volume up 12.2% and local advertising 19.3%. National non-network advertising down 23.9%, with material decline in regional network volume.

6. **Foodstuffs.** Total volume up materially. Gains in various portions of the medium as follows: National networks 50.1%, regional networks 117.9%, national non-networks 112.8%, and local 13.0%.

7. **Beverages.** An increase of 8.4% in total volume. National non-network advertising up 87.6% and local 46.8%. National network volume down 12.2% and regional network volume down 69.2%.

8. **Confectionery.** National network volume increased 114.3%, while national non-network and local advertising more than doubled.

9. **Household equipment.** Total volume increased 60.5% over corresponding quarter of last year. National network volume rose 62.5%, national non-network advertising 42.9%, and local advertising 59.4%. Regional network volume increased very materially.

10. **Soaps and kitchen supplies.** Total volume increased 42.1%. National network advertising rose 8.7% and regional volume increased materially. National non-network advertising increased 133.1%, while local volume dropped 45.1%.

11. **Insurance and financial.** Total volume increased 15.0% as compared with the third quarter of last year. National network volume dropped 14.3% and regional advertising declined materially. National non-network volume rose 74.0%, while local increased 35.1%.

12. **Radio.** National network and local volume rose approximately one-third, while national non-network volume increased 80.0%.

13. **Department and general stores.** Total volume in this field increased 29.2% as compared with the third quarter of last year. Local volume rose 23.9% and national volume 222.5%.

14. **Tobacco products.** National network volume increased 215.9% as against the third quarter of 1934. National non-network advertising increased 125.0%, while regional network volume rose materially.

15. **Miscellaneous.** Total volume increased 8.8%. National

network volume rose 59.7%, national non-network advertising increased 28.6%, while local volume dropped 7.9%.

Retail Broadcast Advertising

Total retail broadcast advertising over the period increased 47.6% as compared to the preceding year. Principal gains were as follows: Automotive, 61.3%, gasoline and accessory retailers, 37.4%; clothing and apparel shops, 45.0%; restaurants and eating places, 25.0%; beverage retailers, 169.6%; household equipment dealers, 92.1%; furniture stores, 83.9%; and hardware stores, 49.0%.

Retail broadcast advertising volume is found in Table VII.

**TABLE VII
RETAIL ADVERTISING OVER INDIVIDUAL STATIONS**

<i>Type of Sponsoring Business</i>	<i>Gross Time Sales Third Quarter</i>	
	<i>1934</i>	<i>1935</i>
Automobiles and accessories:		
Automobile agencies and used car dealers	\$117,256	\$189,025
Gasoline stations, garages, etc.....	91,793	126,045
Clothing and apparel shops.....	361,230	523,860
Drugs and toilet goods:		
Drug stores	22,379	45,700
Beauty parlors	13,958	22,830
Food products:		
Grocery stores, meat markets, etc.....	100,988	108,225
Restaurants and eating places.....	50,568	63,191
Beverage retailers	2,339	6,270
Confectionery stores, etc.....	3,942	3,374
Household goods:		
Household equipment retailers.....	81,020	155,640
Furniture stores	132,844	244,210
Hardware stores	30,068	44,730
Radio retailers	20,577	31,248
Department and general stores.....	279,429	360,900
Tobacco shops	2,615	580
Miscellaneous	131,470	198,020
Total	\$1,438,606	\$2,123,858



The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.
 JAMES W. BALDWIN, Managing Director

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Auburn Automobile Company, Auburn, Ind. (2-1736, Form A-2)
Seaboard Finance Corporation, Washington, D. C. (2-1737, Form A-1)
Chlorlyptus Chemical Company, Inc., York, Pa. (2-1740, Form A-1)
F. E. Wisecup, trustee, San Angelo, Texas. (2-1741, Form A-1)
Harris, Hall & Company, Chicago, Ill. (2-1742, Form A-1)
Keystone Steel & Wire Company, Peoria, Ill. (2-1743, Form A-2)
Menasco Manufacturing Co., Los Angeles, Calif. (2-1744, Form A-1)

SOUND ON DISK TRANSCRIPTIONS NOT TAXABLE

A decision has just been rendered by the Bureau of Internal Revenue, Treasury Department, in connection with Title IV of the manufacturers excise tax law of 1932 in which it has been held that "electrical transcriptions used for broadcasting purposes and motion picture records of the 'sound on disk' type are not taxable as 'records for phonographs.'" In this connection the Bureau has issued the following official statement:

"Inquiry is made whether electrical transcriptions used for broadcasting purposes and motion-picture records of the 'sound-on-disk' type are subject to tax as 'records for phonographs' under section 607 of the Revenue Act of 1932, which imposes a tax on certain articles (including 'records for phonographs') sold by the manufacturer, producer, or importer.

"In S. T. 550 it was held that electrical transcriptions used by broadcasting systems are records for phonographs and taxable as such under the law; and in S. T. 651 the conclusion was reached that motion-picture records of the 'sound-on-disk' type also come within the general class of records for phonographs. Reconsideration of those decisions is requested.

"At the time section 607 was enacted the word 'phonograph' had acquired a definite meaning both in the minds of the public and in judicial decisions and it is to be assumed that Congress had that meaning in mind and used the word in that sense when it enacted this provision. As was stated in *Kepner v. United States* (195 U. S., 100), 'It is a well-settled rule of construction that language used in a statute which has a settled and well-known meaning, sanctioned by judicial decision, is presumed to be used in that sense by the legislative body. * * *'

"According to the Encyclopedia Britannica the phonograph is an instrument for reproducing sound by transmitting to the air the mechanical vibrations of a stylus in contact with a sinuous groove in a moving record. Less specifically, the term designates any instrument for the recording or subsequent reproduction of sound. Congress in imposing a tax on 'records for phonographs' could not have had in mind this general definition of the word 'phonograph.' If such were the case, all records embodying the principle of the phonograph would be taxable, including motion-picture records of the sound-on-disk type, records made by police departments in gathering evidence, records of public statements for use in the event of a libel or slander suit, and many more uses to which the phonographic principle of sound recordation and reproduction is put. Technically, the machines which record sound as well as those which reproduce it are phonographs, but from a consideration of the language of section 607, it is evident that Congress had in mind only the machines which reproduce the sound. Such a machine has a revolving turntable, a sound-arm holding a diaphragm in which is fastened a needle or jewel, and a sound-box or horn. The word 'phonograph,' according to its ordinary meaning as well as its technical meaning, does not include the equipment used in broadcasting studios, but refers to those instruments which, prior to the advent of the radio, were ex-

JETT NAMED ACTING CHIEF ENGINEER

At a General Session of the Commission November 6, Lt. E. K. Jett was designated Acting Chief Engineer to succeed Dr. C. B. Jolliffe, who has resigned, effective November 12, 1935.

Lieutenant Jett has been identified with communications for 20 years, having served in the Navy 18 years and with the former Radio Commission and this Commission for the past 7 years. He has been serving as Assistant Chief Engineer since September, 1931, having charge of radio services other than broadcasting. Since the creation of the Communications Commission, wire telegraph services, including submarine cables, have been added to his duties.

PART OF COMMISSION MOVES

Several divisions of the Federal Communications Commission have again been forced to move owing to the fact that the Interstate Commerce Commission needed additional room in its own building where some divisions of the Communications Commission were housed.

The following divisions of the Communications Commission have been moved to the old Barber & Ross building, corner 11th and G Streets, Northwest: Examiners' accounting, and the engineering division of the special investigation of the telephone companies; and international accounts division.

The accounting division of the special investigation of the telephone investigation has been moved to the Washington Star Building, corner 11th and Pennsylvania Avenue, Northwest. The legal division of this investigation will be moved there shortly.

NEW YORK CASE DISMISSED WITHOUT PREJUDICE

Willis T. Shaughnessy applied to the Federal Communications Commission for a construction permit to erect a new station in New York City using 1370 kilocycles, 100 watts power, and unlimited time on the air.

Examiner John P. Bramhall, in Report No. I-132, has recommended that the application be dismissed without prejudice. When the case came on for hearing counsel for the applicant asked that the application be dismissed. The Examiner found that no one but the applicant had incurred any expense in connection with the hearing.

SECURITIES ACT REGISTRATION

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

- Colon Oil Corporation's Committee, New York City. (2-1727, Form D-1)
- Great Southern Morgan Coal & Coke Mining Corp., Richmond, Va. (2-1728, Form A-1)

CONGOIN

The Lockwood-Shackleford Company has advised a member that an agreement has been reached whereby they would proceed with the sale of Congoin and that this product would be marketed by a new company to be known as the Quality Food Company.

An inquiry has been received concerning the matter. The matter has been investigated at the Pure Food and Drugs Section of the Department of Agriculture, the Office of the Solicitor for the Post Office Department and the Federal Trade Commission. Mr. George L. Larrick of the Pure Food and Drugs Section of the Department of Agriculture has authorized me to say that in so far as the Pure Food and Drug laws are concerned Congoin or Yerba Mate may with propriety be advertised as a palatable and refreshing beverage; that advertising copy of this product may properly dwell upon its romantic features involving its use over many years by people in South American countries; and that the advertiser may properly speak of the millions who use it as a beverage of choice. Mr. Larrick further advised that in so far as the Pure Food and Drug laws were concerned no claims should be made for its medicinal value.

It was learned from the Office of the Solicitor for the Post Office Department that there has been no modification of the fraud order issued against the Congoin Company. It was also learned that one of the assignees of the Congoin Company, a Mr. Parr, has been advised that the Post Office Department is without authority of law to give its approval to any plan of business proposed to be operated through the mails; and that in the event the Department receives evidence showing the Congoin scheme heretofore found fraudulent is continued under some new name it will be necessary to extend the fraud order to cover the new name employed.

Investigation of the matter at the Federal Trade Commission showed that no complaint had been issued against the Congoin Company, as of November 14.

Members will observe the conflict between the Pure Food and Drugs Section of the Department of Agriculture and the Post Office Department. Whereas the Department of Agriculture finds that Congoin or Yerba Mate may properly be advertised as a beverage, the Post Office Department apparently will not permit the sale of this product in any manner which can benefit from the advertising heretofore employed by the Congoin Company. Further, it was found that instead of employing the name "Quality Food Company" as described by the Lockwood-Shackleford Company, the assignees are using instead the name "Popular Food Products Company, successor to the Congoin Company."

JAMES W. BALDWIN,
Managing Director.

tensively used in homes to reproduce sound mechanically from records designed for use on such instruments, i. e., ordinary phonograph records, or to use the language of the Act, 'records for phonographs.'

"There is strong and ample judicial authority for the view that for the purposes of the excise tax the Bureau should ascertain the commercial significance of the words 'records for phonographs' and construe them accordingly. (*American Net & Twine Co. v. Worthington*, 141 U. S., 468; *Sonn v. Magone*, 159 U. S., 417; *Philadelphia Storage Battery Co. v. Lederer*, 21 Fed. (2d), 320.) From evidence submitted it is obvious that in the industry concerned a very definite distinction is made between phonograph records and electrical transcriptions and that the latter are not commercially known as 'records for phonographs.'

"The phrase 'records for phonographs' used in the Act also indicates that *use* is the criterion. In other words, not all records are taxable but only those *for phonographs*. The courts have frequently had occasion to determine tax questions which turn on the use of the

article to be taxed. A long line of cases has consistently held that where use is the criterion, the chief use of an article, not the exclusive use, controls. The leading case on this point is *Magone v. Wiederer* (159 U. S., 555). Applying this principle to the present inquiry, it is clear that the chief use of phonograph records or 'records for phonographs' is in connection with those instruments which are technically, commonly, and commercially known as phonographs and the fact that phonograph records are also used for broadcasting purposes does not change the nature of their chief use.

"In view of the foregoing, it is held that electrical transcriptions for broadcasting purposes and motion-picture records of the 'sound-on-disk' type are not 'records for phonographs' within the meaning of section 607 of the Revenue Act of 1932 and are not subject to tax under that section. Those records which are commonly and commercially known as phonograph records, even though they are frequently played over the radio, are nevertheless 'records for phonographs' and are taxable as such.

"S. T. 550 (C. B. XI-2, 477) is revoked and S. T. 651 (C. B. XII-1, 399) is modified to accord with the views expressed herein."

RECOMMENDS DISMISSAL OF WBHS CASE

Broadcasting Station WBHS, Huntsville, Ala., applied to the Federal Communications Commission for a license renewal. The station operates on a frequency of 1200 kilocycles, 100 watts power and shares time with WFBC.

Examiner P. W. Seward, in Report No. I-133 has recommended that the application be dismissed. The Examiner states in his report that the case was heard and evidence submitted but on "November 7, 1935, a motion by the applicant was filed with the Examiner, asking permission to withdraw and dismiss the application."

STEWART ASKS CHAIN BROADCASTING SURVEY

At a recent meeting of the Federal Communications Commission en banc, the following motion by Commissioner Stewart was referred to the Broadcast Division for consideration and report to the Commission;

"I move that the Broadcast Division be directed to report to the Commission (a) whether in its opinion the Commission should adopt special regulations under section 303 (i) of the Communications Act for the regulation of chain broadcasting and (b) in the event that the adoption of such special regulations is believed by that Division to be desirable, the proposed text of such regulations.

"In support of the motion I wish to call attention to the following:

1. At the time it provided for clear channels (General Order No. 40, August 30, 1928) the Federal Radio Commission said: '* * * 40 channels will be assigned to stations with minimum power of 5,000 watts and a maximum to be determined by the Commission and announced with the allocation. On these forty channels only one station will be permitted to operate at any time during night hours, thus insuring clear reception of the station's program, up to the extreme limit of its service range.'
2. The following statement was made by the Federal Radio Commission on July 2, 1930: 'As amended, it (General Order No. 40) provides for a certain number of high power stations on interference-free channels to serve rural and sparsely settled areas over long distances under favorable conditions.'
3. The population and area of the United States dependent for broadcasting service at night on the secondary coverage of clear channel stations is shown on the following table:

Zone	Percentage of population within secondary coverage	Percentage of area within secondary coverage
First	24.0	57.3
Second	27.6	60.4
Third	56.8	70.4
Fourth	33.6	70.0
Fifth	35.4	90.38
United States	35.8	76.7

These figures are as of December 1933, but there has been little change in the situation since they were compiled.

4. The programs available at night to this 35.8% of the population of the United States who reside in 76.7% of its area are therefore those offered by clear channel stations; and their program selection is largely limited to those carried by such stations.
5. The present situation of clear channels (night time) with respect to chain programs is:

No. of clear channels	No. with NBC Network stations	No. with CBS Network stations	No. with MBS Network stations	No. having no chain stations.
40	26 ^{a b}	12 ^b	3 ^a	1

^a One station included on both NBC and Mutual.

^b One channel has both CBS and NBC stations.

6. Duplication of programs on clear channel stations reduces the value of clear channels to persons dependent on secondary service (for whom the channels were set apart) and tends to defeat the announced purpose in the establishment of clear channels."

KDKA COPYRIGHT DECISION

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Equity No. 3057

Olga Arline Jurasovic,

v.

National Broadcasting Company, Inc., and Radio Broadcasting Station KDKA

Findings of Fact, Conclusions of Law and Opinion

MC VICAR J.

October 29, 1935

The plaintiff, in her Bill of Complaint, prays for an injunction to restrain the defendants from infringing her copyright to a musical composition, also for an accounting. After hearing, the Court makes the following findings of fact and conclusions of law.

Findings of Fact.

1. The plaintiff is a citizen of the United States and a resident of New Brighton, County of Beaver, and State of Pennsylvania.
2. The defendant, the National Broadcasting Company is a corporation organized and existing under the laws of the State of Delaware, and a citizen of said State. The Radio Broadcasting Station KDKA is a subsidiary of the Westinghouse Electric and Manufacturing Company.
3. That plaintiff is the original composer of her composition "You Nasty Man," Exhibit "6."
4. The plaintiff began on her composition as early as November 15, 1933, and completed and performed the same musically as early as November 24, 1933.
5. That plaintiff duly deposited an unpublished copy of her composition entitled "You Nasty Man," like Exhibit "6," with the Register of Copyrights and was granted a certificate of copyright thereon on December 5, 1933, No. 79655.
6. Plaintiff sent a copy of her composition Exhibit "6" in a letter addressed to Joe Penner, to an address furnished by the plaintiff. She received a reply signed "Joe Penner" in which plaintiff was advised that, he, Penner, could not use the musical composition of plaintiff Exhibit "6."
7. That station KDKA was authorized and operated under the jurisdiction of National Broadcasting Company.
8. That for many months prior to October 18, 1933, and thereafter, Joe Penner had originated, and had been the first to use, and had made constant use of, the catch-phrase "Oh, you nasty man," in broadcasting his radio entertainment; that said catch-phrase had become very popular, particularly, because of the peculiar intonation used by said Penner, and had become identified with said Penner as his distinguishing mark, and had acquired a secondary meaning with the public as denoting Joe Penner's radio program.
9. That on or about November 12, 1933, plaintiff received the inspiration to write the lyrics of a musical composition and set music thereto and to entitle the same "You Nasty Man." That plaintiff had on said date heard said Joe Penner broadcast his radio entertainment, and had heard him use the catch-phrase "Oh, you nasty man," and said catch-phrase served as the inspiration to plaintiff for the writing and composition of her song; that after

said date, plaintiff wrote the lyrics and composed the music of her song "You Nasty Man."

10. That plaintiff played her song at one or two private entertainments. That on or about December 2, 1933, plaintiff played her said song privately for the entertainment of her friends, among whom were: Grace McDanel, Iris Kaufman, Hannah Smith, Geraldine Smith and Florence Irwin, who testified on this trial as witnesses in her behalf.

11. That plaintiff's song was never published. That with the exception of one or two private performances given at parties which plaintiff attended and where she played her said song, the same was not performed for profit to the public; that plaintiff did not expend any monies to advertise her song; and her said song did not acquire any good-will, fame or celebrity; and no secondary meaning was ever attached to plaintiff's song, and plaintiff made no use of the title of her said song "You Nasty Man," and the said title did not become exclusively identified to the public with plaintiff's song; and there has been no exclusive and continued user, at any time, by plaintiff of the title of her said song.

12. That Irving Caesar and Jack Yellen are authors of many years' experience and reputation, who have composed lyrics for musical compositions for many popular songs. Ray Henderson is a well-known composer, who has composed the music of many popular songs. All three have written and composed the lyrics and music, respectively, for successful musical comedies and stage productions.

13. That in the summer of 1933, one George White, a successful producer of musical plays, undertook to stage and produce a musical motion picture entitled "George White's Scandals," for the Fox Film Corporation, a prominent picture producing company, for representation on the screen.

14. That on October 18, 1933, said George White entered into a contract in writing with Irving Caesar, wherein and whereby White employed Caesar to write the lyrics for said motion picture "George White's Scandals," and White, Caesar, Yellen and Henderson worked on the script of said motion picture in October, 1933, and said script had a spot or cue at page 7 thereof, indicating that the song "Nasty Man," composed by Caesar, Yellen and Henderson, was to be sung at that point.

15. That prior to December 1933, Irving Caesar, in collaboration with Jack Yellen, wrote the lyrics for the musical compositions to be performed in the motion picture "George White's Scandals," and in particular, they wrote the lyrics of a musical composition to be performed in said motion picture, which they entitled "Nasty Man." That at said time said Ray Henderson composed the music for the musical compositions to be performed in said motion picture "George White's Scandals," and in particular, he collaborated with said Caesar and Yellen in composing the music of said musical composition "Nasty Man."

16. That the lyrics and music of said musical composition "Nasty Man" were, respectively, new and original with said Caesar, Yellen and Henderson, and said musical composition "Nasty Man" was a new and original work, and neither Caesar nor Yellen nor Henderson, in October of 1933, had ever seen or heard of the plaintiff's composition entitled "You Nasty Man."

17. That the song "Nasty Man" was completed by Caesar, Yellen, and Henderson prior to December 18, 1933.

18. That between October 18, 1933, and Easter Week of 1934, said motion picture "George White's Scandals" was produced by said White for the Fox Film Corporation, and during Easter Week of 1934, said picture was released for public exhibition by the Fox Film Corporation; that among the musical compositions performed in said picture was the musical composition "Nasty Man," written and composed by said Caesar, Yellen and Henderson, which was sung by an artist named Alice Faye; that said composition was designed to fit into the fabric of the manuscript of the picture.

19. That after the writing and composition of the musical composition "Nasty Man," said Caesar, Yellen and Henderson assigned to the Movietone Music Corporation their right, title and interest in said musical composition, together with the right to secure copyright therein; that on March 10, 1934, said Movietone Music Corporation published said musical composition "Nasty Man," and promptly after publication, said Movietone Music Corporation deposited two copies of said musical composition, having imprinted thereon, on the first page of music, the following notice: "Copyright 1934, by Movietone Music Corporation," with the Register of Copyrights, at Washington, D. C., together with a claim for copyright registration, and paid the fee required by law; and said Register of Copyrights thereupon registered said work for copyright and issued a certificate of registration thereof to said Movietone Music Corporation, which is now the proprietor of the copy-

right in said musical composition (Deft. Ex. "H," certificate of copyright registration of "Nasty Man").

20. That on or about February 25, 1934, the defendant herein, under license duly issued to them by the Movietone Music Corporation, performed said musical composition "Nasty Man" (copyrighted by Movietone Music Corporation) in the studio of the defendant KDKA, located at Pittsburgh, State of Pennsylvania. That said performance was by one Joe Penner, a well-known and popular radio entertainer, who sang said musical composition at said time and place. That said performance was broadcast over the air by said defendants at said time and place.

21. That the lyrics of the song "Nasty Man," copyrighted by the Movietone Music Corporation, have no substantial similarity to the lyrics of plaintiff's song, except that in each song the phrase "nasty man" or "oh, you nasty man" recurs a number of times.

22. That plaintiff never knew said Caesar, Yellen and Henderson or White or the Movietone Music Corporation, or had ever sent them or any of them a copy of her song, or in any way communicated with them in 1933; and said Caesar, Yellen, Henderson, White and Movietone Music Corporation, at no time, had any knowledge or information regarding plaintiff's song and were not aware of its existence, and had acquired no access thereto.

23. That the melody of plaintiff's song is not similar to the melody of the song "Nasty Man," copyrighted by the Movietone Music Corporation, either in the introduction, verse or chorus.

Conclusions of Law

1. That plaintiff has not made any use of the title "You Nasty Man," and said title has acquired no secondary meaning with respect to plaintiff's song, and she has acquired no exclusive right to the title "You Nasty Man," or any title similar thereto, for a musical composition.

2. That the defendants have not infringed upon the plaintiff's song "You Nasty Man."

3. The bill should be dismissed, plaintiff to pay the record costs.

Opinion

McVicar J.:

A discussion of the law on the subject whether the alleged infringing composition infringed the musical composition of the plaintiff as to lyrics or melody is not necessary in view of the Court's findings of fact. As I understand it, both parties agree that there would be no infringement if the Court's findings are correct. I am of the opinion from the evidence of the plaintiff, and the evidence of the defendants, and the playing of the two compositions in open Court on the piano, that the findings are sustained by the evidence.

Plaintiff and the authors of the alleged infringing composition seem to have produced their inspiration as to the title from the use of the words "Nasty Man" and "You Nasty Man" by Joe Penner on the radio for a considerable period of time before either composition was composed. The copyright laws do not extend to the title. *Glaser v. St. Elmo*, 175 Fed. 276; *Weldon v. Dicks*, L. R. 10 Ch. Dic. 247; *Estes v. Williams*, 21 Fed. 189; *Harper v. Ranous*, 67 Fed. 904; *Corbett v. Purdy*, 80 Fed. 901; *Black v. Ehrich*, 44 Fed. 793; *Dicks v. Yates*, L. R. 18 Ch. Div. 76; *Osgood v. Allen*, Fed. Cas. No. 10603; *Copinger's Law of Copyright*, 4th Ed., p. 64; 9 Cyc., p. 928.

Courts of equity, however, may protect the title on the theory of unfair competition. *Robertson v. Berry*, 60 Md. 591; *Frohman v. Miller*, 8 Misc. (N. Y.) 379; *Broadhurst v. Nichol, Australia* (N. S. W.) 37 R. 147. Such protection will not be afforded unless the title has acquired a secondary meaning. *Broadhurst v. Nichol*, supra; *Columbia Mill Co. v. Alcorn*, 150 U. S. 460; *Caswell v. Hazard*, 121 N. Y. 484. Priority in use is the test. *George v. Smith*, 52 Fed. 830. A mere deposit of the work and title in the office of the Register of Copyrights is not actual user. *Dickey v. Mutual Film*, 160 N. Y. Supp. 609; *Benn v. Leclercq*, 3 Fed. Cas. No. 1308.

Let a decree be prepared and submitted in accordance with the foregoing findings of fact, conclusions of law and this opinion.

ARIZONA TAX COMMISSION CONSIDERS RADIO BROADCASTING AN INTERSTATE TRANSACTION

The Arizona Tax Commission has advised Richard Lewis, Secretary, Arizona Association of Broadcasters, that radio broadcasting has been considered an interstate transaction and that there is no sales tax on radio broadcasting. The text of the letter addressed

to the Arizona Tax Commission by the Arizona Association of Broadcasters and the letter received by Mr. Lewis from the State Tax Division follow:

"June 3, 1935.

"Arizona Tax Commission,
Phoenix, Arizona.

"Gentlemen:

"The Arizona Association of Broadcasters respectfully calls your attention to the fact that after giving the matter considerable study, and holding a number of meetings and receiving the opinions of attorneys, they have reached the conclusion that Chapter 77, Session Laws, Twelfth Legislature, 1935, is unconstitutional insofar as it attempts to require licenses for broadcasting stations, and to impose a tax on so-called advertising revenue.

"Your attention is respectfully directed to Section 7 of the Act itself, wherein it is specifically set forth that the Act shall not be construed to apply to interstate commerce transactions.

"We invite your attention to the Federal statutes and regulations concerning broadcasting stations. By the law known as the 'Federal Radio Act of 1927', and the later act commonly called the 'Communications Act of 1934', broadcasting is brought within the jurisdiction of the Federal Communications Commission, and no station is allowed to operate without a Federal license. The station power, the permitted channels, the hours of operation—in fact, every step in connection with the operation of a broadcasting station, is specifically controlled by a Federal Communications Commission, acting under the laws above cited. Every radio broadcasting station receives a Federal license; every broadcasting station is required to accept and receive certain types and classes of broadcasting, to hold its station open for certain types of broadcasting, and is forbidden to broadcast certain matters forbidden by the Federal Communications Commission. In other words, every broadcasting station in Arizona operates under a Federal license, and under strict regulations specifying the manner in which it must operate, in detail.

"Without quoting from numerous cases, it can fairly be said that it has been the uniform rule of construction, in Federal as well as the State courts, that radio communication is interstate commerce. As you may know radio listeners in many parts of the country outside the State of Arizona receive programs from Arizona stations and many of these listeners depend for prime service on Arizona radio stations. Theoretically the waves travel and serve listeners unknown distances—certainly beyond the state lines of Arizona, and even into foreign countries. This has been pointed out over and over again in court decisions, and in 21 Fed. 2d, page 787, in the case of *Whitehurst v. Grimes*, the United States District Court of Kentucky said:

"'Radio communications are all interstate. This is so, though they may be intended only for intrastate transmission.'

"The Supreme Court of the United States, in *Radio Commission v. Nelson Bros.*, 289 U. S. 266, among other things said:

"'No state lines divide radio waves. National regulation is not only appropriate, but essential.'

"In another case, *American Bond and Mtg. Co. v. U. S.*, 52 Fed. 2d, 318, the Federal Court held that the power to regulate broadcasting stations was within the express, delegated power to Congress to regulate interstate commerce.

"We speak for all the broadcasting stations in Arizona. The issue here presented seems so clear that it should be unnecessary to force us to the expense of testing this matter in court. Today, and in the future, the people of the State of Arizona, will continue to find greater need for our broadcasting stations, and bear in mind, that if any broadcasting station in Arizona is compelled to close, it does not mean only that some small individual or company has failed financially, but it means that broadcasting in Arizona has lost just that much of its actual rights. The various channels in broadcasting which have been assigned to the United States of America are already overfilled. Shortly it will be utterly impossible for a new station to secure a Federal license by reason of crowded channels. We believe that our position in this matter is not only absolutely just and in accordance with the laws under which we operate, but we believe that in all fairness, the Commission should decide this matter without making it necessary to resort to litigation.

"We request your careful consideration of this matter.

Very truly yours,

ARIZONA ASSOCIATION OF BROADCASTERS,
By (Signed) EARL NEILSEN,

President."

"October 21, 1935.

"Richard Lewis,

Secy. Arizona Association of Broadcasters,
C/o KTAR,
Phoenix, Arizona.

"My dear Mr. Lewis

"Please be advised that radio broadcasting has been considered by the State Tax Commission an interstate transaction. Therefore, there is no sales tax on radio broadcasting.

Very truly yours,

(Signed) A. L. FREES,

Director Sales Tax Division."

ALF/G

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2602. Unfair competition through use of false, fictitious and inflated price marks is alleged in a complaint against **Englander Spring Bed Company, Inc., of Chicago, Boston and Brooklyn.** This practice tended to unfairly divert trade from competitors, according to the complaint.

No. 2603. Unfair competition in the sale of cigars is alleged in a complaint issued against **El Moro Cigar Company, of Greensboro, N. C.,** a manufacturer selling and distributing to dealers in various parts of the United States, but particularly in North and South Carolina, Georgia, Florida, Virginia and Maryland.

According to the complaint, the respondent labeled its cigars as "Havana Counts" when they did not contain tobacco grown on the island of Cuba, and as "Rees' Famous Take-Outs" when they were not that type of cigar commonly known as a "throw-out" or "take-out," but, according to the complaint, were manufactured from a grade of "scrap" tobacco to be sold at two for five cents, in simulation of a throw-out or take-out.

No. 2604. Selling incandescent lamps for general lighting purposes, the **Lednew Corporation, of New York City,** is charged in a complaint with misrepresenting the number of watts and the amount of lumens of light produced by its lamps. This had a tendency to deceive wholesale and retail dealers and the consuming public, and to unfairly divert trade to the respondent's competitors, according to the complaint.

No. 2605. A complaint has been issued against **Acme Cotton Products Co., Inc.,** of 245 Fifth Avenue, New York City, alleging unfair representation in the sale of absorbent cotton, in that its product was advertised as "Sterilized," "Aseptic," or "Purified," when in fact it was not free of bacteria at the time of final packaging. This practice was alleged to be unfair competition with manufacturers who truthfully represent their products.

No. 2606. Unfair competition in the sale of candy through placing in the hands of others the means of conducting lotteries, is alleged in a complaint against **Savage Candy Company, of Denver, Colo.**

The respondent is given until Friday, December 6, to show cause why the Commission should not issue against it an order to cease and desist from the practices alleged.

No. 2607. Alleging the use of a lottery scheme in selling radio sets, fountain pen and cocktail sets and other merchandise, a complaint has been issued against **J. K. Levy, alias J. K. Lee, and David Levy, co-partners, of 130 North Wells Street, Chicago,** trading as **Levore Company,** and **J. K. Levy, alias J. K. Lee,** individually.

The complaint says the Levore Company represented that distributing agents could make big money "giving away these wonderful radios," but that in fact the respondent did not give away radios or any merchandise.

No. 2608. A complaint has been issued against **Hec Barth, of Chicago,** a dealer in beautifying preparations, trading as **Hec Barth Laboratories and Dark Eyes Laboratories.**

The respondent is alleged to have represented that he owned and operated a laboratory, and that the product he sold gave permanent beauty, and was a permanent darkener and was safe and harmless to use, when, in fact, according to the complaint, these assertions were not true.

No. 2609. Alleging unfair competition in the sale of trousers, a complaint has been issued against **Stetson Pants Co., 212 East Eighth Street, Cincinnati.**

Among practices alleged are representations that the company's merchandise goes directly from the manufacturer to the purchaser, when in fact the company is not a manufacturer but purchases its merchandise from manufacturers; also representations indicating the acquisition of good will and merchandising experience by the respondent, when in fact, according to the complaint, the company had not been in corporate existence more than four and a half months.

No. 2610. Unfair representations in the sale of cast stones used as monuments and tombstones is alleged in a complaint issued against **Granite Arts, Inc., of Omaha, Nebr.**

Among the unfair representations alleged are: Advertisement of the company's products as composed of granite, when in fact, according to the complaint, they were manufactured by the company from cement and other ingredients; and the giving of an alleged fictitious address, "Graniteway, Omaha," having a tendency to add to the deception caused by the respondent's misuse of the word "granite."

No. 2613. Conspiracies to fix prices and obstruct commerce in the candy trade in New York and Pennsylvania and other connected territory are alleged in a complaint issued against the **New York State Wholesale Confectionery Associations, Inc.,** with headquarters in **Syracuse,** and eight local and regional member associations, also the **Empire State Candy Club, Inc.,** an organization of candy brokers and agents with headquarters in **Utica,** and the officers and members of all these associations, totaling more than 700 respondents.

Regional or local associations named as respondents are: **Rochester Area Wholesale Confectioners Association, Rochester;** **Capital District Wholesale Confectionery Association, Inc., Troy;** **Mohawk Valley Wholesale Confectioners Association, Utica;** **Central New York Wholesale Confectionery Distributors, Inc., Syracuse;** **Northern New York Wholesale Confectioners Association, Inc., Watertown;** **Hudson Valley Candy Distributors Association, Newburgh;** **Southern Tier Candy Distributors Association, Wellsboro, Pa.;** and **Greater Buffalo Wholesale Confectioners Association, Inc., Buffalo.**

The complaint charges the regional or local associations with carrying out agreements, combinations and conspiracies among themselves to prevent competing dealers from obtaining candy and allied products directly from the manufacturers and to establish themselves as a class of "recognized" wholesalers, distributors and brokers. The association respondents are alleged to have fixed and established uniform prices at which their members should sell their products and to have sought to prevent others from selling at less prices.

Stipulations

The Commission has announced the following cease and desist orders:

No. 0953. **Inthol Company, Inc., New York City,** selling a product offered as a remedy for sinus trouble, athlete's foot, neuralgia and other diseases, agrees to stop asserting that it is a penetrating antiseptic or a competent treatment or effective remedy for sinus, or that it will either rid one of athlete's foot or cure that disease. The company will no longer represent that Inthol is an effective remedy for head or chest congestion, or for various types of neuralgia.

No. 0954. **Goldban Pharmacal Company, Camden, N. J.,** stipulates that it will stop advertising its treatment for rheumatism, indigestion and neuritis, known as "Carolac," as a scientifically compounded system purifier and tonic builder, and its cough treatment, known as "Tarpinod," as an effective remedy for coughs or as guaranteed to break up a cold in 24 hours or to stop a cough. Medical opinion furnished the Commission was to the effect that these products would not do the things claimed for them in the advertising.

No. 0955. **Reinhold Von Rosen Company, Inc., Washington, D. C.,** will cease asserting that its skin ointment, "Von-Ema," is a competent treatment for athlete's foot, ringworm, or eczema, unless the assertion is limited in application to the relief of itching and burning caused by these ailments, and will discontinue advertising Von-Ema as a competent treatment for dandruff and falling hair, or asserting that it will stop, cure, arrest or prevent any skin disorder.

No. 0956. **Earle Chemical Company, Wheeling, W. Va.,** selling a medication known as "Robene," offered as a treatment for foot troubles and as a pain killer, agrees to stop representing the preparation as affording lasting relief from perspiring feet, foot odors or burning feet. The company agrees to cease representing the product as highly penetrating or as a guaranteed product, or that it will bring instant relief from all pains or afford sure relief from all pain, or that it instantly kills pains of rheumatism, neu-

ralgia, neuritis, headache, aching joints or sore muscles. According to medical opinion furnished the Commission, the claims made by this respondent exceed the therapeutic value of the preparation.

No. 0957. Koskott Company, New York City, selling preparations for treatment of the hair and scalp and for coloring the hair, agrees to stop representing that any of its preparations is an effective treatment for thinning or falling hair, or that the use thereof will prevent hair from falling or being brushed or combed from the head, unless the advertising assertion is limited in reference to excessive thinning and excessive falling of the hair. Other similar representations will be discontinued.

No. 0958. Carleton & Hovey Co., Lowell, Mass., distributors of "Father John's Medicine," agrees to stop representing it as an effective therapeutic remedy for colds, coughs or throat troubles; it being understood that this agreement will not prevent the respondent from advertising the preparation as a treatment for colds, coughs due to colds or minor throat troubles. Father John's Medicine also will not be represented as effective in the treatment of colds, except by providing the beneficial effects of Vitamin A. Other representations will be discontinued.

No. 0959. Smith Brothers, Inc., Poughkeepsie, N. Y., selling Smith Brothers' Cough Syrup and Smith Brothers' Cough Drops, stipulates that it will cease advertising the drops or the cough syrup as effective remedies for treatment of colds or that either preparation has a unique advantage over other remedies due to Vitamin A content.

No. 0960. Dr. Louis L. Sherman, operating as "Clinic of the Air," Oakland, Calif., and dealing in a list of preparations including "Liquid Ferrolax," "Calwhey," and "Red Label Enterel," agrees to cease advertising that these preparations or any combination thereof constitute a competent treatment or effective remedy for any of a list of twenty-eight diseases ranging from acidosis, anemia, and hilioussness to rheumatism, spastic colon and tuberculosis. The respondent agrees also not to represent Calwhey as raising resistance or as assisting in eliminating poisons through the kidneys, and to cease asserting that by hundreds of tests Calwhey is known to be effective in changing the intestinal flora. Numerous other representations of these preparations will be discontinued, according to the stipulation.

No. 2361. Misrepresentations in the sale of perfume in interstate commerce are prohibited as an unfair method of competition in a cease and desist order issued against **Leading Perfumers & Chemists, Inc., of New York City.**

The order bans the advertising or labeling of perfume made in the United States by use of the term "Fleur de Matin-Cartel" or any other French words indicating that the product had been manufactured in France and imported into this country, when this was not true.

No. 2482. The United Artists and Engravers Guild, Inc., of Chicago, has been ordered to cease and desist, in the sale of social and business stationery products, from using the word "Engravers" in its corporate name or advertising matter, until and unless it actually owns or controls a plant in which those of its stationery products that are produced by the engraving process are actually engraved.

The order also prohibits use of the phrase "Process Engraved" or the words "Engraved" and "Engraving" alone or in connection with other words in advertisements or trade literature, to describe stationery, the lettering or inscriptions of which have not been produced by the engraving process but by printing from inked typed faces, the designs of which have been given a raised letter effect by application of a chemical in powder form to the ink while still wet, and subjected to heat.

No. 2493. An order has been issued against the **Robert More Company, of Chicago,** directing it to discontinue unfair trade practices in the sale of merchandise.

This company sells and distributes salves, Christmas seals and miscellaneous merchandise on a "return or remit" plan, under which agents are furnished with the merchandise to be sold and are allowed thirty days to sell it and remit to the respondents the agreed portion of the selling price or to return the unsold portion of the merchandise.

No. 2503. B. F. Huntley Furniture Company, of Winston-Salem, N. C., has been ordered to cease and desist from advertising that furniture made by it, but not from wood derived from the walnut tree family, is "walnut" or "oriental walnut."

The respondent is ordered to cease using the word "walnut" either independently or in connection with the word "oriental" so as to imply that its furniture is made, either in whole or in part, from trees of the walnut family, when this is not true.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, November 18, 1935

WCBA—B. Bryan Musselman, Allentown, Pa.—Modification of license, 1440 kc., 1 KW, shares with WSAN. Present assignment: 1440 kc., 250 watts (S.A. 500 watts), shares with WSAN.

WSAN—WSAN, Inc., Allentown, Pa.—Modification of license, 1440 kc., 1 KW, shares with WCBA. Present assignment: 1440 kc., 250 watts (S.A. 500 watts), shares with WCBA.

Wednesday, November 20, 1935

NEW—Steel City Broadcasting Co., Pittsburgh, Pa.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Geo. E. Carter and Homer G. Wolfe and Clara I. Knight, partners, d/h as Carter & Wolfe, Mansfield, Ohio.—C. P., 1370 kc., 50 watts, 100 watts LS, unlimited time.

NEW—Springfield Newspapers, Inc., Springfield, Ohio.—C. P., 1120 kc., 250 watts, daytime.

WSPD—Toledo Broadcasting Co., Toledo, Ohio.—C. P., 1340 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1340 kc., 1 KW, 2½ KW LS, unlimited time.

NEW—Steel City Broadcasting Co., Pittsburgh, Pa.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Geo. E. Carter, Homer G. Wolfe and Clara I. Knight, partners, d/h as Carter & Wolfe, Mansfield, Ohio.—C. P., 1370 kc., 50 watts, 100 watts LS, unlimited time.

WSPD—Toledo Broadcasting Co., Toledo, Ohio.—C. P., 1340 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1340 kc., 1 KW, 2½ KW LS, unlimited time.

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Renewal of license, 1340 kc., 500 watts, 1 KW LS, unlimited time.

Thursday, November 21, 1935

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-62:

KALE—KALE, Inc., Portland, Ore.—Modification of license, 1250 kc., 500 watts, unlimited time. Present assignment: 1300 kc., 500 watts, specified hours.

Examiner's Report No. I-93:

NEW—Quincy A. Brackett, Lewis B. Breed, Edmund A. Laport, d/h as Connecticut Valley Broadcasting Co., Springfield, Mass.—C. P., 1140 kc., 500 watts, limited time.

Examiner's Report No. I-92:

WMBC—Michigan Broadcasting Co., Detroit, Mich.—C. P., 1300 kc., 500 watts, unlimited time. Present assignment: 1420 kc., 100 watts, 250 watts LS, unlimited time.

WHBL—Press Publishing Company, Sheboygan, Wis.—Modification of license, 1300 kc., 250 watts, unlimited time. Present assignment: 1410 kc., 500 watts, shares with WROK.

Examiner's Report No. I-72:

NEW—Denton Broadcasting Co., Eugene DeBogory, Owner, Denton, Tex.—C. P., 1420 kc., 100 watts, daytime.

NEW—Eugene DeBogory, tr/as Brownsville Broadcasting Co., Brownsville, Tex.—C. P., 1370 kc., 100 watts, unlimited time.

Examiner's Report No. I-64:

NEW—Centennial Broadcasting Corp., Dallas, Tex.—C. P., 1200 kc., 100 watts, unlimited time.

NEW—Eugene DeBogory and Mildred English, d/b as Dallas Broadcasting Co., Dallas, Tex.—C. P., 1500 kc., 100 watts, daytime (specified hours at night).

NEW—Eugene DeBogory, tr/as Paris Broadcasting Co., Paris, Tex.—C. P., 1500 kc., 100 watts, daytime.

KGKB—East Texas Broadcasting Co., Tyler, Tex.—Modification of license, 1500 kc., 100 watts, unlimited day, specified hours night from LS to 8 p. m. Present assignment: 1500 kc., 100 watts, specified hours.

APPLICATIONS GRANTED

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted C. P. to make changes in equipment.

WOW—Woodmen of the World Life Ins. Assn., Omaha, Neb.—Granted modification of C. P. to extend completion date to 12-15-35.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Granted modification of C. P. to make further changes in equipment.

KSO—Cedar Rapids Broadcast Co., Des Moines, Iowa.—Granted license to cover C. P. authorizing new equipment, increase in power, and move of transmitter; 1430 kc., 500 watts night, 1 KW day, unlimited.

WCAO—Monumental Radio Co., Baltimore, Md.—Granted C. P. to install new equipment.

WCAM—City of Camden, N. J.—Granted authority to determine operating power by direct measurement of antenna.

KGDM—E. F. Pepper, Stockton, Calif.—Granted license to cover C. P. authorizing installation of new equipment and moving studio locally, and increase in power to 1 KW; 1100 kc., daytime.

KRNR—Southern Ore. Publishing Co., Roseburg, Ore.—Granted modification of C. P. approving transmitter site and antenna.

WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted license to cover C. P. authorizing local move of transmitter and changes in equipment; 1290 kc., 1 KW night, 2½ KW day, unlimited.

WAGF—John T. Hubbard and Julian C. Smith, d/b as Dothan Broadcasting Co., Dothan, Ala.—Granted license to cover C. P. authorizing changes in equipment, increase in day power to 250 watts and time of operation from daytime and S.H. on Sunday to daytime only; 1370 kc., 250 watts.

KTRH—KTRH Broadcasting Co., Houston, Tex.—Granted license to cover C. P.; 1290 kc., 1 KW night, 5 KW day, unlimited.

KFIZ—Reporter Printing Co., Fond du Lac, Wis.—Granted modification of license to increase specified hours of operation.

KELD—T. H. Barton, El Dorado, Ark.—Granted modification of license to move studio from Exchange Building to Country Club Colony, El Dorado, 1½ miles north of El Dorado.

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted authority to install automatic frequency control.

WTNJ—WOAX, Inc., Trenton, N. J.—Granted renewal of license, 1280 kc., 500 watts, divides time WCAM and WCAP.

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—C. P. in hearing docket amended and granted to install new equipment and increase power from 250 to 500 watts; 880 kc., S-WQAN.

KOIL—Mona Motor Oil Co., Council Bluffs, Iowa.—Granted consent to voluntary assignment of license to Central States Broadcasting Co. Also granted renewal of license for the regular period; 1260 kc., 1 KW night, 2½ KW day, unlimited.

WLBF—WLBF Broadcasting Co., Kansas City, Kans.—Granted consent for transfer of control of WLBF Broadcasting Co. from J. Herbert Hollister to the Kansas City Kansan, Arthur Capper, owner and publisher.

WTAX—WTAX, Inc., Springfield, Ill.—Granted renewal of license, 1210 kc., 100 watts, unlimited time.

W4XBM—WPTF Radio Co., Portable-Mobile, Raleigh, N. C.—Granted license to cover C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600, 86000-400000 kc., 15 watts.

WKBF—The Evening News Assn., Aboard Aircraft NC-799-W.—Granted modification of license (temporary broadcast pickup) to add frequencies 1606, 2020, 2102, 2760 kc. and delete 2150 kc. Also granted renewal of license in accordance with modification.

KIIS—Harris County Broadcast Co., Portable (Houston, Tex.)—Granted modification of license (temporary broadcast pickup) to add frequencies 2060, 2790 kc.; also granted renewal of license in accordance with modification.

KIEG—Seattle Broadcasting Co., Portable (Seattle, Wash.)—Granted modification of license (temporary broadcast pickup) to add frequencies 1646, 2090, 2190, 2830 and delete 1622 and 2150 kc.; also granted renewal of license in accordance with modification.

WMFL—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted modification of license (temporary broadcast pickup) to add frequency 1606 kc.; also granted renewal in accordance with modification.

KIFF—Missouri Broadcasting Co., Portable (St. Louis, Mo.)—Granted modification of license (temporary broadcast pickup service) to add frequencies 2060, 2790 kc.; also granted renewal in accordance with modification.

KIEF—Seattle Broadcasting Co., Portable (Seattle, Wash.)—Granted modification of license (temporary broadcast pickup) to add frequencies 1646, 2090, 2190, 2830 kc. and delete 1622, 2150 kc.; also granted renewal of license in accordance with modification.

W3XE—Philadelphia Storage Battery Co., Philadelphia, Pa.—Granted consent to assignment of license to Philco Radio & Television Corp.

NEW—Philco Radio & Television Corp., Philadelphia, Pa.—Granted C. P. (exp. spec. exp. service), frequencies 42000-56000, 60000-86000 kc., 250 watts.

NEW—Don Lee Broadcasting System, Portable-Mobile (San Francisco).—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 100 watts.

ACTION ON EXAMINERS' REPORTS

KMAC—Ex. Rep. No. 1-44: W. W. McAllister, San Antonio, Tex.—Denied special experimental authority to move transmitter, make changes in equipment, change frequency from 1370 kc. to 940 kc., change power from 100 watts to 1 KW, and change hours of operation from sharing with KONO to unlimited. Examiner Melvin Dalberg sustained. Order effective December 17, 1935.

KFYO—T. E. Kirksey, tr/as Kirksey Bros., Lubbock, Tex.—Denied C. P. to install new equipment; change frequency from 1130 kc. to 940 kc.; and increase power from 100 watts night, 250 watts LS, to 500 watts. Examiner Dalberg sustained. Order effective December 17, 1935.

KGKL—KGKL, Inc., San Angelo, Tex.—Denied C. P. to move transmitter; increase power from 100 watts night, 250 watts LS, to 500 watts night, 1 KW LS; change frequency from 1370 kc. to 940 kc.; and make changes in equipment. Examiner Dalberg sustained. Order effective December 17, 1935.

WSAR—Ex. Rep. No. 1-106: Doughty & Welch Electric Co., Inc., Fall River, Mass.—Granted C. P. to make changes in equipment and increase power from 250 watts to 1 KW; 1450 kc., unlimited time. Examiner Dalberg sustained. Order effective December 17, 1935.

WWAE—Ex. Rep. 1-118: Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted renewal of license, 1200 kc., 100 watts, share time with WFAM. Examiner R. H. Hyde sustained. Order effective January 7, 1936.

SET FOR HEARING

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Application for C. P. to make changes in equipment and increase day power from 500 watts to 1 KW.

WDEV—Harry C. Whitehill, Waterbury, Vt.—Application for C. P. to make changes in equipment, increase power from 500 watts daytime to 1 KW daytime.

WJBL—Commodore Broadcasting, Inc., Decatur, Ill.—Application for modification of license to change frequency from 1200 kc. to 1370 kc., change hours of operation from sharing WJBC to unlimited.

NEW—Henry William Turkel, Los Angeles, Calif.—Application for C. P. for new experimental relay broadcasting station, 6040 kc., 1 KW, unlimited.

WCMI—Ashland Broadcasting Co., Ashland, Ky.—Application for C. P. to install new equipment, change frequency from 1310 kc. to 1350 kc., increase power from 100 watts to 1 KW.

NEW—Jesse H. Jay, Miami Beach, Fla.—Application for C. P. for new station, 1500 kc., 100 watts, unlimited.

NEW—Alex F. Suss, Marysville, Calif.—Application for C. P. 1210 kc., 100 watts, unlimited time. Site to be determined subject to approval of Commission.

NEW—Symons Investment Co., Seattle, Wash.—Application for C. P., 760 kc., 250 watts night, 500 watts day, limited time, site to be determined; facilities of KXA.

NEW—Watertown Broadcasting Corp., Watertown, N. Y.—Application for C. P. for new station, 1270 kc., 250 watts, daytime, site to be determined subject to approval of Commission.

WHBI—May Radio Broadcast Corp., near Carlstadt, N. J.—Application for modification of license to increase power from 2½ to 5 KW.

NEW—Cache Valley Broadcasting Co., Logan, Utah.—Application for C. P. for new station, 1370 kc., 100 watts, unlimited time.

NEW—Herbert Hollister, Waterloo, Iowa.—Application for C. P. for new station, 1420 kc., 100 watts, unlimited, site to be determined.

NEW—Bismarck Tribune Co., Bismarck, N. Dak.—Application for C. P. for new station, 550 kc., 1 KW night, 5 KW day, unlimited, site to be determined.

NEW—Fred A. Baxter, Superior, Wis.—Application for C. P. for new station, 1370 kc., 100 watts, unlimited, site to be determined.

WMEX—The Northern Corp., Boston, Mass.—Application for C. P. to install new equipment; change frequency from **1500 kc.** to **1470 kc.**; increase power from 100 watts night, 250 watts day, to 5 KW night and day; move transmitter to site to be determined.

WNBC—William J. Sanders, New Britain, Conn.—Application for consent to voluntary assignment of license to State Broadcasting Corp.

WBSO—Broadcasting Service Org., Inc., Needham, Mass.—Application for consent to transfer of control of station WBSO (licensed to Broadcasting Service Org., Inc.) from Babson's Statistical Organization, Inc., to George A. Crockwell, William H. Eynon, and James K. Phelan.

NEW—J. W. Birdwell, Johnson City, Tenn.—Application, already in hearing docket, amended to read: **1370 kc.**, 100 watts, unlimited time, site to be determined subject to approval of Commission.

KOL—Seattle Broadcasting Co., Seattle, Wash.—Application for modification of license, already in hearing docket, amended to read: Change frequency from **1270 kc.** to **920 kc.**, contingent upon the granting of KOMO's application for **760 kc.**; increase power (day) from $2\frac{1}{2}$ KW to 5 KW.

NEW—C. G. Hill, Geo. D. Walker, Susan H. Walker, Winston-Salem, N. C.—Application for C. P. for new station, **1250 kc.**, 250 watts daytime, site to be determined subject to approval of Commission.

WNOX—WNOX, Inc., Knoxville, Tenn.—Application for consent to voluntary assignment of license to Continental Radio Co.

NEW—Fresno Broadcasting Co., Fresno, Calif.—Application for C. P. for new station, **1410 kc.**, 500 watts night, 1 KW day, unlimited time.

ORAL ARGUMENTS GRANTED

NEW—Ex. Rep. 1-55: Riverside Broadcasting Co., Riverside, Calif.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-114: A. Tornek, d/b as Metro Broadcasting Co., Los Angeles, Calif.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-117: Wayne Broadcasting Co., Hamtramck, Mich.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-116: Knox Broadcasting Co., Inc., Schenectady, N. Y.—Granted oral argument to be held on November 27, 1935.

MISCELLANEOUS

City of Jacksonville, Fla.—Granted petition to intervene and be made a party to hearing in re application of A. O. Jenkins for new station at Jacksonville to operate on **1200 kc.**, 250 watts night, 500 watts day, unlimited.

Port Huron Broadcasting Co., Port Huron, Mich.—Denied petition to intervene at hearing of application of Wayne Broadcasting Co. for permit to erect new station at Hamtramck, Mich., to operate on **1370 kc.**, 100 watts, daytime.

Edward Hoffman, St. Paul, Minn.—Granted petition requesting continuance of hearing of application of Emmons L. Abeles and Robert J. Dean, d/b as Wise Broadcasting Corp., for new station at St. Paul, Minn., to operate on **630 kc.**, 250 watts, unlimited. This hearing was scheduled for December 5, 1935.

WCBA and WSAN, Inc., Allentown, Pa.—Hearing scheduled for November 18, 1935, on application for increase in power from 250 watts to 1 KW, postponed indefinitely.

Emmons L. Abeles & Robert J. Dean, d/b as Wise Broadcasting Co., St. Paul, Minn.—Granted petition to take depositions in re application for new station at St. Paul, Minn.

KLO—Interstate Broadcasting Corp., Ogden, Utah—Denied petition asking postponement of hearing to December 10, 1935, of application for increase in operating power. Hearing to be held Nov. 26 as originally scheduled.

St. Petersburg Chamber of Commerce, St. Petersburg, Fla.—Denied petition requesting amendment to application for new station so as to request daytime operation only, with 100 watt power, on **1420 kc.** Also denied request asking Commission to grant without hearing, the amended application.

WAIU—Associated Radiocasting Corp., Columbus, Ohio—Granted petition to reconsider and grant application for renewal of license designated for hearing Nov. 14, 1935.

WJAS—Pittsburgh Radio Supply Co., Pittsburgh, Pa.—Denied petition asking Commission to reconsider and grant application for increase in day power from 2.5 KW to 5 KW.

WIRE—Indianapolis Broadcasting Co., Indianapolis, Ind.—Denied petition asking Commission to reconsider and grant its ap-

plication for authority to make changes in equipment; erect a new directional antenna and increase power from 1 KW to 5 KW, daytime operation.

Ralph E. Smith, San Diego, Cal.—Denied petition asking Commission to reconsider and suspend grant of authority to Pacific Acceptance Corp., for erection of new station at San Diego to operate on **1200 kc.**, 100 watts, daytime, effective Dec. 10, 1935.

APPLICATIONS DISMISSED

The following applications, heretofore set for hearing, were dismissed at request of applicants:

NEW—Essex Broadcasters, Inc., Detroit, Mich.—Authority to transmit sustaining programs from Detroit over station CKLW, Windsor, Canada.

NEW—Whittle Furniture Co., Inc., Brunswick, Ga.—C. P. **1200 kc.**, 100 watts, unlimited time.

NEW—W. H. Kindig, Hollywood, Cal.—C. P. **1160 kc.**, 5 KW, unlimited time.

NEW—J. W. Stanford, d/b as Brunswick B/C Co., Brunswick, Ga.—C. P. **1310 kc.**, 100 watts, unlimited time.

APPLICATIONS RECEIVED

First Zone

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—License to cover construction permit (B1-P-847).

WB10Y—Roy L. Albertson, Buffalo, N. Y.—Modification of construction permit (B1-P-402) for approval of antenna and transmitter at Kenmore Ave., 250 feet east of Starin Ave., Buffalo, New York, and studio at 485 Main St., Buffalo, New York.

NEW—Mary M. Whitehill, Executrix of the Estate of Harry C. Whitehill, Waterbury, Vt.—Involuntary assignment of license from Harry C. Whitehill to Mary M. Whitehill, Executrix of the Estate of Harry C. Whitehill.

Second Zone

NEW—Harmon LeRoy Stevens & Herman LeRoy Stevens, d/b as **1370** The Port Huron Broadcasting Co., Port Huron, Mich.—Construction permit for a new station to be operated on **1370 kc.**, 250 watts, daytime.

WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Construction permit to install new equipment, increase power from 250 watts, 500 watts day to 500 watts, 1 KW day and move transmitter from West Virginian Hotel, Federal Street, Bluefield, West Virginia, to near Bluefield, West Virginia.

WJIM—Harold F. Gross, M. Bliss Keeler & L. A. Versluis, d/b as **1450** Capitol Broadcasting Co., Lansing, Mich.—Construction permit to install new equipment, increase power from 100 watts, 250 watts day to 500 watts, 1 KW day, change frequency from **1210 kc.** to **1450 kc.** Requests frequency of WGAR if and when WGAR's application requesting facilities of WMMN is granted. Amended: To make changes in antenna, change frequency from **1450 kc.** to **1010 kc.**, and omit request for WGAR's frequency.

W8XEJ—WBNS, Incorporated, Portable-Mobile—License to cover construction permit for a new general experimental station.

W8XEI—WBNS, Incorporated, Portable-Mobile—License to cover construction permit for a new general experimental station.

W10XGB—Miami Valley Broadcasting Corp., Portable-Mobile—License to cover construction permit for a new general experimental station.

W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Construction permit to increase power to 10 KW.

Third Zone

WPTF—WPTF Radio Co., Raleigh, N. C.—Special experimental **680** authorization to operate with 5 KW power from 9:00 p. m. to 7:00 a. m., EST, using both directive and non-directive antenna to 2-1-36.

WPTF—WPTF Radio Co., Raleigh, N. C.—Construction permit to **680** move auxiliary transmitter from 400 Fayetteville St., Raleigh, North Carolina, to Cary, North Carolina. (Same site as regular transmitter.)

NEW—Memphis Commercial Appeal, Inc., Mobile, Ala.—Construction permit for a new station to be operated on **950 kc.**, 1 KW night, 5 KW day, unlimited time—using directional antenna at night. Amended: To change power from 1 KW night, 5 KW day to 5 KW day and night.

NEW—Memphis Commercial Appeal, Inc., Mobile, Ala.—Construction permit for a new station to be operated on 950 kc., 1 KW, 5 KW local sunset, unlimited time, using directional antenna at night.

NEW—Jefferson Broadcasting Co., Ormond O. Black, President, 1200 Birmingham, Ala.—Construction permit for a new station to be operated on 1200 kc., 100 watts, 250 watts local sunset, unlimited time.

WAML—Southland Radio Corp., Laurel, Miss.—Voluntary assignment of license from Southland Radio Corp. to New Laurel Radio Station, Inc.

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—License to cover construction permit (B3-P-376) as modified for new station on 1310 kc., 100 watts, unlimited time. Amended: To make changes in equipment (antenna ammeter).

NEW—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—Construction permit for a new station to be operated on 880 kc., 250 watts night, 500 watts day, unlimited time. Amended: To change frequency from 880 kc. to 1330 kc.

NEW—Nathan N. Bauer, Miami, Fla.—Construction permit for a new station to be operated on 1420 kc., 100 watts, unlimited time.

KNEL—G. L. Burns, Brady, Tex.—License to cover construction permit (B3-P-212) as modified for a new station to be operated on 1500 kc., 100 watts, daytime.

KLUF—Geo. Roy Clough, Galveston, Tex.—Extension of special experimental authorization to operate on 100 watts, 250 watts day for period from 1-1-36 to 7-1-36.

Fourth Zone

KGBX—KGBX, Incorporated, Springfield, Mo.—Extension of special experimental authorization to operate on 1230 kc., 500 watts power, unlimited time, using directional antenna at night, for period from 2-1-35 to 6-1-36.

KGBX—KGBX, Incorporated, Springfield, Mo.—Voluntary assignment of license from KGBX, Inc., to Springfield Broadcasting Co.

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Construction permit to install new equipment, move transmitter from Simmons Ave. & Belva Ave., Kirkwood, Missouri, to five-tenths of a mile southwest of the intersection of the St. Louis Water Works Railroad and the main line of Burlington Railroad, three-tenths of a mile due southeast of North City limits, two-tenths of a mile due east of Broadway at intersection of Riverview Drive, St. Louis, Missouri.

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Modification of construction permit authorizing move of transmitter and changes in equipment, requesting approval of antenna and transmitter site between Peoria and Pekin, Illinois, make

changes in equipment, extend commencement date to 30 days after grant and completion date to 180 days thereafter.

NEW—Robert Raymond McCulla, Oak Park, Ill.—Construction permit for a new station to be operated on 1500 kc., 100 watts, unlimited time.

NEW—The Steffen Ice & Ice Cream Co., Wichita, Kans.—Construction permit for a new station to be operated on 1500 kc., 100 watts, unlimited time.

KIGA—National Battery Broadcasting Co., Minneapolis, Minn.—Modification of license to delete frequencies 1606, 2102 kc., and add frequencies 1622, 2060, 2150 and 2790 kc.

NEW—National Battery Broadcast Co., Portable-Mobile—Construction permit for a new station on 1622, 2060, 2150, 2790 kc., 25 watts. (Broadcast pickup.)

KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Construction permit to move transmitter from near Des Moines, Wash., to site to be determined, make equipment changes and increase day operating power from 1 KW to 5 KW. Amended: To change transmitter site from site to be determined, Wash., to 10 miles north of Tacoma, King County, Tacoma, Wash.

NEW—Tulare-Kings Counties Associates, Charles A. Whitmore, 1200 President, Visalia, Calif.—Construction permit for a new station to be operated on 1200 kc., 250 watts, daytime. Amended: To change frequency from 1200 kc. to 1190 kc., and transmitter from site to be determined to 1½ miles south of Visalia, California.

NEW—Howard N. Mitchell, Sacramento, Calif.—Construction permit for a new station to be operated on 1310 kc., 100 watts, unlimited time. Amended: To change transmitter site from 5th and J Streets to site to be determined, Sacramento, California.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, Hawaii—Authority to transfer control of corporation from J. L. P. Robinson to Pacific Theaters & Supply Co., Ltd., 85%.

KGB—Don Lee Broadcasting System, San Diego, Calif.—Modification of construction permit (5-P-B-3223) to install new equipment and increase power, requesting extension of commencement date to 30 days after grant and completion date to 180 days thereafter.

KRLC—H. E. Studebaker, Lewiston, Idaho—Construction permit to make changes in equipment, increase power from 100 watts to 250 watts, change frequency from 1420 to 1390 kc. Consideration under Rule 6 (g). Amended: To change transmitter site from Lewis & Clark Hotel, 2nd Ave. & Main St., Lewiston, Idaho, to site to be determined, Lewiston, Idaho.

NEW—D. J. Lindberg, La Grande, Ore.—Construction permit for a new station to be operated on 1420 kc., 100 watts, 250 watts local sunset, unlimited time. Frequency of KRLC contingent upon KRLC being granted another frequency as applied for.



The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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STATE AND MUNICIPAL TAXES AND LITIGATION

We are informed concerning certain state and municipal taxes imposed on radio broadcasting and of certain court cases relative thereto—but we fear our information is incomplete.

Please advise as to any pending litigation with regard to taxes, giving full details thereon and of any state or municipal tax on gross receipts or profits which you may be paying including a copy of the law imposing such tax.

JAMES W. BALDWIN,
Managing Director.

ADDITIONAL POWER FOR WBNX RECOMMENDED

Broadcasting Station WBNX, New York City, operating on 1350 kilocycles and sharing time with WAWZ, applied to the Federal Communications Commission to have its power increased from 250 to 1,000 watts, while Station WEED, Rocky Mount, N. C., asked that its frequency be changed from 1420 to 1350 kilocycles, that its power be increased from 100 to 250 watts, and that its unlimited day, and nighttime sharing with WEHC, be changed to unlimited time day and night.

Examiner John P. Bramhall, in Report No. I-134, has recommended that the application of WBNX for increased power be granted, "provided that an antenna be erected by the applicant so that the radiation in the direction of St. Louis be restricted at night to not more than 100 millivolts per meter, unattenuated field, at one mile from the WBNX transmitter." He also recommended that the application of Station WEED be denied. The Examiner found that the evidence failed to show that there is need for additional service in the area proposed to be served by WEED, and that it would violate the regulations of the Commission as to quota. It would also adversely affect other existing broadcasting stations.

NEW EQUIPMENT RULING

The Broadcast Division of the Federal Communications Commission at a regular meeting held November 12 adopted the following rule:

Rule 132—(a) The transmitter proper and associated transmitting equipment of each broadcast station shall be designed, constructed and operated in accordance with good engineering practice in all phases not otherwise specifically included in these regulations.

(b) The transmitter shall be wired and shielded in accordance with good engineering practice and shall be provided with safety features in accordance with the specifications of Article 37 of the current National Electrical Code as approved by the American Standards Association.

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

(d) Whenever, in this rule, the term "good engineering practice" is used, the specifications deemed necessary to meet the requirements of good engineering practice will be published from time to time.

(e) This rule shall be effective upon its adoption, provided, however, that existing broadcast stations shall be allowed one year in which to meet the requirements herein.

WSPD CASE DISMISSED

The Supreme Court of the District of Columbia has dismissed the appeal of broadcasting station WSPD, Toledo, Ohio, following the decision of the Supreme Court of the United States in the well-known Jenny Wrenn case.

Station WSPD protested to the Federal Communications Commission the removal of Station WALR from Zanesville to Toledo, Ohio. The protest was denied by the Commission, following which WSPD filed a bill in the District Supreme Court to enjoin the Commission from issuing the removal license. The case is considered similar to the Jenny Wrenn case and therefore it has been dismissed.

MRS. LAURA READ

Mrs. Laura Read of Towaco, New Jersey, has disappeared from the New Jersey State Hospital where she has been under observation for a mental disturbance. It is believed that she may contact broadcasters to renew complaints about the unfair use of incidents from her life. If you have any information as to her whereabouts, please communicate directly with the New Jersey State Hospital, Greystone Park, New Jersey.

WIRE SERVICE TO BROADCASTING STATIONS

The Telephone Division of the Federal Communications Commission has announced that it will hold a hearing on December 2 to determine, among other things, if the Rochester Telephone Company, Rochester, N. Y., is not subject to the jurisdiction of the Commission "for the reason that it furnishes wire facilities and service to broadcasting companies for broadcasting purposes, and is thus engaged in interstate commerce as a wire communication carrier."

In this connection, following a recent meeting, the Telephone Division made the following statement regarding this case:

"Order of October 9, 1935, requiring Company to comply with certain previous orders or file answers setting forth facts in justification of its failure, and the further order setting matter down for hearing December 2, was amended by incorporating therein after fifth paragraph thereof and immediately preceding the order therein, the following paragraph:

"It further appearing that the Rochester Telephone Co. is subject to the jurisdiction of this Commission under all provisions of the Communications Act of 1934, for the reason that it furnishes wire facilities and service to radio broadcasting companies for broadcasting purposes, and is thus engaged in interstate commerce as a wire communication carrier in a manner not "solely through physical connection with the facilities of another carrier." "

RECOMMENDS AGAINST NEW PENNSYLVANIA STATION

George E. Heiges filed an application with the Federal Communications Commission asking authority to construct a new broad-

casting station at Sharon, Pa., to use 1370 kilocycles, 100 watts night and 250 watts local sunset, unlimited time.

Examiner Ralph L. Walker, in Report No. I-135, recommends that the application be denied. The Examiner found that while there is a substantial need for the proposed radio service in the area, "the operation of the proposed station will increase interference to two time-sharing stations assigned the same frequency, and will cause objectionable interference within the good service area of a station using an adjacent channel. The granting of the application would result in a further increase in the present over-quota status of the Second Zone at night."

BROADCAST STATION CHANGES

The Federal Communications Commission has issued the following list containing alterations and corrections for the month of October:

Call Letters	Studio Location	Alterations and Corrections	Quota Units	
			Night	Day
KALB	Alexandria, La.	C. P. covered by license	No change	
KELD	El Dorado, Ark.	C. P. covered by license	No change	
KFWB	Hollywood, Calif.	C. P. power 5 kw-LS	0.5	0.85
KGFF	Shawnee, Okla.	C. P. power 250 w-LS	0.1	0.2
KGKO	Wichita Falls, Tex.	Strike out C. P. as protested and grant suspended	No change	
KINY	Juneau, Alaska	Licensee: Edwin A. Kraft	No change	
KIUN	Pecos, Tex.	C. P. covered by license	No change	
KROC	Rochester, Minn.	C. P. covered by license	No change	
KSO	Des Moines, Iowa	Mod. C. P. T-north of Des Moines	No change	
KSUN	Lowell, Ariz.	Hours of operation, unlimited	0.1	0.1
WDEV	Waterbury, Vt.	S. A. Mrs. Mary M. Whitehill, Executrix of Estate of Harry C. Whitehill, operator of station	No change	
WELI	New Haven, Conn.	C. P. covered by license	No change	
WEMP	Milwaukee, Wis.	C. P. covered by license	No change	
WFLA	Clearwater, Fla.	Power 1 kw-5 kw-LS (directional antenna nighttime)	No change	
WSUN	St. Petersburg, Fla.	Strike out S. A. Exp.	No change	
WHOM	Jersey City, N. J.	T-Hoboken, N. J.	No change	
WIBA	Madison, Wis.	C. P. power 5 kw-LS (directional antenna nighttime)	0.5	0.85
WIND	Gary, Ind.	C. P. power 5 kw-LS	0.5	0.85
WJBR	Gastonia, N. C.	C. P. New; Permittee: J. B. Roberts; freq. 1420 kc., power 100 w, hours of operation unlimited.
WJR	Detroit, Mich.	Power 50 kw	No change	
WJW	Akron, Ohio	Power 250 w-LS	No change	
WKJC	Lancaster, Pa.	Licensee: Associated Broadcasters, Inc., C. P. T and Studio, Easton, Pa. Call letters change to WEST	No change	
WMAQ	Chicago, Ill.	Power 50 kw	No change	
WNAX	Yankton, S. D.	Power 5 kw-LS	No change	
WNBX	Springfield, Vt.	S. A. Exp., hours of operation unlimited.	0.5	0.5
WNBZ	Saranac Lake, N. Y.	Power 100 w	No change	
WNRA	Muscle Shoals, Ala.	Studio: Sheffield, Ala.	No change	
WNYC	New York, N. Y.	C. P. T-Brooklyn, N. Y.	No change	
WPFB	Hattiesburg, Miss.	C. P. hours of operation unlimited	0.1	0.1
WROL	Knoxville, Tenn.	Power 250 w-LS	No change	
WSAY	Rochester, N. Y.	C. P. New; Permittee: Brown Radio Service and Laboraotry (Gordon P. Brown, Owner); Freq: 1210 kc., power 100 w, hours of operation daytime
WSIX	Springfield, Tenn.	C. P. T and Studio, Nashville, Tenn.	No change	

SECURITIES ACT REGISTRATION

The following companies have filed registration statements with the Security & Exchange Commission under the Securities Act:

- The Croft Brewing Company, Boston, Mass. (2-1746, Form A-1)
- United Gold Fields of Nova Scotia, Ltd., Liverpool, Nova Scotia, Canada. (2-1748, Form A-1)
- Kinner Airplane & Motor Corp., Ltd., Glendale, Calif. (2-1749, Form A-1)
- The Cairo Water Company, Cairo, Ill. (2-1750, Form A-2)
- Arex Indemnity Company, New York City. (2-1751, Form A-1)
- American Chlorophyll, Inc., Washington, D. C. (2-1752, Form A-1)
- Santa Lucia Mining Company, Inc., Detroit, Mich. (2-1753, Form A-1)
- Jack H. Gix, Oklahoma City, Okla. (2-1754, Form A-1)
- Cleveland Tractor Company, Cleveland, Ohio. (201755, Form A-2)
- Committee of Alexander Pantages Bonds, Portland, Ore. (2-1756, Form D-1)
- Hamilton Depositors Corporation, Denver, Colo. (2-1757, Form C-1)

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2611. Alleging unfair competition in the sale of a liquid shoe dressing, a complaint has been issued against **Sav-an-Upper Company**, of 3325 Madison Road, **Cincinnati**, charging misrepresentations of the company's business and product.

The respondent is alleged to have represented that persons selling its dressing could earn up to \$2 an hour; that everywhere men and women selling it were making tremendous profits, and that the respondent's product will cause scuffed, discolored and faded shoe uppers to appear glossy, neat and good-looking as they were the day they left the factory. It is further represented that the product will preserve and renew various articles of leather. The complaint alleges that these representations are not true, and have a tendency to divert trade unfairly to the respondent from competitors.

No. 2612. Unfair competition through employment of a game of chance in the sale of candy is alleged in a complaint issued against **Ucanco Candy Co., Inc., of Davenport, Iowa**. The method of sale involved the use of a push card, according to the complaint.

No. 2614. Unfair competition in the sale of building materials is alleged in a complaint issued against **The Masonite Corporation**, having headquarters in **Chicago** and a plant at **Laurel, Miss.**

According to the complaint, this company, engaged in manufacturing and selling insulating board and wall board, made and sold under the trade name "Temptrile" a commodity manufactured solely of wood or wood refuse. However, according to the complaint, use of the trade name "Temptrile" has a tendency to mislead a substantial portion of the purchasing public into believing that the product so described is "tile".

No. 2615. Charging misrepresentation in the sale of a correspondence school course, a complaint has been issued against the **American School**, having headquarters at 58th Street and Drexel Avenue, **Chicago**.

Prospective subscribers were told, according to the complaint, that they had an opportunity to get in on the ground floor of a new and prosperous industry that would provide plenty of good jobs during their life times and that they could complete a high school education at home in two years or less. Other representations of a similar character were made.

No. 2616. **Cal-Aspirin Corporation**, of 160 East Illinois Street, **Chicago**, is charged, in a complaint with unfair methods of competition in the sale under a patented formula of a medicinal compound designated "Cal-Aspirin."

Representations made by the respondent are alleged to have deceived purchasers into believing that ordinary aspirin, in average doses, will have a toxic effect on a person's system and that Cal-Aspirin reduces this toxicity; also, that Cal-Aspirin, taken in ordinary doses, will more quickly and efficiently alleviate pain and fever than will ordinary aspirin. Other similar representations are alleged.

No. 2617. Misrepresentation in the sale of radios, refrigerators, oil burners for furnaces and air conditioners, is alleged in a complaint issued against **T. L. Loveland and J. L. Records, of Iowa**

City, Iowa, trading under the names of **Commercial Manufacturing Company** and **Brenard Manufacturing Company**.

The complaint charges that false and misleading representations of the respondents and their traveling representatives tend to mislead a substantial number of retail dealers into believing the respondents to be manufacturers of the appliances they sell when in fact they are not manufacturers but distributors; that the appliances are of superior quality, are laboratory tested and guaranteed, and are marked at low prices; and that the dealers will receive all of the benefits represented as accruing to them upon execution of a so-called distributor's agency agreement, when these are not the facts.

No. 2618. Representation of a converter and seller of silk and rayon goods as being a manufacturer is alleged as an unfair method of competition in a complaint issued against **Canton Silk Mills, Inc.**, of 469 Seventh Avenue, **New York City**.

Engaged in the business of buying silk and rayon cloths and fabrics in the raw or unfinished state and of causing them to be dyed, printed or processed by others into finished goods suitable for sale to dry goods retailers and the cutting-up trade, the respondent, according to the complaint, represented itself by use of its corporate name and in other ways as a manufacturer. The respondent is said to have advertised that it owned two mills at River Point, R. I., and Phoenix, R. I.

Nos. 2619 and 2621. Lotteries or games of chance are alleged to have been used in the sale of candy by **Cosner Candy Company, of Denver**, and **Sweet Candy Company, of Salt Lake City**, both engaged in manufacturing, according to complaints issued against these respondents.

No. 2620. Representation of a wholesaler and rectifier of liquor as a distiller is alleged as an unfair method of competition in a complaint issued against the **West Penn Distilling Co., Inc.**, of **New Kensington, Pa.**

Use by this respondent company of the word "Distilling" in its corporate name and in other ways, had a tendency to deceive dealers and the purchasing public into believing the respondent to be a distiller, manufacturing or distilling spirituous beverages, when in fact it was not a distiller, according to the complaint.

Nos. 2622 and 2623. Unfair competition in the sale of flavoring extracts and wines is alleged in complaints issued against **C. E. Trees & Co., Inc.**, of **Indianapolis**, and **Joseph Della Monica, of Brooklyn, N. Y.**, trading as **Delmonico's**.

Manufacturing a flavoring extract made principally of citrous oil and pure cane sugar and designed to be bottled with carbonated water and used as a "mixer" for alcoholic drinks and highballs, Trees & Co. is alleged to have advertised its product as "Four Per Cent—The Perfect Mixer."

Joseph Della Monica, in the sale of wines, is alleged to have used advertising phrases such as "Made in France" and "Importers and Producers of Foreign and Domestic Wines and Champagnes". The respondent is also said to have advertised by means of the phrase, "Imported wines: Chateau Delmonico Champagne Etablissements Delmonica, Epernay, France, Vintage 1928" and by other foreign names, when in fact, according to the complaint, the respondent did not make wine prior to 1933, and "Chateau Delmonico Champagne" made in Brooklyn is not champagne and has no connection with "Epernay, France", and another wine advertised as Italian is made in Brooklyn from grapes imported from Italy.

Complaints Dismissed

No. 2374. The Commission has ordered dismissal of a complaint issued several months ago against the **Sherwood Distilling & Distributing Co., Inc.**, of **Baltimore**.

This complaint had alleged unfair competition in the use of the word "Distilling" in the respondent company's corporate name.

In its order of dismissal, the Commission reports that by virtue of a lease of an entire distillery for certain days through a permit issued by the United States Bureau of Internal Revenue, the respondent company now "operates and controls a distillery producing spirits by the process of distillation from mash, wort or wash".

No. 2434. An order has been issued closing the case against **Wolverine Distilleries, Inc.**, of **Detroit**, which has abandoned all its business as described in the complaint issued June 11, 1935, and dismantled and sold the equipment used in the rectifying and wholesaling of liquor.

Stipulations

The Commission has announced the following cease and desist orders:

No. 2074. **Morris Heller**, of 66 North Sixth Street, **Brooklyn, N. Y.**, trading as **Venice Importing Company**, and selling olive oil, compound vegetable oil and related products, has been ordered to cease and desist from improper use of the word "Lucca" and of the name of any other Italian city, district or province, implying that his product was produced in and imported either from the Lucca district of the Province of Tuscany or from any other city, district or province of Italy, unless and until such representations are true.

No. 2160. **Maxwell Steel Vault Company, of Oneida, N. Y.** has been ordered to cease making misrepresentations in the sale of burial vaults.

Distributing its product exclusively through some 250 jobbers to undertakers, the respondent company is said to furnish ultimate purchasers with written certificates of purported warranty to the effect that the vaults are water-proof and will endure as such.

No. 2344. Unfair competition in the sale of shoe laces in interstate commerce is prohibited in an order issued against **Gotham Sales Co.**, a copartnership with headquarters at 14 East 17th Street, **New York City**, trading also as **Universal Merchandise Co.**, and operating branch stores in **Chicago, New Orleans**, and **San Francisco**. The respondent company sells and distributes assorted notions and novelties. Members of the copartnership are **Harry, Max, Martin, Alexander** and **Alfred Gottsagen**.

The respondents are ordered, in connection with the sale or distribution of shoe laces, to cease and desist from representing by express statements or by implication or otherwise that any of the laces they sell are mercerized, when this is not true.

No. 2352. An order to cease and desist from certain price fixing and other practices has been issued against eighteen manufacturers of fire extinguishing equipment. The respondent companies waived hearings on charges in the Commission's complaint and consented to issuance of the order.

The respondent companies named are as follows: **Fyr-Fyter Company, Dayton, Ohio**; **Buffalo Fire Appliance Corporation, Buffalo**; **Miller-Peerless Manufacturing Company, Chicago**; **Badger Fire Extinguisher Co., Boston**; **Knight & Thomas, Inc., Boston**; **American LaFrance & Foamite Industries Corp., Elmira, N. Y.**; **Pyrene Manufacturing Company, Newark, N. J.**; **Walter Kidde and Co., Inc., New York**; **Fyrou Corporation, New York**; **Fyr-Freeze, Inc., New York**; **C-O Two Fire Equipment Co., Newark**; **Wil-X-Mfg. Corporation, Brooklyn**; **W. D. Allen Manufacturing Company, Chicago**; **Phister Manufacturing Company, Cincinnati**; **Harker Manufacturing Company, Cincinnati**; **The General Fire Truck Corporation, St. Louis**; **Elkhart Brass Mfg. Co., Elkhart, Ind.**; and **George W. Diener Manufacturing Company, Chicago**.

The order prohibits these companies from performing by understanding, agreement or combination among themselves or between or among any two or more of them, the fixing of prices at which the commodities would be sold.

No. 2500. An order has been issued requiring **Certified Products Company, Inc.**, and **Jerome C. Ard**, its president and general manager, of **Birmingham, Ala.**, to cease and desist from making or publishing false or fraudulent representations for the purpose of enticing any person from the employ of any competitor into the employ of the respondents.

Other unfair methods of competition prohibited in the order are the making or publishing of false or fraudulent statements disparaging the financial condition or business policy of a competitor and maliciously enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their business.

Nos. 2532 and 2574. Two **New York** dealers in dry goods and garments have been ordered to cease and desist from improper use of the word "mills" in their trade or corporate names, in advertising literature or in other ways.

Samuel Kronovet, trading as **Westbury Knitting Mills**, is ordered to cease using the words "knitting" and "mills", either independently or in conjunction with other words, as part of his trade name, or in advertisements, until and unless he actually owns or controls the factory wherein the knitted garments sold and distributed by him, are actually knitted and manufactured. The respondent is also directed to cease representing by advertisements, on general business stationery or in other ways, that he is the knitter or manufacturer of the knitted garments sold by him, until and unless he actually owns or operates the factory wherein such articles are made.

Cameo Silk Mills, Inc., dealing in silk or raw cloth, is ordered to cease and desist from using a corporate name containing the word "mills" and from representing in any other way that it is a knitter, weaver or manufacturer of cloth, unless and until it actually knits, weaves or manufacturers the cloth it sells, or owns or controls a mill in which this cloth is knitted or manufactured.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, November 25

RE-HEARING AND ARGUMENT BEFORE THE COMMISSION EN BANC

In the Matter of the Petition of the American Telephone and Telegraph Company and the New York Telephone Company in connection with the installation of experimental coaxial cable between New York, N. Y., and Philadelphia, Pa.

HEARING BEFORE AN EXAMINER

- KADA—C. C. Morris, Ada, Okla.—Special authorization; **1200 kc.**, 100 watts, unlimited time. Present assignment: **1200 kc.**, 100 watts, daytime.
NEW—A. L. Chilton, Dallas, Tex.—C. P., **990 kc.**, 1 KW, daytime.
KFDM—Sabine Broadcasting Co., Inc., Beaumont, Tex.—Modification of license, **560 kc.**, 1 KW, unlimited time. Present assignment: **560 kc.**, 500 watts, 1 KW LS, unlimited time.

FURTHER HEARING BEFORE AN EXAMINER TO BE HELD IN COLUMBUS, GEORGIA

- WRBL—WRBL Radio Station, Inc., Columbus, Ga.—Renewal of license, **1200 kc.**, 100 watts, unlimited time.

Tuesday, November 26

- KFJM—University of North Dakota, Grand Forks, N. Dak.—C. P., **1410 kc.**, 1 KW, unlimited time. Present assignment: **1370 kc.**, 100 watts S. A. exp., 250 watts LS, unlimited time.
WMC—Memphis Commercial Appeal, Inc., Memphis, Tenn.—C. P., **780 kc.**, 1 KW, 5 KW LS, unlimited time. Present assignment: **780 kc.**, 1 KW, 2½ KW LS, unlimited time.

Wednesday, November 27

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-76:

- NEW—National Battery Broadcasting Co., Minneapolis, Minn.—C. P., **1370 kc.**, 100 watts, unlimited time.
NEW—Edward Hoffman, St. Paul, Minn.—C. P., **1370 kc.**, 100 watts, unlimited time.
NEW—Radio Chapel of the Air, Rev. Robert E. Connely, Pres., Minneapolis, Minn.—C. P., **1370 kc.**, 100 watts, unlimited time.
NEW—Dr. George W. Young, Minneapolis, Minn.—C. P., **1370 kc.**, 100 watts, unlimited time.

Examiner's Report No. I-79:

- WNEW—WOODAM Corporation, Newark, N. J.—Modification of license, **1250 kc.**, 1 KW, 5 KW LS, shares with WHBI.

Commissioner Brown's Report:

- Mrs. Mary H. Morris and W. C. Morris, working as "Hotel Eagle," Eagle Pass, Tex.—Authority to transmit programs from Hotel Eagle, Eagle Pass, Texas, over XEPN.

Examiner's Report No. I-116:

- NEW—Knox Broadcasting Co., Inc., Schenectady, N. Y.—C. P., **1240 kc.**, 1 KW, unlimited time.

Examiner's Report No. I-88:

- WNBF—Howitt-Wood Radio Co., Inc., Binghamton, N. Y.—Special experimental authority, **1240 kc.**, 500 watts, 1 KW LS, unlimited time. Present assignment: **1500 kc.**, 100 watts (C. P., 100 watts, 250 watts LS), unlimited time.

Friday, November 29

- KRSC—Radio Sales Corporation, Seattle, Wash.—C. P., **1120 kc.**, 250 watts, unlimited time. Present assignment: **1120 kc.**, 100 watts, daytime.

APPLICATIONS GRANTED

- WHN—Marcus Loew Booking Agency, New York City—Granted modification of C. P. to make further changes in equipment and extend commencement date to this date and completion date to 120 days hereafter.
- WFBM—Indianapolis Power & Light Co., Indianapolis, Ind.—Granted license to cover C. P., **1230 kc.**, 1 KW, unlimited time.
- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted license to cover C. P. (auxiliary transmitter), **710 kc.**, 5 KW, unlimited.
- KIIV—Charles L. Jaren, Portable (Fergus Falls, Minn.)—Granted modification of license to add frequencies **2060, 2790 kc.** Also granted renewal of license in accordance with modification.
- WICC—The Southern Conn. Broadcasting Corp., Bridgeport, Conn.—Granted authority to install new automatic frequency control equipment.
- WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted authority to determine operating power by direct measurement of antenna input.
- WAIM—Wilton E. Hall, Anderson, S. C.—Granted renewal of license for the regular period; **1200 kc.**, 100 watts, unlimited.
- WALR—WALR Broadcasting Corp., Zanesville, Ohio.—Granted renewal of license for the regular period; **1210 kc.**, 100 watts, unlimited.
- WNEL—Juan Piza, San Juan, P. R.—Granted renewal of license for the regular period; **1290 kc.**, 500 watts, unlimited.
- WBBZ—Estate of Charles Lewis Carrell, Howard Johnson, Representative, Ponca City, Okla.—Granted renewal of license for the regular period; **1200 kc.**, 100 watts, unlimited time.
- WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted modification of C. P. to make changes in equipment; approval of transmitter site 2.4 miles from center of business district of Frederick, and approximately one-half mile due north of Jefferson Turnpike, make changes in antenna. Also granted modification of C. P. to extend completion date to 12-26-35.
- Mutual Broadcasting System, Inc., Chicago, Ill.—Granted authority for 6 months from Dec. 1, 1935, to exchange programs with station CKLW, Windsor, Canada, through the facilities of the American Tel. and Tel. Co.
- NEW—Monumental Radio Co., Baltimore, Md.—Granted C. P. (exp. gen. exp.), frequencies **31600, 35600, 38600, 41000 kc.**, 300 watts.
- NEW—E. Anthony & Sons, Inc., Fairhaven, Mass.—Granted C. P. same as above, except power 100 watts.
- W8XEI—WBNS, Inc., Portable-Mobile (Columbus, Ohio)—Granted license to cover C. P., frequencies **31100, 34600, 37500, 40600 kc.**, 2 watts.
- W8XEJ—WBNS, Inc., Portable-Mobile (Columbus, Ohio)—Granted license to cover C. P., frequencies **31100, 34600, 37500, 40600 kc.**, 2 watts.

ACTION ON EXAMINERS' REPORTS

- NEW—Ex. Rep. No. 1-61: News Broadcasting Co., St. Joseph, Mo.—Denied C. P. for new station to operate on **1310 kc.**, 100 watts, unlimited time. Examiner Melvin Dalberg sustained.
- NEW—J. L. Scroggin, St. Joseph, Mo.—Denied C. P. for new station to operate on **1310 kc.**, 100 watts, unlimited time. Examiner Dalberg reversed. Order effective January 7, 1936.
- NEW—Ex. Rep. No. 1-77: H. K. Glass & M. C. Kirkland, Eustis, Fla.—Denied C. P. for new station to operate on **1310 kc.**, 100 watts, 6 a. m. to local sunset, sustaining Examiner Geo. H. Hill.
- NEW—Lake Region Broadcasting Co., Lakeland, Fla.—Granted C. P. for new station to operate on **1310 kc.**, 100 watts, unlimited time, sustaining Examiner Hill.
- NEW—C. D. Goff, Tampa, Fla.—Denied C. P. for new station to operate on **1500 kc.**, 100 watts, unlimited time. Examiner Hill reversed.
- NEW—Robert Louis Sanders, Palm Beach, Fla.—Denied C. P. for new station to operate on **1420 kc.**, 100 watts, unlimited time, sustaining Examiner Hill.
- NEW—Hazlewood, Inc., West Palm Beach, Fla.—Granted C. P. for new station to operate on **1200 kc.**, 100 watts, unlimited time, sustaining Examiner Hill. Order effective January 7, 1936.
- WKAR—Ex. Rep. No. 1-121: Michigan State College, East Lansing, Mich.—Granted modification of license to change frequency

from 1040 kc. to 850 kc.; 1 KW day to 1 KW; specified hours daytime to daytime. Examiner P. W. Seward sustained. Order effective January 14, 1936.

NEW—Ex. Rep. No. 1-132: Willis T. Shaughnessy, Bay Shore, N. Y.—Dismissed without prejudice application for C. P. for new broadcast station to operate on 1370 kc., 100 watts, unlimited time, sustaining Examiner Bramhall. Order effective November 19, 1935.

WBHS—Ex. Rep. No. 1-133: Virgil V. Evans, Huntsville, Ala.—Dismissed with prejudice application for renewal of license, 1200 kc., 100 watts, share with WFBC-WBHS 6/7ths time, sustaining Examiner P. W. Seward. Order effective November 19.

SET FOR HEARING

NEW—Union-Tribune Publishing Co., San Diego, Calif.—Application for C. P., 1420 kc., 100 watts night, 250 watts day, unlimited.

NEW—American Broadcasting Corp. of Ohio, Cleveland, Ohio.—Application for C. P. for new station, 880 kc., 1 KW, unlimited, site to be determined subject to approval of Commission.

NEW—Central Broadcasting Co., Eau Claire, Wis.—Application for C. P. for new station, 1050 kc., 250 watts, daytime.

NEW—Daily News Corp., St. Paul, Minn.—Application for C. P. for new station, 1370 kc., 100 watts, unlimited time.

WPHR—WLBG, Inc., Petersburg, Va.—Application for renewal of license, 880 kc., 500 watts, day.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses in the meeting held Nov. 12, 1935, for the regular period:

KADA, Ada, Okla.; KASA, Elk City, Okla.; KDLR, Devils Lake, N. Dak.; KFBK, Sacramento, Calif.; KFJB, Marshalltown, Iowa; KFJI, Klamath Falls, Ore.; KFVS, Cape Girardeau, Mo.; KFYO, Lubbock, Tex.; KGEK, Sterling, Colo.; KGY, Olympia, Wash.; KINY, Juneau, Alaska; KMBL, Monroe La.; KVOL, Lafayette, La.; WABI, Bangor, Me.; WBBL, Richmond, Va.; WCOL, Columbus, Ohio; WCRW, Chicago; WEBQ, Harrisburg, Ill.; WEBR, and auxiliary, Buffalo, N. Y.; WFBG, Altoona, Pa.; WFDF, Flint, Mich.; WGBB, Freeport, N. Y.; WGCM, Mississippi City; WGH, Newport News, Va.; WGNY, Chester Township, N. Y.; WHAT, Philadelphia; WHBC, Canton, Ohio; KFOR, Lincoln, Nebr.; KFPW, Fort Smith, Ark.; KGBX, Springfield, Mo.; KG CX, Wolf Point, Mont.; KGEZ, Kalispell, Mont.; KGFV, Kearney, Nebr.; KIUI, Santa Fe, N. Mex.; KIUL, Garden City, Kans.; KOOS, Marshfield, Ore.; KPPC, Pasadena, Calif.; KRMD, Shreveport, La.; KSUN, Lowell, Ariz.; KTSM, El Paso, Tex.; KWG, Stockton, Calif.; WKOK, Sunbury, Pa.; WLNH, Laconia, N. H.; WLVA, Lynchburg, Va.; WMBG, auxiliary, Richmond, Va.; WMBO, Auburn, N. Y.; WMFN, Clarksdale, Miss.; WMPC, Lapeer, Mich.; WNBH, New Bedford, Mass.; WOL, Washington, D. C.; WOMT, Manitowoc, Wis.; WPAX, Thomasville, Ga.; WRAW, Reading, Pa.; WROL, Knoxville, Tenn.; WSIX, Springfield, Tenn.; WSOC, Charlotte, N. C.; WTEL, Philadelphia; WBEO, Marquette, Mich.; WBNO, New Orleans; WBOW, Terre Haute, Ind.; WBRB, Red Bank, N. J.; WCAX, Burlington, Vt.; WCLO, Janesville, Wis.; WCMI, Ashland, Ky.; WDAH, El Paso, Tex.; WEXL, Royal Oak, Mich.; WFAM, South Bend, Ind.; WHBF, Rock Island, Ill.; WHBU, Anderson, Ind.; WHBY, Green Bay, Wis.; WJAC, Johnstown, Pa.; WJBL, Decatur, Ill.; WJBY, Gadsden, Ala.; WKBO, Harrisburg, Pa.; WCLS, Joliet, Ill.; WFAS, White Plains, N. Y.

W1XBS—American Republican, Inc., Prospect Township (New Haven County, Conn.)—Granted renewal of experimental station license for experimental service, effective Dec. 1, to expire June 1, 1936, in exact conformity with existing license.

W9XBY—First National Television, Inc., Kansas City, Mo.—Granted renewal of experimental station license for experimental service, effective Dec. 1, to expire June 1, 1936, in exact conformity with existing license.

W2XR—John V. L. Hogan, d/b as the Scientific Broadcasting Service, Long Island, City N. Y.—Granted renewal of experimental station license for experimental service, effective Dec. 1, to expire June 1, 1936, in exact conformity with existing license.

W6XAI—Pioneer Mercantile Co., Bakersfield, Cal.—Granted renewal of experimental station license for experimental service, effective Dec. 1, to expire June 1, 1936, in exact conformity with existing license.

W8XAO—The Crosley Radio Corp., Nr. Mason, Ohio—Granted renewal of special experimental station license for experimental service, effective Nov. 21, 1935, to expire Feb. 21, 1936, in exact conformity with existing license.

W10XFH—National Broadcasting Co., Inc., Portable-Mobile (On Stratosphere Balloon)—Granted renewal of special experimental station license for experimental service, for period ending Feb. 1, 1936, in exact conformity with existing license.

MISCELLANEOUS

WNOX—WNOX, Inc., Knoxville, Tenn.—Reconsidered and granted application to assign license to Continental Radio Corp.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Denied request for postponement of effective date of decision in the so-called Brooklyn cases since the Commission on its own motion postponed the effective date in said cases to December 3, 1935.

KOB—New Mexico College of Agr. and Mech. Arts, Albuquerque, N. Mex.—Granted petition for acceptance of written appearance at hearing for renewal of license. This case will be heard as usual by an Examiner.

NEW—Emmons L. Abeles and Robert J. Dean, d/b as Wise Broadcasting Corp., St. Paul, Minn.—Denied petition asking Commission to reconsider action of November 12, 1935, in granting request of Edward Hoffman for continuance of hearing of application of Wise Broadcasting Corp. for new station at St. Paul, Minn., to operate on 630 kc., 250 watts, unlimited, scheduled for December 5, 1935.

WTCN—Minn. Broadcasting Corp., Minneapolis, Minn.—Granted petition to intervene at hearing of application of Wise Broadcasting Co. for new station at St. Paul, to operate on 630 kc., 250 watts, unlimited.

NEW—A. L. Chilton, Dallas, Tex.—Granted: motion for continuance of hearing on application for new station at Dallas, scheduled for Nov. 25, 1935. The Commission at some future time will hear this application in conjunction with the application of Amon G. Carter for a new station at Fort Worth, Tex.

NEW—A. O. Jenkins, Jacksonville, Fla.—Granted petition requesting hearing scheduled for Dec. 17, be continued until after Jan. 10, 1936.

WMC—Memphis Commercial Appeal, Inc., Memphis, Tenn.—Reconsidered and granted application for authority to make changes in equipment, increase day power from 2½ to 5 KW and to install a new directional antenna system.

KFOX—Nichols & Warinner, Inc., Long Beach, Cal.—Reconsidered and granted application for renewal of license.

NEW—Pacific Acceptance Corp., San Diego, Cal.—Reconsidered action in granting C. P. for new station, order of Oct. 22, 1935, vacated and application for new hearing to be set for further hearing.

NEW—Calif. Sales Contract Co., San Francisco, Cal.—Application for new station now in hands of examiner was remanded for further hearing.

KMTR—KMTR Radio Corp., Los Angeles, Cal.—Application of this station for renewal of license to be heard in connection with application of Pacific Acceptance Corp. and Calif. Sales Contract Co.

NEW—J. R. Maddox and J. Richards, d/b as Tuscaloosa Broadcasting Co., Tuscaloosa, Ala.—Application for C. P. for new station, 1370 kc., 100 watts, daytime, heretofore set for hearing, was denied as in cases of default for failure to file an appearance.

KGDE—Charles L. Jaren, Fergus Falls, Minn.—Application for modification of license, 630 kc., 250 watts, unlimited, heretofore set for hearing, was dismissed at request of applicant.

APPLICATIONS RECEIVED

First Zone

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Modification of construction permit (B1-P-427) for equipment changes and approval of transmitter site on Gas House Pike, 1¼ miles from center of Frederick business district, Maryland. Amended to make changes in antenna system and move transmitter from Gas House Pike, 1¼ miles from center of Frederick business district, Maryland, to 2.4 miles from the center of business district, Frederick, Md., and approximately ½ mile due north of the Jefferson Turnpike.

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Construction permit to make changes in auxiliary equipment and increase power of auxiliary equipment from 250 watts to 500 watts.

WWRL—Long Island Broadcasting Corp., Woodside (L. I.), N. Y. 1500 —Modification of license to change specified hours by adding from 12 midnight to 1 a. m. Sunday, 12 midnight to 12:30 a. m. Tuesday, 12 midnight to 12:30 a. m. Friday, and 12 midnight to 12:30 a. m. Saturday.

W10XAN—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit for increase in power from 10 to 40 watts.

W1XEG—Connecticut State College, Storrs, Conn.—License to cover construction permit for a new general experimental station.

Second Zone

WPEN—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Modification of license to increase power from 250 watts, 500 watts day, to 1 KW day and night, using directional antenna at night.

WRAX—WRAX Broadcasting Co., Philadelphia, Pa.—Modification of license to increase power from 250 watts, 500 watts day, to 1 KW day and night, using directional antenna at night.

NEW—John E. Fetzer, Kalamazoo, Mich.—Construction permit for a new station to be operated on 1010 kc., 500 watts night, 1 KW day, unlimited time.

WJAC—WJAC, Inc., Johnstown, Pa.—Construction permit to make changes in equipment, increase power from 100 watts to 100 watts, 250 watts day, and move transmitter locally.

NEW—John E. Fetzer, Benton Harbor, Mich.—Construction permit for a new station to be operated on 1500 kc., 100 watts night, 250 watts day, unlimited time.

WEST—Associated Broadcasters, Inc., Easton, Pa.—Modification of construction permit (B2-P-472) authorizing move of transmitter and studio, requesting antenna changes and ap-

proval of transmitter site at Williams Township, 1.4 miles south of Easton, Pa.

Third Zone

NEW—Voice of Marshall, Marshall, Tex.—Construction permit for a new station on 1500 kc., 100 watts, specified hours.

WNBD—WDSU, Inc., Portable-Mobile.—License to cover construction permit for a new broadcast pickup station.

Fourth Zone

KWTO—KGBX, Inc., Springfield, Mo.—Modification of license to change name from KGBX, Inc., to Ozarks Broadcasting Co.

WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Construction permit to make changes in equipment.

NEW—George H. Adams and Henry D. Bratter, St. Paul, Minn.—Construction permit for a new station to be operated on 1370 kc., 100 watts, unlimited time.

WHFC—WHFC, Inc., Cicero, Ill.—Modification of license to change specified hours by adding one hour on Sundays (7 a. m. to 8 a. m.).

W9XPD—The Pulitzer Publishing Co., St. Louis, Mo.—License to cover construction permit for a new general experimental station.

Fifth Zone

KHBC—Honolulu Broadcasting Co., Ltd., Hilo, Hawaii.—Modification of construction permit (B5-P-552) to change frequency from 1420 kc. to 1400 kc., power from 100 watts to 250 watts, install new equipment, extend commencement date 60 days after grant and completion date 6 months thereafter. Amended to make changes in equipment.

NEW—Oregon State Agricultural College, Portable-Mobile.—Construction permit for a new general experimental station to be operated on 31100, 34600, 37600, 40600, 86000, 400000 kc., 5 watts. Amended to delete frequencies 86000 and 400000.

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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JULY 8, 1935

Monday Morning

The opening session of the Thirteenth Annual Convention of the National Association of Broadcasters, held at The Broadmoor, Colorado Springs, Colorado, convened at 10:15 o'clock, President J. T. Ward (WLAC, Nashville) presiding.

PRESIDENT WARD: The Thirteenth Annual Convention of the National Association of Broadcasters is called to order.

In the absence of the Hon. E. C. Johnson, Governor of the State of Colorado, who was not permitted to be with us this morning due to the press of official business, we have Dr. F. A. Forney of Colorado Springs, who will represent the Governor in extending the address of welcome. Dr. Forney. (Applause.)

DR. F. A. FORNEY (Radiologist, Modern Woodmen of America Sanatorium, Colorado Springs): Mr. Chairman, ladies and gentlemen: I am perhaps not the last example but I am the very latest example of carrying coals to Newcastle. You don't need a very great sense of humor to know that there is something funny going on to ask an ordinary fellow at 9:00 o'clock to come before a national convention of broadcasters to make a speech. That to me is decidedly humorous. If Major Bowes of amateur fame happens to be in the audience, I hope he won't ring the bell on me for about thirty seconds. (Laughter.) I'll hurry through.

Science is so exacting; they demand so much perfection in their machines today that the general public is in no sense able to appreciate the amount of work, the hours of research, the amount of capital necessary, to put over our modern inventions and our modern machines.

I happen to know one illustration in the Coolidge tube put out by General Electric where they put in \$2,000,000 to sell an X-Ray tube for \$25. Probably you radio men could tell us of more illustrations out of proportion than that one.

Your radio was so perfected when it was given to the public that we don't think about the scientific end of it but we think of the service that you give us. It is a wonderful thing to be able to sit down in your home and get the best musical programs and get the latest world news, or, you can even go up in the mountains, take your radio in your car and get the same news up there.

But, it all comes to the average individual so fast that it is bewildering. He ought to have a keen sense of appreciation but you will have to be patient. You will think we are awful slow in reacting to your programs but it is coming so fast that it isn't possible for us to do it.

You know, the radio takes a second seat to no one, to no other agency today in absolutely molding the fate and the destiny of nations. I know you have your problems; you must have one big problem to be able to give the general public all this wonderful entertainment, all this news service you give them and it doesn't cost them anything except the cost of their radio. I hope if you have to deal with that in this convention, you will continue on the same plane, free of charge, and with the same high type of programs. I wish you well along those lines if that is what is in your minds to do.

I am sorry the Governor couldn't be here this morning. I have made a few random remarks to let you know as an ordinary citizen I do know there is such a thing as radio and have a sense of appreciation. But, on behalf of the Governor, on behalf of Colorado Springs and this hotel, I want to extend to you a very cordial welcome and greeting to this community for your radio meeting.

I hope that you will dispose of your business in time so that you will be able to get out into our hills and see some of the natural grandeur and beauty that is coming to you. It will give you a wonderful feeling if nothing more. On Saturday I went out about twenty miles; yesterday morning I had a trout breakfast with a dozen trout as a trophy and I never felt better in my life than this morning.

Again, I want to extend greetings. If you don't get what you want, ask for it and the citizens of Colorado Springs will try to help you out.

I thank you. (Applause.)

PRESIDENT WARD: We greatly appreciate the words of welcome as extended to us by Dr. Forney and I am quite sure that the beauty of the surrounding country and the delightful hotel in which we are stopping, the environment of it all is completely going to correct and eradicate any evil due to the fact that this is our thirteenth annual convention.

The management of the hotel has stated that they are going to give us more lights and better ventilation and until that can be obtained, has suggested that we go just a little slow on our smoking until they can get the room better ventilated, which will be only a few minutes.

And now we come to that point in the program when I, as President of your Association, am to give my annual report.

This year will probably go down in history as the shortest in the life of the NAB as measured from convention date to convention date, although I doubt if one will come more full of perplexing problems and difficulties. In speaking of these problems, I shall only deal in generalities since you will receive a full and complete report from those who were appointed to deal with such problems.

Almost on the very heels of our last convention, the broadcasters

were called to Washington on October 11 to testify before the Federal Communications Commission as to what the industry had been doing in the way of educational broadcasting; or, to put it another way, how we had acted under the stewardship in which we had agreed to operate in public interest, convenience and necessity.

This educational hearing was heard by the Commission under a mandate from Congress, and whatever may have been our fears before, in the end I am sure every station participating welcomed the opportunity to testify before the Commission. Stations participating presented their cases in a most interesting manner and all rallied to the leadership of NAB, making possible the presentation of a case which could not be broken.

When the facts were known, I am quite sure the industry as a whole was surprised to know that such a vast amount of time was being given to subjects of a general educational or informative nature. You are all aware of the favorable report given to Congress by the Commission, which in substance upheld the American system of broadcasting.

May I pause here to pay my respects to Phil Loucks and Henry Bellows for their leadership and the admirable manner in which they conducted the case for the industry. Henry Bellows had a gigantic task in collecting all the data and putting it together into a most beautiful and logical summary of the case.

In May of this year, the second educational conference was called by the Commission, at which time the industry, with your President as its spokesman, reaffirmed our belief in the American system of broadcasting and without relinquishing any of our rights or privileges, your President joined in the suggestion that a committee be appointed by the Commission, truly representative of educators and broadcasters, to make a further study of broadcasting, out of which we hope helpful suggestions will come that can be adopted by the industry, and thus settle to the satisfaction of all concerned this important question of education by radio.

Your Association has been faced with pressing legislation, not only of national scope, but various tax bills springing up all over the country in state legislation. During the past year many state committees have been formed so as to deal more adequately with this problem at its source. This is a plan of action which we hope to carry into every state in the union. These committees, functioning as a local state NAB committee, cannot only successfully handle state legislation but can act as a unit of NAB in dealing with any other state problems affecting our industry. Such state committees should materially strengthen our Association.

Plans for the creation of a cooperative bureau have taken definite shape under the guidance of the committee of which Arthur B. Church is chairman. This committee has made definite progress and you will have a complete report from Mr. Church. May I, however, at this point, add my endorsement to the work which they have done and which they propose doing in the future. We need much closer cooperation in our industry with the advertising agencies, represented by the AAAA, the AFA and the ANA, and through them, with the advertiser. Definite information must be compiled and made available for the time buyer.

The NRA code did much to stabilize our industry from the standpoint of trade practices. Now that the plan and purposes of NRA have been greatly curtailed, our Code Authority has been abandoned. It would, however, be disastrous for this industry to revert to some of those evil practices which were so prevalent before the establishment of our Code Authority. I have, therefore, appointed a committee consisting of Alfred J. McCosker, chairman; Arthur B. Church, Stanley E. Hubbard, John Shepard, 3rd, and Edward Allen to make a study and report to this convention certain trade practices wherein the good features of the broadcasters' NRA code can be voluntarily adopted and adhered to by the entire industry.

I feel that definite progress has been made during the year in the matter of copyrights. The Government suit against the American Society to correct their unfair trade practices has been launched and will be continued in November. Our Copyright Committee has worked very diligently throughout the year and a complete report of their negotiations will be made by the chairman and we expect a great deal of discussion on this very important subject.

The American Society has offered to the industry a renewal of their present contract for a period of five years. This contract, while it may not be desirable to the industry as a whole, does at least protect the industry from a further increase in payments to ASCAP for a period of five years from the expiration of our present contract, and would become void should the Government

win its case before its expiration or a more desirable plan of operation be entered into between the industry and ASCAP.

Practices of the governing body of radio, the Federal Communications Commission, are fast becoming stabilized under the valiant leadership of Chairman Prall. It is my belief that the individual broadcasters and the industry as a whole feel more secure in their position today operating under the new Commission than at any time in its history.

During the past year our industry has prospered; business has continued to gain during 1935; gross time sales during the first four months of the current year were approximately twenty per cent greater than during the corresponding period of 1934. Particularly encouragement is to be found in the use of radio advertising by retail establishments. Radio advertising of this type was 48.6 per cent greater during the first quarter of 1935 than during the same period of the preceding year. April retail volume was 71.1 per cent ahead of the same month of last year. Department store volume has exceeded that of the previous year by about 50 per cent. The total gross revenue from the sale of broadcasting facilities representing only gross time sales for the year 1934 amounted to \$72,887,000. This equalled and probably exceeded the previous estimated peak which occurred in 1931.

There has been an increase in the number of receiving sets, slightly more than 4,000,000 new sets being sold in 1934. There were approximately 21,000,000 radio homes in this country on January 1 of this year representing a potential listening audience of approximately 70,000,000 people. This does not take into consideration the ever increasing number of automobile radios being sold. There are approximately 21,430,000 passenger cars in use today, representing a very fertile field for the continued sale of auto receiving sets, bringing with it a greatly increased constant listening audience.

Radio programs have been greatly improved during the year and much thought has been given to better commercial copy, resulting in a more favorable reaction from the listening audience. I cannot recommend too strongly to you the position of our two networks and many leading independent stations relative to their position as to what can be ethically advertised over the air. Such broadminded vision can only reflect good to our entire industry, increased confidence by the advertiser and increased good will and enjoyment on the part of our listening audience. With general improvement in business conditions throughout the country, I am confident that our industry is on the threshold of a very profitable future which will enable us to be of greater service to our country and its people.

Our Association, under the able management of Phil Loucks, has consistently grown in number. Our membership now totals 385, 40 new members being added during the year. Our Association is in a much more stable financial condition, due to the new system of dues inaugurated at our last convention and to the efficient management on the part of our Managing Director. Too much cannot be said of Phil Loucks and it was with deepest regret that I, as President of your Association, received his resignation which will be passed to the Board for action. In returning to the private practice of law, he will have the best wishes of every member of this Association. Were it possible to influence him to remain with us, I am sure every member to the last man would be pleased. To know and to work with him, as it has been my privilege throughout the year, is to respect him. He is one of the most capable, loyal workers I have ever known, courageous and honest in any stand he takes. This Association is going to feel his loss very keenly, for he has helped to build a firm foundation on which a great industry rests. (Prolonged applause.)

This Association is not just a trade organization; it is a bulwark which will, if we stick together, withstand any onslaught either from within or without our organization. A split in our ranks would be a severe blow to the future of the industry. This Association is bigger than any one man or group of men. We all have a common cause and interest and there is no problem facing us, nor none will develop in the future, which cannot be properly solved if we all stand together behind our Association.

During the past year it has been my privilege and an honor to serve as your President. I have acted at all times within my best judgment and to the extent of my ability. It has taken a great deal of time and has meant an actual financial loss to me. I have, however, enjoyed the work and have been happy in the thought of serving you. I am not, however, a candidate for reelection. It has always been my belief that the presidency of the National Association of Broadcasters—the highest honor which our industry can bestow upon one individual—should be sought by every member of this Association; and I have always held the belief that

once a member has enjoyed that high honor and has enjoyed the privilege of serving his industry in that capacity, he should stand aside in favor of another of his associates in business, happy in the thought that he has had the opportunity for service. By that, I do not want to infer that I am unwilling to serve you in any capacity which you may choose. On the other hand, I want by that statement to convey the thought that my interest in so far as this Association is concerned, is your interest. I will be happy to do whatever I can in the future for this Association in any official capacity or as one of your active members. I am a great believer in the old adage, "United we stand; divided we fall" and I want you to know that I am with you through thick and thin, and that I shall always put the interest of this Association above my own selfish interest and personal gain. (Prolonged applause.)

And now we come to that point on our program I am sure you have all been very keenly waiting for—"A Market Tip to the Broadcasters," to be given by my friend and your friend, Anning S. Prall, Chairman of the Federal Communications Commission.

(The convention arose and applauded.)

HON. ANNING S. PRALL (Chairman, Federal Communications Commission; Washington, D. C.): Mr. Chairman, ladies and gentlemen, and delegates: when I heard your President convey his annual message to you, I was reminded of six experiences that I have had with respect to one part of his report. I had the honor and privilege of sitting in the Congress of our country for six terms and from the first to the last, at the expiration of each, I assured the voters of my district in all sincerity that I was not a candidate for reelection. (Laughter.)

And then I followed that up with the assurance to my constituents that if at any time I might be of service to them, my heart and my soul was in the work. (Laughter and applause.)

And my patriotism, I assured them, was far greater than any selfish interest I might have. (Laughter.)

I am here today at your gracious invitation, the honor of which I greatly appreciate. As the representative of the Federal Communications Commission, it is a real pleasure, I assure you, to appear before you gentlemen of the Fifth Estate.

It is with genuine satisfaction that I am privileged to attend this convention where, for the first time since I was named a member of the Commission last January by President Roosevelt, I can meet face to face the representatives of the broadcasting industry as a group. Many of you I have met individually, with others I have corresponded, and with some I have a telephone acquaintance, but it is our earnest desire—and I speak for my fellow Commissioners—to know all of you personally, to counsel with you and to discuss your problems to the end that better radio service may be offered to the American people and that the industry may reach its goal of complete stability.

Today I am going to talk a little shop with you. It might aptly be called a "heart-to-heart with the broadcasters."

As you are probably aware, we have injected a bit of "New Deal" in radio during the past few months, and from where we sit in Washington, it is very apparent, to say the least, that you are interested in our desire, or, may I make it a little stronger and say, our determination to free the air of objectionable programs and strengthen friendly radio reception in the American home. While our actions may have appeared drastic, I believe all of you will agree that even at this early stage much good has been accomplished. You will also agree, I am sure, that by our action the American home is assured of a better standard of radio programs and that in the final analysis the industry itself, having grown so important in the public mind and having assumed the responsibility of broadcasting information that should always be accurate and dependable, can rely upon the strong arm of the Commission to protect it against its unscrupulous brother within its own ranks who seems to disregard the idea that immediate profit must at times be subordinated to public service.

In order that you may follow our thesis chronologically, suppose I start at the very beginning of this new trend in program improvement. I came to the Commission in January as a layman with little more than the average listener's knowledge of broadcasting, but I had been something of an ardent listener. To me, radio was (and still is) an ultra-modern combination of journalism, the theater, the public rostrum and the school house.

Visualizing radio as I did, it was difficult for me to reconcile some of the programs heard so consistently with this concept. To me, there were many commercial medical programs and children's programs which did not accord with good taste. In the former case, there appeared to be commercial announcements which were not only repugnant but absolutely false, deceptive and fraudulent. That much is an old story to you.

Upon taking office, I found that the Commission's Law Department was working on a score or more of complaints involving programs that seemed to be out of step with the requirements of law. We expedited that work. Immediately there developed a strong support for it. It was not a reform movement. We simply had in mind what should have been obvious to the broadcasting industry all along—that elimination of these offensive or improper programs was desired by listeners and that with them stations could not meet the requirements of serving "public interest, convenience and necessity."

Today, after only five months, there has been a wholesome cleaning up. Stations have taken the view that the result can be accomplished by self-regulation. That is well. We, on the Commission, are gratified. The job has not yet been completed, for our records show that there are still some one hundred station citations pending involving programs. These are not confined to medical continuities. They include lotteries, astrology programs and other seeming violations of broadcasting "in the public interest." But we do feel that a good start has been made.

Having served the City of New York as President of the Board of Education, with an enrollment of more than a million boys and girls in the public schools, I am naturally interested in what is going over the air under the guise of children's programs. Caustic complaints have come to me to the effect that many children cannot eat or sleep after hearing some of these blood and thunder broadcasts. Good judgment could have prevented this, and can prevent it.

We would not have you believe that our view has been that all broadcasting stations have been transgressors. Far from that. We felt that the entire roster of six hundred or more stations was being penalized by the sins of a decided minority who failed to recognize their obligation to listeners. We have discovered that a large number of stations for some time had been rejecting programs in which the commercial continuities were overdone, or the products questionable.

Particularly gratifying to us has been the leadership of the nation-wide networks. Because of their greater stakes in the broadcasting industry, it was only logical to expect them to be the bell-wethers. They have responded admirably, and we hope they will continue to lead the way in this sensible self-regulation movement. Otherwise, there is strong possibility that Congress itself will step in and take a hand, and perhaps write into the law program restrictions with which stations will be forced to comply. That would be unfortunate, particularly when the result can be accomplished without it. On this, the ball has been passed to the broadcasting industry and that includes the advertisers as well as the station operators. There must be team-work between the two. During the past few months the team-work has been fine. A bit of brain-work along with this team-work will win the old ball game.

Many of you, perhaps, are wondering what we are going to do about stations now operating with temporary licenses because of alleged program excesses. I am going to talk frankly. We do not have in mind the deletion of stations which can show that the programs complained of did not constitute the major part of their schedules, or which have since taken steps to clean up; but we will not condone gross and willful infractions. Stations have been deleted in the past due to program shortcomings, and it may be that a few of the pending cases will necessitate this drastic action. I hope not.

It can be said, also, that the Commission has not and does not intend to prohibit the advertising of any and all medical products over the air. It does not have the power to do so, as you well know, because it can exercise no censorship whatever over programs. If a product, in the first instance, is legitimate, and if it is advertised in good taste without false or deceptive statement, then there is no reason why the account cannot be accepted by the station. But the broadcaster must be the judge. If he is incapable of judging, then we must assume that he is not the proper person to hold a broadcasting station license.

At this point I wish to mention another factor in radio advertising which apparently has been overlooked—that is the advertiser himself and, of course, his advertising agency. The advertiser has a very definite and primary responsibility. He is not subject to the terms of the Communications Act, as is the station, but he is amenable to many other laws of the land dealing with pure food and drugs and with interstate commerce.

In the first place, the advertiser should realize that radio is very different as an advertising medium from the printed page. He should not attempt to foist upon stations and their listeners advertising copy that cannot be placed in newspapers and magazines. He should realize that while he may sell his goods effectively

over the radio by going to high-powered extremes in his sales talks, he is at the same time creating ill will among those who are informed. In the long run, he will lose and perhaps the station will be found in the ruins.

It is because unscrupulous manufacturers in the food, drug and cosmetic lines have gone to such extremes that the United States Senate recently passed the Copeland Bill designed to regulate rigidly the sale and advertising of these products. If this bill becomes a law, then these manufacturers will soon find they cannot continue these practices. Radio should be the modern Paul Revere and be used to warn the public against the fake advertiser. Most certainly it should never be the medium used for selling goods that are fraudulently advertised.

I have noted in *Broadcasting Magazine* that your Association is cooperating with the Association of National Advertisers and with the Association of Advertising Agencies in plans to form a cooperative bureau to authenticate station coverage and listener data. In this connection, an idea occurs to me: Why not go farther? Here are the three principal trade associations of the three industrial groups most vitally concerned with radio as an advertising medium. Why can't they enlarge the scope of their activity to include a cooperative movement for safe, sane, clean, and dependable continuities on the air? There need be no mandatory rules. Perhaps the writing of trade practice provisions to cover these points would suffice. Without knowing very much of these trade associations, it nevertheless seems to me that you have a splendid opportunity to accomplish something along this line.

Also worthy of consideration, I believe, is the editorial suggestion made in the May 1 issue of *Broadcasting Magazine* on the subject of questionable programs. I quote from *Broadcasting's* columns (and I have been told since preparing this address that other publications have taken the same attitude):

"Perhaps a solution (to the program problem) would be to set up within the industry (the National Association of Broadcasters would be the logical agency) an individual whose task it would be to advise stations and advertisers and their agencies whether particular accounts are construed to be ethically, esthetically and otherwise acceptable. It would be a matter of 'editorial selection,' so to speak, for the industry. The man would have to be forceful and one with the courage to say 'no.' . . .

"Thus, when a new account is offered, the NAB could review it, and if necessary, check with Federal authorities to ascertain whether the claims are reasonable. Like the procedure so successfully adopted by Good Housekeeping in the home commodity field, the NAB could place its stamp of approval on products or services, and deny it to those which fail to meet predetermined specifications. . . ."

That, to me, seems to be a plausible proposal, basically. It is another matter your convention might well consider at its deliberations here. It may have its shortcomings, but most certainly it is a function that can be performed by your trade association, particularly when one takes into account the fact that our radio law specifically prevents us from exercising any degree of program censorship.

At the beginning of this talk, I believe I characterized radio as the "Fifth Estate." That may sound trite to you of the trade but the first time I heard it I was greatly impressed. It describes radio broadcasting in a remarkably apt way. In the case of the "Fourth Estate," which embraces journalism or the press, there were some four hundred years of history since the first news was published from type. Radio, the "Fifth Estate," has only fifteen years behind it, but those have been years of dazzling, almost reckless development. Today it is leveling off into a medium comparable with the press, but providing also certain types of "editorial matter" not developed on the printed page. Naturally, we cannot expect this fifteen-year-old infant, which some of my newspaper friends call "audible journalism," to do what the publishers have accomplished only after four centuries; but it can profit and happily is profiting by the experience and background of the "Fourth Estaters."

The radio broadcaster of today is the "Editor of the Air." Like the editor of the press, he has a distinct responsibility to his auditors. The responsibility of the "Editor of the Air" even transcends that of his more experienced brother, because he must comply with the mandate of serving "public interest, convenience and necessity" in everything he "publishes" by means of his transmitter. His broadcasting franchise is contingent upon that. Moreover, the "Editor of the Air" is decidedly limited in the amount of "news" he can publish for the information, edification and enlightenment of his

listeners. There are only so many hours in the day and he must offer his listeners a balanced menu. He cannot add pages to the newspaper of the air. On the printing press, of course, there is no limit to the size or number of the news columns that can be published.

This "Editor of the Air" analogy is becoming more and more striking these days. As I turn the dial of my radio, I find that news reports consume infinitely more time than they did only a few short months ago. That is an interesting and important development and may have a far-reaching bearing upon the future status of the broadcasting stations.

Broadcasters, as they become more alive to their editorial responsibility, I believe will soon find themselves establishing editorial standards. By that I do not mean that they will identify themselves with politics, for that would be wrong and deplorable. It is my view that they will become more intimately identified with the civic activities of their own communities, that there will be more forums on the air, and that they will awaken the interest of their listeners in an entirely new sphere of editorial activity. The station will then become a vastly more important entity in the affairs of its own city or town.

I cannot permit the day to pass without a word of appreciation from the Commission for the fine spirit of cooperation shown by the broadcasters in working so harmoniously with the educational groups of the country to the end of pressing the broadcasting industry into use in our movement to bring about a definite, workable plan for education by radio. A committee, headed by Dr. Studebaker, United States Commissioner of Education, is working to that end, and to your ever-lasting credit I understand you are 100 per cent committed to the idea and supporting it wholeheartedly.

At the Commission we are mindful of the fact that broadcasting stations now operate under six-month licenses. That, to a business man, seems extremely unjust when the millions of dollars invested in the broadcasting plant and equipment are taken into account, along with some fifteen thousand full-time radio station employees and the tremendous payrolls. I agree that under ordinary circumstances you have some reason to protest. I do not agree, however, with some who have said or written that broadcasting stations have been intimidated or coerced because of these short-term licenses. I do not believe that there has been the slightest degree of censorship invoked upon networks by the Administration or by our Commission. All that talk may be branded as sheer partisan propaganda and no one is better informed on this subject than you gentlemen of the industry. The law as now written permits us, if we so desire, to extend the term of broadcasting station licenses to three years. Most of you will recall that in the early days of our predecessor agency, the Federal Radio Commission, licenses were issued for only three months and then extended to the present six-month term. That was because the old Commission felt the broadcasting structure should be kept sufficiently fluid to permit the shifting of station assignments and so to adjust radio as to provide maximum service for the people of the country.

There is now pending before the Commission a resolution introduced by Commissioner Brown to extend the broadcast license term to one year. I have not discussed this resolution with any of the Commissioners and cannot even venture an opinion of what action they may take when this matter comes before us for adoption. I know, however, that you are vitally interested in this phase of your business and I can see no good reason, when once the industry has established itself on a sound program basis, why the Commission should not give the proposal serious consideration. (Applause.)

Before closing, may I assure you that during my short tenure on the Commission, I have appreciated fully the splendid cooperation of the officers and members of your Association whom it has been my pleasure to meet. May I say, too, that I have learned with keen regret that your Managing Director, Philip G. Loucks, is about to retire after five years of service. In the work of the educational groups, I have been in close personal contact with Mr. Loucks, who is gifted with a charming personality, and he has impressed me as an able, conscientious and efficient representative of your organization. I wish him success in his chosen field.

It is my hope that when you convene again, one year hence, you will report the broadcasting industry without an exception as having attained the goal of clean programming. Having accomplished that purpose, you should then take up for consideration and presentation to the Commission your claims for granting longer term licenses.

(The convention arose and applauded.)

PRESIDENT WARD: Commissioner Prall, we thank you for this message you have brought to us today from the Federal Communications Commission and we hope that you will interpret the

spontaneous action of this body as our confidential appreciation of you and our pledge to you to cooperate fully with you and the Commission in carrying out your most worthy views governing our industry. Exceedingly happy to have had the Commissioner with us here this morning.

Next on our program is an address by Mr. Andrew W. Cruse, Chief, Electrical Division, United States Department of Commerce. Mr. Cruse has just recently returned from a trip covering the entire continent of Europe, making an intense, close study of television, and he brings us a message this morning which should be of interest to all of us covering the latest developments in television. Mr. Cruse. (Applause.)

ANDREW W. CRUSE (Chief, Electrical Division, United States Department of Commerce; Washington): Mr. Chairman and gentlemen, it was early in 1925 that Baird in England and Jenkins in this country succeeded in demonstrating the practicability of television and almost hourly since then we have read that: "Television in the home is just around the corner!" For some unaccountable reason this mirage of visual transmissions which has been dangled before the eyes of the public has failed to lose its novelty despite this repetition, and any writer has always been sure of attracting a large number of readers through the simple expedient of developing a new angle on the "Television Story". In this respect, the "Television Story" has always reminded me of an old wooden theatrical property horse which was constantly being relegated to the limbo of the dusty old cellar—and just as constantly being dragged out, dusted off and paraded around before an ever-enthusiastic public whenever there has been a dearth of news. I think that I can say without fear of contradiction, serious or otherwise, that from a news viewpoint, television has been the most successful scientific development of all time!

On the fourteenth of May, 1934 a new note crept into this Ravel's Bolero of the "Television Story" when the British House of Commons announced the appointment of a committee:

"To consider the development of television and to advise the Postmaster General on the relative merits of the several systems and on the conditions under which any public service of television should be provided."

This theme was built up to a terrific crescendo when, on January 14 of this year the British Television Committee rendered its report. The corner had been turned, the wooden horse had blinked his eye, the public cheered, the bearings of the typewriters ran hot, television stocks boomed—in short, a scientific sensation was created which would have dwarfed the story of catching the Loch Ness monster on a bent pin! (Laughter.)

But, in the background of the cheers in the United States could be heard the "Walla-walla-walla" of those incredulous persons who were—and for that matter still are—demanding the answers to their questions—"What are we going to do about it? When are we going to have television in our homes? What is to be our answer to this challenge of our recognized leadership in the field of science?"

That, in brief, was the situation when early in May the United States Department of Commerce decided to make a study of the television situation in Europe because by this time Germany and France were also in the television picture, and advise the electrical and radio industries in this country the exact state of affairs in a fair, unvarnished, uncolored, unbiased fashion. It is only proper that you of the National Association of Broadcasters should be the first to hear our findings in this investigation inasmuch as your business will be the one most vitally affected when commercial television becomes an actuality in this country.

Let me just outline briefly the facilities of the Bureau of Foreign and Domestic Commerce available abroad which made this study possible in so short a period of time. As you probably know, we maintain commercial attaches in the principal countries of the world and these offices together with the consular offices of the Department of State are of inestimable value to American business in general. After having studied all the available material on television abroad and having secured letters of introduction to the leaders in that field from the industry in this country, the commercial attaches in England, Germany and France were advised and they proceeded to lay out a schedule of appointments which utilized every minute of the time available. I have probably seen less of the sights of London, Berlin and Paris than anyone who has ever visited those cities!

Before discussing the development of European television in detail, let us first consider what we mean by development. This, I believe, can be given by answering the questions:

1. How many hours of television programs are now being given daily?
2. How many people are looking at those programs and how popular are those programs?
3. What are the prospects for increasing the scope of this television service in the immediate future?

In England, the British Broadcasting Corporation are now offering low definition television programs lasting from one-half to three-quarters of an hour twice each week. These programs are transmitted on a wave length of 261 meters with the accompanying sound on 398 meters using two broadcast transmitters, one for the picture and the other for the accompanying sound. The Baird system, employing mechanical scanning, giving a 30 line picture 12 frames per second, is used for this purpose. In this connection, I wish to say that I think the BBC is doing an excellent job on these programs and I was pleasantly surprised to discover that despite the low definition and objectionable flicker, these programs do have an entertainment value for short periods—lets us say of the order of a half hour. Live talent is used exclusively on these programs and everything from a condensed version of "Carmen" to vaudeville acts is offered.

When I inquired about the number of television receiving sets in service in the British Isles, I received estimates which ranged from zero to 10,000. The British Post Office people, however, who are in the best position to make an estimate, gave the figure of less than one hundred. Please bear in mind that these BBC low definition programs which are offered twice weekly and received by a maximum of one hundred receiving sets comprise the only public television service now being offered in Great Britain. Both the Baird Company and Electrical and Musical Industries (EMI) are transmitting experimental high definition television but inasmuch as no high definition receiving sets can now be purchased, these transmissions can in no way be considered as a public service.

Now, as to the prospects for increasing the scope of British television in the near future. On June 7 the Postmaster General announced that he had received "a communication from the Television Advisory Committee regarding the choice of a site for the projected London Television Station and other matters relative to the proposed experimental television service." You will note that the Postmaster General refers to this as the "proposed *experimental* television service". The announcement goes on to state that the Alexandra Palace has been selected as the location and that Baird and EMI have been called upon to submit bids for the transmitters to be used at that location. There is no reason to doubt that these bids will be accepted and the chances are that late this winter or early next spring high definition television service will be inaugurated by BBC using alternately the EMI 405 line 50 frame interlaced and the Baird 240 line 25 frame sequential transmitters. It is now proposed to operate one hour each morning and two hours each evening using 6.6 meters for vision and 7.2 meters for the associated sound signals. High definition television receiving sets capable of receiving programs sent by either transmitter i. e., Baird 240 or EMI 405, are expected to make an appearance about the time the bids for the transmitters are actually accepted—which will probably be some time this fall. It is anticipated that their minimum price will be the equivalent of \$250. I honestly believe that the British public want television although I would hesitate to say that they are insisting on it! Some over-enthusiastic writers have given the impression that the receiving sets will be sold for approximately \$100 and I strongly suspect that when the public discovers that sets will cost more than twice that figure, whatever enthusiasm they may now have for the new television programs will be lost to a considerable extent.

The British Radio Manufacturers Association have consistently refused to have anything whatever to do with television on the grounds that the attendant publicity has already reduced their sale of radio receiving sets materially. However, my conversations with several of the larger manufacturers gave me the impression that the total sale of these sets for 1935 will be fully up to the 1934 figures—in spite of television. As a matter of fact, I understand that the RMA is now considering the idea of allowing manufacturers actually to show television receiving sets at their August radio show.

The British Post Office are firm in their belief that a Television Patent Pool is essential and preliminary negotiations are now being carried on by the principal patent holders. There can be no doubt of the successful conclusion of these negotiations but I assure you that any mediation board which must determine how royalties will be distributed certainly has my sympathy.

You will probably be interested in the attitude which the motion

picture industry in Great Britain has taken toward television. I had the pleasure of discussing this question at some length with Mr. Alexander Korda, director of such excellent productions as *Henry the Eighth* and *the Scarlet Pimpernel*. His reaction is that at the present time television is a distorted art in that it presents figures on a small screen accompanied by sound on a normal level. It is his feeling—and he emphasized the fact that he is not a technical man—that some new development will be made which will permit the showing of television images on a large screen in the home but even then he feels that the human psychological urge which has always made people enjoy their entertainment in groups in the atmosphere of the theatre will prevent television from becoming a serious competitor of the motion picture for a long, long time. On the other hand, Mr. Korda suggests that the motion picture industry has developed so much in the technique of lighting, staging and sound that it is to be expected that they will be called upon to a great extent to assist in the development of studio technique for television.

The attitude of the Gaumont-British Company is clearly reflected in their purchase of the controlling interest in the Baird Television Company!

Experimental work is being carried on in the field of coaxial cables for the land line relay of television programs from one city to another and there is one unconfirmed report that the British Post Office hope to have a coaxial cable link between London and Birmingham before our New York-Philadelphia coaxial cable is placed in service. In view of the fact that they speak of their cable as being capable of handling a frequency band of but 1.5 megacycles, I seriously doubt if they can, or will, plan to use it for television relay work.

Their ultimate plans call for the erection of twelve transmitters to cover the principal population centers of Great Britain and it is confidently predicted that four or five of these will be in service by the end of 1937. The confidence of the prospective manufacturers of television receivers is reflected in their prediction that 50,000 of those sets will be in service by the end of 1936 and from five to ten times that many more by the end of 1937.

One thing which impressed me greatly was that in all of these rather optimistic plans for the future of British television, the ability of the BBC to provide interesting programs seem to be taken for granted. To my mind, the whole success or failure of the project hinges on this point. One engineer estimates that if all of the motion pictures produced in England and all of the films imported by them from other countries were to be presented to the television audience, they would still only have enough material from that source to provide a program ten minutes per day. That, according to their present schedule, would still leave 170 minutes each day where live talent would have to be used! To be sure, the studio technique which BBC has developed in their presentation of their low definition programs will certainly stand them in good stead but at the same time I could not blame them if they viewed with alarm the task of having to provide material for 21 hours per week as against their present maximum of 3 hours.

In considering television from this angle, the question logically arises, "Who is going to pay the bills?" It should be remembered that approximately seven million listeners are now paying license fees of two dollars and a half per year of which the BBC receives a dollar and twelve cents and the balance goes to the treasury. It is now proposed to increase the BBC share of the license fee to two dollars and twenty-five cents, thus giving them approximately \$15,750,000 annually on which to operate both sound and visual services. It is most interesting to note that this new proposal has caused practically no adverse criticism from license holders in areas not to be served by the television programs.

As you probably know, the British Broadcasting Corporation's charter expires December 31, 1936 and it is going to be most interesting to observe what effect this venture into this new field will have upon its future!

From London I went to Berlin where I was most graciously received by everyone having anything to do with the development of television in Germany. At the present time they are giving 180 line 25 frame sequentially scanned transmissions from a seven meter transmitter in Berlin. The Broadcasting Company of the Ministry of Propaganda provides a two-hour program three nights a week and the Post Office supplies programs in the mornings and afternoons and on alternate evenings. Several places are provided in Berlin where the public may view these programs and they are proving most popular. Inasmuch as practically all the program material is provided by films, repetition is not infrequent and occasionally an old film leaves much to be desired. Generally speaking, however, the quality of these transmissions is excellent

and impresses one with the high entertainment value which can be secured with a 180 line picture.

While the German engineers expect to carry on their experiments using 180 lines, they plan eventually to go to 270 line pictures. This latter figure has been arrived at as the most economically satisfactory standard, taking into consideration transmission costs and land line relays using coaxial cable. They are confident of their ability to manufacture long haul cables of this character capable of handling a band of three megacycles. The maximum frequency band which they have been able to handle by cable so far is five megacycles and that, they quite frankly admit, could only be accomplished over a distance of approximately 100 meters. The Post Office is considering the laying of a three megacycle cable between Berlin and Frankfurt some time in the future and expect to use this cable for the relay of television programs. You may be interested to know that the Germans are also planning to present the Olympic Games in 1936 by television.

The German Ministry of Propaganda are most interested in securing broadcast coverage in those areas which are now in "dead spots." In view of the fact that practically all of the frequency bands available to that country are now in use, they expect to cover those "dead spot" areas with ultra-short wave, probably using seven meters, and equipping each new location with both sound and television transmitters at the same time. In order to secure television coverage of the principal population centers of the entire country, it is estimated that twenty-five 20-kilowatt ultra-short wave transmitters will be required. A survey of the locations of these transmitters has already been started using a full power (20-kilowatt) "transportable" transmitter for both sound and television. This "transportable" transmitter was built by Telefunken Gesellschaft fur Drahtlose Telegraphie and is mounted on several large trucks—one truck carrying a Diesel-driven power plant. It is anticipated that these field strength surveys will require approximately two weeks for each locality and as soon as a locality has been approved, work on the permanent transmitter will be started.

At the present time no high definition television receivers are being sold but all of the principal manufacturers are planning to show models at the August Radio Show, at which time they will be available for sale. The manufacturers would really prefer to have the transmission standards raised to 270 lines before offering their sets for sale because they feel that the 180 line work is not sufficiently good to stimulate sales. As a matter of fact, they are only estimating their 1935 sales to be one thousand receivers in the Berlin area where the present television programs are covering an area occupied by a population of seven million. A patent pool is being formed and negotiations in this direction are proceeding very smoothly indeed. While natural competition exists between the various German radio manufacturers, they seem to be able to get together in the solution of their mutual problems in a very commendable fashion. It is anticipated that television receivers which will be adaptable to the 270 line standard will sell for from \$240 to \$500. In order to get these prices reduced as quickly as possible, the Loewe Company have already laid out an assembly line and are ready to go into quantity production in a very short time.

The Broadcasting Company have a very interesting piece of equipment which they call their "Fernseh Wagen" which they use to cover news events. This truck, which was first used by the Reichs Rundfunk Gesellschaft at the May Day ceremony at the Tempelhof Aerodrome at which Chancellor Hitler spoke, consists of a low-powered ultra-short wave transmitter for both sound and television, using the intermediate film method. The program is relayed by the high-powered Berlin transmitter and the transmission was declared most satisfactory by people who saw it. Speaking of this "Fernseh Wagen" which the Laboratorium der Fernseh A. G. manufactured, having looked that over, I strongly suspect that Rube Goldberg is on their staff of engineers. (Laughter) On the top of the truck, they have a box that looks like a coffin. They get on location and the box is pushed back and up comes a motion picture camera. Microphones are taken out and placed. The camera man turns it over. The reel of film is fed down through the truck after it is exposed, goes through the tank, is developed, washed, is fixed, is washed and then comes through and is televised. Now, if they don't want to keep that particular piece of film, they put it through another piece of apparatus that emulsifies it, re-emulsifies it, dries it and reels it up again ready for scanning.

The interval of delay between the taking of the picture by the camera mounted on top of the truck and the time when that picture has been televised is approximately ninety seconds. The Broadcasting Company engineers feel that the high speed with which

it is necessary to develop and fix the film does not give a satisfactory sound track and are consequently preparing to record the sound by the steel tape method developed recently by the Lorenz Company.

Incidentally, in this connection, they hope to be able to use the intermediate film method at the receiving end so the process would be the raw film would be exposed to the television receiver, then go down, be developed, washed, fixed, washed and then come through a projection device and be projected on the screen. Now, we are going to have a minute and a half at the transmitter for development and a minute and a half on the receiving end before coming up on the screen. Consequently, the interval between the taking of the picture and the time it appears on the screen will be three minutes. They get around that nicely by recording on steel tape and having this tape play around three minutes before synchronized with the picture.

Television is moving ahead in Germany on what certainly appears to be a most thorough basis and the cost is being carried by the license fees plus an additional governmental appropriation.

In France, the Ministry of Posts and Telegraphs are extremely interested in having their country match the television developments in England and Germany and are doing everything in their power to speed up this work, realizing that they are behind those two countries in this respect. They have started experimental 60 line 25 frame transmissions on 175 meters but no regular schedule is maintained. The French hope to be able to go to 90 lines and then to 180 lines as quickly as practicable but I seriously doubt if much progress in this direction will be made before 1936. I was very much amused to read a handbill which was passed out at a recent radio show by the French Radio Manufacturers and which translated read:

"Television is not here and even if it was here, receiving sets would be too expensive for you to buy.

"All of this television propaganda which you hear is being started by the German, von Ardenne.

"If you could buy television receiving sets, they would use extremely high voltages of from 4,000 to 5,000 which is the same as is used to kill criminals in New York." (Laughter)

The effectiveness of this appeal is demonstrated by the fact that it was necessary to install a moving carpet before the only television receiver shown in order to prevent a traffic jam! (Laughter)

That, gentlemen, is the present stage of development of television in Europe. I might also mention that some work is being carried on in other European countries notably Russia and Italy. So far these developments do not appear to have progressed very far, but mark my words, we are due to see an entirely different picture in the next two years, particularly in England and Germany.

Now then, what are we going to do about television in the United States? It is my own opinion that we should continue along our present line and, in addition, closely observe the European picture. The technical development of television is still in a state of flux and much work in the laboratory still remains to be done. You of the broadcasting industry must develop studio technique before you can hope to enter this field satisfactorily and, if I may be permitted to make a suggestion, I think you would be wise to appoint a committee here at this convention whose duty it would be to keep you advised of these developments. I might even go so far as to suggest the employment of an observer in Europe as an assistant to such a television committee. One comforting thought is that American interests in Europe are in the very forefront of the entire European television picture. EMI in England, Lorenz in Germany and Standard in France can be relied upon to keep pace technically with the best of them. But, in operating practice, the actual presentation of programs, that's where we must keep abreast of their progress and that's what you must observe.

In Europe, the governments are directly or indirectly supporting and operating broadcasting and television; in the United States it is my own personal belief that the interests of both broadcasting and television can best be served without government assistance. With recovery and when you feel that the time is ripe for it, you will undoubtedly be able to add television to your present service and present television programs in the same thorough fashion in which you are now presenting your broadcasts. In the meantime, let us be patient observers! (Applause.)

PRESIDENT WARD: Mr. Cruse, we appreciate this most interesting discussion on the developments in television, and if the representative he suggests to act as European adviser by going there can learn to pronounce those German names as fluently as Mr. Cruse, then I think I shall put in my application for that place because it must be lots of fun.

Next we'll have the report of our Managing Director, Mr. Philip G. Loucks. (Applause.)

PHILIP G. LOUCKS (Managing Director, NAB; Washington): Mr. President and gentlemen: on May 13 I addressed a letter to President Ward stating that I will not be a candidate for reappointment upon the conclusion of my present term which terminates with this convention, and, therefore, this will be the last report which I shall submit as your Managing Director.

During the four and one-half years I have been privileged to serve you, the membership of your Association has climbed steadily from 42 in 1930 to 387 as of today. In 1930 your Association was heavily involved in debt; today it has no outstanding obligations. Since the last membership meeting, 15 members were dropped for non-payment of dues and 10 resigned. During the same period, 42 members were admitted to membership.

The system of paying dues, based upon published rates, adopted at your last meeting and which became effective on October 1, 1934, has worked satisfactorily. This system is far superior to the former system which was based upon a percentage of gross receipts.

There was submitted to you in accordance with the Constitution and By-laws of the Association and pursuant to action of the Board of Directors, proposed amendments to the Constitution and By-laws. The purpose of the proposed amendment is to create a new class of membership to be known as associate membership. Under the existing Constitution and By-laws all members are active members and entitled to full voting privileges irrespective of whether or not such members are licensed broadcast stations. This new class of membership sought to be created would have all of the rights and privileges of active members, except they would not be accorded the right to vote at membership meetings. The effect of the proposed amendments, therefore, is to limit the voting privilege at all meetings to active members, that is, to broadcast stations holding licenses from the Federal Government. Adoption of these amendments is recommended by the Board of Directors and should be acted upon at this meeting.

The headquarters staff of your Association at this time consists of your Managing Director; James W. Baldwin, Assistant Managing Director; James C. McNary, Technical Director; Dr. Herman S. Hettinger, Research Director, on leave from the teaching staff of the University of Pennsylvania; Miss Bert Siebert, secretary to the Managing Director, Miss Ella Pharoah, stenographer; and one part-time employee. Mr. Baldwin rejoined the staff of your Association after the Supreme Court of the United States held the National Industrial Recovery Act unconstitutional which resulted in the dissolution of the Code Authority for the Radio Broadcasting Industry. During the year the Association also has had the benefit of the services of Henry A. Bellows, who for eight years served as chairman of your Legislative Committee. Oswald F. Schuette, while remaining as president of the Radio Program Foundation, has had no official position with the Association since the last membership meeting.

The books of your Association were audited by a certified public accountant at the close of the last fiscal year and the detailed report was published to the entire membership in NAB Reports. The books were audited at the close of business on June 30 and I have just received the auditor's report. It shows that a total of \$36,152.79 was received from dues and that \$36,643.31 was disbursed for necessary and proper expenses of the Association. All expenses are in accordance with budget estimates approved by the Board. The growth of membership has outmoded the present system of keeping financial records and at the request of your Managing Director, the auditors recommended a more complete book-keeping system. This improved system was installed on July 1, 1935.

All money collected for the special copyright fund is in charge of your Treasurer and has not been commingled with the funds of the general treasury.

Upon request of the Washington state broadcast stations, the Executive Committee solicited funds to assist Station KVOS to finance the appeal taken by the Associated Press from the decision of Judge John C. Bowen of the United States District Court for the Northern District of Washington, involving rights in news. Fifty-five stations contributed a total of \$1,839.40 to this fund which will be turned over to Station KVOS. In collecting this fund, the Executive Committee acted simply as a medium through which contributions were made since the Association had had no opportunity to act upon the matter. Because of the importance of the issue to both broadcast stations and newspaper publishers, the Executive Committee felt it was entirely justified in rendering this assistance. Ten members of the Association registered protests against this action in the erroneous belief that the mere collection of funds committed the Association to a policy of news piracy. Neither the

Board nor the membership has acted on this matter. At the present time the case is set for argument in the Circuit Court for September of this year.

Nine months have elapsed since our last membership meeting. This is the shortest period between meetings in the history of the Association but it has been the most active. The program laid down at the last meeting has been carried into effect in almost every detail.

There have been many meetings of your Executive Committee and the Board has held three meetings. Your principal committees have given generously of their time and efforts to your problems and you will hear with interest the reports of their accomplishments. The program of this meeting has been arranged to afford adequate opportunity for discussion from the floor of all of the important problems and you are urged to participate in this discussion. It is proper that you should regard this as a meeting and not a convention. The substantive law of this Association makes it perhaps the most democratic of all trade organizations and each member, regardless of the size or location of his station and regardless of the dues he pays, is entitled to the same voting privileges and the same rights to participate in the activities of the organization. The Association has but one purpose and that is to serve you. It is up to you to determine the extent of that service.

Last year you instructed your Managing Director to promulgate a system of agency recognition for our industry. That work has been completed. It has been considered by the Commercial Committee and is now submitted for your action. The question has been given much thought and study. The underlying theory is that each member should control his own recognition in accordance with uniform standards and upon factual information supplied from a central source. The system admits of a number of successive and progressive steps and combines the important feature of credit service. It is estimated that the cost during the first year will be \$16,350.00 with a reduction in cost in subsequent years. The cost of this service should be borne by those availing themselves of it and should not be put into operation until at least 125 stations agree to its adoption and contract to underwrite the first year's cost of administration. A limited number of mimeographed copies of the proposed plan are available and your study is invited.

Immediately after the decision of the Supreme Court of the United States holding the National Industrial Recovery Act unconstitutional, the Code Authority for the Radio Broadcasting Industry was dissolved. Notwithstanding the abandonment of the code, however, members have, as a general rule, voluntarily accorded to workers the gains they acquired under the code and have abided by the trade practices which were set up. It was generally recognized that our code was one of the most successful of all those promulgated and much of the credit is due to James W. Baldwin, Code Executive Officer, for his excellent administrative work.

At the Board meeting held June 22, President Ward appointed a committee under the chairmanship of Alfred J. McCosker to devise ways and means to retain the benefits which have accrued to our industry under the former code. This committee will report during this meeting and its report should be given careful consideration. Whatever its recommendation may be, it is my belief that the broadcasting industry has demonstrated that it is capable of self-regulation.

In this connection, it has always been my opinion that stations should be given the greatest possible autonomy to operate their businesses in the public interest. Adherence to sound business practices and to proper program standards should be voluntary. If there are those in our industry who lack the requisite character or financial responsibility to operate stations in harmony with accepted standards of public interest, the licensing authority and not our industry is responsible, for these are matters which must be considered by the licensing authority before authorizing construction and operation of stations. This is not by way of saying that we have no responsibility for the general improvement of the total sum of service. We do have that responsibility and we have accepted it willingly. And, what is more important, we have done something about it.

Under the terms of the resolution adopted by the membership last year, the Cost Accounting System recommended by your committee has been published and circulated among the members. Sample forms are now being developed and these will be ready for distribution shortly. The system has been formulated with a view to its installation by the smallest as well as the largest unit. You are urged to give consideration to its installation at the earliest possible date. Many have already adopted it.

All of you are familiar with the various regular and special reports issued by the Association. However, I want to mention with

particularity the monthly and yearly statistical reports which have grown in value each month. The compilation of these reports has been the work of Dr. Hettinger. These reports are the only comprehensive source of national advertising volume data and have been accepted by agencies, advertisers, governmental bureaus, research workers and the trade press, and constitute a valuable aid to broadcasters generally. They have made possible the important work which the Association has done in the field of retail advertising and were of material aid in the preparation of the manual on retail advertising recently published by the National Retail Dry Goods Association. Likewise these reports have constituted the foundation upon which other studies, now in process, will be based.

At the last meeting, the Association authorized the formation of state NAB committees and subsequently the Board instructed your Managing Director to proceed with this organization work. Press of business in Washington rendered it impossible to complete the trip planned but it was possible to bring into existence such committees in the states of Alabama, Arizona, New York, Louisiana, Massachusetts, Tennessee, Ohio, Kentucky, Washington and Iowa, while in other states and regions where semi-official organizations exist, the Association has enjoyed their fullest cooperation. Organization of these committees should be continued and it is of the highest importance that their authority be limited to purely state matters since departure from that policy might easily jeopardize the national unity which has been responsible for the success of the Association in national matters.

These committees have concerned themselves principally with tax matters and libel and slander bills. While on this subject, I should point out to you that since the last meeting more than 120 state bills affecting broadcasting were introduced and each received study of the Association. Because of the lack of funds and the inability to organize all states completely, the assistance given by the Association was not adequate. Experience has shown that the state legislative service, principally in the field of taxation, is one of the most valuable which the national organization can render. Provision should be made to reorganize and greatly improve this service and funds should be made available for this purpose. This question is discussed in greater detail in a report which has been prepared by Mr. Bellows and which will be read tomorrow.

Litigation growing out of state and municipal tax statutes and ordinances has assumed serious proportions and I will leave the report on this subject to Mr. Bellows' statement.

Because of the press of other business, there has been little activity in the Federal Congress affecting broadcasting. Among the bills affecting our industry now pending in the Congress are measures providing that unsuccessful applicants should bear the cost of proceedings; repeal of the so-called "Davis Amendment" providing for mathematical distribution of facilities; and that there should be created a new Federal Radio Commission for the purpose of providing wholesome radio programs, free from monopolistic domination and control on the part of vested interests. None of these measures has reached the stage of committee consideration.

Last year the Federal Trade Commission extended its survey of newspaper and magazine advertising to radio advertising. In this the Association pledged its fullest cooperation and the extent of that cooperation is evidenced by the Commission's own statement of appreciation. Every station licensed by the Government submitted commercial continuities for examination by the Commission and while the Commission has made substantial progress in eliminating false and misleading advertising, it has not been necessary to take action against a single broadcast station.

Commercial copy has improved during the last year. Programs likewise have improved. As business recovery advances and the economic status of stations enhances, the public may expect further improvements. That the public may look forward to continued improvement in program service is unique under our typically American system of broadcasting—a system which throughout the most serious depression the world has ever known has kept to higher program standards than any other nation in the world. Tested in the crucible of the most adverse conditions, our system has proved itself fundamentally sound.

Recently, in the minds of some students of broadcasting there has arisen fear of possible conflict of authority between the Federal Communications Commission and the Federal Trade Commission. This has been stimulated by the action of the Communications Commission in setting for hearing the renewal applications of a large number of stations for broadcasting a certain type of advertising matter. At the same time, the Trade Commission was giving consideration to the same advertising matter. In my mind, there is no conflict of authority between the powers of the two Commissions. The Trade Commission may consider

the advertising claims made by the producer of any particular product and takes jurisdiction if such claims are false and misleading; and even if it should find that such claims made over a station are, in fact, false and misleading, the Communications Commission may consider such accounts only in connection with the total program service rendered by the station to the public. The licensing authority must weigh total service of the station. The Trade Commission can consider the claims of particular advertisers. Furthermore, the Communications Commission has no power of censorship either direct or indirect. As stated by Chairman Prall and other of his associates on the Commission, this is a proper conception of our American system of broadcasting. Each of the two Commissions has its proper sphere of authority and the line of demarcation between their powers is clear.

The desire on the part of members of the Association to comply strictly at all times with the regulations of the Government and to adhere to rules which will protect the public has led several of our state committees to request our Association to create a bureau which would have as its function approval or disapproval of advertising claims and products. Even if it were practical to do so—and it is not—such a course would be unwise to follow. Each station must accept or reject accounts and copy in the exercise of its own good judgment. But our Association can do this: we can supply information upon which decision can be made. In fact, we have already instituted such a service in NAB REPORTS and this service should be greatly amplified and improved.

I shall not dwell upon the Copeland Bill to revise the food and drugs act because a discussion of this measure is included in Mr. Bellows' report.

The present allocation of facilities for broadcasting established in 1928 has undergone no basic change. During the year the Federal Communications Commission, in conjunction with certain clear channel licensees, undertook a survey of secondary coverage but the results of this survey have not yet been announced.

During the past four years the Association has taken an active part in international radio conferences. Mr. McNary represented the Association at the Third CCIR Meeting in Lisbon in 1934 and his work won high commendation of the chairman of the United States delegation. It is important to point out that the CCIR meetings, which deal only with technical matters, are the only international conferences in which the Association may be allowed the privilege of the floor. The findings of the CCIR are advisory, in accordance with the Madrid convention, but have an important bearing on the administrative conference proposals. The next CCIR meeting will be held in Bucharest in 1937 about six months prior to the forthcoming administrative conference at Cairo during the winter of 1937-38. Many of the opinions of the 1934 CCIR meeting which refer to the broadcasting art will be revised and expanded at the Bucharest meeting in preparation for the Cairo conference. The broadcasting industry's interest in international conferences demands adequate representation during the preparatory work and during the conferences themselves.

The importance and force of unified effort of the broadcasting industry was never better exemplified than during the hearings before the Communications Commission last October held in connection with Section 307 (c) of the Communications Act of 1934 which directed the Commission to study the proposal that Congress by statute allocate fixed percentages of broadcasting facilities to particular types of non-profit programs or to persons identified with particular kinds of non-profit activities. The hearings continued for five weeks during which the industry gave an impressive demonstration of what the broadcasting industry can do when it acts in unison. Preparation and presentation of the case for the industry was in charge of your Managing Director and Mr. Bellows. Upon the conclusion of the hearings, a 55,000 word brief was prepared and presented to the Commission. On January 22, 1935, the Commission sent its report to Congress. After reviewing the testimony presented at the hearings, the Commission reported: "The Federal Communications Commission respectfully recommends that at this time no fixed percentages of radio facilities be allocated by statute to particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities."

On May 15 and 16 the Commission called a general conference at which your Association was represented by your President who joined with others present in urging that the Commission

appoint a committee of educators and broadcasters to study the subject of the use of radio in education. The Commission accepted the suggestion and has appointed Dr. John W. Studebaker, United States Commissioner of Education as Chairman. Other members of the committee will be named later.

At each of your last two membership meetings, resolutions were adopted urging elimination of the announcement relating to electrical transcription. On June 20 the Communications Commission held a general argument on the question of revision of Rule 176 and the views of your Association as defined in the resolutions were presented by Mr. Arthur B. Church, chairman of the Commercial Committee. The Commission has not yet reached a decision on this matter.

During the Cincinnati membership meeting you adopted three resolutions on the subject of music copyright. The first of these directed your officers and directors to support the suit of the United States Government against the American Society of Composers, Authors and Publishers, and others, to the end that royalties for the public performance of music may be determined by free and open competition among copyright owners. The second was in the nature of a petition to the Congress to amend the existing copyright law by omitting the language which fixes the minimum innocent infringement penalty for the public performance of musical compositions at \$250 and leaving the court free, in each instance, to fix such damages as in its discretion the Court shall deem proper. The third related to the reorganization of the Radio Program Foundation for the purpose of obtaining for radio stations the air rights to such music as may not otherwise be available.

Taking up the second of these resolutions first, your Managing Director, with the capable assistance and cooperation of Sydney Kaye, attorney for the Columbia Broadcasting System, and Stuart E. Sprague, attorney for the National Broadcasting Company, represented the interests of broadcasters at conferences held by the Department of State for the purpose of drafting amendments to the copyright laws in order to enable the United States to adhere to the International Copyright Union. The bill, as finally drafted, was introduced in the Senate by Senator Duffy of Wisconsin, and companion measure was later introduced in the House by Congressman Bloom of New York. These bills, while broadening the rights of authors and composers, propose certain outstanding changes in the present copyright law. The principal features are: (1) establishment of "automatic copyright" (that is copyright without the necessity for complying with any formalities, but with sharp limitations on the right of recovery of damages for infringement wherever registration and notice of copyright have not been had); (2) a material enlargement of the "writings" for which copyright may be secured, but no acceptance of the general European theory of "oral" copyright; (3) a considerable limitation of the right of injunction in cases where infringement of copyright is claimed; (4) complete elimination of the fixed minimum statutory damage provision of the existing law, leaving the measure of damages in each case to be determined by the Court; (5) the grouping together of all infringements by any one infringer up to the date of judgment, with the provision that any unauthorized network performance shall be regarded as the act of one infringer; (6) the reversal of the present law, as established in the Jewell-LaSalle case, by providing that there shall be no liability, civil or criminal, for the reception of any copyrighted work by the use of a radio receiving set, except where special admission fees are charged; (7) a provision regarding the "author's moral right," based on the very broad provisions of the Rome Convention, but so modified as to give users considerable freedom in adapting copyright material for special requirements.

The Senate Committee on Patents reported favorably the Duffy bill on June 17 and all members were urged to communicate with their Senators urging that the bill be passed without amendment. It is strongly recommended that you launch an energetic campaign to secure early enactment of this legislation.

The Radio Program Foundation has been inactive during the past few months. It is urged that consideration be given to reorganization of this organization and that it be made to function in your interest. The idea underlying the Foundation is sound but it can succeed only if every element in the industry will cooperate in the endeavor and contribute to its financial support. It is strongly recommended that you appoint a committee to consider the reorganization of this Foundation and make recommendations to the industry at an early date.

I come now to the first and, in many ways, the most important

of the three resolutions. On August 30, 1934, the United States Government instituted suit against the American Society of Composers, Authors and Publishers, and others, and on June 10, 1935 trial of this suit commenced in the Federal District Court for the Southern District of New York. After less than two weeks of taking testimony, the case was adjourned until November 4 when it will be resumed. This suit does not seek to dissolve the Society but seeks to establish competition among copyright owners in the determination of royalties. In other words, it seeks to establish the method which your Association has adopted by formal resolution.

After the suit was instituted and before the date of trial, conferences were held between the Copyright Committee headed by Alfred J. McCosker and a committee of the American Society. Representatives of the National Broadcasting Company and the Columbia Broadcasting System participated in these conferences as did your copyright counsel, Mr. Joseph C. Hostetler of Baker, Hostetler, Sidlo and Patterson, and your Managing Director. Sharp, but honest, differences of opinion developed among the broadcast industry's representatives during these conferences. Tomorrow morning has been set aside for the purpose of discussing this question and I shall not go into details here, except to say that your copyright counsel and your Managing Director felt themselves bound by the resolutions adopted by the Association and made every possible effort to secure approval of a so-called measured service plan and to cooperate with the Government. The NAB proposal was refused by the Society and subsequently the Society offered a five-year extension of all contracts in exactly their present terms. The National Broadcasting Company and the Columbia Broadcasting System and Station WCAU have accepted five-year extensions. I do not know whether others have done so.

On June 22 a meeting of the Board was called in New York and representatives of the National Broadcasting Company, the Columbia Broadcasting System, Station WCAU, Chairman McCosker and Mr. Hostetler appeared and outlined the events which had transpired and offered explanations of their positions on the subject. A copy of the statement made by Mr. Ashby of the National Broadcasting Company at this time was published in NAB REPORTS by direction of the Board. After hearing the statements, the Board adopted the following declaration of principles and facts:

- "1. The Board reiterates that the so-called 'per piece plan' or 'measured service plan' is the fairest and best to be followed in paying for the use of copyrighted music, in that it enables each broadcaster to pay a price fixed by the individual owner of copyrights, competitively, and compels no person to buy or pay for more than he actually uses.
- "2. The Board believes that the two networks and Station WCAU when they accepted a five-year extension of the present contract, did so only after the NAB Copyright Committee found it impossible to work out with the Copyright Committee of ASCAP a 'per piece' or 'measured service plan' prior to the expiration of present contracts; and that when they accepted such contracts it was because the networks and WCAU felt that it was necessary for the industry to have available upon the best terms possible the repertoire controlled by ASCAP; and for the reason that it is impossible to operate a radio broadcasting station without the use, to a greater or lesser extent, of the music so controlled.
- "3. The Board of Directors believes that every broadcaster must come to a decision as to whether or not he desires to extend his present contract for a period of five years from January 1, 1936, (1) in the light of the requirements of his station, (2) his contract commitments, if any, either to the networks or advertisers and (3) the fact that the suit being prosecuted by the United States has been continued until early in November 1935, and, therefore, in all probability, cannot be decided by the trial court prior to the date of the extension of the present license already granted which is January 1, 1936."

I shall not dwell further upon this subject at this time since you are to hear the reports by your own Copyright Committee, Mr. Levy and Mr. Hostetler tomorrow and I know you are all eager to hear full details of the negotiations. But, I do want to leave this thought with you: you will never settle your copyright difficulties in a spirit of dissension and disunion. Music

copyright is one of your most serious problems. You have been many years trying to solve it. Solution is not impossible. Strongly organized, determined to fight and armed with right, you will win. I still have enough confidence in our industry to believe that notwithstanding disagreements and misunderstanding of differing views, you will eventually win out.

This report is not complete. I have tried only to cover briefly the high spots of the last nine months' activities. These activities will be covered more fully in reports of committees.

I cannot bring this final report to a close without expressing my sincere appreciation for the splendid support and cooperation I have enjoyed from all of you at all times. Whatever progress the Association has made has been due to your willingness to work together in harmony upon common problems. It is my sincere hope that the Association will continue to grow in size and effectiveness and that nothing will ever destroy this organization.

It has been a pleasure to work with your President, your other officers, directors and committees. The headquarters staff of your Association has served you loyally and willingly and I believe in choosing my successor, you will find no one better qualified to carry on the policies of the Association than my present assistant, James W. Baldwin.

I want to report that Mr. Hostetler, your copyright counsel, has worked at all times in the interest of the copyright program you have formulated.

I want to express here my personal thanks to Ed Spence who has served as general chairman of your Convention Committee for five years and through whose capable management the Association has held the five most successful meetings of its history. Our registration of members and guests at this time is 442.

I ought to say a word of appreciation also for Gene Cogley, my former assistant and now of BROADCASTING, who for the past three years has volunteered his services from opening until closing of our convention.

As I retire from the Management of the Association, I am happy in the thought that I have had some small part in building this organization as it exists today and in the formulation of its policies. I have endeavored to serve loyally if not efficiently; willingly if not effectively. The many friendships that have resulted from my service I shall always treasure. I can wish my successor nothing better than that he shall have the support and cooperation from you that has been mine to enjoy.

(The convention arose and applauded.)

PRESIDENT WARD: Phil, on behalf of the Association, I want to extend to you our thanks and appreciation for this splendid final report that you have made of your stewardship as Managing Director of our Association. Again I want to repeat that this Association is going to feel your loss very keenly. Our best interest and good will continue to be with you in your private practice of law.

We now come to the appointment of committees. I shall not appoint the Elections Committee until the afternoon session. I shall, however, at this time appoint your Nominating Committee. I have on this list eleven representative members of our industry. I have tried to the best of my ability to select representative men in this industry representing a cross-section of its interests. I am going to appoint this committee now and ask that they report here immediately after the adjournment so that a room may be assigned to them for the consideration of the various ones to be appointed to NAB offices and the directorships. This committee is going to be asked to make a final and definite report at the close of tomorrow's session. I see no reason for continuing their deliberations until Wednesday just prior to the election of officers. It is my desire that they report promptly at the close of tomorrow's session so that the membership at large may have ample opportunity to consider the report of the Nominating Committee over night and through the Wednesday morning session until the time for the election of officers. In that way, you will have ample opportunity to consider the qualifications of the various ones recommended by the Nominating Committee.

I also want to point out to the Nominating Committee and the membership at large that it is not necessary for them to bring in just one slate. The rules governing the elections will be read. Our Constitution and By-laws are very clear covering election of officers and will be read to the Nominating Committee. We want them to report promptly at the close of tomorrow's session so that ample consideration may be given to their recommendations.

As President, I am going to appoint John J. Gillin, Jr., L. B. Wilson, Arthur B. Church, M. R. Runyon, William S. Hedges,

Edgar Bill, E. B. Craney, John McCormack, Steve Cisler, Charlie Hill and Sidney Bliss.

This committee, as I stated, is asked to report here immediately after adjournment so that a room may be assigned to them and we want them to go to work immediately so that there will be no question of a final definite report at the close of tomorrow's session.

LAMBDIN KAY (First Vice President, NAB; WSB, Atlanta): While, in accepting Phil's report, I think it is the worst that he has ever made, I'd like it to be converted to the best by simply changing the tense and I'd like to eliminate the statement in the first paragraph that he is not a candidate for reappointment.

(Announcements.)

PRESIDENT WARD: Mr. Gedge has asked that he be recognized for an announcement to this body.

W. W. GEDGE (WMBC, Detroit): Thank you. Mr. Chairman and gentlemen, I want to take this opportunity of correcting a very erroneous impression that seems to have been scattered broadcast through this Association.

I have been working very closely with Mr. Allen in the formation of an association of the independent local stations. The rumor has gone out that we are planning to pull out from the NAB. I want to assure you now that this has never entered our head for one single moment. We want to do everything we can to forward the interests of NAB. We need them. Our problems as small stations in a great many cases are different from the general problems of this Association. This organization is being formed for only one purpose and that is to increase, if possible, the revenues of the smaller stations. That is the only thing that we have at heart and the only interests toward which we are working and please be assured that we have no intention whatever of causing any schism in the ranks of this Association. We are going to have a meeting at 7:30 tonight in the Ball Room and will be very glad to have all the local independent stations meet with us at that time.

PRESIDENT WARD: Gentlemen, we got off to a bad start this morning. We are now going to adjourn until 2:00 o'clock. Let's be back promptly so that the meeting can be started at 2:00 o'clock.

(The meeting adjourned at 12:30 o'clock)

JULY 8, 1935

Monday Afternoon

The session convened at 3:00 o'clock, President Ward presiding. PRESIDENT WARD: Gentlemen, it is now 3:00 o'clock. I must apologize for being one hour late in opening the afternoon session but it seems almost unavoidable since there are so many of us here and the dining room service is rather limited. We hope to do better in the future.

First I want to announce the committees on resolutions, elections and credentials.

RESOLUTIONS COMMITTEE

H. K. Carpenter, *Chairman*
Walter J. Damm
W. W. Gedge
Lambdin Kay
Gardner Cowles

ELECTIONS COMMITTEE

H. Dean Fitzer, *Chairman*
Hoyt Wooten
Glenn Snyder

CREDENTIALS COMMITTEE

Jack Storey, *Chairman*
H. W. Slavick
Herbert Hollister

I am now going to ask Mr. Myers, our Vice President, to take charge of the meeting.

C. W. Myers (Second Vice President, NAB; KOIN, Portland, Oregon) took the chair.

CHAIRMAN MYERS: According to the program, the first order of business is the report of Arthur B. Church, chairman of the Commercial Committee, to be followed by the report of the Special Committee on Trade Practices by the chairman, Alfred J. McCosker. At the suggestion of Mr. McCosker, whose report contains much of the same material contained in Mr.

Church's report, Mr. Church will deliver the combined reports of the Commercial Committee and the Special Committee on Trade Practices. (Applause)

ARTHUR B. CHURCH (Chairman, Commercial Committee; KMBC, Kansas City, Missouri): During the relatively short period of nine months between the 1934 and 1935 annual NAB conventions, your Commercial Committee has been active on a small number of projects, on each of which substantial progress has been made.

The Commercial Committee appointed by the Association President this year comprehended a larger number than heretofore, affording equal representation to the various classes of stations in each of the five broadcasting zones. It has not been possible to appoint all members of the committee to subcommittees during this short working year but all members have indicated remarkably active interest and almost without exception, members appointed to sub-committees have faithfully discharged the responsibilities given them, in some cases entailing considerable sacrifices of both time and money.

The assistance of Dr. Herman S. Hettinger has been invaluable in the various projects on which the committee has worked. His research and other contributions have made possible much greater progress than otherwise could have been made.

Perhaps the most important work undertaken has been that of carrying out the 1934 conventions' instructions contained in the resolution that "the chairman of the Commercial Section appoint a committee of five to study what is pertinent information for the advertising agencies and the advertisers who are the buyers of radio advertising, and to invite discussions with representatives of the American Association of Advertising Agencies and the Association of National Advertisers, with a view of setting up a bureau for the broadcasting industry, such committee to report with recommendations to the Board of Directors".

Walter J. Damm, John V. L. Hogan, John J. Karol, Edgar Kobak, with your speaker as chairman, constituted the committee appointed to carry out the provisions of this resolution. Joseph O. Maland later was appointed to take the place of Mr. Damm who stated that he could not regularly attend the committee meetings.

Investigation was made of the current application of various forms of coverage and listener research now being used, the different problems involved in the creation of a cooperative bureau were thoroughly considered and a decision reached to the effect that the necessary steps be taken toward the creation of such a bureau.

The following resolution was unanimously adopted by the committee at its meeting of April 17 held at the Hotel St. Regis, New York:

"Resolved, That it is the sense of this committee that it report to the Board of Directors of the National Association of Broadcasters that there be established a joint organization, composed of representatives of the broadcasters, advertisers and agencies, for the purpose of establishing a basis of mutual agreement as to the preparation and dissemination of authoritative information relating to broadcast coverage and circulation."

Your Commercial Committee chairman believes that a cooperative bureau of this type would be of tremendous value to the broadcasting industry and that steps toward the creation of such a bureau should be taken as rapidly as possible. It is quite probable that it will take some time before the ultimate scope of activity and methods employed by such a bureau can be set up with any finality, but such finality can be achieved only after concrete beginnings have been made.

Both the American Association of Advertising Agencies and the Association of National Advertisers have been informed of the willingness of the broadcasters to cooperate with them in the creation of such a bureau, and numerous discussions have been held with representatives of these organizations looking toward the accomplishment of this end. At this time, the possibility of an exploratory survey of possible scope and methods of such a bureau—the said study to be conducted under the joint direction of the broadcasters, advertisers and advertising agencies—is being considered by all three groups, and it appears that definite progress is being made in this direction.

Aside, I might state that today at New York the AAAA is holding a special board meeting for this purpose and that a special board meeting is scheduled for the ANA for July 14.

A full report of this progress, made to the NAB Board of Direc-

tors on July 8 (that is last night), was accepted by the Board but referred to the incoming Board for action.

In view of the present status of the project, it is the recommendation of your Commercial Committee that the Association reaffirm its willingness to cooperate with the advertisers and agencies in the creation of a cooperative bureau of coverage and listener data, and that a committee be appointed to continue the work in this field by the chairman of the Commercial Section with the approval of the Board of Directors, the said committee to be responsible to the Board of Directors. The importance of such a fact-finding or audit bureau to the broadcasting industry is sufficiently great in the mind of your chairman that if undue delay is encountered in establishing a cooperative bureau, the broadcasters themselves should launch the project.

The 1934 convention of the Association authorized the Managing Director to establish and maintain an Agency Recognition Bureau at the Washington office of the Association. Dr. Hettinger was appointed to investigate the problems involved in the creation and maintenance of such a bureau, and to devise a plan for its establishment.

A study was made of current recognition practices among radio stations as well as of the procedure used by other media. On the basis of this information, principles of agency recognition were formulated, plans were devised for the creation of a recognition bureau and for a credit clearing house which would assist the bureau in collecting the financial information necessary to the administration of a system of recognition.

The details of this plan were carefully studied by the Commercial Committee of your Association, as well as by a sub-committee composed of H. K. Carpenter, chairman; Martin B. Campbell and Charles G. Burke; which was appointed to examine the forms to be employed by the proposed bureau.

A resolution adopted by the Commercial Committee at its June, 1935 meeting in Chicago endorsed the plan and recommended that it be put into effect by the Association provided the cost of its first year of operation were underwritten by the stations proposing to avail themselves of its services.

Your Managing Director has made mention of the importance of this bureau in his report. You may determine the details regarding the proposed recognition principles and the scope of service to be rendered by the bureau from the mimeographed report which is available just outside the door, I believe.

It is the sincere recommendation of the chairman of your Commercial Committee that you take the steps necessary to the creation of this bureau—that is, that you finance it—and it is his hope that as many stations as possible will participate in this most important activity.

The annual meeting of the Commercial Section of the NAB was again held in conjunction with the annual convention of the American Federation of Advertisers. Despite the nearness of this meeting to the NAB Annual Convention, the attendance at the meetings showed steady growth over former years. From 125 to 150 persons attended the open meetings. These open meetings were highly educational in character. This year the experiment of panel discussions, limited to two general topics, was inaugurated and apparently proved very successful. The complete proceedings of these meetings will be available in the near future. The unusual degree of interest in mutual problems of the broadcasters resulted in an overflow meeting with an attendance of 60 on the second afternoon.

It is interesting to note, in passing, the increased interest in the commercial aspects of broadcasting which is being evidenced on all sides. During the current season the National Retail Dry Goods Association has issued an excellent manual on the retail use of broadcast advertising, considerable of the material of which was secured with the aid of the Research Department of your Association. Advertising agencies and broadcasters alike are making increased use of the trade statistics compiled by your Association, which statistics constitute the only comprehensive information available regarding broadcast advertising volume.

It is to be hoped that this interest already manifest will continue to grow and that the activities of the Association in providing useful information regarding radio to broadcasters and advertisers alike will be expanded.

In this connection, and in line with Commissioner Prall's suggestions this morning that the scope of a cooperative bureau also include investigation of commercial program content, it appears to your Commercial Committee chairman that the first step has already been taken by the NAB office in printing in the NAB weekly bulletin information concerning new accounts which have been subjected to Government scrutiny. Amplification of this

service, as recommended this morning by your Managing Director, should, in the opinion of your Commercial Committee chairman, be accomplished.

At the June meeting of the Commercial Committee, a committee was appointed to consider a revision of the NAB Code of Ethics which has remained unchanged over a period of several years. Subsequently, a committee, of which Alfred J. McCosker was chairman, was appointed by President Ward at the direction of the NAB Board of Directors, to investigate what portions of the code of fair competition, which had proved valuable during the period of NRA code administration, might be retained to the advantage of the broadcasting industry. At a joint meeting of the two committees, the following amended Code of Ethics was drawn and is recommended to the National Association of Broadcasters as a substitute for the old Code of Ethics. Mimeographed copies of this report, by the way, including copies of the new Code of Ethics, are available on the table outside of the door when you leave.

"Code of Ethics

- "1. Recognizing that the radio audience includes persons of all ages and all types of political, social and religious belief, each member station shall endeavor to prevent the broadcasting of my matter which would commonly be regarded as offensive.
- "2. When the facilities of a member station are used by others than the owner, the member shall ascertain the financial responsibility and character of such client, that no dishonest, fraudulent or dangerous person, firm or corporation may gain access to the radio audience.
- "3. Matter which is barred from the mails as fraudulent, deceptive or obscene shall not be broadcast by a member station."

You will notice the term "member station" is used in this new Code of Ethics; the term "station" was used in the old Code of Ethics. We are referring here only to members of the NAB.

- "4. Each member station shall refuse any advertising matter regarding products or services injurious to health.
- "5. Each member station shall maintain a public record of its current rates charged to advertisers for the use of broadcasting time together with all discounts, rebates, refunds and agency commissions which shall be allowed to the users of such time or to their recognized agents."

I am going to reread that, if I may, because I want you to get it.

- "5. Each member station shall maintain a public record of its current rates charged to advertisers for the use of broadcasting time together with all discounts, rebates, refunds and agency commissions which shall be allowed to the users of such time or to their recognized agents.
- "6. Each member station shall refuse to accept any business on a cost per inquiry, contingent or percentage basis, or to accord free time for commercial use."

And, in the latter cases, we refer especially to programs that have been devised by some of the motion picture companies or magazines or whatnot which offer you good programs on the air which are really commercial programs for these publications and advertisers.

- "7. No member station shall permit the broadcasting of advertising statements or claims which he knows or believes to be false, deceptive or grossly exaggerated.
- "8. No member station shall defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully call in question such competitor's business integrity, ability to perform contracts, credit standing or quality of service.
- "9. No member station shall claim for its service a character, scope or quality which cannot be substantiated nor shall it claim as regular characteristics of its service features which it knows to be purely temporary or occasional.
- "10. Where charges of violation of any article of the Code of Ethics of the National Association of Broadcasters are filed in writing with the Managing Director, the Board of Directors shall investigate such charges, give opportunity for hearing and afterwards notify the station of its findings."

The chairman of your Commercial Committee appeared at the recent hearing on electrical transcriptions before the radio section of the Federal Communications Commission and read the resolutions adopted at the 1933 and 1934 annual NAB conventions, requesting the Commission to alter existing regulations requiring that electrically transcribed programs made especially for broadcasting be so announced.

Your Commercial Committee recommends that the convention reaffirm the resolution adopted at the 1934 convention referring to the standardization of units of sale of rate card practices and urges that the Commercial Committee for the ensuing year give special attention to amendments to the recommendations for standardizing units of sale of rate card practices to the end that the buyers and sellers of radio advertising may utilize the broadcasting medium with maximum effectiveness.

In closing the report of the Commercial Committee, your chairman wishes to emphasize what he feels to have been the remarkable improvement both in interest and quality of discussion which has taken place both in the Commercial Section meetings and in those of the Commercial Committee during the past two or three years. It is a splendid sign to notice the increasingly keen appreciation of the economic problems facing the industry and of the sound approach which is being made to their solution. With the industry having assumed a stable place as one of the major advertising media, these economic problems will tend to become even more important in the activities of the Association. It is, therefore, to be hoped that this growing interest will be further intensified and that the activities of the Association in the commercial field will be expanded to meet the needs of radio as an advertising medium. (Applause.)

CHAIRMAN MYERS: Before inviting discussion on the reports of the Commercial Committee and the Special Committee on Trade Practices, I have an announcement to make: the names of Harry C. Butcher and Edward A. Allen have been added to those on the Resolutions Committee.

Any discussion on Mr. Church's report?

MARTIN B. CAMPBELL (WFAA, Dallas, Texas): I move that the report be accepted.

JOHN J. GILLIN, JR. (WOW, Omaha, Nebraska): I second the motion.

CHAIRMAN MYERS: It has been moved and seconded that the report of the Commercial Committee and the Committee on Trade Practices be accepted. Any further discussion?

(The motion was put to vote, and was carried.)

CHAIRMAN MYERS: I think in the absence of President Ward, the Association should thank Mr. Church for his very excellent report.

The next item on the program is the report of the Engineering Committee to be presented by Mr. Joseph A. Chambers, chairman of the Engineering Committee. (Applause.)

JOSEPH A. CHAMBERS (Chairman, Engineering Committee; WLW, Cincinnati, Ohio): Mr. Chairman and members of the convention: During the past year your Engineering Committee has continued the joint coordinations meeting with the Institute of Radio Engineers and the Radio Manufacturers Association. The studies have largely concerned the systems development of the so-called high fidelity. It was recognized that to effect realism of so-called high fidelity, compensation must be made for the response characteristic of the human ear. Listeners operate receivers at such volume that the program is reproduced at a lower volume than the original program. Since the characteristics of the human ears are different at different levels, even a perfectly faithful system would not give the effect of realism unless compensation for the difference in the ear characteristic is applied. The amount of compensation and where it should be applied in the broadcasting or receiving system has been studied at length. The subject is quite complex, involving character of programs, listener levels, transmitter capabilities with reasonable economies and the Federal Communications Commission regulations regarding inter-channel interference. Additional data is being assembled to assist in a satisfactory solution to this most important improvement in the quality of radio programs.

Last year your Engineering Committee submitted, as part of the annual report, a report showing marked deficiencies in the technical characteristics of many broadcasting stations and pointed to methods of improvement. During the year, several methods of improvement have been discussed more in detail in your Association bulletin. In some cases, improvements have been made. In many other cases the conditions have not been improved and stations have continued to suffer poor quality and lack of

coverage. In many cases undue inter-station interference continues to exist because of these deficiencies.

The Federal Communications Commission has recently proposed further to regulate the technical operation of broadcasting stations by imposing standards of improved performance. Most of these standards, in the same or modified form, will probably be applied very soon to so-called high fidelity stations operating on frequencies above 1500 kilocycles, and to regional stations operating on 5 kilowatts. Undoubtedly, modifications of these standards will eventually be applied to all stations.

Your Engineering Committee has followed the development of these Communications Commission standards, and members of the committee have from time to time discussed the various proposals with the engineers of the Communications Commission. The committee has studied the Commission's most recent proposals and submits the following brief comments regarding them:

Audio Distortion: The Commission proposes that the total audio frequency distortion from microphone terminals to antenna output shall not exceed 5 per cent. rms harmonic content when modulating from 0 to 85 per cent. and not more than 10 per cent. rms harmonic content when modulation of 95 per cent. is used. The distortion is to be measured with modulating frequencies of 50, 400, 1000, 5000 and 7500 cycles. Your committee feels that while the tolerable distortion is liberal, the harmonics of the frequencies above 5000 cycles are not as objectionable as the others and further that the reduction of harmonics of frequencies below 100 cycles may be quite expensive. Therefore, your committee has urged that proper allowances be made for these factors so that your dollars and cents may be spent to greatest advantage.

Frequency Range: The Commission proposes that the audio frequency transmitting characteristic of the equipment from the microphone terminals to the audio component of the rectified antenna current shall not depart more than 2 decibels from that at 1000 cycles between 50 and 7500 cycles. The transmitter should be equipped in the last audio stage or as near thereto as practicable with two band-pass filters, one to cut off at 5500 cycles and the other at 8500 cycles to 40 decibels below normal level. These filters shall be used as follows: The 8500 cycle cut-off filter at all times, and the 5500 cycle cut-off filter when the program transmission is such that no desirable signal above 5000 cycles reaches the transmitter. The frequency characteristics should be measured with the filters in place. Your committee believes the frequency range quite reasonable, provided it is allowable to include compensation for microphone characteristics. Attention should be called to the fact that more expensive telephone lines may be required between the studios or remote pickup points and the transmitters. Your committee feels that the filters should not be required by the regulations because: first, the 5500 cycle filter applies only to long line program source and becomes a problem of long line telephone practice; these filters are applied whenever needed and if required in other cases, they should be supplied by the telephone company; second, there is no proof that the 8500 cycle filter will improve the service or reduce sideband interference and it is not believed necessary or advisable at the time. In any case, since the station equipment introduces no distortion within the limits considered, the filters should not be installed in the last audio stage at the transmitter where it will be very much more expensive and will require separate and frequent switching, but may be installed as part of the line terminating equipment where it will be automatically put in use by normal program switching.

Noise Level: The Commission proposes that the carrier hum and extraneous noise levels (exclusive of microphone noises) should be at least 60 decibels below 100 per cent. modulation in the frequency band between 150 and 5000 cycles, and at least 40 decibels down outside of that range. Since the objection to such noises depends on the noise frequency and the response characteristic of the human ear, and since the cost and difficulty of reducing noises varies with the frequency, a reasonable economic compromise should include weighting for these factors. In any case, we consider the reduction to 60 decibels to be impractical and in most cases impossible with modern microphones.

Volume Range: The Commission proposes that the volume range from carrier noise and main studio extraneous sounds to 100 per cent. modulation shall be 60 decibels. As an operating condition, a 60 decibel volume range is not desirable from the listener's point of view. The range is limited between the local background noise and the maximum level to be permitted in the average home. The volume range capability of the broadcast station is automatically limited by the noise level which we believe will not permit a 60 decibel range.

Modulation Monitors: Your Engineering Committee favorably views the recent activities of the Commission to standardize the specifications for a satisfactory Modulation Monitor. The Commission engineers are working with other engineers and revised specifications will probably be prepared at an early date. We understand a certificate of approval will be issued for such a modulation monitor, just as is now done for Frequency Monitors. This type of Modulation Monitor is recommended for all stations regardless of classifications since it will permit more satisfactory operation.

It is pointed out that the changing of existing stations to operate with improved performance may entail additional expenditures for equipment and engineering services. It is believed improved characteristics will permit, in most cases, an increased percentage of modulation within the present distortion limits. This increase in modulation will result in a definite increase in coverage which will often more than compensate for the expenditure. It is a natural step toward the realization of improved service required by the competitive development of the art. The station with the best characteristics will get the listeners using the most improved quality receivers.

Handbook: Regarding the handbook which was referred to in last year's report and has been given further consideration this year, as a result of previous studies by your Engineering Committees of technical practices and conditions in the broadcast industry, the committee last year proposed to prepare a "NAB Engineering Handbook". This handbook has been assembled and edited by Mr. J. C. McNary, Technical Director of the National Association of Broadcasters, and will be published and made available to member stations very soon. It was believed advisable to delay publication of this handbook for a reasonable time to permit inclusion of certain revised Commission regulations. The handbook will be designed to assist engineering personnel of member stations in attaining the maximum capabilities of their station installations and the facilities available. We emphasize that maximum service and maximum returns cannot be attained except by application of the best engineering principles.

Transcription Quality: In consideration of high fidelity standards, or improvement of station quality, and considering possible Federal Communications Commission's regulations, your committee believes that the quality of electrical transcriptions should be investigated. While some transcriptions are of good quality, others are far below the standards proposed for general studio pickup. We believe that standards of quality and methods of determination should be set up to protect the station, the advertiser and the public.

Your committee is keeping in touch with the development of high frequency local broadcasting, television and facsimile, in an effort to determine the effect on the present broadcast system. To date it has no information to indicate concern to sound broadcasting, although certain development is progressing very rapidly.

The Engineering Committee wishes to call attention to the International Radio Administrative Conference in Cairo early in 1938. Decisions and agreements will be reached regarding allocations and uses of facilities which may vitally affect the industry. It is suggested that some thought be given to preparation for this meeting.

Your Engineering Committee, therefore, recommends:

1. A continuance of the cooperative efforts of NAB with the RMA and IRE further to coordinate the development to improve the results of the entire broadcast system from studio through loud speaker.
2. That the close contact be maintained between NAB and the engineers of the Federal Communications Commission so that the NAB may be advised regarding any proposed standards or regulation of technical operation.
3. That there be a further study and analysis of technical practices and standards with a view toward improving the use of the facilities of member stations to attain a higher standard.

Thank you. (Applause.)

CHAIRMAN MYERS: Is there any discussion of Mr. Chambers' report? If not, will somebody move its adoption?

WARREN P. WILLIAMSON, JR. (WKBN, Youngstown, Ohio): I move the report be adopted.

J. O. MALAND (WHO, Des Moines, Iowa): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN MYERS: A telegram has just been handed to me from M. H. Aylesworth:

"Telegrams from you and Executive Committee of NAB just received due to holiday week-end vacation here. Unable to arrive

in Colorado Springs tomorrow. Therefore must reluctantly decline your generous invitation. Please thank the members of the Executive Committee for thinking of me and accept my congratulations for the fine time you must be having in the beautiful city of Colorado Springs located in the great State of Colorado which I still call home. Please remember me to the convention and if you will give me a rain check I will be glad to be with you next year. You have rendered a very valuable service to the radio industry and we all owe you a vote of sincere thanks for carrying us through a year of real achievement for which the NAB and you as President deserve full credit. The NAB is rendering a great service to the broadcasting industry and you have my loyal support as well as that of the NBC which is evidenced by the number of representatives from NBC attending your convention."

A splendid tribute to our President!

The next order of the meeting is the report of the Legislative Committee by Mr. Loucks who has not returned from the committee meeting as yet.

I have here a communication from the Women's National Radio Committee which we have been requested to read before the assembly. It is rather long so please hear with me.

"The Women's National Radio Committee
and
The Broadcasting Industry."

"The Women's National Radio Committee extends to President Ward and the members of the National Association of Broadcasters assembled at Colorado Springs its heartiest greetings and best wishes for a successful convention.

"It has been a pleasure to associate with the gentlemen of the radio industry and we look forward to continued cooperation to the end that broadcasting in this country may be established upon the highest possible plane. We hope to have the privilege of conferring frequently with representatives of NAB and Commissioner Prall, whose reappointment has been hailed with such delight by all the members of the Women's National Radio Committee.

"First and foremost—we are not a reform group in the accepted sense of the word, nor have we any axes to grind. We are organized to act as the link between the radio industry and organized womanhood, and are eager to serve both. By so doing, we hope to obtain a higher standard of radio programs.

"At this time when there is so much discussion of radio reform in the air, it might be well for us to reiterate our purposes and explain our attitude toward the broadcasting industry.

"As the representatives of a very large number of women, we are in a position to be helpful to broadcasters by pointing out what these women want to hear over the radio and what they consider undesirable or objectionable. We have heretofore addressed our suggestions and criticism directly to radio officials instead of seeking publicity by such methods as a recently organized group has resorted to. As proof of our sincerity, we may point out the fact that on the one occasion when an offensive program was cancelled through our efforts, we were extremely careful not to give any publicity to the matter. When a guest speaker at our Award Luncheon unexpectedly launched into a bitter denunciation of radio and suggested hysterical action, none of our press releases included any mention of her address.

"We sincerely want to play fair with the radio industry. We believe there is a job to be done and that it can best be accomplished by active cooperation on the part of the radio industry, the Federal Communications Commission, the press and the Women's National Radio Committee.

"We believe private ownership is necessary to maintain a free radio and are decidedly opposed to governmental control. In our opinion, the radio industry can, by united effort, eliminate all the objectionable features that critics of the present system cite as the excuse for a radical change. The reactions we receive from women all over the country indicate that the time is ripe for an improvement in the quality of radio programs. The proponents of government ownership of radio have gained more strides in the past year than in several previous years, and their bait is the statement that under government control there would be an improvement in standards impossible under a commercial system. It would seem to be the better part of wisdom to disarm such critics by making the very changes they insist cannot be done. This would not mean that the lighter features, which now constitute the bulk of radio entertainment, would be eliminated. It would result in a presentation of the best talent available in every field instead of having second, third and even fourth rate performers trailing along in feeble imitation of real artists. While there

would be an increase in the number of more serious programs, there would still be sufficient variety to satisfy all classes.

"The trend is definitely toward higher grade entertainment in all branches of the arts. The success of motion pictures which even a year ago would have been box office failures—the revival of interest in chamber music—point to changing times. Last week the Chairman and Executive Secretary of the Women's National Radio Committee attended a performance at Radio City which featured Respighi's 'Pines of Rome.' The announcement stated that this symphonic work was being offered for the first time to motion picture audiences by Radio City Music Hall. The attitude of the audience during the excellent rendition of this selection and its prolonged applause at the conclusion was proof of the fact that appreciation of good music is not confined to Philharmonic enthusiasts. It was interesting to note that the least popular feature of the entire program was a jazz ditty entitled, "I Gotta Take Off My Hat To You," which received a faint ripple of applause. Radio City audiences are typical of the masses and represent a true cross-section of the country, for visitors from all parts of the United States flock to the Music Hall.

"The first step toward improvement has already been taken by broadcasters. The decision of the National Broadcasting Company, Columbia Broadcasting System and Mutual Broadcasting System to clean up radio advertising is a most heartening development. We anticipate that the attention of radio officials will next be turned to the quality of the programs.

"We wish to take this occasion to thank the trade publications for their interest in our activities. We are especially grateful to Printers Ink and its radio editor, Leonard Lewis, for giving us the opportunity of explaining our objectives and our opinions about radio in the issue of March 21. This article was based on correspondence, conferences and personal contacts with many women. We should also like to express our appreciation to the radio 'fan' magazines and the press which have been most generous in commenting on the work of the committee.

"We are pleased to offer at this time some suggestions which we hope will be given consideration by the delegates assembled at this convention.

"Radio Advertising

- "1. The shorter the commercial, the more effective. Long intrusive announcements are resented. The greatest offenders seem to be the women who speak on cosmetic programs as these are most frequently attacked by our correspondents. Several recent letters have asked whether advertising on Sunday could not be abolished—which should serve as a warning to all advertisers to cut down their commercials.
- "2. The announcer whose delivery is quiet and sincere makes a better impression than one who affects great enthusiasm. The breathless style of announcing and the dramatized commercial have been too much overdone to be convincing any longer.
- "3. Exaggerated statements are met with ridicule. Such programs help to boost the sales of products sold by competitors who do not offer to perform miracles.
- "4. Testimonials seem to cause an antagonistic reaction. The following comment is typical of many received from women:
"Who cares what movie stars wash their faces with? Half the testimonials are faked anyway."
- "5. Appealing to children over the heads of parents is keenly resented in most homes. The reaction is 'I'll decide whether or not Bobby may drink that—not Bobby.'
- "6. No article connected with intimate feminine hygiene should ever be advertised over the radio. It is an embarrassment to which women should not be subjected.
- "7. Radio advertising pertaining to deodorants, depilatories and laxatives is not acceptable to women of refinement.

"The test to determine whether or not a product should be advertised over the radio might include these three questions:

"Is it an article which could be freely discussed at a social gathering of ladies and gentlemen, or at a dinner table?

"Is it an article which could be freely discussed by adults in the presence of children?

"Is it an article which might be injurious if incorrectly used by an ignorant person?

"Children's Programs

"One way of satisfying critics of children's radio programs would be to set aside daily a fixed time (probably a half hour) on every

station for a model program. This presentation would be written and produced by the station's own staff and offered as its own children's hour. This would mean that between the hours of five and eight o'clock daily at some point of the dial an approved children's program would be available. Thus the parents who wish to exercise supervision over their children's radio entertainment would be satisfied with the three hours of approved material planned for their benefit, while the children in less critical homes would have sufficient variety to please them.

"In New York City, for example, this is how the plan might work:

5:00 to 5:30—Assigned to CBS for children's hour.

5:30 to 6:00—Assigned to WMCA

6:00 to 6:30—Assigned to NBC

6:30 to 7:00—Assigned to WEVD

7:00 to 7:30—Assigned to WOR

7:30 to 8:00—Assigned to WNYC

"This suggestion presupposes cooperation on the part of all broadcasters in working out time arrangements but in view of the benefits to be anticipated, it should be possible to make adjustments which will be satisfactory to all stations. There would be some overlapping, of course, where there are several local stations, but no more than exists at present when practically every station features children's programs during the same period of the day.

"The next proposal may be considered as a supplementary measure or as an independent plan. It was first presented by the Women's National Radio Committee at a radio conference arranged by Commissioner Prall on March 25 and has recently been adopted by Columbia Broadcasting System.

"It calls for the formation of an advisory board in every company to review children's programs before they are broadcast. This board may consider all programs for children or confine its attention to the station's model presentation. Each board should include, in addition to a child psychologist and educators, some very ordinary citizens to insure the program against dullness. A typical setup might consist of a psychologist, librarian, school principal, president of a child study or parent-teacher group, and six men and women who represent the average home. In some sections, one such board might serve several stations.

"The Women's National Radio Committee will be glad to answer questions and go into further detail concerning these suggestions upon request."

The next order of the program is the report of the Legislative Committee which was to have been delivered by Philip G. Loucks. Inasmuch as he is tied up in a committee meeting, the report will be given by Mr. James W. Baldwin.

JAMES W. BALDWIN (Assistant Managing Director, NAB; Washington, D. C.): Mr. Chairman and gentlemen, I know I speak Phil's sentiments when I say to you that we all regret that Henry is not here to deliver this report. I am now reading the report of Mr. Henry Bellows, chairman of the Legislative Committee.

"This is the eighth consecutive annual report presented by the same chairman of your Committee on Legislation and, as has been the case in the past, it will concern itself chiefly with recommendations for future action by your Association.

"The past nine months have been unusually free from activity by the Federal Congress directly affecting radio broadcasting. In large measure, this has been due to the fact that the Federal Communications Commission was organizing its work and Congress clearly felt that legislative action should await specific further recommendations by the Commission. It has likewise been true that Congress has had so many other problems on its hands that it has been content to leave radio more or less alone.

"The Communications Act

"The Communications Act of 1934, which became effective July 1, 1934, was fully discussed in the report of your Committee last year. Bills proposing various amendments to this act have been introduced in the Seventy-fourth Congress but up to the date of preparing this report (June 20) few of them have even received serious consideration in committee.

"Among the proposed amendments may be noted the following:

"S. 820, introduced by Senator Neely, providing that when applications for radio facilities involve contests with the owner or owners of any existing radio station, the applicant, if unsuccessful, shall be directed by the Communications Commission to pay such reasonable counsel fees and other costs as the contesting owner or owners of radio stations may have incurred.

"S. 1335, introduced by Senator Wheeler, providing an amendment to Section 202 of the Communications Act making it 'unlawful for any common carrier to enter into or operate under any contract, any provision of which purports to grant an exclusive right of occupancy or any other exclusive right as against any other American owned and controlled carrier engaged in interstate or foreign communication by wire or radio.'

"S. 1336, introduced by Senator Wheeler, authorizing certain increases in the staff of the Communications Commission (enacted).

"S. 1418, introduced by Mr. Wheeler, to amend Section 210 of the Communications Act so as to make it 'unlawful for any carrier to issue or to recognize any frank, or to render any free service,' except in certain emergency situations involving the safety of life or property.

"S. 2243, introduced by Senator Wheeler, to amend Section 302, Sub-section (b) of the Communications Act so as to repeal the so-called 'Davis Amendment' providing for the mathematically equal distribution of broadcasting facilities among the five zones, and providing instead that 'The Commission shall make such distribution of licenses, frequencies, hours of operation and of power among the several states and communities as to provide an equitable distribution of radio service to each of the same.' This proposal, based on a recommendation of the Communications Commission, is obviously of great importance, as its adoption would enable, and possibly require, the Commission to make a general redistribution of broadcasting facilities based on the actual needs of the listening public for service rather than on the arbitrary quotas assigned to each zone and state under existing law.

"H. 4318 and H. 4319, both introduced by Congressman Rayburn, identical respectively with S. 1335 and S. 1418.

"H. R. 8475, introduced by Congressman Monaghan, to create a new Federal Radio Commission 'for the purpose of providing wholesome radio programs, free from monopolistic domination and control on the part of vested interests, and to make available to all our people adequate radio service.'

"Copyright Legislation

"Indirectly but vitally affecting the broadcasting phases of communication, the most significant piece of legislation in this field before the Seventy-fourth Congress is S. 3407, introduced by Senator Duffy, to amend the Copyright Law. An identical bill, H. R. 8557, was introduced in the House by Congressman Bloom. This bill was prepared by an inter-departmental committee under the general direction of the Department of State, for the purpose of so amending the Copyright Law as to enable the United States to become a signatory of the Rome Convention of the International Copyright Union. This convention (Executive E, Seventy-third Congress) was referred to the Senate Committee on Foreign Relations, which on April 18, 1935, recommended that the Senate consent to it, provided the necessary changes in the law were first made. At the date of preparing this report, S. 3407 is before the Senate, having been favorably reported by the Senate Committee on Patents.

"Certain outstanding changes proposed by S. 3407 are: (1) the establishment of 'automatic copyright' (i. e., copyright without the necessity for complying with any formalities), but with sharp limitations on the right of recovery of damages for infringement wherever registration and notice of copyright have not been had; (2) a material enlargement of the 'writings' for which copyright may be secured, but no acceptance of the general European theory of 'oral' copyright; (3) a considerable limitation of the right of injunction in cases where infringement of copyright is claimed; (4) the complete elimination of the fixed minimum statutory damage provision of the existing law, leaving the measure of damages in each case to be determined by the court; (5) the grouping together of all infringements by any one infringer up to the date of judgment, with the provision that any unauthorized network performance shall be regarded as the act of one infringer; (6) the reversal of the present law, as established in the Jewell-LaSalle Case, by providing that there shall be no liability, civil or criminal, for the reception of any copyrighted work by the use of a radio receiving set, except where special admission fees are charged; (7) a provision regarding the 'author's moral right', based on the very broad provisions of the Rome Convention but so modified as to give users considerable freedom in adapting copyright material for their special requirements.

"Since copyright music and literature are the raw material of broadcasting, and since for the past twelve years the minimum statutory damage clause of the Copyright Act has provided one of the greatest economic difficulties for the broadcasting industry,

S. 3407 is of the utmost importance to this phase of communication. If it has not been passed by both Houses at the time of your meeting, your committee strongly recommends an energetic campaign to urge its speedy enactment."

And, I might say by way of parenthesis there, I am sure you have all noticed the appeal made to you by our Managing Director in the last two issues of NAB REPORTS.

"Food, Drugs and Cosmetics

"The broadcasters have been actively interested in the various bills introduced for the purpose of rewriting the Food and Drug Law of 1906. Of these, the two really significant ones are S. 5, introduced by Senator Copeland, and H. R. 6906, introduced by Congressman Mead. The Copeland Bill in the form in which it was first introduced in January, represented only a slight revision of the bill which failed of enactment of the older bill, and a few new ones in addition. Most important of these added features was a provision directly discriminating against broadcasting as an advertising medium by declaring that the provisions of the act should not apply to a retail dealer advertising his purely intrastate business except in the case of radio advertising.

"The basic difference between the Senate and House bills is that the Senate bill provides for the regulation of advertising by the Secretary of Agriculture, whereas the House bill leaves the regulation of advertising in the hands of the Federal Trade Commission. On this subject, it was absolutely impossible to secure a definite expression of opinion from the members of the broadcasting industry. While most of them appeared to favor the retention of the present system, whereby the Federal Trade Commission has authority to deal with cases of fraudulent advertising, certain groups among the broadcasters appeared to favor the provisions of the Copeland Bill. Accordingly, your Association took no definite stand on this matter and in appearing at the hearings on S. 5 merely urged that the discrimination against broadcasting be removed and that a considerable number of apparently obscure or misleading passages in the bill be cleared up. We are glad to report that every specific change recommended by your Association was made, either in committee or by amendment on the floor of the Senate, before the bill was passed.

"The major issue involved in this legislation is exceedingly important, and we strongly urge your Association to arrive at some definite conclusion with regard to it. Regulation of advertising by the Federal Trade Commission involves simply an extension of a system already in effect. Regulation of advertising by the Secretary of Agriculture involves the setting up of new machinery which, in part, will necessarily duplicate the work of the Federal Trade Commission. It is the belief of your committee that such duplication is undesirable and that the basic purpose of establishing control of advertising in the Department of Agriculture is to set up what may easily develop into a form of censorship. While fully recognizing the vital importance of adequate protection for public health, your committee believes that such a protection can be effectively provided without the creation of a new bureaucracy to regulate advertising. It does not believe that the position of the broadcasting industry is strengthened by the public expression of conflicting opinion on so important a point as this, and it believes that a definite and unequivocal endorsement of the principles embodied either in the Copeland Bill or the Mead Bill would be generally helpful.

"The attitude of the industry as a whole on the subject of pending legislation regarding foods, drugs and cosmetics affords a striking example of the reasons why the broadcasters as a group are not more effective. When persons prominently connected with the industry express views on such matters absolutely contrary to one another, it is not unnatural that people assume that the broadcasters do not know what they want. Your committee recommends, therefore, that the Association definitely go on record as favoring either the regulation of advertising by the Federal Trade Commission or the regulation of certain phases of it by the Secretary of Agriculture, and that the proper representatives of the Association be authorized and directed to express such views on this subject as the Association itself may have adopted.

"The Communications Commission

"Since the Federal Communications Commission came into being on July 11, 1934, its time, outside of routine activities, has been chiefly taken up with (a) organization and (b) hearings covering broad questions of policy. Its organization has inevitably been retarded by changes of personnel and of duties, many of its

members having been shifted from the divisions to which they were originally assigned.

"The two major problems before the Commission at the present time are (1) an investigation of the American Telephone & Telegraph Company, directed by a special joint resolution of Congress, with an appropriation of \$750,000 and (2) the consolidation of telegraph services, hearings regarding which have been carried on for many weeks. No definite action regarding either of these problems has as yet been reported.

"Section 307 (c) of the Communications Act of 1934 directed the Commission to study the proposal that Congress by statute allocate fixed percentages of broadcasting facilities to particular types of non-profit programs or to persons identified with particular kinds of non-profit activities, and to report thereon to Congress. Pursuant to this mandate, the Commission held hearings for five weeks in October and November of 1934.

"The record of these hearings is an impressive demonstration of what the broadcasting industry can do when it really makes up its mind to forget minor differences and work in harmony. With your Managing Director in complete charge of the presentation of the industry's case, and with the chairman of your Legislative Committee in equally complete charge of the preparation of the material, every element within the industry cooperated splendidly, with the result that for the first time there was built up a really convincing record of what American broadcasting is accomplishing in the way of program service to the public. The evidence was summarized in a brief of about 55,000 words, prepared by the chairman of your Legislative Committee, which was widely circulated.

"It has been generally agreed, both within the industry and by those outside of it, that the showing made by the broadcasters in the hearings last fall was tremendously impressive. The reasons for this are not hard to see. The first one is that every branch of the industry stood united in the face of a danger common to all. The second is that sufficient power to handle the case was given without reservation to the staff of your Washington office. Enormously valuable suggestions were made by attorneys for the networks and for various individual stations but it was clearly recognized that the only way to get the work done properly within the necessary time limit was to give the Managing Director and the chairman of your Legislative Committee a free hand. In no other way would it have been possible to have prepared the mass of testimony that was presented or to have summarized over four million words of the record in a brief which had to be written and presented within a space of about twenty days. We earnestly commend for your serious consideration this example of what the broadcasting industry can do when it is really united.

"On January 22, 1935 the Communications Commission presented its report to Congress. This report, after reviewing the testimony presented at the hearings, stated: 'The Federal Communications Commission respectfully recommends that at this time no fixed percentages of radio broadcast facilities be allocated by statute to particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities.'

"The report added that 'The Commission proposes to hold a national conference at an early date in Washington, at which time plans for mutual cooperation between broadcasters and non-profit organizations can be made, to the end of combining the educational experience of the educators with the program technique of the broadcasters, thereby better to serve the public interest. The conference should also consider such specific complaints as might be made by non-profit groups against the actions of commercial broadcasters in order that remedial measures may be taken if necessary.'

"The conference suggested in the foregoing paragraph was held in Washington on May 15 and 16, 1935. It added very little to what was already known on the subject. The only definite result was the announcement by the Commission that a committee would be appointed with Dr. John W. Studebaker, United States Commissioner of Education, as chairman, to study the whole subject of the use of radio in education.

"Here again, your committee desires to point out that the position of the broadcasting industry is lamentably weakened by lack of agreement. The committee headed by Dr. Studebaker is unquestionably going to do something. If the broadcasters could agree among themselves on any proposals to lay before this committee, they would unquestionably be in a position to determine in large measure such recommendations as the committee will eventually make. At present, however, it looks as if leadership in this committee, which certainly ought to be largely with the broad-

casters, would pass into the hands of the representatives of other groups, simply because the broadcasters appear to have no program on which they can agree. Your committee urges, therefore, that very serious consideration be given by the Association to the presentation of a definite and specific plan of cooperation with educational institutions.

"Regulation of Programs

"It will be noted that the report of the Communications Commission, while recommending specifically against the statutory allocation of broadcasting facilities, sharply qualifies this recommendation by the words 'at this time'. It will further be observed that the report accepts as unquestioned the right of the Commission under the law to take an active interest in, and if it deems necessary, to regulate, broadcast programs.

"Throughout the current session of Congress there have been repeated charges in both Houses that the policy of the Commission amounts to indirect censorship and restriction of the right of free speech, in violation of the express provisions of Section 326 of the Communications Act of 1934. It has been frequently alleged that while the Commission never overtly exercises any censorship over program material, its policy of restricting all broadcasting licenses to a period of six months and its consideration, in all applications for renewal, of evidence concerning program content and character, have put the broadcasters in a position where their chief object is to please the Commission.

"It has always been recognized that there is an inevitable conflict between the censorship provision of the law and the Commission's established policy of interpreting 'public convenience, necessity and interest' broadly enough to include consideration of program service. The proposal of the Commission for a conference under its direction on the subject of programs indicates a tendency to extend this interpretation still farther. It may, therefore, be confidently expected that the issue of indirect government censorship of broadcasting will take a more conspicuous place than ever before in the deliberations of the next session of Congress, and may even result in legislative action.

"The most significant development in this connection has been the action of the Commission in citing a considerable number of stations for hearings on their application for renewal of licenses on the ground that these stations have carried certain advertisements which the Commission regards as not in the public interest. Without in any way entering into the merits or demerits of the advertising in question, this action by the Commission squarely raises the question as to whether the Commission can use its power to revoke or refuse to renew a broadcasting license for the purpose of controlling program quality and character. If it can, the conclusion is inescapable that the Commission is in effect censoring radio programs.

"Your committee recommends that the Association seriously and fully consider this problem and if possible arrive at some definite conclusion as to what its position in the matter is going to be. On one hand, there is the possibility of controlling advertising exactly as advertising in other media is controlled. On the other hand, the Commission apparently is proceeding on the assumption that radio advertising needs a type of control which does not apply to any form of printed advertising. Nobody would think of threatening a newspaper with extinction because it published an objectionable advertisement. The paper might properly be prevented by legal means from continuing to publish such advertising, and the advertiser himself might be punished, but there is certainly no way in which the very existence of the paper could be threatened.

"Your committee desires to emphasize just as strongly as possible the importance of this matter. It holds no brief for any form of fraudulent or misleading advertising and certainly none for advertising which may be injurious to health but it urges very strongly on your Association the importance of finding out whether radio broadcasting is to be regulated as to its advertising by the same laws which apply to other media or whether it is willing to admit that the Federal Communications Commission has the right to use its licensing power as a means of indirect censorship over radio programs. It may be that such action is justified in the public interest, but in that case the industry is entitled to know what standards the Commission proposes to set up. In the judgment of your committee it is utterly illogical that a station should be threatened with the loss of its license by reason of the broadcasting of programs which, so far as it knows, are not in contravention of any existing law. If an advertisement is illegal, the same methods which would prevent its publication in a newspaper ought to be adequate to prevent its being broadcast. If

it is not illegal, it seems utterly unreasonable that a broadcaster should be threatened with the loss of his license for giving publicity to it.

"State Taxation

"In many ways the most serious situation now facing the broadcasting industry, and one which may easily result in an annual expense materially greater than the total cost of ASCAP and other music licenses, has come about as the result of two recent decisions by state courts. In January the Supreme Court of the State of Georgia handed down a decision in the case of City of Atlanta vs. Oglethorpe University, upholding the right of the city to impose an occupational tax on Oglethorpe's broadcasting station. This case was appealed by Oglethorpe to the Supreme Court of the United States, but the appeal was dismissed at the request of the appellant when it appeared that the issue could better be determined on the basis of a more complete record in some other case.

"This record was available in the case of Fisher's Blend Station, Inc. vs. The Tax Commission of the State of Washington. In this case the lower court had enjoined the State Tax Commission from collecting a tax on the gross revenue of the broadcasting station. The matter was argued, with extensive briefs, before the Supreme Court of the State of Washington. On May 27 the Supreme Court, with Chief Justice Millard dissenting, handed down an opinion reversing the lower court and stating in substance that while radio broadcasting was obviously interstate commerce for purposes of regulation, the court regarded it as intrastate for purposes of taxation.

"These two decisions, if permitted to stand, mean substantially that every broadcasting station may be taxed, either on the basis of a percentage of its gross revenue, or through a special occupational tax, not only by the state but by the county or municipality. The unbroken line of decisions up to the beginning of this year, holding all radio communication to be purely interstate commerce, has thus been interrupted. In view of the natural desire of every state and municipality to seize upon every possible source of revenue, it is obvious that unless the Supreme Court of the United States reverses the decision of the Washington Court, the broadcasting industry is inevitably going to be called on to pay new and heavy taxes throughout the country.

"In the judgment of your committee, this matter is of primary importance to every broadcaster and it is urged that your Association should promptly and vigorously cooperate in an effort to bring the Washington case before the Supreme Court of the United States. The record in this case is excellent and the attorneys for Fisher's Blend Station, Inc. did an admirable piece of work in preparing their briefs. In the opinion of many attorneys consulted by your committee, the Washington decision runs directly counter to the whole course of relevant decisions by the Supreme Court of the United States and it is the belief of your committee that an appeal has considerable chance of success.

"In this connection, it should be pointed out that the power to tax has always and everywhere carried with it a certain amount of power to regulate, and if the states and municipalities can tax broadcasting, it is likely to mean that they will soon assert some measure of regulatory power. The resulting conflict between federal and local regulation would obviously be utterly chaotic.

"Station Liability

"Two other decisions of particular interest to broadcasters were handed down during recent months. Neither of them concerned directly the conduct of communications in general but both of them are very significant in connection with the business of broadcasting.

"The United States District Court for the Western District of Missouri last December remanded to the State Court the suit of Robert J. Coffey against the Midland Broadcasting Company, Remington Rand, Inc. and the Columbia Broadcasting System, Inc. The plaintiff had charged that certain defamatory statements had been made regarding him in a commercial program, the 'March of Time', sponsored by Remington Rand, Inc. and broadcast by the Columbia network which included Station KMBC, owned and operated by the Midland Broadcasting Company of Kansas City, Missouri. Action was brought in the State Court, and Columbia and Remington Rand petitioned for removal.

"The Court, in holding that the plaintiff had a cause of action against the resident defendant, said:

"In my thought, then, I put the primary offender in the local studio of KMBC at Kansas City. I assume his good reputation; I assume that nothing in any former performance by him should

put the owner of the station on inquiry; I assume even that he has submitted a manuscript and that nothing in it is questionable; I assume a sudden utterance by him of defamatory words not included in the manuscript, an utterance so quickly made as to render impossible its prevention; I assume, in short, a complete absence of the slightest negligence on the part of the owner of the station. With these assumptions is the owner of KMBC liable to one of whom the primary offender has falsely spoken as an ex-convict who has served time in a penitentiary?

"The conclusion seems inescapable that the owner of the station is liable. It is he who broadcasted the defamation. He took the utterance of the speaker which came to him in the form of pulsations in the air. Those waves of air he changed into electrical impulses. Then he threw them out upon the ether knowing that they would be caught up by thousands and changed again into sound waves and into a human voice. He intended to do these things. But for what he has done the victim of the defamation never would have been hurt.'

"The decision draws a close analogy between the broadcast of a defamatory statement and the publication of such a statement in a newspaper. In this it closely follows the decision of the Supreme Court of Nebraska in Sorenson vs. Wood. The Missouri decision, however, goes far beyond the earlier one, not only in holding that no possible precaution or diligence in advance of the broadcast could have saved the station owner from liability, but in insisting that even when the defamation occurs in a network broadcast originating miles away from the studios of the station relaying the program, its owner is still liable.

"Ownership of News

"The other decision, handed down in January in the United States District Court for the Northern District of Washington, concerns the unauthorized broadcasting of news supplied by a press association and published in a local newspaper. Action was brought by the Associated Press against KVOS, Inc., asking for a temporary injunction to restrain the station from broadcasting Associated Press reports appearing in the Bellingham Herald, the Seattle Post-Intelligencer and the Seattle Daily Times.

"The Court, in denying the temporary injunction, said:

"This Court holds that when general news furnished by complainant, or local news claimed to be under its control as regards republication, has been printed in a regular issue of complainant's member newspapers and that issue has been, in the ordinary course, published and distributed to the public, such news reports from that moment belong to the public, including the defendant and all others who may desire to use them, for all purposes except for sale by a rival news agency to its news publishing members.'

"The decision, which is a long one, discusses extensively the public significance of new agencies for the distribution of news, and also 'the everlasting conflict between private enterprise and public interest'. The decision of the United States District Court of South Dakota in the case of Associated Press vs. Sioux Falls Broadcasting Association, in which the property right of a press association in its news reports was upheld, is likewise fully commented on.

"The Associated Press has appealed from the decision of the Court. The direct conflict between the Washington and South Dakota decisions leaves the question of the right of a radio station to broadcast news immediately upon its publication in a newspaper very much up in the air. Since news broadcasting is becoming increasingly popular and important, the final determination of the law as to property rights in news is eagerly desired by the entire broadcasting industry.

"State Legislative Service

"Between January 1 and April 30 your Association set up, under the direction of the chairman of your Legislative Committee, a state legislative bureau to keep track of all bills affecting broadcasting introduced in the various state legislatures and to render assistance to the broadcasters in each state in presenting information and argument concerning it. More than 120 such bills were reported, many of them involving a large amount of correspondence. In most instances it was possible, through the excellent cooperation given by the broadcasters themselves, to prevent the enactment of state laws which would have been unfair or injurious to broadcasting. The subjects involved range all the way from taxation to libel and slander and the employment of child labor.

"Your committee cannot possibly lay too much emphasis on the importance of continuing and building up this service. In every state the legislation which has been or may be proposed closely parallels what is happening in other states. Experience has demonstrated that neither the individual broadcasters nor the attorneys are adequately supplied with information to deal effectively with such problems. It is absolutely essential that there should be in your Association a clearing house for all state legislative matters so that the cumulative experience covering the whole country may be promptly made available wherever it is needed.

"This state legislative service cannot possibly be carried on by your Managing Director unaided. The experience of the past few months shows that it requires at least half of the time of one person, and for a certain number of weeks when a large number of legislatures are in session it is practically a full time job. The tendency to restrict and handicap the conduct of broadcasting by state legislation is inevitably bound to increase and the only possible safeguard is an adequate centralized source of information and counsel. Practically every other trade organization faced with comparable problems maintains such a legislative bureau and in the judgment of your committee, the failure of your Association to do likewise is bound to be disastrous.

"Conclusion

"At the Cincinnati convention your chairman pointed out that in his judgment it is absolutely impossible to expect satisfactory results if the handling of federal and state legislative matters, together with the necessary educational and public relations work connected therewith, is left in the hands of a volunteer committee. As a matter of fact, the committee system is notoriously inefficient and the industry has recently had a lamentable demonstration of the weakness of any committee, no matter how able its individual members may be, when brought face to face with an individual enjoying the full confidence of the organization he represents.

"No one can foretell what will be the major legislative problems of the coming year but there will certainly be plenty of them. Your chairman does not believe that your Association needs to employ, or should employ, a lobbyist as such. He does emphatically believe, exactly as he advised you in Cincinnati nearly a year ago, that your Association should so expand its Washington staff as to provide adequately for the maintenance of an efficient service covering legislation, education and public relations. It is believed that these three activities could well be concentrated in the hands of one man as they are closely interrelated.

"This is the eighth consecutive annual report on legislation which your chairman has presented to you. It is also his last. It is impossible to close this long period of active service to your Association without expressing your chairman's deep gratitude to all those who, over the eight-year period, have cooperated so finely in supporting the work of your Legislative Committee. In saying that the record of these eight years in the matter of legislation has been remarkably successful, your chairman desires to give the principal credit to those to whom the credit is rightly due—to the members of the broadcasting industry itself.

"At the same time, the record of these eight years demonstrates conclusively that the broadcasting industry has never fully awakened to the differences which beset it and that at critical moments it has been weakened by serious disagreements within its own ranks. In thus terminating his long association with your Association, your chairman asks of you just two things. First, he urges you to recognize clearly the utter futility and inefficiency of attempting to handle through a committee the sort of work that can be properly done only by a permanent staff. Second, and far more important, he calls upon you in this convention, which may very likely lay the foundation for a lot of future history, to recognize that the units in the broadcasting industry are absolutely dependent on one another. That there should be differences among you is inevitable but if you are blind enough to let these differences destroy your fundamental unity, you may as well prepare yourselves for the complete destruction of your industry as such. Only by an agreement to settle your differences in such a way as to maintain the essential unity of broadcasting can you possibly continue to exist.

"To the new administration of your Association, and above all to his successor as chairman of the Legislative Committee, your present chairman extends just one wish, namely, that they may go forward with the assurance that back of them is an undivided industry, fully awake to its problems and dangers, and ready to forget all its minor differences in order to stand solidly shoulder

to shoulder in unfaltering support of its chosen representatives." (Applause.)

CHAIRMAN MYERS: I want to thank Mr. Baldwin for reading the report of the Legislative Committee which was prepared by Mr. Henry Bellows, chairman of the Legislative Committee.

Gentlemen, may we have a motion to accept Mr. Bellows' report?

ELMER G. BEEHLER (KGEK, Sterling, Colorado): I move the report be adopted as read.

(The motion was seconded by several.)

CHAIRMAN MYERS: Is there any discussion?

(The motion was put to vote, and was carried.)

Announcements.

The session adjourned at 4:30 o'clock.

JULY 9, 1935

Tuesday Morning

The session convened at 10:10 o'clock, President Ward presiding.

PRESIDENT WARD: Let's have order, men. Now, we've got a very busy session ahead of us and I'm sure it will be a very interesting session. I am going to ask, for the benefit of those particularly who are seated in the back of the house, that we have just as little moving around in the room as possible this morning so as not to interfere with those who are seated in the rear of the room.

First we have on our program this morning a report by the NAB Copyright Committee chairman, Alfred J. McCosker. Mr. McCosker.

ALFRED J. McCOSKER (Chairman, Copyright Committee; WOR, New York, N. Y.): Mr. President, members of the Board and fellow members of the NAB: Mr. Ward said a moment ago that we would have a very interesting session, a very busy session, I should say, and I would like to make a request that it be a session characterized by quiet calm.

I have observed with a tremendous amount of concern, close as I have been to the copyright negotiations, the attempt on the part of a sector of this organization to surround the copyright negotiations with a carnival spirit. It has percolated through a great section of the organization and has percolated to the press. I have particular reference to the daily press rather than that sector of the press that better understands our difficulties and problems, and they refer to it in headlines and bank heads and paragraph heads as "fireworks" and "fight"—that which has to do with these very serious and should be dignified copyright negotiations.

Now, I want to tell you, gentlemen, (and I have been at this thing for a long time, day in and night out) that anybody that thinks he is at a fight or a fireworks carnival, if he persists in it and if that belief grows, I am telling you that you are sitting in the most expensive ringside seats that you ever sat in. This is going to cost a lot of dough unless we part with politics, apprehensions, perturbation, intrigue and plenty of other things I won't bore you with but which are fairly well represented in this very shabby proposition that was handed me this morning when I came into this meeting. Now I feel better. (Applause.)

A lot of people that I am associated with have repeated that the "Mc" on my name is not by accident. But, when I fight, I want to fight with an idea of winning; I don't want to fight with the idea of fighting against each other. By God, I don't know that it is so much a fight as a meeting of minds. That is what I want in this organization and those gentlemen from ASCAP, as far as my observation, have been perfectly willing to establish a condition for dealing that must exist between buyer and seller. They construe us as their largest customer.

Now, as chairman of the Copyright Committee, I proceeded with my associates to enter negotiations with a similar committee of ASCAP. Our instructions were to endeavor to negotiate a "per piece basis plan" for the use of copyright music. Mr. Hostetler has very well named it a "measured service".

Those were our instructions and that is what we originally attempted to do. Personally, you had a very ardent advocate for that method in myself because I have never been able to quite understand why of all the commodities with which we deal in industry, music should be the only one the price of which could not be set by the man it supplied.

Now, I found to my disappointment and I am sure other members found to their disappointment that while the "per piece plan" may be an ideal situation, it is one that cannot readily be

set up for adoption and certainly not, with all the ramifications that are entailed in it, by December 31.

So, it isn't so much in my mind that the "per piece plan" was turned down by ASCAP as it is that the "per piece plan" simply was not turned up in time to make it practicable and workable.

And there are those on your committee who, while they did not favor the "per piece plan", said very openly that that was what they had set out to get and that while they might prefer for their own use a blanket fee, that they would not be at all suprised if they came to the conclusion that they were wrong in the blanket fee and that the "per piece plan" was the most workable thing. And, by the same token, those who were avowedly for the blanket fee, said they might find the reverse was most desirable. So, cutting out all the chronology of these meetings with their recurrent 2:30's and 9:30's and "we'll meet you after lunch" and meetings that worked into the small of the night, I want to come promptly and briefly to the point that it is my opinion (and it has evidently been shared in when presented with all its ramifications to the Board of Directors and took form in a resolution which I'll read you to refresh your mind) that the very best thing that could be gotten by this Copyright Committee, with the Government suit in progress, with the expiration date coming upon us shortly, with the Government advising us that as long as you cannot get an extension for merely the duration of the suit, "We have no objection to your taking such a contract as is the best you can get provided it doesn't go beyond the terms that you were enjoying", if those are the terms under which you were working at the time the suit was started—"Don't get a better contract lest they come into court and use it against us",—the very best thing in all conscience and in all sincerity, I report to you and if you have any belief in my sincerity and zeal and interest in this organization, I ask you to accept it, the very best thing that could be gotten with the assiduous and continued work of this committee, was the extension for five years. And, the reason that I have not signed it personally, if it means anything to you, is because when it was first offered, it was not in written form, was put in written form on the seventeenth of June and since that time, has been in the hands of the attorneys for L. Bamberger and Company, the owners of WOR, with my recommendation that it be put in force.

Now, I want to say a word about Warner Brothers. The membership of the NAB is in the very unhappy position, as I see it, of having seemingly to fortify ASCAP by not dealing with the Warner Brothers lest we have immediately two sources of American music to pay for with the implication that if this succeeds, we will have more. It is an unhappy position because we are seemingly fortifying that which we are attempting to deal with on a better basis or more advantageous basis. But, the fact remains, in my opinion, having been carried through these negotiations step by step, and I think speaking the language and understanding it, I don't believe it wise to deal with the Warner Brothers at this time.

Now, I believe that we have an intelligent Board of Directors. I know members among them that entertained fanciful, whimsical and vague ideas concerning the outcome of the ASCAP negotiations with us until a meeting which occurred recently in June at the St. Regis Hotel in New York at which ample time was provided for Mr. Hostetler, the chain representatives and myself, augmented by the recollection and comment of other members of the Copyright Committee, to place before this Board of Directors precisely what has happened in all its harrowing detail and chronological precision, and at the end of that recital and with the men most concerned or chiefly concerned absent from the meeting, the Board of Directors drew up a resolution that I think should remove, if you have any confidence in your Board of Directors, any doubt or glimmering of worry concerning, first, the sincerity and, second, the intelligence of those who negotiated for you. This resolution is perhaps not new to a lot of you but I'd like to refresh your minds.

"1. The Board reiterates that the so-called 'per piece plan' or 'measured service plan' is the fairest and best to be followed in paying for the use of copyrighted music, in that it enables each broadcaster to pay a price fixed by the individual owner of copyrights, competitively, and compels no person to buy or pay for more than he actually uses.

"2. The Board believes that the two networks and Station WCAU when they accepted a five-year extension of the present contract, did so only after the NAB Copyright Committee found it impossible to work out with the Copyright Committee of ASCAP a 'per piece' or 'measured service' plan prior to the expiration of present contracts; and that when they accepted such contracts it

was because the networks and WCAU felt that it was necessary for the industry to have available upon the best terms possible, the repertoire controlled by ASCAP; and for the reason that it is impossible to operate a radio broadcasting station without the use, to a greater or lesser extent, of the music so controlled."

The resolution further says: "The Board of Directors believes that every broadcaster must come to a decision as to whether or not he desires to extend his present contract for a period of five years. . . ."

It is for your own determination and those that have argued that by inductance—at least this is my view; I haven't a copyright on it; I stand to be sold—those that argue that by inductance because chain affiliates, who by inductance were brought in when the chains signed, must consider this in all fairness.

Bennett, the Government lawyer, the man in charge of the Government's case, persistently told us that we should not enter into a better arrangement; told me there was a brick wall against that sort of thing because they would be thus enabled to go to court and show a penitent spirit with the happy psychology that might put into motion, similar to what the Chairman of our Communications Commission told us yesterday, "There is a different attitude toward the fellow that decided to clean house, that took the program off," and so was it presumed that the psychology that would be set up by a better deal would be in favor of ASCAP and surely while all we want is justice, we don't want to sing their song, we don't want to sharpen their axe.

Now, there is a whole lot to be said here by various people but I want to say in signing off that in my opinion, I am very proud of the Copyright Committee's activities. We haven't a thing in the world to be ashamed of. Neither NBC nor CBS have anything to be ashamed of. I'd regret, if I were of them, I'd resent, but being not associated with either company I can't regret emphatically that there has been this effort to put them on the defensive.

I am very proud of the assistance, the militant, persuasive, dogged, determined, unceasing activity of Ike Levy in this matter throughout these negotiations. Neither has he anything to be ashamed of and I am going to watch with more than academic interest just what the outgrowth of this will be when a group of serious men, all of whose interests are entailed with your own, put in this amount of time and labor and expense—I just want to see whether or not a normal, sane organization can fail to appreciate it.

You know, the day after Dempsey was licked by Tunney in Philadelphia, I attended a luncheon that a hundred men gave to Tunney and on that occasion, Mr. Tunney was telling the story of the difficulty he had had throughout his fighting career to get justice from the press. And, as an example, he told the story of their accounting for Jack's defeat by saying that it was raining and his footwork was slippery. Gene waited for a dramatic pause and at the end said, "My God, maybe they thought the moon was shining in my corner!" (Laughter.)

Well, I allege, gentlemen, there is an analogy. Maybe you think there are two different interests here. I didn't find it in my negotiations throughout the length and breadth and depth, if there were no heights to them, of my negotiations with ASCAP, and I repeat I am going to take a more than academic interest to see if this is a safe and sane organization that is going to take a position other than one of great appreciation for the men that have given their time and effort to your fight.

Thank you. (Applause.)

PRESIDENT WARD: Mr. McCosker, I want to thank you for that full and complete report of the negotiations of the Copyright Committee which you have given to this Association and I just want personally to add my endorsement to everything Mr. McCosker has said. I sat through all the negotiations with the Copyright Committee and I want to tell you that those men on that Copyright Committee stood up on their hind heels and fought for what they thought was best for this industry. I sat through meetings from 10:00 o'clock in the morning until 9:00 and 10:00 o'clock at night and if you don't believe that is a strenuous program to go through with the American Society, I suggest that some of you men be put in that place. It is one of the most difficult situations I ever went up against in my life; in many ways, one of the most hopeless. At times there would be variance of opinions when one thing would be suggested at the morning session and at the afternoon session there would be an entirely different story to tell. I want to tell you this Copyright Committee has done valiant work and at all times has worked in your interest.

I suppose the proper procedure would be for a vote on the ac-

ceptance of this report. May I have a motion that the report be accepted?

GUY C. EARL (KNX, Hollywood, California): I make such a motion that the report be accepted.

MR. WILLIAMSON; I second the motion.

(The motion was put to vote, and was carried.)

PRESIDENT WARD: Now we come to that point on the program where we pause for discussion. I am going to suggest that since there are many things in your mind at the moment that will be covered by Mr. Levy and Mr. Hostetler, we dispense with the discussion at this time and bear Mr. Levy and Mr. Hostetler and after that open the meeting for discussion. Is that acceptable to you gentlemen? Do you mind voting on that? If you are in favor of that, say, "aye"; opposed, "no."

(The vote to dispense with the discussion until after the reports of Mr. Levy and Mr. Hostetler.)

PRESIDENT WARD: Then we will next have the report from the Treasurer of the Copyright Fund, Mr. Isaac D. Levy. (Applause.)

ISAAC D. LEVY: (Treasurer, Copyright Fund, NAB; WCAU, Philadelphia, Pennsylvania):

Mr. President and Members of this Organization:

It will surprise you to know that I don't believe there are 20% of the members of this organization who understand the copyright situation.

I came out here the other day and talked to probably a hundred men, individually or in groups, who are in this assemblage today. At first they thought they had been sold down the River but when I had explained the situation to them, all of them changed their minds. It was then I became convinced so few of you understand this problem. Yet if there is one factor in your industry that may destroy your business, it is the copyright situation.

If the prices you are compelled to pay for copyright use ever get to the point of where you are paying 25% of your gross receipts, and don't think that impossible, then you will be wise if you give your broadcasting station to ASCAP. I am going to tell you the whole story; I am going to take my hair down. (Laughter.)

And I want you people in this room to listen attentively and carefully because on three other occasions I have told you the whole story and yet you don't seem to know what it is all about. Your whole business depends on copyright and you must form your conclusions from a knowledge of the facts and not listen to whispers from uninformed sources.

I had nothing to do with copyright as far as this organization is concerned, before 1932. I confined my activities to protecting our own Station WCAU in Philadelphia. On two occasions I went to Court and secured injunctions restraining ASCAP from interfering with our business.

When your 1932 contract was entered into I was not consulted. Your Board approved it but I was not in agreement with their action and did not propose to abide by it. It was one week later that I walked into Mills' office and informed him that I would not accept that contract. He probably knew that I intended to bring a suit against ASCAP on behalf of Station WCAU and I did not have any difficulty in securing for our station a better contract than you have.

Now I could have kept that contract a secret. But what did I do. I hopped a train and went to St. Louis; addressed your body and told you that I had a better contract than any of you. And I said I was willing to sacrifice that contract for the best interests of the whole industry. I told you of its terms. Most of you have forgotten and probably few of you know of the terms of that contract.

Now I have had a photostatic copy made of the WCAU contract and I am going to hand it to this young lady and you are cheerfully invited to inspect, analyze and scrutinize it. I will also tell you the terms of it. In the first place when you agreed to pay 3% for the first year; 4% for the second and 5% for the third year, we agreed to pay 5% beginning in 1932. We paid a sustaining fee of \$5,000. We were permitted to deduct legitimate salesmen's commissions as well as advertising agency commissions.

I was quite a hero in St. Louis because every time your Copyright Committee had reported to you in the past they had come to you and said: "You must pay more." This is the first time a copyright committee had come to you and said: "You don't have to pay any more for the next five years." But this does not seem to satisfy you.

I know that one Station started by paying ASCAP \$500.00 a year and is now paying \$65,000 annually for the same service.

We held a Convention at White Sulphur Springs and you may recall that I requested you to pay 10% to me of what you were paying to ASCAP for a period of one year. This in order to conduct the fight, and I told you if you didn't do so, you would pay 300% in 1935 to ASCAP. You responded graciously. It might be appropriate for me to say to you that after the expenses have been paid there will be approximately \$22,000 left, and your Board decided the other night that 50% of this sum be mailed to you in the ratio to which you contributed. This will be sent to you as soon as I return from my trip to the Coast. The balance will be sent to you at the end of one year. We are retaining the balance for one year so that we may be prepared to meet unforeseen expenses which may arise. I don't think there will be any of those expenses and I believe you will get the balance in 1936.

When we collected this fund we started a suit to dissolve ASCAP. This whole body was very anxious to do anything in the world to break up this monopoly but when the time came to get a plaintiff, when a station had to lend its name as plaintiff, when there was a danger of retaliation in the event of failure, not one of you men came to the front and said "Use my station". So we had to use one of our own and WIP became the plaintiff in the case.

We started the suit and we said to the Court, "Break them", and I later told you that if the Court did dissolve ASCAP it would probably allow sufficient time for re-organization so that music could be obtained during this transformation period from the individual composers, authors and publishers without confusion and harm to the American public. I still think that would be done.

But then the Government came along and started their suit. They did not request the Court to dissolve ASCAP. They said to the Court, "Re-organize ASCAP". Quite a different suit. The Government took the position that ASCAP had the right to exist; that its members had the right to get together provided they acted in a legal manner to collect its fees. The Government, in effect, said to the Court: "You order them to go on the per piece plan, the measured service plan. Let each composer, author or publisher name the price opposite each piece or catalogue to be paid for performance of such music", and then the Government, in effect, says: "If you conduct this business on a competitive basis giving the right to the broadcaster to pay for what he uses, you will then be complying with the law."

This is quite different from asking the Court to dissolve ASCAP. Here we were confronted with the Government asking them to re-organize. The Board of Directors of this Association had approved of the per-piece plan. I have always been against it. But I am only against it for one reason and that is, it will cost us double or triple what it is costing us now. I want to say to you that no one in this room will be more in favor of the per-piece plan than I will be if it will cost less than the present plan. I believe we are interested in paying a fair price for music and I believe that the present price is more than fair to ASCAP. Certainly it is high enough. But to my mind the present plan is the lesser evil of the two plans. It is purely a business proposition. Now, have I made myself clear?

I have been warned and advised, until I have almost gone into convulsions of laughter, to talk to you as if you were children of the ages of 9 and 10. I have been asked to speak in monosyllables so you would understand. I have been told to repeat and repeat because there are a large number of you broadcasters who think the other fellows are pretty dumb and, by the way, some of you fellows who think the others are dumb, are not so bot yourselves.

There are some men in this organization who won't understand and some who refuse to understand and look upon this matter as a political or social fight. For them I have sympathy.

Now let me repeat it so as to satisfy all persons concerned. This is my position. I think the prices we are paying now are high enough and we are all anxious to pay less. And if the per piece plan would bring that about I am for it 1000 per cent. Am I taking it too much for granted to think that I have made myself clear?

But why do I tell you that the per piece plan will cost you more and why am I against it. I will not only prove it. I will demonstrate it.

Let us assume the Government wins its case. What happens? The Court says to Mr. ASCAP, "re-organize on the per-piece plan". Now what does ASCAP do? They send a letter to Sigmund Romberg.

"Dear Mr. Romberg:

The Court has decreed that we go on the per-piece plan or the measured service plan. Will you please send us a list of your com-

positions with the price you propose charging for the performance by broadcasting, opposite each piece of music?"

Now, isn't that what has to happen?

By the way I read something in this week's TIME Magazine about Romberg. This is under the Personals. I quote:

"Dining in a Chatham, Ont., hotel, Composer Sigmund Romberg took a fancy to the hotel harpist, asked her to play 'Deep in My Heart' from his 'Student Prince.' The harpist did not know it. Could she play his 'Only a Rose'? No. His 'Auf Wiedersehen'? No. Composer Romberg ripped off his collar, autographed it, thrust it at the harpist, finished his dinner collarless."

Now that is the man who receives the letter from ASCAP. You have a sample of his temperament. Now how much do you think he will charge for the performance of his music? I want to tell you that every man who ever wrote a song thinks that Victor Herbert and Franz Schubert were amateurs and that they are geniuses. Their prices will be high. This will be so because their vanity in their profession will compel them to show off to the other composers by placing a high price opposite their piece of music. These music publishers and authors know how much money they are getting now. They want more and they are going to figure out how many times their music has been played in the past. You will probably find Irving Berlin and the rest of them saying they want \$1.00 per piece or \$10.00 per piece feeling that since we have played their music so much we will be compelled to play it more in the future and they can get that price if they want it. And those whose music is not played so much will charge more to increase their income. And if we were to eliminate the popular music then of what use is ASCAP? But in the meantime what could we do? We would have to play the music of ASCAP and we would have to pay for it and since they would be receiving the gain, what chance would there be of reducing their price?

Let me give you a few illustrations. I happened to be in Mr. Gene Buck's office. He is the President of ASCAP. I was waiting for him. The Secretary picks up the telephone. There is a man somewhere around New York and he wants to play a certain piece of music. He wants permission to give a performance with no charge of admission. The young lady said "I will do the best I can", and then she calls up the composer. I heard an argument that lasted ten minutes. She was pleading and begging him to let that man play that piece of music free of charge. But no, the charge was \$15.00. Finally she hung up the telephone and she called up the gentleman who had made the request and with tears in her eyes told him that he would have to pay \$15.00 for permission to play that piece of music, even though there was to be no charge of admission. Now that is one illustration.

Let me draw to your attention that when the Philadelphia Orchestra was playing for Chesterfield there was an instance when they had to pay \$60.00 for one symphonic orchestration. Now they are the high strung people who are going to be asked to charge a price for each performance of their music.

Take Irving Berlin for example. There are 600 stations in this country. Is it reasonable to say that each station plays one piece of his music a day? If you will consult your records you will find it is closer to ten. But 600 pieces a day amounts to over 200,000 performances a year. Suppose you were compelled to pay an average of 25¢, Berlin would be receiving from the Society \$50,000, whereas now he receives about \$7,000. From whose pocket do you think that money would come?

Now suppose the average price per piece would be 25¢, and I doubt if you would get it that cheaply. A station plays 2,000 pieces per week or 100,000 per year. That would cost you \$25,000. Compare that price with what you broadcasters are now paying. Some of you of course are paying more; but how about the vast majority of you?

Now you members who own small stations. Don't be deluded. If this per-piece plan goes through you will pay double and maybe triple of what you are paying now. Is that what you want? If so that is your business. It is my idea that you want to pay less than you are paying now. At present that is not possible. But at least you have blocked them from charging you more.

Now I know that some of the Copyright Committee feel that this is a matter of supply and demand and that the price of music will find its level. The laws of supply and demand do not apply in this case, because there isn't any equalization. There is the supply. The demand is constant. We must use their music and while some of you men think it will find its level it will only find

it if we don't use the music; but if we use it and pay for it, the level must be raised higher. This will be so particularly after the publishers have tasted the payments of \$1.00 per piece. But above all, please remember one thing. If you finally decide on the per piece plan and you are compelled to pay double or triple, then never forget that I warned you against it. There is no Santa Claus. I know it and you ought to know it. Under this per piece plan you will be put out of business. And again I repeat to you, I am against it. I must repeat because I have been advised to do so.

Now I wish to bring you down to the present. After having meetings in April and getting nowhere, we again held meetings in the early part of May. The government suit was progressing. It was listed for trial on June 10th. We held a meeting on May 13th in Mr. Hostetler's rooms in the St. Regis Hotel, and I proposed going to ASCAP, with whom we had an appointment at noon that day, with a proposal that they extend our contract for five years on the following basis:

1. We pay 5% on all programs using their music, in which event we would supply them with a list of all music used. We, the broadcasters, had the option to pay 5% on all music, without supplying any lists. I felt that most broadcasters having the right of election would agree to pay the 5% on all programs using music whether it is ASCAP's or not, because the percentage of music used which is not theirs is so small that it would cost us more to keep the records than to pay them on all the music.
2. My proposal was that we pay them on announcements only where the music was not paid for as part of other commercial programs.
3. That we were to be allowed not only agency discounts but the salesmen's discounts. And, of course, we were to pay nothing on programs which did not use music.

This was a better contract than WCAU enjoys at present. Mr. Hostetler objected to our offering any proposition whatever. His idea was that we should listen to ASCAP and then meet again. I thought this was merely a waste of time. We had had too many meetings already. Nevertheless, we decided to call Mr. Bennett, the Attorney General, designated by General Cummings to conduct the case, who was in the hotel at the time, and ask his advice. I won't keep telling you who Mr. Bennett is. When I refer to him from now on you will know that he is the Attorney General in charge. I told him of my intended proposal to ASCAP. He then and there emphatically stated that if we were to ask for anything except an extension of our present contract we would be jeopardizing the government's case, and that if we extended our existing contract, no harm would be done to the government's case. We left there; went to ASCAP and sat in with their entire Board. We were anxious to have the proposal come from them. They, however, were trying to place us in the position of requesting the proposal. In the course of the talk, the proposal did come from them. They left the room for a while and we discussed the situation in their own Board Room.

We told Mr. Hostetler that we would accept this contract only with the approval of Bennett. He kept telling us how it would affect the case adversely. To that I did not agree.

We went to Judge Ashby's office and there it was suggested that we turn down their proposal and request the contract only for the duration of the suit.

Mr. Hostetler still maintained his position that on the eve of trial we should do nothing. I could not fiddle while Rome burned. I saw that we had nothing to lose by protecting ourselves for a five-year period. We sent for Mr. Bennett and he advised us all that if ASCAP turned down our proposal for an extension until the conclusion of the suit, we would then be in the position of having been coerced into accepting the five-year extension and this would not prejudice the suit. In spite of this Mr. Hostetler still assumed the position that we should do nothing.

I was very anxious to see something done promptly. I knew this suit could not be finally concluded for several years, and that it would take at least three years to put into effect the machinery necessary to operate a per-piece plan, if such were the order of the Court. In the meantime I wanted to be sure that the broadcasting industry would not, at the end of the year, be met with a proposal by ASCAP wherein they would attempt to charge us three times as much as we are paying at present. Since we could not accept a contract to pay less than we are paying because of Mr. Bennett's advice, it was very important that we do not place ourselves in the position where we could be taxed three times what we are paying

today. In this connection let me state that Mr. Bennett, in the presence of the entire Copyright Committee, said that he had read ASCAP's minutes and that they intended charging us as much as 25 per cent of our gross receipts. In fact, a Mr. Sol Bornstein made that proposal to ASCAP. Mr. Bennett furthermore said that a number of the stations were under the impression that the chains were receiving preferential treatment. He stated to our Board that that was absolutely untrue, and that ASCAP (from their own minutes), regardless of what monies the chains were forced to pay, intended to get as much from the individual stations as they possibly could. They were going to get all they could get from the individual stations as well as the chains.

After the consultation in Judge Ashby's office, we went back to ASCAP and they turned down our proposal to extend the contract until the conclusion of the suit. And please remember that we did not accept the five-year contract at that time. We had refused it and I have here a memorandum that Mr. Hostetler sent to me reciting what occurred that day. Let me read part of it to you.

"Mr. Levy was the spokesman for the broadcasting interests, and said that they had carefully considered Mr. Mills' proposal, and felt that there should not be a 5-year contract entered into, in the light of the pendency and the early trial date set for the litigation. He asked Mr. Mills whether ASCAP would be willing to extend the operation of the present contract until the date of the final determination of the litigation now pending between the United States and certain individual members of ASCAP. There was a discussion of this proposal, and Mr. Fischer particularly insisted that the broadcasting interests should have the approval of the Board of the National Association of Broadcasters before the Board of ASCAP considered it.

"It was finally decided, however, that the Board of ASCAP should consider the proposal made through Mr. Levy and report as to whether they would be willing to have such an understanding during the pendency of the litigation, and that thereafter there would be called a meeting of the Board of the National Association of Broadcasters as soon as possible—Mr. Levy stating that in his judgment, with the approval of the persons present, the Board of the National Association would approve such an understanding."

ASCAP turned down our proposition and withdrew its five year offer. We were left cold.

Early in May, there had been quite a great deal of talk about calling a meeting of the Board of Directors. I wanted this meeting called so that we could present the whole matter to them, since we seemed to be getting nowhere. On May 24th, I received a telegram from Mr. Loucks.

"Developments in ASCAP situation may require Board meeting within next ten days stop Suggest you keep in readiness to attend when call is issued stop Just as soon as we are able to fix date you will receive wire and we will endeavor to give you as much advance notice as possible."

I heard nothing more of the Board meeting. I wanted a Directors' meeting. Everybody wanted a Directors' meeting, but we only had \$46.00 in the Treasury and the Directors' meeting costs about \$1,000. So the meeting was not called. After all what was the use of calling a Board meeting on June 3rd, when we had four working days before trial to do it in, I couldn't have it called in 45 days,—what chance was there in getting it together in four days? And what was the use of calling a Board meeting? Did we want any more committees appointed? Here our price was pegged at our present level for the next five years. We were warned not to accept a contract to pay less than that. What could the Board have done?

I was getting very restless. June 10th was coming along and the case was going to trial. Reliable information had come to me to the effect that the government was not entirely prepared to present its case at that time. Your committee met again on June 3rd, at five o'clock at the St. Regis Hotel. Now the case was less than one week off. Mr. Hostetler was again present. Please do not forget that we were now without any offer from ASCAP. The five year proposal had been withdrawn, with only an intimation that it might be revived. No Directors' meeting had been called. The case was only one week off.

At the committee meeting at the St. Regis we received a proposal from ASCAP which would have been very burdensome and which was not acceptable. It contemplated payment on the available

catalogue rather than payments on the present catalogue. That is to say, at present we are guaranteed a substantial catalogue. This includes Harms, Witmark and Remick. Their proposal was going to be on whatever catalogues they happened to have. I felt that if Warner Brothers, who control Harms, Witmark and Remick, withdrew, probably 40% of ASCAP's catalogue would not be available to us.

But since ASCAP was willing to renew our present license and that they would, under the contract, be compelled to save us harmless from any suits by Warner Brothers, I felt that in the event injunction proceedings were successful against any station, we then could negotiate with Warner Brothers and deduct the amount of such adjustment from the price we were to pay to ASCAP. To me this meant protection for all of us.

You should also be informed of what the Warner Brothers situation was. You know that Warner Brothers during the years 1927 and 1928 purchased a number of music houses and paid for them with paper. In those days any green paper was called money. They were now asking ASCAP for much more money than ASCAP could pay. I know the Warner Brothers outfit pretty well. If you have followed the testimony of one of the Warners during the Congressional investigation you would realize what you were up against if you were compelled to deal with them. I would much prefer dealing with ASCAP. Why, gentlemen, Warner Brothers wouldn't even leave you with your eyes to cry with. (Laughter.)

Now I want you to have a little laughter for relief but I am very, very serious in discussing this problem with you.

At six o'clock on June 3rd, the Committee was still getting nowhere and would not act. They were waiting for what they called written proposals, before submitting it to you, even though in the presence of the whole committee such proposal had been made to us orally, which was just as good as if it had been made in writing. When I saw that nothing was being done (and we were in great danger of having nothing done after the case went to trial), I realized, for the benefit of everyone in this industry, we had to protect ourselves regardless of how the committee felt in the matter. An emergency existed.

I then telephoned Mr. Mills and asked him if he would extend the present contracts for five years. He said he would. I came into the room and told them that I was going to meet Mr. Mills in the morning and accept the five year extension provided the entire industry was accorded the same privilege. Mr. Hostetler then said, "I think you ought to tell them about your own contract". To this I immediately replied that the WCAU contract was well known; that I had voluntarily disclosed its terms at St. Louis and meetings since then. Everyone knew of it.

But what could have been his purpose in asking that I send the contents of that contract to you? You couldn't accept a contract like that if it were offered, because Mr. Bennett had advised against it.

The next day, I entered into the contract and I did not sign it until I first called the chains and Mr. McCosker, Chairman of the Copyright Committee of NAB. I told him that this offer was open to the entire industry. He asked that the contract be sent to him. And please remember that at this time we didn't have the continuance until December 31st, 1935, in writing. This was executed about five minutes before the other contracts were signed and you know that ASCAP in the past has changed its mind, so that all you had up until that moment was their verbal agreement to extend our present contracts until December 31st, 1935, whereas our contract only ran until September 1935. I was very happy when I saw it in writing. A verbal contract is as good as a written one but you are compelled to prove it and I would rather have a written one. Please don't think ASCAP was anxious to grant the extension.

I then telephoned Mr. Bennett in Washington. He congratulated me and told me he didn't think we could get such a contract. I immediately engaged the services of an addressing company so that I could transmit the developments to you as quickly as possible. I said to you that I, on behalf of WCAU Broadcasting Company, decided to accept a five year extension of the present contract. I had told you about our contract. You couldn't have accepted a contract for less than what you are paying now even if you had wanted to, because of Mr. Bennett's warning. Would it have helped you if WCAU agreed to pay more than its present contract calls for?

In effect would it have been proper for me to have said to ASCAP "I have a better contract for WCAU than the other members have for their stations. Won't you please raise our price?" I didn't do that. I am not that much of a fool. That would be sheer nonsense.

I want to tell you something at this point about Mr. Hostetler and Phil Loucks. If you think we were at dagger points you are right, but the fact that we had opposite views all inured to your benefit. It was only because we fought, argued and at times approached bitterness that you got the best that was in all of us.

Mr. Hostetler received a very small fee for his services. I want to tell you that never in his career did he work as hard for a client as he did for you, and you ought to appreciate it.

Let me read to you the extension clause of our contract:

"It is mutually agreed that the certain license agreement between us dated October 13, 1932, is hereby extended upon the same terms and conditions, as therein contained, from the date of its present expiration up to and including December 31, 1940."

I will tell you why I had that clause inserted. I didn't want a new contract. I wanted to protect ourselves against the withdrawal of Warner Brothers. An extension of our old contract included the Warner catalogue whereas a new contract might raise some question as to whether or not we were to use the Warner catalogue.

If you had signed the contract immediately upon receipt of my letter, you would not have been in the position of probably being compelled to meet the defense that you had received a notice of withdrawal of Warner Brothers before you executed the contract, and that you therefore knew that ASCAP did not have Warner Brothers in their catalogue. Now don't be frightened but be a trifle uneasy. It will do you good. I still think that defense may be overcome. I do believe, however, that those of you who signed the contract before you received the notice from Warner Brothers are better off than the rest of you.

But if I were you I would sign that contract of ASCAP'S as quickly as I could get my hands on it and I would not deal with Warner Brothers. I would not even acknowledge receipt of their communication. And by the way if Warner becomes oppressive there is an arm in Washington that can reach out for them as it has done for one of the Warners in St. Louis. You know that they placed a little indictment in Harry Warner's pocket that suggests he come to St. Louis to answer charges of conspiracy in the moving picture industry. He'll be there shortly. After all Warner should not withdraw. They should go back to ASCAP where they belong. That's their crowd. Let them stay there.

By the way, you know what happened with the Government's case. Mr. Bennett was compelled to ask for a continuance until November. I don't know what will happen in November. I do think the Government will win. But isn't it safe and sane to protect yourselves at all times? It didn't go so well because while the Government had all the factual evidence it did not have the chance to prepare it for trial and you know what happens when one is not prepared. Remember the Max Baer-Jim Braddock fight?

What position would you be in if I had gone along with Mr. Hostetler and Mr. Loucks, now that the Government's case isn't going as well as anticipated. Let's suppose ASCAP felt sure of their position and wanted to charge you three times as much. Suppose I had left you in that position? You would have called everybody names and would have eventually paid three times as much as you are now paying. What would you then think of me? And yet, this is exactly what Hostetler and Loucks wanted us to do. If that is the kind of service you wish, you're welcome to it. You may be satisfied with that kind of leadership,—I am not. I gave you direct action.

Now we had a Directors' meeting a few weeks ago. One of the station owners came to me and said: "I am disappointed in you, I always thought that you played square. You certainly gave us a bad deal." I said, "That is very interesting. You may like to know what it is all about." I told the story. He listened attentively and then said: "I want to apologize to you for even permitting such a thought to enter my mind." "I want to do more," he said, "I want to give you my sincere thanks for not leaving me open to double and triple charges." He suddenly turned to me and said: "Will you represent me in the ASCAP matter, and I will pay you for your services." I have had several offers of this kind. I have never accepted a penny from a broadcaster for any such service. Remember you haven't paid me a penny for all the work I have done and when I practice law, and this comes under that category, I usually charge pretty good fees.

My brother begged me to withdraw from this fight. He said, "What the hell are you bothering about? You are restless; you are running around, exciting yourself, you are in New York and Washington most of the time." He said: "Half of the broad-

casters don't know what it is all about," and he said: "That I would be accused of selling you down the river." I said, "Leon, sometimes you must save people from themselves."

Do you gentlemen think you would get the kind of contract that is offered to you now if the Government loses its case?

Now there are some other things I want to talk about. I know a number of you men listen to these discussions and you nod your heads in agreement as if you are convinced that the argument presented to you is a logical one, and then you leave the room and somebody comes up to you and says "He is giving us the works." This person does not study the problem but he tells you you have been sold down the river and all that sort of thing. You know I was once a member of a club and they decided to build a new club house, and each member was to contribute \$1,000. There was not a word of dissension. The resolution was passed unanimously. The next day 75 resignations were sent in. (Laughter.)

Gentlemen, after you have listened attentively to Mr. Hostetler, please, please ask all your questions here. And when somebody comes to you on the outside and tells you that you were sold down the river say to him, "Why didn't you ask the questions that were in your mind at the meeting? They would have discussed them with you, even debated them if you had so wished." And say to this man, "Why didn't you give your ideas to the organization? And if you have anything to say about this copyright situation, why didn't you do it in the open where your arguments can be answered?"

There is another thing. You will be conferring upon me a great favor if you decide that I am to have nothing more to do with the copyright situation. Really I have worked hard enough on it and I am anxious to be relieved of the responsibilities involved. However, my manhood compels me to offer my services to you in this matter because I have gone so far. I would feel as if I were betraying you if I did not offer to continue this fight. But if you decide that you do not wish me to proceed any further in this matter, I at least will have done my part in offering my services to you, and you will be conferring upon me a favor and relief from responsibilities.

We have an Executive Committee of three. It consists of the President, Managing Director and Treasurer. For two years I have been your Treasurer. Not because I wanted the office, I don't want any office. I never held political office. I don't like it. Last year at Cincinnati at 8:00 o'clock in the morning your entire nominating committee awakened me from a sound sleep to request that I accept the nomination for the Presidency of this organization. I refused. I didn't want it, and I don't care to be Treasurer now. I have only been Treasurer for one reason and that is so I can continue on this copyright fight as a member of the Executive Committee. I have been a very poor Treasurer. I have never seen any of your books, and don't know anything about them. I don't think I would make much of a bookkeeper and besides Phil Loucks has been taking care of that job in addition to his own, very well. I'll O. K. anything he tells me to, except on copyright.

But if I am going to function in this fight; if I am to carry on then I must be elected Treasurer. I think committees as a rule are a failure. I think it would be better if one person were designated to deal with this copyright situation and report to your Board. I am willing to be in that position. I want to take the best propositions I can get to the Board and say: "Now what is your pleasure." It is for that reason I am a candidate for re-election as Treasurer. But remember, only to carry on your fight if you want me to. I'll know by your vote for me for Treasurer whether or not you feel that I have been working for your interests and whether you want me to continue to do so. If you elect me Treasurer you will have given me a vote of confidence. You will have said to me, "We appreciate the work you have done and we want you to continue."

If you decide you want someone else for Treasurer, it's alright with me, and if another person is elected I will make a motion that it be unanimous and I will be the first to congratulate him and wish him well. But I will not accept the Chairmanship of any Copyright Committee. I refuse to feel that I have been on trial. But I have been attacked. I am anxious to know if I have the confidence of this organization and the only way you will show it to me is by casting your ballot for me as Treasurer. When this copyright fight is over you will not find me holding any office, unless you ask me to do so in order to be of some service to you.

It is for you now to say whether you want me to continue this fight. If you give me that vote of confidence I will wear these finger tips out working for you. (Prolonged applause.)

PRESIDENT WARD: Mr. Levy, we want to thank you for your report as Treasurer of the Copyright Fund and negotiations of the Association with the Society. May I have the vote that this report be adopted by the convention? Is there a motion that it be adopted or accepted?

H. J. BRENNAN (WJAS, Pittsburgh, Pennsylvania): I so move.

ARCHIE TAFT (KOL, Seattle, Washington): I second the motion.

(The motion was put to vote, and was carried.)

PRESIDENT WARD: As in the case of Mr. McCosker, we will dispense with the discussion until after we have heard from Mr. Hostetler, NAB copyright counsel. (Applause.)

JOSEPH C. HOSTETLER (NAB Copyright Counsel, Cleveland, Ohio): After the nice way that Ike has spoken about me, I don't want to make any difficulty here but I do want to cover one thing that has been talked about, I suppose, as much as any other one single thing in regard to this copyright situation and that was the letter which I wrote to Mr. Loucks and which, three or four or five days after I wrote it, he decided he wanted to send it to the membership after having sent the full letter to the Board.

Now, I am not going to attempt to review with you the Government's law suit or preparation or issues involved nor any other issues involved, nor am I going to try to quote Mr. Bennett in what he said at the only times when I was present. I was never present, as far as I remember, when he said that there couldn't be anything better accepted. I am not making a particular issue of it but I have no recollection of it.

There isn't any question, as I said to you in Cincinnati last year, that the action by the Government against ASCAP was much stronger than the one which was then pending by WIP. It was stronger, in my opinion, and is stronger because the Government has the right and has put into that litigation not only the case of the monopolistic control which ASCAP has over the broadcasting business by nature of the control and pooling of necessary copyrights and then forcing the industry to buy all copyrights in order to have any one but I think it is much stronger because they have the hotel men's case and use of music in moving pictures and the use of music in synchronized reels of film, all in the case for an examination of the legality of the pooling of the Government monopolies by ASCAP.

I believe that case can be won. I believe it will be won in spite of this contract that has been entered into. That is my belief and hope. I believed it when we were considering in New York an extension of the present contract after the agreement to extend until January 1, which was carried in Mr. Loucks' bulletin and which Mr. Mills and his committee had agreed to and then reported the Board had agreed to—carried in Phil's bulletin. I personally don't believe there is any possibility of ASCAP withdrawing the agreement made to extend the present contract from September to December when we met on June 3 or whatever date it was to consider what should be done.

I thought when we had that meeting to enter into a new contract at that time that it was a mistake. I thought it then. I still think so.

I am reliably informed that Mr. Burkan opened his case to the United States District Court with the statement that there can certainly be no question that this contract is oppressive or arbitrary because the industry, at their request, have extended it for five years from next January to 1940. I thought it was a mistake then and I think so now but I believe it is something that can be overcome if we can show that the thing that led to the extension was a necessity on our part due to the control of the music which we needed, in large part, by ASCAP, and that that need not be necessarily fatal.

I didn't believe it ought to be done and I argued against doing it very strongly just as I argued for two years for the "per piece system" because it was my understanding that my client wanted the "per piece system".

Now, I am not going to speak of the "per piece system" at the moment but am going to come back to that in just a moment and talk to you in a few minutes about it. Not that I know as much as any men sitting in the room or know as much as many men out of the room but I do know what I know to be my orders from my client which was that there be no full line forcing, that ASCAP have no power to force a man to buy the whole catalog if he didn't want to and we should work ultimately toward paying for what we use so that the owner of a radio station, if he desired, could say to a person who wanted to use music, "You can use this music without paying anything; you can use this music paying so much and if you use other music, you have to pay more." I

say—and I am starting to talk "per piece" now and don't want to at the moment—I want to talk about June 3.

When the meeting of the Copyright Committee was called for New York on June 3, in substance what Mr. Levy has said was just what occurred. I can't remember the hour in the day when we called Mr. Mills but we called him sometime and there was talk about a proposal he had written on a railroad train and he sent over those papers from which Mr. Levy read excerpts. I think no one there wanted that plan. However, it must be remembered that at that meeting, as nearly as I can recall, the people who were present were Mr. Klauber, Mr. Kay, Mr. Colin, Mr. Ashby and Mr. Sprague, Mr. Russell, Mr. McCosker, Mr. Levy, Mr. Loucks and myself. There was not a quorum of the Copyright Committee present.

Late that afternoon the question of extending this contract, upon the assumption that we couldn't get it extended only for the period of the litigation, was brought up and Mr. Levy made the statement that if he could get the contract extended, he was going to take it for his station and then he followed that by saying, "And if I take it, I am going to write a letter to every broadcaster telling him that I have taken it and that he may have it." And, I said, "Ike, if you do that, you ought also write the broadcaster and tell him not only that the contract which you were getting extended is a better contract than anybody else has, newspaper or commercial broadcasters, but the extent and degree of the preference which you enjoy because I think that is something, in view of the fact that we are acting as we are here, that you ought to pass on if you write a letter."

I understood him to say that was what he was going to do and my recollection is still unfogged after the meeting in New York at which everybody spoke. That night we separated. And, it was also my understanding—and I think Mr. Loucks—that Mr. McCosker the next day was to get from Mr. Mills in writing the proposal for all broadcasters which could be submitted to the Copyright Committee of the Board.

I had nothing to do in New York the next day and should have left for Cleveland that night but stayed over because I thought we would get those papers and probably would have some kind of a meeting to determine what sort of message to send to the members.

Now, Phil Loucks and I waited together in the St. Regis Hotel all morning and in the afternoon until 3:20 or 3:30 or sometime when we had to go to get the B&O train for Washington. I was going back by way of Washington because I wanted to pick up my associate and partner, Mr. Bemis, who was there working with the Department of Justice with the facts we were supplying them. Mr. Loucks and I got on the train without having any call or information from the Copyright Committee and when we stepped off the train in Washington at 8:00 o'clock or whatever time it was, we stood in the lobby of the station and Mr. Bemis came down from the Department of Justice to go with me to Cleveland. He said Mr. Bennett had a phone call from New York that the two chains and Levy had signed the contract today.

Now, that is the first intimation I had of it. I said to Phil, "I am awfully sorry to have to leave you tonight because if this word goes out, you will be overwhelmed with requests from members tomorrow to tell them what to do."

I got on the train and started for Cleveland and I made up my mind I was going to put on a piece of paper the best thought I had and send it to Phil in the morning, which I did when I got into the office at 8:30. I meant every word I said in it and I was perfectly confident about my understanding with Mr. Levy that the letter that went out to you folks should give the preferences which are in his contract. I am not arguing whether he has a right to them any more than the newspapers have a right to be preferential but one of the issues in the lawsuit was the fact that ASCAP was using its arbitrary power in order to grant preferential contracts in our industry which is interstate commerce, giving certain people lower contracts than others. That is an issue in that suit.

I sent that letter to Mr. Loucks. Sometime later Phil called me. "Joe, have you seen Levy's letter?" I said, "No." He said, "I don't believe it fulfills what we talked of in New York and I want to send to the membership the letter you wrote me." I told him I thought certain paragraphs which referred very intimately to the Government's suit and to the trial of it should not be made public, and over the telephone we agreed to cut those paragraphs out, and that letter went out.

Now, I don't want to quarrel with anybody and so far as I am concerned, I have probably reached the end of the road. But, there is only one way I know to do work for my client, and my client is this Association, whether you are smart or dumb, loyal

or disloyal—you are the people I am working for—and so far as I am concerned, I see nothing wrong in passing on to you all of the information.

Now, at the meeting of the Board of Directors, we had a strained meeting. Mr. Klauber felt so deeply about this matter that he wouldn't shake hands with me, and that is the first time in my life that happened to me.

I told them then that it was not my intention to wrong anyone and I said, as there are men in this audience that heard, to Mr. Klauber and Mr. Ashby that I sympathized with the tremendous difficulty that faced them in deciding their difficult problems for those two great chains, whether to go on, as I thought safe, with the Government suit pending—ASCAP wouldn't dare make prohibitive demands—but I realized they had a problem and inasmuch as the action taken at a Copyright Committee meeting with not a quorum present and practically nobody present but Mr. McCosker and Mr. Levy who represented independent stations and inasmuch as the discussions we had at ASCAP indicated Mr. McCosker wanted for WOR a preference similar, there was the duty of passing on to the membership the nature of contracts which were being executed.

Now, in the New York Directors' meeting, I was utterly astounded to find I was attacked for being for the "per piece plan". I think Mr. Klauber was really unfair in what he said about me. I understood you were for the "per piece plan". From the time we had our first meeting with ASCAP, anyone who was present will know I have consistently argued for the "per piece plan" as the final method in paying for music.

To my mind, it is utterly indefensible that any man should make a pool of Government monopolies and say in order to buy one, you must buy all. Imagine an electric current concern saying to the user, "Before we will attach your meter, you have to buy a refrigerator, a curling iron and a vacuum cleaner. You don't have to use them but you have to pay for them." Now, that isn't fair. It has seemed to me that the "per piece plan" is fair and that, as I said to you at White Sulphur Springs, if we had the "per piece plan," the owners of copyright music who are as anxious to have it played as you are to play it, would have an opportunity to compete in having their music played by lowering the price of it instead of sending people around to bribe your orchestra leaders to play it.

Now, I have no apologies for being for the "per piece plan". I realize in the conferences with Mr. Mills certain members of the committee declared themselves as not believing in the "per piece plan" and I understand the state of mind which leads a man to say that Sigmund Romberg, with the confidence he has in the merits of his music, might very easily say, "I'll charge ten dollars or fifty dollars or a thousand dollars to play my piece," and if he does, he'll have to tear his collar off every time he goes where there is a musician because nobody will hear his music.

THE CONVENTION: Hurrah!

MR. HOSTETLER: Now, you know just as well as I do that the one thing the man who has this brain child wants is to trot the thing out and have the people enjoy it. I am not afraid of that. Last night after we went to Pike's Peak, I talked with a man from Australia. I wish you'd have a chance to meet him. They agreed on a "per piece plan" and I think the highest they paid is eight. Your "per piece plan"—now, mark you that I am not a broadcaster—thank God! (Laughter) I practice law and ordinarily, I practice it for people who know what they want. (Laughter) And who hire me to try to get it.

One of the truths that was told me by one of the—I won't say "few" because I don't believe many people lie—but one of the people that told me the truth was Mills two and a half years ago. He said, "Hostetler, you think you know what you want and I think you're on the level but let me tell you when I get ready, I'll divide them under you and you'll have nothing." Now, that is just what he said.

I think you have to take this situation as your Board of Directors said. You have this extension. The chains have signed. I think it is much more important to give the Government every aid you can give them than to quarrel over anything that is past. I have no apologies to make. I think just as much of Ike as I ever did but if I had it to do again, I'd write that letter again and if I had it to do again, I'd tell Phil as far as I am concerned, he could send it out. But, it is much more important that this industry, if you are really going to fulfill your purpose, consistently support and encourage the Government which is now going to fight your battle than that you quarrel among yourselves.

Now, I am not interjecting myself into any factions. I don't want to. I have tried to serve you the best I know how with my

limitations. I don't know any way to work for a client except to work for the client. I realize that there are differences in this group but my mandate from the Board of Directors of the group was to fight for the "per piece plan" and I did it as far as I could.

I don't think you need be discouraged but you can write down in your book as final: "Right loses battles but right doesn't lose the war." And, your "right" here, the thing that the Government of the United States is trying to do is put a stop to something that is unfair, unhealthy and is interfering with one of the great industries of the United States.

Now, that is the fact. The basis upon which ASCAP has sold its music has tended not only to oppress you but in fact it has tended to harm them when they sell you for a flat sum the right to go in and take any piece of music you want. The result is surely the overplaying of the temporarily popular numbers. So that if they are interested in stopping the so-called murder of music, the easiest way in the world to do it is to let the men who own the music fix competitively the price for its performance. And, in my judgment, instead of having one dollar or twenty-five cents, you will have a sum such as we were looking at last night on that schedule and then you'll be able to say to the man who wants to buy music at your station, "If you want this music, it will cost so much; if you want another kind, it will cost another sum; and if you want the kind in the public domain, you get it for nothing."

Now, I know this industry is a young industry. I have enjoyed being with you the three times I have been with you. I am not handing you anything. I enjoyed it. I know you are a young industry. The day will come when the radio industry will have pot bellies and sideburns and strong financing but there won't be a lot out in front of the hotel at 5:00 o'clock in the morning yelling, "We want a horse. We want a horse!" (Laughter.)

At the present moment you are trying to develop an industry and, boys, listen to me, you can't play monkeys with it nor you can't abuse it without running the risk of losing it. Now, I'm telling you that. You have an industry the like of which there isn't anything so far as I know on the face of the earth. You hang on a six-month dangle. What you want to do, in my judgment, is to get yourself together and give to the Government every help you can. I don't ask you to blame anybody. I don't ask you to praise anybody. You don't have to praise me or employ me. You pay me and that ends that. But, don't let the Government feel that this industry has weakened because the fact is, Bob Ingersoll said it and it is applicable to right and wrong just as it is to truth and lie. "The truth will fit with every other truth in the world but a lie won't fit with anything but another lie made for the purpose." Right will fit with every other right and won't fit with wrong and wrong won't fit with anything but another wrong."

You are right in this case. You deserve to win it. You've got the support of the Government and you ought to give them your help.

Thank you.

(The convention arose and applauded vociferously.)

PRESIDENT WARD: Gentlemen, you have heard the report of Mr. Hostetler, counsel for the NAB in copyright. Is there a motion that it be accepted?

H. W. SLAVICK (WMC, Memphis, Tennessee): I so move.

E. B. CRANEY (KGIR, Butte, Montana): I second it.

(The motion was put to vote, and was carried.)

PRESIDENT WARD: Now, before we enter discussion, Mr. Levy has asked that he be allowed to make a statement.

ISAAC D. LEVY: There is one more very important matter that I must now bring to your attention. Mr. Hostetler in his address stated to you that Mr. Bennett did not make the statement to our Board of Directors that we could not accept a contract to pay less than we are paying at present. I have made the assertion that this statement was made in Mr. Hostetler's room by Mr. Bennett in the presence of the Board of Directors.

Now, Mr. McCosker, please stand up. Mr. Ward, Mr. Russell and the rest of you members of the Board of Directors.

Did or did not Mr. Bennett make that statement?

(IN UNISON): He did.

PRESIDENT WARD: I am going to ask Mr. Lambdin Kay, our First Vice President, who has not presided, to take the chair.

(Mr. Kay took the chair and called the meeting to order with a resounding "bang" of the gavel.)

ROGAN JONES (KVOS, Bellingham, Washington): Mr. Chairman, may I start this discussion?

CHAIRMAN KAY: You may not. The Chair has a word. (Laughter.)

(Mr. Jones remained standing as Chairman Kay continued.)

CHAIRMAN KAY: As a veteran old presider—who flung a gavel the first time in his life a second ago—I am going to insist that we punctiliously accept the parliamentary rules of order. I have a copy—a brand new copy! I have studied that for at least twenty-five minutes with the result that I have acquired a severe headache and not the slightest idea of what it means. (Laughter.)

I still insist we be governed by it if anybody here can tell me what it is all about. (Laughter.)

As your presiding officer, in this discussion I am going to try to bear out the tradition of NAB that every man can say what he pleases when he pleases, that free speech will just run riot over this place, and to prove to you—you might as well sit down. (Laughter.)

MR. JONES: I can take it, Mr. Chairman. (Laughter.)

(Mr. Jones remained standing.)

CHAIRMAN KAY: And, to prove to you I am utterly sincere and have a complete knowledge of parliamentary law, the first member that I am going to recognize is Lambdin Kay of WSB of The Atlanta Journal of Atlanta, Georgia. (Laughter.)

It's going to be pretty long! (Laughter.)

MR. JONES: Can I depend on that?

CHAIRMAN KAY: Absolutely!

(Mr. Jones sat down.) (Laughter and applause.)

CHAIRMAN KAY: In the twelve years of NAB history, I believe that I have been named on your Board more often than any man representing an independent station in an outlying community in a remote district, in other words, out in the bushes. (Laughter.)

I was named on the original Board in 1923 when NAB was born out of the travail of radio's first copyright cataclysm. I was named again in 1928, again in 1932 and again last year in Cincinnati.

I'll make it as a positive statement there has been no member who ever served on your Board who had as little to say at Board meetings as I have. I had the feeling for years that there were others on the Board much closer to what was going on, with much more first-hand information on circumstances, who were infinitely better qualified to speak and recommend policies for the protection of the broadcasters. I frequently realized that what was going on was completely over my head, that I didn't know what it was all about and it would be presumptuous and foolish and maybe harmful for me to interpose my incompetent judgment against the mature judgment of these men closer to the scene, with more basic facts and better qualified to discharge their responsibility to you.

I am here today to tell you I want to talk, that I'm going to talk and that I know what I'm talking about. I'll say flatly there is not a member of this organization, outside of the few who fought and bled on that copyright battle-front, who know as much about what happened as I do. I believe that I'd be a slacker in my duty to you as an officer and a director if I shirked the responsibility of telling you the facts as I saw them.

In the second place, I claim the same right that any of you all have out there—to get up and shoot off your mouth about anything you want to whenever you want to like I am any time you're fool enough to do it. (Laughter.)

I know this; it will be an intense and immense relief to me to get it off my chest. A lot of stuff has been piling up in me for thirteen years. (Laughter.)

Now, whether unloading it will do you any good, I don't know, and at the risk of being rude, I don't much care!

I happened to be in New York a week beginning Monday, June 10, as a subpoenaed witness in the Government's suit against ASCAP. That date happens to be just three days after the NAB's long-drawn-out, difficult, bitterly fought, all-important but futile negotiations with ASCAP blew up with an explosion that showered a series of contrasting and confusing letters on every one of you members present. (Laughter.)

Before the smoke had cleared away and before the heat of the blast had cooled, I got all sides of that story at first-hand except ASCAP's. (Laughter.)

I got it unofficially, in fragments, from Phil Loucks, and he spoke with intense earnestness and conviction and deep concern.

I got Andrew Bennett's side of the story from Andy Bennett himself, the Assistant Attorney General that Uncle Sam has put in charge of the conduct of the ASCAP suit.

I got it from Judge Ashby of NBC. He told me without argument as a straight-away statement of fact but with intense earnestness and extremely human resentment.

I got Columbia's attitude briefly from Mr. Klauber and his associates.

I got other statements and comments from numerous station representatives who were attending that trial. And, please remem-

ber that I was the only member of your Board representing an independent station from a remote district who happened to be in New York during those fateful days, immediately following the so-called copyright blow-up and concurrent with the beginning of the Government's suit.

And, don't think I went around seeking that information. I was exposed to it! (Laughter.)

I had to take it whether I wanted it or not. (Laughter.)

I frequently had the feeling that I was learning too much and hearing too much and that I was involuntarily getting on the spot. (Laughter.)

I am inclined to think now I may be on the spot and was then and I'll tell you, if that be true, I'm damned glad of it! I'm damned glad I got all the facts I did in the way I did!

I haven't a thing to lose in this assembly, gentlemen, except some very fine personal friendships. I don't owe anything in this except the honorable obligations acquired under those friendships. I haven't a thing to gain except the strengthening or broadening of friendship and respect.

While it may be of little interest to you, I have but one consuming ambition in life and that is to get the maximum enjoyment out of being married to my wife—and my foot slipped badly once in this convention. (Laughter.)

And to avoid all the work and worry I possibly can during my remaining years in this vale of tears and static. (Laughter.)

And while it still may be of less interest to you, when I die they can carve on my tombstone the kind of an epitaph suggested by Ring Lardner for himself: "Here lies Lambdin Kay—what of it?" (Laughter.)

I possibly go Al Smith one better. I not only believe that you can't embarrass me—I don't believe I can embarrass myself. (Laughter.)

But, we'll get back to the mix-up. After that illuminating week in New York, I was able to get home in time to turn my back on my station's affairs again and go back to New York and attend the directors' meeting at the St. Regis Hotel. Time had cooled things off—but had not explained much.

We had an all day meeting in two sessions with all directors present except Leo Fitzpatrick and Powell Crosley who couldn't get there. We heard from McCosker, your Copyright Committee chairman. We heard from Klauber, for Columbia. We heard from Ashby, for NBC. We heard from Levy, Treasurer of your Copyright Fund. We heard from Joe Hostetler, your copyright counsel. We heard from every solitary soul except Phil Loucks—and I think Mr. Hostetler substantially told his side of the story.

In that session, your copyright chairman reported the disappointing efforts of trying to get you a fair contract from ASCAP. He reported without passion and without comment. The networks and Ike Levy laid down their statements of fact and supporting argument with substantially this declaration: "We have been accused of selling the industry down the river. We consider this an outrageous, unfair, unwarranted charge. We resent it as keenly as honest men can resent a false accusation. Instead of censure we believe we deserve the thanks of the industry, yet we are on trial, and all we ask is a simple verdict of guilty or not guilty."

Mr. Hostetler then stated his side of the case and Mr. Louck's part in it. Mr. Hostetler spoke with the same sincerity and conviction he did today, and with a sincerity similar to that of the representatives of the networks, he gave his conclusions. He didn't say so directly but I felt that Mr. Hostetler felt that he, too, was on trial. And, in addition to Ike and the networks and Mr. Hostetler, I had the absolute conviction that somebody else was on trial and that was your Board (and I am on the Board) and that you would return the final verdict two weeks later here at Colorado Springs.

And, I want to say that during those two exhaustive sessions, your President presided as a fair and impartial referee. He and every party in the controversy invited every director to ask any question at any time and I tell you that there were many intelligent and pertinent questions asked and they were answered fully and freely and without restraint by all sides.

I am unqualifiedly of the belief that we got all sides of that at the Board meeting at New York. We not only got the facts but got besides a world of unconcealed resentment and bad feeling and we got unmistakable proof of diametrically divergent opinions arising from diametrically divergent viewpoints. I am inclined to think that any of your directors who did not see that all the facts were bared, all the cards laid down, all the story told at that meeting, would not be able to see Pike's Peak from the Garden of the Gods at high noon on a clear day.

I further think that any director who could not reach a definite conclusion from those facts as laid down is incapable or afraid to or won't consider that one plus one equals two.

I may be a little harsh in saying that because I had the great advantage of being there the week before but I tell you advisedly and solemnly that every allegation of fact, every difference of opinion, every charge and counter-charge, ever human, personal element that was paraded before the Board for you and the Board to pass judgment upon—checked and tallied and dovetailed exactly to that headlong, bedlam story I heard from all sides unwillingly and unofficially the week before.

I think that was significant to me then and I think it is to you all now.

We recessed at 1:30 and reconvened at 2:30. Judge Ashby of NBC and Mr. Klauber of Columbia, who had appeared at their own insistence that morning, were not there. Mr. Hostetler was not there. Ike Levy was there only briefly. Nobody was there except your duly elected Board of Directors. Every fact and every allegation and every claim and every opinion and every explanation developed at that morning hearing was discussed and argued fully and frankly and freely and without restraint.

At the outset Mr. McCosker suggested that a resolution defining the issue be drawn, upon which every director could vote his convictions, aye or nay, yes or no. After hours of chin-wagging, Mr. Carpenter, the great old resoluter, (Laughter) submitted a text for a resolution. The Board could not agree on the exact wording so a committee was appointed to draft it. On that committee were Mr. Carpenter, Mr. Lyons of Baltimore and I, with Mr. Loucks serving ex officio. This committee adjourned to Mr. Loucks' room. When we reached it, Mr. Hostetler was there. I took it upon myself to inform him immediately that it had been the sense of the Board that he not be present at the afternoon session.

The committee drafted a resolution substantially embodying the text Mr. Carpenter had originally suggested. It did not define the issue clearly enough for me. It was not tough enough for me. I wrote two substitute paragraphs to the resolution Mack read you. One related to the Board's declaration on the "per piece" or "measured service" basis of payment to ASCAP and the other—and more important to me—was the question of good faith or bad faith on the part of Levy and the networks on one side, of Joe Hostetler and Phil Loucks on the other side, and McCosker in the middle.

Every member of that committee and every member of the Board will tell you that I tried, rightly or wrongly, to make that resolution state, plainly and unmistakably, the issue I considered paramount—the good faith or the bad faith, the honesty or dishonesty, of everybody connected with the copyright negotiations.

I told them that I wanted to vote "aye" or "nay" on that plain, simple issue. I told them that I wanted to come out here to Colorado Springs two weeks later with my chin up, able to say exactly what I had voted on, how I voted, and why. I told them that I didn't want any director to be able to come out here and say that he didn't know exactly what he had voted on, or that he was influenced to vote by anything except his own judgment and conscience, or that he voted with the belief that all the story had not been told, or that he voted as he did because it looked like the best thing to do, or that he voted "yes" when he wanted to vote "no" or not at all.

The committee returned to the Board meeting and submitted both the majority resolution and my two substitute paragraphs. After more consideration and discussion, it was finally agreed to vote upon an amplification of the committee's draft of Mr. McCosker's original resolution. It was not quite plain-spoken and unequivocal enough to suit me but it was a pretty clear-cut, straightforward resolution—and it was all I had to vote on.

The Board then voted unanimously in favor of that resolution—that is the resolution you heard today and published in the bulletin—and to me a resolution tantamount to a declaration of the Board's belief in the good faith and honorable intent of every representative of the industry concerned in the ASCAP negotiations—and reiterating the Board's belief in the equity and soundness of the "per piece" or "measured service" basis in compensating owners of copyright franchises and emphasizing that we cannot operate our stations without some of ASCAP's music. Later the Board unanimously passed another resolution declaring that Phil Loucks had been within his rights in circulating the Hostetler letter.

So much for that Board meeting two weeks ago. And, I ask that you bear in mind that every word I've said so far has been a report of facts as I saw them without any attempt to construe them or to analyze them or to comment on them.

I now would like to outline some of my own conclusions based on the facts recited and on which I based my vote at that Board meeting, a vote that I unqualifiedly meant then and one that I uncompromisingly stand by today. Long before I began this speech, or even while I've been talking, you may have reached your own conclusion. I concede you a perfect right to do so but I deny flatly that anybody except on the firing line has had as much plain, cold fact to determine his conclusion as I have.

You may have decided that the networks and Ike Levy wear horns and tails, or that Phil Loucks and Joe Hostetler wear wings and halos, or vice versa, or that your directors did a convenient job of whitewashing, sidestepping, straddling and passing the buck. I can't speak for any member of the Board except myself, but I reached none of those conclusions—and I voted on a single, obvious issue—the responsibility of protecting the interests of broadcasting against ASCAP. And I voted my sincere and unchangeable and everlasting belief in the honor and decency and zeal and trustworthiness of radio's chosen leaders.

And, here's why. Consider Alfred J. McCosker, twice your president, a man who has pulled himself up to the top of the radio ladder by sheer courage, character and brilliance. He fought your battle as chairman of your Copyright Committee. He knows more and suffered more than I. He voted on the same resolution I did and he voted like I did. I've known Mack for thirteen years. I nearly went to work for him once. And, I invite and challenge any of you, or any committee of you, to look that Irishman in his blue eye and tell him he's a fool or a double-crosser or a traitor.

Consider Judge Ashby, general counsel of the NBC, an eminent attorney, carrying the fearful responsibility of guiding wisely the legal course of the greatest single broadcasting interest in the world. Judge Ashby's position in life is so far above mine that I with genuine diffidence say I differ with him on three of his fundamental points of philosophy of this copyright puzzle. But, does that warrant my besmirching Judge Ashby's character or challenging his integrity and sincerity in reaching a difficult decision vitally affecting the interests he is pledged to serve and vitally affecting the entire industry? Questions like those, gentlemen, are too stupid to answer.

Consider Mr. Klauber, second in command of the Columbia network, an organization that has amazed the world with its record of establishing itself as a pivotal power in American broadcasting within a very brief span of years. I don't know Mr. Klauber very well. I don't know whether I agree with him on his copyright fundamentals. But, I do know that Mr. Bill Paley is thoroughly in accord with the action Mr. Klauber took. Can anyone here make me believe that Mr. Paley and Mr. Klauber would risk wrecking the structure they have built, that they would betray the very interests on which their past progress and their future success is based for a fancied advantage of a few thousand dollars or a few hundred thousand dollars or a few million dollars—if these dollars were gained at the expense of their hundred affiliates? And again I decline to answer my own question!

Consider Ike Levy. Everybody here knows Ike as a shrewd businessman, an astute lawyer, a successful station operator, an enthusiast in championing his own beliefs and convictions for the good of this industry, and, until I took the floor today, the man who always makes the longest speech at NAB conventions. (Laughter.)

There is nobody in this outfit who spoke more freely in telling you and telling your Board where he stands on copyright than Ike. Nothing he has done conflicts with what he has openly and frequently said he wanted to do and was going to do. I know that Ike Levy believes he has been fighting for you in this struggle, that the course he took was not only the only course but the best course, and that many of you—and I—will suffer because we have not done what he did—and there is nobody here that can make me feel differently!

Consider Joe Hostetler, a great attorney with a great heart, the legal associate and intimate, confidant and friend of Newton D. Baker, one of America's conspicuous intellects, statesmen and sociologists. Sir Galahad set forth to restore the Holy Grail to Christendom with no higher purpose, with no purer motive, with no more unselfish devotion, with no finer spirit of righting a grievous wrong than did Joe Hostetler when he leveled his lance against ASCAP. I happen to disagree with Mr. Hostetler on all important fundamentals in this business but does that lessen my gratitude, does that undermine my belief in his steadfast loyalty to what he considered a sacred trust! And, I'll pass the answer to another Goldberg question!

We come to Phil Loucks. Phil Loucks is my good friend—by my good fortune, perhaps a closer personal friend than he may be to some of you, but in no sense a truer or more incorruptible

friend to me than he is to the humblest of us here today. Phil is the kind of a friend I would enjoy going down the river with even if I knew he was wrong morally, spiritually and every other way! (Laughter.)

It so happens I don't have to crucify myself for Phil Loucks. He needs no defense by me or any man living. But, I happen to disagree with Phil on one fundamental. His course in this matter has been marked by the same shining fidelity to duty, the same rugged consistency in what he considered best for the high and the low, the same effortless policy in hewing to the line regardless of the fall of the chips, the same disregard of his personal fortunes when forced to choose between what he considered right and wrong, the same sympathy, intelligence and brilliance and desire to play fair that have stamped his work for the past five years as the most conspicuously sound and successful administration of an industry's affairs that this country's economic history will show.

Now, as I said, I disagree with Phil on where one fundamental piece of this copyright puzzle fits into the finished picture—the same item on which I differ with Joe Hostetler—but does that by one iota, jot or tittle subtract from the measure of my friendship for Phil? Not on my side! Nor does that dim my recollection of his fearlessness and vision, his wise, unwavering and skillful piloting of the good ship NAB through quiet waters during the hurricane of the New Deal. It doesn't alter my estimate of him as the man who has done more for broadcasting in the past few years than any other man in it and doesn't modify my opinion that this industry and the American people owe Phil a debt greater than they will ever understand and certainly greater than they will ever be able to repay.

I have so far reported to you certain things that I accept as facts and a few conclusions based on those facts. I now beg your indulgence while I venture into that dangerous and overcrowded no-man's-land of personal opinion.

From the towering vantage point of the second-guesser, and with the blessed omniscience of hindsight, I venture to think that every member, every player on our copyright team, straining to give his best for our side, under frightful pressure, at one time or another either muffed the ball, struck out or stole second with the bases full during our recent crucial game with ASCAP—particularly in that ninth inning with the score tied. (Applause.)

I don't believe the game is over! And, adroit and crafty as ASCAP is, as unscrupulous and ruthless as ASCAP is generally regarded to be, I don't give ASCAP credit for having split the NAB. I don't believe the NAB is split. If there is any temporary schism in the organization, it is marked by a line of cleavage resulting from honest but opposite viewpoints. I think a franker admission and definition of this conflict of opinion, a franker effort to understand and explain and reconcile these differences, is an imperative but by no means hopeless task. And, I think our leaders have the guts to undertake it, regardless of whose skull gets thumped or whose vanity is damaged! It will be a difficult task because there have been wounds suffered in this fight that will be long in healing and that will leave lasting scars. There have been hatreds kindled whose embers may smolder forever and there have been injustices done that not only cannot be rectified but never can be forgiven!

And, the membership can elect to make this job easier or more difficult. There are certain of us here who are too prone to help pillory a man in the spotlight of responsibility and then stand off in the dark and snipe at him with brickbats and dead cats and infirm eggs. (Laughter.)

There are certain of us who are so eager to believe anything detrimental they hear about anybody just provided it is unworthy and nasty that they have lost the faculty of recognizing simple truth when before them.

Now, I am primarily a newspaper man but I thoroughly believe that radio is exerting a more powerful influence on the manners and morals and tastes and ethics and lives of the American people today than the press ever has or ever will. (Prolonged applause.)

But, if Ed Bill can't trust the man that is sitting next to him and Martin Campbell can't trust the man across the aisle and none of us can trust the men on this platform, this industry is in a hell of a shape to direct the almighty power of broadcasting toward the goal of human betterment, and I'll add one point that Joe Hostetler hinted at: if this organization persistently and successfully continues to make public to the world that we are utterly incapable and unworthy of handling this franchise, they are going to take it away from us and that means I'll lose my fifty kilowatt channel and Wright Gedge will lose his 250 watt station and they'll take all these valuable franchises and pour them into the

public jackpots and let somebody run them, even on a basis that nobody could run it worse! (Laughter.)

This industry has suffered no disaster, in my opinion. It will never suffer a disaster! There is no man in it and no group of men in it big enough—or little enough—to wreck this industry. Were that possible, we would have done it long ago! Heavens knows, we've tried hard enough for thirteen years!

I am not a preacher. I am not a prophet. I have no cure whatever for the growing pains of this industry and if you ever meet a man who tells you he has, treat him gently and call the mental ward. (Laughter and applause.)

But, I do have a prescription that I think might do this outfit some good. What I'd really like to prescribe for this outfit is a good strong laxative. (Laughter.)

This body is suffering from faulty elimination. (Laughter.)

It has faulty elimination of ugly suspicions and poisonous prejudices and silly fears and petty ambitions and a million other unwholesome things!

I can't prescribe the laxative because the networks have booted them off as undesirable and even Chairman Prall objects to the way we use the language. (Laughter.)

So, the next best bet would be an antiseptic or deodorant—but the people who govern our morals now say that is not so good. (Laughter.)

So, I come down to a disinfectant—the world's finest and cheapest disinfectant—the world's most potent purifier—sunlight! I prescribe sunlight for the NAB. If there are any malignant germs or unhealthy growths concealed in any out-of-the-way corners, sunlight will sterilize them. If there are any black widow spiders spinning webs in odd nooks, we can see them and step on them. If there are any big, bad bogeymen lurking in the shadows, waiting to jump out and scare us, as so many seem to think, we can see them and know how to handle them.

But, if, as I abidingly believe, we don't see a damn thing except the unsubstantial, elusive and harmless shadows that the sunlight itself will dispel, I think I can assure you of two things. One is that we'll take a lot of fun out of NAB's everyday affairs and NAB conventions for those brethren who love to come out and wave the bloody shirt. The second is that you patient and hardworking delegates who are trying to do the right thing, will never have to go through another ordeal of listening to a harangue like the one you have just heard, at least from this humble toiler in radio's vineyard. (Applause.)

So far this great imbroglio between NAB and Kid ASCAP has come from the platform. We are now preparing to pitch it down on the floor and The Chair makes a special rule suspending all rules to permit the use of the stranglehold and brass knucks and lead pipe. I simply ask this, as Ike Levy asked you: if any of you have anything festering inside that just has to come out, let it come out here and don't remember when you get on the dark side of the bar, "if you knew what I know". This is the place to shed them. The second is I would like everybody to identify himself. You may be a big shot in your own back yard but our charming stenographer does not know you.

MR. JONES: The Chairman has spoken like a true member of the press—first. We enjoyed his talk, I am sure.

I wish to open this discussion, if I may, by submitting three resolutions, or motions, I should say, because we do not present resolutions from the floor, which I will read and submit copies to The Chair. "The world will little care nor long remember what we say here but it can never forget what we do here."

Speaking extemporaneously following a succession of network adherents who have tried conclusively to show that the public interest has been served, I wish to submit these resolutions, reading them to you, furnishing copies to The Chair and then speaking very briefly upon them.

"Resolution No. 1.

"Since it is the consensus of the members of the National Association of Broadcasters, while duly and regularly assembled at the thirteenth annual meeting at Colorado Springs, Colorado, that the Attorney General of the United States should be commended for instituting anti-trust proceedings against the American Society of Composers, Authors and Publishers, et al., and

"WHEREAS, the Attorney General of the United States has faithfully and diligently served the public interest by proceeding with such suit against the members of said Society with dispatch and in a commendable effort to rid the people of this country of monopolistic practices which are subversive to the business principles of a free people, and

"WHEREAS, it appearing that the public interest necessitates and requires that such proceedings be pressed to a final and speedy determination, it is now

"Resolved, that this Association hereby goes on record as favoring and approving a continuation of the activities of the Attorney General in the Government's proceedings against the American Society of Composers, Authors and Publishers, et al., and that the President of the Association is hereby directed to express our gratitude and appreciation to the Attorney General for such action on the behalf of the public interest, and it is respectfully urged that the Attorney General continue therewith, with the assurances of our support."

Mr. Chairman, I am about to move that the Resolutions Committee be directed to bring in such a resolution. Therefore, I am not presenting a resolution but a motion.

"Resolution No. 2.

"(A repetition of one of last year's resolutions):

"Resolved, That the officers and directors of the National Association of Broadcasters be instructed to support the suit of the United States Government against the American Society of Composers, Authors and Publishers, The Music Publishers Protective Association and their affiliated defendants, to the end that royalties for the public performance of music may be determined by free and open competition among copyright owners."

And, lastly:

"Resolution No. 3.

"WHEREAS, Joseph Hostetler, the counsel for the copyright activities of NAB has made a complete and full report of his activities in this respect, and since his efforts in this regard have at all times been prompted by a sincere desire to perform a distinct service to the broadcasting industry as a whole, in following out the instructions that this industry gave him as its attorney, it is

"Resolved, by this body that Joseph Hostetler should be warmly commended for his efforts to obtain relief for the broadcasting industry from the ravages of the American Society of Composers, Authors and Publishers, and it is recommended that he be given the opportunity to continue to give the same service to the NAB and the members thereof at large as he has in the past."

Mr. Chairman, I move the motion that the Resolutions Committee be instructed to pass these resolutions.

CHAIRMAN KAY: A motion is not required. I refer them to the Resolutions Committee by my power as Chairman.

MR. JONES: Nevertheless, I think it would be fitting that this motion be voted upon because we are not gathered here to talk of the personalities involved in this situation, it makes no difference whether Hostetler and Loucks wear horns or halos and it makes no difference whether Ike Levy has wings or a tail, the fact remains that we are here to determine if this industry proposes to proceed under an independent leadership in the service of the public interest or whether we are here to continue to follow a Pied Piper.

And, I ask you gentlemen who have network affiliations to remember this. For myself, I run a little coffee grinder out in the far northwest corner. I ask you gentlemen to think back in your experience and remember the day when the motion picture operators, the exhibitors, if you please, were the proud masters of a growing industry and I ask you to look at them now—the servants of what might be called the networks of the motion picture industry.

And so you stand today with the momentous decision of not who wears the horns but whether you are freeborn men serving the public interest or whether you are here to continue to follow some leadership such as the man who was president of the N.E.L.A. who led the power industry to the brink of the abyss where it stands today!

And so, ladies and gentlemen, I move that the Resolutions Committee be instructed to bring in these motions and I ask the Chairman for a vote upon this subject to see if we may have a division of this house early in order that we may determine how much skulduggery is going on behind the scenery.

MR. CISLER: I second the motion.

CHAIRMAN KAY: I'll entertain the motion if he insists.

(The motion was put to vote, and was carried.)

CHAIRMAN KAY: Any further questions or discussions?

(Announcements.)

JOHN SHEPARD, 3RD (Yankee Network, Boston, Massachusetts): I have about six points that have not been made clear. (Applause.)

Mr. Kay, you said that the directors at the recent meeting in New York unanimously approved a certain resolution. I think it should be made clear that it was probably unanimously endorsed on second consideration because unless I have been misinformed, three or four of the directors originally voted against it. I presume that

they reconsidered and approved it unanimously after having expressed their opinion.

CHAIRMAN KAY: You are utterly misinformed.

MR. SHEPARD: O.K. I'd like to ask Mr. Levy what has happened to the WIP suit. I don't believe it was made clear.

ISAAC D. LEVY: It is at issue—has been ordered to trial. Because we all felt the Government's suit was stronger than ours, allowed to rest until the Government finally determined its suit. Will be brought to trial if it is found necessary in the judgment of Mr. Hostetler and myself.

MR. SHEPARD: If the "per piece plan" would be so much more beneficial for ASCAP, why do you figure that ASCAP will not accept it

ISAAC D. LEVY: I didn't make such a statement. You misunderstood me.

It will cost us much more and yet would not be more beneficial to ASCAP because it would cost ASCAP a million and a half dollars a year more to put it through. That is the answer.

MR. SHEPARD: O.K. I disagree with your answer but I wanted to get that.

ISAAC D. LEVY: That is your privilege. Would you like to know how it will cost more?

MR. SHEPARD: I grant you it will cost ASCAP more but I doubt the million and a half.

ISAAC D. LEVY: Mr. Shepard expresses a doubt after Mr. Bennett, the Attorney General in charge, and every one of us know it will cost very much more. If you are willing to take a doubt in Mr. Shepard's mind, based on no facts but based on suspicion without a study of the facts, take it—it's your privilege.

MR. SHEPARD: Frankly, Mr. Levy, if you had a contract the same as the rest of us, would you have been in such a hurry to renew it?

ISAAC D. LEVY: Absolutely yes because I want you to know, Mr. Shepard, that we were bound to accept the contract to pay not less than we are paying now. That brings us to the point where the least we could pay is the present contract. Under those circumstances, was it good business to do so or take the chance of paying two or three times more?

And, at this time, let me say this: Mr. Bennett told the Copyright Committee that he had read the minutes of ASCAP and from their minutes, they intended to charge us up to 25 per cent of the gross receipts of our business. Under those circumstances, was that good insurance? Judge it for yourself.

MR. SHEPARD: The next question I don't understand is you made the statement we couldn't negotiate a better contract. By that you mean Mr. Bennett said it might be prejudicial to the Government's suit to do that?

ISAAC D. LEVY: Yes.

MR. SHEPARD: However, if in the opinion of the Directors of NAB a decidedly better contract could have been entered into for the whole of the industry, the Directors were not bound to accept Mr. Bennett's instructions on the matter?

ISAAC D. LEVY: Is that a question?

MR. SHEPARD: Yes.

ISAAC D. LEVY: No, they wouldn't be bound but when the Government goes to the trouble and expense in order to protect our industry to institute a suit, then I don't feel our Board of Directors could have slapped the Government in the face and said, "Even though you think it is prejudicial to the case, we'll do what we want."

MR. SHEPARD: You said you were pretty sure at the time you entered into that agreement that the Warner Brothers' split was going to occur, and that you are protected by your contract and you said that the stations that did not rush in to sign were not protected as you would be protected.

I would like to ask why the Copyright Committee couldn't have extended that protection in the deal with ASCAP to the entire membership.

ISAAC D. LEVY: In the first place you had not 24 hours but about two weeks before you got a letter from Remick, Witmark and Harms. Following that you got an offer in writing from ASCAP and ASCAP's position to you today is that you are protected.

The Convention: No! No! No!

ISAAC D. LEVY: I say to you gentlemen that ASCAP has made the statement to me that they will protect you today. ASCAP's position today is when you sign a contract with them, you are protected because they have the performers' rights and producers' rights and the publishers' rights. They are members of the association and they deny the publishers' rights to withdraw. They say that right lies with the membership and since the authori-

ties of Remick, Witmark and Harms are still members, I say that you have the protection according to their statement. If you think not, ask them.

MR. SHEPARD: Do you think ASCAP should have sent a letter to all members? Of course, you couldn't control that.

ISAAC D. LEVY: That is a matter of strategy. Had I been in ASCAP'S position, I wouldn't. ASCAP wanted you station members to be in the position of requesting. We were on the eve of the trial and while we were using strategy, they weren't such fools, either.

However, in the presence of our entire Board, they made the proposition to us of the five-year extension, and an oral contract is as good as a written one and had we accepted, it would have been binding.

Does that answer your question?

MR. SHEPARD: Yes. The next I want to ask of Mr. Hostetler.

ISAAC D. LEVY: Are there any others you want to ask of me?

MR. SHEPARD: I don't believe so. In Mr. Hostetler's letter to Phil Loucks (a copy of which went to the membership) reference was made to an offer by ASCAP about a year or so ago to the Copyright Committee which, as I read Mr. Hostetler's letter, was very favorable to the industry. It is my understanding that that offer died in the Copyright Committee and was never presented to the Board of Directors or the membership. In Mr. Hostetler's letter (because Phil Loucks evidently knew what the offer was) it was not clearly outlined and that is one thing on which I think we are all entitled to full information.

MR. HOSTETLER: You refer to the last paragraph in that letter. I don't remember when it was put at one time Mr. Mills told me that the only plan on which any broadcaster could extend his license at the expiration of the present one was that he collect five per cent. on all programs using their music as agent from ASCAP from the advertising broadcaster and issue a license to the broadcaster. It was my opinion when he told me that, I wrote him and asked him whether I could submit it. Now, I haven't my files but I am sure I am right. I wrote him and asked to have it submitted to the Copyright Committee. It was my opinion then, just as I say in that letter, that the purpose was to reach total chain income and it wasn't a bona fide offer.

When we discussed it in New York, it was some months later and there was a counter proposal made of having seven per cent. on station income and no tax on what we have called briefly the twilight zone in the chains.

Whether it was submitted to the Board or not, I don't know because there was a meeting in the winter which I didn't attend because I was sick at home. In my letter to Phil, the last paragraph of it was intended to be perfectly fair about that. I won't take time to read that to you.

At any rate, this is past and we cannot retrace our steps. As I say, I do not believe Mills ever gave me authorization to pass that out to the members or to broadcasters generally. I didn't believe it was on the level when he made it. But, I passed it on to the Copyright Committee and I don't know whether it was ever put up to the Board or not.

MR. SHEPARD: In your opinion, that offer was a much better one than the one we have now for the whole industry except the chains?

MR. HOSTETLER: No, I don't. It is rather difficult to explain what I think and I realize when I do it is very apt to be misunderstood.

But, this is the fact: if you paid Mr. Mills on a five per cent. basis leveled against gross income, you would take out of the industry a very large sum of money, much larger than you now do. Now, John, when you spend a dollar, it is gone—no matter who spends it. The chain has to pass out to the outlet stations an amount agreed to by the chain as price. And, once you know who is going to bear the copyright expense, you can take care of it in that negotiation. That is why in that letter I thought I was being perfectly fair. Undoubtedly each station has used the fact that it was passed by the chain in dickering the chain price to be used in outlet time. Now, any amount you pay for music can't be used in any other way and, therefore, it is advantageous, in my judgment for the industry, first, to pay as little—I don't mean as little as it can—but a fair amount for the use of the music and after you determine the method by which that is to be done and who is to pay it, then you select the figure in the amount which the chain passes on to the outlet stations.

I don't know how those negotiations are being taken care of but it seems to me if you "up" the amount to ASCAP, you are just paying more than the music is worth, you have all of the dis-

advantages of your both buying and haven't gotten anything in return for it.

Therefore, while the offer of five per cent. would look awfully good to a station that didn't have any chain connection, in my judgment, (and with the light I have I am trying to be as honest as I can) it would be a disadvantage to the industry as a whole. Now, I believe that.

MR. SHEPARD: Well, there is one point there. If the charge was made only where ASCAP music was used and if it was made on the net price paid by the client, it would be very easy to add five per cent. for use of music the same as for an orchestra or singer but you can't do that consistently and charge a client where he doesn't use their music and can't do it where you are paying only a part of the price taken in by the network.

MR. HOSTETLER: I think that was in Mills' mind as the attractive thing to the broadcaster and to me it has been the attractive thing in the "per piece basis" in the way you pay for the music. You can say to a man, "If you want to arrange a program with little music, you pay little. If you want cheap music, you pay a cheap price. If you want exclusive and good—I don't mean 'good'—but if you want music, the price of which is high, you have to pay a high price." And, I believe that is sound.

ISAAC D. LEVY: Since Mr. Hostetler touched on another subject, I want to bring to your attention a statement made by Mr. Bennett. He made this to the whole Copyright Committee. He said that Sol Bornstein made this proposal and that it appears in the minutes of ASCAP that they would charge us as much as 25 per cent of our gross receipts, that ASCAP intended getting as much as they could from the chains but despite all they got from the chains, it would not reduce your cost one penny! And that comes from Mr. Bennett, the Attorney General in charge of the case.

MR. SHEPARD: I am through with questions but while I am up here, I'd like to make one statement.

In the copyright matter, I think there is definitely a division of interest between the two large networks and the other stations because if they paid on all network programs, it would cost the rest of us less money. That is a legitimate and business-like difference of opinion. If you or I or any of us were running the networks, we would be trying to make the best deal with ASCAP and would be damned poor business men if we didn't. But, the majority of us are different and we have to fight for our own interests. I think that is an honest difference of opinion and I don't see anything personally wrong with the actions the chains took in protecting themselves with the one exception they should have resigned from the Copyright Committee before they made an individual deal. (Applause.)

That is not said in the spirit of criticism particularly but I think it was a thoughtless action and do not believe it was done intentionally. (Applause.)

CHAIRMAN KAY: Any further questions or discussion?

KOLIN HAGER (WGY, Schenectady, New York): I would like to ask Mr. Levy a question. I think probably the same thought has occurred to you. You have said that one of the safeguards in this five-year agreement is the fact that the performing rights of the Warners Brothers music would remain with ASCAP.

ISAAC D. LEVY: I can't hear you.

MR. HAGER: You said the performing rights remain with ASCAP. Therefore, they undoubtedly could save safe and harmless the people that have the five-year extension.

ISAAC D. LEVY: They claim that and attorneys they have consulted (in addition to Burkan and Thatcher) agree.

MR. HAGER: That is because they are members of ASCAP. The question is, could not the authors and composers resign under stress?

ISAAC D. LEVY: They could but I don't believe they will. That is one of the dangers and whomever you direct to handle the copyright fight will have to take that into consideration and make reports to the Board on that.

JAMES R. CURTIS (KFRO, Longview, Texas): Will this proposed Duffy copyright bill now in the Senate be a better situation than we have now? Should we pay more attention to that than fighting ASCAP? Or, what is better?

CHAIRMAN KAY: I think your Managing Director can tell you that.

MANAGING DIRECTOR LOUCKS: The main provision in the bill which is of benefit is the elimination of statutory damages. I think you must press for passage of the Duffy bill. I think you must consider that somewhat separate.

MR. EARL: Mr. Kay, I don't know whom to address on this question, probably some member of the Copyright Committee.

In regard to Warner Brothers' catalog being withdrawn, how do we broadcasters fit in with the music in that catalog that was written previous to 1914 when ASCAP was started?

CHAIRMAN KAY: We have two lawyers and the Managing Director.

MR. EARL: The Warner Brothers' catalog has a lot of music written previous to the organization of ASCAP. In snap judgment of opinion, how do we fit in after January 1 when Warner Brothers have withdrawn?

ISAAC D. LEVY: Did you all hear that question? As I told you before, I don't believe you are in quite so good a position as those who signed the contract before they got notice Warner Brothers had withdrawn. Nevertheless, ASCAP takes the position that you don't separate from the membership of ASCAP the performing rights and that the performing rights remain with ASCAP as long as the members remain with ASCAP and I believe, therefore, that ASCAP intends to guarantee you against loss and they have told me definitely they would—that you would be able to sign the contract without paying one penny to Warner Brothers.

HARRY C. BUTCHER (WJSV, Washington, D. C.): I should like to ask Phil Loucks to trace, if he would, in his own fair manner, the position taken by Ed Klauber with respect to the Copyright Committee because I think that will in part answer the statement of John Shepard with respect to good faith in the Copyright Committee. Going back to the first meeting of the Copyright Committee, will you answer that, Phil?

MANAGING DIRECTOR LOUCKS: In the first place, neither Mr. Klauber nor Mr. Ashby were members of our Copyright Committee. They appeared in negotiations and made it perfectly clear at the outset that they were representing their companies.

At the first meeting of our Copyright Committee, if I recall correctly—and I want to be corrected if not correct—Mr. Klauber said on behalf of his company that he would cooperate and go along with the NAB Copyright Committee as long as there could be unison and he could agree. He made no promise that he would go along if, in the process of negotiations, there was a division and he felt it incumbent upon him to take other steps to protect his own company.

Does that answer the question?

MR. BUTCHER: Yes.

HENRY LEE TAYLOR (KABC, San Antonio, Texas): Just one little question. It strikes me that we had an attorney in New York City competent to help with these negotiations and right when the deal was being made, he was allowed to remain in the hotel without consultation. I'd like to have an explanation from Mr. Levy why that was done that way, or McCosker.

CHAIRMAN KAY: Mr. McCosker?

MR. TAYLOR: I suggested Levy first and then McCosker.

ISAAC D. LEVY: I'll bring you back to June 3 and I think if you had listened to what I said about June 3, your question would have been answered.

It is June 3. We met at 5:00 o'clock. It is between 6:00 and 7:00 in the evening. We have four days—Tuesday, Wednesday, Thursday and Friday and then the case starts. We know we are unprepared in the case. We are warned by the Attorney General not to take a contract to pay less. We are presented by ASCAP with a proposal to pay much more. That proposal was phoned and then sent by messenger and I read in that where we are to pay on the available catalog. Being in that position, two things confronted us. Should I have done nothing and listened to Mr. Hostetler? Or, should I have taken the contract when Mr. Bennett said, "You can take it without prejudice to the case." Should I have done nothing and come to you today and said, "We have nothing," when I saw this coming—and what could you do? You couldn't do anything but accept the contract to pay what you are paying now. You couldn't take a contract like mine because mine is better than yours.

MR. TAYLOR: I'd like to know why our attorney was not called in.

ISAAC D. LEVY: I told you and he told you. Mr. Hostetler and I told you that when I had that phone conversation, I came in there and told Hostetler what I was going to do. He didn't want me to do anything. I couldn't drag Hostetler up there. He was opposed to what I was going to do.

FRANK M. RUSSELL (NBC, Washington, D. C.): I want to hear from Mr. McCosker.

MR. MCCOSKER: Supplementing Mr. Levy, I think there might be a slight confusion in your minds. "Why was Mr. Hostetler permitted to go?" That is the way you put it.

Now, to begin with, Mr. Hostetler told you that he took a train at three something. It was considerably after that that the information came to me that they were willing to extend it although it had been said the day before that they were going to—it was considerably after that that the information reached me that they had actually done so in the instances of the chains and Mr. Levy.

I am very fair to say that had it been given to me verbally by ASCAP at any hour of the day, all I would have done would have been to communicate it to Mr. Hostetler but not to the body until I had it in writing because I have been through many negotiations at various times where this, that and the other proposal was made, seemingly agreeable to Mr. Mills—and I charge no element of attempt to fool us on the part of Mr. Mills—but the fact is when he went back to his body on several occasions, he didn't get ratification.

That also accounts for the lapse of time and I say that because it may have been omitted in the earlier remarks. It also accounts for the time between when the chains signed and Levy signed, and the time you were notified through the bulletin because I was determined I would not have to take the classification of a very credulous chairman of a Copyright Committee on hearsay. I wanted to be sure the same offer was good in writing to the body. It was June 17—not 3 or 4—but seven days after the beginning of the trial that the letter reached me and promptly was passed along to Phil to be included in the bulletin.

ISAAC D. LEVY: May I conclude that question in this respect? There is something I forgot to say. This is June 4 at 10:00 o'clock in the morning, when we started. We got through at 5:45 in the evening. I knew there was no way to get Hostetler. I rushed to the phone and telephoned Bennett. The reason I was able to catch Bennett was because Washington doesn't have Daylight Saving Time. Do you know what he said when I told him? "Congratulations! How the hell did you get it?"

CHAIRMAN KAY: There is one item of business that has to be taken up before this meeting adjourns and that is the report of the Nominating Committee.

ISAAC D. LEVY: Shouldn't there be any action on contract?

CHAIRMAN KAY: There is no motion before the house.

ISAAC D. LEVY: You ought to make up your mind.

CHAIRMAN KAY: Perfectly willing to have further discussion.

DR. GEORGE F. COURIER (WWAE, Hammond, Indiana): Mr. Levy, the question I have is: did you have the information relative to the withdrawal of Warner Brothers in printing?

ISAAC D. LEVY: No, I didn't. I felt they were going to but ASCAP felt they were bluffing. We had no definite information.

I won't say I had a suspicion. I felt there was an even chance. You see, ASCAP was negotiating with Warner all the time and it was a question of how much money and they would stay in. They would only withdraw in the event they couldn't get the money they wanted and ASCAP was assuring us all the time Warner Brothers were going to stay in.

MR. TAYLOR: If I could have had that information, it would have helped me.

ISAAC D. LEVY: I couldn't write that in a letter because it might be enough to make them withdraw, which was something we didn't want.

MR. CAMPBELL: I understand the hotel is holding lunch and so I move a recess until 2:30.

STANLEY HUBBARD (KSTP, St. Paul, Minnesota): I second it.

CHAIRMAN KAY: You have heard the motion. . . .

MR. HUBBARD: May I speak to that motion?

CHAIRMAN KAY: You can't speak to a motion to recess—you have to vote.

JOHN J. GILLIN, JR. (WOW, Omaha, Nebraska): Mr. Chairman, the Nominating Committee is ready to report as directed by the President.

CHAIRMAN KAY: The motion is to recess—not to close the meeting.

MR. MALAND: I move that the motion be laid on the table.

DON DAVIS (WHB, Kansas City, Missouri): I second the motion.

(The motion was put to vote, and was carried.)

CHAIRMAN KAY: We are ready for discussion.

S. A. CISLER (WJTL, Atlanta, Georgia): I'd like to ask Mr. Levy why all the rush to get this signed before the convention, why the zero hour of getting this contract signed?

Now, our two little stations down in Georgia never received any word from ASCAP that there is a five-year contract waiting for us. I know a lot of fellows would like to know why the mad rush! Why not bring the facts up to NAB? The contracts don't expire until December 31!

ISAAC D. LEVY: You are in error there. Our contracts expire sometime in September, not December.

You want to know the hurry? The hurry was this: I was afraid the case was going against us. I thought Mr. Kay would tell you how badly it was going. I knew we couldn't accept a contract to pay less. Why take the chance of paying double or triple? To me, it was an emergency. If you don't see it that way, I'm sorry.

MR. McCOSKER: I'd like to add that if you received the bulletin, you received their notice of extension.

MR. CISLER: I'd like to ask Mr. Hostetler's side of this hurry.

MR. HOSTETLER: I think you can't take what was the case on June 3 or whatever the date was, as of today. Those stations that have contracts with the chains to carry chain broadcasts have, I think, in the contracts that they'll stay licensed by ASCAP.

Personally, I tried to cover it. The only point I tried to cover this morning was that I thought the news of having made the contract ought to go with all the details. That is all the opinion I have. I have no opinion as to what any manager of a station should do.

MR. CISLER: Isn't there any legal step that can be taken while a suit is in progress?

MR. HOSTETLER: I thought you had an extension until December 31 and that was long enough.

ISAAC D. LEVY: You didn't have it in writing.

MR. HOSTETLER: No, but I agree with you a verbal commitment is binding. We asked them to check with the Board and have it verified that the Board did it and upon Mills' statement of that, Loucks sent out in the bulletin the statement that the extension was granted.

ISAAC D. LEVY: I agree with you but why, when they made the proposition when their whole Board was there and we were there, why did we as a Copyright Committee wait for a written proposal? Why didn't we, as I wanted to, transmit a letter to that effect?

MR. HOSTETLER: I didn't understand the Board had approved it. I understood what he sent over at 5:00 o'clock was something written longhand on the train.

ISAAC D. LEVY: I'm talking about May 23. I have your letter which recites they made a five-year extension.

MR. HOSTETLER: I think we all felt we wanted it in writing.

MR. CISLER: Am I to believe from your statements that you saw no particular reason for hurrying this through?

MR. HOSTETLER: At the time that was right.

FRED J. HART (KGMB, Honolulu, T. H.): I have been in radio since 1925 and I have paid my toll to copyright. I have had a great deal of experience in dealing with this kind of body. I sympathize with the committee that had to do the work. I sympathize with the independent stations also.

The motion that we make here today is going to be a very important one. The wording of that motion must be carefully thought out, because the very wording of that motion will detract or add to—may place us in the position of endorsing an action we may not agree on without any restraints. I believe the motion should carry the thought of the body that we are not satisfied with what we are paying and should carry some suggestions that in that contract, for example, it should be a breach of contract to fail to pass on or collect from the advertiser the five per cent.

Because of the importance of this motion, I am going to move that the gentleman from Bellingham, together with Mr. Shepard and somebody whom The Chair shall appoint, shall serve as a committee of three to bring in a motion at an adjourned meeting covering this so that our position may be strengthened rather than weakened. I so move.

MR. STORMS: I second it.

MR. CISLER: Mr. Chairman, I wonder if we may have an explanation.

MR. HART: My only thought in this matter is this: that on the wording of the motion which we make hinges a great deal more than we as individuals believe, that this motion shall be carefully thought out to the end that the wording of it will further strengthen the Government's case, will indicate to the Government and copyright people and the public at large that we are not satisfied with the situation under which we are laboring and that we accept this contract because coerced into it from circumstances!

And, my other thought is the suggestion (and maybe there are other suggestions that should be included in it) that it shall be a breach of contract for any station not to collect from the advertiser the five per cent. Otherwise some of us are penalized.

Now, I believe that only a committee of three can work out. In order to be fair, I have asked that that committee include the

gentleman from Bellingham, who has a lot of good sense, Mr. Shepard, who has good judgment, and somebody The Chair will appoint. If I were The Chair, I would appoint Mr. Levy. As I understand it, the people on the platform are supposed to be representative of the people who put copyright over. I don't know but what they should be congratulated, from my experience with copyright.

L. A. WEISS (WJR, Detroit, Michigan): I see no purpose or propriety in that. I see no action that the body of NAB can take affecting the acceptance or rejection between ASCAP and the stations. I don't recognize this as a body problem at all. I don't see what action NAB can take outside of the acceptance of the ASCAP committee report. It is between the stations and ASCAP to be accepted or rejected.

CHAIRMAN KAY: This body can take any action it wants on anything it wants—including belief in Santa Claus!

MR. WEISS: Still on the point of order—I challenge that!

CHAIRMAN KAY: As I understand the motion, the committee is to be composed of the two people named and a third appointed by The Chair and will frame a resolution which I presume is to be presented after recess.

H. K. CARPENTER (Chairman, Resolutions Committee; WHK, Cleveland, Ohio): Question of procedure! Should that not be referred to the Resolutions Committee to be presented by the Resolutions Committee tomorrow morning?

CHAIRMAN KAY: If you say so, I am inclined to think so.

Remember, gentlemen, that your President promised you yesterday that your Nominating Committee would report before adjournment of this session. That won't apply if there is going to be a recess but if there is going to be an adjournment, your President, Mr. Ward, is pledged to have the Nominating Committee report at this session.

MR. JONES: The resolutions that were submitted on motion a little while ago really cover this situation.

And, I would like to ask before any further discussion on this—I would like to ask Mr. Levy if, in spite of the fact the Federal Government is proceeding in court to show that the public interest is being endangered by ASCAP and in spite of the pendency of the Duffy Copyright Bill to take the teeth out of ASCAP's power, if it is your opinion that we should sign a contract for five years and give up the fight.

ISAAC D. LEVY: Absolutely not. I don't say give up the fight. God, I hope there is no one else in the room thought I said that!

MR. JONES: Let me qualify that. Your contract would run for five years and you'd have to pull your punches for that time.

ISAAC D. LEVY: Don't you understand that if you win, it will take five years before you have it in effect? I want it as much as you do if it will cost less but it will take five years. What will you do in the interim? You are not going to play the music unless you pay them.

MR. JONES: You make your position clear. I would like to ask one more question. In the meeting in which it was decided by you and the networks to accept this five-year extension, were there present any but network affiliates or representatives?

CHAIRMAN KAY: Gentlemen, we have before us . . .

MR. JONES: But, Mr. Chairman, may we have an answer to that?

ISAAC D. LEVY: I'll be pleased to answer that or anyone's question.

In the room were the men Mr. Hostetler told you about—I, alone, realizing this emergency existing. The chains weren't even members. When I saw this burdensome proposal that we were going to play only the available catalog which meant if Warner Brothers withdrew, 40 per cent less, when I saw the case coming up four days hence, when I knew the case was not prepared, I alone turned to Mr. Hostetler, and Mr. Hostetler and the representatives of the chains didn't even like what I did. Instead of the chains working with me, they were a little peeved. But, it was for your interest that I believe that we had nothing to lose—we could tear up the contract if we won the case—but I didn't want you to be in that position.

I said, "I don't care what the committee does, I am going to enter into this contract."

CHAIRMAN KAY: Will the gentleman from Honolulu accept Mr. Carpenter's suggestion that his motion be referred to the Resolutions Committee?

MR. HART: With the consent of the second, I accept.

MR. STORMS: I withdraw my second.

WALTER J. DAMM (WTMJ, Milwaukee, Wisconsin): Then I'll second the motion.

MR. HART: My original second did not intend to withdraw, he tells me; he only meant to consent to the change.

CAMPBELL ARNOUX (WTAR, Norfolk, Virginia): I'd like to ask a question we'll all have to face when we get back home.

It seems to me we have just three possible courses. The action of NAB cannot bind us individuals. Therefore, whether you are network or independent or who, when you go back home, you have to do one of three things—sign the contract you gentlemen recommend, bargain collectively or say, "No. Mr. ASCAP, to hell with you".

Now, I'd like to ask Mr. Hostetler what would happen if we said, "No."

MR. HOSTETLER: Each station manager in the light of his contract commitments must decide that question for himself.

MR. ARNOUX: It all boils down to: is it advisable? And then, use your own judgment.

MR. HOSTETLER: I don't see how it can bind you, gentlemen.

MR. HART: May I clarify my motion? I am not claiming the body has the right to bind me but the action this body takes is going to be very important. While this motion will not bind the stations, I believe if wisely worded it will help us in our position and that is the only thing a motion can do—help us or hurt us. It is suggested that a committee of three be appointed to present this to the Resolutions Committee and then back to this body.

MR. GEDGE: I'd like to offer an amendment to that motion.

Inasmuch as Mr. Hostetler has been sitting very close in the councils of these proceedings and knows from the legal phases what effect such a resolution would have on this case, I'd like to have him included as one of the members of that committee to draw up that resolution.

MR. HOSTETLER: I would be perfectly willing to advise.

MR. GILLIN: I second that amendment.

MR. HART: It is acceptable.

(The question was called for. The motion was put to vote, and was carried.)

MR. BUTCHER: Mr. Kay, I'd like to make one statement that I think is very important.

Down in Washington, I frequently happen to see Senator Duffy, who introduced the copyright bill. Last Sunday we were playing golf together. He said, "Butcher, for Lord's sake get your broadcasters active behind this bill or we'll never get it through the Senate."

That bill has in it the elimination of the big club that ASCAP has always had over all of our heads. It is the club that has driven us all, at times, to desperation. That is the \$250 minimum damage clause. That bill can be put through the Senate this session and the House next session if this group of broadcasters will go to bat with their Senators. And, I hope this convention—every individual in it—will today wire your own Senator and your Congressman and anyone else who can help and get that bill through the Senate. The Senate is going to have some time while waiting for the tax report from the Finance Committee to consider some of these things. The bill is on the Senate calendar. It was brought up but was blocked by statements of Copeland and Wagner at the request of Gene Buck. The bill is there. You have to get the heat turned on and it is up to you fellows to do it.

MANAGING DIRECTOR LOUCKS: Mr. Chairman, in sending these wires, I suggest that you urge that the bill be brought up for consideration immediately and that it be passed without amendment—the Duffy Copyright Bill.

MR. CURTIS: May I ask a question? When we were asked to wire our Senators, how many wired? I'd like to see a show of hands. I, for one, wired my Senator.

(One-fourth of the men raised their hands.)

MR. CHURCH: Mr. Chairman, I have listened to all of these copyright discussions and believe I understand most of what has happened.

In making my decision from now on, it seems to me that there is one real important thing that I must know and I would like to ask Mr. Hostetler or Mr. Levy this question. I have a contract with the network that requires me to have the necessary copyright arrangements to broadcast any music. It seems to me that the action as taken by the networks binds us automatically for five years to the new ASCAP arrangement. Is that correct?

MR. HOSTETLER: Personally, all I can say is if I had a contract of the kind I have seen, I think I'd take the contract.

Now, when he asks whether it binds him if he didn't get a contract from ASCAP, it is a question of whether it is a breach of contract in which he agreed. The only way to determine that is by lawsuit.

MR. CHURCH: The point I want is do I and the rest who have contracts, have any choice unless we have a lawsuit with the networks or ASCAP?

MR. HOSTETLER: I don't believe so.

ISAAC D. LEVY: Would you like me to answer, too? Since you are paying X dollars now to ASCAP and since the Government says you can't pay less than X dollars, how have you been harmed if you pay X dollars and continue to pay X dollars?

MR. CHURCH: That isn't the point. The point is: do we as stations have any choice?

ISAAC D. LEVY: In a legal manner or business manner?

MR. CHURCH: Both. In other words, has the action of the networks and yourself almost automatically bound us to the five-year contract with ASCAP?

ISAAC D. LEVY: Yes—but pleasantly so.

MR. CHURCH: I am not questioning that. The point is: do we have a choice in the matter?

ISAAC D. LEVY: I don't believe you do.

JAMES W. CLARK (WGST, Atlanta, Georgia): Gentlemen, it looks like we are getting nowhere fast! The networks have their bed laid. What about our independent stations—are we to scratch for ourselves or what?

I think some suggestions ought to come from here to guide the little fellow. I called on Mr. Kay for his advice. He said he had not signed and that this thing would be thrashed out here.

H. L. LOHNES (Washington, D. C.): In answer to the last question, I think it might be pertinent to ask Mr. Levy and some of the other gentlemen on the platform for a more detailed explanation of several statements which have been made, namely that the Government entered this case unprepared. Now, whose fault was that? I am sure that Mr. Levy or Mr. Hostetler would never go into a case unprepared. If there is a suitable explanation to that, I think it might help us in reaching our independent conclusions.

CHAIRMAN KAY: I think Mr. Levy will be glad to help.

ISAAC D. LEVY: We had nothing to do with the preparation.

I went to Washington several times; stayed up until 3:00 o'clock going over what I was going to testify. I took hours and hours preparing data and probably would have been one of the most important witnesses.

Mr. Bennett in six months collected all the information he could. It took Mr. Hostetler two years to get it. Mr. Bennett was very anxious to get to trial and just misjudged the time he would be ready. He is an able lawyer. He had almost a carload of data but it just hadn't been prepared in the form necessary for orderly presentation. Now, my God, that is one thing you're not going to blame me for!

MR. DAMM: I would like to make a statement. I was one of the witnesses. I worked with them two years. I prepared data that cost my company several thousand dollars. When I got to Washington and put my musical director on the stand, Mr. Nathan Burkan issued a subpoena for everything in the Milwaukee Journal Building except the building. It included every single musical composition in my library!

ISAAC D. LEVY: While you are here, will you tell the membership about querying 36 newspaper stations and that you had replies from 35 saying they had approved the extension?

MR. DAMM: I made the statement that I had contacted all 36 stations and that I had favorable replies from the majority. It doesn't turn out to be 35. About three of them were not favorably inclined.

(Announcements.)

MR. GEDGE: There is a lot of doubt in the minds of many of the boys as to the exact course to pursue in this matter. In order to clarify the situation which is in the minds of some of these fellows and which has been expressed to me, I would like to put this question to Mr. Hostetler. We appear to be between the devil and the deep blue sea. If we sign this contract, we jeopardize our case in court. If we do not sign this contract, we are subject to all kinds of suits.

Now, if we as independent stations renew this contract for five years under protest, is that going to damage the Government's suit greatly?

MR. HOSTETLER: I am not going to discuss the Government's suit. I think the Government's suit has been discussed entirely too much.

I think each man is entitled to do what he wants to do from the standpoint of his own business. Now, I can't advise 300 men. I just don't know! Nobody else can. He has to decide for himself and I think it ought to be decided as a business question in relation to his station.

I did say if I had a contract with a chain, I would sign the extension. That depends on contracts I have seen. But, I don't know the situation with regard to independent stations and I don't know how anybody except somebody who knows your situation can advise you.

(Announcements.)

MR. HOSTETLER: I want to get out of here this afternoon and on this motion about what should be done in this meeting about this contract, I have a feeling and I said I would pass it on to the Resolutions Committee; it is entirely in accord with what you suggested. I personally think that this Association cannot pass a blanket resolution as to what individual broadcasters ought to do. I just don't see how they can do it any more than I can say what each individual should do.

MR. MYERS: Fellow members, there is one question before this house that is bigger than ASCAP. You may not believe that but I think if you give a moment's thought, you'll believe that.

Now, this meeting is filled with hostility and distrust. Tomorrow you are going to have a chance to vote on your Board of Directors and officers. For heaven's sake, put officers and directors in this Association you trust and then when they spend a year in working and doing the best they can for you, don't come in trying to tear the Association apart but in a spirit of helpfulness. I want you to take this to lunch with you and think it over before tomorrow morning and then come back and do something constructive.

Now, I was a member of this Board of Directors that met in New York on June 22 and I was one that went in there with my bulletproof vest prepared to fight and I was distrustful of the networks and Ike Levy and everybody else but before we went out of that meeting, we voted unanimously without a dissenting voice on that resolution which you have heard.

If you think your officers are dishonest, kick them out as fast as you can but if you don't put somebody in there you can trust and ride along with—your Association is going to the dogs? That is all I have to say. (Applause.)

CHAIRMAN KAY: I yield to the President.

PRESIDENT WARD: Before the Nominating Committee makes its report, I have one statement to make about the Nominating Committee.

Yesterday when I appointed the Nominating Committee, I purposely appointed a large committee because I wanted to get, as nearly as I possibly could, every interest and so-called faction represented on this committee. I appointed a committee of eleven men, having in mind at the time that our By-Laws and Constitution stated that the Nominating Committee must be composed of not less than five men.

After the committee met in their room, I was given a call to come to the committee room and there read the Constitution and By-Laws in which it stated that a Committee Of Five be appointed—not "not less than five".

It was suggested by some one on the committee that this committee be disbanded and a new Committee Of Five appointed in its place. I still wanted to, if possible, maintain that committee of eleven functioning in some capacity so as to get a true cross-section of the interest of this entire body.

It was, therefore, unanimously agreed by the entire Committee Of Eleven that they would function first as an Advisory Committee and that they would make a complete slate and that after they made that slate in an advisory capacity, I would appoint five men in accordance with the Constitution and By-Laws, five men from this Committee Of Eleven, who were pledged in advance to report the findings of the Committee Of Eleven. In that way, the committee report brought in by the Committee Of Five represents the findings of the broad Committee Of Eleven.

I, therefore, appointed as the Committee Of Five from this Committee Of Eleven:

John J. Gillin, Jr., *Chairman*
L. B. Wilson
Arthur B. Church
M. R. Runyon
William S. Hedges.

You will now hear the report of the Nominating Committee.

MR. GILLIN: Mr. President, ladies and gentlemen: this Nominating Committee job is a thankless job, especially its chairmanship, and I want to tell you about something that happened this morning, if you think we had an easy time on this.

At four o'clock this morning a gentleman strolled into my room. "They're out to get you."

"Who are 'they'?"

"They're out to get you!"

And, I said, "Well, if they do, I still think I'm right!"

This is the Nominating Committee report of the Thirteenth Annual Convention of the National Association of Broadcasters.

The President of the Association nominated eleven men to the Nominating Committee of this Convention. From these eleven men, after all deliberations had been concluded and after the nominees had been selected by this Committee Of Eleven men, your President designated five as the official committee to make this report.

The committee gave consideration to all of those who, in the judgment of the committee, were candidates for one post or another. In our deliberations we considered the qualifications of all candidates, their records in radio and Association work, and we likewise gave consideration to proper representation of all classes of stations and all zones.

The group found it possible to agree upon nominees for the office of President, First Vice President, Second Vice President and Treasurer. The selection of the candidate for President left an additional vacancy on the Board to be filled at this meeting. Therefore, if the candidate for President selected by this committee is chosen, you must elect one director for an unexpired term of two years and five for the regular period of three years.

We have chosen a list of ten nominees to fill these six vacancies. The Nominating Committee recommends to the convention that the first five candidates for directors to receive a majority of the votes serve for the three-year term, and that of the remaining candidates on a subsequent vote the one receiving the highest vote shall serve the two-year term.

The Nominating Committee is pleased to announce as their candidate for the office of President of the National Association of Broadcasters, Mr. Leo J. Fitzpatrick of WJR, Detroit, Michigan. Mr. Fitzpatrick is well known to all of you. He is one of the real pioneers in broadcasting. He is one of the principal proprietors of Station WJR in Detroit and Station WGAR in Cleveland, a regional station. For a number of years he has been actively engaged in the management of both stations. He has been one of the NAB's best boosters and supporters during his entire term of membership. He has been a member of the Board. He has been a Vice President and he has been active on many important committees.

For the office of First Vice President, the committee nominates Gardner Cowles, Jr., of Des Moines. Mr. Cowles is one of the owners of the Iowa Broadcasting Company, which owns and operates Stations KSO, WMT and KRNT, and also one of the owners of the Des Moines *Register Tribune*. He was a member of the Board of the National Association of Broadcasters for one term and rendered valuable service.

For the office of second Vice President, Mr. Edward A. Allen of Lynchburg, Virginia. Mr. Allen is President of Station WLVA, Lynchburg, Virginia, and is one of the outstanding leaders in the activities of local stations. He has served on several important committees during the past year.

For the office of Treasurer, John Shepard, 3rd. Mr. Shepard is President of the Yankee Network and is a former Vice President and director of the Association. During the life of our Code, he served as Chairman of the Code Authority. He has always been active in the NAB.

For directors the Nominating Committee has selected the following, from which you will select six, five for the three-year term and one for the two-year unexpired term:

J. Truman Ward, WLAC, Nashville, Tennessee, who has served as your President during the past year and who has declined to run for reelection.

Charles W. Myers, KOIN and KALE, Portland Oregon. Mr. Myers has served as Vice President of the Association and has been a member of your Commercial Committee.

Steve Cisler, WJTL, Atlanta, Georgia. Mr. Cisler is one of the outstanding representatives among our local station membership.

Joseph O. Maland, Vice President of WHO, Des Moines, Iowa. Mr. Maland has always been active in the work of important committees of the Association.

Thomas W. Symons of KFPY, Spokane, Washington. He is the owner and operator of Station KFPY and is one of the leaders in radio activities in the northwest.

Edwin W. Craig of Nashville, Tennessee. Mr. Craig is Executive Vice President of the National Life and Accident Company, which owns and operates Station WSM in Nashville.

Lester Cox, Springfield, Missouri. Mr. Cox is proprietor of five stations. He is one of the progressive broadcasters of the middle west.

Ralph Brunton of San Francisco, California. He is the owner of

Station KJBS and has been active in organization work in his region.

John Elmer of Baltimore, Maryland. Mr. Elmer was a member representing the small stations on the Code Authority. He is President of WCBM.

Edward K. Cargill of Macon, Georgia. He is the owner of Station WMAZ. He has been active in organization work in the south.

Your Nominating Committee respectfully submits the report.

PRESIDENT WARD: Is there a motion that this report be accepted?

MR. MYERS: Mr. President, there are more directors on your ticket than can be elected and there are two men on the ticket from the northwest. I would, therefore, like to withdraw my name in favor of Tom Symons.

MR. CAMPBELL: I move that we not accept Chuck Myers' withdrawal.

MR. HUBBARD: I second that motion.

(The motion was put to vote, and was carried.)

PRESIDENT WARD: Is there a motion for the acceptance of the Nominating Committee's report?

S. H. BLISS (WCLO, Janesville, Wisconsin): I move that we accept the report of the Nominating Committee.

MR. WEISS: I second it.

(The motion was put to vote, and was carried.)

PRESIDENT WARD: Now, are there any further nominations to come before the house at this time?

Our By-Laws and Constitution state that anybody can be nominated from the floor by a petition signed by ten members of the Association. I believe Mr. McCosker wants to say something and before he makes his nomination, I would like to state if you have a petition on some one whose name you would like to be placed tomorrow at the election, see to it that it gets to the Election Committee, which is headed by Dean Fitzer, tomorrow morning at 9:00 o'clock.

No petition will be accepted by Mr. Fitzer of the Election Committee after 9:00 o'clock.

MR. MCCOSKER: Mr. President, if I felt that I had anything to sell, I wouldn't choose a body of men carrying around empty stomachs to sell it to because it is a well established precept that people with empty stomachs are not usually receptive so you may, therefore, judge with what assurance and with what sincerity and with what emphasis I wish to place in nomination for the office of Treasurer of the NAB the name of Isaac D. Levy of Philadelphia.

Now, when I say that I wish to place in nomination the name of Isaac D. Levy, that is the literal thing to do but I am placing in nomination the name of Mr. Levy not merely as your Treasurer because if I had that merely to do, I am very candid to say that I would do it with some misgivings because of the fact that John Shepard has been nominated by the Nominating Committee and John Shepard is a friend of mine and John Shepard is a practical, common sense broadcaster and John Shepard apparently has appealed in those capacities to the gentlemen who have, unquestionably with thought and justice, placed his name in nomination. So therefore, I wish to distinguish between merely the nomination of Mr. Levy in the literal sense and the nomination of Mr. Levy in what we all know to be the controlling factors that cause me to put his name in nomination.

Mr. Levy crystallizes, because he has been probably the most militant, that action which your Copyright Committee has taken in these negotiations over a very trying period. He crystallizes, as I say, whether or not this body has been adequately represented, militantly represented, honestly represented, intelligently represented. That is the question, I say, that you are voting on when you vote for Mr. Levy for this office.

You would be surprised to know the various suggestions that have come to me and I presume others concerning how this matter might be taken care of. Because, after the get-together had served probably one of its main purposes—an exhaust valve for gentlemen who don't understand and gentlemen who do not want to understand—we got back to first principles and became honest in our conclusions. At least several have. And, that led them to bring me the suggestion and bring to others the suggestions that lest there be anything in the form of a race between Mr. Shepard and Mr. Levy, this, that and the other candidate would gladly withdraw from one of the vice presidency nominations—because it is no secret to know that the men nominated had heard of it before John announced it today. I have in mind, for instance, Mr. Cowles who told me that he would be very happy to withdraw as a vice presidential nominee, move Mr. Shepard up there and let us really vote for Levy as Treasurer and all that that implies.

So, I have been encouraged by this and other offers to believe

that in putting the name of Ike Levy in nomination, that I was not merely placing a man before you to be voted upon for an office, however important, but that I was placing before you the name of a man who, due to lack of understanding on the part of many members and I should say willfulness, in my opinion on the part of others, was being either vindicated or rebuffed and I allege that with his vindication—and I say this not merely to assist him to election, but I say it because I believe it—and I am sure of it that with his vindication is entailed the vindication of the men from the body that have striven to do something for this organization off the payroll, in season and out, for many months. I don't believe it is an unfair implication. I weighed it carefully. I believe it. If I didn't believe it, I wouldn't put this collateral idea before your mind.

Now, there has been a lot of oratory here today, a lot of factual recital, some comedy, considerable logic—and there is only one other note that comes to my mind readily in the gamut, leaving sentimentality aside, that hasn't been struck here and I hope it will not be struck when this ballot is counted. That other note is tragedy. I believe it would be a tragedy for NAB if Mr. Levy and, by inductance, those who worked with him, are not vindicated by his election to the treasurership of this organization.

And, lest I be misunderstood in my earlier comment, I have one final word and that is that I regret exceedingly that Mr. John Shepard, with whom I worked throughout the code days, should have to be on the other side of this seesaw. He doesn't deserve it! But, neither does Mr. Levy deserve to be rebuffed. I hope he won't have it happen to him—and I place his name in nomination as Treasurer of the NAB. (Applause.)

J. THOMAS LYONS (WCAO, Baltimore, Maryland): I am not going to make a speech, gentlemen, because it has been my experience that very often the men who sit in the chairs and never make a speech, know a great deal more about the question than many of the so-called orators but I feel that I do owe you something.

I have been a member of your Board for three years. I go out today. I have never missed a meeting and the Board has never been a joyride for me and neither have these conventions. I take them seriously and the reason is because I have considerable of my own money tied up in my station down in Baltimore and the balance of that money, most of it was put in by friends who knew nothing about radio but something about me and if anything would happen to that money, I would feel personally responsible for the 100 per cent, almost of the money invested there.

Now, I am not identified with clique or group. I never go into any room in this hotel to discuss politics but I am here because I want to see my station prosper, I want to know what is going on and I realize that my station can't prosper unless your stations prosper and when your station is down, you carry my station with it. That is why I have been interested in coming to the meetings and serving on the Board.

Now, I'll give you my word, gentlemen (and my word means something in Baltimore; it may not mean anything here), during the three years I have served on your Board there has never been a question come up that did not include the welfare of hundred or thousand watters or the big fellow, it was always a general discussion for all broadcasting stations and they have been fair and they have been honest.

Now, sometime in June when I got a wire from Loucks telling me that the chains and Levy had signed a contract, I felt that we had been sold out, I felt that Ike Levy who had been a general leading the army, had walked out. I went up to attend the Board meeting at the St. Regis with blood in my eye. I wanted to fight. It wasn't a square deal, so I thought. But, after sitting in the St. Regis all day until 6:30 at night when my train left, and hearing the facts, I said, "Ike Levy, I have done you a great injustice by even thinking you were dishonest." I want to apologize publicly for even thinking that because you have done the greatest thing for radio that could be done and furthermore, gentlemen, this ASCAP question is a vital problem. You can't make these meetings a joyride and then think you can get proper work done. It is serious. And, I said to myself, "I would rather have Ike Levy represent my station so far as ASCAP is concerned than anybody else, and that is after an experience of several years, learning about his knowledge of ASCAP and broadcasting."

And so I say to you, I am interested in radio but the success of radio in the future depends on the collective intelligence of this organization and if we come here as friends and listen to little factions and build up faction fights and go out and spread that, then God knows we should never have any convention—we'd be better off without it.

We have to look for facts. We mustn't look for majority. We

must look for the truth and when we get the truth, go ahead and until we stick to that sort of basis, we are never going ahead.

Now, listen again and I am through. If you were to go to a hospital for a serious operation, wouldn't you find the most capable doctor in America to perform that operation? You know you would. So with the radio industry facing ASCAP—we need the most capable man that America can produce and I give you my word as a fellow broadcaster, as a sincere friend, after being on the inside for three years, that I honestly believe Ike Levy is the most capable man in America to handle ASCAP. He can take and handle it for my station and I tell you, you men will make no mistake if you follow Ike to victory!

MR. JONES: I take it Mr. Lyons has seconded the nomination of Mr. Levy and I would like also to second that nomination with this very brief statement. We are not here to criticize or condemn. I say "we" meaning those men who believe we have come here to rescue the birthright of the radio industry. And, in seconding Mr. Levy's nomination, I ask those who believe as I believe that you be not deceived by the red herring that is being drawn across your path by clever political manipulators who would put Mr. Levy's good name in the balance to distract your mind from the fundamental of who is best qualified to protect your rights as broadcasters and defend your right to serve the public interest.

Therefore, I second Mr. Levy's nomination in order that we insurgents, if you please, may not be construed as taking part in any insult to Mr. Levy or his friends. (Applause.)

MR. HAGER: Inasmuch as there seems to be some stigma cast on Mr. Levy rather than a question of his opinion as against somebody else's opinion, I think it would be very fitting, in view of the great service rendered, that a vote of confidence be given to him now and not wait until tomorrow for any decision on that point and I so move that it is the sense of this meeting that we have a vote of confidence in Mr. Levy.

MR. DAVIS: I second it.

PRESIDENT WARD: The motion has been made that we have a rising vote of confidence—and I say "rising" because we will then be on our feet and ready to adjourn—to be given to Mr. Levy at this time. Will you please stand?

(Rising vote of confidence to Mr. Levy.) (Applause.)

PRESIDENT WARD: A motion is now in order to adjourn.

MR. HUBBARD: I so move.

MR. HOLLISTER: I second it.

(The meeting adjourned at 2:20 o'clock.)

JULY 10, 1935

Wednesday Morning

The session convened at 10:00 o'clock, President Ward presiding.

PRESIDENT WARD: Gentlemen, I again find myself in the position of having to apologize to you for the very late hour at which we are starting our meeting but it seems unavoidable due to the very large number the dining room has to serve, also the fact that the Resolutions, Credentials and Election Committees have had a very big job to do.

Mr. Carpenter reports that he is now ready to proceed with the resolutions and I now turn the chair over to him as chairman of that committee to take charge of the resolutions.

(Mr. Carpenter took the chair.)

CHAIRMAN CARPENTER: Ladies and gentlemen, the Resolutions Committee composed of Kay, Cowles, Gedge, Damm, Butcher, Allen and myself, have the following resolutions to present. You have copies of most of them in your hands. They are numbered from one to twenty-five. Twenty-four and twenty-five are now being mimeographed and will be in the hallway or possibly can be distributed on the floor very shortly. But, in order to get the meeting under way, we decided to start before twenty-four and twenty-five are actually out.

With your permission and unless there are some objections, I shall read each resolution, move its adoption on behalf of the committee, ask for a second and put each resolution to a vote. Possibly in that way we can get through with them in rapid succession. Are there any objections to that plan of procedure?

"Resolution No. 1.

"Resolved, That the National Association of Broadcasters sincerely thanks the Hon. Anning S. Prall, Chairman of the Federal Communications Commission, for the information, common sense and usefulness of his message delivered at its Thirteenth Annual Convention, and that the membership believes that his message will serve as a potent aid in assisting the licensees of American broadcasting stations to cooperate with the Federal Communications Commission."

On behalf of the Committee, I move its adoption.

MR. CURTIS: I second the motion.

(The question was called for. The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Here is the next one:

"Resolution No. 2.

"Resolved, That the National Association of Broadcasters hereby expresses its sincere thanks to Mr. Andrew W. Cruse for his contribution to the interest and value of the Thirteenth Annual Convention of this Association."

I move its adoption.

MR. WILLIAMSON: I second it.

CHAIRMAN CARPENTER: Any remarks?

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Now, the third resolution:

"Resolution No. 3.

"Resolved, That the National Association of Broadcasters hereby expresses its keen appreciation to Mr. Edwin M. Spence and his Convention Committee for their many courtesies and the very efficient manner in which they have handled the arrangements incidental to the Thirteenth Annual Convention of this Association."

I move its adoption.

MR. BUTCHER: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Here is the next:

"Resolution No. 4.

"Resolved, That the National Association of Broadcasters hereby extends its hearty thanks to Gene O'Fallon, Chairman, F. W. Myer, G. E. Nelson, W. D. Pyle, Lou Keplinger and Mrs. Gene O'Fallon of the Local Convention Committee for their admirable services in making the Thirteenth Annual Convention of the National Association of Broadcasters an outstanding success."

I move its adoption.

KARL O. WYLER (KTSM, El Paso, Texas): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: The fifth resolution:

"Resolution No. 5

"Resolved, That the National Association of Broadcasters hereby extends its hearty thanks to the management of the Broadmoor Hotel for their splendid services in making the Thirteenth Annual Convention of this Association an outstanding success; also to the management of the Hotel Antlers and other hotels for their courtesies in accommodating so many of our guests."

I move its adoption.

MR. BUTCHER: I second the motion.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Now we are getting down into some of these that possibly we may want to go a little more slowly with.

"Resolution No. 6

"Resolved, That the official acts of the Managing Director since the Twelfth Annual Convention be and the same are hereby approved."

That is the formal resolution, the same as in the past. I move its adoption.

THOMAS W. SYMONS (KFPY, Spokane, Washington): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Is Phil here?

(Managing Director Loucks was absent.)

CHAIRMAN CARPENTER: This is completely wasted then! (Laughter.)

"Resolution No. 7

"WHEREAS, Philip G. Loucks has served faithfully and with distinction as Managing Director of the National Association of Broadcasters for the past five years, and

"WHEREAS, mainly by reason of his untiring efforts, sane and courageous leadership, the Association has grown from small beginnings into an organization representative of every phase of the industry and exerting a vital influence in the development of this new medium of mass communication to a position of recognized importance, both socially and economically, and

"WHEREAS, Mr. Loucks has seen fit to leave the Association in favor of the practice of law, the field which has always constituted his principal interest, it is now

"Resolved, That this convention, by a rising vote, express its deepest appreciation for the unremitting service which Mr. Loucks has rendered the Association and broadcasting as a whole, and that it extend to him the heartiest good wishes of the membership and industry for his every success in his new venture." (Applause.)

May I ask for a rising vote on that?

(Rising vote.)

CHAIRMAN CARPENTER: Now, I think possibly it is not necessary to read this entire resolution although many of you will merely follow and you will realize that the sense of the resolution which was sent to you several weeks ago is in the form of an amendment to the Constitution and By-Laws creating an active and associate membership.

"Resolution No. 8

"Resolved, That the National Association of Broadcasters hereby approves and adopts the amendments to the Constitution and By-Laws of said Association which were duly submitted to its members in advance of the meeting at which this resolution was adopted, as provided by said Constitution and By-Laws, said amendments being as follows:

"1. Article III, Section (a)

Strike out all of the section and insert the following in lieu:

- '(a) The membership of this Association shall consist of—
(1) Any duly admitted person, firm or corporation engaged in the operation of any radio broadcasting station, to be known as an ACTIVE MEMBER.
(2) Any person, firm or corporation associated with radio broadcasting, to be known as an ASSOCIATE MEMBER.'

Now, numbers 2, 3, 4 and 5 merely insert the word "active" at the proper places in order to make the entire part of the Constitution and By-Laws coincide.

"6. By-Law 1, Section (b)

Strike out all of the section and insert the following in lieu:

- '(b) The annual dues of Associate Members of this Association shall be at the rate of two hundred fifty dollars per year, payable quarterly in advance.'

Numbers 7, 8, 9 and 10 merely insert the word "active".
Your committee moves the adoption of this resolution.
The complete resolution:

"Resolution No. 8

"Resolved, That the National Association of Broadcasters hereby approves and adopts the amendments to the Constitution and By-Laws of said Association which were duly submitted to its members in advance of the meeting at which this resolution was adopted, as provided by said Constitution and By-Laws, said amendments being as follows:

"1. Article III, Section (a)

Strike out all of the section and insert the following in lieu:

- '(a) The membership of this Association shall consist of—
(1) Any duly admitted person, firm or corporation engaged in the operation of any radio broadcasting station, to be known as an ACTIVE MEMBER.
(2) Any person, firm or corporation associated with radio broadcasting, to be known as an ASSOCIATE MEMBER.

"2. Article V, Section (b)

Line 2—Insert after the word 'the' and before the word 'members' the word 'active'.

"3. Article V, Section (c)

Line 1—Insert after the word 'the' and before the word 'members' the word 'active'.

"4. Article VII

Line 2—Insert after the word 'five' and before the word 'members' the word 'active'.

Line 3—Insert after the word 'the' and before the word 'membership' the word 'active'.

Line 6—Insert after the word 'ten' and before the word 'members' the word 'active'.

"5. By-Law 1, Section (a)

Line 1—Insert after the word 'dues' and before the word 'shall' the words 'of active members'.

"6. By-Law 1, Section (b)

Strike out all of the section and insert the following in lieu:
'(b) The annual dues of Associate Members of this Association shall be at the rate of two hundred fifty dollars per year, payable quarterly in advance.'

"7. By-Law 3, Section (b)

Line 3—Insert after the word 'the' and before the word members the word 'active'.

"8. By-Law 4, Section (a)

Line 2—Insert after the word 'to' and before the word 'membership' the word 'active'.

"9. By-Law 4, Section (b)

Insert after the word 'Each' and before the word 'member' the word 'active'.

"10. By-Law 5, Section (a)

Line 2—Insert after the word 'the' and before the word 'membership' the word 'active'.

Line 5—Insert after the word 'the' and before the word 'members' the word 'active'."

MR. BUTCHER: I second it.

CHAIRMAN CARPENTER: We are now ready for remarks.

E. B. CRANEY (KGIR, Butte, Montana): I have an amendment to make to the amendment to the Constitution that I think can be made from the floor. I have talked to a number of members on the floor and they feel the amendments are necessary and the amendments to the amendment will make the Association far more representative of the industry.

Originally the plan in the NAB was to elect our directors by zones, that is, we had five radio zones and we elected directors, three from each of these zones, who went to the directors' meetings and took to those meetings the ideas of the people in those respective zones. Recently we have gotten away from that and we come to these conventions and elect members from other zones and possibly we vote for people we know very little about.

The amendment that I have will make it necessary for three members to be elected from each radio zone. Then when those members go to a board meeting, they will come back to your zone and tell you what happened and if you don't like them, why, you get rid of them.

The proposition is that zones will elect the members from those respective zones. In other words, we won't come to a National Association meeting and vote for somebody we don't know anything about. Members of zones will vote for directors. For instance, the newspaper organization, I understand, have regional, state and national meetings. I think we will have a closer organization of broadcasters.

The amendment I have is in Article VI, Section (d): "Add to the proposed amendment number 3 to the Constitution, the following repeal of Section (d) of said constitution,"—pardon me, that is the wrong one.

CHAIRMAN CARPENTER: Mr. Craney, until we have that, may we do this: I am not sure at all that you are not out of order on this thing because your amendment apparently refers to something that was not contemplated in this resolution or proposed amendment to the Constitution and By-Laws. May I suggest that we table number eight for a few minutes until we may have an opinion on that.

MR. CRANEY: I have the article here and would like to read it. You can't go to jail for making an amendment and I would like to get this over.

"Article V, Section (c)

"Add to the proposed amendment to Article V of the Constitution, published as amendment number three, the following provision in the place and stead of the present provisions therein contained, to be inserted after the word 'members' in line one, Section (c): 'of each radio zone shall elect from their active members three directors, one of whom shall be a member representing a local station. After the adoption of this amendment all elections of directors shall be held in accordance herewith.'"

Mr. Chairman, I have several amendments and I think you should take a vote on each amendment rather than as a group.

CHAIRMAN CARPENTER: Mr. Craney, there are definite provisions outlined in the Constitution and By-Laws for making amendments to the Constitution and By-Laws:

The Board of Directors was particular to see that notice went to all members as outlined in the Constitution and By-Laws. Now, it would seem, therefore, that while the amendments which are being proposed may be wise, that if we are not going to stand by our Constitution as it is written, we might as well throw it out. That, however, is the personal opinion of myself as occupying the chair at the moment so, therefore, unless there is a demand from the floor, I would simply table resolution number eight with all the amendments until we can get an official opinion.

MR. CRANEY: Mr. Chairman, I still have the floor. Article IX of the Constitution. . . .

CHAIRMAN CARPENTER: Sorry! You're out of order. We will withhold any action on number eight for the time being.

MR. JONES: Mr. Chairman, I appeal from the ruling of The Chair and ask for a vote of the house. These proposed amendments of the Constitution are part and parcel of the ambition of the local stations here assembled and we very much wish to see the

sentiment of this convention. There are no more loyal members of NAB than the local stations and we feel that it is altogether fitting and proper that our ambitions and the ambitions of other and larger stations be given a chance for expression in the permanent operation of the Association and, therefore, I move that this question not be delayed in order that it may possibly be run over by what might be called a steam roller.

JAMES F. HOPKINS (WJBK, Detroit, Michigan): I second the motion.

CHAIRMAN CARPENTER: It has been regularly moved and seconded that the proposed amendments other than resolution eight be considered for the moment, overriding the ruling of The Chair.

WILLIAM B. WAY (KVOO, Tulsa, Oklahoma): Can you do that under our Constitution? You are chairman of the Resolutions Committee; don't you know the procedure of changing the Constitution?

CHAIRMAN CARPENTER: May I say this: I am not indicating by the ruling which I made that I disagree in any way whatsoever with these amendments.

In the second place, I would not want to be party to anything that even smacked of steam rolling. I don't like it. I think everybody should be given a chance to say what he believes.

I believe The Chair is perfectly within its rights in holding this discussion until a little later. However, if it is contrary to the will of those present, I do not wish to impose my wishes on all you men. Therefore, I am perfectly willing to see what you want done about this.

MR. WAY: Mr. Chairman, I may be heartily in favor of the man's resolutions but after all, you have to have a rule. Can we do this thing? You may desire it from the bottom of your heart but can we do it according to our Constitution and By-Laws?

MR. WEISS: Will The Chair recognize me?

CHAIRMAN CARPENTER: Yes.

MR. WEISS: I think in fairness to you, Mr. Craney, and the stations you are speaking for, you are doing yourself an unfairness by forcing the issue.

May I suggest that you have the amendments multigraphed and the hearing postponed until a little later. I am entirely too much in sympathy with your amendment to have it defeated on the technicality which you are laying it open to.

MR. CRANEY: It is perfectly satisfactory to me to postpone it. I don't believe it is necessary to have it multigraphed. I think we can explain what it is all about—in very few words, too. That is perfectly satisfactory with me.

CHAIRMAN CARPENTER: And may I say there is no objection on the part of The Chair and make this public statement that there is no disposition to postpone this and postpone it until it falls over at the tail end.

MR. JONES: With that explanation, I withdraw my motion.

MR. HOPKINS: I consent.

CHAIRMAN CARPENTER: We will then proceed with the next resolution:

"Resolution No. 9.

"Resolved, That the Managing Director be and he hereby is authorized to take such steps as may be necessary adequately to represent the best interests of the broadcasting industry in the forthcoming conferences preparatory to the Fourth Meeting of the CCIR, scheduled for the spring of 1937, and in the meeting of the CCIR."

That is proposed by the Engineering Section. I move its adoption.

BIRT F. FISHER (KOMO, Seattle, Washington): Second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: The next:

"Resolution No. 10.

"Resolved, That the President be and he hereby is authorized and directed to appoint a Committee Of Three, one of whom shall be the Managing Director, to determine the procedure for most effective presentation of the United States' position and proposals to the next administrative International Conference scheduled to be held in Cairo early in 1938; and that the Committee be and they are hereby directed to make recommendations to the Board of Directors so that the same may be available for consideration at the 1936 convention."

May I say that I have already had ten applications for jobs as representatives of the Association at that meeting. (Laughter.)

That resolution is proposed by the Engineering Section; recommended by the Resolutions Committee. Is there a second?

MR. CURTIS: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Next we have:

"Resolution No. 11

"Resolved, That the action of the Managing Director in authorizing the Technical Director of the Association to cooperate actively with the FCC and the stations contributing to the conduct of the Secondary Coverage Survey be and the same is hereby approved; and that the Managing Director be and he is hereby authorized to continue such participation particularly during forthcoming conferences at which the results of the survey are to be considered."

Proposed by the Engineering Committee. Recommended by the Resolutions Committee.

MR. WYLER: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: We now have:

"Resolution No. 12.

"Resolved, That the opinion reached by the Engineering Committee with reference to the Federal Communications Commission's proposed fidelity standards be communicated to the Chairman of the Federal Communications Commission for his information and that of the Engineering Department of the Commission."

Proposed by the Engineering Section and recommended by the Resolutions Committee. Is there a second?

MR. WILLIAMSON: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Next:

"Resolution No. 13

"Resolved, That the Managing Director be instructed to proceed immediately with the creation of a bureau of agency recognition in accordance with the plan approved and recommended by the Commercial Committee, with the understanding that the said bureau will be finally established only if the cost of its first year of operation is underwritten by the stations proposing to avail themselves of its services."

The committee recommends its adoption.

MR. CHURCH: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: And,

"Resolution No. 14

"WHEREAS, the 1934 convention of the National Association of Broadcasters directed the chairman of the Commercial Section to appoint a Committee of Five to study what is pertinent information for the advertising agencies and the advertisers who are buyers of radio advertising and to invite discussions with representatives of the American Association of Advertising Agencies and the Association of National Advertisers with a view of setting up a bureau for the broadcasting industry, and

"WHEREAS, such Committee was appointed, studied the problem and conducted discussions with the aforementioned organizations, the results of which discussions have been reported by the chairman of the Commercial Section to the Board of Directors and the Convention,

"Therefore Be It Resolved, That the National Association of Broadcasters reaffirm its willingness to cooperate with the advertisers and agencies in the creation of a cooperative bureau, and that the President of the Association be directed to appoint a committee of not less than five members, to be approved by the Board of Directors and to be responsible to it, the said committee to conduct such activities as may be necessary to the establishment of such a bureau and to represent the National Association of Broadcasters in any discussions or negotiations with advertisers and/or agencies."

Your Committee on Resolutions recommends its adoption.

PURNELL H. GOULD (WFBR, Baltimore, Maryland): Second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: This is proposed by the Newspaper Section:

"Resolution No. 15

"Resolved, That the Board consider the establishment of one or more annual NAB awards for conspicuous examples of public service rendered by American broadcasting stations."

I move its adoption.

MR. CISLER: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: The next is:

"Resolution No. 16

"Resolved, That the National Association of Broadcasters hereby adopts the revised Code of Ethics as presented in the report of the chairman of the Commercial Committee."

The Resolutions Committee recommends its adoption.

MR. CAMPBELL: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: And,

"Resolution No. 17

"Resolved, That the NAB continue to cooperate with the Federal Communications Commission and educational groups in all practical efforts to study the application of education to radio."

Your committee recommends its adoption.

R. H. MASON (WPTF, Raleigh, North Carolina): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: The next one:

"Resolution No. 18

"Resolved, That the National Association of Broadcasters hereby thanks the Legislative Committee and its chairman, Henry A. Bellows, for their diligent work during the past year, and that the Association hereby recommends that the Managing Director give careful study to this report of the Legislative Committee and bring all such matters to the attention of the Board of Directors which had not been covered otherwise in resolutions adopted at this convention."

Your committee recommends its adoption.

J. H. RYAN (WSPD, Toledo, Ohio): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Next:

"Resolution No. 19.

"Resolved, That the NAB hereby petitions the Congress of the United States speedily to enact Senate Bill No. 3047, generally known as the Duffy Copyright Bill, which brings the Copyright Act of 1909 into conformity with the pending Treaty which would permit American entry into the International Copyright Union, and which will afford relief to broadcasting stations, hotels, restaurants, public gatherings, valet shops, and so forth, by eliminating the minimum statutory damage provision and permitting the Court to determine the amount of damages.

"And that a copy of this resolution be communicated to the chairman of the Patents Committee of the Senate, the Hon. Wm. G. McAdoo; to the chairman of the sub-committee of the Patents Committee of the Senate, Senator Duffy; and to the chairman of the Patents Committee of the House of Representatives, Representative Sirovich."

Your committee recommends its adoption.

EDWARD K. CARGILL (WMAZ, Macon, Georgia): Second it.

MR. BUTCHER: I see we have made a mistake. Duffy is not chairman of the Patents Committee of the Senate. I don't think you need to identify Senator Duffy.

CHAIRMAN CARPENTER: Making it read: "And that a copy of this resolution be communicated to the chairman of the Patents Committee of the Senate, the Hon. Wm. G. McAdoo, to Senator Duffy and to the chairman of the Patents Committee of the House of Representatives, Representative Sirovich." Correct?

MR. BUTCHER: Unless we add Bloom's name. I suggest we add the name of Bloom. He introduced the companion measure in the House.

CHAIRMAN CARPENTER: "And to Representative Bloom." Are there any objections to that from the members of the Resolutions Committee who are present? I think they are all present. This is suggested by Mr. Butcher who is a member of the Resolutions Committee.

(There were no objections.)

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Now we have:

"Resolution No. 20.

"WHEREAS, it is the declared policy of the Congress of the United States that the Federal Communications Commission in the administration of the radio law shall have no censorship powers over radio programs, and

"WHEREAS, the greatest possible freedom of speech must be preserved to radio broadcasting, be it therefore

"Resolved, That the NAB instructs its Officers and Directors to oppose any and all legislation and governmental regulations, the effect of which would result in the abridgment of freedom of speech."

Recommended by your committee.

MR. CAMPBELL: Second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Resolutions 21, 22 and 23 are those

proposed by Mr. Jones yesterday and by vote of this Convention, the Resolutions Committee was instructed to present them to you this morning. This we are doing and naturally, under the circumstances, without any recommendations since we have no choice in the matter and are merely presenting them as proposed. This does not mean necessarily, however, that any of the Resolutions Committee were opposed to them.

"Resolution No. 21.

"Since it is the consensus of opinion of the members of the National Association of Broadcasters that the Attorney General of the United States be commended for instituting anti-trust proceedings against the American Society of Composers, Authors and Publishers, et al., and

"WHEREAS, the Attorney General of the United States, the Hon. Homer S. Cummings, and the Special Assistant Attorney General, Andrew Bennett, have faithfully and diligently served the public interest by proceeding with such suit against the members of said Society with dispatch and in a commendable effort to rid the people of this country of monopolistic practices which are subversive to the business principles of a free people, and

"WHEREAS, it appears that the public interest necessitates and requires that such proceedings be pressed to a final and speedy determination, it is

"Resolved, That this Association favors and approves a continuation of the activities of the Attorney General and his staff in the Government's proceedings against the American Society of Composers, Authors and Publishers, et al., and that the President of the Association is hereby directed to express our gratitude and appreciation to the Attorney General and his staff for such action on the behalf of the public interest, and it is respectfully urged that the Attorney General and his staff continue therewith, with the assurances of our support."

Do I have a motion for the adoption of this resolution?

MR. CRANEY: I move the adoption of this resolution.

CHAIRMAN CARPENTER: Is there a second?

MR. CURTIS: I'll second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: This is the next:

"Resolution No. 22.

"Resolved, That the Officers and Directors of the National Association of Broadcasters be instructed to support the suit of the United States Government against the American Society of Composers, Authors and Publishers, The Music Publishers Protective Association and their affiliated defendants, to the end that royalties for the public performance of music may be determined by free and open competition among copyright owners."

Is there a motion for the adoption of this resolution?

MR. CRANEY: I so move.

WILLIAM C. GILLESPIE (KTUL, Tulsa, Oklahoma): I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: And then:

"Resolution No. 23.

"WHEREAS, Joseph Hostetler, the counsel for the copyright activities of NAB has made a complete and full report of his activities in this respect, and since his efforts in this regard have at all times been prompted by a sincere desire to perform a distinct service to the broadcasting industry as a whole in following out the instructions that this industry gave him as its attorney, it is

"Resolved, by this body that Joseph Hostetler should be warmly commended for his efforts to obtain relief for the broadcasting industry from the ravages of the American Society of Composers, Authors and Publishers, and it is recommended that he be given the opportunity to continue to give the same service to the NAB and the members thereof at large as he has in the past."

Is there a motion?

MR. CARGILL: I move it be adopted.

BURT SQUIRES (WHK, Cleveland, Ohio): I second the motion.

GERALD KING (KFWB, Los Angeles, California): I'd like to ask a question. As I understood it yesterday during this meeting, Mr. Hostetler's duties with the NAB have been finished. Your resolution recommends that he continue. Is that correct? What work would he do?

MR. CRANEY: It says: "that he be given the opportunity to continue". In other words, to act as counsel in copyright proceedings for the Association.

MR. KING: I understood that Mr. Hostetler was employed for one specific purpose and that purpose has been served.

CHAIRMAN CARPENTER: I think I can clarify that. May I say that the Resolutions Committee understood it to mean that

if in the opinion of the Board of Directors it was necessary to employ somebody, Mr. Hostetler could and should be considered.

MR. KING: Then why not clarify it to that extent?

(The question was called for.)

MR. McCOSKER: In view of the fact that I have been intimately associated with Mr. Hostetler in his activities, if I might, I'd like the privilege of seconding that motion.

(Mr. Squires withdrew his second and Mr. McCosker was recorded as seconding the motion.)

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Next:

"Resolution No. 24

"Resolved, That the NAB hereby affirms the action of the Board of Directors taken at their New York meeting on June 22, 1935, as expressed in the following resolution:

"WHEREAS, a full report covering the recent negotiations with ASCAP has been made to the Board by A. J. McCosker, chairman of the Copyright Committee heretofore appointed, and certain of the members of the committee; and by Edward Klauber, representing CBS; A. L. Ashby, representing NBC, I. D. Levy, representing WCAU, and J. C. Hostetler, copyright counsel for the NAB; the Board makes the following declaration of principles and facts:

"1. The Board reiterates that the so-called 'per piece plan' or 'measured service plan' is the fairest and best to be followed in paying for the use of copyrighted music, in that it enables each broadcaster to pay a price fixed by the individual owner of copyrights, competitively, and compels no person to buy or pay for more than he actually uses.

"2. The Board believes that the two networks and WCAU when they accepted a five-year extension of the present contract, did so only after the NAB Copyright Committee found it impossible to work out with the Copyright Committee of ASCAP a 'per piece' or 'measured service' plan prior to the expiration of present contracts; and that when they accepted such contracts it was because the networks and WCAU felt that it was necessary for the industry to have available upon the best terms possible, the repertoire controlled by ASCAP, and for the reason that it is impossible to operate a radio broadcasting station without the use, to a greater or lesser extent, of the music so controlled.

"3. The Board believes that every broadcaster must come to a decision as to whether or not he desires to extend his present contract for a period of five years from January 1, 1936 (1) in the light of the requirements of his station, (2) his contract commitments, if any, either to the networks or advertisers, and (3) the fact that the suit being prosecuted by the United States has been continued until early in November, 1935, and therefore in all probability cannot be decided by the trial court prior to the date of the extension of the present license already granted which is January 1, 1936."

Your committee recommends its adoption.

MR. WEISS: I second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: And the last:

"Resolution No. 25.

"Resolved, That the NAB go on record as favoring the issuance of radio station licenses for a term of at least three years."

I move its adoption.

MR. CISLER: Second it.

(The motion was put to vote, and was carried.)

CHAIRMAN CARPENTER: Now we come back to resolution eight.

In instances of this kind we appeal to Phil because of his intimate knowledge of our Constitution, because of his knowledge of the needs and desires of all types of stations, and I hope he will be here in just a moment.

It would seem to me, however, in this connection, that it would facilitate matters if the resolution as adopted by the Resolutions Committee were passed upon as presented by the Resolutions Committee for several reasons: first, because it refers to one thing only, active and associate membership; second, because it was proposed to the membership according to the strict interpretation of the Constitution and By-Laws several weeks ago and everybody has had an opportunity to digest and read it; and, third, because I understand it is definitely stated that all resolutions must be presented by the Resolutions Committee and if these additional resolutions would have to be presented by the Resolutions Committee,

it would be necessary for us to go out and hold an additional meeting.

MR. EARL: May I have something to say, not commenting about the ruling but to call your attention to the fact that amendments must be voted on first. Second, you have amended another resolution here.

MR. WEISS: Those are corrections; not amendments.

MR. EARL: As a straight parliamentary rule, amendments are voted on first. Furthermore, you can always amend anything from the floor. If you are going to vote, you have to vote on the amendments first.

CHAIRMAN CARPENTER: My recommendation was that the additional amendments be considered separately because they have nothing to do with what we are trying to get at and that is active and associate membership. Of course, with the question at hand with Mr. Craney and Mr. Jones, we don't want anything railroaded through. Ye gods and little fishes, if you have an amendment proposed several weeks in advance and the membership notified of it, and then you hang on it a number of things that have nothing to do with the objective—isn't that the very thing you are trying to get away from!

C. M. JANSKY, JR. (Jansky & Bailey, Washington, D. C.): The very simple purpose of this resolution is to limit the ballot to those who operate stations, a policy which we have advocated consistently ever since we have been members. I represent an organization disenfranchised by this action but I would hate to see anything stand in the way of accomplishing this very simple purpose which should have been done long ago.

MR. WILLIAMSON: I suggest that you read that portion of the Constitution and By-Laws that has to do with amendments to the Constitution and then conduct your vote accordingly.

CHAIRMAN CARPENTER: May I say that we are getting an interpretation from Mr. Loucks to you in just a moment and in the meantime, I wanted to get an expression of opinion from as many as want to express an opinion so by no stretch of imagination can anyone say this was cut and dried beforehand by either those who favor the amendment or those who do not.

MR. SHEPARD: Mr. Chairman, I had an amendment I wanted to present. I took it up with Phil. He said that under the By-Laws it could not be done without having been sent to the members two weeks in advance. I just give you that interpretation which he made rather early this morning.

MR. CRANEY: I don't like to contradict John Shepard but Phil told me it could be done.

MR. HUBBARD: Would it be in order to suggest to Mr. Jones and Mr. Craney that nothing could happen to this amendment until next convention and that they withdraw the amendment and make a motion to refer it to the Board of Directors? In that way they'll accomplish their purpose.

MR. CRANEY: It won't be done in time for election of officers and directors. It will mix up your election next year. I think we should vote on whether we want to consider these.

CHAIRMAN CARPENTER: All right, at your suggestion, may I have a motion—and I shall use the prerogative of The Chair in steering this in the way I want to have it go. Does anyone wish to make a motion?

MALLORY CHAMBERLIN (WNBR, Memphis, Tennessee): May I ask a question before that vote? Is there a way we can vote on that resolution number eight and still get this presented through the Resolutions Committee? Can the Resolutions Committee meet and put it in?

CHAIRMAN CARPENTER: This is a personal opinion. I believe the Resolutions Committee could meet and present these amendments but I don't believe it would be legal.

MR. CHAMBERLIN: I am thoroughly in accord with the resolution and with this amendment but I wouldn't want to jeopardize the present resolution number eight.

CHAIRMAN CARPENTER: That is what I'm afraid of.

MR. CHAMBERLIN: Then let's wait for Mr. Loucks.

MR. CRANEY: Mr. Chamberlin, I can withdraw, of course, and all that sort of thing. But, I talked with a lot of broadcasters. I think a lot of them would like to get this vote through. Some of them would like to put it through; some of them don't.

I really think inasmuch as it is our Constitution, it can be changed if we want it. This is an amendment to an amendment to the Constitution. It refers to one of the same articles. I think you have the right to change it if you want to. If you don't want to, then let's vote against it.

(The convention applauded as Mr. Loucks entered the convention hall.)

CHAIRMAN CARPENTER: May I state to Mr. Loucks this question. You've heard the story of the fellow who said he was an "interrupter" for a deaf mute; we'll have Phil be the "interrupter" for the Constitution.

Resolution number eight was presented by the Resolutions Committee embodying the amendments to the Constitution and By-laws sent out to the membership.

Now, there are proposed several amendments to the Constitution. . . .

MANAGING DIRECTOR LOUCKS: You don't have to read it. The Chairman may not entertain a motion to amend the Constitution and By-Laws—Robert's Rules of Order.

CHAIRMAN CARPENTER: The committee recommends the adoption of resolution eight.

MR. CRANEY: I second it. (Applause.)

CHAIRMAN CARPENTER: And I'll help you put those through.

MR. WAY: When does this become operative if adopted?

CHAIRMAN CARPENTER: Immediately. It cannot be retroactive. This amendment cannot become retroactive.

MR. WAY: Is Phil gone?

MANAGING DIRECTOR LOUCKS: Upon adoption.

MR. WAY: Is it thoroughly legal that you disenfranchise people coming to the convention to vote before the vote comes up? Not that I have any doubt it might be a good thing. Is that strictly in accordance with the Constitution?

CHAIRMAN CARPENTER: May I ask the President if it is the intention of the Board of Directors to conduct the election today, taking into condition this resolution adopted?

PRESIDENT WARD: No, according to my understanding.

CHAIRMAN CARPENTER: Would the Board of Directors legally be required to exclude all those who become associate members by this change in Constitution in the election today?

MANAGING DIRECTOR LOUCKS: No, they are entitled to vote in this election.

(The question was called for.)

CHAIRMAN CARPENTER: Mr. Ward has said it was not his intention; Mr. Loucks said they should not and need not be excluded.

MR. CRANEY: It is effective just as soon as it is voted on.

MANAGING DIRECTOR LOUCKS: Let me explain the intent. It was intended by the Board that the resolution would be adopted subsequent to the election. If you had had your election first, you would have eliminated this situation. Now, if you haven't acted upon it, you should take that into consideration before you act. But, it becomes effective upon adoption.

CHAIRMAN CARPENTER: If this resolution is adopted now, all those who do not own and operate stations are associate members and cannot vote today. Now, are there any remarks?

MR. WEISS: Mr. Chairman, I move that we table the recording of the vote on your resolution, for the purpose of mechanics that the vote be postponed until after the election so as not to disenfranchise anybody.

CHAIRMAN CARPENTER: Will you make that in the form of an amendment?

MR. WEISS: Yes.

MR. SYMONS: I second that.

MR. JONES: You can't amend that.

CHAIRMAN CARPENTER: The Chair rules that this is an amendment to the action taken here and not an amendment to the resolution as the other amendment was.

DR. JANSKY: Mr. Chairman, I'd like to say that I don't believe that those of us who don't own stations should vote. This is an Association of those who own and operate broadcast stations. (Applause.)

Those of us who are affiliated should be associates but we should have no part in the election. (Applause.)

EDWARD PETRY (Edward Petry & Co., Inc., New York, N. Y.): I am thoroughly in accord with Dr. Jansky's statement.

MR. HAGER: I suggest the associate members here be allowed to express an opinion as to whether or not they care to vote. I think this is only in decency to the gentlemen who came for that purpose.

MR. PETRY: I have no desire to vote.

MR. JONES: I move an amendment to the motion now before the house. I move that this resolution be adopted as presented to the convention.

(There was no second to Mr. Jones' motion to amend.)

MR. WEISS: I withdraw my amendment.

(Mr. Symons, who seconded Mr. Weiss' amendment, consented to its withdrawal.)

(The motion (to recommend the adoption of resolution number eight) was put to vote, and was carried.)

CHAIRMAN CARPENTER: The Resolutions Committee thanks you very, very much. (Applause.)

MR. CRANEY: Mr. Chairman . . .

CHAIRMAN CARPENTER: Oh, he's coming back. (Laughter.)

MR. CRANEY: In order to get these things before you, I'd like to make a motion that the Association direct the Board of Directors to see that these various amendments I have to the Constitution are brought up for vote and voted upon before the election next year because it will make quite a bit of difference. If you want me to read all the proposed amendments, I'll do so.

THE CONVENTION: No! No! No!

CHAIRMAN CARPENTER: May I suggest that, without making a motion, they'll be referred to the Board?

MR. CRANEY: I made that as a motion.

CHAIRMAN CARPENTER: Is there a second?

MR. KING: I second it.

MR. CURTIS: Why not amend that motion to the effect that these amendments be published in the NAB REPORTS?

(The question was called for. The motion was put to vote, and was carried.)

(President Ward took the chair.)

PRESIDENT WARD: Gentlemen, we now come to that most interesting part of our session this morning—the report of the Nominating Committee which we had yesterday but to refresh your memory, I am going to ask John Gillin to come to the stand and give his report of the Nominating Committee. Is John Gillin in the room? While we are waiting, Mr. Weiss has a statement to make.

MR. WEISS: The appearance of the independent ticket that was handed to you as you came in the door might arouse some curiosity as to whether it was on the part of insurgent, or Bull Moose, or some dissatisfied contingent of the NAB. I have been asked to explain the reason for the appearance of the so-called insurgent ticket.

It has been emphasized repeatedly during this meeting that in the election of Directors and Officers, you should select those behind whom the organization could be solidified and unified at all times.

If you will examine the independent ticket, you will find acceptable to the small stations, the local stations, the independent stations, the entire officer ticket selected with the exception of the First Vice President and I would like to say in connection with that that the one change suggested by the various groups of stations who have asked me to express their opinion in their behalf, was not prompted by any criticism of Mr. Cowles but was prompted by the fact Cowles is a newcomer and Myers is better known and among other factors taken into consideration was regional representation and certain other characteristics of Myers' position in the broadcasting industry.

I just want to add from the regional viewpoint there were suggested three changes in the Board of Directors recommended by the committee and if I may, I ask to speak on the floor in behalf of the candidates. I don't want to monopolize your time but in the interest of saving time representing the group who asked me to speak in their behalf.

MR. MYERS: Mr. Chairman, I am certainly deeply appreciative of the honor bestowed upon me by the group of north-west stations or other stations which have placed my name on the independent ballot.

Yesterday I sincerely asked to be withdrawn from the Nominating Committee's slate in favor of Mr. Symons of Spokane. It was not the pleasure of the Association that my name be withdrawn. It seems to me cumbersome for a man to run on two tickets for two different offices. I ask the Association kindly to withdraw my name from all ballots as I requested or else withdraw from the office of Vice President on the independent ballot. It is quite all right for me to withdraw entirely. It is at the pleasure of the convention. I will leave it in your laps but I don't wish to run for two different offices on two different tickets.

PRESIDENT WARD: Gentlemen, I have received here a petition signed by ten men suggesting that the name of Guy Hamilton be placed before this body for a Board member.

Now, yesterday at the close of our session I stated that in order to get this thing done as quickly as possible, the Elections Committee would not receive any petition after 9:00 o'clock this morning.

THE CONVENTION: Right!

PRESIDENT WARD: This petition came to me about 10:30. I don't want to be unfair about this thing although I have made

that ruling. If it is the consensus of opinion of this body that although I made that ruling yesterday, you want to accept this petition, I am perfectly willing to dispense with the ruling. But, my only thought is having once made that ruling, it may have stopped some activity of those who would have liked to have gotten a petition in but realizing that due to the closing time, they would not have an opportunity. It seems to me in view of the ruling and the time the petition came in, it should not be accepted, but I am perfectly willing to abide by your wishes in the matter.

LLOYD C. THOMAS (WROK, Rockford, Illinois): I move that the rules be suspended, that our former action be rescinded, that the petition be accepted and the candidate placed on the list.

C. E. WYLIE (KFRC, San Francisco, California): I second it. (The motion was put to vote, and was lost.)

PRESIDENT WARD: Mr. Gillin, chairman of the Nominating Committee, will now make his report.

MR. GILLIN: Gentlemen, the Nominating Committee has nominated, as I stated yesterday:

Leo Fitzpatrick of WJR, Detroit, for the presidency of NAB.

For First Vice President, the Nominating Committee has nominated Gardner Cowles of KSO, WMT and KRNT, owned by the Iowa Broadcasting Company.

For Second Vice President the Nominating Committee has nominated Edward Allen of Lynchburg.

For Treasurer—John Shepard, 3rd.

For directors: J. Truman Ward, Charles W. Myers, Steve Cisler, Joseph O. Maland, Thomas W. Symons, Edwin W. Craig, Lester Cox, Ralph Brunton, John Elmer and Edward K. Cargill.

At this time I'd like to have the Nominating Committee report immediately behind the stage.

MR. MCCOSKER: Might I not inquire whether the Nominating Committee is to mention the names of candidates named on the floor as well as those named by the Nominating Committee? It has a pleasant sound to me and I'd like to have them do it.

MR. GILLIN: That is a pleasure on my part, Mr. McCosker, I assure you.

The other gentlemen who were nominated from the floor were Mr. C. W. Myers for First Vice President, Mr. Isaac D. Levy for Treasurer, Mr. Donald Flamm for the two-year term on the board of Directors and I believe you have Mr. Guy Hamilton.

THE CONVENTION: No! No! No!

PRESIDENT WARD: I am corrected. That vote was lost.

MR. WEISS: And Stanley Hubbard and Wright Gedge.

MR. GILLIN: Additional nominations for directors: W. W. Gedge and Stanley Hubbard.

PRESIDENT WARD: We'll now have the report of our Credentials Committee by its chairman, Jack Storey.

(Mr. Storey was absent.)

PRESIDENT WARD: Mr. Slavick, who is a member of that committee, will make the report for Mr. Storey.

MR. SLAVICK: The Credentials Committee unanimously adopted the resolution for the Board of Directors of the NAB passed at Cincinnati in September, 1934, as its guide in determining who shall be permitted to vote. The resolution follows:

"Resolved, That it is the sense of the Board of Directors and it so directs the Committee on Credentials that delegates and/or alternates shall be full-time employees or officers or partners of member stations or companies owning and/or operating such member stations or shall have a provable capital interest in the member station of not less than one per cent. of the capital stock of the owning corporation or a proportionate partnership holding in such member station; provided, however, that other persons duly named as delegates or alternates shall be admitted to all sessions of the convention but shall not be given the privilege of voting."

The Credentials Committee, after checking the list carefully, found that there are 242 members qualified to vote.

PRESIDENT WARD: The Chair accepts the report of the Credentials Committee and will refer it to the Chairman of the Elections Committee, Mr. Glenn Snyder.

(Glenn Snyder (Chairman, Elections Committee; WLS, Chicago, Illinois) took the chair.)

CHAIRMAN SNYDER: Ladies and gentlemen, the Elections Committee, meeting this morning, find there are two tickets and one additional petition for Mr. Levy, and I think that is all covered on the board.

We have no contest for President, no contest for Second Vice President.

The rules we adopted for this election, I have probably already lost, (Laughter) which is quite natural for me.

The Elections Committee ruled that the vote should be by secret ballot; that a majority of votes cast shall elect. Then probably the only other important thing is only members present at the convention and at the election are permitted to vote.

The question came before the committee as to whether registered members who have left before this election session could vote by so-called mailed ballots or proxies. The Elections Committee ruled votes so cast would not be counted.

The Elections Committee feels, in its judgment, the Nominating Committee should designate from their ten candidates who they have as candidates for the three-year term and who for the two-year term. I'd like to call on the Nominating Committee to make that designation in their list. Without it, there would be endless confusion.

MR. WEISS: Mr. Snyder, would it be acceptable to your Elections Committee to have those who wished to use the independent ballot, use that in its entirety in lieu of the blank slips passed out?

THE CONVENTION: No.

MR. WEISS: Just as a matter of expediency to you.

CHAIRMAN SNYDER: We had felt that we would vote for the First Vice President and the Treasurer first and then take up the Directors, and we have discussed all that and felt it could be done best by secret ballot.

EDWIN M. SPENCE (WBAL, Baltimore, Maryland): There will be no secret ballot on President and Second Vice President.

CHAIRMAN SNYDER: The Nominating Committee is meeting now to designate their various candidates for office.

MR. BUTCHER: Mr. Chairman, since there is no opposition for President, I move that the election be made unanimous.

MR. SYMONS: I second the motion.

(The motion was put to vote, and was carried.)

MR. BUTCHER: I believe there is no other candidate for Second Vice President except Mr. Allen so I move that that election be made unanimous.

ISAAC D. LEVY: I second the motion.

(The motion was put to vote, and was carried.)

CHAIRMAN SNYDER: Mr. Gillin is ready to name his candidates.

MR. GILLIN: Gentlemen, the Nominating Committee have now named for the three-year term: J. Truman Ward, Joseph Maland, Charles Myers, Edwin W. Craig, Steve Cisler and Thomas W. Symons.

For the two-year term as directors, that is, the unexpired term: Lester Cox, Ralph Brunton, John Elmer and Edward K. Cargill.

MR. JONES: Mr. Chairman, would it not be fair, inasmuch as your report came in without this designation, that you not conflict in the name of Ralph Brunton? On the independent ticket there was a clear demarcation between the two- and three-year members. You have just now placed the name of Brunton for the two-year term whereas the name of Brunton is on the three-year term on the independent ticket. Had you made your division in the first place, this ticket could have been made to conform.

It would avoid confusion and I understand that is the purpose of this division.

MR. GILLIN: I hadn't noticed that. I think this, gentlemen: the Nominating Committee has made a ruling as to the terms for the nominees that they have placed before you here this morning as candidates for directors and that is that six men will be voted upon for the three-year term and four men for the two-year term.

MR. CRANEY: Mr. Chairman, the Nominating Committee made a report yesterday to the effect that the five receiving the majority would be the ones to go in for the three-year term and that you would then vote again on the ones left for the two-year term.

Isn't it better to do it the way you made the recommendation yesterday than to change the ruling this morning?

MR. GILLIN: It was the sense of the floor that they would rather have us designate for two- and three-year terms. The Nominating Committee did so, so that the floor could more easily vote and facilitate the voting on the floor.

MR. CRANEY: Probably if we vote for the three-year term and then vote for the two-year term after we know who is elected, that will clear up the situation under the present ruling.

MR. GILLIN: Under the present ruling, the candidates to be elected must have a majority. If you have ten or eleven candidates, you couldn't get a majority as easily as if you designate for the two- and three-year term. If it is the sense of the floor

that they want to sit and ballot all morning and afternoon and night, that is all right.

THE CONVENTION: Let's go.

CHAIRMAN SNYDER: The Elections Committee would like to ask your opinion on this: in the case of First Vice President and Treasurer, that ballots be cast together at the same time for those two offices rather than make a separate ballot for Treasurer and First Vice President. What is your pleasure?

THE CONVENTION: O. K.

MR. MALAND: I move that be done.

MR. WEISS: I second it.

MR. BLISS: Mr. Chairman, I think that ought to be designated on the ballot.

(The question was called for. The motion was put to vote, and was carried.)

MR. WEISS: Mr. Chairman, as I explained before, I am speaking for a group and not to monopolize time but I find myself in a parallel position in discussing the candidates as my distinguished colleague Mr. McCosker. I say my position is parallel in that I am espousing the cause of a distinguished candidate but there my parallel stops because I obviously lack the flowery oratory of Mr. McCosker and I am compelled, therefore, to appeal to your reason.

MR. MCCOSKER: Do you yield?

MR. WEISS: I do not, sir. I have the floor. In espousing the cause of Mr. Shepard and urging you to vote for John Shepard, 3rd, of this organization, I want to state definitely that I have the utmost respect for his distinguished opponent, Ike Levy. As a matter of fact, I concur in the many complimentary things said in the session which lasted most of all yesterday and even concur in the complimentary things Mr. Levy said about himself.

My purpose in urging the cause of John Shepard—I want to say this without trying to be funny or trying to cast any reflection on Mr. Levy! I am not questioning Mr. Levy's ability to serve this organization with distinction and ability but I believe because of the things that were said (and many of them unquestionably were an injustice to Mr. Levy) that a greater unanimity of support and a feeling on the part of all the stations that I have talked to on this subject, repeating again the emphasis that was given yesterday for the need of selecting officers behind whom a great majority of the membership could be rallied and be prompted to support, because of that and that only, I strongly recommend that you support Mr. Shepard.

ISAAC D. LEVY: Mr. Chairman, may I have the floor just a moment?

If you decide you want somebody else for Treasurer, it's all right with me and I say to you, John Shepard, if you are elected, I'll be the first to congratulate you and will make a motion that it be unanimous.

But, I say there is only one question here and I won't be steered from it. I don't care for the office of Treasurer but you are going to tell me by your vote one thing—do you want me to carry on this copyright fight?

It has been suggested that I be made Copyright Committee chairman. I say to you now and I hope you believe me, despite what Mr. Weiss says, that I know and have no hesitancy in saying that there is no man in this organization that knows copyright as I do. (Applause.)

And, I say to you, I don't care for the office. You will relieve me of an awful lot of work if you do not elect me. But, you will tell me by your vote just one thing—shall I carry on or not!

L. W. McDOWELL (KFOX, Long Beach, California): I think we have been laboring under misconception before the opening of this convention by highly decorated cartoons and by our magazines of the Fifth Estate, and led to believe we were going to find a worth while prizefight in yesterday's session of the convention. I was rather agreeably surprised to find all the promised fireworks conspicuous by their absence. There was a lot of wholesale discussion. We didn't hear a question not legitimate and not a question but had a thoroughly legitimate answer. There were no questions that stumped anyone.

However, certain speakers in the course of the session intimated that there had been a feeling of a rift, a feeling of dissension. I don't believe so. I believe we have had a closer coordination. We have had a wide variety of interest in NAB in our regional, local and national stations and, naturally, there isn't going to be unanimity of opinion. It isn't unanimity of opinion we want; it is understanding of opinion, appreciating the fact that the other fellow has a legitimate reason for his viewpoint and, therefore, I do not believe there has been any rift in NAB. It is per-

fectly natural that there should be some division of opinion, however.

Also in the course of some of the remarks it has been indicated not only that there has been fireworks but that one of our respected members has been on trial. I think this has been an excellent demonstration of a well known fact, the power of the spoken word over the written word in that it has given us an opportunity to realize our mistakes and as a matter of fact, some of us who have been inclined to raise our eyebrows in question have been somewhat humiliated.

Nevertheless, I do not think it has been a case of anybody being on trial nor of repudiation because by a rising vote of confidence and the adoption of resolution number twenty-four this morning, the convention has expressed its entire confidence in Mr. Levy. We have certainly placed him beyond the question of a doubt in following his duties. Mr. Levy has been exonerated and we are not obligated to place our vote for him but are now in position to exercise the prerogatives of a voter—to vote under no obligation whatsoever!

FRED A. PALMER (WBNS, Columbus, Ohio): I move, Mr. Chairman, that we proceed with the balloting.

MR. BLISS: I second the motion.

(The motion was put to vote, and was carried.)

MR. BUTCHER: Mr. Chairman, before I can vote, I'd like to have the ruling of the Chair. The Chair did not rule as to whether or not Mr. Myers had withdrawn or was still a candidate. I'd like to have that.

CHAIRMAN SNYDER: As far as I know, he is still a candidate. Is that correct?

MR. GILLIN: Mr. Myers is a candidate.

A MEMBER: Would there be any question as to the legality of Mr. Myers' running for two offices on two tickets?

CHAIRMAN SNYDER: No. The Managing Director will read the names of the members who are qualified to vote. Ballots will be distributed. On that one ballot you will vote for the office of First Vice President—C. W. Myers or Gardner Cowles—and for the office of Treasurer—John Shepard or I. D. Levy.

(The ballots were distributed. The voters marked their ballots. As Managing Director Loucks called the roll by stations, the ballots were deposited in the ballot boxes. The Elections Committee retired to count the ballots.)

(President Ward took the chair.)

PRESIDENT WARD: Gentlemen, while we are getting some difficulties regarding the elections report straightened out and in order to conserve time, I have some invitations and greetings. First a telegram from Frank A. Blair, President of the Proprietary Association:

"The Proprietary Association comprising manufacturers of eighty per cent. of all package drugs in the United States greets the National Association of Broadcasters and extends its best wishes for a successful convention. To help radio stations in deciding problems of advertising of package medicines we offer the services of our Advisory Committee on Advertising, Edward H. Gardner, Executive Secretary and our Scientific Section, Dr. G. F. Reddish, Chairman. Advisory Committee on Advertising aided by outstanding scientific experts familiar with problems of industry and requirements of Government has in eleven months operation reviewed copy and continuities for all types of manufacturers whose annual advertising appropriations total more than forty million dollars. This committee has cooperated closely with all types of media in clarifying problems on medical copy. Our Scientific Section is using cooperatively extensive laboratory facilities of our membership to determine technical issues involved in advertising. These resources are placed without charge or obligation at the disposal of your members."

An invitation from the International Radio Club signed by the President, Jack Rice:

"For five years the International Radio Club has been indebted to the broadcasters of the United States for their splendid spirit of cooperation in developing good will between communities and countries and we have in our own way tried partially to repay the broadcasters in extending to them each year an invitation to participate in our Annual International Radio Parties in Florida.

"This year, in order to augment the international aspect which has been the theme of the Radio Party in the past, we have selected Havana, Cuba, as the place to hold the Sixth Annual International Radio Party on December 9, 10 and 11, 1935.

"We are happy indeed to extend to the NAB members and their wives a most cordial invitation to attend the Radio Party in Havana. As usual, our invitation includes hotel accommodations, meals,

entertainment, refreshments,, etc., and transportation between Miami and Havana.

"The International Radio Club is composed of broadcasters throughout the United States, Canada and Latin American Countries and we trust that the Radio Party in Havana will be a further demonstration of the development of good will through the facilities of radio broadcasting."

I have here a telegram:

"It is with great pleasure that I extend a most cordial invitation to you and associates to attend the sixth annual international radio party in Havana next December. President Mendieta would be delighted with your acceptance, granting audience during party. Juan Sabates, President, Tourist Commission."

Another telegram which should be of interest:

"I have been appointed to wire you that the Bacardi Company will heartily cooperate with the Cuban Tourist Commission in assuring the biggest success of the Sixth Annual International Radio Party and a pleasant stay in Havana to all. Best regards. Rafael Valiente."

I have a letter here from the Governor of Minnesota, Hon. Floyd B. Olson:

"It gives me great pleasure, as Governor of Minnesota, to extend to your Association an invitation to hold your 1936 convention in the State of Minnesota. Your associates here will gladly make every arrangement for the success of your convention and the pleasure of those who attend.

"The State of Minnesota will be honored by your presence, and a cordial welcome awaits you."

I have here letters from the Mayor of St. Paul and the Secretary-Manager of the Convention Department of the St. Paul Association of Commerce which I shall not read at this time since our time is limited. These invitations as well as the others are being referred to the Board.

I have here a telegram from Pittsburgh:

"Pittsburgh wishes National Association of Broadcasters a most enjoyable and profitable convention at Colorado Springs. We earnestly request your serious consideration of Pittsburgh as ideal 1936 meeting place. You are assured of our cooperation and a hearty welcome in Pittsburgh. Cordially, R. K. Christenberry, President, Pittsburgh Convention and Tourists Bureau."

I have here a telegram and a nice folio from the Mayor of Atlantic City, the President of the Chamber of Commerce of Atlantic City and the President of the Convention Bureau, and certain facts and pictures pertaining to Atlantic City, in which they extend a hearty invitation to hold our next convention there. These will be referred to our Board.

I now want to take this opportunity to extend the sincere thanks of the Association to Mr. and Mrs. Gene O'Fallon, the co-chairmen respectively of the Local Convention Committee and the Ladies Committee on arrangements here at Colorado Springs. I am sure we were royally entertained and a vote of thanks is due Mr. and Mrs. O'Fallon. (Applause.)

(Mr. Snyder took the chair.)

CHAIRMAN SNYDER: The ballots for the two offices you voted on are now being counted. Because of the complication of one man being candidate for another office, we can't proceed until that count is completed.

In voting for directors, we will vote first for three-year and then for two-year. Anybody that wants to do so can be making out his ballot. There are nine candidates for the three-year term. I will ask Mr. Gillin to read that and explain it to you.

MR. GILLIN: Gentlemen, here are the candidates for the three-year term: J. Truman Ward, Joseph O. Maland, Charles W. Myers, Steve Cisler, Thomas W. Symons, Edwin W. Craig, Ralph Brunton, W. W. Gedge and Stanley Hubbard. There are nine candidates for the three-year term directorship and there are to be elected from these nine, five directors.

For the two-year term directorate, there are five candidates. They are as follows: Lester Cox, Donald Flamm, Ralph Brunton, John Elmer and Edward K. Cargill.

The first ballot taken on the directorship will be on the three-year term directors. You will vote for five out of the nine candidates. On a subsequent ballot, you will vote for the two-year director.

C. W. HAYES (WHBC, Canton, Ohio): Why can't we vote on one ballot?

MR. GILLIN: You can't because of Brunton.

MR. CHAMBERLIN: Do we vote on two separate ballots and in separate boxes at the same time?

MR. SHEPARD: If you did, you might elect the same man for the two- and three-year term.

MR. GILLIN: That is why we have to take a separate ballot, just as we had to wait for the counting over of the other ballot so we can be assured about the gentleman running for two offices—First Vice President and director.

(President Ward took the chair.)

PRESIDENT WARD: While we are waiting, I want to show you this folder which is very, very beautiful from the City of San Francisco with the statement, "In 1938 San Francisco, California, will hold an International Exposition celebrating the completion of the two great bridges across San Francisco Bay." This Association has been formally invited to hold its convention in San Francisco at that time by Governor Merriam, Mayor Rossi and others of the Convention Bureau Department. Their reason for extending it now although the invitation is not until 1938 is obvious because of the International Exposition but they wanted to get it in now as a matter of record. It will be referred to the Managing Director for reply and turned over to the Board at the proper time.

Gentlemen, I have been asked to state that inadvertently in thanking the hotel here for their courtesy and hospitality, the name of Mrs. Elliott, Manager of the Colorado Springs Chamber of Commerce, who assisted in our registration, was left off and we would like to have it a matter of record that her name be included. All in favor, say "aye"; opposed, "no."

(The vote was to include the name of Mrs. Elliott.)

PRESIDENT WARD: Gentlemen, we are now ready for the report of the Elections Committee for the election of First Vice President and Treasurer.

MR. SNYDER: Gentlemen, the Elections Committee has made their count for the offices of First Vice President and Treasurer with the following results;

First Vice President:

Total votes cast.....	188
Myers	97
Cowles	91

You have elected Mr. Myers.

MR. COWLES: I move that the election of Mr. Myers be made unanimous.

(The motion was seconded by several. The motion was put to vote, and was carried.)

MR. SNYDER: For Treasurer:

Total votes cast.....	191
Levy	108
Shepard	83

You have elected Mr. Levy.

MR. SHEPARD: I'd like to move that the election of Mr. Levy be made unanimous.

(The motion was seconded by several. The motion was put to vote, and was carried.)

PRESIDENT WARD: We are satisfied with the work of the Elections Committee so far and they may be dismissed from that job.

Now we proceed with the election of Directors. There have been certain changes in this slate. I will turn the chair over to Mr. Gillin to explain that.

(Mr. Gillin took the chair.)

CHAIRMAN GILLIN: Gentlemen, due to the fact that Mr. Myers is elected First Vice President, he automatically is eliminated from the nominees for directorships for the three-year term. At this time I believe that Mr. Brunton wants to be recognized.

RALPH R. BRUNTON (KJBS, San Francisco, California): Owing to the fact that my name appears on the two tickets for the two-year term and the three-year term, I wish to withdraw from the three-year term and be only on the two-year term ticket.

CHAIRMAN GILLIN: Mr. Brunton has withdrawn his name from the three-year term list of nominees and will remain on the two-year term list.

MR. TAYLOR: Mr. Chairman, is that in order without the consent of this body? You made Myers run. Can he withdraw without the consent of his nominator?

CHAIRMAN GILLIN: I think it would be well for Mr. Brunton to get the consent of the man who nominated him.

MR. BRUNTON: I don't know who nominated me. I didn't know until this morning that I had been nominated and I don't know who did it.

CHAIRMAN GILLIN: I think the only way we can do this, as long as Mr. Brunton does not know the name of the gentleman who nominated him, is to get the consent of this body that he may

withdraw from the three-year term slate and I will at this time entertain a motion to that effect.

MR. HUBBARD: I don't see how you can do that. I happen to know something about the nominations and know that those nominations are from five groups.

CHAIRMAN GILLIN: Well, Mr. Hubbard, the only thing is this: Mr. Brunton was nominated on both tickets but Mr. Brunton wants to facilitate the voting so that we will not be here all afternoon.

MR. HUBBARD: I don't care—but I don't see how you can do it.

MR. TAYLOR: Mr. Chairman, I move that Mr. Brunton's name be withdrawn from the two-year list, that is, with his consent.

CHAIRMAN GILLIN: Mr. Brunton has requested that his name be removed from the three-year list. Now you want him to withdraw from the two-year list?

MR. TAYLOR: As one of his many nominators, I would consent to his withdrawal from the other ticket.

CHAIRMAN GILLIN: From the two-year term?

MR. BRUNTON: My only thought was so that we wouldn't be tied up and whichever the convention desires, the two-year term or the three-year term, it will be satisfactory to me.

(The motion was seconded by several.)

CHAIRMAN GILLIN: Gentlemen, the motion is that Mr. Ralph Brunton's name be withdrawn from the nominees for the two-year term directorship.

(The question was called for. The motion was put to vote, and was carried.)

CHAIRMAN GILLIN: That, gentlemen, makes it very easy to continue the election and vote for five directors for the three-year term and one director for the two-year term.

The three-year term candidates are: J. Truman Ward, Joseph O. Maland, Steve Cisler, Thomas W. Symons, Edwin W. Craig, Ralph Brunton, W. W. Gedge and Stanley Hubbard. You vote for five of these candidates which have just been named to you for three-year term directorship.

Now, on the same ballot you will vote for one candidate for the two-year term directorship. The two-year term candidates are as follows: Lester Cox, John Elmer and Edward K. Cargill. I have not received any report from Donald Flamm.

DONALD FLAMM (WMCA, New York, N. Y.): Mr. Chairman, my name has been included on the list of directors for the two-year term. In view of the fact that two of my associates are included in that group and in view of the fact that I have a great appreciation for their ability and have no desire to enter into any contests that would involve opposition to those gentlemen, I request that my name be withdrawn as a candidate for director for the two-year term.

CHAIRMAN GILLIN: Have you the consent of the man who nominated you?

MR. FLAMM: I don't know who nominated me.

CHAIRMAN GILLIN: Well, the only thing that can be done is put it up to the body. Donald Flamm of WMCA has requested that his name be withdrawn from the two-year term list of candidates. At this time I'll entertain a motion to that effect.

MR. WYLER: I'll make that motion.

(The motion was seconded by several. The motion was put to vote. The vote was in doubt.)

CHAIRMAN GILLIN: The only thing I can do is call for a rising vote.

(The motion was put to rising vote. The vote was, for, 59; against, 25. The motion was carried.)

CHAIRMAN GILLIN: Mr. Flamm's name is withdrawn from the list of two-year candidates.

The two-year term candidates are Lester Cox, John Elmer and Edward K. Cargill.

The three-year term candidates are J. Truman Ward, Joseph O. Maland, Steve Cisler, Thomas W. Symons, Edwin W. Craig, Ralph Brunton, W. W. Gedge and Stanley Hubbard.

You vote for five men listed as candidates for the three-year term directorship and you vote for one man listed for the two-year term—on one ballot. And, gentlemen, I want to tell you something else: in order for your ballot to be official, it must be on the official ballot that is handed to you.

(The ballots were distributed.)

CHAIRMAN GILLIN: Gentlemen, in order to expedite the work of the counting board, it has been suggested that you vote for six and not take time to label them three-year term or two-year term. They will know who the candidates are for the three-year term and the two-year term.

MR. CRANEY: We could put a line between.

(Announcements.)

(The voters marked their ballots. Managing Director Loucks proceeded to call the roll by stations, the voters depositing their ballots in the ballot boxes.)

CHAIRMAN GILLIN: Gentlemen, there seems to be some misunderstanding on the floor that you are only voting for the three-year term. You are not only voting for the three-year term but for the two-year term on the same ballot. You are voting for five candidates for three years; you are voting for one candidate for two years.

(The balance of the ballots were cast. The Elections Committee retired to count the ballots.)

(President Ward took the chair.)

PRESIDENT WARD: It has been suggested since it will take approximately one hour to count the votes, that we recess. We will come back at 3:00 o'clock for announcement of the vote and also for installation of officers.

(The meeting adjourned at 1:45 o'clock.)

JULY 10, 1935

Wednesday Afternoon

The meeting convened at 3:00 o'clock, President Ward presiding.

PRESIDENT WARD: We will have the result of the election this morning. Mr. Palmer.

MR. PALMER: There were 158 ballots cast. It, therefore, requires 79 votes to elect.

Craig	138
Brunton	129
Symons	123
Gedge	86
Maland	86
Hubbard	85
Ward	82
Cisler	37

Now that is for the three-year term and according to the rules and regulations, the first five are elected.

Now, for the two-year term, we have a difficulty. It requires 79 to elect. Cox has 62, Elmer 56, and Cargill 29. I doubt if there is a quorum left in this hotel and it requires 79 to elect. Therefore, the Elections Committee would appreciate your advice and counsel. There were some that voted for the three-year term that did not vote for the two-year term.

(Informal discussion.)

WILLIAM S. HEDGES (NBC New York, N. Y.): It seems to me that this convention has failed to elect a director for the two-year term and, therefore, it becomes the duty of the board of Directors to fill the vacancy.

MR. PALMER: Mr. Hedges' suggestion is what we will have to do. As I understand your rules and regulations, you must have a majority of the ballots cast. And, in order to have a run-off vote, we would have to have quorum.

EARL ANTHONY (KFI, Los Angeles, California): There is an easier way. Any of these boys can turn his votes over.

(Informal discussion.)

MR. HUBBARD: I move it be left to the Board, to make that as a recommendation.

(The motion was seconded by several, was put to vote, and was carried.)

PRESIDENT WARD: The next on the program is the installation of officers.

MR. SPENCE: I move they be considered installed.

I. R. LOUNSBERRY (WGR, Buffalo, N. Y.): I second the motion.

(The motion was put to vote, and was carried.)

(The meeting adjourned at 3:15 o'clock.)

ADJOURNMENT SINE DIE.



The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

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CRAVEN SUCCEEDS JOLLIFFE

Lieutenant Commander T. A. M. Craven has been named by the Federal Communications Commission as chief engineer to succeed Dr. C. B. Jolliffe who resigned November 15 to accept a position with RCA.

Commander Craven was born January 31, 1893, in Philadelphia, Pa. After completing his academic training, he was appointed to the U. S. Naval Academy, Annapolis, where he was graduated with the Class of 1913.

His first assignment after graduation was as Radio Officer on the U. S. S. *Delaware*, 1913-1915, during the Mexican Campaign. His professional duties since then follow:

Fleet Radio Officer, U. S. Asiatic Fleet, 1915-1917.

In charge U. S. Naval Coastal and Transoceanic Radio Operations, 1917-1920.

U. S. Naval Representative at Provisional Inter-allied Communication Conference at Paris, France, 1919.

Naval Representative on U. S. Government Inter-Departmental Board to arrange for collection and distribution of meteorological data in 1919.

Received special letter of commendation for meritorious service during the World War.

U. S. Naval Radio Technical Adviser at International Conference on Electrical Communication at Washington, 1920.

Chairman of sub-committee on wave-length allocation at International Conference at Washington, D. C., in 1920.

Battleship Force Radio Officer, 1921.

U. S. Naval Representative at Conference of Radio Technical Committee on International Radio Communication at Paris, France, in 1921.

Fleet Radio Officer, U. S. Atlantic Fleet, 1921-1922.

Fleet Radio Officer, United States Fleet, 1922-1923.

In charge of Radio Research and Design Section, Bureau of Engineering, 1923-1926.

Member of Inter-Departmental Radio Advisory Committee.

Radio Technical Adviser for Radio Frequency Allocation at International Radio Conference, Washington, D. C., 1927.

Received letter of commendation from Secretary of Navy for work at the International Radio Conference in Washington, D. C., 1927.

Represented Navy Department on various national conferences (frequency allocation).

He resigned from the Navy in 1930 to engage in private radio practice as a consulting engineer.

His work as an author:

Commander Craven has made notable contributions to radio development in his writings. Among other things he collaborated with Captain Hooper in writing Robinson's Manual of Radio Telegraphy and Radio Telephony.

Various technical essays on Naval Radio Communications.

He is a member of the following clubs and societies:

U. S. Naval Institute.

Ends of the Earth.

Military Order of the Loyal Legion of the U. S.

Army, Navy and Marine Corps Country Club.

Kilocycle-Wave Length Club.

COAXIAL CABLE HEARING

Announcement has been made by the Federal Communications Commission that it will hold a hearing on January 6 in connection with the commercial and other aspects of the application of the American Telephone & Telegraph Company and the New York Telephone Company, for permission to lay a coaxial cable between New York and Philadelphia to be used for television work. The hearing on the experimental phase was held this week.

WATCH FOR MR. KING

Association headquarters has a communication from one of the Nebraska members telling how it was victimized by a man going under the name of William P. King, who represented himself to be a tailor.

"Mr. King" appears to be about 35 years of age, slightly built, and rather poorly dressed.

NAB REJECTS BERRY INVITATION

The Board of the NAB has rejected the invitation of Major George L. Berry, Coordinator for Industrial Cooperation to represent the broadcast industry at the industrial-labor conference to be held in this city beginning December 9.

Following is the letter, dated November 22, sent to Major Berry which is self explanatory:

"This is in further reply to your letter of October 9 extending to the radio broadcasting industry an invitation to participate in round-table discussions for the purpose of conferring upon the advisability of developing a permanent structure, contemplating the furtherance of prosperity and stability in our industrial life, and acknowledgment of the receipt of your letter dated November 7.

"It seems quite clear from the letters received from you that the purpose of these round-table discussions is to prepare a program and determine upon a course of action which shall result in a re-establishment, by legislative enactment, of all or a part of the Codes of Fair Competition which were approved in pursuance of the provisions contained in the National Industrial Recovery Act. We, therefore, approach the question presented in the light of our experiences in the administration of the Code of Fair Competition for the Radio Broadcasting Industry. Without attempting to discuss here the many phases of code regulation, we are convinced that the highly competitive character of the radio broadcasting industry must not be destroyed. We regard it as practically impossible to adopt any regulation governing hours, wages and prices which will not set a standard that will be oppressive to many members of our industry and prejudicial to the best interests of all our employees. We are confident that the problems related to your undertaking in so far as the radio broadcasting industry is concerned can be best met by giving due consideration to each problem separately and giving due weight to the conditions and circumstances surrounding it without regard to any common denominator for the industry as a whole.

"We regret to say we cannot accept your invitation."

RECOMMENDS NEW JERSEY STATION GRANT

The Eastern States Broadcasting Corporation filed an application with the Federal Communications Commission asking for a construction permit to erect a new broadcasting station at Bridgeton, N. J., to use 1210 kilocycles, 100 watts power, and daytime operation.

Examiner Ralph L. Walker, in Report No. I-137, recommended that the construction permit be granted. He found that the applicant is in all ways qualified to construct and operate the proposed station; that there is need for additional daytime service in the area proposed to erect the station; and "that the only objectionable interference resulting from the operation of the proposed station will be within a radius of one-half mile of the transmitter, wherein the population is less than 260."

ANOTHER TELEPHONE-RADIO CASE

The Telephone Division of the Federal Communications Commission has announced that a hearing will be held at Jefferson City, Mo., on December 13 in connection with whether the Capital City Telephone Company, Jefferson City, Mo., is under the jurisdiction of the Commission or not. The case is similar to that of the Rochester Telephone Company, Rochester, N. Y., announced in these columns last week, in which the Commission seeks to take jurisdiction because the company furnishes wire service to broadcasting stations.

In the Capital City case the Telephone Division says that the scope of the hearing shall include, " * * * in addition to the question of control, any and all facts and matters relevant to the extent of the jurisdiction of this Commission over the Capital City Telephone Company, including the furnishing of facilities and services, if any, to broadcasting stations for broadcast purposes."

RECOMMENDS NEW TEXAS STATIONS

The Federal Communications Commission received applications from four companies in Texas all asking for a construction permit for the erection of a new station. All asked for 1500 kilocycles, 100 watts power, and daytime operation. The applications were from the Big Spring Herald Broadcasting Company to erect a station at Big Spring, Texas; from the A. B. C. Broadcasting Company, to erect a station at the same place; from the Plainview Broadcasting Company to erect a station at Plainview, Texas; and from the North Texas Broadcasting Company to erect a station at Paris, Texas.

Examiner John P. Bramhall, in Report No. I-138, recommended that the application of the Big Spring Herald Company be granted "on condition that an antenna be erected which complies with the standards of the Engineering Department of the Commission." He recommended that the application of the A. B. C. Broadcasting Company be denied and that of the Plainview Broadcasting Company be "dismissed with prejudice." He also recommended that the application of the North Texas Company be granted "on condition that the antenna be established on a site which complies with the standards of the Engineering Department of the Commission."

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Securities & Exchange Commission under the Securities Act:

- Automatic Products Corporation, Chicago, Ill. (2-1758, Form A-1)
- WJR, The Goodwill Station, Detroit, Mich. (2-1759, Form A-2)
- United Wholesale Druggists of Boston, Inc., Wilmington, Del. (2-1761, Form A-1)
- Bell Aircraft Corporation, Buffalo, N. Y. (2-1762, Form A-1)
- International Carriers, Ltd., Jersey City, N. J. (2-1763, Form A-1)
- Interstate Bond Company, Atlanta, Ga. (2-1765, Form A-2)
- Gordon Baking Company, Detroit, Mich. (2-1766, Form A-2)
- W. B. Jarvis Company, Grand Rapids, Mich. (2-1767, Form A-2)
- Minnie Moore Mine Development Co., Wallace, Idaho. (2-1769, Form A-1)

SUES STATION FOR DEFAMATION OF CHARACTER

What is supposed to be the first case of its kind has come to the attention of NAB in a letter from Station KFJI, Klamath Falls, Ore. Because of its unusual character the letter is given in full as follows:

"About ten days ago this station, together with three other defendants, was sued for \$75,000 by Mrs. John Irwin of this city for 'defamation of character.' We believe this is probably the first time that a damage suit of this type has been brought against a radio station, and thought perhaps the conditions leading up to it might be of interest to the Association and its members.

"In May of this year, a murder trial was in progress in Klamath Falls, wherein one, Marion Meyerle, was being tried for the murder of Lawrence Lister. The trial had created a great deal of interest in the city and county, and during the course of the trial, KFJI maintained a reporter in the court room constantly and gave four news stories a day on the progress of the trial.

"One of the state's witnesses, Mrs. John Irwin, was the most damaging witness in the case, and her testimony, if the jury had believed it true, would have no doubt convicted the alleged murderer. During the cross examination of Mrs. Irwin, the defense attorney brought out her admission that she had been a user of narcotics for ten years. It was also very apparent from her actions on the witness stand that she was then possibly under the influence of drugs.

"All of the testimony, as given during the course of the trial, was broadcast in resumé form over the station, and when court recessed, just before the closing argument to the jury, the station asked permission of the district attorney, the defense attorney, and the presiding judge to place our microphone on the bench and broadcast the complete arguments to the jury as given by the state's attorney and the defense attorney.

"This permission was granted by the attorneys and the judge, and the microphone was installed and the entire arguments broadcast. In the argument given by the defense attorney, the statement was made relative to the testimony of Mrs. Irwin that she was a dope fiend and other defamatory remarks. Of course it was up to the defense attorney to discredit her testimony as much as possible and he did so in very strong language.

"Mrs. Irwin is now suing the defense attorney, David Vandenburg, the Circuit Judge, Hon. E. B. Ashurst, George Kincaid, Manager of KFJI, and KFJI Broadcasters, Inc., in the sum of \$75,000 for alleged 'defamation of character'."

RECOMMENDATIONS ON IOWA AND NEBRASKA STATIONS

Broadcasting Station KMA, Shenandoah, Iowa, applied to the Federal Communications Commission for unlimited time on its present frequency of 930 kilocycles, requesting the facilities of KGBZ, York, Nebr., with which it now shares time; KGBZ asked for license renewal; KGBZ, also operating on 930 kilocycles, sharing time with KMA, asked for full time, requesting the facilities of KMA, while KMA also asked for license renewal.

Examiner George H. Hill, in Report No. I-136, recommends that the application of KMA for both license renewal and facilities of KGBZ be granted and that the application of the latter station for both license renewal and modification be denied. The Examiner states that the application of KMA would serve the public interest but that "the showing with respect to the financial condition of the applicant, KGBZ Broadcasting Company, is unsatisfactory." In this latter connection the Examiner further states that "there are several suits pending against Dr. George R. Miller and the applicant KGBZ Broadcasting Company."

RECOMMENDS FREQUENCY CHANGE FOR KGHL

Several broadcasting stations applied to the Federal Communications Commission to have their frequencies changed to 780 kilocycles. Among these were KDFN, Casper, Wyo., from 1440 to 780 kilocycles; KGHL, Billings, Mont., from 950 to 780 kilocycles; KSOO, Sioux Falls, S. D., from 1100 to 780 kilocycles; KXL, Portland, Ore., from 1420 to 780 kilocycles; and KEHE, Los Angeles, Cal., now operating on 780 kilocycles and sharing time with KELW, asking that it be granted the facilities of that station.

Examiner P. W. Seward, in Report No. I-139, recommended that the application of Station KGHL be granted and that all of the other applications be denied.

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2624. Alleging unfair competition in the sale of men's ready-made clothing, a complaint has been issued against **Carlo Van Myers, of New York City**, trading also as **North American Clothes Co., National Brand Clothes Co., Sartorial Art Clothes Co., and Society Bond Clothes Co.**

Among representations alleged in the complaint are assertions that the clothing offered for sale is all wool, or a fine quality;

that it will be made-to-measure, or tailor-made; that two garments are offered for the price of one; that extra trousers will be furnished without extra charge, and other representations.

No. 2625. A complaint has been issued against **Richard B. Yancey and Mrs. E. Y. Council, of Salisbury, N. C.**, alleging unfair competition in the sale of chinaware, earthenware and other pottery. The respondents are said to have traded under the names of **International China Company and Baker Pottery Company.**

In their business as jobbers, the respondents, according to the complaint, have sold products made for them by manufacturers in Tennessee, Ohio and Virginia, through the agency of traveling salesmen. These salesmen are alleged to have represented that the products in each assortment were of one design and grade, and that the quality and marking of chinaware was the same as indicated by the sample or picture shown the customer; that the fine quality samples shown customers had been made for a china store and that a few sets only had been left over and were being offered as "deals"; that the goods offered were marked as "odds and ends" only because it was necessary to obtain reduced freight rates, and that the use of the words "odds and ends" had no other significance.

No. 2626. False and misleading advertisements in the sale of cosmetics is alleged in a complaint issued against **E. S. Bergholt, of Cincinnati**, trading as **Marilyn Louise Cosmetics.**

Among false and misleading representations alleged, are the following: That it is impossible to purchase cosmetics of the same high quality as the respondent offers for sale because "they simply aren't sold or even manufactured," and that the respondent's sales plan is one "whereby your agents pour gold into your pockets simply by giving free facials to their friends and relatives."

No. 2627. **Tissue Brands, Inc., of New York City**, manufacturer of medicated cleansing tissue, is charged with unfair methods of competition in a complaint. **Albert H. Arnstein and Belmont Corn**, who operate the business, are also named respondents.

Selling in interstate commerce a product named "Sankerchief", made from paper and impregnated with various medicaments commonly used in treating colds, the respondents advertised their product as "A handkerchief that relieves colds because it is mentholated." It was also advertised as affording instant relief to sufferers from colds or hay fever.

No. 2628. **Dallas E. Winslow, Inc., of Detroit**, trading as **Durant Motor Car Company**, has been served with a complaint charging unfair competition in the sale of parts and accessories.

Use of the trade name "**Durant Motor Car Company**" has a tendency to deceive purchasers into believing that the respondent is the Durant Motor Company or its successor, according to the complaint. The court decree of February 26, 1932, ordering the sale of the Durant Motor Company's assets, did not authorize the receiver to convey to the purchaser thereof the good-will or name of the Durant Motor Company, nor did the bill of sale executed by the receiver convey such good-will or right to use the name.

No. 2629. Alleging unfair competition in the sale of cosmetics and toilet articles through use of a prize puzzle scheme, a complaint has been issued against the **Sterling Company, of Des Moines, Iowa**, **Don Parmelee**, its president, and **Paul H. Williams and Sibley F. Everett**, who, with Parmelee, own and control the company.

Through the medium of a so-called Sterling Prize Club, of which Parmelee is manager, the respondents have sold their products, according to the complaint, presenting its scheme and its prize contests to the public through advertisements in newspapers, trade journals, house organs and particularly in leaflets and sheets of paper made to resemble newspapers. The respondents are also said to have employed radio broadcasting.

No. 2630. Misrepresentation of its own and disparagement of competitors' products are alleged in a complaint against **Clopay Corporation, of Cincinnati**, manufacturer of oiled cellulose pulp-backed or paper-backed products designated "Fabray", and consisting of shelving, window shades, table covers, as well as "Fabray" in rolls.

Competing with manufacturers of oilcloth and cloth window shades, the respondent company is alleged to have advertised "Fabray" as "the fiber-backed oilcloth," and that "in numerous exacting laboratory tests, Fabray revealed wearing qualities as great or greater than ordinary oilcloth," and was "wash-proof," "fray-proof" and "crack-proof."

No. 2631. Improper use of the word "university," constituting unfair competition, is alleged in a complaint against **Jefferson Educational Company**, trading as **Boyd Business University, Washington, D. C.**

This school is not a university, and the respondent does not

conduct an educational institution, or extension thereof, organized for teaching and study in the higher branches of learning, nor has it authority to confer degrees in such branches, the complaint alleges.

No. 2632. The **Cummer Products Company, of Bedford, Ohio**, has been served with a complaint charging unfair competition in the sale of its cleaning fluid, "Energine."

The complaint says this cleaning fluid was and is represented as leaving no odor, mark or stain, and as a perfect dry cleaner. The complaint alleges that in fact the use of "Energine" on fabrics dyed with certain kinds of dyes, such as non-fast or fugitive dyes, does affect the colors by causing them to "bleed" or "run," and also produces and leaves a ring, spot or mark, and that the fabrics are injured by the use of the product.

No. 2633. Alleging misrepresentation in the sale of coin vending machines, a complaint has been issued against **Roy Stringer Company, Ltd., of 621 North Noble Street, Indianapolis**, a dealer.

Among unfair practices charged are the use of false and misleading advertising and a fraudulent sales plan. Contracts or orders entered into with purchasers under this plan are, according to the complaint, in such vague and ambiguous language that a legal interpretation would reveal no contractual obligations on the part of the respondent.

No. 2634. A complaint has been issued against **Kienzler Distilling Corporation, of New York City**, alleging unfair competition through representation of a wholesaler and rectifier of liquor as a distiller.

Use by the respondent company of the word "Distilling" in its corporate name and in other ways, had a tendency to deceive dealers and the purchasing public into believing the respondent to be a distiller, manufacturing or distilling spirituous beverages, when in fact it was not a distiller, according to the complaint.

No. 2635. Misuse of the term "mills" is alleged as an unfair method of competition in a complaint issued against **Max Kipperman and Samuel Orenstein, of 36 West 32nd Street, New York City**, trading as **Samac Knitting Mills.**

The complaint says that in addition to using the words "Knitting Mills" in their trade name, when the firm is engaged only in the jobbing of goods, the respondents print on letterheads and invoices the words "Manufacturers of Sweaters and Knit Goods." The complaint points out that the respondents do not knit or manufacture the products they sell, and do not own or control a factory in which such goods are knitted or manufactured, but fill orders with material knitted or manufactured in mills which they do not own.

No. 2636. Improper use of the word "chamois" in the sale of leather products is alleged in a complaint against **Joseph H. Seld, of Gloversville, N. Y.**, trading as **Seld Leather Company.**

The respondent is alleged to have described certain products as "Pigskin Chamois," "Chamois, Rose Brand," and by other names, when in fact, according to the complaint, the products were not the skin of the chamois antelope or the oil-tanned skin of the sheep, but were articles manufactured from pigskin, peccary, carpincho, and skins other than oil-tanned sheepskin or the chamois antelope. The complaint says they have the general appearance but not the peculiar qualities or properties of articles known to the public and trade and properly designated as chamois.

Stipulations

The Commission has announced the following cease and desist orders:

No. 0961. **Columbian Correspondence College, Washington, D. C.**, selling courses for civil service examinations for government positions, agrees to stop making various representations in the sale of its courses. Among these is the assertion that a representative of this correspondence school was called by the Federal Trade Commission as an expert witness because his advertising complied with all the requirements of high class publicity, and that the business conducted by the respondent has a capital of \$100,000 or any other amount in excess of the reasonable value of its capital invested. Among other representations to be discontinued is the assertion that one or more former students of this school will usually be found in any government office or railway mail car. The respondent also agrees to stop publishing in its catalogs, or otherwise, purported information regarding civil service examinations which have been discontinued by the Civil Service Commission.

No. 0962. **National College of Massage and Physio-Therapy, Inc., Chicago, Ill.**, agrees to cease advertising that "some of the results obtained by electro-therapy border on the miraculous," and that "rachitic children, given up to die, have developed into

normal human beings through its effectiveness." The respondent also agrees to stop advertising that electro-therapy forces paralysis to yield; is a competent remedy in the treatment of rectal, kidney, heart, or certain other ailments, and that massage, either Swedish or otherwise, is a competent remedy in the treatment of tuberculosis, chronic appendicitis and St. Vitus Dance.

No. 0963. The 5000 Company, Rockford, Ill., selling a graphite lubricant called "Clauson's 5000," agrees to cease representing that scores of men are accepting the sales opportunity offered by the respondent and are turning it into cash, and that prospective agents or dealers can or will earn any definite amount the first day, and other similar representations.

No. 0964. Karnack Ambrosia Company, Scranton, Pa., selling a medicine called "Lekotoria," agrees to stop representing it as the most beneficial medicine for "many common ailments" and as a competent treatment or effective remedy for a list of twenty-five diseases including stomach trouble, liver trouble, asthma, pneumonia and others.

No. 0965. Partole Products Co., Chicago, Ill., selling "Partoherb," stipulates that it will stop advertising the product as "world famous" and as "being used by millions of homes where it has brought health and happiness." This last assertion is to be discontinued until the respondent shall furnish proof that the preparation is actually used in millions of homes. Other representations of the powers of "Partoherb" will be discontinued, according to the stipulation.

No. 0966. Pine Brothers, Inc., Philadelphia, selling "Pine Brothers' Glycerine Tablets" and "Orasol," agrees to cease advertising that the glycerine tablets will stop coughing instantly, and are the oldest, quickest and surest relief for coughs, colds and throat infections. The company also agrees to stop representing that Orasol is an antiseptic and is more active and effective than any other mouth wash, breath purifier, cough drop or gargle.

No. 0967. George D. Arnold, of Chicago, trading as Admiral Arnold and as Lona Publishing Company, and selling astrological guides, horoscopes and character analyses, will discontinue alleging that by use of its astrological guide a person may find the information he has been seeking, or that in the astrological guide the science of astrology has been brought to a point where it may be used in everyday life. Other similar representations, such as that the astrological guide will tell one whom to marry, when to marry, when to seek employment, and what, when or how to do anything, will be abandoned.

No. 0968. Health Products Corporation, of Newark, N. J., engaged in selling "Feen-A-Mint," called "The Chewing Gum Laxative," agrees to cease and desist from representing that "Feen-A-Mint" is the only thing that will relieve constipation troubles satisfactorily, and that it is the most scientifically modern way to get rid of constipation and headaches.

No. 0969. The Wyeth Chemical Company, of New York City, selling "Jad Salts" as a fat reducer or treatment for obesity, agrees no longer to advertise that this preparation will melt fat away and cleanse the system, keeping it clear of waste matter, toxins and depleting poisons. Other assertions in advertising concerning the powers of Jad Salts will also be discontinued under the stipulation.

No. 0970. Pro-Ker Laboratories, Inc., New York City, engaged in selling a treatment for the hair called "Pro-Ker," will stop representing that the preparation is a competent treatment for baldness or any other hair troubles, and that it will replace falling hair or retain the amount of hair on the head at the time the use of the product is begun. It will no longer be advertised that this product makes the scalp vital, healthy, or strong, and creates the perfect hair-growing condition.

No. 0971. New Era Library, Inc., of Racine, Wis., selling a set of books on educational subjects, agrees to cease advertising that these books afford one a chance to get the cultural or practical value of a high school education, or that they provide a short cut to high school or college education, and other representations of like character.

No. 0972. The Musterole Company, of Cleveland, agrees to cease and desist from asserting that its product, "Musterole," will penetrate to the seat of trouble, and prevent chest colds or croupy coughs from becoming serious, or that there is no muscular pain, sore throat or cold too severe for Musterole. It will be no longer advertised that Musterole will ease or relieve any condition within any definite period of time.

No. 0973. Jergens-Woodbury Sales Corporation, Cincinnati, selling facial cream, agrees to cease representing that its products constitute a new or unique protection from the danger of

blemishes, or that they will give the skin the care that makes beauty safe, or change aging dryness to "supple youth."

It will no longer be alleged by this respondent that Element 576 brings directly to the skin vital energy, or such energy as vitamins in food bring to the body, or that Element 576 in Woodbury's Cold Cream causes the oil glands beneath the skin's outer surface to function better.

No. 1492. W. J. B. Mayor, trading as Mayor Walnut-Oil Company, Kansas City, Mo., and engaged in the manufacture and sale of a hair dye called "Mayor's Walnut-Oil Dye," agrees to stop using the words "Walnut-Oil" as part of his trade name under which to carry on his business, or as a brand name for his product, or in advertisements.

Mayor also stipulates that he will cease employing exaggerated representations, improbable of accomplishment, in his advertising matter, and will cease asserting that the product contains walnut oil and is made from vegetables and oils. He agrees to stop advertising that his product does not conflict with the Pure Food and Drug Act of June 30, 1906, when, according to the stipulation, this is not true.

No. 1493. Todd Fruit Company, Inc., Miami, Fla., selling citrus and other fruits, including boxed and candied fruits, will no longer advertise its product as Indian River products or as being produced or grown in the Indian River region, when this is not true. The respondent agrees also to cease using in advertisements, pictorial representations indicating that boxes or cartons contain more fruit than has actually been packed, and from alleging that its baskets of crystallized fruits contain a quantity substantially more than the actual contents thereof.

The stipulation points out that the term "Indian River," when used to describe the origin of citrus fruits, refers to a territory on the east coast of Florida, along the Indian River. Citrus fruits grown in that section have long enjoyed a reputation for fine quality, and the growers have acquired a valuable goodwill in the term "Indian River" as applied to such fruits.

No. 1494. The Larkin Manufacturing Company, Dayton, Ohio, selling fire protection equipment, agrees to stop using the word "Cooper" in its catalogues, on billheads or otherwise, to describe any fire hose mending device not manufactured by James Cooper or his successors, Cooper Hose Jacket Company, of Los Angeles.

No. 1495. Edward A. Zibell, trading as Kooper Chemical Company, New York City, manufacturing and selling a cleaning fluid called "Must-Kleen," agrees to forego representing that the fluid is "invaluable for the removal of stains" from fabrics, or that it "has no injurious effect on the most delicate material," and to cease using any other representations which imply that the product will remove stains of whatever kind from fabrics, or that the colors of fabrics or materials dyed with non-fast or fugitive dyes will not be harmed by application of this preparation, when, according to the stipulation, this is not true.

No. 1496. Nassour Brothers, Inc., Ltd., Los Angeles, Calif., manufacturing and selling toilet soaps, agrees to discontinue use of the word "Imported" in the sale of its products, in a manner implying that these goods have been imported into the United States from a foreign country, when this is not true; and from employing the words "Olive Oil" to designate preparations the fatty content of which is not composed wholly of olive oil.

No. 1497. The Warren Featherbone Company, Three Oaks, Mich., will no longer employ the words "Silk," "Silk Taffeta," "Satin," "Taffeta" or "Pure Dye" to describe articles not made wholly of silk, the product of the cocoon of the silk worm, according to its stipulations. Provision is made that if any of the articles are composed in substantial part of silk, the foregoing words, if used to describe them, shall be accompanied by other words in equally conspicuous type, representing that the articles contain a product other than silk. This company manufactures a stiffening material called "Featherbone" for use in making women's dresses, and also makes neckwear, frilling ribbons, binding and other accessories used in the women's clothing industry.

No. 2563. The Pyrene Manufacturing Company, of Newark, N. J., has been ordered to cease and desist, in the sale of its Pyrene safety cleaner, from making representations to the effect that this preparation will remove grease spots from all materials to which it is applied, without injury to color or fabric.

The order also prohibits the respondent from using the phrase "no injury to fabric or color," or any other representation of equivalent meaning so as to imply that the fluid may be used on materials or fabrics dyed with non-fast or fugitive colors, without impairing or injuring the colors.

No. 2585. Alfred Mendell, of 8611 101st Avenue, Ozone Park, New York, has been ordered to cease and desist from representing that the brand of candy sold by him and designated as "Fruit Pops" is 100 per cent pure, until and unless it is made entirely of ingredients all of which are 100 per cent pure.

Mendell is also ordered to stop designating candies not 100 per cent pure, but synthetically colored and flavored, as "Fruit Pops," until and unless the designation is followed conspicuously with the statement that the candies are artificially colored and artificially flavored.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Wednesday, December 4

ORAL ARGUMENTS BEFORE THE BROADCAST DIVISION

Commissioner Brown's Report:

KFBI—The Farmers & Bankers Life Insurance Co., Abilene, Kans.—Renewal of license, **1050 kc.**, 5 KW, limited time.

Examiner's Report No. I-85:

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, Vt.—C. P., **1390 kc.**, 1 KW, 7:30 to 9 a. m., 11 a. m. to 2 p. m., 3:30 to 5 p. m.; Sunday, 1 p. m. to 2 p. m. Present assignment: **1370 kc.**, 100 watts, specified hours.

Examiner's Report No. I-100:

NEW—Oklahoma Press Publishing Co., Muskogee, Okla.—C. P., **1500 kc.**, 100 watts, unlimited time.

Examiner's Report No. I-97:

NEW—Worcester Broadcasting Co., Inc., Worcester, Mass.—C. P., **1200 kc.**, 100 watts, unlimited time.

NEW—Hartford Broadcasting Co., Inc., Hartford, Conn.—C. P., **1200 kc.**, 100 watts, unlimited time.

NEW—The Hartford Times, Inc., John F. Rolfe, Treas., Hartford, Conn.—C. P., **1200 kc.**, 100 watts, unlimited time.

Examiner's Report No. I-93:

NEW—Quincy A. Brackett, Lewis B. Breed, and Edmund A. Lappart, d/b as Connecticut Valley Broadcasting Co., Springfield, Mass.—C. P., **1140 kc.**, 500 watts, limited time.

HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Springfield Newspapers, Inc., Springfield, Mo.—C. P., **710 kc.**, 1 KW, daytime.

Friday, December 6

NEW—James R. Doss, Jr., Tuscaloosa, Ala.—C. P., **1200 kc.**, 100 watts, daytime.

APPLICATIONS GRANTED

WNAX—The House of Gurney, Inc., Yankton, S. Dak.—Granted consent to voluntary assignment of license to WNAX Broadcasting Co.

KCRJ—Charles C. Robinson, Jerome, Ark.—Granted renewal of license on a temporary basis for a period of 60 days.

KUMA—Albert H. Schermann, Yuma, Ariz.—Granted renewal of license on a temporary basis and application for renewal set for hearing.

NEW—Pampa Daily News, Inc., Pampa, Tex.—Granted amended C. P. for new station, **1310 kc.**, 100 watts, daytime. Site to be determined subject to approval of Commission.

KCMC—North Miss. Broadcasting Corp., Texarkana, Ark.—Granted renewal of license for the regular period.

KLPM—John B. Cooley, Minot, N. Dak.—Granted renewal of license on a temporary basis for a period of 30 days.

WSAJ—Grove City College, Grove City, Pa.—Granted renewal of license on a temporary basis for a period of 30 days.

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Granted extension of present license for a period of 60 days.

WJBW—Charles C. Carlson, New Orleans, La.—Granted extension of present license for a period of 60 days.

KIGA—National Battery Broadcasting Co., St. Paul, Minn.—Granted renewal of license for the regular period.

KIGA—National Battery Broadcasting Co., Portable-Mobile.—Granted modification of license to change frequencies to **1622, 2060, 2150, 2790 kc.**

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted renewal of license for the regular period.

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted renewal of special experimental authority to operate with 500 watts additional power from October 1, 1935, to April 1, 1936; **610 kc.**, unlimited time.

NEW—Nichols & Warinner, Inc., Portable-Mobile (Long Beach, Calif.)—Granted C. P. (exp. gen. exp.), frequencies **31100, 34600, 37600, 40600 kc.**, 30 watts.

SET FOR HEARING

NEW—Ventura County Star, Inc., Merced Star Pub. Co., Inc., Ventura, Calif.—Application for C. P. for new station, **1170 kc.**, 250 watts, daytime.

NEW—New England Radio Corp., Bridgeport, Conn.—Application for C. P. for new station, **1370 kc.**, 100 watts, daytime. Site to be determined subject to Commission approval.

NEW—Northern Commercial Co., Fairbanks, Alaska.—Application for C. P. for new station, **550 kc.**, 250 watts, unlimited time. Site to be determined subject to Commission approval.

NEW—Northern Iowa Broadcasting Co., Inc., Mason City, Iowa.—Application for C. P. for new station, **1420 kc.**, 100 watts, unlimited time. Site to be determined subject to Commission approval.

NEW—Mason City Globe Gazette Co., Mason City, Iowa.—Application for C. P. for new station, **1210 kc.**, 100 watts, unlimited time.

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Modification of license to increase day power from 500 watts to 1 KW.

KFJM—University of North Dakota, Grand Forks, N. Dak.—C. P. amended to read: Make changes in antenna and equipment; change frequency from **1370 kc.** to **1410 kc.**; increase power from 100 watts to 1 KW night and day.

KUJ—KUJ, Inc., Walla Walla, Wash.—C. P. amended to read: Move transmitter to site to be determined subject to Commission's approval; install new equipment, antenna to be determined; change frequency from **1370 kc.** to **1250 kc.**; increase power from 100 watts to 1 KW.

WEAN—The Shepard Broadcasting Service, Providence, R. I.—C. P., already in hearing docket, amended to read: Exact transmitter site, Seekonk, Bristol County, Mass.; install new equipment and directional antenna; increase power from 500 watts to 1 KW.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KFXD, Nampa, Idaho; KFXJ, Grand Junction, Colo.; KFXM, San Bernardino, Calif.; KGFJ, Los Angeles, Calif.; KIEM, Eureka, Calif.; KIT, Yakima, Wash.; KMED, Medford, Ore.; KWTN, Watertown, S. Dak.; WIBX, Utica, N. Y.; WMFF, Plattsburg, N. Y.; WSGN, Birmingham, Ala.; KCRC, Enid, Okla.

The following stations were granted renewals on a temporary basis only, subject to whatever action may be taken by the Commission upon the renewal applications of stations now pending before it:

KFPL, Dublin, Tex.; KGDE, Fergus Falls, Minn.; KVOS, Bellingham, Wash.; KWEA, Shreveport, La.; WEDC, Chicago, Ill.; WOCL, Jamestown, N. Y.; WRBL, Columbus, Ga.

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted renewal of license on a temporary basis only to conform to Commission's action of November 12, 1935, with reference to this station's application for renewal.

KILU—Arkansas Radio & Equipment Co., Portable.—Extended present license of broadcast pickup station in temporary service for a period of 1 month from December 1, 1935, upon a temporary basis only, subject to such action as may be taken upon pending application for renewal.

WLEZ—The Norfolk Daily News, Portable.—Extended present license of broadcast pickup station in temporary service for a period of 1 month from December 1, 1935, upon a temporary basis only, subject to such action as may be taken upon pending application for renewal.

The licenses of the following stations were extended upon a temporary basis only to January 1, 1936, pending receipt and action on renewal applications:

KGHI, Little Rock, Ark.; KROW, Oakland, Calif.; WBAX, Wilkes-Barre, Pa.; WJEJ, Hagerstown, Md.; KGVO, Missoula, Mont.; WAML, Laurel, Miss.; WEST, Lancaster, Pa.; WIL, St. Louis, Mo.; WJIM, Lansing, Mich.; WSBC, Chicago; WSJS, Winston-Salem, N. C.

ACTION ON EXAMINERS' REPORTS

KALE—Ex. Rep. No. 1-62: KALE, Inc., Portland, Ore.—Denied modification of license to change frequency from 1300 kc. to 1250 kc.; change hours of operation from S.H. to unlimited; 500 watts. Examiner Bramhall sustained. Order effective January 14, 1936.

WMBC—Ex. Rep. No. 1-92: Michigan Broadcasting Co., Detroit, Mich.—Denied C. P. to make changes in equipment; change frequency from 1420 kc. to 1300 kc.; change power from 100 watts night, 250 watts day, to 500 watts; unlimited time. Examiner Geo. H. Hill sustained.

WHBL—Press Publishing Co., Sheboygan, Wis.—Granted modification of license to change frequency from 1410 kc. to 1300 kc., change power from 500 watts to 250 watts, and change hours of operation from sharing with WROK to unlimited, sustaining Examiner Hill. Order effective January 21, 1936.

WOCL—Ex. Rep. No. 1-122: A. E. Newton, Jamestown, N. Y.—Granted renewal of license, 1210 kc., 50 watts, unlimited time. Examiner M. H. Dalberg sustained. Order effective January 21, 1936.

ORAL ARGUMENTS GRANTED

NEW—Ex. Rep. No. 1-123: Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted oral argument to be held February 13, 1936.

NEW—Ex. Rep. No. 1-125: National Television Corp., New York City.—Granted oral argument to be held December 19, 1935.

MISCELLANEOUS

Utah Radio Educational Society, Salt Lake City, Utah, and all other parties involved in Ex. Rep. No. 1-126—Granted until December 5, 1935, to file exceptions to Ex. Rep. No. 1-126.

W1XAL—World Wide Broadcasting Corp., Boston, Mass.—Granted modified C. P. specifying recent authorization was for an auxiliary transmitter to be used only in case of failure of main transmitter.

KVOS—KVOS, Inc., Bellingham, Wash.—Denied request that Commission reconsider action in setting renewal application for hearing and grant same without hearing.

WCFL—Chicago Federation of Labor, Chicago, Ill.—Granted request for postponement until December 16, 1935, of proceedings regarding application of WJJD for authorization for removal of transmitter.

KGKO—Wichita Falls Broadcasting Co., Wichita Falls, Tex.—Hearing on protest against removal of station from Wichita Falls to Fort Worth, Tex., scheduled for December 19, 1935, postponed until some time during January, 1936. Granted petition of Chamber of Commerce of several cities and towns and others that hearing be held in Wichita Falls, Tex.

NEW—Utah Radio Educational Society, Salt Lake City, Utah.—Denied petition asking Commission to vacate order of October 22, 1935, granting KIEM, Eureka, Calif., authority to operate on 1450 kc., 500 watts, unlimited time.

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Sent to closed files protest charging station violated Sec. 326 of Communications Act in sponsoring an obscene broadcast.

NEW—James H. Braffett, Price, Utah.—Granted permission to submit proof that he mailed appearances and statement of facts in due time. Failure of that data to reach the Commission within specified time resulted in default order. Applicant now seeks reinstatement of application for new station at Price, Utah.

APPLICATIONS RECEIVED

First Zone

WEAN—The Shepard Broadcasting Service, Inc., Providence, R. I. 780 —Construction permit to install new equipment; increase power from 500 watts to 1 KW; and move transmitter from

Biltmore Hotel, Washington St. and Exchange Place, Providence, R. I., to site to be determined, Providence, R. I. Amended to install directional antenna and for approval of transmitter site at Seekonk, Bristol County, Mass.

WBEN—WBEN, Inc., Buffalo, N. Y.—Construction permit to install a new transmitter; increase power from 1 KW to 5 KW; and move transmitter from Shawnee Road, near Martinsville, N. Y., to Hotel Statler, Buffalo, N. Y. Amended to omit request for change in transmitter site and request for 5 KW power night.

WELI—Patrick J. Goode, New Haven, Conn.—Modification of 930 license to change hours of operation from daytime to unlimited, requesting 500 watts power day and night, and change frequency from 900 kc. to 930 kc.

WMFF—Plattsburgh Broadcasting Corp., Plattsburgh, N. Y.—1310 License to cover construction permit (B1-P-514) to make changes in equipment, increase power, and move transmitter.

WPRP—Julio M. Conesa, Ponce, P. R.—Modification of construction permit (1-P-B-2940) for a new station, requesting extension of completion date from 12-18-35 to 1-18-36.

W10XAP—National Broadcasting Co., Inc., Portable-Mobile.—Construction permit to cover the addition of a power amplifier and increase in power to 25 watts.

W10XAP—National Broadcasting Co., Inc., Portable-Mobile.—License to cover above.

NEW—National Broadcasting Co., Inc., Portable-Mobile.—Construction permit for a new general experimental station to be operated on 31100, 34600, 37600, 40600 kc., 20 watts.

NEW—National Broadcasting Co., Inc., Portable-Mobile.—License to cover above.

W2XEI—Paul J. Gollhofer, Portable and Mobile.—Assignment of license from Paul J. Gollhofer to Metropolitan Broadcasting Corp.

NEW—Bamberger Broadcasting Service, Inc., Newark, N. J.—Construction permit for a new general experimental station to be operated on 31600, 35600, 38600, 41000 kc., 1 KW.

Second Zone

WJR—WJR, The Goodwill Station, Detroit, Mich.—License to 750 cover construction permit authorizing use of 10 KW transmitter for auxiliary purposes.

Third Zone

WIS—Station WIS, Inc., Columbia, S. C.—Modification of construction permit authorizing removal of transmitter, change in equipment, 560 kc., 1 KW night, 5 KW daytime, unlimited time, requesting extension of completion date to February 10, 1936.

WPTF—WPTF Radio Co., Raleigh, N. C.—Extension of special 680 experimental authorization to use W.E. 6-B transmitter as an auxiliary using 1 KW power during special experimental authorization to operate from local sunset until 8 p. m., PST, for period 2-1-36 to 8-1-36.

WPTF—WPTF Radio Co., Raleigh, N. C.—Extension of special 680 experimental authorization to operate from local sunset to 8 p. m., PST, on 1 KW power, from 2-1-36 to 8-1-36.

NEW—Albert E. Davis, Brownwood, Tex.—Construction permit 1200 for a new station to be operated on 1200 kc., 100 watts, unlimited time. Amended to change frequency from 1200 kc. to 1420 kc., omit request for night power, request daytime hours of operation instead of unlimited time, and make antenna changes.

NEW—The Herald Publishing Co., Denison, Tex.—Construction 1200 permit for a new station to be operated on 1200 kc., 100 watts, daytime. Amended to change type of equipment, change hours of operation from daytime to unlimited, using 100 watts power; also change studio site.

NEW—Hunt Broadcasting Assn., Fred Horton, Pres., Greenville, 1200 Tex.—Construction permit for a new station to be operated on 1200 kc., 100 watts, daytime. Amended to make changes in equipment and antenna.

KBTM—W. J. Beard (Beard's Temple of Music), Jonesboro, Ark. 1200 —License to cover construction permit (B3-P-507) to move transmitter and studio to Jonesboro, Ark.

NEW—Navarro Broadcasting Assn., J. C. West, Pres., Corsicana, 1310 Tex.—Construction permit for a new station to be operated on 1310 kc., 50 watts, daytime. Amended to change power from 50 watts to 100 watts and make changes in antenna.

WAML—Southland Radio Corp., Laurel, Miss.—Voluntary assign- 1310 ment of license to New Laurel Radio Station, Inc.

NEW—H. A. Hamilton, Asheville, N. C.—Construction permit for 1370 a new station to be operated on 1370 kc., 100 watts, daytime.

KRLH—Clarence Scharbauer, Midland, Tex.—Modification of construction permit (B3-P-675) for a new station on 1420 kc., 100 watts, daytime, for approval of transmitter site.

NEW—Douglas G. Boozer and Jack Richards, Brunswick Radio Broadcast Station, Brunswick, Ga.—Construction permit for a new station to be operated on 1420 kc., 100 watts, daytime. Amended to make changes in antenna.

KCMC—North Mississippi Broadcasting Corp., Texarkana, Ark.—1420 Voluntary assignment of license from North Mississippi Broadcasting Corp. to KCMC, Inc.

NEW—The Attala Broadcasting Corp., Kosciusko, Miss.—Construction permit for a new general experimental station to be operated on 31600, 38600, 35600, 41000 kc., 100 watts.

NEW—Memphis Commercial Appeal, Inc., Portable-Mobile.—Construction permit for a new general experimental station to be operated on 31100, 34600, 37600, 40500 kc., 5 watts.

NEW—The Attala Broadcasting Corp., Kosciusko, Miss.—Construction permit for a new relay broadcasting station to be operated on 6040, 11830, 17760 kc., 100 watts. Amended to change application to general experimental service.

Fourth Zone

WCAZ—Superior Broadcasting Service, Inc., Carthage, Ill.—Construction permit to make changes in vertical radiator and move transmitter locally.

KGDY—The Voice of South Dakota, Huron, S. Dak.—Modification of license to change hours of operation from daytime to unlimited time, using 250 watts power. Amended to make changes in antenna.

WKBV—KNOX Radio Corp., Richmond, Ind.—License to cover construction permit authorizing removal of transmitter and antenna changes.

Fifth Zone

KFRC—Don Lee Broadcasting System, San Francisco, Calif.—610 Authority to determine operating power by direct measurement.

KHJ—Don Lee Broadcasting System, Los Angeles, Calif.—Authority to determine operating power by direct measurement.

NEW—The Press Democrat, Santa Rosa, Calif.—Construction permit for a new station to be operated on 1310 kc., 250 watts, daytime. Amended to change name from Ernest L. Finley to The Press Democrat.

KECA—Earle C. Anthony, Inc., Los Angeles, Calif.—Modification of construction permit (B5-P-2837) as modified to move transmitter locally; increase power, install new equipment, further request changes in equipment; move transmitter from 1000 S. Hope Street to 31100 S. Cloverdale Avenue, Los Angeles, Calif.; and extend commencement and completion dates to 3-1-36 and 90 days thereafter.

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

NAB REPORTS

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NAB BOARD MEETING

The Board of Directors of the National Association of Broadcasters will hold a meeting on the subject of ASCAP, Monday, December 9, in New York City.

FTC OFFERS STIPULATIONS

The Federal Trade Commission this week sent out to certain radio stations stipulations with reference to products of the following concerns:

Freedol Remedy Company	Vervena Company
Clark Brothers Chewing Gum	Cleveland Regol
Esbencot Laboratories	Litino Laboratories.

McNARY RESIGNS

Because of assumption of certain obligations not contemplated at the time he was granted a leave of absence, James C. McNary, Technical Director of the NAB, has tendered his resignation effective November 30. Mr. McNary will take over the business heretofore handled by T. A. M. Craven, newly appointed Chief Engineer of the Federal Communications Commission.

RECOMMENDS NEW KANSAS STATION

The Joplin Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Pittsburgh, Kans., to use 1200 kilocycles, 100 watts power and unlimited time on the air. Also the Pittsburgh Publishing Company asked to erect a new station at Pittsburgh, Kans., and the Wichita Broadcasting Company asked authority to erect a station at Wichita, Kans. Both of the two latter applications were for 1500 kilocycles, 1100 watts power and unlimited time on the air.

Examiner Melvin H. Dalberg in Report No. I-141 recommended that the application of the Pittsburgh Broadcasting Company be granted but that the other two applications be denied. The Examiner found that no interference would be caused by granting the application of the Pittsburgh Company, that there is need for additional service in that area and that the station would be handled by residents of Pittsburgh.

POWER INCREASE RECOMMENDED FOR WGST

Broadcasting Station WGST, Atlanta, Ga., operating full time on a frequency of 890, applied to the Federal Communications Commission to increase its power from 500 watts nighttime and 1,000 watts to local sunset to 1,000 watts all time.

Examiner P. W. Seward in Report No. I-145 recommended that the application be granted. He found that there is a substantial need in the area for additional radio service and that the interests of no existing station would be adversely affected by the granting of the application.

NOTES TO SALES STAFF

Broadcast advertising continues to promise a banner year, as witness the \$70,626,000 gross time sales during the first ten months of 1935 as compared to \$72,887,000 for the entire year of 1934. (See Table I, page 1107.)

The advertising efficacy of radio continues to cause it to show the greatest upswing from previous years of any major advertising medium. Whereas radio volume rose 21.3% during the first ten months of 1935, newspaper volume rose but 4.6% and magazine 6.4%. (See Comparison with Previous Years, page 1107, and Comparison with Other Media, page 1107.)

Live talent programs are still being bought in considerable quantity by national advertisers, while local advertisers are showing increasing interest in transcriptions. (See Non-network Advertising by Type of Rendition, page 1108.)

The marked growth of automotive advertising—national non-network volume rose over six-fold as compared with October 1934—is indicative that radio can sell high-priced commodities as well as convenience goods. (See Comparison with 1934, page 1108.)

The continued growth of regional network advertising, the rise of national non-network drug, cosmetic, food and tobacco volume and the increase in local household equipment and clothing advertising are among developments worthy of note. (See Details as to Sponsor Trends, page 1108.)

NEW SOUTH DAKOTA STATION RECOMMENDED

The Black Hills Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Rapid City, S. D., to use 1370 kilocycles, 100 watts power and unlimited time on the air.

Examiner John P. Bramhall in Report No. I-142 recommended that the application be granted on condition "that the applicant install a suitable antenna, and that the same be painted and/or illuminated in accordance with Section 303, Paragraph (q) of the Communications Act of 1934, and on a site which complies with the recommendations of the Engineering Department of the Commission." The Examiner found that there is need for additional radio service in the area proposed to be served.

FTC REVIEWS ADVERTISING

The Federal Trade Commission in its annual report, just made public, has considerable to say regarding radio, newspaper and magazine advertising. Because of its importance to members we give the full statement of the Commission as follows:

False and misleading advertising matter as published in newspapers and magazines and as broadcast over the radio is surveyed and studied by a special board set up by the Federal Trade Commission in 1929. This board, known as the Special Board of Investigation, consists of three Commission attorneys designated to represent the Commission at preliminary hearings and specialize in this type of cases.

Misrepresentation of commodities sold in interstate commerce is a type of unfair competition with which the Commission has dealt under authority of the Federal Trade Commission Act since its organization in 1915. By 1929 it had become evident that

misrepresentation embodied in false and misleading advertising in the periodical field was of such volume that it should receive specialized attention from the Commission.

Since that time the Commission, through its special board, has examined the advertising columns of newspapers and magazines, noting misleading representations, and has received complaints of false and misleading advertising from competitors and consumers. Each instance has been carefully investigated, and where the facts have warranted, and informal procedure has not resulted in the prompt elimination of misleading claims and representations, formal procedure has been resorted to and the cases tried. While a number of orders have been issued requiring the respondents to cease and desist from advertising practices complained of, in a majority of cases the matters have been adjusted by means of the respondent signing a stipulation agreeing to abandon the unfair practices.

The Commission believes its work in this field has contributed toward the general improvement noticeable in the last few years in the character of newspaper, magazine, and radio advertising.

Newspaper and magazine advertising.—In its work of reviewing advertisements in current publications, the Commission, through its special board, has found it advisable to call for some periodicals on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, it is physically impossible to review, continuously, all advertisements of a doubtful nature; also, it is found unnecessary to review all the issues of publications of a high ethical standard where the publishers carefully censor all copy before acceptance.

With this situation in mind, the special board has found it of material value to procure periodicals in cognate groups as to type or class, volume of circulation, and character of field of distribution such as agricultural, fiction, information, movie fan, trade, sales promotion, and the like. Advertisements of similar character, purpose and appeal are thus assembled and reviewed to advantage in a related manner.

Between January 1 and June 30, 1935, magazines having a combined circulation of 27,220,061 copies were received. Up to June 30, 1935, a discerning preliminary scrutiny of 1,126 individual current advertisements had been performed, resulting in 284 being referred to the board members for special consideration as possibly false and misleading.

When the Commission receives complaints or notes the existence of apparently false and misleading representations in advertising, it initiates an investigation. A questionnaire is sent to the advertiser requesting samples of all advertising copy published or broadcast by radio during the year past, together with copies of all booklets, folders, circulars, form letters and other advertising literature, and, if practicable, a sample of the article advertised, and, if the article is a compound, the quantitative formula.

Upon receipt of the material, the sample, formula, and advertising claims and representations are submitted for medical or scientific opinion to such other Governmental agencies as the Public Health Service, Bureau of Standards, or Food and Drug Administration.

Upon receipt of such official opinions the Commission, through its special board, carefully examines all claims and representations, and makes such excerpts as appear to require justification or explanation. Copies of such excerpts and medical or other scientific opinions are then sent to the advertiser, and an opportunity given him to submit such evidence as he may desire to justify or explain the claims and representations scheduled.

If all such claims and representations are justified, the matter is closed without further procedure, and all the data filed for future reference, but if the claims or representations are not justified, the Commission may order the docketing of an application for complaint against the offending advertiser. The entire matter is then referred to the special board for negotiation of a stipulation wherein the advertiser agrees to cease and desist from making such claims and representations as are deemed misleading by the Commission. If such stipulation is executed by the advertiser and accepted by the Commission, the matter is closed, subject to reopening at any time by the Commission if occasion arises. If no stipulation is procured from the advertiser, the Commission institutes proceedings against the advertiser by the issuance of a formal complaint under the law.

In a large majority of cases, advertisers have entered into stipulations with the Commission to cease and desist from publishing the misleading statements. In only a relatively few cases do advertisers refuse to stipulate, making it necessary for formal complaints to be issued.

In many cases the advertiser immediately cancels all adver-

tising complained about upon receipt of the first communication from the Commission, and does not advertise again until his matter has been adjudicated.

Radio advertising.—The Commission began its review of advertising copy broadcast over the radio at the beginning of the fiscal year 1934-35. At the outset the Commission, through its special board of investigation, made a survey of all commercial continuities, covering the broadcasts of all radio stations during July 1934. The volume of returns received and the character of the announcements indicated clearly that a satisfactory continuous scrutiny of current broadcasts could be maintained with a limited force and at small expense, by adopting a plan of grouping the stations for certain specific periods.

Consequently, starting in September 1934, calls have been issued to individual radio stations according to their location in the five radio zones established by the Federal Communications Commission. These returns cover specified 15-day periods.

National and regional networks, however, respond on a continuous weekly basis, submitting copies of commercial continuities for all programs wherein linked hook-ups are used involving two or more affiliated or member stations.

To complete the observation of radio advertising, the producers of electrical-transcription recordings submit regular weekly and monthly returns of typed copies of the commercial portions of all recordings manufactured by them for radio broadcasts. As the actual broadcast of a commercial recording is not always known to the manufacturer of the commodity being advertised, the Commission's knowledge of current transcription programs is supplemented by special reports from individual stations from time to time, listing the programs of recorded transcriptions with essential data as to the name of the advertiser and the article sponsored.

The combined material received from the individual stations for specified periods, from the weekly returns on regional and national network broadcasts, and from the special transcription reports, furnishes the Commission with representative and specific data on the character of radio advertising which has proven of great value in its efforts to curb false and misleading trade representations.

Up to June 30, 1935, 439,253 radio continuities had been received by the Commission. Of these a preliminary review had been completed on 376,539, resulting in 38,873 being referred, as possibly false and misleading, to the members of the board and their legal assistants for further consideration and possible action.

In all cases where false and misleading advertising is detected in radio broadcasts, the Commission is applying substantially the same procedure as is followed in cases of false and misleading advertising in newspapers, magazines, or other periodicals. This scrutiny of radio advertising is being conducted with a minimum of expense to the Government as well as to the industry because of the cooperation of members of the industry and the system of procedure developed.

In its examination of radio continuities, as well as of newspaper, magazine, and other periodical advertising, the Commission's sole purpose is to curb unlawful abuses of the freedom of expression guaranteed by the Constitution. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involve practices held to be unfair to competitors in interstate commerce.

Effective cooperation has obtained throughout the last year, as for many years, with other departments of the Government. Cases involving what appear to be fraudulent schemes in violation of the postal laws are referred to the Post Office Department. Action by the Commission in such cases as are found to be under investigation by that Department is suspended pending the outcome of such proceedings. Valuable scientific opinions have been rendered by the Food and Drug Administration, Bureau of the Public Health Service, and the Bureau of Standards. Also analyses and comments regarding the therapeutic properties of various preparations have been furnished by the Food and Drug Administration. In a number of cases, Commission action against advertisers of medical preparations has been undertaken at the request of the Department of Agriculture.

TWO DEFAULT CASES

The Steel City Broadcasting Company filed an application with the Federal Communications Commission asking for a construction permit for the erection of a new station at Pittsburgh, Pa., to use 1420 kilocycles, 100 watts power and 250 watts LS with unlimited time on the air.

Also Station KFDM, Beaumont, Texas, applied to the Com-

mission to increase its power from 500 watts night and 1,000 watts LS to 1,000 watts at all time.

Examiner Ralph L. Walker in Report No. I-140 recommended that the application of the Steel City Company be denied "as in cases of default" for failure to attend the hearing and the Examiner made the same recommendation in Report No. I-144 in the case of Station KFDM for the same reason.

RECOMMENDS KID POWER INCREASE

Broadcasting Station KID, Idaho Falls, Ida., applied to the Federal Communications Commission to increase its power from 250 watts night and 500 watts day to 500 watts night and 1,000 watts daytime, and to move its transmitter locally.

Examiner Ralph L. Walker in Report No. I-143 recommended that the Commission grant the station authority to move its transmitter and to increase its daytime power but that the application be denied insofar as nighttime power is concerned. The Examiner found that there is need for additional daytime service in the area and that it would not cause interference. However, he states that nighttime increase would cause interference and also the nighttime facilities of the state of Idaho and the Fifth Zone are now over quota.

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Securities & Exchange Commission under the Securities Act:

Lockhart Power Company, Lockhart, S. C. (2-1770, Form A-2)
Oil Run Purchase Corporation, Jersey City, N. J. (2-1773, Form A-1)

Tung Sol Lamp Works, Inc., Newark, N. J. (2-1774, Form A-2)
Bliss & Laughlin, Inc., Harvey, Ill. (2-1775, Form A-2)

Corporate Leaders of America, Inc., New York City (2-1777, Form C-1)

May-Spiers Gold Mines, Ltd., Toronto, Canada (2-1778, Form A-1)

Pennsylvania Glass Sand Corp., Lewiston, Pa. (2-1779, Form A-2)

Tri-States Natural Gas Corp., South River, N. J. (2-1780, Form A-1)

Brooklyn Negro Civic Corp., Brooklyn, N. Y. (2-1781, Form A-1)

The Byrndon Corporation, Brooklyn, N. Y. (2-1782, Form A-2)
State National Securities Corp., Indianapolis, Ind. (2-1783, Form D-1)

Jewelrite Sales, Inc., Denver, Colo. (2-1784, Form A-1)
G. C. Murphy Company, McKeesport, Pa. (2-1785, Form A-2)

Penn-Jersey Water Company, Wilmington, Del. (2-1786, Form A-1)

Wendigo Gold Mines Ltd., Toronto, Canada (2-1787, Form A-1)

RECOMMENDATION AGAINST NEW PENNSYLVANIA STATION

William S. Thellman, filed an application with the Federal Communications Commission asking for a construction permit for the erection of a new broadcasting station at New Castle, Pa., to use 1420 kilocycles, 100 watts power, daytime operation.

Examiner Melvin H. Dalberg in Report No. I-146 recommended that the application be denied. He said that he did not believe "that the applicant is financially qualified to construct and operate the proposed station and there is obviously an insufficient showing that either the applicant or those with whom he would be associated are technically qualified by experience to warrant such operation."

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2337. International Latex Corporation, of Rochester, New York, in a complaint is charged with unfair competition in the sale of products such as bathing caps, pad shields, crib sheets and tobacco pouches.

In advertising its products, the respondent company is said to have used the phrases: "Made of purest Latex (not rubber)," "They are made of purest Latex which looks like rubber but isn't," and "They prevent perspiration."

In truth and in fact, says the complaint, the products are composed of material consisting essentially of rubber hydrocarbon, and therefore are not properly designated as "not rubber". The complaint says the assertion regarding perspiration is misleading and deceptive.

No. 2638. Sheffield Silver Company, Inc., of Jersey City, N. J., is charged with unfair methods of competition in the sale of silver-plated hollow-ware, in a complaint.

Use of the word "Sheffield" in its corporate name, letterheads and invoices, has a tendency to deceive purchasers into buying the respondent company's products in the belief that its representations are true, and that its product is "Sheffield," according to the complaint.

No. 2639. Alleging unfair competition in the sale of a correspondence course on diet and health, a complaint has been issued against **George Henry Brinkler, of 458 Ocean Drive, Miami Beach, Florida,** who has operated his business under various trade names, such as "Brinkler School of Eating," "Brinkler School of Food Science," and "Brinkler School of Nutrition," and is said now to operate under the name, "Brinkier Institute."

Among representations alleged are that the correspondence course provides a competent treatment for all diseases, and that the method of diet outlined is an adequate treatment for any of thirty-six diseases listed, including indigestion, bronchitis, tuberculosis, hardening of the arteries, and others.

No. 2640. American White Cross Laboratories, Inc., of New Rochelle, N. Y., and Cape Girardeau, Mo., has been served with a complaint charging unfair methods of competition in the sale of absorbent cotton. This company distributes its merchandise to chain and syndicate stores, retailers, drug stores, surgical supply companies, and hospitals in various states.

Labelling and advertising its products as "Sterilized Emergency Absorbent Cotton" and as "Best Hospital Quality Hygrade Absorbent Cotton," the respondent, according to the complaint, has not properly sterilized its absorbent cotton by scientific methods under the best sanitary conditions, and the product is not suitable for all surgical and household needs.

Stipulations

The Commission has announced the following cease and desist orders:

No. 6974. The Bisodol Company, New Haven, Conn., selling "Bisodol" for use in treating stomach ailments, agrees to stop advertising that this preparation is an effective remedy for indigestion, halitosis, and other ailments, unless these representations are limited to the relief of these troubles when due to gastric hyperacidity. The Bisodol Company also agrees to stop asserting that its preparation "will banish" or "correct" any discomfort of the stomach; that the preparation is a new discovery, and is totally different from anything else.

No. 6975. Chicago School of Nursing, Chicago, Ill., selling a correspondence course in nursing, agrees to abandon the representation that there are plenty of calls to keep C. S. N. nurses busy, and that its graduates "average \$25.00 to \$35.00 and more a week, in addition to their room, board and laundry." Other representations will also be discontinued, including certain assertions concerning the cost of the course.

No. 6976. Jacobs Pharmacy Company, Atlanta, Ga., dealing in skin and complexion preparations, will not advertise that use of its preparations will produce substantial benefit or improvement in one night's time, and will free the skin of pimples or blemishes, or work in any amazing way. The company also agrees to cease and desist from causing any advertising matter to be printed in a newspaper or magazine in such manner as to imply that it is a news article, and will stop designating its soap as "Skin Whitener" soap.

No. 6977. Giacomo LaGuardia, trading as Herba Medicinal Laboratory, New York City, and selling a tea and tonic as a remedy for stomach troubles, and a tea for treating rheumatism, and other medicinal products, agrees to stop advertising that LaGuardia's Herbs are competent treatment for a list of twenty-eight diseases, without regard to the underlying causes, including stomach acid, eczema, kidney trouble, and "any of the ailments concerning the digestive system." Other representations of the powers of the respondent's products will be discontinued.

No. 6978. R. B. Davis Company, Hoboken, N. J., engaged in selling the food preparation, "Cocomalt," will no longer represent that it contains all the vitamins, mineral nutrients, and calories; that it will increase or build up strength, energy, vitality and weight in all cases, and that the preparation contains all of the elements necessary to the growth of children.

No. 0979. Everbrite Products Company, Kansas City, Mo., agrees to stop advertising its oil burning heating stove as the first or most successful portable heater ever to burn ordinary oil or kerosene, or as the most economical or convenient heater made. This heater will no longer be advertised as being cheaper than wood, where wood is plentiful, and as having a flame twice as hot as wood or coal.

No. 0980. J. W. Elwood, trading as Northwestern School of Taxidermy, Omaha, Nebr., and selling a correspondence course in taxidermy, agrees to stop representing that the so-called diploma awarded to graduates is free; that it is impossible for students or graduates in this course to fail, and that the respondent guarantees to teach successfully every prospective student. The respondent agrees to cease and desist from awarding diplomas to purchasers of the course unless and until they are required to demonstrate their knowledge of taxidermy by passing appropriate examinations or meeting other adequate requirements. He also agrees to stop making unmodified claims as to the amounts students may expect to earn when such advertised amounts are in excess of the average actually earned by students under normal conditions.

No. 1498. Stephen Gargilis, of Boston, an individual trading under the name of S. Kandhi, and dealing in so-called astrological charts, readings and calculations, financial services based on astrological calculations, and lessons on occultism, agrees to stop representing that the study of the occult sciences as outlined in his prepared lessons, or otherwise, can or does bring riches to the students. Gargilis advertised the "Yogi Secrets," and that students would receive "some of the accumulated wisdom of four thousand years of the Famous Hindu Adepts."

No. 1500. Kramer-Brandeis, Inc., of New York City, distributors of mufflers, cravats and other articles of men's wear, agrees to cease marking or labeling its products as "silk" or "all silk," when in fact they are not made wholly of silk. The stipulation provides that if the products are weighted to an amount exceeding 15 per cent in black goods or exceeding 10 per cent in goods other than black, the word "silk," if used to describe the product, shall be accompanied by the word "weighted" in conspicuous type. This is to show that the articles are not composed entirely of silk, but are weighted with mineral salts or other weighting substance.

No. 1501. Nathan Schmukler, of New York City, trading as Duo-Enamel Company, dealing in paints and enamels, agrees to stop using the word "Duo" as part of his trade name or as part of a brand for his products, either independently or in connection with other words. Schmukler also agrees to stop employing any colorable imitation of the word "Nu" in a way which would tend to confuse buyers respecting the identity of his products and those of the Nu-Enamel Corporation, of Chicago, manufacturers of paints and enamels under the trade name of "Nu-Enamel."

Schmukler will also abandon use of the phrases, "One coat covers" and "No brush marks" on color cards or store fronts. These phrases have acquired a secondary meaning as applied to Nu-Enamel, according to the stipulations. Schmukler agrees to stop using colors and arrangements of products and colors in store fronts to simulate the arrangements characteristically used by the Nu-Enamel Corporation.

No. 1502. Samuel Aaron, of Washington, D. C., trading as District Working Men's Store, will discontinue causing his trade name to be listed in the Washington telephone directory under the classified heading of "Army and Navy Goods Business," and from using the words "Army and Navy Goods" in his advertisements, or in any way tending to deceive buyers into believing that the products he sells consist in substantial part of Army and Navy surplus products, when this is not true. The stipulation sets out that the stocks of surplus products held by the Army and Navy have for a long time been practically exhausted, except for certain damaged, worn out or salvaged goods.

No. 1503. Charles Eickle, Jr., of Henderson, Ky., trading as Valley Distilleries, agrees to abandon use of the word "Distilleries" as part of his trade name or otherwise, implying that he distills the liquors which he sells, or owns and operates the plant in which they are distilled. The stipulation sets out that Eickle does not operate a distillery.

Eickle also agrees to cease using bottles or other containers of one full quart capacity or other standard size in a manner misleading purchasers into believing that each such bottle contains a full quart or other amount indicated by the standard size of the bottle, when in fact, according to the stipulation, each bottle contains an amount other than one full quart and other than the quantity indicated by the size of the bottle.

No. 1504. Furbish Process, Inc., of New York City, manufacturing a cleaning fluid called "X-L Magic Cleaning Fluid,"

agrees to desist from the use in advertising of the words "Excellent stain remover," implying that the fluid will remove stains of whatever kind from fabrics, when this is not true. The respondent company also agrees to abandon representations to the effect that the preparation will remove stains from fabrics "without injury to any, regardless of how delicate the fabric," tending to deceive purchasers into believing that the colors of fabrics dyed with non-fast or fugitive dyes will not be injured by application of this product, when this is not true.

No. 1505. U. S. Manufacturing Corporation, of Decatur, Ill., manufacturing and selling fly swatters, camping equipment and other merchandise, agrees to stop using the phrase "U. S. Fly Ribbon" independently or in connection with the corporate name "U. S. Manufacturing Corporation," or with the words "The U. S. Line," implying that the articles are made in the United States, when this is not true. Provision is made that the respondent shall cease and desist from the foregoing representations, unless, when the words "U. S. Fly Ribbon" are used as a trade name for the product, they be immediately accompanied with another suitable word in equally conspicuous type, indicating clearly that the articles are not manufactured in the United States.

No. 1506. Nostane Products Corporation, of Brooklyn, N. Y., manufacturing and selling a cleaning fluid under the name "Nostane," agrees to abandon the use of such phrases as "Positively removes stains without injury to fabrics," and "Leaves no ring."

No. 1507. Hickory Chair Manufacturing Company, of Hickory, N. C., will discontinue describing as mahogany, products not derived from trees of the mahogany family.

Nos. 2284 and 2285. A cease and desist order has been issued against the **American Army and Navy Stores, Inc.,** and **Army and Navy Trading Co.,** both of Washington, D. C., prohibiting use of the phrase, "Army and Navy," in the corporate or trade name of a mercantile establishment.

Each respondent is ordered to discontinue employing in connection with its corporate name the words "Army and Navy," or either of them, and to discontinue advertising in circulars, trade journals, or other periodicals by means of the words "Army and Navy" as descriptive of merchandise to be offered for sale, unless the words "Army and Navy" be used specifically in connection with particular merchandise actually procured from the United States Army or Navy Departments.

No. 2566. Westphalia Manufacturing Company, Inc., and Poly Chemical Laboratories, Inc., of Jersey City, N. J., have been ordered to cease and desist from improper representations in the sale of their cleaning fluid, called "Rid-O-Spot."

The respondents are directed to stop representing on labels affixed to the containers, or in advertisements, that "Rid-O-Spot," when used for cleaning purposes, leaves no rings, or that it removes all grease spots without injury to the most delicate fabric or color.

BROADCAST ADVERTISING IN OCTOBER

Developments of the Month

Broadcast advertising during October showed the usual seasonal upswing, following the conflicting tendencies exhibited during the preceding month. Gross time sales of the medium amounted to \$8,394,898, an increase of 47.7% as compared to September. Gains were general throughout all portions of the medium.

Total broadcast advertising volume in October was 13.7% greater than during the corresponding month of 1934. The most marked increases continued to be experienced in the regional network and national non-network fields. Broadcast advertising continued to show the greatest improvement of any major advertising medium, trends among other media remaining spotty.

Non-network advertising in the New England-Middle Atlantic area showed some decline as compared to the previous October while clear channel and high-powered regional station non-network volume experienced less than the average gains. Both of these tendencies were the normal reflection of increased national network business.

Local transcription and live talent volume and national announcement business experienced the greatest gains during the month as compared to September. In the local field transcription volume showed the most marked growth as compared with October of last year, while live talent programs experienced important increase in the national field.

Broadcast advertising gains were general in all fields of sponsorship as compared with September. No declines of importance took place as compared with the preceding month. Automotive advertising, especially in the national non-network and local fields, showed particularly important increases as compared with the corresponding month of last year. National network gains were general for the most part. Regional network volume increased markedly in the clothing, drug, confectionery, soap, household equipment and tobacco fields. National non-network drug, cosmetic, food and tobacco advertising experienced important increases as did local household equipment volume. The marked growth of the miscellaneous group in the national network field is indicative of wider sponsorship with regard to that portion of the medium.

Total Broadcast Advertising

Broadcast advertising over stations and networks during October of the current year is found in Table I.

TABLE I
TOTAL BROADCAST ADVERTISING

Class of Business	1935 Gross Time Sales		
	September	October	Cumulative Jan.-Oct.
National networks	\$3,337,018	\$5,017,900	\$40,589,467
Regional networks	81,108	132,748	854,850
National non-network	963,430	1,504,970	13,703,868
Local	1,288,300	1,739,280	15,477,955
Total	\$5,669,856	\$8,394,898	\$70,626,140

Total broadcast advertising volume increased 47.7% as compared with the preceding month. National network volume rose 50.3%; regional network advertising, 63.6%; national non-network business, 55.2% and local broadcast advertising 34.9%. The smaller local increase is a normal condition, local advertising showing less seasonal fluctuation than do other types of broadcast advertising.

Comparison with Previous Years

Gains continued to be experienced as compared to the corresponding period of the two preceding years for which information is available. Total broadcast advertising was 13.7% greater than during October 1934, and 46.2% above the 1933 level for that month. Compared to last October national network volume experienced a rise of 10.8%; regional networks, 38.3%; national non-network business, 20.3%; and local broadcast advertising, 15.7%.

National network volume was 56.0% greater than during October two years ago. Compared to the corresponding month of 1933, October regional network volume increased more than fivefold; national non-network advertising, 41.0% and local broadcast advertising, 23.9%.

Broadcast advertising during the first ten months of the current year was 21.3% above the 1934 level for the corresponding period. National network volume showed a gain of 20.0%; regional networks, 56.0%; national non-network advertising, 24.5% and local business, 18.3%.

Comparison with Other Media

Advertising volume by major media is found in Table II.

TABLE II*
ADVERTISING BY MAJOR MEDIA

Advertising Medium	1935 Gross Time and Space Sales		
	September	October	Cumulative Jan.-Oct.
Radio broadcasting	\$5,669,856	\$8,394,898	\$70,626,140
National magazine ¹	9,248,763	10,603,241	103,271,816
National farm papers	486,552	525,337	4,630,645
Newspapers ²	41,998,000	48,650,000	419,578,000
Total	\$57,403,171	\$68,173,476	\$598,106,601

¹ Publishers' Information Bureau.

² Estimated.

* Attention is called to a typographical error appearing in Table II of the report for third quarter of the current year (Volume 3, No. 52, p. 1027). Radio broadcasting for 1935 in this table should have been \$17,155,350. The total therefore should be changed to \$159,318,188.

National magazine volume rose 14.5% as compared with the preceding month. It was 3.3% less than during the corresponding period of 1934, though remaining 10.9% above the 1933 level.

National farm paper advertising rose 7.7% as against September. It exceeded the October 1934 level by 15.6%, and showed approximately the same gain over the same month of 1933.

Newspaper lineage rose 11.5% during the month, and reached a level 7.9% higher than during October 1934, and 5.7% above the same month of the year prior to that one. October department store lineage was 7.0% greater than during the same month of last year. Total display advertising showed a gain of 7.3%. Automotive advertising gained 45.9% and financial lineage 19.9%. General advertising declined 5.7% and retail volume rose 9.1%.

Magazine advertising for the first ten months of 1935 exceeded the previous year's level by 6.4%, national farm paper volume 5.7%, and newspaper lineage 4.6%.

Non-network Advertising

General non-network advertising increased 39.6% as compared to September, and reached a level of 17.7% above that of the corresponding month of 1934. Gains as compared with the previous month were as follows: Clear channel and high powered regional stations, 56.1%; regional stations, 46.5%; and local stations, 26.2%. Compared to October of last year, clear channel and regional station non-network volume rose 4.6%, regional station advertising 10.6%, and local station volume 58.8%. Local station advertising continued to show the most important rise as compared to the preceding year.

Non-network advertising by power of station is found in Table III.

TABLE III
NON-NETWORK ADVERTISING BY POWER OF STATION

Power of Station	1935 Gross Time Sales		
	September	October	Cumulative Jan.-Oct.
Over 1,000 watts	\$858,350	\$1,290,740	\$13,319,055
250-1,000 watts	949,680	1,391,650	11,654,145
100 watts	443,700	561,860	4,208,713
Total	\$2,251,730	\$3,244,250	\$29,181,913

Gains were fairly general throughout all portions of the country with regard to non-network advertising, with the South showing more than average increases. Non-network advertising in the New England-Middle Atlantic Area rose 48.4% as against September; South Atlantic-South Central volume, 84.6%; North Central advertising, 42.4%; and Mountain and Pacific non-network volume, 19.2%.

Compared to October 1934, non-network advertising in the New England-Middle Atlantic Area declined 22.1%. Southern non-network volume rose 60.0%, North Central advertising 37.8%, and Mountain and Pacific volume 13.7%.

Non-network broadcast advertising in various portions of the country is found in Table IV.

TABLE IV
NON-NETWORK ADVERTISING BY GEOGRAPHICAL DISTRICTS

Geographical District	1935 Gross Time Sales		
	September	October	Cumulative Jan.-Oct.
New England-Middle Atlantic Area	\$513,315	\$750,110	\$7,414,262
South Atlantic-South Central Area	331,530	611,120	4,614,218
North Central Area	913,340	1,295,300	11,214,607
Pacific and Mountain Area	493,545	587,720	5,938,826
Total	\$2,251,730	\$3,244,250	\$29,181,913

Non-network Advertising by Type of Rendition

Gains were fairly general as compared to the preceding month in all types of rendition. Transcription volume was 19.1% greater than in October of last year. Live talent business rose 10.4%, records 94.0%, and announcements 27.5%. During the first ten months of the current year transcription business was 16.6% above

the level of the corresponding months of 1934, live talent volume was greater by 22.4%, records by 77.0%, and announcements by 19.3%.

In the national non-network field transcription and live talent business both rose slightly more than 50.0% as compared with September, while announcement volume increased 86.0%. The current month's increases followed a general decline during the preceding month. Transcription volume in the national field was 14.8% ahead of last October, live talent business 28.7%, and announcements 22.1%. Transcription volume has maintained an even

rate of growth during recent months, while live talent, following a slight slowing up, is again forging ahead.

In the local field, increases as compared to the previous month were as follows: Transcriptions 33.0%, live talent 56.8%, records 7.1%, and announcements 16.2%. Gains as compared with the corresponding month of 1934 were as follows: Transcriptions 51.3%, live talent 2.0%, records more than double, and announcements 29.6%. Live talent programs showed a gain during the current month as against a decline from the 1934 level during September.

Broadcast advertising by type of rendition is found in Table V:

TABLE V
NON-NETWORK BROADCAST ADVERTISING BY TYPE OF RENDITION

Type of Rendition	National Non-network		1935 Gross Time Sales				Cumulative Jan.-Oct.
	September	October	Local		Total		
	September	October	September	October	September	October	
Electrical transcriptions	\$350,980	\$524,660	\$118,300	\$156,960	\$469,280	\$681,620	\$6,120,298
Live talent programs	454,740	696,900	559,625	877,760	1,014,365	1,574,660	13,937,530
Records	8,495	7,510	56,375	60,240	64,870	67,750	689,701
Announcements	149,215	275,900	554,000	644,320	703,215	920,220	8,434,384
Total	\$963,430	\$1,504,970	\$1,288,300	\$1,739,280	\$2,251,730	\$3,244,250	\$29,181,913

Sponsor Trends in October

General gains were experienced in practically all fields as compared with the preceding month. Automotive advertising showed important increases, especially in the national non-network and local fields. National non-network volume rose 37.0% and local advertising 123.9%. Local and national non-network advertising increased by more than 50.0%. National network cosmetic and confectionery advertising more than doubled, as did regional network soap and kitchen supply volume and local radio set advertising. National network tobacco advertising more than doubled.

The only declines were the usual downswing in amusement volume, a decrease in local confectionery advertising and in national network financial advertising.

Comparison with 1934

General gains also were experienced as compared with October of the preceding year. Among the important increases were a six-fold rise in national non-network automotive volume and a 90.9%

increase in local automobile advertising. In the national non-network field drug advertising rose 40.2% as against last October, cosmetic volume 65.3%, food advertising 41.5%, and tobacco advertising 52.4%. Local household equipment advertising experienced a gain of 53.8%, while clothing advertising rose 81.2%. National network miscellaneous volume rose 75.0%, indicating an increasing diversity of network sponsorship.

Regional network advertising grew markedly, especially with regard to advertising in the clothing, drug, confectionery, soap, household equipment and tobacco fields.

Principal declines occurred in the national network accessory field, with a decline of 40.9%; national network and local drug advertising, which dropped 10.3% and 7.4%, respectively; and national network and non-network confectionery advertising, each of which declined slightly more than 20.0%.

Details as to Sponsor Trends

Detailed data regarding radio broadcast advertising sponsorship is found in Table VI and in the following analysis:

TABLE VI
RADIO BROADCAST ADVERTISING BY TYPE OF SPONSORING BUSINESS
(October, 1935)

Type of Sponsoring Business	National Networks	Gross Time Sales		Local	Total
		Regional Networks	National Non-network		
1a. Amusements	—	—	\$3,400	\$48,340	\$51,740
1-2. Automobiles and accessories:					
(1) Automobiles	\$667,171	—	204,520	103,100	974,791
(2) Accessories, gas and oils	387,014	\$24,019	74,560	89,875	575,468
3. Clothing and apparel	38,077	5,160	39,640	298,750	381,627
4-5. Drugs and toilet goods:					
(4) Drugs and pharmaceuticals	512,315	13,958	344,370	66,740	937,383
(5) Toilet goods	911,629	—	77,130	18,560	1,007,319
6-8. Food products:					
(6) Foodstuffs	998,221	28,896	316,640	190,500	1,534,257
(7) Beverages	260,979	8,148	63,900	86,070	419,097
(8) Confections	133,429	5,640	15,580	4,500	159,149
9-10. Household goods:					
(9) Household equipment and furnishings	30,526	9,094	54,230	178,370	272,220
(10) Soap and kitchen supplies	258,867	10,849	44,640	10,370	324,726
11. Insurance and financial	33,550	464	16,830	56,170	107,014
12. Radios	123,607	—	30,855	26,725	181,187
13. Retail establishments	15,873 ¹	—	11,900	146,840	174,613
14. Tobacco products	373,451	15,972	24,830	6,080	420,333
15. Miscellaneous	273,191	10,548	181,945	408,290	873,974
Total	\$5,017,900	\$132,748	\$1,504,970	\$1,739,280	\$8,394,898

¹ Mail order houses. This has recently become sufficiently important to merit classification in the department, general retail store group. The cumulative for the ten-month period over national networks is \$37,817. There were no expenditures during the corresponding period of 1934.

1a. **Amusements.** National non-network 33.8% above September, and local down 27.9%. National non-network double last October, and local up 60.5%.

1. **Automotive.** Compared to preceding month, national network up 30.3%, national non-network 37.0%, and local 123.9%. National network 29.5% ahead of October 1934, national non-network 638.5% greater, and local 90.9%.

2. **Gasoline and accessories.** National network volume practically unchanged from September. Regional networks up 141.5%, national non-network 41.0%, and local 20.8%. National network volume 18.7% greater than last October, regional network volume unchanged, local up 7.0%, and local down 40.9%.

3. **Clothing.** National network volume down slightly from preceding month. Regional networks up 45.2%, national non-network 52.7%, and local 51.1%. Compared to October 1934, national network down 9.5%, regional network volume up 386.1%, national non-network business 47.1%, and local 81.2%.

4. **Drugs and pharmaceuticals.** National network volume 30.7% above September. Regional networks up 178.2%, national non-network 168.7%, and local 80.2%. National network volume down 10.3% as compared to October of last year, and local down 7.4%. Regional network advertising up tenfold and national non-network 40.2%.

5. **Toilet goods.** National network volume up 24.8% as against September, national non-network 104.5%, and local 6.7%. Compared to the corresponding month of last year, national network volume unchanged, regional network advertising the same, national non-network business up 65.3%, and local down 50.2%.

6. **Foodstuffs.** National network advertising 34.6% above last month, regional network advertising 59.8%, national non-network business 34.0%, and local advertising 11.3%. National and regional network volume each 12.5% above last October. National non-network business 41.5% greater, and local up 23.5%.

7. **Beverages.** National network business 16.4% above preceding month. Regional networks up sevenfold, national non-network 14.2%, and local 16.2%. National network advertising 3.5% greater than during October of previous year. Regional networks down 15.1%, national non-network up 36.9%, and local 29.3%.

8. **Confectionery.** National network volume 218.0% greater than during previous month. Regional network increase tenfold, national non-network 125.8%, and local down 25.3%. Decline as compared to corresponding month of 1934, 21.5% for national networks, and 28.9% for national non-network advertising. Regional volume up 95.9%. Local volume double.

9. **Household equipment.** General gains compared with September as follows: National networks 12.8%, regional networks 47.6%, national non-network 29.6%, and local 15.6%. Increases as against October 1934 as follows: National networks 17.0%, regional networks 300.9%, national non-network 15.7%, and local 53.8%.

10. **Soaps and kitchen supplies.** National network advertising 72.7% above preceding month, regional networks 216.3%, national non-network 8.4%, and local 393.8%. Compared to the corresponding month of last year, national network volume up 31.8%, regional networks up materially, local up 50.0%, and national non-network down 31.0%.

11. **Insurance and financial.** National networks down 20.1% as against September. Regional down slightly, national non-network up 37.3%, and local 23.8%. Local 41.9% above last October. National network down 41.6%, and local down 41.9%.

12. **Radios.** National network volume 83.7% above preceding month. National non-network up 24.4%, and local 106.2%. Gains compared to previous October as follows: National networks, 22.7%, national non-network 356.5%, and local 21.1%.

13. **Department and general stores.** Mail order advertising over national networks \$15,873 during month. National non-network volume up 53.3%, and local up 18.5%. National non-network volume 329.0% above last October, and local up 13.6%. Department store volume 20.2% above same month of 1934.

14. **Tobacco products.** National network volume 102.7% above September, regional networks up 38.9%, national non-network business 7.2%, and local up 23.6%. Compared October 1934, national network volume gained 18.2%, regional networks up 836.0%, national non-network business up 52.4%, local unchanged.

15. **Miscellaneous.** Increases as against previous month as follows: National networks 89.6%, regional networks 63.3%, national non-network 71.4%, and local 44.1%. Compared to last October, increases as follows: National networks 75.0%, regional networks 38.3%. National non-network down 17.6%, and local 20.2%.

Retail Broadcast Advertising

General retail broadcast advertising increase 37.3% as compared to September and showed a gain of 47.2% as against the corresponding month of 1934. Principal increases as compared to the preceding month are as follows: Automotive more than doubled, clothing 43.7%, grocery stores 64.7%, radio retailers more than double, and department stores 20.0%. Increases as compared with the same month of last year are as follows: Automobile retailers more than double, clothing 72.8%, grocery stores 50.1%, household equipment dealers 58.4%, furniture stores 70.0%, hardware stores 56.5%, and department stores 20.2%.

Retail broadcast advertising during October is found in Table VII:

TABLE VII
RETAIL BROADCAST ADVERTISING OVER
INDIVIDUAL STATIONS

Type of Sponsoring Business	1935 Gross Time Sales	
	September	October
Automobiles and accessories:		
Automobiles agencies and used car dealers	\$47,770	\$105,110
Gasoline stations, garages, etc.....	31,615	47,610
Clothing and apparel shops.....	206,080	295,940
Drugs and toilet goods:		
Drug stores	17,700	27,720
Beauty parlors	7,320	5,110
Food products:		
Grocery stores, meat markets, etc.....	36,700	60,820
Restaurants and eating places	19,480	17,370
Beverage retailers	2,020	2,330
Confectionery stores	600	760
Household goods:		
Household equipment dealers.....	47,940	51,820
Furniture stores	80,600	90,000
Hardware stores	15,895	16,200
Radio retailers	8,610	19,700
Department and general stores.....	131,280	158,740
Tobacco shops	115	120
Miscellaneous	70,500	94,000
Total	\$724,225	\$993,350

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, December 9

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-116:

NEW—Knox Broadcasting Co., Inc., Schenectady, N. Y.—C. P., 1240 kc., 1 KW, unlimited time.

Examiner's Report No. I-88:

WNBF—Howitt-Wood Radio Co., Inc., Binghamton, N. Y.—Special experimental authority, 1240 kc., 500 watts, 1 KW LS, unlimited time. Present assignment: 1500 kc., 100 watts (C. P., 100 watts, 250 watts LS), unlimited time.

HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Winona Broadcasting Co., Emmons L. Abeles, Secy., Winona, Wis.—C. P., 1500 kc., 100 watts, unlimited time.

NEW—Appleton Broadcasting Co., Emmons L. Abeles, Secy., Appleton, Wis.—C. P., 1500 kc., 100 watts, unlimited time.

Tuesday, December 10

KFPY—Symons Broadcasting Co., Spokane, Wash.—C. P., 690 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1340 kc., 1 KW, unlimited time.

NEW—Fort Dodge Broadcasting Co., Emmons L. Abeles, Secy., Fort Dodge, Iowa.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Mankato Broadcasting Co., Mankato, Minn.—C. P., 1210 kc., 100 watts, unlimited time.

Wednesday, December 11

NEW—Clinton Broadcasting Co., Emmons L. Abeles, Secy., Clinton, Iowa.—C. P., 1310 kc., 100 watts, unlimited time.

- NEW—Wisconsin Broadcasting Co., Oshkosh, Wis.—C. P., **1310 kc.**, 100 watts, 250 watts LS, unlimited time.
 NEW—Wausau Broadcasting Co., Emmons L. Abeles, Secy., Wausau, Wis.—C. P., **1310 kc.**, 100 watts, unlimited time.
 NEW—Northern Broadcasting Co., Inc., Wausau, Wis.—C. P., **1370 kc.**, 100 watts, unlimited time.

Thursday, December 12

- NEW—Burlington Broadcasting Co., Emmons L. Abeles, Secy., Burlington, Iowa.—C. P., **1370 kc.**, 100 watts, unlimited time.

HEARING BEFORE THE BROADCAST DIVISION

- NEW—Ward Walker, Seattle, Wash.—C. P., **760 kc.**, 250 watts, 500 watts LS, unlimited time (requests facilities of KXA).
 KXA—American Radio Telephone Co., Seattle, Wash.—Renewal of license, **760 kc.**, 250 watts, 500 watts LS, limited time.
 KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—C. P., **760 kc.**, 1 KW, 5 KW LS, unlimited time (requests facilities of KXA). Present assignment: **920 kc.**, 1 KW, 5 KW LS, unlimited time.
 NEW—Symons Investment Co., Seattle, Wash.—C. P., **760 kc.**, 250 watts, 500 watts LS, limited time (requests facilities of KXA).

Friday, December 13

- NEW—Grand Island Broadcasting Co., Emmons L. Abeles, Secy., Grand Island, Nebr.—C. P., **1370 kc.**, 100 watts, unlimited time.
 NEW—Hastings Broadcasting Co., Emmons L. Abeles, Secy., Hastings, Nebr.—C. P., **1420 kc.**, 100 watts, unlimited time.

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-86:

- NEW—William A. Schall, Omaha, Nebr.—C. P., **1500 kc.**, 100 watts, unlimited time.

Examiner's Report No. I-87:

- NEW—W. R. Cramer and G. A. Anderson, d/b as Omaha Broadcasting Co., Omaha, Nebr.—C. P., **1500 kc.**, 100 watts, unlimited time.

Examiner's Report No. I-54:

- NEW—Helena Broadcasting Co., Helena, Mont.—C. P., **1420 kc.**, 100 watts, unlimited time.
 NEW—Montana Broadcasting Co., Freda Wessell, Secy., Helena, Mont.—C. P., **1420 kc.**, 100 watts, specified hours.
 NEW—E. B. Craney, Butte, Mont.—C. P., **1420 kc.**, 100 watts, unlimited time.

APPLICATIONS GRANTED

- KABR—Aberdeen Broadcast Co., Aberdeen, S. Dak.—Granted C. P. to make changes in antenna and move transmitter locally.
 KRLH—Clarence Scharbauer, Midland, Tex.—Granted modification of C. P. approving antenna, frequency monitor, and transmitter site at W. Wall St. (Broadway of America), Midland, Tex., and make changes in equipment.
 WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Granted license to cover C. P., **1310 kc.**, 100 watts, unlimited.
 WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted license to cover C. P. for auxiliary transmitter.
 KDON—Richard Field Lewis, Del Monte, Calif.—Granted license to cover C. P. as modified, **1210 kc.**, 100 watts, unlimited.
 WPAD—Paducah Broadcasting Co., Inc., Paducah, Ky.—Granted license to cover C. P. to move transmitter, **1420 kc.**, 100 watts night, 250 watts day, unlimited.
 WNAX—The House of Gurney, Inc., Yankton, S. Dak.—Granted authority to determine operating power by direct measurement of antenna.
 WTAQ—WHBY, Inc., Green Bay, Wis.—Granted modification of C. P. to make changes in equipment and extend commencement date to 30 days after grant and completion date to 180 days thereafter.
 KWTO—KGBX, Inc., Springfield, Mo.—Granted modification of license to change name of station from KGBX, Inc., to Ozarks Broadcasting Co.
 KRKD—Radio Broadcasters, Inc., Los Angeles, Calif.—Granted license to cover C. P. modified to make changes in equip-

- ment and increase power; **1120 kc.**, 500 watts night, 2½ KW day, S-KFSG.
 WPTF—WPTF Radio Co., Raleigh, N. C.—Granted C. P. to move auxiliary transmitter from Raleigh to Cary, N. C.
 WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted C. P. to make changes in auxiliary equipment and increase power of auxiliary equipment from 250 watts to 500 watts.
 WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Granted C. P. authorizing installation of new equipment.
 KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted special authority to operate from 5 to 6 p. m., CST, on Sundays during the month of December, 1935, in order to broadcast special church services.
 NEW—Memphis Commercial Appeal, Inc., Memphis, Tenn.—Granted C. P. (broadcast pickup service), frequencies **31100, 34600, 37600 and 40600 kc.**, 5 watts.
 NEW—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted C. P. (exp. gen. exp. misc. service), frequencies **31600, 35600, 38600 and 41000 kc.**, 1 KW.
 NEW—Shepard Broadcasting Service, Inc., Quincy, Mass.—Granted C. P. (gen. exp. misc. service, facsimile broadcasting), frequencies **31600, 35600, 38600 and 41000 kc.**, 500 watts.
 NEW—General Electric Co., Portable-Mobile (Schenectady).—Granted C. P. (exp. gen. exp.), frequencies **31100, 34600, 37600, 40600 kc.**, 15 watts.
 W9XPD—The Pulitzer Publishing Co., St. Louis, Mo.—Granted license to cover C. P. (exp. gen. exp.), frequencies **31600, 35600, 38600, 41000, 86000-400000 kc.**, 100 watts.
 W1XEG—Connecticut State College, Storrs, Conn.—Granted license to cover C. P. (exp. gen. exp.), frequencies **86000-400000 kc., 401000 kc. and above**, 500 watts.
 W10XAN—National Broadcasting Co., Inc., Portable-Mobile (New York City).—Granted license to cover C. P. (exp. gen. exp.) authorizing increase in power from 10 to 40 watts.
 WNBD—WDSU, Inc., Portable-Mobile (New Orleans, La.).—Granted license to cover C. P. for period ending November 1, 1936; frequencies **1646, 2090, 2190 and 2830 kc.**, 3 watts.
 W10XGB—Miami Valley Broadcasting Corp., Portable-Mobile (Miami, Fla.).—Granted license to cover C. P. (exp. broadcasting pickup station), frequencies **31100, 34600, 37600 and 40600 kc.**, 2.5 watts.
 NEW—National Battery Broadcasting Co., Portable-Mobile (St. Paul).—Granted C. P. for broadcast pickup station, frequencies **1622, 2060, 2150, 2790 kc.**, 25 watts.
 W3XAU—WCAU Broadcasting Co., Newton Square, Pa.—Granted C. P. to increase power to 10 KW.
 W8XAR—Westinghouse Electric & Manufacturing Co., Saxonburg, Pa.—Granted renewal of special experimental station license in exact conformity with existing license, for the period December 23, 1935, to March 23, 1936.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

- WHDL, Olean, N. Y.; WMAS, Springfield, Mass.; WOC, Davenport, Iowa; WPAD, Paducah, Ky.; WRJN, Racine, Wis.; WWRL, Woodside, L. I.; KABC, San Antonio, Tex.; KABR, Aberdeen, S. Dak.; KBPS, Portland, Ore.; KDB, Santa Barbara, Calif.; KFGQ, Boone, Iowa; KFJZ, Fort Worth, Tex.; KFRO, Longview, Tex.; KGFF, Shawnee, Okla.; KGFI, Corpus Christi, Tex.; KGFL, Roswell, New Mexico; KGIW, Alamosa, Colo.; KGKB, Tyler, Tex.; KICA, Clovis, N. Mex.; KORE, Eugene, Ore.; KOTN, Pine Bluff, Ark.; KRE, Berkeley, Calif.; KSLM, Salem, Ore.; KVL, Seattle, Wash.; KWYO, Sheridan, Wyo.

SET FOR HEARING

- NEW—Harmon LeRoy Stevens and Herman LeRoy Stevens, d/b as the Port Huron Broadcasting Co., Port Huron, Mich.—Application for C. P. for new station; **1370 kc.**, 250 watts, daytime only.
 WHDL—Olean Broadcasting Co., Inc., Olean, N. Y.—Application for C. P. to install new equipment, change frequency from **1420 kc.** to **1260 kc.**, increase power from 100 watts to 250 watts daytime, and move transmitter from Olean to Allegheny, N. Y.
 NEW—John A. Stump, Fairbanks, Alaska.—C. P., already in hearing docket, amended to request **1210 kc.**, 100 watts night, 250 watts day, unlimited time.
 NEW—J. R. Maddox and Dr. W. B. Hair, d/b as Chattanooga Broadcasting Co., White Oak, Tenn.—Application for C. P. for new station; **590 kc.**, 1 KW, unlimited time.

NEW—Ruth Adcock and S. E. Adcock, c/b as General Broadcasters, Johnson City, Tenn.—Application for C. P. for new station; **600 kc.**, 250 watts, daytime.

NEW—Ruth Adcock and S. E. Adcock, c/b as General Broadcasters, Rossville, Ga.—Application for C. P. for new station; **580 kc.**, 250 watts, daytime.

NEW—Herbert Hollister, Emporia, Kans.—Application for C. P. for new station; **1500 kc.**, 100 watts, unlimited time.

NEW—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, Pres., Visalia, Calif.—Application for C. P. for new station; **1190 kc.**, 250 watts daytime. Site to be determined subject to approval of Commission.

WPTF—WPTF Radio Co., Raleigh, N. C.—Special experimental authority to operate with 5 KW power from 9 p. m. to 7 a. m., EST, using both directive and non-directive antenna, to February 1, 1936. To be heard by the Division en banc February 13, 1936.

WHDL—Olean Broadcasting Co., Inc., Olean, N. Y.—Authority to transfer control of corporation from Olean Broadcasting Co., Inc., to the Olean Times-Herald Corp.

NEW—Howard N. Mitchell, Sacramento, Calif.—Application for C. P. for new station; frequency **1310 kc.**, 100 watts, unlimited time.

KRLC—H. E. Studebaker, Lewiston, Idaho.—Application for C. P. to increase power from 100 to 250 watts; change frequency from **1420 kc. to 1390 kc.** (new equipment).

NEW—Nathan N. Bauer, Miami, Fla.—Application for C. P. for new station; **1420 kc.**, 100 watts, unlimited time.

NEW—O. S. Cleveland and E. H. Carter, d/b as The Voice of the Black Hills, Rapid City, S. Dak.—Application for C. P. for new station; **1200 kc.**, 100 watts, S.H., unlimited except 1 hour used daily by WCAT. Site to be determined.

NEW—John E. Fetzer, Benton Harbor, Mich.—Application for C. P. for new station; **1500 kc.**, 100 watts night, 250 watts day, unlimited. Site to be determined on approval of Commission.

NEW—Kidd Bros (K. K. Kidd and A. C. Kidd), Taft, Calif.—Application for C. P. for new station; **1420 kc.**, 100 watts, daytime.

NEW—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—Application for C. P. for new station; **1330 kc.**, 250 watts night, 500 watts day, unlimited.

ACTION ON EXAMINERS' REPORTS

NEW—Ex. Rep. No. 1-53: L. M. Kennett, Indianapolis, Ind.—Denied C. P. for new station to operate on **600 kc.**, 1 KW, daytime. Order effective January 28, 1936. Examiner Geo. H. Hill reversed.

NEW—Ex. Rep. No. 1-76: National Battery Broadcasting Co., Minneapolis, Minn.—Denied C. P. for new station to operate on **1370 kc.**, 100 watts, unlimited time. Examiner Melvin Dalberg sustained.

NEW—Edward Hoffman, St. Paul, Minn.—Granted C. P. for new station to operate on **1370 kc.**, 100 watts, unlimited, subject to Rules 131, 132, 139. Examiner Dalberg sustained.

NEW—Radio Chapel of the Air (Rev. Robt. E. Connelly, Pres.), Minneapolis, Minn.—Denied C. P. for new broadcast station to operate on **1370 kc.**, 100 watts, unlimited time. Examiner Dalberg sustained.

WALA—Ex. Rep. No. 1-120: Pape Broadcasting Corp., Inc., Mobile, Ala.—Denied modification of license to increase power from 500 watts night, 1 KW day, to 1 KW; **1380 kc.**, unlimited time. Examiner Walker sustained. Order effective January 21, 1936.

NEW—Ex. Rep. No. 1-140: Steel City Broadcasting Co. (Bernard Armstrong, Harold C. Lund, and Jerome Mayhall), Pittsburgh, Pa.—Denied as in cases of default C. P. for new broadcast station to operate on **1420 kc.**, 100 watts night, 250 watts day, unlimited time, sustaining Examiner R. L. Walker.

KFDM—Ex. Rep. No. 1-144: Sabine Broadcasting Co., Inc., Beaumont, Tex.—Denied as in cases of default modification of license to change power from 500 watts night, 1 KW day, to 1 KW; **560 kc.**, unlimited time. Examiner Walker sustained.

NEW—Dr. Geo. W. Young, Minneapolis, Minn.—Denied C. P. for new station to operate on **1370 kc.**, 100 watts, unlimited time. Examiner Dalberg sustained. Order in the four cases above effective February 4, 1936.

KGFI—Ex. Rep. No. 1-120: Eagle Broadcasting Co., Inc., Corpus Christi, Tex.—Denied C. P. to move transmitter locally; install new equipment; change frequency from **1500 kc.** to

1380 kc.; increase power from 100 watts night, 250 watts day, to 1 KW, unlimited time. Examiner R. L. Walker sustained.

ACTION ON CASE HEARD BY COMMISSIONER BROWN

Mrs. Nellie H. Morris and W. C. Morris, a partnership working as Hotel Eagle, Eagle Pass, Tex.—Denied authority to transmit programs from Hotel Eagle over XEPN, Piedras Negras, Mexico. Commissioner Brown's recommendations sustained. Order effective February 4, 1936.

MISCELLANEOUS

WBSO—Broadcasting Service Organization, Inc., Needham, Mass.—Reconsidered and granted, without hearing, application for transfer of control of station.

WCOP—Joseph M. Kirby, Boston, Mass.—Denied petition asking Commission to reconsider and grant application to change frequency from **1120 kc. to 1130 kc.**, and to increase time from daytime to local sunset at Salt Lake City.

NEW—Seymour Chamber of Commerce, Seymour, Tex.—Granted permission to withdraw protest against removal of KGKO from Wichita Falls to Fort Worth, Tex.

NEW—Christian M. Jacobson, d/b as The Valley Electric Co., San Luis Obispo, Calif.—Granted request that hearing on application of Long Piano Co. for new station at San Luis Obispo, scheduled for December 16, be postponed until January 27, 1936, when both applications will be heard jointly.

APPLICATIONS RECEIVED

First Zone

WABI—The Community Broadcasting Service, Bangor, Maine.—**1200** Authority to transfer control of corporation from First Universalist Society of Bangor, Maine, to Frederick B. Simpson, 990 shares of common stock.

NEW—Niagara Falls Broadcasting Corp., Niagara Falls, N. Y.—**1420** Construction permit for a new station to be operated on (frequency not given), 100 watts, unlimited time. Amended giving frequency as **1420 kc.**; change power from 100 watts to 100 watts, 250 watts day; transmitter site as point on East city line and 200 feet south of Buffalo Ave., Niagara Falls, N. Y.; and make changes in equipment.

Second Zone

WKZO—WKZO, Inc., Kalamazoo, Mich.—Modification of license **590** to change hours of operation from daytime to local sunset at Kalamazoo, Mich., to daytime to local sunset at Omaha, Nebr. (WOW).

NEW—John E. Fetzer, Saginaw, Mich.—Construction permit for **630** a new station to be operated on **800 kc.**, 1 KW, daytime. Amended to change frequency from **800 kc. to 630 kc.**, and make changes in antenna.

NEW—Wolverine Broadcasting Co. (John E. Fetzer), Ann Arbor, **800** Mich.—Construction permit for a new station to be operated on **830 kc.**, 1 KW, daytime. Amended to make changes in equipment and change frequency from **830 kc. to 800 kc.**

WCAE—WCAE, Inc., Pittsburgh, Pa.—Authority to determine **1200** operating power by direct measurement of antenna.

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—License to cover **1380** construction permit (B2-P-149) for equipment changes and move transmitter.

NEW—WTAR Radio Corp., Portable-Mobile.—Construction permit for a new general experimental station to be operated on **31100, 34600, 37600, 40600 kc.**, 5 watts.

Third Zone

WJAX—City of Jacksonville, Jacksonville, Fla.—License to cover **900** construction permit (B3-P-408) to install new equipment, increase day power, and move transmitter.

WJAX—City of Jacksonville, Jacksonville, Fla.—Authority to de- **900** termine operating power by direct measurement of antenna power.

NEW—Southland Broadcasting Corp., Chattanooga, Tenn.—Con- **1200** struction permit to erect a new broadcast station at Chattanooga, Tenn., to be operated on **1200 kc.**, 100 watts, daytime.

NEW—W. T. Knight, Jr., Savannah, Ga.—Construction permit for **1310** a new station to be operated on **1310 kc.**, 100 watts, unlimited time.

KTRH—KTRH Broadcasting Co., Houston, Tex.—Construction 1330 permit to make changes in equipment.
NEW—Radio Station WSOC, Inc., Portable-Mobile.—Construction permit for a new general experimental station to be operated on 31100, 34600, 37600, 40600 kc., 2 watts.

Fourth Zone

WENR—National Broadcasting Co., Inc., Chicago, Ill.—Construction 870 permit to make changes in equipment (main transmitter).
WENR—National Broadcasting Co., Inc., Chicago, Ill.—Construction 870 permit to make changes in auxiliary equipment.
WHA—University of Wisconsin, Madison, Wis.—Construction permit 940 to make changes in equipment and increase power from 2½ KW to 5 KW.
WCB D—WCB D, Inc., Waukegan, Ill.—Modification of license to 1080 move studio from Karcher Hotel, Waukegan, Ill., to 128 N. Pulaski Road, Chicago, Ill.
WHB—WHB Broadcasting Co., Kansas City, Mo.—Construction 1120 permit to make equipment changes, install directional antenna, change frequency from 860 kc. to 1120 kc., time from daytime to unlimited, using 500 watts power night.
NEW—The Times Publishing Co., St. Cloud, Minn.—Construction 1420 permit to erect a new broadcast station at St. Cloud, Minn., to be operated on 1420 kc., 100 watts, unlimited time.
NEW—The Waterloo Times-Tribune Publishing Co., Waterloo,

1550 Iowa.—Construction permit for a new experimental broadcast station to be operated on 1550 kc., 1 KW, unlimited time, at Waterloo, Iowa.

Fifth Zone

KWG—Portable Wireless Telephone Co., Inc., Stockton, Calif.—1200 License to cover construction permit (B5-P-748) to install new equipment.
KGVO—Mosby's, Inc., Missoula, Mont.—Modification of construction 1200 permit (B5-P-232) as modified to install new equipment, change frequency, increase power, move transmitter, to further request extension of completion date from 12-16-35 to 1-16-36.
NEW—Ralph E. Smith, San Diego, Calif.—Construction permit for 1200 a new station to be operated on 1200 kc., 100 watts, unlimited time. Amended to change hours of operation from unlimited to daytime.
NEW—Donald A. Wike and H. E. Studebaker, Baker, Ore.—Construction 1370 permit to erect a new broadcast station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time. Facilities requested frequency of KUJ contingent upon KUJ being granted another frequency as applied for.
NEW—The Reynolds Radio Co., Inc., Portable-Mobile.—Construction permit for a new general experimental station to be operated on 31100, 34600, 37600, 40600 kc., 1 watt.

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.
JAMES W. BALDWIN, Managing Director

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MORE TIME RECOMMENDED FOR WROK

Broadcasting Station WROK, Rockford, Ill., operating on a frequency of 1410 kilocycles, with 500 watts power, now sharing time with WHBL, applied to the Federal Communications Commission for unlimited time.

Examiner P. W. Seward, in Report No. I-148, has recommended that the application be approved by the Commission. The Examiner found that granting of the application is in the public interest and that its granting "would not materially increase the interference with any existing station to the point that such interference would be considered objectionable."

NEW CALIFORNIA STATION RECOMMENDED

Arthur Westlund and Jules Cohn applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Santa Rosa, Calif., to use 1310 kilocycles, 100 watts power, and unlimited time.

Examiner Ralph L. Walker, in Report No. I-147, recommended that the application be granted. The Examiner found that "the applicants are in all respects qualified to construct and operate the proposed station, there is need for the service in the area to be served, and the proposed transmitter site and equipment is satisfactory."

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Securities & Exchange Commission under the Securities Act:

- Commonwealth Investment Company, San Francisco, Calif. (2-1789, Form A-1)
- Alaska Hurrah Gold Mines, Seattle, Wash. (2-1790, Form A-1)
- Acme Rayon Corporation, Cleveland, Ohio. (2-1791, Form A-2)
- Wellington Fund, Inc., Camden, N. J. (2-1792, Form A-1)
- Sterling Gold Mining Corporation, Houston, Tex. (2-1793, Form A-1)
- Sterling Gold Mining Corporation, Houston, Tex. (2-1794, Form A-1)
- National Pressure Cooker Company, Eau Claire, Wis. (2-1795, Form A-2)
- Committee for Monogram Realty Company, St. Louis, Mo. (2-1796, Form D-1)
- I. F. Steinmeyer, St. Louis, Mo. (2-1797, Form E-1)
- Central States Life Insurance Co., St. Louis, Mo. (2-1798, Form E-1)
- Deposited Bonds and Shares Corp., Los Angeles, Calif. (2-1799, Form C-1)

NEW CALIFORNIA STATION RECOMMENDED

Clark Standiford applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Visalia, Calif., to use 1310 kilocycles, 100 watts power, and unlimited time.

Chief Examiner David G. Arnold, in Report No. I-150, has recommended that the application be granted "with the understanding that the station is to remain a local station and not engage in chain broadcasting." The Examiner found that there is a need in that

area for additional radio service. The granting of the application would be in the public interest, the Examiner states, and the site on which it is proposed to construct the station meets the requirements of the Commission.

PRALL SPEAKS ON BROADCASTING

Anning S. Prall, Chairman of the Federal Communications Commission, speaking at the radio luncheon of the Downtown Athletic Club, New York City, on December 5, discussed broadcasting, and of some of the things that the Commission is doing and hopes to do in the future, he said:

"I have been reliably advised that this is what is known as a 'Headliners' luncheon. Upon looking you over very carefully, with somewhat of a discriminating eye, I am convinced that the 'Headliners' are not segregated about this table, but grace every table in this room.

"I am delighted to see you here and am especially pleased to know that some of my friends in the broadcasting industry are here to do us honor today. At this time I wish to thank all of you who have given of your time and talents for your generous contribution to the success of this luncheon.

"The limited time allotted me permits me to touch upon only a few highlights of broadcasting, and I will be unable to mention the other activities with which the Federal Communications Commission is concerned.

"The Commission came into being on June 19, 1934. Under prior law, jurisdiction over the communications industry was vested in several different departments of the government. President Roosevelt, in a message to Congress, stressed the need for a single Federal agency to have unified jurisdiction over all forms of electrical communications whether by telephone, telegraph, cable or radio. Thus the Federal Communications Commission, armed with comprehensive jurisdiction and control over the entire communications industry, was created. I was appointed to the Commission on January 17, 1935, and designated its Chairman by the President on March 11, 1935.

"The broadcasting industry of the United States is privately owned and controlled. Its regulation, however, rests in and with the Federal Communications Commission. Broadcasting, in virtually all other countries, is subject to government ownership, control and operation.

"Proposals have been advanced for government ownership or operation of broadcasting in the United States. These propositions have grown out of the fact that in most other important nations radio is government controlled. It is my view that government-owned broadcasting has no place in our democratic form of government. To give any administration control of the air would possibly point the way to the suppression of free speech. In every other nation having government broadcasting, it has been found necessary to tax the people to defray the operating overhead. The enormous operating expense of American broadcasting on its present scale would greatly add to the general tax burden.

"Last summer, President Roosevelt took occasion to comment on American broadcasting. Addressing himself to the nation's broadcasters coincident with their annual convention, he said:

"I have previously expressed my very great faith in the American system of broadcasting. Recent events have increased rather than diminished that faith. Censorship has not, and cannot, invade the ether lanes. It is not the American way."

"That, in my opinion, is a forthright expression from our Chief Executive as to his views on American broadcasting. I am in full accord with it.

"We have given much thought and consideration to the possibilities of education by radio. Two conferences, occupying several weeks' time, have been held by the Commission for the specific consideration of this subject, and we are contributing as far as possible to the complete development of a definite, practical and workable plan for the extension, expansion and modernization of

education by means of radio broadcasting. There is a fertile field for such modern methods in this direction, and the universal demand for a broader use of radio for educational purposes increases as time goes on and as modern mechanical improvements mark the progress of the possibilities of radio and make its application to greater educational uses possible.

"The great founders of our government recognized, from the very beginning, the supreme importance of education in a democracy such as ours. They appreciated that, where the people themselves directly determine governmental policies and elect the representatives who are to carry them out, the quality of community life will not rise above the educational level of the average citizen—his intelligence, his understanding, his ideals, and the wisdom of his decisions.

"If education were important in those early days of town-hall meetings, when we were but three million people, living along the Atlantic coast, when communities were relatively sufficient unto themselves, and when voting power was restricted to the few, how much more today is education significant! Forty-fold have we grown in population. The busy descendants of many nations have developed a wide diversity of resources, have built up a broad variety of industries. Widely scattered though we are, we have become closely interdependent and necessary to one another. The dust storms beyond the Mississippi leave their withering trace within the kitchen of the housewife in the east; the destructive floods that work havoc with the cotton fields of the south spell idleness to the millhand of New England. Never before in our history has there been so much need for the broader education, so essential to a democracy, which shows itself in the good-will of its citizens—their clear thinking, their understanding, their tolerance, their social sensitiveness to the needs of others, and their social responsiveness that will make for the upbuilding of our national life.

"For a century and more, education has been closely—too closely for our national welfare—limited to the schools; the school has been identified too exclusively with the scholar, and the scholar with the teacher and the book. We have trusted too narrowly to the three R's, and particularly to the printed symbol, to develop the thinking, social-minded, understanding citizen who is to take an active part in the solution of the many complex problems that confront us as a nation. We have left almost entirely out of the picture that large multitude of men and women beyond the compulsory school-years, who must find their learning in the everyday experiences of life.

"It is only within comparatively recent times that forward-looking educators have insisted that we must consider the educative process, in fact as well as in theory, to be life-long, extending far beyond the school years, going backward into infancy and forward into adolescence and adulthood. Fortunately there has come to us, as if to meet this broader need, a voice vibrant with the personality of the living teacher, the voice of Radio.

"In order that a concrete, definite plan for education by radio may be developed, the Commission has appointed a representative committee, composed of both educators and broadcasters, to study the educational question in full detail and report to the Commission. Dr. John W. Studebaker, United States Commissioner of Education, will serve as chairman of this committee.

"Much of our time has been devoted to clearing the air of obnoxious programs. We are forever beset with complaints regarding the quality of programs, and I assure you the Commission is determined to improve the program standards of every broadcast station. Many unscrupulous broadcasters have permitted their stations to be used by high-powered salesmen to present fraudulent claims while advertising quack medicines, while others have indulged in fortune-telling, astrology, and lotteries, which have found many gullible victims because of misrepresentations made and over-statements presented in the broadcast. In these efforts the Commission, I am happy to say, has had the unqualified support and cooperation of the better class of stations throughout the country, and we believe we will soon have arrived at a point where such misrepresentations will be the exception rather than the rule and that the standards of broadcasting will have reached a degree of excellence to which we may point with pride.

"It may be interesting, to those who are uninformed, to know that there are 621 broadcast stations originating programs which are heard over some twenty-odd million receiving sets in homes in the United States. Using the United States Census Bureau average of four listeners per set, we have a potential radio audience averaging more than 80,000,000 of our 125,000,000 population.

"Radio speaks to all: To the mother busy with her household tasks; to the worker pausing for his noonday meal; to the young, to the old; to the solitary recluse, to the family circle; to the rich, to the poor; to the scholar, to the unlettered; in remote mountain

hamlet, in the crowded city tenement; everywhere radio sends alike its friendly human greeting. Whatever the human interests may be—be they civic, political, religious, social, musical, dramatic, literary, current news, sports—everywhere radio brings us relaxation, growth, enrichment, recreation in the best sense of each term. It enlarges our circle of acquaintances to include the President himself. It has raised the cultural level of the nation by making the best in music and in the literary arts an influence in every home. It has made of California a next-door neighbor of Maine. It has brought one hundred million people within the magic spell of the speaker's voice.

"And now let us take a glimpse into the future of radio.

"Apparatus for facsimile broadcasting has been perfected, although I understand there is still an economic obstacle which must be surmounted prior to large-scale distribution. When practical facsimile arrives, photographic reproductions of your favorite daily newspaper will emerge before your very eyes through your receiving set. Television, I understand, will follow very closely, and while great technical strides have been made, the producers of television sets are not yet ready to place them at your disposal. However, it will not be long, I am sure, before these new devices will be placed in your homes.

"When the era of visual broadcasting arrives and you get the news by reproduction of your daily newspaper, as you watch the football or baseball game, your favorite opera, and other activities, I trust you will think back to the fifth day of December, 1935, with fond recollections and pleasant memories of the Downtown Athletic Club's Radio Luncheon."

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2641. Misrepresentations in the sale of medicinal products are alleged in a complaint against **Albert F. Cooley, of Los Angeles**, trading under the names of **Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company.**

Advertising in newspapers and magazines and by radio broadcasts, the respondent is alleged to have represented his medicines as a cure, remedy, or competent and adequate treatment for an "over-acid condition" of the system, neuritis, stomach disorders generally, dizzy spells and other ailments. The complaint charges, however, that these preparations do not constitute a cure, remedy, or competent treatment for the various diseases for which they are recommended, and that the respondent's representations are misleading.

No. 2642. Alleging a combination and agreement for suppressing competition in the sale of buff and polishing wheels and enhancing the prices thereof to the public, a complaint has been issued against the **Buff & Polishing Wheel Manufacturers' Association, of New York City**, and thirty-three eastern and middle western companies controlling almost the entire production of cotton buffs and polishing wheels in the United States. All but one of the companies are members of the association.

According to the complaint, the respondents have filed with the association their current price lists, from time to time filing revisions of such lists, all of which have been distributed to and followed by members of the industry.

No. 2643. Alleging unfair competition in the sale in interstate commerce of treatments for foot ailments, a complaint has been issued against **C. R. Acfield, Inc.**, of 36 West Thirty-fourth Street, **New York City.**

Selling and distributing the "Perfection Toe Spring" for bunions and "Bentoe Splint" for hammer-toe, to foot specialists, chiropodists, retail stores and individuals, the respondent is alleged to have advertised that the toe-spring cures or removes the actual cause of a bunion or enlarged joint and that the "Bentoe Splint" is capable of straightening hammer-toes.

No. 2645. A complaint has been issued charging **Jack Diamond, of New York City**, knitted garments dealer trading as "**Diamond Knitting Mills**," with unfair representations in the use of the words "Knitting Mills" in his trade name, when in fact he does not manufacture the products sold or own or control a factory in which they are made.

According to the complaint, this tends to deceive buyers into believing that by purchasing products from Diamond Knitting Mills they are buying directly from a factory and saving profits that would otherwise go to a middleman.

Stipulations

The Commission has announced the following cease and desist orders:

No. 0981. McCarrie School of Mechanical Dentistry, Philadelphia, selling a correspondence course, agrees to cease and desist from representing that the regular price of the course is a special price, and that any reduction in price is for a limited time, unless a definite time limit is fixed, and the former price is resumed at the expiration of such time.

No. 0982. The Master Drug Company, Inc., of Omaha, Nebr., in the sale of a medicinal treatment offered for numerous ailments, and known as "Commanders," agrees to stop representing that "Commanders are derived from pure food sources"; that "in one Commander there are vitamins equivalent to vitamins in the following: 1 quart milk, 100 loaves white bread, plus 1 large spoonful of cod liver oil, 1 cake of yeast, 1 egg, 1 orange, 1 plate of spinach, and 1 plate of whole wheat."

The respondent will also stop representing that "Commanders" are a competent remedy in treating rheumatism, arthritis, neuritis, and other ailments.

No. 0983. Best Products Corporation, of Seattle, Wash., agrees not to represent "Best's Aspirin" as "The aspirin your doctor prescribes," and not to make unmodified representations of earnings in excess of actual average earnings of full-time salespersons. The respondent also will no longer include in its letterheads or advertising material a picture of the building in which the respondent has rooms, with a fanciful sign depicted thereon, implying that the company occupies the entire building.

No. 0984. Scholl Manufacturing Company, Inc., Chicago, selling "Solvex," a medicated ointment, agrees to stop advertising that it will do away with every sign of athlete's foot or other ringworm infections, or that it will restore inflamed, cracked, or scaly skin to normal.

No. 0985. Medi Creme, Inc., of Baltimore, vendor of a skin cream, stipulates that it will not advertise "Medi Creme" as a competent remedy for enlarged pores, acne, eczema or hemorrhoids, and will cease representing that the preparation is antiseptic or penetrating and that it is a relief or treatment for skin or foot infections.

No. 0986. Az-Ma-Gon Remedies Corporation, of Amery, Wis., agrees to abandon the representation that its treatment for asthma and hay fever will bring immediate relief or prevent occurrence of hay fever attacks in the midst of exposure to the things which cause this trouble, and that "Az-Ma-Gon" is "absolutely harmless."

No. 0987. Mitchell I. Heim, of Minneapolis, trading as Credit Guaranty Association, selling account collecting systems, agrees to cease representing that circular letters to prospective agents are personal; that the respondent's collection system is nationally recognized; that there is an opening for a district superintendent in any community, unless the respondent has in such community an established organization to be supervised or directed by a superintendent; that the system contains the same plans and secrets that large national concerns have paid thousands of dollars to learn, and other representations of like character. The respondent agrees not to hold out as a chance or opportunity for prospective salesmen any amount in excess of what has actually been accomplished by salespersons under normal conditions.

No. 0988. Peterson's Ointment Company, Inc., of Buffalo, engaged in selling a treatment for piles, eczema, athlete's foot, and similar ailments, agrees to cease asserting that its ointment is a competent treatment or effective remedy for eczema, and a competent treatment for athlete's foot and other diseases, unless the representations are limited to the relief of certain surface irritations. Other similar assertions will be discontinued.

No. 0989. Marlin Mineral Water Company, Inc., of Marlin, Tex., selling mineral water and mineral crystals, agrees to stop advertising that either the water or the crystals will correct faulty elimination, cleanse the system of toxic and uric poisons, give children "pep" and stamina, and to abandon other like representations.

No. 0990. Stanco, Inc., of New York City, vendor advertiser of a medicinal preparation called "Mistol Drops," agrees to cease alleging that this preparation is a competent treatment or effective remedy for colds, coughs or sore throat, or that it will do more than relieve minor types of nasal irritations or congestions, and to stop other representations. The respondent has discontinued publication of the advertisements questioned, although not admitting that the assertions as published were incorrect or misleading.

No. 0991. The Kar-Nu Company, of Cincinnati, selling an automobile refinisher, agrees to stop representing that "Kar-Nu" is not a varnish, or that it dries in fifteen minutes and gives the luster, life, glow and beauty of the "original factory finish." The company will also cease representing that the product stands every test,

and is made from the highest grade gums and synthetic resins from all over the world. The article will not be advertised as being used by the Ford Motor Company, until the Ford Motor Company actually uses the product, according to the stipulation.

No. 1508. C. L. Rowe, of Chicago, trading as Interstate Mushroom Industries, and engaged in the sale of mushroom spawn, of manuals of instruction for growing mushrooms, and of advice and instruction services, stipulates that he will discontinue advertising that mushrooms can be successfully grown anywhere about the home or on its premises; that the cultivation is easy, and that as much as 540 per cent profit can be obtained in the business. The stipulation points out that Rowe's advertisements were also deceptive and misleading because they omitted the material fact that the business of growing mushrooms for the market is one of great difficulty, involving intricate processes which must be carefully followed to make the venture commercially profitable.

Nos. 1509 and 1510. L. E. Scott Company, Inc., of Southington, Conn., manufacturer of cleaning fluids, and **Andrew F. Wineburgh, of New York City,** trading as **Exo Products Company** and distributing a solvent called "Exo Cleaning Fluid," both agree to cease making misleading representations in the sale of their preparations, particularly concerning their effect on color or fabrics.

No. 1511. L. H. Davidson, of Chicago, trading as Service Garment Company, will discontinue representing through salesmen or by means of advertising, that suits offered for sale are tailored or fashioned or made to measure or order of the individual customer, when this is not true, and from using methods of accepting orders for suits which may tend to deceive customers into believing that the suits they order will be tailored, fashioned, or made to individual measurement. The respondent also agrees to abandon use of representations such as "from factory to you," implying that he owns and operates the factory wherein the suits sold by him are manufactured, when this is not true.

No. 1512. Anna R. Barletta, of New York City, trading as Barletta Manufacturing and Packing Company, and **Hercules A. Barletta,** agree in their stipulation to cease and desist from representing on labels attached to containers in which their products are packed, or in other advertising, that their preparations are imported from Italy or elsewhere, or that they have offices or branches at Naples and Milan, or that they are agents or distributors in the United States for any foreign producers, when these are not the facts.

No. 1513. Rountree Trunk and Bag Company, of Richmond, agrees to abandon use of the word "leather" as a stamp or brand implying that its products are composed of leather made from the top or grain cut or layer of the hide. The foregoing representation will be discontinued unless, when these products are composed of leather made from the inner or flesh cut of the hide, the word "leather" shall be immediately accompanied by the word "split," or by some other suitable word in conspicuous type, to show that the products are not composed of leather made from the top or grain cut or layer of the hide.

No. 1514. John P. Winnecour, of Chicago, trading as Economy Tire and Radio Company, selling radio receiving instruments and electrical appliances, agrees to stop selling radio sets marked "Victor" and "Victor Radio Corporation," and from use of the word "Victor" in any way having a tendency to deceive buyers into believing that the products so marked are the products of the RCA Manufacturing Company, Inc., of Camden, N. J., when this is not true. Winnecour also agrees to cease employing expressions such as "Direct from factory to you," which may tend to deceive buyers into believing that he owns and operates a factory wherein his products are made, when such is not the fact.

No. 1515. Trading as Varnish Products Company in Brooklyn, N. Y., Theodore Shapiro and Nat Pashman agree to discontinue use of the words "lead zinc," or "lead and zinc," to advertise products which are not in fact made wholly of zinc in combination with lead carbonate or lead sulphate. Provision is made, however, that if any products contain zinc in their pigments in combination with lead carbonate or lead sulphate in substantial quantities, the phrases "lead zinc" or "lead and zinc," if used, shall be accompanied by words in conspicuous type accurately designating such ingredients or disclosing that the product contains other ingredients.

No. 1516. Trading as Spiegel Brothers, with principal place of business in New York City, Walter E. Spiegel and Kurt J. Spiegel, engaged in the sale of hardware and tools, agree to stop employing representations such as "Makers of steelcraft tools," and "F.o.b. our Pennsylvania factory," when in fact they do not own or operate a factory wherein the products they sell are manufactured. They will also discontinue, in soliciting export trade, the use of catalogues or other advertisements which give incomplete or misleading information respecting which of their products are made in the United States and which are imported from foreign countries.

According to the stipulation, this practice resulted in confusion and disappointment to foreign purchasers who desired to buy articles made in the United States.

No. 1517. Jose Diaz, of Tampa, Fla., trading as Jose Diaz & Co., manufacturer of cigars, agrees to stop using the words "throwouts" or "factory throwouts" independently or in connection with other words as a trade name for products, or on labels or boxes in which the products are packed, to represent such of his cigars as are not actually throwouts. The stipulation points out that among cigar manufacturers and dealers, as well as among smokers, the words "throwouts" and "factory throwouts" have a definite meaning and are applied to cigars which, because of some imperfection, do not pass inspection at the factory, and are therefore thrown out in the process of packing such products for sale.

No. 1518. Atlas Furniture Company, of Jamestown, N. Y., agrees to stop employing the words "mahogany" or "walnut" in advertising its products, implying that such furniture is made of wood derived from trees of the mahogany or walnut family, when this is not true.

No. 1519. Trading under the name of D. Roum and Son and Brookdale Shirt Company, David Roum and Jack Roum, of New York City, co-partners engaged in the manufacture of men's shirts, agree to cease designating their products as "Pre-shrunk." The respondents agree that the cloth of which the shirts were made had not been subjected to such treatment as to eliminate shrinkage beyond a reasonable tolerance, so as to be properly designated as "Pre-shrunk."

Nos. 1520 and 1521. W. C. Kalash, Inc., of Omaha, Nebr., and Corn Chemical Company, Inc., of Cleveland, Tenn., agree to stop representing that salves offered as treatments for hay fever are anti-pollen agents or will immunize the nasal passages against hay fever. These respondents also agree not to say that their product will cure hay fever, or that hay fever has been conquered, and to cease employing any exaggerated claims, improbable of accomplishment.

No. 1522. A cleaning fluid called "Zep" will no longer be advertised as "non-injurious" to fabrics in connection with its sale as a cleaner, nor will the phrase "Will not form rings" be used in connection with its sale, according to a stipulation signed by Harry Kantrowitz, Aaron Gershon, and Benjamin Schreiber, co-partners, of New York City, trading as Gershon and Schreiber.

No. 1523. Sales plans involving the use of gift enterprises or lotteries will be discontinued by Christ L. Temo, of Youngstown, Ohio, trading as Temo's and as C. L. Temo Co., and engaged in the manufacture of confectionery.

No. 1524. Use of the phrases, "Removes spots without injury to color or fabric," and "Will not leave a ring," will be discontinued by Klink Products Corporation, of Brooklyn, N. Y., manufacturer of two cleaning fluids, known as "Klink" and "Clean-Tex." The stipulation says that use of the product on certain fabrics does result in appearance of a mark or ring, and that certain fabrics are injured by use of the fluid thereon.

No. 1525. Norwalk Vault Company, of St. Louis, selling cement burial vaults, agrees to stop advertising that its vaults give permanent and positive protection to bodies encased therein, and that the vaults are waterproof or air-tight and will last through the ages. The stipulation points out that the vaults referred to in the advertisement did not give permanent and positive protection, were not waterproof or air-tight, and that there was no basis for representing that they would last through the ages.

No. 1526. The Baer & Wilde Co., of Attleboro, Mass., selling men's jewelry such as cuff links, collar buttons and tie fasteners, under the trade names "Swank" and "Cum-a-Parts," contracts, agreements or promises from its distributors, by the terms of which an undue or unreasonable restriction is placed upon alienation of goods and the freedom of trade. According to the stipulation, this company confined the distribution of its products to a small number of wholesale jewelers who acted as exclusive distributors. As a condition precedent to appointment of such a distributor, this company required the signing of an agreement in which the distributor agreed not to sell or solicit the respondent's product to the men's wear trade, and to confine its selling efforts of these products exclusively to retail jewelers, according to the stipulation.

No. 1527. Horace E. Dodge Boat & Plane Corporation, of Newport News, Va., and New York City, agrees to cease and desist from employing the word "mahogany" either independently or in connection with other words, implying that its boats or the wood trim or other wood parts thereof are from trees of the mahogany family, when this is not true. The stipulation says the company advertised that "Costly carloads of mahogany are seasoned under cover after importation from Africa," when in fact the parts

of these products represented were not derived from trees of the mahogany family.

No. 1733. The Billings-Chapin Company, of Cleveland, New York and Boston, has been prohibited, under a cease and desist order, from use in the sale of paint, enamel, or varnish products of certain words and initials signifying the United States Government or United States Navy.

The respondent company advertised and sold its products under the names, "U. S. Deck Paint," "U. S. N. Deck Paint," and other brand names similarly containing the letters "U. S." or "U. S. N.," according to the findings.

No. 2282. Rose R. Scott, of 130 West 17th Street, New York City, trading as Kotalko Sales Company, has been ordered to cease and desist from representing that certain preparations will eliminate dandruff, or grow hair on bald heads, or that they are efficacious as treatments for various forms of baldness. The order specifies that these representations shall be discontinued, "including by or through the use of testimonials or endorsements."

No. 2297. Louis Dubinoff, of Newark, N. J., trading as Famous Pure Silk Hosiery Company, has been ordered to cease and desist from unfair methods of competition in the sale of hosiery.

Dubinoff is directed to discontinue asserting that he owns, controls or operates the mill in which his products are manufactured, unless and until this is true, and that he is a direct mill distributor, unless he maintains a distributing or agency connection with the mill in which the products he sells are made, or maintains a relationship to that mill other than as a purchaser of products for resale.

No. 2364. John Alden Company, of Chicago, conducting a magazine subscription agency business, has been served with an order to cease and desist from unfair methods of competition in selling subscriptions to magazines. The order is directed against G. H. Soeffing and E. H. Eisler, trading as John Alden Company, and also as L. M. Stone, Mgr.

In the sale or distribution in interstate commerce of subscriptions for magazines, the respondents are ordered to cease and desist from advertising puzzle contests representing in such advertisements that mere solution of the puzzle will enable a contestant to win a prize; that the puzzle prize contest does not require the sending of money by contestants, and that the advertised prizes are awarded free, without a rendition of sales, solicitation, or subscription gathering services on the part of contestants.

No. 2459. Under a cease and desist order Claude S. Allen, New York City, trading as London Toffee Company, is prohibited from using the names of certain foreign cities when advertising his domestic-made products, and from representing himself as a manufacturer of confectionery products.

The order directs the C. S. Allen Corporation, New York City, manufacturer of confectionery products, including "toffee," to discontinue printing on its cellophane or paper containers names of certain foreign cities, and from employing the phrase "Famous in England since 1860," alone or in connection with words, phrases or pictures of an English guard in uniform in an English castle, unless there is placed at close proximity to this representation other words clearly indicating that the article is produced or manufactured in the United States.

No. 2564. An order to cease and desist from advertising or labeling its cleaning fluid as non-injurious to fabric or color, has been issued against X Laboratories, Inc., of New York City and Cambridge, Mass.

The respondent is directed to discontinue advertising or labeling its "X Odorless Dry Cleaner" as non-injurious to any fabric or color, as leaving no ring on materials upon which it is used, or as a cleaner of spots from fabrics no matter how delicate.

No. 2600. Misrepresentation of the sanitary properties of absorbent cotton is prohibited under an order to cease and desist issued against Gotham Aseptic Laboratory Co., Inc., of Long Island City, New York.

Engaged in the manufacture and sale of surgical supplies, the respondent company is ordered to stop advertising or labeling cotton "sterilized" unless it is sterile and free of bacteria after it has been packaged and while contained in the original unbroken package.

Complaint Dismissed

No. 2147. The Commission has closed its case concerning the Ray-X Water Corporation, of Toledo, Ohio, against which a complaint had been issued alleging unfair competition in the sale of a distilled water said to have had medicinal properties. The Commission was advised that the respondent company's charter had been cancelled and that the company no longer exists,

FEDERAL COMMUNICATIONS COMMISSION
ACTION

HEARING CALENDAR

Monday, December 16

- NEW—F. W. Atkinson, Watsonville, Calif.—C. P., 1310 kc., 250 watts, daytime.
NEW—Merced Star Publishing Co., Merced, Calif.—C. P., 1040 kc., 250 watts, daytime.
WJJD—WJJD, Inc., Chicago, Ill.—C. P., 1130 kc., 20 KW, limited time.

Tuesday, December 17

- WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—C. P., 890 kc., 500 watts, 1 KW LS, unlimited time (requests facilities of WMMN). Present assignment: 1450 kc., 500 watts, 1 KW LS, unlimited time.
WMMN—A. M. Rowe, Inc., Fairmont, W. Va.—Renewal of license, 890 kc., 250 watts, 500 watts LS, unlimited time.

Wednesday, December 18

- WJBC—Wayne Hummer and Harry Dee, d/b as Kaskaskia Broadcasting Co., Bloomington, Ill.—C. P., 1200 kc., 100 watts, 250 watts LS, shares with WJBL. Present assignment: 1200 kc., 100 watts, shares with WJBL.

Thursday, December 19

ORAL ARGUMENT BEFORE THE BROADCAST
DIVISION

- NEW—National Television Corp., New York, N. Y.—C. P., 2000-2100 kc., 500 watts, Emission A-3, A-4, unlimited time.

APPLICATIONS GRANTED

- WCAZ—Superior Broadcasting Service, Inc., Carthage, Ill.—Granted C. P. to move transmitter site locally in Carthage and make changes in equipment.
KWK—Thomas Patrick, Inc., St. Louis, Mo.—Granted C. P. to make changes in equipment; move transmitter from Kirkwood to five miles southwest of intersection of St. Louis Water Works Railroad and main line of Burlington R. R., 2/10ths of mile due east of Broadway, at intersection of Riverview Drive.
WPRP—Julio M. Conesa, Ponce, P. R.—Granted modification of C. P. to extend completion date from 12-18-35 to 1-18-36.
WIS—Station WIS, Inc., Columbia, S. C.—Granted modification of C. P. to extend completion date from 12-10-35 to 2-10-36.
WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted modification of C. P. approving composite equipment.
WMMN—A. M. Rowe, Inc., Fairmont, W. Va.—Granted modification of C. P. approving transmitter and studio sites at 3¼ miles west of Fairmont City Hall, and 208 Main St., respectively, in Fairmont, W. Va.; make antenna changes; extend commencement date to 30 days after grant and completion date to 180 days thereafter.
WEST—Asso. Broadcasters, Inc., Easton, Pa.—Granted modification of C. P. for antenna changes and approving transmitter site at Williams Township, Pa.
KBTM—W. J. Beard (Beard's Temple of Music), Jonesboro, Ark.—Granted license to cover C. P., frequency 1200 kc., 100 watts, daytime.
WCOL—WCOL, Inc., Columbus, Ohio.—Granted license to cover C. P., 1210 kc., 100 watts, unlimited time.
KWG—Portable Wireless Tel. Co., Inc., Stockton, Calif.—Granted license to cover C. P., 1200 kc., 100 watts, unlimited time.
WHFC—WHFC, Inc., Cicero, Ill.—Granted modification of license to change specified hours to add one additional hour operating time from 7 to 8 a. m., Sundays only.
WDZ—James L. Bush, Tuscola, Ill.—Granted consent to voluntary assignment of permit and license from James L. Bush to WDZ Broadcasting Co. (frequency 1070 kc., 100 watts, daytime only; C. P. for 1020 kc., 250 watts, daytime).
WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Granted modification of C. P. to make changes in equipment, extend commencement date to 30 days after grant and completion date to 180 days thereafter.
KUAO—John Brown University, Fayetteville, Ark.—Granted consent for transfer of control of KUAO, Inc., by number of

shares of stock (200) from Roberta Fulbright, Helen Fulbright, Douglas and Roberta E. Fulbright, to John Brown University.

- WNEL—Juan Piza, San Juan, P. R.—Granted C. P. to make changes in equipment and increase power from 500 watts night and day to 1 KW night, 2½ KW day.
KTRH—KTRH Broadcasting Co., Houston, Tex.—Granted C. P. to make changes in equipment.
KGVO—Mosby's, Inc., Missoula, Mont.—Granted modification of C. P. to extend completion date from 12-16-35 to 1-16-36.
KFRC—Don Lee Broadcasting System, San Francisco, Calif.—Granted authority to determine operating power by direct measurement of antenna power.
KMBC—Midland Broadcasting Co., Kansas City, Mo.—Granted license to cover C. P., heretofore set for hearing; 950 kc., 1 KW night, 5 KW day, unlimited time.
NEW—Oregon State Agricultural College, Portable-Mobile (Corvallis, Ore.)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 5 watts.
NEW—WTAR Radio Corp., Portable-Mobile (Norfolk, Va.)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 5 watts, unlimited.
NEW—National Broadcasting Co., Portable-Mobile (New York City)—Granted C. P. and license (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 20 watts.
NEW—Radio Station WSCC, Inc., Portable-Mobile (Charlotte, N. C.)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 2 watts.
NEW—The Reynolds Radio Co., Inc., Portable-Mobile (Denver)—Granted C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600 kc., 1 watt.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

- KAST, Astoria, Ore.; KFJM, Grand Forks, N. Dak.; KGAR, Tucson, Ariz.; KGGC, San Francisco; KGKL, San Angelo, Tex.; KCKY, Scottsbluff, Nebr.; KIDW, Lamar, Colo.; KNOW, Austin, Tex.; KPLC, Lake Charles, La.; KXO, El Centro, Calif.; WACO, Waco, Tex.; WAGF, Dothan, Ala.; WAGM, Presque Isle, Me.; WAZL, Hazleton, Pa.; WBTM, Danville, Va.; WCBS, Springfield, Ill.; WCNW, Brooklyn, N. Y.; WDAS, Philadelphia, Pa.; WDNC, Durham, N. C.; WEED, Rocky Mount, N. C.; WCHV, Charlottesville, Va.; WEHS, Cicero, Ill.; WELL, Battle Creek, Mich.; WGAL, Lancaster, Pa.; WGL, Fort Wayne, Ind.; WGPC, Albany, Ga.; WHBQ, Memphis; WHDF, Calumet, Mich.; WHEF, Kosciusko, Miss.; WHFC, Cicero, Ill.; WIBM, Jackson, Mich.; WILM, Wilmington, Del.; WJBO, Baton Rouge, La.; WKBB, E. Dubuque, Ill.; WKBI, Cicero, Ill.; WKDV, Richmond, Ind.; WKBZ, Muskegon, Mich.; WKEU, Griffin, Ga.; WLAP, Lexington, Ky.; WLBF, Kansas City, Kans.; WLLH, Lowell, Mass.; WMBC, Detroit, Mich.; WMBH, Joplin, Mo.; WMBR, Jacksonville, Fla.; WMBQ, Brooklyn, N. Y.; WMEX, Boston, Mass.; WMFD, Wilmington, N. C.; WMFO, Decatur, Ala.; WBNF, Binghamton, N. Y.; WPAR, Parkersburg, W. Va.; WPAY, Portsmouth, Ohio; WQDM, St. Albans, Vt.; WRDW, Augusta, Ga.; WRGA, Rome, Ga.; WSVS, Buffalo, N. Y.; WSYB, Rutland, Vt.; WWSW, Pittsburgh, Pa.; KMAC, San Antonio, Tex.; KONO, San Antonio, Tex.; KRKO, Everett, Wash.; KWBG, Hutchinson, Kans.
KGVO—Mosby's Inc., Missoula, Mont.—Granted renewal of license for the period ending June 1, 1936.
WSBC—WSBC, Inc., Chicago, Ill.—Granted renewal of license for the period ending June 1, 1936.

SET FOR HEARING

- WLEU—Leo K. Omelian, Erie, Pa.—Application for renewal of license.
NEW—Robert Raymond McCulla, Oak Park, Ill.—Application for C. P. for new station, 1500 kc., 100 watts, unlimited time.
NEW—John E. Fetzer, Kalamazoo, Mich.—Application for C. P. for new station, 1010 kc., 500 watts night, 1 KW day, unlimited time. Site to be determined.
WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Application for C. P. to make changes in equipment; move transmitter from West Virginia Hotel, Bluefield, to near Bluefield; increase power from 250 watts night, 500 watts day, to 500 watts night, 1 KW day.
NEW—A. E. Hughes, d/b as Valdosta Broadcasting Co., Valdosta, Ga.—Application for C. P. for new station, 1500 kc., 100 watts, unlimited time.

NEW—Saginaw Broadcasting Co., Saginaw, Mich.—Application for C. P. for new station, **1200 kc.**, 100 watts, S.H. Site to be determined.

WWRL—Long Island Broadcasting Corp., Woodside, L. I.—Modification of license to change specified hours to include 12 midnight to 1 a. m. Sundays; 12 midnight to 12:30 a. m. Tuesdays, Fridays and Saturdays.

WKBZ—Karl L. Ashbacher, Muskegon, Mich.—Modification of license to change frequency from **1500 kc.** to **1200 kc.**

KGDM—E. F. Pfeffer, Stockton, Calif.—Modification of license, already in hearing docket, amended to read: Change power from 1 KW day to 1 KW day and night, and hours of operation from 9 p. m. to 12 midnight to limited time.

WHK—Radio Air Service Corp., Cleveland, Ohio.—Consent for the transfer of control of Radio Air Service Corp (licensee station WHK) from The Plain Dealer Publishing Co. to the U. B. Company.

WJAY—The Cleveland Radio Broadcasting Corp., Cleveland, Ohio.—Consent for the transfer of control of Cleveland Radio Broadcasting Corp. (licensee WJAY) from Monroe F. Rubin and Ruth Rubin to U. B. Company.

KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—C. P. (already in hearing docket) to move transmitter locally to an approved rural site on Point Heyer, 10 miles north of Tacoma; install new equipment and increase day operating power from 1 to 5 KW.

ACTION ON EXAMINERS' REPORTS

NEW—Ex. Rep. No. 1-93: Quincy A. Brackett, Lewis B. Breed and Edmund A. Laport, d/b as Conn. Valley Broadcasting Co., Springfield, Mass.—Granted C. P. for new station to operate on frequency **1140 kc.**, 500 watts, limited time, sustaining Examiner Melvin Dalberg. Order effective February 4, 1936.

NEW—Ex. Rep. No. 1-97: Worcester Broadcasting Co., Inc., Worcester, Mass.—Denied C. P. for new station to operate on **1200 kc.**, 100 watts, unlimited time. Examiner Dalberg sustained.

NEW—Hartford Broadcasting Co., Inc., Hartford, Conn.—Denied C. P. for new station to operate on **1200 kc.**, 100 watts, unlimited time, sustaining Examiner Dalberg.

NEW—The Hartford Times, Inc., Hartford, Conn.—Granted C. P. for new broadcast station to operate on **1200 kc.**, 100 watts, daytime only, sustaining Examiner Dalberg. Order effective February 4, 1936.

NEW—Ex. Rep. No. 1-100: Oklahoma Press Publishing Co., Muskogee, Okla.—Granted C. P. for new broadcast station to operate on **1500 kc.**, 100 watts, unlimited time, subject to Rules 131, 132 and 139; Examiner John P. Bramhall sustained. Order effective February 11, 1936.

MISCELLANEOUS

NEW—Wyoming Radio Educational Assn., Cheyenne, Wyo.—Denied petition for reopening hearing and for an order to take depositions in re application for new station held before an Examiner on October 29 and 30, 1935. Examiner is now writing report on evidence submitted.

Archer County Chamber of Commerce, Archer City, Tex.—Granted request to withdraw as protestant against removal of KGKO from Wichita Falls, Tex., to Fort Worth, Tex.

Chamber of Commerce, Walters, Okla.—Granted request to withdraw as protestant against removal of KGKO from Wichita Falls, Tex., to Fort Worth, Tex.

Geo. H. Adams and Henry D. Bratter, St. Paul, Minn.—Granted permission to intervene and to be made parties respondent at hearing on January 8, 1936, of application of Emmons L. Abeles and Robt. J. Dean, d/b as Wise Broadcasting Co., for C. P. for new station at St. Paul, Minn., to operate on **630 kc.**, 250 watts, unlimited time.

APPLICATIONS RECEIVED

First Zone

WELI—Patrick J. Goode, New Haven, Conn.—Modification of **930** license to change hours of operation from daytime to unlimited time, requesting 500 watts power day and night, and change frequency from **900 kc.** to **930 kc.** Amended: Requesting 250 watts night power.

WSAY—Brown Radio Service & Laboratory (Gordon P. Brown, **1210** owner), Rochester, N. Y.—Modification of construction permit (B1-P-19) for a new station requesting changes in equipment and move of transmitter and studio from 14 Franklin,

Rochester, N. Y., to Taylor Bldg., 328 Main St., E., Rochester, N. Y., and extend commencement date from 12-1-35 to date of approval.

NEW—The Baltimore Radio Show, Inc., Baltimore, Md.—Construction permit for a new general experimental station to be operated on **31600, 35500, 38600, 41000 kc.**, 100 watts.

NEW—Westinghouse Electric & Mfg. Co., Portable.—Construction permit for a new special experimental station to be operated on **31600, 35600, 38600, 41000, 55500, 60500, 86000-400000 kc.**, 500 watts.

NEW—Westinghouse Electric & Mfg. Co., Portable.—License to cover above.

Second Zone

WWJ—The Evening News Assn., Inc., Detroit, Mich.—Modification of construction permit B2-P-297 authorizing installation of new equipment, move of transmitter, and increase in power, requesting approval of transmitter site at intersection of Meyers and Eight Mile Road Oak Park, Michigan (as approved under B2-P-456).

WWJ—The Evening News Assn., Inc., Detroit, Mich.—Modification of construction permit (B2-P-297) authorizing installation of new equipment, move of transmitter, and increase in power, requesting increase in power from 1 KW, 5 KW day, to 5 KW day and night.

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, **1200** Mich.—License to cover construction permit (B2-P-820) for equipment changes.

WCOL—WCOL, Inc., Columbus, Ohio.—Construction permit to **1210** increase power from 100 watts to 100 watts, 250 watts day, and make changes in equipment. Contingent upon the granting of application of WALR for move to Toledo, Ohio.

NEW—Continental Radio Co., Columbus, Ohio.—Construction permit for a new station to be operated on **1310 kc.**, 100 watts, unlimited time. Amended to make changes in equipment.

WSAI—The Crosley Radio Corp., Cincinnati, Ohio.—Construction **1330** permit to make changes in equipment and move transmitter from Maud Road, $\frac{3}{4}$ mile southwest of Mason, Ohio, to southeast corner Warner and Chickashaw, Cincinnati, Ohio.

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Authority to de-**1380** termine operating power by direct measurement of antenna.

NEW—WTAR Radio Corporation, Norfolk, Va.—Construction permit for a new general experimental station to be operated on **31600, 35600, 38600, 41000 kc.**, 50 watts.

Third Zone

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Construction permit for equipment changes, change frequency from **1200 kc.** to **1210 kc.**; move transmitter from 512-516 S. Grand St. to Renwick St., Monroe, La. Amended to make changes in equipment and change transmitter site from Renwick St., Monroe, La., to Monroe, La.

NEW—Ted R. Woodard, Kingsport, Tenn.—Construction permit **1210** for a new station to be operated on **1210 kc.**, 100 watts, daytime.

WRR—City of Dallas Texas, Dallas, Tex.—Construction permit to **1280** install new equipment and move transmitter from Fair Park, Dallas, Tex., to Centennial Grounds, Dallas, Tex.

WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—**1300** Construction permit to make changes in equipment and move transmitter from Collins Island, Miami Beach, Fla., to 600 Biscayne Blvd., Miami, Fla.

NEW—J. R. Maddox and J. E. Richards, d/b as Tuscaloosa Broadcasting Co., Tuscaloosa, Ala.—Construction permit for a new station to be operated on **1370 kc.**, 100 watts, daytime.

WJBR—J. B. Roberts, Gastonia, N. C.—Voluntary assignment of **1420** construction permit from J. B. Roberts to Virgil V. Evans.

WHBB—Dr. Wm. J. Reynolds and Wm. J. Reynolds, Jr., Selma, **1500** Ala.—Modification of construction permit for a new station to be operated on **1500 kc.**, 100 watts, daytime, requesting changes in equipment.

WHBB—Dr. Wm. J. Reynolds and Wm. J. Reynolds, Jr., Selma, **1500** Ala.—License to cover construction permit (B3-P-89) as modified for a new station.

NEW—Memphis Commercial Appeal, Inc., Memphis, Tenn.—Construction permit for a new general experimental station on **31600, 38600, 35600, 41000 kc.**, 50 watts.

Fourth Zone

WOW—Woodmen of the World Life Insurance Assn., Omaha, Nebr. **590** —License to cover construction permit (B4-P-120) as modi-

fied for new equipment and increase in day power. Also move of transmitter.

WOW—Woodmen of the World Life Insurance Assn., Omaha, Nebr.
590 —Authority to determine operating power by direct measurement of antenna power.

NEW—Springfield Newspapers, Inc., Springfield, Mo.—Construction
790 permit for a new station to be operated on 710 kc., 1 KW, daytime. Amended to change frequency from 710 kc. to 790 kc.

KFNF—KFNF, Inc., Shenandoah, Iowa.—Authority for consent to
890 transfer control of corporation from Henry Field Co. to Henry Field, 250 shares of common stock.

WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Modification
920 of construction permit authorizing increase in power, requesting approval of transmitter site at Live Stock Exchange Bldg., 1001 Exchange Avenue, Chicago, Ill.

WSBT—The South Bend Tribune, South Bend, Ind.—Construction
1010 permit to make changes in equipment, install directional antenna, change frequency from 1360 kc. to 1010 kc., increase power from 500 watts to 1 KW, change hours of operation from S-WGES to unlimited, and move transmitter from 4½ miles west on U. S. 2, South Bend, Ind., to site to be determined, South Bend, Ind.

NEW—The Steffen Ice & Ice Cream Co., Wichita, Kans.—Construction
1210 permit for a new station to be operated on 1500 kc., 100 watts, unlimited time. Amended to make changes in equipment and change frequency from 1500 kc. to 1210 kc.

WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Construction
1250 permit to make changes in equipment, change frequency from 1200 kc. to 1250 kc., power from 100 watts, 250 watts day, to 1 KW.

NEW—Star Chronicle Publishing Co., St. Louis, Mo.—Construction
1250 permit for a new station to be operated on 1250 kc., 1 KW, unlimited time.

NEW—Burlington Broadcasting Co., Emmons L. Abeles, Secy.,
1310 Burlington, Iowa.—Construction permit for a new station to be operated on 1370 kc., 100 watts, unlimited time. Amended to change frequency from 1370 kc. to 1310 kc.

NEW—M. M. Oppegard, Grand Forks, N. Dak.—Construction
1310 permit for a new station to be operated on 1310 kc., 100 watts, 250 watts day, unlimited time.

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Construction
1460 permit to make changes in equipment and move transmitter from Radio Center, Minnesota, to approximately 3 miles west of present site, Radio Center, Minnesota.

NEW—WCBS, Inc., Portable-Mobile.—Construction permit for a

new general experimental station to be operated on 31100, 34600, 37600, 40600 kc., 2 watts.

Fifth Zone

KIEV—Cannon System, Ltd., Glendale, Calif.—Modification of
850 construction permit (5-PB-3268) as modified for further equipment changes, move transmitter from corner Broadway and Glendale Blvds., Glendale, Calif., to corner Glendale Ave. and Glen Oaks Blvd., Glendale, Calif., and extend commencement and completion dates.

NEW—Harold Johnson and Leland Perry, d/b as Johnson & Perry,
1310 Cedar City, Utah.—Construction permit for a new station to be operated on 1500 kc., 25 watts, unlimited time. Amended to change frequency from 1500 kc. to 1310 kc., power from 25 watts to 100 watts, and move transmitter and studio from 97 N. Main St., Cedar City, Utah, to site to be determined, Cedar City, Utah.

NEW—Alex F. Suss, Sacramento, Calif.—Construction permit for
1310 a new station to be operated on 1310 kc., 100 watts, unlimited time.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, Hawaii.—
1320 Authority to transfer control of corporation from J. L. P. Robinson to Pacific Theatres & Supply Co., Ltd., 85%.

KIUP—C. Guy Shepard, Durango, Colo.—License to cover construction
1370 permit (B5-P-337) as modified for a new station.

KLO—Interstate Broadcasting Corp., Ogden, Utah.—Construction
1400 permit to make changes in equipment, increase power from 500 watts to 1 KW, and move transmitter from Riverdale Road, approximately 4 miles southwest of Ogden, Utah, to site to be determined, Ogden, Utah. Amended to install 5-KW equipment, install directional antenna, and increase power from 1 KW to 1 KW night, 5 KW day.

NEW—Gomer Thomas, Bellingham, Wash.—Construction permit
1420 for a new station to be operated on 1420 kc., 100 watts, unlimited time.

NEW—Southwest Broadcasting Co., Prescott, Ariz.—Construction
1500 permit for a new station to be operated on 1500 kc., 100 watts, unlimited time. Amended to increase power from 100 watts to 100 watts, 250 watts day; make changes in equipment; and move transmitter from Pleasant St., approximately 100 feet south of Leroux St., Prescott, Ariz., to 1.9 miles south from center of business district, Prescott, Ariz.

W6XKG—Pen S. McGlashan, Los Angeles, Calif.—License to cover
construction permit for a general experimental station on 31600, 35600, 38600, 41000 kc., 100 watts.

SEASON'S GREETINGS

to all

NAB MEMBERS

from the

WASHINGTON OFFICE STAFF

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RECOMMENDATION AGAINST NEW STATION

The Chicago Broadcasting Association filed an application with the Federal Communications Commission asking for a construction permit for a new station to be located at Chicago, Ill., to use 1500 kilocycles, 100 watts power and unlimited time.

Examiner Ralph L Walker in Report No. I-158 recommends that the application be denied. He found that the record fails "to disclose a need for an additional broadcast station assignment in Chicago." Interference would also be caused by granting the application, the Examiner states.

FIRE NEAR FCC

Several offices of the Federal Communications Commission were somewhat damaged by water and smoke last week when fire broke out in file rooms of the Reclamation Bureau of the Department of the Interior right across the hall.

The files of the Reclamation Bureau were practically demolished. The offices of Chairman Prall of the Commission, Secretary Peatty, the Docket Division and the meeting room of the Commission were directly across the hall from where the fire started. None of the files or papers of the Commission were damaged but considerable damage was done to the furniture and rooms.

FCC ANNOUNCES EDUCATIONAL COMMITTEE

Official announcement of the personnel of the Educational Committee has been made by the Federal Communications Commission together with statement of the purposes as follows:

The Commission, Broadcast Division, desires to announce that in compliance with the statements made by the Commission in its Report to Congress pursuant to Section 307 (c) of the Communications Act of 1934, a committee to be known as the Federal Radio Education Committee has been organized. Dr. John W. Studebaker, United States Commissioner of Education, has accepted the chairmanship of the committee.

RECOMMENDS INCREASED POWER FOR WADC

Broadcasting Station WADC, Tallmadge, Ohio, applied to the Federal Communications Commission to increase its daytime power from 2,500 to 5,000 watts local sunset. The station asked no change in its night power which is 1,000 watts. It operates on a frequency of 1,320 kilocycles, full time.

Examiner Melvin H. Dalberg in Report No. I-160 recommended that the application be granted. He found that granting the increased power would increase the usefulness of the service and in a considerable portion of the area covered by the station no other daytime service is now available.

SECURITIES ACT REGISTRATIONS

The following companies have filed registration statements with the Securities & Exchange Commission under the Securities Act:

- Algold Mines, Ltd., Toronto, Canada (2-1800, Form A-1)
- Lowell Gas Light Company, Lowell, Mass. (2-1801, Form A-2)

Because of the holiday and the fact that the Broadcast Division of the Federal Communications Commission will not meet, there will be no NAB Bulletin during the week of December 23rd.

Invitations for membership on the committee were sent to eminent persons in the fields of education and broadcasting. The letter extending invitations is quoted as follows:

"Section 307 (c) of the Communications Act of 1934 provides as follows:

"The Commission shall study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of non-profit radio programs, or to persons identified with particular types or kinds of non-profit activities, and shall report to Congress, not later than February 1, 1935, its recommendations together with the reasons for the same."

"As a means of carrying out the wishes of Congress the Broadcast Division, by direction of the Commission, held public hearings from October 1 to 20 and from November 7 to 12, 1934. A total of 1,535 notices of the hearing were sent to all parties of record at the Commission and wide publicity was given the matter so that anyone interested might be informed of the hearing. A total of 135 witnesses appeared and 14,000 pages of testimony were presented for the Commission's consideration in addition to several thousand pages of exhibits.

"As a result of these hearings, the Commission on January 22, 1935, submitted to the Congress a report which contained the following recommendation:

"The Federal Communications Commission respectfully recommends that at this time no fixed percentages of radio broadcast facilities be allocated by statute to particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities."

"and assigned the following reasons:

"There is no need for a change in the existing law to accomplish the helpful purposes of the proposal.

"Flexibility in the provisions of the law is essential to regulation if growth and development in the art of broadcasting is to be encouraged and regulated for the best interest of the public as a whole.

"There are insufficient broadcast facilities available in the present development of the art to provide for specialized broadcast service consistent with a fair and equitable distribution of facilities and services throughout the country.

"No feasible plan for a definite allocation of broadcast facilities to non-profit organizations has been presented.

"The hearings developed no evidence of a real demand on the part of the great body of non-profit organizations or on the part of the general public for the proposed allocation of definite percentages of broadcast facilities to particular types or kinds of non-profit activities.

"It would appear that the interests of the non-profit organizations may be better served by the use of the existing facilities, thus giving them access to costly and efficient equipment and to established audiences, than by the establishment of new stations for their peculiar needs. In order for non-profit organizations to obtain the maximum service possible, cooperation in good faith by the broadcasters is required. Such cooperation should, therefore, be under the direction and supervision of the Commission."

"A copy of the report to Congress is enclosed.

"In its report to the Congress the Commission proposed to hold an educational conference at which time plans for mutual cooperation between broadcasters and educational organizations could be made. That conference was held on May 15, 1935. It is the sincere belief of the Commission that the hearings, conferences, and constructive thought and experience given to this subject have produced a situation whereby within the present broadcast structure the educators on the one hand and the broadcasters on the other can combine forces which will:

1. Eliminate controversy and misunderstanding between groups of educators and between the industry and educators.
2. Promote actual cooperative arrangements between educators and broadcasters on national, regional and local bases.

"The Broadcast Division of the Commission is setting up a committee to carry on this work and Dr. John W. Studebaker, United States Commissioner of Education, has accepted the Chairmanship of the Committee. We desire that you accept membership on this Committee.

"A sufficient budget for expenses of the committee has been pledged, half of it by the National Advisory Council on Radio in Education on behalf of educational interests and half by the Na-

tional Association of Broadcasters on behalf of broadcast stations. It is expected that a small planning committee will be organized for the purpose of collecting and correlating data on which the main committee may base its deliberations, thus reducing to a minimum the amount of time the full committee will have to give, consistent with a fair and impartial consideration of the subject. This small committee may also undertake certain definite projects in keeping with the general purposes of the committee.

"The Commission is too familiar with the whole scope of educational broadcasting, its limitations and its possibilities, to expect any panacea, but we do believe that coordination and cooperation at this time will give results to the end that radio broadcasting can be further utilized as an effective medium for education.

"We sincerely hope that you will accept membership on this Committee."

This letter was sent to forty persons. The acceptances are listed below:

Mr. Waldo Abbott, University of Michigan; Mr. Merlin Aylesworth, President, National Broadcasting Company; Mr. James W. Baldwin, Managing Director, National Association of Broadcasters; Mr. Edgar Bill, Radio Station WMBD; Dr. S. Parks Cadman, Federal Council of Churches of Christ in America; Dr. Morse A. Cartwright, Director, American Association for Adult Education; Dr. W. W. Charters, Director, Bureau of Educational Research, Ohio State University; Dr. Harry W. Chase, Chancellor, New York University; Mr. Gardner Cowles, Jr., Des Moines Register; Mr. Lester E. Cox, Radio Station KWTO; Mr. Edwin Craig, Radio Station WSM; Dr. A. G. Crane, President, University of Wyoming; Dr. Walter Damrosch, National Broadcasting Company; Mr. Milton S. Eisenhower, Director of Information, Department of Agriculture; Mr. John Elmer, Radio Station WCBM; Mr. O. D. Fisher, Station KOMO; Mr. Leo J. Fitzpatrick, President, National Association of Broadcasters; Mr. Willard Givens, Secretary, National Educational Association; Mr. Tom C. Gooch, Daily Times Herald; Mr. William Green, President, American Federation of Labor; Mrs. Rose Jacobs, President, Hadassah Women's Zionist Organization; Father Geo. W. Johnson, Catholic University of America; Dr. C. B. Jolliffe, Radio Corporation of America; Mr. Lamdin Kay, Station WSB; Mr. John F. Killeen, Director of Broadcast Division, Federal Communications Commission; Dr. Cline M. Koon, Office of Education, Department of Interior; Mrs. B. F. Langworthy, President, National Congress of Parents and Teachers; Miss Luella S. Laudin, Women's National Radio Committee; Mr. H. B. McCarty, President, National Association of Educational Broadcasters, University of Wisconsin; Mr. A. J. McCosker, President, Bamberger Broadcasting Service, Inc.; Mrs. Harold V. Milligan, President, Women's National Radio Committee; Dr. Robert A. Millikan, President, California Institute of Technology; Mr. William S. Paley, President, Columbia Broadcasting System; Mr. A. D. Ring, Assistant Chief Engineer, Federal Communications Commission; Mr. John Shepard, III, President, Shepard Broadcasting Company; Dr. Levering Tyson, Director, National Advisory Council on Radio in Education; Miss Judith C. Waller, Mid-West Educational Director, National Broadcasting Company; Mr. Frederick A. Willis, Columbia Broadcasting System; Mr. Geo. F. Zook, President, American Council on Education.

Agenda are being prepared for the first meeting which will be called by Chairman Studebaker. It is expected this meeting will be called during the middle or latter part of January. Any member of the committee desiring a copy of the report to Congress as mentioned in the letter above, may obtain same by addressing a request to the Communications Commission.

MUSIC—RESTRICTIONS

PLEASE NOTE:

The writer is the copyright owner of the following four musical compositions by Ring-Hager (Justin Ring and Fred Hager).

Records of these compositions were issued by the R. C. A.-Victor Co. this month (Dec. 1935) and this is to notify you that the performing right is the property of the authors, and that the copyright owner and authors are *not* members of any authors' society or connected with any music publishers' association whereby the performing right for the use of these compositions can be, or have been, released for public performance; therefore you will please notify the various broadcasting stations of your association accordingly.

Titles of the compositions with Victor Record numbers are as follows:

Victor Records by Victor Novelty Orchestra, Directed by Justin Ring, Issued December 1935.

"From The Toyland Suite"—by Ring-Hager

- 1—"THE THEATRE OF THE DANCING DOLLS" Victor Record # 25176 A
 - 2—"KIDDIES ON PARADE" Victor Record # 25176 B
 - 3—"CHRISTMAS EVE" (Fantasia) Victor Record # 25177 A
 - 4—"GRANDMA'S MUSIC BOX" Victor Record # 25177 B
- FRED HAGER, Copyright Owner.

SHORTWAVE INSTITUTE ORGANIZED

To stimulate the development of shortwave radio by fostering the public interest in international broadcasting, radio telephony, radio telegraphy and television, the Shortwave Institute of America has been organized here with offices in the National Press Building. The president of the institute is Oswald F. Schuette, who has an international reputation as a newspaperman and is now president of the Radio Program Foundation.

Five million shortwave radio sets are in use in American homes and it is estimated that 5,000,000 more will be sold in 1936. About 100 shortwave stations of recognized international importance are broadcasting daily. At present, however, there are no facilities for the dissemination of their complete programs. It will be one of the purposes of the Shortwave Institute to provide a clearing house for these schedules and to arrange for their distribution to set owners.

NOVEMBER RADIO STATION CORRECTIONS

The Federal Communications Commission has issued the following alterations and corrections to the broadcast list issued by it on January 1 last:

Call Letters	Studio Location	Alterations and Corrections	Quota	Units
			Night	Day
KGDM	Stockton, Calif.	Power 1 kw	No change	
KOIL	Council Bluffs, Iowa	Licensee: Central States Broadcasting Co.	No change	
KPDN	Pampa, Texas	C. P. New, Permittee: Pampa Daily News, Inc., Frequency 1310 kc, Power 100 watts, hours of operation, daytime		
KPJM	Prescott, Ariz.	Strike out all particulars		
KSO	Des Moines, Iowa	Power 500w - 1kw - LS Transmitter, North of Des Moines	No change	
KTRH	Houston, Texas	Frequency 1290 kc, power 1kw - 5kw - LS, Strike out S. A. Exp.	No change	
WAAF	Chicago, Ill.	C. P. power 1kw-LS	...	0.5
WAGF	Dothan, Ala.	Power 250 watts, hours of operation, daytime	No change	
WBHS	Huntsville, Ala.	Strike out all particulars		
WEHC	Charlottesville, Va.	Call letters changed to WCHV	No change	
WEOA	Evansville, Ind.	C. P. New, Permittee: Evansville on the Air, Frequency 1370 kc, power 100 watts, hours of operation unlimited time
WFBM	Indianapolis, Ind.	Transmitter, Near Millersville, Ind.	No change	
WGBI	Scranton, Pa.	C. P. Power 500 watts	No change	
WHLB	Virginia, Minn.	C. P. New, Permittee: Head of the Lakes Broadcasting Company, Frequency 1370 kc, power 100 watts, hours of operation, unlimited time
WJAS	Pittsburgh, Pa.	Transmitter, Pittsburgh	No change	

WJTL	Atlanta, Ga.	Licensee: J. W. Woodruff & S. A. Cisler, Jr., d/b as Atlanta Broadcasting Company. Call letters changed to WATL	No change	
WMC	Memphis, Tenn.	C. P. Power 5kw-LS (Directional antenna at night)	0.5	0.85
WNAX	Yankton, S. Dak.	Licensee: WNAX Broadcasting Company	No change	
WNOX	Knoxville, Tenn.	Licensee: Continental Radio Company	No change	
WRJN	Racine, Wis.	C. P. 250w-LS	0.1	0.2
WWJ	Detroit, Mich.	C. P. Power 5kw	...	0.85

RECOMMENDS AGAINST NEW PENNSYLVANIA STATION

Robert E. Cole filed an application with the Federal Communications Commission asking for a construction permit for a new station to be erected at Washington, Pa., and to use 1350 kilocycles, 250 watts power and daytime operation.

Examiner Melvin H. Dalberg in Report No. I-159 recommended that the application be denied. The Examiner found that the granting of the application would cause interference. The testimony shows also, the Examiner states, that it is proposed later to organize an operating company.

NEW NORTH DAKOTA STATION RECOMMENDED

D. A. Gibbs, Jr., and E. H. Shemorry applied to the Federal Communications Commission for a construction permit for the erection of a new station at Williston, N. D., to use 1500 kilocycles, 100 watts power and specified hours of operation.

Examiner Melvin H. Dalberg in Report No. I-156 recommends that the application be granted. It was found by the Examiner that "there is an appreciable demand for service especially suited for local needs" in and about Williston. It was further found by the Examiner that "there is no question of interference with the fair and efficient service of existing stations or by reason of pending applications and it is apparent that the public interest, convenience and necessity would be served by the granting of this application."

INCREASED POWER RECOMMENDED FOR KARK

Broadcasting Station KARK, Little Rock, Ark., applied to the Federal Communications Commission to increase its power from 250 watts night and 500 watts to local sunset to 500 watts night and 1,000 watts local sunset. The station operates on a frequency of 890 kilocycles, unlimited time.

Examiner P. W. Seward, in Report No. I-157, has recommended that the application be granted. He found that the need for additional service exists in the areas, and that the granting of the application "will not adversely affect any existing stations by reason of interference to any appreciable extent."

TWO CASES DISMISSED

The Tampa Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Tampa, Florida, to use 1370 kilocycles, 100 watts power and unlimited time on the air.

Examiner John P. Bramhall in Report No. I-151 has recommended that the application "be dismissed with prejudice." No one appeared on behalf of the applicant at the hearing.

A similar recommendation was made by the same Examiner for the same reason in Report No. I-152 in the application of D. B. Sutton, for a new station at Miami, Florida, to use 1210 kilocycles, 100 watts power and unlimited time. On the hearing being called no one appeared for the applicant.

RECOMMENDS INCREASING WJAR POWER

Application was made to the Federal Communications Commission by station WJAR, Providence, R. I., to increase its power to 1,000 watts day and night from 250 watts night and 500 watts to local sunset. The station operates unlimited time on 890 kilocycles.

Examiner P. W. Seward, in Report No. I-155 recommends that

the application be granted "if a directional antenna be used to protect other existing radio stations." He found that there would be no interference if the directional antenna is used.

DENIAL RECOMMENDED FOR NEW STATION

The St. Petersburg Chamber of Commerce filed an application with the Federal Communications Commission for a construction permit for the erection of a new station to use 1310 kilocycles, 100 watts power and unlimited time at Petersburg, Florida.

Examiner John P. Bramhall in Report No. I-154 recommended that the application be denied. It is pointed out by the Examiner that the Lake Region Broadcasting Company has a station just 47 miles from this proposed new station at St. Petersburg and this precludes the granting of the application.

RECOMMENDS ANOTHER NORTH DAKOTA STATION

The Roberts-McNab Company filed an application with the Federal Communications Commission asking for a construction permit to erect a new station at Jamestown, N. D., to use 1310 kilocycles, 100 watts power and unlimited time on the air.

Examiner Melvin H. Dalberg, in Report No. I-153 has recommended that the application be granted. The Examiner found that the evidence showed the need for additional radio service in the area proposed to be covered. He states that no interference would be caused by the granting of the application.

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2644. A complaint has been issued against **Paul Greenberg, of Springfield, Mass.,** trading as **Beverly Products Co.,** and selling **Beverly Femin Tablets** and **Beverly Menses Tablets.**

The complaint alleges that **Beverly Femin Tablets** are not an effective and potent antiseptic as advertised and the **menses tablets** are a temporary palliative not dependable for relief of the conditions for which it is advertised.

No. 2646. Alleging unfair competition in the sale of bar fixtures and equipment in interstate commerce, a complaint has been issued against **DeLuxe Manufacturing Co. of Detroit.**

Among the items sold by this company are drafting arms, pumps, rods, tap sets, wooden faucets, and other products of like character, which, according to the complaint, the respondent company assembles into finished units of bar fixtures and equipment.

No. 2647. Manufacturing baseball caps from felts obtained from old, used, discarded and second-hand hats, and selling them under the trade name "**Esta Hat Company,**" the **Shapiro Felt Rug Co., of Newark, N. J.,** is charged with unfair methods of competition in a complaint. Besides the respondent company, the complaint names as respondents, **William, Morris** and **Sarah Shapiro,** individuals, trading as **Esta Hat Co.**

Pointing out that the respondents are in substantial competition with other corporations, firms and individuals engaged in the sale of baseball caps manufactured from new felt bodies, the complaint alleges that the cost to the respondents of obtaining and renovating the old hats into baseball caps is much less than the cost to manufacturers of making new baseball caps of similar quality, and that the respondents are thereby able to sell their caps to dealers and the public at substantially lower prices than manufacturers of new caps.

No. 2648. Unfair competition in the sale of correspondence courses is alleged in a complaint against the **American College,** of 510 North Dearborn Street, **Chicago,** also the **American University,** and **Denton N. Higbe,** president and principal stockholder of the two companies, having headquarters at the same address.

The respondents are alleged to have unfairly used in their trade names the words "college" and "university". The complaint points out that neither company conducted a "college" or "university" within the popular and general conception of these words.

No. 2649. A complaint has been issued against **M. Swift & Sons, Inc., of Hartford, Conn.,** manufacturer of gold leaf used in gold lettering on signs and in gilding articles like badges and lead pencils. The complaint alleges unfair competition through use of the slogan "Always Heavier," when in fact the product adver-

tised is not always heavier than similar products sold by competitors for like purposes.

No. 2650. Six of the country's largest manufacturers of wooden ware used in the packaging of butter, and the trade association of which these companies are the principal members, have been served with a complaint charging violation of the Federal Trade Commission act by entering into agreements to fix uniform prices, and with unlawful price discrimination, in violation of the Clayton Act.

Manufacturers named as respondents are: **Menasha Wooden Ware Corporation, Menasha, Wis.; Creamery Package Manufacturing Co., 1243 West Washington Boulevard, Chicago; Elgin Butter Tub Co., Elgin, Ill.; Wisconsin Butter Tub Co., Marshfield, Wis.; Bousfield Wooden Ware Co., 2524 Marshall Avenue, N. E., Minneapolis,** and **Storey City Butter Tub Co., of Storey City, Iowa.**

The respondent trade association is the **Butter Tub Manufacturers' Council,** with headquarters in **Cleveland.** Also named as respondent is **D. S. Hunter,** individually and as commissioner of the **Butter Tub Manufacturers' Council.**

Engaged in the manufacture of butter tubs from ash and spruce lumber, the five companies named make and sell more than 90 per cent of the total volume of butter tubs sold in interstate commerce in the United States, according to the complaint. Since September, 1932, they are alleged to have executed an understanding, agreement, combination or conspiracy among themselves and with and through the trade association and **D. S. Hunter,** to restrict and suppress competition in the sale of butter tubs to jobber and creamery customers by agreeing to fix uniform prices, terms and discounts at which tubs were to be sold, and by cooperating with one another in enforcing and maintaining the prices, terms and discounts by exchange of information through the association.

The complaint alleges that in furtherance of their understanding or agreement, the respondent companies, in September, 1932, organized in Milwaukee the council as a voluntary, unincorporated association composed of butter tub manufacturers of the United States, and that the council has acted as a clearing house for statistical information submitted by the corporate respondents, including daily reports as to the quantity of butter tubs sold, and the prices, discounts and terms.

No. 2651. A complaint has been issued against the **Newark Felt Novelty Co., Inc., of Newark, N. J.,** alleging unfair methods of competition in the sale of baseball caps made from felts obtained from old, used, discarded and second-hand hats.

No. 2652. Charging unfair competition in the sale of a ten-volume encyclopedia in interstate commerce, a complaint has been issued against **Bernhart P. Holst, of Boone, Iowa,** trading as **Holst Publishing Co.; Bertram P. Holst, of Boone, Iowa,** manager and agent, and the following persons acting as agents for **Bernhart P. Holst: C. M. Seilards, 365 Twenty-fifth Avenue, San Francisco,** trading as **Progressive Research Service; Charles U. Branch, of 257 South Spring St., of Los Angeles,** trading as **National Press Service,** and **S. R. Melching, of Boone, Iowa,** trading as **International Press Service.**

The complaint charges that the encyclopedia, called "Progressive Reference Library," is purchased from **Bernhart P. Holst** by his agents for \$12.50 a set and sold to the public at \$49.50 on monthly payments under a contract alleged to involve loans by **Bernhart P. Holst** to his agents on their promissory notes for 60 per cent of the face value of each contract, such contracts being assigned as collateral security for the loans. In cases of default by purchasers, **Holst** is said to undertake collections on the pretext that he is an innocent purchaser for value.

No. 2654. **LaSalle Extension University, of Chicago,** conducting a school for vocational training on both the correspondence and residential plans, has been served with a complaint charging unfair competition in the use of the words "Extension University" in its corporate name, when in fact, according to the complaint, the school is not a university.

The complaint says the term "Extension University" as used is false and misleading in that it creates in the minds of those interested in education by correspondence courses, the belief that the respondent company is in fact a "university," which term is generally accepted and understood to mean an educational institution of higher learning. The complaint points out that the school confers only one degree, that of LL.B in its law course.

Nos. 2655-2656. Alleging unauthorized use of well-known trade names and the appropriation of the reputation and good will of established companies, complaints have been issued against the **Knight Electric Co., Inc.,** and **King Trading Corporation,** both

of New York City, and engaged in selling radio receiving sets, tubes and accessories.

Among the names used by these respondents were "Majestic International", "Victor International", "Edison Radio Stores", and "Victor Radio Stores", according to the complaint.

The complaint points out that the name "Majestic" has long been associated with radio receiving sets, and is the legal property of the Grigsby-Grunow Company, original makers of radio sets branded with that name, while the names "Victor" and "Edison" are well known as the property of the RCA-Victor Company and Thomas A. Edison, Inc., respectively.

These names were used on plates and labels on receiving sets, tubes and accessories, were furnished to retailers for their use in selling such articles, according to the complaint, and were used also on cartons, containers, letterheads and other printed matter.

The complaint alleges that use of the names "Majestic", "Victor", and "Edison", without authority of the owners, gives to the respondents an advantage over competitors who do not use these names, because the true origin of the respondents' products is concealed, and a reputable but false origin attributed to them. This is alleged to constitute unfair competition.

Stipulations

The Commission has announced the following cease and desist orders:

No. 1528. Apex Color Works, Inc., of 50 West Broadway, New York City, agrees in its stipulation to cease and desist from the use, on labels affixed to its product, of the words "white lead" to describe a paint, the pigment content of which is not composed of white lead. The company also agrees to stop employing the word "lead" in connection with the word "white", or with other words implying that the pigment content is composed of white lead, when this is not true.

No. 1529. Walgreen Company, of 744 E. Bowen Street, Chicago, dealer in a dog food product designated "Po-Do," agrees to stop using on container labels representations to the effect that the preparation has been "prepared from a formula developed by specialists in animal nutrition," when this is not true, and from using on labels or in any other way language implying that the formula under which the food is prepared was developed or compiled by veterinarians or experts in animal nutrition, or that the product has been endorsed by specialists as suitable for dogs, when this is not true.

No. 1530. Karl W. Neu, of Arlington Heights, Ill., trading as Industrial Rug Company, selling chenille rugs through agents engaged in house-to-house canvass, agrees to cease advertising that "by dealing direct with our representative, you eliminate profits of wholesalers, retailers and other middlemen," and from use of phrases such as "our mill," and "direct to you from the mill," or similar representations, either independently or in connection with pictures implying that the respondent manufactures the products he sells or that he owns and controls the factory in which they are made, when this is not true. The respondent also agrees to stop using or authorizing others to use representations implying that his products are made in their entirety by blind people or by blind people in local institutions, when this is not true.

No. 1531. Max Axelrod and Jacob Mendelson, trading as King Shirt Company, 623 Broadway, agree to discontinue use of the phrases "Genuine Imported English Broadcloth" and "Finest Broadcloth Finish" to describe products not imported from England, not made in England, or not having fine broadcloth finish, and to cease using the word "Pre-shrunk" to describe products which have not been pre-shrunk, as that term is generally understood by the trade and public. The cloth from which the shirts were made had not been subjected to treatment eliminating shrinkage beyond a reasonable tolerance, according to the stipulation.

No. 1532. Aarons Manufacturing Company, Inc., 40 West 27th Street, agrees to abandon the use on brands or labels or otherwise, to describe its products, of the word "Full-shrunk," or other words of equivalent meaning, to designate shirts which have not been full-shrunk as that term is understood by the trade and the public.

No. 1533. Somerset Shirt Co., Inc., 1150 Broadway, agrees to discontinue use of the words "Broadcloth" or "English Broadcloth" in any way which may tend to deceive buyers into believing that the products so described are made of broadcloth, when this is not true, and from the use on labels or in other ways

descriptive of its products of the word "Pre-shrunk" to designate articles which have not been pre-shrunk.

No. 1534. New York Merchandise Company, Inc., of 32 West 23rd Street, New York City, engaged in the importation of novelties and other similar products, including rubber toys, agrees to stop selling in interstate commerce articles in imitation of the products of the Sun Ruhher Company, of Barberton, Ohio. According to the stipulation, the respondent company imported from a foreign country and sold in competition with the products of Sun Ruhher Company two toys simulating products originally sold by Sun Ruhher Company. The result was, according to the stipulation, that trade was restrained, the public misled, and the Sun Ruhher Company injured.

No. 1535. Allcock Manufacturing Company, of Ossining, N. Y., manufacturer of cosmetics including a product called "Manicare," will abandon the use in advertisements of the allegation that "It removes cuticle without acids," or other representations of equivalent meaning, implying that competitors' products for the removal of cuticle contain acids, when this is not true. The stipulation points out that no cuticle remover has acid in it, and the representation or implication that competitors' products contain acid is false and misleading and a disparagement of competitive products. The company also agrees to stop employing the representation, "It feeds the nails with the oils which they need to make them healthy," or other similar representations tending to deceive buyers into believing that the respondent's product supplies the nails with nourishment. The stipulation points out that the human skin or nails are nourished from the blood only, and that the representation that "Manicare" feeds the nails with oils is false and misleading.

No. 1536. Henry Barletta and Mary F. Barletta, of 224 S. Essex Avenue, Orange, N. J., trading as Barletta & Co., agree to stop employing words such as "Milano," "Importati," "Importato," or "Importers," either independently or in connection with other words implying that the flavoring extracts referred to are imported from Milan, Italy, or that the co-partners are importers, when this is not true. The stipulation points out that the products labeled and represented by Italian names were manufactured or compounded in the United States.

No. 1537. Podel Brothers, of 270 Lafayette Street, New York City, engaged in manufacturing watch findings, including wrist watch strap buckles, agree to cease and desist from use of the words and symbols "P. B. Gold Shell" as a stamp or brand on any of their products, unless such articles contain a layer or shell of gold of substantial thickness on the outside, and unless the words are preceded by designation of the alloy of the gold used in the shell, and by a fraction designating the correct proportion of the weight of the layer or shell of gold to the weight of the entire article.

No. 1538. New York Merchandise Co. Inc., of 32 W. 23rd St., New York City, engaged in importing toothpicks manufactured in a foreign country, agrees to discontinue use on brands or labels of the words and phrases "sanitary," "packed by machinery," and "automatically packed," to describe products not manufactured and packed under these conditions. The company agrees not to use these words and phrases to describe its products, which are in fact packed by hand and under conditions other than sanitary, according to the stipulation.

No. 1539. Monroe Chemical Company, of Quincy, Ill., manufacturing a cleaning fluid, will discontinue in the sale of its product the use of certain words or phrases which may tend to deceive buyers into believing that the colors of fabrics dyed with non-fast or fugitive dyes will not be harmed by application of the respondent's product, or that the product will not leave a stain, mark or ring when applied to spots on certain fabrics or materials.

No. 1540. Engaged in the manufacture of an alleged rat and roach exterminating powder, **Walter E. Perry, trading as Best-yet Products Company,** with headquarters in Burlington, N. C., stipulates that he will desist from using in advertising or on labels the assertion that his product kills rats or mice and leaves no odor, or other representations of similar import or meaning, when this is not true. He will also discontinue any representations tending to deceive buyers into believing that his product will kill rats and mice and will mummify or dry up the dead bodies without leaving an odor, when this is not true. Perry agrees to cease employing on labels or otherwise the contradictory statement that the product is a "mild poison compound of 14 different rat foods, not poisonous."

No. 1541. Among the products manufactured by **Elmer E. Wade, of Orange, N. J., an individual trading as Anna Eliza**

beth Wade, are flavoring extracts, gelatin desserts, pudding preparations, cocoa and malt beverages, shaving creams, tooth pastes and greeting cards. In his stipulation, Wade agrees to stop distributing samples of his gelatin dessert preparations so composed that they are not truly representative of the products he sells, and from advertising that his articles are prepared in accordance with an old-time family recipe, or that they are triple flavored, or are more highly flavored than competing products. Wade also will cease asserting that his products are sold at lower prices than those of competitors, and he will desist from labeling his extracts as "strawberry," "apricot-almond," "raspberry," "loganberry," or by other fruit names without at the same time disclosing that they are flavored, in whole or in part, with synthetic flavors. He will discontinue using the names of fruits in any way which may tend to deceive buyers into believing that the products so labeled are flavored wholly with the fruit juice named, when, according to the stipulation, this is not true.

No. 1542. Advertisements that the **Portola Distributing Company, of San Leandro, Calif.**, is a nationally known organization, will be discontinued by F. D. Brelsford, who, under the name of this company, engaged in the purchase and resale of religious and educational books. He distributes them through representatives, by house-to-house canvass. In his stipulation Brelsford agrees that in selling the books he will not represent that the Portola Distributing Company, the Portola Eugenic Bureau or the Bible Readers' Club, were organized to engage in social welfare work, and that the work of the company is endorsed by the National Parent-Teacher Association, or by Better Business Bureaus, and that ministers of the gospel will gladly give their endorsement of its work, when this is not true. Brelsford also agrees to stop advertising that his representatives are not saleswomen or solicitors.

The stipulation points out that there is no reason to believe that the respondent's work would have received endorsement of ministers, and while it was probably true that a need for real welfare service existed, neither F. D. Brelsford nor Portola Distributing Company was engaged in furnishing such service.

No. 1543. In Omaha, Neb., the **Standard Chemical Manufacturing Company**, makes certain alleged stock remedies, one of which is in the form of tablets called "Sulpho-Carb," and another is designated "P-O," according to the stipulation. This company is said to have advertised that "Sulpho-Carb" tablets contain powerful ingredients to kill the germs of the two greatest enemies of baby chicks, namely coccidiosis and white diarrhea.

The company agrees to discontinue advertising implying that "Sulpho-Carb" will prevent chicks from becoming infected by germs taken from food or other sources, or that the product will kill coccidiosis and white diarrhea germs or keep disease away, when these are not the facts.

The company will discontinue other advertising representations regarding its product "P-O" for hogs or poultry, and will cease asserting that the formula for "Sulpho-Carb" tablets was taken originally from United States Farmers Bulletin Number 1337, unless this allegation is conspicuously accompanied by other representations aptly explaining that the formula for the preparation presented in that bulletin is a treatment for coccidiosis in poultry found by subsequent experience to be of little value in the control of that disease, and supplanted in 1931 by United States Farmers Bulletin Number 1652, which was revised in 1933.

Nos. 1544-1545-1546. Misleading allegations in the advertisement of woods or wood products will be discontinued by three respondents entering into stipulations with the Commission. Articles not made from wood derived from trees of African origin and of the botanical walnut family, will not be described for sale as "African walnut" or "walnut" by **Consider H. Willett, Inc., of Louisville, Ky.**, distributor of bridge tables made from various woods; by **Hoosier Panel Company, of New Albany, Ind.**, distributor of plywood, panels and veneers for radios, tables, and other furniture, and by **The Mengel Company, of Louisville**, manufacturer of lumber, veneer, veneer plywood panels, and other lumber products. The three companies signed stipulation agreements to that effect.

No. 1547. **Alliance Distributors, Inc., of 153 Fifth Avenue, New York City**, importer and distributor of whiskeys and distilled spirits, agrees to abandon the use in advertisements of representations that its products is "bottled in bond," and "made from the finest American grains," or similar expressions which may tend to deceive buyers into believing that the product is bottled in bond in the United States of America, when this is not true. The respondent also agrees to stop representing on labels that its

product is bottled in bond under supervision of the Cuban Government, when this is not true.

No. 2139. Misrepresentation of a hair dye as a hair tonic capable of stimulating bodily functions to produce pigmentation and impart color to the hair, is prohibited in an order to cease and desist issued against **Vasco Products, Inc., of Brentwood, Md.**, and **William M. and Kittie M. Lea, of Tampa, Fla.**, formerly trading as **Lea's Tonic Company**.

This order applies to a hair treatment consisting essentially of a saturated solution of lead chloride, and composed substantially of alcohol, water, glycerine, sulphur and lead chloride, or of the same ingredients as "Lea's Hair Tonic" sold by the respondents.

Use of the word "tonic," either in the name of the preparation or in describing the manner of its action or effect of its use, is prohibited, and the respondent is directed to cease representing in newspaper and magazine advertisements, or in testimonials received from or purporting to have been received from users, or by means of radio broadcasting, that any preparation, composed either of the same or substantially the same ingredients as Lea's Hair Tonic, by its application to the scalp or hair stimulates bodily functions so that pigmentation is produced, imparting color to the hair. The respondent is directed not to represent that such preparation causes color to be imparted to the hair of the user in any other manner than as a dye or dyeing agent.

No. 2288. An order to cease and desist has been issued against the **Arte Products Co., Inc., of 18 Leonard Street, New York City**, prohibiting use of certain Italian names in connection with the sale of olive oil, compound vegetable oil, and related products.

The order bans use of the words "Lucca," and "San Remo," or the name of any other city, district or province in Italy, as a brand or label for olive oil, implying to purchasers that the product was imported from either the Lucca district of Tuscany province, or the San Remo district of Liguria province, Italy, or from any other Italian city, district or province, unless and until this is true.

SUPREME COURT ON FTC CASE

No. 1329. The Supreme Court of the United States has denied a petition for a writ of certiorari filed by the Armand Company, Inc., of Des Moines, Iowa, manufacturer of toilet articles and cosmetics.

In filing the petition for writ of certiorari, which was done on November 1, last, counsel for Armand Company, Inc., sought to obtain a review of the decision of the U. S. Circuit Court of Appeals for the Second Circuit (New York City), handed down on July 1 last, in which decision that Court unanimously affirmed a cease and desist order by the Federal Trade Commission directed against the maintenance by the Armand Company, Inc., through the medium of expressed or implied agreement, of resale prices for its products fixed at arbitrary levels imposed by the company.

Court of Appeals leaves the decision of the latter court as the Refusal of the Supreme Court to review the judgment of the Court of Appeals leaves the decision of the latter court as the last word in that case. In its opinion that Court said:

"It was found as a fact by the Commission that the chief objective of petitioner's merchandising policy was the maintenance of the wholesale and retail prices suggested by the petitioner for its products, and that the direct effect of petitioner's practices had been and now is to suppress competition among wholesalers and between retail dealers engaged in the distribution and sale of petitioner's products. The further effect was the constraint imposed upon wholesale and retail dealers in selling petitioner's products at prices fixed by the petitioner, and the preventing of sale by such dealers of petitioner's products at prices which such dealers desired, thereby depriving the ultimate purchaser of petitioner's products of that advantage of price which otherwise would be theirs in a natural and unobstructed flow of commerce under free competition.

"The Commission concluded that the petitioner's practices were to the prejudice and injury of the public and constituted unfair methods of competition in commerce and a violation of Sec. 5 of the Trade Commission Act. The findings of the Commission are amply supported by the evidence. The evidence supports the finding that by agreements between petitioner and its dealers it maintained prices and prevented those who would not do so from securing petitioner's products. * * * The policy in question had a tendency to stifle competition and was unlawful."

Attorney for the Armand Company, Inc., in the case was Charles Wesley Dunn, of New York. Attorneys for the Commis-

sion appearing in the case were W. T. Kelley, Chief Counsel, Martin A. Morrison, Assistant Chief Counsel, and James W. Nichols, of the Commission's legal staff.

FEDERAL COMMUNICATIONS COMMISSION ACTION

Hearing Calendar

Because of the holidays no hearings have been set at the Commission for the week beginning December 23 or December 30. The next hearings scheduled begin the week of January 6.

APPLICATIONS GRANTED

KCMC—North Miss. Broadcasting Co., Texarkana, Ark.—Granted C. P. to make changes in equipment.

WRR—City of Dallas, Tex.—Granted C. P. to install new equipment, and move transmitter locally about 1/5 mile to Centennial Grounds, Dallas, Tex.

WMFF—Plattsburg Broadcasting Corp., Plattsburg, N. Y.—Granted license to cover C. P.; **1310 kc.**, 250 watts; day-time.

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Granted license to cover C. P. authorizing changes in equipment and moving transmitter to new site; **1380 kc.**, 500 watts. Simul-D, WSMK, S. H. night.

KHJ—Don Lee Broadcasting System, Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna input.

WGCM—WGCM, Inc., Gulfport, Miss.—Granted consent to transfer of control of WGCM, Inc., from Grace Jones Stewart to Sam Gates; **1210 kc.**, 100 watts night, 250 watts day, unlimited.

WOC—The Palmer School of Chiropractic, Davenport, Ia.—Granted consent to voluntary assignment of license from the Palmer School of Chiropractic, to Tri-City Broadcasting Co. (**1370 kc.**, 100 watts night, 250 watts day, unlimited.)

WSCN—Ormond O. Black and Mary Collett Black (Lessees), Birmingham, Ala.—Granted consent to assignment of license to R. B. Broyles, trading as R. B. Broyles Furniture Co.; **1310 kc.**, 100 watts night, 250 watts day, unlimited.

WJMS—WJMS, Inc., Ironwood, Mich.—Granted renewal of license; **1420 kc.**, 100 watts, unlimited.

WAML—Southland Radio Corp., Laurel, Miss.—Granted extension of present license for period of 90 days.

KGB—Don Lee Broadcasting System, San Diego, Cal.—Granted renewal of license; **1330 kc.**, 1 KW, unlimited.

KREG—Voice of the Orange Empire, Inc., Santa Ana, Cal.—Granted extension of present license for period of 90 days.

KUJ—KUJ, Inc., Walla Walla, Wash.—Granted extension of present license for period of 90 days.

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Granted extension of present license for period of 90 days.

WBAX—John H. Stenger, Jr., Wilkes Barre, Pa.—Granted renewal of license; **1210 kc.**, 100 watts, specified hours.

KROW—Educational Broadcasting Corp., Oakland, Cal.—Granted renewal of license; **930 kc.**, 1 KW, unlimited.

WBEN—WBEN, Inc., Buffalo, N. Y.—C. P. hearing docket, amended and granted, to move transmitter to site to be approved, make changes in equipment; increase day power to 5 KW and install approved vertical radiator and ground system.

NEW—WTAR Radio Corp., Norfolk, Va.—Granted C. P.; frequencies **31600, 35600, 38600 and 41000 kc.**, 50 watts, unlimited.

KNEL—G. L. Burns, Brady, Tex.—Granted license to cover C. P. as modified; **1500 kc.**, 100 watts, daytime operation.

WDEV—Mary M. Whitehill, Executrix of the Estate of Harry C. Whitehill, Waterbury, Vt.—Granted involuntary assignment of license from Harry C. Whitehill to Mary M. Whitehill; **550 kc.**, 500 watts, daytime.

WJAX—City of Jacksonville, Fla.—Granted authority to determine the operating power by direct measurement of antenna input.

WSAJ—Grove City College, Grove City, Pa.—Granted 60-day extension of present license.

WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Granted 90-day extension of present license.

WHDL—Olean Broadcasting Co., Olean, N. Y.—Granted special temporary authority to operate from 4:45 to 5:15 p. m., EST, Dec. 22, 24 and 31, 1935, in order to broadcast special Christmas and New Year's programs sponsored by various musical groups.

NEW—The Baltimore Radio Show, Inc., site to be determined—Granted C. P. (exp. gen. exp.), frequencies **31600, 35600, 38600, 41000 kc.**, 100 watts, unlimited.

KGER—Consolidated Broadcasting Corp., Ltd., Long Beach, Cal.—Granted renewal of license; **1360 kc.**, 1 KW, unlimited.

RENEWAL OF LICENSES

KGFG—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Granted renewal of license on a temporary basis subject to such action as the Commission may take upon pending application for renewal.

KUMA—Albert H. Schermann, Yuma, Ariz.—Granted renewal of license on a temporary basis subject to such action as the Commission may take upon pending application for renewal.

KWKC—Dincan Broadcasting Co., Kansas City, Mo.—Granted renewal of license on a temporary basis subject to such action as the Commission may take upon pending application for renewal.

KXL—KXL Broadcasters, Portland, Ore.—Granted renewal of license on a temporary basis subject to such action as the Commission may take upon pending application for renewal.

WRDO—WRDO, Inc., Augusta, Me.—Granted renewal of license on a temporary basis subject to such action as the Commission may take upon pending application for renewal.

KGFK—Red River Broadcasting Co., Inc., Moorhead, Minn.—Granted renewal of license on a temporary basis subject to such action as may be taken on pending application for renewal because of mandate contained in certain stay orders issued by the U. S. Court of Appeals for the District of Columbia, in cause No. 6473, Head of the Lakes Broadcasting Co. v. F. C. C.

The following stations were granted renewal of licenses for the regular period:

KLUF, Galveston, Tex.; KPQ, Wenatchee, Wash.; KRLC, Lewiston, Idaho; WCBM, Baltimore, Md.; WJBK, Detroit, Mich.; WMFJ, Daytona Beach, Fla., and WTMV, E. St. Louis, Ill.; KGHI, Little Rock, Ark.; WEST, Lancaster, Pa.; WJIM, Lansing, Mich.; WSJS, Winston-Salem, N. C.

WAAW—Omaha Grain Exchange, Omaha, Neb.—Present license extended on a temporary basis only, to Feb. 1, 1936, subject to such action as may be taken upon pending application for renewal.

WHB—WHB Broadcasting Co., Kansas City, Mo.—Present license extended on a temporary basis only, to Feb. 1, 1936, subject to such action as may be taken upon pending application for renewal.

WINS—Hearst Radio, Inc., New York City, N. Y.—Present license extended on a temporary basis only, to Feb. 1, 1936, subject to such action as may be taken upon pending application for renewal.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, T. H.—Present license extended on a temporary basis only, to Feb. 1, 1936, subject to such action as may be taken upon pending application for renewal.

KPLM—John B. Cooley, Minot, N. Dak.—Present license extended on a temporary basis only to February 1, 1936, subject to such action as may be taken on pending application for renewal.

WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Present license extended on a temporary basis only to February 1, 1936, subject to such action as may be taken on pending application for renewal.

Licenses for the following stations were extended on a temporary basis only, to February 1, 1936, pending receipt and/or action on renewal applications:

KCMC, Texarkana, Ark.; KERN, Bakersfield, Cal.; KFIZ, Fond du Lac, Wis.; WATL, Atlanta, Ga.; WNRA, Sheffield, Ala.; WOPI, Bristol, Tenn., and WPFB, Hattiesburg, Miss.

WRAK—WRAK, Inc., Williamsport, Pa.—Present license extended to Feb. 1, 1936, on a temporary basis only, pending action on renewal application.

KILU—Arkansas Radio & Equipment Co., Portable—Present license for broadcast pickup station in the temporary service was extended for a period of one month on a temporary basis only to Feb. 1, 1936, subject to such action as may be taken on application for renewal pending before the Commission.

WLEZ—The Norfolk Daily News, Portable—Present license for broadcast pickup station in the temporary service was extended for a period of one month on a temporary basis only to Feb. 1, 1936, subject to such action as may be taken on application for renewal pending before the Commission.

SET FOR HEARING

- NEW**—Northern Broadcasting Corp., Watertown, N. Y.—Application for C. P. for new station; **1270 kc.**, 250 watts, daytime; site to be determined.
- KSCJ**—Perkins Bros. Co. (The Sioux City Journal), Sioux City, Ia.—Application for C. P. to make changes in equipment, install new antenna, move transmitter site, increase day power from 2½ to 5 KW and hours of operation from simultaneous daytime—WTAQ, S. H. night to unlimited.
- WMFO**—James R. Doss, Jr., Decatur, Ala.—Application for modification of license to change hours of operation from daytime to unlimited, using 100 watts power.
- KLO**—Interstate Broadcasting Corp., Ogden, Utah—C. P. already in hearing docket, amended to read: changes in equipment; move transmitter to new site to be determined with Commission approval; install directional antenna; increase night power to 1 KW, day power to 5 KW and extend commencement date to within 15 days after grant and completion date to 60 days thereafter.
- WJIM**—Harold F. Gross, M. Bliss Keeler and L. A. Versluis, d/b as Capitol City Broadcasting Co., Lansing, Mich.—C. P. already in hearing docket, amended to read: authority to install new equipment and antenna system; change frequency to **1010 kc.**, and increase power to 500 watts night, 1 KW day.
- NEW**—Albert E. Davis, Brownwood, Tex.—C. P. in hearing docket, amended so as to request frequency **1420 kc.**, 100 watts, daytime.
- KMMJ**—M. M. Johnson Co., Clay Center, Neb.—C. P. already in hearing docket amended so as to request change in equipment and increase in day power to 2½ KW.
- NEW**—George H. Adams and Henry D. Bratter, St. Paul, Minn.—Application for C. P. for new station; **1370 kc.**, 100 watts, unlimited time.
- NEW**—Navarro Broadcasting Assn., Corsicana, Tex.—Application for C. P. for new station; **1310 kc.**, 100 watts, daytime.
- KSEI**—Radio Service Corp., Twin Falls, Idaho—Renewal of license; **900 kc.**, 250 watts night, 500 watts day, unlimited time.

MISCELLANEOUS

- WSPA**—Virgil V. Evans, d/b as The Voice of South Carolina, Spartanburg, S. C.—Denied request for special authority to operate unlimited time with 250 watts nighttime, to the end of the present license period, to determine whether interference would be caused with other stations on the same frequency.
- WTMJ**—The Journal Co. (Milwaukee Journal), Milwaukee, Wis.—Denied request for special temporary authority to operate with a power of 5 KW from 12 midnight to 6 a. m., CST, on morning of Dec. 25th.
- KABR**—Aberdeen Broadcast Corp., Aberdeen, S. Dak.—Authorized modification of license be issued to increase hours of operation from daytime to unlimited, using 100 watts power, inasmuch as Rule 131 has now been complied with.
- NEW**—Ex. Rep. 1-76: Edward Hoffman, St. Paul, Minn.—Reconsidered and set aside action of December 3, 1935, in granting application for C. P. to erect new station to operate on **1370 kc.**, 100 watts, unlimited.
- C. W. Snider**, Wichita Falls, Tex.—Denied request that hearing on his application for new station at Wichita Falls be held at Wichita Falls at same time and place as hearing on application of KGKO to move from Wichita Falls to Fort Worth, Tex.
- NEW**—Sioux Falls Broadcasting Assn., Inc., Sioux Falls, S. Dak.—Granted motion for continuance of hearing scheduled for Jan. 7, 1936, to consider application for new station to operate on **1200 kc.**, 100 watts.

APPLICATIONS RECEIVED

First Zone

- NEW**—Foreign Lands, Corp., Honolulu, Hawaii—Construction permit for a new station to be operated on **600 kc.**, 1 KW, unlimited time. Amended: To change transmitter site from 1124 Kalihi Road, Honolulu, Hawaii, to Puuhale Road and Dillingham Boulevard, Honolulu, Hawaii.
- WOKO**—WOKO, Incorporated, Albany, N. Y.—License to cover **1430** construction permit (B1-P-586) for move of transmitter and changes in equipment.

- WHOM**—New Jersey Broadcasting Corp., Jersey City, N. J.—**1450** Authority to transfer control of corporation from Harry F. O'Mealia to Joseph Lang and Paul F. Harron, 1875 shares of stock.
- W8XH**—WBEN, Inc., Portable, within 25 mi. of—License to cover construction permit for additional frequencies **31600, 35600** and **38600 kc.**

Second Zone

- WLW**—The Crosley Radio Corp., Cincinnati, O.—Extension of **700** special experimental authorization to operate with power of 500 KW day and night, using directional antenna at night for the period 2-1-36 to 8-1-36.
- WRVA**—Larus & Bro. Co., Inc., Richmond, Va.—Construction **1110** permit to make changes in equipment and increase power from 5 KW to 50 KW. Amended: Transmitter site to be determined, County of Henrico, State of Virginia.
- WHAT**—Independence Broadcasting Co., Inc., Philadelphia Pa.—**1220** Construction permit to make changes in equipment, increase power from 100 watts to 1 KW, frequency from **1310 to 1220 kc.**, time from share WTEL to unlimited and move transmitter from Hotel Pennsylvania, 3900 Chestnut Street, Philadelphia, Pennsylvania, to site to be determined, Pennsylvania.
- WMBC**—Michigan Broadcasting Co., Detroit, Mich.—Construction **1420** permit to make changes in equipment.
- NEW**—The Evening News Assn., Portable-Mobile—Construction permit for a new general experimental station to be operated on **31600, 35600, 38600, 41000 kc.**, 100 watts.

Third Zone

- NEW**—Memphis Commercial Appeal, Inc., Mobile, Ala.—Construction permit for a new station to be operated on **590 kc.**, 5 KW, unlimited time. Amended: To make antenna changes, change frequency from **590 kc.** to **630 kc.**, and change power from 5 KW to 1 KW, 5 KW day, using directional antenna at night.
- WKY**—WKY Radiophone Co., Oklahoma City, Okla.—Construction **900** permit to install new equipment, increase power from 1 KW to 5 KW, move transmitter from West 39th Street (Highway 8 mi. w. of), Oklahoma City, Oklahoma, to site to be determined, Oklahoma City, Oklahoma.
- KNET**—Palestine Broadcasting Assn., John C. Welch, Wm. M. Keller, Bonner Frizzell, Palestine, Tex.—Modification of construction permit (B3-P-216) as modified, to make further changes in equipment, move studio from Y. M. C. A. Bldg., Cor. S. Magnolia, Hoxie & S. Sycamore Sts., Palestine, Texas, to Maier Bldg., Cor. N. John & W. Crawford Sts., Palestine, Texas.
- WJBR**—Virgil V. Evans, Gastonia, N. C.—Modification of construction permit (B3-P-744) for new station, further requesting equipment changes, approval of transmitter and studio sites at 214 South St., Masonic Temple, Gastonia, North Carolina. (Filed in the name of Virgil V. Evans.)
- KABC**—Alamo Broadcasting Co., Inc., San Antonio, Tex.—License **1420** to cover construction permit (B3-P-23) for changes in equipment and increase in day power.
- NEW**—Magnolia Broadcasting Co., Wm. H. Davis, Dixon Pyles & **1420** W. H. Johnson, Jackson, Miss.—Construction permit for a new station to be operated on **1420 kc.**, 100 watts, unlimited time.

Fourth Zone

- WIND**—Johnson-Kennedy Radio Corp., Gary, Ind.—License to **560** cover construction permit (B4-P-240) for changes in equipment and increase in power.
- WMT**—Waterloo Broadcasting Co., Des Moines, Ia.—Modification of special experimental authorization to operate with power of 1 KW, 2½ KW day, using directional antenna night and make changes in equipment.
- WJBC**—Wayne Hummer & H. J. Dee, d/b as Kaskaskia Broadcasting Co., Bloomington, Ill.—Voluntary assignment of license from Wayne Hummer & H. J. Dee, d/b as Kaskaskia Broadcasting Co. to Arthur Malcolm McGregor & Dorothy Charlotte McGregor (his wife).
- NEW**—M. H. White, Winona, Minn.—Construction permit for a **1200** new station to be operated on **1200 kc.**, 100 watts, unlimited time.
- NEW**—Guilford Broadcasting Co., Fort Dodge, Ia.—Construction **1210** permit for a new station to be operated on **1210 kc.**, 100 watts, daytime.

WRJN—Racine Broadcasting Corp., Racine, Wisc.—Modification **1370** of construction permit (B4-P-370) to make changes in equipment (antenna), move transmitter from Hotel Racine, 6th & Main Sts., Racine, Wisconsin, to Victory & Kentucky Sts., Mt. Pleasant, Wisc., and extend commencement and completion dates.

NEW—Missouri Broadcasting Corp., St. Louis, Mo.—Construction permit for a new general experimental station to be operated on **31600, 35600, 38600, 41000 kc.**, 100 watts.

Fifth Zone

KGHL—Northwestern Auto Supply Co., Inc., Billings, Mont.—**780** Extension of special experimental authorization to operate on **780 kc.** for period from 12-27-35 to 4-1-36.

KOL—Seattle Broadcasting Co., Inc., Seattle, Wash.—Modification **920** of license to change frequency from **1270 kc.** to **920 kc.**, increase power from 1 KW, 2½ KW day to 1 KW, 5 KW day. Amended: To omit request for change of frequency to **920 kc.**

NEW—George Harm, Fresno, Calif.—Construction permit for a **1310** new station to be operated on **1310 kc.**, 100 watts, unlimited time.

NEW—H. E. Studebaker, La Grande, Ore.—Construction permit **1420** for a new station to be operated on **1420 kc.**, 100 watts, 250 watts day, unlimited time. Consideration under Rule 6 (g). Contingent upon the granting of KRLC's application for change in frequency.

KREG—The Voice of The Orange Empire, Inc., Santa Ana, Calif. **1500** —Construction permit to make changes in equipment (antenna), and move transmitter and studio from North Sycamore and 3rd Sts., Santa Ana, California, to 2825 West 5th Street, Santa Ana, California.

NEW—Ben S. McGlashan, Portable-Mobile—Construction permit for a new general experimental station to be operated on **86000-400000 kc.**, 100 watts.

NEW—Ben S. McGlashan, Portable-Mobile—Construction permit for a new general experimental station to be operated on **86000-400000 kc.**, 100 watts.

NEW—Ben McGlashan, Portable-Mobile aboard Aircraft NC-351-Y—Construction permit for a new general experimental station to be operated on **31100, 34600, 37600, 40600 kc.**, 10 watts.

NEW—James McClatchy Co., Portable—Construction permit for a new broadcast pickup station to be operated on **1646, 2090, 2190, 2830 kc.**, 50 watts.