

## McNinch Assumes Duties as Chairman of the FCC

### TRANSCRIPT OF FIRST PRESS CONFERENCE

Frank R. McNinch, former chairman of the Federal Power Commission, was sworn in as chairman of the Federal Communications Commission on October 1, succeeding the late Anning S. Prall. The following day he held his first press conference and indicated that he would hold similar conferences regularly at least during the time new policies may be formulated by the Commission.

During the course of the conference with the newsmen the new chairman was asked many questions. He discussed radio monopoly, newspaper ownership of broadcasting stations, trafficking in station licenses and many other matters of similar interest. Following is a stenographic transcript of the first press conference:

Let's begin the conference by my giving you a copy of the President's letter to me with regard to my work at the Federal Communications Commission.

I have no prepared statement but will be glad to try to answer any questions you may want to ask me.

I may begin with a few general observations. First I want to say that my reception by the members of the Federal Communications Commission has been just as cordial as it could have been if they, instead of the President, had selected me for this job, and I have been given assurance by the members of the Commission that I shall have their full and hearty cooperation. I shall need and shall count heavily on their support, for without this my efforts would be futile. With the support of the Commission, and as one of the seven members thereof, acting in harmony, I am confident we shall be able to do some constructive things in the public interest.

I regard broadcasting as a public utility, subject to regulation and to me regulation does not mean "strangulation" but it does mean regulation by the Commission and not being regulated by the industry or anybody else. I have had a part in the work of the Power Commission as a member and later as Chairman. That industry has grown and prospered under a policy of vigorous yet fair regulation. It has definitely resulted in the elimination of some things in the industry which were not in the public interest in my opinion but, notwithstanding that, the

sum total of the result is that that industry is today in my judgment on a sounder basis and enjoying a larger measure of prosperity than ever before in its history.

The Communications Commission's statute makes it perfectly clear that there can be no vested right in the use of radio frequencies. The statute provides, if I recall clearly, that before a license can be granted the licensee must waive any claim against the control of the United States. I shall do what I can within the statute to prevent or break up anything, if there has been anything, of what is commonly known as "trafficking in licenses."

Q. What do you mean by that?

A. I understand that under the statute the licensee has nothing to sell except the physical property which belongs to licensee. This seems clear from the provisions of the law against vesting any rights in the use of frequencies and the expressed waiver by licensee of any such claim and the further provisions forbidding transfers either voluntary or involuntary except with the consent of the Commission. One can sell only that to which he has title, either absolute or qualified.

Q. Would he have any good will?

A. None whatever, in my judgment. There can be no good will to pass on to another, it seems to me, when a license is for the limited term of six months and with no legal right to renewal and can be renewed or transferred only by written permission of the Commission and when furthermore the statute specifically forbids vested rights, within which term good will might be thought by

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some to come. I shall be interested to know, as licenses come before the Commission for action, what is the actual, legitimate cost or value of the equipment that would follow with the transfer of a license. In my opinion by reason of various statutory provisions the legal maxim, *caveat emptor*, "Let the buyer beware," has even more than usual significance because the buyer is put on notice by the statute that there is nothing he can purchase except physical property if the Commission is willing for the license to be transferred.

**Q. In that connection would there be any advantage to a going concern?**

A. I would not try to answer that categorically now, as I am not familiar with all the provisions of the statute. But "going concern" is a somewhat different thing than "good will." The latter implies, in part, the legal right to sell the continued use of a good name, carrying with it the good will of customers or the public, while "going concern" may, for illustration, include the legitimate expense of organizing a business and getting it going. However, I reserve completely my opinion on this question.

**Q. Have you any views on newspaper ownership of stations?**

A. I have not. I regard that as one of the important policy problems to be thought through and either determined by the Commission or presented to the Congress with such recommendations, if any, as the Commission may see fit to make for determination.

**Q. Will you support Mr. Payne's request to Powell Crosley for a complete financial statement?**

A. I neither now give nor fail to give support because I am not informed and, therefore, have no opinion at present.

**Q. Have you any opinion in regard to exclusive rights in radio?**

A. If by that you mean monopoly, I have. The statute forbids monopoly in broadcasting and my own views are in complete harmony with this provision of the statute. I am not now sufficiently informed to know whether there may be rare situations in which a limited monopoly may or may not be able to serve the public interest better and more economically. I want to think more about this.

**Q. Monopoly would mean both local and national monopoly?**

A. I should think so but on that I must reserve my opinion. However, I see at present no fundamental distinction.

**Q. You have no flat feeling about networks owning stations?**

A. No, I do not.

**Q. How do you feel about Government ownership?**

A. That is a subject to which I have not yet given thought.

**Q. How many members of your Commission will sit on the radio division?**

A. The present arrangement provides for three. Whether I may recommend a different arrangement I do not now know.

**Q. You will serve on the radio division?**

A. The Commission designates the members of the divisions. I want to be a member of each division, or at any rate to be in close touch with not only radio but also telephone and telegraph work equally. In that connection it may be a very good place for me to say that, while there has been considerably more in the press about radio than telephone and telegraph, I shall not permit my energies to be completely absorbed in any one particular phase of this Commission's work. I know very little about telephone and telegraph but I think all of us know—the man in the street knows—that telephone and telegraph affect universally and very materially both the social and economic welfare of our people. I shall take active interest in both of these industries and if there appear to be things existing there not in the public interest I shall go directly into them and assist the Commission in such way as I can in their correction.

**Q. Do you think this Commission should engage in fixing charges in radio activities?**

A. The statute forbids that. I am not certain that subsequent legislation should not provide for some measure of control of charges by radio just as the statute does provide for control of interstate charges made by telephone and telegraph. Saying that, I am advertent to the definition in the statute that telephone and telegraph are common carriers and that radio is not a common carrier but it is not necessary in law that an industry be a common carrier to be subject to regulation. I have read in the press now and then some statements about amounts of money supposed to have been made by this, that or another broadcasting organization. I know nothing about them. However, I have no hesitancy in saying that, while the statute does not now provide for regulation of broadcasting charges, I question the wisdom of a policy which would leave forever free from regulatory control the charges made by any public utility.

**Q. Do you feel that since broadcasting stations are required to be licensed by the Federal Government that their fees should be subject to control by the Government? In other words, do you think that, since they have licenses from a Federal agency, that their degree of financial gain is to be regulated by the Federal Government?**

A. The statute absolutely forbids the Commission doing what you indicate might be desirable. If the Commission had the authority, it would regulate the earnings by regulating the charges.

Q. Do you think that the radio industry should pay fees that would cover the cost of administration?

A. I have not thought that through. I have read articles pro and con and know that in other countries the arrangement is different than in the United States, but I have no opinion about it at present.

Q. Have you formed any opinion upon a tax for broadcasters?

A. No, I have not.

Q. This rate fixing, would that be rates charged on radio stations for their time?

A. Have they anything else to sell? I am not sufficiently informed to know the answer.

Q. Do you think there is a chance of recommendation to Congress in the next session?

A. I would hope that by next session I shall know more about the situation than I do now. I have tentative views but those are held in reserve until I know more about the situation and exchange views with my colleagues. I know little about my new work. My work has been in the electric power field. I am approaching my work with an open mind, desiring to hear and receive impressions and views of others who may be able to help me.

I hold to the doctrine of Thomas Jefferson, that "When a man accepts a public trust he should consider himself public property." There shall be no secrets about anything I do, nor any secrets about any opinions I may have unless I may think it inadvisable to announce an opinion before action. I am not here to do anything for anybody. I shall make such investigations as appear to be necessary to enable me to ascertain what may have been done, but which may not be beyond the power of correction. I am not going to spend my time in graveyards, listening to ghosts. I have a real job as I view it. I face the future but I shall not neglect the past if it appears to me that the past may be a lamp to guide my feet. There will be no covering up of anything by me. I care not how high nor how low it goes. I would not have accepted the job had I not been given a completely free hand to do what I think is right. My judgment and my conscience are going to be my only guides. As a member of an independent Commission, created by the Congress, I gladly recognize my responsibility to the Congress. Beyond that I have no boss except the public. I have been serving that public for some years and, if you know anything about my course on the Power Commission, you may guess fairly accurately what my course here may be.

Q. Do you anticipate any changes on the Commission now?

A. No.

Q. Have you any views as to investigation by Congress?

A. Knowing no more than I do about the situation, I cannot say that I have any views. Whether there should be an investigation by the Congress is a matter for the Congress and not for me or the Commission to determine. However, I shall make some investigation myself in order that I may work more effectively. I do not mean anything spectacular, or formal. I mean that I am going to try to get at what is the situation here in order that I may do my duty as it appears to me.

Q. What will be done about the transfers and licenses filed from time to time? Will they be acted upon immediately or wait until you have had time to form a policy?

A. I do not know what the present procedure is but I would not suggest any delay which would visit injustice on anyone. About the furthest I can go in that direction is that upon major matters pending before the Commission I shall hope that it will not appear to the Commission that giving me a reasonable time to inform myself will do injustice to anyone.

Q. Have you given any thought to the question of extending the license period?

A. I have not.

Q. You made the statement that there would be no covering up of anything about anyone either high or low. Is it your understanding that it has been done in the past?

A. No. That statement was based on what has been in the press. I do not know that there has been anything here that would not stand the white light of publicity if the facts were known. However, I think all of us are familiar with the saying that where there is a lot of smoke at least there may be a little fire. And I am a Bible reader, incidentally. The greatest piece of literature on earth. And one of the things I recall that the great preacher in Ecclesiastes said, is: "Where there is no wood the fire goeth out; and where there is no talebearer the strife ceaseth." I shall not put any wood on the fire. I shall try to dissuade any other who might be so inclined, for if there has been any fire, let's put it out.

Q. Do you intend to have regular press conferences now?

(Here followed free for all discussion and many suggestions. It was agreed that press conferences would be held, the details to be announced later.)

**Q. Have you formed any opinion at all about super power stations?**

A. No, I have not.

**Q. Do you expect to have that matter settled before the International Telecommunications Conference?**

A. No, I had not thought of it as waiting on any particular conference.

Mr. McNinch made public the following letter from the President which he received upon his appointment to the Communications Commission:

"As you go to your new assignment as Chairman of the Federal Communications Commission, I want you to know that I am confident you will render an important public service in a field which so vitally affects the public welfare. I am sure your colleagues and the public will expect and welcome from you aggressive and fearless leadership with fairness to all interests concerned. I hope and believe you will have the necessary support and cooperation of your associates and the staff, and you are assured of my help I can properly give you.

"I regard it as of prime importance that you assist the Commission in formulating policies and principles of action and procedure. After any Commission may have had sufficient experience to enable it to do so, the public and all who may have business with such agency should be advised as to principles and policies by which the Commission will be guided. In this way all who are concerned may be able to anticipate a reasonably consistent course of action.

"I earnestly hope you may be able to complete your assignment within a few months so that you may return to your post as Chairman of the Federal Power Commission."

The oath as chairman was administered on October 1 in the presence of the members of the Federal Communications Commission and of the Federal Power Commission, of which Mr. McNinch resigned as chairman to accept his new post at the request of President Roosevelt.

Judge Eugene O. Sykes, Acting Chairman of the Federal Communications Commission since the death of Mr. Prall, extended a hearty welcome on behalf of the Federal Communications Commission to the new Chairman. Judge Sykes said the government will find the services of Mr. McNinch most valuable.

Vice Chairman Clyde L. Seavey, of the Federal Power Commission, took occasion to pay a high tribute to Mr. McNinch saying he is a fine executive and a man of exceptional character. He expressed the belief that the new commissioners will learn "to love him as we have in our association with him as Chairman of the Federal Power Commission."

Responding to the hearty welcome of Judge Sykes, Mr.

McNinch said "this is an occasion of mingled regret and pleasure." He expressed the hope that he is parting only for a short time from his colleagues and associates of the Federal Power Commission, where, he said, his association had been so delightful, but found compensation in this new opportunity to render valuable public service "in cooperation with those of us who are now charged with the responsibility of the Federal Communications Commission."

The entire staff of the Federal Power Commission assembled in its hearing room to pay a parting tribute to the man who has served with that Commission for seven years and for more than four years has been its Chairman.

General Counsel Oswald Ryan, Chief Engineer Roger B. McWhorter, and Mrs. Veitch of the Personnel Division, made brief addresses expressing appreciation of Mr. McNinch's service in the Federal Power Commission, the regret of the entire personnel at parting with their chief, wishing him success in his new office, and expressing hope for his early return.

Speaking to his "comrades" of the Federal Power Commission, Mr. McNinch thanked them for their loyalty, ability and devotion to the public service and said he would welcome a return upon completion of the special work to which he had been called. He paid a high tribute to Vice Chairman Seavey, who becomes Acting Chairman, spoke of his long experience, and told the Federal Power Commission staff to "carry on" with the same enthusiasm and efficiency that had been rendered him during his chairmanship.

The members of both the Federal Communications Commission and the Federal Power Commission were guests of Chairman McNinch at luncheon at the Raleigh Hotel, following his taking the oath of office at the Federal Communications Commission.

### **NAB BOARD OF DIRECTORS AND NAB STATE COMMITTEE WILL MEET IN NEW YORK CITY**

The President of the NAB, John Elmer, announced this week that he had notified the Officers and Directors of the NAB that a meeting of the Board would be held in New York City Sunday, October 10, at 10:30 o'clock AM, at the Waldorf Astoria Hotel. Mr. Elmer also announced that a joint meeting of the Board of Directors and the NAB State Committee would be held at the same place at 10:30 AM Monday October 11 and that a further meeting of the Board of Directors would be held Monday afternoon at an hour yet to be determined.

These meetings are preparatory to the Special NAB Convention which will be convened in New York City at the Waldorf Astoria Hotel Tuesday, October 12, at 10 AM.

Facilities for registering Delegates will be available Monday and all who can are urged to register early.

## COMMITTEE PREPARING FOR HABANA INTER-AMERICAN RADIO CONFERENCE

A meeting will be held in Room 7355 of the New Post Office Building at 10:00 A. M., Friday, October 8, 1937, for the purpose of considering the broadcast phases of the Inter-American Radio Conference to be held at Habana, Cuba, beginning November 1, 1937. This meeting of the Habana Preparatory Group will be devoted to matters relating to broadcasting in the band 540-1600 kc.

All interested parties are invited by the FCC to attend.

The NAB will be represented by James W. Baldwin, managing director.

## MICHIGAN BROADCASTERS ORGANIZE

The broadcasters of the State of Michigan in a meeting held at Detroit, October 4, organized the Michigan Broadcasters Association.

The following were elected Officers and Directors: President, James F. Hopkins (WJBK); Vice-president, John E. Fetzer (WKZO); Secretary-treasurer, Howard Loeb (WFDF); Directors, William J. Scripps (WWJ); Owen Uridge (WJR); Arch Shawd (WXYZ); Roy Radner (WIBM).

## NEW ORLEANS STATION RECOMMENDED

WSMB, Inc., applied to the Federal Communications Commission for a construction permit for the erection of a new station at New Orleans, La., to use 1500 kilocycles, 100 watts and 250 watts LS and unlimited time on the air.

Examiner Melvin H. Dalberg in Report No. I-497 recommended that the application be granted. He states that "because of the chain affiliations of several stations in the New Orleans area and of the rather indifferent service rendered by the two local stations, there appears to be a need for the local service contemplated by this application."

The Examiner states further that "no interference would occur to or from any existing station by reason of this grant." He says also that favorable action is recommended because the application "distinctly contemplates the rendering of service to the New Orleans area which does not now satisfactorily exist."

## RECOMMENDS NEW TEXAS STATION

The Dr. William S. Jacobs Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Houston, Texas, to use 1220 kilocycles, 1,000 watts and unlimited time on the air.

Examiner Tyler Berry in Report No. I-498 recommended that the application be granted. He found that

there is a need for the additional service in the area proposed to be served, that there is local talent available for the station and that granting of the application would be in the public interest.

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3231.** A complaint has been issued charging **James T. Jarrell**, trading as **Standard Business Training Institute**, Genesee Building, **Buffalo**, with use of unfair methods of competition in the interstate sale of a correspondence course of instruction intended to prepare students for positions as traffic inspectors or checkers for transportation companies.

Use of the name Standard Business Training Institute, it is alleged, is misleading in that it implies and serves as a representation that Jarrell gives instruction in various business subjects and that his school is a large and an extensive institution. The complaint alleges that the respondent's course of instruction is limited to the one subject of traffic inspection, or checking, which is a type of employment rather than a business.

**Nos. 3232-3233.** Two complaints alleging price discrimination, in violation of the Robinson-Patman Act, have been issued, one against **American Optical Company**, **Southbridge, Mass.**, and its officers, and the other against **Bausch & Lomb Optical Co.**, **Rochester, N. Y.**, and six wholesaling outlets which it controls.

The complaints allege that the respondents are discriminating in price between different purchasers of their optical supplies of like grade and quality, by allowing certain purchasers lower prices, or adjustments, rebates or discounts in the form of cash or commodities, which are not granted to other purchasers competitively engaged in the resale of optical products.

Customers in whose favor such price discriminations allegedly are made, the complaints charge, are generally the larger dealers, who thus are enabled to undersell their competitors or to furnish superior facilities and services to prospective purchasers, trade thereby being diverted from the smaller retailer to the more favored and larger dealer.

**No. 3234.** **Consolidated Pinnacle Coal Company**, 4363 Brighton Boulevard, **Denver, Colo.**, and its president, **Ellis Morrell**, are charged, in a complaint with use of unfair methods of competition in the interstate sale of coal.

As part of their trade name and in advertising matter the respondents allegedly feature the word "Pinnacle" which, according to the complaint, is understood by the purchasing public to signify coal of high quality obtained from the Pinnacle mine, located in Routt County, Colorado, and owned and operated for more than 25 years by Victor American Fuel Co., Denver. Pinnacle coal produced from this mine, the complaint sets out, has consistently maintained a high reputation because of its quality, utility and fuel value, and has long had a constant and favorable good will.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2737.** An order to cease and desist has been issued against **Davis Paint Co., Inc.**, trading under its own name and as **Robertson Products Co.**, and against its subsidiaries, **Farm & Home Paint Co.**, **New Method Paint Co.**, and **Berry J. Davis**, president and principal stockholder of **Davis Paint Co.**, all of **Kansas City, Mo.**

The order directs these respondents to discontinue certain unfair methods of competition in the sale of their products. They are to cease representing that any of the corporate respondents, except the Davis company, own and operate the factories wherein the products they sell are made; that Davis Paint Co. has factories located elsewhere than in Kansas City, Mo., and Cleveland, Ohio,

and to cease asserting in guarantees, or in any other manner, that claims by customers for refunds or adjustments will be allowed, when such claims are not, in fact, so allowed.

Other representations prohibited by the order are that the respondents' paints can be purchased at prices substantially lower than the regular or current prices, and that such paints ordinarily sell for prices substantially higher than those represented to be special, when such are not the facts.

**No. 2842.** Misrepresentation of the quality of enamel kitchen ware and other enamel ware products sold under the name Federal-ware, is prohibited under an order to cease and desist entered against **Federal Enameling and Stamping Company, McKees Rock, Pa.**

The respondent company is ordered to discontinue use of the word "stainless," or any word of similar meaning, as a brand or label for or in advertising enamel ware unless the articles so described are made of a material which can successfully withstand the test of boiling in them a solution of 1½ per cent citric acid plus 1½ per cent malic acid for a half hour without showing visible signs of etching or stain.

**No. 2931.** An order has been entered against **New York State Sheet Metal Roofing and Air Conditioning Contractors' Association, Utica, N. Y., Fox Furnace Company, Elyria, Ohio,** and the officers of each, directing them to cease and desist from certain unfair methods of competition in connection with the interstate sale of hot air furnaces.

The New York State association is a trade organization whose membership consists of plumbing contractors and dealers in sheet metal roofing supplies and hot air furnaces. The Fox Company manufactures hot air furnaces.

The order prohibits the respondents from engaging in, by agreement or understanding, any of the following practices:

(1) Holding meetings to devise means of inducing members of trade associations similar to the New York State association not to purchase the products of manufacturers named by the respondents as being manufacturers dealing with mail order houses; (2) printing and publishing so-called "white lists" containing the names of manufacturers, approved by the respondents, who do not sell to mail order houses; (3) using in concert and agreement among themselves and with others coercive and concerted action, threats of boycott and other united action against manufacturers selling to mail order houses, and (4) causing publication and distribution of pamphlets and bulletins to various trade associations and their members, urging them to discontinue purchasing the products of manufacturers named in the pamphlets and bulletins, and urging the associations to induce their membership to discontinue trading with such manufacturers.

Practices ordered discontinued, it was found, tended to monopolize in the respondents the business of dealing in and distributing hot air furnaces; to unreasonably lessen and suppress competition in the industry, and to deprive the purchasing public of the advantages in price, service and other considerations which they would receive under conditions of free and fair competition.

**No. 3033.** Prohibiting certain unfair methods of competition in the sale of soaps, an order to cease and desist has been issued against **Babiglo Company, Inc., 37 West 20th St., New York.**

Use of the words "olive" or "olive oil" alone or with other words to describe a soap composed in part of olive oil and in part of other oils and fats is banned under the order, unless there conspicuously appears in immediate conjunction with these words other designations truthfully describing the content of the soap.

Use of the expressions "Old Seville," "Old Madrid," or "Infanta," alone or with other words, or use of pictorial representations, as brands or labels for soap, to imply that it was produced in and imported from Spain, is prohibited unless such representations are true. Similar use of the words "Florentine" or "Rosario" is to be discontinued unless the soap was produced in and imported from Italy or Spain.

**No. 3050.** An order to cease and desist from use of unfair methods of competition, exclusive dealing contracts and price discrimination has been entered against **Christmas Club, 341 Madison Ave., New York,** engaged in the sale of pass books, account books, advertising literature, and other paraphernalia for use by banks and trust companies in the conduct of Christmas clubs and other savings systems.

Some of the practices in which the corporation engaged were found by the Commission to have been in violation of Section 5 of the Federal Trade Commission Act, others in violation of Section 3 of the Clayton Act, and others violative of the Robinson-Patman Anti-Price Discrimination Act.

Among representations to be discontinued in advertising matter, or otherwise, are that the respondent corporation has the right to

the sole and exclusive use of and has trade-marked the name "Christmas Club" for its systems; that it is the manufacturer and printer of its systems, unless and until it owns or controls an establishment in which such systems are printed, and that it has spent over a specified period more than \$3,500,000, or any other sum, in promoting the Christmas Club name and plan, without accurately explaining the manner in which the sum was computed.

## Stipulations

The Commission has entered into the following stipulations:

**No. 01796. Drums, Inc., Detroit,** has entered into a stipulation to discontinue false and misleading advertising in connection with the sale of Drums, a cleaning preparation for silks and other fabrics.

The respondent corporation agrees to cease advertising that Drums will not shrink, fade, spot, streak, or harm any fabric that cold water will not harm, unless this claim is qualified by the words "when used according to directions." Representations that the preparation renews colors and restores dulled and dirty fabrics to new beauty also will be discontinued.

**No. 01868. J. R. Bourdeau, trading as Metallic Sign Letter Company, 431 North Clark St., Chicago,** will stop using in advertising matter the words "gold" or "silver" in any manner so as to imply that the sign letters he sells in interstate commerce are made of gold or of silver, in whole or in part, when such is not a fact. He also will discontinue making unmodified representations of earnings in excess of the average earnings achieved by his active, full-time salesmen or dealers under normal business conditions.

**No. 01870. The Perfect Manufacturing Company, trading as R. E. Engineers, Oakley, Cincinnati,** selling a device designated Add-A-Tube for use in radio sets, will discontinue advertising that use of the product will give longer life to radio tubes and improve reception, unless the latter claim is limited to reception in the older types of sets; that sets equipped with Add-A-Tube will receive broadcasts from domestic or foreign stations not previously received, and that the product will give any radio the same tone, sharpness of selectivity, or clear reception as the latest, most expensive set on the market.

**No. 01871. Nish A. Jamgotch, trading as Nish A. Jamgotch Company, 2628 Hennepin Ave., Minneapolis,** selling Mothola, will desist from representing that the product affords a permanent protection against and insures safety from moths, and that the odor in most moth-proofing compounds is the moth-destroying property, and when the odor disappears the moth-proofing property of such compounds no longer remains.

**No. 01872. Sara B. Plant, Burbank, Calif., trading as Cravex Company,** will cease representing that her preparation designated Cravex is a cure for alcoholism or will cause the craving for liquor to disappear, or that it will have any direct effect on the liquor habit, unless this latter claim is expressly limited to soothing the nerves and improving the appetite.

**No. 01873. F. Ellerton Smith, Springfield, Mass., trading as Fernando Publishing Company,** will cease representing that the course in hypnotism which he sells enables one to control his destiny and overcome all obstacles, to cure disease of any sort without the use of medicine, and to be successful in everything. The respondent will stop using the word "professor" as a title for himself or any person connected with him in business, and will refrain from use of the word "doctor", unless it is stated clearly in connection with such word that he is a doctor of dental surgery.

**No. 01874. Resolute Publications, Inc., 404 Fourth Ave., New York,** agrees to desist from representing that its publications dealing with subjects in psychology enable one to throw off fear, inferiority and disease and to replace them with health, happiness and prosperity; that they reveal the complete laws of mastery of self and of any hostile factor in life, and that its Great Master Course or Fourteen Lesson Course, or any other article, is given free so long as the recipient is required to subscribe and pay for a magazine in order to obtain the article purported to be free.

**No. 01875. Earle J. Hansch, 740 Broadway, Los Angeles, trading as Snugfit Company,** agrees to stop advertising that through use of Snugfit, a dental product, one can correct plate trouble and overcome loosening or slipping of the plates; that the product is capable of adapting the plate to mouth tissues perfectly and that any comfort that may be derived through use of the product is permanent.

**No. 01876. Foster Manufacturing Company, 736 Keith Building, Elyria, Ohio,** engaged in selling Meco-Sazh Ointment and Meco-Sazh Body Machine and other massage devices, will discontinue representing that either of its products will grow hair, stop dandruff or keep the scalp healthy, unless this claim is limited to conditions due to lack of normal blood supply in the scalp area. The company also will cease advertising that Meco-Sazh Body Machine is capable of reducing fatty tissues as effectively as an expert masseur in constant attendance.

**No. 01877. Alfred C. Schmidt, 141 North Main St., Memphis, Tenn., trading as Schmidt School of Taxidermy** and selling a correspondence course in taxidermy, will discontinue representing that he guarantees to teach anyone by mail to mount animals and birds or to tan hides, or that his course is the finest regardless of the cost of similar courses. Schmidt will stop representing that the price of his course is limited as to the time of acceptance, or otherwise, when such price is the regular price and no limitation as to the acceptance thereof exists. He also will cease awarding diplomas to purchasers of his course unless they are required to demonstrate their knowledge of taxidermy by passing appropriate examinations or meeting other adequate requirements.

**No. 2051. Wilbert W. Haase Company, Inc., and American Vault Works, Inc.,** both of 1015 Troost Ave., Forest Park, Ill., have entered into a stipulation to discontinue false and misleading advertising in the sale of burial vaults. Wilbert W. Haase is president of and a large stockholder in both companies.

The companies agreed to desist from using and from licensing others to use the word "asphalt" as a trade name, in advertising matter, or otherwise, to describe vaults which are not composed of asphalt in their entirety. The stipulation provides that if the vaults are composed in substantial part of asphalt and the word "asphalt" is used to describe them, then the word shall be immediately accompanied by other words so as to indicate clearly that the vaults are not composed wholly of asphalt but in part of some other material.

**No. 2052.** A stipulation to stop false and misleading representations in advertising certain radio sets has been entered into by **Western Auto Supply Company, 2107 Grand St., Kansas City, Mo.,** which operates retail stores in many cities throughout the United States.

The company agreed to discontinue using the words "World-Wide" or "All-Wave" either alone or with the words "Not Just Foreign," or with any other words, to describe radio sets which are not capable of reception over the entire meter range covering all broadcasts; and to cease representing that owners of its sets can have world-wide, continuous reception of short-wave transmissions, with loud-speaker volume, as dependably and as easily as with long-wave or broadcast transmissions.

**No. 2053-2054.** Misbranding of hosiery sold in interstate commerce will be discontinued by two concerns under stipulations entered into. The companies are **Chipman-Lacrosse Hosiery Mills Company, Inc., of East Flat Rock, N. C., and Standard Hosiery Mills, Inc., of Alamance, N. C.**

Both companies agreed to cease using the word "silk" alone or in any manner, so as to imply that hosiery so described is composed of silk, when this is not true. If hosiery is composed in substantial part of silk and the word "silk" is used to describe it, then, the stipulations provide, the word shall be immediately accompanied by other words in equally conspicuous type so as to indicate clearly that the products are not composed wholly of silk but in part of other materials.

**No. 2055. Walton Hosiery Mills, Statesville, N. C.,** agreed to stop using the phrase "Silk Reinforced with Englo", alone or with any other words, as a brand for hosiery so as to imply that it is composed of a predominating quantity of silk reinforced with a smaller quantity of any material, when such is not a fact. The corporation also will cease using the word "silk" as descriptive of hosiery or the surface thereof so as to imply that it is composed of silk, when this is not true. If the hosiery or its surface is composed in substantial part of silk, and the word "silk" is used to describe its content, then the word shall be immediately accompanied by other words in equally conspicuous type to indicate clearly that the product is not composed wholly of silk, but of other materials.

**No. 2057. Garant Hosiery Mills, Murfreesboro, Tenn.,** will refrain from branding its hosiery with the words "English Rib" so as to create the impression that the hosiery is made in England and in accordance with a process accomplished only by English style machines. In case the hosiery is manufactured elsewhere than in England, but on English style machines, and the words "English Rib" are used as descriptive thereof, then the country in which the hosiery is made shall be clearly indicated thereon.

**No. 2056. Trading as Star Radio Company, 409 11th St., N. W., Washington, D. C., Max D. Montague and Nathan N. Wallack,** engaged in the sale of washing and ironing machines, vacuum cleaners and radios, have entered into a stipulation to discontinue use in advertising matter, or otherwise, of the word "free" which refers to articles represented to be given without cost to the purchasers of other merchandise, when, in fact, the cost of such articles is included in the selling price of the merchandise.

**No. 2059. Reliable Mattress Company, 2028 Walnut St., St. Louis,** has entered into a stipulation to cease selling or supplying its customers for sale to others, mattresses to which are affixed any false, fictitious or misleading price in excess of the price at which such mattresses are usually sold at retail.

**No. 2060.** A stipulation to discontinue false and misleading advertising has been entered into by **Marvin Friedland, trading as Philadelphia Machinery Company, 603 Arch St., Philadelphia,** engaged in the sale of various types of machinery, including electric grinders and tool sets.

Friedland agreed to cease representing that any of his products are given free to the purchaser of other of his products, when the price of the former is included in the price of the latter, or when such product represented as being given free is included not as a gratuity, but for and in consideration of the purchase of some other article. The respondent also will cease advertising that any of his products have a greater value than the prices at which they are usually sold.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning, Monday, October 11.

Monday, October 11

#### HEARING BEFORE AN EXAMINER

(Broadcast)

- NEW—S. L. Slover Corp., Norfolk, Va.—C. P., 1370 kc., 250 watts, unlimited time.
- NEW—Harwell V. Shepard, Denton, Tex.—C. P., 1420 kc., 100 watts, daytime.
- NEW—First Baptist Church, Pontiac, Mich.—Authority to transmit programs to Station CKLW, Windsor, Ontario, Canada.
- KGAR—Tucson Motor Service Co., Tucson, Ariz.—C. P., 1340 kc., 250 watts, unlimited time. Present assignment: 1370 kc., 100 watts night, 250 watts LS, unlimited.

Tuesday, October 12

#### HEARING BEFORE AN EXAMINER

(Broadcast)

- NEW—W. C. Irwin, Amarillo, Tex.—C. P., 1500 kc., 100 watts night, 250 watts LS, unlimited.
- W3XAU—WCAU Broadcasting Co., Newton Square, Pa.—Modification of license, 6060, 9590, 15150 kc., 10 KW, unlimited. Present assignment: 6060, 9590 kc., 10 KW, unlimited.
- W3XAU—WCAU Broadcasting Co., Newton Square, Pa.—Modification of license, 6060, 9590, 25750 kc., 10 KW, unlimited.
- NEW—Four Lakes Broadcasting Co., Madison, Wis.—C. P., 830 kc., 100 watts, daytime.
- KFDM—Sabine Broadcasting Co., Inc., Beaumont, Tex.—Voluntary assignment of license to Beaumont Broadcasting Co.; 560 kc., 500 watts night, 1 KW LS, unlimited.
- NEW—Northwestern Broadcasting Co., Vernon, Tex. (R. H. Nichols, Pres.)—C. P., 1500 kc., 100 watts, unlimited.

Wednesday, October 13

#### HEARING BEFORE AN EXAMINER

(Broadcast)

- W1XEH-W1XLU-W1XO-W1XT-WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 63500 kc., 150 watts, unlimited; 290000, 450000 kc., 5 watts; 31100, 34500, 37600, 40600 kc., 50 watts; 31100, 34600, 37600, 40600 kc., 100 watts; 1060 kc. (SA for 1040 kc.), 50 KW night,

50 KW LS, share WBAL (SA unlimited time KRLD simul. ex.).

WKBZ—Karl L. Ashbacker, Muskegon, Mich.—Modification of license, 1200 kc., 100 watts, 250 watts LS, unlimited.

NEW—Burl Vance Hedrick, Salisbury, N. C.—C. P., 1340 kc., 1 KW, daytime.

Thursday, October 14

### ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

#### Examiner's Report No. 1-422:

NEW—Troy Broadcasting Co., Inc., Troy, N. Y.—C. P., 950 kc., 1 KW, daytime.

#### Examiner's Report No. 1-430:

WMBO—WMBO, Inc., Auburn, N. Y.—Authority to transfer control of corporation; 1310 kc., 100 watts, unlimited.

#### Examiner's Report No. 1-431:

NEW—Curtis Radiocasting Corp., Indianapolis, Ind.—C. P., 1500 kc., 100 watts, 250 watts LS, S.H.

WKBV—Knox Radio Corp., Richmond, Ind.—Modification of license, 1500 kc., 100 watts, unlimited time. Present assignment: 1500 kc., 100 watts, specified hours.

#### Examiner's Report No. 1-433:

NEW—Beaumont Broadcasting Assn., B. A. Steinhagen, Pres., Beaumont, Tex.—C. P., 1420 kc., 100 watts, unlimited time.

### HEARING BEFORE AN EXAMINER

(Broadcast)

WAAB—The Yankee Network, Inc., Boston, Mass.—Modification of license, 1410 kc., 1 KW, unlimited time. Present assignment: 1410 kc., 500 watts night, 1 KW LS, unlimited.

NEW—Tri-City Broadcasting Co., Inc., Schenectady, N. Y.—C. P., 950 kc., 1 KW, unlimited.

WMFJ—W. Wright Esch, Daytona Beach, Fla.—Modification of C. P., 1240 kc., 1 KW, unlimited time (C. P. for 1420 kc., 100 watts, unlimited time).

WSAY—Brown Radio Service & Laboratory, Rochester, N. Y.—C. P., 1210 kc., 100 watts night, 250 watts LS, unlimited. Present assignment: 1210 kc., 100 watts, unlimited.

Friday, October 15

### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—C. Bruce McConnell, Indianapolis, Ind.—C. P., 1500 kc., 100 watts, 250 watts LS, daily except Sunday, 10 a. m. to 12 noon, 6 to 10 p. m. (Requests hours now used by WKBV).

WKBV—Knox Radio Corp., Richmond, Ind.—Renewal of license, 1500 kc., 100 watts, specified hours.

KTUL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—C. P., 1400 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1400 kc., 500 watts, 1 KW LS, unlimited.

NEW—John P. Harris, Hutchinson, Kans.—C. P., 710 kc., 1 KW, daytime.

### APPLICATIONS GRANTED

KUMA—Albert H. Schermann, Yuma, Ariz.—Granted C. P. approving transmitter site and installation of vertical radiator.

WJBL—Commodore Broadcasting, Inc., Decatur, Ill.—Granted C. P. to move transmitter site locally and install vertical radiator.

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Tex.—Granted license to cover C. P., 1500 kc., 100 watts night, 250 watts day, unlimited time.

WRGA—Rome Broadcasting Corp., Rome, Ga.—Granted license to cover C. P., 1500 kc., 100 watts night, 250 watts day, unlimited time.

KSRO—The Press Democrat Publishing Co., Santa Rosa, Calif.—Granted license to cover C. P. and modifications thereof; 1310 kc., 250 watts, daytime only.

WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Granted license to cover C. P., 1210 kc., 100 watts night, 250 watts day, unlimited.

WOLS—O. Lee Stone, Florence, S. C.—Granted modification of C. P. extending completion date from 10-16-37 to 12-16-37.

WAAB—The Yankee Network, Inc., Boston, Mass.—Granted modification of license to change power of auxiliary transmitter for emergency purposes only, to correspond to the power of the main transmitter.

WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Granted extension of authority to transmit program from station WXYZ to station of Canadian Broadcasting Corp.

WEAU—Morgan Murphy, Eau Claire, Wis.—Granted authority to transfer control of corporation from Morgan Murphy to Elizabeth Murphy; 1050 kc., 1 KW, limited time.

WBRC—Eloise H. Smith, Executrix of the Estate of Marcellus D. Smith, Jr., Birmingham, Ala.—Granted involuntary transfer of control of Birmingham Broadcasting Co., Inc., licensee of WBRC, to Eloise H. Smith, as executrix of estate of Marcellus D. Smith, Jr., deceased (930 kc., 1 KW, unlimited).

WBCM—James E. Davidson, Bay City, Mich.—Granted voluntary assignment of license to Bay Broadcasting Co., Inc., a newly organized corporation; 1410 kc., 500 watts day and night, unlimited.

KATE—Albert Lea Broadcasting Co., Albert Lea, Minn.—Granted modification of C. P. to change transmitter site locally and make changes in vertical radiator.

NEW—Indianapolis Broadcasting, Inc., Indianapolis, Ind. (Mobile) (2 applications).—Granted C. P. for new relay broadcast station, frequencies 38900, 39100, 39300 and 39500 kc., 2 watts.

NEW—Jonas Weiland, Kinston, N. C. (Mobile).—Granted C. P. for new relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 35 watts.

NEW—KCMO Broadcasting Co., Kansas City area (Mobile).—Granted C. P. for new experimental relay broadcast station, frequencies 100000, 200000, 300000 and 500000 kc., 5 watts.

NEW—KCMO Broadcasting Co., Kansas City area (Mobile).—Granted C. P. for new experimental relay broadcast station, frequencies 100000, 200000, 300000 and 500000 kc., 10 watts.

WAXG—Florida Capitol Broadcasters, Inc., Tallahassee, Fla. (Mobile).—Granted license to cover C. P. for new relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 40 watts.

W8XNO—Charleston Broadcasting Co., Charleston, W. Va.—Granted modification of C. P. extending commencement date to 11-2-37 and completion date to 5-2-38, and to use frequency 26100 kc. on an experimental basis.

### SET FOR HEARING

NEW—Mittelle Franklin Noble, Anniston, Ala.—C. P. to erect new station, 1420 kc., 100 watts, daytime only. Exact transmitter and studio sites to be determined with Commission's approval.

NEW—W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—C. P. to erect new station, 1340 kc., 250 watts, daytime only. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

NEW—Young People's Assn. for the Propagation of the Gospel, Philadelphia, Pa.—C. P. for new station, 1220 kc., 1 KW, unlimited time, using directional antenna system for day and night-time operation.

NEW—Jack W. Hawkins and Barney H. Hubbs, d/b as Odessa Broadcasting Co., a partnership, Odessa, Tex.—C. P. to erect a new station, 1310 kc., 100 watts, daytime only. Exact transmitter site to be determined with Commission's approval.

NEW—William F. Huffman, Wisconsin Rapids, Wis.—C. P. to erect a new station, 580 kc., 250 watts, unlimited time, using directional antenna system for night-time operation. Exact studio site to be determined with Commission's approval.

WILL—University of Illinois, Urbana, Ill.—C. P. to make changes in equipment and increase day power from 1 KW to 5 KW, using present directional antenna system.

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—C. P. to install new equipment and increase day power from 250 watts to 1 KW.

WBAA—Purdue University, W. Lafayette, Ind.—C. P. to move station from W. Lafayette, Ind., to near Indianapolis, exact location to be determined subject to Commission approval; to install new equipment; increase power to 1 KW night, 5 KW day; and change hours of operation to unlimited (now operates on 890 kc., 500 watts night, 1 KW day, specified hours).

WIP—Pennsylvania Broadcasting Co., Inc., Philadelphia, Pa.—C. P. to install new equipment and increase day power from 1 KW to 5 KW. Exact transmitter site and type of antenna to be determined with Commission's approval.

WJNO—Hazlewood, Inc., W. Palm Beach, Fla.—C. P. to install new transmitter, change frequency from 1200 kc. to 1330 kc., and increase power from 100 watts night, 250 watts day, to 1 KW, unlimited time.

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Modification of license to increase night power from 500 watts to 1 KW.

WCPO—Scripps-Howard Radio, Inc., Cincinnati, Ohio.—Modification of license to increase power for night-time operation from 100 watts to 250 watts. To be heard before the Broadcast Division.

WNBR—Memphis Commercial Appeal Co., Memphis, Tenn.—Authority to transfer control of corporation to Memphis Press-Scimitar Co. (1430 kc., 500 watts, 1 KW LS, unlimited).

KRGV—M. S. Niles, Weslaco, Tex.—Authority to transfer control of KRGV, Inc., to O. L. Taylor, Gene A. Howe and T. E. Snowden; 1260 kc., 500 watts (C. P. 1 KW), unlimited.

WGES—H. J. Guyon, Thomas H. Guyon, Wm. F. Moss, Louis E. Moulds, Gene T. Dyer (stockholders of Oak Leaves Broadcasting Station, Inc.), Chicago, Ill.—Authority to transfer control from present stockholders to WSBC, Inc.; 1360 kc., 500 watts night and day except Sundays, when station has 1 KW LS, share WSBT.

### SPECIAL AUTHORIZATIONS

KFJM—University of North Dakota, Grand Forks, N. Dak.—Granted special temporary authority to operate with power of 1 KW from local sunset (September sunset, 6:45 p. m.; October sunset, 5:45 p. m., CST), to the conclusion of football games on October 1, 15 and 22.

Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted special temporary authority to operate two relay broadcast transmitters on frequencies 39700, 39900, 40800 and 41400 kc., 15 watts, for the period October 1 to October 30, 1937, to relay broadcast test runs and actual races of Captain Eyston on the Bonneville Salt Flats to be rebroadcast over KSL.

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted special temporary authority to operate a 100-watt crystal controlled transmitter between the hours of 1 and 6 a. m., EST, for the period October 4 to November 2, 1937, in order to conduct tests on several sites in the vicinity of Philadelphia.

WMBC—Michigan Broadcasting Co., Detroit, Mich.—Granted special temporary authority to rebroadcast over station WMBC ten-minute program Wednesday between 7 and 7:30 p. m., CST, October 6, originating over state police station WRDS.

WBEO—The Lake Superior Broadcasting Co., Marquette, Mich.—Granted special temporary authority to operate during afternoon hours not now covered by license, for the duration of the World Series games beginning October 6.

WNLC—Thames Broadcasting Corp., New London, Conn.—Granted special temporary authority to operate from local sunset (November sunset, 4:30) to 5 p. m., EST, Sundays, November 7, 14, 21 and 28, 1937, in order to broadcast program of Rev. Charles E. Coughlin.

WRUF—University of Florida, Gainesville, Fla.—Granted special temporary authority to operate simultaneously with station KOA from local sunset (October sunset, 7:15 p. m.) to 8 p. m., EST, October 8, in order to broadcast preliminaries to football game played between Temple University and University of Florida at Philadelphia.

WPHR—WLBC, Inc., Petersburg, Va.—Granted special temporary authority to operate from local sunset (October sunset, 5:30 p. m.) to 6 p. m., EST, on Saturdays, October 9, 16, 23 and 30, in order to broadcast football games.

WBEO—The Lake Superior Broadcasting Co., Marquette, Mich.—Granted special temporary authority to operate from 7:30 to 8:30 p. m., CST, October 9, in order to broadcast a special program originating at Crystal Falls, Mich., for Michigan State Democratic Committee.

WHDF—The Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 6:30 p. m. to 8:45 p. m., CST, October 9, in order to broadcast program to be held at Crystal Falls arranged by the Democratic State Committee. Also granted special temporary authority to operate from 10 to 10:15 a. m., CST, October 12,

13, 14, 15 and 16, 1937, in order to broadcast musical program made up from the WBS program library, and from 10:15 to 10:30 a. m., CST, October 12, 13, 14, 15 and 16, in order to accommodate the Rexall Magic Hour program.

KGFL—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 7:30 to 10:30 p. m., MST, on October 15, 22, 29; November 5 and 12, 1937, in order to broadcast Roswell High School football games.

WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted special temporary authority to operate simultaneously with WGNY from 2 to 3 p. m., EST, October 16 and November 13, 1937, in order to broadcast football games from high school stadium at Red Bank.

KWTO—Ozarks Broadcasting Co., Springfield, Mo.—Granted special temporary authority to rebroadcast over KWTO conversation carried on between experimental stations W5XAR and W5XAS of the Western Radio Telegraph Co., for a period of not more than 1 hour between October 18 and 24, 1937, flying weather permitting.

WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 4 to 5 p. m., CST, Saturday, October 30, 1937, in order that station WBAA may broadcast the Purdue-Iowa State football game.

WNYC—City of New York Department of Plant and Structures, New York City.—Granted special temporary authority to operate from 5:45 to 11 p. m., election night, November 2, 1937, in order to broadcast municipal election returns.

WMPC—The First Methodist Protestant Church of Lapeer, Mich.—Granted special temporary authority to operate from 9 to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for a period not to exceed 30 days, in order to broadcast certain educational programs.

WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted special temporary authority to operate on a frequency of 610 kc., with 1 KW power, between the hours of 1 and 6 a. m., EST, for period October 6 to 15, 1937, in order that measurements may be made to determine whether or not present antenna system complies with requirements of Rule 131.

WAXB-WAXC—Alford J. Williams, c/o Gulf Oil Corp., Pittsburgh, Pa.—Granted extension of special temporary authority to operate RCA Type H aircraft transmitter, 5 watts, on board plane NR-1050 owned by A. J. Williams, and RCA Type AVT-7 transmitter, portable on ground, on frequencies 1646, 2090, 2190, 2830 kc., as relay broadcast stations for the period October 31 to November 29, 1937, for testing and transmission of program communication service between plane and portable transmitter on ground, in connection with flight demonstrations and Junior Aviator activities at various locations over the U. S.

WEST—Associated Broadcasters, Inc., Easton, Pa.—Denied special temporary authority to operate simultaneously with WKBO from 5:15 to 6 p. m., EST, for the period beginning October 1 and ending no later than October 30, 1937.

### RENEWAL OF LICENSES

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

KALE, Portland, Ore.; KCRC, Enid, Okla.; KDFN, Casper, Wyo.; KECA, Los Angeles, Calif.; KFBK, Sacramento, Calif.; KFH, Wichita, Kans.; KFJM, Grand Forks, N. Dak.; KGA, Spokane, Wash.; KGER, Long Beach, Calif.; KGHF, Pueblo, Colo.; KGIR, Butte, Mont.; KGNO, Amarillo, Texas; KGNF, North Platte, Nebr.; KGNO, Dodge City, Kans.; KIDO, Boise, Idaho; KIEM, Eureka, Calif.; KLO, Ogden, Utah; KMO, Tacoma, Wash.; KOH, Reno, Nev.; KOMA, Oklahoma City; KOY, Phoenix, Ariz.; KQV, Pittsburgh, Pa.; KRNT, Des Moines, Iowa; KSO, Des Moines; KSTP, St. Paul, Minn.; KWK, St. Louis, Mo.; WAAB and auxiliary, Boston; WBBR, Brooklyn, N. Y.; WBNS, Columbus, Ohio; WCSC, Charleston, S. C.; WDRC, Hartford, Conn.; WEVD, New York City; WFAB, New York City; WFBL, Syracuse, N. Y.; WGES, Chicago; WHIS, Bluefield, W. Va.; WJSV, Washington, D. C.; WKBW, Buffalo, N. Y.; WMPS, Memphis, Tenn.; WORK, York, Pa.; WSPD, Toledo, Ohio; WSFA, Montgomery, Ala.; WSMK, Dayton, Ohio.

### ACTION ON EXAMINERS' REPORTS

WFEA—Ex. Rep. 1-180—New Hampshire Broadcasting Co., Manchester, N. H.—Granted renewal of license; 1340 kc., 500

watts night, 1 KW day, unlimited time. Order effective November 23, 1937. Examiner P. W. Seward sustained.

KINY—Ex. Rep. 1-386—Edwin A. Kraft, Juneau, Alaska—Granted C. P. to install new equipment; install vertical antenna; change frequencies from 1310 ke. to 1430 ke. and increase power from 100 watts to 250 watts, unlimited time. Order effective November 23, 1937. Examiner R. H. Hyde reversed.

KLPM—Ex. Rep. 1-400—John B. Cooley, Minot, N. Dak.—Granted C. P. to make changes in equipment; install vertical antenna; move transmitter from 26 E. Central Ave. to near Minot; change frequencies from 1240 ke. to 1360 ke.; increase power from 250 watts to 500 watts night, 1 KW day; change hours of operation from specified to unlimited. Order effective November 23, 1937. Examiner J. P. Bramhall sustained.

### ORAL ARGUMENTS GRANTED

Oral Arguments were granted, to be held January 6, 1938, on the following Examiners' Reports:

Ex. Rep. 1-485, KGKO, Wichita Falls, Broadcasting Co., Fort Worth, Texas; Ex. Rep. 1-490, Warren B. Worcester, San Diego, Calif., and Ex. Rep. 1-493, Abraham Plotkin, Chicago, Ill., and Philadelphia Radio Broadcasting Co., Philadelphia.

### APPLICATIONS DISMISSED

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

NEW—James F. Hurley, Jr., Salisbury, N. C.—C. P., 1500 ke., 100 watts, daytime.

NEW—W. Va. Broadcasting Corp., Wheeling, W. Va.—C. P., 1310 ke., 100 watts, unlimited.

KNOW—KUT Broadcasting Co., Austin, Texas—Voluntary assignment of license to Hearst Radio Inc.; 1500 ke., 100 watts, unlimited.

WACO—KTSA Broadcasting Co., Waco, Texas—Voluntary assignment of license to Hearst Radio, Inc.; 1420 ke., 100 watts, unlimited.

NEW—W. Va. Broadcasting Corp., Charleston, W. Va.—C. P., 1500 ke., 100 watts, 250 watts, LS, unlimited.

KTSA—KTSA Broadcasting Co., San Antonio, Texas—Voluntary assignment of license to Hearst Radio, Inc.; 550 ke., 1 KW, 5 KW LS, unlimited.

### APPLICATIONS DENIED

NEW—Hollenbeck Heights Christian Church, Los Angeles.—Application for C. P., 1170 ke., 100 watts, limited time, heretofore set for hearing, was denied as in case of default for failure of applicant to file an appearance in accordance with Rule 104.6 (c).

NEW—J. F. Rodgers, Harlingen, Texas.—Application for C. P. for 1370 ke., 100 watts, 250 watts, LS, unlimited, heretofore set for hearing, was denied as in case of default for failure of applicant to file an appearance in accordance with Rule 104.6 (c).

### MISCELLANEOUS

NEW—Earl Weir, St. Petersburg, Fla.—Application for C. P., 1370 ke., 100 watts, unlimited time, heretofore set for hearing, was dismissed with prejudice, inasmuch as request for withdrawal was received less than 30 days prior to hearing scheduled thereon.

Granted petition of WAVE, Inc., Louisville, Ky., to intervene in the hearing on the application of Kentucky Broadcasting Corp. for a C. P. to establish a new station at Louisville using 1210 ke., 100 watts, 250 watts, LS, unlimited time.

Granted petition of the Colonial Broadcasting Corp., Newport News, Va., to intervene in the proceedings upon the application of S. L. Slover Corp., Norfolk, Va., for C. P. for new station to use 1370 ke., 100 watts, 250 watts, LS, unlimited time.

Granted petition of Glenn Van Auken (WGVA), Indianapolis, Ind., to intervene in the proceeding upon the application of Bruce McConnell for a C. P. to establish a new station at Indianapolis on frequency 1500 ke., 100 watts, 250 watts, LS, daytime hours, except Sunday from 10 a. m. to 12 noon; 6 to 10 p. m.

Granted petition of the Evening News Association, Inc. (WWJ), Detroit, Mich., to intervene in the hearing upon the application of George B. Storer for a C. P. to establish a new station on frequency 800 ke., 1 KW, daytime hours, at Pontiac, Mich.

Granted petition of Augusta Broadcasting Co. (WRDW), Augusta, Ga., to intervene in the hearing of the application of Wm. Avera Wynne (WEED), Rocky Mount, N. C., for C. P., 1240 ke., 500 watts, unlimited time, waiving the ten-day requirement of Rule 105.20 with respect to the filing of petitions for intervention in hearings.

Granted petition of Northern Corp. (WMEX), Boston, to intervene in the hearing upon the application of the Yankee Network, Inc. (WAAB), for modification of license, specifying the frequency 1410 ke., 1 KW, unlimited time.

Granted petition of WCAE, Inc., Pittsburgh, Pa., to intervene in the proceeding upon the application of WWPO, Inc., Pittsburgh, Pa., for a C. P. to establish a new station upon frequency 1120 ke., 250 watts, unlimited time.

Granted petition of Floyd A. Parton, San Jose, Calif., to intervene in the proceedings upon the application of George H. Payne for C. P. to establish a new station on frequency 1440 ke., 500 watts, unlimited time.

Granted petition of the Citizens Broadcasting Corp., Schenectady, N. Y., to intervene in the proceeding on the application of the Tri-City Broadcasting Co., Inc., Schenectady, for a C. P. to establish a new station on frequency 950 ke., 1 KW, unlimited time.

Granted petition of WJAS, Pittsburgh Radio Supply House, Pittsburgh, Pa., to intervene in the hearing on the application of WWPO, Inc., for authority to establish a broadcast station using frequency 1120 ke., 250 watts, unlimited time.

Granted petition of Charleston Broadcasting Co., Charleston, W. Va., to intervene in the hearing on the application of the Kanawha Valley Broadcasting Co. for C. P. to establish a new station at Charleston, W. Va., to operate on frequency 1500 ke., 100 watts, unlimited time.

Granted petition of James F. Hopkins, Inc., WJBX, Detroit, Mich., to intervene in the hearing upon the application of the Cadillac Broadcasting Corp., Detroit, for a C. P. to establish a new station upon the frequency 1140 ke., 500 watts, daytime hours.

Granted petition of the Madison Broadcasting Co., Madison, Wis., in the hearing upon the application of the Four Lakes Broadcasting Co., for C. P. to erect a new station at Madison, Wis., to operate on 830 ke., 100 watts, daytime only.

Granted petition of the South Carolina Broadcasting Co., Inc., WCSC, Charleston, S. C., to intervene in the hearing on the application of Santo Settile for a C. P. to erect a new station at Charleston, S. C., to operate on frequency 1200 ke., with 100 watts night, 250 watts, LS, unlimited.

Granted petition of Jules J. Rubens for authority to intervene in the hearing on the application of Martin E. O'Brien, for C. P. to erect a new broadcast station at Aurora, Ill., to operate on 1280 ke., 250 watts, daytime only.

Granted request to cancel oral argument now set for November 4, 1937, in the matter of the application of W. E. Whitmore for C. P., to erect a new station at Hobbs, N. Mex., to use 1500 ke., 100 watts, daytime only, as the Big Springs Broadcasting Co., Big Springs, Texas, has withdrawn its exceptions to Examiner's Report No. 1-449, recommending grant of Whitmore application.

Granted petition of Travelers Broadcasting Service Corp. and The Travelers Broadcasting Co. for continuance of hearing upon their applications for assignment of licenses for stations WTIC, W1XT, W1XO, W1XLU, W1XEH, Hartford, Conn., now scheduled for October 13, for a period approximately 7 days, the new hearing date to be fixed by Dockets.

Denied petition of W. A. Barnette, Greenwood, S. C., for postponement or cancellation of the hearing upon his application for C. P. to establish a new broadcast station on 1370 ke., 250 watts, daytime hours. A hearing on this application is now scheduled for October 25.

Denied petition of Floyd A. Parton for a continuance of hearing upon his application for C. P. for new station at San Jose, Calif., using 1170 ke., 250 watts, daytime hours, and upon the application of George H. Payne for C. P. to establish a station at San Jose using frequency 1440 ke., 500 watts, unlimited time. A hearing on these applications is scheduled for October 25.

Granted petition of Pulitzer Publishing Company for extension of time for oral argument in re Examiner's Report No. 1-452, and that all parties will be given one hour.

Granted motion of applicant S. L. Slover Corp., Norfolk, Va., for continuance of hearing for a period of 30 days, on application for C. P. for new station using frequency 1370 ke., 100 watts, 250 watts LS, unlimited time.

Granted petition of Fred M. Weil for order to take deposition before Orville W. Duell, a notary public, at the Continental Hotel, Grand Coulee, Wash, such deposition to be taken on October 9,

1937. Fred M. Weil is an applicant for a new station at Grand Coulee, to use 1420 kc., 100 watts, 250 watts LS, unlimited.

Denied petition of Ellwood Warwick Lippincott, Inc., for continuance of oral argument on the application of the Bend Bulletin, now scheduled for October 28, 1937, to such time as oral argument is had on the application of Lippincott, which was heard by an Examiner on September 21, 1937, and whose report has not yet been submitted.

Granted petition of A. H. Belo Corp. (WPAA), Dallas, Tex., that Rule 104.6(b) be waived, and that the answer submitted by WFAA to applicant's appearance in Docket 3054 involving application of George B. Storer, for C. P. to erect a new station at Pontiac, Mich., be accepted and made a part of the record.

Granted request of Interstate Broadcasting Co., Inc. (WQXR), respondents, for oral argument upon Ex. Rep. 1-461, covering application of Ann Arbor Broadcasting Co., Inc., for C. P. to establish a new station on frequency 1550 kc., 1 KW, unlimited time. (Oral argument scheduled for December 16, 1937.)

Denied petition of Durham Radio Corp. (WDNC) for reopening of hearing upon its application for C. P. specifying 600 kc., 1 KW, unlimited time, directional antenna night, and to allow an amendment to the application with regard to the proposed directive antenna system, and the introduction of additional engineering testimony.

Dismissed petition filed by J. K. Patrick & Company requesting the Commission to affirm Examiner's Report No. 1-474 and to grant the authority requested therein, and cancelled oral argument set for December 9, 1937.

#### EXAMINERS' REPORTS RELEASED SINCE SEPTEMBER 28

NEW—Ex. Rep. 1-497: WSMB, Inc., New Orleans, La.—Examiner Melvin H. Dalberg recommended grant of C. P. to erect a new station to operate on frequency 1500 kc., with 250 watts day, 100 watts night, unlimited hours.

NEW—Ex. Rep. 1-498: Dr. Wm. States Jacobs Broadcasting Co., Houston, Tex.—Examiner Tyler Berry recommended grant of C. P. to construct a new station to operate on 1220 kc., 1 KW, unlimited time.

#### RATIFICATIONS

The Broadcast Division ratified the following actions taken on the dates shown:

WTMJ—The Journal Company, Milwaukee, Wis.—Granted extension equipment test period 10 days from September 27, 1937.

KTMS—The News Press Publishing Co., Santa Barbara, Calif.—Granted extension equipment test period 15 days from September 30, however, no tests permitted October 11, 3:10 to 3:30 a. m., EST, due to Commission monitoring schedule.

WWJ—The Evening News Assn., Detroit, Mich.—Granted extension special temporary authority to operate for the period October 1 to 30, with an increase in night power to 5 KW, in order to overcome interference.

KG DY—Voice of So. Dakota, Huron, S. Dak.—Granted extension special temporary authority to remain silent for the period October 1 to October 30, inclusive, for the purpose of rebuilding transmitter.

KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted special temporary authority to operate from local sunset (October sunset, 5:30 p. m.) to 6 p. m., CST, October 3, 10, 17, 24 and 31, in order to broadcast Vesper service of local church.

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Granted special temporary authority to operate simultaneously with WGN Y from 1:45 p. m. to 3 p. m., EST, October 2, 9, 16, 23 and 30, in order to broadcast football games from Yale Bowl.

WBL Y—Herbert Lee Blye, Lima, Ohio.—Upon consideration of a motion by Herbert Lee Blye for leave to withdraw his application for C. P. to make changes in equipment and increase day power from 100 to 250 watts, the Broadcast Division directed that said application be dismissed with prejudice, and an order be entered accordingly and forwarded to all interested parties.

Granted the petition of George H. Payne to intervene in the proceedings upon the application of the Pacific Agricultural Foundation, Ltd. (KQW), San Jose Calif., for C. P.

Granted petition of the Central California Broadcasters, Inc. (KRE), to intervene in the proceedings upon the application of Larry Rhine for C. P. for new station at San Francisco.

Granted petition of the Piedmont Broadcasting Corp. to intervene in the proceedings upon the application of Burl Vance Hedrick for C. P. for new station at Salisbury, N. C.

Granted petition of the City of St. Paul, Minn., to intervene in the proceedings upon the application of National Battery Broadcasting Co. (KSTP) for C. P.

Same except City of Minneapolis, Minn., to intervene in application of KSTP.

Granted motion of Westchester Broadcasting Corp., to continue the hearing upon its application for special experimental authority now scheduled for October 4, until December 3, 1937.

The Broadcast Division directed that the hearing upon the application of J. F. Rodgers for C. P., now scheduled for October 20, be continued until October 29, to be heard in consolidation with the application of the Valley Publishing Co. for C. P.

Denied request of the Curtis Radiocasting Corp. of modification of the order issued to it for the taking of depositions with respect to the application of the Knox Radio Corp. for renewal of license for station WKBV, Richmond, Ind.

The Broadcast Division (1) denied the motion of C. Bruce McConnell requesting the Commission to change the date for the taking of depositions by Knox Radio Corp. in Richmond, Ind., in support of its application for renewal of license, and (2) granted the motion of C. Bruce McConnell requesting the Commission to vacate its order heretofore issued to Knox Radio Corp. authorizing the taking of the deposition of Dr. Wm. C. Dennis in Washington, D. C., on Oct. 6, in connection with the above application, and directed that the said order be revoked.

Continued, without date, the oral argument scheduled for Thursday, September 30, upon the exceptions to Ex. Rept. 1-387, involving the application of Johnson City Broadcasting Co., Johnson City, Tenn., and Ex. Rept. 1-389, involving the applications of Knoxville Journal Broadcasting Co. and Richard M. Casto.

Granted petition of KRGV, Inc., to intervene in the proceedings upon the application of the Valley Publishing Co., for C. P., for new station at Harlingen, Tex.

Granted petition of KRGV, Inc., to intervene in the proceedings upon the application of J. F. Rodgers for C. P. for new station at Harlingen, Tex.

#### APPLICATIONS RECEIVED

##### First Zone

NEW—Sentinel Broadcasting Corp., Syracuse, N. Y.—Construction permit for a new station to be operated on 620 kc., 500 watts, unlimited time. To use directional antenna night.

WLAW—Hildreth & Rogers Co., Lawrence, Mass.—Modification of construction permit (B1-P-1058) for new station, requesting approval of vertical antenna, approval of studio site at 278 Essex Street, Lawrence, Mass., and transmitter site at Lawrence, Mass.

W2XJI—Bamberger Broadcasting Service, Inc., New York, N. Y.—Modification of construction permit for a new high frequency broadcast station, requesting extension of commencement date from 5-1-37 to 11-1-37 and completion date from 11-1-37 to 5-1-38.

##### Second Zone

WOSU—The Ohio State University, Columbus, Ohio.—Construction permit to install a new vertical antenna and move transmitter from corner Neil and Woodruff Avenues, Columbus, Ohio, to Worthington Road, northwest of Columbus, Ohio.

NEW—Harold F. Gross, Lansing, Mich.—Construction permit for a new station to be operated on 580 kc., 500 watts night, 1 KW day, unlimited time. Amended to change from a construction permit for a new station to a construction permit for WJIM requesting change in frequency from 1210 kc. to 630 kc.; make changes in equipment; install directional antenna for day and night use; increase power from 100 watts night, 250 watts day, to 500 watts night, 1 KW day; and move transmitter locally.

WGH—Hampton Roads Broadcasting Corp., Newport News, Va.—Extension of special experimental authorization to operate a facsimile station from 12 p. m. to 6 a. m., on 100 watts, from 12-1-37 to 6-1-38.

NEW—Colonial Broadcasting Corp., Norfolk, Va.—Construction permit for a new station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time.

NEW—Cleveland City Board of Education (Charles H. Lake, Supt.), Cleveland, Ohio.—Construction permit for a new high frequency broadcast station to be operated on 26400 kc., 500 watts.

### Third Zone

- NEW—Brenau College, Gainesville, Ga.—Construction permit for 1210 a new station to be operated on 1420 kc., 100 watts night, 250 watts day, unlimited time. Amended to change requested frequency from 1420 kc. to 1210 kc., and power from 100 watts night, 250 watts day, to 100 watts.
- NEW—State Broadcasting Corp., Gretna, La.—Construction permit for a new station to be operated on 1370 kc., 100 watts night, 250 watts day, limited time. Amended to change hours of operation from limited time to specified hours.
- NEW—Pinellas Broadcasting Co., St. Petersburg, Fla.—Construction permit for a new station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time.
- NEW—Piedmont Broadcasting Corp., Salisbury, N. C.—Construction permit for a new station to be operated on 1500 kc., 100 watts, daytime only.
- W4XFG—The National Life & Accident Insurance Co., Inc., Area of Nashville, Tenn.—License to cover construction permit (B3-PRE-136) for a new relay broadcast station.
- NEW—Southwestern Sales Corp., Area of Tulsa, Okla.—Construction permit for a new relay broadcast station to be operated on 39700, 39900, 40800, 41400 kc., 20 watts.
- NEW—Southwestern Sales Corp., Area of Tulsa, Okla.—Construction permit for a new relay broadcast station to be operated on 39700, 39900, 40800, 41400 kc., 20 watts.

### Fourth Zone

- WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, 620 Wis.—License to use old W.E. Type 94992 (5 KW) transmitter as an auxiliary transmitter.
- WISN—Hearst Radio, Inc., Milwaukee, Wis.—Modification of 1120 license to change power from 250 watts night, 1 KW day, to 1 KW day and night.
- KWNO—Harry Dahl, Otto M. Schlabach, Maxwell H. White and 1200 Herman R. Wiecking, d/b as Winona Radio Service, Winona, Minn.—Modification of construction permit (B4-P-983) as modified for a new station, requesting changes in transmitting equipment and increase in power from 100 watts to 250 watts. Amended to extend commencement and completion dates from 10-14-37 and 4-12-38, respectively, to 30 days after grant and 180 days thereafter.
- WJDL—Commodore Broadcasting, Inc., Decatur, Ill.—Authority 1200 to transfer control of corporation from Charles R. Cook to Decatur Newspapers, Inc., 127½ shares common stock.
- KOIL—Central States Broadcasting Co., Lincoln, Nebr.—Authority 1260 to determine operating power by direct measurement of antenna.

- WCLS—WCLS, Inc., Joliet, Ill.—Transfer control of corporation 1310 from R. W. Hoffman to L. W. Wood, 51%.
- WCBS—WCBS, Inc., Springfield, Ill.—License to cover construction permit (B4-P-1861) for new equipment, increase in power and change in hours of operation.
- WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, 1500 Ill.—Construction permit to install a new transmitter; install directional antenna for night use; change frequency from 1500 kc. to 1510 kc., power from 100 watts night, 250 watts day, to 1 KW night, 5 KW day; move transmitter from 5th and Broadway, East St. Louis, Ill., to 3 miles east of East St. Louis, Ill.
- W9XUY—Central States Broadcasting Co., Omaha, Nebr.—Modification of construction permit (B4-PHB-25) for a new high frequency broadcast station, requesting changes in equipment.

### Fifth Zone

- KPFA—The Peoples Forum of the Air., Helena, Mont.—License to 1210 cover construction permit (B5-P-1577) as modified, for a new station.
- NEW—Mountain Top Trans Radio Corp., Denver, Colo.—Construction permit for a new station to be operated on 1370 kilocycles, 100 watts night, 250 watts day, unlimited time. (Formerly filed in the name of The Neusteter Suit Co. B5-P-1930.)
- KIEM—Redwood Broadcasting Co., Inc., Eureka, Calif.—Authority 1450 to transfer control of corporation from Harold H. Hanseth to William B. Smullin, Times Publishing Co. (a corp.) and Standard Printing Co. (a corp.) 18,750 shares common stock.
- NEW—Don Lee Broadcasting System, Area of Southern California.—Construction permit for a new relay broadcast station to be operated on 31100, 34600, 37600, 40600 kilocycles, 2 watts.
- NEW—Don Lee Broadcasting System, Area of Southern California.—Construction permit for a new relay broadcast station to be operated on 31100, 34600, 37600, 40600 kilocycles, 2 watts.

### Alaskan Zone

- KFQD—Anchorage Radio Club, Inc., Anchorage, Territory of 780 Alaska.—Construction permit to make changes in equipment.
- NEW—Anchorage Radio Club, Inc., Anchorage, Territory of Alaska.—Construction permit for a new experimental broadcast station to be operated on 3492.5, 6425 kilocycles, 175 watts.

**Broadcasters Urged to Preserve Station Autonomy in AFM Dealings**

(Resolution, page 2323)

**Special NAB Convention Votes to Reorganize Association**

(Story, page 2324)

**FCC Abolishes Divisions—Seven Members to Act on all Matters**

(Story, page 2326)

**In Re AFM Dealings**

RESOLUTION CONSIDERED AT AND ACTED UPON BY THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF BROADCASTERS AT A SPECIAL CONVENTION HELD AT THE WALDORF ASTORIA HOTEL, NEW YORK CITY, OCTOBER 12 AND 13.

WHEREAS, the broadcasting stations of the United States are licensed by the federal government under a mandate to serve the public interest, convenience and/or necessity; and

WHEREAS, radio broadcasting constitutes the greatest medium of simultaneous mass communication the world has ever known; and

WHEREAS, every consideration should and is being given by the industry to the social aspects of unemployment, in giving relief, the radio industry must keep foremost its grave responsibility to protect the freedom and growth of this marvelous facility for public service; and

WHEREAS, the broadcasting stations by virtue of long experience in rendering public service, have found that the public interest requires, in addition to locally produced programs by union musicians, the broadcasting of other local programs and of network and transcription programs; and

WHEREAS, there has not been and there is not now any dispute between the broadcasting industry and the American Federation of Musicians, in regard to wages, hours or working conditions; and

WHEREAS, negotiations between the American Federation of Musicians and committees representing a substantial part of the broadcasting

industry have resulted in a conclusion as to the degree of re-employment acceptable to the American Federation of Musicians; but

WHEREAS, the American Federation of Musicians seeks to impose upon the broadcasting industry, by uniform contract, a system which in effect gives to the American Federation of Musicians the sole right to license the procurement by those stations of network and transcription programs; and

WHEREAS, such contract in effect transferring the control of the operation of any station may be sufficient ground for revocation of that station's federal license to broadcast, and also may constitute a violation of the federal statutes relating to restraint of trade; therefore now be it

RESOLVED, That the Board of Directors of the National Association of Broadcasters recom-

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mends to broadcasters that any agreement entered into between the American Federation of Musicians and broadcasting stations should specifically provide that such agreements shall not contain any restrictions designed to prevent any station from broadcasting network, transcription or any other programs including those of civic, educational, religious, fraternal and public events character construed by it to be in the public interest; and that each station should consult its own counsel in all matters affecting (1) arbitration, (2) sympathetic strikes, (3) inviolability of contracts, (4) possible restraint of trade, and (5) its obligations to serve the public interest in providing educational and entertainment programs.

## PROPOSAL FOR REORGANIZATION OF NAB

The following Resolution was adopted unanimously at the Special NAB Convention held at the Waldorf Astoria Hotel, New York City, October 12 and 13, 1937.

### RESOLVED:

1. That the Bureau of Copyrights of the National Association of Broadcasters be and it is hereby divorced from the Association and required to function henceforth as a separate and private business enterprise, the Association, however, to continue its stock ownership in the Bureau, and the Board of Directors to be authorized by majority vote from time to time to appropriate funds of the Association for the purpose of further support of the Bureau, but only if and to the extent that a real need for such support develops and upon a clear showing by the Bureau of the nature and extent of such need.

2. That the proposal for increase in membership dues, now before this meeting for consideration, be adopted.

3. That a Committee of five members of the Association, consisting of Mark Etheridge, Chairman; Ed Allen, Ed Craney, Walter J. Damm, and John Shepard, III, be and it is hereby created, and charged with the duty of perfecting and presenting to the Association detailed plans for the reorganization and future development of the Association, and the Board of Directors of the Association is hereby instructed to appropriate and pay for the Committee's expenses, including the employment of a secretary and any necessary personnel.

4. That at this meeting the Board of Directors of the Association fix a time and place for the next regular meeting of the Association, at which the report of said Committee of Five shall be considered.

The above points were explained as follows:

### Paragraph 1

The Bureau of Copyrights was created under a resolution adopted by the membership of the Association. It has been developed by the Managing Director under the supervision of the Board of Directors. Today it is a

separate corporation. Nevertheless it is being conducted within the offices of the Association and is making use of the Association's personnel, finances and facilities. All of this was necessary to give effect to the resolution adopted by the Association.

There is now a widespread feeling among the members that the Bureau is ready to proceed on its own feet and that it will make better progress as an independent organization; in other words, that the period during which the Association willingly gave liberal support to the Bureau is now over, and that with its present public domain library and transcribed selections, the Bureau will go forward more rapidly if it must look to its own work to produce revenue to meet its expenses instead of being dependent upon the Association for such revenue. These members believe that the funds of the Association must henceforth be devoted to the general work of the Association and cannot be further diverted to the purposes of the Bureau.

In order that the benefit of the pioneering work heretofore done may not be lost, it is hoped that the Bureau will devote more effort to a vigorous promotion and sales program for the service which the Bureau has to offer. Members of the Association are urged to support it by purchase of the library as insurance against future withdrawals of licenses by any licensing organization. To meet the case where a real need develops at any time in the future for support of the Bureau by the Association, it is suggested that the Board of Directors be given authority to appropriate funds for this purpose, but only upon a clear showing by the Bureau as to the nature and extent of this need.

### Paragraph 2

This point needs little discussion. Members consulted have stated they are ready and willing to pay increased dues, and pay willingly, for the performance of what they believe are the necessary and proper functions of the Association. If the program herein outlined is to be carried out, a substantial increase in dues must be approved. Failure of this proposal will defeat the program.

### Paragraph 3

In a meeting such as this it is obviously impossible to develop a detailed plan for the future. It is unfortunate that such a plan has not been presented for consideration of the members in advance of this meeting. Even if such plan were ready, however, it would be impossible to put it into effect for the very good reason that this is a special meeting, called for a special purpose, and the Association's Constitution and By-Laws will not permit actions other than those outlined in the resolution summoning the meeting. Many valuable suggestions for reorganization of the Association have been advanced, and

some of these have received consideration in recent meetings of the Board and other groups. The purpose of the proposed Committee of Five is to give thought and study to these suggestions, weigh them in the light of the needs of the industry, set up the objectives to be achieved, and recommend the necessary changes in the Constitution and By-Laws of the organization to permit achievement of these objectives.

Conceivably, this Committee would give thought and study to such suggestions as the employment of a President who might be compensated for his services and recommend such changes in the basic law of the Association which would define the scope of his authority and his duties. It is hoped and expected that it would adopt policies so sound in principle that each and every unit of this industry, from the largest networks to the smallest part-time station would be proud of its membership in the organization, and that provision would be made to make such policies effective by binding each member to adhere strictly to them. If it is the will of the industry to appoint and compensate such a leader, then each member should bind himself to follow his leadership.

These are merely illustrations. Many more must be considered. But it would be the duty of this Committee to draft a report, complete in detail, place a copy of it in the hands of each member at least 60 days in advance of the date for the next meeting and invite criticism of the recommendations contained in the report. The Committee would then be expected to redraft its report in the light of the suggestions and criticisms of the members and send copies of such revised report to each and every member at least 30 days in advance of the meeting in order that each member may come to the meeting prepared to act formally and finally upon the report. The report in its finished form should contain estimates of cost, and if further increases in dues payments are necessary, the necessary changes in the By-Laws should be recommended. The report should be complete in detail, the recommendations definite, and there should be included therewith, drafts of all amendments to the Constitution and By-Laws required to give effect to the recommendations. Through the work of this Committee, the regular meeting of the membership would be in position to take definite and decisive action upon the program for the future development of the Association. To complete the task expected of it, the Committee of Five will necessarily need the assistance of personnel, including a secretary, and will have other expenses. The Board of Directors should, therefore, have authority to meet these expenses.

#### Paragraph 4

This meeting has the power to fix a time and place for the next annual meeting. At such regular annual meeting the terms of all officers and one third of the members

of the Board will terminate, elections will be held, and the recommendations of the Committee of Five may be approved or rejected. The complete reorganization program which is being started here should be carried to conclusion at that meeting. The meeting ought to be held in January and in any event not later than February.

#### LOUCKS ACTS AS COUNSEL FOR RE-ORGANIZATION COMMITTEE

The Committee created at the Special NAB Convention to perfect and present to the Association detailed plans for the reorganization and future development of the Association has retained Phillip G. Loucks, formerly Managing Director of the NAB, and presently practicing law in Washington, D. C., as Counsel to the Committee. Mr. Loucks has accepted the assignment to serve until the work of the Committee is completed.

#### 247 STATIONS REPRESENTED AT NAB CONVENTION

A total of 334 persons representing 247 stations registered during the two-day session of the Special NAB Convention at the Waldorf Astoria Hotel, New York, N. Y., October 12-13, 1937.

The transcript of the proceedings will be printed at the earliest possible date.

#### NAB ENGINEERING COMMITTEE SUBMITS RECOMMENDATIONS ON TECHNICAL ASPECTS HABANA RADIO CONFERENCE

The Engineering Committee of the NAB has recommended to the Board of Directors of the NAB that the Committee be authorized and directed to present the following recommendations to the U. S. Delegation to the Habana Radio Conference to begin November 1, 1937:

The NAB Engineering Committee endorses in principle the resolutions adopted at the March Habana Conference (outlined in mimeograph form No. 23201) as applying internationally but with the reservation that it recommends:

(a) That the standards of interference and protection shall not be binding upon any nation as determining such factors as applied between stations located within its own boundaries,

(b) That the permissible intensity of interfering signal specified on page 20 of the "Final Minutes of the Regional Radio Conference convened in the City of Habana from March 15th to March 29, 1937" (outlined in mimeograph No. 20769) with reference to Class I stations using Class A clear channels shall not permit a decrease in the distances set forth in the Table on page 8.

(c) That the contours within which interference is to be measured, as specified in the same table should be measured by day for daytime interference and by night for nighttime interference, and should be specified for lower values of signal intensity for each class other than Classes I and II, than are there set forth.

(d) That the definitions and tables should be revised so as not to conflict with the foregoing recommendations.

### **BROADCAST ADVERTISING VOLUME TO BE COMPUTED IN TERMS OF UNIT HOURS INSTEAD OF DOLLARS**

By unanimous agreement, the members of the NAB soon will discontinue the computation of broadcast advertising volume in terms of dollars. Instead, they will indicate the volume of business in terms of unit hours. This change in policy was effected at the Special Convention by the adoption of a resolution offered by Harold Hough, NAB Treasurer, and General Manager of WBAP, Fort Worth, Texas.

John Elmer, NAB President, appointed the following committee to work out necessary details to effect the change: Harold Hough, Chairman; H. M. Beville, Jr. (NBC), Ralph R. Brunton (KJBS), Tom C. Gooch (KRLD), John Karol (CBS), Lambdin Kay (WSB), Gene O'Fallon (KFEL), and Robert A. Schmid (MBS).

Mr. Hough has taken the matter up with officials of the network companies and reports that the matter is under advisement. The committee expects to make an early announcement concerning the rules, regulations and definitions required to establish uniformity in procedure.

The text of the resolution follows:

"Whereas, It has been the custom of agencies, broadcasting stations, and the management of the chains to use the term 'dollars' in referring to gains and losses and amount of broadcasting business; and,

"Whereas, This method does not present a true, fair, accurate picture of the business of the broadcasting industry, particularly, in relation of the receipts to the stations.

"Whereas, The published revenue, as submitted to the public by the agencies, stations and chains, does not show that portion being actually received by the stations, but makes a misleading analysis, as no account is published of the percentage going to the stations, percentage for commissions, or the percentage for line charges, which is misleading to the public, the Federal Communications Commission, and the advertisers; therefore be it

"Resolved, That it is the wish of the National Association of Broadcasters that the standard yard stick of measurement on broadcast business, in the future, be computed and published in the terms of unit hours instead of gross dollars; be it further

Resolved, That the National Association of Broad-

casters urge all agencies, member stations and non-member stations to adopt the policy of presentation of unit hours, instead of gross dollars; and be it further

Resolved, That a request be made to the National Broadcasting Company, the Columbia Broadcasting System, the Mutual Broadcasting System, and any other chain, to use the practice of presenting any volume in phrases of unit hours instead of gross dollars; be it further

Resolved, That the president of the National Association of Broadcasters appoint a committee to confer with the chain management and to present to them the views of the National Association of Broadcasters.

### **FCC ABOLISHES DIVISIONS—SEVEN MEMBERS TO ACT ON ALL MATTERS**

The Federal Communications Commission has announced that effective November 15 it will abolish its three divisions which came into existence in July, 1934.

In this connection Chairman McNinch made public the following statement at a press conference on Thursday:

By unanimous vote the Federal Communications Commission has adopted an order, proposed by Chairman Frank R. McNinch, which abolishes the three divisions, Broadcast, Telegraph and Telephone, effective November 15.

Following is a copy of Order No. 20, as adopted:

"The divisions of the Commission created by Commission Order No. 1, adopted July 17, 1934, are hereby dissolved and abolished as of November 15, 1937, and all powers and functions heretofore and presently vested in such divisions shall thereafter be exercised by the Commission.

"Chairman McNinch, with such assistance as he may require, is hereby directed to prepare for submission to the Commission at the earliest practicable date such new and supplementary rules and regulations and such modifications of the present rules and regulations as are made necessary by this order."

Chairman McNinch stated that approval of Order No. 20 by the members of the Commission "was not merely that of assent but that, after a thorough and full discussion of the proposed order, it was clear that it had the unreserved approval of the judgment of every member of the Commission."

"Some of the reasons," said Chairman McNinch, "underlying this fundamental change of organization policy are that experience has shown that to subdivide a small Commission has a divisive effect and tends away from cooperation and mutual understanding; the assignment of such important work as has heretofore been handled by divisions theoretically composed of three Commissioners, but in fact functioning with two Commissioners because of the impracticability of the Chairman's keeping himself

currently informed and attending meetings, has resulted in two members of the Commission carrying an unnecessary load of responsibility and exercising an undesirably large portion of the power and functions of the Commission, while at the same time denying the other Commissioners any practical opportunity to participate in decisions. When such major phases of the Commission's work, as Broadcasting, Telephone, and Telegraph, have been committed to the handling and decision of only two members, these two members have been denied opportunity to exchange views with and profit by free discussion and expression of opinions by the other Commissioners. Commissioners not on a particular Division have felt a natural reluctance to inquire into the work committed to others, hence, they were denied effective expression of their views upon pending matters. Furthermore, the segregation of Commissioners into units, with power to act, unavoidably requires that they specialize in their thought and action upon limited phases of the Commission's work and this, with other reasons above mentioned, prevents a rounded development of every Commissioner's knowledge of and experience in the whole field of the Commission's work.

"A Commission functioning as such," continued Chairman McNinch, "has the benefit of the free discussion and exchange of views, it learns better to cooperate, the Commissioners gain a better understanding of each other, and they influence and share in every important responsibility. The aggregate wisdom and judgment of seven minds is surely greater than any two or three of the seven.

"I am delighted at the hearty approval given by my colleagues to the proposed reorganization plan and I am confident we are thereby laying a solid foundation and making a real start toward functioning cooperatively and much more effectively."

In connection with the abolition of the three divisions the Commission also automatically abolished the offices of the directors of the three divisions.

Dealing with this matter the Chairman made the following statement:

Before adopting Order No. 20 abolishing the divisions, the Commission faced squarely and honestly the fact that the abolishing of the divisions would have the unavoidable consequence of abolishing the positions of Director of the three divisions. This was a genuine cause of regret to the Commission, as the Commission spoke highly of the Directors and they are regarded as uniformly loyal, faithful and capable of performing their present duties. However, under the language of the statute, there is unfortunately no provision for their continuance in their present capacity. If any or all of them are able to qualify under the statute and also meet the requirements of any position now open or hereafter available, the Commission would find pleasure in giving preferential consideration to them.

## RADIO LEGISLATION AT SPECIAL SESSION

President Roosevelt has called a special session of Congress to convene on November 15.

There is much radio legislation which will be pending as the session convenes. All of the bills which were introduced at the last session and on which no action was taken will be in a position for action at the coming special session.

Details of the pending radio legislation were printed in Volume 5, Number 36 of NAB REPORTS.

## RULE AMENDED ON CALL LETTER ANNOUNCEMENTS

The Federal Communications Commission this week made public an amendment of its Rule 175, dealing with the announcement of call letters by broadcast stations. The Commission's statement is as follows:

Rule 175, as amended, reads as follows:

"Each licensee of a broadcast station shall announce the call letters and location as frequently as practicable during the hours of operation, and in any event before or after each program being broadcast. In no event shall more than 30 minutes elapse between such announcements, and in so far as practicable these announcements shall be made on the hour and half hour. These requirements are waived when such announcements would interrupt a single consecutive speech, play, symphony concert or operatic production of longer duration than 30 minutes; and in such cases the announcement of the call letters and location shall be made as soon as possible."

The Commission announces the following interpretation of the second sentence which reads: "In no event shall more than 30 minutes elapse between such announcements, and in so far as practicable these announcements shall be made on the hour and half hour."

Call letters of stations need not be announced within *exactly* 30 minutes or less of the previous announcement but shall be made as near thereto as practicable. During variety-show programs, baseball game broadcasts, etc., of an hour or more in duration, the call letter announcements shall be made on the hour and half hour within a 5-minute period thereof. That is, the half hour announcement shall be made between 25 and 35 minutes after the hour, and likewise the hour announcement shall be within 5 minutes of the hour.

The interpretation given above in no way affects the waiver clause given in the last sentence of this rule.

## RECOMMENDS DENIAL OF CALIFORNIA STATION

Richard Field Lewis applied to the Federal Communications Commission for a construction permit for a new

station at Oakland, Calif., to use 1160 kilocycles, 1,000 watts, and daytime operation.

Examiner P. W. Seward, in Report No. I-501, recommended that the application be denied. He states that "the evidence adduced at the hearing does not show a need for additional daytime radio broadcast service in the area proposed to be served." It is further stated by the Examiner that the granting of the application would be in violation of the Communications Act "in that it would increase the apparent excessive radio broadcast service available in the area proposed to be served and would not be a fair, efficient, and equitable distribution of radio service."

### DENIAL RECOMMENDED FOR NEW MICHIGAN STATION

The Genesee Radio Corporation applied to the Federal Communications Commission for a construction permit for the erection of a new station at Flint, Michigan, to use 1200 kilocycles, 100 watts and 250 watts LS, and specified hours of operation.

Examiner P. W. Seward, in Report No. I-500, recommended that the application be denied. He found that the evidence did not disclose a need for additional radio service in the area proposed to be served. The Examiner states also that "the evidence adduced at the hearing shows that the proposed station would be owned and controlled by virtually the same individuals who own and control the only other radio broadcast station in Flint." The Examiner states that the granting of the application would not be in the public interest.

### CHANGES RECOMMENDED FOR KPQ

Broadcasting station KPQ, Wenatchee, Wash., operating on 1500 kilocycles, 100 watts, 250 watts LS, and unlimited time, applied to the Federal Communications Commission to change its frequency to 1360 kilocycles, and increase its power to 1,000 watts, with unlimited time.

Examiner Melvin H. Dalberg, in Report No. I-499, recommended that the application be granted. He states that "the broadcast service provided by the applicant is and has been of a meritorious nature, and of considerable interest to the agricultural industry of the community." The Examiner stated further that the need for the proposed additional service was fully established in the case. He says that the interests of KGER "would be affected to a very small extent."

### FEDERAL TRADE COMMISSION ACTION

#### Complaints

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

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

**No. 3235.** Misrepresentation of the therapeutic value of certain medicinal products he sells in interstate commerce is alleged in a complaint issued against **Earl C. Noyes**, trading as **Seyon Products Company, Inc.**, and as **End-O-Corn Laboratories, Inc.**, with his principal place of business at 129 State St., **Rutland, Vt.**, and 4 East Garfield Blvd., **Chicago**.

Products sold under the names **Seyon Fluid**, **Seyon Ointment** and **Seyon Lax-O-Tabs** allegedly are advertised by Noyes as constituting competent and effective remedies and cures for neuritis, lumbago, neuralgia, rheumatism, arthritis and sciatica. According to the complaint, such representations are false and misleading in that the preparations are not effective in the treatment of the ailments or diseases named, and will not relieve pain incident to such conditions or have any beneficial effect on the causative factors thereof.

The complaint charges that the respondent also falsely represents that **Seyon Ointment** is a competent remedy for headaches and head and chest colds and that his preparation known as **End-O-Corn** will competently remove corns.

**No. 3236.** Use of certain unfair methods of competition, in violation of Section 5 of the Federal Trade Commission Act, is alleged in a complaint issued against **Fox-Weis Company**, 1130 Chestnut St., **Philadelphia**, engaged in the sale of furs and fur garments.

The complaint charges that the respondent company in advertising matter designates certain of its fur garments as "black seal", "Hudson seal" and "French seal", the advertisements in some instances not qualifying such designations, while in others the words "dyed coney" or "dyed muskrat" appear in substantially smaller type, so as not to be easily readable, and are not in close proximity to, but are widely separated from, the designations.

According to the complaint, the garments bearing the designations referred to are not made from furs and skins of the seal, but from rabbit or muskrat skins so dressed and dyed as to resemble garments manufactured from furs and skins of the seal. It is alleged that rabbit and muskrat skins are inferior to sealskins in pliability and durability of the leather and in wearing quality and luster of the fur.

**No. 3238.** Three individuals trading under various names in the sale and distribution of premium certificates, coupons and cards redeemable in silverware, chinaware and earthenware, are charged with unfair competition in a complaint. The respondents are **William C. and Lorina Steffy**, and **G. N. Parkinson**, 549 West Washington Boulevard, **Chicago**. The complaint also charges use of an alleged sales promotion plan involving a lottery.

Representations of the respondents are alleged to have created the impression among purchasers that retailers buying certificates, coupons or cards from the respondents are dealing directly with the manufacturers; that the respondents would redeem certificates with silverware, chinaware or earthenware of the same grade and quality as samples displayed; that full sets of such ware would be furnished to purchasers of certificates, and that the respondents would redeem certificates calling for silverware in "Genuine Rogers 1847 Silverware", when, according to the complaint, these were not the facts and the respondents' representations were highly deceptive, false and misleading.

**No. 3239.** Misrepresentation of the composition of certain fabrics is alleged in a complaint issued against **Colonial Mills, Inc.**, 469 7th Ave., **New York**, engaged in the manufacture and sale of silk, rayon and other cloths.

Garment manufacturers purchasing certain fabrics from **Colonial Mills, Inc.**, were supplied by the respondent company with tags and labels to be attached, and which were attached, to the garments manufactured from such fabrics, according to the complaint. On these tags and labels, it is alleged, were the words "This garment is made of **Satin Amorosa Pure Dye** with **Crown Rayon Yarn**", the words "**Satin Amorosa Pure Dye**" appearing in much larger and more conspicuous type than the words "with **Crown Rayon Yarn**".

The complaint charges that other labels furnished customers bore the words "**Amora Crepe Pure Dye of Celanese Yarn**", while in newspaper advertisements fabrics were described as "**Satin Amorosa**".

**No. 3240.** A complaint has been issued charging **Harland L. Herb**, 644 Diversey Boulevard, **Chicago**, with unfair competition in the sale of Prostories, represented as a new discovery and as a treatment and cure for disturbances of the prostate gland. The

respondent is in business under the name National Scientific Products Co.

According to the complaint, the respondent's product is not a new medical discovery or scientific development of a new medical principle, and does not constitute a competent and effective remedy or cure for certain diseases and disorders of the prostate gland.

### Stipulations

The Commission has entered the following stipulations:

**No. 01878. L. C. Cleveland, trading as Dr. Cleveland and as Dr. L. C. Cleveland, 503 Missouri Ave., East St. Louis, Ill.,** in the sale of dental plates, agrees to stop asserting that it is easier for a layman to take impressions than for "someone to do it for you", and that results are guaranteed. Cleveland also stipulates that he will not advertise the plates as being capable of correcting stomach ailments, or that one's health depends on good fitting plates, and he will cease asserting, inferentially or otherwise, that the plates will correct an old or wrinkled appearance.

**No. 01879. M. R. Temple, 625 Kansas Ave., Topeka, Kans., trading as The Bartow Company,** will discontinue advertising Dr. Robison's Foot Powder as constituting a competent treatment or effective remedy for athlete's foot, unless specifically limited to relief of local manifestations and symptoms thereof. He will cease asserting that this product will afford relief in all cases of foot pain and that it is guaranteed.

**No. 01880. Excelsior Laboratory, Inc., 205 East 42nd St., New York,** in the sale of D. Gosewisch's Garlic Tablets, will discontinue representing that this preparation is of any value in the treatment of high blood pressure, unless the assertion is limited to the relief of dizziness, headaches or other symptoms accompanying high blood pressure, or to the relief of high blood pressure when the preparation is used continuously and in specified doses at prescribed intervals. He stipulates that neither the tablets nor any element thereof will be advertised as being capable of normalizing glandular action, purifying the blood stream, adequately supplying minerals needed by the body, or neutralizing poisons in the system.

**No. 01881. The Benjamin Air Rifle Company, St. Louis, Mo.,** agreed to cease advertising that its products are the only genuine compressed air rifles and pistols on the market, unless such claim is limited to those types of rifles and pistols in which the use of compressed air as the propellant force is an exclusive feature of the respondent company's equipment. The company will stop representing that the Benjamin air rifle is the hardest shooting air rifle made, unless limited to such types of its air rifles as are known to employ a greater propellant force than similar types sold by competitors. The company also will discontinue representing that ammunition is given free, when the purchase of any product or the rendering of a service is required in order to obtain the product which is offered free.

**No. 01882. Bathasweet Corporation, 1901 Park Ave., New York,** agrees to discontinue representing that Bathasweet, a chemical compound for softening water, contains the secret of beautiful body skin, and that through the use of this preparation in the bath water, skin imperfections will disappear.

**No. 01883. Ethel Townsend, 126 West 46th St., New York, trading as Granwell Sales Co.,** agrees to stop advertising Dawson's Cream as being competent for use in "correcting" the eyebrows, and to cease representing that it will remove all hairs, that it discourages hair growth, is prepared from natural materials, and is absolutely safe.

**No. 01884. Fred Reppert, Decatur, Ind.,** stipulated that he will refrain from advertising that by subscribing to his home study course in auctioneering a person can make any definite sum or have an income equal to or better than the average income from a business investment of \$50,000. He also will stop representing that testimonial letters relate to his home study course, when in fact they are written by persons not familiar with it, or not written with such course in mind, and that the course may be obtained free when a price is charged therefor and the amount paid is merely credited as part payment for another course of instruction offered. The respondent agreed to discontinue issuing certificates to the effect that a subscriber to his course is a qualified auctioneer, unless an adequate plan is adopted and followed to determine whether or not such is a fact, and unless the issuance of such certificates is limited to those who fulfill the requirements of the plan.

**No. 01885. R. B. Hanson, trading as F. & H. Radio Laboratories, Fargo, N. Dak.,** stipulates that he will cease representing that his aerial eliminator will give results equal to those obtained from a 75-foot wire aerial; that it will enable the user to

get nation-wide reception, unless this claim is limited to its use with modern, high-powered sets; that it will improve the selectivity, tone and volume of receiving sets and reduce fading, and that it is used in Government hospitals.

**No. 01886. Makers of Kal, 2354 West Washington Blvd., Los Angeles,** engaged in selling Kal, recommended as a food supplement, will stop advertising that two teaspoonsful of the product contain calcium in an amount equal to that present in three pints of milk, and that glowing skin, healthy nails, strong teeth and bones, or a harmonious nervous system depend on calcium or on a quickly available source of calcium. The respondent corporation also agrees to discontinue representing that Kal protects the body from the harmful or devitalizing effects of malnutrition, and that through its use one may enjoy health, energy, vitality, or fight old age.

**No. 01887. H. M. Heefner, 750 M. E. Taylor Building, Louisville, Ky., trading as Heefner Arch Support Company,** agrees to cease representing that use of the Heefner Arch Support will cure foot ailments and enable one to walk normally; that the product is an effective remedy for bunions or rheumatism; that it restores the natural structure of the arch, unless this claim is limited to its aid to nature in the restoration thereof, and that any result which may be effected by use of the arch will be permanent.

**No. 01888. Coleman Lamp and Stove Company, 250 North St. Francis Ave., Wichita, Kans.,** has entered into a stipulation to discontinue certain unfair representations in the sale of its lamps and lanterns.

The respondent company will cease making certain assertions to the effect that its lamps are more efficient than other lamps on the market, such as the representation that one Coleman lamp produces more light than any number of any specific watt electric light bulbs; gives 300 candlepower live pressure light, or is 4 to 20 times brighter than any non-pressure wick-type lamp. These assertions are to be discontinued unless competent scientific tests support the claims.

**No. 01889. I. Putnam, Inc., Elmira, N. Y., operating as Hart & Co.,** will stop advertising that use of its device known as Klutch will make loose dental plates firm and prevent them from dropping or chafing; that it will be of value in improving the fit of artificial teeth except in cases where slight inaccuracies occur, and that it will be of substantial value in cases where changes in gum tissue or improper fitting make correction of the plates necessary.

**No. 2058. G. Fox & Co., Inc., Main St., Hartford, Conn., and A. & J. Engel, Inc., 20 West 33rd St., New York,** have entered into a stipulation to discontinue false and misleading representations in connection with the advertising and sale of fur garments. According to the stipulation, the Engel company ships fur products to the Fox company department store, and the two corporations cooperate in the sale of such products.

The companies agreed to cease representing, designating or describing fur products in any manner other than by use of the correct name of the fur of which the products are composed as the last word of the description, which word shall be printed in type not less conspicuous than that in which the accompanying descriptive words appear.

**No. 2051. Max Leavitt and the Estate of Morris Bell, trading as Cape Ann Manufacturing Company, Gloucester, Mass.,** in the sale of trousers, agree to cease use of the words "Government Khaki" as descriptive of their products, and the word "Government" with "Khaki" or other words so as to imply that the products to which such words refer are made by or for the United States Government or in accordance with governmental specifications. They also will stop employing the word "water-proof" alone or with the word "guaranteed" to describe trousers which are not impervious to water.

**No. 2062. Monness & Shapiro, 513 Broadway, New York,** also engaged in the sale of trousers, signed a stipulation substantially the same as the one (2061) entered into by Cape Ann Manufacturing Company.

**No. 2063. United Clothing Company, Inc., 739 Seventh St., N. W., Washington, D. C.,** operating a retail clothing store, stipulates that it will discontinue using in advertising matter the word "free" alone or with other words as descriptive of merchandise represented to be given free with the purchase of other merchandise, when, in fact, the article is not given as a gratuity but only for and in consideration of the purchase of some other article.

**No. 2064. Under a stipulation entered into, the Perfect Circle Company, Hagerstown, Ind.,** will cease certain misrepresentations in advertising a piston ring which it manufactures and sells under the name X-90.

The company agrees to discontinue use in advertising matter or otherwise of representations, the effect of which is to imply that by equipping old, worn motors with its piston rings, the power, speed and acceleration of a new car will in all cases be instantly restored; that all improvements and developments in piston rings since 1907 have come out of the Perfect Circle laboratories, or that the X-90 piston ring will operate at maximum efficiency at all speeds, when such statements are not warranted by the facts and not supported by the weight of scientific evidence.

**No. 2065. Metropolitan Vineyards Company, Inc., 17 Fulton St., Brooklyn,** engaged in the manufacture of wine from grapes, agrees to stop employing the word "vineyards" as part of the corporate or trade name under which it sells grape wines, and to cease using the word "vineyards" in any manner implying that it actually owns and operates a vineyard or vineyards in which are grown the grapes used in the manufacture of its wines as sold under the corporate name containing the word "vineyards", when such is not a fact. The stipulation points out that the respondent company, although leasing a small vineyard, purchases a substantial part of its grape supply from vineyards which it neither owns and operates nor controls.

**No. 2066. John E. Gramling, trading as Nu-Grape Bottling Company,** having headquarters at Opelika, Ala., and warehouses at Alexander City, Ala., and LaGrange, Ga., agrees to stop using any sales plan involving a lottery or gift enterprise in the sale of his beverages. According to the stipulation, Gramling's soft drink known as Wynola was sold in bottles capped with so-called "flicker" crowns, some of which bore numerals such as 5, 10 or 25 on the inside, so as to be completely hidden from the view of customers until after removal of the cap or cork. A customer purchasing one of the bottles with the cap revealing such a number received by lot or chance, either the indicated amount of cash or merchandise according to the stipulation.

**No. 2067. Kee Lox Manufacturing Company, Rochester, N. Y.,** in the sale of carbon paper, agrees to stop the use in advertising of the words "The only non-grease carbon paper", or of other phrases of similar meaning, so as to imply that there are no other non-grease carbon papers on the market, or that competitive products on the market are made with the use of grease.

The stipulation points out that the respondent company's carbon paper is not now and for some time past has not been the only non-grease carbon paper on the market.

**No. 2068. Edison Pen Company, Inc., Petersburg, Va., trading as Southern Pen Company,** agrees to cease furnishing resellers of its products, for their use, with labels, bands or other printed matter bearing false or fictitious prices in excess of the prices at which the Edison company's products actually are sold, or prices which misleadingly exaggerate the true value of its products.

The respondent company also stipulates that it will cease furnishing resellers of its articles with so-called guarantee certificates representing that products sold by Edison Pen Company, Inc., will be repaired without charge, when such is not a fact. The stipulation points out that the respondent company requires purchasers to remit 30 cents for postage and insurance, and that this amount fully compensates the company for any and all repair work over and above mailing and insurance costs.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, October 18:

Monday, October 18

#### HEARING BEFORE AN EXAMINER

(Broadcast)

- NEW—Voice of Detroit, Inc., Detroit, Mich.—C. P., 1120 kc., 500 watts night, 1 KW LS, unlimited.
- NEW—Martin R. O'Brien, Aurora, Ill.—C. P., 1250 kc., 250 watts, LS, daytime.
- NEW—George B. Storer, Pontiac, Mich.—C. P., 800 kc., 1 KW LS, daytime.
- NEW—Gerald A. Travis, La Porter, Ind.—C. P., 1420 kc., 250 watts, LS, daytime.

NEW—WWPO, Inc., Pittsburgh, Pa.—C. P., 1120 kc., 250 watts, LS, unlimited.

NEW—Times Printing Co., Chattanooga, Tenn.—C. P., 1120 kc., 500 watts night, 1 KW LS, unlimited (using directional antenna day and night).

NEW—Cadillac Broadcasting Corp., Detroit, Mich.—C. P., 1140 kc., 500 watts, daytime.

#### FURTHER HEARING BEFORE AN EXAMINER

NEW—Fred M. Weil, Grand Coulee, Wash.—C. P., 1420 kc., 100 watts night, 250 watts, LS, unlimited.

Tuesday, October 19

#### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Sam Houston Broadcasting Assn., H. G. Webster, Pres., Huntsville, Texas.—C. P., 1500 kc., 100 watts, daytime.

NEW—Pacific Radio Corp., Grants Pass, Ore.—C. P., 1320 kc., 500 watts, daytime.

NEW—Shirley D. Parker, Yakima, Wash.—C. P., 1310 kc., 100 watts, 250 watts, LS, unlimited.

NEW—Kanawha Valley Broadcasting Co., Charleston, W. Va.—C. P., 1500 kc., 100 watts, unlimited.

Wednesday, October 20

#### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—O. C. Burke, Dickinson, Texas.—C. P., 1500 kc., 100 watts, unlimited time.

NEW—Chas. F. Engle, Natchez, Miss.—C. P., 1210 kc., 100 watts, 250 watts, LS, unlimited.

KVEC—Christina M. Jacobson, tr/as The Valley Electric Co., San Luis Obispo, Calif.—Modification of license, 1200 kc., 100 watts, 250 watts, LS, unlimited. Present Assignment: 1200 kc., 250 watts, daytime.

KVOL—Evangeline Broadcasting Co., Inc., Lafayette, La.—C. P., 1310 kc., 100 watts night, 250 watts, LS, unlimited. Present Assignment: 1310 kc., 100 watts, unlimited.

Thursday, October 21

#### ORAL ARGUMENT BEFORE BROADCAST DIVISION

##### Examiner's Report No. 1-434:

WMBH—Joplin Broadcasting Co., Joplin, Mo.—C. P., 1380 kc., 500 watts, unlimited time. Present Assignment: 1420 kc., 100 watts, 250 watts, LS, unlimited.

##### Examiner's Report No. 1-437:

NEW—Valley Broadcasting Co., Youngstown, Ohio.—C. P., 1350 kc., 1 KW, unlimited time.

##### Examiner's Report No. 1-407:

NEW—Juan Piza, San Juan, P. R.—C. P., 1500 kc., 100 watts, 250 watts, LS, unlimited.

Friday, October 22

#### HEARING BEFORE THE BROADCAST DIVISION

W1XAL—World Wide Broadcasting Corp., Boston, Mass.—Modification of license, 6040, 11790, 15250, 21460, 9550, 11730, 15130, 21500 kc., 20 KW, unlimited time, according to Rule 983.

W9XF—National Broadcasting Co., Inc., Downer's Grove, Ill.—C. P., 6100, 9550, 11730, 15130, 17780, 21500 kc., 50 KW, unlimited, according to Rule 983.

W2XAD—General Electric Co., Schenectady, N. Y.—C. P., 9500, 15330, 21500 kc., 100,000 watts, unlimited time, according to Rule 983.

#### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Gila Broadcasting Co., Safford, Ariz.—C. P., 1420 kc., 100 watts, 250 watts, LS, unlimited.

NEW—Richland Broadcasting Co., Mansfield, Ohio.—C. P., 1370 kc., 100 watts, LS, daytime.

KFBI—The Farmers & Bakers Broadcasting Corp., Wichita, Kans.—C. P., 1050 kc., 5 KW, unlimited time. Present Assignment: same facilities (requests a move from Abilene, Kans. to Wichita, Kans., exact site to be determined).

### APPLICATIONS GRANTED

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Granted C. P. to make changes in equipment and increase day power to 250 watts.

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Granted C. P. to move transmitter locally; install new equipment and make changes in directional antenna system.

KGFV—Central Nebraska Broadcasting Corp., Kearney, Nebr.—Granted C. P. to move transmitter and studio location to site to be determined with Commission's approval; install new equipment and vertical radiator; increase day power to 250 watts.

WGN—WGN, Inc., Chicago, Ill.—Granted C. P. to move transmitter to 2½ miles SE of Schaumburg, Ill.; move studio to 441 No. Mich. Ave., Chicago; install new equipment and vertical radiator.

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Granted license to cover C. P., 1440 kc., 1 KW night, 5 KW day, unlimited time. Also granted authority to determine operating power by direct measurement of antenna input.

WJBY—Gadsden Broadcasting Co., Inc., Gadsden, Ala.—Granted license to cover C. P.; 1210 kc., 100 watts night, 250 watts day, unlimited time.

WOKO—WOKO, Inc., Albany, N. Y.—Granted license to use WE 106-B transmitter as auxiliary with 500 watts power.

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Granted license to cover C. P.; 1310 kc., 100 watts night, 250 watts day, unlimited.

KPFA—The Peoples Forum of the Air, Helena, Mont.—Granted license to cover C. P. as modified; 1210 kc., 100 watts night, 250 watts day, unlimited.

KSOO—Sioux Falls Broadcasting Assn., Inc., Sioux Falls, S. Dak.—Granted license to cover C. P.; 1110 kc., 2½ KW day, limited time.

KELO—Sioux Falls Broadcasting Assn., Inc., Sioux Falls, S. Dak.—Granted license to cover C. P. as modified, for new station; 1200 kc., 100 watts, unlimited time.

WSAL—Frank M. Stearns, Salisbury, Md.—Granted modification of C. P., approving transmitter and studio at 321 E. Main St. changes in authorized equipment and approval of vertical radiator.

KWNO—Winona Radio Service, Winona, Minn.—Granted modification of C. P. for changes in equipment, increase in day power to 250 watts; extension of commencement date to 30 days after grant and completion date to 180 days thereafter.

WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted authority to determine operating power by direct measurement of antenna input, compliance terms of Rule 137.

KVI—Laura M. Doernbecher, Executrix of Estate of Edward M. Doernbecher, deceased, Tacoma, Wash.—Granted authority for involuntary transfer of control of corporation from Puget Sound Broadcasting Co., Inc., from Edward M. Doernbecher, deceased, to Laura M. Doernbecher, executrix of estate of Edward M. Doernbecher; 570 kc., 1 KW night, 5 KW day, unlimited time.

KOIL—Central States Broadcasting Co., Omaha, Nebr.—Granted license to cover C. P. as modified; 1260 kc., 1 KW night, 5 KW day, unlimited. Also granted authority to determine operating power by direct measurement of antenna input, compliance terms of Rule 137.

NEW—Don Lee Broadcasting System, Mobile (Area of Southern Calif.), (2 Applications).—Granted C. P. for new relay station; frequencies 31100, 34600, 37600 and 40600 kc., experimental; 2 watts.

NEW—Southwestern Sales Corp., Mobile (Area of Tulsa, Okla.), (2 Applications).—Granted C. P. for new relay station; frequencies 39700, 39900, 40800 and 41400 kcs., experimental; 20 watts.

W4XB—Isle of Dreams Broadcasting Corp., Miami Beach, Fla.—Granted modification of C. P. to move transmitter locally, extend commencement date to 60 days after grant and completion date to 180 days thereafter.

NEW—Indianapolis Power & Light Co., Mobile (Indianapolis, Ind.).—Granted C. P. for new relay station; frequencies

31100, 34600, 37600, 40600 kc., experimental; 40 watts, unlimited.

NEW—Birmingham News Co., Mobile (Area of Birmingham, Ala.), (2 Applications).—Granted C. P. for new relay station; frequencies 31100, 34600, 37600, 40600 kc., experimental; 2 watts power, unlimited.

### SET FOR HEARING

NEW—Evening News Press, Inc., Port Angeles, Wash.—C. P. for new station; 1500 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

WOOD—King-Trendle Broadcasting Corp., Grand Rapids, Mich.—C. P. to move transmitter site locally to site to be determined with Commission's approval; install new equipment; change frequencies from 1270 kc. to 1010 kc., power from 500 watts night and day, sharing WASH to 250 watts, unlimited time.

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—C. P. for move of transmitter to ⅛ mile west of O. E. Holder Homeplace, Oldtown Township, N. C. Install new equipment with directional antenna system; change frequencies from 1310 to 900 kc., increase power from 100 watts, unlimited time, to 1 KW night, 5 KW day, using D. A. nighttime use.

WKBN—WKBN, Broadcasting Corp., Youngstown, Ohio.—Amended modification, C. P. to install directional antenna for day and nighttime operation when WOSU is operating; increase operation from specified hours to unlimited; extend commencement date to 30 days after grant and completion date to 6 months thereafter.

KEHE—Hearst Radio, Inc., Los Angeles, Calif.—Modification of license to increase night power from 1 KW to 5 KW. To be heard before the Broadcast Division.

KANS—Charles C. Theis, Wichita, Kans.—Transfer control of KANS Broadcasting Co. licensee KANS, to Herbert Hollister and Don Searle; 1210 kc., 100 watts, unlimited.

### RENEWAL OF LICENSES

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

KFAC, Los Angeles; KGB, San Diego; KRIS, Corpus Christi, Texas; KSCJ, Sioux City, Iowa, and auxiliary; KTBS, Shreveport, La.; KTUL, Tulsa, Okla.; WADC, Village of Tallmadge, Ohio; WALA, Mobile, Ala.; WAWZ, Zarephath, N. J.; WBIG, Greensboro, N. C.; WCKY, Covington, Ky.; WGAR, Cleveland, Ohio; WHAZ, Troy, N. Y.; WHBL, Sheboygan, Wis.; WHDL, Olean, N. Y.; WHEC, Rochester, N. Y.; WHK, Cleveland, Ohio; WIRE, Indianapolis; WLAC, Nashville, Tenn.; WMBD, Peoria, Ill.; WNBC, New Britain, Conn.; WQDM, St. Albans, Vt.; WROK, Rockford, Ill.; WSAI, Cincinnati; WSAR, Fall River, Mass.; WTAQ, Green Bay, Wis.

WHIO—Miami Valley Broadcasting Corp., Dayton, Ohio.—Granted renewal of license for the period ending April 1, 1938.

The following stations were granted renewal of International Broadcast experimental station licenses:

W2XE, Wayne, N. J.; W2XE, Wayne, N. J.; W8XAL, Mason, Ohio; W2XAD, So. Schenectady, N. Y.; W2XAF, So. Schenectady, N. Y.; W4XB, Miami Beach, Fla.; W9XF, Downer's Grove, Ill.; W3XAU, Newton Square, Pa.; W1XK, Millis, Mass.; W8XK, Saxonburg, Pa.

WJLF—WBNS, Inc., Mobile.—Granted renewal of relay broadcast station license for the period ending October 1, 1938.

### SPECIAL AUTHORIZATIONS

KHQ—Louis Wasmer, Inc., Spokane, Wash.—Granted special temporary authority to use Model 105-C WE transmitter in place of transmitter now licensed, for period not to exceed 7 days, due to mechanical difficulties with present transmitter and while same is undergoing repairs.

KFDY—South Dakota State College, Brookings, S. Dak.—Granted special temporary authority to operate from 2 to 5 p. m., October 16, in order to broadcast football game, and 10:30 a. m. to 12:30 p. m. and 2 to 5 p. m., CST, October 23, in order to broadcast parade and game.

KGEK—Elmer G. Boehler, Sterling, Colo.—Granted special temporary authority to operate Saturdays, October 16, 23 and 30, from 1:30 to 2:30 p. m., MST, in order to broadcast the livestock auctions from local sales pavilion.

**KQV**—KQV Broadcasting Co., Pittsburgh, Pa.—Granted special temporary authority to operate simultaneously with WSMK from 6 to 6:30 p. m., EST, October 9, 16, 23 and 30, in order to broadcast Notre Dame football games.

**WBNY**—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate on Saturdays, October 9, 16, 23 and 30 and November 6, 2 to 3 p. m., EST, in order to broadcast weekly safety talks, football scores and general news; Sundays, October 10, 17, 24, 31, and November 7, 1937, 8:30 to 10 a. m. and 2 to 3 p. m., EST, in order to broadcast various religious programs in morning and the Catholic Evidence Guild in p. m.; to operate 8:30 to 10 a. m. and 2 to 3 p. m., EST, October 12, in order to broadcast news and variety musical programs in a. m. and Columbus Day program p. m.

**WGNV**—Peter Goelet, Newburgh, N. Y.—Granted special temporary authority to operate simultaneously with WGBB between hours of 11 a. m. and 3 p. m., EST, Wednesday, October 13, in order to broadcast ceremonies in connection with dedication of new Poughkeepsie Post Office, on which occasion the President will speak.

**KICA**—Western Broadcasters, Inc., Clovis, N. Mex.—Granted special temporary authority to operate simultaneously with KGFL from 6:30 to 7:30 p. m., EST, October 15 and 29, and from 4:30 to 5:30 p. m., MST, November 11, in order to broadcast Clovis high school football games.

**WKBV**—Knox Radio Corp., Richmond, Ind.—Granted special temporary authority to operate from 9:45 to 10 a. m., CST, October 18, 20, 22, 25, 27, 29; November 1, 3, 5, 8, 10, 12, 15, 1937, in order to broadcast Chapel Service direct from Earlham College.

**WSAJ**—Grove City College, Grove City, Pa.—Granted special temporary authority to operate from 1:45 to 5 p. m., EST, October 23 and 30 and November 20, in order to broadcast home games of the football season.

**WNAD**—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 2 to 4 p. m., CST, November 2, 3, 4, 9, 10, 11, 16, 17, 18, 23 and 30, and from 10:30 a. m. to 11:30 a. m., CST, November 2, 3, 4, 9, 10, 11, 16, 17, 18, 23 and 30, in order to broadcast special educational programs (provided KGGF remains silent).

**KQV**—KWV Broadcasting Co., Pittsburgh, Pa.—Granted special temporary authority to operate simultaneously with WSMK from 5:15 p. m. to 5:30 p. m., EST, Sundays only, November 7, 14, 21 and 28, in order to broadcast religious programs.

**KFRO**—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from local sunset (November, 5:15 p. m.) to 9 p. m., CST, using 100 watts power, on Sunday, November 7, 14, 21 and 28, in order to broadcast services of the Kelly Memorial Methodist Church, Longview, Tex.

#### ORAL ARGUMENT

The Broadcast Division granted oral argument to be held January 13, 1938, in re Ex. Rep. 1-494, Earl Yates, Las Cruces, N. Mex.

#### EXAMINERS' REPORTS RELEASED SINCE OCTOBER 5, 1937

**KPQ**—Ex. Rep. 1-499: Wescoast Broadcasting Co., Wenatchee, Wash.—Examiner Melvin H. Dalberg recommended grant of C. P. to change frequency from 1500 kc. to 1360 kc., power from 100 watts, 250 watts LS, to 1 KW.

**NEW**—Ex. Rep. 1-500: Genesee Radio Corp., Flint, Mich.—Examiner P. W. Seward recommended denial of C. P. for new station to operate on 1200 kc., 100 watts, 250 watts LS, specified hours.

**NEW**—Ex. Rep. 1-501: Richard Field Lewis, Oakland, Calif.—Examiner P. W. Seward recommended denial of C. P. for new station to operate on frequency 1160 kc., 1 KW, daytime.

#### APPLICATIONS DISMISSED

The following application, heretofore set for hearing, was dismissed at request of applicant:

**WLAP**—American Broadcasting Corp. of Kentucky, Lexington, Ky.—C. P., 610 kc., 500 watts, 1 KW LS, unlimited.

#### APPLICATIONS DENIED

**NEW**—Richland Broadcasting Co., Mansfield, Ohio.—Application for C. P., 1370 kc., 100 watts, daytime, heretofore set for

hearing, was denied as in case of default for failure of applicant to file an appearance.

**WCOP**—Massachusetts Broadcasting Corp., Boston, Mass.—Denied special temporary authority to operate from local sunset (October sunset, 5 p. m.) to 8 p. m., EST, October 17 to 31, inclusive, and from local sunset (November, 4:30 p. m.) to 8 p. m., EST, November 1, in order to broadcast elections for Mayor, City Council and School Committee.

#### MISCELLANEOUS

Granted petition of Don Lee Broadcasting System (KGB) to intervene in the proceedings upon the application of Union Tribune Broadcasting Co. for new station at San Diego to use 1480 kc., 5 KW, unlimited time.

Granted petition to George Roy Clough (KLUF), Galveston, Tex., to intervene in the proceedings upon the application of O. C. Burke for a new station at Dickinson, Tex., to use 1500 kc., 100 watts, unlimited time.

Granted petition of Pacific Agricultural Foundation, Ltd. (KQW), to intervene in the proceedings on the application of Floyd A. Parton for a new station at San Jose, Calif., to use 1170 kc., 250 watts, daytime.

Granted petition of Radio Station KFH Company to intervene in the proceedings upon the application of the Farmers & Bankers Broadcasting Corp. for C. P. to move from Abilene, Kans., to Wichita, Kans.

Granted petition of KANS Broadcasting Co. to intervene in the proceedings on the application of Farmers & Bankers Broadcasting Corp. for C. P. to move station.

Granted petition of Michigan Broadcasting Company (WMBC) to intervene in the proceedings on the application of Cadillac Broadcasting Corp. for new station at Detroit, Mich., using 1140 kc., 500 watts, daytime.

Granted petition of Walker & Downing Radio Corp. to intervene in the proceedings upon the application of WWPO, Inc., Pittsburgh, Pa., or C. P., using 1120 kc., 250 watts, unlimited.

Denied petition of W. C. Ewing and Harry Layman, tr/as Cumberland Broadcasting Co., to defer decision upon the application of C. Frank Walker and Waldo W. Prima, d/b as Radio Station WFNC, for new station at Fayetteville, N. C., using 1210 kc., 250 watts, daytime.

Denied motion of Magnolia Petroleum Co., Sabine Broadcasting Company and Port Arthur College for postponement of oral argument and decision upon application of Beaumont Broadcasting Assn. for new station at Beaumont, Tex., to use 1420 kc., 100 watts, unlimited.

Denied petition of Southland Industries, Inc. (WOAI), San Antonio, Tex., for continuance of hearing upon application of the Valley Publishing Co., Harlingen, Tex., for C. P., to establish a new station, using 1200 kc., 100 watts, 250 watts LS, unlimited time.

Granted petition of respondent WWPO, Inc., to waive rule and accept answer to applicant's appearance, Times Printing Co., for new station at Chattanooga, Tenn., to use 1120 kc., 500 watts, 1 KW, unlimited.

Granted motion of Tom Olsen to withdraw his application for C. P. to use 1500 kc., 250 watts, daytime, without prejudice, station to be located at Port Angeles, Wash.

Granted petition to withdraw without prejudice application of W. A. Barnette for new station located at Greenwood, S. C., to use 1370 kc., 250 watts, daytime.

Granted request of Tri-State Broadcasting Co., Inc. (WDAH), to withdraw without prejudice application for modification of license to use 1200 kc., 100 watts, 250 watts LS, unlimited time.

Granted petition of George B. Storer to withdraw, without prejudice, his application for new station at Pontiac, Mich., to use 800 kc., 1 KW, daytime only.

Granted petition of Carl Latenser for order to take depositions of two witnesses at Atchison, Kans., in support of his application for new station at Atchison, Kans., to use 1420 kc., 100 watts, daytime.

The Commission dismissed the petition of Richard E. O'Dea for reconsideration of the action of the Broadcast Division in denying his protest in the matter of the application for transfer of control of Station WOV, New York City, from John Iraci to Arde Bulova (Docket 4245).

Pursuant to Stay Orders issued by the United States Court of Appeals for the District of Columbia in Causes No. 7044, Voice of Brooklyn, Inc., v. Federal Communications Commission, and 7045, United States Broadcasting Corp. v. Federal Communications Commission, and in compliance with said Orders, the Commission

extended existing temporary licenses of WLTH and WARD for the period beginning November 1, 1937, to continue subject to the further order of the Court and the Commission pending determination of the issues raised by said appeal.

## RATIFICATIONS

The Broadcast Division ratified the following actions taken on the dates shown:

- KSO—Sioux Falls Broadcast Assn., Inc., Sioux Falls, S. Dak.—Granted extension program test period 30 days from October 12.
- KELO—Sioux Falls Broadcast Assn., Inc., Sioux Falls, N. Dak.—Granted extension program test period 30 days from October 8.
- WTMJ—The Journal Co., Milwaukee, Wis.—Granted extension equipment test period 10 days from October 7.
- WMBO—WMBO, Inc., Auburn, N. Y.—Granted extension program test period 30 days from October 8.
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted authority to operate auxiliary transmitter as main transmitter for period not exceeding 10 days.
- WCAX—Burlington Daily News, Inc., Burlington, Vt.—Granted special temporary authority to operate from 2 to 4:30 p. m., EST, October 6 to 12, inclusive in order to broadcast sponsored World Series baseball games.
- WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted extension special temporary authority to operate from local sunset (October 5:30 p. m., November sunset, 5 p. m.) to 6 p. m., CST, for the period October 8 to November 6, in order to broadcast news bulletins, football scores, and other special events.
- WLB—University of Minnesota, Minneapolis, Minn.; WTCN—Minn. Broadcasting Corp., Minneapolis, Minn.—Granted extension of special temporary authority to conduct joint broadcast between 1:45 p. m. Saturdays, to include the following dates: November 6, 13, 20 and 27, using the 5 KW transmitter of WTCN in order to broadcast U. of M. football games. Action taken, October 7.
- KAXZ—United Air Lines Transport Corp., Washington, D. C.—Granted special temporary authority, to operate already licensed aircraft radio transmitter aboard plane owned by United Air Lines Transport Corp. bearing call letters KHAZT, as a relay broadcast station on frequency 2790 kc., on October 11, to relay broadcast news broadcast for rebroadcast over station WENR. Also for the period beginning October and ending no later than October 15, weather permitting, relay broadcast Lights of Ages Celebration for rebroadcast over station WCFL. Action taken, October 9.

Granted petition of Cumberland Broadcasting Co. to intervene in the proceedings upon the application of Burl Vance Hedrick for new station at Salisbury, N. C. Action taken 10-8.

Granted petition of Cadillac Broadcasting Corp. to intervene in the proceedings upon the application of Voice of Detroit, Inc., for new station at Detroit, Mich. Action taken 10-2.

Granted motion of Badger Broadcasting Co., Inc., Intervener, for a continuance of the hearing upon the application of Four Lakes Broadcasting Co. until such date as may be designated for the hearing upon the application of Madison Broadcasting Co. Action taken 10-7.

Granted petition of Lynchburg Broadcasting Corp. for a continuance of the hearing upon its application for C. P., now scheduled for October 5, and directed that said hearing be continued until December 7. Action taken 10-2.

Granted petition of Larry Rhine for continuance of hearing upon his application for C. P., now scheduled for October 6, and directed that said hearing be continued until December 6, 1937. Action taken 10-2.

Granted motion of Karl L. Achbacker for a continuance of hearing upon his application for modification of license, now scheduled for October 13, and directed that said hearing be continued until November 22, the same date that his application for voluntary assignment of license is to be heard. Action taken 10-5.

Granted petition of Brown Radio Service & Lab. (WSAY) for a continuance of the hearing upon its application for C. P., until November 18. Action taken 10-6.

Granted the request of WREN Broadcasting Co. for postponement of the oral argument upon its application, Docket 4415, until October 28, 1937.

Granted the request of Red River Valley Broadcasting Corp. (KRRV) Sherman, Texas, to withdraw without prejudice its application for C. P. to install new equipment; change frequencies from

1310 to 1450 kes., increase power to 500 watts day and night, unlimited; (request contingent upon granting of KTB's application for change in frequencies), and directed that an order dismissing said application without prejudice be entered accordingly and forwarded to all interested parties.

## SPECIAL AUTHORIZATIONS

KGGF—Powell & Platz, Coffeyville, Kans.—Granted special temporary authority to operate from 8:15 to 9:15 p. m., CST, November 24, and from 7:15 to 9:15 p. m., CST, November 25 (provided WNAD remains silent), in order that KGGF may broadcast during time WNAD is silent for University Thanksgiving vacation.

WNAD—University of Oklahoma, Norman, Okla.—To remain silent on above dates.

## APPLICATIONS RECEIVED

### First Zone

WSNJ—Eastern States Broadcasting Corp., Bridgeton, New Jersey.—Authority to determine operating power by direct measurement of antenna.

W1XOJ—The Yankee Network, Inc. Within 50 miles of the City of Boston, Mass.—Modification of construction permit (B1-PHB-39) for a new high frequency broadcast station, requesting approval of transmitter site at Summit Mt. Wachusett, Princeton, Massachusetts.

NEW—WDRG, Incorporated, Hartford, Conn.—Construction permit for a new relay broadcast station to be operated on 39700, 39900, 40800, 41400 kc., 15 watts.

NEW—C. M. Jansky, Jr., & Stuart L. Bailey, d/b as Jansky & Bailey, Vicinity, District of Columbia—Construction permit for a new high frequency broadcast station to be operated on 40300 kc., 5000 watts. Amended: To change power from 5000 watts to 1000 watts.

### Second Zone

NEW—Cuyahoga Valley Broadcasting Co., Cleveland, Ohio.—1500 Construction permit for a new station to be operated on 1500 kc., 100 watts, unlimited time. Amended: To change requested hours of operation from unlimited to daytime and make changes in corporate structure.

WRTD—The Times Dispatch Publishing Co., Inc., Richmond, Va.—Voluntary assignment of license from Times-Dispatch Publishing Co., Inc., to Times-Dispatch Radio Corp.

### Third Zone

WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—780 Construction permit to make changes in directional antenna for night use and change power from 1 KW night, 5 KW day, to 5 KW day and night.

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—1120 Construction permit to make changes in equipment and increase power from 500 watts to 1 KW.

KHBB—Okmulgee Broadcasting Corp., Okmulgee, Okla.—License 1210 to cover construction permit (B3-P-1224) as modified for a new station.

WAIR—C. G. Hill, George D. Walker and Susan H. Walker, 1250 Winston-Salem, N. C.—Modification of license to change hours of operation from daytime to unlimited time, using 250 watts power.

KRQA—J. Laurance Martin, Santa Fe, N. Mex.—Voluntary assignment of license from J. Laurance Martin to I. E. Lambert.

NEW—Radio Enterprises, Inc., Lufkin, Tex.—Construction permit for a new station to be operated on 1310 kc., 100 watts, daytime.

WRDW—Augusta Broadcasting Co., Augusta, Ga.—Construction 1500 permit to install a new transmitter; install directional antenna for night use; change frequency from 1500 kc. to 1240 kc.; and increase power from 100 watts night, 250 watts day, to 1 KW day and night.

NEW—Panama City Broadcasting Co., Panama City, Fla.—Construction 1500 permit for a new station to be operated on 1500 kc., 100 watts, daytime. Amended to make changes in equipment and change requested power from 100 watts to 250 watts.

NEW—The National Life & Accident Insurance Co., Inc., Nashville, Tenn.—Construction permit for a new experimental broadcast station to be operated on 30000, 33000, 36000 kc., 15 watts.

NEW—The National Life & Accident Insurance Co., Inc., Nashville, Tenn.—License to cover above construction permit.

#### Fourth Zone

WDGY—Dr. George W. Young, Minneapolis, Minn.—Modification of construction permit (B4-P-1420) as modified for a new transmitter, further requesting change in type of equipment.

W9XRM—Arthur Malcolm McGregor and Dorothy Charlotte McGregor, Bloomington, Ill.—License to cover construction permit (B4-PRE-82) for a new relay broadcast station.

NEW—Mason City Globe-Gazette Co., area Mason City, Iowa.—Construction permit for a new relay broadcast station to be operated on 31100, 34600, 37600, 40600 kc., 2 watts.

NEW—Mason City Globe-Gazette Co., area Mason City, Iowa.—License to cover above construction permit.

NEW—Mason City Globe-Gazette Co., area Mason City, Iowa.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 125 watts.

W9XUO—Radio Station KFH Co., Wichita, Kans.—License to cover construction permit (B4-PRE-87) for a new relay broadcast station.

#### Fifth Zone

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, 710 Calif.—Special experimental authorization to operate unlimited time experimentally for period from 8-1-37 to 2-1-38. Amended: To change name from Beverly Hills Broadcasting Corp. to KMPC, The Station of the Stars, Inc.

W6XBL—Radio Service Corporation, Utah, Mobile—Salt Lake City, Utah.—Reinstatement and modification of construction permit (B5-PRE-56) for a relay broadcast station to be operated on 39700, 39900, 40800, 41400 kc., 5 watts, requesting change in power from 5 watts to 17 watts and changes in equipment.

W6XBK—Radio Service Corporation of Utah, Mobile, Salt Lake City, Utah.—Reinstatement and modification of construction permit (B5-PRE-57) for a new relay broadcast station to be operated on 39700, 39900, 40800, 41400 kc., 5 watts, requesting change in power from 5 watts to 17 watts and changes in equipment.

NEW—Fisher's Blend Station, Inc., Area of Seattle, Wash.—Construction permit for a new relay broadcast station to be operated on 31100, 34600, 37600, 40600 kc., 15 watts.

**FCC ANNOUNCES NEW FREQUENCY ALLOCATION**

The Federal Communications Commission has announced (Mimeograph 23463) action with reference to the entire useful radio spectrum comprising frequencies from 10 kilocycles to 300,000 kilocycles.

Heretofore the rules of the Commission with respect to the use of radio for practical purposes have been confined to that portion of the radio spectrum from 10 kilocycles to 25,000 kilocycles. As a result of experimentation during the past few years, and as a result of a hearing held on June 15, 1936, and further as the result of collaboration with the various Government Departments utilizing radio for their own purposes, the Commission has decided to provide allocations of frequencies to various classes of service in the newly developed portion of the radio spectrum from 25,000 kilocycles to 300,000 kilocycles. In other words, from the standpoint of space in the so-called radio ether, there now comes under regulation ten times the "ether space" than has ever before been attempted in this country.

The Commission's Orders in addition took into consideration certain minor changes developing as a result of experience in the older established portion of the spectrum up to and including 25,000 kilocycles. However, the most significant action is with reference to the so-called ultra high frequencies up to and including 300,000 kilocycles, and in this the Commission has not only allocated space for various radio services utilized for the preservation of life and property, but also has allocated considerable space for broadcasting, including television.

The importance of this action is the profound influence it will have upon the development of the radio industry, because in a manner it sets up guiding-posts for every phase of the industry, including research, design, manufacture and practical operation.

With respect to television, the action taken by the Commission is merely one step of many which in the opinion of the Commission may be required before television can become a reliable service to the public. Some of these many steps must be taken by the industry in the development of proper standards which in turn the Commission must approve before television can technically be of the greatest use to the public on any scale.

At the proper time in the future, the policies which will

govern the operation of television service in this country must be determined, particularly with reference to those matters which relate to the avoidance of monopolies. The Commission must in the future prescribe such rules as will insure the utilization of television stations in a manner conforming to the public interest, convenience and necessity, particularly that phase which will provide television transmission facilities as a medium of public self-expression by all creeds, classes and social-economic schools of thought.

The investigations and determinations of the Commission justify the statement that there does not appear to be an immediate outlook for the recognition of television service on a commercial basis. The Commission believes that the general public is entitled to this information for its own protection. The Commission will inform the public from time to time with respect to further developments in television.

It is considered that the step taken by the Commission in promulgating the orders concerning the new allocation constitutes one of the most important basic actions taken in recent years in the development of radio; and while future technical developments and perhaps international agreements may require some modification in detail, there is now laid the corner stone of a vast new development of radio in its application to the service of the public.

**IN THE MATTER OF FREQUENCY ALLOCATION TO SERVICES IN THE FREQUENCY RANGE FROM 10 KILOCYCLES TO 300,000 KILOCYCLES.**

The Federal Communications Commission (Mimeograph 23263) has issued Orders Nos. 18 and 19 and a report of the Commission covering the allocation of frequencies throughout the radio spectrum from 10 to 300,-

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000 kilocycles. (See Mimeograph Nos. 23415, 23416, 23417 copies of which have or will be mailed to all licensees.) These orders and the report of the Commission contain the decision of the Commission on the informal engineering hearing which was held before the Commission en banc from June 15 to 29, 1936.

Order No. 18 carries with it Part I of Rule 229 covering the allocation of frequencies between 10 kilocycles and 30,000 kilocycles. It is pointed out that no changes are involved with respect to frequencies between 10 kilocycles and 25,000 kilocycles and 28,000 and 30,000 kilocycles. Since Rule 229 was printed in 1932, the Commission has from time to time adopted a number of individual changes with respect to certain services. The order gives an up to the minute listing of such changes and should be considered merely as a recapitulation of frequencies in accordance with past actions of the Commission with the exception of the band 25,000 to 28,000 kilocycles, which has been specifically reallocated to new services except for broadcasting between 25,600 and 26,600 kilocycles, effective 3:00 a. m., E.S.T., October 13, 1938.

Order No. 19 carries with it Part II of Rule 229 covering the allocation of frequencies between 30,000 and 300,000 kilocycles. All of the frequencies listed in this range, except amateur between 56,000 and 60,000 kilocycles, are assigned to specific services for the first time. All outstanding licenses in this frequency range, except amateur and point-to-point communication in Hawaii, are for experimental services.

Inasmuch as only a relatively few frequencies above 25,000 kilocycles are now in use, it may be possible for the Commission to make some regular assignments within this band prior to the effective date of the order; however, it is not expected that the existing licensed frequencies will be changed over to the new frequencies or that assignments of a permanent nature will be made on the present experimental channels prior to the effective date of the order.

Although the transmission characteristics of frequencies above 30,000 kilocycles for which commercial apparatus has been provided, are sufficiently well known at this time to leave no doubt as to their usefulness in many established services, there has not yet been enough developments to permit frequencies within this range to be used with closer separations than those shown in the table. In the actual assignments to be made, proper technical consideration will be given to such items as radio wave propagation characteristics, limitations with respect to available equipment, portability of apparatus, frequency band of emission, stability of carrier frequency, selectivity of receivers, power, and station locations.

It is to be understood that the action of the Commission in promulgating Rule 229, listing frequencies above 30,000 kilocycles to specific services, is to serve only as

a guide to the specific frequencies which may be used by a given service. At a later date the Commission will modify its rules and regulations governing individual services so as to make provision for restricted use of these frequencies by individual station assignments. For example, it will be noted that twenty-nine frequencies are assigned to the police service in the band 30,000 to 40,000 kilocycles. This does not mean that all of these frequencies are available to all police departments, but rather that the service as a whole will be assigned frequencies from those designated for police use. In all probability, certain of these frequencies will be designated for low-power mobile police operation and will be duplicated over relatively short distances, as compared to the police frequencies which will be assigned for high-power fixed police stations. The regulation embodying restrictions as to all classes of stations will be promulgated well in advance of the effective date of October 1938, when Order No. 19 becomes effective.

### Broadcasting

The allocation of ultra high frequencies virtually affects several important broadcast services, namely: television, facsimile, relay, high frequency and experimental broadcast services.

The action taken by the Commission today with respect to television is merely one step of many which are required before television can become a reliable service to the public. Some of these many steps must be taken by the industry in the development of proper standards which in turn the Commission must approve before television can technically be of the greatest use to the public on any scale.

Also the Commission, at the proper time in the future, must determine the policies which will govern the operation of television service in this country, particularly with reference to those matters which relate to the avoidance of monopolies. And the Commission must also in the future prescribe such rules and policies as will insure the utilization of television stations in a manner conforming to the public interest, convenience and necessity, particularly that phase which will provide television transmission facilities as a medium of public self-expression by all creeds, classes and social-economic schools of thought.

The investigations and determinations of the Commission justify the statement that there does not appear to be an immediate outlook for the recognition of television service on a commercial basis. The Commission believes that the general public is entitled to this information for its own protection. The Commission will inform the public from time to time with respect to further developments in television.

Seven channels between 44,000 and 108,000 kilocycles are made available for the assignment of television stations. Television broadcast is also assigned twelve chan-

nels between 156,000 and 300,000 kilocycles. Each television channel is 6 megacycles in width and provides for the picture broadcast as well as the accompanying synchronized sound. Television stations will be assigned these channels on an experimental basis with the same requirements as are now imposed. This experimental basis will be continued until the several remaining technical problems have been solved and standards of transmission and reception are adopted.

In the band 41,020 to 43,980 kilocycles, 75 channels are made available for assignment to aural broadcast stations. The Commission at an early date will consider carefully the needs and requirements for high frequency broadcast stations using both conventional modulation and frequency modulation, as well as the needs of educational broadcast systems. The record of the June 15, 1936 hearing concerning the purpose and needs for the educational broadcast systems will be given most careful consideration in the details of assignment.

Sixteen channels for relay broadcast stations are provided in the band from 30,830 to 39,820 kilocycles. These channels will enable a continuance of the existing stations as well as provide additional facilities for the growth of relay broadcast service. This number of channels and limited interference range is such that consideration may be given the licensing of every regular broadcast station for two relay stations in this band, the frequencies, however, being available on a shared basis with other relay stations.

### Police Service

The allocation of frequencies between 30,000 kilocycles and 40,000 kilocycles provides twenty-nine frequencies for assignment to the police service. Of these frequencies, twenty-five will be available to municipal and county government and four to state police agencies. The frequencies will be assigned on a shared use basis in accordance with an engineering plan which will be announced at a future date and embodied in the Rules and Regulations. This plan will take into consideration important factors such as geographical separation, maximum power employed, number of mobile units operated in conjunction with a fixed station, area to be served and other important considerations.

It is contemplated that one group of frequencies will be assigned to fixed stations of relatively large power outputs and another group to those fixed stations employing lesser powers. A third group will be available exclusively for mobile units.

As in the past, it will be necessary that contiguous municipal and county governments serving the same or adjacent areas cooperate to the fullest extent and coordinate their needs for radio communication service.

The four frequencies to be assigned for state police communication will be available for relatively low-power

portable or mobile units to be used for such purposes as riots, floods, traffic congestion, etc., in local areas within a state.

It is anticipated that, for the present, the nine frequencies assigned to the police service in the frequency band 132-144 megacycles, will more or less remain somewhat experimental in nature.

### Aviation

In view of the projected plans of the Bureau of Air Commerce to use ultra high frequencies for radio beacons, airport traffic control, blind landing devices and other navigational aids, it was only necessary to provide a limited number of frequencies for this service to take care of uses not included in the scope of the Bureau's plans.

In the frequency band 30,000-40,000 kilocycles, four frequencies have been allocated and are designed primarily for use in instructing student pilots during initial solo flights. The use of radio as a safety aid during such instruction has proven itself invaluable in the prevention of aircraft accidents; especially at airports where there is a large volume of traffic.

The frequency band 129,000-132,000 kilocycles has been allocated to aviation for airport traffic control. This band is adjacent to a band allocated to the government for a similar use. Provision has been made for six airport frequency assignments separated by approximately 500 kilocycles. This allocation will permit the use of a separate and distinct frequency for each airport in localities where several airports are in close proximity to each other. Each assignment is protected by intervening guard bands to provide the maximum degree of safety.

In the frequency band 132,000-144,000 kilocycles, 11 frequencies have been assigned to the aviation service and are designed primarily for radiotelephone service for aircraft in flight. However, it is anticipated that other aviation uses may also be made of these frequencies in accordance with rules and regulations to be promulgated in the future.

### Fixed Service

In view of the decided and extensive demand for frequencies for the various classes of service, which by their very nature are dependent upon radio for communication rather than wire lines, it is only possible to provide frequencies for the fixed service for use in areas where wire facilities are either not available or, due to circuitous wire routing, the use of radio may be found justified for economic reasons. Consequently, a limited number of frequencies have been made available for fixed service.

### Experimental Service

This service has been assigned a number of frequencies throughout the bands 30,000 to 40,000 kilocycles and

132,000 to 140,000 kilocycles for shared use by all persons who are granted licenses to carry on fundamental research for development of the technique of the radio art. It is the purpose of the Commission to encourage experimentation in all cases where fundamental research for the development of the technique of the radio art is the prime purpose of such experimentation.

#### **Forestry Service**

The Commission has recognized the value of radio communication in forestry development and conservation work and in the suppression of forest fires. Ten frequencies have been provided for this service to be used on a shared basis. Contiguous states, necessarily, must cooperate in their use to reduce any interference to each other.

The Commission will promulgate rules and regulations governing this new class of service well in advance of the effective date of the allocation.

#### **Mobile Press Service**

The primary purpose of allocating frequencies to this service, which differs essentially from the mobile press service now authorized in the existing Rules and Regulations, is to provide channels of communication for the collection of press material from points where wire facilities are unavailable or inadequate.

#### **Geophysical and Motion Picture Services**

In order to permit these services to render a short distance radio communication service similar to the service now authorized by the existing Rules and Regulations, frequencies have been allocated to a limited extent. These frequencies will be available on a shared basis to both services.

#### **Coastal and Ship Harbor**

Frequencies allocated to this service are designed primarily for the purpose of providing a public coastal harbor service in the higher frequency range similar to that now authorized in the band 2100-2200 kilocycles and 2500 to 2600 kilocycles.

#### **Special Emergency**

In view of the increasing demand for this type of service, additional frequencies have been allocated for short distance communication, particularly within corporate city limits. For the present, the existing Rules and Regulations governing this service will apply and all frequencies will be assigned on a shared basis.

#### **Marine Fire**

Frequencies allocated to marine fire are to be used in a similar manner to the service now conducted in accordance with existing Rules and Regulations. However,

provision has been made to permit two-way radio communication with mobile ship stations if desired.

#### **Special Services**

At present, the Commission receives many requests for the use of radio facilities by services not recognized in the existing Rules and Regulations. Such services are usually of a temporary nature and of short duration. It is proposed to assign frequencies whenever the Commission finds such use is in the public interest, convenience or necessity. Authorizations will be made on a temporary basis for a specific period of time.

#### **PENNSYLVANIA SUPREME COURT DECIDES AGAINST BROADCASTER IN WARING RECORD CASE.**

The appeal of Station WDAS was without avail when the highest Court of Pennsylvania, on October 8, affirmed the lower court which had enjoined the station from broadcasting phonograph records of Fred Waring's Orchestra.

The appellate court, in the majority opinion of Judge Stern, ruled that though "it may be said the ordinary musician does nothing more than render articulate the silent composition" great actors and vocal and instrumental artists by their interpretations add something to the composition which is a right of property and which in no way overlaps or duplicates the property right of the author of the composition. "All that need now be decided," the Court said, "is that such a property right inheres in the case of those artists who elevate interpretations to the realm of independent works of art." The court decided that the testimony showed that Waring's Band measured up to this standard. In overruling the station's contention that Waring individually had no rights but that the musicians or the incorporated orchestra owned these rights the Court ruled that the orchestra's performance is a composite work, Waring and the musicians contributing thereto, no one individual being able to claim an individual property right in the composite production and that although Waring individually would ordinarily have no right of action, the orchestra being incorporated, the Court would disregard the fact that the corporation should have been the plaintiff instead of Waring and consider Waring, as the owner of all but two of the shares of the corporate stock, to be in reality the real party in interest. The Court further held that it was no defense to the station that Waring may have assigned his rights to the National Association of Performing Artists.

The Court then discussed the argument of the station that the property rights of the plaintiff had been lost upon the general public sale of the records and that such rights could not be reserved and said that such cases as supported that principle were comparatively early deci-

sions and involved situations where the restrictions were against public policy as in restraint of trade or situations where the rights could have been protected by copyrighting the work under the statute. It held that no such public policy against the restriction on the use of the records existed in this case and that the rights could not be protected by copyright registration of the records as the statute does not permit the copyrighting of records. It said that restrictions have, notably in England, been held to follow an article after it is sold and, in this country in the trading stamp and ticket scalper cases. The Court said the notice on the record was not an unreasonable restriction and was sufficient notice to purchasers of the existence and extent of the restriction imposed upon them by the understanding between the Victor Company and Waring.

The Court found an additional ground for the injunction forbidding the use of Waring records, namely that of unfair competition. The station and the Waring Band were in competition as both were furnishing entertainment to the public over the radio and both were receiving revenue from advertisers, said the Court, and furthermore it probably must become increasingly difficult for the Band to obtain \$13,500 a broadcast if innumerable reiterations of it are permitted for 75 cents, and the constant broadcasting of records must diminish the commercial value of the Band performances. The records being old ones, said the Court, the public would be liable to judge the ability of the Band by work rendered before it had attained its present degree of excellence.

Judge Maxey wrote a separate opinion concurring in the result but on the sole ground that Waring's right of privacy had been invaded by the broadcasting of the records. He expressed the belief that the standard of excellence of the artist's work should have no bearing on the case but that any artist who restricted his work should be permitted to enjoin the broadcasting of his performance.

### Comments

The Waring case of course turned on peculiar facts in that Waring had not signed the usual form of contract conveying all rights to the phonograph record company. There are six other suits pending in other states where such written contracts are involved and decisions in which may be rendered this winter, notably the Crumit case in New York. The Federal Court in Boston has already decided that under the standard form of Victor contract the band leader Noble had no rights left to assert against a hotel using the records in its cafe.

### NEW MINNESOTA STATION RECOMMENDED

F. B. Clements & Company applied to the Federal Communications Commission for a construction permit

to erect a new station at Mankato, Minn., to use 1500 kilocycles, 100 watts and 250 watts, LS, and unlimited time on the air.

Examiner P. W. Seward, in Report No. I-504, recommended that the application be granted. The Examiner states that the evidence adduced at the hearing showed a need for additional radio broadcast service in the area proposed to be served. Also he found "that the interests of no other radio station will be adversely affected by reason of the grant."

### RECOMMENDS DENYING CLEVELAND STATION

The Great Lakes Broadcasting Corporation applied to the Federal Communications Commission for a construction permit for a new broadcasting station at Cleveland, Ohio, to use 1270 kilocycles, 1,000 watts and 5,000 watts LS and unlimited time.

Examiner Tyler Berry, in Report No. I-502, recommended that the application be denied. It is stated that "the evidence does not show that the applicant is financially qualified to construct and operate the proposed station." The Examiner further states that "the evidence does not show a substantial need for the additional service proposed by the applicant as the service proposed does not differ materially from the service now being rendered by the stations serving the area."

### DENIAL OF FALL RIVER STATION RECOMMENDED

The Fall River Herald News Publishing Company applied to the Federal Communications Commission for a construction permit for a new station at Fall River to use 1210 kilocycles, 100 watts night and 250 watts LS and unlimited time on the air.

Examiner Robert L. Irwin, in Report No. I-503, recommended that the application be denied. In recommending the denial of the application the Examiner states that "The applicant has shown that it has the necessary legal qualifications to hold a construction permit, and that it has adequate financial and technical ability to construct and operate a station such as proposed. But the applicant owns and publishes the only English-language newspaper in the city, and considers Station WSAR, the only station in the city, a competitor in the advertising and news field to such an extent that it does not permit local advertisers to refer to programs of the station in their paid ads in the paper. If the Commission were to authorize the applicant to establish a new station in the city, it would then give to the applicant a two to one advantage over the established broadcasting facilities in the city, in so far as news and advertising dis-

semination is concerned. Such condition is not conducive to the public interest."

### RECOMMENDS DENIAL FOR RHODE ISLAND STATION

The Colonial Network, Inc., applied to the Federal Communications Commission for a construction permit for the erection of a new broadcast station at Providence, R. I., to use 720 kilocycles, 1,000 watts and limited operation.

Examiner Tyler Berry, in Report No. I-505, recommended that the application be denied. He states that "the record does not show definitely how much of the capital stock of the applicant corporation has been issued and paid for."

Also the Examiner states that the interests of several pending applications would be affected because of possible interference if this application were granted. The interest of existing stations would also be affected through interference if the application were granted. It is further stated by the Examiner that "the applicant failed to show any substantial need for the additional service proposed."

### CHANGES RECOMMENDED FOR KRE UNDER CONDITIONS

Broadcasting Station KRE, Berkeley, Calif., operating on 1370 kilocycles, 100 watts and 250 watts LS and unlimited time applied to the Federal Communications Commission to change its frequency to 1440 kilocycles, and increase its power to 500 watts and 1,000 watts LS.

Examiner Melvin H. Dalberg, in Report No. I-507, recommended that the application be granted "contingent upon the granting of the application of Station KGGC for a change in frequency from 1420 kilocycles to 1370 kilocycles and a denial of the application of Charles S. Osborne, Jr., for a new station at Fresno, Calif., on 1440 kilocycles." The Examiner states also that there appears to be need for additional service in the area proposed to be served.

### RECOMMENDS DENYING WITH PREJUDICE

Geraldine Alberghane applied to the Federal Communications Commission for a construction permit for the erection of a new station at Pawtucket, R. I., to use 720 kilocycles, 1,000 watts and daytime operation.

Examiner Tyler Berry, in Report No. I-506, recommended that the application be dismissed with prejudice. When the case came on for hearing no appearance was entered for the applicant and no evidence was offered in support of the application. Counsel for the respondents moved that the application be dismissed with prejudice.

### APPLICATION DISMISSED WITH PREJUDICE RECOMMENDED

The Chickasha Daily Express applied to the Federal Communications Commission for a construction permit for the erection of a new station at Chickasha, Okla., to use 1500 kilocycles, 250 watts and daytime operation.

Examiner Tyler Berry, in Report No. I-508, recommended that the application be dismissed with prejudice. The Examiner states that at the hearing counsel for the applicant entered a motion that the applicant be permitted to withdraw the application on the ground that after it had been filed it was discovered that the operation of a station on the proposed assignment would result in objectionable interference.

### FEDERAL TRADE COMMISSION ACTION Complaints

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

**No. 3237.** Use of practices which result in misleading retail dealers and their customers as to the fiber content of women's cloth coats is alleged in a complaint issued against two **New York City** concerns, **Form Maid Coat Company, Inc.**, 545 Eighth Ave., and **Walter-Lewis & Co.**, 450 Seventh Ave. Form Maid Coat Company manufactures the coats in question from a fabric sold to it by Walter-Lewis & Co.

The complaint alleges that the two firms have an understanding under which Walter-Lewis & Co., in selling the fabric to Form Maid Coat Company, supplies this customer with labels to be attached to the garments manufactured from such fabric. These labels, according to the complaint, depict a camel together with palm trees and mountains or pyramids, bear the words "Genuine Camel's Hair", and are attached to the finished garment.

**No. 3241.** **Al Hartman, Inc.**, 1400 Broadway, **New York**, is named respondent in a complaint alleging unfair methods of competition in connection with the interstate sale of certain dresses.

The complaint alleges that dresses sold by Hartman, Inc., were described in newspaper advertising as "Indo-China washable crepe prints", and had attached to them tags bearing certain assertions, one of which was that "Owing to the peculiar delicacy of all silk weaves, manufacturers will not guarantee them as flawless, or against perspiration, slipping or roughing".

The descriptive phrase used in such advertisements and the language appearing on the tags, it is charged, served as representations to purchasers that the garments so referred to were silk dresses, when, according to the complaint, they were not composed of silk, but of other materials.

**No. 3242.** **Rudolph H. Ray**, 422 North D Street, **Fremont, Nebr.**, engaged in the manufacture and sale of cement burial vaults, is charged in a complaint with making false representations in advertising his products. The respondent trades as Ray Individual Mausoleum Company, Fremont, and as The Individual Mausoleum Company, Deshler, Nebr.

In advertising matter furnished to undertakers who are his customers, Ray, the complaint alleges, falsely represents that his individual mausoleum or cement vault is a perfect surface burial vault which assures preservation of the body encased therein; that the bodies are forever preserved, are absolutely secure from water and will continue to remain in a perfect state of preservation indefinitely, and that the vaults are everlasting and waterproof.

**No. 3243.** A complaint has been issued against **The Eta Company, Inc.**, 227 West Huron St., **Chicago**, and **Willis J. Sheeman**, president and principal stockholder. The complaint alleges unfair competition in the sale of so-called dehydrated or concentrated foods, and of books and other printed matter purportedly relating to health and hygiene.

Various representations allegedly were made concerning the respondents' 18 foods, sold under the general name of Eta Concentrated Food, such as that Eta Food Sodium will improve digestion, prevent fermentation of food, and remove acid and waste, and that Eta Food Chlorine will remove impurities and make tissues dense and elastic. These and various other representations, according to the complaint, are misleading and deceptive, both as to the efficacy of the respondents' foods in remedying the ailments and diseases mentioned, and as to conditions resulting from a lack of minerals purportedly supplied by such foods. The complaint charges that these foods, when taken as directed by the respondent, do not contain a sufficient amount of certain minerals to remedy or correct a deficiency thereof in the diet.

**No. 3244.** Alleging use of certain unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, a complaint has been issued against **Harry A. and Louis G. Rippner**, trading as **John Hancock Pen Company**, 1514 Prospect Ave., Cleveland, Ohio.

The respondents allegedly advertised in circulars that certain of their fountain pens, which they represented as being worth \$5, could be purchased for a limited time only by remitting 60 cents with a certificate having a purported value of \$4.40.

The pens so advertised, the complaint alleges, are not offered for sale for a limited time, the certificate referred to does not have any value whatever, and the pens are not of \$5 value, but are of a type having a value much less than that represented, and ordinarily are sold in the usual course of trade for approximately 60 cents, the price advertised as a special introductory offer.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01890.** **General Pharmacal Company**, 205 East 6th St., Cincinnati, has entered into a stipulation to discontinue certain misleading representations in advertising its medicinal preparations, Pep-Ti-Kao, Etro Tablets, and Feyex.

The respondent company agrees to stop asserting that Pep-Ti-Kao will rid the stomach of the trouble-making portion of acid, unless the word "rid" is qualified by use of the word "temporarily" or some similar word.

Other allegations to be banned are that Etro Tablets will relieve nervous tension caused by excitement, work, or worry, and that Feyex is a competent remedy in the treatment or prevention of hay fever.

**No. 01891.** Under a stipulation entered into, **Print-Rite, Inc.**, 1115 Hennepin Ave., Minneapolis, agrees to cease certain misleading advertising representations in the sale of Handy Record System, an accounting system for cafes and restaurants.

In soliciting salespersons or dealers, the respondent company will not represent or imply that such persons can earn any amount which actually is in excess of amounts earned by its salespersons under normal business conditions.

**No. 01892.** **American Plierench Corporation**, 4809 North Ashland Ave., Chicago, has entered into a stipulation to desist from certain misleading representations in the advertisement of its Eifel-Gearred Plierench.

In the sale of this tool, the respondent agrees to cease representing that any article is given free, when the purchase of other articles is required to obtain the purported gift article. The respondent company also will discontinue making unmodified representations of possible earnings of prospective salesmen in excess of the average earnings of its regular salespersons achieved under normal business conditions.

**No. 01893.** **H. R. Blumstengel**, 728 Delaware St., Kansas City, Mo., entered into a stipulation to cease representing that the use of M-Royds Treatment, which he sells, may save one from an operation, that the treatment is a tonic, or will help build strength, and will give one freedom from the affliction of piles.

**No. 2069.** **Louis Eugene Lensky**, trading as **Lelens Silver Company**, 4175 Woolwine Boulevard, Los Angeles, will stop using any plan of promoting the sale of silverware, chinaware or novelties which involves the use of a lottery or any scheme of chance whereby any article is given as a premium in consideration of the purchase of any other article, or whereby the price to be paid for the article is determined by lot or chance. According to the stipulation, Lensky used push cards to promote the sale of his merchandise.

**No. 2070.** **B. B. B. Company, Limited**, 620 Fifth Ave., New York, selling smoking pipes, agrees to discontinue using the words "Best British Brand" as descriptive of pipes not made in England.

The company also will cease using the slogan "A Quality Pipe Since 1847", or the phrase "Established 1847", so as to imply that the pipes so represented are the same as those which are now and have been manufactured in England since 1847, or that the B. B. B. Company, Limited, was established in 1847.

**No. 2071.** **James McCreery & Co.**, operating a department store at 5th Ave. and 34th St., New York, agrees to discontinue using in advertising matter or otherwise the word "linen", alone or in connection with the word "acetate", so as to imply that the products to which the words refer are composed of linen when such is not a fact. The company advertised certain garments for women as "Acetate linen", when in fact they were not made of linen, but were composed of other materials.

**No. 2072.** **Weiss Trading Corporation**, 158 Bowery, New York, will cease using in advertising matter any pictorial or other representations implying that orders it receives for show case cement will be filled with the cement depicted and described in its catalog, when this is not a fact. The corporation will stop representing its products in any manner which may tend to mislead purchasers into the erroneous belief that it fills orders only with the advertised products for which orders have been received. According to the stipulation, the corporation advertised Diamond Show Case Cement in its catalog, but, in some instances, filled orders received in response to the advertisement with a cement of another brand.

**No. 2073.** **Bruce Company**, 206 East Monroe St., Springfield, Ill., dealer in musical instruments, stipulated that it will discontinue representations to the effect that certain pianos it offers for sale are instruments which, having been sold previously on a deferred payment plan, have been repossessed because of the inability of the purchasers to meet the payments, with the result that such pianos are being sacrificed for the balances due, when such is not a fact. The company also will desist from the use of any false and misleading representations with respect to the retail price for which the instruments originally sold.

**No. 2074.** **Jack Schwartz, Inc.**, operating a retail clothing store at 705 Seventh St., N. W., Washington, D. C., will refrain from the use in advertising matter, or otherwise, of the word "free", alone or with other words, as descriptive of merchandise represented to be given with the purchase of other merchandise, when, in fact, the so-called free merchandise is not given as a gratuity but only in consideration of the purchase of some other product. According to the stipulation, the company advertised that an article of wearing apparel would be given to the purchaser of a suit or top coat, when, in fact, the price of the article referred to as free was included in the price asked for the suit or top coat.

### Cease and Desist Order

The Commission has issued the following cease and desist order:

**No. 2477.** An order has been entered directing **Nacional Destilerias Corporation**, 130 East Washington Building, Indianapolis, to discontinue representing itself to be a distiller of spirituous beverages, when such is not a fact.

The Commission found that the respondent corporation is a wholesaler of rum, brandy, gins and cordials which it imports from the Philippine Island. According to the findings, the words "Nacional Destilerias" are the Spanish equivalent for "National Distillers", and are so similar in spelling and sound to the English equivalent thereof as to be readily misunderstood by a substantial portion of the purchasing public to mean "National Distillers".

### FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no meeting of the Broadcast Division of the Commission at the usual time this week because all of the members of the Commission were hearing disbarment proceedings against Paul M. Segal and George S. Smith.

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, October 25.

Monday, October 25

HEARING BEFORE AN EXAMINER

(Broadcast)

- WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 1050 kc., 50 KW, shares with WBAL (SA for 1040 kc. simultaneous operation with KRLD, unlimited).
- W1XEH—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 63500 kc., 150 watts, unlimited, according to rule 983.
- W1XLU—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 105000, 200000, 290000, 450000 kc., 5 watts, to operate according to Rules 983, 1002, 1004).
- W1XO—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 31100, 34600, 40600 kc., 50 watts, to operate according to Rules 983, 1002 and 1004).
- W1XT—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 31100, 34600, 40600, 37600 kc., 100 watts, to operate according to Rules 983, 1002 and 1004).
- NEW—George H. Payne, San Jose, Calif.—C. P., 1440 kc., 500 watts, unlimited.
- NEW—Floyd A. Parton, San Jose, Calif.—C. P., 1170 kc., 250 watts, daytime.

Tuesday, October 26

HEARING BEFORE AN EXAMINER

(Broadcast)

- WGNV—Peter Goelet, Newburg, N. Y.—C. P.; 1210 kc., 100 watts night, 250 watts LS; shares with WBRB, WFAS and WGBB. Present assignment: 1210 kc., 100 watts; shares with WBRB, WFAS and WGBB.
- NEW—Colonial Broadcasters, Inc., Savannah, Ga.—C. P.; 1310 kc., 100 watts, unlimited time.
- WDWS—The Champaign News-Gazette, Inc., Champaign, Ill.—C. P.; 1370 kc., 100 watts night, 250 watts LS, unlimited time. Present assignment: 1370 kc., 100 watts LS, daytime.
- NEW—Seaboard Broadcasting Corp., Savannah, Ga.—C. P.; 1310 kc., 100 watts night, 250 watts LS, unlimited time.

Thursday, October 28

HEARING BEFORE AN EXAMINER

(Broadcast)

- NEW—J. T. Griffin, Fort Smith, Ark.—C. P.; 880 kc., 1 KW LS, daytime.
- KTSM—Tri-State Broadcasting Co., El Paso, Texas.—C. P.; 1350 kc., 500 watts night, 500 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts night, shares WDAH, 250 watts LS. Permanent authority to carry WDAH's schedule.

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. 1-435:

- NEW—West Texas Broadcasting Co., Wichita Falls, Tex.—C. P.; 1380 kc., 1 KW, unlimited time.
- NEW—Wichita Broadcasting Co., Wichita Falls, Tex.—C. P.; 620 kc., 250 watts, 1 KW LS, unlimited time.
- NEW—Faith Broadcasting Co., Inc., Wichita Falls, Tex.—C. P.; 1380 kc., 1 KW, 5 KW LS, unlimited time.
- KFPL—C. C. Baxter, Dublin, Tex.—Voluntary assignment of license; 1310 kc., 100 watts, 100 watts LS (C. P., 100 watts, 250 watts LS, unlimited time).
- KFPL—WFTX, Inc., Wichita Falls, Tex.—C. P.; 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment; 1310 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. 1-439:

- NEW—Chase S. Osborn, Jr., Fresno, Cal.—C. P.; 1440 kc., 500 watts, unlimited time.

Examiner's Report No. 1-432:

- NEW—The Bend Bulletin, Bend, Ore.—C. P.; 1310 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. 1-441:

- NEW—The Waterloo Times-Tribune, Pub. Co., Waterloo, Ia.—C. P.; 1370 kc., 100 watts, daytime.

Examiner's Report No. 1-421:

- WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Authority to transfer control of Corporation. 1220 kc., 1 KW night, 5 KW LS shares with KFKU.

Friday, October 29

HEARING BEFORE AN EXAMINER

(Broadcast)

- WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—C. P.; 1310 kc., 100 watts night, 250 watts LS, unlimited time.

APPLICATIONS RECEIVED

First Zone

- WNBX—WNBX Broadcasting Corp., Springfield, Vt.—Modification of license to change name from WNBX Broadcasting Corp., to Twin State Broadcasting Corp.
- WATR—The WATR Co., Inc., Waterbury, Conn.—Modification of construction permit (B1-P-1207) for changes in equipment, increase in power, change in frequency and hours of operation and move of transmitter, requesting extension of commencement and completion dates from 10-3-37 and 4-3-38 to 1-3-38 and 7-3-38.

Second Zone

- NEW—Joe L. Smith, Jr., Beckley, W. Va.—Construction permit 1210 for a new station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time.
- WGAR—WGAR Broadcasting Co., Cleveland, Ohio.—License to 1450 cover construction permit (B2-P-1887) for changes in equipment.
- WOMI—Owensboro Broadcasting Co., Owensboro, Ky.—Modification of construction permit (B2-P-1013) as modified, for a new station, requesting changes in authorized equipment and change power from 100 watts to 100 watts night, 250 watts.
- W3XPF—Farnsworth Television, Inc. of Pennsylvania, Springfield, Pa.—Modification of construction permit (B2-PF-12) as modified, for a new television station, requesting extension of completion date from 11-5-37 to 1-5-38.

Third Zone

- WFLA—Florida West Coast Broadcasting Co., Inc., Clearwater, Fla.—Modification of license to increase power from 1 KW night, 5 KW day to 5 KW day and night.
- WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Modification of construction permit (B3-P-1434) as modified, for changes in equipment, increase in power and move of transmitter, requesting extension of completion date from 11-10-37 to 1-10-38.
- NEW—Brenau College, Gainesville, Ga.—Construction permit for 1210 a new station to be operated on 1210 kc., 100 watts, unlimited time. Amended: To make changes in antenna.
- WHEF—Attala Broadcasting Corp., Kosciusko, Miss.—Authority to transfer control of corporation from C. E. Wharton, M. B. Wharton & J. E. Wharton to Roy L. Heidelberg and J. E. Richards. Amended: To transfer control of corporation from J. E. Wharton to Roy L. Heidelberg, 1834 shares common stock.

Fourth Zone

- WCAT—South Dakota State School of Mines, Rapid City, S. Dak. 1200 —Modification of license to change specified hours from 1:30 to 2:30 p. m. to 12:00 to 2:00 p. m.
- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Construction permit to change frequency from 1210 kc. to 1240 kc., install a new transmitter, increase power from 100 watts night, 250 watts day to 500 watts night, 1 KW day, move

transmitter from 102 18th St., Rock Island, Illinois, to SE¼ of Section 2, Twp. 17 N Range 1 W, near Rock Island, Illinois and install directional antenna for night use. Amended: To make changes in directional antenna for night use.

**WSBT**—The South Bend Tribune, South Bend, Ind.—Construction **1360** 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 locally. Amended: Re-directional antenna.

**WTMV**—Mississippi Valley Broadcasting Co., Inc., E. St. Louis, **1510** Ill.—Construction permit to install new transmitter, install directional antenna for night use, change frequency from **1500 kc.** to **1510 kc.**, power from 100 watts night, 250 watts day to 1 KW night, 5 KW day and move transmitter locally. Amended: To make changes in directional antenna for day and night use.

#### Fifth Zone

**KUJ**—KUJ, Inc., Walla Walla, Wash.—Construction permit to **560** change frequency from **1370 kc.** to **560 kc.**; make changes in transmitting equipment; install a new vertical antenna; increase power from 100 watts to 250 watts; and move transmitter from 2nd and Rose Streets, Walla Walla, Wash., to site to be determined, Walla Walla, Wash.

**KALE**—KALE, Inc., Portland, Ore.—Construction permit to make **1300** changes in equipment and increase power from 500 watts to 1 KW.

**NEW**—Anna Jay Levine, Palm Springs, Calif.—Construction permit for a new station to be operated on **1370 kc.**, 100 watts night, 250 watts unlimited time. Amended to give transmitter site as site to be determined, Palm Springs, Calif.

**KIUP**—San Juan Broadcasting Co., Durango, Colo.—Authority to **1370** make changes in automatic frequency control apparatus.



HABANA INTER-AMERICAN RADIO  
CONFERENCE

Federal Communications Commissioner, T.A.M. Craven has been designated chairman of the American delegation to the Habana Radio Conference to convene on November 1. R. Henry Norweb, American Minister to the Dominican Republic will be the other delegate.

Meetings of preparatory committees have been held at the FCC since October 8. These have been attended by the Managing Director, James W. Baldwin and the Chairman of the NAB Engineering Committee, Paul Loyet of WHO, Des Moines, Iowa.

Mr. Baldwin will represent the NAB at the conference in Habana. The conference is of great importance to radio broadcasters in North and South America. Although the question has been raised, it is not yet known whether agreements which may be reached in Habana, will be effectuated by an exchange of state documents or by a treaty which would be subject to ratification by the participating governments.

NAB members, in April, received from Washington headquarters the official report of the American delegation to the Regional Radio Conference which was held in Habana, Cuba, March 15-29, 1937, and which was preliminary to the conference about to be held.

In connection with the November 1 conference the State Department on Tuesday made the following official statement:

"On May 8, 1937, the Cuban Government through its Embassy at Washington invited the United States to participate in an Inter-American Radio Conference which is to be convened at Habana, November 1, 1937. Invitations have also been extended to the member Governments of the Pan American Union and to Canada and Newfoundland.

"A preliminary regional radio conference was held at Habana, March 15-29, 1937, which was attended by delegations from Canada, Cuba, Mexico and the United States.

"It was apparent that while the conclusions reached at the preliminary conference were of great value as regards the North American Continent, the deliberations would not be complete and the problems could not be fully solved unless all States of the Western Hemisphere were given an opportunity to participate in the proposed arrangements in order to establish a clear understanding and uniformity

of procedure throughout that Hemisphere. The conference at Habana recommended the proposed November meeting and approved a set of resolutions as a basis for discussion.

"The deliberations at the Habana conference will be of particular interest in view of the forthcoming World Telecommunication Conference to be held in Cairo, commencing February 1, 1938.

"With the approval of the President the following have been designated as representatives of the United States at the forthcoming Inter-American Radio Conference:

Delegates:

Commander T. A. M. Craven, Commissioner, Federal Communications Commission, Chairman.

The Honorable R. Henry Norweb, American Minister to the Dominican Republic.

Technical Advisers:

Harvey B. Otterman, Department of State.

Lieutenant Colonel David M. Crawford, War Department.

E. K. Jett, Acting Chief Engineer, Federal Communications Commission.

A. D. Ring, Assistant Chief Engineer, Federal Communications Commission.

G. C. Gross, Engineer, Federal Communications Commission.

Secretary of Delegation:

Carlton Hurst, American Consul, Habana, Cuba.

"The delegation expects to leave Washington on Thursday, October 28, reaching Habana on the morning of Saturday, October 30."

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## SUPREME COURT DENIES EASTLAND PETITION

The United States Supreme Court on Monday<sup>4</sup> denied a petition for a writ of certiorari by the Eastland Company, Portland, Me., from a decision of the Federal Communications Commission in which the Commission denied a license for a broadcast station.

The Commission granted a license to the Portland Broadcasting System, Inc., instead. The Eastland Company and its subsidiary, the Congress Square Hotel Company, Inc., contended that the Commission's decision was invalid on the ground that two of the three Commissioners who decided the case were not present at the hearing.

## SESAC

A supplement to the recent report on the Society of European Stage Authors and Composers, Inc. (SESAC), is in preparation. The supplemental report will include information concerning thirteen publishers or organizations claimed by the SESAC subsequent to April 1, 1937, the closing date of the first report, together with additional copyright registrations made by certain of the original SESAC firms.

## JACK FALVEY

Anyone knowing the present whereabouts of Jack D. Falvey, who does business under the name of Falvey Feature Service, is requested to forward his address to Station WJMS at Ironwood, Michigan.

## TRANSFER OF KFJZ RECOMMENDED

Application was made to the Federal Communications Commission for the transfer of Station KFJZ, Fort Worth, Texas, from R. S. Bishop to Mrs. Ruth G. Roosevelt. The station operates on 1370 kilocycles, 100 watts and 250 watts LS, and unlimited time.

Examiner George H. Hill in Report No. I-514 recommended that the application for transfer be granted. In his conclusions in this case the Examiner stated that:

"1. The transferee, Mrs. Ruth G. Roosevelt, is legally, technically and financially qualified to acquire control of Fort Worth Broadcasters, Inc., through the purchase of 313 shares of its stock, and to continue the operation of radio broadcast Station KFJZ, at Fort Worth, Texas.

"2. The transferee, Mrs. Ruth G. Roosevelt, does not own any stock in any existing broadcasting company and does not have any interest in any existing stations.

"3. The programs of KFJZ are generally meritorious and serve the public interest; however, it is shown that these programs will be substantially improved, new equipment installed where necessary, and the station operated in the most efficient manner.

"4. The entire record considered, the Examiner is of the opinion that public interest, convenience and necessity would be served by granting the application for transfer of control of the corporation by the proposed sale of stock from R. S. Bishop to Mrs. Ruth G. Roosevelt."

## RECOMMENDS NEW OKLAHOMA STATION

Harry Schwartz applied to the Federal Communications Commission for a construction permit for a new station at Tulsa, Okla., to use 1310 kilocycles, 250 watts power and daytime operation.

Examiner Robert L. Irwin in Report No. I-512 recommended that the application be granted. He found that "there is a need for the daytime service which the applicant proposes to render in the area to be served." The Examiner also found that the granting of the application would not result in any objectionable interference.

## ILLINOIS STATION RECOMMENDED

The Galesburg Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Galesburg, Ill., to use 1500 kilocycles, 250 watts and daytime operation.

Examiner R. H. Hyde in Report No. I-515 recommended that the application be granted. He found that erection of the proposed new station "would provide a useful local service, meeting a local demand which cannot be satisfied by the services available from relatively distant stations."

## RECOMMENDS AGAINST NEW KENTUCKY STATION

The Louisville Times Company and the Louisville Broadcasting Company both applied to the Federal Communications Commission asking for a construction permit for the erection of a new station at Louisville, Ky., to use 1210 kilocycles, 100 watts power. The Times Company asked for unlimited time on the air while the Broadcasting Company asked only for daytime operation.

Examiner R. H. Hyde in Report No. I-509 recommended that each of the applications be denied. In the case of both applications the Examiner states that it would not be in the public interest to grant the application.

## NEW ARIZONA STATION RECOMMENDED

The Southwest Broadcasting Company and W. P. Stuart, both applied to the Federal Communications Commission for a construction permit for the erection of a new station at Prescott, Ariz., both asking 1500 kilocycles, with unlimited hours of operation. The Broadcasting Company asked for 100 watts and 250 watts LS while Stuart asked for 100 watts.

Examiner P. W. Seward in Report No. I-510 recommended that the Broadcasting Company application be

granted and that the Stuart application be denied. The Examiner states that the evidence showed a need for additional radio service in the area proposed to be served. He states that a need does not exist for two new stations at Prescott and the applicant, "Southwest Broadcasting Company, seems the better qualified of the two applicants here under consideration to construct and operate a radio station at Prescott." Stuart, the Examiner states, is a newspaper publisher and "if his application is granted the station will be operated as an adjunct to his newspaper business."

### POWER INCREASE RECOMMENDED FOR KXA

Broadcasting Station KXA, Seattle, Wash., applied to the Federal Communications Commission to increase its power from 250 watts and 500 watts LS to 1,000 watts. The station operates on 760 kilocycles, full time. The station also asked to make changes in its equipment, install a vertical antenna and to move its transmitter and studios locally.

Examiner Tyler Berry in Report No. I-511 recommended that the application of the station be granted. The Examiner found that "there appears to be a need for the additional service proposed." He found also that "no interference would be expected within the normally protected contour of any station, and there are no pending applications with which conflict may be had by reason of interference."

### STATION DENIAL RECOMMENDED

Clark Standiford, L. S. Coburn and A. C. Sidner applied to the Federal Communications Commission for a construction permit for a new station to be erected at Fremont, Nebr., to use 1370 kilocycles, 100 watts and unlimited time on the air.

Examiner R. H. Hyde in Report No. I-513 recommended that the application be denied. The Examiner states that "the evidence regarding financial ability, does not afford reasonable assurance that the proposed station, if authorized, would be financed in such a way as to provide a meritorious public service,"

### RECOMMENDS DISMISSAL WITH PREJUDICE

Leon M. Eisfeld, applied to the Federal Communications Commission for a construction permit for a new station at Burlington, Iowa, to use 1310 kilocycles, 100 watts and unlimited time.

Examiner Tyler Berry in Report No. I-516 recommended that the application "be denied as in cases of default, and dismissed with prejudice." When the hearing was called no appearance was entered for the applicant and no evidence was offered in support of the application.

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3245. Sidney A. Weitzman, 357 West 63d St., Chicago,** trading as Certified Sales Service, in the sale of clocks, cameras, automatic shavers, fountain pens and other articles, is charged with using a sales plan involving a pushcard system under which purchasers draw prizes by selecting certain names. This respondent is also charged with representing that he is a direct distributor for the manufacturer of the merchandise which he sells, this tending to mislead purchasers into believing that by dealing with him they are buying from the direct agent of the manufacturer and eliminating middleman's profits. The complaint alleges that Weitzman is not the direct distributor for the manufacturer of his products.

**No. 3246. Philip H. Koolish, Jr., 1232 Westchester Place, Los Angeles,** is charged with using a sales plan involving a lottery method in the sale of clocks, cameras, razors and other merchandise. Koolish is alleged to employ a pushcard system under which purchasers draw prizes by selecting certain feminine names.

**No. 3247. William L. Goetze, 1610 Ashland Ave., Baltimore,** trading as Buhman & Goetze, a candy manufacturer, is alleged to have sold his candy products by means of a plan which included the giving of prizes to purchasers drawing pieces of candy with certain colored centers.

**No. 3248. Specialties, Inc., 601 South Smallwood St., Baltimore,** a candy manufacturer, is charged with selling its products packed and assorted so as to involve use of a pushcard system under which prizes are awarded to the holders of discs with certain specified numbers thereon.

**No. 3249. Paul and Eaula Louise Botwin, trading as Eaula Candy Company, 1203 Calhoun St., Columbia, S. C.,** are charged in a complaint with unfair competition in connection with the sale of assortments of candy and other merchandise so packed and assembled as to involve use of a lottery method when sales are made to ultimate purchasers.

The complaint alleges that the respondents sell their merchandise to operators of and concessionaires with motion picture and burlesque theaters, medicine shows, tent shows and repertoire companies, and that they themselves also have candy concessions in certain theaters where they sell their merchandise direct to the consuming public.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2431.** An order has been entered directing **Arrow Distilleries, Inc., 3539 Concord Ave., Detroit,** to discontinue representing itself to be a distiller of certain spirituous beverages, when such is not a fact.

The Commission found that the respondent corporation is a rectifier, blender and bottler of certain alcoholic beverages. The order directs that the company cease and desist from representing, through use of the word "distilleries" in its corporate name or on stationery or labels, that it is a distiller of cordials or other spirituous beverages; that such products are distilled by it, or that it owns, operates or controls any place where such products are manufactured by it through a process of distillation, unless and until it actually owns, operates or controls such a place.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01894. The Mennen Company, Newark, N. J.,** agrees to stop asserting that Mennen Brushless Shaving Cream supplies oil to the skin or is the one cream made especially for that purpose; that Mennen Lather Shave will flush out oil-clogged pores, making

oily skin healthier and smoother, and that Mennen Shaving Creams penetrate deep into the pores, washing them out clean, and that they are utterly different from all other products of this class. The respondent company admitted in its stipulation that the question of whether or not the oil in its brushless shave is absorbed by the skin is a matter open to scientific controversy, as is the question of the effectiveness of such preparations as Mennen Lather Shave in any but surface cleansing.

**No. 01895. The John Puhl Products Company, 3640 West Pershing Road, Chicago,** selling "Little Bo-Peep", a laundry preparation, will stop advertising that its product contains "Oehme" or any other ingredient alleged to be found only in such product, or that "Oehme" or any other ingredient of the preparation possesses remarkable cleansing properties or is capable of doubling the cleaning power of the product. Other representations to be discontinued are that use of "Little Bo-Peep" in the laundering of hose will double its life, and that its use in the washing of blankets and woollens will prevent shrinkage.

In its stipulation the respondent company admitted that "Little Bo-Peep" does not contain any special ingredient possessing certain of the virtues advertised, and that the ingredient designated "Oehme" is merely a form of soap added to ammonia in the respondent's product, and does not possess remarkable cleansing properties.

**No. 01896. Bee-Dew Laboratories, 615 East Forest Ave., Detroit,** in the sale of cosmetics and hair and scalp treatments, stipulates that it will stop advertising its scalp oil as a competent treatment or effective remedy for falling hair or sensitive scalp; its cleansing cream as being capable of penetrating the pores and eliminating all impurities; its bleaching cream as a skin purifier or remover of blackheads and other blemishes, and its hair grower as being capable of promoting the growth of hair and nourishing the scalp. Under its stipulation the respondent admitted that the use of its product would not accomplish all the results claimed.

**No. 01898. Albert H. Dixon, 71 West 23rd St., New York,** selling Wizard Ointment, agreed to stop advertising that the preparation will afford either quick, permanent or sure relief from eczema, erysipelas, athlete's foot, or other skin ailments; that it is designed to kill parasites, and that its use will dry up affected parts of the skin.

**No. 01899. Emsee Manufacturing Company, Monroe, Mich.,** will cease representing that Slick Universal Cleaner cleans everything from dishes to rugs, walls or automobiles, and that laundry managers have found that one pound of the product equals five pounds of soap and building managers have adopted it for all building cleaning requirements. The respondent company will stop representing that its product is beneficial for washing clothes, unless this claim is limited to other than woolen and silk clothes and unless the assertion is qualified by a warning that it may effect the color of some textiles. The company also will refrain from advertising that the product dissolves dirt, neutralizes grease and kills germs.

**No. 2075. American Vault Co., Inc., Belmont, Mass.,** has entered into a stipulation to discontinue certain misleading representations in the sale of its concrete burial vaults.

The respondent company agrees to stop use in its advertising matter or in any other way of the word "lasting" or the phrase "Centuries of Protection" so as to imply that the vaults to which these references apply will insure protection forever for the bodies encased therein.

**No. 2076. Under a stipulation entered into, H. Milgrim & Brothers, Inc.,** retailer of women's apparel, 6 West 57th St., New York, will discontinue certain misleading representations in the sale of dresses.

In its advertising matter, the respondent company will cease employing the word "crepe" alone as descriptive of those of its dresses which are not made of silk, and will discontinue use of the word "crepe" either independently or in connection with other words so as to imply that the dresses referred to are made of silk, when such is not a fact.

**No. 2077. Conover Knitting Co., Conover, N. C.,** in its stipulation, agrees to cease the use in advertising of the word "silk" as descriptive of hosiery not composed of silk, and to discontinue employing this word in any way so as to imply that its hosiery is composed of silk, when such is not a fact. The stipulation provides that if the article is made of silk and of one or more other materials, each in substantial quantity, and the name of each of the materials is used to describe it, then the names of the materials shall be arranged so that the prevailing material shall be named first, followed by names of the others in the order of their predominance. All the names shall be printed in equally conspicuous type, according to the stipulation.

**No. 2078. Frank W. Winne & Son, Inc., 44 North Front St., Philadelphia,** agrees not to use the name "Golden Hemp" as a trade name, brand or designation for its dyed rope product, when such product is not in fact made from Manila fibers but from the fibers of the sisal plant. The stipulation points out that the respondent company purchased white rope which it dyed light tan or golden in imitation of the color and appearance of certain rope made from Manila fibers, and advertised it as "AAA Golden Hemp."

The respondent company also agrees to stop using the word "Manufacturers" in its advertising in any manner implying that it makes the product it sells or owns and operates the factory in which it is made, when such is not a fact.

**No. 2079. Under a stipulation entered into, Harold E. Coburn, 178 Temple St., Whitman, Mass.,** manufacturer of concrete burial vaults, agrees to cease certain misleading assertions in his advertising.

The respondent stipulates that he will stop advertising to the effect that his vaults will afford, under all conditions of burial, constant, everlasting or enduring protection to the casket and body encased therein, or that the vaults will withstand the ravages of underground elements for all time, when such are not the facts.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no meeting of the Broadcast Division of the Commission this week at the usual time.

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, November 1:

Monday, November 1

#### HEARING BEFORE AN EXAMINER (Broadcast)

KGMB—J. L. P. Robinson, Transferor, Pacific Theatres & Supply Co., Ltd., and Fred J. Hart, Transferees, Honolulu, T. H.—Transfer of control of corporation; 1320 kc., 1 KW, unlimited.

K6XCJ—Honolulu Broadcasting Co., Ltd., Honolulu, T. H.—License to cover C. P., 31100, 34600, 37600, 40600 kc., 20 watts. To operate according to Rules 983, 1002 and 1004.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, T. H.—Renewal of license, 1320 kc., 1 KW, unlimited.

KHBC—Honolulu Broadcasting Co., Ltd., Hilo, T. H.—Renewal of license, 1400 kc., 250 watts, unlimited.

#### FURTHER HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Carl Latenser, Atchison, Kans.—C. P., 1420 kc., 100 watts, daytime.

NEW—C. Bruce McConnell, Indianapolis, Ind.—C. P., 1500 kc., 100 watts night, 250 watts LS, daily, except Sunday, 10 a. m. to 12 noon, 6 p. m. to 10 p. m. (requests hours used now by WKBV).

WKBV—Knox Radio Corp., Richmond, Ind.—Renewal of license, 1500 kc., 100 watts, specified hours.

Tuesday, November 2

#### HEARING BEFORE AN EXAMINER (Broadcast)

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Modification of C. P., 1310 kc., 100 watts, 250 watts LS, unlimited.

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Modification of C. P., 1500 kc., 100 watts, 100 watts, unlimited.

Wednesday, November 3

#### HEARING BEFORE AN EXAMINER (Broadcast)

WCBA—B. Bryan Musselman, Allentown, Pa.—Voluntary assignment of license to WSAN, Inc.; 1440 kc., 500 watts, share with WSAN.

WSAN—WSAN, Inc., Allentown, Pa.—Voluntary assignment of license to WSAN, Inc.; 1440 kc., 500 watts, shares with WCBA.

WCBA—B. Bryan Musselman, Allentown, Pa.—Renewal of license, 1440 kc., 500 watts, shares with WSAN.

WSAN—WSAN, Inc., Allentown, Pa.—Renewal of license, 1440 kc., 500 watts, shares with WCBA.

Thursday, November 4

### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Tri-City Broadcasting Co., Inc., Schenectady, N. Y.—C. P., 950 kc., 1 KW, unlimited.

### ORAL ARGUMENT BEFORE BROADCAST DIVISION

#### Examiner's Report No. 1-434:

WMBH—Joplin Broadcasting Co., Joplin, Mo.—C. P., 1380 kc., 500 watts, unlimited time. Present assignment: 1420 kc., 100 watts night, 250 watts LS, unlimited.

#### Examiner's Report No. 1-437:

NEW—Valley Broadcasting Co., Youngstown, Ohio.—C. P., 1350 kc., 1 KW, unlimited time.

#### Examiner's Report No. 1-407:

NEW—Juan Piza, San Juan, P. R.—C. P., 1500 kc., 100 watts night, 250 watts LS, unlimited.

#### Examiner's Report No. 1-435:

NEW—West Texas Broadcasting Co., Wichita Falls, Tex.—C. P., 1380 kc., 1 KW, unlimited time.

NEW—Wichita Broadcasting Co., Wichita Falls, Tex.—C. P.; 620 kc., 250 watts, 1 KW LS, unlimited time.

NEW—Faith Broadcasting Co., Inc., Wichita Falls, Tex.—C. P.; 1380 kc., 1 KW, 5 KW LS, unlimited time.

KFPL—C. C. Baxter, Dublin, Tex.—Voluntary assignment of license; 1310 kc., 100 watts, 100 watts LS (C. P., 100 watts, 250 watts LS, unlimited time).

KFPL—WFTX, Inc., Wichita Falls, Tex.—C. P.; 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited time.

#### Examiner's Report No. 1-439:

NEW—Chase S. Osborn, Jr., Fresno, Cal.—C. P.; 1440 kc., 500 watts, unlimited time.

#### Examiner's Report No. 1-432:

NEW—The Bend Bulletin, Bend, Ore.—C. P.; 1310 kc., 100 watts, 250 watts LS, unlimited time.

#### Examiner's Report No. 1-441:

NEW—The Waterloo Times-Tribune, Pub. Co., Waterloo, Ia.—C. P.; 1370 kc., 100 watts, daytime.

#### Examiner's Report No. 1-421:

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Authority to transfer control of Corporation. 1220 kc., 1 KW night, 5 KW LS shares with KFKU.

Friday, November 5

### HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—Kentucky Broadcasting Corp., Louisville, Ky.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Louis P. Thornton, Baker, Ore.—C. P., 1500 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Broward Broadcasting Co., Ft. Lauderdale, Fla.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.

Saturday, November 6

### FURTHER HEARING BEFORE AN EXAMINER

(Broadcast)

NEW—William C. Smith, Bogalusa, La.—C. P., 1310 kc., 100 watts, 100 watts LS, unlimited time.

## APPLICATIONS RECEIVED

### First Zone

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—640 Modification of construction permit (1-P-B-3180) as modified for a new station, requesting extension of commencement and completion dates from 5-22-37 and 11-22-37, respectively, to 11-22-37 and 5-22-38.

WNYC—City of New York, Department of Plant & Structures, 810 New York, N. Y.—License to cover construction permit (B1-P-678) as modified for new equipment, directional antenna, and move of transmitter.

WRDO—WRDO, Inc., Augusta, Maine.—Transfer of control of 1370 corporation from Henry P. Rines to Conrad E. Kennison, 100 shares common stock.

NEW—City of New York, Department of Plant & Structures, Mobile (area of N. Y.).—Construction permit to erect a high frequency relay broadcast station on 300000, 450000, 600000, 750000 kc., power 8.5 watts.

### Second Zone

WCHV—Community Broadcasting Corporation, Charlottesville, 1420 Va.—License to cover construction permit (B2-P-1626) for equipment changes, installation of vertical antenna, and move of transmitter.

NEW—Philco Radio & Television Corporation, Philadelphia, Pa.—Construction permit for a new television broadcast station to be operated on frequency band 204000-210000 kc., 15 watts. Amended to delete A1, A2, A3 emissions.

W8XNL—Charleston Broadcasting Co., Mobile (vicinity of Charleston, W. Va.).—License to cover construction permit (B2-PRE-92) as modified for high frequency relay station.

W8XNK—Charleston Broadcasting Co. (Portable), vicinity of Charleston, W. Va.—Modification of construction permit (B2-PRE-91) to make changes in equipment, decrease power from 5 to 2 watts, extend commencement date from 4-23-37 to 1 day after grant and completion date from 10-23-37 to 2 days after grant.

W8XNK—Charleston Broadcasting Company (Portable), vicinity of Charleston, W. Va.—License to cover construction permit (B2-PRE-91) as modified for high frequency relay station.

W9XXL—Ashland Broadcasting Co., Ashland, Ky.—License to cover construction permit (B2-PRE-135) for high frequency relay station.

W8XNL—Charleston Broadcasting Co., Mobile (vicinity of Charleston, W. Va.).—Modification of construction permit (B2-PRE-92) for high frequency relay broadcast station, to make changes in equipment, decrease power from 5 to 2 watts, and extend commencement date from 4-23-37 to 1 day after grant and completion date from 10-23-37 to 2 days after grant.

### Third Zone

WTAW—Agricultural & Mechanical College of Texas, College Station, Texas.—Construction permit to make changes in antenna, change hours of operation from specified hours to daytime and move transmitter locally. Requests facilities of Station KTBC.

WJBW—Charles C. Carlson, New Orleans, La.—Modification of 1200 license to change hours of operation from S-WBNO to unlimited time. (Contingent on WBNO being granted a new frequency.)

WGRM—P. K. Ewing, Grenada, Miss.—Modification of construction permit (B3-P-829) as modified, for new equipment and move of transmitter, requesting extension of completion date from 10-28-37 to 11-15-37.

NEW—L. B. McCormick, Greenville, N. C.—Construction permit 1370 for a new station to be operated on 1370 kc., 250 watts, daytime.

NEW—Spartanburg Herald-Journal Company, Spartanburg, S. C. 1420 —Construction permit for a new broadcast station to be operated on 1420 kc., 100 watts night and 250 watts day, unlimited time. Amended: To change proposed transmitter site from 4 miles West from center of city of Spartanburg, South Carolina, to 2.3 miles West, northwest from center of city of Spartanburg, South Carolina, and make changes in vertical antenna.

NEW—Greater Greenwood Broadcasting Station (E. DeVore 1420 Andrews, Mrs. Annie L. Andrews), a partnership, Greenwood, S. C.—Construction permit for a new station to be operated on 1420 kc., 100 watts night, 250 watts day, unlimited time.

#### Fourth Zone

- WOW—Woodmen of the World Life Insurance Assn., Omaha, 590 Nebr.—Modification of license to change name from Woodmen of the World Life Insurance Assn. to Woodmen of the World Life Insurance Society.
- KOAM—A. Stanart Graham, E. V. Baxter & Norman Baxter, d/b as Pittsburg Broadcasting Co., Pittsburg, Kans.—License to cover construction permit (B4-P-459) as modified for a new station.
- KWNO—M. H. White, H. R. Wiecking, Harry Dahl and Otto M. 1200 Schlabach, d/b as Winona Radio Service, Winona, Minn.—Voluntary assignment of construction permit (B5-P-983) as modified, from M. H. White, H. R. Wiecking, Harry Dahl, and Otto M. Schlabach, d/b as Winona Radio Service to Winona Radio Service, Incorporated.
- KFAM—The Times Publishing Co., St. Cloud, Minn.—Modification of construction permit (B4-P-884) for a new station requesting changes in authorized equipment, approval of vertical antenna, approval of transmitter site at 9th Ave. & St. Germain St., St. Cloud, Minn., and studio at Breen Hotel, 9th Ave. & St. Germain St., St. Cloud, Minn. Amended: To make further changes in equipment, and change proposed transmitter site from 9th & St. Germain St., St. Cloud, Minn., to near St. Cloud, Minnesota.
- KTRI—Sioux City Broadcasting Co., Sioux City, Iowa.—Modification of construction permit (B4-P-1249) for a new station, requesting changes in equipment and approval of studio and transmitter sites at 6th & Nebraska Streets, Commerce Building, Sioux City, Iowa.
- WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind. 1480 —License to cover construction permit (B4-P-415) as modified for a new station.

#### Fifth Zone

- KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Special experimental authorization to operate a facsimile station from 580 12 midnight to 6 a. m., PST, using 1 KW power.
- KXL—KXL Broadcasters, Portland, Ore.—Construction permit to 1110 install a new transmitter and directional antenna for day and night use; change frequency from 1420 kc. to 1110 kc., power from 100 watts, 250 watts day, to 5 KW day and

night, hours of operation from S-KBPS to unlimited time; and move transmitter from 4th and Pine Sts., Portland, Ore., to northeast of Vancouver, Wash.

- KGCI—Clarence A. Berger and Saul S. Freeman, Couer D'Alene, 1200 Idaho.—Modification of construction permit (B5-P-1388) for approval of studio site at 2nd and Sherman, Couer D'Alene, Idaho, and transmitter at 3rd and Bancroft, Couer D'Alene, Idaho, and approval of vertical antenna and new transmitter.
- KTMS—News Press Publishing Co., Santa Barbara, Calif.—License 1220 to cover construction permit (B5-P-982) as modified for new station.
- NEW—Roberts-MacNab Company (Arthur L. Roberts, R. B. 1310 MacNab, A. J. Breitbach, General Manager), Livingston, Mont.—Construction permit for a new broadcast station to be operated on 1210 kc., 250 watts day, 100 watts nighttime, unlimited hours of operation. Amended: Change frequency from 1210 kc. to 1310 kc.
- KSRO—The Press Democrat Publishing Company, Santa Rosa, 1310 Calif.—Modification of license to change hours of operation from daytime to unlimited time, using 100 watts night and 250 watts day power.
- NEW—Chester Howarth and Clarence Berger, Wallace, Idaho.— 1420 Construction permit for a new broadcast station on 1420 kc., 100 watts night, 250 watts day, unlimited hours of operation.
- KIEM—Redwood Broadcasting Company, Inc., Eureka, Calif.— 1450 License to cover construction permit (B5-P-1505) for new equipment and increase in power.
- KFBK—McClatchy Broadcasting Co., Sacramento, Calif.—Special 1490 experimental authorization to operate a facsimile station from 12 midnight to 6 a. m., PST, using 5 KW power.

#### Puerto Rican Zone

- WPRA—Puerto Rico Advertising Co., Mayaguez, Puerto Rico.— 630 Construction permit to change frequency from 1370 to 630 kc., make changes in antenna, change power from 100 watts, 250 watts day to 250 watts day and night and change hours of operation from specified hours to unlimited time. Amended: Change requested frequency from 630 to 780 kc., requested power from 250 watts to 1 KW, 2½ KW day, and make changes in transmitting equipment.

**FTC ON RADIO ADVERTISING**

The Federal Trade Commission in its annual report released today made some interesting remarks on the subject of radio advertising. In this regard the Commission says:

The Commission began the review of advertising copy broadcast over the radio at the beginning of the fiscal year 1934-35. At the outset, the Commission, through the 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 that a satisfactory continuous scrutiny of current broadcasts could be maintained with a limited force and at relatively small expense, by adopting a plan of grouping the stations for certain specific periods.

Consequently, beginning with September, 1934, calls have been issued to individual radio stations at the rate of four times yearly for each station, according to their licensed power and 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.

Producers of electrical-transcription recordings submit regularly monthly returns of typed copies of the commercial portions of all recordings manufactured by them for radio broadcast. As the actual broadcast of a commercial recording is not always known to the manufacturer of an article 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 names of the advertisers, and the articles sponsored.

The combined material received furnishes representative and specific data on the character of current radio advertising which has proven of great value in the efforts to prevent false and misleading representations.

During the fiscal year ended June 30, 1937, the Commission received copies of 439,393 commercial broadcasts by individual radio stations and 30,983 commercial broad-

casts by networks, or chain originating key stations. The broadcasts from the independent stations averaged 1½ pages each and from the networks 10 pages each.

The special board and its staff read and marked about 959,264 pages of typewritten copies during the year, or an average of 3,145 pages every working day. From this material 24,558 commercial broadcasts were marked for further study as containing representations that may have been false or misleading. These were assembled in 1,275 prospective cases for further review and procedure in instances that appeared to require it.

From data now accumulated as a result of the first three year's systematic review of radio advertising, the Commission is in a position to ascertain the sources of the more objectionable examples of broadcast advertising, and to take action where necessary.

The Commission is receiving the helpful cooperation of the 620 active commercial radio stations and of newspaper and magazine publishers generally, and notes a desire on the part of broadcasters and publishers to aid in the elimination of false and misleading advertising.

In its examination of advertising, the Commission's only purpose is to prevent false and misleading representations. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say under the law. 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.

**OHIO BROADCASTERS HOLD ANNUAL MEETING**

The annual meeting of the Ohio Association of Broadcasters will be held November 12 and 13 at Columbus,

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Ohio. John F. Patt, WGAR, President of the Association, will preside.

### **BROADCAST ENGINEERS CONFERENCE**

A Broadcast Engineers Conference will be held at Ohio State University February 7-19, 1938, to be in charge of W. L. Everitt, professor of electrical engineering.

Prominent speakers will cover such subjects as "Broadcast Antenna Design," "High Power Amplifiers," "Modulation and Distortion Measurements," "Studio Acoustics" and many other subjects dealing with broadcast station design and maintenance. In addition, preparatory lectures and demonstrations will be given by members of the university staff before the outside lecturers appear on the program.

The NAB Engineering Committee recommends the attendance of all engineers at this meeting, which is the only conference in the United States dealing exclusively with broadcast transmission.

### **PACIFIC NORTHWEST BROADCASTERS MEET**

A regional meeting of the NAB will be held November 13 at Spokane, Washington. Ed Craney, KGIR, District Chairman for the states of Washington, Oregon, Montana and Idaho, will be in charge.

Included in the program is a talk on the copyright situation by Alfred J. Schweppe, NAB counsel in the Montana and Washington copyright law cases.

### **RECOMMENDS NEW GEORGIA STATION**

Arthur Lucas applied to the Federal Communications Commission for a construction permit for the erection of a new station at Savannah, Ga., to use 1310 kilocycles, 100 watts and unlimited time.

Examiner Melvin H. Dalberg in Report No. I-518 recommended that the application be granted. He found that there is need for an additional station at Savannah "to be utilized for local purposes." The Examiner states that granting of the application would be in the public interest.

### **INCREASED POWER RECOMMENDED FOR KPOF**

Broadcasting station KPOF, Denver, Colo., operating on 880 kilocycles and sharing time with KFKA applied to the Federal Communications Commission to increase its power from 500 to 1,000 watts.

Examiner Tyler Berry in Report No. I-519 recommended that the application be granted. He found that "there is a need for the additional service in the area in question." The proposed increased power, says the Examiner would cause some interference to other stations,

but it would serve to equalize the interference between stations. The Examiner states that granting the application would be in the public interest.

### **NEW STATION RECOMMENDED**

A partnership operating under the name of Radio Station WFNC and the Capitol Broadcasting Company, Inc., both applied to the Federal Communications Commission for a construction permit for a new station at Fayetteville and Raleigh, N. C., respectively, to use 1210 kilocycles. WFNC applied for 250 watts and daytime operation and the other company applied for 100 watts and 250 watts LS with unlimited time.

Examiner P. W. Seward in Report No. I-522 recommended that the application of the company known as Radio Station WFNC be denied while the application of the Capitol Broadcasting Company be granted. The Examiner states that there is need for additional radio service in the area proposed to be served. In the case of the first named company the Examiner states that neither of the partners have resided in the area proposed to be served "and has but slight acquaintance with the area." The granting of the application of the Capitol Broadcasting Company, says the Examiner, would be in the public interest.

### **FCC AUTHORIZES TWO NEW STATIONS**

The Federal Communications Commission by action this week authorized two new broadcasting stations. Don M. Lidenton and A. L. McCarthy were granted a construction permit for a new broadcast station to be located at Poplar Bluffs, Mo., to operate on 1310 kilocycles, 100 watts daytime operation, effective December 7.

Also John W. Hights was granted a construction permit for a new station at Greenfield, Mass. to use 1210 kilocycles, 250 watts and daytime operation effective December 14.

### **MISSISSIPPI STATION RECOMMENDED**

The Standard Life Insurance Company of the South applied to the Federal Communications Commission for a construction permit for the erection of a new station at Jackson, Miss., to use 1420 kilocycles, 100 watts and 250 watts LS and unlimited time.

Examiner P. W. Seward in Report No. I-517 recommended that the application be granted. The Examiner states that "the operation of the proposed station will not be expected to cause interference to the fair and efficient operation of any existing licensed radio broadcast station, nor with the operation of any broadcast station for which an application is now pending." He states that the application will be in the public interest.

## MAKES CONDITIONAL RECOMMENDATION

The Centennial Broadcasting Corporation applied to the Federal Communications Commission for a construction permit for the erection of a new station at Dallas, Texas, to use 1500 kilocycles, 100 watts and daytime operation.

Examiner Robert L. Irwin in Report No. I-520 recommended that the application be granted under certain conditions, because of other applications pending. The Examiner in his recommendations says:

It is recommended that the application of the Centennial Broadcasting Corporation be denied, if the Commission grants the applications of the Dallas Broadcasting Company, A. L. Chilton, or Richard S. Gozzaldi; and granted, if the Commission denies the applications of the Dallas Broadcasting Company, A. L. Chilton and Richard S. Gozzaldi.

If the application of the Centennial Broadcasting Company is granted, it is recommended that it be made conditional upon the Commission's approval of the site upon which the transmitter will be located.

## NEW ALABAMA STATION RECOMMENDED

The Birmingham News Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Birmingham, Ala., to use 590 kilocycles, 1,000 watts and unlimited time on the air.

Examiner Melvin H. Dalberg in Report No. I-521 recommended that the application be granted, with the use of a directive antenna at night. The Examiner states in his conclusions that "in view of the chain affiliations of the three existing Birmingham stations there appears to be a distinct need for the local service contemplated in this application and such facilities as are requested would apparently render a service to the Birmingham area which does not now exist." The Examiner states that granting of the application would be in the public interest.

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3250.** A complaint has been issued against **Good Humor Corporation of America, Maspeth, Long Island, N. Y., Popsicle Corporation of the United States, New York,** and their exclusive licensing agent, **Joe Lowe Corporation, New York,** charging violation of Section 5 of the Federal Trade Commission Act, prohibiting unfair competition, and of Section 3 of the Clayton Act, prohibiting exclusive dealing arrangements.

The complaint charges that the respondent corporations have threatened and intimidated other manufacturers of frozen confec-

tion machinery and their customers by representing that the respondents own and control the process and product patents for frozen stick confections; that by continuing to make such confections the competing manufacturers are infringing upon such patents, and that unless they discontinue such alleged infringement they will be sued. These threats, allegedly made through hundreds of letters and verbally by salesmen, are in bad faith, according to the complaint, because the respondent corporations have no intention of instituting, nor have they instituted, such suits.

Both the Good Humor and Popsicle corporations are alleged to have advertised, through the agency of the Lowe corporation, that "the manufacture of frozen stick confections is licensed under adjudicated patents," and that the Lowe corporation is exclusive licensing agent for all frozen stick confections. Such statements, the complaint charges, are false and misleading. The Lowe corporation is not the exclusive licensing agent for the operating plan of all frozen stick confections, according to the complaint, and the respondents' advertising tends to mislead competing manufacturers and their customers into believing that the respondents have the right to license the manufacture and sale of all machinery for making frozen stick confections, and that all patents dealing with manufacture of such machinery and its products have been finally adjudicated, when such are not the facts. The result, according to the complaint, has been to influence prospective customers of competing manufacturers to discontinue purchasing from them.

**Nos. 3251-3252-3253-3255.** Three **Chicago** dealers and a **Detroit** vendor selling various articles of merchandise have been served with complaints alleging the use of lottery schemes or gift enterprises in the sale of their products.

Three of the complaints involve plans under which the respondent awards a prize to the person selecting a certain girl's name on a pushcard, such name corresponding to a name under a master seal on the card. These complaints were issued against **Fred W. Herrschner, Jr., 329 South Wood St., Chicago,** trading as **20th Century Sales Company,** distributor of clocks, automatic razors and other merchandise; **Martin M. Slaton, 710 Michigan Theater Building, Detroit,** trading as **Allied Gift Shop** in the sale of clocks, washing machines, electric toasters and other merchandise, and **J. A. Schwartz, 1407 Diversey Parkway, Chicago,** dealer in radio receiving sets and other merchandise, trading as **National Sales & Novelty Co.**

A fourth complaint alleges that **Pacific Amusement Manufacturing Company, 4223 Lake St., Chicago,** trading as **Pacific Manufacturing Corporation** and selling chewing gum and other merchandise to dealers and concessionaires, furnished plans by means of which certain of the ultimate purchasers received prizes through the drawing of certain coupons in the retail purchase of chewing gum.

**No. 3254.** **Royal Lotus Corporation, 13 Ackerman Ave., Ramsey, N. J.,** engaged in the interstate sale of a hair tonic and a line of cosmetics, is charged in a complaint with misrepresenting and exaggerating the results to be obtained from the use of its products.

The respondent company allegedly advertises that its hair tonic, designated **Royal Otus,** is not a dye, is absolutely harmless, and does not impart an artificial color to the hair; that it will restore faded, streaked or gray hair to its natural color; that it stops falling hair, preserves and grows hair, is a positive corrective for dandruff and itching scalp, and prevents all hair diseases.

**No. 3256.** Charging unfair representations in the sale of men's clothing, a complaint has been issued against **Harry Weinberg, 818 Broadway, New York,** trading as **Nu-Art Tailoring Company.**

Weinberg, who employs approximately 20 salesmen at various points in the United States to solicit and accept orders for his clothing, is alleged to have made representations having a tendency to deceive purchasers into believing that the garments so sold are made-to-measure or tailor-made. According to the complaint, such garments, in many instances, are not made-to-measure or tailor-made, but are "ready made" suits previously manufactured without regard to individual measurements of the purchaser to whom the garment is to be eventually sold. In some instances, it is charged, garments are made to individual measurements, but because of lack of experience and skill on the part of salesmen who take the measurements, and on the part of the workmen who make the suits, they do not always fit.

**No. 3257.** Alleging misrepresentation in the sale of perfumery and toilet articles, a complaint has been issued against **Dermay Perfumers, Inc., 347 Fifth Ave., New York.**

Among the misrepresentations alleged are that the respondent company's printed matter indicates that it manufactures its prod-

ucts, when in fact it owns or controls no mill or factory for this purpose; that its printed matter and labels indicate that it has a place of business in Paris, France, and imports certain products from France to the United States, when such is not a fact, and that it places price marks on certain products indicating a value greatly in excess of the actual retail selling price and in excess of the actual value.

**No. 3258.** Trading as **Diesel Engineers, Associated, Roy E. and Florence A. Reed**, 805½ South Flower St., Los Angeles, are charged in a complaint with using certain unfair methods of competition in connection with the sale of correspondence courses of instruction in the construction, operation, maintenance and repair of Diesel engines and air-conditioning equipment.

Advertisements inserted by the respondents in the "Help Wanted" columns of newspapers allegedly lead prospective students to believe that, while working for pay in a factory where Diesel engines and air-conditioning equipment are constructed and repaired, they will be afforded an opportunity to learn such trades. The complaint charges that such advertisements are merely "blinds" to contact prospective purchasers of the courses, inasmuch as the respondents do not own or operate a shop or factory where Diesel engines and air-conditioning equipment are manufactured and repaired, nor do they provide employment in such a place for persons who respond to the advertisements.

In corresponding with prospects, the respondents are said to use letterheads on which appear the names of five men, one designated as chief of staff, another as chief consulting engineer, and the others as consulting engineers, while in the agreement signed by the student he is described as a "member", the agreement of enrollment is referred to as a "membership", and the diploma to be awarded upon completion of a course is called an "associate engineering membership."

**No. 3259.** A complaint has been issued against **The Sperry Corporation**, 30 Rockefeller Plaza, New York City, a holding corporation, charging that it has violated Section 7 of the Clayton Act by acquiring the capital stock of two competing corporations.

According to the complaint, The Sperry Corporation, a holding company owning several subsidiary companies which manufacture nautical and aviation instruments and mechanisms, in April, 1937, while owning the capital stock of The Waterbury Tool Company, Waterbury, Conn., acquired all of the issued and outstanding common capital stock of Vickers, Inc., Detroit, alleged to be a direct competitor of The Waterbury Tool Company.

The Waterbury Tool Company and Vickers, Inc., are said to constitute the sole source of supply of hydraulic transmissions, pumps and allied products for use by the United States Navy, and the total volume of business of the two companies allegedly represents a substantial part of the total business done in the United States in these products.

Pursuant to a so-called plan of re-organization dated April 14, 1937, Vickers, Inc., according to the complaint, issued 1,600 additional shares of its authorized common stock, so that there were then issued and outstanding 9,600 shares of common stock and 5,000 shares of preferred stock. Pursuant to this plan and to an agreement also dated April 14, 1937, between The Sperry Corporation and the Vickers stockholders, it is alleged that The Sperry Corporation acquired and now owns all issued and outstanding common capital stock of Vickers, Inc., and 4,882 shares of its outstanding preferred stock. As a result of this acquisition, The Sperry Corporation now allegedly controls the operations of Vickers, Inc., as one of its subsidiaries.

The complaint charges that the effect of the acquisitions by The Sperry Corporation of the capital stocks of the Waterbury and Vickers companies may be to substantially lessen competition between the two subsidiary companies or to tend to create a monopoly in The Sperry Corporation in the hydraulic pump, transmission and allied products business.

**No. 3260.** **Donald Reichgott**, 1841 Broadway, New York, trading as **American Novelty Company**, is charged in a complaint with using lottery methods in connection with the sale of various articles of merchandise, including electric razors and pen and pencil sets.

The respondent allegedly furnishes customers with push cards, the use of which involves the distribution of his merchandise to the purchasing public wholly by lot or chance.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 1810.** **D. Goldenberg, Inc.**, Ontario and I Sts., Philadelphia, trading as **P. C. Sales Company**, candy manufacturer, has been served with an order to cease and desist from certain sales methods involving a lottery or gift enterprise.

The respondent company is directed to stop selling and distributing to dealers candy so packed and assembled that sales to the public may be made by means of a lottery, and supplying dealers with assortments of candy which may be used without alteration of the contents to conduct a lottery in its sale to the public.

**Nos. 2614-2773-2827.** Three companies manufacturing wall board and wall covering products have been served with orders requiring them to cease and desist from certain misleading representations in the sale of their products. These respondents are **The Masonite Corporation, Chicago** and **Laurel, Miss., Standard Wall Covering Co., Inc.**, 1819 North 9th St., Philadelphia, and **The Marsh Lumber Company**, 535-611 Tuscarawas Ave., Dover, Ohio, trading as **Marsh Wall Tile Company**.

The orders direct the respondents to cease using their respective trade names containing the word "tile", or the word "tile" itself, to represent that their products are that material, unless in immediate conjunction with such words and in the same conspicuous type there appear other words designating the material of which the products are made, such as wood tile, glass tile, rubber tile, asbestos tile, copper tile, cork tile or metal tile.

The Masonite Corporation's "Temprtle", according to findings, is compounded from wood chips and wood fibers and other substances and siccative materials, and are baked in an oven at a high temperature, pressed and tempered, so that the final product is a hard, durable sheeting or covering.

Standard Wall Covering Company's "Stancotile", "Mono-Tile" and "Wall Tile" are made in the same way, according to findings, as are the Marsh Lumber Company's "Marshtile" and "Marsh Wall Tile."

**No. 2819.** An order has been issued to cease and desist against **Hoffman Beverage Co.**, 402 Grove St., Newark, N. J., prohibiting violation of Section 5 of the Federal Trade Commission Act through use of certain representations tending to misleadingly disparage competing beer products.

Under the order, the respondent company is directed not to represent that "heat treating beer during bottling operations spoils the fresh taste" in conjunction with the allegation that such heat treating "is necessary in all other American breweries except Hoffman." The order provides that nothing therein contained shall restrict the respondent company from making any legitimate claims regarding the desirability or distinctive taste of its beer so long as such claims are not coupled with false or misleading disparaging references to competing products.

**No. 2900.** **National Laboratory**, 767 Milwaukee Ave., Chicago, distributor of "Nuga-Tone", a tablet alleged to be a remedy for various diseases, has been ordered to cease and desist from certain false representations concerning its product.

Among the representations to be discontinued are that Nuga-Tone is a combination of bitter stomachic tonics or a valuable and effective alterative tonic which may be taken over long periods by anyone without harmful results; that it is an effective remedy or cure for indigestion, stomach or intestinal ailments, poor heart action, loss of power and energy, and that it will protect the body against the more serious diseases, stimulate and invigorate the entire system, and act directly on the vital organs.

**No. 2934.** **Lewyn Drug, Inc.**, 655 North Arden Blvd., Los Angeles, has been ordered to cease and desist from misrepresenting the therapeutic value of Dr. Haller's Prescription 5000, advertised as a remedy for women's ailments. The company has a branch office at Steubenville, Ohio.

Among the representations ordered discontinued are that the preparation is a safe, dependable remedy for certain ailments peculiar to women; that users will obtain relief quickly, safely and dependably; that it is the best product made for the purposes for which the respondent company recommends it, and that it has been dispensed to American women through ethical channels for almost a half century.

**No. 2940.** **E. O. Jackson Distilling Company**, 8440 South Chicago Ave., Chicago, has been ordered to cease and desist from representing, through use of the word "distilling" in its corporate name, on labels or in advertising matter, that it distills certain whiskies, gins or other spirituous beverages which it sells, when such is not a fact, or that it owns or operates a plant where such products are distilled, unless and until it actually does own or operate such a plant.

The respondent company, however, is not prevented from representing, through use of the word "distilling", that it is the distiller

of liquors which it did in fact produce by the process of distillation.

Findings are that the respondent company, prior to January 1, 1936, as lessee of The Frankfort Distilleries, Incorporated, at Louisville, Ky., operated a distillery and produced approximately 5,000 barrels of whiskey, of which 2,500 barrels remained at the time of the hearing in the case. On January 17, 1936, the company suspended operations as a distiller, and since that date, according to the findings, has been engaged solely as a rectifier in the bottling and sale of spirits which it did produce and of spirits purchased from other sources.

**No. 3057.** An order to cease and desist from certain unfair methods of competition in the interstate sale of mushroom spawn has been entered against **American Mushroom Industries, Ltd.**, having its principal place of business at 28-30 Bloor St., West, **Toronto, Canada**, and a branch office at 73 West Eagle St., **Buffalo**.

The respondent corporation is directed to stop representing that the spawn sold by it is a new and superior variety which will produce more white mushrooms per square foot than is actually the case, or that mushrooms grown from it are superior to or command higher prices than white mushrooms produced from other spawn.

**No. 3075.** Misleading representations in the sale of certain medicinal products are prohibited under an order to cease and desist issued against nine individuals trading as **Herbal Medicine Company** and **Natex Company**, 219 West Saratoga St., **Baltimore**.

The order directs that the respondents, in the sale of Herb Doctor, or Herb Doctor Compound, and Natex, discontinue representing such preparations as competent or effective cures, remedies or treatments for stomach troubles, rheumatism, neuritis, liver and kidney ailments, nervousness, and other related maladies and conditions. They are also to cease asserting that these preparations will cure constipation, or headaches due thereto, or that these medicines are new remedies.

**No. 3154.** Substantially all domestic manufacturers and a large group of distributors in the window glass industry have been ordered to cease and desist from the use of unfair methods of competition in violation of the Federal Trade Commission Act, and from price discriminations held to violate the Robinson-Patman amendment to the Clayton Act.

The order is directed against the Window Glass Manufacturers Association, 19 West 44th Street, New York, and the National Glass Distributors Association, 2217 Tribune Tower, Chicago, and the members, officers and directors of each.

Manufacturers named in the order, who constitute the membership of the Window Glass Manufacturers Association and own and control practically all of the factories making window glass in the United States, are Pittsburgh Plate Glass Company and American Window Glass Company, Pittsburgh; Libbey-Owens-Ford Glass Company, Toledo, Ohio; Harding Glass Company, Fort Smith, Ark.; Adamston Flat Glass Company and Rolland Glass Company, Clarksburg, W. Va.; Scohy Sheet Glass Company, Sistersville, W. Va., and Blackford Window Glass Company, Vincennes, Ind.

The Fourco Glass Company, Clarksburg, W. Va., also named in the order, is the owner of Harding Glass Company and the exclusive selling agent for the Harding, Adamston, Rolland, Scohy and Blackford companies.

Distributors against whom the order is entered and who are described as representative members of the National Glass Distributors Association, are Postlewait Glass Company, Kansas City, Mo.; Patek Bros., Inc., Milwaukee; Schrenk & Co., Hoboken, N. J.; Bennett Glass Company, Salt Lake City; Pritchard Paint & Glass Co., Charlotte, N. C.; Hires Turner Glass Company, Philadelphia; Toledo Plate & Window Glass Co., Toledo, Ohio; W. P. Fuller & Co., San Francisco, and Binswanger & Co., Richmond, Va.

Although the order does not name the entire membership of the distributors' association, it is directed against all of them, some 150 in number.

**No. 3176.** **Bloomington Brothers, Inc.**, Lexington Ave. and 59th St., **New York**, has been served with an order to cease and desist directing discontinuance of misrepresentations in the sale of certain dresses it manufactures and sells.

Under the order, **Bloomington Brothers, Inc.**, is required to cease using the word "crepe" to describe any product not composed wholly of silk, unless in immediate connection therewith, in letters of equal size and conspicuousness, there appear other words accurately describing the materials of which such product is made.

**No. 3187.** An order has been issued requiring **Elite Glove Company, Inc.**, **Gloversville, N. Y.**, to cease and desist from certain

misleading representations in the sale of its products in violation of Section 5 of the Federal Trade Commission Act.

This company is directed to stop representing, directly or indirectly, through use of the word "British" or other words of similar meaning, or through any other means or device, that its gloves, or the leather from which they are made, were imported from or made from hides processed into finished leather in England or any other part of the British Empire.

**No. 3209.** **The Wm. M. Hardie Company**, 1584 East 19th St., **Cleveland**, candy manufacturer, has been served with an order to cease and desist from certain sales methods involving a lottery or gift enterprise.

The respondent company is directed to stop selling and distributing to dealers candy so packed and assembled that sales to the public may be made by means of a lottery, and from supplying dealers with assortments of candy which may be used without alteration of the contents to conduct a lottery in its sale to the public.

**No. 3204.** **Acme Products Company**, 152 Brewery St., **New Haven, Conn.**, has been ordered to cease and desist from misleading representations concerning certain life preservers it sells in interstate commerce.

The Company is required to discontinue representing in advertisements, price lists, or in any other manner that its life preservers may be lawfully used as such on pleasure boats, or that they comply with the rules and regulations of the United States Steamboat Inspection Service.

**No. 3241.** An order has been entered directing **Al Hartman, Inc.**, 1400 Broadway, **New York**, to discontinue misrepresenting the fiber content of certain dresses it manufactures and sells.

The order requires **Al Hartman, Inc.**, to cease using the word "silk", or any other word of similar meaning, as descriptive of garments not composed wholly of silk, but which contain other materials.

Use of the word "crepe" to describe any product not composed wholly of silk also is ordered stopped, unless in immediate connection therewith, in letters of equal size and conspicuousness, there appear other words accurately describing the materials of which such product is made.

## Stipulations

The Commission has entered into the following stipulations:

**No. 01897.** **Camel, Lead, Color and Chemical Products Mfg. Corporation**, 33 Keap St., **Brooklyn**, selling Germ-Proof Film Paint, stipulates that it will stop advertising its product as being capable of constantly killing all germs, unless this assertion is qualified by the statement that it kills certain specified germs coming in contact with germ-proof paint. The respondent company agrees to cease asserting that its product will kill all germs throughout the life of the paint, and that the preparation stands today as the greatest single sanitary prophylactic measure of this epoch. Other representations to be discontinued are that the respondent's claims have been accepted by eminent scientists, and that the use of the respondent's product will give public health insurance. In its stipulation, the respondent company admits that, according to reliable scientific authority, its product is germicidal under some conditions, but not so under all conditions nor against all germs.

**No. 01900.** **Della J. Ballard, trading as Ballard Golden Oil Company**, 100 Harlow St., **Bangor, Me.**, will stop advertising that Ballard's Golden Pills are an effective remedy or competent treatment for kidney diseases; that Ballard's Golden Oil is a sure and the quickest relief for colds and coughs, or is effective in treating colds, spasmodic croup, throat irritations, and muscular aches and pains, and that Ballard's Golden Salve is a healing remedy or competent in the treatment of cuts, scalds, dandruff and scalp irritations.

**No. 01901.** **Marjorie Ross, trading as Clear-Skin Institute**, 375 Lincoln Place, **Brooklyn**, stipulated that she will stop advertising that her preparation known as Clear-Skin will clear the complexion of brown and liver spots, pimples and blackheads, and will heal or correct blemishes of the skin. She also will cease asserting that the results claimed for the product are guaranteed, and that any price at which the product generally is sold is a special or an introductory offer. The respondent also agreed to stop using the word "Institute" as part of her trade name.

**No. 01902.** **D. J. Lane**, 630 Lane Building, **St. Marys, Kans.**, will cease representing that his preparations designated Hay Fever

and Asthma Pills, Nasal Ointment, Asthma Treatment, and Special Elixir, alone or in combination, constitute a treatment for asthma or hay fever or are more than a palliative treatment for the symptoms of such ailments; that they contain health-giving ingredients which act on the constitution and are intended to aid nature in restoring the body to normal condition, and give freedom from smothering, wheezing, coughing, and other asthmatic symptoms.

**No. 01903. National Coin Corporation, 29 Locust St., Springfield, Mass.,** has entered into a stipulation to discontinue certain misleading representations in connection with the sale of its coin catalogue.

Under its stipulation, the respondent company agreed to stop representing that many coins and bills now in circulation are worth big cash premiums, and that its coin book lists all valuable coins or tells which are valuable. The respondent company admitted that the number of valuable coins now in circulation is small.

**No. 01904. P. B. Smith, trading as Nature's Mineral Food Company, 145 East Ohio St., Indianapolis,** in the sale of Nature's Minerals, will discontinue representing that the preparation is prepared in accordance with the requirements of the United States Pharmacopoeia or National Formulary, and is a competent treatment or an effective remedy for rheumatism, acidosis, diabetes, arthritis, tuberculosis, diseases of the stomach, kidneys and heart, and numerous other ailments. The respondent also will refrain from advertising that his product affords the same benefits as a visit to a health resort and is of more benefit than treatment by physicians.

**No. 01905. E. O. Koch, 2906 Main St., Kansas City, Mo., trading as The Easyhold Company and as Dr. Kaiser,** is engaged in the sale of the Easyhold Truss and Hernaline, an astringent mixture. He agreed to stop advertising that the truss does away with binding spring bands and harsh plug pads and will cause rupture to disappear as if by magic, and that Hernaline will aid nature in effecting a recovery from rupture and in strengthening and building up body tissue. The respondent also will stop representing that no charge is made for the truss or that persons receiving it on trial will not be out one penny if their condition is not improved in 30 days, unless all charges, including postage, are refunded to purchasers in the event the truss is returned to the respondent in accordance with the agreement.

**No. 01906. Pickgan Labrofacts, Inc., 250 East 43rd St., New York,** will cease representing that its product designated Allay will relieve the most stubborn, obstinate or persistent pains, will stop headache or throat ache, prevent or stop a cold, and is guaranteed to relieve pain.

**No. 01907. Misleading representations in the interstate sale of a repairing liquid will be discontinued, under a stipulation entered into by the Perfect Manufacturing Company, 3317 Madison Road, Cincinnati,** trading as Metalfix Company.

In the sale of its product, Metalfix, the respondent agrees to stop advertising that the preparation will weld; that it will effect permanent repairs under all conditions, and that it is not a cement, but a metallic liquid and a new chemical discovery.

**No. 01908. The Walker T. Dickerson Company, 326 South Front St., Columbus, Ohio,** selling Archlock Shoes, agrees to cease representing that use of such footwear will cure or relieve arthritis in the feet, banish corns, bunions or callouses, cure or relieve every type of foot trouble, and that such shoes are guaranteed to give comfort regardless of the foot ailment.

**No. 01909. Capillaris Manufacturing Company, 948 Bloomfield Ave., Glen Ridge, N. J.,** engaged in the sale of a preparation for the skin designated Capillaris-X, will discontinue representing that the product is a strong germicide and a competent treatment for eczema, rash, boils, scalp disorders, and many skin diseases, unless the claims concerning the therapeutic value of the preparation are limited to the palliative relief afforded.

**No. 01910. National Academy of Music** agrees to cease asserting that the study of its courses makes one an accomplished musician in a short time and gives one instruction by the best master artists and teachers in America. In its stipulation, the respondent admits that persons subscribing to its courses are not certain to become accomplished musicians in a short time and that, although the lessons are graded by competent teachers, the pupil does not study in the presence of his teacher or receive the personal instruction of master teachers, except by correspondence.

**No. 01911. Frank A. Wilken, trading as Normalizing Foods Company, 10428 Crocunlawn, Detroit,** is engaged in the sale of Normalax, offered as a laxative. He will cease advertising that the preparation contains those minerals, vitamins and food ingredients useful for toning up and invigorating the intestines, without the

use of laxatives thereafter; that it is a new vegetable corrective, more suitable for an individual than most of the food he eats, and is absolutely harmless regardless of how much or how long it is taken. The respondent will also agree to desist from employing the words "Normalizing" and "Foods" in his trade name.

**No. 01912. Frank Wyss** agrees to stop representing that the divining rods sold by him will work the same for everyone, that he furnishes information relative to scientific methods of locating buried treasure, and that any instrument sold or described by him will indicate the presence of any metal, unless such claim is clearly qualified by a statement as to the conditions necessary to achieve such results. In his stipulation, Wyss admits that, according to a consensus of reliable scientific opinion, the only products sold or described by him which would have any practical value in indicating the presence of metals are the Teletector, the Buried Treasure Finder, and the Radio Gold Locator. These three may be of value, according to the respondent's admission, but only when the metallic object is of sufficiently continuous size, parallel to and fairly close to the ground surface, and when the operator is a trained technician. Among other products sold by the respondent are Modern Divining Rods, Oil and Water Finders, and the Magic Indicator.

**No. 01913. Capt. W. A. Collings, Inc., Watertown, N. Y.,** selling Capt. Collings' System for Rupture Service, will discontinue representing that the Collings System can be relied upon to end, stop or rid one of rupture, so as to imply that the person never again will suffer any recurring rupture conditions. The respondent company also will stop advertising that the mere fitting of the Collings appliance will remedy immediately the ruptured conditions and that a truss built in accordance with measurements furnished by mail will in all cases fit as well as though made after a personal examination by an expert.

**No. 01914. Frank A. Randall, 521 Fifth Ave., New York,** trading as Sulpho-Sol Company, in the sale of Sulpho-Sol, advertised as a treatment for arthritis and rheumatism, agrees to stop asserting that lack of sulphur is a leading factor in causing arthritis, and that Sulpho-Sol is an effective or inexpensive remedy for treating that disease, unless the latter assertion is limited to arthritis which is due to sulphur deficiency. Randall also agrees to stop asserting that Sulpho-Sol is beneficial in the treatment of rheumatism or rheumatic conditions.

**No. 01915. H. T. Roberts, Frenchburg, Ky., trading as H. T. Roberts & Co.,** in the sale of books and printed matter, agrees to stop advertising that prospective agents are paid for distributing circulars or that remuneration is other than commissions on goods sold through the circulars they distribute. Roberts also stipulates that he will stop representing that the study of one of his books will enable one to make \$50 a week selling snapshots; that his book "How To Be a Successful Agent", will tell one how to earn \$100 a week, and that his volume "How To Get Yourself a Better Job", gives its readers a strange power or enables them to immediately obtain good jobs after months of failure.

**No. 01916. Warner's Safe Remedies Company, 82 St. Paul St., Rochester, N. Y.,** in the sale of Warner's Digestive Tablets and Warner's Compound, agrees to cease advertising that the compound is the best known product of its kind, and is made of natural herbs, and will clean out all body poisons and stimulate the liver. Warner's Digestive Tablets are not to be represented as being capable of relieving stomach troubles unless such ailments are specified in direct connection with the advertisement of the tablets and the representation so qualified as to indicate that the tablets will be a relief only when the conditions are due to gastric hyperacidity. The respondent agrees to stop using the word "digestive" as part of the trade name for the tablets, and will cease employing the word "laboratories" in its advertising unless it shall own, control or operate such places.

**No. 2080. Delight Sweets, Inc., 50 East 11th St., New York,** will discontinue using on containers of its novelty products any false, fictitious or misleading price in excess of the price at which such merchandise is sold or intended to be sold in the usual course of retail trade and will cease the use of any purported price marking, the effect of which is to convey to purchasers an erroneous belief with respect to the quality or value of the products. Branding of perfume products with the words "Paris" or "Shanghai" so as to imply that such products are made in Paris or Shanghai, or that the company has offices in those cities, when such are not the facts, will be discontinued. The company also will stop using the words "Manufacturers" or "Manufactured By" on packages of candy so as to imply that it manufactures the candy or owns or operates the factories in which the products are made, when this is not a fact.

**No. 2082.** Joseph A. Howard, trading as J. A. Howard Distributing Company, P. O. Box 205, Cincinnati, will stop using on cartons containing his soap products, on the individual bars of soap or in advertising matter, exaggerated or misleading representations concerning the value of or the price at which his products are sold in the usual course of trade.

**No. 2083.** Cecil J. Wilson, trading as Neu-Deel Distributors, P. O. Box 791, Columbus, Ohio, engaged in the sale of earthenware utensils, will cease representing through salesmen or agents, or in any other manner, that the use of aluminum cooking utensils will cause or further the growth of cancer, ulcers of the stomach or other bodily ills, or that food cooked in aluminum utensils is poisonous or deleterious to the health, when, in fact, there is no scientific basis for such representations.

**Nos. 2081-2084.** Feltex Products Corporation, 506 South Franklin St., Chicago, and Lewis Tanenbaum, 12 Bleecker St., New York, trading as Sha-Po Manufacturing Company, agreed to stop selling hats or caps made from or which contain second-hand, old or used felts, unless there is stamped upon or attached to such articles in a conspicuous place, a brand or label which cannot be readily removed, and which clearly indicates that the hats or caps are made from or contain second-hand or old materials and do not contain new, unused felts. Both respondents are said to have purchased second-hand felt hats which they subjected to cleaning processes, adding new trimmings, sweat-bands or visors. Such products were sold to retailers. However, according to the stipulation, they did not use designations to properly indicate that the hats or caps contained old material. Feltex Products Corporation manufactures baseball caps, and Tanenbaum makes caps and hats.

**No. 2085.** Charles and Sidney M. Herscovitz, 30 Kneeland St., Boston, trading as C. Herscovitz & Son, Inc., in the sale of women's sport wear, agree to stop using the phrase "Genuine 100 per cent camel's hair", or any other representation of similar import as descriptive of garments not composed of camel's hair. The respondent firm will also cease employing the words "camel's hair" or the word "camel" or a pictorial representation of a camel, either independently or in connection with other words on their labels or in advertising, so as to imply that the garments are made entirely of camel's hair, when such is not a fact. The stipulation provides that if a garment is composed in substantial part of camel's hair, and the words "camel's hair" are used to describe or feature such camel's hair content, they shall be immediately accompanied by other words in conspicuous type to clearly indicate that the sport wear is not made wholly of camel's hair, but contains other materials.

**No. 2086.** Hickory Hosiery Mills, Inc., Hickory, N. C., manufacturing hosiery for men and children, will discontinue use on its transfers or in its advertising matter or otherwise of the phrase "Pure Thread Silk Reinforced With Art Silk" as descriptive of hosiery not composed of silk. The respondent company will cease employing the word "silk" alone or in connection with the phrase "pure thread" or the word "art", or with other words in any way to imply that the products to which these descriptions refer are made of silk, when such is not a fact. The stipulation provides that if the hosiery is composed of silk and of one or more other materials, each being in substantial quantity, the name of each of such materials, if used in descriptions, shall be arranged so that the name of the predominating material shall be first. This shall be followed by the names of the other materials in the order of their predominance, and all such names shall be printed in equally conspicuous type, according to the stipulation.

**No. 2087.** United States Kalsomine Company, 50 Church St., New York, in the sale of Fenolite wall paint, agrees to stop advertising that its product is a germicide or has germicidal qualities, and to cease using the word "germicidal" alone or in connection with other words so as to imply that its product will kill germs, when such is not a fact.

**No. 2088.** Frank Tea & Spice Company, 538 East 5th Street, Cincinnati, trading as Cino Chemical Company, in the sale of an alleged maple food product, agrees to stop the use on labels or otherwise of the phrase "Pure Maple Concentrate" or the words "An 100% Maple Product", either independently or in connection each with the other as descriptive of the respondent's product. According to the stipulation, this product is not composed wholly of maple syrup or sugar. The respondent company stipulates that it will cease using the word "maple" either independently or in connection with other words so as to imply that the preparation is made wholly of maple syrup or sugar, when such is not a fact. Provision is made that if the product is composed in substantial part of maple syrup or sugar, the word "maple", if used to describe such content, shall be immediately accompanied by other

words in conspicuous type to clearly indicate that the preparation is not made entirely of maple, but contains other substances.

**No. 2089.** Sun Radio Service & Supply Corporation, 938 F St., N. W., Washington, D. C., in the sale of radios, stipulates that it will cease employing in its advertising matter or otherwise the phrase "5-Tube Performance" so as to imply that the combined effect of the tubes contained in such radios is such as to perform the work of 5 single-duty tubes, when such is not a fact. The stipulation provides that if a radio has and is described as having the performance of a designated number of tubes other than the number actually contained in the set, then the actual number of tubes shall be clearly set forth and immediately precede with equal conspicuousness the designated number of tubes whose performance is properly and truthfully labeled and represented, as for example, "4 tubes—5-tube performance".

**No. 2090.** The Lander Company, Inc., 200 Fifth Ave., New York, dealer in toilet articles, cosmetics and perfumes, including a bath oil preparation designated "Alpine", agrees to cease use on labels or in advertising matter of the word "Swiss" so as to imply that its bath oil product is a Swiss article or that the pine essence from which it is made or compounded is a product of Switzerland or of pine needles grown in and imported from Switzerland. The stipulation points out that this product was derived from pine needles imported from a country other than Switzerland.

**No. 2091.** Under a stipulation entered the Golden Belt Manufacturing Company, Inc., Durham, N. C., engaged in the manufacture and interstate sale of women's hosiery, will discontinue certain false and misleading representations in advertising its products.

The company agrees to cease using in advertising matter the words "Rain and Spot Proof", alone or with other words as descriptive of hosiery which is not proof against spots or splashes caused by rain; and to stop employing such words so as to imply that the hosiery has been chemically or otherwise treated so as to make it proof against or resistant to spots or splashes caused by rain, when such is not a fact.

#### FTC CASES DISMISSED

**No. 2380.** The Federal Trade Commission has dismissed its complaint against Dr. A. Posner Shoes, Inc., 140 West Broadway, New York.

The complaint charged the respondent corporation with certain unfair representations in connection with the sale of shoes.

**No. 2936.** The Commission has also closed its case against Shefford Cheese Company, Inc., Syracuse, N. Y., which was charged with price discrimination in connection with the sale of cheese, in violation of Section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act.

The case was closed without prejudice to the right of the Commission, should the facts so warrant, to reopen it and resume prosecution of the complaint in accordance with its regular procedure.

In closing the case, the Commission, in a memorandum opinion, says that during the period of a supplemental investigation, conducted after issuance of the complaint, it appeared that in the sale of packaged cheese by Shefford Cheese Company "there was in fact no discrimination between two classes of customers in connection with the sale of this class of products. In addition, it is to be noted that this respondent alleges in its answer that the differing discounts appearing in its price schedule were made to meet those of competitors or the services and facilities furnished by competitors, and the information in the hands of the Commission does not controvert this allegation."

#### FEDERAL COMMUNICATIONS COMMISSION ACTION

##### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, November 15:

Monday, November 15

##### HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Platt & Platt, Inc., Poughkeepsie, N. Y.—C. P., 1000 kc., 1 KW, limited time to local sunset WHO.

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—C. P., 1020 kc., 1 KW LS, daytime. Present assignment: 1020 kc., 250 watts LS, daytime.

Tuesday, November 16

**FURTHER HEARING BEFORE AN EXAMINER**  
(Broadcast)

NEW—Citizens Broadcasting Corp., Schenectady, N. Y.—C. P., 1240 kc., 1 KW night, 5 KW LS, unlimited.  
NEW—Thomas J. Watson, Endicott, N. Y.—C. P., 1240 kc., 1 KW, unlimited time.  
NEW—The Hampden-Hampshire Corp., Holyoke, Mass.—C. P., 1240 kc., 500 watts night, 1 KW LS, unlimited.

Wednesday, November 17

**HEARING BEFORE AN EXAMINER**  
(Broadcast)

WESG—Cornell University, Ithaca, N. Y.—Modification of license, 550 kc., 1 KW night, 1 KW LS, 6 a. m. to LS at New Orleans.

**FURTHER HEARING BEFORE AN EXAMINER**  
(Broadcast)

NEW—Zenith Radio Corp., Chicago, Ill.—C. P., 42000-56000, 60000-86000 kc., 1 KW, unlimited time, in accordance with Rule 983 (a).

Thursday, November 18

**HEARING BEFORE AN EXAMINER**  
(Broadcast)

WSAY—Brown Radio Service & Laboratory, Rochester, N. Y.—C. P., 1210 kc., 100 watts night, 250 watts LS, unlimited time. Present assignment: 1210 kc., 100 watts, unlimited time.

**ORAL ARGUMENT BEFORE THE COMMISSION**

**Examiner's Report No. 1-435:**

NEW—West Texas Broadcasting Co., Wichita Falls, Tex.—C. P., 1380 kc., 1 KW, unlimited.  
NEW—Wichita Broadcasting Co., Wichita Falls, Tex.—C. P., 620 kc., 250 watts, 1 KW LS, unlimited time.  
NEW—Faith Broadcasting Co., Inc., Wichita Falls, Tex.—C. P., 1380 kc., 1 KW, 5 KW LS, unlimited.  
KFPL—C. C. Baxter, Dublin, Tex.—Voluntary assignment of license, 1310 kc., 100 watts, 100 watts LS (C. P., 100 watts, 250 watts LS), unlimited.  
KFPL—WFTX, Inc., Wichita Falls, Tex.—C. P., 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited.

**Examiner's Report No. 1-439:**

NEW—Chase S. Osborn, Jr., Fresno, Calif.—C. P., 1440 kc., 500 watts, unlimited.

**Examiner's Report No. 1-432:**

NEW—The Bend Bulletin, Bend, Ore.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited.

**Examiner's Report No. 1-441:**

NEW—The Waterloo Times-Tribune Pub. Co., Waterloo, Iowa.—C. P., 1370 kc., 100 watts, daytime.

**Examiner's Report No. 1-421:**

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Authority to transfer control of corporation; 1220 kc., 1 KW night, 5 KW LS, shares with KFKU.

**Examiner's Report No. I-452:**

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Modification of license, 550 kc., 1 KW, 5 KW LS, unlimited time (requests facilities of KFUE). Present assignment: 550 kc., 1 KW, 5 KW LS, shares with KFUE.  
KFUE—Evangelical Lutheran Synod of Missouri, Ohio & other States, Rev. R. Kretzschmar, Chairman, Board of Control

of Concordia Seminary, Clayton, Mo.—Renewal of license, 550 kc., 500 watts, 1 KW LS, shares time with KSD.

KFUE—Evangelical Lutheran Synod of Missouri, Ohio & other States, Rev. R. Kretzschmer, Chairman, Board of Control, Concordia Seminary, Clayton, Mo.—C. P., 550 kc., 1 KW, 5 KW LS, one-half time (requests facilities of KSD). Present assignment: 550 kc., 500 watts, 1 KW LS, share KSD.  
KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Renewal of license, 550 kc., 1 KW, 5 KW LS, share KFUE.

**Examiner's Report No. I-453:**

KOOS—Pacific Radio Corp., Marshfield, Ore.—Voluntary assignment of license to KOOS, Inc.; 1200 kc., 250 watts, daytime.

**Examiner's Report No. I-454:**

NEW—T. E. Kirksey, Waco, Tex.—C. P., 930 kc., 250 watts, 500 watts LS, unlimited time.

Friday, November 19

**HEARING BEFORE AN EXAMINER**  
(Broadcast)

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—C. P., 1270 kc., 1 KW night, 5 KW LS, unlimited. Present assignment: 1270 kc., 500 watts night, 1 KW LS, unlimited.  
NEW—Charles F. Engle, Natchez, Miss.—C. P., 1210 kc., 100 watts night, 250 watts LS, unlimited.

**APPLICATIONS GRANTED**

WCBS—WCBS, Inc., Springfield, Ill.—Granted license to cover C. P., 1420 kc., 100 watts night, 250 watts day, unlimited.  
WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted modification of C. P. to make changes in type of equipment.  
KLBK—Harold M. Finlay and Mrs. Eloise Finlay, La Grande, Ore.—Granted modification of C. P. approving transmitter site, studio site, type of antenna and authority to make changes in authorized equipment.  
WSNJ—Eastern States Broadcasting Corp., Bridgeton, N. J.—Granted authority to determine operating power by direct measurement of antenna input.  
KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted license to cover C. P. as modified, 1210 kc., 100 watts, daytime only.  
WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—Granted license to cover C. P., 1450 kc., 500 watts night, 1 KW day, unlimited time, antenna current night 2.0 amperes, day 2.84 amperes.  
WGRM—P. K. Ewing, Granada, Miss.—Granted modification of C. P. and modifications thereof, extending completion date to 11-15-37.  
WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Granted modification of C. P. extending completion date from 11-10-37 to 1-10-38.  
KCRJ—Chas. C. Robinson, Jerome, Ariz.—Granted license to cover C. P., 1310 kc., 100 watts night, 250 watts day, unlimited time.  
WLAW—Hildreth & Rogers Company, Lawrence, Mass.—Granted modification of C. P. approving transmitter and studio sites at 278 Essex St. and installation of vertical radiator.  
KARM—George Harm, Fresno, Calif.—Granted modification of C. P. for installation of new equipment and changes in proposed vertical radiator.  
WCAT—South Dakota State School of Mines, Rapid City, S. Dak.—Granted modification of license to change hours of operation from 1:30 to 2:30 p. m., CST, to 12 to 2 p. m., CST.  
WJDX—Lamar Life Ins. Co., Jackson, Miss.—Granted license to cover C. P. and modifications thereof, 1270 kc., 1 KW night, 5 KW day, unlimited time.  
KATE—Albert Lea Broadcasting Co., Albert Lea, Minn.—Granted license to cover C. P., 1420 kc., 250 watts, daytime only.  
WNYC—City of New York, Department of Plant and Structures, New York City.—Granted license to cover C. P. and modifications thereof, 810 kc., 1 KW, daytime to local sunset at WCCO, Minneapolis, using directional antenna system.  
WGAN—Portland Broadcasting System, Inc., Portland, Me.—Granted modification of C. P. to extend commencement date to 11-22-37 and completion date to 5-22-38.  
WLLH—Merrimac Broadcasting Co., Inc., Lowell, Mass.—Granted modification of special experimental authority approving transmitter location.

- KFGQ—Boone Biblical College, Boone, Iowa.—Granted C. P. to install new composite equipment.
- KNOW—KUT Broadcasting Co., Austin, Tex.—Granted C. P. to install new equipment, make changes in vertical radiator, and increase day power from 100 watts to 250 watts.
- NEW—WDRG, Inc., Mobile (area of Hartford, Conn.).—Granted C. P. for new relay station, frequencies 39700, 39900, 40800 and 41400 kc., 15 watts.
- W8XIQ—The WGAR Broadcasting Co., Mobile (Cleveland, Ohio).—Granted license to cover C. P. for relay broadcast station on an experimental basis, frequencies 31100, 34600, 37600, 40600 kc., unlimited, in accordance with Rules 983, 1004; 100 watts.
- W9XRM—Arthur Malcolm McGregor and Dorothy Charlotte McGregor, Mobile (Bloomington, Ill.).—Granted license to cover C. P. for relay broadcast station, frequencies 31100, 34600, 37600, 40600 kc., 10 watts.
- W4XFG—The National Life and Accident Ins. Co., Inc., Nashville, Tenn., Mobile.—Granted license to cover C. P. for experimental relay station, frequencies 31100, 34600, 37600, and 40600 kc., 2 watts.
- NEW—Mason City Globe-Gazette Co., Mobile (area of Mason City, Iowa).—Granted C. P. for relay station, frequencies 1622, 2058, 2150 and 2790 kc., 125 watts.
- NEW—Mason City Globe-Gazette Co., Mobile (area of Mason City, Iowa).—Granted C. P. for new relay station, frequencies 31100, 34600, 37600 and 40600 kc., 2 watts. Also granted license covering same.
- NEW—Fisher's Blend Station, Inc., Mobile (area of Seattle).—Granted C. P. for new relay station, frequencies 31100, 34600, 37600 and 40600 kc., 15 watts.
- W6XBK—Radio Service Corp. of Utah, Mobile (Salt Lake City).—Granted reinstatement of C. P. for new relay station, frequencies 39700, 39900, 40800 and 41400 kc., 17 watts.
- W6XBL—Radio Service Corp. of Utah, Mobile (Salt Lake City).—Granted reinstatement of C. P. for new relay station, frequencies 39700, 39900, 40800 and 41400 kc., 17 watts.
- W9XUO—Radio Station KFH Co., Mobile (Wichita, Kans.).—Granted license to cover C. P. for new relay broadcast station, frequencies 38900, 39100, 39300, 39500 kc., 2 watts.
- W1XOJ—The Yankee Network, Inc., Princeton, Mass.—Granted modification of C. P. approving exact transmitter site at Mt. Wachusett, Princeton, Mass.
- W9XUY—Central States Broadcasting Co., Omaha, Nebr.—Granted modification of C. P. authorizing changes in equipment specified in original C. P.
- W3XPF—Farnsworth Television, Inc., of Pennsylvania, Springfield, Pa.—Granted modification of C. P. extending completion date to 1-5-38.
- W2XJI—Bamberger Broadcasting Service, Inc., New York City.—Granted modification of C. P. extending commencement date to 11-1-37 and completion date to 5-1-38.
- W1XER—The Yankee Network, Inc., Quincy, Mass.—Granted C. P. for move of transmitter on summit of Mt. Washington, N. H.
- W2XBT—National Broadcasting Co., Inc., New York, Portable (vicinity of New York and Camden, N. J.).—Granted C. P. for new television station, frequencies 92000 and 175000-180000 kc., on an experimental basis; power: visual transmitter 400 watts, aural transmitter 100 watts.
- NEW—The National Life and Accident Ins. Co., Inc., Nashville, Tenn.—Granted C. P. for new experimental broadcast station, frequencies 300000, 330000, 360000 kc., 15 watts. Also granted license covering same.
- W3XIS—WLBG, Inc., Mobile (Richmond, Va.).—Granted license to cover C. P. for new relay broadcast station, frequencies 38900, 39100, 39300 kc., 50 watts.
- W9XRT—Gazette Printing Co., Mobile (Janesville, Wis.).—Granted license to cover C. P. for new relay station, frequencies 31100, 34600, 37600, 40600 kc., 2 watts.
- W9XXL—Ashland Broadcasting Co., Mobile (Ashland, Ky.).—Granted license to cover C. P. for new relay broadcast station, frequencies 31100, 34600, 37600 and 40600 kc., 10 watts.
- NEW—Amarillo Broadcasting Corp., Amarillo, Tex.—C. P. for new station to operate on 1500 kc., 100 watts, unlimited time, exact transmitter site to be determined with Commission's approval.
- WKEU—Radio Station WKEU, Griffin, Ga.—C. P. requesting authority to move station from Griffin to Macon, Ga., a distance of 50 miles; make changes in composite equipment; install vertical radiator; change frequency from 1500 kc. to 1310 kc.; and increase power and time of operation from 100 watts daytime only to 100 watts night, 250 watts day, unlimited.
- NEW—Fred B. Fitch, tr/as Thumb Broadcasting Co., Sandusky, Mich.—C. P. for new station to operate on 950 kc., 500 watts night, 1 KW day, unlimited.
- NEW—Mountain Top Trans Radio Corp., Denver, Colo.—C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter site to be determined with Commission's approval.
- KOMA—Hearst Radio, Inc., Oklahoma City, Okla.—C. P. to install new equipment and vertical radiator, and increase power from 5 KW to 10 KW; 1480 kc., unlimited time.
- WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—C. P. to make changes in equipment; increase power from 5 KW to 10 KW; 1480 kc., 5 KW, unlimited (present licensed transmitter of WGR to be used as main transmitter of WKBW).
- WGR—Buffalo Broadcasting Corp., Buffalo, N. Y.—C. P. for changes in equipment.
- WISN—Hearst Radio, Inc., Milwaukee, Wis.—Modification of license to increase night-time power from 250 watts to 1 KW; 1120 kc., 1 KW day, unlimited.
- WAPI—Alabama Polytechnic Institute, University of Alabama and Alabama College (Board of Control of WAPI), Birmingham, Ala.—Voluntary assignment of license from Alabama Polytechnic Institute, University of Alabama and Alabama College (Board of Control of Station WAPI), to: Voice of Alabama, Inc.
- NEW—Pinellas Broadcasting Co., St. Petersburg, Fla.—C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter and studio sites and types of antenna to be determined subject to Commission's approval.
- NEW—Colonial Broadcasting Corp., Norfolk, Va.—C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- NEW—Florida West Coast Broadcasting Co., Inc., Clearwater, Fla.—C. P. for new station to operate on 1300 kc., 250 watts, unlimited time.
- NEW—Joe L. Smith, Jr., Beckley, W. Va.—C. P. for new station to operate on 1210 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter site to be determined with Commission's approval.
- NEW—Madison Broadcasting Co., Madison, Wis.—C. P. for new station to operate on 1450 kc., 250 watts, unlimited time, using directional antenna system for day and night operation, exact studio site to be determined with Commission's approval.
- NEW—Sam Klaver and Nathan Belzer, d/b as The Great Western Broadcasting Co., Omaha, Nebr.—C. P., already in hearing docket, amended to request 1500 kc., 100 watts, unlimited time, exact transmitter site to be determined with Commission's approval.
- NEW—Brenau College, Gainesville, Ga.—C. P., already in hearing docket, amended to request 1210 kc., 100 watts, unlimited time.
- NEW—E. DeVore Andrews and Mrs. Annie L. Andrews (a partnership), Greater Greenwood Broadcasting Station, Greenwood, S. C.—C. P. for new station to operate on 1420 kc., 100 watts night, 250 watts day, unlimited time.
- WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—C. P. to make changes in transmitting equipment and increase power from 500 watts to 1 KW; 1120 kc., unlimited except from 8 to 9 p. m. Mondays.
- KUJ—KUJ, Inc., Walla Walla, Wash.—C. P. for changes in equipment and change in frequency to 560 kc.; also local move of station to site to be determined subject to Commission's approval; increase in power from 100 watts to 250 watts; 1370 kc.

#### SET FOR HEARING

- NEW—Y. W. Scarborough and J. W. Orvin, Charleston, S. C.—Amended C. P. for new station, 1210 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter site to be determined.

- KROC—Southern Minn. Broadcasting Co., Rochester, Minn.—C. P. for move of transmitter locally; installation of new equipment and directional antenna system for nighttime use; change frequency from 1310 kc. to 920 kc.; increase power from 100 watts night, 250 watts day, to 1 KW day, 500 watts night; unlimited time.
- WAPO—W. A. Patterson, Chattanooga, Tenn.—C. P. to install new equipment and directional antenna system; change frequency from 1420 to 1120 kc.; increase power from 100 watts night, 250 watts day, to 500 watts night, using directional antenna system, 1 KW day.
- WAIR—C. G. Hill, George D. Walker and Susan H. Walker, Winston Salem, N. C.—Modification of license to increase power and time of operation from 250 watts daytime to 250 watts unlimited time; 1250 kc.
- NEW—Southern Broadcasting Corp., Covington, La.—C. P. already in hearing docket, amended so as to request 1500 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites to be determined with Commission's approval.
- KSO—Iowa Broadcasting Co., Des Moines, Ia.—C. P. to make changes in transmitting equipment, install directional antenna system and increase night power from 500 watts to 1 KW, day power from 2½ KW to 5 KW, employing directional antenna system for nighttime use.
- NEW—Piedmont Broadcasting Corp., Salisbury, N. C.—C. P. for new station to operate on 1500 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- NEW—The Constitution Publishing Co., Atlanta, Ga.—C. P. for new station to operate on 1240 kc., 1 KW night, 5 KW day, unlimited time; employing directional antenna system for nighttime operation.
- NEW—L. B. McCormick, Greenville, N. C.—C. P. for new station to operate on 1370 kc., 250 watts, daytime only.
- NEW—State Broadcasting Corp., Gretna, La.—C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, S.H. Exact transmitter and studio sites to be determined with Commission's approval.
- NEW—Conn. State College, Storrs, Conn.—C. P. for new high frequency broadcast station requesting 4 frequencies selected from Group E of Rule 1053, on an experimental basis, in accordance with Rules 986 and 1050-1056: 100000, 110000, 200000 and 300000 kc., 250 watts.
- KSRO—Press Democrat Publishing Co., Santa Rosa, Cal.—Modification of license to increase power and time of operation from 250 watts daytime only, to 100 watts night, 250 watts day, unlimited time.

### SPECIAL AUTHORIZATIONS

- KLZ—KLZ Broadcasting Co., Denver, Colo.—Granted special temporary authority to rebroadcast over station KLZ conversation carried on between stations W5XAR and W5XAS of the Western Radio Telg. Co., for period of not more than 1 hour between 4 and 5 p. m., MST, November 10, flying weather permitting.
- KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted special temporary authority to operate from local sunset (November sunset, 5 p. m.), to 6 p. m., CST, Sundays, November 14, 21, and 28, in order to broadcast vesper services of local church.
- KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Granted special temporary authority to operate simultaneously with station WSMK, 5:30 to 6:30 p. m., EST, November 11, in order to broadcast the Duquesne University-Pittsburg at Texas Tech football game.
- KADA—C. C. Morris, Ada, Okla.—Granted special temporary authority to operate from local sunset (5:30 p. m.), November 14, 21 and 28, in order to carry Old Fashioned Revival on Mutual Broadcasting System and the Oklahoma network.
- KBTM—Beard's Temple of Music, Jonesboro, Ark.—Granted special temporary authority to operate simultaneously with KGBI from 7:15 p. m. to 9 p. m., CST, November 11, in order to broadcast annual banquet of the local Young Men's Civic Club.
- WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate Saturdays from 2 to 3 p. m., EST, November 13, 20, 27; December 4, 11, 1937, and from 8:30 to 10 a. m., EST, November 27, in order to broadcast weekly safety talks, football scores, and general news; to operate Sundays from 8:30 to 10 a. m., EST, and 2 to 3 p. m., EST, November 14, 21, 28; December 5, 12, 1937, in order to broadcast various religious programs in the morning and the Catholic Evidence Guild in the p. m. Also to operate 8:30 to 10 a. m., EST, and 2 to 3 p. m., EST (Thursdays), November 25, 1937, and Friday, November 26, in order to broadcast news and variety musical programs, provided WSVS remains silent.
- KPDN—R. C. Hoiles, Pampa, Tex.—Granted special temporary authority to operate from local sunset (5:45 p. m.), November 13, to 6 a. m., CST, November 14, and from local sunset (5:45 p. m.), November 14, to 12 midnight, CST, in order to broadcast the grand opening of the World Program service.
- KEX—Oregonian Publishing Co., Portland, Ore.—Granted special temporary authority to operate simultaneously with KOB from 7:30 to 8 p. m., PST, November 14, in order to broadcast address by President Roosevelt.
- KRKO—Lee E. Mudgett, Everett, Wash.—Granted special temporary authority to operate standard 50 watt R F generating equipment to make field strength measurements on antennas to determine site and type of antenna suitable for 1370 kc. and 250 watts day, and 100 watts night carrier, between 12 midnight and 6 a. m., PST, for the period November 15 to December 14, however, such operation not permitted during monitoring schedule.
- KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Granted special temporary authority to rebroadcast over station KGGM conversation carried on between experimental stations W5XAR and W5XAS of Western Radio Telg. Co., for period of not more than 1 hour between November 15 and November 21, flying weather permitting.
- WKBV—Knox Radio Corp., Richmond, Ind.—Granted special temporary authority to operate from 9:45 to 10 a. m., CST, November 17, 19, 22, 24, 26, 29 and December 1, 3, 6, 8, 10, 13, 15, 1937, in order to broadcast Earlham College Chapel service.
- KNET—Palestine Broadcasting Assn., Palestine, Tex.—Granted special temporary authority to operate from 7 to 11 p. m., CST, November 19 and 25, in order to broadcast local football games.
- WKBV—Knox Radio Corp., Richmond, Ind.—Granted special temporary authority to operate from 10 to 10:15 p. m., CST, November 19, 24, 26; December 3, 4, 9, 10, 17 and 18, 1937, in order to broadcast basket-ball games.
- WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted special temporary authority to operate simultaneously with WFAS from 3 to 4:30 P. M., EST, November 29, in order to broadcast local football game from high school stadium at Red Bank. Also to operate simultaneously with WFAS from 1:30 to 4:30 p. m., EST, November 25, in order to broadcast final football game of the 1937 season.
- KTUL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—Granted special temporary authority to rebroadcast over station KTUL conversation carried on between experimental stations W5XAR and W5XAS of Western Radio Telg. Co., for period of not more than 1 hour between December 8 and 13, flying weather permitting.
- WPTF—WPTF Radio Company, Raleigh, N. C.—Granted special temporary authority to operate from 11 to 11:30 p. m., EST, Saturdays, November 20, 27; December 4, 11 and 18, 1937, in order to broadcast the NBC Philharmonic series.
- WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted special temporary authority to operate simultaneously with WGNV from 1:45 to 3 p. m., EST, November 20, in order to broadcast local football game from high school stadium at Red Bank.
- WOSU—Ohio State University, Columbus, Ohio.—Granted special temporary authority to operate from 12:30 p. m. to 1 p. m., EST, November 24 (provided WKBN remains silent), in order to broadcast the Farm and Home Hour programs.
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted authority to operate from 9 to 11 a. m., EST, November 25, in order to broadcast programs of a holiday and devotional character and from 1 to 3 p. m., EST, November 25, in order to broadcast local football games (provided WOSU remains silent).
- KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from local sunset (December sunset, 5:15 p. m.) to 9 p. m., CST, using 100 watts power, on Sundays, December 5, 12, 19 and 26, in order to broadcast church services of the Kelly Memorial Methodist Church.

## MISCELLANEOUS

- Northwest Airlines, Inc., St. Paul, Minn.—Granted special temporary authority to operate two already licensed aircraft radio transmitters aboard the planes owned by Northwest Airlines, NC-17383 and NC-17384, on frequency 2790 kc., for period of 30 days, to relay broadcast program in connection with inauguration ceremonies of the new sky Zephyrs services and to rebroadcast over station WTCN.
- KFDY—So. Dakota State College, Brookings, S. Dak.—Denied special temporary authority to operate from 8 to 9:45 p. m., CST, November 11, in order to broadcast special program over the state of S. Dak. in which the college and the state pay tribute to the pioneers of the state.
- WSPR—Conn. Valley Broadcasting Co., Springfield, Mass.—Denied special temporary authority to operate from 8:30 to 10:30 p. m., EST, November 11, in order to broadcast the non-commercial dedication of Holyoke's new Soldiers Memorial Building.
- WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Denied special temporary authority to operate from 6:30 to 7:30 p. m., EST, November 11, in order to broadcast dedication program of VFW, Governor Murphy guest.
- WKAR—Mich. State College, E. Lansing, Mich.—Denied special temporary authority to operate from local sunset (November sunset, 4:15 p. m.) to 8:30 p. m., CST, November 12, in order to broadcast a show put on by Mich. State College.
- WSPR—Conn. Valley Broadcasting Co., Springfield, Mass.—Denied special temporary authority to operate from local sunset (December sunset, 5:45 p. m.) to 6 p. m., EST, Sunday p. m., December 12, 19, and 26, in order to broadcast "The Rosary Hour" conducted by Father Justin.
- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Denied special temporary authority to operate from local sunset (November sunset, 4:15 p. m., PST), to conclusion of football game, November 28, 1937.

### APPLICATIONS DISMISSED

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

- WJNO—Hazlewood, Inc., W. Palm Beach, Fla.—C. P., 1350 kc., 1 KW, 1 KW LS, unlimited time.
- WDAE—Tampa Times Co., Tampa, Fla.—Modification of license, 1220 kc., 5 KW, 5 KW LS, unlimited time.
- NEW—Mittelo Franklin Moble, Anniston, Ala.—C. P., 1420 kc., 100 watts, daytime.

### APPLICATIONS RETIRED TO CLOSED FILES

- W9XAA—Chicago Federation of Labor, Chicago, Ill.—Retired to closed file application for C. P. requesting authority to modify C. P. (granted 7-17-36) to increase power from 5 to 20 KW and make changes in equipment to International Broadcast station, inasmuch as applicant has not made application for license to cover this authority.
- National Broadcasting Co., Inc., New York City.—Under date of May 11, 1937, the NBC filed with the Commission C. P.'s and applications for licenses to cover C. P.'s for two new relay broadcast stations contingent upon deletion of the existing experimental relay stations W10XCR and W10XS. The C. P.'s and licenses were granted on September 28, 1937, the licenses to expire October 1, 1938. In view of the fact that two new relay broadcast stations bearing call letters KSFM and WNBM were granted contingent upon deletion of W10XCR and W10XS, the licenses of these two stations are retired to closed files and call letters W10XCR and W10XS deleted.
- S. H. Patterson.—On September 29, 1936, the Commission granted S. H. Patterson a modified license authorizing station KIKK to operate as a relay broadcast station, the license to expire October 1, 1937. Inasmuch as S. H. Patterson is no longer the licensee of a regular broadcast station, the license for relay station KIKK is retired to closed files and call letters deleted.
- WEBR, Inc., Buffalo, N. Y.—On September 29, 1936, the Commission granted WEBR, Inc., modified licenses authorizing stations W8XX and W8XY to operate as relay broadcast experimental stations, the licenses to expire December 1, 1937. Inasmuch as WEBR, Inc., has no intention of applying for renewal of these licenses, as stated in their letter of September 28, 1937, the relay licenses are retired to the closed files and call letters W8XX and W8XY deleted.

- WIOD-WMBF—Isle of Dreams Broadcasting Co., Miami, Fla.—Inasmuch as applicant has now complied with Rule 131, the Broadcast Division directed that a modification of license to change frequency to 610 kc. be issued, in accordance with action of September 14, 1937.
- W10XHI—Columbia Broadcasting System, Inc., New York City, Mobile.—Granted modification of license to change frequencies of relay broadcast station from those specified in Group D to those specified in Group E of Rule 1003—38900, 39100, 39300 and 39500 kc.
- NEW—Greater Greenwood Broadcasting Station, Greenwood, S. C.—Granted petition to intervene in the proceedings upon the application of Broadcasters, Inc., for a new station in Gastonia, N. C., to use 1420 kc., 100 watts, 250 watts LS, unlimited, which is scheduled for hearing on February 7, 1938.
- WJBW—Charles C. Carlson.—Denied petition for further hearing and permission to intervene in such hearing, on application of WSMB, Inc., for a new station at New Orleans, to use 1500 kc., 100 watts, 250 watts LS, unlimited time, which was heard June 29, 1937, and is subject of Ex. Rep. No. 1-497.
- The Brockway Company, Canton, N. Y.—Granted petition to intervene in the hearing on the application of WFBR, application of The Baltimore Radio Show, Inc., Baltimore, Md., for C. P. to use 1270 kc., 1 KW, 5 KW LS, unlimited time, scheduled for November 19, 1937.
- WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted petition to intervene in the hearing, scheduled for December 3, 1937, in re the application of Young People's Assn. for the Propagation of the Gospel, for a new station at Philadelphia, to operate on 1220 kc., 1 KW, unlimited.
- WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted petition of WFIL Broadcasting Co. to intervene in the above mentioned hearing.
- WGNV—Peter Goelet, Newburg, N. Y.—Granted petition to intervene in the hearing, scheduled for November 15, on the application of Platt & Platt, Inc., for a new station at Poughkeepsie, to use 1000 kc., 1 KW, limited time.
- Radio Enterprises, Inc., and Associated Arkansas Newspapers, Inc.—Granted joint motion for continuance of hearing now scheduled for November 12, 1937, for new station at Hot Springs, Ark., to use 1310 kc., 100 watts, daytime, to an indefinite date.
- WKBZ—Karl L. Ashbacker, Muskegon, Mich.—Granted petition to withdraw without prejudice application for modification of license to use 1200 kc., 100 watts, 250 watts LS, unlimited time, now scheduled for November 22, 1937.
- WCOP—Massachusetts Broadcasting Corp., Boston, Mass.—Denied motion to dismiss, without prejudice, application for modification of license specifying operating assignment of 1130 kc., 500 watts, limited time, which has been heard and reported in Ex. Rep. 1-380.
- NEW—Arlington Radio Service, Inc., Arlington, Va.—Denied motion that hearing on application for C. P. to establish a new station to operate on 1140 kc., 1 KW, daytime hours, be held in Clarendon, Va.
- WOOD—King-Trendle Broadcasting Corp., Grand Rapids, Mich.—Granted application to withdraw application for C. P. to use 1010 kc., 250 watts, unlimited time, without prejudice. This application is scheduled to be heard December 6, 1937.
- KANS—KANS Broadcasting Co., Wichita, Kans.—Granted petition to withdraw without prejudice application for consent to transfer control of corporation from Charles C. Theis to Herbert Hollister and Don Searle. This case was scheduled for hearing on December 14, 1937.
- WSAY—Brown Radio Service & Laboratory, Rochester, N. Y.—Denied petition of applicant to reconsider the Division's action of January 19, 1937, in designating for hearing application for authority to make changes in equipment and increase power to 100 watts night, 250 watts day, and operate unlimited time, and grant same without a hearing.
- WESG—Cornell University, Ithaca, N. Y.—Granted petition to continue hearing for a period of 60 days, new date to be fixed by Dockets, on application for modification of license to use 850 kc., 1 KW, specified hours.
- NEW—Richland Broadcasting Co., Mansfield, Ohio.—Dismissed petition to withdraw application for C. P. for new station. On October 12, 1937, the Commission denied this application as in cases of default for failure to file an appearance.

NEW—Charles F. Engle, Natchez, Miss.—Granted request for leave to withdraw without prejudice application for new station to use **1210 kc.**, 100 watts, 250 watts LS, which is scheduled to be heard November 19, 1937.

WBNX—WBNX Broadcasting Co., Inc., New York City.—Denied petition of applicant to reconsider and grant without hearing application to move transmitter locally, install new equipment and directional antenna for both day and night, increase day power from 1 to 5 KW. This application is scheduled for hearing on December 10, 1937.

NEW—Church of Jesus Christ of Latter-Day Saints, Salt Lake City, Utah.—Granted petition of applicant to retain hearing date, now scheduled for November 23, on application for C. P. to establish a new international broadcast station using frequencies **6020, 9310 and 11710 kc.**, 50 KW. Applicant submitted amendment to his application requesting additional frequencies **15170 and 25675 kc.**

NEW—Radio Enterprises, Inc., Lufkin, Tex.—Denied petition of applicant for the following: (1) that its application for C. P. for new station in Lufkin to use **1310 kc.**, 100 watts, daytime hours, be designated for hearing; and (2) that the effective date of decision upon the applications involved in Docket Nos. 4162 and 4312 be postponed.

WNBC—State Broadcasting Corp., New Britain, Conn.—Changed effective date in re Ex. Rept. 1-350 from November 16 to November 12.

#### EXAMINERS' REPORTS RELEASED SINCE OCTOBER 12, 1937

NEW—Ex. Rep. 1-502: Great Lakes Broadcasting Corp., Cleveland, Ohio.—Examiner Tyler Berry recommended denial of C. P. for new station to operate on **1270 kc.**, 1 KW, 5 KW LS, unlimited.

NEW—Ex. Rep. 1-503: Fall River Herald News Publishing Co., Fall River, Mass.—Examiner Robert L. Irwin recommended denial of C. P. for new station to operate on **1210 kc.**, 100 watts night, 250 watts LS, unlimited time.

NEW—Ex. Rep. 1-504: F. B. Clements & Company, a co-partnership composed of F. Braden Clements, Clara D. Clements, and C. C. Clements, d/b as Southern Minnesota Supply Co., Mankato, Minn.—Examiner P. W. Seward recommended grant of C. P. for new station to operate on **1500 kc.**, 100 watts night, 250 watts LS, unlimited time.

NEW—Ex. Rep. 1-505: The Colonial Network, Inc., Providence, R. I.—Examiner Tyler Berry recommended denial of C. P. for new station to operate on **720 kc.**, 1 KW, limited time.

NEW—Ex. Rep. 1-506: Geraldine Alberghane, Pawtucket, R. I.—Examiner Tyler Berry recommended denial, with prejudice, of application for C. P. for new station to operate on **720 kc.**, 1 KW, daytime.

KRE—Ex. Rep. 1-507: Central California Broadcasters, Inc., Berkeley, Calif.—Examiner Melvin H. Dalberg recommended grant of C. P. to change frequency from **1370 kc.** to **1440 kc.**, power from 100 watts, 250 watts LS, to 500 watts, 1 KW LS, contingent upon the granting of the application of KGGC for a change in frequency from **1420 kc.** to **1370 kc.**, and a denial of the application of Chase S. Osborne, Jr., for new station at Fresno, Calif., on **1440 kc.**

NEW—Ex. Rep. 1-508: George H. Evans and Davis O. Vandivier, d/b as the Chickasha Daily Express, Chickasha, Okla.—Examiner Tyler Berry recommended dismissal with prejudice of application for C. P. for new station to operate on **1500 kc.**, 250 watts, daytime.

NEW—Ex. Rep. 1-509: The Louisville Times Co., Louisville, Ky.—Examiner R. H. Hyde recommended denial of C. P. for new station to operate on **1210 kc.**, 100 watts, unlimited time.

NEW—S. O. Ward and P. C. Ward (Louisville Broadcasting Co.), Louisville, Ky.—Examiner Hyde recommended denial of C. P. for new station to operate on **1210 kc.**, 100 watts, daytime.

NEW—Ex. Rep. 1-510: Southwest Broadcasting Co., Prescott, Ariz.—Examiner P. W. Seward recommended grant of C. P. for new station to operate on **1500 kc.**, 100 watts, 250 watts LS, unlimited.

NEW—W. P. Stuart, Prescott, Ariz.—Examiner Seward recommended denial of C. P. for new station to operate on **1500 kc.**, 100 watts, unlimited.

KXA—Ex. Rep. 1-511: American Radio Tel. Co., Seattle, Wash.—Examiner Tyler Berry recommended grant of C. P. to in-

crease power from 250 watts, 500 watts LS, to 1 KW; make changes in equipment; install vertical antenna and move transmitter and studios locally.

NEW—Ex. Rep. 1-512: Harry Schwartz, Tulsa, Okla.—Examiner Robert L. Irwin recommended grant of C. P. for new station to operate on **1310 kc.**, 250 watts, daytime.

NEW—Ex. Rep. 1-513: Clark Standiford, L. S. Coburn and A. C. Sidner, Fremont, Nebr.—Examiner R. H. Hyde recommended denial of C. P. for new station to operate on **1370 kc.**, 100 watts, unlimited time.

KFJZ—Ex. Rep. 1-514: R. S. Bishop, Transferor, and Mrs. Ruth G. Roosevelt, Transferee, Fort Worth, Tex.—Examiner George H. Hill recommended grant of authority to transfer control of station KFJZ from R. S. Bishop to Mrs. Ruth G. Roosevelt. Station operates on **1370 kc.**, 100 watts, 250 watts LS, unlimited.

NEW—Ex. Rep. 1-515: Galesburg Broadcasting Co., Galesburg, Ill.—Examiner R. H. Hyde recommended grant of C. P. for new station to operate on **1500 kc.**, 250 watts, daytime.

NEW—Ex. Rep. 1-516: Leon M. Eisfeld, Burlington, Iowa.—Examiner Tyler Berry recommended application for C. P. to use **1310 kc.**, 100 watts, unlimited time, be denied as in cases of default, and dismissed with prejudice.

NEW—Ex. Rep. 1-517: Standard Life Ins. Co. of the South, Jackson, Miss.—Examiner P. W. Seward recommended grant of C. P. for new station to operate on **1420 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—Ex. Rep. 1-518: Arthur Lucas, Savannah, Ga.—Examiner Melvin H. Dalberg recommended grant of application for new station to operate on **1310 kc.**, 100 watts, unlimited.

KPOF—Ex. Rep. 1-519: Pillar of Fire, Denver, Colo.—Examiner Tyler Berry recommended grant of modification of license to increase power from 500 watts to 1 KW.

NEW—Ex. Rep. 1-520: Centennial Broadcasting Corp., Dallas, Tex.—Examiner Robert L. Irwin recommended grant of C. P. for new station to use **1500 kc.**, 100 watts, daytime, upon condition that applications of Dallas Broadcasting Co. and Richard S. Gozzaldi and A. L. Chilton applications are denied.

NEW—Ex. Rep. 1-521: The Birmingham News Co., Birmingham, Ala.—Examiner Melvin H. Dalberg recommended grant of application for new station to operate on **590 kc.**, 1 KW, unlimited time, using directive antenna at night.

NEW—Ex. Rep. 1-522: Radio Station WFNC (partnership of C. Frank Walker and Waldo W. Primm), Fayetteville, N. C.—Examiner P. W. Seward recommended denial of application for new station to operate on **1210 kc.**, 250 watts, daytime; and

Capitol Broadcasting Co., Inc., Raleigh, N. C.—Recommended grant of application of Capitol Broadcasting Co., Inc., for new station to use **1210 kc.**, 100 watts, 250 watts LS, unlimited time.

#### RATIFICATIONS

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

KGCX, Wolf Point, Mont.; KLRA, Little Rock, Ark.; KMED, Medford, Ore.; KRLC, Lewiston, Idaho; KXYZ, Houston, Tex.; WAGA, Atlanta, Ga.; WCOA, Pensacola, Fla.; WIOD-WMBF and auxiliary, Miami, Fla.; WSBT, South Bend, Ind.; WHOM, Jersey City, N. J.; WHP, Harrisburg, Pa.; WMBG, Richmond, Va.; WSMB, New Orleans; KID, Idaho Falls, Idaho; WQBC, Vicksburg, Miss.; WFBC, Greenville, S. C.

WBBC and auxiliary—Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Granted renewal of license on a temporary basis for the period November 1, 1937, to May 1, 1938, subject to the order of the U. S. Court of Appeals for the District of Columbia in the case of Debs Memorial Radio Fund, Inc. (WEVD), v. FCC, and the Brooklyn Daily Eagle Broadcasting Co., Inc., v. FCC.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Granted renewal of license on a temporary basis for the period November 1, 1937, to May 1, 1938, subject to the order of the U. S. Court of Appeals for the District of Columbia in the case of Debs Memorial Radio Fund, Inc. (WEVD), v. FCC, and the Brooklyn Daily Eagle Broadcasting Co., Inc., v. FCC.

KGDY—Voice of South Dakota, Huron, S. Dak.—Granted renewal of license on a temporary basis subject to whatever action

- may be taken by the Commission upon the pending application for renewal.
- WKBH**—WKBH, Inc., LaCrosse, Wis.—Granted renewal of license on a temporary basis subject to whatever action may be taken by the Commission upon the pending application for renewal.
- KGMB**—Honolulu Broadcasting Co., Ltd., Honolulu, T. H.—Granted renewal of license on a temporary basis subject to whatever action may be taken on pending application for renewal and transfer of control.
- KHBC**—Honolulu Broadcasting Co., Ltd., Hilo, T. H.—Granted renewal of license on a temporary basis subject to whatever action may be taken on pending application for renewal and transfer of control.
- WCBA**—B. Bryan Musselman, Allentown, Pa.—Granted renewal of license on a temporary basis only subject to whatever action may be taken on pending application for renewal and related applications.
- WSAN**—WSAN, Inc., Allentown, Pa.—Granted renewal of license on a temporary basis only subject to whatever action may be taken on pending application for renewal and related applications.
- WFEA**—New Hampshire Broadcasting Co., Manchester, N. H.—Granted renewal of license on a temporary basis subject to whatever action may be taken upon application for renewal of license and upon petition of WSPD in opposition to the granting of renewal of license for this station.
- WLBL**—State of Wisconsin, Department of Agriculture and Markets, Stevens Point, Wis.—Granted renewal of license for the period ending March 1, 1938.
- KVOR**—Out West Broadcasting Co., Colorado Springs, Colo.—Granted renewal of license for the period ending April 1, 1938.
- WJBO**—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted renewal of license for the period ending April 1, 1938.
- WBCM**—Bay Broadcasting Co., Inc., Bay City, Mich.—Present license extended on a temporary basis for the period ending December 1, 1937, pending receipt and/or action on application for renewal.
- WOKO**—WOKO, Inc., Albany, N. Y.—Present license extended on a temporary basis for the period ending December 1, 1937, pending receipt and/or action on application for renewal.
- KGBU**—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Present license extended on a temporary basis for the period ending December 1, 1937, pending receipt and/or action on application for renewal.
- KABF**—McClatchy Broadcasting Co., Mobile.—Granted renewal of relay broadcast station license for the period ending October 1, 1938.
- WABV**—Juan Piza, Mobile.—Granted renewal of relay broadcast station license for the period ending October 1, 1938.
- KIJO**—Eagle Broadcasting Co., Inc., Mobile.—Granted renewal of relay broadcast station license for the period ending October 1, 1938.
- W3XAL**—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted renewal of international broadcast experimental station license.
- W1XAL**—World Wide Broadcasting Corp., Boston, Mass.—Present license extended on a temporary basis only for the period ending December 1, 1937, pending receipt and/or action on renewal application.
- W9XAA**—Chicago Federation of Labor, York Township, Ill.—Present license extended on a temporary basis only for the period ending December 1, 1937, pending receipt and/or action on renewal application.
- WAAO**—Julio M. Conesa, Mobile.—Present relay broadcast station license extended for a period ending December 1, 1937, pending receipt and/or action on renewal application.
- KIIQ**—KMTR Radio Corp., Mobile.—Present relay broadcast station license extended for a period ending December 1, 1937, pending receipt and/or action on renewal application.
- KIIV**—Chas. L. Jaren, Mobile.—Present relay broadcast station license extended for a period ending December 1, 1937, pending receipt and/or action on renewal application.
- KGEZ**—Donald C. Treloar, Kalispell, Mont.—Granted extension program test period 30 days from October 13, 1937.
- WMBZ**—Smith & Mace, Saranac Lake, N. Y.—Granted extension program test period 30 days from September 30, 1937.
- WMPS**—Memphis Broadcasting Co., Memphis, Tenn.—Granted special temporary authority to operate a 100-watt portable transmitter in vicinity of Memphis, for period October 18 to November 16, 1937, between hours of 12 midnight and 6 a. m., CST.
- W2XDG**—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate high frequency broadcast station on frequency 38.65 kc., for period October 17 to November 15, pending definite arrangements to be made in ultra high frequency bands.
- KWTO**—Ozarks Broadcasting Co., Springfield, Mo.—Granted extension of special temporary authority to operate from 5 to 6 a. m., CST, on 1 KW only, for period October 15 to November 13.
- KHBG**—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted extension program test period 30 days from November 2.
- KCRJ**—Radio Station KCRJ, Jerome, Ark.—Granted authority to reduce power to such value as to permit modulation in accordance with Rule 139, for period not to exceed 10 days in accordance with Rule 142.
- WSIX**—WSIX, Inc., Nashville, Tenn.—Granted extension program test period 30 days from October 31.
- WCHV**—Community Broadcasting Corp., Charlottesville, Va.—Granted extension program test period 30 days from November 3.
- KOAM**—Pittsburgh Broadcasting Co., Pittsburgh, Pa.—Granted extension program test period 30 days from November 10.
- WMPC**—The First Methodist Protestant Church of Lapeer, Mich.—Granted extension special temporary authority to operate from 9 to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for period November 4 to December 3, in order to broadcast educational programs.
- WQBC**—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted special temporary authority to operate from local sunset (5 p. m.), to 6 p. m., CST, November 6 to December 5, 1937, inclusive in order to broadcast news bulletins, football scores and other special events.
- WRNL**—WLBG, Inc., Richmond, Va.—Granted special temporary authority to operate from local sunset (5 p. m.), to 6 p. m., EST, Nov. 6, 13, 20 and 27, in order to broadcast football games.
- KGHF**—Curtis F. Ritchie, Pueblo, Colo.—Granted special temporary authority to rebroadcast over station KGHF conversation carried on between experimental station W5XAR and W5XAS of Western Radio Telg. Co., for period November 6 and November 11, for period of not more than 1 hour, flying weather permitting.
- KGEK**—Elmer G. Beehler, Sterling, Colo.—Granted special temporary authority to operate Saturday, November 6, 12, 20 and 27, from 1:30 to 2:30 p. m., MST, in order to broadcast livestock auction's from local Sales Pavilion.
- KGEK**—Westchester Broadcasting Corp., White Plains, N. Y.—Granted special temporary authority to operate simultaneously with station WBRB from 5 to 5:30 p. m., EST, November 13, 20, 1937, in order to carry all-Westchester football roundup.
- WFAS**—Westchester Broadcasting Corp., White Plains, N. Y.—Granted special temporary authority to operate simultaneously with station WGNV from 1:45 to 3 p. m., EST, November 13 and 20, in order to broadcast football games from Yale Bowl.
- National Broadcasting Co., Inc., New York City.**—Granted special temporary authority to transmit program material of the Imperial Tobacco Co., consisting of talks by L. S. Shapiro News Commentator over network of the Canadian Broadcasting Corp. for 15 minute periods on Fridays only, for period November 5 to December 4, 1937.
- WSMK**—WSMK, Inc., Dayton, Ohio.—Granted special temporary authority to operate simultaneously with KQV from 5:15 to 5:30 p. m., EST, daily, except Sundays for the period November 5 to November 30, in order that the listening audience might be maintained, continuity of programs not be interrupted and the regular newscast continued during this period.
- WPRA**—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Denied special temporary authority to operate from 5 to 6 p. m., AST, Mondays, Tuesdays, Wednesdays, Thursdays, Fridays for the period November 5 to December 3; also from 5 to 6 p. m., AST and 10 p. m. to 1 a. m., AST, Saturdays and Sundays for the period November 6 to December 4, in order to comply with requests from sponsors.
- WSPR**—Conn. Valley Broadcasting Co., Springfield, Mass.—Granted special temporary authority to operate from local sunset

- (5:45 p. m.), to 6 p. m., EST, November 14, 21, 28 and Dec. 5, in order to broadcast "The Rosary Hour".
- WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate from 1:30 to 3 p. m., EST; 4 p. m. to local sunset (November sunset 4:30), November 6 and 13, in order to broadcast college football games.
- WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted special temporary authority to operate from local sunset (November sunset, 5 p. m.), to 6 p. m., EST, November 13, 20 and 25, in order to broadcast football games.
- WCAT—So. Dak. Schools of Mines, Rapid City, S. Dak.—Granted special authority to operate from 2:30 to 6 p. m., CST, November 11, in order to broadcast home games played by the College.
- KIT—Carl E. Haymond, Yakima, Wash.—Granted special temporary authority to operate a 100 watt W. E. 12-B transmitter, pending repairs to damaged power amplifier damaged in move to new location, for period of 10 days.
- KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Granted special temporary authority to operate simultaneously with WSMK from 5:30 to 6:30 p. m., EST, November 13, 20 and 27, in order to broadcast Notre Dame football games which come to KQV through WLW lines.
- WBNO—The Coliseum Place Baptist Church, New Orleans, La.—Granted modification of C. P. to move transmitter to Euphrosine and S. White Streets, provided towers are marked in accordance with Rule 131-d. Also granted modification of C. P. to extend commencement date to date of approval and completion date to 6 months hereafter.
- KCRJ—Radio Station KCRJ, Jerome, Ariz.—Granted extension program test period 30 days from October 15, 1937.
- KUMA—Albert H. Schermann, Yuma, Ariz.—Granted extension of special temporary authority to remain silent for period October 21 to November 19, pending completion of construction to move transmitter.
- KPRC—Houston Printing Co., Houston, Tex.—Granted extension of special temporary authority to operate with 5 KW power at night, for period October 21 to November 19.
- WOLS—O. Lee Stone, Florence, S. C.—Granted modification of C. P. approving transmitter site on Charleston Highway, south of Florence; changes in composite equipment and towers to be marked in accordance with Rule 131-d.
- WNBZ—Smith & Mace, Saranac Lake, N. Y.—Granted extension program test period 30 days from October 30.
- WIOD—WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted special temporary authority to operate on frequency **610 kc.**, under terms of modification of license granted September 14, 1937, for this authority for the period October 26 and ending in no event later than 20 days pending compliance with Rule 131.
- WWJ—The Evening News Assn., Detroit, Mich.—Granted extension special temporary authority to operate for the period October 31 to November 29, with an increase in night power to 5 KW, to overcome interference.
- WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted extension special temporary authority to operate on **560 kc.**, with 1 KW night, for period October 31 to November 30, pending filing of and action on license application to cover C. P. for this authority.
- WMBQ—Joseph Husid, Receiver for Metropolitan Broadcasting Corp., Brooklyn, N. Y.—Granted extension special temporary authority for Joseph Husid, Receiver, to operate station WMBQ for period October 31 to November 29, pending action upon any applications affecting station WMBQ.
- WTMV—Miss. Valley Broadcasting Co., Inc., E. St. Louis, Ill.—Granted special temporary authority to operate a 25 watt portable transmitter on frequency **1500 kc.**, from 12 midnight to 6 a. m., CST, for period not to exceed 10 days, in order to make measurement for proposed transmitter site.
- WMBC—Mich. Broadcasting Co., Detroit, Mich.—Granted special temporary authority to pickup and rebroadcast over WMBC portions of the routine of Mich. State Police reports as broadcast from Lansing by police station WRDS at 7 p. m., EST, for 15 minutes or less, each Wednesday for the period November 3 to December 2, 1937.
- KGA—Louis Wasmer, Spokane, Wash.—Granted special temporary authority to operate a 50 watt transmitter on **1470 kc.**, between hours 1 and 6 a. m., for period not to exceed 30 days to conduct site survey tests.
- WCAX—Burlington Daily News, Inc., Burlington, Vt.—Granted special temporary authority to operate from 7 to 8 p. m., EST, Mondays to Thursdays, inclusive, on the following dates: November 8 to 11 inclusive, November 15 to 18 inclusive; November 22 to 25 inclusive; November 29 and 30, to broadcast sponsored sports program; also to operate from 2 to 4:30 p. m., EST, November 13 and 20, in order to broadcast sponsored Yale football games.
- WSAY—Brown Radio Service & Lab., Rochester, N. Y.—Granted special temporary authority to operate between hours of 1 and 6 a. m., EST, for period not to exceed 10 days, in order to make field intensity tests for purpose of determining the extent of the skywave of WSAY at Stratford, Ontario, in relation to operation of Canadian station CJCS.
- WFLA—Fla. West Coast Broadcasting Co., Inc., Clearwater, Fla.—Granted extension of special temporary authority to close Clearwater studios from November 1 to November 30, inclusive, and to use Tampa studios, pending action on application for modification of license for this authority.
- KGDY—Voice of So. Dak., Huron, S. D.—Granted extension of special temporary authority to remain silent for period October 31 to November 29, inclusive, for purpose of rebuilding transmitter to comply with Rule 132.
- WPEN—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Granted extension of special temporary authority to increase power to 1 KW night, in order to counteract interference caused by station CMX, Havana, and WWJ, Detroit, KPRC, Houston, for the period October 31 to November 29.
- WRAX—WRAX Broadcasting Co., Philadelphia—Granted extension of special temporary authority to increase power to 1 KW night, in order to counteract interference caused by station CMX, Havana, and WWJ, Detroit, KPRC, Houston, for the period October 31 to November 29.
- WWSW—Walker & Downing Radio Corporation, Pittsburgh, Pa.—Granted renewal of license for the period, ending January 1, 1938.
- WBNX—WBNX Broadcasting Co., Inc., New York—Granted renewal of license for the period November 1, 1937, to May 1, 1938.
- WGRC—Northside Broadcasting Corp., New Albany, Ind.—Granted renewal of license for the period, ending January 1, 1938.
- WTNJ—WOAX, Inc., Trenton, N. J.—Designated for hearing application for renewal of license and temporary license issued pending hearing subject to whatever action may be taken by Commission upon pending application of this station for renewal of license.
- WTNJ—WOAX, Inc., Trenton, N. J.—Designated for hearing application for C. P. to move transmitter, install new equipment and vertical radiator; to be heard with above application of WTNJ.
- WRDO—WRDO, Inc., Augusta, Me.—Granted extension of present license of WRDO for period of two months from November 1, upon a temporary basis subject to such action as may be taken upon application for renewal and transfer of control pending before the Commission.
- WNBZ—Smith and Mace, New York City.—Granted extension of present license for a period of 2 months from November 1, upon a temporary basis only and subject to such action as may be taken upon applications for renewal and assignment of license pending before the Commission.
- KMAC—W. W. McAllister, San Antonio, Texas.—Granted extension of present license for period of 2 months from November 1, upon a temporary basis only, subject to such action as may be taken upon applications for renewal and assignment of license pending before the Commission.
- KGNC—Plains Radio Broadcasting Co., Amarillo, Texas.—Granted special temporary authority to operate with reduced power of 1 KW daytime, in accordance with Rule 142, for period not exceeding 10 days, in order that additional repairs may be made to station's power supply equipment.
- NEW—Valley Publ. Co., Harlingen, Texas.—Denied as in case of default for failure to file an appearance in accordance with Rule 104.6(c), application for C. P., **1200 kc.**, 100 watts, 250 watts, LS, unlimited, heretofore set for hearing.
- NEW—S. L. Slover Corp., Norfolk, Va.—Dismissed at request of applicant, application for C. P. for new station to operate on **1370 kc.**, 100 watts, 250 watts, LS, unlimited time. (Application heretofore set for hearing.)
- KYW—Westinghouse E. and M. Co., Philadelphia, Pa.—Dismissed at request of applicant, application heretofore set for hearing, for C. P. to make changes in equipment and increase operating power from 10 to 50 KW, and make changes in directional antenna.

WCBA—B. Bryan Musselman, Allentown, Pa.—Granted request to withdraw application heretofore set for hearing, without prejudice. Applicant requested voluntary assignment of license from B. Bryan Musselman to WSAN, Inc.

WSAN—WSAN, Inc., Allentown, Pa.—Granted request to withdraw without prejudice application for voluntary assignment of license to WSAN, Inc., which was set for hearing.

Granted extension of special temporary authority of Station WKZO, Kalamazoo, Mich., to operate with the present temporary antenna and to suspend construction of vertical radiator for period of 30 days.

Granted petition of Northside Broadcasting Corp. (WGRC), to intervene in the proceedings upon the application of Kentucky Broadcasting Corp. for new station at Louisville, Docket 4649.

Granted motion of Union Tribune Broadcasting Co. for continuance of hearing upon its application, Docket 4835, now scheduled for November 30, and directed that hearing be continued until March 1, 1938.

Waived Rule 104.6(b) as requested in petition of Hazlewood, Inc., and accepted its appearance in Docket No. 4868.

Granted request of Harold Thomas for extension of 60 days from September 20, within which to file his application for approval of the exact transmitter site at Pittsfield, Mass.

Denied the petition of applicant Northside Broadcasting Corp. (WGRC), to hold open the record in Docket 4654, and to consolidate the application with the application in Dockets Nos. 4649, 4731 and 4679; and denied the petition of Northside Broadcasting Corp. for continuance of hearing on application of Kentucky Broadcasting Corp. scheduled for November 5.

The Broadcast Division, upon its own motion, extended the effective dates upon the applications of William Penn Broadcasting Co. (WPEN), Dockets 4358, 4360 and 4498 and the applications of WRAX Broadcasting Co., Dockets 4359 and 4497, until November 9.

Granted petition of George H. Payne to intervene in the proceedings upon the application of Floyd A. Parton, for new station at San Jose, Calif.

Granted petition of Dorrance D. Roderick to intervene in the proceedings upon the application of Tri-State Broadcasting Co., Inc., Docket 4813.

Granted petition of Isle of Dreams Broadcasting Corp. to intervene in the proceedings upon the application of Broward Broadcasting Co.

Granted petition of Savannah Broadcasting Co., Inc., to intervene in the proceedings upon the application of Colonial Broadcasters, Inc., for new station at Savannah, Docket 4818.

Granted petition by Southwestern Hotel Co. to intervene in the proceedings upon the application of J. T. Griffin for new station at Fort Smith, Ark.

Granted petition of Peter Goelet (WGNV) for a continuance of the hearing upon his application for C. P., and directed that said hearing be continued until January 5, 1938.

Granted motion of Colonial Broadcasters, Inc., for continuance of the hearing upon its application, Docket 4818, and the application of Seaboard Broadcasting Corp., Docket 4625, for C. P.s., and directed that said hearing be continued until December 20, 1937.

Granted petition of Charles F. Engle, Natchez, Miss., for a continuance of the hearing upon his application for C. P., and directed that said hearing be continued until November 19, 1937.

Granted petition of Floyd A. Parton for continuance of hearing upon his application for a new station at San Jose, until January 10, 1938.

Granted motion of Lake Region Broadcasting Co. (WLAK), for continuance of hearing until December 16, 1937, upon application for C. P., Docket 4825.

Granted petition of Zenith Radio Corp., Chicago, Ill., that its application for C. P. for new visual broadcast station, be remanded to the docket and reopened for the taking of further testimony before the Examiner, on a date subsequent to October 30, 1937, with reference to its legal qualifications to construct and operate a visual broadcast station.

Denied request of Louis P. Thornton for an order to take depositions in the matter of his application for new station at Baker, Ore.

Granted petition of Mrs. W. J. Virgin (KMED), to intervene in the proceedings upon the application of Pacific Radio Corp. for new station at Grants Pass, Ore.

Granted petition of KQV Broadcasting Co. to intervene in the proceedings of WWPO, Inc., for new station at Pittsburgh, Pa.

Granted petition of King-Trendle Broadcasting Corp. to inter-

vene in the proceedings upon the application of Cadillac Broadcasting Corp. for new station at Detroit, Mich.

Granted petition of KFH, an intervenor, for a continuance of the hearing upon the application of the Farmers & Bankers Broadcasting Corp. now scheduled for October 22, and directed that said hearing be postponed until November 23.

Granted petition of Voice of Detroit, Inc., for leave to amend its application for C. P. for new station at Detroit, Mich., without change in the hearing date.

Granted petition of Intermountain Broadcasting Corp. (KDYL), to intervene in the proceedings upon the application of Interstate Broadcasting Corp. (KLO).

Granted petition of J. T. Griffin for continuance of the hearing upon his application until January 11, 1938.

Granted joint motion of WCBA and WSAN, Allentown, Pa., for a continuance of the hearing on their applications until January 5, 1938.

Granted joint petition of WBNX Broadcasting Co., Inc., and Havens & Martin, Inc., for a continuance of the hearings upon their applications until December 10, 1937.

Granted petition of Station WMFR, Inc., for continuance of the hearing on its application for modification of license until December 1, 1937.

Denied petition of Dorrance D. Roderick, an intervenor, for postponement of the hearing upon application of Tri-State Broadcasting Co., Inc. (KTSM), until after court decision in the case of Tri-State Broadcasting Co., Inc., v. FCC. and Dorrance D. Roderick, Intervenor.

Granted petition of El Paso Broadcasting Co. to intervene in the proceedings upon the application of Tri-State Broadcasting Co., Inc. (KTSM), for C. P.; granted that part of said petition insofar as it prays for the delay in the final decision upon the application of Tri-State Broadcasting Co., until the Court of Appeals shall have acted in the matter of Dorrance D. Roderick for a C. P.; and denied that part of the petition in so far as it prays for a delay in the final decision upon the application of the Tri-State Broadcasting Co., Inc., until the Commission shall have acted upon the applications of El Paso Broadcasting Co. and Earl Yates.

Granted petition of Sharon Herald Broadcasting Co. to accept an agreement and stipulation between the attorney for the Sharon Herald and the various attorneys for the respondents, both attached to petition, in the matter of its application, Docket 4201.

Granted petition of Platt and Platt, Inc., for waiver of Rule 104.6(b), and accepted its appearance in Docket 4581.

## ACTION ON EXAMINERS' REPORTS

NEW—Ex. Rept. 1-394: Arthur H. Croghan, Minneapolis, Minn.—Denied C. P. for new broadcast station to operate on 1310 kc., 100 watts, daytime, site to be determined. Order effective December 28, 1937. Examiner Melvin H. Dalberg sustained.

NEW—Ex. Rept. 1-408: Charles Porter and Edward T. Eversole, Festus, Mo.—Denied C. P. for new station to operate on 1420 kc., 100 watts, daytime. Order effective December 7, 1937. Examiner P. W. Seward reversed.

WHOM—Ex. Rept. 1-410: New Jersey Broadcasting Corp., Jersey City, N. J.—Denied C. P. to install new transmitter and increase power from 250 watts to 250 watts night, 1 KW day, 1450 kc., unlimited time. Order effective December 21, 1937. Examiner R. H. Hyde sustained.

NEW—Ex. Rept. 1-462: General Electric Co., near Belmont, Calif.—Granted C. P. for new international broadcast station to operate on frequencies 9530, 15330 kc., 20 KW, unlimited time. Order effective December 1, 1937. Examiner Geo. H. Hill sustained.

NEW—Ex. Rept. 1-479: Kenneth Baker, Hartwell Gaus, V. A. Bernier, d/b as Key City Broadcasting Co., Kankakee, Ill.—Denied C. P. for new broadcast station to operate on 1500 kc., 100 watts, unlimited time. Order effective December 28, 1937. Examiner Tyler Berry sustained.

NEW—Ex. Rept. 1-480: Robert Raymond McCulla, Oak Park, Ill.—Denied C. P. for new broadcast station to operate on 1500 kc., 100 watts, daytime. Order effective December 28, 1937. Examiner Tyler Berry sustained.

KABR—Ex. Rept. 1-481: Aberdeen Broadcast Co., Aberdeen, S. Dak.—Granted C. P. to install new transmitter; make changes in equipment; install directional antenna for night use; change frequency from 1420 kc. to 1390 kc.; and increase power from 100 watts to 500 watts night, 1 KW day, unlimited time. Order effective December 7, 1937. Examiner R. H. Hyde sustained.

- NEW—Ex. Rept. 1-482: Don M. Lidenton and A. L. McCarthy, Poplar Bluff, Mo.—Granted C. P. for new broadcast station to operate on **1310 kc.**, 100 watts, daytime. Order effective December 7, 1937. Examiner Robert L. Irwin sustained.
- NEW—Ex. Rept. 1-484: John W. Haigis, Greenfield, Mass.—Granted C. P. for new broadcast station to operate on **1210 kc.**, 250 watts, daytime, site to be determined subject to Commission's approval. Petition to sustain Examiner's recommendation dismissed. Order effective December 14, 1937. Examiner Tyler Berry sustained.
- WBNS—Ex. Rept. 1-489: WBNS, Inc., Columbus, Ohio.—Granted C. P. to install new transmitter; install directional antenna for night use; and increase power from 500 watts night, 1 KW day, to 1 KW night, 5 KW day; **1430 kc.**, unlimited time. Order effective December 14, 1937. Examiner Robert L. Irwin sustained.

### ORAL ARGUMENTS GRANTED

- WBAX—Ex. Rept. 1-371: John H. Stenger, Jr., Wilkes Barre, Pa.—Granted oral argument to be held on January 13, 1938.
- NEW—Ex. Rept. 1-500: Genesee Radio Corp., Flint, Mich.—Granted oral argument to be held on January 13, 1938.
- NEW—Ex. Rept. 1-498: Dr. Wm. States Jacobs Broadcasting Co., Houston, Tex.—Granted oral argument to be held on January 20, 1938.
- NEW—Ex. Rept. 1-502: Great Lakes Broadcasting Corp., Cleveland, Ohio.—Granted oral argument to be held on January 20, 1938.
- NEW—Ex. Rept. 1-503: Fall River Herald News Publishing Co., Fall River, Mass.—Granted oral argument to be held on January 20, 1938.

### APPLICATIONS RECEIVED

#### First Zone

- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—**710** Special experimental authorization to operate a facsimile station from 2 a. m. to 6:30 a. m., using 5 KW power. Amended to request hours of operation from 2 a. m. to 6 a. m.
- WDEL—WDEL, Inc., Wilmington, Del.—Construction permit to **1120** install a vertical antenna, and move transmitter from Ninth and Market Sts. to 1.6 miles northeast of city along N. E. Blvd., Wilmington, Del.
- WSAL—Frank M. Stearns, Salisbury, Md.—Modification of construction permit (B1-P-1613) as modified for new station, requesting authority to move studio and transmitter from 321 E. Main St. to 315 E. Main Street, Salisbury, Md.
- WOKO—WOKO, Inc., Albany, N. Y.—License to cover construction permit (B1-P-1867) for new equipment.
- NEW—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—**1500** Construction permit to erect a new broadcast station to be operated on **1500 kc.**, 100 watts night and 250 watts day, unlimited hours of operation.
- NEW—General Electric Co., Albany, N. Y.—Construction permit for a new television broadcast station on **44000-50000 kc.**, Power, Video 10000 watts, Aural 3000 watts, located in Albany, N. Y.
- NEW—General Electric Co., Easton, Conn.—Construction permit for a new television station on **44000-50000 kc.**, power, Video 10000 and Aural 3000 watts.
- NEW—General Electric Co., Schenectady, N. Y.—Construction permit for a new television station on **44000-50000 kc.**, power of 40 watts, Video transmission only.
- NEW—General Electric Co., Schenectady, N. Y.—Construction permit for a new television station on **44000-50000 kc.**, power of 40 watts, Video transmission only.
- W10XHI—Columbia Broadcasting System, Inc., Mobile (area Chicago).—Modification of license to delete frequencies **31100, 34600, 37600, 40600 kc.**, and add **38900, 39100, 39300, 39500 kc.**
- W2XAX—Columbia Broadcasting System, Inc., New York, N. Y.—Modification of construction permit (B1-PVB-6) to extend completion date from 12-16-37 to 6-16-38.

#### Second Zone

- WHAS—The Louisville Times Co., Louisville, Ky.—Modification **820** of construction permit (B2-P-1126) as modified to extend completion date from 12-5-37 to 1-5-38.

- NEW—Pontiac Broadcasting Co., Pontiac, Mich.—Construction **1100** permit for a new station to be operated on **1100 kc.**, 1 KW power, daytime operation.
- WTOL—Community Broadcasting Co., Toledo, Ohio.—Modification of construction permit (B2-P-151) for new station, requesting approval of studio and transmitter sites at 709 Madison Ave., Toledo, Ohio, and approval of vertical antenna, install new transmitter.
- WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—License to cover **1310** construction permit (B2-P-1708) for move of transmitter and install vertical antenna.
- NEW—King-Trendle Broadcasting Corp., Pontiac, Mich.—**1440** construction permit for a new station on **1440 kc.**, 250 watts power, unlimited time, using directional antenna day and night.
- W3XGS—Keystone Broadcasting Corporation, Mobile, Harrisburg, Pa.—Construction permit for a high frequency relay station on **31100, 34600, 37600, 40600 kc.**, 50 watts power.
- W3XGT—Keystone Broadcasting Corporation, Mobile, Harrisburg, Pa.—Construction permit for a high frequency relay station on **31100, 34600, 37600, 40600 kc.**, 5 watts.
- W3XGN—Berks Broadcasting Co., Portable-Mobile (Reading, Pa.).—License to cover construction permit (B2-PRE-34) as modified for high frequency station.
- W8XOY—Allen T. Simmons, Tallmadge, Ohio.—License to cover construction permit (B2-PHB-34) for high frequency relay station.
- NEW—The WGAR Broadcasting Co., Cuyahoga Heights, Ohio.—Construction permit for a new relay broadcast station on **1622, 2058, 2150, 2790 kc.**, 100 watts power.
- NEW—The WGAR Broadcasting Co., Mobile (Cleveland, Ohio).—Construction permit for a new relay broadcast station on **1622, 2058, 2150, 2790 kc.**, 100 watts power.
- NEW—The WGAR Broadcasting Co., Mobile (Cleveland, Ohio).—License to cover construction permit (B2-PRY-72) above.
- NEW—The WGAR Broadcasting Co., Cuyahoga Heights, Ohio.—License to cover construction permit (B2-PRY-73) for new relay station.
- WBNT—WBNS, Inc., Mobile (Columbus, Ohio).—License to cover construction permit (B2-PRY-27) for low frequency relay station.
- W8XIS—WLBG, Inc., Mobile (Richmond, Va.).—License to cover construction permit (B2-PRE-120) for new high frequency relay station.

#### Third Zone

- NEW—W. A. Barnette, Greenwood, S. C.—Construction permit **610** to erect a new broadcast station to be operated on **610 kc.**, 250 watts, daytime operation.
- WSM—The National Life & Accident Insurance Co., Inc., Nashville, Tenn.—Special experimental authorization to operate a facsimile station from 12 midnight to 6 a. m., CST, for period ending 2-1-38.
- WDAE—Tampa Times Co., Tampa, Fla.—Modification of license **780** to change frequency from **1220 kc.** to **780 kc.**, install directional antenna from day and night.
- WSPA—Virgil V. Evans, tr/as Voice of South Carolina, Spartanburg, S. C.—Construction permit to install a new transmitter.
- KRLD—KRLD Radio Corporation, Dallas, Tex.—Construction **1040** permit to install new transmitter.
- WBNO—The Coliseum Place Baptist Church, New Orleans, La.—**1200** Modification of construction permit (B3-P-1622) for new transmitter and antenna and move transmitter and studio, further requesting move of transmitter from Broad and Thalia, New Orleans, La., to Euphrosine and S. White St., New Orleans, La.
- NEW—S. B. Quigley, Mobile, Ala.—Construction permit for a **1200** new station to be operated on **1200 kc.**, 100 watts, daytime.
- KPAC—Port Arthur College, Port Arthur, Tex.—Construction **1260** permit to make changes in transmitter; install directional antenna for night use; change frequency from **1260 kc.** to **1230 kc.**; increase power from 500 watts to 1 KW; change hours of operation from day to unlimited. Amended: Change requested frequency from **1230 kc.** to **1350 kc.**, and move transmitter 1/10 mile.
- WTOC—Savannah Broadcasting Co., Inc., Savannah, Ga.—Modification of construction permit (B3-P-1764) for extension of commencement and completion dates from 10-18-37 and 4-18-38 to 4-18-38 and 10-18-38, respectively.
- WJDX—Lamar Life Insurance Co., Jackson, Miss.—License to **1270** cover construction permit (B3-P-1584) as modified for changes in equipment and increase in power.

WSMB—WSMB, Inc., New Orleans, La.—Modification of construction permit (B3-P-1494) to move transmitter from Algiers Naval Station to Behrman Highway, New Orleans, La.

NEW—F. C. Todd, Gastonia, N. C.—Construction permit for a 1420 new station to be operated on 1420 kc., 100 watts night and 250 watts day, unlimited time.

NEW—Harry M. Ayers, Anniston, Ala.—Construction permit for 1420 a new station to be operated on 1420 kc., 100 watts, daytime.

WHBB—Selma Broadcasting Co., Inc., Selma, Ala.—Authority to 1500 transfer control of corporation from G. W. Covington, Jr., J. C. Hughes, and J. S. Allen, to H. A. Shuman, 60 shares common stock, and to S. A. Cisler, 60 shares common stock.

WKAT—A. Frank Katzentine, Miami Beach, Fla.—Authority to 1500 determine operating power by direct measurement of antenna power.

WKAT—A. Frank Katzentine, Miami Beach, Fla.—License to 1500 cover construction permit (B3-P-1198) as modified for new station.

NEW—Fountain of Youth Properties, Inc., Mobile (area St. Augustine, Fla.)—Construction permit for new relay broadcast station on 39700, 39900, 40800, 41400 kc., 10 watts.

WAXH—Savannah Broadcasting Co., Mobile (Savannah, Ga.)—Modification of construction permit (B3-PRY-52) for new low frequency station, requesting authority to make changes in equipment and increase in power from 10 watts to 50 watts.

XXX—Chamber of Commerce, Eureka Springs, Ark.—Authority to transmit program of one hour, on November 6, 1937, to station XENT, Nuevo Laredo, Mexico, by telephone line transmission.

#### Fourth Zone

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Special experimental authorization to operate a facsimile station from 1 550 a. m. to 6 a. m. using 1 KW power, period from 12-1-27 to 3-1-38.

WTMJ—The Journal Co. (Milwaukee Journal), Milwaukee, Wis. 620 —Authority to determine operating power by direct measurement of antenna power.

WLS—Agricultural Broadcasting Co., Chicago, Ill.—Construction 870 permit to install a new transmitter and make changes in vertical antenna and move transmitter from 22.5 miles air line from State and Madison Sts., Chicago, Illinois, and 3.5 miles S. of Downers Grove, Illinois, to Tinley Park, Illinois.

WTAD—Illinois Broadcasting Corp., Quincy, Ill.—Modification of 900 license to change hours of operation from day to unlimited, using 1 KW power. Amended: To change to a construction permit, install directional antenna for night use, and move transmitter from N. 24th St., Quincy, Ill., to 3 mi. S. W. of Quincy, Ill.

WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Construction 1210 permit to install vertical antenna, move transmitter from 102 18th St., Rock Island, Ill., to S. E. ¼ of Section 2 Township 17 N. Range 1 W., near Rock Island, Ill. To change frequency from 1210 to 1240 kc., install new transmitter, increase power from 100 watts, 250 watts day to 500 watts night, 1 KW day and install directional antenna for night use. Amended: To change night power to 1 KW.

KFGQ—Boone Biblical College, Boone, Iowa.—Construction permit 1370 to install a new transmitter.

KATE—Albert Lea Broadcasting Co., Albert Lea, Minn.—License 1420 to cover construction permit (B4-P-883) as modified, for a new station.

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—1460 Special experimental authorization to operate a facsimile station from 1 a. m. to 6 a. m. using 10 KW power. Amended: RE: Equipment.

NEW—Kathryn B. Gosselin, Aurora, Ill.—Construction permit for 1500 a new station on 1500 kc., 100 watts night, 250 watts day power, unlimited hours of operation.

NEW—N. B. Egeland, Fort Dodge, Iowa.—Construction permit 1500 for a new station to be operated on 1500 kc., 100 watts, daytime. Amended: Studio and transmitter site to be determined, vicinity of Fort Dodge, Iowa.

NEW—Topeka Broadcasting Association, Inc. (Mobile), Area of Topeka, Kans.—Construction permit to erect a new relay broadcast station on 31100, 34600, 37600, 40600 kc., 10 watts power.

NEW—Topeka Broadcasting Association, Inc., Mobile.—License to cover the above construction permit (B4-PRE-159).

NEW—Topeka Broadcasting Association, Inc., Mobile (Area, Topeka).—Construction permit to erect new relay broadcast station on 38900, 39100, 39300, 39500 kc., 10 watts power.

NEW—Topeka Broadcasting Association, Inc., Mobile.—License to cover construction permit above (B4-PRE-160).

NEW—Topeka Broadcasting Association, Inc., Mobile (Area of Topeka).—Construction permit to erect new relay broadcast station on 39700, 39900, 40800, 41400 kc., 2 watts power.

NEW—Topeka Broadcasting Association, Inc., Mobile.—License to cover above construction permit (B4-PRE-161).

W9XRT—Gazette Printing Co., Mobile (Janesville, Wis.)—License to cover construction permit (B4-PRE-96) for relay broadcast station.

KAID—Woodmen of the World Life Insurance Assn., Mobile (Omaha, Nebr.)—Modification of construction permit (B4-PRY-60) for new low frequency relay broadcast station to change name to Woodmen of the World Life Insurance Society.

W9XPX—Woodmen of the World Life Insurance Assn., Omaha, Nebr. (Mobile).—Modification of license to change name to Woodmen of the World Life Insurance Society.

W9XPT—Woodmen of the World Life Insurance Association, Omaha, Nebr. (Mobile).—Modification of license to change name to Woodmen of the World Life Insurance Society.

W9XSB—South Bend Tribune, Mobile, South Bend, Ind.—Construction permit to make equipment changes and increase power from 1 watt to 3.5 watts.

W9XSB—South Bend Tribune, South Bend, Ind.—License to cover above construction permit (B4-PRE-164).

KAID—Woodmen of the World Life, Insurance Assn., Mobile, Omaha, Nebr.—License to cover construction permit (B4-MPRY-13) as modified.

WAHJ—The Champaign News-Gazette, Inc., Champaign, Ill.—License to cover construction permit (B4-PRY-66) for low frequency station.

#### Fifth Zone

KGEK—Elmer G. Beehler, Sterling, Colo.—Modification of license 1200 to change specified hours by adding Saturday hours from 1:30 p. m. to 2:30 p. m.

NEW—Michael J. Mingo, Tacoma, Wash.—Construction permit 1400 for a new station on 1400 kc., 250 watts, daytime operation.

KGCC—Golden Gate Broadcasting Co. (Robert J. Craig), San 1420 Francisco, Calif.—Modification of construction permit (B5-P-1725) to install new antenna and move transmitter locally, further requesting authority to make changes in equipment, increase power from 100 watts to 100 watts night, 250 watts day, extend commencement and completion dates 60 and 180 days respectively.

KAXA—Earle C. Anthony, Inc., Mobile, Los Angeles, Calif.—License to cover construction permit (B5-PRY-4) for new relay broadcast station.

#### Puerto Rican Zone

WNEL—Juan Piza, San Juan, P. R.—Construction permit to make 1290 changes in antenna and change frequency from 1290 kc. to 590 kc. Amended to install directional antenna for day and night use; move transmitter locally, San Juan, P. R. (no street address).

NEW—Juan Piza, San Juan, P. R.—Construction permit for new experimental broadcast station on 4797.5, 6425, 8655 kc., 100 watts, unlimited time.



**NAB REPORTS** \* \* \* \* \*

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**McNINCH EXPLAINS NEW PROCEDURE**

"From various sources," stated Frank R. McNinch, Chairman of the Federal Communications Commission, at a recent press conference, "I gather the impression that over a period of years there has grown up, like Topsy, the practice of making suggestions, requests or recommendations to members of the Commission or its staff as to matters pending by those not of record as parties in interest; and also by parties in interest, or their attorneys, after the record in a case has been closed but before action by the Commission. This has been the basis for a part of the criticism as to political or outside influence aimed at the Commission, and I think it should be said in all fairness that, whatever may have been the responsibility of the Commission and staff in this respect, such responsibility also rests in part on any who may have made such suggestions to or requests of any Commissioner or staff member.

"The Communications Commission is an independent Commission created by the Congress, to which has been delegated important and far-reaching powers, administrative, legislative and quasi-judicial. For anyone to make a request of or suggestion to a Commissioner or staff member touching any pending quasi-judicial matter, or for anyone to respond to any such request which is not a part of the public record in the case does violence to the true conception of how an independent Commission should exercise its quasi-judicial function. This observation is not applicable to purely administrative matters nor does it have reference to inquiries which have to do with the status of a particular case, the reasons for the delay in handling, if there has been delay, as to whether a particular matter will be set down for hearing and the probable or fixed date of such hearing and similar inquiries. Such inquiries are not only proper but are welcomed by the Commission and will receive prompt attention. The answer to such questions can be made promptly and accurately by the Secretary to the Commission.

"These candid statements are prompted not only by the conception of my associate Commissioners and myself as to the way in which the Commission should discharge the important powers and duties committed to it by the Congress, but also because the Congress created the Communications Commission as an independent agency with quasi-judicial powers and the Commission is directly re-

sponsible to the Congress for the fidelity with which it discharges these delegated duties.

"To all who desire that the Commission conduct its affairs in a manner that will best serve the interests of the public and reflect credit upon the Commission and Congress, frank appeal is made for support of the Commission in carrying out the purposes to be effected by the Orders hereinafter referred to.

"At the Commission meeting on November 10 I presented to the Commission," stated Chairman McNinch, "Orders Nos. 25 and 26. These Orders were adopted by unanimous vote, Commissioner T. A. M. Craven being absent on account of his official duties in connection with the Inter-American Radio Conference at Havana. However, I consulted Commissioner Craven relative to the substance of these Orders and had his approval.

"The Secretary is directed by Order No. 25 to make a record of all communications received by the Commission relating to the *merits* of any application pending, requesting the granting, renewal, modification, transfer or revocation of any license, construction permit, certificate of convenience and necessity, or rate schedule. The Secretary shall, when the date of hearing has been fixed, if any such matter is set down for hearing, notify all such persons to the end that they may have opportunity to appear and give evidence at such hearing. The Order provides that, in the case of communications signed by more than one person, which includes petitions, such notice shall be sent to the person first signing such communication unless the communication itself may request or direct that notice be sent to some other person therein designated.

"Order No. 25 further provides that no such communication will be considered by the Commission in determining the merits of any matter unless it may be and is introduced in evidence at the hearing under applicable rules of evidence. A further provision is to the effect that, while

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such informal communications may not be received as evidence except as above indicated, these communications will be considered by the Commission, if circumstances warrant, in deciding whether a particular matter shall be set down for hearing, where in the absence of such communication no hearing would be required. The reason for the statement in Order No. 25, that informal communications, such as letters, cannot be introduced as evidence at a hearing is obvious, as all parties to a matter being heard are entitled to examine or cross-examine witnesses either at the hearing or by deposition.

"The Secretary is directed by Order No. 26 to forward once each week to all members of the Senate and of the House of Representatives, as well as to the Governor of each State and to the State Regulatory or Public Utilities Commission, a statement as to all orders issued, all applications filed for the issuance, renewal, transfer, modification, or revocation of a license, construction permit, certificate of convenience and necessity, or rate schedule; except that, due to frequent necessity for immediate action thereon, such notice shall not be given as to applications for an operator's, amateur, itinerant aircraft, or ship license or permit, or modification or renewal thereof, nor of applications for temporary privileges such as special broadcasts, etc., nor of applications for emergency services.

"Such notice shall request persons so notified to advise the Commission whether they desire to appear either in person or by accredited representative at a hearing on any application referred to in the notice, if the matter is set down for hearing, and inform the Commission as to any public interest involved in said application.

"One of the purposes of Orders Nos. 25 and 26 is to provide the necessary procedure for keeping all public officials currently advised as to all matters of public interest pending before the Commission as well as of action taken on such matters through appropriate orders. Through these notices public officials, charged with the duty of representing their constituents and the interests of the public generally, may have prompt and timely notice of matters coming before the Commission with full opportunity to appear in person or by their representative at hearings, where such hearings are to be held, and give the Commission the benefit of their testimony. This would aid the Commission in reaching determinations which would serve the 'public interest, convenience or necessity.'

"I draw attention to what the Commission regards as one of the most important provisions of Order No. 25, which is to the effect that no person shall be precluded from giving relevant, material and competent testimony at any hearing because he may lack a sufficient interest to justify his formal intervention as a party in a particular matter. The Commission represents the public and is a forum before which the public should have the right to

appear at hearings and present testimony under the rules of evidence. It will, of course, be proper and necessary that hearsay testimony be excluded and that testimony offered be relevant, material and competent, but within these well recognized limitations the Commission will welcome testimony, whether by public officials or by private citizens."

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

### ORDER NO. 25

The Secretary is hereby directed to make a record of all communications received by the Commission relating to the merits of any application pending before the Commission requesting the granting, renewal, modification or revocation of any license or construction permit, certificate of convenience and necessity or rate schedule. Such record shall show the name and address of the person making the statement and the substance of such statement. When the date of hearing has been set, if the matter is designated for hearing, the Secretary shall notify all persons shown by the records to have communicated with the Commission regarding the merits of such matter in order that such persons will have an opportunity to appear and give evidence at such hearing, provided, that in the case of communications bearing more than one signature notice shall be given to the person first signing unless the communication clearly indicates that such notice should be sent to some one other than such person.

No such person shall be precluded from giving any relevant material and competent testimony at such hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.

No such communication will be considered by the Commission in determining the merits of any such matter nor shall any such communication be considered by any examiner unless it has been introduced into evidence at the hearing and appears as a part of the record. The admissibility of any such communication or the Secretary's record of any such communication shall be governed by the applicable rules of evidence and no such communication shall be admissible on the basis of a stipulation unless Commission's counsel as well as counsel for all of the parties shall join in such stipulation.

Such communications, however, may be considered by the Commission if circumstances warrant in deciding whether or not a matter shall be set down for hearing in cases where in the absence of such communication no hearing would be required by the Commission.

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

### ORDER NO. 26

The Secretary is hereby directed to prepare each week a report listing all applications which have been filed during the preceding week for the issuance, renewal, modification, transfer or revocation of licenses, construction permits or certificates of convenience and necessity, as well as all rate schedules filed. Such report shall also show what, if any, action has been taken by the Commission during the preceding week with respect to designation of any of said applications for hearing, the setting of a date for a hearing on any such application, the granting or denial of petitions for intervention, continuance, etc., as well as final action on any of such applications by the Commission. It shall not be necessary for the Secretary to include in such report any information with respect to either the filing of or action upon applications for operator's, amateur, itinerant aircraft, or ship licenses or permits, or the modification or renewal thereof, nor of applications for temporary privileges such as special broadcasts, etc., nor of applications for emergency services.

The Secretary is also directed to mail a copy of such report to all Senators, members of and delegates to the House of Representatives and Governors of the several States, as well as the utility commissions of such states. The Secretary shall include with such report a request that all such persons shall advise the Commission whether they desire to appear either in person or by accredited representative at a hearing on any application listed in said report as having been filed with the Commission, when and if such matter shall be set down for hearing, in order that they may inform the Commission as to any public interest involved in the matter.

The Secretary is also directed to request such persons to advise any state or municipal officials charged with the duty of protecting the public interest likely to be affected by the granting or denial of any such application that such an application has been filed and that such public official should advise the Commission if he desires to appear either in person or by accredited representative at a hearing on such application when and if the matter is set down for hearing.

### CONGRESS AND RADIO LEGISLATION

The second session of the Seventy-Fifth Congress convening here on Monday of this week has a number of radio bills and resolutions pending in both the House and the Senate. The status of these bills is exactly as it was when Congress adjourned. Details of the pending measures will be found in Volume 5, No. 36 of NAB Reports.

### FCC CHANGES RULES AND REGULATIONS

At a press conference the latter part of last week, Chairman Frank R. McNinch, of the Federal Communications Commission announced the Commission's action making changes in its rules and regulations for the transfer of all functions from the Broadcast, Telegraph and Telephone Divisions to the Commission itself, which was effective at midnight on November 15.

On October 14, when the Communications Commission adopted Order No. 20, abolishing as of midnight, November 15, the Broadcast, Telegraph and Telephone Divisions, and transferred all powers and functions presently vested in such Divisions to the Commission, Chairman McNinch was directed to prepare and submit to the Commission such new and supplementary rules and regulations as were made necessary by this Order.

"At its regular meeting, November 10," stated Chairman McNinch, "I presented to the Commission for its consideration Order No. 23, which was adopted unanimously. This Order provides:

"That all orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, or granted by a Division, shall, consistent with the terms thereof, continue in effect except as or until modified, terminated, superseded, or repealed by the Commission or by operation of law."

"This order further provides that proceedings, hearings and investigations commenced or pending before any Division or a Director of a Division shall be continued by the Commission as if originally commenced before it.

"For lack of time," continued Chairman McNinch, "no effort whatever was made to make any general revision of rules, regulations, procedure, etc. This is, however, a matter that will be given early consideration.

"I also presented to the Commission," stated Chairman McNinch, "Order No. 24, which was also adopted unanimously, and makes amendments to the rules, regulations, etc., which provided for handling of matters by the Divisions.

"While no formal action was taken at the Commission meeting on November 10," said Chairman McNinch, "in regard to the hearing of oral arguments on matters before the several Divisions which will be pending and unfinished after November 15, it was informally agreed, and will subsequently be officially ordered, that oral arguments heretofore set for hearing before either of the Divisions will be heard by the full membership of the Commission. It may be found necessary to make some adjustments in the dates heretofore set by the Divisions for oral arguments after December 1, but those set for hearing during the last half of November will be heard at the time now set unless the Commission may discover some irreconcil-

able conflict as to the time set for arguments on matters now pending, in which event the Commission will advise parties in interest at the earliest possible date as to any change in dates for arguments. Hence, in the absence of notice to the contrary, parties in interest should be prepared to make oral arguments on their respective matters on the November dates now set.

"It is probable, though this has not been definitely determined, that where oral argument has been made before either of the Divisions in a matter on which final decision has not been made, parties in interest will be offered opportunity to argue such matter before the full Commission. However, if such parties should avail themselves of the opportunity for re-argument, it may unavoidably delay decisions in these matters as dates for re-arguments would necessarily have to be reconciled with the dates for oral arguments now set."

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

### ORDER NO. 23

At a meeting of the Federal Communications Commission held at the offices of the Commission in Washington, D. C., on the 10th day of November, 1937;

The Commission having under consideration, the effect of Commission Order No. 20, abolishing the Divisions of the Commission;

IT IS ORDERED, That all orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, or granted by a Division, shall, consistent with the terms thereof, continue in effect except as or until modified, terminated, superseded, or repealed by the Commission or by operation of law.

Except as provided by Commission Order No. 21, any proceeding, hearing, or investigation commenced or pending before any Division or a Director of a Division shall be continued by the Commission as if originally commenced before it.

This order shall be effective at midnight, November 15, 1937, and shall continue in effect until rescinded or modified by subsequent order of the Commission.

BY THE COMMISSION

T. J. SLOWIE,  
*Secretary.*

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

### ORDER NO. 24

At a meeting of the Federal Communications Commission held at the offices of the Commission in Washington, D. C., on the 10th day of November, 1937;

The Commission having under consideration certain amendments to the Rules and Regulations made necessary by Commission Order No. 20,

IT IS ORDERED, that the Rules and Regulations, Part I, Practice and Procedure be and the same are hereby amended as follows:

Rule 100.2. This rule is deleted.

Rule 106.6. This rule is amended to read as follows:

Rule 106.6. The Commission, a Commissioner, or an examiner, when designated to preside at a hearing, may, upon its or his own motion or the motion of any party and for good cause shown, after opening any hearing pursuant to notice, temporarily postpone the hour or date or change the place thereof, when in its or his judgment the ends of justice will be better served.

Rule 106.7. This rule is amended to read as follows:

Rule 106.7. At hearings on complaints, petitions, applications or for other instruments of authorization which the Commission is empowered to make, the complainant, petitioner, or applicant as the case may be, shall open and close. At hearings on investigation and suspension proceedings under Title II of the act, the respondent whose tariffs are under suspension shall open and close. At hearings on all other investigations, revocations, modifications, suspension of operator licenses under title III of the Act, or other proceedings instituted by the Commission, the Commission shall open and close. At hearings on protests, the protestant shall open and close. In hearings upon a consolidated record, the Commission or presiding officer shall designate the order of presentation. Interveners shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of either original party, the Commission or presiding officer shall designate at what stage such interveners shall be heard.

Rule 106.16. This rule is amended to read as follows:

Rule 106.16. At any stage of a hearing, the presiding Commissioner or examiner may call for further evidence upon any issue, and may require such evidence to be presented by any party to the proceeding.

Rule 106.17. This rule is amended to read as follows:

Rule 106.17. Before the close of a hearing, the presiding Commissioner or examiner may, at the request of a party or upon his own motion, require that a party furnish additional documentary evidence, supplementary to the existing record, within a stated period of time. The record of such proceeding will be held open until the expiration of such fixed time, and such additional documentary evidence will be made a part thereof.

Rule 106.18. This rule is amended to read as follows:

Rule 106.18. Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, con-

tracts, agreements, and documents relating to any matter under investigation or hearing may be signed and issued as follows:

(1) Hearings before the Commission en banc: By any Commissioner.

(2) Hearings before an examiner;

(a) By any Commissioner.

(b) When an examiner has been designated to hear a case, he may sign and issue subpoenas in that case.

(c) By the chief examiner or the assistant chief examiner.

No subpoena shall be signed or issued in any event without recommendation thereon in advance by the law department: *Provided, however,* That if a hearing is held in the field and no representative of the law department is in attendance, examination and recommendation by the law department in advance shall not be required.

Rule 106.25. This rule is amended to read as follows:

Rule 106.25. No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing before the Commission, a Commissioner, or Examiner, unless otherwise ordered by the Commission.

Rule 106.27. This rule is amended to read as follows:

Rule 106.27. In the event testimony is taken before a Commissioner or an Examiner, the testimony duly transcribed shall be reported back to the Commission, together with a written report containing recommendations as to the decision to be made thereon, and the facts and grounds upon which such recommendation is based.

Rule 106.29. The first paragraph of this rule is amended to read as follows:

Rule 106.29. In the event that a case is heard before a Commissioner or an Examiner, the Commission shall hear oral argument upon petition of any party, and may permit the filing of briefs. Such party shall request oral argument at the time of the filing of exceptions, or if no exceptions are filed, within the time allowed for the filing of exceptions. In the event that testimony is taken before the Commission, it may be followed by oral argument by the parties, or by the filing of briefs, or both, in the discretion of the Commission, and the case shall thereafter be decided on the basis of the testimony heard and proceedings had.

Rule 106.30. The third paragraph of this rule is amended to read as follows:

Rule 106.30 \* \* \*

\* \* \*

For good cause, a Commissioner or an Examiner before whom any hearing is being held, may, prior to the conclusion of such hearing, on his own motion or that of any party, add to or reduce the time hereinabove provided for the filing of briefs.

Rule 107.1. This rule is amended to read as follows:

Rule 107.1. These rules may be suspended, revoked, modified, amended, or supplemented, in whole or in part, at any time, by the Commission.

These amendments shall become effective at midnight, November 15, 1937, and shall continue in effect until rescinded or modified by subsequent order of this Commission.

BY THE COMMISSION

T. J. SLOWIE,

Secretary.

## INDICATING INSTRUMENTS AND RULE 143

The Broadcast Division of the Federal Communications Commission last week issued the following instructions relative to indicating instruments used by broadcast stations in compliance with Rule 143:

Instruments indicating the plate current or plate voltage of the last radio stage (linear scale instruments) shall meet the following specifications:

1. Length of scale shall not be less than 2 3/10 inches.
2. Accuracy shall be at least two percent of the full scale reading.
3. The maximum rating of the meter shall be such that it does not read off scale during modulation.
4. Scale shall have at least 40 divisions.
5. Full scale reading shall not be greater than five times the minimum normal indication.

Instruments indicating the antenna current shall meet the following specifications:

1. Instruments having logarithmic or square law scales.
  - (a) Shall meet same requirements as 1, 2 and 3 above for linear scale instruments.
  - (b) Full scale reading shall not be greater than three times the minimum normal indication.
  - (c) No scale division above one-third full scale reading (in amperes) shall be greater than 1/30 of the full scale reading. (Example: an ammeter meeting requirement (a) above having full scale reading of six amperes is acceptable for reading currents from two to six amperes provided no scale division between two and six amperes is greater than 1/30 of six amperes, 0.2 ampere.)
2. Radio frequency instruments having expanded scales.
  - (a) Shall meet same requirements as 1, 2 and 3 for linear scale instruments.
  - (b) Full scale reading shall not be greater than five times the minimum normal indication.
  - (c) No scale division above 1/5 full scale reading (in amperes) shall be greater than 1/50 of the full scale reading. (Example: an ammeter meeting the requirement (a) above is acceptable for indicating currents from one to five

amperes provided no division between one and five amperes is greater than 1/50 of five amperes, 0.1 ampere.)

- (d) Manufacturers of instruments of the expanded scale type must submit data to the Commission showing that these instruments have acceptable expanded scales, and the type number of these instruments must include suitable designation.
3. Antenna ammeters employing vacuum tube rectifiers are acceptable provided:
    - (a) The indicating instrument meets all the above requirements for linear scale instruments.
    - (b) Data are submitted under oath showing the unit has an overall accuracy of at least two percent of the full scale reading.
    - (c) Thermocouple type ammeter meeting above requirements 1 (a), (b) and (c) is installed at the same point in the antenna circuit as the vacuum tube ammeter.
    - (d) The calibration of the vacuum tube ammeter is checked against the thermocouple ammeter at least once a week (the thermocouple ammeter may be so connected that it is short circuited or open circuited when not actually being read).
  4. Remote reading ammeters.
    - (a) Shall meet the same requirements as for the regular instruments.
    - (b) Shall be connected at the same point in the circuit.
    - (c) The calibration shall be checked against the regular meter at least once a week (the regular meter may be so connected with a switch that it is short circuited or open circuited when not actually being read).
    - (d) All remote reading instruments, including the vacuum tube type, shall be connected to the antenna circuit through a properly designed electrostatically shielded current transformer except in case a shunt excited antenna is employed, in which case the transmission line current meter may be considered as the remote meter provided the transmission line is terminated directed into the excitation circuit feed line which shall employ series tuning only (no shunt circuits of any type shall be employed) and in so far as practicable the type and scale of the transmission linemeter should be the same as those of the excitation circuit feed line meter. Any method of providing a remote meter different from the above shall be submitted to and approved by the Commission before the indications thereof may be logged as the antenna current.

Stations determining power by the indirect method may log the transmission line current in lieu of the antenna current, provided the instrument meets the above requirements for antenna ammeters, and further provided that the ratio between the transmission line current and the antenna current is entered each time in the log. In case the station is authorized for the same operating power for both day and nighttime operation this ratio shall be checked at least once daily. Stations which are authorized to operate with nighttime power different from the daytime power shall check the ratio for each power at least once daily.

No instrument indicating the plate current or plate voltage of the least radio stage, the antenna current or the transmission line current when logged in lieu of the antenna current shall be changed or replaced without written authority of the Commission, except by instruments of the same make, type, maximum scale reading and accuracy. Requests for authority to change an instrument may be made by letter or telegram giving the manufacturer's name, type number, serial number and full scale reading of the proposed instrument and the values of current or voltage the instrument will be employed to indicate. Requests for temporary authority to operate without an instrument or with a substitute instrument may be made by letter or telegram stating the necessity therefor and the period involved.

No instrument, the seal of which has been broken, shall be employed. Repairs and recalibration of instruments shall be made by the manufacturer, by an authorized instrument repair service of the manufacturer or by some other properly qualified and equipped instrument repair service. In either case the instrument must be resealed with the symbol or trade mark of the repair service and a certificate of calibration supplied therewith.

Since it is usually impractical to measure the actual antenna current of a shunt excited antenna system, the current measured at the input of the excitation circuit feed line is accepted as the antenna current.

## OHIO BROADCASTERS ELECT

At the annual meeting of the Ohio Association of Broadcasters held in Columbus, November 12 and 13, the following officers were elected for the ensuing year: J. Harold Ryan, WSPD, Toledo, President; Warren P. Williamson, WKBN, Youngstown, Vice-President; and C. R. Thompson, WCOL, Columbus, Secretary.

## NEBRASKA LAW TEMPORARILY ENJOINED

On November 13 a three judge federal court at Omaha issued a temporary injunction against the Nebraska music copyright law. A hearing on the merits will take place with 60 or 90 days.

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3261.** Alleging use of unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, a complaint has been issued against **Cornelius P. Van Schaack, Jr.**, trading as **The Ink Company of America**, 6 North Michigan Ave., **Chicago**, engaged in selling sales promotion cards and certificates, fountain pen and pencil sets, Ticoa ink and Ticoa pencil leads. Van Schaack also trades as **Pioneer Advertising Company**, 549 West Randolph St., **Chicago**.

The respondent allegedly enters into contracts with retailers who agree to purchase from him at 10 cents each so-called pen and pencil certificates which the retailer distributes to his customers when they have purchased \$5 worth of merchandise. According to the complaint, when a certificate holder sends the respondent 80 cents for the purchase of a specified quantity of Ticoa ink and pencil leads, he is entitled to receive a pen and pencil set which the respondent represents to be a nationally advertised product, having a value of \$3.50.

The respondent allegedly represents that The Ink Company of America is engaged in a national campaign to advertise Ticoa products, and that such campaign is conducted by the Pioneer Advertising Company, a separate organization, so as to permit merchants to distribute nationally advertised pen and pencil sets free.

**No. 3262.** **Moretrench Corporation, Rockaway, N. J.**, manufacturer of wellpoints, pumps and equipment used in draining wet soil during excavation work, is charged in a complaint with certain false and misleading representations concerning the merits of its products and those of competitors.

Wellpoint equipment consists of a steel tubular header which is laid on the ground surface around the perimeter of the proposed excavation. Attached to the header and inserted into the ground below the depth to which the excavation is to be made are pieces of pipe to which wellpoints are connected. Wellpoints are made of fluted tubing around which is wrapped a copper screen which serves as a filter during the pumping operation. According to the complaint, the water-passing screen area, or filter, constitutes one of the important factors in the efficiency of the pumping equipment.

The complaint alleges that the respondent company, in catalogues, pictures five wellpoints numbered from 1 to 5, No. 1 being identified as a Moretrench product, and the other four, although designated only by number, easily are recognized by the contracting trade as wellpoints manufactured by specific competitors of Moretrench. The pictorial representation, the complaint charges, is accompanied by a tabulation comparing the five wellpoints and representing the respondent company's as excelling the competitors' products as to unobstructed water-passing screen area, the length of the screen, the kind of material in the screen mesh, and certain other mechanical features.

**Nos. 3263-3264-3265-3266.** Alleging violation of Section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act, complaints have been issued against four firms manufacturing and distributing nitrogen-fixing bacteria, which is a commodity commonly known as a commercial inoculant and is useful in promoting the growth of leguminous plants and crops. The respondents are as follows:

**Agricultural Laboratories, Inc.**, 3415 Milton Ave., **Columbus, Ohio**; **Hansen Inoculator Company, Inc.**, 808 North Lincoln Ave., **Urbana, Ill.**; **Albert L. and Lucille D. Whiting**, trading as **The Urbana Laboratories**, 406 North Lincoln Ave., **Urbana, Ill.**, and **The Nitrugin Company, Inc.**, 3747 North Booth St., **Milwaukee**.

The complaints allege that the respondents are discriminating in price unlawfully by selling bacteria to some purchasers at prices lower than the prices at which they sell bacteria of like grade and quality to other purchasers. The complaints further charge that the respondents allow some purchasers larger discounts from the prices at which they sell bacteria than the discounts which they grant to other purchasers of bacteria of like grade and quality.

The effect of the discriminations in price, according to the complaints, may be to injure, prevent or destroy competition in the

use, sale or distribution of bacteria among the favored purchasers and those who are denied the lower prices and discounts; among the customers of the favored purchasers and the customers of those who do not receive the benefit of the price discrimination, and among the respondents and other individuals and firms similarly competitively engaged in the sale and distribution of commercial inoculants.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01917.** **Winifred Bertell, P. O. Box 375, Hollywood, Calif.**, trading as **Hollywood Star Products, Ltd.**, in the sale of an obesity remedy called Reduce-Easies, agrees to stop advertising that this preparation of itself is a competent treatment for obesity and that by its use a person may attain figure control and guaranteed weight reduction, and that the preparation is amazing, new or harmless. In the stipulation, the respondent admits that the value of Reduce-Easies is limited to its action as a laxative or cathartic, according to the dosage in which it is taken.

**No. 01918.** **The Bump Paper Fastener Company, 1832-A 12th St., LaCrosse, Wis.**, in the sale of Bump Paper Fasteners and accessories, stipulates that it will cease asserting that an amazing invention opens a \$10,000,000 market for agents of the company; that there is no competition for the company's agents, and that its sales plan should make an agent an average of \$89 or more weekly, unless, in connection with the latter representation, reliable records show such to be the average net return of full-time agents under normal conditions. In its stipulation, the respondent company admitted that a prospective agent cannot rightfully expect to draw business from a \$10,000,000 market without competition, and that its sales persons have not made an average of \$89 or more weekly.

**No. 01919.** **Edward R. and Juliana Von Castelberg, Harbor View, South Norwalk, Conn.**, trading as **Murvon Seed Company**, and engaged in the sale of Japanese rose seeds, will discontinue advertising that Japanese rose bushes will bloom in the winter, unless in direct connection with this assertion it is explained that such is the case only in a warm climate or when the plants are cared for in a greenhouse. The respondent partnership also agrees to cease representing that Japanese rose bushes, when three years old, will have 500 or 600 roses, or will have roses the year around. The respondents admitted that not all Japanese rose bushes three years old have 500 or 600 roses, and that such bushes will not, under ordinary conditions, bloom in winter.

**No. 2092.** **Samuel McCrudden & Co., Inc.**, 1 West 37th St., **New York**, has entered into a stipulation to discontinue misbranding and misrepresenting certain handkerchiefs it sells in interstate commerce.

The company agrees to stop using in advertising or on labels the words "linen" or "Irish linen" as descriptive of handkerchiefs not composed of linen, and to cease employing the word "linen" alone or with other words so as to imply that the products to which such words refer are made from linen, when such is not a fact.

**No. 2093.** **Anthony Salzman, trading as Monticello Mail Order House, Monticello, N. Y.**, selling remnants and patchwork pieces, will cease using the word "free" as descriptive of merchandise represented to be given free, when in fact it is not free nor is it given as a gratuity, but may be obtained only in consideration of the purchase of merchandise with which the purported "free" gift is included. Salzman also will stop employing the phrase "For 10 days only", or any other representation of similar meaning, so as to imply that his alleged free offer of a sewing kit is available only for such limited time, when in fact the offer is unlimited as to time of acceptance.

The respondent will discontinue use of the word "silk" in any manner implying that articles so described are silk, when such is not a fact, and will desist from representing that his merchandise is "cut by machine from our regular stock," or that it is material composed of 80x80 threads to the square inch, when this is not true.

**No. 2094.** **Hickok Manufacturing Company, Inc., Rochester, N. Y.**, engaged in the sale of men's dress accessories, including cuff links and shirt studs, agrees to stop using in advertising matter the word "crystal" alone or with other words so as to imply that the articles to which the word refers are natural rock crystal products, when such is not a fact.

**No. 2095.** **Robert P. Milburn, Lanett, Ala.**, trading as **Nehi Bottling Company**, agreed that in promoting the sale of RC Cola, also known as Royal Crown Cola, he will cease using any scheme, plan or method which involves a gift enterprise or lottery whereby

cash or any article is given as a premium in consideration of the purchase of another article. According to the stipulation, some of the bottle caps bore either the figure 5¢, 25¢, 50¢ or \$1 on the inside, and the customer purchasing one of the bottles whose cap revealed a figure was entitled to receive the amount of cash indicated.

**No. 2096.** A stipulation to discontinue misbranding certain knives sold in interstate commerce has been entered into by **Edward Katzinger Company**, 1949 North Cicero Ave., **Chicago**, and **Geneva Forge, Inc.**, **Geneva, N. Y.**, engaged in the manufacture and sale of kitchen utensils.

The companies agreed to stop using the word "crucible" to describe knives not made of crucible steel, and to cease employing such word as a stamp or label or in advertising matter so as to imply that the knives so designated are made of crucible steel, when this is not true.

**No. 2097.** **Opelika Creamery, Inc.**, **Opelika, Ala.**, signed a stipulation substantially the same as that entered into by **Robert P. Milburn**, agreeing to discontinue lottery methods to promote the sale of frozen stick confections. The word "free", according to the stipulation, was printed upon certain sticks and was concealed by the frozen confection, each purchaser obtaining a "free" stick being entitled to another confection without additional cost.

**No. 3143.** **Los Angeles Soap Company**, trading as **Cosray Products Company**, 617 East First St., **Los Angeles**, has entered into a stipulation to discontinue certain misleading representations in the sale of **Cosray Vitamin D Soap**.

In approving the stipulation, the Commission closed its case growing out of a complaint issued in June, 1937, charging the respondent company with unfair representations in the sale of **Cosray Vitamin D Soap**.

According to the stipulation, the respondent company began to manufacture **Cosray Vitamin D Soap** six months prior to filing of the Commission's complaint, made certain representations regarding its chemical properties and bacteriological effects, and ceased such manufacture a short time before the complaint was filed.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 1134.** The Commission has modified its order to cease and desist against **P. H. Hanes Knitting Company**, underwear manufacturer of **Winston-Salem, N. C.**, so as to make such order conform to the provisions of the Tydings-Miller Act, approved August 17, 1937. This act permits contracts for the maintenance of prices fixed by the seller in connection with the sale of trade marked or branded merchandise in those states which permit such contracts in their intrastate commerce.

The original order in the case, entered December 21, 1925, directed the respondent company to discontinue certain methods of bringing about the observance of prices at which its products were to be resold by dealers. On April 7, 1926, this order was modified slightly.

**No. 2728.** **American Character Doll Company, Inc.**, 200 Fifth Ave., **New York**, has been served with an order requiring it to cease and desist from certain misleading representations in the sale of its products.

Findings are that the respondent company, in the sale of its paratex doll, made of hard rubber and under a secret formula, advertised it as superior to composition dolls because of being impervious to water. The respondent's paratex doll is sold in competition with the more expensive composition dolls such as the **Shirley Temple** doll, according to findings.

Pictures were made and circulated by the respondent company, according to findings, showing a so-called immersion test, as a result of which the **Shirley Temple** composition doll was compared unfavorably with the paratex doll. According to testimony of doll buyers employed by certain large stores, composition dolls are not made to withstand immersion-in-water tests, and are not inferior products because they will disintegrate if left in water for a substantial time.

**No. 2875.** **Adah Alberty**, 729 Seward Ave., **Los Angeles**, has been ordered to cease and desist from certain false and misleading representations concerning the therapeutic value of baby foods and health preparations which she sells in interstate commerce.

The respondent is directed to stop advertising that **Alberty's Food**, or any other preparation composed of the same or similar ingredients and properties, under whatever name sold, rebuilds the intestinal tract and is the only food which accomplishes this result;

that it eliminates rickets and other calcium-starvation diseases in children, adults and animals; that it modifies milk so that the calcium element is assimilated; that its use enables one to store up in the body more calcium than would be stored by drinking three or four times the quantity of ordinary milk; that it is the only food discovered that offsets acidosis, and is the most powerful alkaline food known.

**No. 3059.** **Mells Manufacturing Co.**, 250 Park Ave., **Brooklyn**, candy manufacturer, has been served with an order to cease and desist from certain sales methods involving a lottery or gift enterprise.

The respondent company is directed to stop selling and distributing to dealers candy so packed and assembled that sales to the public may be made by means of a lottery, and to cease supplying dealers with assortments of candy which may be used without alteration of the contents to conduct a lottery in its sale to the public.

**No. 3188.** An order to cease and desist has been entered against **Lavoptik Company, Inc.**, Michigan Ave. and 7th St., **St. Paul, Minn.**, vendor of **Lavoptik**, an alleged remedy for eye ailments.

The order directs **Lavoptik Company, Inc.**, to cease representing that the preparation is endorsed or recommended by any designated number of eye specialists for any purpose, unless the product is in fact recommended by such number of graduate doctors of medicine, who specialize in treatment of the eyes. According to findings, the respondent company asserted in radio and periodical advertising that 6,000 eyesight specialists had suggested the use of "**Lavoptik**", when such was not a fact.

**No. 3192.** **Croxonol Sales Corporation**, 142 West 24th St., **New York**, has been ordered to cease and desist from certain unfair methods of competition in connection with the sale of **Croxon Method**, advertised as a preparation for the treatment of superfluous hair.

The order directs the respondent corporation to discontinue representing in newspaper and magazine advertisements, or by any other means, that **Croxon Method** will permanently remove and completely stop the growth of superfluous hair, that it is guaranteed to remove superfluous hair, and that no odor will result from the use of the product.

### FTC CASE CLOSED

**No. 3170.** The Federal Trade Commission has entered an order closing its case against **Louis J. Whitmarsh** because of the death of the respondent.

The Complaint alleged that **Whitmarsh**, who traded as **Rite-Way Sales**, at **Cleveland, Ohio**, had engaged in certain unfair methods of competition in connection with the sale of earthenware cooking utensils.

The case was closed without prejudice.

### FEDERAL COMMUNICATIONS COMMISSION ACTION

#### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, November 22:

Monday, November 22

#### HEARING BEFORE AN EXAMINER (Broadcast)

WKBZ—Karl L. Ashbacher, Muskegon, Mich.—Present assignment; 1500 kc., 100 watts night, 250 watts LS, unlimited time. Voluntary assignment to Ashbacher Radio Corporation.

Tuesday, November 23

#### HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Church of Jesus Christ of Latter Day Saints, near Salt Lake City, Utah.—C. P.; 6020, 9510, 11710 kc., 50 KW, unlimited time. (In accordance with Rule 983.)

NEW—Allen B. DuMont Laboratories, Inc., Upper Montclair, N. J.—Permit for television, B/c experimental. 46000-56000 kcs., 50 watts. (Unlimited time in accordance with Rule 983.)

KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—C. P.; 1050 kc., 5 KW, limited time. Present assignment: Same facilities; requests to move from Abilene, Kansas to Wichita, Kansas, exact site to be determined.

### APPLICATIONS RECEIVED

#### First Zone

NEW—Peter J. Caldarone, Providence, R. I.—Construction permit 1270 to erect a new station to be operated on 1270 kc., 250 watts power, daytime.

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Construction permit to install a new transmitter, install new directional antenna for day and night use, increase power from 1 KW to 1 KW night, 5 KW day, move transmitter from 138 Pine St., Cliffside Park, N. J., to near Secaucus, New Jersey. Amended: To make correction in transmitter site from near Secaucus, N. J., to Bergen County, Borough of Carlstadt, N. J., and make changes in directional antenna.

NEW—Cherry & Webb Broadcasting Company, Providence, R. I.—Construction permit to install a new transmitter.

W2XOY—General Electric Co., Albany, N. Y.—License to cover construction permit (B1-PHB-12) for high frequency relay station.

#### Second Zone

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Modification of construction permit for installation of directional antenna for day and night when WOSU is operating, change hours of operation from specified hours to unlimited and extend commencement and completion dates. Amended: Changes in directional antenna.

WIP—Pennsylvania Broadcasting Co., Inc., Philadelphia, Pa.—Construction permit to install new transmitter and antenna, antenna to be determined, increase power from 1 KW to 1 KW night, 5 KW day and move transmitter to site to be determined, Phila., Pa. Amended: To install directional antenna for day and night use and give exact transmitter site, as E. of Brooklawn, N. J.

WCLE—Cleveland Radio Broadcasting Corp., Cleveland, Ohio.—Special experimental authorization to operate a facsimile station from 1 a. m. to 6 a. m. for period ending 3-1-38.

WMBG—Havens & Martin, Inc., Richmond, Va.—Construction permit to install auxiliary transmitter for emergency use only.

W3XHU—Pennsylvania Broadcasting Co., Mobile—Philadelphia, Pa.—License to cover construction permit (B2-PRE-94) for high frequency relay station.

#### Third Zone

WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Modification of construction permit (B3-P-1585) for new transmitter and vertical antenna and increase in power from 1 KW to 1 KW night, 5 KW day, further requesting authority to install new transmitter.

WFTC—Jonas Weiland, Kinston, N. C.—Authority to make changes 1200 in automatic frequency control apparatus.

WSIX—WSIX, Inc., Nashville, Tenn.—License to cover construction permit (B3-P-1903) for a new transmitter and increase in power.

NEW—Jonas Weiland, New Bern, N. Car.—Construction permit 1370 for a new broadcast station at New Bern, N. C., to be operated on 1370 kc., 100 watts, unlimited time.

WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Authority to make changes in automatic frequency control.

NEW—University of Oklahoma, Norman, Okla.—Construction permit for a new experimental broadcast station on 8655 kc., 100 watts power.

#### Fourth Zone

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—Construction permit to increase power from 1 KW night, 5 KW day to 5 KW day and night and make changes in directional antenna.

WGN—WGN, Inc., Chicago, Ill.—Special experimental authorization to operate a facsimile station from 1 a. m. to 6 a. m. for period ending 2-1-38.

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Modification of license to change power from 1 KW night, 5 KW day to 5 KW night and day. Amended: Install directional antenna, for day and night use.

KOVC—KOV, Inc., Valley City, N. Dak.—License to cover construction permit (B4-P-1800) for changes in equipment and increase in power.

NEW—The Pulitzer Publishing Co., St. Louis, Mo.—License for a new facsimile broadcast station (experimental), utilizing equipment constructed for high frequency broadcast station W9XPD (File No. B4-PE-61, granted 8-13-35), 31600, 35600, 38600, 41000 kc., 100 watts power.

WNBW—National Broadcasting Co., Inc., Mobile—Chicago, Ill.—Modification of license to add A-1, A-2 emission.

#### Fifth Zone

KYOS—Merced Star Publishing Co., Inc., Merced, Calif.—Voluntary assignment of license from Merced Star Publishing Company, to Merced Broadcasting Company.

KNX—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Modification of construction permit (B5-P-1895) for new transmitter, changes in antenna, move of transmitter, further requesting installation of new transmitter.

NEW—Larry Rhine, San Francisco, Calif.—Construction permit 1150 for a new station to be operated on 980 kc., 250 watts power, daytime. Amended: Changes in proposed equipment and change frequency requested from 980 to 1150 kc., and power from 250 watts to 1 KW.

KTKC—Tulare-Kings Counties Radio Associates, Charles A. Whitmore, President, Visalia, Calif.—Modification of license change frequency from 1190 to 1210 kc., change hours of operation from daytime to unlimited time, using 100 watts night and 250 watts day power. (Contingent on KDON's application for 1400 kc.)

KVOA—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Transfer of control of corporation from Albert Steinfeld and Company, to KTAR Broadcasting Company, 1503 shares common stock.

KIDO—Frank L. Hill & C. G. Phillips, d/b as Boise Broadcast Station, Boise, Idaho.—Modification of construction permit (B5-P-1556) to make changes in equipment, increase in power, further requesting to extend commencement and completion dates to 12-27-37 and 6-27-38, respectively.

KSFM—National Broadcasting Co., Inc., Mobile, San Francisco, Calif.—Modification of license to add A-1, A-2, emission.

KAAC—Columbia Broadcasting System, Inc., Mobile, Los Angeles, Calif.—License to cover construction permit (B5-PRY-57) for low frequency relay station.

NEW—Church of Jesus Christ of Latter Day Saints, County of Salt Lake, Utah.—Construction permit for new international broadcast station to be operated on 6020 kc. (daytime, but remaining silent at night when interference might be caused to service of DJC, Zeesen, Germany); 9510 kc. (subject to operation only at such times when interference is not caused to service of GSB, Daventry, England), and 11710 kc., 50 KW, A-3 emission. Amended: To add the frequencies 15170 and 25675 kc.

#### Hawaiian Zone

NEW—Garden Island Publishing Company, Ltd., Lihue, Hawaii.—Construction permit to erect a new station to be operated on 1500 kc., 100 watts night, 250 watts day power, unlimited time. Amended: Antenna to be determined, and transmitter site to be determined, Lihue, Hawaii.

#### Puerto Rican Zone

WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Construction permit to change frequency from 1370 kc. to 780 kc.; change power from 100 watts night, 250 watts day, to 1 KW night, 2½ KW day; changes in antenna and equipment, and hours from specified to unlimited. Amended: Antenna changes.



## FCC REORGANIZATION COMPLETED COMMISSIONERS DELEGATED POWERS

With the announcement on Tuesday by Chairman Frank R. McNinch of two new orders by the Federal Communications Commission delegating various powers to individual Commissioners, it is understood that the major reorganization plans for the Commission have been completed.

It is said that later there may be some minor amendments needed in the event that things do not work out the way they are expected. Also it is possible that a further delegation of powers may have to be made at a later date, but with the announcement of the new powers for the Commissioners, the main reorganization work is finished. The new orders provide that the powers delegated to the various Commissioners shall be rotated every month.

The Commission also set specific days of the week for meetings to act on various subjects—the broadcast matters will be taken up on Wednesday of each week at which time the Commission will sit en banc to decide broadcast cases, whereas in the past this has been done by the Broadcast Division, which like the Telegraph and Telephone Divisions was abolished on November 15. The new plan became effective as of December 1.

In an official explanation of the new orders the Commission says:

“Order No. 28 provides for delegation to members of the Commission and all staff heads the authority to act upon many matters of a routine, engineering or emergency character. Nearly all of the matters thus delegated require prompt action and some of them emergency action. Hence, each day there is a considerable number of matters that must, in the public interest, be acted upon that day. The purposes of Order No. 28 are, therefore, two-fold:

“(1) To assure certainty and promptness in acting upon all such matters where time is of the essence, and

“(2) To relieve the Commission of a great deal of detail and routine, which can just as effectively be handled by a member of the Commission. This procedure will leave for Commission handling in regular meetings all matters of major importance and for the handling of

A couple of issues of NAB REPORTS have been omitted recently owing to the fact that there has been no action on broadcasting matters at the Federal Communications Commission for three weeks. Members of the Commission have been giving all of their attention to reorganization which has now been completed. Regular meetings of the Commission to take up broadcast matters will begin on December 8 and be held thereafter on every Wednesday.

which the Commission will have available more of its time than heretofore.

“Order No. 28, paragraph (1), delegates to the Secretary of the Commission the handling of matters heretofore handled by him, such as applications for operators' licenses and for amateur and ship stations.

“To the Chief Engineer, in paragraph (2), is likewise delegated those purely engineering matters which have heretofore been delegated to and handled by him, such as operation without an approved frequency monitor or without thermometer in automatic temperature control chamber; without antenna ammeter; or with temporary antenna system; or with new or modified equipment pending replacement of existing equipment; specifications for painting and lighting of antenna towers; relocation of transmitter in the same building; approval of types of equipment, and many similar matters which are set out specifically in the Order.

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"The delegation of functions to the several Commissioners are comprised within six groups covered by paragraphs (3) to (8) inclusive of Order No. 28.

"These delegations of functions and duties are to be for a period of one month and the duties covered by the several paragraphs will be rotated among the Commissioners from month to month.

"The immediate delegations of functions and duties run for the month of December, 1937, and are as follows:

"Paragraph 3 of the Order to Commissioner Payne. This covers applications for aeronautical, aircraft, geophysical, motion picture, airport, municipal and state police, marine relay, marine fire, and emergency and special radio facilities and other matters therein recited.

"Paragraph 4 to Commissioner Craven. This covers applications for licenses following construction which comply with construction permit; for extensions of time to commence and complete construction; modifications of construction permit involving only change in equipment; to install frequency control, auxiliary equipment; or special temporary authorization; change of name of licensee where ownership or control is not affected and other matters therein recited.

"Paragraph 5 to Commissioner Sykes. This covers all radio matters (except broadcast, operators' licenses and amateur and ship stations) within the territory of Alaska.

"Paragraph 6 to Commissioner Brown. This covers issuance of certificates of convenience and necessity; authorization of temporary or emergency wire service as provided in Section 214 of the Act.

"Paragraph 7 to Commissioner Walker. This delegates all matters arising in connection with the administration of tariff circulars adopted pursuant to Section 203 of the Act, including the waiver of notice of the filing of tariffs.

"Paragraph 8 to Commissioner Case. This paragraph contemplates setting up a Motions Docket and delegates the hearing and determining of matters arising under the Rules of Practice and Procedure relating to withdrawals, dismissals or defaults of applications or other proceedings, subject to the statutory right of appeal to the Commission; also to hear and determine all interlocutory motions, pleadings and related matters of procedure.

"Having adopted the foregoing procedure for handling of the above matters the Commission has now adopted an order appointing regular meeting dates for the handling of all matters coming before the Commission itself and for oral argument, as follows:

"Effective Monday, December 6, 1937, the schedule of regular meetings and the subjects to be considered and acted upon therein will be as follows:

Each Tuesday, 10 A. M., Telephone, wire and radio; Telegraph, wire and radio.

Each Wednesday, 10 A. M., Broadcasting.

Each Thursday, 10 A. M., Oral Argument.

"The Commission will begin regular meetings next week pursuant to the above schedule, and will continue with oral arguments on the dates now set unless for reasons hereafter found compelling the Commission may revise the oral argument schedule, in which event all parties interested would be given due notice."

The orders are as follows:

#### ORDER NO. 28

Under the authority of the Communications Act of 1934, as amended, particularly Sections 5(e) and 409 thereof,

IT IS ORDERED:

(1) That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act, with the advice of the General Counsel and the Chief Engineer, upon:

- (a) all applications for operator licenses, and
- (b) all applications for amateur and ship stations;

(2) That the Chief Engineer of the Federal Communications Commission is hereby authorized to determine upon all applications and requests, and to make appropriate order in letter form for the signature of the Secretary in the following matters:

- (a) operation without an approved frequency monitor;
- (b) operation without an approved modulation monitor;
- (c) operation without thermometer in automatic temperature control chamber;
- (d) operation without antenna ammeter, plate voltmeter or plate ammeter;
- (e) operation with substitute ammeter, plate voltmeter or plate ammeter;
- (f) operation with temporary antenna system;
- (g) operation with auxiliary transmitter as main transmitter;
- (h) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
- (i) where formal application is not required, application for new or modified equipment or antenna system;
- (j) where formal application is not required, change of specifications for painting and lighting of antenna towers;
- (k) operation to determine power by direct method during program test periods;
- (l) relocation of transmitter in the same building;
- (m) operation with reduced power or time under Rules 142 and 151;
- (n) approval of types of equipment;
- (o) where it appears that terms of construction permit have been complied with, authorization for equipment and program tests or extensions thereof;
- (p) denial of requests for equipment and program tests where specifications of construction permit have not been met;
- (q) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorization it appears that the terms of the construction permit have not been met;

(3) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all applications for aeronautical, aircraft, geophysical, motion picture, airport, aeronautical point to point, municipal and state police, marine

relay, marine fire, and emergency and special emergency radio facilities;

(4) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all applications for licenses following construction which comply with the construction permit; applications for extensions of time within which to commence and complete construction; applications for construction permit and modification of construction permit involving only a change in equipment; applications to install frequency control; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for special temporary authorizations; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter site; and applications for relay broadcast stations;

(5) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all radio matters of every character (except broadcast, operator licenses and amateur and ship stations) within the territory of Alaska;

(6) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all uncontested proceedings involved in the issuance of certificates of convenience and necessity; and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act;

(7) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to determine and act upon all matters arising in connection with the administration of tariff circulars of the Commission adopted pursuant to Section 203 of the Act, including the waiver of notice for the filing of tariffs; and

(8) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all matters arising under the Rules of Practice and Procedure of the Commission relating to withdrawals, dismissals, or defaults of applications or other proceedings, subject to the statutory right of appeal to the Commission; and to hear and determine all interlocutory motions, pleadings and related matters of procedure before the Commission.

This Order shall become effective December 1, 1937.

## ORDER NO. 29

(1) Order No. 27 assigning to Commissioners Sykes and Brown authority to act upon certain emergency applications is hereby revoked.

(2) For the month of December, 1937, the work, business and functions of the Commission specified and described in Paragraphs (3) through (8), both inclusive, of Order No. 28, are hereby assigned and referred as follows:

- (a) That in Paragraph (3) to Commissioner Payne;
- (b) That in Paragraph (4) to Commissioner Craven;
- (c) That in Paragraph (5) to Commissioner Sykes;
- (d) That in Paragraph (6) to Commissioner Brown;
- (e) That in Paragraph (7) to Commissioner Walker;
- (f) That in Paragraph (8) to Commissioner Case.

This Order shall become effective December 1, 1937.

## STATEMENT ON CASH DISCOUNTS

The statement on cash discounts which was recently distributed by the American Association of Advertising Agencies touches upon a matter of very great importance to the radio broadcasting industry. Broadcasters should not take any action in this matter until the question has been thoroughly investigated and a comprehensive report thereon can be furnished to all stations. Such a report will be compiled by the NAB.

## INTERNATIONAL COPYRIGHT CONVENTION

The Senate Committee on Foreign Relations has recommended that the Senate consent to the International Convention of the Copyright Union as revised and signed at Rome on June 2, 1928. This report goes to the Senate calendar and may be acted upon any day.

One of the provisions in the report provides for a period of one year in which the Copyright Act of 1909 may be amended. This provision reads as follows:

"In order that there might be generous time for appropriate adjustment by persons interested in copyright, it is further recommended that, in accordance with article 25, paragraph (3) of the convention, the day for its entry into force as to the United States be fixed at one year from the date of its approval by the Senate."

It is understood that the Duffy Copyright Bill will come up for consideration early during the regular session which will be convened in January.

## FREE TIME FOR GOLDEN GATE INTERNATIONAL EXPOSITION

Arthur Linkletter of the Golden Gate International Exposition has advised that all the radio time they have used so far has been furnished gratis and that they cannot see their way clear to spend any money for radio time.

Broadcasters are justified in believing that when the time comes the Golden Gate International Exposition will buy newspaper space and other forms of printed advertising. These expositions are definitely of commercial character and are not entitled to free radio time. Broadcasters are urged to refuse free time to advertise the Golden Gate International Exposition.

#### TRANSFER OF WROK RECOMMENDED

Rockford Broadcasters, Inc., licensees of Station WROK, Rockford, Ill., applied to the Federal Communications Commission for authority to transfer control of the station to Rockford Consolidated Newspapers, Inc., through its purchase of ten shares of stock in the licensee company from Lloyd C. Thomas, a minority stockholder. The proposed transferee now owns 245 shares, or 49% of the 500 shares which are authorized and outstanding.

Examiner Melvin H. Dalberg in Report No. I-527 recommended that the application for transfer of the station be granted. In his conclusions in this case the Examiner says:

"The proposed transferee is qualified to hold a controlling interest in the stock of the licensee of radio Station WROK. The licensee, under the control of the proposed transferee, will be legally, technically, financially and otherwise qualified to continue the operation of this station in the public interest.

"In view of the return on the investment entailed in this proposed sale of stock, the original cost and replacement cost of the equipment and property, and inasmuch as 2% of the stock which is sought to be purchased represents control of the corporation, the difference between \$31.26, the price proposed to be paid per share, and the fraction of the total station assets represented by each share of stock appears to be reasonable and cannot properly give rise to any suggestion that the parties to the agreement involved herein have placed a monetary value on the station license.

"This application may be granted within the purview of Section 310 of the Communications Act of 1934, as amended by the Act of June 5, 1936.

"It is therefore believed that the granting of the application will serve the public interest, convenience and necessity."

#### RENEWAL RECOMMENDED FOR STATION WDEV

Broadcasting Station WBZA, Springfield, Mass., operating on 990 kilocycles, 1,000 watts and unlimited time, applied to the Federal Communications Commission to change its frequency to 550 kilocycles. Also Station WDEV, Waterbury, Vt., operating on 550 kilocycles, 500 watts, daytime, asked the Commission for a license renewal.

Examiner R. H. Hyde, in Report No. I-525, recommended that the application of WBZA be denied and that the license of Station WDEV be renewed. He states that "the evidence relative to Station WDEV indicated that the continued operation of that station would serve the public interest, convenience and necessity."

#### POWER INCREASES RECOMMENDED

Broadcasting Station KQV, Pittsburgh, Pa., operating on 1380 kilocycles, 500 watts and operating simultaneously with WSMK daytime and sharing night hours, applied to the Federal Communications Commission to increase its power to 1,000 watts and to operate unlimited time. Also broadcasting Station WSMK, Dayton, Ohio, operating on the same frequency with 200 watts on the same day and specified night hours as KQV asked to increase its power to 250 watts and 500 watts LS and to operate unlimited time.

Examiner Melvin H. Dalberg, in Report No. I-524, recommended:

1. That the application of KQV Broadcasting Company, Pittsburgh, Pennsylvania, for unlimited time operation on the 1380 kilocycles frequency with power of 1 kw. and the use of a directional antenna at night be *granted*; and

2. That the application of WSMK, Incorporated, Dayton, Ohio, for unlimited time operation on the 1380 kilocycles frequency with power of 250 watts night and 500 watts until local sunset with the use of a directional antenna at night be *granted*.

#### RECOMMENDS NEW PUERTO RICAN STATION

United Theatres, Inc., applied to the Federal Communications Commission for a construction permit for the erection of a new station at San Juan, Puerto Rico, to use 570 kilocycles, 1,000 watts and unlimited time on the air.

Examiner Tyler Berry, in Report No. I-523, recommended that the application be granted. He states that "there is a need for additional service in the area proposed to be served." The Examiner states that granting of the application would be in the public interest.

#### ASSIGNMENT OF WNBZ RECOMMENDED

Smith & Mace, licensees of Station WNBZ, Saranac Lake, N. Y., applied to the Federal Communications Commission for authority to voluntarily assign the construction permit and license to the Upstate Broadcasting Corporation. The station operates on 1290 kilocycles, 100 watts and daytime.

Examiner George H. Hill, in Report No. I-526, recommended that the application for the assignment be granted. He states that the Upstate Corporation "proposed to

render to the Safanac Lake area an improved program service." The Examiner states also that there is a definite need for the continuation of the service from the station and the granting of the application would be in the public interest.

## RECOMMENDS NEW FLORIDA STATION

Nathan N. Bauer applied to the Federal Communications Commission for a construction permit for a new station to be located at Miami, Florida, to use 1420 kilocycles, 100 watts and unlimited time on the air.

Examiner P. W. Seward, in Report No. I-528, recommended that the application be granted. He states that "a need does exist in the proposed service area for additional radio service, particularly of a local nature and to provide additional advertising facilities." The Examiner states that granting of the application would not cause any interference and it would be in the public interest.

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3267.** Alleging use of certain unfair methods of competition in connection with the interstate sale of Nailife, a preparation for the nails, a complaint has been issued against **Leopold Levoy and Nathan C. Blacher**, trading as **Sunbeam Laboratories**, 3704 Washington Boulevard, **Los Angeles**.

In newspapers, magazines, catalogues and other printed matter, the respondents allegedly advertise that Nailife constitutes a competent and effective treatment for dry, brittle and splitting nails; that it is the perfect food for nourishing the nails and will make them strong and healthy; that it is a scientific preparation, and will transform irregular, broken nails into well-formed, symmetrical ones.

**No. 3268.** Unfair disparagement of the products of competitors is alleged in a complaint served upon **Perma-Maid Company, Inc.**, **Toledo, Ohio**, engaged in the manufacture and sale of steel cooking utensils.

Certain representations made by the respondent company in advertising matter and by its sales agents, the complaint charges, lead customers to believe that the consumption of food prepared or kept in aluminum utensils will cause ulcers, cancerous growths and various other ailments and diseases; that the food so prepared is detrimental to the health of the users, and that preparation of food in aluminum utensils causes formation of poisons.

**No. 3269.** Selling and distributing ladies' handbags, fastening devices and zippers, **Waldes Koh-I-Noor, Inc.**, 47-52 Twenty-seventh St., **Long Island City, N. Y.**, has been served with a complaint charging unfair competition in the sale of its products. The Grey Advertising Agency, Inc., 128 West 31st St., New York, is also named a respondent.

Advertisements placed by Waldes Koh-I-Noor, Inc., in cooperation with the advertising agency, are alleged to have featured certain low-priced domestic-made handbags along with higher priced articles of this class purchased in France. The domestic-made handbags were advertised at \$2.95 and were alleged to have been exact copies of the Paris bags advertised in Vogue magazine as for sale from \$35 to \$80.

The complaint charges that in fact the imported bags advertised were not actually sold in the United States, and had no actual retail value or price, and that the advertisements appearing in Vogue magazine were pure subterfuge calculated to give the

domestic bags a false and fictitious value by virtue of the false comparison, thus creating a preference and exceptional demand therefor.

**No. 3270.** **Universal Handkerchief Mfg. Co., Inc.**, 309 Fifth Ave., **New York**, is charged in a complaint with certain unfair methods of competition in connection with the interstate sale of packaged handkerchiefs.

Through use of the abbreviation "Mfg." in its corporate name, the words "manufacturers" and "makers" in advertising matter, and the representation that it has factories at Passaic, N. J., and Ellenville, N. Y., the respondent company, the complaint alleges, falsely represents that it manufactures the handkerchiefs it sells. According to the complaint, the company does not have factories at Passaic or Ellenville or elsewhere, but purchases and sells handkerchiefs manufactured by others.

**No. 3271.** Allegedly representing themselves to be manufacturers of certain prophylactics, when such is not a fact, **Harry J. Katz and Louis Black**, trading as the **Nutex Company**, 322 South 7th St., **Philadelphia**, are charged in a complaint with using unfair methods of competition in violation of the Federal Trade Commission Act.

The complaint alleges that on cartons containing the respondents' products appear the words "Mfg. by The Nutex Co., Philadelphia, Pa.", while on business stationery they represent themselves to be "manufacturers and distributors of druggists' sundries."

**No. 3272.** Alleging false and misleading representations in the sale of jewelry, a complaint has been issued against **Elmer Sussman**, trading as **Diamond Brokerage Company**, Palace Building, 4th & Nicollet Ave., **Minneapolis**.

Advertising by means of price lists, catalogues, and other printed matter, the respondent is alleged to have made representations having the effect of misleading buyers into believing that certain of his products are composed of superior materials and have superior value; that Sussman is liquidating a distress stock of diamond rings and other merchandise at a fraction of their original cost; that his products have been obtained from bankrupt stocks and other distress sources; that the watches he sells are the latest models and possess the values represented; that diamonds sold by the respondent are 100 per cent perfect, and that Sussman is a diamond broker.

**No. 3273.** **Gimbel Brothers, Inc.**, operating a department store at 33rd St. and Broadway, **New York**, is charged in a complaint with use of certain unfair methods of competition in connection with the sale of women's wearing apparel.

In advertising matter, the respondent company allegedly represented certain garments as containing "12½% to 25% silk and wool," and on labels attached to some of the garments appeared the words "12½% silk and wool—10% wool."

**No. 3274.** Alleging unfair competition in the sale of a hair preparation, a complaint has been issued against **Monroe Chemical Company, Quincy, Ill.**, and its subsidiary, **Mary T. Goldman Company, St. Paul, Minn.**

Mary T. Goldman's Gray Hair Color Restorer, according to the complaint, was advertised by these companies in a manner tending to create the impression that its use would restore gray, streaked or faded hair to its original or youthful color; erase or remove all trace of gray hair, and produce warm, youthful color or original color of the user's gray, streaked or faded hair.

The complaint alleges that use of this preparation will not accomplish the results claimed, but that it acts as a dye or stain and the color produced is artificial.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2725.** An order to cease and desist from certain unfair methods of competition in connection with the sale of Kimball Tablets has been entered against **John J. McCloskey**, 727 West Wisconsin Ave., **Milwaukee**, trading as **H. B. Kimball Company, H. B. Kimball and Kimball Laboratories**.

The order directs the respondent to discontinue representing, directly or through the use of testimonials or indorsements, or in any other manner, that Kimball Tablets constitute an effective remedy or cure for, or have any therapeutic value in the treatment of, stomach trouble, ulcers of the stomach, constipation, indigestion, dyspepsia, and gastritis.

The respondent also is prohibited from advertising that the product is a competent remedy or cure for, or will remove the cause of, gas pains, intestinal toxic conditions, acidosis, bloating after

meals, and symptoms of dyspepsia, provided, however, that the respondent is not prevented from representing the product as a palliative treatment for temporary relief of such ailments.

**No. 2877. Health Guard, Inc.,** 110 East Utica St., Buffalo, N. Y., has been ordered to cease and desist from false and misleading representations concerning the function and effectiveness of a device called Health Guard, designed to be attached to gas heaters and stoves for the purpose of removing or reducing the amount of carbon monoxide gas expelled from them.

The respondent company is directed to cease representing in advertising matter or otherwise that use of the device will change carbon monoxide passing through it to a harmless gas; that it is a safe substitute for stove pipes, and that stove pipes are not necessary when the device is used; that it is effective or sure in its operation, and that its use will afford protection against the dangers of carbon monoxide poisoning.

**No. 2978.** Nineteen corporations manufacturing metal window products and their trade association, **Metal Window Institute,** 1427 I St., Washington, D. C., have been ordered to cease and desist from certain unlawful practices, the effect of which has been to establish and maintain fixed minimum prices for the products of the industry.

The order also is directed against officers of the respondent corporation and of the institute. The practices prohibited were found to constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act.

Comprising substantially all of the manufacturers and distributors of metal window products in the United States, the respondent corporations sell a substantial portion of their output to the Federal and State governments and municipalities for use in the construction of public buildings. They manufacture various types of metal windows as well as industrial doors, frames, mechanical operators, screens, and stools, which products are made principally from solid or formed sections of steel, iron, bronze, aluminum, or other metal or alloy.

**No. 3008.** Under an order to cease and desist, **The Electric Appliance Company, Burlington, Kans.,** is directed to discontinue certain unfair representations regarding the value of its electric belts and insoles in the treatment of disease.

Electric belts and insoles sold by the respondent company are no longer to be advertised as having therapeutic value in treating diseases. Findings are that the respondent's products, advertised for use in treating nervous diseases, rheumatism, heart trouble and other ailments, do not have the curing qualities claimed for them.

**No. 3014.** Under an order, **Nelson E. Woolman and Lyle G. Jackson,** trading as **Power Seal Company,** 1601 South Broadway, Los Angeles, are directed to cease and desist from making certain false and misleading representations concerning the merits of Power Seal, a preparation sold in pellet form for use in internal combustion engines.

The respondents recommend Power Seal as a product capable of releasing rings in engines when such rings are gummed, of causing valves to seat properly, and of acting as a lubricant.

**No. 3028. Julius Goodman & Son, Inc.,** 43 South Main St., Memphis, Tenn., retail jeweler, has been served with an order to cease and desist from certain representations in violation of the Federal Trade Commission Act.

Under the order, the respondent company is instructed to cease representing directly, or through failure to disclose the true nature, character and condition thereof, that certain old, used and reconditioned silverware is new.

**No. 3079. Phoebe Phelps Caramel Company,** 74 Fulton St., Boston, has been served with an order to cease and desist from certain sales methods involving a lottery or gift enterprise.

The respondent company is directed to stop selling and distributing to dealers candy so packed and assembled that sales to the public may be made by means of a lottery, and to cease supplying dealers with assortments of candy which may be used without alteration of the contents to conduct a lottery in its sale to the public.

**No. 3148. Wally Frank, Ltd.,** 10 East 45th St., New York, distributor of pipes and smokers' supplies, has been ordered to cease and desist from misrepresenting the nature of its business, the origin or character of its products, and the prices at which certain such products are sold.

The order directs the respondent company to discontinue advertising in newspapers, magazines, in its monthly publication, on labels, or otherwise, that it is a British or English concern, and that it has a place of business in London or any other city where it does not actually maintain such a place; that it is a manufacturer or that its pipes are shipped direct from the manufacturer, unless it owns and operates or directly controls a factory in which

its products are made, and that it deals exclusively in imported goods, unless such is a fact.

## Stipulations

The Commission has entered into the following stipulations:

**No. 01920. Zo-Ak Company, 62 West 45th St., New York,** will cease advertising that Zo-Ak Tablets, for men and women, represent the very latest development in gonadal replacement therapy; that they are either a competent or effective remedy for temporary impairment of vitality due to fatigue, overwork or remediable weakness of the glandular system, or that they are harmless.

**No. 01921. Dr. Pepper Company, 429 Second Ave., Dallas, Tex.,** selling a flavoring syrup used in the manufacture of Dr. Pepper, a carbonated beverage, agrees to stop representing that there are more calories per pound in Dr. Pepper than in oranges, lemons, pineapples, spinach or buttermilk; that the beverage is "packed" with energy, helps to melt fat away, or is the perfect pick-up for tired minds, tired nerves or tired bodies, and that drinking of three or any other number of Dr. Peppers a day makes one healthy.

**No. 01922. R. E. G. Zaleski, trading as Zal's Laboratories, 7554 South Halsted St., Chicago,** will stop representing that Zal's Medicine is helpful as a general tonic and is a competent treatment for the relief of ulcers, gastritis, acidosis, indigestion, and related stomach troubles; that the most stubborn cases yield to this preparation or its adjunct treatment; that it will remove all irritation from inflamed and weakened parts, and that it is the result of many years of research.

**No. 01923. De Forest's Training, Inc.,** 1109 Center St., Chicago, selling a correspondence course of instruction in radio, television and sound equipment engineering, has entered into a stipulation to discontinue certain unfair advertising of its courses.

Under the stipulation, De Forest's Training, Inc., will no longer represent that Dr. Lee De Forest is now actively or financially associated with the respondent corporation's business, or that pupils of the respondent are under the tutorage of Dr. De Forest or that its salesmen are associated with the De Forest organization of Chicago.

The respondent company also will stop representing, through the publication of Help Wanted advertisements, that it has positions available or that employment will be offered to those who answer the advertisements, when in fact such advertisements are really contact advertisements used in connection with the sale of the courses.

**No. 01924. W. W. Metcalf and Mrs. Fred E. Grant, trading as Dr. Fred E. Grant Company, 706 Davidson Building, Kansas City, Mo.,** in selling a remedy for epilepsy, will stop representing that the preparation is a private prescription which controls epilepsy attacks and is a competent treatment for convulsions, falling sickness or fits. The respondents will desist from asserting that their offer to sell the medicine at a reduced price will be held open for 90 days or any limited period, unless the higher price is charged after the expiration of such period. It was admitted by the respondents that the therapeutic value of their product is limited to relieving the severity and lessening the frequency of attacks of epilepsy.

**No. 01925. John L. and Nancy E. Hatch, trading as Slimmets Company, 853 Seventh Ave., New York,** agree to refrain from advertising that by use of their Slimmets method of reducing one can get rid of superficial fat or can reduce quickly, safely and easily, unless this claim is qualified by a statement defining such method. The respondents also will cease representing that their method of weight reduction is safe, does not involve the use of harmful drugs, and does not include diets or exercises.

**No. 01926. E. S. Bullock, Philadelphia, trading as Keystone Service and as Keystone Company,** agreed to stop representing that the horoscopes he sells will enable one to know about his opportunities in life; that his "The Forbidden Books of Moses" is referred to by millions who never undertake any important step in life relating to finance or health without seeking guidance and advice from its pages; that any of his books provides a simple guide to character reading, makes astrology easy and enables one to know his future by means of palmistry, and that his charms, amulets and seals will give one victory over every earthly enemy, and are effective for insuring business success and promoting health.

**No. 01927. The Lavena Corporation, 141 West Jackson Boulevard, Chicago,** will stop advertising that Lavena will permanently rid the skin of blemishes, unless this claim is limited to

temporary conditions due to external causes; that it stimulates or enlivens the skin, tissues or sluggish pores and cleanses the pores "to their very depths"; that it has an amazing effect on blackheads and other skin disorders, and is "the year's cosmetic sensation."

**No. 2098.** Under a stipulation entered into the **Old Dominion Veneer Company, Bristol, Va.**, will stop making misleading representations of its veneer products by using the phrase "oriental walnut" to describe veneers not made of wood derived from trees of the walnut tree family.

**No. 2100.** Under a stipulation entered into **Eagle-Picher Lead Company and Eagle-Picher Sales Company**, both of Cincinnati, with offices in the Temple Bar Building, have agreed to discontinue misleading representations in the sale of certain rock wool insulating material.

In selling Eagle Home Insulation, the Eagle-Picher companies agreed to stop the use in advertising of the words "Lightest weight" as descriptive of this insulation, when in fact there are competitive products as light and even lighter than the respondent companies' article. The respondent companies also agreed to cease employing the words "lightest weight" in any manner implying that all competitive products are heavier or substantially heavier than their advertised product.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

There has been no action by the Commission in other than routine broadcast cases for the past three weeks owing to the reorganization of the Commission itself under the new Chairman. Beginning next week, however, on December 8, broadcast cases will be taken up every Wednesday by the Commission meeting en banc.

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, December 6.

**Tuesday, December 7**

#### HEARING BEFORE AN EXAMINER (Broadcast)

- WLVA—Lynchburg Broadcasting Corp., Lynchburg, Va.—C. P., 1390 kc., 500 watts, unlimited time. Present assignment: 1200 kc., 100 watts night, 250 watts LS, unlimited.
- WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—1390 kc., 1 KW, unlimited. Present assignment: 1390 kc., 1 KW LS, daytime.
- NEW—Jack W. Hawkins and Barney H. Hubbs, d/b as Odessa Broadcasting Co. (a partnership)—C. P., 1310 kc., 100 watts LS, daytime.

**Wednesday, December 8**

#### HEARING BEFORE AN EXAMINER (Broadcast)

- WILL—University of Illinois, Urbana, Ill.—C. P., 580 kc., 5 KW LS, daytime. Present assignment: 580 kc., 1 KW LS, daytime.
- NEW—Wm. F. Huffman, Wisconsin Rapids, Wis.—C. P., 580 kc., 250 watts, unlimited time. *Using directional antenna at night.*
- NEW—W. H. Kindig, Hollywood, Calif.—C. P., 710 kc., 500 watts, limited time (requests facilities of station KMPC).
- KMPC—Beverly Hills Broadcasting Corp., Beverly Hills, Calif.—Renewal of license, 710 kc., 500 watts, limited time.

**Thursday, December 9**

#### ORAL ARGUMENT BEFORE THE COMMISSION

Examiner's Report No. 1-470:

- NEW—WRBC, Inc., Cleveland, Ohio.—C. P., 890 kc., 1 KW, unlimited time.

Examiner's Report No. 1-471:

- KWTN—Greater Kampeska Radio Corp., Watertown, S. Dak.—C. P., 1340 kc., 250 watts, 500 watts LS, unlimited time. Present assignment: 1210 kc., 100 watts, unlimited, requests facilities of KGDY.
- KWTN—Greater Kampeska Radio Corp., Watertown, S. Dak.—Renewal of license, 1210 kc., 100 watts, unlimited.
- KGDY—Voice of South Dakota, Huron, S. Dak.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1340 kc., 250 watts, daytime, requests facilities of KWTN.
- KGDY—Voice of South Dakota, Huron, S. Dak.—Renewal of license, 1340 kc., 250 watts, daytime.
- KGDY—F. Koren, Robert J. Dean and W. M. Plowman, Transferees, and Greater Kampeska Radio Corp., Transferee, Huron, S. Dak.—Authority to transfer control of corporation; 1340 kc., 250 watts, daytime.

Examiner's Report No. 1-473:

- NEW—Roberts-MacNab Co., Bozeman, Mont.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited.
- NEW—Gallatin Radio Forum, Bozeman, Mont.—C. P., 1420 kc., 250 watts, daytime.

**Friday, December 10**

#### HEARING BEFORE AN EXAMINER (Broadcast)

- WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Modification of license, 880 kc., 1 KW night, 1 KW LS, shares with WQAN. Present assignment: 880 kc., 500 watts night, 1 KW LS, shares WQAN.
- WBNX—WBNX Broadcasting Co., Inc., New York City.—C. P., 1350 kc., 1 KW, 5 KW LS, shares with WAWZ. Present assignment: 1350 kc., 1 KW, shares with WAWZ.
- WMBG—Havens & Martin, Inc., Richmond, Va.—C. P., 1350 kc., 1 KW, unlimited. Present assignment: 1350 kc., 500 watts, unlimited.

#### APPLICATIONS RECEIVED

##### First Zone

- WEAN—The Yankee Network, Inc., Providence, R. I.—Modification of construction permit (B1-P-1605) for changes in equipment and increase in power, requesting changes in requested equipment.
- WEAN—The Yankee Network, Inc., Providence, R. I.—License to cover construction permit (B1-P-1605) as modified for changes in equipment and increase in power.
- WNBC—State Broadcasting Corp., New Britain, Conn.—Modification of construction permit (B2-P-1055) requesting changes in directional antenna and approval of transmitter site at Cedar Street, Newington, Connecticut.

##### Second Zone

- WRNL—WLBG, Inc., Richmond, Va.—License to cover construction permit (B2-P-667) as modified for move of transmitter and studio, installation of new transmitter, and changes in antenna.
- NEW—King-Trendle Broadcasting Corp., Detroit, Mich.—Construction permit for a new station to be operated on 1010 kc., 250 watts, unlimited time.
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Modification of license to change power from 250 watts day to 100 watts night, 250 watts day, and hours of operation from daylight to unlimited time.
- WLAP—American Broadcasting Corporation of Kentucky, Lexington, Ky.—Construction permit to change frequency from 1420 kc. to 1270 kc.; install a new transmitter and directional antenna for night use; increase power from 100 watts night, 250 watts day, to 1 KW; move transmitter from Walton Bldg., Main and Esplanade Sts., Lexington, Ky., to northwest of Lexington, Ky., and studio from Walton Bldg., Main and Esplanade Sts., Lexington, Ky., to Short and Walnut Sts., Lexington, Ky.
- NEW—Hal Broadcasting Co., Inc., Camden, N. J.—Construction permit for a new station to be operated on 1500 kc., 100 watts night, 250 watts day, unlimited time.

### Third Zone

- KTBC—State Capitol Broadcasting Association (R. B. Anderson, 1120 President), Austin, Tex.—Modification of construction permit (B3-P-932) for a new station, requesting authority to install new transmitter and vertical antenna. Amended to change studio site from Driskill Hotel, corner Sixth and Brazos Sts., Austin, Tex., to 605-607 Brazos St., Austin, Tex., and extend commencement and completion dates.
- WAPI—Board of Control of Radio Station WAPI, Alabama Polytechnic Institute, University of Alabama and Alabama College, Birmingham, Ala.—Construction permit to install new transmitter, directional antenna for night use; change frequency from 1140 kc. to 1020 kc., power from 5 KW to 50 KW; and move transmitter from On Sandusky Mt., near Pratt City, Birmingham, Ala., to site to be determined, Alabama.
- WAPI—Alabama Polytechnic Institute, University of Alabama, 1140 Alabama College (Board of Control of Radio Station WAPI), Birmingham, Ala.—Special experimental authorization to operate on the frequency 1020 kc., with unlimited hours of operation, and install directional antenna for night use, for the period of six months.
- WOLS—O. Lee Stone, Florence, S. C.—License to cover construction permit (B3-P-1104) as modified for a new station.
- WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—1210 Construction permit to change frequency from 1210 kc. to 590 kc.; change power from 100 watts night, 250 watts day, to 250 watts day and night, and make changes in antenna.
- WGCM—WGCM, Inc., Mississippi City, Miss.—Construction permit to move transmitter and studio from Great Southern Golf Club (East Beach, Gulfport), Mississippi City, Miss., to site to be determined, Mobile, Ala., and install a new vertical antenna.
- WGRM—P. K. Ewing, Grenada, Miss.—License to cover construction permit (B3-P-829) as modified for changes in equipment and move of transmitter.
- WGTM—H. W. Wilson and Ben Farmer, Wilson, N. C.—Voluntary 1310 assignment of license from H. W. Wilson and Ben Farmer to WGTM, Inc.
- NEW—Publix Bamford Theatres, Inc., Asheville, N. C.—Construction permit for a new station to be operated on 1370 kc., 100 watts, unlimited time. Amended to give type of transmitting equipment and give transmitter site as site to be determined, near Asheville, N. C.
- NEW—Spartanburg Herald-Journal Co., Spartanburg, S. C.—Construction permit for a new station to be operated on 1420 kc., 100 watts night, 250 watts day, unlimited time. Amended to make further changes in vertical antenna and give transmitter site as 2.55 miles west, northwest from center of City of Spartanburg, S. C.
- WLAC—WLAC, Inc., Nashville, Tenn.—Construction permit to 1470 install a new transmitter and make changes in antenna and increase power from 5 KW to 50 KW. Amended to install directional antenna for night use and move transmitter from 5 miles from city limits, Nashville, Tenn., to near Jordonia, Tenn.
- W4XFJ—Miami Broadcasting Co., area Miami, Fla.—License to cover construction permit (B3-PRE-142) for a new relay broadcast station.

### Fourth Zone

- WBAA—Purdue University, West Lafayette, Ind.—Construction 890 permit to install new transmitter; make changes in antenna;

change power from 500 watts night, 1 KW day, to 1 KW night, 5 KW day; change hours of operation from specified hours to unlimited time; and give transmitter and studio sites as site to be determined, Marion County, Indiana. Amended to make changes in requested equipment, install directional antenna for day and night use, and give transmitter site as W. 38th St. near Route No. 52, Indianapolis, Ind.

- KRMC—Roberts-MacNab Co. (Arthur L. Roberts, R. B. MacNab, 1370 A. J. Breitbach, Gen. Mgr.), Jamestown, N. Dak.—Construction permit to install a new transmitter and antenna to be determined; change frequency from 1370 kc. to 900 kc., power from 100 watts night, 250 watts day, to 500 watts night, 1 KW day. Amended to give transmitter site as site to be determined, Jamestown, N. Dak.
- NEW—Indianapolis Power & Light Co., area of Marion City, Ind.—Construction permit for a new relay broadcast station to be operated on 1646, 2090, 2190, 2830 kc., 40 watts.
- NEW—Indianapolis Power & Light Co., area of Marion County, Ind.—Construction permit for a new relay broadcast station to be operated on 1646, 2090, 2190, 2830 kc., 40 watts.
- NEW—Star-Times Publishing Co., St. Louis, Mo.—Construction permit for a new facsimile broadcast experimental station utilizing equipment of high frequency broadcast station W9XOK on frequencies 31600, 35600, 38600, 41000 kc., 100 watts.
- W9XXM—Indianapolis Power & Light Co., Indianapolis, Ind.—License to cover construction permit (B4-PRE-134) for a new relay broadcast station.
- W9XXZ—Indianapolis Power & Light Company, area Marion County, Ind.—License to cover construction permit (B4-PRE-143) for a new relay broadcast station.
- W9XXT—KCMO Broadcasting Co., Kansas City, Mo.—License to cover construction permit (B4-PRE-140) for a new relay broadcast station.

### Fifth Zone

- KBPS—Benson Polytechnic School (R. T. Stephens, Agent), Portland, Ore.—Modification of license to change hours of operation from share KXL, 1/7 time, to unlimited (contingent upon KXL's application for construction permit B5-P-1968 to change frequency from 1420 kc. to 1110 kc. being granted).
- KELA—Central Broadcasting Corp., between Centralia and Chehalis, Wash.—License to cover construction permit (B5-P-1477) as modified for a new station.

### Puerto Rican Zone

- WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Construction permit to change frequency from 1370 kc. to 780 kc.; make changes in antenna; change power from 100 watts night, 250 watts day, to 1 KW night, 2½ KW day; change hours of operation from specified hours to unlimited time; and make changes in transmitting equipment. Amended to change transmitter site from 350 feet from Insular Road No. 2, Mayaguez, P. R., to site to be determined, Mayaguez, P. R.
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—1370 Modification of license to change hours of operation from specified hours to unlimited time.

# The National Association of Broadcasters

NATIONAL PRESS BUILDING

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WASHINGTON, D. C.

JAMES W. BALDWIN, Managing Director

## NAB REPORTS

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DEC. 10, 1937

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### FCC ACTS IN SEGAL CASE

The Federal Communications Commission this week suspended Paul M. Segal, prominent radio lawyer, from practising before it for a period of sixty days from December 6, 1937. George S. Smith, an associate of Segal, was found not guilty of any of the charges except in the Casto matter for which he had previously been reprimanded by the Commission.

The decision represented a unanimous verdict of the six Commissioners who heard the case. Commissioner Walker dissented only from that portion of the opinion which upheld the jurisdiction of the Commission in disqualifying Commissioner Payne from taking part in the trial.

In the first case of its kind ever to come before it, the Commission wrote a lengthy opinion in justification of its action. After reviewing the evidence the Commission said:

"Attention is also directed to the fact that Mr. Segal actually prepared or had prepared under his direction, the answer to the questions contained in these applications; that he actively participated in the concealment of the real party in interest in both applications and more especially in the Palmer applications. Besides the making of untrue and misleading statements in these applications, the further conduct of Mr. Segal, above enumerated, in concealing from the Commission the real parties interested in these applications, was intended to and did deceive the Commission in preventing it from knowing from these applications who these real applicants were. Mr. Segal was an active party in both instances in forming these corporations and in making these concealments from the Commission.

"The grant to an applicant to erect and operate a broadcasting station is regulated by the Federal Government and Congress has delegated this duty to this Commission. The law prescribes that these facilities may be granted only in the public interest, that is to say, so that the public may be served by the grant. The licensee is a trustee of the Federal Government to perform a public duty. For these reasons there must be no concealment, so far as this Commission is concerned, of the real applicants who desire to exercise this public franchise; and a lawyer who actively participates in concealing from this Commission the real party in interest and in making

untrue and misleading answers to questions prescribed by this Commission is guilty of unethical conduct in deceiving the licensing authority of the Federal Government.

"The Commission, therefore, upon the evidence finds and concludes that the conduct of the respondent, Segal, in preparing or causing to be prepared, and causing to be sworn to and filed the applications in the Palmer Broadcasting Syndicate, Inc., and the Commercial Broadcasters, Inc., and his subsequent conduct relating thereto, more especially in the Palmer Broadcasting Syndicate, Inc., did deceive and mislead the Commission in its consideration of these applications.

"The Commission further finds and concludes upon the evidence that respondent, George S. Smith, is not guilty of any of these charges except in the Casto matter for which he has already been reprimanded by the Commission.

"A number of the leading lawyers who practice at the bar of this Commission testified as to the good character and reputation of the respondent, Segal. No other fact or act of alleged misconduct in his life as a lawyer for ten or more years has been called to our attention. This testimony shows that Mr. Segal's standing, character and integrity as a lawyer has been of the highest.

"We also take judicial notice of the fact that wide publicity has been given to the charges contained in the two orders of the Commission, above quoted. This publicity has existed for a period of more than six months and that necessarily during this time the respondent, Segal, has been more or less under a cloud because of

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these charges, and that necessarily his practice must have been adversely affected. We also take into consideration that this is the first time this Commission has been called upon to enunciate certain principles relating to the truthfulness of answers contained in applications. We have given careful consideration to the testimony of Mr. Segal, namely, that he did not feel that an applicant or his lawyer was required to divulge who the real applicant was until the hearing.

"After giving most careful consideration to these facts as extenuating circumstances, the Commission concludes that the ends of justice will be fully served by suspending Mr. Segal from practicing before this Commission from December 6, 1937, until the sixth day of February, 1938, and the Commission's order will issue accordingly."

And issued the following orders:

**FEDERAL COMMUNICATIONS  
COMMISSION**

Washington, D. C.

IN THE MATTER OF:

A Rule to Show Cause Issued to  
Paul M. Segal and  
George S. Smith

**Order of the Commission**

Charges heretofore having been preferred by the Commission in the above-entitled matter by orders of May 19 and September 16, 1937, and

The Commission having considered the separate and joint answers of the respondents thereto, the evidence adduced at public hearings duly held thereon, oral argument presented, and

In conformity with its opinion and findings this day issued,

It is, this 4th day of December, 1937, ORDERED

That Paul M. Segal be, and he is hereby, suspended from practicing as an attorney before this Commission during the period from December 6, 1937, to and including February 5, 1938.

BY THE COMMISSION.

T. J. SLOWIE,  
*Secretary.*

**FEDERAL COMMUNICATIONS  
COMMISSION**

Washington, D. C.

IN THE MATTER OF:

A Rule to Show Cause Issued to  
Paul M. Segal and  
George S. Smith

**Order of the Commission**

Charges heretofore having been preferred by the Commission in the above-entitled matter by orders of May 19 and September 16, 1937, and

The Commission having considered the separate and joint answers of the respondents thereto, the evidence adduced at public hearings duly held thereon, oral argument presented, and

The Commission having found that the said George S. Smith is not guilty of any of the charges preferred in said orders except in regard to those matters in the Casto case for which he was reprimanded by the Commission by letter dated February 10, 1937, and

In conformity with its opinion and findings this day issued,

It is, this 4th day of December, 1937, ORDERED

That the pending charges against the said George S. Smith be, and the same are hereby, dismissed.

BY THE COMMISSION.

T. J. SLOWIE,  
*Secretary.*

**TELEVISION STATION GRANTED**

The Federal Communications Commission at its meeting on Wednesday granted a construction permit to the Philco Radio & Television Corp., of Philadelphia for the erection of a new television broadcast station to be located at Philadelphia and to use 20,400-210,000 kilocycles on an experimental basis only, with 15 watts power for a visual transmitter.

**DENIAL OF NEW STATION  
RECOMMENDED**

The Evanston Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Evanston, Ill., to use 1020 kilocycles, 250 watts and daytime operation.

Examiner George H. Hill in Report No. I-542 recommended that the application be denied. He states that "while there is no radio-broadcast station located in Evanston, Ill., there does not appear to be any substantial need for the services of the proposed station. Evanston is in the metropolitan area of Chicago and receives primary service from a large number of stations. Many of these stations deliver a greater signal in Evanston than the proposed station would lay down, if the application was granted."

**INCREASED POWER RECOMMENDED FOR  
KQW**

Broadcasting station KQW, San Jose, Cal., operating unlimited time on 1010 kilocycles applied to the Federal Communications Commission to increase its daytime power from 1,000 watts to 5,000 watts, to select a new site locally, install a new transmitter and erect a vertical radiator.

Examiner Tyler Berry in Report No. I-541 recommended that the application be granted. He states that there appears to be a need for the service proposed and the granting of the application would not cause objectionable interference. The Examiner says that granting of the application would be in the public interest.

#### TEXAS STATION RECOMMENDED

Mervel M. Valentine applied to the Federal Communications Commission for a construction permit for the erection of a new station at Laredo, Texas, to use 1500 kilocycles, 100 watts and 250 watts LS and unlimited time on the air.

Examiner Melvin H. Dalberg in Report No. I-539 recommended that the application be granted. He states that "according to the proof adduced by the Commission engineer no objectionable interference would ensue as the result of granting this application to or from existing stations." The Examiner states also that "in view of the fact that such stations as supply radiobroadcasting service of a primary nature to the city of Laredo are located in the Republic of Mexico and that the nature of these broadcasts is not satisfactory or appropriate to meet the demands of the population sought to be served by this applicant, there appears to be a need for the local facilities sought herein."

#### RECOMMENDS ALABAMA STATION

John S. Allen and G. W. Covington, Jr., applied to the Federal Communications Commission for a construction permit for the erection of a new station at Montgomery, Ala., to use 1210 kilocycles, 100 watts and daytime operation.

Examiner P. W. Seward in Report No. 540 recommends that this application be granted. He states that "the evidence indicates that a need exists in the area proposed to be served for additional radio broadcast service." The Examiner states that the granting of the application would be in the public interest.

#### DISMISSAL WITH PREJUDICE

The Airfan Radio Corp., Ltd., applied to the Federal Communications Commission for a construction permit for the erection of a new station at San Diego, Cal., to use 1420 kilocycles, 100 watts and unlimited time on the air.

Examiner Robert L. Irwin in Report No. I-531 recommended that the application be denied with prejudice. The Examiner states that "when the application was called for hearing, counsel for the applicant stated for the record that he had prepared the evidence in this proceeding but immediately prior to the date set for hearing his client had instructed him to note a withdrawal of the application."

#### WBNO LICENSE RENEWAL DENIAL RECOMMENDED

The Southern Broadcasting Corporation, applied to the Federal Communications Commission for a construction permit for the erection of a new station at New Orleans, La., to use 1200 kilocycles, 100 watts and 250 watts LS and the unlimited facilities of WBNO and WJBW. Also Station WBNO, New Orleans, asked for a license renewal and for changes from 1200 to 1420 kilocycles, from 100 watts to 100 watts and 250 watts LS and from sharing time with WJBW to unlimited time.

Examiner P. W. Seward in Report No. I-532 recommended that the application of the Southern Broadcasting Corporation "be dismissed with prejudice"; that the application of Station WBNO for license renewal be denied and that its application for changes also be denied.

It is also stated by the Examiner that "it appears that the acts and conduct of the applicant in connection with Radio Station WBNO has violated Section 310(b) of the Communications Act of 1934."

#### RECOMMENDS POWER INCREASE FOR WRNL

Broadcasting station WRNL, Richmond, Va., applied to the Federal Communications Commission to increase its power from 500 to 1,000 watts and from daytime to unlimited time on the air. The station operates on 880 kilocycles.

Examiner Melvin H. Dalberg in Report No. I-534 recommended that the application be granted, employing a directional antenna day and night. He states that the change would not cause objectionable interference and says that "there appears to be a need in the Richmond area for the type of service proposed by the applicant."

#### PROVISIONAL PERMIT RECOMMENDED

Ellwood W. Lippincott, Inc., applied to the Federal Communications Commission for a construction permit for the erection of a new station at Bend, Ore., to use 1310 kilocycles, 100 watts and unlimited time on the air.

Examiner Tyler Berry in Report No. I-529 recommended that "if the application of Bend Bulletin be denied that the application of Ellwood W. Lippincott, Inc., \* \* \* be granted, subject to the selection of a satisfactory transmitter site. But if the application of Bend Bulletin be granted, then it is recommended that the application of Ellwood W. Lippincott, Inc., be denied." There is need for service at Bend, the Examiner states.

#### RECOMMENDS DISMISSAL WITH PREJUDICE

The Broward Broadcasting Company applied to the Federal Communications Commission for a construction

permit for a new station to be located at Ft. Lauderdale, Florida, to use 1370 kilocycles, 100 watts and 250 watts LS and unlimited time.

Examiner P. W. Seward in Report No. I-536 recommended that the application be dismissed with prejudice. When the case came on for hearing at the Commission the applicant was not represented.

#### **DENYING STATION ASSIGNMENT RECOMMENDED**

The Black Hills Broadcast Company, an unincorporated association, applied to the Federal Communications Commission for authority to transfer control of Station KOBH, Rapid City, S. D., to the Black Hills Broadcast Company, of Rapid City, a corporation.

Examiner Robert L. Irwin in Report No. I-530 recommended that the application be denied. He states that "the application may not be granted within the purview of Sections 301 and 310(b) of the Communications Act of 1934. The provisions of Section 310(b) prohibit the assignment or transfer of the rights granted in the station license prior to a determination and consent in writing by the Commission that said transfer or assignment is in the public interest."

#### **LICENSE RENEWAL RECOMMENDED FOR WJBW**

Broadcasting Station WJBW, New Orleans, La., using 1200 kilocycles, 100 watts and sharing time with WBNO applied to the Federal Communications Commission for a license renewal.

Examiner P. W. Seward in Report No. I-537 recommended that the application be granted. He states that "the manner in which Radio Station WJBW has been operated does not disclose that it has been in any wise in violation of Section 310 of the Communications Act of 1934." The Examiner says that the continued operation of the station would be in the public interest.

#### **NEW PENNSYLVANIA STATION RECOMMENDED**

The Keystone Broadcasting Company, applied to the Federal Communications Commission for a construction permit for the erection of a new broadcast station at New Castle, Pa., to use 1250 kilocycles, 250 watts and daytime operation.

Examiner Tyler Berry in Report No. I-533 recommended that the application be granted. The Examiner states that there is need for the service in the area proposed. There would be very slight interference to a small area adjacent to the transmitter of the proposed station. The applicant specified that the antenna site is to be subject to the Commission's approval. The Examiner found that granting of the application would be in the public interest.

#### **NEW STATION DENIAL RECOMMENDED**

Jules J. Rubens applied to the Federal Communications Commission for a construction permit for the erection of a broadcast station at Aurora, Ill., to use 1040 kilocycles, 250 watts and daytime operation.

Examiner Melvin H. Dalberg in Report No. I-535 recommended that the application be denied. He states that "the evidence adduced at the hearing does not establish such facts as would justify a conclusion that the applicant has had any experience whatsoever in the management or conduct of a radio broadcast station, or that he has any knowledge or is familiar with the problems involved, either in the operation of such a station or the conduct of its business."

The Examiner says further in this case that "while the proposed programs appear to be typical for stations of this class, the applicant's expectations of procuring live talent of a very high order is not supported or corroborated by any proof worthy of serious consideration."

#### **NEW STATIONS RECOMMENDED ON 940 KC.**

Four applications have been filed with the Federal Communications Commission for the construction of broadcasting stations on the frequency 940 kc. These applications were filed by the El Paso Broadcasting Company, El Paso, Texas; The Tribune Company, Tampa, Florida; Radio Station KGKL, San Angelo, Texas; and the World Publishing Company, Tulsa, Oklahoma.

John P. Bramhall in Report No. I-538 made the following recommendations on these applications:

"1. That the application of the El Paso Broadcasting Company, El Paso, Texas, be granted on condition that Dorrance D. Roderick, applicant in Docket No. 3858, abandon his application for a new station at El Paso.

"2. That the application of the World Publishing Company, Tulsa, Oklahoma, be granted.

"3. That the application of KGKL, Inc., San Angelo, Texas, be denied.

"4. That the application of The Tribune Company, Tampa, Florida, be granted."

#### **FEDERAL TRADE COMMISSION ACTION Complaints**

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

**No. 3275.** Alleging certain unfair representations in the sale of cosmetics, a complaint has been issued against **Allen H. Rabin**, trading as **The Rabin Company**, 820 McGarry St., Los Angeles. Representations of The Rabin Company are alleged to have misled buyers into believing that its products contain sufficient amounts of oil of avocado to be beneficial.

According to the complaint, the avocado oil content in cleansing and tissue creams advertised was so small as to be negligible, and was incapable of impairing beneficial effects, and an astringent, a liquid powder base, lipstick and rouge allegedly contained no avocado oil.

**No. 3276.** A company manufacturing fabrics and one of its customers, a garment maker, are named respondents in a complaint charging misrepresentation of the fiber content of certain merchandise they sell in interstate commerce.

The respondents are **A. Schottland, Inc.**, 1441 Broadway, **New York**, operating fabric mills at **Nanuet, N. Y.**, and **Rocky Mount, N. C.**, and **Valmor Undergarment Company**, 149 Madison Ave., **New York**, manufacturer of women's undergarments and allied products for sale to retailers and other customers.

In selling certain fabrics to garment makers, the complaint alleges, the Schottland company supplies such customers with labels and tags to be attached and which customers do attach, to the garments manufactured from the fabrics purchased. These labels and tags, it is alleged, bear the words "Pure Dye Nanuette Crepe—Du Pont Rayon and Silk," the words "Pure Dye" and "Crepe" being prominently displayed, while the words "Du Pont Rayon and Silk" are printed in small and less conspicuous type. Other fabrics sold by the Schottland company are labeled "Ray-silk," the complaint charges.

Valmor Undergarment Company, according to the complaint, attaches the tags, and labels supplied by the Schottland company to women's apparel it manufactures from the fabrics purchased from that company, and also supplies its customers with display cards which bear the same words as those appearing on the tags and labels referred to. The Valmor company allegedly describes other garments as "Van Ceta Taffeta" and "Val Sheen Satin."

**Nos. 3277-3278.** Complaints charging the use of lottery methods in the sale of their products have been issued against **Irving Schwartz**, 521 Fifth Ave., **New York**, trading as **Lloyd's Distributing Company**, and **Yale I. Glubok**, 5244 Enright Ave., **St. Louis**, trading as **Reliable Sales Company**.

Both companies are alleged to have provided dealers with devices specified in one instance as pullcards and in the other as pushcards. Such devices, according to the complaints, were used in conducting a lottery scheme by which purchasers drew prizes by selecting girls' names.

**No. 3279.** Violation of Section 3 of the Clayton Act, which prohibits exclusive dealing contracts where the effect may be to substantially lessen competition or to tend to create a monopoly, is alleged in a complaint issued against **Carter Carburetor Corporation**, **St. Louis**, said to be a dominant factor in the carburetor industry. The company also is charged with violation of Section 5 of the Federal Trade Commission Act, which forbids unfair methods of competition in interstate commerce.

Pointing out that carburetors are sold to automobile manufacturers for use as original equipment, and that carburetors and parts are sold to independent service stations, garages and repair shops for replacements and repairs, the complaint alleges that the Carter company supplied more than 50 per cent of the carburetors used as original equipment in automobile production for 1937, and with one other manufacturer, supplied more than 95 per cent of the carburetors so used.

According to the complaint, the Carter company has entered into contracts, now in force, for the sale and governing the terms of sale of its products, with more than 900 dealers, the contracts generally running for one year, subject to renewal and subject to cancellation by any party on 30 days' notice. Pursuant to the terms of the contracts, the dealer receives 50 per cent discount from the list price on carburetor products, as against a 25 per cent discount available to the retail trade generally.

**No. 3280.** **Belvedere Silks, Inc.**, 1384 Broadway, **New York**, is charged with unfair competition in the sale of fabrics to garment manufacturers and other customers, in a complaint.

Using its corporate name containing the word silks and the phrase Belvedere Silks, the respondent company is alleged to have advertised and sold fabrics not composed of silk but of rayon having the appearance of silk, and to have marketed such products without disclosing that they were not silk.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01928.** **Var-Ne-Sis Medicine Company**, 578 Chestnut St., **Lynn, Mass.**, in the sale of its products, agrees to stop ad-

vertising that **Var-Ne-Sis**, in tablet or liquid form, is a competent remedy for rheumatism, neuritis, lumbago and kindred ailments, unless this assertion is limited to relief of some of the symptoms; that it will eliminate uric acid or other poisons, and that it is composed of roots and herbs and will tone up the system or build up general good health.

**No. 01929.** **Hood-Lax Corporation**, 685 Broadway, **New York**, agrees to cease advertising that its **Cal-Par** is a nerve, tissue or body builder, unless this assertion is limited in reference to bones and teeth; that the preparation is beneficial in nervous disorders, unless this is limited to temporary disorders due to Vitamin B deficiency, and that calcium deficiency is a result of modern diet, unless the claim is restricted in its reference to localities where milk and green leafed vegetables are scarce and sparingly used, or to individuals whose diets do not include sufficient milk or green leafed vegetables.

**No. 01932.** **Drezma, Incorporated**, 130 West Forty-second St., **New York**, in the sale of **Drezma Lotion** and **Drezma Nourishing Cream**, stipulates that it will no longer advertise that use of its lotion will prevent the pores from clogging; will normalize oily conditions of the skin, and that the preparation "works beneath your make-up to clear and beautify your skin." The respondent company agrees to cease employing the word "nourishing" as a part of the trade name for its face cream, provided, however, that for six months from the date of acceptance of its stipulation, it shall be permitted to use, in connection with whatever trade name it may employ, the phrase "Formerly Drezma Nourishing Cream."

**No. 01934.** **California Vegetable Concentrates, Inc.**, **Architects Building**, **Los Angeles**, selling certain preparations known as **CVC Formulated Compounds of Vegetable Concentrates**, stipulates that it will stop advertising that the average American diet is deficient in minerals and that any of its products are prolific sources of vitamin potencies unless limited to vitamins A and C. The respondent company will discontinue representing that its various preparations are indicated in the treatment of such ailments as low blood pressure, nervous debility, muscular rheumatism, calcium deficiency, malnutrition, goiter, and intestinal ulcers.

**No. 01935.** **W. H. Braun**, 537 South Dearborn St., **Chicago**, trading as **Imperial Brands Company**, will cease representing that his product designated **Steno Nail Protection Cream** will transform brittle, peeling or splitting nails into healthy or lovely finger-tips; that it will cause spots to disappear or hangnails to vanish; that it nourishes the nails and can be relied upon to correct bad nails, unless this claim is limited to conditions where it constitutes a corrective treatment.

**No. 01936.** **R. M. Jones and A. J. Cage**, trading as **Cajo Distributing Company**, 40 West Gav St., **Columbus, Ohio**, engaged in the sale of **Glanoids Tablets**, agreed to cease advertising that the preparation is a rejuvenating, scientific tonic-stimulant and a remedy for persons suffering from weak glands; that it will help those who are tired, nervous and run down; that through its use one can be young again, and that it possesses glandular food value and produces lasting benefits.

**No. 01937.** **Grace Donohue, Inc.**, 640 Madison Ave., **New York**, will cease advertising that **Seba Gland Cleanser** decomposes dirt particles, neutralizes excess acid residue, and is an aid in preventing eruptions or other facial blemishes; that **Sanguatone** will correct acne, pimples, blackheads, blemishes or blotchy skin; that **Dermatone** nourishes the skin, and that **Pure Pore Balm** is nourishing to the skin or pores. The respondent corporation further agrees to discontinue use of the names **Seba Gland Cleanser**, **Sanguatone**, and **Pure Pore Balm** for the products now so designated.

**No. 01938.** **Silmo Chemical Company, Inc.**, **Vineland, N. J.**, will cease representing that its cod liver oil product, **Silmo XX**, sold as a poultry remedy assures eggs with stronger shells and increases the hatchability and the production of eggs, unless all comparative conditions are clearly stated in the advertisements in sufficiency close proximity to command attention. The respondent company admitted that its product will be as effective as represented only when fed in sufficient amounts to poultry getting less than an adequate amount of Vitamin D.

**No. 01939.** **Oriental Importing Company**, 654 West Lake St., **Chicago**, will cease advertising that any incense it sells is "lucky" or develops "lucky numbers", is prepared in accordance with a rare or mystic formula, and will bring prosperity, peace or happiness.

**No. 01940.** **Household Helps, Inc.**, **Muncie, Ind.**, selling **Ope-N-Seal**, a device described as a fruit jar tool kit, agrees that it will stop making unmodified representations of earnings of salesmen in excess of the average earnings of its active, full-time salesmen or dealers under normal business conditions, and will

cease representing that any salesperson referred to in its advertising is still engaged in selling the respondent company's merchandise, when such is not a fact. The company admitted that some persons represented as still making large sales, profits and bonuses have not sold its products for the last eight years.

**No. 01941. George Wagner, 2640 Broadway, New York, trading as American Detective Training School and as American Detective System,** will discontinue representing that the correspondence course he sells contains instruction in every problem a detective is called upon to solve; that it is offered to qualify a student for a position with the United States Secret Service; that there is no other profession offering as many opportunities as detective work, and that any and every person can become a successful detective with the aid of the course. The respondent stipulates that he will cease deducting "a percentage for overhead" from refunds made to students who discontinue the course of study.

**No. 01942. Picot Laboratories, Inc., Wilmington, Del.,** selling a laxative preparation designated Picot Salt, will cease advertising that the product is a competent treatment for rheumatism, seasickness or colds; that it is an effective remedy for constipation, unless limited to temporary constipation; that it will banish pain and prevent accumulation of poisons, and that its use will enable one to have a clear skin.

**No. 01943. Dorothy Perkins Company, Mart Building, St. Louis,** will refrain from representing that through use of Dorothy Perkins Cream of Roses Cleansing Cream, Acne Cream, Rose Lotion, or Acne Lotion, or a combination of these products, one may clear up acne or pimples. With respect to certain other cosmetics the respondent company sells, it stipulates that it will cease asserting that New Plex will revitalize one's face, stimulate circulation or make facial muscles firmer or more youthful; that Skin Tonic will tone or stimulate the skin or reduce large pores; that Special Astringent tightens flabby skin and corrects oiliness or large pores, and that Brilliantine will give life to the hair. The respondent company also will stop describing any of its products as Skin Tonic, Acne Lotion or Acne Cream.

**No. 01944. Harold T. Maloney and John C. O'Neil, trading as Nu-Health Products Company, 178 East Long St., Columbus, Ohio,** in selling Floradex, will cease representing that the product will prevent constipation or intestinal intoxication, and that it is an effective remedy for aches and pains, rheumatism, arthritis, skin eruptions, nervousness, high blood pressure, and other ailments. The respondent also will desist from advertising that Floradex is guaranteed to produce specific results.

**No. 01945. Norman Paint Company, Inc., 1248 H St., N. E., Washington, D. C.,** will discontinue advertising that "We manufacture all the paint we sell," unless it is made clear that during the busy season a small per cent of the paint it sells is made by other manufacturers from ingredients and formulas furnished by it, and unless it is further made clear that this representation does not apply to allied products such as roof coating, spar varnish, enamel, putty, and brushes. The company also will cease asserting that its customers can "save up to 45%," unless it is explained that this representation applies only to paints manufactured by it.

**No. 01946. William H. Britton, 123 Prospect Ave., Dunellen, N. J.,** trading as American Monogram Company, is engaged in the sale of sign letters, which, his advertising matter indicates, are designed principally for initialing automobile doors. The respondent agrees to stop representing that his sign letters, when transferred to a surface, retain their luster, color and beauty indefinitely, are more durable than paint, and, when applied, the result obtained is better than that produced by a sign painter; that they are in great demand and the quickest and easiest seller ever put on the market, and are being used by typewriter, phonograph, telephone and other companies. The respondent also will discontinue making unmodified representations of earnings in excess of the average earnings achieved by his active, fulltime sales persons or dealers under normal business conditions.

**No. 01947. E. O. Reber, Lebanon, Pa., trading as Seminole Drug Company,** agrees to cease representing that his Seminole Indian Herb Tablets are pure vegetable and contain no narcotics, and are capable of regulating the stomach, toning up the system, cleansing the liver and kidneys, eliminating headaches, bad nerves, and rheumatism, and relieving colds. The respondent also will stop using the word "Indian" as part of the name of his product.

**No. 01948. Associated Distributors, Inc., 111 West Monroe St., Chicago,** in selling a preparation called Lip-Youth, agrees to stop advertising that it will end dry, chapped, rough, parched lips; that it contains thousands of units of vitamins D and F, and that such vitamins have any appreciable effect upon the lips.

**No. 2099. The J. R. Watkins Company, Winona, Minn.,** has entered into a stipulation to discontinue certain false and misleading representations in connection with the sale of Watkins Baking Powder, which contains, among other ingredients, dried white of egg.

According to the stipulation, the respondent company circulated among its dealers folders containing instructions for making what is known as the water-glass test, whereby it purportedly could be demonstrated that Watkins Baking Powder was a superior product and would give "better results." Certain dealers followed the instructions in making the test, which involved the use of Watkins Baking Powder and frequently a competing baking powder which did not contain any white of egg.

**No. 2101. Nathan R. Stern, 6619 Denison Ave., Cleveland,** trading as Western Reserve Laboratories, has entered into a stipulation to discontinue certain misrepresentations in connection with the interstate sale of a product to be used as a household cleaning agent and as a windshield cleaner.

According to the stipulation, Stern labeled his product Benzzyne-Crystals, but suggested to retail customers that they use the name Benzoline or Spray-On for the product, and furnished them with labels bearing the name Benzoline.

Stern agreed to cease using the words Benzzyne or Benzoline in any manner so as to imply that the preparation to which the words refer is a benzene product or crystallized benzene, when such is not a fact. He also will stop representing that cleaning with the so-called Benzzyne Crystals or Benzoline is the same as cleaning with naphtha or some other dry cleaning preparation, or that such product is a proper substitute for dry cleaning or the use of naphtha.

## Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2838.** Misrepresentation of the therapeutic value and place of origin of certain cosmetics is prohibited under an order to cease and desist entered against **Bourjois, Inc., 35 West 34th St., New York,** and its subsidiary, **Barbara Gould Sales Corporation.** Products involved in the order are Evening in Paris Talcum, Barbara Gould Irradiated Face Powder and Barbara Gould Irradiated Skin Food, the name of which was changed to Barbara Gould Irradiated Skin Cream in July, 1935.

The respondent companies are ordered to desist from using the word "Paris" or "France" or any illustration suggesting French origin to advertise or describe products compounded, bottled or packaged in the United States solely from imported ingredients, without making this fact clearly known. It was found that Evening in Paris Talcum was not manufactured in France as represented, but was made at the Bourjois, Inc., factory in Rochester, N. Y., from ingredients imported separately into the United States.

**No. 3177.** Prohibiting certain lottery methods in the sale of clocks and other merchandise, an order to cease and desist has been issued against **Frieda Wolchin, 3318 West Marquette Road, Chicago,** trading as **Wright Manufacturers Distributing Company.**

Under the order, the respondent is directed to discontinue selling or otherwise disposing of clocks or other merchandise by the use of pushcards or similar devices, and to cease supplying and shipping to others certain pushcards or similar devices so prepared or printed as to enable them to sell or distribute clocks or other merchandise.

## FTC DISMISSES COMPLAINTS

**Nos. 2252-2523-2366.** The Federal Trade Commission has dismissed complaints against **Bristol-Myers Company, New York City,** drug manufacturer, **Gillette Safety Razor Company, Boston,** and **Yardley & Co., Ltd., New York City,** manufacturer of soaps and toilet preparations. The complaints charged resale price maintenance in the sale of the respondent companies' products, and were issued and the cases tried prior to approval of the Tydings-Miller Act.

In dismissing the complaints, the Commission points out that the testimony and evidence in these proceedings appears insufficient to support the complaints' allegations respecting sales into the District of Columbia for resale therein, or sales into States not having statutes legalizing minimum resale price contracts or agreements.

The order of dismissal points out that the Tydings-Miller Act, approved August 17, 1937, provides that nothing therein contained shall render illegal contracts or agreements prescribing minimum prices for resale of a commodity which bears, or the label or container of which bears the trade-mark, brand or name of the producer or distributor of such commodity, and which is in free and open competition with commodities of the same general class produced or distributed by others, when that type of contracts or agreements are lawful as applied to intra-state transactions under the laws or public policy of any State in which such resale is to be made, or to which the commodity is to be transported for such resale.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, December 13:

Monday, December 13

#### HEARING BEFORE AN EXAMINER (Broadcast)

- WMPS—Memphis Commercial Appeal Co., Transferor, and Memphis Press-Scimitar Co., Transferee, Memphis, Tenn.—Transfer of control of corporation.  
KRGV—M. S. Niles, Transferor, O. L. Taylor, Gene Howe and T. E. Snowden, Transferees, Weslaco, Tex.—Transfer of control of corporation.

Thursday, December 16

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. 1-475:

- NEW—Press-Union Publishing Co., Atlantic City, N. J.—C. P., 1200 kc., 100 watts, 250 watts LS, unlimited.

##### Examiner's Report No. 1-461:

- NEW—Ann Arbor Broadcasting Co., Inc., Ann Arbor, Mich.—C. P., 1550 kc., 1 KW, unlimited time.

##### Examiner's Report No. 1-476:

- NEW—Summit Radio Corp., Akron, Ohio.—C. P., 1430 kc., 1 KW, unlimited time.

##### Examiner's Report No. 1-487:

- NEW—Geo. W. Taylor Co., Inc., Williamson, W. Va.—C. P., 1370 kc., 100 watts, daytime.

#### HEARING BEFORE AN EXAMINER (Broadcast)

- NEW—Lake Region Broadcasting Co., Lakeland, Fla.—C. P., 1310 kc., 100 watts night, 250 watts LS, unlimited. Present assignment: 1310 kc., 100 watts, unlimited time.

The Commission has taken the following action:

#### APPLICATIONS GRANTED

- WGN—WGN, Inc., Chicago, Ill.—Granted special experimental authority to operate applicant's regular broadcast transmitter for the experimental transmission of facsimile signals from 1 to 6 a. m., using 50 KW power on the frequency regularly assigned to WGN, 720 kc., for the duration of the regular license period for WGN, which expires February 1, 1938.  
WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Granted special experimental authority to operate its regular broadcast transmitter for the experimental transmission of facsimile on frequency 650 kc., with 50 KW power, from midnight to 6 a. m., CST, for the duration of the present license period, February 1, 1938.  
KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Granted special experimental authorization to operate regular broadcast

transmitter of KSD for experimental transmission of facsimile signals from 1 to 6 a. m., using 1 KW, for the period December 1, 1937, to March 1, 1938, on 550 kc.

- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted special experimental authority to operate a 5-KW auxiliary broadcast transmitter for the experimental transmission of facsimile on frequency 710 kc., with 5 KW, from 2 to 6 a. m., for the duration of the present license period, February 1, 1938.  
NEW—Everett L. Dillard, d/b as Commercial Radio Equipment Co., Kansas City, Mo.—Granted C. P. for new high frequency broadcast station, frequencies 31600, 35690, 38600 and 41000 kc., on an experimental basis, 250 watts.  
NEW—Philco Radio & Television Corp., Philadelphia, Pa.—Granted C. P. for new television broadcast station to be located in Philadelphia, frequencies 20400-210000 kc., on an experimental basis only, power 15 watts for visual transmitter.  
KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Granted special experimental authority to operate regular transmitter for experimental transmission of facsimile from 1 to 6 a. m., using 10 KW power on 1460 kc.  
WAXH—Savannah Broadcasting Co., Inc., Mobile (Savannah, Ga.)—Granted modification of C. P. covering authority to make changes in equipment and increase in power from 10 to 50 watts.  
KRLD—KRLD Radio Corp., Dallas, Tex.—Granted C. P. covering installation of new equipment.  
W9XUP—National Battery Broadcasting Co., St. Paul, Minn.—Granted modification of C. P. approving transmitter site at North Snelling Ave., and approval of antenna system.  
WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Granted license to cover C. P. covering move from present location to Kingston, Pa., and install vertical antenna.  
WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted license to cover C. P. as modified authorizing new station to operate on 1480 kc., 5 KW, daytime only, using directional antenna; transmitter to be located at 137 Pochman Avenue.  
KAXA—Earle C. Anthony, Inc., Mobile (Los Angeles, Calif.)—Granted license to cover C. P. for relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., 100 watts.  
WHAS—The Louisville Times Co., Louisville, Ky.—Granted modification of C. P. extending completion date from 12-5-37 to 1-5-38.  
KGCI—Clarence A. Berger and Saul S. Freeman, Couer D'Alene, Idaho.—Granted modification of C. P. approving transmitter at 3rd and Bancroft, and studio at 2nd and Sherman, both Couer D'Alene, Idaho; also approving new equipment and installation of vertical radiator.  
KAID—Woodmen of the World Life Ins. Society, Mobile (Omaha, Nebr.)—Granted license to cover C. P. for relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 100 watts.  
NEW—National Broadcasting Co., Inc., Mobile (Bellmore, N. Y.)—Granted C. P. and license for new relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., 500 watts.  
WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Granted C. P. to install a new transmitter.  
WSIX—WSIX, Inc., Nashville, Tenn.—Granted license to cover C. P. authorizing 250 watts LS; 1210 kc., 100 watts night, unlimited time.  
WKAT—A. Frank Katzentine, Miami Beach, Fla.—Granted license to cover C. P. for new station to operate on 1500 kc., 100 watts, unlimited time. Also granted authority to determine operating power by direct measurement of antenna input in compliance Rule 137.  
WOKO—WOKO, Inc., Albany, N. Y.—Granted license to cover C. P. to install new transmitting equipment.  
KAID—Woodmen of the World Life Ins. Assn., Mobile (Omaha, Neb.)—Granted modification of C. P. to change corporate name to Woodmen of the World Life Insurance Society.  
WTOC—Savannah Broadcasting Co., Inc., Savannah, Ga.—Granted modification of C. P. extending commencement date to 4-18-38 and completion date to 10-18-38.  
WFTC—Jonas Weiland, Kinston, N. C.—Granted authority to make changes in automatic frequency control apparatus.  
WOW—Woodmen of the World Life Ins. Assn., Omaha, Neb.—Granted modification of license to change name from Woodmen of the World Life Ins. Asso. to Woodmen of the World Life Insurance Society.  
W9XPX—W9XPT—Woodmen of the World Life Ins. Assn., Mobile (Omaha, Neb.)—Granted modification of license to change

name from Woodmen of the World Life Ins. Asso. to Woodmen of the World Life Insurance Society.

- KOVC—KOVC, Inc., Valley City, N. Dak.—Granted license to cover C. P. authorizing 250 watts LS, 1500 kc., 100 watts night, unlimited time.
- WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Granted modification of C. P. authorizing installation of new equipment.
- WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Granted authority to make changes in automatic frequency control apparatus.
- WMBG—Havens & Martin, Inc., Richmond, Va.—Granted C. P. for installation of auxiliary transmitter for emergency purposes only, to operate with power of 250 watts, employing present directional antenna system.
- W8XNK—Charleston Broadcasting Co., Mobile (Charleston, W. Va.)—Granted modification of C. P. and license to cover same, authorizing changes in equipment and decrease in power from 5 to 2 watts, in relay broadcast station.
- KSFM—National Broadcasting Co., Inc., Mobile (Area of San Francisco)—Granted modification of license for use of A1 and A2 emission in addition to A3 now authorized in outstanding permit.
- NEW—The WGAR Broadcasting Co., Mobile (area of Cleveland).—Granted C. P. for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., 100 watts.
- WAAI—The WGAR Broadcasting Co., Mobile (area of Cleveland).—Granted license covering above C. P.
- WAHJ—The Champaign News-Gazette, Inc., Mobile (Champaign, Ill.)—Granted license to cover C. P. for relay broadcast station, frequencies 1606, 2022, 2102, 2758 kc., 100 watts.
- KTMS—The News Press Publishing Co., Santa Barbara, Calif.—Granted license to cover C. P. for new station, 1220 kc., 500 watts, unlimited time, using directional antenna for both day and night-time operation.
- KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Granted modification of C. P. approving transmitter site and installation of new equipment and vertical radiator.
- WSMB—WSMB, Inc., New Orleans, La.—Granted modification of C. P. approving transmitter site.

### SET FOR HEARING

- NEW—W. A. Barnette, Greenwood, S. C.—C. P. for new station to operate on 610 kc., 250 watts, daytime only, exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- NEW—F. C. Todd, Gastonia, N. C.—C. P. for new station to operate on 1420 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter and studio sites to be determined with Commission approval.
- NEW—Roberts-MacNab Co., Livingston, Mont.—C. P. (already in hearing docket) amended to request frequency 1310 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter and studio sites to be determined with Commission approval.
- WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—C. P. to move transmitter locally; install vertical radiator; change time of operation from specified hours to daytime only (facilities of KTBC).
- KGDM—E. F. Peffer, Stockton, Calif.—C. P. to move transmitter locally to an exact location to be determined with Commission's approval; install new equipment; change frequency from 1100 kc. to 1150 kc.; increase power to 5 KW; and change hours of operation to limited time.
- NEW—S. B. Quigley, Mobile, Ala.—C. P. for new station to operate on 1200 kc., 100 watts, daytime only, exact transmitter and studio sites and type of antenna to be determined with Commission approval.
- KGGC—Golden Gate Broadcasting Co., San Francisco, Calif.—Modification of C. P. for changes in equipment; increase in day power to 250 watts; extend commencement date to 60 days after grant and completion date to 180 days thereafter.
- WDAE—Tampa Times Company, Tampa, Fla.—Modification of license to install directional antenna system for day and night-time operation, and change frequency from 1220 kc. to 780 kc.
- NEW—Anne Jay Levine, Palm Springs, Calif.—C. P. (already in hearing docket) amended to request frequency 1370 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter site to be determined with Commission's approval.

- NEW—Michael J. Mingo, Tacoma, Wash.—C. P. for new station to operate on 1400 kc., 250 watts, daytime only, exact transmitter location to be determined subject to Commission's approval; also type of antenna to be determined.
- WNEW—Wodaam Corp., New York City.—Modification of license to increase day power from 2½ KW to 5 KW.
- WNEL—Juan Piza, San Juan, P. R.—C. P., already in hearing docket, amended to request move of transmitter locally, install directional antenna for day and night-time operation, and change frequency to 590 kc.
- NEW—N. B. Egeland, Fort Dodge, Iowa.—C. P. for new station, already in hearing docket, amended to request 1500 kc., 100 watts, daytime only, exact transmitter and studio sites to be determined with Commission's approval.
- NEW—Clinton Broadcasting Corp., Clinton, Iowa.—C. P. for new station to operate on 1310 kc., 100 watts night, 250 watts day, unlimited time, exact transmitter site to be determined with Commission's approval.
- WGAN—Estate of George W. Martin (by Mary P. Martin, Administratrix), Portland, Me.—Transfer of control of Portland Broadcasting System, Inc., permittee of WGAN, from Estate of George W. Martin, deceased, to William N. Campbell and Lloyd C. Greene; 640 kc., 500 watts night-day, limited time, employing directional antenna.
- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Special experimental authority to operate unlimited time experimentally from date of grant to expiration of present license, February 1, 1938 (to be heard before the Commission).
- NEW—Frank Ray, Dickinson, N. Dak.—Application for new station to operate on 1310 kc., 100 watts night, 250 watts day, unlimited time.
- NEW—Jonal Weiland, New Bern, N. C.—Application for new station to operate on 1370 kc., 100 watts power, unlimited time, exact transmitter and studio sites to be determined subject to Commission's approval, as well as type of antenna.
- NEW—Larry Rhine, San Francisco, Calif.—Application for C. P., already in hearing docket, amended to request 1150 kc., 1 KW, daytime operation, exact transmitter and studio sites and type of antenna to be determined subject to Commission's approval.
- WBNX—WBNX Broadcasting Co., Inc., New York City.—Application for C. P., already in hearing docket, amended to request move of transmitter site locally; installation of new equipment and directional antenna system; and increase in day power from 1 to 5 KW, employing directional antenna system for both day and night-time operation.
- WRDW—Augusta Broadcasting Company, Augusta, Ga.—Application for C. P. to install new equipment and directional antenna system; change frequency from 1500 kc. to 1240 kc.; increase power from 100 watts night, 250 watts day, to 1 KW, employing directional antenna system for night-time operation.
- WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Application for C. P. to install new antenna; change frequency from 1210 kc. to 590 kc.; increase night power from 100 to 250 watts.
- KPAC—Port Arthur College, Port Arthur, Tex.—Application for C. P. to move transmitter site locally; make changes in transmitter, install directional antenna system; change frequency from 1260 kc. to 1350 kc.; increase power from 500 watts day time only to 1 KW unlimited time, using directional antenna for night-time operation.
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Application for modification of license to increase power and time of operation from 250 watts, daytime only, to 100 watts night, 250 watts day, unlimited time.
- KYOS—Merced Star Publishing Co., Inc., Merced, Calif.—Application for voluntary assignment of license to Merced Broadcasting Company, a newly organized corporation; 1040 kc., 250 watts, daytime only.
- NEW—Harry M. Ayers, Anniston, Ala.—C. P. for new station; 1420 kc., 100 watts, daytime only; exact transmitter and studio sites and type of antenna to be determined with Commission approval.
- NEW—Kathryn B. Gosselin, Aurora, Ill.—C. P. for new station to operate on 1500 kc., unlimited operation; transmitter location to be determined with Commission's approval, also type of antenna.
- WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—C. P. for changes in directional antenna system; increase in night power to 5 KW. (To be heard before the Commission.)

WRTD—The Times Dispatch Publishing Co., Inc., Richmond, Va.—Voluntary assignment of license to Times-Dispatch Radio Corp., a newly organized corporation. 1500 kc., 100 watts, unlimited time.

WGAL—WGAL, Inc., Lancaster, Pa.—C. P. to move transmitter to Marietta Pike, Lancaster Township, Lancaster, Pa.; also install new equipment and directional antenna system; change frequency from 1500 kc. to 1510 kc.; increase power from 100 watts night, 250 watts day to 1 KW, unlimited time, using directional antenna system for nighttime operation. (To be heard before the Commission.)

WTMV—Mississippi Valley Broadcasting Co., Inc., E. St. Louis, Ill.—C. P. to move transmitter site locally 3 miles east of E. St. Louis, Ill. Also install new equipment and directional antenna system; change frequency from 1500 kc. to 1510 kc.; increase power and time of operation from 100 watts night, 250 watts day, unlimited time, to: 1 KW night, 5 KW day, employing directional antenna for both day and nighttime use. (To be heard before the Commission.)

NEW—Scripps-Howard Radio, Inc., Denver, Colo.—C. P., already in hearing docket, amended as to transmitter site, equipment and power; 630 kc., 1 KW night, 5 KW day, using directional antenna for both day and night operation; exact studio location to be determined with Commission's approval.

WCLS—R. W. Hoffman, Joliet, Ill.—Application for transfer of control to L. W. Wood (1310 kc., 100 watts night and day, specified hours).

KRQA—J. Laurence Martin, Santa Fe, New Mexico.—Voluntary assignment of license to I. E. Lambert; 1310 kc., 100 watts day and night, unlimited time.

NEW—Garden Island Publishing Co., Ltd., Lihue, Kauai, T. H.—C. P. for new station requesting frequency 1500 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

WAYX—E. F. Sapp and S. F. Sapp, d/b as Waycross Broadcasting Co., Waycross, Ga.—Voluntary assignment of license to Jack Williams; 1200 kc., 100 watts night, 250 watts day, unlimited time, under C. P.

WBLV—Herbert Lee Blye, Lima, Ohio.—Voluntary assignment of license to The Fort Industry Company; 1210 kc., 100 watts, daytime only.

KHUB—Anna Atkinson, Executrix, Watsonville, Calif.—Voluntary assignment of license from Anna Atkinson, Executrix of the Estate of F. W. Atkinson, deceased, licensee, to: John P. Scripps; 1310 kc., 250 watts, daytime only.

WFAB—Fifth Avenue Broadcasting Corp., Carlstadt, N. J.—Application for voluntary assignment of license to Debs Memorial Radio Fund, Inc.; 1300 kc., 1 KW, sharing with WHAZ, WEVD and WBRB (day and night).

NEW—Ben S. McGlashan, Mobile (Los Angeles, Cal.)—C. P. for new relay station; frequencies 1622, 2058, 2150, 2790 kc., 10 watts, unlimited operation.

NEW—Ben S. McGlashan, Mobile (Los Angeles, Cal.)—C. P. for new relay station; frequencies 1622, 2058, 2150, 2790 kc., 75 watts, unlimited operation.

## RENEWAL OF LICENSES

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

KABC, San Antonio, Tex.; KCMC, Texarkana, Tex.; KELD, El Dorado, Ark.; KFIZ, Fond du Lac, Wis.; KGFF, Shawnee, Okla.; KFIW, Alamosa, Colo.; KGKB, Tyler, Tex.; KGKY, Scottsbluff, Neb.; KICA, Clovis, New Mexico; KLUF, Galveston, Tex.; KNEL, Brady, Tex.; KOKO, La Junta, Colo.; KONO, San Antonio, Tex.; KORE, Eugene, Ore.; KOTN, Pine Bluff, Ark.; KPLC, Lake Charles, La.; KPLT, Paris, Tex.; KRBC, Abilene, Tex.; KRMC, Jamestown, N. Dak.; KSAL, Salina, Kans.; KTEM, Temple, Tex.; KTOK, Oklahoma City, Okla.; WACO, Waco, Tex.; WAGF, Dothan, Alabama; WAPO, Chattanooga, Tenn.; WATL, Atlanta, Ga.; WAZL, Hazleton, Pa.; WBTM, Danville, Va.; WCHV, Charlottesville, Va.; WDNC, Durham, N. C.; WDWS, Champaign, Ill.; WEED, Rocky Mount, N. C.; WELL, Battle Creek, Mich.; WEOA, Evansville, Ind.; WGAL, Lancaster, Pa.; WGL, Fort Wayne, Ind.; WHBB, Selma, Ala.; WHBQ, Memphis, Tenn.; WHFC, Cicero, Ill.; WHLB, Virginia, Minn.; WIBM, Jackson, Mich.; WILM, Wilmington, Del.; WLEU, Erie, Pa.; WLLH, Lowell, Mass.; WMAS, Springfield, Mass.; WMBC, Detroit, Mich.; WMEX, Boston, Mass.; WMFD, Wilmington, N. C.; WNBK, Binghamton, N. Y.; WPAD, Paducah, Ky.; WRGA, Rome, Ga.;

WSAU, Wausau, Wis.; WSVS, Buffalo, N. Y.; WWSW, Pittsburgh, Pa.

The Commission (by Case, Commissioner) took the following action on December 6, 1937:

## APPLICATIONS DISMISSED

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

WGES—Oak Leaves Broadcasting Station, Inc., and WSBC, Inc., Chicago, Ill.—Authority to transfer control of corporation to WSBC, Inc.; 1360 kc., 500 watts, 500 watts LS, shares with WSBT, except Sunday, when station has 1 KW LS.

NEW—Hearst Radio, Inc., Washington, D. C.—Application for C. P.; 1310 kc., 100 watts, 250 watts LS, unlimited time.

The following applications, heretofore set for hearing, was retired to the files, inasmuch as the date for which the authority was requested has passed:

Chamber of Commerce, Eureka Springs, Ark.—Authority to transmit a 1 hour program Nov. 6, 1937, to Station XENT, Nuevo Laredo, Mexico, through the facilities of Southwestern Bell Telephone Co.

Delaware Channel Corporation.—Dismissed, at request of petitioner, the petition of Delaware Channel Corp. to reopen hearing in re application for authority to transfer control of station WTBO. The Associated Broadcasting Corp., Cumberland, Md., from Roger W. Clipp and Frank V. Becker, to the Delaware Channel Corp.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted petition to intervene in the hearing on application of station WKEU, Griffin, Ga., to move to Macon, Ga., and change frequency from 1500 to 1310 kc., power from 100 watts daytime to 100 watts night, 250 watts LS, unlimited time.

NEW—The Rapids Broadcasting Co., Cedar Rapids, Ia.—Denied petition to extend the effective date of decision beyond December 15, 1937.

WMBG—Havens and Martin, Inc., Richmond, Va.—Granted petition to intervene in the hearing of the application of WRTD, the Times-Dispatch Publishing Co., Inc. for a C. P. to change frequency and power from 1500 to 1050 kc., and 100 watts to 500 watts, unlimited time.

NEW—George W. Taylor Co., Inc., Williamson, W. Va.—Denied petition for an order to submit interrogatories in connection with its application for a C. P. to establish a new station using frequency 1370 kc., 100 watts, daytime hours.

KGKO—Wichita Falls Broadcasting Co., Fort Worth, Tex.—Granted request for cancellation of oral argument in re Examiner's Report No. 1-485, scheduled for January 6, 1938.

WRTD—The Times-Dispatch Publishing Co., Richmond, Va.—Granted petition to intervene in the proceedings on the application of Havens and Martin, Inc. (WMBG), Docket 4846.

The Commission also took the following action:

## MISCELLANEOUS

NEW—Virgil V. Evans, Gastonia, N. C.—Denied petition for rehearing of application for new station at Gastonia, N. C., to operate on 1420 kc., 100 watts, unlimited time. This application was denied by the Broadcast Division, effective date, September 28, 1937.

WCBA—B. Bryan Musselman, Allentown, Pa.; WSAW—WSAN, Inc., Allentown, Pa.—Denied joint petition of applicants to reconsider and grant their applications for renewal of licenses without a hearing.

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted petition in so far as it requests withdrawal of its Motion to Withdraw application in Docket No. 4362; denied petition in other respects; denied petition of WCFL to close record in Docket 4362 and the petitions of WCFL and KJR in opposition to petition to withdraw.

WMEX—Northern Corporation and WCOP—Mass. Broadcasting Corp.—Dismissed petition for rehearing with respect to the action of the Broadcast Division in denying its protest in the matter of transfer of control of Mass. Broadcasting Corp. (WCOP); and dismissed motion of Mass. Broadcasting Corp. to strike said petition for rehearing.

WKBB—Sanders Bros. Radio Station, E. Dubuque, Ill.—Denied petition for rehearing in re Docket No. 3967, in which case the Broadcast Division entered its final order, effective July

27, 1937, granting application of the Telegraph Herald Co. for a new station at Dubuque, Iowa.

NEW—Clarence C. Dill, Washington, D. C.—Denied petition for rehearing in re Docket No. 4079, involving denial of application for C. P. to erect a new station in Washington, D. C., to use **1390 kc.**, 1 KW, unlimited time, with directional antenna.

WMIN—Edward Hoffman, trading as WMIN Broadcasting Co., St. Paul, Minn.—Granted petition to reconsider and grant without hearing application for assignment of license to WMIN Broadcasting Co., a newly organized Minnesota corporation.

KSTP—National Battery Broadcasting Co., St. Paul, Minn.; WJSV—Columbia Broadcasting Co., Washington, D. C.—Granted petition to reopen hearing in re Docket 4756, application of KSTP to install new equipment and increase power to 50 kw, and Docket 4757, WJSV's application for the same.

NEW—Courier Post Publishing Co., Hannibal, Mo.—Denied petition of Courier Post Publishing Co. for a rehearing in re their application to erect a new station to operate on frequency **1310 kc.**, 100 watts, 250 watts LS, unlimited time, and dismissed petition of Hannibal Broadcasting Co. to participate in rehearing, and the opposition thereto of The Courier-Post Publishing Co.

NEW—Black River Valley Broadcast, Inc., Watertown, N. Y.—Dismissed petition to reconsider action in ordering a rehearing on the application of the petitioner.

WFLA—Florida West Coast Broadcasting Co., Inc., Clearwater, Fla.—Dismissed petition and supplemental petition of Florida West Coast Broadcasting Company, Inc., for rehearing in Docket 4425 wherein Commission granted authority to WIOD-WMBF, Miami, Fla., to change frequency; dismissed opposition of WIOD to petition for rehearing.

#### EXAMINERS' REPORTS RELEASED SINCE NOVEMBER 17

NEW—Ex. Rep. 1-523: United Theatres, Inc., San Juan, P. R.—Examiner Tyler Berry recommended grant of C. P. for new station to operate on **570 kc.**, 1 KW, unlimited time.

KQV—Ex. Rep. 1-524: KQV Broadcasting Co., Pittsburgh, Pa.—Examiner Melvin Dalberg recommended grant of application for change in time of operation from simultaneous, day, WSMK, shares hours night, to unlimited, increase in power from 500 watts to 1 KW with use of directional antenna at night.

WSMK—WSMK, Inc., Dayton, Ohio.—Examiner Dalberg recommended grant of application to increase power from 200 watts to 250 watts night, 500 W-LS, and change time of operation from simultaneous, day, KQV, specified hours night, to unlimited, with use of directional antenna at night.

WBZA—Ex. Rep. 1-525: Westinghouse Electric and Manufacturing Co., Springfield, Mass.—Examiner R. H. Hyde recommended denial of C. P. to change frequency from **990 kc.** to **550 kc.**, and from unlimited time, synchronized with WBZ, to unlimited.

WDEV—Chas. B. Adams, Administrator of the Estate of Harry C. Whitehill, Executor of the estate of Mary M. Whitehill, Waterbury, Vt.—Examiner Hyde recommended grant of renewal of license for station WDEV to operate on **550 kc.**, 500 watts, daytime.

WNBZ—Ex. Rep. 1-526: Smith and Mace, Saranac Lake, N. Y.—Examiner George H. Hill recommended grant of Voluntary Assignment of C. P. and license from Smith & Mace to Upstate Broadcasting Corp.

WROK—Ex. Rep. 1-527: Lloyd C. Thomas, Transferor and Rockford Consolidated Newspapers, Inc., Transferee, Rockford, Ill.—Examiner Melvin H. Dalberg recommended grant of authority to transfer control of WROK, Rockford Broadcasters, Inc., to Rockford Consolidated Newspapers, Inc.

NEW—Ex. Rep. 1-528: Nathan N. Bauer, Miami, Fla.—Examiner P. W. Seward recommended grant of C. P. for new station to operate on **1420 kc.**, 100 watts, unlimited time.

NEW—Ex. Rep. 1-529: Ellwood W. Lippincott, Inc., Bend, Ore.—Examiner Tyler Berry recommended grant of application for C. P. to operate on **1310 kc.**, 100 watts power, unlimited time, subject to selection of satisfactory transmitter site, provided the application of the Bend Bulletin is denied.

KOBH—Ex. Rep. 1-530: Black Hills Broadcast Co., Rapid City, S. Dak.—Examiner Robert L. Irwin recommended denial of authority to assign license of the Black Hills Broadcast Co., an unincorporated association, to Black Hills Broadcast Co., a corporation.

NEW—Ex. Rep. 1-531: Airfan Radio Corp., Ltd., San Diego, Cal.—Examiner Robert L. Irwin recommended dismissal with prejudice of application for C. P. to operate on **1420 kc.**, 100 watts, unlimited.

NEW—Ex. Rep. 1-532: Southern Broadcasting Corp., New Orleans, La.—Examiner P. W. Seward recommended dismissal with prejudice, of application for C. P. to operate on **1200 kc.**, 100 watts, 250 W-LS, unlimited time (facilities of WBNO and WJBW).

WBNO—The Coliseum Place Baptist Church, New Orleans, La.—Examiner Seward recommended denial of application for renewal of license of WBNO, and denial of C. P. to change frequency from **1200** to **1420 kc.**, increase power from 100 watts, to 100 watts, 250 W-LS, and time of operation from sharing with WJBW to unlimited.

NEW—Ex. Rep. 1-533: Keystone Broadcasting Co., New Castle, Pa.—Examiner Tyler Berry recommended grant of application for C. P. for new station to operate on **1250 kc.**, 250 watts, daytime.

WRNL—Ex. Rep. 1-534: WLBG, Inc., Richmond, Va.—Examiner Melvin H. Dalberg recommended grant of C. P. authorizing increase in power from 500 watts, to 1 KW, employing directional antenna day and night, and increase in hours of operation from daytime to unlimited.

NEW—Ex. Rep. 1-535: Jules J. Rubens, Aurora, Ill.—Examiner Melvin H. Dalberg recommended denial of C. P. for new station to operate on **1040 kc.**, 250 watts, daytime.

NEW—Ex. Rep. 1-536: Broward Broadcasting Co., Ft. Lauderdale, Fla.—Examiner P. W. Seward recommended dismissal with prejudice of application for C. P. for new station to operate on **1370 kc.**, 100 watts, 250 W-LS, unlimited time.

WJBW—Ex. Rep. 1-537: Charles C. Carlson, New Orleans, La.—Examiner P. W. Seward recommended grant of application for renewal of license of station WJBW to operate on **1200 kc.**, 100 watts; shares with WBNO.

NEW—Ex. Rep. 1-538: El Paso Broadcasting Co., El Paso, Tex.—Examiner John P. Bramhall recommended grant of application for new station to operate on **940 kc.**, 1 KW, unlimited time, provided Dorrance D. Roderick abandon his application for a new station at El Paso.

NEW—Ex. Rep. 1-538: World Publishing Co., Tulsa, Okla.—Examiner Bramhall recommended grant of application for C. P. for new station to operate on **940 kc.**, 1 KW, 5 KW LS, unlimited time.

KGKL—KGKL, Inc., San Angelo, Tex.—Examiner Bramhall recommended denial of application of KGKL to change frequency from **1370** to **940 kc.**, power from 100 watts, 250 watts LS, to 1 KW, 5 KW LS.

NEW—The Tribune Company, Tampa, Fla.—Examiner Bramhall recommended grant of application for C. P. to operate on **940 kc.**, 1 KW, 5 KW LS, unlimited time.

NEW—Ex. Rep. 1-539: Mervel M. Valentine, Laredo, Tex.—Examiner Melvin H. Dalberg recommended grant of C. P. for new station to operate on **1500 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—Ex. Rep. 1-540: John S. Allen and G. W. Covington, Jr., Montgomery, Ala.—Examiner P. W. Seward recommended grant of C. P. for new station to operate on **1210 kc.**, 100 watts, daytime.

KQE—Ex. Rep. 1-541: Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Examiner Tyler Berry recommended grant of C. P. to increase power from 1 KW to 1 KW night, 5 KW LS.

NEW—Ex. Rep. 1-542: Thos. F. Airth, Wythe Walker & Rex Schepp, d/b as Evanston Broadcasting Co., Evanston, Ill.—Examiner George H. Hill recommended denial of C. P. for a new station to operate on **1020 kc.**, 250 watts, daytime.

#### APPLICATIONS RECEIVED

##### First Zone

WRC—National Broadcasting Co., Inc., Washington, D. C.—Modification of construction permit (B1-P-1651) for a new transmitter and antenna, increase in power and move of transmitter, requesting extension of completion date from 1-4-38 to 3-4-38.

WGNY—Peter Goelet, Newburgh, N. Y.—Construction permit to **1210** make changes in equipment and increase power from 100 watts to 100 watts night, 250 watts day. Amended to change frequency from **1210 kc.** to **1220 kc.**, and requested power from 100 watts night, 250 watts day, to 250 watts, and hours of operation from share WBRB, WFAS and WGBB to daytime.

NEW—Orrin A. Senzel, Rochester, N. Y.—Construction permit for **1500** a new station to be operated on **1500 kc.**, 100 watts night, 250 watts day, unlimited time.

WBRY—American-Republican, Inc., Waterbury, Conn.—Construction permit to install a new transmitter and increase power from 1 KW to 1 KW night, 5 KW day. Amended to make changes in requested equipment and change requested power from 1 KW night, 5 KW day, to 5 KW day and night.

W2XAX—Columbia Broadcasting System, New York, N. Y.—Modification of construction permit (B1-PVB-6) for new equipment and increase in power, requesting the frequencies **50000-56000 kc.** and delete **42000-53000, 60000-86000 kc.**

NEW—WDRG, Inc., Hartford, Conn. (to be determined).—Construction permit for a new high frequency broadcast station (frequency modulated) to be operated on the frequencies **40300, 88500, 109000, 177000, 218000 kc.**, 1000 watts. Amended to delete frequencies **88500, 109000, 177000** and **218000 kc.**

NEW—WHDL, Inc., area of Olean, N. Y.—Construction permit for a new relay broadcast station to be operated on **1622, 2058, 2150, 2790 kc.**, 25 watts.

W1XAL—World Wide Broadcasting Corp., Boston, Mass.—Construction permit to make changes in equipment and increase power from 20 KW to 50 KW.

### Second Zone

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Modification **550** of construction permit (B2-P-1085) as modified for new equipment, vertical antenna, increase in power, and move of transmitter, requesting extension of completion date from 1-6-38 to 3-15-38.

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—License **570** to cover construction permit (B2-P-1412) as modified for move of transmitter and new vertical antenna.

WLW—The Crosley Radio Corporation, Cincinnati, Ohio.—Extension **700** of special experimental authorization to operate with power of 500 KW day and 500 KW night, using directional antenna, for period 2-1-38 to 8-1-38.

WICA—C. A. Rowley, Ashtabula, Ohio.—License to cover construction permit (B2-P-756) as modified for a new station.

WICA—C. A. Rowley, Ashtabula, Ohio.—Authority to determine **940** operating power by direct measurement of antenna.

WWVA—West Virginia Broadcasting Corp., Wheeling, W. Va.—**1140** Construction permit to change frequency from **1160 kc.** to **1140 kc.**, hours of operation from simultaneous day WOWO, share night WOWO, to unlimited time, and install directional antenna for night use, and move transmitter from Bell's Lane,  $8\frac{1}{2}$  miles northeast of Wheeling, West Liberty, W. Va., to  $2\frac{1}{2}$  miles east of St. Clairsville, Richland Township, Ohio. Amended to install a new transmitter, make changes in directional antenna for night use and increase power from 5 KW to 50 KW.

WMBG—Havens & Martin, Inc., Richmond, Va.—Construction **1350** permit to make changes in equipment and increase power from 500 watts to 1 KW. Amended to make further changes in equipment and change requested power from 1 KW to 1 KW night, 5 KW day, using directional antenna.

WBCM—Bay Broadcasting Co., Inc., Bay City, Mich.—Modification **1410** of license to change power from 500 watts night, 1 KW day, to 1 KW day and night.

W8XOY—Allen T. Simmons, Tallmadge, Ohio.—License to cover construction permit (B2-PHB-34) as modified for a new high frequency broadcast station.

W3XIR—WCAU Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-PHB-7) for a new high frequency broadcast station, requesting authority to install a new transmitter.

NEW—Michigan State College, area of East Lansing, Mich.—Construction permit for a new relay broadcast station to be operated on **39700, 39900, 40800, 41400 kc.**, 15 watts.

NEW—Michigan State College, area of East Lansing, Mich.—License to cover above.

NEW—Michigan State College, area of East Lansing, Mich.—Construction permit for a new relay broadcast station to be operated on **38900, 39100, 39300, 39500 kc.**, 15 watts.

NEW—Michigan State College, area of East Lansing, Mich.—License to cover above.

W8XKH—The Crosley Radio Corp., Mobile (Cincinnati, Ohio).—Modification of construction permit (B2-PRE-44) for a new relay broadcast station, requesting extension of completion date from 12-7-37 to 6-7-38.

W8XKI—The Crosley Radio Corp., Mobile (Cincinnati, Ohio).—Modification of construction permit (B2-PRE-43) for a new relay broadcast station, requesting extension of completion date from 12-7-37 to 6-7-38.

W3XAU—WCAU Broadcasting Co., near Newtown Square, Pa.—Modification of license to add the frequency **25725 kc.**

### Third Zone

WPTF—WPTF Radio Co., Raleigh, N. C.—Extension of special **680** experimental authorization to operate with 5 KW power from sunset at KPO to 11 p. m., EST, using directional antenna after sunset, for period 2-1-38 to 8-1-38.

WWL—Loyola University, New Orleans, La.—Extension of special **850** experimental authorization to operate unlimited time for period 2-1-38 to 8-1-38.

WGST—Georgia School of Technology, Atlanta, Ga.—License to **890** cover construction permit (B3-P-1880) for auxiliary transmitter.

WTOC—Savannah Broadcasting Co., Inc., Savannah, Ga.—Modification of construction permit (B3-P-1764) as modified for a new transmitter and increase in power, requesting further changes in equipment.

NEW—McComb Broadcasting Corp., McComb, Miss.—Construction **1200** permit for a new station to be operated on **1200 kc.**, 100 watts, daytime.

NEW—George B. Peeler, Taylor, Tex.—Construction permit for a **1310** new station to be operated on **1310 kc.**, 100 watts, daytime.

KONO—Eugene J. Roth, tr/as Mission Broadcasting Co., San **1370** Antonio, Tex.—Construction permit to make changes in transmitting equipment; install new vertical antenna; increase power from 100 watts to 100 watts night, 250 watts day; and move transmitter from Milan Bldg., Travis and Soledad Sts., San Antonio, Tex., to 317 Arden Grove, San Antonio, Tex.

NEW—John C. Head, Lawton, Okla.—Construction permit for a **1420** new station to be operated on **1420 kc.**, 100 watts, unlimited time.

W5XNA—Loyola University, Mobile (New Orleans, La.).—License to cover construction permit (B3-PRE-89) for a new relay broadcast station.

W5XNB—Loyola University, Mobile (vicinity New Orleans, La.).—License to cover construction permit (B3-PRE-90) for a new relay broadcast station.

WABG—Memphis Commercial Appeal Co., area Memphis, Tenn.—Construction permit to make changes in equipment and increase power from 35 watts to 50 watts.

NEW—Columbia Broadcasting System, Inc., area of Charlotte, N. C.—Construction permit for a new relay broadcast station to be operated on **1646, 2090, 2190, 2830 kc.**, 50 watts.

### Fourth Zone

WIBW—Topeka Broadcasting Assn., Inc., Topeka, Kans.—Authority to transfer control of corporation from Marco Morrow, Trustee for Capper Publications, to Capper Publications, Inc., 196 shares common stock.

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Extension of **770** special experimental authorization to operate synchronously with WBBM from local sunset at Lincoln, Nebr., to midnight, CST, from 2-1-38 to 8-1-38.

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Extension of special experimental authorization to operate synchronously with KFAB from local sunset (KFAB local sunset) to midnight, CST, from 2-1-38 to 8-1-38.

WHO—Central Broadcasting Co., Des Moines, Iowa.—Extension **1000** of special experimental authorization to operate a facsimile station from 12 midnight to 6 a. m., CST, from 2-1-38 to 8-1-38.

WOWO—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—**1160** Construction permit to install a new transmitter; increase power from 10 KW to 50 KW; and change hours of operation from simultaneous day, share WWVA night, to unlimited time. Contingent on the granting of WWVA's application for change in frequency.

WDGY—George W. Young, Minneapolis, Minn.—License to cover **1180** construction permit (B4-P-1420) as modified for a new transmitter.

KCKN—The KCKN Broadcasting Co., Kansas City, Kans.—Authority to transfer control of corporation from Arthur Capper to Capper Publications, Inc., 95 shares common stock.

WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Modification **1410** of license to change power from 500 watts night, 1 KW day, to 1 KW day and night.

**KTRI**—Sioux City Broadcasting Co., Sioux City, Iowa.—Modification of construction permit (B4-P-1249) for a new station, requesting changes in equipment, approval of studio and transmitter sites at 6th and Nebraska Sts., Commerce Building, Sioux City, Iowa. Amended to change geographic location.

**NEW**—Star-Times Publishing Co., St. Louis, Mo.—License to cover construction permit (B4-PFB-2) for a new facsimile broadcast station.

#### Fifth Zone

**KXL**—KXL Broadcasters, Portland, Ore.—Construction permit to install a new transmitter and directional antenna for day and night use, change frequency from 1420 kc. to 1110 kc., power from 100 watts night, 250 watts day to 5 KW hours of operation from share with KBPS to unlimited time and move transmitter locally. Amended: To make changes in directional antenna.

**KDNC**—The Democrat-News Co., Inc., Lewistown, Mont.—Modification of construction permit (B5-P-831) as modified, for extension of commencement and completion dates from 11-7-37 and 5-7-38 respectively to 1-1-39 and 6-1-39.

**KLAH**—Barney Hubbs, A. J. Crawford, Harold Miller, d/b as Carlsbad Broadcasting Co., Carlsbad, N. M.—Construction permit to make changes in equipment and increase power from 100 watts to 100 watts night, 250 watts day.

**KYA**—Hearst Radio, Inc., San Francisco, Calif.—License to cover construction permit (B5-P-1860) for auxiliary transmitter,

**NEW**—Mountain Top Trans Radio Corp., Denver, Colo.—Construction permit for a new station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time. Amended: To change requested frequency from 1370 to 1310 kc.

**KIT**—Carl E. Haymond, Yakima, Wash.—License to cover construction permit (B5-P-1115) as modified, for new transmitter, vertical antenna, change in frequency, increase in power and move of transmitter.

**KVRS**—Wyoming Broadcasting Co., Rock Springs, Wyo.—Modification of construction permit (B5-P-1925) for a new station, requesting approval of vertical antenna and approval of transmitter site at Muir Ave. & Smith Street, Rock Springs, Wyoming, and move studio from 607 N. Front Street to Muir & Smith Streets, Rock Springs, Wyoming.

**KICA**—Western Broadcasters, Inc., Clovis, N. M.—Authority to transfer control of corporation from J. L. Nunn to Charles C. Alsup. 25 shares common stock.

**W6XAO**—Don Lee Broadcasting System, Los Angeles, Calif.—Construction permit to increase power of the visual transmitter from 150 watts to 1000 watts and make changes in equipment.

#### Alaskan Zone

**KINY**—Edwin A. Kraft, Juneau, Alaska.—Modification of construction permit (B-P-1176) for new equipment, new antenna, change in frequency and power requesting change in authorized equipment, approval of vertical antenna and approval of transmitter site at A-J Rock Dump, near Juneau, Alaska.

## Inter-American Radio Conference Reaches Final Agreement Frequencies of Many Stations Would Be Shifted

The following is the text (unofficial) of the North American Regional Broadcasting Agreement signed at Havana, Cuba, December 13, 1937:

C.I.R./Doc. 56

Habana, December 10, 1937

### NORTH AMERICAN REGIONAL BROADCASTING AGREEMENT

Concluded among the following Governments:

Canada  
Cuba  
Dominican Republic  
Haiti  
Mexico  
United States of America

The undersigned, plenipotentiaries of the Governments listed above, having met in conference at Habana, Cuba, have, in common agreement and subject to ratification, concluded the following Agreement.

#### I

### PURPOSE AND SCOPE OF THIS AGREEMENT

1. *Purpose of Agreement.* The purpose of this Agreement is to regulate and establish principles covering the use of the standard broadcast band in the North American Region so that each country may make the most effective use thereof with the minimum technical interference between broadcast stations.

2. *North American Region.* The North American Region (hereinafter referred to as "Region") for the purpose of this Agreement shall be deemed to include and to consist of the following countries: Canada, Cuba, Dominican Republic, Haiti, Mexico, Newfoundland, and United States of America.

3. *Standard broadcast band.* The standard broadcast band shall be deemed to be the band of frequencies extending from 550 to 1600 kc, both inclusive, both 550 kc and 1600 kc being the carrier frequencies of broad-

casting channels as hereinafter defined. The Governments agree, subject to the provisions of Article 7 of the General Radio Regulations annexed to the International Telecommunications Convention, Madrid, 1932, that this band of frequencies shall be allocated exclusively to broadcasting in the Region.

4. *Sovereign right to use channels.* The sovereign right of all countries, parties to this Agreement, to the use of every channel in the standard broadcast band is recognized. The Governments recognize, however, that until technical developments reach a state permitting the elimination of radio interference of international character, a regional arrangement between them is necessary in order to promote standardization and to minimize interference.

5. *Regional character of Agreement.* The Governments recognize that this Agreement, and each provision thereof, is a regional arrangement within the meaning of, and authorized by the International Telecommunications Convention and the General Radio Regulations annexed thereto.

#### II

### TECHNICAL

#### A. DEFINITIONS

1. *Broadcast station.* A station the emissions of which are primarily intended to be received by the general public.

2. *Broadcast channels—550 to 1600 kc.* A broadcast channel is a band of frequencies ten (10) kc in width, with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. Carrier frequencies assigned to broadcast stations shall begin at 550 kc and be in successive steps of 10 kc. No inter-

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mediate frequency shall be assigned as the carrier frequency of any broadcast station.

3. *Service areas.*

(a) *Primary service area.* The primary service area of a broadcast station is the area in which the ground wave is not subject to objectionable interference or objectionable fading.

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

4. *Dominant stations.* A "dominant" station is a Class I station, as hereinafter defined, operating on a clear channel.

5. *Secondary station.* A "secondary" station is any station except a Class I station operating on a clear channel.

6. *Objectionable interference.* Objectionable interference is the degree of interference produced when, at a specified boundary or field intensity contour with respect to the desired station, the field intensity of an undesired station (or the root-mean-square value of field intensities of two or more stations on the same frequency) exceeds for ten (10) per cent or more of the time the values hereinafter set forth in this Agreement.

7. *Power.* The power of a radio transmitter is the power supplied to the antenna. The power in the antenna of a modulated-wave transmitter shall be expressed in two numbers, one indicating the power of the carrier frequency supplied to the antenna, and the other the actual maximum percentage of modulation.

8. *Spurious radiation.* A spurious radiation from a transmitter is any radiation outside the frequency band of emission normal for the type of transmission employed, including any harmonic modulation products, key clicks, parasitic oscillations and other transient effects.

9. *English, French and Spanish equivalents.* It is agreed that, as used in this Agreement, the French and Spanish words below set forth are respectively the equivalent of, and mean the same as, the English terms opposite which they appear:

<i>English</i>	<i>French</i>	<i>Spanish</i>
Clear channel	Frequence libre	Canal despejado
Objectionable interference	Brouillage nuisible	Interferencia objetable

B. CLASSES OF CHANNELS AND ALLOCATION THEREOF

1. *Three classes.* The 106 channels in the standard broadcast band are divided into three principal classes: clear, regional and local.

2. *Clear channel.* A clear channel is one on which the dominant station or stations render service over wide areas

and which are cleared of objectionable interference, within their primary service areas and over all or a substantial portion of their secondary service areas.

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

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

5. *Number of channels of each class.* The number of channels of each class shall be as follows:

Clear channels . . . . .	59
Regional channels . . . . .	41
Local channels . . . . .	6
	106

6. *Allocation of specific channels to each class.* The channels are allocated to the several classes as follows:

*Clear channels.* The following channels are designated as clear channels: 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 940, 990, 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1120, 1130, 1140, 1160, 1170, 1180, 1190, 1200, 1210, 1220, 1500, 1510, 1520, 1530, 1540, 1550, 1560, 1570, and 1580.

*Regional channels.* The following channels are designated as regional channels: 550, 560, 570, 580, 590, 600, 610, 620, 630, 790, 910, 920, 930, 950, 960, 970, 980, 1150, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1350, 1360, 1370, 1380, 1390, 1410, 1420, 1430, 1440, 1460, 1470, 1480, 1590, 1600.

*Local channels.* The following channels are designated as local channels: 1230, 1240, 1340, 1400, 1450, and 1490 kc.

7. *Use of regional and local channels by countries.* All countries may use all regional and all local channels, subject to the power limitations and standards for prevention of objectionable interference set forth in this Agreement.

8. *Priority of use of clear channels by countries.*

(a) The clear channels are assigned for priority of use by Class I and II stations in the several countries in accordance with the table set forth in Appendix I.

(b) Each such channel shall be used by the country or countries to which it is thus assigned in a manner conforming to the best engineering practice with due regard to the service to be rendered by the dominant stations operating thereon, as set forth

elsewhere in this Agreement. If, for one year within the term of this Agreement, a country fails to make any use of a clear channel assigned to it, the channel shall be considered open for use by the other countries, parties to this Agreement, pursuant to such arrangement as may be agreed upon by their respective administrations and without any necessity for revision of this Agreement.

(c) No country to which a clear channel has been thus assigned shall permit, or agree to permit, any other country to use such channel in a manner not in conformity with this Agreement without first giving sixty days<sup>a</sup> advance notice of its intention so to do to all other countries, parties to this Agreement. If during this period of sixty days<sup>a</sup> any other country shall present objections to such proposed use of the channel, the country to which the clear channel has been assigned shall not permit, or agree to permit, such proposed use until the difference presented by the objection has been amicably resolved.

(d) If within the period of this Agreement the country to which a clear channel has been assigned shall have made use of the channel but not in the manner above prescribed or not to the extent required by the provisions of this Agreement, such country shall be considered as having relinquished that portion of the rights which it has not used and at the expiration of this Agreement the other countries party thereto shall have the right, if they see fit, to withdraw the unused privileges from such country and to reassign them to any or all of the other interested countries.

## C. CLASSES OF STATIONS AND USE OF THE SEVERAL CLASSES OF CHANNELS

1. *Classes of stations.* Broadcast stations are divided into four principal classes, to be designated Class I, Class II, Class III, and Class IV, respectively.

2. *Definitions of classes.* The four classes of broadcast stations are defined as follows:

*Class I:* A dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Class I stations are subdivided into two classes:

*Class I-A:* A Class I station which operates with power of 50 kw or more and which has its primary service area, within the limits of the country in which the station is located, free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area, within the same limits, free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

*Class I-B:* A Class I station which operates with power of not less than 10 kw or more than 50 kw and which has its primary service area free from objectionable interference from other stations on the same and adjacent channels and its secondary service area free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

(a) When two Class I-B stations on the same channel are separated by a distance of 2800 miles or more, neither station shall be required to install a directional antenna.

(b) When two Class I-B stations on the same channel are separated by a distance of more than 1800 miles and less than 2800 miles, it will, in the absence of proof to the contrary, be assumed that each station is free of objectionable interference caused by the other and neither shall be required to install directional antennas or take other precautions to avoid such interference. In case the existence of objectionable interference is proved, the governments concerned will consult with each other regarding the desirability and practicality of installation of directional antennas or the taking of other precautions to eliminate the interference and will determine by special arrangement the measures, if any, to be taken.

(c) When two Class I-B stations on the same channel are separated by a distance less than 1800 miles, it will, in the absence of proof to the contrary, be assumed that the installation of directional antennas or the taking of other precautions to avoid interference is necessary, and the governments concerned will consult with each other and will take such measures as may be agreed upon between them to the end that the objectionable interference may be reduced or eliminated.

*Class II:* A "secondary" station which operates on a clear channel and is designed to render service over a primary service area which, depending on geographical location and power used, may be relatively large, but which is limited by and subject to such interference as may be received from Class I stations. A station of this class shall operate with power of not less than 0.25 kw or more than 50 kw. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference, in accordance with the engineering standards hereinafter set forth, with Class I stations and with other Class II stations.

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

<sup>a</sup> Calendar days.

*Class III-A:* A Class III station which operates with power not less than one kilowatt or more than five kilowatts and the service area of which is subject to interference in accordance with the engineering standards hereinafter set forth.

*Class III-B:* A Class III station which operates with a power not less than 0.5 kw or more than 1 kw night and 5 kw daytime and the service area of which is subject to interference in accord with the engineering standards hereinafter set forth.

*Class IV:* A station using a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kw or more than 0.25 kw and its service area is subject to interference in accord with the engineering standards hereinafter set forth.

3. *Change of class.* If a station or stations in Class III-B located in any country can, through the use of directional antennas or otherwise, so reduce the interference caused or received by such station or stations to the field contour to which interference to stations in Class III-A is allowed, such station or stations shall automatically be classified and included in Class III-A and shall thereafter be so recognized and treated by the Administrations of all countries within the Region.

4. *Use of clear channels.*

(a) In principle and subject only to the exception hereinafter set forth, Class I stations shall be assigned only to clear channels.

(b) Class II stations may be assigned to clear channels only on condition that objectionable interference will not be caused to any Class I stations. Where any country has priority of use of a clear channel for any Class I-A station, no other country shall assign any Class II station to that channel for night time operation (from sunset to sunrise at the location of the Class II station) unless such Class II station is located not less than 650 miles from the nearest border of the country in which the Class I-A station is located; provided, however, that where an assignment for a Class II station is specifically stated in Appendix I, such assignment shall be deemed as authorized under the limitations therein set forth.

5. *Use of regional channels.*

(a) In general only Class III-A and Class III-B stations shall be assigned to regional channels.

(b) On condition that interference be not caused to any Class III-A or Class III-B station, and subject to such interference as may be received from Class III-A or Class III-B stations, Class IV stations may be assigned to regional channels.

(c) Because of their geographical location with respect to the North American continent, special con-

sideration will be given to the use by Cuba, the Dominican Republic, Haiti and Newfoundland of stations of Classes I and II assigned to certain regional channels under certain conditions, with respect to power and precautions to avoid objectionable interference as set forth in Appendix VII.

6. *Use of local channels.* Only Class IV stations shall be assigned to local channels.

#### D. SERVICE AND INTERFERENCE

1. *Satisfactory signal.* It is recognized that, in the absence of interference from other stations and in regions where the natural electrical noise level is not abnormally high, a signal of 100 microvolts per meter constitutes a usable signal in rural and sparsely settled areas but that, because of the higher electrical noise levels in more thickly populated communities, greater field intensities (ranging as high as 25 millivolts or more in cities) are necessary to render satisfactory service. It is further recognized that it is not possible to accord protection to stations from objectionable interference over the entire areas over which their signals are or may be above the electrical noise level, particularly at night, and that it is necessary to specify boundaries or contours at or within which stations are protected from objectionable interference from other stations.

2. *Areas protected from objectionable interference.* The boundaries or contours at and within which the several classes of stations shall be protected from objectionable interference are as set forth in Appendix II. No station, however, need be protected from objectionable interference at any point outside the boundaries of the country in which such station is located.

With respect to the root-mean-square values of interfering field intensities referred to herein, it shall be understood to apply in determining the interference between existing stations and no station thereafter assigned the channel shall increase the root-mean-square value of the interfering field intensity above the maxima specified in the attached tables.

3. *Objectionable interference on the same channel.* Objectionable interference shall be deemed to exist to a station when, at the boundary or field intensity contour specified in Appendix II with respect to the class to which the station belongs, the field intensity of an interfering station (or the root-mean-square value of the field intensities of two or more interfering stations) operating on the same channel, exceeds for ten (10) percent or more of the time the value of the permissible interfering signal set forth opposite such class in Appendix II.

4. *Interference to dominant clear channel stations.* A station shall be considered as not capable of causing objectionable interference to a Class I clear channel station on the same frequency when it is separated from the domi-

nant clear channel station by a difference of 70 degrees or more of longitude.

5. *Objectionable interference on adjacent channels.* It is recognized, in principle, that objectionable interference may be caused to a desired station when, at or within the specified contours of a desired station, the field intensity of the ground wave of an undesired station operating on an adjacent channel (or the root-mean-square value of the field intensities of two or more such undesired stations operating on the same adjacent channel) exceeds a value determined by the following ratio:

<i>Separation between channels</i>	<i>Minimum permissible ratio of desired to undesired signals</i>
10 kc.	1 to 0.5
20 kc.	1 to 10
30 kc.	1 to 50

For convenient reference, the maximum permissible values of interfering signals on such adjacent channels at specified contours are set forth in Appendix III, Table I.

6. *Application of standards to existing stations.*

(a) For the purpose of estimating objectionable interference, all stations (other than those of Class II) shall be assumed to use the maximum power permitted to their respective classes. In this connection, the power of Class I-A stations shall be considered to be 50 kw or the actual power, if higher.

(b) After this agreement has been placed in operation a station thereafter assigned a channel already assigned to other stations shall not be considered as preventing existing stations from increasing their power to the maximum allowed their class, even though such power increase may limit the newly assigned station to a field intensity contour of higher value than that permitted its class.

7. *Frequency stability.* The operating frequency of each broadcast station shall be maintained to within 50 cycles of the assigned frequency until January 1, 1939, and thereafter the frequency of each new station or each station where a new transmitter is installed shall be maintained within 20 cycles of the assigned frequency, and after January 1, 1942, the frequency of all stations shall be maintained within 20 cycles of the assigned frequency.

8. *Spurious radiation.* The Governments shall endeavor to reduce and, if possible, eliminate spurious radiations from broadcast stations. Such radiations shall be reduced in all cases until they are not of sufficient intensity to cause interference outside the frequency band required for the type of emission employed. With respect to type A-3 emissions (radio-telephony) the transmitter should not be modulated in excess of its modulation capability to the extent that interfering spurious radiations occur, and, with respect to amplitude modulation, the operating percentage of modulation should not be less

than seventy-five (75) percent on peaks of frequent recurrence. Means should be employed to insure that the transmitter is not modulated in excess of its modulation capability.

#### E. DETERMINATION OF PRESENCE OF OBJECTIONABLE INTERFERENCE.

1. *Antenna performance.* For the purpose of calculating the presence and the degree of objectionable interference, stations of the several classes shall be assumed to produce effective field, corrected for absorption, for one kilowatt of input power to the antenna, as follows:

<i>Class of Station</i>	<i>At One Mile</i>	<i>At One Kilometer</i>
I	225 mv/m	362 mv/m
II and III	175 mv/m	282 mv/m
IV	150 mv/m	241 mv/m

In case a directional antenna is employed, the interfering signal of a broadcasting station will vary in different directions. To determine the interference in any direction, in the absence of actual interference measurements, the horizontal and vertical field intensity patterns of the directional antenna must be calculated and by comparing the appropriate vectors in the horizontal or vertical pattern with that of a nondirectional with the same effective field, the interfering signal toward any other station can be expressed in terms of kilowatts. This rating in kilowatts shall be applied in the use of mileage separation tables or in computing distances from the propagation curves or tables.

2. *Power.* The power of a station shall, for the purposes of notifications required by this Agreement, be determined in one of the following manners:

(a) By taking the product of the square of the antenna current and the antenna resistance (antenna input power).

(b) By determination of the station's effective field intensity, corrected for absorption, by making sufficient field intensity measurements on at least eight radials as nearly equally spaced as practicable and by relating the field intensity thus determined to the effective field intensity of a station having the antenna efficiency stipulated above for its class.

3. *Methods of determining the presence of objectionable interference—General.* The existence or absence of objectionable interference from stations on the same or adjacent channels shall be determined by one of the following methods:

(a) By actual measurements contained in the method hereinafter prescribed; or, with the mutual consent of the countries concerned:

(b) By reference to the propagation curves in Appendices IV and V, or

(c) By reference to the distance tables set forth in Appendix VI.

4. *Actual proof of existence or absence of objectionable interference.* The existence or absence of objectionable interference may be proved by field intensity measurements or recordings made with suitable apparatus, duly calibrated, by Government engineers or other engineers as may be mutually acceptable to the Governments concerned. Such field intensity measurements shall be made in the manner and for the periods of time mutually agreed upon by the Governments concerned.

The contracting Governments agree to facilitate the making of the measurements by requiring the stations involved to remain silent or operate in the manner deemed necessary, and at such times as not to interrupt regular schedules.

5. *Proof based on propagation curves and distance tables.*

(a) *Sky wave curves.* In computing the distance to the 50 percent skywave field intensity contour of a Class I station of a given power, and also in computing the 10 percent skywave field intensity of an alleged interfering station, of any class and given power, at a specified distance, use may be made of the appropriate graphs set forth in Appendix V, entitled "Average Sky Wave Field Intensity Corresponding to the Second Hour after Sunset in the Recording Station, 100 Millivolt per Meter at One Mile (161 at one kilometer)".

(b) *Ground wave curves.* The distance to any specified ground wave field intensity contour may be determined from appropriate ground wave curves plotted for the frequency under consideration and the conductivity and dielectric constant of the earth between the station and desired contour. The frequency and the conductivity of the earth must be considered in every case and where the distance is great due allowance must be made for loss due to curvature of the earth. A family of curves is necessary for this purpose. A graph for a conductivity of  $10^{-13}$  is set forth in Appendix IV, entitled "Ground Wave Field vs. Distance for One Kilowatt Radiated From Short Antenna". Three frequencies in the standard broadcast band are given. For other frequencies and soil conditions (conductivity and dielectric constant) other curves are required. A conductivity of  $10^{-13}$  is considered average and is used throughout in determining the ground wave value for computing the mileage separation tables.

(c) *Distance tables.* Table I shows the required day separation in miles between broadcast stations on the same channel. Table II gives the required

distance in miles from the boundary of a country in which a Class I-A station is located for the daytime operation of a Class II station on the same channel in another country. Table III gives the required separation in miles between broadcast stations on adjacent channels during both daytime and nighttime. Table IV gives the required night separation in miles between broadcast stations operating on the same channel. The assumed conditions of operation are given in Appendix VI.

The tables are based upon the use of nondirectional antennas but, in case a directional antenna is employed at a particular station, it will be necessary to consider the radiation distribution of the directional antenna involved and to modify the mileage separation accordingly. The night separation tables for stations on the same frequency are computed from the skywave curve given in Appendix V. These curves are based on extensive measurements of the skywave produced by broadcasting stations and shall be considered as accurate in all cases unless proof to the contrary is available as set out in Section E 4. The mileage separation tables for the same channel during daytime and for adjacent channels day and night are computed from the groundwave curve in Appendix IV. Tables apply only in case the frequency is 1000 kc and the assumed soil conductivity and dielectric constant prevail. Since these values vary in every case the tables for daytime and adjacent channel separation cannot be used except as a general guide. In any case under consideration an estimate of the mileage separation required may be made from the operating frequency and known or assumed soil conditions. To determine the interference accurately, measurements must be made in accordance with Section E 4 on the frequency under consideration or on another frequency and from the curves the values may be determined for the desired frequency.

## F. MISCELLANEOUS.

1. *Engineering standards.* The engineering standards set forth in this Agreement are subject to revision when justified by technical advances in the art, with the mutual consent of the Governments parties to this Agreement.

### Attachments:

- Appendix I—Priority of use of clear channels for Class I and II stations
- “ II—Protected service and interference
- “ III—Adjacent channel interference
- “ IV—Ground wave graphs
- “ V—Skywave graphs
- “ VI—Mileage separation tables
- “ VII—Engineering requirements for use of regional channels by Class II stations

### III

#### NOTIFICATION AND EFFECT THEREOF

##### 1. *Initial notification.*

Each Government shall, as soon as possible after ratification of this Agreement, and in any event not later than 180 days prior to the effective date thereof, transmit to the other Governments

(a) A complete list of all broadcast stations actually in operation in its country in the standard broadcast band both as of the date of the signing of this Agreement and as of the date of transmitting said list, showing with respect to each station its call signal, location, frequency, power, and antenna characteristics, together with all changes authorized to be made with respect to said stations on or before the effective date of this Agreement, and the classification claimed for each such station.

(b) A complete list of all changes authorized to be made with respect to said stations after the effective date of this Agreement, the dates on or before which such changes are to be consummated, and the classification claimed for each such station under this Agreement when the proposed change has been consummated.

(c) A complete list of all new broadcast stations authorized but not yet in operation, showing with respect to each such station its call signal, location, frequency, power and antenna characteristics, the date on or before which each such station shall commence operation, and the classification claimed for it under this Agreement.

(d) The Governments agree that prior to the effective date of this Agreement, they will, so far as possible, resolve all conflicts that may arise between them as a result of the foregoing initial listings, and that, notwithstanding some such conflicts may remain unresolved, they will cooperate to the end that there be no delay in putting the provisions of this Agreement into full force and effect on that date.

(e) In resolving conflicts in the use of clear channels, and in the listing of Class I and Class II stations, the provisions of this Agreement and particularly of Appendix I shall be controlling. In resolving conflicts in the use of regional and local channels, and in the listing of Class III and Class IV stations, priority of use shall be recognized in each country with respect to stations which at the time of signing of this Agreement are in actual operation, which in substance conform to the definitions of said classes as set forth in this Agreement, and with respect to which no substantial change is made or proposed; a change of frequency in order to conform to the designation of channels in this Agreement shall not be deemed a substantial change.

2. *Subsequent notifications.* After the effective date of this Agreement and throughout the period during which it shall remain in effect, each Government shall promptly notify the other Governments by registered letter of all further changes in existing broadcast stations and of all further new broadcast stations, together with similar information with regard to each such change or new station, and the proposed date on which each such change is to go into effect and on which each such new station is to actually commence operation.

3. *Effect of notification.* Each Government may, within 30 days of receiving notification of any proposed change in the assignment of an existing station or of the authorization of a new station in another country, notify the Government of the latter country of any objection it may have thereto under the terms of this Agreement.

4. *Conflict between notifications.* To be valid, notifications of changes in the assignments of existing stations, or of authorizations of new stations must be such that the assignments proposed therein are in accordance with this Agreement and are such as not to involve objectionable interference to existing stations in other countries, assigned and operating in accordance with this Agreement. As between two or more notifications of changes or authorizations of new stations proceeding from different countries, after the effective date of this Agreement, priority in the date of mailing of notification shall govern.

##### 5. *Cessation of effect.*

(a) A notification of a proposed change in the assignment of an existing station or of an authorization of a new station shall cease to have any force and effect if, within one year of the date thereof such change shall not have been actually consummated or such new station shall not have actually commenced continuous operation.

(b) In special cases in which circumstances beyond the control of the Administration concerned have prevented the completion of the change or the construction of the new station, the term of the original notification may be extended for a period of six months.

6. *Bern Bureau.* The foregoing notifications shall be made independently of and in addition to those which, under current practice, are sent to the Bureau of the International Telecommunications Union.

### IV

#### ARBITRATION

In case of disagreement between two or more contracting Governments concerning the execution of this Agreement the dispute, if it is not settled through diplomatic channels, shall be submitted to arbitration at the request of one of the Governments in disagreement. Unless the parties in disagreement agree to adopt a procedure already

established by treaties concluded between them for the settlement of international disputes, the procedure shall be that provided for in Article 15 of the International Telecommunications Convention of Madrid, 1932.

V

**RATIFICATION, EXECUTION AND DENUNCIATION**

1. *Ratification.* To be valid this Agreement must be ratified by Canada, Cuba, Mexico and the United States of America.

If and when three of said four countries shall have ratified and the fourth shall, through unavoidable circumstances, have been unable to ratify but shall have signified to those countries that have ratified its readiness, pending ratification and as an administrative measure, to put the provisions of this Agreement (including the contents of Appendix I) into effect in whole or in part, then such country, together with those countries which shall have ratified, may, by administrative agreement between them, fix a definite date on which they shall give effect to such provisions, which date shall preferably be one year from the date of such administrative agreement.

The ratification must be deposited, as soon as possible, through diplomatic channels, in the archives of the Government of Cuba. This same Government shall, through diplomatic channels, notify the other signatory Governments of the ratifications as soon as they are received.

2. *Effect of ratification.* This Agreement shall be valid only as between such countries as shall have ratified it.

3. *Execution.* The contracting Governments undertake to apply the provisions of this Agreement, and to take the steps necessary to enforce said provisions upon the private operating agencies recognized or authorized by them to establish and operate broadcast stations within their respective countries.

4. *Denunciation.* Each contracting Government shall have the right to denounce this Agreement by a notification addressed, through diplomatic channels, to the Government of Cuba, and announced by that Government, through diplomatic channels, to all the other contracting Governments. This denunciation shall take effect at the expiration of the period of one year from the date on which the notification was received by the Government of Cuba. This effect shall apply only to the author of the denunciation. This Agreement shall remain in force for the other contracting Governments but only as between such Governments.

VI

**EFFECTIVE DATE AND TERM OF THE AGREEMENT**

1. Except for the provisions of Section 1 of Part III, Section 1 of Part V, and paragraph 3 of Table VI of

Appendix I annexed hereto (which provisions shall go into effect immediately upon this Agreement becoming valid), this Agreement shall become effective one year after the date it shall have been ratified by the fourth of those Governments whose ratification is requisite to the validity of this Agreement. The Governments will cooperate to the end that, wherever possible, the provisions of this Agreement shall be carried out in advance of said effective date.

2. This Agreement shall remain in effect for a period of five years after said effective date.

VII

**ADHERENCE**

This Agreement shall be open to adherence in the name of Newfoundland.

In witness whereof the respective plenipotentiaries have signed the Agreement in triplicate, one copy in English, one in Spanish, and one copy in French, each of which shall remain deposited in the archives of the Government of Cuba and a copy of each of which shall be forwarded to each Government.

Done at Habana, Cuba, December 13, 1937.

**APPENDIX I**

Under the provisions of Section II of this Agreement each country may use all the 106 channels when technical conditions with respect to interference to established stations are such as to render such use practicable. However, priority of use on specified clear channels is recognized for the following number of Class I and II stations in each country.

TABLE I

Canada	14
Cuba	9*
Dominican Republic	1
Haiti	1
Mexico	15
Newfoundland	2*
United States	63

\* See Table V for special arrangements provided for Cuba and Newfoundland.

These stations and the conditions of their operation are as specified in Tables II, III, IV, V, VI, VII and VIII following herewith.

TABLE II

Class I-A Stations  
(Canada, Cuba, and Mexico)

Frequency	Location of Stations
690	Quebec, Canada
730	Mexico, D. F.
740	Ontario, Canada
800	Sonora, Mexico
860	Ontario, Canada
900	Mexico, D. F.
990	Manitoba, Canada
1010	Alberta, Canada
1050	Nuevo Leon, Mexico
1220	Yucatan, Mexico
1540	Santa Clara, Cuba
1570	Nuevo Leon, Mexico
1580	Quebec, Canada

TABLE III

Class I-B Stations

Frequency	Location of Stations	Power Limitation (kw)	Requirements as to directional antennas
810	New York, U.S.A.	.....	None
810	California, U.S.A.	.....	To be determined
940	Quebec, Canada	5 kw. min. permissible	Determine from operation
940	Mexico, D.F.	.....	Determine from operation
1000	Jalisco, Mexico	20	To be determined
1000	Washington, U. S. A.	.....	To be determined
1000	Illinois, U. S. A.	.....	To be determined
1010	Habana, Cuba	.....	Determine from operation
1060	Mexico, D. F.	.....	To be determined
1060	Pennsylvania, U. S. A.	.....	To be determined
1070	Maritime Provinces, Canada	.....	None
1070	California, U. S. A.	.....	None
1080	Connecticut, U. S. A.	.....	To be determined
1080	Texas, U. S. A.	.....	To be determined
1090	Baja Calif., Mexico	.....	To be determined
1090	Maryland, U. S. A.	.....	To be determined
1090	Arkansas, U. S. A.	.....	To be determined
1110	North Carolina, U. S. A.	.....	To be determined
1110	Nebraska, U. S. A.	.....	To be determined
1130	British Columbia, Canada	5 kw. min. permissible	None
1130	New York-New Jersey, U. S. A.	.....	None
1140	Chihuahua, Mexico	.....	To be determined
1140	Virginia, U. S. A.	.....	To be determined
1170	Oregon, U. S. A.	.....	To be determined
1170	Oklahoma, U. S. A.	.....	To be determined
1170	West Virginia, U. S. A.	.....	To be determined
1190	Sinaloa, Mexico	.....	To be determined
1190	Indiana, U. S. A.	.....	To be determined
1550	Ontario, Canada	.....	Determine from operation
1550	Vera Cruz, Mexico	20	Determine from operation
1560	Habana, Cuba	.....	.....

TABLE IV

Class II Stations

Frequency	Location of Stations	Power Limitation (kw)	Requirements as to directional antennas
640	Newfoundland	.....	None
690	Kansas-Oklahoma, U. S. A.	.....	To be determined <sup>a</sup>
740	Calif., U. S. A.	.....	To be determined <sup>b</sup>
800	Ontario, Canada	5	To be determined
810	Tamaulipas (Tampico), Mexico	50	To be determined
900	Quebec, Canada	5	To be determined
990	Tennessee, U. S. A.	.....	To be determined <sup>c</sup>
1000	Oriente, Cuba	10	To be determined
1050	New York, U. S. A.	.....	To be determined
1060	Alberta, Canada	10	To be determined
1070	Alabama, U. S. A.	.....	To be determined
1080	Manitoba, Canada	15	To be determined
1080	Haiti	10	To be determined
1110	Mexico, D. F.	20	To be determined
1130	Louisiana, U. S. A.	.....	To be determined
1170	Dominican Republic	10	To be determined
1190	Habana, Cuba	15	To be determined

<sup>a</sup> Permissible to increase field intensity above 25 uv/m (10% skywave) west of Minnesota on Canadian border.

<sup>b</sup> Same as <sup>a</sup> except west of North Dakota.

<sup>c</sup> Same as <sup>a</sup> except east of Minnesota. Also 650 miles from border requirement waived.

TABLE V

Class II Station\* on Regional Channels (Cuba and Newfoundland)

Frequency	Location of Stations	Maximum Power in kw.
560	Newfoundland	10
570	Santa Clara, Cuba	15
590	Habana, Cuba	15
630	Habana, Cuba	15
1270	Habana, Cuba	10

\* These stations shall use directional antennas to prevent objectionable interference to the Class III stations on the channel in accordance with Appendix VII.

TABLE VI

Special Conditions Affecting the United States

The 24 Class I and II stations in the United States which use clear channels with other countries party to this Agreement are given in Tables III and IV.

The remaining 39 Class I and II stations of the United States will be assigned the following clear channels:

640	650	660	670	680	700	710	720	750
760	770	780	820	830	840	850	870	880
890	1020	1030	1040	1100	1120	1160	1180	1200
1210	1500	1510	1520	1530				

It is recognized that the United States must make extensive adjustments in the assignments of its existing stations in order to

make possible the carrying out of this Agreement, that these adjustments will require approximately a year, and that it is not possible for the United States at this time to specify on which of the said 32 channels it will have priority of use for Class I-A stations, Class I-B stations and Class II stations, respectively, nor the locations of such stations, power and other information with respect thereto. The United States may assign Class I-A stations to at least 25 of said channels. The United States agrees that ninety days before the effective date of this Agreement it will communicate this information to each of the other countries parties to this Agreement, and such information, when communicated, shall be considered part of this Agreement as if fully set forth herein.

Nothing stated in this Agreement shall be construed to preclude the United States of America from asserting, and enjoying recognition of, priority of use with reference to certain other Class II stations (not included in the 63 stations mentioned in Table I) which are now in actual operation in the band 640-1190 kcs. and which are known under the Regulations of the Federal Communications Commission as "limited time stations" and "daytime stations" (having hours of operation limited to sunset taken either at their respective locations or at the locations of the respective dominant stations on clear channels and in some cases including hours not actually used by said dominant stations) which stations may, so far as permitted by the terms of this Agreement and the

engineering standards herein set forth, be given assignments substantially equivalent to those they now enjoy.

TABLE VII

*Special Conditions regarding the use of 1010 kc. by Cuba and Canada*

With regard to the use of the clear channel of 1010 kc. by a Class I-A station in Canada, and by a Class I-B station in Cuba, both countries mutually agree that the interfering signal shall not exceed for 10 per cent of the time or more the value of 50 microvolts per meter at the following points of measurement: in Cuba at any point east of the province of Camaguey, and in Canada at any point west of the province of Manitoba.

TABLE VIII

*Special conditions affecting Canada*

Nothing stated in this Agreement shall be construed to preclude Canada from asserting priority of use with reference to certain Class III and IV stations now in operation in Canada on existing clear and regional channels which through this Agreement will become of a class of channel which may not permit their use by Class III and IV stations.

APPENDIX II

TABLE I

*Protected Service Contours and Permissible Interference Signals for Broadcast Stations*

Class of station	Class of channel used	Permissible power	Boundary or signal intensity contour of area protected from objectionable interference <sup>a</sup>		Permissible interfering signal <sup>b</sup>	
			Day	Night	Day	Night <sup>c</sup>
I A	Clear	50 kw or more	Boundary of country in which station is located		5 UV/M	25 UV/M <sup>d</sup>
I B	Clear	10 kw to 50 kw	100 UV/M	500 UV/M (50% sky wave)	5 UV/M	25 UV/M
II	Clear <sup>d</sup>	0.25 kw to 50 kw	500 UV/M <sup>e</sup>	2500 UV/M <sup>e</sup> (Ground wave)	25 UV/M <sup>b</sup>	125 UV/M <sup>e</sup>
III A	Regional	1 kw to 5 kw	500 UV/M	2500 UV/M (Ground wave)	25 UV/M	125 UV/M
III B	Regional	0.5 kw to 1 kw night and 5 kw day	500 UV/M	4000 UV/M (Ground wave)	25 UV/M	200 UV/M
IV	Local	0.1 kw to 0.25 kw	500 UV/M	4000 UV/M (Ground wave)	25 UV/M	200 UV/M

<sup>a</sup> In accordance with other provisions in this Agreement this freedom of interference does not apply outside the boundaries of the country in which the station is located.

<sup>b</sup> From other stations on same channel only. For adjacent channels see Appendix III, Table I.

<sup>c</sup> Sky wave field intensity exceeded for 10% of the time.

<sup>d</sup> No Class II station shall be assigned to the same channel as a Class I A station for nighttime operation (from sunset to sunrise) less than 650 miles of the nearest border of the country in which the Class I A station is located.

<sup>e</sup> These values are with respect to interference from all stations except Class I, which stations may cause interference to a field intensity contour of higher value. However, it is recommended that Class II stations be so located that the interference received from Class I stations will not exceed these values. If the Class II stations are limited by Class I stations to higher values, then such values shall be the standard established with respect to interference from all other classes of stations.

APPENDIX III

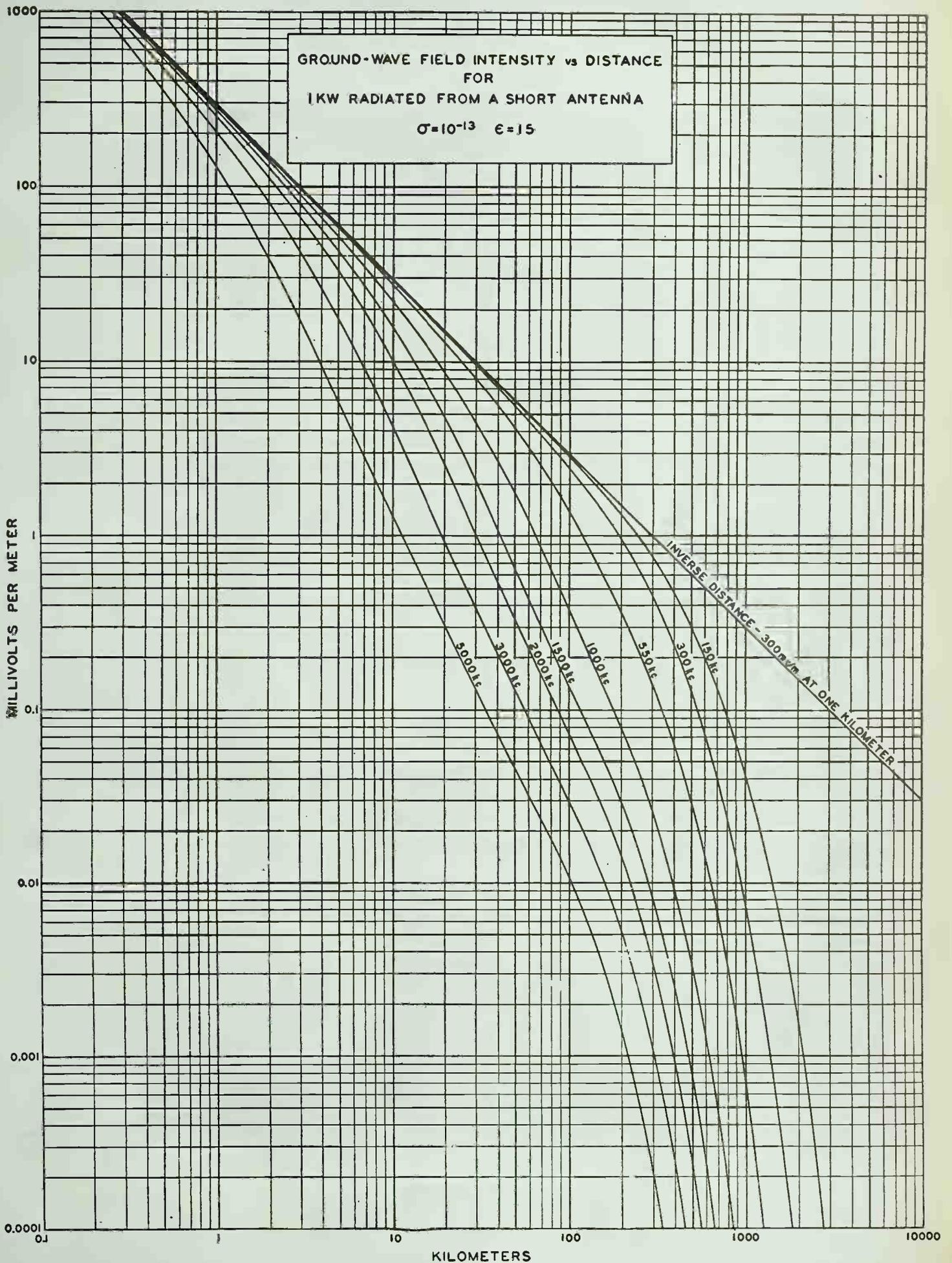
TABLE I

*Adjacent Channel Interference*

<i>Channel separation between desired and undesired stations</i>	<i>Maximum ground wave field intensity of undesired station</i>
10 kc.	0.25 mv/m
20 kc.	5.0 mv/m
30 kc.	25.0 mv/m

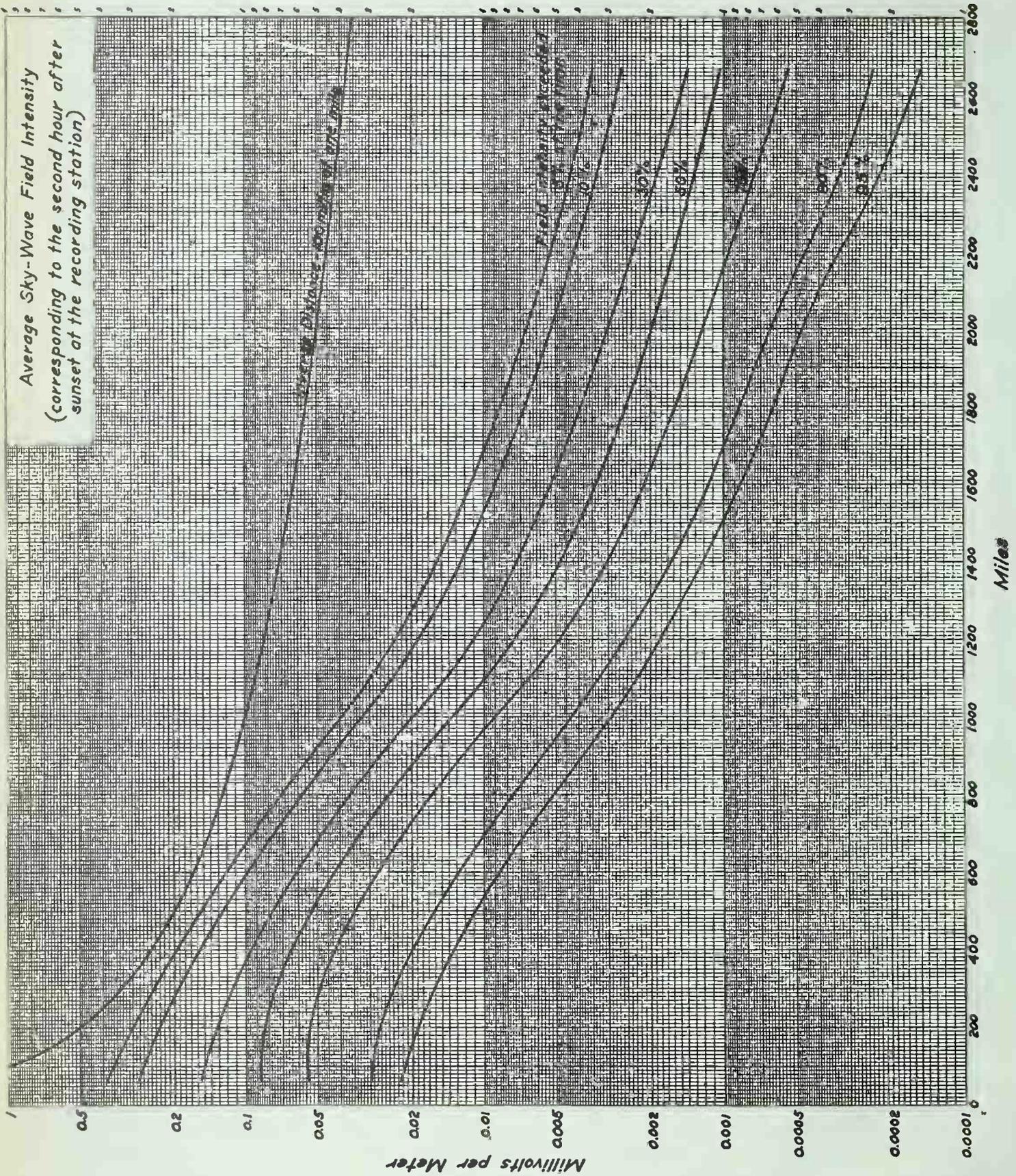
The undesired ground wave signal shall be measured at or within the 0.5 mv/m ground wave contour of the desired station. These values apply to all classes of stations both day and night and are based on ground waves only. No adjacent channel interference is considered on the basis of an interfering sky wave.

# APPENDIX IV



# APPENDIX V

Average Sky-Wave Field Intensity  
(corresponding to the second hour after  
sunset at the recording station)



## APPENDIX VI

### Mileage Separation Tables

The required separations between broadcasting stations as tabulated below are based upon the following conditions:

1. The use of nondirectional antennas.
2. Antenna efficiencies (in mv/m at one mile for one kilowatt).  
Class I—225 mv/m.  
Class II and III—175 mv/m.  
Class IV—150 mv/m.
3. Frequency, 1000 kc.
4. Soil conductivity,  $s = 10^{-13}$ .

5. Soil dielectric constant,  $e = 15$ .
6. Groundwave transmission as shown on chart in Appendix IV.
7. Skywave transmission as shown on chart in Appendix V.
8. Protection to service areas as shown in Appendix II, Table I.
9. Ratio of desired to undesired signal:

Channel Separation	Ratio of Desired to Undesired
Same frequency	20:1
10 kc.	2:1
20 kc.	1:10
30 kc.	1:50

TABLE I

*Required Day Separation in Miles Between Broadcast Stations on the Same Channel*

Class and Power	Class IV				Classes II and III						Class I				
	100w	250w	0.25kw	0.5kw	1kw	5kw	10kw	25kw	50kw	10kw	25kw	50kw	100kw	250kw	500kw
Class IV															
100 w	143	165	172	192	213	265	285	310	335	390	417	437	462	486	513
250 w	165	173	180	200	221	273	293	318	343	415	442	462	487	511	538
Classes II and III															
0.25 kw	172	180	183	203	224	276	296	321	346	418	446	465	490	514	541
0.5 kw	192	200	203	210	231	283	303	328	353	446	473	493	518	542	569
1 kw	213	221	224	231	239	291	311	336	361	467	494	514	539	563	590
5 kw	265	273	276	283	291	313	333	358	383	520	547	567	592	616	643
10 kw	285	293	296	303	311	333	345	370	395	540	567	587	612	636	663
25 kw	310	318	321	328	336	358	370	389	414	565	592	612	637	661	688
50 kw	335	343	346	353	361	383	395	414	430	587	614	634	639	683	710
Class I															
10 kw	390	415	418	446	467	520	540	565	587	556	585	605	620	655	682
25 kw	417	442	446	473	494	547	567	592	614	585	612	632	657	682	709
50 kw	437	462	465	493	514	567	587	612	634	605	632	652	677	702	729
100 kw	462	487	490	518	539	592	612	637	659	628	657	677	697	727	754
250 kw	486	511	514	542	563	616	636	661	683	655	682	702	727	751	778
500 kw	513	538	541	569	590	643	663	688	710	682	709	729	754	778	805

TABLE II

*Required Distance in Miles from the Boundary of a Country in which a Class I-A Station is Located for Daytime Operation of a Class II on the Same Channel*

Power of Station	0.25 kw	0.5 kw	1 kw	Class II 5 kw	10 kw	25 kw	50 kw
Miles from boundary	237	261	282	335	355	380	402

TABLE III

*Required Day and Night Separation in Miles Between Broadcast Stations on Adjacent Channels*

Class & Power	Class IV						Classes II and III						Class I								
	0.1kw		0.25kw		0.25kw		0.5kw		1kw		5kw		10kw		10kw		10kw				
	10kc	20kc	30kc	10kc	20kc	30kc	10kc	20kc	30kc	10kc	20kc	30kc	10kc	20kc	30kc	10kc	20kc	30kc			
Class IV																					
0.1 kw	73	37	32	82	45	40	86	47	42	94	55	50	105	63	58	133	84	79	149	98	93
0.25kw	82	45	40	90	48	41	94	50	43	102	58	51	113	66	59	141	87	80	157	101	94
Classes II & III																					
0.25kw	86	47	42	94	50	43	96	51	43	104	59	51	115	67	59	143	88	80	159	102	94
0.5 kw	94	55	50	102	58	51	104	59	51	112	62	52	123	70	60	151	91	81	167	105	95
1 kw	105	63	58	113	66	59	115	67	59	123	70	60	131	73	62	159	94	83	175	108	97
5 kw	133	84	79	141	87	80	143	88	80	151	91	81	159	94	83	180	104	87	196	118	101
10 kw	149	98	93	157	101	94	159	102	94	167	105	95	175	108	97	196	118	101	210	123	104
25 kw	172	115	110	180	118	111	182	119	111	190	122	112	198	125	114	219	135	118	233	140	121
50 kw	190	131	126	198	134	127	200	135	127	208	138	128	216	141	130	237	151	134	251	156	137
Class I																					
10 kw	162	107	102	170	110	103	172	111	103	180	114	104	188	117	106	209	127	110	223	132	113
25 kw	183	126	121	191	129	122	193	130	122	201	133	123	209	136	125	230	146	129	244	151	132
50 kw	203	144	139	211	147	140	213	148	140	221	151	141	229	154	143	250	164	147	264	169	150
500 kw	277	211	206	285	214	207	287	215	207	295	218	208	303	221	210	324	231	214	338	236	217

TABLE III (Continued)

Required Day and Night Separation in Miles Between Broadcast Stations on Adjacent Channels

Class & Power	Class II						Class I											
	10kc	25 kw 20kc	30kc	10kc	50 kw 20kc	30kc	10kc	10 kw 20kc	30kc	10kc	25 kw 20kc	30kc	10kc	50 kw 20kc	30kc	10kc	500 kw 20kc	30kc
Class IV																		
0.1 kw	172	115	110	190	131	126	162	107	102	183	126	121	203	144	139	277	211	206
0.25kw	180	118	111	198	134	127	170	110	103	191	129	122	211	147	140	285	214	207
Classes II & III																		
0.25kw	182	119	111	200	135	127	172	111	103	193	130	122	213	148	140	287	215	207
0.5 kw	190	122	112	208	138	128	180	114	104	201	133	123	221	151	141	295	218	208
1 kw	198	125	114	216	141	130	188	117	106	209	136	125	229	154	143	303	221	210
5 kw	219	135	118	237	151	134	209	127	110	230	146	129	250	164	147	324	231	214
10 kw	233	140	121	251	156	137	223	132	113	244	151	132	264	169	150	338	236	217
25 kw	250	149	125	268	165	141	242	145	123	261	160	136	281	178	154	355	245	221
50 kw	268	165	141	284	172	145	260	161	139	279	163	144	297	185	158	371	252	225
Class I																		
10 kw	242	145	123	260	161	139	232	137	115	253	156	134	273	174	152	347	241	219
25 kw	261	160	136	279	168	144	253	156	134	272	163	139	292	181	157	366	248	224
50 kw	281	178	154	297	185	158	273	174	152	292	181	157	310	190	161	384	257	227
500 kw	355	245	221	371	252	225	347	241	219	366	248	224	384	257	227	451	297	247

TABLE IV

Required Night Separation in Miles Between Broadcast Stations on the Same Channels

The following tables indicate the mileage protection each class must give all other classes.

Class I-A	Class I-A	Not required to protect Class II stations on same channel at night.
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TABLE IV A

Class I-B	Class I-B	Must protect other stations as shown below.	Class I-B
Class I-B	5 kw	10 kw	25 kw
10 kw		2665	3280
25 kw		3010	3500
50 kw		3280	3660

TABLE IV B

Class II—Must Protect Other Classes as Shown Below

Class II	Class II Stations							Class I-B Stations			Class I-A Stations
	.25kw	.5kw	1kw	5kw	10kw	25kw	50kw	10kw	25kw	50kw	Distance from nearest border of country in which Class I-A Station is located
.25kw	451	602	732	1018	1136	1271	1529	1378	1610	1760	1038
.5 kw	602	606	736	1022	1140	1275	1533	1508	1735	1890	1180
1. kw	732	736	739	1025	1143	1280	1535	1658	1885	2040	1335
5. kw	1018	1022	1025	1039	1157	1292	1547	2165	2395	2550	1830
10. kw	1136	1140	1143	1157	1162	1298	1553	2450	2680	2830	2122
25. kw	1271	1275	1280	1292	1298	1310	1560	2880	3120	3260	2575
50. kw	1529	1533	1535	1547	1553	1560	1570	3090	3330	3480	2730

TABLE IV C

Class III-A<sup>a</sup> Must protect other classes as shown below.

Class III-A	Class III-A	Class III-B
Class III-A	1 kw	5 kw
1 kw	739	1025
5 kw	1025	1039

<sup>a</sup> See Appendix VII for protection Class III stations should give Class II stations on regional channels.

TABLE IV D

Class III B<sup>b</sup>. Must protect other classes as shown below.

Class III B	Class III A	Class III B
Class III B	1 kw	5 kw
.5 kw	735	1020
1. kw	739	1025

<sup>b</sup> See note <sup>a</sup> page 7.

TABLE IV E

Class IV—Must protect other classes as shown below.

Class IV	Class III A	Class III B	Class IV
Class IV	1 kw	5 kw	Class IV
1 kw	300	300	Daytime separation determines
.25 kw	395	407	Daytime separation determines

TABLE IV F

Distance Class II Stations must be from Class IA and IB Stations to obtain recommended protection to Class II Station (2.5mv/m ground wave contour).

Class II (a)	Class IA and IB Stations
Class II (a)	10kw.
.25 kw	1248
.5 kw	1252
1. kw	1256
5. kw	1270
10. kw	1275
25. kw	1285
50. kw	1293

Note (a): Must use directional antenna to protect dominant station or stations with these separations.

TABLE IV G

Distance Class IV Stations must be from Class III-A and III-B Station to obtain recommended protection to Class IV Station (4.0 mv/m ground wave contour).

Class IV Power	Class III-A or III-B
Class IV Power	.5
.10	377
.25	381

## APPENDIX VII

### *Engineering Requirements for the Use of Regional Channels by Class II Station under the Provisions of Section C 5 c*

A Class II station assigned to a regional channel in accordance with Section C 5 c shall use a directional antenna or other means to limit the interfering signal within the protected service area of any Class III station on the channel to the value set forth in Appendix II, Table I. The interfering signal in case of projected operation shall be determined from the characteristics of the antenna and appropriate curve in Appendix V. In case of actual operation the interfering signal shall be determined by the method described in Section E 4.

Class III stations, operating on a channel to which a Class II station is assigned, should limit the interference to the Class II station in conformity with the provisions of Appendix II, Table I.

### CUBA TO MOVE SWIFTLY TO EFFECTUATE BROADCAST AGREEMENT

Reliable information received from Havana indicates that Cuba will move swiftly to effectuate the provisions contained in the North American Regional Broadcasting agreement. It is expected that an order will be promulgated within 30 days making the allocations described in the agreement; and that the Order will become effective probably not later than April, 1938.

### COURT OF APPEALS AFFIRMS F. C. C. DECISIONS

Five decisions of the Federal Communications Commission were upheld last week by the United States Court of Appeals for the District of Columbia. The major issues determined were that (1) the Commission is entitled to have complete and correct information furnished in the original application for license; (2) the Commission is required to furnish a brief factual statement of its reasons for granting or denying an application simultaneously with entering of the order; and (3) a radio station is not a public utility and therefore is not entitled to priority in the area over a new applicant for a station license.

1. The Commission granted to the Utah Broadcasting Company a license for a new station at Salt Lake City, denied two applications of the Great Western Broadcasting Association, Inc., for stations at Provo and Logan, Utah, and also denied the Intermountain Broadcasting Corporation a permit for a new station at Salt Lake City.

The Court said that the Communications Act of 1934 contemplates that the applicant shall establish those qualifications for a broadcasting license which would make its grant serve the public interest, and this presupposes a frank, candid, and honest disclosure of the facts as to its qualifications deemed by the Commission essential to enable the Commission to act within its powers. The Court observed that at the hearing it had been developed that the Intermountain and not the Great Western was the real party in interest in the applications for stations at Provo and Logan and that answers in the application to the contrary were misleading.

With regard to the application of Intermountain for a station at Salt Lake City and its opposition to the grant-

ing of the new station to the Utah Broadcasting Company, the Court said the objection of the Intermountain to the grant was based on the theory that Salt Lake City now enjoys all the broadcasting that the area is entitled to or needs. The Court states that such an objection might just as well be made by a stranger to the record, and that it could hardly be supposed that the interest of a stranger would support an appeal from an order granting a permit for a new station. The Court also said that had the Intermountain claimed that its financial or economic interests would be adversely affected by the grant the case would have been a different one for ". . . we are by no means in agreement with the contention frequently urged upon us that the evidence showing economic injury to an existing station is too vague and uncertain a subject to furnish proper grounds of contest. On the contrary we think it is a necessary part of the problem submitted to the Commission in the application for broadcasting facilities."

2. In the appeal of the Missouri Broadcasting Corporation from the grant by the Commission of a new station to the Star-Times Publishing Company at St. Louis and denial of the Missouri application for similar facilities, the Court affirmed the decision of the Federal Communications Commission. The Court held, however, that the Commission must state the reasons for its grant or denial of the license to advise the defeated party of the respects in which he failed to bring himself within the terms of the Act and to enable him to determine whether an appeal should or should not be taken. In the instant case the Court found that as the Missouri Broadcasting Corporation was apprised of the reasons for the Commission's decision during the consideration of its motion for rehearing "the failure of the Commission, therefore, to file any statement of the grounds of decision simultaneously with the order, was harmless error . . ."

3. The Pulitzer Publishing Company, operators of a time-sharing station in St. Louis and licensee since 1922, intervened in the hearing of the Star-Times Company for a new station in St. Louis. Pulitzer has previously applied for unlimited hours of operation. Pulitzer appealed from the grant to the Star-Times on the principal ground that an established station as a public utility is entitled to priority of consideration over an application for the establishing of a new station and that a new utility should not be allowed to enter the field until an old established utility is given an opportunity to extend its service. The Court overruled this contention and affirmed the action of the Commission. The Court asserted that it had never said that a radio broadcasting station was a public utility in the sense that a railroad is a public utility. It further stated that the power of Congress has not yet been extended to authorize the fixing of rates or establishing rules requiring the licensee to serve alike the entire public in the use of its facilities; nor has Congress assumed the right

to limit the profits on the basis of its investment or otherwise. The Court also says that the licensee of a station chooses its own advertisers and its own programs and generally speaking the only requirement for a renewal of its license is that it has not failed to function and will not fail to function in the public interest. The Court held "that the Commission as a matter of positive duty is not required to give the owner of an existing station priority to enlarge or extend its facilities because alone of the primacy of its grant. Instead the test should be . . . the character and quality of service—having due regard in the distribution on this basis to the equities of existing stations. And to this we may add that the requirement goes no farther than . . . that where the effect of granting an application for a new license will be to destroy the ability of the holder of the old license to carry on in the public interest the application should be denied."

Attorneys in the above cases were: Paul M. Segal, George S. Smith and Harry P. Warner represented the Great Western Broadcasting Association, Inc., The Inter-mountain Broadcasting Corporation and the Pulitzer Publishing Company; H. H. Shinnick and James W. Gum represented the Utah Broadcasting Company; Louis G. Caldwell, Percy H. Russell, Jr., and Donald C. Beelar represented the Missouri Broadcasting Corporation; and Paul D. P. Spearman and Alan B. David represented the Star-Times Publishing Company. Hampson Gary, George B. Porter, Fanny Neyman, Andrew G. Healy, and Frank U. Fletcher represented the Commission.

### BACON RADIO RESOLUTION

Representative Bacon, of New York, has introduced a resolution (H. Res. 365) to investigate radio in all of its phases. The resolution, which has been referred to the House Committee on Rules, is identical with the White resolution in the Senate which is now pending in that body.

### POWER INCREASE RECOMMENDED FOR WMAZ

Broadcasting station WMAZ, Macon, Ga., applied to the Federal Communications Commission to increase its power from 1,000 watts to 1,000 watts and 5,000 watts LS. The station operates on 1180 kilocycles with limited time and asks no change except in power.

Examiner Melvin H. Dalberg in Report No. I-543 recommended that the application be granted. He states that "it is believed that a definite need has been shown for the type of additional daytime service which is sought to be rendered in the area proposed to be served." It is further stated by the Examiner that "the increase in power for daytime service sought herein would enable the applicant to render service of an improved nature to residents in the outlying areas from Macon, Ga., which appear to be dependent upon this station for programs designed specifically to meet their needs."

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3281.** Alleging unfair competition in the sale of women's dresses, a complaint has been issued against **Jane Engel, Inc.**, Madison Ave. and 79th St., **New York**, a retailer, and **Kallman & Morris, Inc.**, 530 Seventh Ave., **New York**, a dress manufacturer.

Acting cooperatively, the respondent retailer and manufacturer are alleged to have advertised dresses made by the manufacturer and purchased by Jane Engel, Inc., for resale, in such manner as to serve as a representation that they were silk dresses. Such allegations were misleading, according to the complaint, because the dresses were made of material other than silk. The dresses so advertised were represented as Silk Jersey, bearing a label reading Original Kalmour Gown, which, according to the complaint, is a trade name of Kallman & Morris, Inc.

**No. 3282.** Misuse of the word "silk" in advertising women's undergarments is alleged in a complaint issued against **Joe Liebowitz**, 1007 Chandler Ave., **Linden, N. J.**

Labels bearing the words "100% Pure Silk" allegedly were attached by Liebowitz to certain garments manufactured and sold by him, when, according to the complaint, the products so designated were not made from pure silk but were predominately or to a substantial degree composed of weighting material which was not silk.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01949.** **Institute for Physical Development, Inc.**, 49 East 21st St., **New York**, trading as **Hercules Exercises**, will discontinue advertising that its muscle-building training course will enable one to develop big muscles or a strong, husky body, unless such claim is clearly and directly limited to persons who would be benefited thereby, and that the course sells for half price or that the sale price is a special offer.

**No. 01950.** **Reliable Laboratories, Inc.**, 311 West Tigras Ave., **Albuquerque, N. Mex.**, will cease advertising that Burneze is a specific cure for burns, stops pain caused by burns and insect bites, prevents infection, and causes most burns to heal without leaving a scar. The respondent corporation will desist from use of the word "Laboratories" as a part of its trade name until it actually owns or operates a laboratory.

**No. 01951.** **Leto H. Smith, San Antonio, Tex.**, trading as **Leto Remedy Company**, agrees to stop representing that Leto's Pyorrhea Remedy is a competent treatment for pyorrhea, bleeding gums and trench mouth; that it is always guaranteed, and that reliable dentists often report the successful use of the preparation in treating their worst cases. The respondent will discontinue use of the word "pyorrhea" as part of the trade name for his product.

**No. 01952.** **The Glessner Company, Findlay, Ohio**, operating under the trade name of Sofskin Company, will stop advertising that its Sofskin Creme is recommended by 12,000 beauticians, unless this fact is established by competent evidence; that Sofskin will bring beauty to all hands and skin and covers more skin surface than any other hand cream or hand lotion, and is a competent treatment or effective remedy in treating rough or red hands.

**No. 01953.** **H. H. Wulf, Davenport, Iowa**, trading as **The Tri-City Service**, agrees to cease representing that the treatments described in his book "Why Your Feet Hurt" will cure all foot troubles, including fallen arches, bunions, and heel pains, and that it will inform the reader how to have capable, painless or tireless feet. The respondent also will refrain from advertising that his booklet "Hundreds of Best Markets for Your Photographs", will enable one to earn \$10 to \$50 a week.

**No. 01954.** **T. E. Botkin, Piqua, Ohio**, trading as **Ar-Be Products Company**, will stop representing that Vitamin Perles constitute a potent tonic and are recommended as a stimulant for weak glands or nerves; that five drops or any amount of the preparation each day is sufficient to prevent degeneration of certain glands; that Ar-Be Tablets stimulate the digestive organs or assist

in normalizing the system, and that Vitamin E is widely used by doctors, in the treatment of cases of impaired vigor, sluggish glands and mental or physical fatigue.

**No. 01955. International Secret Service Institute, 68 Hudson St., Hoboken, N. J.,** under a stipulation entered into, will cease certain false and misleading representations in advertising and selling a correspondence course of instruction in secret service work and crime detection.

Representations to be discontinued are that the course will qualify a student for a position with the United States Secret Service, and that the respondent company operates the only institution offering a practical course of study in scientific crime detection and secret service work; that one studying the course cannot fail to graduate as a practical detective and secret service agent; that the instruction given includes a discussion of every problem likely to confront a detective, and that the course will qualify anyone for a position as a special agent of the Department of Justice or as a "G-man", or will make one eligible for examination by the United States Civil Service Commission.

**No. 01956. Cosmo Carrano, New Haven, Conn.,** in the sale of D. M. C. Vegetable Pills, stipulates that he will discontinue representing directly or by reasonable implication that his preparation is an abortifacient. He will stop advertising that D. M. C. Pills will build up health and strength in muscles, enable one to know the joy of perfect health, and that the product is used or recommended by doctors and nurses and is prepared according to any United States Pharmacopoeia formula. The respondent trades as Oceanview Medical Products, Oceanview Specialty Company and D. M. C. Products.

**No. 01957. Carter Drug Company, Carlisle, Pa.,** will cease advertising that its preparation designated Mustar-Spice is an adequate remedy in the treatment of colds and will stop a cold and allay fever; that it will prevent and relieve muscular aches or pains unless limited to superficial minor aches or pains, and that it is one of the most penetrating and effective home remedies for many common ailments.

**No. 01958. Feminine Products, Inc., 53 Park Place, New York,** selling a deodorant called Arrid, will stop representing that the preparation ends odor unless in direct connection with this claim it is clearly indicated that such effect as the product may have will be temporary. The respondent company agrees to cease asserting that the product cannot irritate the skin or cause itching.

**No. 01959.** A stipulation to discontinue certain misleading representations in advertising has been entered into by **L. H. Baer, L. Babineaux and David Babineaux, Rayne, La.,** operating under the firm names of **Louisiana Frog Company and American Frog Industries,** and engaged in the sale of breeder frogs.

The respondents agree to stop asserting that any article is free when the payment of money or the rendering of a service is required, or when the price of the article is included in the purchase price of other articles.

They stipulate also that they will cease advertising that any offer is limited to a definite period of time unless all offers to purchase under the terms of the offer received after the expiration thereof, are refused.

**No. 01960. D. Del Vecchio, 1434 Florida Ave., N. E., Washington, D. C.,** trading as **Peoples Hardware Stores,** agrees to stop advertising that the respondent's paint products are sold at factory prices, or from factory to consumer, and to cease otherwise representing that such preparations are manufactured by him.

**No. 01961. Health Research Foundation, Ann Arbor, Mich.,** agrees to discontinue asserting in advertising matter that use of Vimm Tablets prevents headache, colds, fever, anemia, skin eruptions and nervousness and promotes general health; that the preparation provides essentials in diet and promotes growth in children, and that it is the "startling new" food. The respondent company stipulates that it will refrain from using the words "Research Foundation" in its corporate or trade name until the scope of its activities shall justify the use of such words.

**No. 01962. The Adlerika Company, 98 South Wabasha St., St. Paul, Minn.,** in the sale of a medicinal preparation designated Adlerika, will cease representing that use of the product is indicated in cases of chronic constipation and conquers all ordinary cases of constipation; that it removes from the system poisonous waste matter that causes gas, headache, nervousness and indigestion; that it will help in keeping women's skin lovely and free from blemishes, unless this claim is limited to blemishes or bad complexion caused by internal conditions, and that it may be taken regularly without any harmful effect, or that other similar products contain harmful drugs or ingredients.

**No. 2102. J. W. Kellogg, 801 N. Sangamon St., Chicago,** manufacturing and packaging a product for use as a bandage and selling it under either of the trade names Quick Bandages or Seal-tex, stipulates that he will stop employing the word "sterilized" as descriptive of products which are not sterile, and will cease advertising such articles in a manner implying that they are sterilized and continue to remain sterile and free from bacteria after they have been packaged and while contained in their original package, when such is not a fact. Kellogg also agrees to discontinue representing that his bandage is of such porosity, except when stretched, as to permit enough air to penetrate it to cause sores to heal faster, when such is not a fact.

**No. 2103. Von Allmen Preserving Company, Inc., 34th and Bank Sts., Louisville, Ky.,** engaged in the manufacture and sale of preserves and pickles, has entered into a stipulation to discontinue misbranding apple butter.

The respondent company agrees to cease using on labels or in advertising matter the words "pure apple butter" to describe a product which contains less than 43 per cent of water soluble solids, and to stop employing the words "apple butter" alone or with "pure" so as to imply that the product is in fact apple butter, that is to say, a product which contains not less than 43 per cent water soluble solids, when such is not a fact.

**No. 2104. United Laboratories, Inc., Euclid Ave. at Ivanhee St., Cleveland,** distributing plastic rock flooring, roofing material, water-proofing and damp-proofing materials, and paints and varnishes, stipulates that it will cease advertising to the effect that the respondent corporation is a group of laboratories organized and equipped to test, approve and certify every type of maintenance product that is produced; that it has a force of 300 men or employs a "board of consulting engineers" whose duty is to pass on various alleged tests; that tests have been made by, or that its personnel has been connected with, United Laboratories, Inc., over a long period of time, or that the respondent corporation is a maintenance research organization whose recommendations are unbiased, when such are not the facts.

The stipulation points out that the respondent corporation has maintained only one laboratory; that it has not been capable of performing the amount of testing allegedly done, and that its total force has been approximately 160 men, among whom has been one chemist, employed in the company's one laboratory. Many of the tests of products referred to were made by the companies from which the respondent corporation purchased, and such tests were signed by officers or employees of such companies who were named by the respondent corporation as members of its "board of consulting engineers", according to the stipulation.

**No. 2105. Lacy Products Corporation, 15 Aberdeen St., Chicago,** manufacturing and selling fudge warmers and hot cups, has entered into a stipulation to discontinue anonymously distributing incomplete copies of proceedings of the Commission, the effect of which is to create the impression that the Government is advising the trade with respect to alleged unlawful or unfair practices on the part of a competitor.

The competitor of Lacy Products Corporation referred to in the stipulation is Helmco, Inc., 844 West Jackson Boulevard, Chicago, formerly known as H. E. Lacy Manufacturing Company. The products sold by the two companies are designed for heating liquid mixtures of chocolate and other ingredients used in making candy and soda fountain drinks.

## Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2554.** Certain unfair methods of competition are prohibited in an order to cease and desist entered against **J. C. Hickson & Co., 207 East Flagler St., Miami, Fla.,** grower and distributor of citrus fruit.

The order directs the respondent company to discontinue representing in advertisements, on labels or otherwise that certain citrus fruit it sells is produced in Florida's Indian River Valley and that it owns and operates a fruit grove or warehouse in that section, unless and until such are the facts. The company also is ordered to cease representing by figures placed on a container that the number of pieces of fruit in such container is greater than the number actually packed therein.

**No. 3195. Confectioners Trading Corporation, 380 Throop Ave., Brooklyn, N. Y.,** has been served with an order to cease and desist from certain unfair methods of competition in the sale of candy.

Among the practices prohibited are sale and distribution to dealers of candy so packed and assembled that sales to the public may be made by means of a lottery, gaming device or gift enterprise.

**No. 3237.** Two New York concerns, **Form Maid Coat Company, Inc.**, 545 Eighth Ave., manufacturer of women's cloth coats, and **Walter-Lewis & Co., Inc.**, 450 Seventh Ave., distributor of fabrics, have been ordered to cease and desist from misrepresenting the nature, character or quality of certain products they sell in interstate commerce.

The coats in question were manufactured by the Form Maid company from a fabric it purchased from Walter-Lewis & Co., Inc., which, according to the findings, supplied labels, bearing the words "Genuine Camel's Hair" and the picture of a camel, to be attached, and which were attached, to the finished garments. Findings are that the coats so labeled and the fabric from which they were made contained only a negligible amount of camel's hair or wool, the principal constituent parts of the fabric being rayon, wool and cotton warp.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, December 20:

Monday, December 20

#### HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Colonial Broadcasters, Inc., Savannah, Ga.—C. P., 1310 ke., 100 watts, unlimited time.  
NEW—Seaboard Broadcasting Corp., Savannah, Ga.—C. P., 1310 ke., 100 watts, 250 watts LS, unlimited.

#### FURTHER HEARING BEFORE AN EXAMINER (Broadcast)

NEW—First Baptist Church, Pontiac, Mich.—Authority to transmit programs to Station CKLW, Windsor, Ontario, Canada.

Tuesday, December 21

#### HEARING BEFORE AN EXAMINER (Broadcast)

WKBZ—Karl L. Ashbacker, Muskegon, Mich.—Voluntary assignment of license to Ashbacker Radio Corp.; 1500 ke., 100 watts, 250 watts LS, unlimited.

#### Applications Granted

NEW—Indianapolis Power & Light Co., Mobile (area Marion County, Ind.)—Granted C. P. for new relay broadcast station, frequencies 1646, 2090, 2190 and 2830 ke., 40 watts.  
NEW—Indianapolis Power & Light Co., Mobile (area Marion County, Ind.)—Granted C. P. for new relay broadcast station, frequencies 1646, 2090, 2190 and 2830 ke., 40 watts.  
NEW—Topeka Broadcasting Assn., Inc., Mobile (area Topeka, Kans.)—Granted C. P. for new relay station, frequencies 31100, 34600, 37600 and 40600 ke., 10 watts. Also granted license covering same.  
NEW—Topeka Broadcasting Assn., Inc., Mobile (area Topeka, Kans.)—Granted C. P. and license for new relay station, frequencies 39700, 39900, 40800 and 41400 ke., experimentally, 2 watts.  
NEW—Topeka Broadcasting Assn., Inc., Mobile (area Topeka, Kans.)—Granted C. P. and license for new relay broadcast station, frequencies 38900, 39100, 39300 and 39500 ke., 10 watts.  
NEW—Fountain of Youth Properties, Inc., Mobile (area St. Augustine, Fla.)—Granted C. P. for new relay station, frequencies 29700, 39900, 40800 and 41400 ke., on an experimental basis, 10 watts.

NEW—City of New York, Department of Plant and Structures, Mobile (area New York City).—Granted C. P. for new relay station, frequencies 399000, 450000, 600000 and 750000 ke., on an experimental basis, power 8.5 watts.  
W9XSB—South Bend Tribune, Mobile (South Bend, Ind.)—Granted C. P. to make changes in equipment and increase power to 3.5 watts. Also granted license to cover same.  
W3XGS (formerly assigned W3XGT)—Keystone Broadcasting Corp., Mobile (Harrisburg, Pa.)—Granted reinstatement of two applications for C. P.'s for new relay broadcast stations under call letters W3XGS and W3XGT; frequencies 31100, 34600, 37600 and 40600 ke., 50 watts.  
W6XNL—Charleston Broadcasting Co., Mobile (Charleston, W. Va.)—Granted modification of C. P. to change equipment and reduce power to 2 watts in a relay broadcast station. Also granted license to cover C. P. as modified.  
W2XAX—Columbia Broadcasting System, Inc., New York City.—Granted modification of C. P. to extend completion date from 12-16-37 to 6-16-38.  
WEAN—The Yankee Network, Inc., Providence, R. I.—Granted modification of C. P. for installation of W.E. 355 E-1 equipment. Also granted license to cover C. P. and modifications thereof.  
WGRM—P. K. Ewing, Grenada, Miss.—Granted license to cover C. P. and modifications thereof authorizing a new station to operate on 1210 ke., 100 watts, unlimited time.  
WRNL—WLBG, Inc., Richmond, Va.—Granted license to cover C. P. and modifications thereof authorizing move of station from Petersburg, Va., to Richmond, and erect new transmitter; 880 ke., 500 watts, daytime only.  
WDGY—George W. Young, Minneapolis, Minn.—Granted license to cover C. P. and modifications thereof authorizing a new transmitter.  
KIT—Carl E. Haymond, Yakima, Wash.—Granted license to cover C. P. and modifications thereof authorizing new antenna; change in frequency from 1310 ke. to 1250 ke.; increase in power from 100 watts, 250 watts LS, to 250 watts night, 500 watts LS, unlimited time.  
WOLS—O. Lee Stone, Florence, S. C.—Granted license to cover C. P. and modifications thereof authorizing new station to operate on 1200 ke., 100 watts, daytime only.  
KELA—Central Broadcasting Corp., Centralia, Wash.—Granted license to cover C. P. and modifications thereof authorizing new station to operate on 1440 ke., 500 watts, unlimited time.  
KAAC—Columbia Broadcasting System, Inc., Mobile, New York City.—Granted license to cover C. P. for relay broadcast station, frequencies 1646, 2090, 2190 and 2830 ke., 50 watts.  
WBNT—WBNS, Inc., Columbus, Ohio.—Granted license to cover C. P. for relay broadcast station, frequencies 1646, 2090, 2190 and 2830 ke., 175 watts.  
W9XXM-W9XXZ—Indianapolis Power & Light Co., Mobile, Indianapolis.—Granted license to cover C. P. for two relay broadcast stations, frequencies 31100, 34600, 37600 and 40600 ke., experimentally, 40 watts power.  
W4XFJ—Miami Broadcasting Co., Miami, Fla., Mobile.—Granted license to cover C. P. for relay broadcast station, frequencies 31100, 34600, 37600, 40600 ke., on an experimental basis, 15 watts power.  
W2XOY—General Electric Co., Albany, N. Y.—Granted license to cover C. P. for new high frequency broadcast station on an experimental basis, frequencies 31600, 35600, 38600 and 41600 ke., 150 watts.  
W3XGN—Berks Broadcasting Co., Reading, Pa., Mobile.—Granted license to cover C. P. for new relay broadcast station, frequencies 31100, 34600, 37600 and 40600 ke., 1 watt power.  
W3XHU—Pennsylvania Broadcasting Co., Philadelphia, Pa., Mobile.—Granted license to cover C. P. for new relay broadcast station, frequencies 31100, 34600, 37600 and 40600 ke., 10 watts power.  
W9XXT—KCMO Broadcasting Co., Kansas City, Mo., Mobile.—Granted license to cover C. P. for relay broadcast station, frequencies 100000, 260000, 300000 and 500000 ke., on an experimental basis, 5 watts.  
KFAM—The Times Publishing Co., St. Cloud, Minn.—Granted modification of C. P. approving transmitter and studio sites, installation of vertical radiator and changes in authorized equipment.  
WTOL—The Community Broadcasting Co., Toledo, Ohio.—Granted modification of C. P. approving transmitter and studio sites, changes in authorized equipment, and installation of vertical radiator.

WNBM—National Broadcasting Co., Inc., New York City, Mobile.—Granted modification of license to use A1 and A2 emission in addition to A3 emission now authorized.

KVOS—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Granted C. P. to install new equipment and increase day power to 250 watts.

### Set for Hearing

NEW—Mollin Investment Co., Huntington Park, Calif.—C. P. to erect a new station to operate on **1160 kc.**, 100 watts, daytime only. Exact transmitter and studio sites to be determined with Commission's approval.

NEW—King-Trendle Broadcasting Co., Grand Rapids, Mich.—C. P. for a new station to operate on **1010 kc.**, 250 watts, unlimited time, exact site to be determined with Commission's approval.

WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—C. P. (amended) to request installation of new equipment; make changes in antenna; change frequency from **1370 kc.** to **780 kc.**; and increase power and time of operation from 100 watts night, 250 watts day, specified hours, to 1 KW night,  $2\frac{1}{2}$  KW day, unlimited time. Site to be approved.

WGCM—WGCM, Inc., Mississippi City, Miss.—C. P. to install a new vertical radiator and move station to Mobile, Ala., exact transmitter and studio sites to be determined with Commission's approval.

KRMC—Roberts-MacNab Co. (Arthur L. Roberts, R. B. MacNab, and A. J. Breitbart, Gen. Mgr.), Jamestown, N. Dak.—C. P. to move transmitter site locally; install new equipment; change frequency from **1370 kc.** to **900 kc.**; increase power from 100 watts night, 250 watts day, to 500 watts night, 1 KW day; exact transmitter site to be determined with Commission's approval.

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—C. P. to make changes in directional antenna system for night-time operation and increase night power from 1 to 5 KW.

WRBL—WRBL Radio Station, Inc., Columbus, Ga.—Modification of C. P. (already in hearing docket) amended to request move of transmitter site  $1\frac{1}{4}$  miles; make changes in authorized equipment; install directional antenna system for night-time operation; change frequency from **1200 kc.** to **1330 kc.**; and increase power from 100 watts night, 250 watts day, to 1 KW, unlimited time.

### Miscellaneous

NEW—Dr. William States Jacobs, Houston, Tex.—Denied applicant's petition for enlargement of time for oral argument from one-half hour to one and one-half hours in re application now scheduled for oral argument on January 20, 1938, involving C. P. for new station to use **1220 kc.**, 1 KW, unlimited time.

NEW—Summit Radio Corp., Akron, Ohio.—Upon request of exceptors, dismissed exceptions filed by the Summit County Industrial Council and the Local Unions of United Rubber Workers of America to Ex. Rept. No. 1-476, which involves an application of Summit Radio Corp. for C. P. to erect a new station to use **1530 kc.**, 1 KW, unlimited time.

### Renewal of Licenses

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

KAWM, Gallup, N. Mex.; KEUB, Price, Utah; KGAR, Tucson, Ariz.; KNOW, Austin, Tex.; WBLK, Clarksburg, W. Va.; WCNW, Brooklyn, N. Y.; WKBZ, Muskegon, Mich.; WSYB, Rutland, Vt.

WBCM—Bay Broadcasting Co., Inc., Bay City, Mich.—Granted renewal of license for the period ending May 1, 1938.

KHUB—Anna Atkinson, Executrix, Watsonville, Calif.—Granted renewal of license for the period ending June 1, 1938.

WBBL—Grace Covenant Presbyterian Church, Richmond, Va.—Granted renewal of license for the period ending June 1, 1938.

WFTC—Jonas Weiland, Kinston, N. C.—Granted renewal of license for the period ending June 1, 1938.

The following applications for renewal of experimental relay broadcast station licenses were granted for the period ending December 1, 1938:

W9XPY, American Broadcasting Corp. of Ky.; W9XPZ, American Broadcasting Corp. of Ky.; W4XES, C. G. Hill, Geo. D. Walker, Susan H. Walker; W9XJI, KLZ Broadcasting Co.; W6XB, Salt River Valley Broadcasting Co.; W1XLV, The WATR Co.,

Inc.; W9XPT and W9XPX, Woodmen of the World Life Ins. Society; W3XEW, WTAR Radio Corp.

W1XLU—The Travelers Broadcasting Service Corp., Mobile.—Granted renewal of experimental relay broadcast station license for the period ending December 1, 1938.

## APPLICATIONS RECEIVED

### First Zone

WTIC—The Travelers Broadcasting Service Corp., Hartford, 1040 Conn.—Extension of special experimental authorization to change frequency from **1060 kc.** to **1040 kc.**, hours of operation from share WBAL to simultaneous operation with KRLD (unlimited), for period 2-1-38 to 8-1-38.

WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Extension 1060 of special experimental authorization to operate simultaneously with KTHS on **1060 kc.** from 6 a. m. to local sunset at Hot Springs, Ark., operate from local sunset at Hot Springs, Ark., to 9 p. m., EST, on **1060 kc.**, and synchronously with WJZ on **760 kc.**, with  $2\frac{1}{2}$  KW power, using directional antenna, from 9 p. m., EST, for period 2-1-38 to 8-1-38.

WSAL—Frank M. Stearns, Salisbury, Md.—License to cover construction permit (B1-P-1613) as modified for a new station.

WATR—The WATR Co., Inc., Waterbury, Conn.—Construction 1290 permit to move transmitter from 47 Grand Street, Waterbury, Conn., to 71 Grand Street, Waterbury, Conn.

WBRK—Harold Thomas, Pittsfield, Mass.—Modification of construction permit (B1-P-1275) for a new station, requesting changes in authorized equipment, approval of vertical antenna, approval of transmitter site at East and Newell Streets, Pittsfield, Mass. Amended to give studio site at 8 Bank Row, Pittsfield, Mass., and make changes in requested equipment.

WNBC—State Broadcasting Corp., New Britain, Conn.—Modification 1380 of construction permit (B2-P-1055) requesting changes in directional antenna and approval of transmitter site at Cedar Street, Newington, Conn. Amended to make changes in directional antenna for day and night use.

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan & 1390 Bostwick, St. Albans, Vt.—Voluntary assignment of license from E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, to F. Arthur Bostwick.

W1XMX—The Yankee Network, Inc., Quincy, Mass.—License to cover construction permit (B1-PHB-48) for move of facsimile broadcast station from Quincy, Mass., to Sargents Purchase, N. H.

### Second Zone

KYW—Westinghouse Electric & Manufacturing Co., Philadelphia, 1020 Pa.—Construction permit to install a new transmitter, make changes in directional antenna for day and night use, and increase power from 10 KW to 50 KW.

WLVA—Lynchburg Broadcasting Corp., Lynchburg, Va.—Construction 1390 permit to change frequency from **1200 kc.** to **1390 kc.**; make changes in equipment; increase power from 100 watts night, 250 watts day, to 500 watts; install directional antenna for night use and move transmitter from near Lynchburg, Va., to U. S. Highway 29, near Lynchburg, Va. Amended to make changes in equipment and directional antenna; change requested power from 500 watts to 1 KW; change transmitter site to River Road, near Lynchburg, Va., and studio to Allied Arts Bldg., Lynchburg, Va.

NEW—Reading Broadcasting Co., area of Reading, Pa.—Construction permit for a new experimental relay broadcast station to be operated on **31100, 34600, 37600, 40600 kc.**, 100 watts.

### Third Zone

WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.— 880 Modification of construction permit (B3-P-1434) as modified to extend completion date from 1-10-38 to 3-10-38.

WRBL—WRBL Radio Station, Inc., Columbus, Ga.—Modification 1200 of license to change name from WRBL Radio Station, Inc., to The Columbus Broadcasting Co., Inc.

WPAX—H. Wimpy, Thomasville, Ga.—Construction permit to 1210 make changes in equipment, change power from 100 watts to 100 watts night, 250 watts day, and change hours of operation from daytime to unlimited time.

KRBA—Red Lands Broadcasting Assn. (Ben T. Wilson, Pres.), 1310 Lufkin, Tex.—Modification of construction permit (B3-P-1341) to make changes in authorized equipment; for ap-

- proval of vertical antenna; approval of transmitter site at ½ mile north on Highway 35, Lufkin, Tex., and change studio from Angolina Hotel, S. First St. and Shepherd, Lufkin, Tex., to ½ mile north on Highway 35, Lufkin, Tex.
- NEW**—Jonas Weiland, Goldsboro, N. C.—Construction permit for a new station to be operated on **1500 kc.**, 100 watts, day-time.
- NEW**—Virgil V. Evans, d/b as The Voice of South Carolina, **2012** Spartanburg, S. C.—Construction permit for a new facsimile station to be operated on **2012 kc.**, 250 watts.
- W5XD**—A. H. Belo Corporation, Grapevine, Tex.—License to cover construction permit (B3-PHB-27) for a new high frequency broadcast station.
- NEW**—Columbia Broadcasting System, Inc., area of Charlotte, N. C.—License to cover construction permit (B3-PRY-78) for a new relay broadcast station.
- W4XBW**—WDOD Broadcasting Corp., Chattanooga, Tenn.—Modification of license to operate transmitter by remote control.

#### Fourth Zone

- KFEQ**—KFEQ, Inc., St. Joseph, Mo.—Modification of construction permit (B4-P-1690) as modified for new vertical antenna and move of transmitter, requesting extension of completion date from 1-9-38 to 3-9-38.
- WJBL**—Commodore Broadcasting, Inc., Decatur, Ill.—License to cover construction permit (B4-P-1859) for new vertical antenna and move of transmitter.
- KVOX**—KVOX Broadcasting Co., Moorhead, Minn.—License to cover construction permit (B4-P-324) as modified, for a new station.
- KSCJ**—Perkins Brothers Co. (The Sioux City Journal), Sioux City, Iowa.—Authority to determine operating power by direct measurement of antenna.

- WGRC**—North Side Broadcasting Corp., New Albany, Ind.—In **1370** voluntary transfer of control of corporation from Arthur L. Harris to Charles Lee Harris, 900 shares common stock.
- WCC**—Tri-City Broadcasting Co., Davenport, Iowa.—Construction permit to make changes in vertical antenna; change frequency from **1370 kc.** to **1390 kc.**, and change power from 100 watts night, 250 watts day, to 250 watts day and night.
- NEW**—Banks of Wabash, Inc., area of Vigo County, Ind.—Construction permit for a new relay broadcast station to be operated on **31100, 34500, 37600, 40600 kc.**, 35 watts.

#### Fifth Zone

- KHQ**—Louis Wasmer, Inc., Spokane, Wash.—Authority to determine operating power by direct measurement of antenna.
- KTFI**—Radio Broadcasting Corp., Twin Falls, Idaho.—Extension of special experimental authorization to operate with power of 1 KW night for period from 1-1-38 to 3-1-38, pending completion of tower.
- KGCC**—Golden Gate Broadcasting Co. (Robert J. Craig), San Francisco, Calif.—Modification of construction permit (B5-P-1725) for new antenna and move of transmitter, requesting extension of commencement and completion dates from 6-27-37 and 12-27-37, respectively, to 12-27-37 and 6-27-38.
- KRKO**—Lee E. Mudgett, Everett, Wash.—Construction permit to change frequency from **1370 kc.** to **1420 kc.**; install a new transmitter and vertical antenna; increase power from 50 watts to 100 watts night, 250 watts day; change hours of operation from share KEEN to unlimited time; and move transmitter from 2814 Rucker Avenue, Everett, Wash., to site to be determined, Everett, Wash.

WISHING YOU  
A MERRY CHRISTMAS  
AND  
A HAPPY NEW YEAR

The NAB Staff

NOTICE TO ALL MEMBERS:

The National Association of Broadcasters is now prepared to make electrical transcriptions of speeches by Senators and Congressmen for its members.

This service is available only to members of the Association and recordings will be made only upon the request of a member station and at the member's expense. Members will be billed as follows:

For each 16 inch disc—\$2.70 plus postage.

For each 10 inch disc—\$1.60 plus postage.

(The above prices apply whether the discs are recorded either on one side or both sides, and are subject to change without notice.)

Recordings will be made at the Association's offices, 960 National Press Building, between the hours of 9 a. m. and 6 p. m., and by appointment. If a member desires his Senator or Congressman to make a recording for him, that fact should be communicated to this office and the Senator or Congressman should be advised to make an appointment either through the Managing Director or Leonard D. Callahan or Everett E. Revercomb of the staff, by calling National 8470.

It is requested you acknowledge the receipt of this notice and advise us of the name of the officer of your station who is authorized to order recordings to be made.

JAMES W. BALDWIN, Managing Director.

Lieutenant Ewell K. Jett has been Acting Chief Engineer since August, when he was named to succeed Commissioner T. A. M. Craven, the former Chief Engineer of the Commission.

Lieutenant Jett was born in Baltimore and is 44 years old. He entered the U. S. Naval Service in June 1911. Prior to the World War he served as a telegraph operator, and as a radioman on board the battleships *Utah* and *Michigan* and the destroyer *Parker*. From 1914 to 1916 he served at the Arlington Radio Station and at the Navy's first radio remote control station in the State, War and Navy Building, Washington, D. C.

From 1917 to 1919 he served as Radio Officer on board Vice Admiral Gleaves flagship *Seattle* of the Cruiser and Transport Force, and as Radio Officer of the battleship *Georgia*.

He was permanently commissioned an ensign in the Navy in 1919 at which time and continuing until 1922 he served as Radio Officer and Officer-in-Charge of the Navy Department Transatlantic Radio Control Station. During a part of this time all transatlantic communication traffic, both government and commercial, was handled

JETT APPOINTED CHIEF ENGINEER

The Federal Communications Commission has announced the appointment of Lieutenant Ewell K. Jett as its Chief Engineer, effective January 1, 1938, as the successor to Commander T. A. M. Craven who was appointed Commissioner August 23.

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through the Transatlantic Control Station utilizing the transmitters of Arlington, Annapolis, Navy Yard, Washington, Tuckerton, N. J., New Brunswick, N. J., and Sayville, N. Y.

In 1922 he served as Radio Officer of the battleship *Texas* of the Pacific Battle Fleet; and from 1923 to 1926 as aide on the staff of Admirals Chase and Marvell and as Radio Officer of the Fleet Base Force.

After completing four years of sea duty he was again transferred to the Navy Department in Washington where he served under the Director of Naval Communications as Officer-in-Charge of the Registered Publication Section, and as Assistant Navy Department Communication Officer and Officer-in-Charge, Radio Central.

In 1929 Lieutenant Jett was "loaned" to the Engineering Department of the Federal Radio Commission and later, upon being retired from the Navy, he was appointed a senior radio engineer in direct charge of the Commission's engineering work concerning radio services other than broadcasting. He was appointed Assistant Chief Engineer in 1931 in which capacity he has continuously served until the present date. Since the creation of the Federal Communications Commission in 1934 he has had direct charge of engineering matters relating to telegraph, submarine cable, and radio services under the jurisdiction of the former Telegraph Division of the Commission.

Lieutenant Jett was a member of the American Delegation to the North and Central American Radio Conference, Mexico City, 1933; North American Regional Radio Conference, Havana, March 1937; the International Radio Consulting Committee (C. C. I. R.) Bucharest, May-June, 1937; and the recently concluded Inter-American Radio Conference, Havana, Cuba. In August of this year he represented the Commission at the Governor's Conference in Juneau, Alaska. President Roosevelt recently named him a delegate to the International Telecommunications Conference which is scheduled to convene at Cairo, Egypt, on February 1, 1938.

Lieutenant Jett was Chairman of the Washington Section of the Institute of Radio Engineers in 1935. His home is in Chevy Chase, Maryland.

## CAIRO RADIO CONFERENCE DELEGATES NAMED. CRAVEN ALSO WILL GO TO CAIRO.

Senator Wallace H. White, Jr., of Maine, will head the American delegation to the Cairo, Egypt, International Radio Conference to convene February 1, according to official announcement made by the State Department. The statement in full is as follows:

The President has approved the appointment of the following official delegation to attend the International Radio Conference and the International Telegraph and Telephone Conference, which are to be convened at Cairo,

Egypt, February 1, 1938, and are to continue concurrently, for the purpose of revising the general and additional radio regulations, the telegraph regulations and the telephone regulations annexed to the International Telecommunications Convention signed at Madrid in 1932:

### *Delegates:*

The Honorable Wallace H. White, Jr.,  
United States Senate, *Chairman*;  
Captain Stanford C. Hooper, United States Navy;  
E. K. Jett, Acting Chief Engineer,  
Federal Communications Commission;  
Francis Colt de Wolf,  
Treaty Division, Department of State.

### *Technical Advisers:*

#### *War Department:*

Lieutenant Colonel David M. Crawford,  
Signal Corps;

#### *Navy Department:*

Commander Joseph R. Redman;

#### *Treasury Department:*

Commander J. F. Farley,  
Chief Communications Officer,  
United States Coast Guard;

#### *Department of Commerce:*

L. H. Simson,  
Communications Specialist,  
Radio Development Section;

#### *Federal Communications Commission:*

E. M. Webster,  
Acting Assistant Chief Engineer;  
Gerald C. Gross,  
Chief, International Section;  
Marion H. Woodward,  
Senior Telegraph Engineer;  
William G. Butts,  
Chief, Tariff Section;

#### *Secretary General of Delegation:*

Joseph C. Satterthwaite,  
Second Secretary, America Legation,  
Baghdad.

#### *Secretary of Delegation:*

Arthur L. Richards,  
American Vice Consul,  
Cairo.

Although there has been no official announcement there is a very definite report in unusually reliable circles that Commissioner T. A. M. Craven will also attend the Cairo conference as a delegate. The other members of the delegation will leave the country on January 4th but it is

said Commissioner Craven will not leave until early in February.

## COMMISSIONER CRAVEN DISCUSSES HAVANA CONFERENCE

Commissioner T. A. M. Craven of the Federal Communications Commission, who has just returned from Havana, Cuba, where he represented the United States in the capacity of Chairman of its delegation to the Inter-American Radio Conference, has issued the following statement:

"The accomplishments of the Inter-American Radio Conference in Havana have greater significance in the interest of the public of the United States than is generally realized or than originally contemplated.

"This was the first conference of its kind ever held on this continent. However, there was successfully concluded a series of agreements concerning the application of radio to Inter-American communications including aviation, police, broadcasting, fixed services, shipping, and other services for which radio is useful.

"Of great significance is the fact that for the first time in history a decision was made to undertake cooperative action with respect to the radio needs of the Americas, because at this Inter-American Conference at Havana it was agreed that the nations of America would collaborate as an effective whole in asserting their common interest in a world-wide international radio conference."

Commissioner Craven stated that this augurs well for future Pan Americanism and creates good will of such practical nature as to be of great benefit to the people of the United States and the other American countries including industry, labor, and cultural interests. It is considered that as a result of this action the future American market available to the United States, as well as to the other American nations has been enhanced and that practical steps have been taken to curtail the inroads being established in this market by competitive nations from other continents. This is brought about in two ways; first, by the establishment of practical collaboration between the Americas and second, by so establishing communications as to make their use effective between the American nations. Since lines of communication are an essential auxiliary to trade it should appear to every thoughtful man that the Inter-American Conference at Havana is of significant importance to the people of the United States.

Among the provisions made at Havana was the establishment of ways and means for exchanging information between the Americas as well as for the betterment of mutual understanding through the exchange of cultural information.

Facilities were made available for the exchange of news among the American nations in a manner which will enable

counter action against the detrimental effects of propaganda poured into South America from Europe.

Commissioner Craven stated: "The most controversial matter discussed at Havana was North American broadcasting. After a month and a half of strenuous negotiations, agreement was reached whereby the public of the United States can be assured of better broadcasting reception in the future by reason of the elimination of interference caused by high powered radio stations located in neighboring countries. Had agreement not been reached in this matter, both Pan Americanism and the rendering of good radio broadcasting service within the United States would have been endangered. Without such an agreement the technical conditions on our broadcasting channels would become chaotic by reason of the necessity of other nations to use our channels regardless of interference. Thus an industry was in danger. The fact that agreement was reached is considered an outstanding achievement because it is the first time this has been possible after several other attempts in the past few years.

"The price paid by the United States for this improved service and the prevention of chaotic radio conditions is remarkably small because not one of its 700 broadcasting stations is seriously affected. Before entering the Conference, fears had been expressed that in order to secure agreement the United States might have to surrender the use of several of the channels it now enjoys, thus eliminating scores of radio stations. However, the United States delegation has been particularly successful in negotiating an agreement without sacrificing any radio station in the United States.

"The actual price paid by the United States for the vast improvement expected in the technical phases of radio broadcasting within the United States is the shifting of the frequency assignments of our stations a few kilocycles or a few channels from their present assignment and in some instances the utilization of a directional antenna. The latter is a device developed recently to reduce interference. While this shifting will be a material inconvenience the effect thereof can be overcome in a relatively short period."

Commissioner Craven further stated: "In this day of unrest throughout the world, it is considered that the results accomplished at Havana augur well for the interest of the public in all the nations of the Americas because it is the first practical example of effective collaboration among these nations in coordinating their radio rights in a world of turbulence and disagreement."

## BROADCAST ENGINEERING CONFERENCE

Arrangements have been completed for the Broadcast Engineering Conference to be held February 7-18 which is being sponsored by the Department of Electrical Engineering of the Ohio State University, Columbus, Ohio.

It is the announced purpose of the conference to bring together leaders in the industry and practicing engineers from all parts of the United States and Canada in a discussion of some of the important technical problems. The program includes three topics a day.

Among the speakers will be: Harold H. Beverage, R. C. A. Communications, Inc.; George H. Brown, consulting radio engineer; John F. Byrne, Collins Radio Company; John H. Dellinger, National Bureau of Standards; William H. Doherty, Bell Telephone Laboratories; William L. Everitt, Ohio State University; Herbert M. Hucke, United Airlines Transport Corporation; George M. Nixon, National Broadcasting Company; Harold L. Oleson, Western Electrical Instrument Corporation; Peter C. Sandretto, United Airlines Transport Corporation; and Arthur E. Thiessen, General Radio Company.

### FCC ASKS MAE WEST DATA FROM NBC

Frank R. McNinch, chairman of the Federal Communications Commission under date of December 18, sent a letter to Lenox R. Lohr, president of the National Broadcasting Company requesting certain information on a recent program which featured Mae West. The chairman says:

"The Federal Communications Commission has received many letters protesting against the Mae West skit, 'Adam and Eve,' sponsored by Chase & Sanborn, which was broadcast over your network last Sunday night, December 12.

"There is marked uniformity of thought in the letters of protest, which variously characterize the skit as 'profane,' 'obscene,' 'indecent,' 'vulgar,' 'filthy,' 'dirty,' 'sexy' and 'insulting to the American public.' These letters bear no evidence of having been written by cranks or prudes but by responsible and intelligent citizens.

"Section 326 of the Federal Communications Act of 1934 clearly precludes this Commission's exercising any power of censorship over radio broadcasts. That same section, however, provides that no person shall utter any obscene, indecent or profane language by means of radio communication and this Commission is charged by law with the enforcement of that as well as other provisions of the Act. Every person holding a radio station license has the legal as well as moral duty and obligation to protect the public from offensive broadcasts.

"If those who have protested to the Commission concerning this broadcast are substantially correct in their appraisal of it, I have no hesitancy in saying that the licensees of the stations over which it was broadcast have been derelict in the discharge of their duty. However, I want to make it clear that the Commission has not prejudged this matter but will reserve its judgment until all of the facts are before it.

"In order that the Commission may determine the facts

with respect to this skit, you are hereby directed to furnish it as promptly as possible with the following:

"1. A copy and exact transcript of the Adam and Eve feature.

"2. The electrical transcription, or reproduction of this skit.

"3. A copy of the contract between Chase & Sanborn and the National Broadcasting Company, covering this broadcast.

"4. The names and locations of the stations which reproduced the program feature."

### RECOMMENDS VOLUNTARY ASSIGNMENT

The Magnolia Petroleum Company, owner, and the Sabine Broadcasting Company, licensee of station KFDM, Beaumont, Texas, applied to the Federal Communications Commission for voluntary assignment of license to the Beaumont Broadcasting Corporation.

Examiner Tyler Berry in Report No. I-565 recommended that the application be granted. He states that "the proposed assignee is legally, financially and otherwise qualified to own and operate a radio broadcast station; and proposes to employ an adequate staff of technically qualified persons to operate the station." The Examiner states also that the granting of the application would be in the public interest.

### FEDERAL TRADE COMMISSION ACTION

#### Complaints

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

**No. 3283.** Use of certain unfair methods of competition, in violation of Section 5 of the Federal Trade Commission Act, is alleged in a complaint issued against **Lawrence A. Huffman and Plant Energy, Inc.**, 71 Sixth St., **Logansport, Ind.**, engaged in the manufacture and sale of compounds for use in stimulating the growth of legume and non-legume plants. Huffman, who is president of Plant Energy, Inc., traded as Plant N-R-G Company prior to July 1936.

The complaint alleges that the respondents advertise their No. 2 Legume Inoculation as containing living bacteria which, when mixed with the plant seed of legumes, promote a growth of nodules that add vitality to and stimulate the root system, producing a thriftier growth and an increase in the yield of the plant. According to the complaint, the compound does not contain living bacteria which promote the growth of nodules on the roots of legumes and which stimulate the growth and yield of the plant, either when mixed with the seed or when placed in the soil.

**No. 3284.** Allegedly misrepresenting the therapeutic value of a medicinal preparation designated as Floracubes, **Eugene H. Hunter and Rae Lamarr Hunter**, trading as **The Floracube Company, Inc.**, 2133 Sunset Boulevard, **Los Angeles**, are named respondents in a complaint.

In circulars and other advertising matter, the respondents, according to the complaint, represent that their preparation is a competent and an effective remedy for the cure of constipation, colitis, digestive disorders, rheumatism and arthritis; heart, liver and kidney troubles, and all common and annoying diseases, and that the product will eliminate the cause of such ailments.

## Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2602. Englander Spring Bed Company, Inc.,** Stewart and Johnson Avenues, Brooklyn, has been ordered to cease and desist from fictitious price marking in connection with the sale of mattresses.

Findings are that the respondent company advertised certain mattresses as having regular retail prices of \$39.50 or \$29.75, depending upon their quality, and offered them for sale through retailers at \$22.50 and \$19.75, respectively. According to the findings, the higher prices advertised are not the customary and regular retail prices, but are wholly fictitious, bear no relation to the true retail prices, and the regular and customary prices are \$22.50 or \$19.75.

**No. 2687. C. W. Beggs Sons & Co.,** 1741 North Western Ave., Chicago, has been ordered to cease and desist from certain unfair methods of competition in connection with the sale of Marcelle cosmetics, which are advertised as being non-allergic.

The order prohibits the respondent corporation from representing that its preparations, including the formulas therefor, have been accepted or approved by the American Medical Association, or have passed rigorous requirements established by such association as to purity of ingredients or therapeutic claims.

**No. 2690. Worthall, Ltd.,** 160 Fifth Avenue, New York, cosmetics distributor, has been served with an order directing it to cease and desist from certain misleading representations in the sale of its products.

The order prohibits representation, through use of the term "Drury Lane English Lavender" or any other words as a brand name for its toilet preparations and cosmetics, or through any other means, that its products are of English manufacture or origin, or are imported from England.

**No. 3063.** Representations that they grow or propagate nursery stock sold by them are to be discontinued by **Earl E. May** and the **Earl E. May Seed Company, Shenandoah, Iowa**, under an order to cease and desist. May is the principal stockholder and directs the activities of the company.

The order also directs the respondents to cease representing that they own, operate or control lands, farms or property in or on which nursery stock is grown for sale, unless and until such is a fact.

In their 1937 catalogue, according to the findings, the respondents embodied many changes intended to correct the objectionable advertising matter contained in their 1936 catalogue.

## Stipulations

The Commission has entered into the following stipulations:

**No. 01963. Reynolds Corporation,** 19 Rector St., New York, dealer in an insulation device consisting of aluminum foil mounted on Kraft paper, has entered into a stipulation to discontinue certain misleading representations in the sale of its product.

Among the representations to be discontinued are that radiation is responsible for 70 per cent of the heat loss from houses, or any other percentage, unless supported by competent authority, and that Reynolds Metallation will stop the passage of heat of any type in any amount or percentage, except such type and amount or percentage as has been established by competent factual evidence. Under the stipulation, Reynolds Metallation will not be advertised as impervious to the passage of heat or as resistant to fire, unless the latter assertion is limited to types found by competent scientific tests to be substantially fire resistant under normal conditions of use.

**No. 01964.** Under a stipulation entered into **R. D. Burchard, Jr.,** P. O. Box 2670, Cleveland, trading as **Radio Metal Locating Company**, agrees to discontinue certain misleading representations in the sale of Radio Metal Locator, a device designated for use in locating metals and hidden treasures.

Burchard stipulates that he will no longer represent his product as being capable of distinguishing between metals such as gold and silver. He also stipulates that he will not advertise that his "bonded notary public money back guarantee" is a bonded guarantee or a notary public guarantee, and admits that such guarantee is not as advertised but merely guarantees to replace a deficient device or machine with another like device or machine.

**No. 01965. Associated Distributors, Inc.,** 111 West Monroe St., Chicago, agrees to discontinue representing that its skin cream, called Essence of Life Face Cream, contains a newly found substance, is capable of nourishing the skin or resupplying vital elements, or is a substitute for a proper diet. According to the stipulation, the results achieved by use of the preparation will not be advertised as miraculous.

**No. 01966. Herb Juice-Penol Company, Inc.,** Danville, Va., trading as **Pow-O-Lin Laboratories**, stipulates that its product, Pow-O-Lin, will not be advertised as being capable of relieving biliousness, nervousness, indigestion, and countless ills due to constipation, unless these assertions are limited to temporary relief from constipation. Penol Emulsion will not be represented as being so thoroughly emulsified that it remains in this state even after it enters the body, the Miller's Herb Extract and Laxative Compound, also known as Miller's Herb Juice, will not be advertised as being capable of clearing the body of poisonous wastes brought on by constipation, unless this assertion is limited to temporary relief of that ailment.

**No. 01967. R. M. Allport,** 9204 Superior Ave., Cleveland, trading as **Armall Agency and Armall Laboratories**, agrees that in the sale of Armall Ointment, it will not advertise this product as giving quick or sure relief in the treatment of psoriasis, eczema, ringworm, and similar ailments; and will cease representing that Armall Ointment will correct scalp diseases, penetrate the skin or scalp, and that it contains glandular extracts from sheep, or stimulants and tissue-building agents. The respondent agrees to stop using the word "laboratory" in his trade name or otherwise indicating that he maintains a laboratory.

**No. 01968. Joseph Personeni, Inc.,** New York City, distributor of Ferro-China Bisleri, a medicinal preparation, agrees to stop advertising that use of the product will renovate, nourish or increase the blood supply, condition the stomach, or rebuild the body or system, and to cease making certain other similar allegations.

**No. 01969. Florence J. Sprafka,** trading as **Ashland Dental Laboratories, Chicago, Ill.**, stipulates that she will cease advertising the artificial dentures she sells as being perfect in fit, comfort or quality, and will discontinue the representation that a person can always take accurate impressions of his own gums, in his own home, or that satisfactory dentures can always be made from such impressions.

**No. 01970. Samuel Kosofsky,** 135 West 42nd St., New York, operating as **Lakro Company**, in the sale of Undrus Liquid, formerly designated Wundrus Water, will cease asserting that this preparation will recolor hair or restore the color of gray hair, or that the product is a color restorer. The respondent admits that the product will not restore color to gray hair, and that it is not a color restorer.

**No. 01971. M. Hatzenbeuhler,** trading as **Lorenz Truss and Electric Works, Chicago, Ill.**, in the sale of an article designated Electric Suspensory, will discontinue the assertion that use of this article preserves health or improves strength, and that it is valuable in the treatment of run-down condition, weak nerves, rheumatism, or poor circulation. The respondent also agrees to stop employing the word Doctor as part of the trade name of his product or in any other manner implying that a doctor has been or is active in developing it.

**No. 2106. Ralph Corn, Inc.,** 32 East 31st St., New York, engaged in the sale of women's undergarments, has entered into a stipulation to discontinue certain misrepresentations concerning its merchandise.

The respondent corporation agrees to cease using in advertising matter the word "satin" or the words "pure dye," either alone or in conjunction with each other, as descriptive of garments not composed of silk. If the garments are composed in substantial part of silk and the words "satin" or "pure dye" or "pure dye satin" are used to describe their silk content, then such words shall be accompanied by other words in type equally as conspicuous so as to indicate clearly that the garments are not composed wholly of silk but are made in part of other materials.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

Because of the holiday season there will be no broadcast hearings at the Commission during the week beginning Monday, December 27.

The Commission has taken the following action:

### APPLICATIONS GRANTED

- KALE—KALE, Inc., Portland, Ore.—Granted C. P. for changes in composite equipment and increase in power from 500 watts to 1 KW.
- NEW—C. M. Jansky, Jr., and Stuart L. Bailey, d/b as Jansky and Bailey, Washington, D. C.—Granted C. P. for new high frequency broadcast station, frequency 40300 kc., power 1000 watts, emission A3 and Special, maximum band of emission 15000 kc. for amplitude modulation and 200 kc. for frequency modulation, in accordance with Rules 986 and 1053(b).
- NEW—South Bend Tribune, South Bend, Ind.—Granted C. P. for new high frequency broadcast station, frequency 25050 kc., power 100 watts, emission A3.
- WSAI—The Crosley Radio Corp., Cincinnati, Ohio.—Granted modification of license to increase day power from 2½ KW to 5 KW.
- NEW—WHDL, Inc., Mobile (area of Olean, N. Y.).—Granted C. P. for a new relay broadcast station, frequencies 1622, 2658, 2150 and 2790 kc., power 25 watts, emission A3.
- NEW—Michigan State College, Mobile (area of Lansing, Mich.).—Granted C. P. for a new high frequency experimental relay broadcast station. Frequencies 39700, 39900, 40800 and 41400 kc., power 15 watts, emission A3. Also granted license to cover above C. P.
- WABG—Memphis Commercial Appeal Company, Mobile.—Granted C. P. to make changes in equipment and increase power from 35 watts to 50 watts.
- WTOC—Savannah Broadcasting Co., Inc., Savannah, Ga.—Granted modification of C. P. as modified for further changes in equipment.
- WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted modification of C. P. as modified, to extend completion date from 1-6-38 to 3-15-38.
- KNX—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Granted modification of C. P. to install new equipment.
- KYA—Hearst Radio, Inc., San Francisco, Calif.—Granted license to cover C. P. for auxiliary transmitter, frequency 1230 kc., power 1 KW, for emergency purposes only.
- W5XNA—Loyola University, Mobile.—License to cover C. P. for a new experimental relay broadcast station, frequencies 31100, 34600, 37600, 40600 kc., power 7 watts, emission A3, unlimited time.
- W5XNB—Loyola University, Mobile.—License to cover C. P. for a new experimental relay broadcast station, frequencies 31100, 34500, 37600, 40500 kc., power 2 watts, emission A3.
- W6XUC—Intermountain Broadcasting Corporation, Mobile.—License to cover C. P. for a new experimental high frequency relay broadcast station, frequencies 150000, 200000, 250000 and 300000 kc., power 0.5 watt, emission A3.
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—License to cover C. P. as modified, frequency 570 kc., power 500 watts, specified hours.
- Stanley Reid and Charles Witnell Boegel, Jr., d/b as The Rapids Broadcasting Co., Cedar Rapids, Iowa.—Granted in part petition for extension of effective date of decision denying application for new broadcast station to operate on 1310 kc., 100 watts, unlimited time. The effective date of decision was extended from December 15, 1937, until the publication of the Statement of Facts.
- Carl Latenser, Atchison, Kans. (Docket No. 4689).—Granted order authorizing taking of depositions, December 31, 1937, in re application for new station at Atchison, to use 1420 kc., 100 watts, daytime. To be heard before an examiner, January 10, 1938.

The Commission granted special temporary authorization to Burlington Daily News, Inc. (WCAX), Burlington, Vermont, to operate from 7 p. m. to 8 p. m., EST, January 1 to January 31, 1938, in order to broadcast sponsored sports review; also from 8 p. m. to 10:30 p. m., EST, January 4, 6, 11, 1938, in order to broadcast sponsored Vermont University and High Schools sponsored basketball games.

NEW (Docket No. 4909)—W. A. Patterson, Chattanooga, Tenn.—Granted authority to take depositions on the Mezzanine Floor of the Read House Hotel, Chattanooga, Tenn., beginning at 10 o'clock on January 10, 1938, in re application for new broadcast station, frequency 1120 kc., power 500 watts, 1 KW LS, unlimited time.

- WPAX—H. Wimpy, Thomasville, Ga.—Granted special temporary authorization to operate unlimited time for the period beginning December 22, 1937, and ending in no event later than December 25, 1937, in order to aid local charities.
- WNYC—City of New York, Dept. of Plant and Structures, New York, N. Y.—Granted special temporary authorization to operate from 9:30 p. m. to 10:30 p. m., EST, Wednesday, December 22, 1937, in order to broadcast addresses by the Hon. F. H. LaGuardia, Mayor of the city of New York, and Hon. Lewis J. Valentine, Police Commissioner, and others at Police Graduation Exercises.
- WWJ—The Evening News Assn., Detroit, Mich.—Granted extension of special temporary authorization to operate for the period beginning December 30, 1937, and ending in no event later than January 28, 1938, with an increase in night power to 5 KW in order to overcome interference.
- KAND—Navarro Broadcasting Assn., Corsicana, Tex.—Granted special temporary authorization to operate from local sunset (December sunset, 5:30 p. m.) to 12 midnight, CST, December 23 and 31, 1937, in order to broadcast special programs.
- WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted special temporary authorization to operate from 12 midnight December 24, 1937, to 1:30 a. m., EST, December 25, 1937, using power of 250 watts, in order to broadcast religious service from local Catholic Church.
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted special temporary authorization to operate from 1 p. m. to 12 midnight, EST, December 25, 1937, and from 1 p. m. to 12 midnight, EST, January 1, 1938, in order to broadcast holiday and devotional programs (provided WOSU remains silent).
- WRNL—WLBG, Inc., Richmond, Va.—Granted special temporary authorization to operate from 6 p. m. to 7 p. m., EST, December 24, 1937, in order to broadcast the Richmond Community Tree Celebration held in the State Capitol Grounds; and from 12 midnight to 1:30 a. m., EST, December 25, 1937, in order to broadcast midnight Christmas Mass from St. Peters Catholic Church at Richmond.

### ORAL ARGUMENTS GRANTED

Oral arguments were granted in the following cases, on dates specified to be heard in the Commission's offices in Washington, D. C.:

Ex. Rept. I-341, Dallas Broadcasting Co., Dallas, Texas, February 10, 1938; Ex. Rept. I-390, Richard S. Gozzaldi, d/b as The Oak Cliff-Dallas County Broadcasting Company, Dallas, Texas, February 10, 1938; A. L. Chilton, Dallas, Texas, February 10, 1938; Ex. Rept. I-520, Centennial Broadcasting Corporation, Dallas, Texas, February 10, 1938; Ex. Rept. I-499, Westcoast Broadcasting Company (KPQ), Wenatchee, Washington, February 10, 1938; Ex. Rept. I-505, The Colonial Network, Inc., Providence, R. I., January 27, 1938; Ex. Rept. I-507, Central California Broadcasters, Inc. (KRE), Berkeley, California, February 11, 1938; Ex. Rept. I-439, Chase S. Osborn, Jr., Fresno, California, February 11, 1938; Ex. Rept. I-509, The Louisville Times Company, Louisville, Kentucky, February 17, 1938; S. O. Ward and P. C. Ward (Louisville Broadcasting Company), Louisville, Kentucky, February 17, 1938; Ex. Rept. I-510, Southwest Broadcasting Company, Prescott, Arizona, February 17, 1938; W. P. Stuart, Prescott, Arizona, February 17, 1938; Ex. Rept. 512, Harry Schwartz, Tulsa, Okla., February 17, 1938; Ex. Rept. I-513, Clark Standiford, L. S. Coburn and A. C. Sidner, Fremont, Nebraska, February 17, 1938; Ex. Rept. I-517, Standard Life Insurance Company of the South, Jackson, Miss., February 18, 1938; Ex. Rept. I-518, Arthur Lucas, Savannah, Georgia, February 18, 1938; Ex. Rept. I-521, The Birmingham News Company, Birmingham, Ala., February 24, 1938; Ex. Rept. I-522, Radio Station WFNC (partnership of C. Frank Walker and Waldo W. Primm), Fayetteville, N. C., February 24, 1938; Capitol Broadcasting Co., Inc., Raleigh, N. C., February 24, 1938; Ex. Rept. I-524, KQV Broadcasting Co. (KQV), Pittsburgh, Pa., February 24, 1938; WSMK, Inc. (WSMK), Dayton, Ohio, February 24, 1938; Ex. Rept. I-525, Westinghouse Electric & Manufacturing Co. (WBZA), Springfield, Mass., February 24, 1938; Charles B. Adams, Administrator of the Estate of Harry C. Whitehill, Executor of the Estate of Mary M. Whitehill (WDEV), Waterbury, Vermont, February 24, 1938; Ex. Rept. I-526, Earl J. Smith and William Mace, d/b as Smith and Mace, Saranac Lake, N. Y., January 14, 1938; Ex. Rept. I-435, West Texas Broadcasting Co., Wichita Falls, Texas, Wichita Broadcasting Co., Wichita Falls, Texas, Faith Broadcasting Co., Inc., Wichita Falls, Texas, C. C. Baxter (KFPL), Dublin, Texas, WFTX, Inc. (KFPL), Wichita Falls, Texas, February 25, 1938.

## SPECIAL AUTHORIZATIONS

- WPRP—Julio M. Conesa, Ponce, P. R.—Granted special temporary authority to operate daily, except Sundays, from 4 p. m. to 6 p. m., AST, from December 18, 1937, to January 15, 1938, in order to broadcast programs of the Puerto Rico Irrigation and Power Service.
- KFNF—KFNF, Inc., Shenandoah, Iowa.—Granted special temporary authority to remain silent after 1 p. m., CST, December 25, 1937, in order that staff may spend remainder of day at home with their families.
- WFLA—Florida West Coast Broadcasting Co., Inc., Clearwater, Fla.—Granted extension special temporary authority to close Clearwater studios for the period beginning January 1, 1938, and ending in no event later than January 31, 1938, and use Tampa studios, pending action on application for modification for license (B3-ML-494) for this authority.
- WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 8 a. m. to 10:30 a. m., CST, and from 12:30 to 3:30 p. m., CST, December 25, 1937, in order to broadcast Christmas programs.
- KSRD—The Press Democrat Publishing Co., Santa Rosa, Calif.—Granted special temporary authority to operate from 11:30 p. m., PST, December 24, 1937, to 1:30 a. m., PST, December 25, 1937, for the purpose of broadcasting the Special Christmas Services of the First Episcopal Church of Santa Rosa.
- KFYR—Meyer Broadcasting Co., Bismarck, N. Dak.—Granted special temporary authority to operate RCA Type 250-G transmitter, using 250 watts, for the period beginning December 26, 1937, and ending in no event later than December 30, 1937 (instead of from December 10, 1937, ending December 19, 1937, as granted November 29, 1937), pending moving of regular equipment, provided station is held responsible to strict compliance to all pertinent rules.
- WKBV—Knox Radio Corp., Richmond, Ind.—Granted special temporary authority to operate from 9:45 a. m. to 10 a. m., CST, January 3, 5, 7, 10, 12, 14, 17, 19, 21, 24, 26, 28, 31, 1938, in order to broadcast Earlham College Chapel Service.

## APPLICATIONS DESIGNATED FOR HEARING

- NEW—Howard W. Davis and W. W. McAllister, d/b as Walmac Company, San Antonio, Tex.—C. P. for new high frequency broadcast station, frequencies **31600, 35600, 38600, 41000 kc.**, power 50 watts, emission A3.
- KMAC—W. W. McAllister, San Antonio, Tex.—Voluntary assignment of license to W. W. McAllister and Howard W. Davis, a partnership doing business as the Walmac Company; **1370 kc.**, 100 watts night, 250 watts day, share with KONO.
- KMAC—W. W. McAllister, San Antonio, Tex.—Renewal of license (license granted on temporary basis pending action on application).

## MISCELLANEOUS

- Columbia Radio Co., Inc., Columbia, S. C.—Denied petition to reopen the record of the hearing on the applications of Columbia Radio Company, Inc. (Docket 4162) and the Carolina Advertising Corporation (Docket No. 4274) for authority to establish new broadcast stations at Columbia, S. C.
- Scripps-Howard Radio, Inc. (formerly Continental Radio Co.), Cincinnati, Ohio.—Dismissed petition for re-hearing upon the applications of the Continental Radio Co. (Docket No. 3301) and the Community Broadcasting Co. (Docket No. 2667). These applications were for new radio stations at Toledo, Ohio, to operate on **1200 kc.**, 100 watts, daytime. Denied petition asking investigation of the status of the Community Broadcasting Company.
- WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Granted special temporary authority to operate unlimited time the night of December 24, 1937, using power of 50 watts, for the purpose of broadcasting various programs of public interest about town.
- KFDY—South Dakota State College, Brookings, S. Dak.—Granted special temporary authorization to remain silent December 25, 1937, and January 1, 1938, in order to observe Christmas holidays and New Years.
- WSYB—Philip Weiss, trading as Weiss Music Co., Rutland, Vt.—Granted special temporary authorization to operate from 9 p. m. to 11 p. m., EST, December 21 and 28, 1937, January 1, 7, 8, 14, 15, 1938, in order to broadcast local High School basketball games.

- Piedmont Broadcasting Corp., Salisbury, N. C.—Granted an additional order to take depositions in re application for new station at Salisbury, N. C., to use **1500 kc.**, 100 watts night, 250 watts LS (Docket No. 4913).
- NEW—George H. Payne, San Jose, Calif.—Granted request for continuance for approximately 60 days of hearing on application for new station at San Jose, Calif., to operate on **1440 kc.**, 500 watts, unlimited time (Docket No. 4276), until after decision in Dockets 4366 and 4411. Docket 4366 involves the application of Chase Osborne for a new station at Fresno, Calif., to use **1440 kc.**, and Docket 4411 is the application of Central California Broadcasters, Inc., for the use of **1440 kc.** by station KRE at Berkeley, Calif.
- Burl Vance Hedrick, Salisbury, N. C.—Granted petition to intervene in proceedings on the application of Piedmont Broadcasting Corp., Docket No. 4913, for new station at Salisbury, N. C., to use **1500 kc.**, 100 watts night, 250 watts LS, unlimited time.
- KLZ Broadcasting Co., Denver, Colo.—Granted petition to intervene in proceedings on the application of Scripps-Howard Radio, Inc., Docket No. 4559, for new station at Denver, Colo., to use **630 kc.**, 1 KW, 5 KW LS, unlimited time.
- Vqlney G. Mathison, Wilmington, Calif.—Granted permission to take depositions in re application for ship radio telephone station on barge "Tango", Docket 4889. The depositions are to be taken before a Notary Public at the field offices of this Commission at 1105 Rivers-Strong Bldg., Los Angeles, Calif., beginning 10 a. m., December 27, 1937. Applicant advised that it will not be necessary that an attorney present the depositions to the Examiner for consideration. However, the depositions are to be subject to the Rules and Regulations of the Commission.

## APPLICATIONS RECEIVED

### First Zone

- WMAS—WMAS, Inc., Springfield, Mass.—License to cover construction permit (B1-P-1870) for a new transmitter and antenna and move of transmitter.
- WSYB—Philip Weiss, tr/as Philip Weiss Music Co., Rutland, Vt.—**1500** Construction permit to install a new vertical antenna, change hours of operation from specified hours to unlimited time and move transmitter from 80 West Street, Rutland, Vermont to Creek Road, Rutland, Vermont.
- NEW—General Electric Co., Albany, N. Y.—Construction permit for a new television broadcast station to be operated on **44000-50000 kc.**, Video power 10000 watts, Aural power 3000 watts. Amended: Re: Geographic site.
- NEW—General Electric Co., Bridgeport, Conn.—Construction permit for a new television broadcast station to be operated on **44000-50000 kc.**, Video power 10000 watts, Aural power 3000 watts. Amended: To change transmitter site from near Connecticut Highway No. 59, Easton, Connecticut to 1285 Boston Avenue, Bridgeport, Conn., delete frequencies **44000-50000 kc.**, and add frequencies **66000-72000 kc.**
- NEW—General Electric Co., Schenectady, N. Y.—Construction permit for a new television broadcast station to be operated on **44000-50000 kc.**, 40 watts, Video transmission only. Amended: To delete frequencies **44000-50000 kc.**, and add **156000-162000 kc.**

### Second Zone

- WHAS—The Louisville Times Co., Louisville, Ky.—Modification **820** of construction permit (B2-P-1126) as modified, for new vertical antenna and move of transmitter, requesting extension of completion date from 1-5-38 to 2-5-38.
- NEW—WAVE, Inc., Louisville, Ky.—Construction permit for a **880** new station to be operated on **880 kc.**, 500 watts, unlimited time. To use directional antenna day and night. Amended: To change geographic location.
- NEW—Fredericksburg Broadcasting Corp., Fredericksburg, Va.—**1200** Construction permit for a new station to be operated on **1200 kc.**, 250 watts, daytime.
- WHK—Radio Air Service Corp., Cleveland, Ohio.—Special experimental authorization to operate a facsimile station from 1:00 a.m. to 6:00 a.m. using 1 KW power.
- NEW—King-Trendle Broadcasting Corp., Pontiac, Mich.—**1440** Construction permit for a new station to be operated on **1440 kc.**, 250 watts, unlimited time. Amended: To change transmitter site to site to be determined, Pontiac, Michigan, and install vertical antenna instead of directional antenna.

W3XEX—WTAR Radio Corp., Norfolk, Va.—Modification of construction permit (B2-PHB-41) for equipment changes and move of transmitter, requesting change in frequencies from 31600, 35600, 38600, 41000 kc. to 26050 kc., and extend commencement and completion dates.

W8XNT—Radio Air Service Corp., Cleveland, Ohio.—License to cover construction permit (B2-PHB-23) for a new high frequency broadcast station.

W8XCQ—Monongahela Valley Broadcasting Co., area of W. Va. (Mobile).—License to operate relay transmitter.

### Third Zone

WAPI—Alabama Polytechnic Institute, University of Alabama, 1020 Alabama College (Board of Control of Radio Station WAPI), Birmingham, Ala.—Special experimental authorization to operate on the frequency 1020 kc. with unlimited hours of operation and install directional antenna for night use, for the period of six months. Amended: To make changes in directional antenna.

KOCA—Oil Capital Broadcasting Assn. (James G. Ulmer, President), Kilgore, Texas.—Voluntary assignment of license from Oil Capital Broadcasting Assn. (James G. Ulmer, President), to Oil Capitol Broadcasting Association.

KOCA—Oil Capital Broadcasting Assn., James G. Ulmer, President, Kilgore, Texas.—Authority to make changes in automatic frequency control equipment.

NEW—WKY Radiophone Co., Oklahoma City, Okla.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 40 watts.

NEW—Augusta Broadcasting Co., area of Augusta, Ga.—Construction permit for a new relay broadcast station to be operated on 13100, 34600, 37600, 40600 kc., 2 watts.

### Fourth Zone

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—Special experimental authorization to operate a facsimile station from midnight to 6 a.m., CST, using 1 KW power, maximum frequency of modulation not to exceed 10,000 cycles, for the period 3-1-38 to 9-1-38.

WTAD—Illinois Broadcasting Corp., Quincy, Ill.—Construction 900 permit to change hours of operation from daytime to unlimited time using 1 KW power, install directional antenna for night use and move transmitter from N. 24th St., Quincy, Illinois to 3 mi. S.W. of Quincy, Illinois. Amended: To make changes in directional antenna.

WAAF—Drivers Journal Publishing Co., Chicago, Ill.—Authority 920 to transfer control of corporation from Corn Belt Publishers, Inc., to individual stockholders of Corn Belt Publishers, Inc., 2000 shares common stock.

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wisc.—Modification of license to change hours of operation from daytime to unlimited time using 100 watts power.

W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Modification of construction permit (B4-PHB-1) for a new high frequency broadcast station, requesting changes in equipment, to delete frequencies 31600, 35600, 38600, 41000 kc., and request 25800 kc., change power from 100 watts to 500 watts and extend completion date.

W9XAL—First National Television Inc., Kansas City, Mo.—Modification of construction permit (B4-PVB-7) to move transmitter, requesting extension of completion date from 1-11-38 to 4-11-38.

### Fifth Zone

KTW—First Presbyterian Church of Seattle, Washington, Seattle, 1220 Wash.—Authority to determine operating power by direct measurement of antenna.

KMED—Mrs. W. J. Virgin, Medford, Ore.—Construction permit 1320 to increase power from 250 watts to 1 KW, and install new transmitter. Amended: To change frequency from 1410 kc. to 1320 kc.

KRKO—Lee E. Mudgett, Everett, Wash.—Construction permit to 1400 change frequency from 1370 kc. to 1400 kc., install a new transmitter and vertical antenna, increase power from 50 watts to 250 watts, change hours of operation from share-KEEN to unlimited time, and move transmitter from 2814 Rucker Avenue, Everett, Washington, to site to be determined, Everett, Washington.

**NOTICE TO MEMBERS**

The Sixteenth Annual Convention of the National Association of Broadcasters will be held at the Willard Hotel, Washington, D. C., February 14, 15 and 16, 1938.

Decision on this matter was made this week by a majority vote of the members of the Board of Directors.

Information concerning Hotel accommodations, and arrangements for speakers will be forwarded to the members at an early date.

JAMES W. BALDWIN,  
*Managing Director.*

**SPENCE NAMED CONVENTION CHAIRMAN**

President Elmer today announced the appointment of Edwin Spence of WBAL, Baltimore, as Chairman of the Convention Committee.

**DOLPH HEADS LOCAL CONVENTION COMMITTEE**

President Elmer today announced the appointment of the following persons to serve on the Local Convention Committee for the Sixteenth Annual Convention of the NAB to be held at the Willard Hotel in Washington, D. C., on February 14, 15 and 16, 1938:

- William B. Dolph, WOL, Washington, D. C., Chairman
- Harry C. Butcher, WJSV, Washington, D. C.
- Frank M. Russell, WRC, Washington, D. C.

**FCC CONSIDERING CHASE AND SANBORN SKIT**

Chairman Frank R. McNinch has announced that the Federal Communications Commission has received in response to its request a letter from Lenox R. Lohr, President of the National Broadcasting Company, Inc., transmitting an exact copy of the transcript of the Adam and Eve feature; the electrical transcription of the skit, a copy of the contract between Chase and Sanborn (sponsors of the program) and the National Broadcasting Company covering this broadcast, and a list of the stations over which this feature was broadcast.

The Commission will give further consideration to this matter after considering the script and the electrical transcription.

**FCC HELD ARBITRARY AND CAPRICIOUS IN HEITMEYER CASE**

The United States Court of Appeals for the District of Columbia this week reversed the decision of the Federal Communications Commission on the application of Paul R. Heitmeier for a new station at Cheyenne, Wyoming, on the ground that the action of the Commission denying the application was arbitrary and capricious. It is believed that this marks the first time since the enactment of the Federal Communications Act of 1934 that a decision of the Commission has been overruled on the ground that its action was arbitrary and capricious. The text of the opinion follows:

**UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA**

No. 6762

PAUL R. HEITMEYER, APPELLANT

v.

FEDERAL COMMUNICATIONS COMMISSION

Appeal from the Federal Communications Commission

Decided December 27, 1937

*James W. Gum and Clarence C. Dill*, both of Washington, D. C., for appellant.

*Hampson Gary, George B. Porter, Fanney Neyman, and Ralph L. Walker*, all of Washington, D. C., for appellee.

Before ROBB, GRONER and MILLER, JJ., and WHEAT, District Judge.

MILLER, J.: This is an appeal under Section 402(b) (1) of the Communications Act of 1934<sup>1</sup> from a decision of the Federal Communications Commission denying the appellant's application for a permit to construct a new radio broadcasting station at Cheyenne, Wyoming.

<sup>1</sup> Act of June 19, 1934, c. 652, 48 Stat. 1064, 1093; 47 U. S. C. A., § 402(b)(1).

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(Reprint from last issue)

#### NOTICE TO ALL MEMBERS:

The National Association of Broadcasters is now prepared to make electrical transcriptions of speeches by Senators and Congressmen for its members.

This service is available only to members of the Association and recordings will be made only upon the request of a member station and at the member's expense. Members will be billed as follows:

For each 16 inch disc—\$2.70 plus postage.

For each 10 inch disc—\$1.60 plus postage.

(The above prices apply whether the discs are recorded either on one side or both sides, and are subject to change without notice.)

Recordings will be made at the Association's offices, 960 National Press Building, between the hours of 9 a. m. and 6 p. m., and by appointment. If a member desires his Senator or Congressman to make a recording for him, that fact should be communicated to this office and the Senator or Congressman should be advised to make an appointment either through the Managing Director or Leonard D. Callahan or Everett E. Revercomb of the staff, by calling National 8470.

It is requested you acknowledge the receipt of this notice and advise us of the name of the officer of your station who is authorized to order recordings to be made.

JAMES W. BALDWIN,  
Managing Director.

The record shows that the Examiner who heard the case made findings of fact and arrived at conclusions therefrom to the effect that:

The applicant is legally, technically, financially and otherwise qualified to construct and operate the proposed station. A need for additional service such as proposed by the applicant does exist in the area proposed to be served, and this application may be granted within the purview of Section 307 of the Communications Act of 1934 and the Regulations of the Commission with regard to quota, particularly Rule 6(f).

The record is silent as to any possible interference with other applications that may be pending from the same state or zone.

The site at which the applicant proposes to construct and operate the station will conform to the Rules and Regulations of the Commission.

The granting of this application would serve public interest, convenience and necessity.

The Examiner, therefore, recommended that the application of Heitmeyer, the appellant herein, be granted. At the same time he recommended denial of the application of the Wyoming Radio Educational Association, which he had theretofore consolidated for hearing with the appellant's application.

Approximately four months later, on May 1, 1936, the Commission entered its final order denying the application; making no findings and assigning no reasons there-

for, but stating that it would "issue and publish at a subsequent date an opinion setting forth a statement of the facts appearing of record and the grounds for the decision [t]herein reached." On June 12, 1936, the Commission's decision was entered denying the applications of appellant Heitmeyer and that of the Wyoming Radio Educational Association. The latter applicant has not appealed from the decision of the Commission and is not concerned herein.

Section 402(c) of the Communications Act provides that within thirty days after the filing of an appeal "the Commission shall file with the court the originals or certified copies of all papers and evidence presented to it upon the application involved, and also a like copy of its decision thereon, and shall *within thirty days thereafter file a full statement in writing of the facts and grounds for its decision as found and given by it, . . .*" [Italics supplied].

The language of the section quoted is ambiguous. The phrase, "within thirty days thereafter", indicates the intention of Congress that in case of appeal the Commission shall have additional time, totaling sixty days from the filing of the appeal, within which to prepare and file "a full statement in writing of the facts and grounds for its decision. . . ." The language immediately following, "as found and given by it", is susceptible of the interpretation that findings of fact should have been prepared prior to, or simultaneously with the entry of its decision. Such an interpretation, however, would defeat the very purpose of Congress in allowing the additional thirty days—unless we are prepared to hold that the "full statement in writing of the facts" means something more than findings of fact. Such a holding would be without meaning because on appeal this court will have before it the full record of the evidence. A statement greater in detail than findings, and less in detail than the record itself, would serve no useful purpose. In order to reconcile the two quoted phrases, therefore, and to secure harmony and consistency in the requirements of the statute, it is necessary to interpret the language, "found and given by it", as requiring the Commission to publish something less than findings of fact previous to or coincident with the entry of the decision. This can be accomplished by requiring it to file with its decision the grounds therefor and "a brief factual statement of the reasons" relied upon. As we said in *Missouri Broadcasting Corporation v. Federal Communications Commission*, (No. 6869, decided December 6, 1937) — F. (2d) —, — App. D. C. —:

The exact language is—file a full statement in writing of the facts and grounds for its decision *as found and given by it*. The six words we have emphasized imply, we think, that the grounds of decision and a brief factual statement of the reasons

therefor have been previously given, that is, previously to the filing of the full statement, *i. e.*, findings of fact, in this court.

The reasoning brings us to the further definite conclusion that Congress intended the "full statement in writing of the facts . . . found . . . by it," which the Commission is required to file within sixty days after the filing of the appeal, to be of the same general form and character as findings of fact well known to trial courts. The words are properly susceptible of no other meaning. Moreover, there is no reason to suppose that Congress intended to establish a different rule of procedure, in this respect, for the Communications Commission than for other similar governmental boards and commissions which are engaged in quasi-judicial determinations. *Beaumont, S. L. & W. Ry. v. United States*, 282 U. S. 74, 86; see also, *Virginian Ry. v. United States*, 272 U. S. 658, 674. This conclusion is borne out also by the language of Section 402(e), which limits review of decisions of the Commission to questions of law and then provides that "*findings of fact* by the Commission, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings are arbitrary or capricious." [Italics supplied]

The questions which we must decide then, are: (1) Did the Commission make findings of fact? (2) If so, were they supported by substantial evidence? (3) Were they arbitrary or capricious? (4) Do they support the conclusions of law reached by the Commission in its decision?

We find nothing in the record, or its index, which bears the title "Findings of Fact." We do find a "Statement of Facts and Grounds for Decision." For convenience this "Statement" is set out—in so far as it is pertinent to this appeal—as follows:

*Statement of Facts and Grounds for Decision*

\* \* \* \*

This proceeding arose upon the applications of Paul R. Heitmeyer for a construction permit to erect a new broadcast station at Cheyenne, Wyoming, to operate on the frequency of 1210 kc, with power of 100 watts, 250 watts local sunset, unlimited hours of operation; and of Wyoming Radio Educational Association for a construction permit to erect a new broadcast station at Cheyenne, Wyoming, to operate on the frequency of 630 kc, with power of 500 watts, 1 kw local sunset, unlimited hours of operation.

The Commission was unable to determine from an examination of the applications that the granting thereof would serve public interest, convenience and necessity, and designated the same for public hearing, pursuant to Section 309(a) of the Com-

munications Act of 1934, before an examiner appointed by the Commission. Notice of time and place of hearing was given the applicant and other interested parties. Pursuant to said notice, the application was heard before an examiner on October 30, 1935. . . .

Cheyenne, Wyoming, is the capital of the State, and is situated near the southeast corner thereof. The population is 17,361 (census of 1930), and Fort Warren, an Army post situated just outside the city, has an estimated population of 4,000. There are approximately 275 retail stores in the city, which did an estimated total volume of business of approximately seven million dollars in 1933. A number of jobbing establishments are located in the city, and railroad shops employ a considerable number of men. The surrounding territory is devoted principally to stock raising, and in some sections farming is engaged in.

*With Respect to the Application of Paul R. Heitmeyer*

Paul R. Heitmeyer, applicant herein, testified that he is an American citizen by birth, and is therefore legally qualified to be a licensee. It appears that he has been actively engaged in various capacities in radio broadcasting for about fifteen years, and he is at present employed as Manager for Broadcast Station KLO at Ogden, Utah. The Commission is of the opinion that the applicant is technically qualified.

*With respect to the financial qualifications of the applicant, he testified in the hearing on October 29, 1935, in the matter of his application for the Salt Lake City, Utah, station, the record of which was by stipulation incorporated into this record, that he estimated his financial worth to be \$2500.00. However, on July 15, 1935, he filed a sworn statement, as a part of this application, showing assets of \$7,271, with liabilities of \$474. Mr. Heitmeyer testified that a deposit had been placed to his credit by Mr. A. L. Glasman, who, it appears, is publisher of the Ogden Standard Examiner, and who also owned the controlling interest in Interstate Broadcasting Corporation, licensee of Station KLO at Ogden, Utah. The deposit was made by Mr. Glasman as a loan to Mr. Heitmeyer for the construction and operation of two broadcast stations, namely, the proposed station applied for herein, and another station at Salt Lake City, Utah. (Docket 2980.)*

*The record discloses further that the applicant intends, in the event this application, and the one for a construction permit for the station at Salt Lake City, Utah, are granted, to form a corporation for each station and request the consent of the Commis-*

sion to assign the licenses of said stations to the corporations. Under the terms of the agreement between Mr. Glasman and Mr. Heitmeyer by which the loan was made, Mr. Heitmeyer agreed to pay 6% interest on the principal, and to repay the loan within five years. However, in the event the loan is not paid under those terms, Mr. Heitmeyer is obligated to assign to Mr. Glasman 48% of the stock of the proposed licensee corporations. It also appears that the estimated cost of constructing the proposed station is \$8,890, and the estimated monthly operating expenses are \$1,525. The record is silent as to the estimated monthly revenue expected from the proposed station. Mr. Heitmeyer testified that he intends to reside in Salt Lake City, Utah, and leave the management of the requested station in Cheyenne to an employee and that he will visit the station ten or twelve days per month. He further testified that he had interviewed various residents of Cheyenne and found the sentiment favorable to having a radio station in that city, except that the publishers of the two newspapers very definitely objected to the proposed station.

Upon the record before us, it is clear that the applicant personally is not financially able to construct and operate the proposed station, and that he intends to construct and operate the same, if permitted so to do, entirely on money which he has borrowed, without security, unless it be considered that the requirements for the formation of a new corporation, to whom assignment will be requested, and distribution of 49% of the stock to Mr. Glasman, is security for the loan. If it be so considered, then it is clear that the applicant has failed to show that he is financially qualified to construct and maintain a station of the kind and class applied for, since the loan is conditioned upon approval by the Commission of two applications when filed for assignment of license, which would in effect be a prejudging of those applications, which are not now before the Commission. Manifestly, the Commission is without power under the Communications Act of 1934 to act upon applications not presently before them, nor is it within the spirit of the Act to grant an application when it is apparent that the financial structure is dependent, not upon the applicant, but upon some future unpredictable happening. If it be considered that this stock is not security for the loan, then it is apparent that the applicant has made no sufficient showing of financial responsibility, since the physical equipment of this station may become subject to lien, foreclosure, and seizure by the lender, as a matter of law, in the event the loan is not repaid within the five year period. On the record before us, the applicant must pay back \$20,000, with interest

at 6%, in five years, or something over \$4,000 per year. The Commission is of the opinion, and so found, that the applicant has not made such a showing of his financial responsibility as would justify the Commission in granting the application applied for.

\* \* \* \*

The applicants, Paul R. Heitmeyer and Wyoming Radio Educational Association, both introduced considerable testimony relative to the need for a broadcast station in Cheyenne; the talent available there; and other matters, all of which has been carefully considered by the Commission, but as the showing made by both applicants precludes a grant of either application in any event, it is deemed unnecessary to discuss in detail such showing herein.

After careful consideration of the applications, the evidence adduced at the hearings, the Examiner's Report and the exceptions thereto, and the oral argument, the Commission was of the opinion, and so found, that the public interest, convenience and necessity would not be served by granting the applications. Accordingly, on May 1, 1936, the Commission entered its final order denying the applications of Paul R. Heitmeyer and Wyoming Radio Educational Association, effective at 3 A. M., E. S. T., September 29, 1936. The effective date of this order was later advanced to June 12, 1936. [Italics supplied]

When we analyze this "Statement" we find, first, a history of the case; then a finding concerning Cheyenne, Wyoming, and surrounding territory; then a narrative recital of testimony given by appellant Heitmeyer, and his conclusion that he is legally qualified; then a tentative finding—"it appears that"—concerning Heitmeyer's past and present experience, followed by the Commission's conclusion that he is technically qualified; then three paragraphs concerning Heitmeyer's financial qualifications; then a paragraph in which the Commission states that it is unnecessary to discuss in detail the testimony relative to the need for a broadcasting station in Cheyenne and the talent available there, because "the showing made by both applicants precludes a grant of either application in any event." Finally, there is a paragraph in which the Commission sets out its conclusion that the public interest, convenience and necessity would not be served by granting the applications.

It is to be noted, at this point, that the Commission has narrowed the case down to one question, *i. e.*, Was the applicant financially qualified? Our inquiries, therefore, are similarly narrowed to a consideration of the three italicized paragraphs of the "Statement". Upon them the Commission's decision must stand or fall. Do they contain findings of fact, and, if so, are such findings sup-

ported by substantial evidence? Generally speaking the three paragraphs consist of a more or less indiscriminate commingling of arguments, speculations, statements of fact, narrative recitals of testimony and conclusions of law. Taken as a whole, they cannot be said to constitute findings of fact such as are contemplated by the statute. Necessarily, therefore, they provide a highly unsatisfactory basis for appeal and thus defeat the purpose of the statute; which is to inform the parties and this court of the reasons for the Commission's action, with that high degree of certainty which may properly be expected from a group of administrative experts such as constitute the Communications Commission. *Boss, et al. v. Hardee*, (No. 6849, decided September 20, 1937) — F. (2d) —, — App. D. C. —, 65 W. L. R. 1031.

It is possible to segregate some sentences in these three italicized paragraphs which, standing alone, and perhaps taken out of context, may be regarded as findings. It is possible, also, to spell out tentative or qualified findings from other sentences. Thus, the first sentence of the first italicized paragraph relates that Heitmeyer estimated his financial worth to be \$2500. The next sentence states that, *however*, he filed a sworn statement showing assets of \$7271, with liabilities of \$474. The implication seems to be that there is a conflict in his testimony. Such a result cannot fairly be reached from the record. *San Diego Land & Town Co. v. Jasper*, 189 U. S. 439, 442. The \$2500 about which Heitmeyer testified consisted of money in bank, an automobile, home furnishings and personal effects. In addition he owned \$4000 worth of shares—fully paid for—in the corporation which operated Station KLO in Ogden, Utah. Moreover, the evidence at the hearing disclosed that the liabilities of \$474 had been fully paid at that time. There was no conflict on this point and, if the two sentences referred to constitute a finding, the only part of it which is supported by the evidence is that Heitmeyer showed assets of \$7271. The last two sentences in the first italicized paragraph are supported by the evidence and the testimony there referred to could properly have been formulated into a finding.

The first three sentences in the second italicized paragraph, standing alone, constitute a finding which is supported by substantial evidence. The next sentence, relating to the cost of constructing and operating the proposed station, is supported by the evidence. A careful reading of the record shows that the next sentence, "The record is silent as to the estimated monthly revenue expected from the proposed station", is wholly unsupported by the record. Indeed, the Commission, in its brief, in reviewing the testimony of the witness Haller, quoted therefrom as follows: "A number of the Cheyenne merchants agreed to use time on the proposed station." The brief then states that "on the basis of such a survey the witness estimated that the merchants with whom he talked 'would probably spend within the neighborhood

of \$2,100 a month.'"

In view of the fact that the Examiner made a correct finding upon the point—among other well prepared findings—the Commission's finding cannot be regarded as other than arbitrary and capricious. While the Commission is not bound by the findings of the Examiner, it is itself charged with the responsibility of making findings. *Radio Commission v. Nelson Bros. Co.*, 289 U. S. 266, 285; *St. Joseph Stock Yards Co. v. United States*, 298 U. S. 38, 53. In this case it would have profited from a more careful consideration of those which the Examiner prepared.

The last two sentences in the second italicized paragraph are supported by substantial evidence so far as they go, and could properly have been formulated into a finding of fact. The vice of the first sentence, however, is its incompleteness, which gives a shading of meaning not supported by the evidence. The evidence upon this point showed—and a finding might properly have been made accordingly—that Heitmeyer is the supervising director and manager of Station KLO at Ogden, Utah. His salary therefor is \$300 per month and will continue, even though he secures the Cheyenne station and devotes approximately ten to twelve days a month to that station, as he expects to do. He has a contract with Mr. Glasman, the controlling stockholder in KLO, so providing and permitting him to engage in any other radio activities, provided he continues to keep KLO financially successful. If and when the permit and license are granted for the Cheyenne station he will have a resident manager for that station working under his direction.

The third of the three italicized paragraphs contains one sentence which, standing alone, constitutes a finding, as follows: "On the record before us, the applicant must pay back \$20,000, with interest at 6%, in five years, or something over \$4,000 per year." This statement, except for the last six words, is supported by the evidence and is covered in part in the preceding paragraph. The last six words constitute a conclusion which is supported by no evidence whatever. There is nothing in the record to prove that Heitmeyer was *required* to pay anything, principal or interest, before the expiration of five years.

Otherwise, the third paragraph is devoid of anything resembling findings except (1) the first sentence, which is so involved with, and dependent upon, a question of law as to be in substance and effect a decision of the latter (*Kansas City So. Ry. v. Albers Comm. Co.*, 223 U. S. 573, 591); and (2) the last sentence, which states the bald conclusion: "The Commission is of the opinion, and so found, that the applicant has not made such a showing of this financial responsibility as would justify the Commission in granting the application applied for." General statements of this kind, following the language of the statute, are not sufficient to constitute findings of fact such as are contemplated by the statute. *Florida v. United States*, 282 U. S. 194, 213. The language used indicates

that this was intended to be the "brief factual statement of the reasons" for the decision contemplated by the statute, given previously to the filing of the findings of fact. See *Missouri Broadcasting Corporation v. Federal Communications Commission*, *supra*. It serves that purpose very well, but does not constitute a finding of fact.

Assuming, for the purposes of this case only, that the three italicized paragraphs constitute findings, we conclude, in answer to our second and third questions, that some of them are supported by substantial evidence, some are not, and some are arbitrary and capricious. Our final question, then, is whether those findings which are supported by substantial evidence, themselves support the conclusions of law and the decision of the Commission. Otherwise stated, the final question is whether those findings support the conclusion that the applicant was not financially qualified to construct and operate the proposed station.

The argument set forth in the third italicized paragraph shows that the Commission decided the case upon the finding contained in the first three sentences of the second italicized paragraph. This is the only valid finding which could support the decision. It is first contended by the Commission that the appellant "intends to construct and operate the same [station] . . . *entirely on money* which he has borrowed. . . ." The finding does not support that contention. It shows instead that appellant had some assets in addition to the borrowed money. Moreover, there is nothing in any of the valid findings which negatives the intent of the applicant to apply revenue from the station toward cost of operation. However, it does clearly appear that he had *insufficient* money to construct the station without that which he borrowed.

It is next contended by the Commission, as one of two alternative propositions, that appellant has failed to show his financial qualification, because (1) the loan is intended to be secured by the distribution to Glasman of 49% of the stock of a proposed corporation; (2) the value of the corporate stock depends on the granting of permission for transfer of the station license to the corporation; (3) this involves in effect the prejudging by the Commission of two applications not yet before it; (4) hence the security for the loan is conditioned on a judgment of the Commission which it is powerless to make. If this contention means that the policy of the Commission is to refuse an application—in all other respects satisfactory—merely because an applicant honestly contemplates the formation of a corporation—in the event his application is granted—to which he will transfer the permit and license, with the consent of the Commission, it would seem to verge closely upon arbitrary and capricious action. It would seem to be a rather idle and expensive gesture to require the formation of a corporation for such a purpose before the securing of a construction permit, when a refusal to grant the permit would auto-

atically abort the whole occasion and purpose of the corporation. It would seem on its face to be a rather severe restriction upon business enterprise and an unnecessary limitation upon the availability of radio service in a particular community. Moreover, it would seem to be a particularly arbitrary and futile procedure in a case such as this, where the applicant fully and fairly revealed his plans. Ordinarily, there would be nothing to prevent an applicant from securing a construction permit and a station license; thereafter forming a corporation; and then requesting permission to make the assignment. Should a penalty be placed upon one who has the foresight to plan his project in advance and reveal its full details? If the applicant is confident that he can make such a showing as to secure the Commission's approval of a subsequent transfer, should the Commission object? In fact, should not the Commission invite just such a revelation of plans so that it can have that contingency in mind when passing on the application for a construction permit, rather than drive the applicant to conceal his plans until after the construction permit has been granted? However, we are not required to decide this question because the first alternative contention of the Commission is not supported by the findings. So far as relevant to this point they read as follows:

. . . Mr. Heitmeyer agreed to pay 6% interest on the principal, and to repay the loan within five years. *However, in the event the loan is not paid under those terms, Mr. Heitmeyer is obligated to assign to Mr. Glasman 49% of the stock of the proposed licensee corporation(s).* [Italics supplied]

It is obvious from the language used in the finding that the assignment of corporate stock by way of security was not contemplated unless and until Heitmeyer had made default in his obligation to repay the loan *within five years*. Heitmeyer insisted throughout his testimony that such was the intention of Glasman and himself, and the Commission found accordingly.

It is apparent that the Commission recognized the invalidity of the above contention because it went on to state a second alternative as follows: The appellant intends to use such borrowed money without giving security therefor; hence he has failed to show sufficient financial responsibility "since the physical equipment of this station may become subject to lien, foreclosure, and seizure by the lender, as a matter of law, in the event the loan is not repaid within the five year period." Assuming that the loan should not be repaid at the end of five years it may well be that foreclosure and seizure might result. Does this possibility support the contention that appellant has thus failed to show his financial qualification? The question, otherwise stated, is whether an application such as Heitmeyer's may be properly denied because the applicant proposes to use borrowed money for the pur-

pose of construction and operation, unless the money borrowed is covered by sufficient collateral or other security to insure the station against lien, foreclosure, and seizure for a longer period than five years. Can such a standard be upheld?

In answering this question we look first for some measure of financial qualification to guide us. We are referred to no rule or regulation of the Commission suggesting such a rigid standard. On such an important question we think the public is entitled to have the statute implemented by a regulation setting out clearly and concisely just what the Commission regards as a minimum standard of financial ability. Evidently Congress had the same intent because the statute provides that all "applications shall set forth such facts as the Commission by regulation may prescribe as to . . . financial, technical, and other qualifications" of the applicant. [§ 308(b)] [Italics supplied]

In the absence of such a guide, the appellant suggests that we look to the practice of the Commission in previous cases as set forth in his brief, although not revealed in the record. We are asked to do this on the theory that the Commission "has not refused to grant construction permits for new stations to those who are qualified and experienced in the operation and management of radio stations simply because they did not have abundant personal finances without borrowing to construct and carry on the operation of the proposed stations." Whether or not the Commission has in the past granted licenses under similar circumstances is immaterial. It is fully authorized to increase, by regulation, the requirements previously imposed if the public interest requires. [§ 303(f)] However, in the absence of a regulation, a common sense view of prevalent business methods would seem to justify the use of such borrowed funds for the purpose, unless some circumstance, special to the radio broadcasting industry, distinguishes it from others.

It is true, as suggested in argument, that Congress has imposed heavy obligations upon the Commission to discover and prevent any alien, criminal, or other improper control of radio broadcasting stations, and to guarantee so far as possible an independent, wholesome policy in management and operation. See Sections 303, 308(b), 310(a), 311, 313. To the same general end the Act gives to the Commission control of assignments and transfers of construction permits [§ 319(b)]; station licenses [309(b)(2)]; and of all rights thereunder, whether such assignments or transfers be voluntary or involuntary, direct or indirect [§ 310(b)].

It is well known that one of the most powerful and effective methods of control of any business, organization, or institution, and one of the most potent causes of involuntary assignment of its interests, is the control of its finances. By establishing a high enough standard of financial qualification, the Commission can eliminate

many of the hazards of such control, direct or indirect in character. It is in the public interest that it should not be impeded in a reasonable exercise of its discretion. The public interest in this respect far outweighs the private interest of any individual applicant. *Reading Broadcasting Co. v. Federal Radio Commission*, 48 F. (2d) 458, 60 App. D. C. 89. Perhaps under some circumstances the Commission might be justified in insisting upon the complete financial independence of an applicant.

In any event, the burden is and should be upon the applicant to satisfy the Commission, not only that he has financial ability to construct and operate a station, but financial ability to construct and operate it free of control, direct or indirect, by any person within the classes proscribed by the statute. *Beebe v. Federal Radio Commission*, 61 F. (2d) 914, 61 App. D. C. 273. See *Campbell v. Galeno Chemical Co.*, 281 U. S. 599, 609.

If, then, it appears from the application, or upon the hearing, that the applicant's financial condition is such that there is a probability that he may lose control of the station or that there may be either a voluntary or an involuntary transfer of his rights in relation thereto, a situation may arise in which the Commission will be called upon to enforce the provisions of the sections to which reference has just been made. *Sproul v. Federal Radio Commission*, 54 F. (2d) 444, 60 App. D. C. 333. Under such circumstances it may be wiser from an administrative point of view to avoid such a contingency by insisting upon the removal of the probability before a permit is granted. If so, it is not our place to question the wisdom of the provisions, or to determine whether the Commission's administrative determination was the wisest under the circumstances. *Radio Commission v. Nelson Bros. Co.*, 289 U. S. 266, 277.

In support of the position taken by the Commission in this case, it can be argued that neither in his original application nor in his financial statement did Heitmeyer reveal his relationship to Glasman. Moreover, it was disclosed at the hearing that Heitmeyer was an employee of Glasman and that he expected to maintain that relationship if and when he should operate the proposed station at Cheyenne. This all lends color to the suggestion made on cross-examination that Heitmeyer was the personal representative of Glasman, or that Glasman was an undisclosed partner and that, in his application and his financial statement, Heitmeyer deliberately avoided revealing Glasman's possible interest in the proposed station.

However, the Commission made no such findings, nor any findings which would support such conclusions. Moreover, the rejection of the application is not placed on any such ground. Again, even if these facts had been found they would not have shown lack of financial qualification *per se*, but merely possible danger of im-

proper control, *if* the lender happened to be within one of the classes proscribed by Congress.

No matter how good that reason may be generally for excessive caution on the part of the Commission, it loses its force in this case because the lender of the money was himself the owner of a controlling interest in a licensee corporation, and had presumably satisfied all of the exacting requirements of the Commission. If he was acceptable as a licensee, how could it be argued that the applicant who borrowed from him would, as a result thereof, be directly or indirectly controlled by anyone—person, government, or corporation—within the proscription? If such reasoning weighed in the rejection of the application, then the Commission based its decision upon facts and circumstances which do not appear in its findings, and which should not have been considered. *Interstate Commerce Commission v. Northern Pacific Ry.*, 216 U. S. 538, 544-45.

Therefore, in the absence of a showing that the applicant failed to comply with any regulation setting minimum standards of financial qualification; in view of the fact that the source of the applicant's money and his relationship to the lender were fully revealed at the hearing; and in view of the fact that the lender was himself a licensee of the Commission, the argument which we have assumed in support of the Commission's decision falls of its own weight. If the loan was *bona fide*, and there is no finding and no evidence to the contrary, it would seem to stand in the same position as any other legitimate plan of financing.

The question then is whether the regulation imposed—by implication at least—in this case was a reasonable one. The Commission argues that the money which the applicant had in bank was unsecured by collateral and hence the lender might satisfy the obligation by taking over the station. What then would be considered safe? Collateral securing a loan might fail, as much of it did during the recent depression; money in bank, belonging entirely to an applicant might be lost by reason of a bank failure; cash in hand or in a safety deposit box might be stolen. We cannot require the impossible in attempting to guarantee safety. The people of the State of Wyoming and of its capital, Cheyenne, are entitled to radio facilities if there be an applicant available and ready to supply them who can satisfy usual and ordinary standards of business safety. In this period of economic uncertainty financing reasonably assured five years in advance would seem to constitute much more than the average of business security. If the standard of financial responsibility required by the Commission in this case were imposed upon the country generally, business would cease. Under the circumstances, can it be said that the action of the Commission was anything but arbitrary, if not capricious? We think not; especially as its own findings were insufficient to support its

conclusions of law and the decision based thereon. *Florida v. United States*, 282 U. S. 194, 212-15.

The discretion which the Commission is directed to exercise is not absolute. The purpose of the statute is to secure to the people of the several states and communities a fair, efficient and equitable distribution of radio service. The Commission is directed by the statute to apply this standard in considering applications for licenses "when and insofar as there is demand for the same" [§ 307(b)]; and, "if public convenience, interest, or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license . . ." [§ 307(a)].

Proper administration of the law by governmental agencies such as the Communications Commission requires careful observance of the procedures established by Congress. For the protection of the people generally, to say nothing of the agencies themselves, convenience of administration cannot be permitted to justify non-compliance with the law, or the substitution of fiat for adjudication. *Interstate Commerce Commission v. Northern Pacific Ry.*, *supra*; *American Sumatra Tobacco Co. v. Securities and Exchange Commission*, (No. 6776, decided September 30, 1937) — F. (2d) —, — App. D. C. —.

The decision, therefore, will be reversed and the case remanded to the Commission with instructions to proceed with the application in conformity with this opinion. This does not mean that it is directed to issue a permit to the appellant. It is not the function of this court "to revise the action of the Commission from an administrative standpoint and to make an administrative judgment . . . the Commission in its further action is to respect and follow the . . . determination of the questions of law" by this court. *Radio Commission v. Nelson Bros.*, 289 U. S. 266, 276, 278.

*Reversed and remanded.*

## FEDERAL TRADE COMMISSION ACTION

### Complaints

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

**No. 3285.** Alleging unfair competition through the use of misleading representations concerning their business, a complaint has been issued against **Albert L. and Leonard Hilkemeyer**, operating the **Dixie Hatcheries** at 2401 Second Ave., **North Birmingham, Ala.**, also trading under the name **Jefferson Farms**.

Although Leonard Hilkemeyer formerly conducted under the name Jefferson Farms a baby chick hatchery at Jefferson Farms near Birmingham, he ceased all operation of such business about June, 1936, according to the complaint. Since that time, it is alleged, the respondents have continued to use the name Jefferson Farms in certain advertisements relating to the business of Dixie Hatcheries. The result allegedly has been to create the impression among buyers that Dixie Hatcheries and Jefferson Farms were

separate and competing businesses, when in fact there was only one business involved, namely, that conducted under the name Dixie Hatcheries.

**No. 3286.** A complaint alleging unfair competition in the sale of hosiery has been issued against **Alfred Boehm, 5-7 White St., New York, trading as Lynx Knitting Company.**

Although purchasing his stock from various manufacturers, Boehm, through the use of the word "Knitting" in his trade name, allegedly advertises his business as that of a manufacturer, when in fact, according to the complaint, he does not own or control factories in which the hosiery he sells is made.

Selling his products chiefly through house-to-house canvassers, the respondent, as an inducement to persons to become his distributors, is alleged to have advertised in "Agents Wanted" columns of magazines to the effect that the hosiery he sells is proof against spots, splashes, and snagging; that it is composed entirely of silk, and that he furnishes his distributors with free sample outfits. The complaint alleges that Boehm hosiery products are not spot, splash or snag-proof; are composed in part of materials other than silk, and that he does not furnish free sample outfits to canvassers, but that they are paid for by the canvassers in cash and by services rendered.

**No. 3287.** Misleading use of the words "satin" and "Pure Dye" in the advertisement of fabrics sold to garment manufacturers is alleged in a complaint issued against **Excello Fabrics, Inc., 118 Madison Ave., New York.**

Advertising matter inserted in newspapers and trade publications and used on labels and placards furnished by the respondent company allegedly contained representations of the respondent company's "Crysglo" fabrics as "Pure Dye", "Satin", and "Pure Dye Satin." Such designations are alleged to have served as representations that the fabrics and the garments made therefrom were silk. According to the complaint, these assertions were misleading because the products referred to were not composed of silk but of materials other than silk.

### Stipulations

The Commission has entered into the following stipulations:

**No. 01972.** **Dayton Laboratories, Inc., trading as Surete Laboratories, 1442 Springfield St., Dayton, Ohio,** will cease advertising that its product designated Surete is an effective contraceptive and will stop using the word "laboratories" as part of its trade name until it owns and operates a laboratory wherein research and scientific tests are conducted by a competent scientist.

**No. 01973.** **Comet Welder Co., Halifax St., Cincinnati,** distributor of Comet Welder, a soldering tool, stipulates that it will discontinue advertising that its product embodies a new scientific principle of welding; that it is a genuine electric arc welder, or an arc welder of any kind; that it produces a white-hot flame, or 7,000 degrees of instant intense heat, and is capable of fusing broken parts permanently stronger than ever. In its stipulation, the respondent company admits that its article is a soldering and brazing tool and will not weld metals.

**No. 01974.** **Etta Campbell and Frances M. Heinzelmann, trading as Heinzelmann Company, 313 East 12th St., Kansas City, Mo.,** agree to discontinue representing that Dr. Heinzelmann's Remedy, also known as Blood Disease Formula, can be used by the sufferer at home with beneficial results regardless of the cause of the ailment or the length of time it has existed. The respondents, who admitted that there is no blood disease for which their preparation could be considered a satisfactory remedy, will cease using the words "Blood Disease Formula" to designate the product.

**No. 01975.** **The Kellogg Company, Battle Creek, Mich.,** will stop advertising that its cereal food designated Kellogg's All-Bran regulates, cleanses or has any other direct effect upon the system; that it is a competent treatment for pimples and wrinkles or for any symptom or condition unless such assertion has been justified by competent scientific evidence, and that it ends constipation. The company also will discontinue representing that any article is given free to a purchaser when, in fact, the price thereof is included in that of another article which must be purchased before one is qualified to receive the gift.

**No. 01976.** **James F. Jordan, trading as Jordan Laboratories, R. R. 3, Ithaca, N. Y.,** will stop advertising that Dr. Jordan's Blood Alterative provides a competent remedy or treatment for high blood pressure, causes pain and suffering to disappear, and is especially prepared to aid in gradually changing the blood pressure to normal so that no violent reaction of the heart

or other organs may occur. The respondent agrees to stop using the word "laboratory" in his trade name until he actually maintains such a place, and will cease using the word "doctor" or the abbreviation "Dr." in connection with his name in advertising his preparation.

**No. 01977.** **Harry Seligman, trading as Harry Treats Company, 1242 South St., Philadelphia,** will discontinue representing that his product Rx 1739 is a competent treatment for diseases of the kidneys or bladder and that his Special "D" Herbal Tonic is an effective remedy for sores, eczema, or nervous excitement. He also will desist from advertising that he conducts a medical clinic.

**No. 01978.** **Carnation Company, 118 Olive St., St. Louis,** is engaged in selling a cleaning preparation, medicinal products and cosmetics. Among the representations it will discontinue in advertising its preparations are that Klenjoy Tablets will remove all stains and lengthen the life of clothes; that Carnation Cough Syrup is a competent treatment for colds, irritations of the throat or coughs, unless limited to coughs due to colds; that Bick's Salve is competent in the treatment of colds, bronchitis, tonsillitis, rheumatic and neuralgia pains, or burns; that either Carnaco Vegetable Oil Soap or Sanisalva Salve is an effective remedy for skin irritations; that Cutivel Cold Cream banishes blackheads or wrinkles or brings about a complete transformation of the skin; that Dixlax Tablets will prevent constipation; that Lanabalm relieves gout, rheumatism, neuralgia or lumbago; that in all cases Bick's Aspirin will not upset the stomach or that its use will leave no harmful effects; that Carnation Dental Cream will keep the gums healthy and prevent acid mouth, and that Carnation Hair Vigor will stimulate hair growth and prevent dandruff.

**No. 01979.** **D. Rogers Stewart, trading as Stewart School, 3555 Aberdeen Ave., Alton, Ill.,** selling a correspondence course in sign painting and lettering, has entered into a stipulation to discontinue representing that any article is given free to a purchaser of his course unless such article is furnished without the payment of money or the rendering of any service.

The respondent also will cease making unmodified representations of earnings in excess of the average earnings achieved under normal business conditions by purchasers of his course.

**No. 01980.** **Estate Stove Co., Hamilton, Ohio,** in the sale of a heating stove called Estate Heatrola, agrees to abandon certain advertising representations comparing its products to those of competitors unless there is clearly explained the type of appliance with which comparison is made and unless such claims have been justified by competent, reliable tests. Among such allegations are that Estate Heatrola will cut fuel costs by any stated amount or percentage and will not consume half as much coal as other heaters. The respondent company will also cease asserting that unless a stove is an Estate Heatrola it will be "half-heating, fuel-eating," and that this product is the one home heater that pays for itself.

**No. 01981.** **Laco Products, Inc., 4201 Philadelphia Ave., Baltimore,** will desist from representing that either Laco Olive Oil or Laco Shampoo feeds the scalp; that Laco restores life to hair or overcomes dry and lifeless hair; that it is made from pure olive oil, and that Laco Shampoo contains only olive oil, soda and water.

**No. 01982.** **L. A. Cocklin, 117 Union St., Griswold, Iowa,** trading as **Laco Oil Burner Co.,** in the sale of his oil burners, agrees to stop asserting that they get every atom of heat from the oil used and will produce any definite amount of heat, unless this is limited in reference to actual results proven by scientific tests. The respondent will also discontinue the representation that he makes the only really big stoves or the biggest stove on the market, unless such allegation is qualified as to the type for which this allegation would be a fact.

**No. 01983.** **The H-A Relief, Inc., 12 Sherman Ave., Mansfield, Ohio,** will discontinue representing that H-A Relief Tablets constitute a competent treatment for asthma or common head cold, and an effective remedy for hay fever or rose cold unless specifically limited to a mild palliative effect.

**No. 01984.** **Otto F. Hempel, 720 White Building, Buffalo, N. Y., trading as The Perno Co. and as The Bee-Cell Co.,** in the sale of the Bee Cell Supporter, advertised for use in treating certain diseases of women, stipulates that he will cease advertising that the product is effective in treating womb trouble, unless this assertion is limited to refer only to uncomplicated prolapsus.

**Nos. 01985-01986.** **Consolidated Drug Trade Products, Inc., 544 South Wells St., Chicago,** selling Calocide, agrees to stop asserting that it is a competent treatment or effective remedy for burning, aching or sore feet and similar ailments, unless the representation is limited to the relief of cases caused or aggravated by conditions for which a mild astringent would constitute an

effective treatment. This company also entered into a stipulation to the effect that it will cease representing McCoy's Cod Liver Oil Extract Tablets as being capable of helping one who is run down, lacks resistance, or is constantly subject to colds, or that it will enable one to gain in weight and strength, except when such representations are properly qualified. According to the stipulation, the claims are to be specifically limited to cases in which the conditions are due to or aggravated by a vitamin deficiency which would be supplied by the administration of the tablets in accordance with directions.

**No. 2107. Perey Manufacturing Co., Inc., 101 Park Ave., New York,** under the trade name Perey Turnstile Co., manufactures fare and admission collection equipment, such as turnstiles, electric fare boxes and roto-gates. It agrees to cease the use in advertisements of tabulations of alleged initial cost comparisons of its "Superstiles" with the electric fare box equipment of competitors when such tabulations contain representations the effect of which is to mislead purchasers into believing the initial cost of such competitive equipment is much in excess of or other than what is actually the fact. The respondent company also stipulates that it will cease employing advertising matter which conveys the impression that the equipment of modern buses, when employing electric fare box apparatus, is such as to necessitate the installation, with its attendant cost, of oversize batteries, special wiring and special generators. The respondent corporation will also discontinue using advertising representations the effect of which is to imply that the use of electric fare boxes sold by competitors will entail expenditure of \$200 to cover the cost of battery replacement over two years, the recharging of batteries and replacement of parts; or that insurance is decreased or savings effected on insurance by use of the Superstile rather than the electric fare box equipment of competitors, when such are not the facts.

**No. 2108. Whitewater Brewing Company, Whitewater, Wis., and Alex Weingart,** in the sale of Badger beer, agrees to cease using on labels or in advertising matter the words "The Pride of Wisconsin" or the word "Wisconsin", alone or in connection with the picture of a map of that State so as to imply that the beer so advertised is brewed in Wisconsin, when such is not a fact. According to the stipulation, Whitewater Brewing Company, which maintains a branch office in Chicago, purchased the beer designated Badger from a Chicago brewer and resold it.

**No. 2109. Joseph Love, Inc., 1333 Broadway, New York,** in advertising its Princess Elizabeth dresses, agrees to cease using in connection with the name "Princess Elizabeth", representations, pictorial or otherwise, and insignia identifying the name with the present British Heir Apparent, the effect of which may tend to lead purchasers to believe that the dresses are of English make or origin or have received the endorsement of a member of the British Royal Family, when such is not a fact. On tags attached to the dresses, according to the stipulation, appeared the words "Authentic Princess Elizabeth Dresses Created by Love" together with pictures of English scenes and insignia and of a girl seated upon a throne, although the dresses so advertised were neither made in England nor endorsed by a member of the British Royal Family.

**No. 2114. Rossman-Weaver Company, Elizabethville, Pa., trading as Blair Shirt Company,** will stop the use on labels attached to shirts it sells of the word "Non-Wilt" so as to imply that the collars are of fused construction or that, because of such implied non-wilt or fused construction, they will retain soft collar comfort and starched neatness and will not curl or wrinkle, when such are not the facts. The company, which has a sales office at 1180 Broadway, New York, will discontinue employing the words "Full Shrunk" or words of similar meaning to describe shirts which have not been pre-shrunk as that term is generally understood by the trade and purchasing public.

### Cease and Desist Orders

The Commission has issued the following cease and desist orders:

**No. 2575. Pennsylvania Whiskey Distributing Corporation,** 135 Johnson St., Brooklyn, N. Y., has been ordered to cease and desist from representing that it is a distiller of whiskey, gin and other spirituous beverages, when such is not a fact.

Under the order, the respondent corporation is prohibited from representing, through use of the abbreviation "Dist." in its corporate name, on labels, or otherwise, that it is a distiller of spirituous beverages, that it manufactures such products through the process of distillation, or that it owns or operates a distillery, unless it actually does own or operate such a place.

**No. 3103. Prohibiting certain unfair methods of competition in the sale of maps,** an order to cease and desist has been issued against **Lawton V. and Henry F. Crocker, of Chester, Vt.,** trading as **The National Survey Co.,** and **The National Survey.**

The order directs these respondents to stop representing through use of the word "Official", alone or in connection with the words "National" or "National Survey" printed on their maps, or in any other manner, that such maps are "Official" publications of or are authorized by Federal or State authorities, unless such maps are in fact official publications of and have been authorized by such authorities.

**No. 3236. Prohibiting certain unfair methods of competition in the sale of furs,** an order to cease and desist has been issued against **Fox-Weis Company,** 1130 Chestnut St., **Philadelphia,** a distributor of furs and fur coats.

In the sale of garments made from dyed muskrat or dyed coney (rabbit) fur, the respondent company, under the order, is directed to cease describing such articles in any other way than by the use of the correct name of the fur as the last word of the description thereof. Findings are that coney and muskrat furs resembling seal were in certain instances advertised as seals without qualification of any kind. In other advertisements, the phrases "dyed coney" or "dyed muskrat" appeared in small type and separated from the seal designations.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### Hearing Calendar

The following hearings in broadcast cases are scheduled before the Commission for the week beginning Monday, January 3.

Thursday, January 6

### ORAL ARGUMENT BEFORE THE COMMISSION

#### Examiner's Report No. I-490:

NEW—Warren B. Worcester, San Diego, Calif.—C. P., 1400 kc., 250 watts, 1 KW LS, unlimited time. *Other participants:* WIRE, Indianapolis, Ind.; KTUL, Tulsa, Okla.; KDON, Monterey, Calif.; KECA, Los Angeles, Calif.; KGB, San Diego, Calif.; Smith, Keller & Cole, San Diego, Calif.; Radiotel Corp., San Diego, Calif.

#### Examiner's Report No. I-493:

NEW—Philadelphia Radio Broadcasting Co., Philadelphia, Pa.—C. P., 1570 kc., 1 KW, unlimited time.  
NEW—Abraham Plotkin, Chicago, Ill.—C. P., 1570 kc., 1 KW, unlimited time. *Other participants:* WFIL, Philadelphia, Pa.; WDAS, Philadelphia, Pa.; WIBG, Glenside, Pa.; WIP, Philadelphia, Pa.; The Journal Co. (Milwaukee Journal), Milwaukee, Wis.; Mid-Atlantic Corp., Washington, D. C.; Trenton Times, Trenton, N. J.

Friday, January 7

### ORAL ARGUMENT BEFORE THE COMMISSION

#### Examiner's Report No. I-399 (Re-argument):

KSFO—The Associated Broadcasters, Inc., San Francisco, Calif.—Voluntary assignment of license to Columbia Broadcasting System of California; 560 kc., 1 KW, unlimited time. *Other participants:* None.

### HEARING BEFORE AN EXAMINER

(Broadcast)

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—C. P., 560 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 560 kc., 500 watts, 1 KW LS, unlimited time (C. P., 1 KW, 1 KW LS, and S.A. 1 KW night). *Other participants:* WMCA, New York, N. Y.; WGR, Buffalo, N. Y.; WIND, Gary, Ind.; WSYR-WSYU, Syracuse, N. Y.; WBZA, Boston, Mass.; WQAM, Miami, Fla.; Pottsville News & Radio Corp., Pottsville, Pa.

NEW—Tri-City Broadcasting Co., Inc., Schenectady, N. Y.—C. P., 950 kc., 1 KW, 1 KW LS, unlimited time. *Other participants:* WABY, Albany, N. Y. (Intervenor); WOKO,

Albany, N. Y. (Intervenor); WRC, Washington, D. C.; WELL, New Haven, Conn.; KMBC, Kansas City, Mo.; WBZ, Boston, Mass.; WBZA, Boston, Mass.; WCSH, Portland, Maine; WAAT, Jersey City, N. J.; WHAL, Saginaw, Mich.; Lawrence K. Miller, Pittsfield, Mass.; Troy Broadcasting Co., Inc., Troy, N. Y.; Citizens Broadcasting Corp., Schenectady, N. Y. (Intervenor).

WLBL—State of Wisconsin, Department of Agriculture and Markets, Stevens Point, Wis.—Modification of license, 900 kc., 1 KW, 5 KW LS, specified hours 6 a. m. to 10 p. m., CST. Present assignment: 900 kc., 5 KW, daytime. *Other participants*: WSJS, Winston-Salem, N. C.; WBEN, Buffalo, N. Y.; WTAD, Quincy, Ill.; WJAX, Jacksonville, Fla.; WKY, Oklahoma City, Okla.

WILL—University of Illinois, Urbana, Ill.—C. P., 580 kc., 5 KW, daytime. Present assignment: 580 kc., 1 KW, daytime. *Other participants*: WDBO, Orlando, Fla.; WIND, Gary, Ind.; WTAG, Worcester, Mass.; WCHS, Charleston, W. Va.; Wm. F. Huffman, Wisconsin Rapids, Wis.

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

January 14

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-526:

Earl J. Smith and William Mace, d/b as Smith & Mace, Saranac, New York.—Voluntary assignment of license to Upstate Broadcasting Corp.; 1290 kc., 100 watts, daytime.

January 24

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-395 (Re-argument):

NEW—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—C. P., 1570 kc., 1 KW, unlimited time.

NEW—Mid-Atlantic Corporation, Washington, D. C.—C. P., 1570 kc., 1 KW, unlimited time.

NEW—The Trenton Times, Trenton, N. J.—C. P., 1570 kc., 250 watts, unlimited time.

NEW—The Trenton Times, Trenton, N. J.—C. P., 1570 kc., 250 watts, unlimited time.

NEW—The Trenton Times, Trenton, N. J.—C. P., 1570 kc., 250 watts, unlimited time.

##### Examiner's Report No. I-412 (Re-argument):

NEW—Pacific Acceptance Corp., San Diego, Calif.—C. P., 1200 kc., 100 watts, daytime.

##### Examiner's Report No. I-327 (Re-argument):

NEW—Smith, Keller & Cole, San Diego, Calif.—C. P., 1200 kc., 100 watts, daytime.

##### Examiner's Report No. I-505:

NEW—The Colonial Network, Inc., Providence, R. I.—C. P., 720 kc., 1 KW, limited time.

##### Examiner's Report No. I-388:

NEW—Cumberland Broadcasting Co., Inc., Portland, Maine.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Twin City Broadcasting Co., Inc., Lewiston, Maine.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Philip J. Wiseman, Lewiston, Maine.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Harriett M. Alleman and Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., Barnstable Township, Mass.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

NEW—George M. Haskins, Hyannis, Mass.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Arthur E. Seagrave, Lewiston, Maine.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

February 3

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-397 (Re-argument):

NEW—The Metropolis Company, Jacksonville, Fla.—C. P., 1290 kc., 250 watts, unlimited time.

##### Examiner's Report No. I-461:

NEW—Ann Arbor Broadcasting Co., Inc., Ann Arbor, Mich.—C. P., 1550 kc., 1 KW, unlimited time.

##### Examiner's Report No. I-417 (Re-argument):

WSOC—WSOC, Inc., Charlotte, N. C.—C. P., 600 kc., 250 watts, 1 KW LS, unlimited time. Present assignment: 1210 kc., 100 watts, 250 watts LS, unlimited time.

##### Examiner's Report No. I-127 (Re-argument):

NEW—Bellingham Publishing Co., Bellingham, Wash.—C. P., 1420 kc., 100 watts, unlimited time.

##### Examiner's Report No. I-431:

NEW—Curtis Radiocasting Corp., Indianapolis, Ind.—C. P., 1500 kc., 100 watts, 250 watts LS, specified hours.

WKBV—Knox Radio Corporation, Richmond, Ind.—Modification of license, 1500 kc., 100 watts, unlimited time. Present assignment: 1500 kc., 100 watts, specified hours.

February 4

#### HEARING BEFORE AN EXAMINER

(Broadcast)

WCLS—R. W. Hoffman, Transferor, and L. W. Wood, Transferee, Joliet, Ill.—Transfer of control of corporation; 1310 kc., 100 watts, specified hours.

KRQA—J. Laurance Martin, Assignor, and I. E. Lambert, Assignee, Santa Fe, N. Mex.—Voluntary assignment of license; 1310 kc., 100 watts, unlimited time.

WRTD—The Times Dispatch Pub. Co., Inc., Assignor, and Times Dispatch Radio Corp., Assignee, Richmond, Va.—Voluntary assignment of license; 1500 kc., 100 watts, unlimited.

February 11

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-439:

NEW—Chase S. Osborn, Jr., Fresno, Calif.—C. P., 1440 kc., 500 watts, unlimited time.

##### Examiner's Report No. I-507:

KRE—Central California Broadcasters, Inc., Berkeley, Calif.—C. P., 1440 kc., 500 watts, 1 KW LS, unlimited time. Present assignment: 1370 kc., 100 watts, 250 watts LS, unlimited time.

February 17

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-509:

NEW—The Louisville Times Co., Louisville, Ky.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—S. O. Ward and P. C. Ward, d/b as Louisville Broadcasting Co., Louisville, Ky.—C. P., 1210 kc., 250 watts, daytime.

##### Examiner's Report No. I-510:

NEW—Southwest Broadcasting Co., Prescott, Ariz.—C. P., 1500 kc., 100 watts, 250 watts LS, unlimited time.

NEW—W. P. Stuart, Prescott, Ariz.—C. P., 1500 kc., 100 watts, unlimited time.

##### Examiner's Report No. I-512:

NEW—Harry Schwartz, Tulsa, Okla.—C. P., 1310 kc., 250 watts, daytime.

##### Examiner's Report No. I-513:

NEW—Clark Standiford, L. S. Coburn and A. C. Sidner, Fremont, Nebr.—C. P., 1370 kc., 100 watts, unlimited time.

February 18

#### ORAL ARGUMENT BEFORE THE COMMISSION

##### Examiner's Report No. I-517:

NEW—Standard Life Insurance Company of the South, Jackson, Miss.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

##### Examiner's Report No. I-518:

NEW—Arthur Lucas, Savannah, Ga.—C. P., 1310 kc., 100 watts, unlimited time.

February 24

ORAL ARGUMENT BEFORE THE COMMISSION

Examiner's Report No. I-521:

NEW—The Birmingham News Company, Birmingham, Ala.—C. P., 590 kc., 1 KW, unlimited time.

Examiner's Report No. I-522:

NEW—Radio Station WFNC, C. Frank Walker and Waldo W. Primm, Fayetteville, N. C.—C. P., 1210 kc., 250 watts, daytime.

NEW—Capitol Broadcasting Co., Inc., Raleigh, N. C.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. I-524:

KQV—KQV Broadcasting Company, Pittsburgh, Pa.—C. P., 1380 kc., 1 KW, unlimited time. Present assignment: 1380 kc., 500 watts, simultaneous day WSMK, shares hours at night.

WSMK—WSMK, Inc., Dayton, Ohio.—C. P., 1380 kc., 250 watts, 500 watts LS, unlimited time. Present assignment: 1380 kc., 200 watts, simultaneous day KQV, specified hours night.

February 25

ORAL ARGUMENT BEFORE THE COMMISSION

Examiner's Report No. I-435:

NEW—West Texas Broadcasting Co., Wichita Falls, Tex.—C. P., 1380 kc., 1 KW, unlimited time.

NEW—Wichita Broadcasting Co., Wichita Falls, Tex.—C. P., 620 kc., 250 watts, 1 KW LS, unlimited time.

NEW—Faith Broadcastng Co., Inc., Wichita Falls, Tex.—C. P., 1380 kc., 1 KW, 5 KW LS, unlimited time.

KFPL—C. C. Baxter, Dublin, Tex.—Voluntary assignment of license to WFTX, Inc.; 1310 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts (C. P., 250 watts LS), unlimited time.

KFPL—WFTX, Inc., Wichita Falls, Tex.—C. P., 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts (C. P., 250 watts LS), unlimited time.

The Commission has taken the following action:

WCBA—B. Bryan Musselman, Allentown, Pa.—Granted motion to continue hearing date on application for renewal of license application (Docket No. 4568) from January 5, 1938, to approximately six weeks from present hearing date.

WSAN—WSAN, Inc., Allentown, Pa.—Granted motion to continue hearing date on application for renewal of license application (Docket No. 4569) from January 5, 1938, to approximately six weeks from present hearing date.

NEW—Colonial Broadcasting Corp., Norfolk, Va.—Granted petition authorizing taking of depositions at Room 1015 Bank of Commerce Building, Norfolk, Virginia, beginning 10:00 o'clock a. m., January 3, 1938, in re application for new station at Norfolk, Virginia, 1370 kc., 100 watts, 250 watts LS, unlimited time (Docket No. 4903).

KSFO—The Associated Broadcasters, Inc., San Francisco, Calif.—Granted petition of The Associated Broadcasters, Inc. (KSFO) assignor, and Western Broadcast Company (now Columbia Broadcasting System of California), assignee, (consent to voluntary assignment of license (Docket No. 4208) for enlargement of time for oral argument from thirty minutes to one hour (January 7, 1938).

NEW—Joe L. Smith, Beckley, W. Va.—Granted request of applicant to take depositions at the office of the president of the Beckley National Exchange Bank, 40 Main Street, Beckley, West Virginia, beginning at 9 a. m. on January 10, 1938, in re application for a new station at Beckley, West Virginia, 1210 kc., 100 watts, 250 watts LS, unlimited time (Docket No. 4905).

WRDO—WRDO, Inc., Augusta, Maine.—Designated for hearing application for renewal of license and granted temporary license pending hearing and decision.

W8XNR—West Virginia University, Morgantown, W. Va.—Granted temporary authority to operate for research purposes only, pending submission and consideration of formal application for the period December 27, 1937, to January 29, 1938.

WCAU Broadcasting Co., Philadelphia, Pa.—Granted special temporary authorization to operate a relay broadcast transmitter aboard the aircraft NC-18433, on the frequency 2790 kc., for test transmission on December 24, 1937, relay

broadcast program consisting of arrival of Santa Claus and reindeer in Philadelphia and being towed over city by airplane and to be rebroadcast by Station WCAU.

KADA—C. C. Morris, Ada, Okla.—Granted special temporary authorization to operate from local sunset (December sunset, 5:15 p. m.), December 31, 1937, to 2:30 a. m., CST, January 1, 1938, in order to broadcast special New Year's Eve program on Mutual Broadcasting System and Okla. network; also operate from local sunset (January sunset, 5:45 p. m.) to 10:30 p. m., CST, January 2, 9, 16, 23, 30, 1938, in order to broadcast Old Fashioned Revival.

WPG—City of Atlantic City, Atlantic City, N. J.—Granted special temporary authorization to operate from 11 p. m., December 31, 1937 to 12:30 a. m., EST, January 1, 1938, in order to broadcast special dance music, featuring suitable New Year's greetings (provided station WBIL remains silent).

The Commission (by Sykes, Commissioner) also took the following action:

WRAX—WRAX Broadcasting Co., Philadelphia, Pa.—Granted extension of special temporary authorization to increase power to 1000 watts night in order to counteract interference caused by station CMX, Havana, Cuba, WWJ, Detroit, Michigan, KPRC, Houston, Texas, for the period beginning December 30, 1937, and ending in no event later than January 29, 1938.

WAPI—Alabama Polytechnic Institute, University of Alabama and Alabama College (Board of Control of Radio Broadcasting Station WAPI), Birmingham, Ala.—Granted special temporary authorization to operate simultaneously with station KVOO with reduced power of 1 KW, from 5:30 p. m. to conclusion of Rose Bowl football game (approximately 7 p. m., CST), January 1, 1938.

KVOO—Southwestern Sales Corp., Tulsa, Okla.—Granted special temporary authorization to operate simultaneously with Station WAPI with reduced power of 1 KW, from 5:30 p. m. to conclusion of Rose Bowl football game (approximately 7 p. m., CST), January 1, 1938.

WFIL—WFIL Broadcasting Company, Philadelphia, Pa.—Granted special temporary authorization to operate on 560 kc., with power of 1 KW night for the period beginning January 1, 1938, and ending in no event later than January 31, 1938, inclusive, pending filing of and action on license application to cover construction permit for this authority.

WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authorization to operate from 8 a. m. to 10:30 a. m. and from 12:30 p. m. to 3:30 p. m., CST, January 1, 1938, in order to broadcast special New Year's Day program.

KPAC—Port Arthur College, Port Arthur, Texas.—Granted special temporary authority to operate from 5:15 p. m. to 12 midnight, CST, December 29, 1937, in order to broadcast the Port Arthur High School football game by remote control from the stadium in Phoenix, Arizona.

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—Granted special temporary authority to operate with reduced power of 100 watts for the period beginning December 26, 1937, and ending in no event later than December 31, 1937, in order to give radio audience continuous service while moving equipment to new site.

WMAZ—The Southeastern Broadcasting Co., Macon, Ga.—Granted petition of WMAZ to take depositions in opposition to the application of radio Station WKEU to move from Griffin to Macon, Georgia, and change from 1500 kc., 100 watts, daytime to 1310 kc., 100 watts, 250 watts LS, unlimited time, Docket No. 4894, in the offices of Miller & Lowrey, 515 Georgia Casualty Building, Macon, Georgia, beginning at 10:00 a. m., January 6, 1938.

WPEN—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Granted extension of special temporary authorization to increase power to 1000 watts night in order to counteract interference caused by station CMX, Havana, Cuba, WWJ, Detroit, Mich., KPRC, Houston, Texas, for the period beginning December 30, 1937, and ending in no event later than January 29, 1938.

KGU—Marion A. Mulrony & Advertiser Pub. Company, Honolulu, Hawaii.—Granted special temporary authority to operate for a period of forty-five minutes between 11 p. m. and 12 midnight, LST, December 31, 1937, in order to broadcast Happy New Year's special program.

WJBO—Baton Rouge Broadcasting Company, Inc., Baton Rouge, La.—Granted request to take depositions at the Court of

Appeals Room, State Capitol Building, Baton Rouge, Louisiana, beginning at 10 a. m., January 6, 1938, in re Docket No. 4908.

**KMLB**—Liner's Broadcasting Station, Inc., Monroe, La.—Denied petition asking authority to include in the record "the improved and expanded" program service of station in re application for C. P. to use **630 kc.**, 500 watts, unlimited time. This station now operates on **1200 kc.**, 100 watts night, 250 watts day, unlimited time.

**WKEU**—Radio Station WKEU, Macon, Ga.—Granted motion for 60-day continuance of hearing now scheduled for January 18, 1938, in re application for C. P. to use **1310 kc.**, 100 watts night, 250 watts day, unlimited time, Docket No. 4894. This station now operates on **1500 kc.**, 100 watts, daytime only.

**Pinellas Broadcasting Co.**, St. Petersburg, Fla.—Granted authority to take depositions of certain witnesses at St. Petersburg, Florida, on January 7, 1938, in re application for new station at St. Petersburg to use **1370 kc.**, 100 watts night, 250 watts day, unlimited time, Docket No. 4902. Hearing on application now scheduled for January 17, 1938.

**Geo. H. Payne**, San Jose, Calif.—Denied motion to vacate order issued December 16, 1937, granted Floyd A. Parton authority to take depositions in re Parton's application for C. P. to establish a new broadcast station at San Jose to use **1170 kc.**, 250 watts, daytime, Docket No. 4560.

**WIBA**—Badger Broadcasting Co., Inc., Madison, Wisc.—Granted petition to intervene at hearing of application of Madison Broadcasting Company for C. P. for new broadcasting station at Madison, Wisconsin, to use **1450 kc.**, 250 watts, unlimited time. Docket No. 4906.

**E. Devore Andrews and Mrs. Annie L. Andrews**, d/b as Greater Greenwood Broadcasting Station, Greenwood, S. C.—Granted authority to take depositions at Greenwood, S. C., beginning at 10:00 a. m., January 10, 1938, in re application for new broadcast station to use **1420 kc.**, 100 watts night, 200 watts day, unlimited time, Docket No. 4907. Hearing on application scheduled for January 17, 1938.

**Constitution Publishing Co.**, Atlanta, Ga.—Granted motion for continuance of hearing scheduled for January 19, 1938, to an indefinite date, in re application for a new broadcast station at Atlanta to use **1240 kc.**, 1 KW night, 5 KW day, unlimited time, Docket No. 4912.

**KWLK**—Twin City Broadcasting Corp., Longview, Wash.—Granted extension of time within which to file request for approval of transmitter site and antenna system from December 19, 1937, to January 18, 1938.

**WMBQ**—Joseph Husid, receiver for Metropolitan Broadcasting Corp., Brooklyn, N. Y.—Granted special temporary authorization to operate radio station WMBQ for the period beginning December 30, 1937, and ending in no event later than January 28, 1938, pending action upon any applications affecting station WMBQ.

**WQDM**—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted special temporary authorization to operate from 9:45 p. m., December 31, 1937, to 2 a. m., EST, January 1, 1938, using power of 500 watts,

in order to broadcast principal features of program of the Forty and Eight organization, which is a branch of the American Legion and the American Legion Auxiliary.

**KGGC**—The Golden Gate Broadcasting Co. (Robt. J. Craig), San Francisco, Calif.—Granted special temporary authorization to operate from 11 p. m., December 31, 1937, to 6 a. m., PST, January 1, 1938, in order to broadcast special program on New Year's Eve, in cooperation with the Traffic Bureau of the San Francisco Police Department.

## APPLICATIONS RECEIVED

### First Zone

**WLAW**—Hildreth & Rogers Co., Lawrence, Mass.—License to **680** cover construction permit (B1-P-1058) as modified, for a new station.

**WESG**—Cornell University, Elmira, N. Y.—Extension of special **850** experimental authorization to operate on **850 kc.**, daylight to sunset at New Orleans, Louisiana for period 2-1-38 to 8-1-38.

**NEW**—Community Broadcasting Service, Inc., Area of Bangor, Maine.—Construction permit for a new experimental relay broadcast station to be operated on **31100, 34600, 37600, 40600 kc.**, 12 watts.

### Second Zone

**WBCM**—Bay Broadcasting Co., Inc., Bay City, Mich.—Construction permit to install a new transmitter. **1410**

**WCBA**—B. Bryan Musselman, Allentown, Pa.—Modification of **1440** license to change power from 500 watts to 1 KW.

**W8XWJ**—The Evening News Assn., Detroit, Mich.—Construction permit to install a new transmitter and increase power from 100 watts to 500 watts.

**NEW**—The Evening News Assn., Mobile (throughout U. S.)—Construction permit for a new relay broadcast station to be operated on **38900, 39100, 39300, 39500 kc.**, 1.5 watts.

**NEW**—The Evening News Assn., Mobile (throughout U. S.)—Construction permit for a new relay broadcast station on **1606, 2022, 2102, 2758 kc.**, 100 watts.

### Third Zone

**WBBZ**—Adelaide Lillian Carrell, Rep. of Estate of Charles Lewis **1200** Carrell, Ponca City, Okla.—Involuntary assignment of license from C. L. Carrell to Adelaide Lillian Carrell, Executrix of Estate of Charles Lewis Carrell, Deceased.

**NEW**—P. W. Spencer, Rock Hill, S. C.—Construction permit for **1500** a new station to be operated on **1500 kc.**, 100 watts, daytime.

### Fourth Zone

No Applications.

### Fifth Zone

No Applications.



# The National Association of Broadcasters

NATIONAL PRESS BUILDING \* \* \* \* \* WASHINGTON, D. C.  
 JAMES W. BALDWIN, Managing Director

## NAB REPORTS

Copyright, 1937. The National Association of Broadcasters

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 DEC. 31, 1937

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JUNE 21, 1937

(Monday Morning)

The opening meeting of the Fifteenth Annual Convention of the National Association of Broadcasters, held in the Ballroom, Hotel Sherman, Chicago, convened at 10:30 o'clock, President C. W. Myers (KOIN, Portland, Oregon) presiding.

**PRESIDENT MYERS:** The fifteenth annual convention of the National Association of Broadcasters is called to order.

We are very sorry to be a little late. The Federal Communications Commission apparently doesn't have as much control over the B. & O. as it does over some of us fellows and the Judge's train was a little off frequency this morning. (Laughter.)

I now have the pleasure of introducing the Hon. Edward J. Kelly, Mayor of the City of Chicago. (Applause.)

**EDWARD J. KELLY** (Mayor, City of Chicago): Mr. President and members of the National Association of Broadcasters:

It is rather difficult to make a speech on this occasion because of this critical audience and it will just be my purpose to have conversation with you and make the record right in that the Mayor of Chicago opened this convention.

We appreciate the fact that you have come here. We want just this kind of convention in Chicago so that you may learn about our city and we do feel that if you know the truth about it, that the rest of the world will also know it.

We want you to enjoy yourself. We want you to have every kind of fun. The key of the city is over at the city hall any time that you want it. We want you to let us know if anything goes wrong, whether it be in hotel accommodations or anything else. We want to know if the police and public officials treat you as you should be treated.

We want to thank you for the good work you have done not only for the great companies you represent but for the great country in which you live.

We thank you for keeping the radio business clean. We thank you for making it an educational institution as well as a great commercial organization. And, as Mayor of Chicago, I extend to you a welcome which is right from the heart. We hope in your next session you will feel so gratified and feel that you had such a good time that you will want to come back.

We trust that you will see everything there is to be seen here. We have many museums and ways of enjoying yourself in the sporting field. We have many nice drives. We consider ourselves the youngest largest city in the world and those of you who are not acquainted with the city will probably find it is everything I say it is.

I take it that most of you have been here and most of you who are interested in other cities are interested in the building up of the whole country. I take it you are all interested in the prosperity that must come to this country and you do much in that direction and have done much, and I want to thank you for that and also hope that you will continue on in that direction.

Again thanking you for coming and hoping we may be of some service to you while you are here, the City of Chicago is just in waiting for you to ask them to do something for you. (Applause.)

**PRESIDENT MYERS:** Thank you very much, Mayor Kelly, for those words of welcome and we assure you we always find it a pleasure to accept your hospitality.

I now recognize Mr. Frank Bering, Manager of the Hotel Sherman.

**FRANK BERING** (General Manager, Sherman Hotel, Chicago): Mr. President and members of the National Association of Broadcasters:

We at Hotel Sherman, in having your Association meet at Hotel Sherman, I want you all to have a very fine time. If there is anything any of you want, if you don't get it, it is because you don't let us know. Our staff is at your service.

And to you, Mr. President, it gives me great pleasure to present this gavel. May it serve you well in your deliberations and when you take it home, may it serve as a memento of the greatest convention your Association has ever held.

**PRESIDENT MYERS:** I am at a loss for words to express my appreciation but I assure you it will always bring back fond memories of Chicago and Hotel Sherman.

The next item on the program is the so-called address of your President.

Members of the National Association of Broadcasters and Guests:

It is my belief that the year 1937 will come to be recognized as one of the most important and critical years in the history of radio broadcasting. I make this prophecy not because of the things which have actually materialized but because of the seeds which have been sown for future harvest. Also I start with the premise that our failure to recognize the existence of industry problems will not solve those problems.

We find an industry threatened today with exorbitant state and federal taxes, class legislation, governmental operation of radio broadcasting stations, and with various parasitical groups.

Some of us in these days of comparative prosperity may be inclined to overlook the warning signals ahead. Adequate appreciation of these impending problems will show the only solution to be in a constantly improved public service and freedom from the influences of the parasitical groups whose selfish interests are a constant menace to progress.

Thanks to your confidence, the National Association of Broadcasters has continued to grow and with the largest membership in its history, today stands as a bulwark in the defense of the American system of broadcasting.

Now, a word concerning the bill in the federal Congress to construct and operate a government broadcasting station. The existing system of broadcasting in the United States, and particularly the facilities of the network companies, now makes available to the various departments of the government all the facilities and time that possibly can be desired for broadcasting either foreign or domestic programs; and it affords to the departments of the government the greatest possible radio audiences. Fortified with such facts, the NAB is prepared to oppose vigorously any legislation designed to put the government in the broadcasting business.

With reference to the proposal to divorce radio and newspaper ownership, we must not lose sight of one of the first laws of radio service, namely, that the test of fitness is the measure of service rendered. Good newspapers who operate radio stations in the best interests of their community should no more be restricted from ownership than the wagon makers of old should have been restricted from the manufacture of automobiles. If certain practices indulged in by a few newspaper owners of radio stations should be condemned, it does not follow that the dangers of such a situation cannot be overcome or that all newspapers should be penalized for the action of a few. The Commission, with very broad powers to revoke licenses, has the power to remedy any situation that is not in the public interest. I submit to you that the need is not for class legislation. The need is for a strong Commission, free from outside influences. Under such conditions licensees will be rewarded or penalized according to merit. Under any other system, the present structure of broadcasting cannot long endure.

The Association has vigorously opposed the activities of certain parasitical groups such as the American Society of Recording Artists and the National Association of Performing Artists. These organizations, as you well know, have attempted to impose new and additional license fees on you. The results of a careful legal investigation of these organizations have been furnished to the members. Moreover, legal counsel has been engaged to assist in litigation which has resulted from these organizations' activities, in order that all cases might be treated uniformly.

The Managing Director in his report will furnish detailed information in respect to the volume of tax measures which have confronted broadcasters during the last year. These have required constant vigilance. We may expect similar legislative efforts in the future. Of the greatest importance are the state copyright laws enacted during the year in the states of Montana, Washington, Nebraska, Tennessee and Florida. All of these laws are threatened with extensive litigation. Your Board of Directors in April decided that the Association should assist the broadcasters in the states of Montana and Washington, in the defense of their state copyright laws. Acting on that authority from the Board of Directors, your Executive Committee completed arrangements last week for the retention of Alfred Scheppe, formerly dean of the Washington State University Law School, to represent the Association in these cases. Based on the experiences gained in these cases, Mr. Scheppe, acting through the offices of the NAB, will advise and counsel with members of the Association in other states concerning proposed state copyright legislation.

Also in the field of legislation the NAB is concerned with the

so-called Duffy Copyright Bill in the Federal Congress. This bill and related measures are of great importance to all users of music. The necessity of amending the Copyright Act of 1909 has been greatly emphasized this year by the actions of the Foreign Relations Committee of the United States Senate in connection with the International Copyright Treaty. Experts tell us that if the United States becomes an adherent to the International Copyright Treaty before we obtain an amendment to our domestic law, we may expect chaos in the broadcasting industry. So far during the current session of Congress matters of great national import have overshadowed and thereby delayed progress in the consideration of national copyright legislation. Earlier in my term I attempted to recruit a member from each of the forty-eight states who, I thought, would be representative of all the broadcasters in his state, with the thought that these forty-eight men should serve as a legislative committee, particularly in respect to copyright legislation. There were certain gaps in this committee which have not yet been filled and I have not formally appointed the members because of the demands which have been made upon our national legislators for consideration of important national questions. As soon as the legislative situation in Congress appears to warrant it, I specifically urge that such a committee be appointed.

At this point I want to emphasize that legislative action is not the only solution to our copyright problems. Above all others, in my opinion, is the relief offered by the Bureau of Copyrights. Here is an activity in which the entire industry can join in constructive and non-controversial effort. What your Washington office has accomplished in a few short months seems almost beyond belief and yet the proof is here in the form of approximately four hundred musical selections of tax-free music ready for use in the form of manuscript and electrical transcriptions. You will hear more about this from your Managing Director, and you will have the opportunity to hear the recorded music at this convention.

With four hundred selections or twenty continuous playing hours of tax-free music already recorded, and five hours more ready to record, the Bureau of Copyrights is just beginning. So far this library consists principally of public domain music. But, this is just the beginning. With the magic of radio ready to popularize their tunes, many popular song writers may soon seek to use the Bureau of Copyrights as an outlet for the radio performance rights of their music. Think what this can mean to the broadcasting industry within two or three years! There are some stations represented here today who do not need this music at present. Certainly there are many stations that can get along without it for some time to come, but hundreds of stations can use it to advantage now. It is available to all of you. With all stations co-operating, this library soon can be good enough and big enough for any station in the country. I have had the opportunity of hearing samples of the Bureau's transcribed library and I have subscribed for the service. You have the same opportunity at this convention and remember that copyright is a problem which must be solved by the industry as a whole and not by any private interests, either within or without the NAB. Let us please remember this and pull together for the Bureau of Copyrights.

A subsequent speaker will discuss with you the progress that has been made this year by the Federal Radio Education Committee. I want to take this opportunity to thank the members of the NAB for the co-operation which they have extended to local schools and colleges, and civic organizations. Happily, the broadcasters and the educators are learning how to co-operate with each other. This is the only way in which this problem can be solved.

In the field of international affairs, your Association has participated in the meeting of the CCIR held this year in Bucharest, Roumania. This meeting, preparatory to the World Radio Congress which will be convened in Cairo late in the year, will be the subject of discussion at the session scheduled Tuesday afternoon under the auspices of the Engineering Committee. Of even greater importance in the international field was the North American Conference held in March of this year in Havana, and the future conference, which is expected to be held in that city this fall. I need not emphasize here the importance of our country concluding satisfactory treaty arrangements with Canada, Cuba and Mexico.

And now some words of commendation! The disastrous floods which engulfed a large portion of our country at the beginning of the year illustrated graphically the resourcefulness of radio broadcasting and its devotion to public service. At a time when chaos, hunger and disease threatened on all sides, when practically all

methods of transportation were disrupted, and when all other means of communication failed, radio came to the rescue. Radio directed intelligently the relief efforts of those thousands of service men and private citizens who otherwise would have been in hopeless confusion. Radio brought the stark realities of this disaster vividly to the attention of the people outside the stricken areas, and enlisted their assistance in raising funds and obtaining supplies for the relief of those in distress. I shall not attempt to add to the eulogies which already have been so deservedly accorded to the many radio technicians, engineers, announcers and others for their many feats of heroism and sacrifice by which they have written a glorious chapter in the history of radio broadcasting.

Finally, in some of the important matters which have arisen during the last year, such as the October Engineering Hearing, there have been such conflicting interests among our membership that it was impossible for the Association to take a position which would fairly represent the interests of all the members. In these cases, rather than support the side of a single faction, we have endeavored to render the greatest possible service through keeping all the members fully informed as to what is happening. In this manner, the work of the Association has been concentrated upon projects in which the entire industry can unite, and in this manner I have endeavored to serve my term as your President in the best interests of all. I am most appreciative for the co-operation extended to me by the officers and directors and members of the Association and I want particularly to commend the splendid work of your Managing Director, Jim Baldwin.

I thank you. (Applause.)

It is now my pleasure to introduce a gentleman you all know who has spoken before, to whom you always listen with the greatest pleasure and interest. He is the dean of all radio commissioners. He is a former member of the Supreme Court in the state of Mississippi. He is the daddy of the Law Division of the Commission. He has been closer to the development of all legal theories concerning radio than any other one person. It is now my pleasure to present the Chairman of the Broadcast Division of the Federal Communications Commission, Judge Eugene Octave Sykes.

(The convention arose and applauded.)

EUGENE OCTAVE SYKES (Chairman, Broadcast Division of the Federal Communications Commission, Washington, D. C.): Mr. President, Members of the Association, Ladies and Gentlemen:

I deem it an honor and a privilege to address you upon this occasion. I congratulate and rejoice with you upon the successful work your Association has done during the past year. I also am happy over the prosperous year you have enjoyed as broadcasters.

I wish to talk to you this morning about the duty and responsibility of the broadcaster. In legislating upon this subject, our government, contrary to that of most of the countries of the world, decided to license persons to render this service rather than for governmental ownership and operation. The entire theory of the Radio Act and its successor, the Communications Act, is that broadcasting licensees are made trustees of the federal government to render a public service to the communities their stations serve; that this license is a privilege granted by the government for just such time as this service is rendered and in no way constitutes a vested right to the use of a frequency. For instance, quoting a part of section 301 of the Act: "It is the purpose of the Act \* \* \* to maintain the control of the United States over all the channels of the interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license."

And in this connection may I also call to your attention section 304 of this Act which reads as follows:

"No station license shall be granted by the Commission until the applicant therefor shall have signed a waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise."

Section 307 (a) provides that:

"The Commission, if public convenience, interest or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license provided for by this Act."

Section 309 is an important section and I quote it in full:

"(a) If upon examination of any application for a station license or for the renewal or modification of a station license the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said find-

ing. In the event the Commission upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe.

"(b) Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject.

"(1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein.

"(2) Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act.

"(3) Every license issued under this Act shall be subject in terms to the right of use or control conferred by section 606 hereof."

Section 606, referred to in the last paragraph, is the war emergency section providing for the taking over of these facilities by the President if he deems wise during the period of war.

The criterion set up in this law for the issuance and for renewal of licenses is "if public convenience, interest or necessity will be served thereby", or as stated in another section of the Act if "the Commission shall determine that public interest, convenience or necessity would be served by the granting thereof". In the one phrase, the word "convenience" is placed first, while in the other the word "interest". However they mean the same thing.

While another section of the Act expressly states that a broadcasting station is not a common carrier yet by the terms of the Act above quoted and by its very nature, it is a business clothed with public interest.

The Commission, having determined that you are a proper party to serve the public of your community and having granted you this gracious privilege in the form of a license, this duty then devolves upon you to render the best public service to your community that you can. You assume, by the acceptance of this license, a great responsibility of public service. How then is the best way in which you can fulfill this duty and responsibility? You are thereby accorded a wonderful opportunity for service which necessarily carries with it a grave responsibility. You are invited to enter the homes and firesides of your listening public for practically sixteen hours a day. These programs reach the men, women and children of the entire nation. They reach those who are now steering the destinies of our communities, state and nation, and those who are being trained to assume these reins of government when the present actors pass from the stage. These thoughts should ever be present with you and your programs should be so built that our younger generations who have the privilege of listening to the radio should be improved and be better equipped for their responsibility to be so soon assumed by them.

While under our plan of broadcasting the stations must be self-supporting by their sale of time, yet you must bear in mind that this is but an incident and that your main object and purpose is one of public service. In fact, the better service you render, the more popular becomes your station and the larger becomes your listening audience, hence the easier for you to obtain the necessary advertisement.

You are still a young industry and federal regulation thereof is still young. Yet within this period of a little over ten years we have seen a wonderful growth in the industry and have had wonderful improvements not only from a technical nature but also in the programs and the character of public service being rendered. Yet, like all other young industries, there is room for greater improvement not only in our regulation of this art and industry but in the nature and character of the programs of the stations. The best answer to make to those who are not satisfied with our American system of broadcasting is to render such a wonderful public service that these critics may, in the course of time, be silenced. The needs of our various communities differ. Therefore, what will be a public service in one community might not be in another. You should carefully familiarize yourself with your communities and see what local service you may render them and since your programs are going into these homes, you must consider good taste. Certainly when broadcasting a dinner program it should not be interspersed with advertising announcements which would tend to destroy the appetites of this audience. You must be just and fair to everyone in your community and your editorial policy should be one to bring about closer co-operation and not to stir up strife therein. You should build up and not tear down.

I now desire to congratulate you upon the great and unique public service you rendered during the flood on the Ohio and Mississippi

Rivers last February. The broadcast stations were a source of inestimable assistance in preventing loss of life and property, and by keeping the public posted on the exact stage of the flood, broadcast stations offer a very excellent means of acquainting the public almost instantly with any message the relief authorities may desire to disseminate. Many stations co-ordinated emergency units, procured supplies, directed relief activities, and raised many thousands of dollars through appeals to the public for the Red Cross. While broadcast stations were not alone in rendering this valuable service, they did their share and must be complimented highly for the efficient manner in which this service was rendered. Our engineers are now studying plans for the better co-operation of all radio facilities and relief organizations in times of emergencies. I feel sure we can always count on the broadcasters co-operating fully and to do their share. Service of this character is indeed public service of the highest order and which service I am sure was appreciated by our entire citizens.

Another public service in which progress is being made is that of the Committee on Federal Radio Education headed by Dr. J. W. Studebaker, Commissioner of Education, and composed of an equal number of broadcasters and educators. I shall not go into the details of the work of this committee and its numerous subcommittees as I imagine Mr. Baldwin, your very able Managing Director, will make some report of it to you at some of your meetings. I understand, however, that two of the large foundations are very much interested and are willing to help materially in financing the work of this committee. I believe a successful conclusion of the labors of this committee will be of the greatest benefit to both radio and education.

At this point I should like to refer briefly to some of the matters in which we are all interested which have developed since your last meeting a year ago.

Last October we had the informal Engineering Hearing in which the industry co-operated very fully with the Commission and gave us a complete picture of the engineering, social and economic phases of broadcasting. The testimony taken at this hearing covered some 1741 pages and in addition there were numerous exhibits. The presentations were indeed interesting although some of the more technical phases will have to be analyzed by our engineers. I wish to take this opportunity to extend further our appreciation to the industry for its splendid co-operation in giving the Commission such a comprehensive picture which will enable it to determine if any changes in the existing policies or rules of the Commission should be made in order that broadcast stations may improve their service to the listening public.

Our engineers have made a preliminary report on the hearing to which we are giving careful consideration. There are certain other data we have asked the engineers to supply before we make any changes in the existing policies. The general feeling is that our engineers have done an excellent job on reporting the testimony of this hearing and their conclusions appear to be very favorably received in the industry. I can assure you also that we are not contemplating any drastic reallocation of broadcast facilities, but we will make whatever changes in policies and regulations that are deemed advisable step by step so that all interested parties may be given full opportunity to be heard on any changes that may adversely affect their interests.

Last September 15 the Broadcast Division promulgated regulations governing all classes of broadcast stations except the regular stations with which we are all familiar. It may surprise you to learn that of the 1,108 broadcast stations licensed by the Broadcast Division, 408 are other than regular broadcasting stations. Of this number, by far the greatest number are relay stations used in transmitting programs from points where wire facilities are not available. On June 15 the Broadcast Division repealed the rule requiring a two-day notice for the operation of relay stations. This requirement had been imposed so that the Commission could authorize operation that would not cause interference on the then very limited number of frequencies, but now more frequencies are available and this provision is not considered necessary. It is believed that the repeal of this rule will be to the advantage of broadcasters in building special-event programs.

The other classes of stations governed by these regulations are television and facsimile stations. The new regulations made available three frequencies exclusively for facsimile stations and carry a provision that such stations may be licensed on any of the several experiment frequencies. The new rules also provide that facsimile broadcasting can be carried on after midnight on regular broadcast stations, under the condition that a program of development of facsimile broadcasting is presented to warrant such operation. The Broadcast Division is very interested to know whether the general

public wants a facsimile broadcast service and if such a service can be supplied at this time.

International broadcast stations, of which there are only a few—twelve in number—occupy a unique position in the broadcast structure in that the signals from these stations are transmitted throughout the world. By selecting proper frequencies and employing directional antennas, it is possible to render service in practically any foreign country. While the government has authorized the operation of this class of stations since 1925, in the last several years there has not been a general expansion either in technical advancements or international program service by the licensees of these stations. In the past two years other countries of the world have developed this service which has resulted in stations in European countries rendering better service in South American countries than is received from the United States stations.

The Commission recently authorized the Engineering Department to investigate the international station problem with the view of making a report to the Commission on means of improving our stations so that their service will compare favorably with that of other countries of the world. We shall be pleased to have the report from our engineers and I feel sure that the broadcasters will accept their responsibility in rendering an international service comparable with the national service now rendered by regular broadcast stations.

Next November there is to be held in Havana, Cuba, an Inter-American Radio Conference for the purpose of discussing allocation of radio facilities between countries of North and South America. We have several very important problems as respects allocation of regular broadcast stations as well as international stations. Between the North American countries, as you know, we have a very unsatisfactory arrangement at this time resulting in mutual interference, as well as unsatisfactory exchange of program service. It is expected at this conference that these pressing problems will be discussed at length looking to an agreeable solution. The frequency assignment of international stations will also be a problem because certain countries have crowded so many stations rendering a national service on frequencies available that the international service is being materially impaired. It is hoped that an arrangement can be made for a better allocation of these frequencies to provide for an exchange of programs to promote better understanding among the republics of the American continents.

At the International Conference at Cairo, Egypt, which is to be held next February, will be taken up the matter of international broadcast stations since their service and interference is world-wide in range. We have always taken the attitude that these frequencies offer an opportunity to contribute materially to the development of closer acquaintanceship among the countries of the world and they should be used exclusively to render an international service.

In conclusion, Mr. President, may I say that your Association deserves our congratulations upon the efficiency and splendid way it has met and cared for problems that confront it and its members, and I wish for you and it a continuation of this splendid work. (Applause)

PRESIDENT MYERS: Thank you very much, Judge Sykes. The Association appreciates your presence and also other members of the Commission.

Mr. John Reynolds, Assistant Secretary of the Commission is here. Will Mr. Reynolds please stand up? (Applause)

. . . John B. Reynolds arose and acknowledged the applause . . .

PRESIDENT MYERS: Mr. George Porter, Assistant General Counsel of the Commission. (Applause)

. . . George B. Porter arose and acknowledged the applause . . .

PRESIDENT MYERS: Mr. Ring. (Applause)

. . . A. D. Ring arose and acknowledged the applause . . .

PRESIDENT MYERS: There are a lot of new faces here this year. I would like to see every one of you who has not attended a convention before, stand up—every one for whom it is the first convention.

. . . About fifty men arose . . . (Applause.)

PRESIDENT MYERS: I think there are some representatives of foreign countries here. Will every representative of a foreign country please rise? I know Emilio Ascarraga of Mexico is at the convention but I guess he is not at this meeting.

The next item on our program is the report of our Treasurer, Mr. Harold Hough of WBAP of Fort Worth, Texas. Mr. Hough. (Applause)

HAROLD HOUGH (Treasurer, NAB; WBAP, Fort Worth): The report of a treasurer is supposed to present a lot of figures on things that we have and what we have spent. Your very efficient Managing Director has had an audit made. Audits are sometimes a little dry and sometimes they don't tell everything we would just like to know. This audit will be printed in your

bulletin and you will receive a copy of it. I have taken the liberty of taking off a few notes and breaking them down to try to give you briefly a little picture of what we have done with your money.

On a report on eleven and a half months, ending June 15, we find our financial status something like this. A year ago we had on hand \$17,451.49. For the sake of time I will omit a lot of odd dollars and some odd cents. During the year we have received in dues \$83,000.00. Other income has been \$4,300.00. In fact, we have had \$105,000.00.

Now I'll try to tell you what happened to the \$105,000.00. (Laughter) The annual convention—\$1,100.00. Board of Directors—\$3,100.00. It costs \$1,500 every time the Board of Directors gets together. Commercial Committee (Sales Managers)—\$450.00. Cost accounting—those are forms you received—\$380.00. Mr. McNary's trip to Bucharest—\$2,000.00. Dues and publications—those are publications of merit to your Managing Director, keeping him informed on various affairs going on within the industry—\$750.00. Additions to the NAB engineering handbook were \$180.00. Furniture and fixtures in the Washington office were \$1,800.00—mostly transcription equipment which you will hear more about. Accounting fees, and engineering and legal—\$7,200.00. You know, these days, broadcasters, when they get in a room and have a quorum of broadcasters, the first thing they do is shake hands, give their call letters, hire a lawyer and then proceed to do business. (Laughter)

Legislative service—\$570.00—that is a bureau keeping you informed on what is going on all over the country. Bonds—\$100.00. Miscellaneous—\$1,300.00. Your NAB Reports which you receive, the business index, statistics and such things—we have had so much more of that this year than last. That is very valuable indeed to people trying to arrange new bills for taxation laws. Copyrighting—\$136.00. Business index—\$900.00. Postage—\$1,360.00. And printing—\$6,850.00. Office supplies cost \$370.00; postage—\$560.00; and publicity—press clippings—\$68.00. Binders—\$1,011.00. That is all returned to Mr. Baldwin within \$1,000.

Rent in Washington—\$3,800.00. Salaries (for 13 people)—\$37,000.00. Eight of those have been very busy in the Bureau of Copyrights, of which you will hear more.

Stationery and printing—\$1,580.00. Taxes which we have at NAB—social security and old age pension and so forth—\$986.00. Telegraph—\$340.00. Telephone—\$1,490.00. Travel expenses—\$2,400.00. Talent, recording expense, etc., of your Bureau of Copyrights—\$17,750.00.

Therefore, out of your \$105,000 we have cash on hand as of June 15—\$8,794.96. It appears that your income from dues, the way they are running at the present moment, is about \$82,000 a year. We have a number of items in here. There is one thing I did not see. I think we should have set up a little fund of about \$1.25 or something to educate a lot of our newspaper members in the Association that it would be nice if they wouldn't try to censor everything and give the readers in their community the benefit of everything in their communities instead of a few they are interested in. (Laughter) We might be able to work that out. (Laughter)

Briefly, I am going to give you a breakdown on the Bureau of Copyrights. Stationery and printing—\$1,196.00. Miscellaneous—\$755.00. Legal—\$817.00. Taxes—\$324.00. Rent—\$1,062.00. Furniture and fixtures—\$250.00. Office supplies—\$118.00. In other words, the Bureau of Copyrights is now paying the NAB rent for the space used getting the music ready, and for furniture and Office supplies. Salaries—\$14,960.00. Travel expenses—\$1,165.00. Talent, recording expenses, planographing of piano parts, etc., of the Bureau of Copyrights—\$17,750.00. Of the total NAB expenses listed above, there has been spent at the time this statement was prepared, \$38,000.00 for the NAB Bureau of Copyrights. The breakdown on legal expense will be given to any member who will write to the Managing Director. Any member is entitled to that information.

I thank you. (Applause)

**PRESIDENT MYERS:** Mr. Hough has called your attention to a great many items in last year's receipts which are a revolving expense. You will hear more about this from Mr. Baldwin. The expense for the Bureau of Copyrights, for instance, will all be given back to the Association by the subscriptions to this library which you may hear in the hotel while you are at the convention.

Mr. Hough has given us a very interesting and very complete report and I would like to call your attention to the excellent financial condition of the Association. When you consider that a couple of years ago I believe we had \$35 in the treasury or something like that, and when you consider the amount of money that has been paid to the Association and spent constructively by

the Association, and the substantial balance in the treasury today, it is certainly a testimonial to the excellent management of your Washington office, and I would like to introduce the man who is responsible for the report of last year's activities, our Managing Director, Jim Baldwin. (Applause)

**JAMES W. BALDWIN** (Managing Director, NAB, Washington, D. C.): Mr. President, Members and Guests:

I shall endeavor to furnish detailed information with respect to certain matters already referred to. First, let us look at the picture from a national or federal point of view.

#### National or Federal Activities Engineering Hearing

In October, 1936, the Federal Communications Commission convened an Engineering Hearing for the purpose of determining what principles should guide the Commission in matters relating to or affecting the allocation of frequencies and the prevention of interference in the band 550-1600 kilocycles, and, in particular, what changes, if any, should be made in the standards heretofore applied by it, and its engineering department; and the Commission expressed the desire to obtain the most complete information available with respect to this broad subject of allocation, not only in its engineering but also in its corollary social and economic phases to the end that such regulations and standards as it may retain or adopt will make possible such use of the band 550-1600 kilocycles as will provide maximum service in the public interest. The testimony adduced at that hearing, and the reports which thus far have been made thereon promise evolutionary changes in the economic and social aspects of broadcasting.

#### A. T. & T. Long Lines

New tariffs filed by the American Telegraph and Telephone Company were made effective on November 1, 1936, resulting in a saving of approximately \$250,000.00 per annum for the use of long lines.

#### The Duffy Copyright Bill

In January, 1937, there was introduced in the United States Senate the so-called Duffy Copyright Bill. Hearings on this bill probably will be held some time next month.

#### Government Broadcasting Station

During the month of February, 1937, there were introduced in the Congress of the United States numerous bills affecting radio which would:

1. authorize the construction and operation of a Government Broadcasting Station;
2. divorce radio and newspaper ownership;
3. investigate all charges and allegations of the existence of a radio monopoly;
4. establish five years as a minimum licensing period for broadcasting stations.

#### Investigation of Radio Urged

The month of March witnessed another cry for an investigation of radio, this time by Senator White of Maine. Commissioner Stewart of the Federal Communications Commission, in an address at Duke University, on March 23, critically called attention to the conflict between educators and broadcasters, newspaper ownership of radio stations, and inferior radio programs.

During the month of April a bill was introduced in the Congress to tax radio stations according to their operating power.

The month of May witnessed the initiation by the Federal Communications Commission of an investigation into alleged irregularities in procedural matters before the Commission that invites the attention of the entire industry and everyone associated with it.

#### FCC Opposes Five-Year Licenses

This month the Federal Communications Commission registered with the Congress its opposition to five-year licenses for broadcasting stations. Included in the Commission's letter to Chairman Lea of the House Interstate Commerce Committee is the following paragraph which I call to your special attention: "At the present time the Commission has no authority to suspend licenses or impose penalties for violations of its rules. The only punitive action available is revocation, deletion through denial of a renewal of license or recourse to criminal proceedings. These measures have been found to be too severe in most instances of delinquency. The Commission, however, has been able to exercise a degree of

control through consideration of application for renewal of license every six months. There is thus constantly present a means of checking the technical operation and program service of stations."

#### U. S. vs. ASCAP

The suit instituted by the United States Government against the members of the American Society of Composers, Authors and Publishers, is still pending in the United States District Court for the Southern District of New York. The suit was instituted in August, 1934, and the trial was commenced on June 10, 1935. After proceeding for several days the trial was recessed with the understanding that a stipulation of facts was to be negotiated. Conferences between counsel for the government and counsel for the major defendants were held, but up to the present time no stipulation has been agreed upon.

With a view to making available to the government whatever assistance your Association could give in the matter of expediting the work of stipulation, your Executive Committee authorized me to appoint special counsel. Philip G. Loucks, my predecessor, was appointed. He accepted the post, and your Managing Director immediately notified the Attorney General of his appointment. Both Mr. Loucks and myself have had conferences with government counsel in charge of the suit, and we have urged speedy action upon the government. It is impossible to state at this time what plans, if any, the government has to proceed with the trial. Our conferences have given us slight encouragement that the government intends to press for early resumption of the trial despite the fact that two years have intervened since its commencement.

#### STATE ACTIVITIES

And now for a review of state activities.

##### Legislation.

This year forty-four state legislatures were in session, and there were introduced in these legislatures approximately 150 bills which, in one way or another, affected our industry. The larger percentage of these bills, namely forty, dealt with advertising. Some prohibited liquor and medicinal advertising; others provided for food, drug and cosmetic regulation. Some of them dealt with the subject of false and misleading advertising, advertising by physicians, dentists, optometrists and small loan companies.

State copyright laws were enacted in the states of Montana, Washington, Nebraska, Tennessee, and Florida. State copyright bills are pending in Michigan, Illinois, and Texas. State copyright bills failed of enactment prior to adjournment in the states of Indiana, Iowa, Minnesota and Ohio.

A bill imposing a tax of one per cent. on the gross receipts of radio broadcasting has passed both houses in the state of Arizona; and in New Mexico, the only state in which the NAB is not represented, a law was enacted imposing a two per cent. gross receipts tax on radio broadcasting. Bills imposing taxes of from one to ten per cent. on the gross revenues of broadcasting stations were either killed or died due to adjournment in Colorado, Kansas, Minnesota, Ohio, Oklahoma, Utah, Washington and West Virginia.

Bills setting up a state censorship board to pass on the wording of all advertising matter proposed to be broadcast, and in one instance imposing a fee of ten cents per word for such review, were introduced in Michigan, New York and Washington. These bills failed to pass in New York and Washington. The Michigan bill is still in committee.

Two states, namely Florida and Georgia, enacted laws which make provision for state-owned broadcasting stations.

A bill was passed in the state of Iowa which grants a certain amount of relief to the broadcasters for libelous statements innocently broadcast. Similar legislation was introduced in the states of California, Florida and Indiana.

The broadcasting of crime news would be banned under the provisions of bills introduced in California and Washington.

Broadcasting of news with respect to betting on horse racing would be prohibited by bills introduced in California, Illinois, Indiana and Texas.

Large appropriations for advertising the state are included in measures introduced in Arizona, California, Florida, Idaho, Maine, Michigan, Texas and Washington. Some of these specify an advertising medium with which funds should be spent. And, it is interesting to note that in not one instance was the medium of radio broadcasting specified. That is a matter which I think you yourselves would like to look into.

Quick action on the part of broadcasters in Idaho stopped the passage of a bill prohibiting the operation of automobile radios in

that state. I mention this particularly because it is the finest example of what can be accomplished through co-operation. Here is a bill which had moved to the third reading in the Senate before the NAB offices received notice through regular legislative service. We immediately contacted one of our members, Mr. Phillips of Boise. He marshaled forces in opposition to the bill, obtained hearings in the House, and the bill was promptly killed. It is a marvelous example of what can be done once we put our shoulder to the wheel and decide we are going to do something about it.

Now, one bright spot in legislation is that Missouri this year repealed a former law which levied a two per cent. tax on radio broadcasting.

There were many other classes of bills introduced including provision for the state licensing of radio engineers, prohibition against the use of the word "court," and provision for a state supervisor to pass on standards of radio sets for retail sale. However, these should be sufficient to prove to you the necessity of all members carefully watching all bills introduced in their state legislatures.

The legislatures of Illinois, Michigan, New Hampshire, New Jersey and Wisconsin are still in regular session; and in Arizona, Minnesota and Texas the legislatures are having special sessions for consideration of particular emergencies.

##### Litigation

Since our last convention a great number of suits have been instituted against NAB members by two organized groups of phonograph recording artists, the American Society of Recording Artists, Inc., a California corporation known as ASRA, and the National Association of Performing Artists, a New York concern known as NAPA. Our members received communications from the former demanding an accounting for records used of its members and the signing of licenses with it. In addition, agents of ASRA were in the field personally soliciting such licenses. Because this was a mutual problem of all broadcasters, your Managing Director retained Stuart Sprague, a lawyer with radio, copyright and recording experience, to investigate the activities of ASRA and to report his findings to the NAB. His report and opinion was printed in the NAB REPORTS as No. 43 of Volume 4, dated September 1, 1936, and was distributed to the membership.

Two suits have been commenced by ASRA in the Superior Court of California, Los Angeles County, one against Station KFVB, and the other against KFAC, which are being strenuously defended by the stations, and have not been tried. Recently RCA Manufacturing Company made a motion to intervene in the KFVB case asking that the station be enjoined from broadcasting Victor records, and that ASRA be enjoined from licensing the use of Victor records. This motion was due to be argued on June 8 and is being opposed by KFVB.

NAPA has instituted two suits in Chicago; one in the Circuit Court of Cook County by Abe Lyman against Station WGES, and another in the United States District Court for the Northern District of Illinois in Eastern Division by Connie Boswell against WAAF. These are being vigorously defended by the stations.

NAPA has two suits pending in New York; one by Paul White-man in the United States District Court for the Southern District of New York against Station WNEW, the other by Frank Crumit against Station WHN in the Supreme Court in New York County. Both cases are being well defended. Most of the activity has been in the Crumit case in which the plaintiff's motion for a temporary injunction was denied. Recently the court allowed Decca Records, Inc., to intervene in the suit to press its claim for an injunction against both Crumit and the station. The case will probably be tried in October.

In Pennsylvania the appeal of WDAS from the decree in favor of Fred Waring was perfected, and argued before the highest court of the State, April 21. A decision on this NAPA case is expected momentarily. In all of the preceding cases, Mr. Sprague was retained by NAB to advise with counsel for the stations, in consequence of which all of the stations sued have been able to present a united opposition for the benefit of our whole industry.

The latest suit brought by NAPA was that of Ray Noble in the Federal Court in Boston against the Hotel Vendome for playing phonograph records in a public room. Judge Sweeney on June 4 granted the motion of the hotel to dismiss the complaint, finding that Noble in his contract with the recording company had conveyed all of his right to it, and, therefore, had no standing in court. This case, although it does not involve a radio station, points the way to the likelihood of similar decisions in the litigation against our members, and for that reason it is mentioned here.

A further case of interest to members, although to a lesser degree, is the decision on April 30, 1937, of the United States District Court for the Southern District of New York, wherein a hotel, which by

a master radio receiving set had picked up a radio program for distribution to its individual rooms, was held to have infringed the copyright in a musical composition that the station was licensed to broadcast. This is a further extension of the Jewell-LaSalle decision of the United States Supreme Court which should be further considered either on appeal or by legislation. Radio programs are broadcast for the enjoyment of the greatest number of people whether they are seated in their homes, in a hotel room, or in an automobile.

### International Problems

Some of our problems are international in scope. In March of this year a preliminary Engineering Conference was held in Havana, Cuba, in which representatives from the United States, Canada, Cuba, and Mexico participated. The full text of the Official Report of this Conference has been made to you through the medium of NAB REPORTS. It is expected that a further Conference will be held this fall. Observers seem to be agreed that much was accomplished at Havana and that the prospects are bright for reaching an accord this fall. It is also generally conceded that any accord that is reached will necessitate some readjustments in the existing allocation of American broadcasting stations.

The CCIR was convened in Bucharest on May 2 and adjourned June 8. The UIR, of which the NAB is presently a member, met last week. The NAB was represented at both these meetings by J. C. McNary. Our representative is expected to return in the next few days and upon his return, full and complete report will be made to the membership.

The World Radio Conference in Cairo also presents problems of great importance to American broadcasters. Unquestionably these problems will be discussed at the engineering conference tomorrow afternoon.

The Foreign Relations Committee of the United States Senate is engaged in study and consideration of a resolution which, if adopted by the Senate, will make the United States an adherent to the International Copyright Union. Experts tell us that adherence to this convention by the United States before we amend our own copyright law will result in chaos for broadcasters. Your Association has pointed out to the committee the necessity for amending our copyright law, and joining the Copyright Convention simultaneously, and the matter is being watched carefully. Your assistance may be required.

### Bureau of Copyrights

Now a word about the Bureau of Copyrights. In my report last year I explained the purposes of this bureau, how it was intended to search out music that was in the public domain, arrange it, make adaptations of it, prepare it for you in the form of electrical transcriptions and manuscripts so that you might have a supply of tax-free music. And, in that connection, I said, "It can be done and with your co-operation, it will be done!"

Today I am very happy to say to you, "It is being done," and that with your co-operation, by next year we can say, "It has been done." (Applause)

It has already been explained to you that approximately four hundred musical selections have been prepared for you in manuscript and recorded form. These have been used to build twenty hours of electrically transcribed music. In other words, we can signal to you today the execution of a plan which won your approval last year.

Now, there have been a great many problems connected with this work and it is unnecessary to relate them here. One matter which will be of interest to you is the vehicle which has been created for the handling of this work in the future. Acting on the authority of the Board of Directors, the Bureau of Copyrights was incorporated on June 2 under the laws of the State of Delaware. The officers of that organization, which is styled "NAB Bureau of Copyrights, Inc." as of today, are as follows: President, C. W. Myers; Vice President, James W. Baldwin; General Manager, James W. Baldwin; Treasurer, Harold Hough; Secretary, Gardner Cowles, Jr.; Assistant Secretary, Everett E. Revercomb; Assistant Treasurer, Everett E. Revercomb.

The Directors of the NAB Bureau of Copyrights, Inc., held a meeting on June 20 at which time agreements were reached which permit the NAB Bureau of Copyrights, Inc., to be recognized today as a live, active organization, prepared to furnish you with excellent tax-free music.

Now, one of the very important features of this corporation which you will recognize immediately is the provision which has been made to prevent it from falling into the hands of unfriendly persons. As a result of very careful legal investigation, restrictions have been imposed on the transfer of stock. These restrictions have

been tested in the highest court in the State of Delaware and prevent the transfer of the stock without the consent of the corporation or at least without the opportunity of the corporation first having the opportunity to buy it. In other words, everything possible has been done to prevent it from getting out of control of your own Association.

Also I have been requested to report to you that at the meeting of your Board of Directors yesterday, agreement was made to purchase a majority of the stock in this corporation. The corporation having been capitalized for \$100,000 this means an investment of \$51,000 by the NAB. I want also to advise you that you have the opportunity here to hear this library and to indicate your desires for the service. As already explained, twenty hours have been prepared. Twenty hours can be delivered now. The price has been fixed at fifteen dollars per hour with a discount of 33 $\frac{1}{3}$  per cent to all members of the NAB, making a total of cost to members of the NAB in good standing of \$10 per hour—or, put in another way, \$5 per double-faced 16-inch transcription.

### The Federal Radio Education Committee

Judge Sykes has explained the exploratory work of the Federal Radio Education Committee, and both he and our President have emphasized the importance of all broadcasters assisting in the financing of this work.

In addition to the exploratory work which has been mentioned, the Office of Education has launched an experiment in real co-operative effort, between managers of local and regional stations on the one hand, and local educational agencies on the other. The establishment, a year ago last April, of a script writing and exchange service in connection with the radio project which is being carried on in the Office under WPA funds, was proposed by Dr. Studebaker to Dr. Tyson of the National Advisory Council on Radio in Education, and myself, representing the National Association of Broadcasters. We agreed that some of the joint committee funds should be used for this purpose. Many of you are familiar with this activity, but for the benefit of those who are not, briefly it is this:

Within the year programs furnished by the Script Exchange have been carried by 104 radio stations located in 40 states.

104 stations have carried 147 program series furnished by the Exchange.

Each series has averaged 6 scripts (or 6 programs) making a total in the 147 series of 882 programs carried by the 104 stations.

More than 1600 local groups, including high schools, colleges, and universities, theatre guilds, CCC camps, radio stations and many others, have been served by this Script Exchange.

These groups have received 38,000 copies of radio scripts, 10,000 copies of the Radio Manual, Glossary of Radio Terms, and Music Arrangements.

It will be seen that this enterprise—the preparation and exchange of non-sponsored educational scripts—is filling a real need. In my judgment, it should be continued and extended as it is bringing about better relationships between the managers of radio stations and educators, for it has made possible real co-operative effort. In this connection, I might say that I have seen, from time to time, a number of the letters which have come in from station managers expressing genuine appreciation for the quality and the interesting character of the scripts and for the co-operation which has been secured from local educational groups in connection with producing them on the air. It is quite evident that this script exchange service is dispelling some of the clouds of misunderstanding and controversy which have darkened the horizon in certain sections.

### Conclusions and Recommendations

Now, thus far I have attempted to make a report on last year's work. This is a democratic organization and it is assumed that expressions of the membership will be made from the floor on important problems. Also, it is assumed that at least some of you expect an expression of opinion on some of these matters from those of us who have been at the scene of action during the last year.

### Government Broadcasting Station

I come first to the proposal to construct and operate a government broadcasting station. It is my recommendation that the Association vigorously oppose the enactment of the Celler Bill which would authorize the construction, maintenance and operation of a government broadcasting station. I submit that your opposition may be based on these grounds:

1. The enactment of the bill will amount to an entering wedge which easily may result in government control and operation of all broadcasting in the United States.

(And, at this point I want to suggest that although there are a small number of stations, by comparison, operating on frequencies above 1600 kilocycles, don't be deceived, gentlemen, because if the government can construct and operate a broadcasting station on a frequency above 1600 kilocycles, it can construct and operate them in the band from 550 to 1600.)

2. The existing system of broadcasting in the United States makes available to the various departments of the government all the time that possibly can be desired for broadcasting either domestic or foreign programs.

3. The existing system of broadcasting in the United States affords to the departments of the government the greatest possible radio audiences.

4. The operation of a broadcasting station by the Office of Education (which is a feature of this bill) is opposed by all existing federal and state laws respecting education.

5. Due to its official status, there would be great danger of utterances over such a station giving offense to friendly nations and creating unnecessary international incidents.

6. The enactment of the bill would result in a useless and extravagant expenditure of public funds.

#### U. S. vs. ASCAP

The Association, by formal resolution at earlier conventions, has voted to assist the government in every proper way in the prosecution of the government's suit against the ASCAP. There is no need for me to emphasize here the importance of this litigation. I earnestly urge that you again record your support of the suit and consider a formal resolution respectfully requesting the government to expedite the trial of this case.

#### Taxation

It seems to me that the question whether the costs of radio regulation should be met by the imposition of a special tax on broadcasting stations is one of broad public policy which the Congress should decide. I can imagine that the early pioneers in railroading would have welcomed the opportunity of paying the bills of the Interstate Commerce Commission on the theory that "the fellow who pays the fiddler calls the tune". This might apply to broadcasters.

It may be that broadcasting stations should pay, in some manner, for their franchise. If this is so, then we should offer our assistance to find ways and means of making payment which will avoid the charge that we are trying to "call the tune".

#### The Duffy Copyright Bill

It is my belief that the Duffy Copyright Bill, or any other bill designed to modernize the copyright law of 1909, can be enacted only if the Association can send to Washington at least one representative from each state whose duty it will be to acquaint his Congressmen and Senators with the need of such legislation and who can remain in Washington until the job is done. I sincerely believe that in no other way can you overcome the power of the ASCAP lobby. It is true that the general legislative situation in Congress this session, so far at least, has been opposed to any such action, but I do recommend that appropriate steps be taken to recruit such persons as soon as the legislative situation appears to warrant it.

#### Five-Year Licenses

The Association, at previous meetings, has resolved in favor of longer license terms for broadcasting. For the first time we know definitely how the Federal Communications Commission feels about the matter. Their opposition to longer license terms is to be regretted. Longer license terms are essential if we are to have stability in the industry. And greater stability is essential if we are to engage in any worth-while, long-time planning. One of the weaknesses, or what appears to be one of the weaknesses in the letter of the Commission to the Chairman of the House Interstate Commerce Committee is that it seems to me to show on its face an attitude that is inconsistent with the latest expression of the Congress.

When Congress was considering the Bill S. 3285 to amend the Radio Act of 1927, the Senate reduced the maximum terms of broadcasting licenses from three years to one year; and the conferees appointed to consider the bill agreed to leave the maximum term of license three years. The conference report submitted by Mr. Rayburn on June 8, 1934, was adopted. Accordingly, the

provisions of the old Radio Act were continued in the new act. The Commission, therefore, has the power today to license stations for three years. I suggest that each member make it a point to discuss this problem fully with his Congressman and his Senators, and urge the passage of the bill, H.R. 5038.

#### Bureau of Copyrights

The success of our efforts in the Bureau of Copyrights is expected to be judged by the ability of our arranging staff to modernize the old musical selections and make them conform to present-day needs. This ability, we believe, has been well demonstrated in the quality and variety of selections contained in the first twenty hours of recorded music.

The creation of an independent supply of music for radio broadcasting should win the hearty approval of those representatives of the ASCAP, who for several years have publicly criticized the use of popular music by radio broadcasting stations, and charged that the radio broadcasting industry was responsible for "Killing" the sales of popular sheet music. Also, it is expected that the NAB accomplishments, in creating an independent supply of music for radio, will be cheered by those who have complained so vigorously against the use of phonograph records by broadcasting stations.

Times have been pretty good the last two years. The majority of broadcasters have been operating at a profit. Some of you may be inclined to allow yourself to be lulled to sleep. Some of you may say 1940 is a long way off. Others may be inclined to submit to proposals which may come from various sources. But one fact remains—through co-operative efforts and by minding our own business, we have it within our power to establish our freedom from the monopolistic control which has been exercised over our raw material.

#### SESAC

And, while we are talking about copyright, I should make this comment with reference to this so-called SESAC. As previously reported, we have conducted an exhaustive investigation into the Society of European Stage Authors and Composers, Inc., New York City. The report covering this investigation will be distributed as soon as it comes off the press. It has taken much longer to complete the job than we estimated. The report is too voluminous to permit of a statement of conclusions here,

#### AMP

In January, 1936, we requested the Associated Music Publishers to supply us with a list of the musical selections contained in their repertory. This list has been furnished us. As soon as the SESAC report is off the press we will compile a report on AMP, which will furnish the members with sufficient information to determine their need for such music and enable them to determine the reasonableness of the license fees charged therefor.

#### A. T. & T.

One other matter which seems to demand attention today is A. T. & T. We referred a few moments ago to the fact that last November new tariffs became effective which substantially reduced the costs for long lines in broadcasting. Now, recently matters have been called to our attention which seem to indicate that a very careful investigation should be made of all the rates which have been filed recently by the companies affiliated with the A. T. & T. Company. It is the tariffs of the associated companies which control the price you pay for your local broadcasting and at least in two cases, we find, that whereas there has been a substantial reduction in the cost of long lines and, therefore, to the substantial users of radio, the costs actually have been increased within the state.

Now, I could not bring to a close this, my second term, without expressing the genuine appreciation which I have for the associations for this last year, for the co-operation I have received from the officers and directors and from the members as well. And the Executive Committee—there has never been a time this year when I could not obtain the counsel and advice of both your President and Treasurer. That has been something to appreciate!

I also want to give due credit to the clerical personnel in your Washington offices. I consider them competent, willing employees.

It is dry to stand here and give to you from the records many of these things. It is a necessary thing, we all believe. But, there is one thing with which I think you will agree. So far as this year is concerned, aside from the cold record, the cold black type, for the first time in the history of NAB, when you leave this convention, you can, if you wish, visit an exhibition, on your right, which will show you the various kinds of printed pro-

motional material used by the members. From it, many of you should be able to get new ideas. It represents an effort which has been made by your officers this year and members of your Commercial Section to assist you at these conventions in learning something new about your business.

On your left, as you go out, if you desire, you may visit the audition room of the NAB Bureau of Copyrights where you may listen to the twenty hours of music that has been recorded. And, as has already been reported to you by the President, the first eighteen men who heard it, bought it. I believe you will want to do the same and I hope that every one of you indicate your desires before you leave Chicago.

And now, a final suggestion: it seems to me that this year it would be well for us to consider many of the criticisms which have been aimed at the industry and even though we know that they may be unjustified, let us not overlook the importance of dispelling these criticisms in the minds of people who are not so well informed as you.

It seems to me that you should lay every emphasis on efforts during the next year to make as many appearances as you can in your communities, meet with your local organizations, discuss with them the problems of radio broadcasting, educate them as to your problems, feeling secure in the fact that once you do inform them of what the problems are, they will agree with the solutions which you as members of an industry have sought to offer.

I thank you. (Applause)

E. B. CRANEY (KGIR, Butte): Mr. Chairman, I'd like to thank Jim for the work he has done during the last year and I'd like to place my order for those transcriptions at this time. And, if I may—I don't see any other time on the program of NAB to say anything about copyright—I would like very much to have about five minutes of the attention of the convention to say a few words on copyright.

. . . Mr. Craney came to the platform . . .

MR. CRANEY (continuing): I have had buck fever. I have had stagefright. I hit the stage all right. I hope I can get this message over to you. (Laughter)

More, perhaps, has been done on copyright since our last convention than during any other one year since the inception of broadcasting with the possible exception of the year our government started suit against ASCAP in the United States District Court for the Southern District of New York almost three years ago. In this suit it was alleged there was violation of the antitrust laws. And, while we are on that subject, let me tell you that ASCAP has done and is doing such a good job of lobbying in Washington today that if we don't take action here at this convention both as a body and as individual broadcasters that very suit is apt to be dropped with nothing done by Uncle Sam to stop the practices which have been followed in forcing us to pay five per cent. of our gross income as tribute to a bunch of music publishing houses and not allowing us to pay only for the music we actually play.

So much has happened, in fact, during this last year that I will not take your time to review it. I want only for you to take action here, at this convention, which will put in motion a movement to end once and for all the arbitrary practices in the sale of copyright—a movement which will allow not only a fair method of payment for you to make to the copyright owner but also a fair method of payment to the actual composer and author, the creator of the work you use. Yes, and I want to see the responsibility of infringement lifted from the shoulders of anyone who does not have the control over whether or not an infringement is made—and in saying this—I am referring directly to stations releasing network or transcription programs over which they have no control of the content of such programs.

Now, let us get this point straight: there is only *one* cure-all for this copyright situation—that is national legislation which will set up rules of fair play for the seller and buyer of the use of copyrights to follow. We are seeking no advantage over the owners of copyrights; we are perfectly willing to pay for the numbers we use but we want this payment to be fair and equitable. We want to purchase under a competitive system. We want to purchase only the numbers we can use—not every number in the country. We want some assurance that when we purchase the use of a number from one party that another will not bob up immediately and sue us for infringement. We want to be relieved of paying several times for a number as we do today. We want legal protection against infringement suits on numbers over the broadcast of which we have no control.

The present copyright law was enacted in 1909 before broadcasting was even thought of so we certainly have a right to go to Wash-

ington and ask Congress to bring it up to date and set up rules of fair play between owner and user of copyrights.

Now, the possibility of national copyright legislation is so precarious an undertaking under the strong ASCAP lobby existing in Washington (and to which Senator Duffy recently referred) that we cannot afford to put all our eggs in that one basket. There are several things we can do, and we should not do just one, but instead *all* of them. There is state legislation—and on this let me say, four states have already enacted legislation and several are at this very minute considering it. Our Association should gather all information on this and make it available to every member. Our Association should help substantiate legislation already enacted. We should build a source of public domain and cleared music either directly as our Bureau of Copyrights has started or we should let that Bureau clear music to be built into libraries by others, or both. We must educate our own members on copyright and we must show authors and composers how the sale of the use of copyrights on a "per use" basis will be to their distinct advantage.

There is no use in us waiting for ASCAP to do this. It could if it so desired, but its heads are afraid of any upset in that organization because they all have nice fat jobs. ASCAP, though, is logically the one to put such a move into existence and this is, in my opinion, the only way ASCAP can survive.

Certainly something must be done when Mr. Froelich, ASCAP's New York counsel, says that "it is impossible to trace the assignments and actual ownership of many musical numbers." (I wonder why, then, ASCAP should try to claim and collect on such numbers if it is impossible to trace their ownership?) Something must certainly be done—when Mr. Mills says he has spent twenty years of his life in building the most complete index of musical compositions existing in this country today. (And yet he refuses to make such a list available to users.) Something must be done—when a composer member of ASCAP says he would rather do business on a "per use" basis, that unless a composer is on the inside of the immediate circle controlling ASCAP he hasn't a chance, that the present system of payment is more than unfair to the non-composer member of ASCAP because that organization collects for the use of that composer's numbers and yet pays him nothing. Yes, something must be done—when ASCAP doesn't either want or intend to play fair with either its members or its users.

Mr. Mills wrote me January 27 last and wanted to know what could be done for a more satisfactory relationship between user and owner. I answered the letter but knowing something of Mr. Mills' previous actions with our industry, I sent my reply to every member of Congress and enough copies of it to Mr. Mills to give to his purported eight hundred author and composer members. I know those members didn't receive their copies of that letter because I would have heard from many of them if they had. I have come to the conclusion, and I believe justly so, that Mr. Mills was acting in bad faith and was not sincere when he wrote me because to this date I have never received an answer.

If you followed the Montana case, you found that Gene Buck testified concerning payments to one of ASCAP's composer members and that that member was paid less than one-fifth of one cent for the use of his numbers. You will find also that Mr. Buck had the audacity to state that this was more than he would have received if it hadn't been for ASCAP. Let me say right now, the smallest station in the country situated in the most sparsely settled part of this country would be tickled to death to be able to get music that cheap. I have checked with a number of stations on their cost per number during the last year and I know of one 1000-watter that averaged better than 25 cents a number and of a 50-kilowatter that was paying better than 30 cents. These stations are by no means in our larger cities, so even higher ASCAP collections can be expected there. I wonder how ASCAP can justify such income as this with but a fifth of a cent payment to the composer?

If you have kept up on the copyright situation at all during the last year, you know that there are only 508,425 published copyrighted numbers on file at the copyright office in Washington, not the two or three million numbers Mr. Mills has always talked about. You know, too, that this figure includes many player piano rolls and you know that for the privilege of playing but a few of these numbers, our industry paid in the neighborhood of \$4,000,000 last year. If you don't think we are a bunch of chumps, then listen to this (and I am quoting from figures referred to by Gene Buck of ASCAP): in Montana we found that only 6.45 per cent. of the entertainment business of the state was done by broadcasting stations, and this is exclusive of all hotels, yet more than 70 per cent. of ASCAP's income in the state came from these very same broadcasting stations. I imagine, if you will check figures in your own state, you will find a similar situation. Considering all this, we in-

the broadcasting business do not ask for lower fees; we ask but for the right to pay *only* for the music we actually perform and if the Society of Publishers represented by Mr. Mills doesn't know who the copyright owner is on the numbers it represents to control, then it has no right to collect on such numbers.

We are asking no advantage over anyone! We want only fair play! We can do the same things nationally that have been done in Montana, Washington, Nebraska, Tennessee and Florida. The legislation we ask for is *honest* legislation—it is *right*!

1940 is coming around in just two more years. You have to do something before that time because you can't just sign anything that is shoved in front of your nose then. If you want to, this whole situation can be cleared up this coming year. Money isn't the only thing that is needed. True, it is necessary, but so is co-operation from every one of you. We need a committee made up of one member from every state. Those committee members must be pledged to work, and work without pay, but their expenses should be paid by all of us.

I would like to suggest that we assess ourselves, between now and the convention next year, dues to the amount that this job can be done! That each and every one of us pledge his time to the support of this movement! That the committee I have suggested be formed and that the whole thing be put in the lap of the Executive Committee which is composed of the President, Treasurer and Managing Director of NAB, with the instructions from this convention to select a leader for this committee such a man as Joe Hostetler or Phil Loucks, with instructions to go to work, tear into this copyright situation with the one view in mind to solve it and have the job done by our next convention date.

What we ask for is right! We should ask for it with our heads held high. We ask it in the name of all the peoples of the United States—for the protection of the broadcasting industry, the greatest disseminator of uncensored information in our country today—and may God always keep it so!

Thank you.

**PRESIDENT MYERS:** I am sure we all appreciate the talk by Mr. Craney. The reports of Mr. Baldwin and myself, as you have all heard, are directly in line with Mr. Craney's suggestions. I think it might be a good idea if Mr. Craney would meet with the Resolutions Committee and draft a resolution for presentation to the convention and at that time, if other steps are necessary to promote the continued action of the plans which we have under way and which the new administration undoubtedly will have under way next year, they can be taken.

In line with one announcement made by Mr. Baldwin, in regard to the display of station promotion literature on this floor, stations which have literature in this display should remove it by Wednesday noon. The committee in charge of this display is taking every precaution to preserve and protect the materials sent them but they cannot be responsible for it and the stations themselves should remove the materials they have in this display Wednesday noon or Wednesday morning—at least so it is out of here early Wednesday.

Before we have the report of the Nominations Committee, I would like to remind the various committees that we have announcements to make at the close of this meeting. I want to be sure that I have all of your announcements of the various committees in regard to meetings and any other information for the convention so if the chairmen of these committees will be sure to have these announcements up here by the time the Nominating Committee completes its report, the announcements will be made.

The next item on our program is the report of the Nominating Committee by its chairman, Earl Glade of Salt Lake City. Mr. Glade.

**EARL J. GLADE (KSL, Salt Lake City):** President Myers and Members of the Convention:

"In submitting its report, your Committee on Nominations respectfully reminds the convention how highly important it is that, from year to year, the respective nominations reflect a cross section of the ownership and management of the entire radio broadcasting industry of the United States.

"In making these selections, therefore, Mr. President, your Committee on Nominations has endeavored to give most careful consideration to such matters as the past experience of the Association as it has had a bearing on the choice of its officers, geographical location, station wattage and frequency allocation, qualities of leadership as exemplified by the nominee's success in station management, community prestige; achievement in the fields of business-building, community-building, and general public service; network affiliation, independent status, as well, of course, as the nominee's availability and his aptitude for and attitude toward Association work.

"While your committee recognizes some distinct advantages to

be derived from certain rotation or succession in office, it respectfully declines to accept the responsibility of suggesting any order of nomination procedure that would, in any way, tie the hands of subsequent committees. Therefore, the nominations of this committee are obviously proposed only with regard to the vacancies now to be filled.

"Your committee, therefore, respectfully submits the following roster of nominations for the consideration of the delegates to the annual convention of the National Association of Broadcasters being held at Hotel Sherman, Chicago, Illinois, June 20 to 23, 1937:

"For President: John Elmer, Station WCBM, Baltimore, Maryland.

"For First Vice President: John J. Gillin, Jr., Station WOW, Omaha, Nebraska.

"For Second Vice President: William J. Scripps, Station WWJ, Detroit, Michigan.

"For Treasurer: Harold Hough, Station WBAP, Fort Worth, Texas.

"For Director—three-year term: Charles W. Myers, Station KOIN, Portland, Oregon; Herbert Hollister, Station KANS, Wichita, Kansas; Harry C. Butcher, Columbia Broadcasting System, Washington, D. C.; Frank Russell, National Broadcasting Company, Washington, D. C.; Theodore Streibert, Mutual Broadcasting System, New York City.

"For Director—one-year term: Eugene Dyer, Station WGES, Chicago, Illinois.

"Respectfully submitted

#### COMMITTEE ON NOMINATIONS

Mallory Chamberlin, WNBR, Memphis, Tennessee  
Arthur B. Church, KMBC, Kansas City, Missouri  
Joe O. Maland, WHO, Des Moines, Iowa  
Edward A. Allen, WLVA, Lynchburg, Virginia  
Earl J. Glade, KSL, Salt Lake City, Utah, Chairman."

**PRESIDENT MYERS:** It is my understanding that any group of ten or more members of the Association may submit candidates' names for the election which is to come tomorrow. May I remind you the election is tomorrow and I hope that one day we will all be here and all be here on time.

The next item on the program is the appointment of committees.

For the Resolutions Committee: John Henry, KOIL, Omaha, Chairman; Gardner Cowles, Jr., KSO-KRNT, Des Moines; O. L. Taylor, KGNC, Amarillo; William S. Hedges, WLW, Cincinnati; and Stanley Hubbard, KSTP, St. Paul.

Elections Committee: Hugh A. L. Half, WOAI, San Antonio, Chairman; Dale Robertson, WIBX, Utica; Father James A. Wagner, WHBY, Sheboygan; Don Searle, WIBW, Topeka; and William B. Way, KVOO, Tulsa.

Credentials Committee: Warren P. Williamson, Jr., WKBN, Youngstown, Chairman; Donald A. Burton, WLBC, Muncie, Indiana; T. Frank Smith, KXYZ, Houston; Edwin M. Spence, WBAL, Baltimore; and I. R. Lounsbury, WGR-WKBW, Buffalo.

Those are the remainder of your committees.

... Announcements ...

**PRESIDENT MYERS:** This is a letter from the Republic of Cuba:

"To the delegates attending the Chicago Convention of the National Association of Broadcasters:

"The Cuban Tourist Commission takes pleasure in sending a very hearty greeting to the Delegates of the National Association of Broadcasters present at their Chicago Convention, with most sincere wishes for the success of the meeting.

"This organization deemed it an honor and satisfaction to have been given the privilege of entertaining those members of the broadcasting industry who were here for the Sixth Annual International Radio Party in December of 1935. To them we send a special salutation today; taking advantage of this occasion to say to the broadcasters who will honor us next December that Havana will have, for all, a very warm welcome.

"We earnestly hope, once more, that the forthcoming visit of the broadcasters to Havana during the Eighth Annual International Radio Party will serve to further strengthen the ties of friendship that unite this country with the great American nation.

(Signed) JUAN SABATES, *President*,  
Cuban Tourist Commission."

I'd like to ask if there are any questions in regard to Mr. Baldwin's report. It was followed so closely by Mr. Craney that I don't believe you had any chance to ask questions.

(Announcements.)

PRESIDENT MYERS: If there is no further business before the meeting, we stand adjourned.  
(The meeting adjourned at 12:30 o'clock.)

JUNE 22, 1937  
(Tuesday Morning)

The meeting, held in the Ballroom, Hotel Sherman, Chicago, convened at 10:50 o'clock, President Myers presiding.

PRESIDENT MYERS: The meeting will please come to order.

First, I wish to announce that if there are any station representatives here who are not registered as delegates or alternates, they must be registered as delegates or alternates before they can vote. We wish to be sure to give everybody who is entitled to a vote and wishes to vote, a chance to count his vote. Therefore, be sure that you are registered as a delegate or alternate so you may vote.

There is one question to be settled by this meeting before we proceed. The Board of Directors elected that this should be a closed meeting, only the active members and delegates. It has been suggested that it be open to the press as at preceding meetings. The question is whether this meeting is to be thrown open to red badges or not.

EDGAR P. SHUTZ (WIL, St. Louis): Mr. Chairman, I make a motion that they be admitted.

HUGH J. POWELL (KGGF, Coffeyville, Kansas): Seconded.

PRESIDENT MYERS: It has been moved and seconded that all red badges—guests of the convention—be admitted.

STANLEY E. HUBBARD (KSTP, St. Paul): Gentlemen, I think we should vote against this motion. This meeting is for members and delegates. I have talked with some of the newspaper men. They appreciate our position and think it is all right.

W. A. BAILEY (KCKN, Kansas City): Of course, I would be accused of being a newspaper-radio man but I feel this way about this situation: that the newspaper boys are used to going into situations like this. They are going to get a report. It is either going to be a firsthand or secondhand report and to them this is just another convention. I am sure you can depend upon the press to treat you honestly and fairly in being in on the meeting and probably a better attitude than if you excluded them.

PRESIDENT MYERS: Let me call to your attention the motion is not to admit only members of the press but all with red badges.

MR. BAILEY: The press is what I am talking about. Mr. Chairman, I will amend this motion to include the press, not all with red badges.

(Several members seconded the amendment simultaneously.)

PRESIDENT MYERS: Is the amendment accepted by the mover?

MR. SHUTZ: Yes.

PRESIDENT MYERS: And the second?

MR. POWELL: Yes.

PRESIDENT MYERS: The motion as amended is that the press only be admitted to this meeting.

THE CONVENTION: Question!

(The motion as amended was put to vote, and was carried.)

PRESIDENT MYERS: Now, how are we going to designate who is the press? There is no way to tell one red badge from another.

F. W. BORTON (WQAM, Miami): I'd like to extend an invitation to all those wearing red badges.

PRESIDENT MYERS: It has been moved that all guests wearing red badges be admitted to this meeting. Is there a second to that motion?

FRED J. HART (KGMB, Honolulu): Mr. Chairman, in order to get this meeting under way, I second that motion.

ARTHUR B. CHURCH (KMBC, Kansas City): I wish to rise to say that I am opposed to this motion. This is a business session of the NAB and while we are very happy to have guests with us in all of our open meetings, inasmuch as they don't participate in this meeting and would possibly add to the confusion of the meeting, I think it is best we don't admit them, especially at this late hour when we are delayed getting started.

WILLIAM V. WAY (KVOO, Tulsa): I want to say that I am in favor of this motion. If you are going to allow the newspaper men to print the story, why don't you let them get it firsthand?

THE CONVENTION: Question!

(The motion was put to vote, and was carried.)

MR. SHUTZ: Division!

PRESIDENT MYERS: Let's raise hands. All in favor of the motion, raise your right hand. We'll just take a quick survey. Those opposed now raise your hands. There is no question but what the "ayes" have it.

Gentlemen, if we will come to order, there is no reason why we should not proceed with the business before us. The first business is application of three new members who wish to be admitted to the Association. I wish to read these applications:

An application from the Ardmoreite Publishing Co., Ardmore, Oklahoma, Station KVSQ, recommended by Harold Hough.

An application from the Enid Radiophone Co., Enid, Oklahoma, Station KCRC, recommended by Harold Hough.

An application from the Salt River Valley Broadcasting Co., Station KOY, Phoenix, Arizona, recommended by Ed Craig.

Will someone move that these applications be accepted?

EUGENE J. ROTH (KONO, San Antonio): I so move.

(Several members seconded the motion simultaneously. The motion was put to vote, and was carried.)

PRESIDENT MYERS: We have three new members. The meeting will please be in order.

MR. CHURCH: Mr. Chairman, due to the successful completion of the organization of the Copyright Bureau, and in view of the fact that our treasury will be relieved by the completion of the Copyright Bureau, I would like to withdraw my amendment:

"Effective September 1, 1937, bi-monthly dues of active members shall be payable January 1, March 1, May 1, July 1, September 1, and November 1, on the following basis."

In other words, I would like to withdraw the amendment to increase the dues of members 50 per cent., inasmuch as this appears unnecessary. (Applause.)

PRESIDENT MYERS: Mr. Church asks to withdraw the amendment presented to this Association sometime ago to increase the dues of the membership 50 per cent, which is what it amounts to. Mr. Church states inasmuch as the financial condition of the Association is in such a good condition at present, the increased dues are not necessary, so he wishes to withdraw his motion.

MARTIN CAMPBELL (WFAA, Dallas): I move that the resolution be withdrawn.

E. A. ALLEN (WLVA, Lynchburg): Seconded.

PRESIDENT MYERS: It has been moved and seconded that the resolution presented increasing the dues to this Association be withdrawn.

(The motion was put to vote, and was carried.)

PRESIDENT MYERS: While the business of the Credentials Committee is being transacted, we will read a few announcements.

We have a telegram: "Congratulations to you and all those assembled on the fifteenth convention of the National Association of Broadcasters. Extremely sorry I am unable to attend this year. My very best regards to my many friends assembled. Jack Latham."

(Announcements.)

PRESIDENT MYERS: The next order of business is the election of officers.

We have a petition signed as designated in the By-Laws by at least ten members of the Association, as follows:

"Pursuant to Article 8 of the Constitution of the National Association of Broadcasters, we, the undersigned, do hereby place in nomination for the consideration of the delegates to the annual convention of the Association being held at Hotel Sherman, Chicago, Illinois, June 21-23, 1937, the following:

"For President—Edmund B. Craney, Station KGIR, Butte, Mont.

"For First Vice President—John Elmer, Station WCBM, Baltimore, Md.

"For Second Vice President—John J. Gillin, Jr., Station WOW, Omaha, Neb.

"For Treasurer—Harold V. Hough, Station WBAP, Fort Worth, Tex."

Are there any remarks on this ticket? Are there any other petitions, any other candidates?

Inasmuch as there is no change made in the Board of Directors, in accordance with the report of the Nominating Committee, the ballot will be for the officers only. Are there any remarks? We should have some remarks because we will have to have a ticket made up. The voting will be by ballot only, the delegate of the station filing around this side, passing the Credentials Committee, offering only one ballot at a time. In other words, if you are a delegate for more than one station, you will have to file by for each station, as the roll is called, depositing the ballot.

Now, while these ballots are being prepared, are there any remarks on these tickets?

The Managing Director has suggested that, to save time, you present your ballot on the amendments—there are two remaining amendments that have been presented in accordance with the Constitution and By-Laws and it is suggested you present your amendments ballot at the same time you present your officers ballot.

MR. HOUGH: I would like to make a motion that we table this amendment to Article III.

MR. CAMPBELL: Seconded.

PRESIDENT MYERS: It has been moved and seconded that the amendment to Article III be tabled. This amendment provides that a man owning two or more stations must have individual membership for each station. The amendment was submitted to the membership in the NAB REPORTS.

Only delegates that are registered will vote on this amendment. We will vote by raising hands.

(The motion was put to vote by a show of hands. The vote was in doubt.)

PRESIDENT MYERS: It is a little close.

MR. WAY: Mr. Chairman, may I have the floor just a second on a point of information?

I didn't understand it. And, I don't believe anybody else did. Do I understand that if this amendment carries as introduced, if a man has two stations and joins to represent one station, he must also join for the other station?

PRESIDENT MYERS: He must join and pay dues for both stations.

MR. WAY: And if the amendment is killed, he may represent one station but may not vote the other one?

PRESIDENT MYERS: He may represent one station and have one vote. My understanding is that this doesn't kill the amendment but it is laid on the table.

MR. WAY: You are taking away constitutional rights.

MR. HOUGH: I am connected with three stations. All three are members of the NAB. This amendment, to my mind, at this time is not properly constructed. I just want to put it on the table. It will come up later, possibly at the next meeting.

PRESIDENT MYERS: Are there any other remarks before we take the vote on that?

The motion is for the tabling or delay of the resolution demanding that any member belong individually for each of his stations or he can't belong to the Association. If he controls five stations, he has to pay dues for all five or he can't belong to the Association. Consider whether you wish to vote for or against that motion. The motion is not to withdraw the amendment but to table it for further consideration. We will have a rising vote. All in favor of the withdrawing of the amendment, please rise. Perhaps it won't be necessary to count. Will you please sit down? Will those opposed, rise? The motion to withdraw the resolution is carried—not to withdraw but to table the resolution for further consideration is carried.

Is there any other business? We are now ready to proceed with the election of officers. It will save a lot of time if we vote "yes" or "no" on the third amendment at the same time we cast our vote for officers. Does anybody know of any reason why we shouldn't?

MR. HUBBARD: I move we have a rising vote on the amendment in order to save time.

(The motion was not seconded.)

DON SEARLE (WIBW, Topeka): What is the amendment?

PRESIDENT MYERS: *Resolved*, That Article V shall be changed as follows:

"Add to Section (c) the following:

"Except that the out-going President shall automatically become a Director for a term of three years."

"This amendment shall become effective with the retirement of the out-going President at the 1937 Annual Convention."

What shall we do?

MR. HUBBARD: I move that we take a rising vote on that amendment.

MR. SHUTZ: Seconded.

PRESIDENT MYERS: I'd like to speak on this but I can't.

All in favor of making the out-going President automatically a member of the Board of Directors without giving the convention a chance to choose, rise. Be seated. Contrary, rise.

(There was only one contrary vote. President Myers did not announce the result of the vote.)

PRESIDENT MYERS: Gentlemen, let's not have any misunderstanding. This has no connection with the present out-going administration. Your out-going President has been put on the ballot. I don't know whether this is in order but I want to say I would not permit my name to go on the Board of Directors without the pleasure of this convention being known. Now, if there is any misapprehension, we want the vote over again.

All in favor of automatically placing whatever man is in the presidency of this organization on the Board of Directors without giving any of you a chance to vote or express your choice, rise. Be seated. Contrary, rise.

(There was one contrary vote.)

PRESIDENT MYERS: The amendment is carried. You do not have to vote on it by ballot.

Now, I believe all of you understand the two tickets that are before you. One is the Nominating Committee's slate consisting of:

For President  
John Elmer, WCBM, Baltimore.  
For First Vice President  
John J. Gillin, Jr., WOW, Omaha.  
For Second Vice President  
William J. Scripps, WWJ, Detroit.  
For Treasurer  
Harold V. Hough, WBAP, Fort Worth.  
The independent ticket is:  
For President  
Edmund B. Craney, KGIR, Butte.  
For First Vice President  
John Elmer, WCBM, Baltimore.  
For Second Vice President  
John J. Gillin, Jr., WOW, Omaha.  
For Treasurer  
Harold V. Hough, WBAP, Fort Worth.

MR. WAY: Mr. Chairman, can we have some remarks on this election or is it out of order?

PRESIDENT MYERS: It is in order but first I wish to ask this meeting simply to vote for President because the election of the President decides the rest of the ticket.

MR. HUBBARD: The nominee for President on the committee's ticket is being run for First Vice President on the independent ticket.

PRESIDENT MYERS: But the election of the President decides the rest of the ticket. It would be true, I believe, that a vote on these ballots on a ticket would mean simply a vote for the President you desire and that would mean the ticket that goes with that President. Are there any rules of order on that? Is that in accord with parliamentary rule?

MR. HUBBARD: I move that we vote on them as independent slate or regular slate.

(The motion was not seconded.)

PRESIDENT MYERS: It has been suggested that there might be individual names on the ballot some would want to vote for. Therefore, we will have to vote on each one separately. We will vote first for President. Then for First Vice President and then for Second Vice President. It won't be necessary to ballot for Treasurer because he is on both tickets. That will mean three trips past the ballot box. Let me have a motion.

MR. HART: To get the sentiment of the floor, I move that we vote only for the President and that casting the vote for the President automatically casts the vote for the other nominees.

MR. ROTH: Seconded.

PRESIDENT MYERS: It has been moved and seconded that they be voted on as a slate.

GREGORY GENTLING (KROC, Rochester, Minnesota): Mr. President, I rise to a point of order! I believe that is not according to parliamentary procedure as long as there is an expression from the floor that they would like to make other selections.

In order to expedite matters, I move that we proceed with the election of President. I offer that as a substitute motion.

MR. HART: As long as there is opposition, I withdraw my motion.

PRESIDENT MYERS: We have a motion to proceed with the election of President. Is there a second?

(The motion was seconded by several.)

PRESIDENT MYERS: It has been moved and seconded that the voting proceed first with the ballot for President.

(The motion was put to vote, and was carried.)

PRESIDENT MYERS: We will proceed to vote for President. While the ballots are getting here, are there any remarks?

MR. ALLEN: At this time may we speak for the nominees?

PRESIDENT MYERS: Yes.

MR. ALLEN: Mr. Chairman, ladies and gentlemen of the convention, most of you know that as the local station representative, I have been fighting for local station representation on the NAB Board for many years.

I am glad to be able to tell you that as a local station representative on the Nominating Committee that our choice for President won the unanimous approval of this committee, all of whom recognize that this year the President should be a local man. And, in John Elmer we have a local man who has all the qualifications for an aggressive President who will intelligently carry

through on our important copyright and other problems this year.

I am proud to have placed in nomination your next President, John Elmer. (Applause.)

**PRESIDENT MYERS:** The ballots will be here in just a moment. Are there any other remarks?

**MR. SEARLE:** Mr. President, I have known John Elmer a comparative short period of time but I think his record at Baltimore would indicate his feet are on the ground. I don't believe there is a better man we can select than John Elmer.

**GARDNER COWLES, JR. (KSO-KRNT-WMT, Des Moines):** Mr. Chairman, may I say just one word for John Elmer? I served on the Board with him this past year and in my opinion, there is no man in this hall who understands better all the problems of the broadcasting stations than John Elmer. He is an intelligent, efficient, willing, able worker. He had the good sense after twenty-five years of newspaper business to quit it and go into broadcasting, and has had several years of very successful service in the broadcasting industry.

Now, unfortunately, I think we have a lot of other important problems, other than copyright and as important as copyright. John Elmer is located very close to Washington where he is available every day if necessary and able to handle all the problems of this industry.

I am happy to second John Elmer's nomination.

**W. B. GREENWALD (KWBG, Hutchinson, Kansas):** Mr. President and fellow broadcasters, this is my third convention of this Association. However, this is the first time since I have been a member that I take the privilege of appearing on the floor and in order to be granted the privilege at some future time, I am going to make a 100-word announcement.

A locomotive needs steam. A diesel engine needs oil. The National Association of Broadcasters needs both. With plenty of steam and good oil we can travel a long way this coming year by placing a man at the throttle who will keep his eyes open to see that the road ahead is clear so that he may carry his passengers, the members of this Association, to a destination we all want to reach, that of success and a co-operating spirit in our industry. I know of no better man than John Elmer of Baltimore as the engineer.

I am just a 100-watter, three years old. I am new in the industry. John Elmer has been my pattern. I have patterned my station after John Elmer's station and I am proud of it. Therefore, I am seconding his nomination. (Applause.)

**EDWIN M. SPENCE (WBAL, Baltimore):** It is a privilege and an honor for me to endorse the candidacy of John Elmer. I happen to be located in Baltimore and come in contact with him in community and social life. He is respected. His integrity is unquestioned as well as his ability.

As Mr. Cowles has said, with the various problems coming up the next year, with his accessibility, only a short distance from national headquarters, I think the Association, in selecting John Elmer, will make no mistake as he will preside with honor to himself and credit to the Association.

**MR. CHURCH:** I think it is a great credit to John Elmer that one of the heads of one of the other stations in his community, who must know a lot about him, makes the kind of talk you have just heard. I have had the pleasure of working with John Elmer on several committees and on the Board for several years and he is one of the men who is always on the job. I mean he attends every meeting he is supposed to attend and is always there ahead of time and the meeting is never late because he isn't there. That means a lot to me.

Another thing I like about him is although he doesn't talk a great deal at meetings but when he opens his mouth, something comes out that is a real contribution to the problem before us. I like that kind of a man.

I had a little talk with John Elmer to ask him whether he would be willing to accept this responsibility and in connection with it I asked him if he could spend the amount of time from his business that this job demands if we have the kind of a job done this year that must be done. He told me that he was willing, if the organization really wanted him, and that he was happy to be in a position that he could spend the necessary amount of time. He also told me that he had been in Washington conferring with Jim Baldwin and others of our people there during the past two or three years—I don't believe he said "weekly" but it was more than once a month (I don't remember the exact number of times)—and that he had tried to be of some service in this way and that he would be at the NAB office not only when necessary to get something done but be able to spend a goodly portion of his time there this year.

You know that one of the things I have been interested in most

during the last two years, besides research, is copyright. You haven't heard John Elmer talk on copyright. I have. I have talked with him alone about it. I think John Elmer has a comprehension of the copyright problem that will enable him to carry through for this organization in a manner that every one of you will hail as a great accomplishment at the end of his year of office.

I don't know how to tell you how successful he is as a business man. He certainly wouldn't be able to spend the amount of time he has already spent as a member of the Code Authority and on committee work and on the Board unless he were a successful man. He owns his station—knows how to operate it well! In my opinion, his one of the most representative of all the local stations and certainly the local stations finally deserve a break to get a President! I think this is the year they get the break and that we have got the man to do the job.

**PRESIDENT MYERS:** Are the ballots ready?

**MR. HUBBARD:** We had a motion a few minutes ago to elect a President first. While we were talking about the manner of election, Mr. Baldwin was upstairs getting the ballots. The only thing with the two slates is that if one slate goes through, it will change the Second Vice President.

I'd like to have the motion withdrawn to vote for President and wait a few minutes until Mr. Baldwin brings in the ballots. Those ballots give the name of the nominees and a place to check off, and you can vote for any Vice President you want to. In other words, it is a consolidated ballot and makes one election for the whole business.

I'd like to move—well, what will we do, have the motion withdrawn?

**MR. GENTLING:** Mr. President, I was the maker of the motion. While I can easily understand Mr. Hubbard's viewpoint in voting for just one ballot, the consolidated ballot, I don't believe that those in attendance knew that we were going to have a consolidated ballot where we could express ourselves on any candidate, whether on the independent ticket or the ticket endorsed by the Nominating Committee.

However, in view of the action that has been taken by this body, I believe that any remarks subsequent thereto are out of order due to the fact that we have already had a nominating speech on behalf of one candidate for President.

**MR. HUBBARD:** Mr. Gentling, the procedure in balloting will not be affected by the talks. Anybody can speak for either candidate. This has nothing to do with that. It is simply while we were here discussing this, Mr. Baldwin was upstairs arranging to cut stencils to make a consolidated ballot. It is not easy to count ballots. It means we will sit here for hours electing a President and the Vice Presidents. With the system I am talking about, the consolidated ballot, if we vote with one ballot for whomever we want for President, First Vice President and Second Vice President, it will simplify the whole election, and at this time I move that we vote a simplified ballot and save time.

(The motion was seconded by several.)

**WILLIAM S. HEDGES (WLW, Cincinnati):** In order to meet the objectives—

**PRESIDENT MYERS (interrupting):** Mr. Hedges, I was looking for you. Last year I asked you to preside. This year I understand it can't be done according to parliamentary practice. I do ask you to come forward and act as my adviser. Will you please do that? I have always been afraid I would have to figure one of these things out some day! (Laughter.)

**MR. HUBBARD:** Speaking on my motion, here is the ballot. At the top, for President, it says "John Elmer" and there is a square, and then below that "Ed Craney" and there is a square. Then it goes on and gives the nominees for First Vice President—John J. Gillin, Jr., the Nominating Committee nominee, and John Elmer, by petition. For Second Vice President—William J. Scripps or John J. Gillin, Jr.—so you can check them off. It simplifies the election and will save us two hours, I move that we reconsider.

(The motion was not seconded.)

**MR. GENTLING:** If this is in line with parliamentary procedure, I'd like to withdraw my motion.

**PRESIDENT MYERS:** I think we have to have a motion to reconsider.

**MR. GENTLING:** I so move.

**MR. WILLIAMSON:** Seconded.

(The motion to reconsider was put to vote, and was carried.)

**MR. HUBBARD:** I move that this be the official ballot in the vote for President, First Vice President and Second Vice President.

**MR. BORTON:** Seconded.

(The motion was put to vote, and was carried.)

PRESIDENT MYERS: On the official ballot which will be here in a few minutes, we will have two candidates for President, First Vice President and Second Vice President. You vote for your choice for President, First Vice President and Second Vice President, all on this one ballot, and save a great deal of time.

A MEMBER: What about the Treasurer?

PRESIDENT MYERS: Same on both ballots.

MR. HUBBARD: Now, gentlemen, to save time, there being no contest for Treasurer, I move that Harold Hough of Fort Worth be elected Treasurer unanimously.

MR. ROTH: Seconded.

(The motion was put to vote, and was carried.)

MR. WAY: Mr. Chairman, if it is not too late, I'd like to talk on this nomination. I don't know personally either Mr. Elmer or Mr. Craney. Therefore, I can talk intelligently. (Laughter.)

I do know what these gentlemen stand for. I have been traveling a lot in the last year. I know something about this ASCAP situation. I possibly know more about this ASCAP situation than 99 per cent. of the broadcasters because we have gone through federal court and spent a good many thousands of dollars and I have had to learn about it.

I tell you, gentlemen, the biggest mistake is you are fighting this ASCAP question on the floor of the convention with open remarks on the floor. These people have a federal law that protects them and you are not going to be able to change that law now. They have a lobby that is swell.

Now, if I want to buy anything which I have to buy, I don't go and throw rocks at the man that has it to sell. I don't want you to think that I am coming here and asking you to join ASCAP. They don't want you. You can't join. Neither can you sell them an idea. But, this thing of continually bombarding ASCAP and the things they have, in the newspapers and in the magazines, and throwing rocks at their house, is not getting anywhere at all. A plan has been recommended at this convention and previous conventions as being workable. Let that thing work its way out and let's quit fighting this ASCAP thing publicly and clean our linen at home.

I am in favor of Mr. Elmer's election.

PRESIDENT MYERS: Gentlemen, it has been called to the Chair's attention that there is no contest in the election of Directors. The Directors presented by your Nominating Committee for the three-year term are: Charles W. Myers, KOIN, Portland, Oregon; Herb Hollister, KANS, Wichita, Kansas; Harry C. Butcher, Columbia Broadcasting System, Washington, D. C.; Frank M. Russell, National Broadcasting Company, Washington, D. C.; and Theodore C. Streibert, Mutual Broadcasting System, New York. They recommend Gene Dyer, WGES, Chicago, for the one-year term. There is no contest for the election of those men. I am asking for a motion to make the election of these Directors unanimous.

L. B. WILSON (WCKY, Covington): I so move.

ALFRED McCOSKER (WOR, Newark): Seconded.

PRESIDENT MYERS: It has been moved and seconded that the Directors named be unanimously elected. Is there any discussion?

(The motion was put to vote, and was carried.)

PRESIDENT MYERS: The motion is carried and the Directors are elected.

(The ballots were distributed.)

JAMES R. CURTIS (KFRO, Longview, Texas): Mr. Chairman, I want a little information on this ballot. Are we to check the men we want or the men we don't want?

PRESIDENT MYERS: You always vote "yes"—"X" on the ballot—for the man you want. You put the check opposite the name of the man you want. I am glad you brought that up, sir.

I will recognize Mr. William Hedges.

MR. HEDGES: As a word of explanation, you can vote for whomever you want. You can vote for John Elmer for President or for First Vice President, if you so choose, but it will probably mean we will be here all afternoon getting this straightened out. I appeal to your logic that you vote the straight Nominating Committee's ticket or the straight petition ticket and, therefore, avoid a lot of confusion. Therefore, if you are for John Elmer, vote for John Gillin for First Vice President and William J. Scripps for Second Vice President. If, on the other hand, you are for Ed Craney for President, vote for John Elmer for First Vice President and John Gillin for Second Vice President. If you vote for John Elmer or Ed Craney for President, John Gillin or John Elmer for First Vice President, and William Scripps or John Gillin for Second Vice President, you will find that by the time you get down there, you will have gummed the works up to a sufficient extent so that we will have to have a re-balloting.

So, I submit if you are for Craney, vote for the petition candidates and if you are for the Nominating Committee ticket, vote for the Nominating Committee candidates.

PRESIDENT MYERS: Balloting is about to begin in accordance with the policy outlined. In other words, you are to mark your ballots and as your station is called, form the line on this side.

It has been called to my attention that any member of this Association may be appointed to preside in the Chairman's stead. I, therefore, take advantage of this rule and with the greatest of pleasure appoint William S. Hedges to conduct the remainder of this meeting.

(Mr. Hedges took the chair.)

CHAIRMAN HEDGES: The Managing Director will call the roll and as your station is called, please form in line and come up to the table, around this way.

(Casting of ballots.)

CHAIRMAN HEDGES: Is there any member of the Association in the room whose station has not been called?

The Elections Committee is composed of the following members: Hugh Half, who is chairman; Bill Way; Father James A. Wagner; Don Searle; and Dale Robertson.

MR. MYERS: Will all the members of the Elections Committee that are present please step forward?

Are any of you gentlemen interested in finishing the session of this meeting? If you are, will you kindly go out in the lobby and round up enough members to give us a quorum so we can consider these resolutions and we will be through for the day.

CHAIRMAN HEDGES: The Chair will now call upon Mr. John Henry, chairman of the Resolutions Committee, for the report of that committee.

JOHN HENRY (KOIL, Omaha): "*Resolved*, That the National Association of Broadcasters sincerely thanks Hon. Judge Eugene Octave Sykes, Chairman of the Broadcast Division, Federal Communications Commission, for the helpful address delivered by him at its fifteenth annual convention, and that the membership is confident that his message will aid greatly in enabling broadcasting stations to carry out the responsibilities placed upon them by the Federal Communications Commission."

I move the adoption of this resolution.

CHAIRMAN HEDGES: Is there a second?

MR. HUBBARD: Seconded.

CHAIRMAN HEDGES: Is there any discussion?

MR. HART: Is there a quorum here?

MR. HUBBARD: I move we adjourn without a quorum.

(The motion was not seconded.)

CHAIRMAN HEDGES: The ballot box is now closed and the Elections Committee will take charge of the ballot box and proceed to count them. Mr. Searle will act as chairman of that committee.

Mr. Hart who raised the question of quorum has withdrawn his challenge of quorum. We can proceed unless somebody else wishes to challenge the quorum. I believe that is hardly necessary in view of the routine nature of so many of these resolutions. If there are resolutions submitted on which there is controversy on which you wish to have a quorum, we can withdraw that resolution and present it at tomorrow's meeting.

Mr. Henry made the motion that the first resolution thanking Judge Sykes for his splendid address, be adopted and it was seconded by Mr. Hubbard. There is no discussion, apparently. Therefore, I put it to vote.

(The motion was put to vote, and was carried.)

MR. HENRY: "*Resolved*, That the National Association of Broadcasters hereby extends its appreciation to Mr. Glenn Snyder, Mr. H. Leslie Atlass, Mr. Ralph L. Atlass, Mr. H. C. Crowell, Mr. Gene T. Dyer, Mr. W. E. Hutchinson, Mr. Quin A. Ryan, Mr. F. A. Stanford, Mr. Niles Trammel and Mr. Clinton R. White of the Local Convention Committee for their services in helping to make the fifteenth annual convention of the National Association of Broadcasters a success."

I move this resolution be adopted.

H. K. CARPENTER (WHK, Cleveland): Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that the resolution just read be adopted. Any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "*Resolved*, That the National Association of Broadcasters hereby extends its hearty thanks to the management of the Sherman Hotel, and to Mr. Wm. P. Hennessy, Director of Conventions, Chicago Association of Commerce, for their splendid service in making the fifteenth annual convention of this Association an outstanding success; also to the management of the Sherman Hotel and other hotels for their courtesies in accommodating so many of our guests."

I move this resolution be adopted.

MR. ALLEN: Seconded.

CHAIRMAN HEDGES: Is there any discussion?

(The motion was put to vote, and was adopted.)

MR. HENRY: "Resolved, That the official acts of the Managing Director since the fourteenth annual convention be and the same are hereby approved."

I move this resolution be adopted.

(The motion was seconded by several members.)

CHAIRMAN HEDGES: Any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "Resolved, That the National Association of Broadcasters thank Mr. Arthur Pryor, Jr., of Batton, Barton, Durstine & Osborn, Inc., of New York City, and Mr. Marvin Oreck of Oreck's, Inc., Duluth, Minnesota, for their helpful participation in this fifteenth annual convention of the National Association of Broadcasters."

I move the adoption of this resolution.

H. P. DANFORTH (WDBO, Orlando): Seconded.

(The motion was put to vote, and was carried.)

MR. HENRY: "Resolved, That the NAB reiterates its position as favoring the issuance of radio station licenses for a term of at least three years."

I move its adoption.

MR. HUBBARD: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded to adopt the resolution. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "Resolved, That the Board of Directors of the NAB be directed and are instructed to carry on negotiations with copyright owners to the end that a per-piece or measured service plan be obtained."

I move the adoption of this resolution.

MR. HUBBARD: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that this resolution be adopted. Any discussion?

MR. HART: I would just like to say as an operator of a radio station, I am not in favor of a per-piece basis. I think a resolution as important as this should be brought before more delegates than this.

MR. HUBBARD: We have gone on record for this for five years straight.

CHAIRMAN HEDGES: We will withhold action on this until tomorrow.

MR. HENRY: This resolution will be slightly different from the mimeographed copy:

"Resolved, That the National Association of Broadcasters encourage the prosecution of the United States' suit against the American Society of Composers, Authors and Publishers."

I move its adoption.

MR. ALLEN: Seconded.

CHAIRMAN HEDGES: Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "Resolved, That the National Association of Broadcasters as an organization, use all legitimate means to further the passage of the Duffy Copyright Bill, and urge its membership to encourage members of the Congress from their districts, to support this bill."

I move the adoption of this.

HARRY C. BUTCHER (WJSV, Washington, D. C.): Seconded.

CHAIRMAN HEDGES: Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "Resolved, That the NAB approves of the action taken by the Board of Directors in respect to the organization of the NAB Bureau of Copyrights, Inc., and the transferring of the property and activities of the Bureau of Copyrights to the new organization and urges the wholehearted support to that organization of all our members."

I move its adoption.

MR. ALLEN: Seconded.

CHAIRMAN HEDGES: Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: The next resolution was recommended by your Committee on Radio Promotion.

"WHEREAS, we believe it is for the best interests of the National Association of Broadcasters, as a trade organization, to promote the broadcasting industry of the United States at all times in the best possible manner; therefore be it

"Resolved, That a Director of the Advertising Bureau of NAB be employed by the National Association of Broadcasters, to work under the supervision and direction of the Managing Director, to advance the art of radio broadcasting in the minds

of the people and to portray a true picture of the value of the radio industry, in its present form, to the United States."

Your committee suggests that this be referred to the Board of Directors.

MR. BUTCHER: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that this resolution be referred to the Board of Directors for further action. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: Another resolution presented by the Committee on Radio Promotion:

"Resolved, That the Board of Directors of the National Association of Broadcasters at their next regularly convened meeting shall designate one week of each year as 'National Radio Week,' and that said National Radio Week shall be promoted through the National Association of Broadcasters as the one week in each year in which all radio stations shall combine in their efforts to make the public radio conscious and furthermore to make said public realize the benefits which radio brings to them each day of the year."

I move the adoption of the resolution.

MR. MYERS: Seconded.

CHAIRMAN HEDGES: Is there any discussion?

MR. HOUGH: I am opposed to it. It sounds too much like Prune Week. I think it is entirely out of place. It is too much like Orange Week and Grapefruit Week. It smacks of commercialism.

(The motion was put to vote, and was lost.)

MR. HENRY: "WHEREAS, there has been introduced into the Congress of the United States a bill known as the Celler Bill, which would authorize the construction, maintenance, and operation of a government broadcasting station,

"WHEREAS, the existing system of broadcasting in the United States makes available to the various departments of the government ample time for broadcasting either domestic or foreign programs,

"WHEREAS, the existing system of broadcasting in the United States affords to the departments of the government the greatest possible radio audiences,

"WHEREAS, the operation of a broadcasting station by the Office of Education is opposed by all existing federal and state laws respecting education,

"WHEREAS, due to its official status, there would be great danger of utterances over such a station giving offense to friendly nations, and creating unnecessary international incidents,

"WHEREAS, the enactment of the bill would result in a useless and extravagant expenditure of public funds; now therefore be it

"Resolved, That the National Association of Broadcasters express its opposition to the passage of this bill, and instruct its Board of Directors to use all legitimate means to cause its defeat, and urge the members of the National Association of Broadcasters to encourage their Members in Congress to oppose the passage of this bill."

I move the adoption of this resolution.

MR. MYERS: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that this resolution be adopted. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "Be It Resolved, by the Executive Board of the National Association of Broadcasters, that we express interest in the purpose of the American Foundation for the Blind to commemorate the fiftieth anniversary of the first meeting of Helen Keller and her teacher, the late Mrs. Anne Sullivan Macy, on March 3, 1887, and that we endorse the nation-wide celebration to be conducted during the remainder of this year and the first part of 1938, as a tribute to these two great Americans."

We recommend that this be referred to the Board of Directors for suitable action, and I do so move.

MR. CARPENTER: Seconded.

(The motion was put to vote, and was carried.)

MR. HENRY: "WHEREAS, considerable progress has been made during the last few years by the radio engineering profession, and a great deal of data has been obtained concerning the laws governing radio propagation, interference, receiver selectivity, and the operating characteristics and efficiency of radiators, and

"WHEREAS, the Federal Communications Commission through its engineering department has demonstrated its progressiveness and aided the broadcast industry greatly by its actions in holding hearings, and otherwise, in accumulating advanced engineering information and correlating the same, and

"WHEREAS, the 'Preliminary Engineering Report on Allocations' made public by the Commission's Broadcast Division on Janu-

ary 14, 1937, meets with the general approval of the engineering profession, and

"WHEREAS, the National Association of Broadcasters approves this report because it is based on sound and basic engineering principles, and

"WHEREAS, there is a definite need in the broadcast industry for such improvements as will be possible by the adoption of these principles in the Commission's regulations; now therefore be it  
"Resolved, by the National Association of Broadcasters: The Federal Communications Commission is hereby petitioned by the National Association of Broadcasters to accept the report and to incorporate into its regulations the basic principles of said report."

I move the adoption of this resolution.

(The motion was not seconded.)

MR. HUBBARD: Mr. Chairman, I move that we hold it over until tomorrow for action.

MR. CARPENTER: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that this resolution be held over until tomorrow for action. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "WHEREAS, the present broadcast frequency band, 550-1600 kilocycles, is now occupied by an almost maximum number of stations, and

"WHEREAS, there is at present no satisfactory allocation agreement between the United States and other North American countries, and

"WHEREAS, in the present situation interference exists on some broadcast channels; now therefore be it

"Resolved, by the National Association of Broadcasters: That the Federal Communications Commission be requested to use caution in granting applications or in making changes in allocations in the frequency band 1510-1600 kilocycles, or in other new bands that may be used for broadcasting, in order to prevent action which would interfere with a satisfactory solution of the problem of North American allocation pending the Pan American Conference called for November, 1937."

Your committee has no recommendations on this resolution.

CHAIRMAN HEDGES: No recommendations offered by the committee. A motion is in order to approve, to table or refer to the Board of Directors, or disapprove. What is your pleasure?

MR. ALLEN: I move that it be tabled.

MR. HUBBARD: Seconded.

CHAIRMAN HEDGES: Is there any discussion on it?

MR. CARPENTER: I'd like to offer a substitute to refer it to the Board of Directors.

(The motion was not seconded.)

MR. HUBBARD: I don't think it is up to us to tell the Commission what to do. I move we stay out of it.

J. H. DE WITT JR. (WSM, Nashville): The reason that resolution was introduced was not that we would presume to suggest what the Federal Communications Commission should do or not do. The object of the resolution is simply to give the Commission ammunition to use against certain interests which might try to allocate these frequencies before the Pan American Conference. It is in the interest of the Association to see that all those frequencies are held open until a satisfactory North American agreement is reached.

CHAIRMAN HEDGES: Is there any further discussion? Are you ready for the question?

MR. HUBBARD: I would suggest that the resolution be rewritten and leave out the reference to the Commission.

CHAIRMAN HEDGES: May I make a suggestion? You have your Engineering Conference this afternoon and the suggestion is that you revise this resolution so it will accomplish the purpose you state and . . .

MR. DE WITT (interrupting): There is no meeting of the Engineering Committee; there is simply a reading of the Engineering Committee's report.

MR. MYERS: Mr. Chairman, our Engineering Committee was appointed with great care and consists of the best engineering minds in the industry. This Engineering Committee has proposed a resolution that has been acted upon by the Resolutions Committee and placed before this meeting as the best judgment of our Engineering Committee. As such, I believe that this motion to table the resolution should be defeated.

CHAIRMAN HEDGES: Are you ready for the question?

MR. HUBBARD: I move that we refer it to . . .

CHAIRMAN HEDGES (interrupting): We have a motion before the house, a motion to table the resolution.

(The motion was put to vote, and was lost.)

MR. CHURCH: I move it be referred to the Board of Directors.

MR. CARPENTER: Seconded.

CHAIRMAN HEDGES: Mr. Church moves and Mr. Carpenter seconds that it be referred to the Board of Directors. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: This resolution was proposed by Ed Crane of KGIR:

"WHEREAS, the Copyright Act of 1909 was enacted at a time when radio broadcasting was unknown and in the application of such act to Radio Broadcasting as it exists today, numerous injustices have been complained of by both user and owner of copyrighted material, and

"WHEREAS, the diversity of state legislation affecting copyrights and other problems of the broadcasting industry makes it advisable to co-ordinate information on these subjects for the benefit of all; therefore be it

"Resolved, That a committee composed of one member of the National Association of Broadcasters from each state be appointed and that each such member be pledged to respond to committee call, each such committee member to serve without compensation but with traveling and hotel expenses to be set and paid by the National Association of Broadcasters when such committee members are traveling pursuant to official call, and it shall be the duty of each such committee member to gather and furnish information on questions of copyrights and other problems of broadcasters, and that the activities of this committee shall be co-ordinated by suitable counsel engaged for that purpose."

The committee recommends that this resolution be referred to the Board of Directors, as the governing body of the Association, to take such action as time and circumstances indicate to be desirable. I so move.

CHAIRMAN HEDGES: Is there a second?

MR. HOUGH: Seconded.

CHAIRMAN HEDGES: It has been moved and seconded that this resolution be referred to the Board of Directors. Is there any discussion?

(The motion was put to vote, and was carried.)

MR. HENRY: "WHEREAS, the By-Laws of the National Association of Broadcasters provide that the convention city of the organization may be selected by the membership, and that the Board of Directors make such selection only if the membership does not select the convention city; now therefore be it

"Resolved, That the National Association of Broadcasters hold its next annual meeting at Chicago, at a date to be selected by the Board of Directors of the National Association of Broadcasters."

This is just to get it before the convention. I move the adoption of this resolution.

MR. CARPENTER: Seconded for the same purpose.

MR. HUBBARD: I think we should defeat the motion. I don't think we should take action on a motion of that type when so few are present.

MR. HENRY: I would like to withdraw the motion and have it voted on tomorrow.

CHAIRMAN HEDGES: The chairman of the Resolutions Committee withdraws his motion. This resolution will be presented tomorrow.

There is one other resolution which was distributed to all members as they came into the convention hall yesterday. That is the resolution offered by Mr. Hart of Honolulu calling for the reorganization of NAB. This is a matter which should come to the attention of the full body of delegates at this convention and, therefore, we will withhold presentation of that resolution until tomorrow's meeting.

That completes the reading of the resolutions. Is there any report from the Elections Committee? I will call on Don Searle, acting chairman of the Elections Committee, to present the report.

MR. SEARLE: There were 199 total votes and by your vote, you have elected for President John Elmer with 147 votes to Ed Crane's 52.

First Vice President—John Gillin, 148, to John Elmer's 42.

Second Vice President—William Scripps, 152 to John Gillin's 35.

The Elections Committee was composed of Dale Robertson, Bill Way and myself.

MR. CRANEY: Mr. Chairman, I would like to be the first to congratulate John Elmer on winning the election and I would like to move that the convention make the record unanimous for Mr. Elmer.

MR. BUTCHER: Seconded.

(The motion was put to vote, and was carried.)

CHAIRMAN HEDGES: Is Mr. Elmer here?  
(Mr. Elmer was not present at the time.)

#### Announcements

CHAIRMAN HEDGES: Except for the meeting of the Engineering Committee as referred to before, there will be no other meeting until tomorrow morning at 9:30 in this room.

MR. DE WITT: The only thing scheduled for the Engineering Committee is the reading of the formal report which can be submitted without being read.

CHAIRMAN HEDGES: Then there will be no meeting and the report will be submitted without being read.

#### Announcements

CHAIRMAN HEDGES: Before we disband, I would like to appoint Don Searle, Bill Way and Dale Robertson as the official committee to notify the newly-elected officers of the great honor bestowed upon them.

The meeting is now adjourned until tomorrow morning at 9:30.  
(The meeting adjourned at 1:50 o'clock.)

JUNE 22, 1937

(Tuesday Afternoon)

The meeting scheduled for this time to receive the report of the Engineering Committee was canceled because the report was submitted in writing.

#### Report of the Engineering Committee

During the last several years the Engineering Committee has devoted much time to the study of transmission fidelity and each yearly report has stressed the advantages to be had by following improved engineering practice. Much groundwork had to be done in 1934 in order to discover the proper path to follow and recommend to the Association. Joint meetings were held with the IRE and RMA committees and out of these there was developed a rather clear picture of the recommendations to be made. Conferences were held on the proposed high fidelity standards of the FCC and numerous critical comments were formulated and may be found in the committee report for 1935. Last year's report was unusual in that it did not deal directly with technical problems but pointed out the advantages to be gained by simple engineering improvements.

At the risk of being accused of pursuing a single path, we will remind you that there is still much room for improvement in transmission fidelity and coverage. Some few very progressive stations are delivering a signal that in general conforms to really high standards and these stations are reaping their reward in listener interest and wide coverage. A goodly number of stations have improved their equipment during the past few years and are giving a much better service thereby. A large number of stations are still in somewhat of a primitive stage in engineering matters, their improvements being largely a matter of just complying with FCC requirements.

Last year we mentioned the fact that antennas may vary widely in efficiency and that installation of a modern antenna might easily more than double the station's effective power. We again urge you to give this point due consideration. The mechanical design of antennas has been so improved during the last few years that it is now possible to purchase a good antenna at a very reasonable price, which makes it a good investment, for the coverage gained.

The fundamental transmission requirements of low distortion and noise level and good frequency characteristics should receive more serious consideration in most stations. The need of this is revealed and stressed by modern receivers which cover a much wider frequency band than formerly. This has been pointed out many times before and we have tried to show that money spent in this direction is usually a good investment. It is not enough, however, to purchase equipment capable of high fidelity performance. It is also necessary to equip your station with the proper testing apparatus before you can expect your engineer to keep the equipment at its peak of performance. Good testing apparatus will also indicate the least expensive improvements that can be made in old apparatus to make it conform to modern standards.

The finest possible transmitter will deliver large amounts of distortion and adjacent channel interference when overmodulated and, unfortunately, many stations are guilty of this error. The advantages of full modulation are well recognized. The apparent increase in power with increased modulation has led many stations

to continue raising their modulation level until serious distortion and interference results. Each station is now equipped with a modulation monitor. This instrument is used to show that the program level is being kept up at all times so that the station will render a maximum service. Unfortunately, its indications of overmodulation are not alarming enough to attract the proper attention and its use has led to many misconceptions on the part of non-technical men.

By employing a volume limiter, it is possible to gain the signal strength normally acquired through what might be termed reasonable overmodulation and at the same time prevent its ill effects. The use of this device must not be overdone, otherwise serious volume compression and consequent lack of expression will result.

In closing this section of the report, we wish to recommend again that your engineer study your station's transmission fidelity from microphone to antenna and make the changes dictated by good engineering practice, and that a regular checking routine be followed thereafter.

This last winter radio had to meet an unprecedented emergency during the great flood in the Ohio and Mississippi Valleys. Most stations acting in this emergency were badly handicapped by lack of short wave relay equipment. Since this and similar disasters offer such an opportunity for radio in public service, we of your Engineering Committee wish to recommend that each station owner give this matter his best thought and be prepared with the proper equipment for such occurrences in the future.

During the early years of broadcasting it was a comparatively simple matter to obtain the use of a broadcast frequency channel due to the small number of applications and the smaller number of assignments. As our industry grew, it became increasingly difficult for the government to find spaces in the frequency spectrum to fit in all the stations required for a national service. This problem became so acute by last year that it was necessary for the FCC to call a special informal conference on October 5 in which the entire allocation problem was reviewed.

The outcome of this conference was a general agreement that the American allocation plan is sound in principle but that there are certain factors which bear on it that must be given more consideration.

An important factor is the absence of any satisfactory working agreement between the United States and certain other North American countries. It has become apparent that allocation in this country is complicated by the needs of other North American nations, principally Canada, Mexico and Cuba.

In view of the approaching Pan American Conference, at which a satisfactory agreement may be reached, we of your Engineering Committee feel that the Association should earnestly request the FCC to be guided in the following course between now and the time of the Conference:

First, consider those frequency bands which have been suggested on numerous occasions, notably 160-265 kilocycles and 550 down to 520 kilocycles as a possible reservoir for additional facilities available when the problem of meeting demands by our neighboring countries is considered.

Second, that the FCC consider the unassigned frequencies in the band of 1510-1600 kilocycles in a similar manner.

With further reference to allocation problems, this committee urges that the NAB be properly represented at the International Telecommunications Conference scheduled for February 1, 1938, at Cairo. This conference will determine what changes, if any, should be made in the frequencies and bands internationally allocated to broadcasting; consequently it is of the utmost importance that the interests of this Association be protected by proper representation.

The loose-leaf Engineering Handbook issued two years ago has proved of real benefit to station engineers. However, a number of changes and additions have become necessary in order to bring it up to date. This work is being done at the present time and when completed, the new leaves will be sent to all stations.

JUNE 23, 1937

(Wednesday Morning)

The meeting, held in the Hotel Sherman, Chicago, convened at 10:15 o'clock, President Myers presiding.

CHAIRMAN MYERS: If you will be seated, we will call the meeting together and go to work. This morning I have the pleasure of turning our meeting over to the Chairman of our Commercial Committee, Mr. H. K. Carpenter.

(H. K. Carpenter, Chairman, Commercial Committee, WHK, Radio Air Service Corporation, Cleveland, took the air.)

CHAIRMAN CARPENTER: As is customary in these meetings and to sort of sneak up on your blind side and not expect you to think too deeply too early in the morning, we will have some of these announcements you have been wondering about anyway.

#### Announcements

CHAIRMAN CARPENTER: Are there any other announcements which should be made at this time? All right, we shall go ahead immediately with our program for this morning.

For the benefit of some of those who have been members of the NAB for two or three years, it might be well for me to summarize in just a moment or two the history of the Commercial Section. Those of you who know it, please hear with me and correct me if I should make any mistakes. I feel it is somewhat necessary for you to know something of the history of the development of this Section in order that you may understand some of the things we do and some of the things we do not do.

I had the honor of being appointed on the first Commercial Committee, I believe, and according to my recollection, which is somewhat hazy at most times but particularly so this morning, I was appointed by Bill Hedges in Washington back in 1928.

The members of that first Commercial Committee included some of the men who are here today, some of the men who are on the program and some of the men who, although not on the program, are sure to speak. You just can't keep them still! Bill Hedges, Paul Morency. At the beginning, of course, Paul was employed by NAB and later went to Hartford. Joe Maland. Martin Campbell. And, I believe Gene O'Fallon was with us in those days. But, there were only eight or ten men who met regularly in New York City and later in Washington.

The questions we discussed—some we are still discussing and some we will be discussing ten years from now, maybe. I remember one of the earlier discussions was on the rate card. That was not rates, necessarily, but on the size of the card, the general form and the shape of it—the shape so that it would fit into the files of the advertising agencies.

We discussed at that time discounts—time, quantity and cash discounts—and considerable time was consumed in evolving definitions for some of those terms with which we were completely unfamiliar. And, incidentally, it might be well for us to revert to a study of some of the definitions used in broadcast advertising.

We discussed an order form which resulted eventually in this standard A. A. A. A. order form. We went into quite lengthy discussions, day after day, several days, on the provisions which should go on the back of that standard order form.

We discussed representative plans and compensation of representatives. We discussed maintenance of rates—and I don't believe, by the way, that we have a resolution this year that every station should maintain its card rates! (Laughter.) That's wrong. We should have one this year. We have had one every year. (Laughter.)

But, that was discussed at quite some length. Also, another which is still being discussed, the question of local and national rates, or retail and general rates, as the definitions were established. And, eventually we evolved a Code of Ethics which I presume most of you men have framed and hung in your office—or certainly in the washroom next to your office. (Laughter.)

The Commercial Committee worked along that way until the number of questions which we were discussing seemed to fall naturally into several groups and the number became so large that it was rather unwieldy to handle in one committee so after the convention last year, the Commercial Committee was formed more completely than it had been the previous year in what we called the Commercial Section. So, this morning is an open meeting of the Commercial Section of the NAB or in another sense is a regular meeting of the entire NAB, which is to be devoted particularly to a consideration of the commercial phases of broadcasting.

There were five committees appointed and several changes have had to be made in the chairmen of these committees but as they stand at the present time, there is Lew Avery on Sales Managers Division, Carl Everson on National Sales Methods and Costs, Arthur Church on Committee on Radio Research, John Gillin on Radio Promotion, and Martin Campbell in charge of the Committee on Standardization of Sales Forms.

Each of these chairmen selected a committee of six men which made a total committee of seven, including the chairman, and the work of each committee was outlined roughly. Three of the five committees conducted their work during the year by means of correspondence and it was quite voluminous in some instances.

The two committees which were the exception to that method of procedure were, of course, the Sales Managers Division, which

has done its work in meetings in various sections of the country during the year and in the one meeting which was held here in Chicago.

Of course, we should not pass the Sales Managers Division without mentioning the very, very excellent work done by Buryl Lottridge. Unfortunately, Buryl had to drop the work and Lew Avery has picked it up without any difficulty whatever and has carried the work to its conclusion this year.

The Radio Research Committee—Arthur says he has very little to say this morning (no applause, please) and possibly I will take what he has to say from him—I will say this Radio Research Committee (check me, Arthur, if I am incorrect) is a group of seven men including Arthur Church, who is the chairman. The chairman selected five men who met with five men from the Association of National Advertisers and five men from the American Association of Advertising Agencies to form what is known as the Joint Committee of Fifteen. Now, there are a lot of figures in there but I believe you can see the idea as it is worked out.

The Joint Committee of Fifteen works on these matters and the five men from NAB then report back to this Radio Research Committee, which ties in with the Commercial Section, and it is in connection with that phase of the work that Arthur will speak this morning.

One other thing we should mention before I introduce the first speaker to give the first report, and that is we have been criticized year after year by many who do not quite understand the difficulties, that we do a lot of talking and never get anywhere in the Commercial Section. Well, O. K. We do a lot of talking but we do believe a number of very definite things have been accomplished during the last seven or eight years and we do know, those of us who have been working in this phase of the work that there are any number of things which we can't solve. We can't come out in a definite resolution and say so-and-so. It is a matter of evolution. It is a matter of calling these matters to the attention of the members year after year, and let the experience of the members develop to such a point that the membership is willing and ready to make some definite decision on some question which we have been discussing.

So, may I introduce the first speaker this morning giving the first report—Lewis H. Avery, WGR, Buffalo Broadcasting Corporation, Buffalo, will give the report of the Sales Managers Division. Mr. Avery.

LEWIS H. AVERY (Chairman, Sales Managers Division; WGR, Buffalo Broadcasting Corporation, Buffalo, New York): Mr. Chairman, ladies and gentlemen, last July, at the first session of the 1936 annual convention of the National Association of Broadcasters, J. Buryl Lottridge invited those sales managers who were present and who were interested in the formation of a sales managers organization, to meet with him in his room and perfect plans for a sales managers group. With the aid of the Resolutions Committee, there was written and presented to the 1936 annual convention Resolution No. 19. Here it is:

"WHEREAS, it is the sense of this convention that the interests of those attending are becoming more and more varied; and  
"WHEREAS, there has been an ever-increasing tendency toward the formation of smaller groups within the Association; and  
"WHEREAS, experience has proven this to be a healthy development, tending to interest a greater number of individuals in the work of the Association; and  
"WHEREAS, the sales promotion problems of the industry and individual stations both are becoming increasingly important; now therefore be it

"Resolved, That

1. this Association favors the formation of a Sales Managers Section of the NAB, to be affiliated with the Commercial Committee;
2. this Association recommends to the Board of Directors their approval of this project, and recommends that the Board authorize the Managing Director to pay such incidental expenses as are necessary for postage, printing and similar items out of funds of the Association."

You ladies and gentlemen who were then present looked favorably upon this proposal, passed it quickly. So, too, did the Board of Directors. Almost before we knew it, the Sales Managers Division of the Commercial Committee was born. Before the resolution was introduced, the interested group of sales managers by unanimous vote had already elected J. Buryl Lottridge chairman of the division. Mr. Lottridge deserves and hereby receives tribute for his untiring work. He was the father and mother, wet nurse and governess of the Sales Managers Division. He sold the idea to the other sales managers at the 1936 annual conven-

tion. Through personal force, he organized and supervised sectional meetings and personally staged and conducted the First Annual Convention of the Sales Managers Division. He accomplished tasks that would have seemed impossible to a hundred other men. With the Sales Managers Division a reality, Mr. Lottridge proceeded to appoint an Executive Committee consisting of:

John New, WTAR, Norfolk, Virginia  
J. Leslie Fox, KMBC, Kansas City, Missouri  
Hale Bondurant, WHO, Des Moines, Iowa  
Hugh Feltis, KOMO-KJR, Seattle, Washington  
Edward Allen, WLVA, Lynchburg, Virginia  
Lew Avery, WGR, Buffalo, New York

He then appointed an Advisory Committee consisting of:

Clark Luther, WOC, Davenport, Iowa  
C. T. Hagman, WTCN, Minneapolis, Minnesota  
Walter J. Rothschild, WTAD, Quincy, Illinois  
Mort C. Watters, WCHS-WPAR, Charleston, W. Va.  
Jack O. Gross, KWKH, Shreveport, La.  
Humboldt J. Greig, KFBK, Sacramento, Cal.  
E. Y. Flanigan, WSPD, Toledo, Ohio  
Wm. R. Cline, WLS, Chicago, Illinois

Mr. Lottridge finally appointed the following Section Chairmen to organize and promote sectional meetings:

Mallory Chamberlin, WMC-WNBR, Memphis, Tenn.  
Craig Lawrence, KSO, Des Moines, Iowa  
D. H. Vincent, KSL, Salt Lake City, Utah  
E. Y. Flanigan, WSPD, Toledo, Ohio  
Jack O. Gross, KWKH, Shreveport, La.  
Hugh M. Feltis, KOMO-KJR, Seattle, Washington

Soon after these appointments had been made and the summer vacation period past, a meeting of the two committees and the section chairmen was held here at Hotel Sherman on October 15, 1936. In a business-packed one-day session, the organization of the sectional meetings was perfected and the outline of the First Annual Convention drawn up. There was real enthusiasm for the new fields ahead on the part of all who attended. During the course of that meeting we reviewed and crystallized the objectives of the Sales Managers Division. Here are those objectives: first, to promote the letter and spirit of the Communications Act of 1934. To assist in the commercial development of broadcast advertising to the end that it will serve public interest, convenience and necessity. This may sound like a paradox. It isn't. A broadcasting station is better known by the commercial advertising it carries than by the number of times its license has been renewed. Second, to serve the best interests of the management of the station by whom the sales manager is employed. To develop the commercial side of broadcasting on a constructive basis. To build confidence in broadcast advertising through clean salesmanship. To keep selling costs at a reasonable figure. Third, to serve clients and advertising agencies to the end that there shall be increasing confidence in broadcast advertising and in the personnel who sell, prepare, produce and present advertising messages in this most effective of media.

This triple responsibility has been the guide to the inclusion or exclusion of material at the various sectional meetings, and at the First National Convention. It has been the measuring stick for numerous discussions at those meetings.

From the first, Mr. Lottridge felt that a full, free and frank discussion of our mutual problems would best be served by closed meetings. The rest of us readily fell in line with this suggestion. With a single, unfortunate exception, this policy has been rigidly adhered to. The purpose is obvious: What person would confess his sins on a "Man-in-the-street" broadcast? Another point that became a fixed policy in all meetings was that every sales manager present must say something about one or another of the topics under discussion. That frequent quotation from Gray's Elegy: "Full many a gem of purest ray serene the dark unfathom'd caves of ocean bear" could never be said of a sales manager who attended one of these meetings. These two policies worked admirably within the Sales Managers Division. From the outset we called a spade a spade, and when necessary used one to dig with.

From the earliest committee meetings, it became apparent that much misinformation and some misunderstandings existed in the minds of individual sales managers. How, then, could we accomplish any of the objectives we had set out so nobly to attain? That was the real problem. It has been by no means met and conquered. We do feel that much has been accomplished. Let me review the sectional meetings and the First Annual Convention. Let me add

the points on which a high degree of unanimity of opinion exists, and I'll leave it to you to weigh the results.

Energetic Jack Gross of KWKH, Shreveport, Louisiana, almost beat the gun with a fast-moving South Central Section meeting at the Oklahoma Biltmore Hotel in Oklahoma City on Monday, November 9, 1936. The meeting got under way a few minutes after nine o'clock and was still going strong after 6:00 o'clock. That's the way these sales managers work.

In this brief review of the various sectional meetings, I shall omit reference to topics that were more fully and completely discussed at the First Annual Convention.

The South Central Section meeting opened with a discussion of merchandising. The manager of a very successful station emphasized the importance of merchandising in the maintenance of a single rate, pointing out that his merchandising costs ran only 2½% to 3% compared to the usual rate differential of 15% to 30%. After an extended discussion of merchandising, pre-announcements and publicity, it appeared to be the consensus of opinion that stations should do a certain amount of merchandising, but should be paid for anything which actually costs the station money. Sentiment was unanimous for standardized frequency or quantity discounts. Mr. James Andrews, Advertising Manager of McEwen-Halliburton Company, one of Oklahoma City's largest department stores, discussed the use of broadcast advertising by retail accounts from the standpoint of a large buyer of radio time. This subject will be mentioned more fully later. At this meeting the single rate idea found many adherents and warm support. Twenty-four sales managers participated in these discussions.

Mr. Craig Lawrence of the Iowa Broadcasting System presided at the meeting of the North Central Section here in Hotel Sherman on Tuesday, November 10, 1936. Considerable time was devoted to a discussion of the control and compensation of salesmen. Various speakers brought out thought-provoking points in connection with these problems. Here it was generally agreed that the commission form of compensation provides the greatest business stimulation and the most economical sales operation. A show of hands disclosed that commissions ranging from 12½% to 25% were paid local salesmen, with the vast majority paying from 15% to 25%. Opinion on dual versus single rate was about evenly divided. So, too, was opinion on merchandising. This meeting went on record as unanimously favoring an effort to standardize frequency or quantity discounts.

The Northeastern Sectional meeting was also held on Tuesday, November 10, 1936. This meeting took place at the Park Central Hotel in New York City, and was presided over by E. Y. Flanigan of WSPD, Toledo, Ohio. The meeting opened with a discussion of national non-network sales problems. A brief discussion brought out the fact that a station should equip its national representatives with even more facts, figures and fancies than it does the local salesmen. An exposition of smart merchandising by one station served to emphasize the wide variation in thinking on this phase of our business that exists on the part of sales managers generally. An exceedingly interesting analysis of successful local retail selling was presented by Harry Trenner of WNBC, Binghamton, New York. A heated discussion of compensation for local salesmen disclosed the fact that an overwhelming majority of the stations represented at this meeting paid 15% or more commission, while only a minority paid less than 15% commission or compensated their salesmen on a salary basis. The last half of the afternoon session at this meeting was devoted to an exchange of successful commercial program ideas. This feature proved exceedingly valuable, and many smart plans were freely passed along. I know of three or four sales managers who returned home and promptly sold an idea they carried away from this meeting. Approximately fifty enthusiastic sales managers spent the entire day from 9:30 until after 6:00 o'clock.

The Pacific Section meeting was held at the St. Francis Hotel in San Francisco on Friday, November 20, 1936. Hugh M. Feltis of KOMO and KJR, Seattle, Washington, presided. On the subject of granting frequency or quantity discounts from the beginning of the contract or retroactively as earned, opinion was so divided that it was felt to be a matter for individual station decision. It was the consensus, however, that an advertiser was entitled to whatever frequency or quantity discount was earned through the combination of service for several products, even though those products were advertising through different advertising agencies. Here, too, the subject of dual versus single rate was felt to be a local problem to be settled by the management of each station. It was generally felt that radio stations should guard against getting too deeply into merchandising, and should not reach the point where merchandising service is top-heavy. Agency recognition was thoroughly discussed at this meeting. Mr. L. W. McDowell, Secretary of the Southern California Asso-

ciation of Broadcasters, explained in detail the method developed to handle this problem in Southern California. It was generally felt that this problem deserves considerable study and action on the part of sales managers groups throughout the country. On the question of standardized frequency or quantity discounts it was decided that the industry had not yet advanced to the point where such standardization was possible. Seventeen sales managers or other station executives were present.

The Southeastern Section meeting was held at the Tutwiler Hotel in Birmingham, Alabama, on Tuesday, November 24, 1936. Mallory Chamberlin of WMC and WNBR, Memphis, Tennessee, presided. Here, general opinion favored two rates as an economic necessity. Those present were hopeful that the Sales Managers Division might develop some simple, satisfactory and universally accepted definition of national and local business. This will be mentioned in more detail later. This meeting, like many of the others, emphasized the wide variation in methods and rates of compensation for local salesmen. The perennial merchandising problem came in for a wide discussion, with the general feeling that merchandising should be definitely in line with the amount of service purchased by the advertiser and never allowed to grow out-of-hand. This meeting, too, urged an effort to develop standardized frequency or quantity discounts. Eighteen sales managers were present at this meeting.

Let me summarize these section meetings very briefly. A total of 150 sales managers or other station executives attended these meetings. This represents 60% of the 250 sales managers who have voluntarily asked to become members of the Sales Managers Division. Remember, there are no dues in connection with the Sales Managers Division. The sales executive of every NAB member station is eligible to join.

With a single exception, all of the section meetings voted unanimously for an effort to standardize frequency or quantity discounts. The wide difference of opinion on sales control and compensation for salesmen clearly indicates that further discussion of these subjects will be profitable for all concerned. The subject of dual versus single rate is another topic that is certain to receive increasing attention from sales executives everywhere. How far should we go in merchandising? The wide variation in this phase of business-getting and holding offers a real opportunity for constructive thinking and discussion. Creative selling, both as it applies to local retail business and national non-network bookings, is one mighty important subject that's going to receive continued attention. So, too, is provision for an exchange of successful commercial program ideas.

The activities of the Sales Managers Division were culminated in an inspiring two-day meeting called the First Annual Convention. This was engineered and guided by J. Buryl Lottridge here at Hotel Sherman on January 18 and 19, 1937. Every one of the eighty-two sales executives who were present had ample opportunity to speak. And, everyone to whom I talked felt that he had gained definite and valuable knowledge and inspiration from the talks, opinions and practices that were freely reviewed at that meeting.

But let me start the review of those four meetings at the beginning. Following the opening address of Prexy Charles W. Myers of NAB, R. J. Barrett, Jr., then of Blackett-Sample-Hummert, Inc., explained "how the radio station sales manager can help me sell his time and keep it sold." There was plenty of food for thought in what Mr. Barrett said—food for thought on the part of station owners and managers as well as sales managers. What Mr. Barrett said deserves repetition but time is short and his remarks were reported in the trade press.

Then came T. F. Flanagan, President of the Penn Tobacco Company and one of the staunchest advocates of national non-network advertising. He, too, had a message of real value. He drew on an experience rich in the good points and the bad points of station policies and sales methods. Here, again, much that he said deserves repetition and if you failed to read the reviews of his talk, you'd better make a note right now to do that very thing when you get back home. And don't be afraid to put the shoe on if it fits.

The Monday afternoon session was opened by H. K. Carpenter, Chairman of the Commercial Section, of which the Sales Managers Division is a part. Then came a real knock-down and drag-out battle over national sales problems. "One rate for all buyers," said one speaker—"Dual rates are a necessity under certain conditions," declared another. And the fight was on. When the battle died down, J. Leslie Fox, of KMBC, Kansas City, who was in charge of the afternoon session, called for a show of hands on this subject and the count was exactly even. But, it would have warmed the heart of even a Methodist

evangelist to hear the voluntary testimony from the floor on the part of three or four sales managers who proclaimed their conversion to the single rate idea at previous sectional meetings. This subject deserves discussion wherever sales managers meet. A majority of the sales managers present agreed that the single rate is an ideal towards which we should all strive—an ideal that we believe can be very nearly achieved in time.

Kenneth Church of KMOX, St. Louis, led an exceedingly searching discussion of national sales problems. To quote from his talk: "Half the problem is getting it; the other half is holding this business." He also emphasized the importance of local sales efforts on dealers, distributors and branch offices to obtain this business. In the discussion that followed, it was generally agreed that there is room for creative selling; that such selling invariably begins at home, that is, with the station itself; and that the existing system of station representation is able to further such creative selling.

The discussion of "contingent business and other trick offers we get from some buyers" was led by William R. Cline of WLS, Chicago. Mr. Cline read several recent letters received by various stations proposing cost-per-inquiry and contingent contracts. This type of business was unanimously condemned in no uncertain terms by the sales managers present. This led to a discussion of direct selling—where the listener sends money to the radio station for merchandise not otherwise available. A majority of the sales managers present condemned this practice as not in the best interests of this medium. During the Monday afternoon session, the sales managers adopted a motion requesting The Chair to appoint a committee to investigate the standardization of units of sale and frequency or quantity discounts. The committee appointed consisted of: Hale Bondurant, WHO, Des Moines, Chairman; William R. Cline, WLS, Chicago; Mallory Chamberlin, WMC and WNBR, Memphis, Tennessee; and Jack Gross, KWKH, Shreveport, Louisiana.

The Tuesday morning session was opened by NAB Managing Director James W. Baldwin, who briefly reviewed developments in broadcasting since the 1936 convention. He was followed by Walter Schwimmer of Schwimmer & Scott of Chicago. Mr. Schwimmer discussed "Servicing the Radio Advertiser and the Station." By his own admission, his talk was devoted almost exclusively to the A-B-C's of broadcast advertising. And the sales managers agreed that the A-B-C's Mr. Schwimmer outlined are the most important fundamentals of commercial broadcasting. One statement from his talk is the sort of thing we all like to hear. I quote: "Advertisers have told us innumerable times that radio, for a given period, has out-pulled any other form of advertising, and these statements were based on actual comparative tests." Mr. Schwimmer was subjected to a severe cross-examination that brought out many other valuable facts.

Preserving the high pitch of interest in retail broadcast advertising, Mr. Lottridge then presented Edward Warner of the Ferry-Hanly Advertising Company. Mr. Warner covered every phase of one case history in question-and-answer form. His minute analysis of the problem raised many interesting questions. It was a pretty sleepy sales manager who didn't mentally tabulate for future reference the many important points that were covered.

Every sales manager was back in his seat promptly on Tuesday afternoon for the all-engrossing panel discussion of local sales methods and servicing, conducted by Mort C. Watters of WCHS, Charleston, West Virginia. Rather than review the various talks that comprised this panel discussion, I am going to list the subjects:

- 1—"Changing accounts from a small announcement schedule into a larger program plan."
2. "Using the telephone for local sales."
3. "What about street cars?"
4. "Appealing to a department store by playing up a tradition."
5. "Keeping a 100-watter sold out."
6. "Showmanship in local sales."

The subjects of these talks clearly indicate the ingenuity that sells local broadcast advertising today. While the NAB REPORTS show that local broadcast advertising is rising rapidly in dollar volume, nevertheless, we sales managers feel that we have only scratched this major field. That is why Mr. Lottridge set aside the entire second day of the First Annual Convention for a discussion of this source of business. Local broadcast advertising has been discussed, is being debated and will be promoted whenever sales managers meet. Until we have doubled, tripled and quadrupled the percentage of the retailer's advertising dollar that goes into broadcast advertising, we cannot feel that we have really carved a place for our medium in this field.

Hale Bondurant of WHO, Des Moines, Iowa, as chairman of the committee, then presented the recommendations for standardization of units of sale and frequency or quantity discounts. After an extended discussion, the following recommendations were adopted and referred to Chairman H. K. Carpenter of the Commercial Section:

Recommendation No. 1: "The Sales Managers Division of the Commercial Section of NAB registered its approval of the purpose of the resolution passed by the NAB in convention at Cincinnati in 1934, which proposed a standardized scale of units of time for sale and quantity discounts.

"Since that time considerable progress has been made by the broadcasting industry and there is now a definite attitude on the part of the broadcasters, as well as an expressed desire by many advertising agencies, to standardize even more definitely the matter of units for sale and quantity discounts.

"Therefore, the Sales Managers Division in meeting in Chicago, January 18 and 19, 1937, respectfully submits to the Commercial Section of NAB for early consideration the following units of time for sale and quantity discounts:

a—Units of time for sale	b—quantity discounts
1 hr.	13 times—5%
½ hr.	26 times—10%
¼ hr.	52 times—15%
5 min.	100 times—20%
	300 times—25%

"Regarding announcements, we believe that further consideration should be given toward standardization.

"We further believe that all rate cards should be printed to show the actual rate or cost after application of the above quantity discounts."

Recommendation No. 2: "The Sales Managers Division in meeting in Chicago, January 18 and 19, 1937, respectfully directs to the attention of the Commercial Section of the NAB that considerable confusion exists in the broadcasting industry with respect to whether announcements or spots should be combined with program units of time of five minutes or longer in the matter of figuring discounts.

"It is our recommendation that announcements or spots of less than five minutes' duration should not be combined with units of time of five minutes or longer in the matter of figuring discounts.

"We propose that announcements or spots of less than five minutes' duration should be combined in figuring discounts and that units of time of five minutes or longer should be combined in figuring discounts."

Every sales manager is conversant with creative selling. He may not be able to define the term but he is practicing the principles if he is selling commercial programs. He knows that creative selling, like patriotism, has had many a crime committed in its name. While he is the first to admit that the present system of national representation is not 100% effective, nevertheless he believes that it is the best method so far developed. He, therefore, condemns the grant of 15%, 7½% or any commission at all to any organization other than the representative with which the station has an agreement. He believes that this practice will set back the development of sound business principles in our industry. This is no 5-to-4 decision. It is the unanimous verdict of the eighty-two sales managers assembled at the First Annual Convention of the Sales Managers Division.

During the past two days the Sales Managers Division has held two business meetings. Many of you have attended these meetings so that no review now seems necessary. However, at the Tuesday afternoon session of this Division, considerable discussion developed about the practice of some transcription, program and announcement production companies in calling on prospects in various communities without first contacting the radio station or stations in those communities. In many instances this practice has very definitely proved detrimental to our medium and our clients. Often these services have been sold at exorbitant prices, which, when the cost of station time was added, made the total cost of the advertising so high that it could never pay out. We urge all stations to watch and guard against this situation. In the same breath we commend those transcription, program and announcement production companies which first check with the radio station or stations in the communities in which they hope to sell their services. The group also unanimously commended J. Buryl Lottridge for his untiring and constructive efforts in the creation and building of the Sales Managers Division and voted Mr. Lottridge an award of permanent appreciation.

We believe, in closing, that our enthusiasm, both individual and collective, for these meetings of groups of sales managers, coupled

with the objectives and attainments so far recorded merits a continuation of the Sales Managers Division of the Commercial Section.

Thank you.

CHAIRMAN CARPENTER: Thank you, Avery, and all the men who worked with you.

Where are Bill Clark and Les Fox? I have some work for them up here. Will you pass out these blue sheets? Now, while they are passing out that material, we will have the report of the Committee on National Sales Methods and Costs, by Carl Everson of WHKC, Columbus, Ohio.

CARL EVERSON (WHKC, Columbus): Mr. Chairman, ladies and gentlemen, it was the duty of the National Sales Methods and Costs Committee to determine the best methods to be used in securing national spot business, also to study the cost of same.

I wish to state here, before going into the body of the report, that in the opinion of the committee members further study of these subjects should be made before definite recommendations are sent to the Board. The reason for this is that some of us were brought into the picture at quite a late date—this through no fault of the General Chairman, I assure you. Therefore, the following members recommend a further study: Dale Robertson, Father Wagner, Tim Goodman, William Gillespie, Dick Mason and J. H. Ryan. We do feel, however, that enough was accomplished to justify the time given us on this program to acquaint you with what has been done.

The title, "National Sales Methods and Costs," suggested the following subjects which will be taken up in the order named:

1. National Representatives and Branch Offices.
2. Organizing Local Media Groups.
3. Recognition of Obscure National Agencies.
4. Centralized Agency Recognition Bureau.
5. Bulk Sales.
6. Per Inquiry and Contingent Business.

Going back to number one, "National Representatives and Branch Offices," we feel that national representation, either through an established firm or branch offices, is essential for the successful selling of any station which serves a market of sufficient proportions to justify the interest of national advertisers. In the case of high-powered stations, strategically located in major markets, the idea of establishing independent branch offices might be entirely practical and perhaps more profitable than dependence upon an established representative firm; however, in the case of regional stations in particular and stations in general, which do not enjoy sufficient national spot billing to justify the maintenance of independent branch offices, national representatives are, in our opinion, the answer to sales problems in this field. The percentage charged for securing national business by a representative should be based on the popularity enjoyed in the national field by the station or stations involved. In no case should it exceed 15% of the net after the deduction of the advertising agency commission.

"Organization of Local Media Groups"—this, we believe, would go a long way in any city or market toward stabilizing and promoting the business of advertising. The idea of a media recognition bureau has been before NAB conventions for the past few years. Many suggestions have been made but little was accomplished. However, a year or so ago in Cleveland there was organized a media group. This local media group has worked out so successfully and has brought about such a perfect understanding between all media that we believe a recognition bureau patterned after the Cleveland group would be very desirable. To go into detail regarding this group would take more time than allotted here. However, so that you may become familiar with its workings, copies of the rules and regulations are available and are being passed out at the present time. Be sure to get a copy; read it carefully.

"Recognition of Obscure National Agencies"—recognition of obscure national agencies and a centralized agency recognition bureau are so closely related to a media recognition bureau that in our opinion, an NAB media recognition bureau would solve the whole problem. We are all aware that the need of a national agency recognition bureau has been felt for several years. You all know of the discussions on this question which have taken place at each convention for the last two or three years—and hardly anything has been done in the matter. Probably the reason for this failure is that we have attempted to start at the wrong end of the problem, trying to build entire national organization before various localities were ready for it. Since a number of cities have already formed local media groups modeled on the Cleveland plan, it is the recommendation of your committeemen that this expansion continue and be encouraged. Undoubtedly, in a short time a national clearing house may be established for each of these local media

groups and our national problem will be solved in this manner. When such a bureau is organized, it should, to derive full benefits of its operations, be unanimously supported.

"Bulk Sales"—there seems to be quite a bit of confusion in the industry regarding the meaning of bulk sales. The interpretation of this term, as we understand it, is the selling of time to an individual or firm who in turn re-sells it to other individuals or firms. One can readily see the danger in this procedure. There are many pitfalls in subscribing to this type of business and probably the greatest is that the station in contracting for bulk sales ceases to have control over the periods contracted for. In many cases it has resulted in price cutting, price raising, the disrupting of the regular sales staff, the over-burdening of commercial announcements and general dissatisfaction among the business men of the city or towns involved. We strongly recommend that bulk sales, as we understand the term, be abolished.

"Per Inquiry and Contingent Business"—it is quite difficult to understand why any station should accept business on this basis. Acceptance of this type of account or accounts is decidedly foolish and definitely detrimental to the industry as a whole. Card rates should be strictly maintained. We strongly recommend that all members of the National Association of Broadcasters be guided by rule number six in the NAB Code of Ethics, which reads as follows: "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."

Thank you.

**CHAIRMAN CARPENTER:** I want to acknowledge to Mr. Everson my debt of gratitude for his taking this work over only in the last few months and also to say in connection with the Cleveland plan, the leading light in that activity was John Patt of WGAR and he deserves all kinds of credit for helping to develop that plan.

In building our program for today, we wanted a man from an advertising agency and we wanted a man who wouldn't pull his punches. I was going to go on to tell you something about this man but I'll let you draw your own conclusions when you hear him. I'd like to make a double presentation, if I may. First, may I present Mr. Arthur Pryor, Jr., of Batton, Barton, Durstine & Osborn, Inc., who is going to talk on "An Agency Man Looks at Broadcasting" and, Mr. Pryor, may I present my friends of the NAB. Hop to it. Take the gloves off. (Laughter and applause)

**ARTHUR PRYOR, JR.** (Batton, Barton, Durstine & Osborn, Inc., New York), addressed the convention. (At the request of Mr. Pryor the text of his extemporaneous talk is omitted from this report.)

**MR. CARPENTER:** Report of the Committee on Radio Research—Arthur B. Church, KMBC, Kansas City, Mo.

**MR. CHURCH:** \* \* \* The report that I was going to read won't take very long:

The National Association of Broadcasters at its 1936 convention passed the following resolution:

"RESOLVED, That the Committee on Radio Research for the year 1936-37 consist of seven members appointed by the President so as to represent the following groups in addition to the Managing Director:

- (1) Each major network contributing to the project.
- (2) Local stations.
- (3) Regional stations.
- (4) Clear channel or high-powered stations.

"BE IT FURTHER RESOLVED, That the committee be empowered to select five of its membership to represent the broadcasting industry on the Joint Committee on Radio Research.

"RESOLVED, That this convention approve the activities of the NAB Radio Research Committee during the past year, and that it commend the excellent progress made by the Joint Committee on Radio Research, sponsored by the National Association of Broadcasters, Association of National Advertisers, and American Association of Advertising Agencies.

"RESOLVED, That the Board of Directors of the National Association of Broadcasters be empowered to devote for exploratory purposes upon recommendation of the NAB Radio Research Committee the sum of \$10,000.00; and that additional funds be devoted to the project if necessary if in the opinion of the Board this can be done without impairing the financial position of the Association."

The following Committee of Seven was appointed by President Myers for the year 1936-37:

Arthur B. Church, KMBC, Chairman  
Roy Witmer, NBC

H. K. Boice, CBS  
Theo. C. Streibert, WOR  
J. O. Maland, WHO  
Wm. J. Scripps, WWJ  
John Elmer, WCBM

In conformity with the terms of the resolution, James W. Baldwin, Managing Director of NAB, became a member of the committee, and further, the following Committee of Five was selected to represent the broadcasting industry on the Joint Committee on Radio Research:

Arthur B. Church, Chairman  
James W. Baldwin  
J. O. Maland  
Roy Witmer  
H. K. Boice

NAB participation in expense of the joint project to date has been small, only \$2,000.00 of the \$10,000.00 authorized having been requested by the committee from the NAB funds. It is possible that not more than the remaining \$8,000.00 available will be required for NAB participation in the joint project during the next year, but if more is needed, it is believed that the resolution passed at the last convention will enable the NAB Board of Directors to pass on a request by the committee, if this appears necessary.

At a recent meeting of the NAB Research Committee it was unanimously decided that a full-time research expert should again be included in the staff of the NAB Managing Director, and it is intended that at the next meeting of the Board a request will be presented for the authorization of retaining such a man as soon as, in the opinion of the Managing Director, the condition of the treasury makes this possible.

Substantial progress in the exploratory work of the Joint Committee is reported by the Committee of Five. Besides publication last year of the first estimate of radio set figures in the United States, by states and counties, work was begun on studies in a test area for the purposes of determining methods, acceptable to the buyers of our medium as well as to broadcasters, of determining station coverage and circulation, listener areas, and so forth, initial report on which was mailed only a few days ago to members of the Joint Committee for consideration.

It is the hope of your Research Committee that the work of the Joint Committee will have reached (by the next NAB convention) the point that a comprehensive report of accomplishment can be made on the exploratory studies, also that a second estimate of radio sets in the United States, by states and counties as of January 1, 1938, will have been completed or at least well under way.

In concluding this report of progress during the last year, the Research Committee calls to your attention the rather comprehensive report submitted at the 1936 NAB convention. This is included in the 1936 convention reports published in the weekly NAB release dated September 23, 1936, pages 1538-1541. The chairman of this committee is proud of the splendid interest, excellent work and almost one hundred per cent. attendance at meetings throughout the year. Moreover, the chairman would be negligent should he fail to report the great number of trips from Washington to New York by your Managing Director who has spent many days in attendance at meetings of the Technical Committee of the Joint Committee. For a man whose hours are as crowded as his, this has been a real sacrifice in time and energy which is deeply appreciated by the station members of the Research Committee. Obviously, he cannot continue indefinitely to find as much time for this work as he has taken in the past, and this situation will be greatly relieved as soon as a research expert can again be retained in the NAB office. Tribute should again be paid to Phil Loucks and Dr. Hettinger for their remarkable foresight and work in marking the beginnings of serious NAB research and participation with the Association of National Advertisers and American Association of Advertising Agencies in establishing the co-operative effort in which the National Association of Broadcasters is the other participant. And finally, acknowledgment should be given to the fine work of Mr. Paul Peter who, upon the recommendation of the NAB group, was retained as secretary and technical expert to the Joint Committee.

Your chairman is confident that your committee for 1937-38 will be able at the next convention to report a year of work and results of real value not only to members of the NAB but also to all others with whom we work in this business of broadcasting. (Applause)

**CHAIRMAN CARPENTER:** Thank you, Arthur. I think the man who told this story had Arthur in mind, at least had a third of him in mind. He said he always had three talks—one he had prepared, the one he actually gave and the one he wished he had prepared. So, Arthur, you have given two of yours and if you have

something you wish you had given, you will have your opportunity this afternoon. Thank you very much for that report and the excellent work done by the committee this past year.

We have two more reports and the resolutions, and then the meeting will adjourn.

Report of the Committee on Radio Promotion by John J. Gillin, Jr., Station WOW, Woodmen of the World Life Insurance Association, Omaha, Nebraska, U. S. A. O.K., John.

JOHN J. GILLIN, JR. (WOW, Omaha): If you will pardon me, ladies and gentlemen, I saw a fight last night. Jimmie Brad-dock lost the fight and I lost my voice.

CHAIRMAN CARPENTER: Is that all? (Laughter)

MR. GILLIN: So I am pretty hoarse this morning. "Mr. Chairman, ladies and gentlemen, in making my report as chairman of the Committee on Radio Promotion of the National Association of Broadcasters, I want to call your attention to the members of this committee:

Harrison Holliday, of Earle C. Anthony, Inc., KFI and KECA, Los Angeles.

John Fetzer, of WKZO, Kalamazoo, Michigan.

Donald Withycomb, of WFIL, Philadelphia.

Don Searle, of WIBW, Topeka, Kansas.

Edgar Bell, of WKY, of Oklahoma City, Oklahoma.

Gardner Cowles, Jr., of the Iowa Network—WMT, Waterloo and Cedar Rapids, and KSO and KRNT, Des Moines, Iowa.

"The subjects which were discussed by the division on radio promotion for 1937 were:

1. The relative value to the advertiser of rated power as against actual coverage—and methods of arriving at sound conclusions.
2. Radio Award of Merit.
3. Convention Exhibit of Promotional and Advertising Ideas.
4. General Industry Promotion Plans.

"On the first subject, namely, the relative value to the advertiser of rated power as against actual coverage and methods of arriving at sound conclusions, naturally, there was a definite line of discernment drawn as to the opinions of the committee.

"One faction of the committee summed up their side of the case as follows:

"Those of us who are familiar with the coverage of radio stations tried to impress the agencies with the fact that a station, let us say, operating on 1000 watts to 5000 watts on 550 kilocycles, carrying a network service, is bound to have a greater potential coverage than a station operating with 50 kilowatt power and a frequency over 1000 kilocycles. Some stations have used the half millivolt line as a basis of determining the primary service area in which the desired signal can be constantly heard. This would seem to be the best known method of calculation so far as actual coverage is concerned.

"There are other points which an advertiser should consider, such as method of station operation, program quality, general listener interest and ability of the station to properly service its clients, but we do know that our big job now is to concentrate on educating the agencies and the clients, through intelligent promotion, to understand the advisability of considering stations because of actual coverage instead of the much ballyhooed high-powered stations on less desirable frequencies."

"Another portion of our committee summed up their estimation of the first subject in the following manner:

"We are extremely anxious to see a thorough discussion of the relative value to the advertiser of rated power as against actual coverage. We believe it would be highly desirable to have some competent person be prepared to discuss all the chief methods of measuring actual coverage. The merits and weaknesses of each method should be brought into the open at the next convention and some conclusion reached, or at least approval made, of two or three of the best methods in measuring actual station coverage. We believe that nothing would help radio more in the long run than if advertisers could be educated in all the factors bearing on actual radio coverage."

"Another portion of the committee expressed themselves in the following manner:

"There seems to be no general formula for the computation of primary, secondary and occasional coverage areas. If the

NBC formula and the formula of one of the national representatives, for instance, are applied to a station's mail count, the result is two different pictures. There is considerable doubt as to whether the results of the application of these formulae indicate listenability between one county and another county. However, this section of our committee urged that efforts be made to adopt a definite formula for computation of station coverage by mail count. Unless a uniform method be adopted, they cannot see how an advertiser can measure the coverage of one station against another. They suggest that the half millivolt contour merely represents potential circulation and is interesting to note on a mail count map."

"This, I believe, sums up the first question that was discussed by the Committee on Radio Promotion. What I have mentioned above was taken from reports of each individual of the Promotion Committee.

"As you know, the NAB Research Committee represents the NAB, as well as the AAAA, in a very fitting manner. The Research Committee, headed by Arthur Church, just made its report.

"It is the earnest desire of your Committee on Radio Promotion that the Research Committee should hereafter be given authority to handle whatever problems arise in regard to the question of relative value to the advertiser of rated power as against actual coverage, and methods of arriving at sound conclusions.

#### "Radio Award of Merit

"On the subject, Radio Award of Merit, there seemed to be two different ideas concerning the award. One was that the award should be based primarily on commercial program structure from a standpoint of sales effectiveness in addition to entertainment value, and the other that the award should be based primarily upon civic or community service of an outstanding character such as the work of Radio Station WHAS during the last flood.

"The commercial program award of merit should be for programs produced by individual stations. The mechanics of making the commercial award would be somewhat complicated and would require a set-up of well-thought-out and created organizations throughout the country. These committees should consist of three advertising club members, a cleric or educator, a radio editor, and a member of the State Federation of Women's Clubs.

"The radio award of merit for civic and community service programs should be given to the station in the United States which has performed according to the rules and regulations that would be set up by a committee similar to the committee structure for the commercial program award.

#### "Convention Exhibit of Promotional and Advertising Ideas

"The convention exhibit of promotional and advertising ideas was turned over to a sub-committee, the chairman of which was Howard Peterson, Promotion Manager of WOW, Omaha."

I am going to ask my good friend Carp to read this report, if you don't mind.

CHAIRMAN CARPENTER: The other members of the committee were:

Emmons Carlson, Manager, Promotion and Merchandising Department, National Broadcasting Company, Chicago.

Wayde Grimstead, Promotion and Merchandising Manager for Columbia Broadcasting System, Chicago.

M. F. Allison, of Station KMBC, Kansas City, Missouri, and Dick McBroom, of John Blair & Company, Chicago.

"I want you gentlemen on the floor today to give full credit to the splendid work of this committee as shown in the wonderful display of promotional material that is exhibited here during this convention. As chairman of the Committee on Radio Promotion, I sincerely thank each individual member of this sub-committee, and state that through their efforts the eyes of many of the station managers have been opened as to the results that it is possible to obtain through the proper promotion of their stations.

"This committee worked under the following set-up, as approved by me, as chairman, and by Mr. James W. Baldwin as Managing Director of the NAB.

"It was the purpose of the committee to get together a representative showing of the activities of the stations to illustrate what has been accomplished in the past and the trend of all phases of promotional work. When you view the display you will note that it has been divided into separate classifications in order to simplify the display problem and to increase its usefulness to you. In no sense is this display to be considered a competition among out-

standing activities. Rather its purpose is to point out in a practical way the manner in which stations of all sizes have progressed in their promotional activities.

"It is hoped that station officials will gain from this display ideas which they can adapt to their own future plans. After all, it is not so important as to how far we have progressed, but to see how much farther we can go, and we hope that this display in a year will have become a thing of the dark and distant past and be far superseded by the display which will greet your eyes at the convention next year.

"As this exhibit of promotional pieces is the first that this Association has attempted, the committee was forced to make its plans without precedent and with no way of knowing how much material would finally be available. Hence, if any material which your stations may have submitted is not on display, please do not feel that this is in any sense a discrimination or that those pieces which you do see are necessarily models of their type. The entire display has been assembled with the constructive thought that a cross section of station promotional activity would be of help to all of us."

Now, I believe he has here some resolutions that are to be presented by the Resolutions Committee. Here is the report of the sub-committee.

#### "Report of the Sub-committee on Radio Promotional Material of the NAB

"The committee consisted of Mr. Howard Peterson, Commercial Manager of Radio Station WOW, Omaha, Nebraska; Wayne Grimstead, Promotion Manager, WBBM (CBS), Chicago, Illinois; M. F. Allison, Promotion Manager KMBC, Kansas City, Missouri; Dick McBroom, Promotion Manager, John Blair & Company; and Emmons Carlson, Promotion and Merchandising Manager of the Chicago office of the National Broadcasting Company.

#### "Problems

"The sub-committee met June 16, at the Sherman Hotel, to form and plan a method of building a radio promotion exhibit."

This is the report of this sub-committee that handled this exhibit you see on this floor.

"After viewing the material at hand, and the facilities for displaying such material, it was decided to adopt a plan which would be constructive in purpose and simple enough to be accomplished within the time allowed. The material arrived in all shapes, sizes and forms, and represented all types and variations of radio promotional activity. The problem of the sub-committee was the same that confronts any initial effort. Obviously, systematic arrangements and continuity of display had to be sacrificed for simplicity. Therefore, mass displays were decided upon in three general groups, namely, 'Nets—Reps—Platters', 'To the Advertiser' and 'Listener Promotion'. With a few exceptions, all material submitted came within these general classifications.

"The sub-committee attempted to view the problem as of the industry, rather than of specific stations or organizations. Our attempt was not to have a county-fair type of competitive display, but rather to show a cross section of the industry's promotional activities.

"Owing to the lack of time and general clear understanding as to the aims of the sub-committee, some stations submitted elaborate unit displays which, of course, could not be discarded as they were sent in good faith to the exhibition. We wish to make this explanation to obviate any feeling that such stations received more space than others.

#### "Vital Statistics

"Promotion material was submitted by 175 stations, 6 networks, 3 transcription companies and several news services. A list of the organizations who submitted material is attached herewith. Some stations submitted promotional material in quantities for distribution to those attending the convention. This was all placed on a table in the center of the room.

#### "Recommendations

"1. The committee desires to express the thought that this display is an excellent example of what should not be done next year. Therefore, it wishes to submit suggestions for consideration.

"2. The committee feels that next year's display, if possible, should be made up of uniform units submitted by each station participating. It is suggested that each station exhibit a complete campaign of any promotional activity on a standardized unit display. It is further suggested that this unit display be a mounted

cardboard piece, roughly 20x30". These unit display pieces would form the backbone of the exhibit, in addition to whatever other material the stations may desire to submit. Additional material for merchandising pieces may be submitted unmounted to the committee in charge.

#### "Acknowledgments

"The committee wishes to express sincere thanks to Mr. Vanderwarker and to Mr. Culver, and the entire Sherman Hotel Management for their splendid co-operation in preparing this exhibition."

Does that conclude it, John? John wants you to hear these resolutions because he wants you to do some thinking before they are presented by John Henry of the Resolutions Committee.

"Your Committee on Radio Promotion will place before the Resolutions Committee the following resolution in regard to general industry promotion plans:

"WHEREAS, we believe it is for the best interests of the National Association of Broadcasters, as a trade organization, to promote the broadcasting industry of the United States at all times in the best possible manner; therefore be it

"Resolved, That a Director of Publicity be employed by the National Association of Broadcasters, to work under the supervision and direction of the Managing Director, to advance the art of radio broadcasting in the minds of the people and to portray a true picture of the value of the radio industry, in its present form, to the United States."

"Your Committee on Radio Promotion will also place before the Resolutions Committee the following resolution, under the heading of general industry promotion plans:

"BE IT RESOLVED, That the Board of Directors of the National Association of Broadcasters at their next regularly convened meeting shall designate one week of each year as 'National Radio Week', and that said National Radio Week shall be promoted through the National Association of Broadcasters as the one week in each year in which all radio stations shall combine in their efforts to make the public radio conscious and furthermore to make said public realize the benefits which radio brings to them each day of the year."

I believe that resolution was presented by the Resolutions Committee yesterday and was voted down.

MR. HENRY: Both were presented yesterday. The other one, the first one, was referred to the Board of Directors.

MR. Gillin: Thank you.

CHAIRMAN CARPENTER: And thank you, John, for the splendid work of your committee the past year and their work getting the exhibits ready.

For our next speaker we have gone to the advertiser himself and we have gone to a man who has appeared before this group before, who has something to say which we want to know.

May I present to discuss "A Retailer Makes an Appraisal of Radio" Marvin Oreck, Oreck's Inc., Duluth, Minnesota. (Applause)

MARVIN ORECK (Oreck's, Inc., Duluth, Minnesota): Mr. Chairman and members of the NAB, when Mr. Baldwin and Mr. Carpenter asked me to talk to you about retailing and the uses of radio for the retailer, they didn't limit me very much. They pretty much allowed me to use my own judgment on the selection of a subject and, therefore, I, too, like Mr. Pryor, shall try to be realistic.

Now, if I were to talk to an association of broadcasters on the subject of merchandising, I would consider my position a sturdy one. But, for me to talk to you upon any subject concerning radio, puts me, more or less, behind the well known eight ball. Yet I have been asked to talk about radio as an advertising medium for the retailer and I wonder if anyone really knows very much about that. The amount of radio advertising used by retailers does not indicate that either the advertisers or the broadcasters know enough about it to do a very good job.

Two years ago broadcasters at this convention were very encouraged over the fact that retailers were using an ever-increasing amount of time over the radio. Since then, however, a survey of the National Retail Dry Goods Association shows that the use of the radio as a retail advertising medium declined during 1936. In that year the percentage of larger stores using radio broadcasting dropped from 55% down to 44%. In other words, at the present time less than half of the stores who answered the Dry Goods Association survey questionnaire, used radio during 1936. Likewise, the percentage of the advertising budget allotted to radio by these stores seems to be very small. And the larger the store, the smaller the percentage allotted to radio as a medium. The survey

shows that the average expenditure of stores doing over one million dollars is slightly less than 3/10 of 1% of the sales, as against a figure ten times that much for newspaper space. In the one to two million dollar volume stores, the average expenditure is 15/100 of 1% of sales, or approximately 1/20 of the amount used for newspaper space. In the five to ten million dollar class, the reporting stores expended an average of 9/100 of 1% of their sales. While the average expenditure of stores doing over ten million dollars was 4/100 of 1% of their sales. Thus, you can see that the ratio between radio advertising and newspaper advertising varies from one to ten, to one to seventy-five. In other words, less than half the reporting stores use radio, and those that do, vary their appropriations from 10 cents of the advertising dollar to 1½ cents of the advertising dollar.

If we are to be realistic, we must agree that either the radio is not a good medium for retailing, or retailers have not made proper use of the radio as a medium. It is my sincere belief that the latter is the case. The success story of some of the retail radio jobs is far too impressive for me to believe that the radio is not a good medium for the retailer.

Now, it may be that a great many of your stations are so well sold up for time that you neither need nor desire store advertising. If any of this audience are in that position, they might just as well be spending this period at the Field Museum. On the other hand, perhaps broadcasters ought to view local advertising the way the newspapers do. I am under the impression that most newspapers regard national advertising as the sweet part of the business, but they also feel that the local advertiser is the real backbone of their business. To you broadcasters who feel that way about it, I express the sincere opinion that you have something to sell to the retailer which can be of real benefit to him and bring revenue to you. I feel that you have a type of advertising which offers a great appeal to store customers in bringing business.

Now, it is true that oral advertising has limitations. I think, for instance, that it is a mistake to attempt to do a style advertising job without the advantage of eye-appeal. A long-drawn-out description of a frock of mousseline de soie, executed in sweeping silhouette, with lingerie touches of fine lace—such a description by a male announcer sounds ludicrous, and even the introduction of a feminine voice does not create enough imagery to sell goods on a fashion basis by radio.

But, radio does offer some splendid functions in retail advertising. I feel that the two best uses of radio for store advertising are the use of price advertising and institutional advertising. Now, price advertising has been used with marked success by those stores which carefully study radio as a medium and use prices which are news and have news value to the listeners. It is my opinion that advertised prices must, in the first place, be very attractive for the article advertised and they must also be low in proportion to the price usually expected in the store or in the department of the advertiser. If a store, for instance, is known for its millinery selling ordinarily from five dollars to ten dollars, such a store can do a whale of a business over the radio featuring a two-dollar hat sale. And, a store which is known for quality and fashion dresses can, in its budget shop or low price department, do a whale of a business on a radio sale of five or six dollars. The radio is a top-notch medium for a medium or better grade store to attract a clientele which it otherwise does not usually get. For instance, our company has the agency for I. Miller shoes in our city. As you probably know, I. Miller shoes sell at \$12.75 and \$14.75. Our Budget Shop features shoes at five and six dollars. The only medium we have ever used to advertise our Budget Shop is radio. We have attracted to our store thousands of women who have confidence in the style and quality of shoes which they might buy from us; and at five and six dollars our shoes are valued to the point of exciting news. Now, we have been very scrupulous in advertising our Budget Shop so that those shoes would not be confused with I. Miller shoes. As a matter of fact, we have used a left-handed punch and said that these shoes are not I. Miller but at five and six dollars are the best buy in America. We didn't kid anybody. We have built up a Budget Shoe Department which does twice the annual parage it is entitled to on the basis of the size of the city—and we have built this volume entirely by radio. Likewise, the radio has proved a splendid medium for clearances because clearance prices also have news value.

A great many people of the radio audience, who would normally not shop in our Fashion Salon, are excited over the prospect of buying clearance merchandise at one-third off or half price. Not only can the merchant effect clearance in this way but he can also attract to his store new customers who might

become regular customers. So much for the price angle of radio advertising.

The stores that have been most successful with radio advertising find it a great institutional business builder. They find that the radio is a marvelous medium for reaching people out of town. They find that it gives a human interest in the store that they can get through no other medium. They feel that the real personality of the store can be better expressed orally than in any other way. Stores feel that there is a tremendous advantage in having radio listeners hear the names of their stores frequently and consistently. It is all part of the good advertiser's resolve to keep the name of his company before the public. Institutional advertising is successful over the radio not only for the store but also for a single department, and I hope that this can be taken by some of you as a good constructive suggestion. I feel, for instance, that radio is a top-notch medium for fur storage advertising. A store's frequent reminder of its storage facilities will not only bring it storage but also publicize the cleaning and repairing of fur coats as well as institutionalizing the store as a fur store so when people think of fur coats, they will think of that particular store.

The children's department is one which lends itself beautifully to radio advertising. Many stores are using special children's programs regularly, and where they have an auditorium, they have an audience witnessing the broadcast. This type of program has particularly good human interest appeal. In our store we have built our children's department almost entirely by radio. We employ a full-time, registered nurse in the baby department, and she has an excellent radio voice. She appears in a five-minute broadcast three times weekly. A good deal of the time her talks are confined to non-advertising material on the care of the baby and small children, but this lends itself very well to occasional broadcasts on the items we carry in our department. We know the value of this program because of the many patrons who come to our department and ask for Miss Iverson, our registered nurse.

The radio is also an excellent way of institutionalizing a brand carried by a store. Of course, the retailer will not extensively advertise a brand that is not confined to him. But where he has such a brand confined to him, the radio can "go to town" in making that brand a byword among shoppers. Our store, for instance, is the sole distributor for Kayser hose in our city. We found that through consistent spot announcements spread throughout the week, our Kayser business has shown a steady growth in three years that has surprised not only us, but also the manufacturer.

I should say there is a great difference of opinion as to the type of radio advertising best suited for retailing. Obviously, a single unit store cannot afford to produce programs capable of competing with national advertising. Most stores have now confined themselves to the use of spot announcements and so-called shopping programs of fifteen minutes to a half hour.

Now, I believe that for price advertising the spot announcement gives the retailer far more for his money than program advertising. On the other hand, a store program will do a great deal to institutionalize the store—particularly if the program is interesting and doesn't over-sell. As you well know, these programs consist of records, news, temperature, human interest stories, fashion news, and store news. In any case, the advertiser must give as much thought and preparation to his radio advertising as he does to his newspaper publicity. I think that both the stores and the stations are to blame for the poor copy that has gone on the air. The real motivation of the copy must come from the buyer. She must want to tell the world about the item or department advertised. The sales promotion manager should help whip this material into shape and the station should provide continuity writers who will give the copy punch, coherence and fluidity.

Now, let us take a peek into the future. I don't think it is visionary to say that some time in the not too distant future radio will be visual. Talking motion pictures were tinkered with for twenty years until one evening at Warner Brothers Theatre in New York Al Jolson's "Jazz Singer" had its premiere. I had the thrill of being in that first-night audience. It suddenly dawned on every person there that the talking picture was a reality. No doubt, we will all awake some morning to find television an accomplished fact. Now, where will the retailer be? He will be the greatest prospect for radio advertising because that medium can then graphically display the beauty and the usability of everything he sells. I can't wait until the day when our store will be able to produce a weekly style review. In the meantime, those stores which are constantly using radio are on the ground floor in experimentation and are also bringing a friendly relationship with

those stations which will furnish them this coming attractive advertising medium. But that isn't the only reason for stores to use the radio now. There is no more flexible medium in existence. There is no quicker way to get your message before the people without the preparation of cuts, layouts or addressing of mailing pieces. When it rains you can advertise umbrellas, with a few minutes' notice. When it snows, you can throw overshoe copy on, with a short telephone call.

We find also that some of our sales are best run by a combination of both radio and newspaper backed up with our windows and perhaps mailing pieces. I can illustrate the advantage of that by saying the store that runs a newspaper ad may be swamped the first day of the event and from then on may not do any business and take a mark-down on goods. Now, the radio offers a wonderful opportunity to spread out the business. We very often will advertise the first day or two of an event over radio; then come back with an evening ad in the paper and follow up with a morning ad in the paper. In that way we can spread out our traffic and get the most out of the sale. I commend that to you as a fine selling argument to the retail store.

Now, two years ago at this convention one of the advertising agency representatives discussed his contact with one of the retail stores in Chicago and told why they failed to do a good job—they failed to sell the buyers properly—and I think if radio has lost interest in the retail stores, it is even more true today than two years ago. Back in 1923 the average store manager decided to give his store back into the hands of the buyers. There had been so many efficiency men and personnel men cramping the style of the buyers that the buyers were almost pushed out of existence. But, in the last two or three years there has been a renaissance for the buyers. Now, you can sell the promotion manager in one-tenth of the time you will convince the buyer that he or she ought to place that advertising on the radio. The buyer has to be conclusively convinced that radio can do a good job. There are various ways by experimentation and not a little bit of help can be by personal contact between your staff and the buyer.

It is my firm conviction, as I said earlier in the talk, that you have something to sell the retailer. You and I know that millions listen to the radio, and I have no doubt in my mind that any store which applies itself to using this medium properly can get increased business for itself at a nominal cost.

Thank you very much. (Applause)

**CHAIRMAN CARPENTER:** Thank you very much for a talk which is very much to the point. If any of you have questions you wish to ask Mr. Oreck, just be present this afternoon.

Our concluding report today, which will be followed by resolutions which are to be presented, is the report of the Committee on Standardization of Sales Forms by Martin Campbell of WFAA, Dallas, Texas.

**MR. CAMPBELL:** Mr. Chairman and members of NAB, when I was appointed chairman of the Sub-committee on Standardization of Sales Forms, I thought, in the words of my good friend Hough, I had a greased pig. Later when Carp came along and suggested that local rates and cumulative frequency discounts should be included, I found then, in the words of my friend Harold Haugh that we had hold of a porcupine. The report is very brief. Some paragraphs in it undoubtedly will call for discussion this afternoon.

As chairman of the Sub-committee on Standards of Sales Forms, I respectfully submit the following report:

### 1. Local and National Rates

Interviews with station managers disclose that stations, irrespective of power or region, have from one to three sets of rates. Stations with a single rate card for all classes of business are in the minority. Stations with a local and national rate appear to be in the majority, with a tendency on the part of some to have as many as three rates, broken down rather loosely into national, regional and local. Opinion is so widely divided that your sub-committee chairman does not believe there is a possibility of any unanimity of opinion on the subject of rates. Local conditions but more particularly competitive situations are responsible for the two or three rate set-ups.

### 2. Cumulative Frequency Discounts in One Year

There seems to be a tendency in the broadcast industry to allow cumulative frequency discounts regardless of whether the business is continuous or not. Cumulative discounts are general practice among other media and for the sake of uniformity should be recommended for the entire broadcast industry.

All products manufactured by a single corporation (for example, General Motors, Procter and Gamble, and so forth) should be permitted group rates covered by one annual contract.

Announcements and programs, however, should not be grouped to earn higher discounts. These are two separate services comparable in general to display service (programs) and classified ads (announcements) in the newspapers.

### 3. Contracts between Stations and Salesmen

To avoid confusion and controversy between stations and salesmen, your sub-committee suggests a contract form be drawn up by the NAB and submitted to the various stations for their guidance. Such contracts are particularly desirable where a station operates on a commission or salary-and-commission basis.

In that connection, I have seen the one used by Mr. Carpenter and I think it is very excellent and certainly is one everybody in the industry should see.

### 4. Billing and Affidavit Forms

Billing and affidavit forms should be standardized for the convenience of advertising agencies. In this connection it is recommended that the statement and affidavit should be printed on single letter-size paper. One statement and one affidavit should cover the entire month's broadcasts. It is further recommended that billing be on a monthly rather than a weekly basis since all advertising appropriations for major advertisers or agencies are handled on a monthly billing basis. This is covered in 1 (e) on the Standard Contract Form.

And, incidentally, Mr. Baldwin had reproduced specimens of our form. That form is taken from one gotten up by Bill Way of KVOO. It is being distributed now.

Where a station, for reasons of its own, prefers to bill or charge at other than a monthly basis, their rate card and Standard Rate and Data should so specify and show the specific period covered in the weekly billings. Where the weekly billing covers part of two months, the break-down should cover each period separately.

Where rates are quoted on a weekly or monthly basis, they should be billed on a week-to-week basis or calendar-month basis. For example, on a week beginning Monday, if the program starts Wednesday, the first week's billing should be five-sevenths of the weekly rate. The program starting during a month should be prorated for that part of the month used and billing on a monthly basis for calendar months to follow.

### 5. Rate Card Structure

Some years ago the AAAA issued a standard rate card form for radio stations, patterned broadly after the standard form recommended for newspapers. This form should be used by all stations for sake of uniformity. Where special or unusual terms and conditions are imposed by a station, these regulations should be clearly published on the order form and in the rate card. Billing each week, for example, the card should so state. If there is an ASCAP or other license fee, it should be so indicated on the card and attention called to it under the heading which carries the rates.

### 6. General Revision of Standard Order Form

The standard order blank for spot broadcasting AAAA form registered at the United States Patent Office and Copyright, 1933, is—in general—satisfactory.

Section 4 (a), in the second line, the word "sustaining" should be eliminated because of the current practice of sponsorship of programs of outstanding public importance, such as the Kentucky Derby, prize fights, et cetera.

For stations which allow cumulative discounts, the words "without interruption" should be deleted in the first line of 5 (c).

Any and all order blanks which carry the heading standard order blank, standard conditions, and so forth, should be in exact accordance with the approved form. Blanks on which any changes in the standard conditions have been made should not be issued as standard contract forms.

**CHAIRMAN CARPENTER:** Thank you, Martin. Now, the type of work that Martin's committee has been working on is the rather prosaic workaday problems and his committee is to be specially commended for the consistent work they have done. Not only this year but Martin has participated over a number of years.

May I suggest we are almost finished and the resolutions which are to be presented merit your careful attention. Please wait just a very few minutes.

Announcements.

**CHAIRMAN CARPENTER:** May I say again at this time—some of you may not have heard it—I have had a number of people come to me in the last day or two and comment that there has been

so much going on in the convention but no talking about our business, that they don't get any constructive ideas on business, that they don't get a chance to discuss the very thing we are here to discuss—broadcasting.

Now, if you feel that way, you better attend the meeting this afternoon or forever afterwards hold your peace.

That meeting will be called for 2:30 o'clock and we don't want to start any later than that.

A panel discussion has been arranged for the afternoon session in which Mr. Pryor and Mr. Oreck, who have talked to us this morning, will participate. Discussion from the floor will be in order. Be ready to shoot any questions you have that may have inspired by the talks this morning.

Announcements.

CHAIRMAN CARPENTER: We will now hear the resolutions. Mr. Henry.

MR. HENRY: Some of these resolutions have not been read at all. Others were read at the meeting yesterday and consideration postponed until today.

"WHEREAS, the Federal Radio Education Committee, acting through a select committee, has agreed that certain specific projects should be carefully studied,

"WHEREAS, at a cost aggregating approximately \$250,000.00 certain foundations have agreed to contribute approximately \$167,000.00; it is

"Resolved, That all broadcasting stations should be invited to contribute a total of approximately \$83,000.00 over a period of two years as the broadcasters' share of the expense of these investigations.

"Resolved, further, That the Board of Directors devise a formula whereby the contributions of each broadcaster will be on an equitable basis."

I move the adoption of this resolution.

CHAIRMAN CARPENTER: Is there a second? Well, I'll pick a second. Earle Gluck, how about seconding it?

EARLE J. GLUCK (WSOC, Charlotte): I didn't hear it.

CHAIRMAN CARPENTER: That's all right. Now it is ready for discussion and I am wondering, Jim, if possibly you would want to comment on this. Personally, I would like to know more about it before putting it to a vote.

MR. BALDWIN: The purpose of this resolution is to aid in the financing of the investigations of a committee of six appointed by the Federal Communications Commission and the United States Commissioner of Education, appointed to investigate a series of projects which numerous educators and representatives of foundations believe should be investigated. These projects have been studied over a period of several months. Numerous meetings have been held with the heads of the network companies, with the heads of foundations interested in educational projects and investigations, all with the view of finding some method whereby we may pursue the investigations that were begun approximately two years ago to find how broadcasters and educators might better co-operate with each other.

These projects have been analyzed by research men who have told us what they think it will cost to conduct them. The estimated appropriation of approximately \$250,000 was discussed in two sessions held with the Broadcast Division and thereafter submitted to the members of these foundations. They have taken more than two-thirds of the total amount. There remains, I believe to be exact, \$83,000 which all who participated in these committee meetings believed was a fair share for the broadcasting industry to assume. It has been the thought of those of your Association who have participated in these discussions that the \$83,000 which, by the way, is to be raised over a period of two years, not one year, should be raised not only by the members of this Association but by non-members as well. In other words, every one of the seven hundred broadcasting stations in the United States will profit just as much as will the members of the NAB.

There is no other way in which these projects can be financed. The allotment here is equal to the total amount of dues which is received by the Association in the period of a year. It must be raised, if it is raised at all, outside of the dues.

MR. CHURCH: What is your recommendation?

MR. BALDWIN: Well, if I am asked for my recommendation, I can have but one and that is as an industry we should continue to co-operate with this Federal Radio Education Committee, this committee consisting of forty-eight members divided about equally between broadcasters and representatives of educational institutions which has given a great deal of time to these problems. We know that the problems exist. There is no use for us to try to ignore them. If we do try to ignore them, they will grow to be more serious. I think it is an absolutely necessary expenditure of funds

and, without qualification, I would recommend that the industry agree that the matter should be submitted to your Board of Directors who should find some formula for raising these funds which would make the burden fair and equitable to every broadcasting station in the United States.

CHAIRMAN CARPENTER: Thank you very much, Jim. Are there any other comments? Any questions? Are you ready for the question?

(The motion was put to vote. The vote was in doubt.)

CHAIRMAN CARPENTER: May I see the hands of those voting in favor of this resolution? And now those who are opposed? The motion is carried.

MR. HENRY: "Resolved, That the Board of Directors of the NAB be directed and be instructed to carry on negotiations with copyright owners to the end that a per-piece or measured service plan be obtained."

I move the adoption of this resolution.

CHAIRMAN CARPENTER: Is there a second to this motion?

MR. CHURCH: Seconded.

CHAIRMAN CARPENTER: Any remarks?

(The motion was put to vote and was carried.)

MR. HENRY: I should explain that the following resolution is offered merely to give the membership an opportunity to express their preference of meeting in Chicago or any other city next year.

"WHEREAS, the By-Laws of the National Association of Broadcasters provide that the convention city of the organization may be selected by the membership, and that the Board of Directors make such selection only if the membership does not select the convention city; now therefore be it

"Resolved, That the National Association of Broadcasters hold its next annual meeting at Chicago, at a date to be selected by the Board of Directors of the National Association of Broadcasters."

I move the adoption of this resolution.

CHAIRMAN CARPENTER: Is there a second to the motion?

MR. GILLESPIE: Seconded.

CHAIRMAN CARPENTER: Any remarks?

(The motion was put to vote. The vote was in doubt.)

CHAIRMAN CARPENTER: Ho hum! May we see the hands of those who are voting in favor of this resolution? Now those who are voting "no"? The motion is lost.

MR. HENRY: This resolution was proposed by your Engineering Committee, was read yesterday and held over for consideration today.

"WHEREAS, considerable progress has been made during the last few years by the radio engineering profession, and a great deal of data has been obtained concerning the laws governing radio propagation, interference, receiver selectivity and the operating characteristics and efficiency of radiators; and

"WHEREAS, the Federal Communications Commission through its engineering department has demonstrated its progressiveness and aided the broadcast industry greatly by its actions in holding hearings, and otherwise, in accumulating advanced engineering information and correlating the same; and

"WHEREAS, the 'Preliminary Engineering Report on Allocations' made public by the Commission's Broadcast Division on January 14, 1937, meets with the general approval of the engineering profession; and

"WHEREAS, the National Association of Broadcasters approves this report because it is based on sound and basic engineering principles; and

"WHEREAS, there is a definite need in the broadcast industry for such improvements as will be possible by the adoption of these principles in the Commission's regulations; now be it therefore

"Resolved, by the National Association of Broadcasters: The Federal Communications Commission is hereby petitioned by the National Association of Broadcasters to accept the report and to incorporate into its regulations the basic principles of said report."

MR. CAMPBELL: I move its adoption.

G. R. SHAFTO (WIS-WCSC, Columbia, South Carolina): Seconded.

CHAIRMAN CARPENTER: Any remarks?

MR. CHURCH: Can the Managing Director give an opinion as to the advisability of acting on this resolution at the present time?

MR. BALDWIN: I haven't studied it.

MR. CHURCH: Can anyone answer that question?

CHAIRMAN CARPENTER: My understanding is that it has had the unanimous approval of the Engineering Committee and they believe it should be passed at this time in order to enable them to continue this work.

MR. CHURCH: Mr. Chairman, I have a lot of confidence in the Engineering Committee. That committee, however, consists

largely of engineers, as I understand it. I am wondering whether we feel like giving the proper kind of consideration to a resolution of such importance. I am afraid I am one of those who doesn't quite feel capable at the moment. This is a resolution of extreme importance. Off-hand, it appears to be a good resolution but I don't feel able to vote for it at the moment.

As a substitute, I would like to move that the resolution be referred to the Board for its careful consideration and action.

CHAIRMAN CARPENTER: May I consider that as an amendment to the original, Mr. Campbell?

MR. CAMPBELL: Yes.

CHAIRMAN CARPENTER: Is that O.K. with the second?

MR. SHAFTO: Yes.

CHAIRMAN CARPENTER: Jim Baldwin just went to see if he could get hold of Jack DeWitt. As I understand it, all the phases of this matter have been very carefully canvassed and discussed by the engineers. It is rather difficult for me to say anything more than that at the present time. But, if I may be permitted an opinion, I believe referring this to the Board of Directors for their action will accomplish all the engineers hope to have accomplished and in that smaller group they may give it more serious consideration discussing it confidentially than we can here.

MR. CAMPBELL: Action should be taken on that before the November conference in Havana.

MR. CHURCH: Include that in the request to the Board.

MR. CAMPBELL: All right.

CHAIRMAN CARPENTER: An addition to the amendment that the Board be instructed to give this careful consideration and action in ample time before the Havana Conference in November.

MR. SHAFTO: I accept that.

CHAIRMAN CARPENTER: Does anybody see Baldwin or Jack DeWitt? Does any other member care to comment?

A MEMBER: Mr. Carpenter, I happened to be on that committee. I don't know how many of you were in Washington in October but those who were there, and I believe also all of those who were not there, recognize the amount of time the Commission spent in analyzing our problem. We of the committee feel that if the Commission were assured the NAB was in accord completely with the findings of its engineering department, there is some possibility the basic principles of that engineering report would be incorporated in the Commission's recommendations at an earlier date by the passage of this resolution. The committee felt every class of station will be able to be benefited from the findings of that report and that is the reason the resolution was prepared and submitted.

CHAIRMAN CARPENTER: Do you believe, then, this would be satisfactory if this were referred under those circumstances and conditions to the Board of Directors?

A MEMBER: I am not qualified and I don't propose to speak for the committee as a whole. I believe any action this meeting takes is all right.

CHAIRMAN CARPENTER: The feeling is that those of us who aren't engineers are not qualified to endorse it. We simply haven't the knowledge on which to base an intelligent vote and for that reason, we would like to refer it to the Board.

A MEMBER: We, as a committee of engineers and trained to analyze such problems, took it upon ourselves to do so and the outcome is this recommendation. It is the recommendation of your Engineering Committee that it be passed. Now, subsequent action is up to the meeting.

CHAIRMAN CARPENTER: There is the other angle that Arthur touched upon. If we are to have an Engineering Committee, we should be guided by their action.

MR. CHURCH: Mr. Chairman, I move that this be deferred until this afternoon. We don't have enough representative station people at this meeting to vote on it properly. That is one of the things I had in mind when I wanted it referred to the Board.

(The motion was not seconded.)

CHAIRMAN CARPENTER: It has been requested that action be deferred until this afternoon. It was deferred from yesterday to this morning. Do you want to have it read again or definitely defer?

THE CONVENTION: Read it again!

(Mr. Henry re-read the resolution.)

CHAIRMAN CARPENTER: Is there any discussion? May I put it to a vote as the motion has been amended? It is that this matter be referred to the Board of Directors with instructions to consider and act in ample time for the Havana Conference, with the feeling that those present here do not feel qualified to vote "yes" or "no".

MR. CHURCH: That is not my motion. I don't believe I said those here are not qualified. I did not include that in the motion. We don't have a qualifying representation here to vote on the motion.

CHAIRMAN CARPENTER: That is what I intended to say.

MR. DORRELL: If it is in order, I move that that resolution be tabled indefinitely.

CHAIRMAN CARPENTER: Is there a second to that motion to table?

C. A. LUTHER (WOC, Davenport): Seconded.

CHAIRMAN CARPENTER: It has been moved and seconded to table the motion.

A MEMBER: I rise to a point of order. I don't think that is in order.

CHAIRMAN CARPENTER: A motion to table is in order at any time.

MALLORY CHAMBERLIN (WNBR, Memphis): I don't know anything about the resolution or what it means but I do think we should have a little more confidence in our committee and the Board of Directors. I don't know how to get a motion to table out of the way but if you can, I think you ought to refer it to the Board of Directors.

CHAIRMAN CARPENTER: There is one way and that is to vote it down.

THE CONVENTION: Question!

(The motion (to table the resolution) was put to vote, and was lost.)

CHAIRMAN CARPENTER: The motion is lost. Now we revert to the original motion to refer it to the Board of Directors.

(The motion was put to vote, and was carried.)

MR. HENRY: This resolution as proposed by Fred Hart, Station KGMB, Honolulu:

"WHEREAS, at the 1936 meeting of the National Association of Broadcasters, the following recommendation was adopted:

"WHEREAS, as the radio broadcasting industry continues to grow in size, it becomes more and more apparent that if broadcasters are to handle their state, regional and national programs intelligently, they must be organized in state, regional and national units, as such organizations will serve to keep the rank and file better informed and give the numerous broadcasters more of a voice in the affairs of the industry; now therefore be it

"Resolved, The Board of Directors of the NAB be and are hereby instructed to bend every effort during the year 1936-37 to foster such organizations as chapters of the NAB."

"And Whereas, one year has elapsed since that date and no effective action has been taken to carry out the purposes of that resolution; and

"WHEREAS, the problems of radio are greater and more numerous than ever before; and

"WHEREAS, the radio broadcasting industry is threatened with unjust legislation, racketeering, taxes and program difficulties both locally and nationally; and

"WHEREAS, the need for the radio broadcasting industry to re-organize in keeping with the suggestions contained in the resolution adopted unanimously at the convention one year ago is greater today than ever; now, therefore, be it

"Resolved, That it is the sense of this convention that the National Association of Broadcasters be re-organized in such a manner and to such an extent as to encourage the growth and functioning of local and state-wide chapters; be it further

"Resolved, That to expedite such re-organization, it is hereby ordered that a re-organization committee consisting of seven members be and is hereby appointed in the following manner:

"The delegates present at this convention from each of the five radio regions as set up under the old Radio Act shall elect one of their number to represent their region on this committee. These five to in turn elect two additional members from among the delegates present, one of whom must be the President of the National Association of Broadcasters and the other when elected shall serve as Chairman of this—

MR. CHURCH (interrupting): Mr. Chairman, if the gentleman will pardon me, this is a very long resolution. It has been distributed for several days, in both printed and mimeographed form. Is that right?

CHAIRMAN CARPENTER: I have seen it in mimeographed form, not in printed form.

MR. CHURCH: If this group would attempt to take intelligent action on this resolution, it would take us hours starting with right now. Therefore, Mr. Chairman, I move that this resolution be referred to the Board of Directors.

(There was no second to the motion.)

MR. HART (interrupting): Mr. Chairman, I object to the pro-

cedure. This is either good or it is bad. It was endorsed unanimously at the last convention and the same Board of Directors failed to do anything. We are faced with this situation today: we have two hundred less registered delegates than last year. We will have less next year. Many have gone home disgusted already.

Now, in order to get this thing settled for once and for all, I move that the resolution be adopted as printed.

(There was no second to the motion.)

MR. CHURCH: I rise to a point of order! You did not give time for a second.

MR. HART: I have the floor!

CHAIRMAN CARPENTER: I am sorry. I should not have recognized anybody before there was time for a second. Is there a second to Mr. Church's motion?

MR. LUTHER: I'll second it.

CHAIRMAN CARPENTER: It has been moved and seconded to refer this resolution to the Board of Directors.

MR. HART: I still contend you are out of order. I had the floor.

CHAIRMAN CARPENTER: We have a motion which is duly seconded and anybody who may agree with you may vote "no" on the motion as it stands at the present time.

MR. HART: I move that the motion be amended to strike out the provision and substitute the words "be adopted as printed".

CHAIRMAN CARPENTER: Is there a second to the amendment to the resolution?

(There was no second to the amendment.)

MR. HEDGES: The only reason I oppose Mr. Hart's resolution is that as proposed it is contrary to the Constitution and By-Laws. If he wishes to revamp the entire Association structure, it is necessary to submit this form of amendment at least two weeks prior to the convention so each member is informed of the contemplated action. The plan proposed by Mr. Hart's resolution has a great deal of merit. Nevertheless, the procedure is entirely wrong. For that reason I oppose it.

MR. HART: If you read that resolution, it does not say it is to be set up but is to be worked out. It refers to 1938. I am not opposed to the Board of Directors taking this up if they will appoint the committee and go to it.

Now, I am in the radio business to make money as well as serve the public. I started in radio in 1925 and am still in it. I went to my first convention at Colorado Springs and I think I had as much to do with saving the organization from destruction as anyone. Possibly we should have destroyed it and created a new one more responsible to the membership and closer home. Last year we took action on this at Chicago but nothing has been done on it and now we are faced by racketeers on every side. You know to whom I refer, not ASCAP but the union musicians and everything else.

I am perfectly willing and satisfied to refer this to the Board of Directors if it means the Board of Directors will appoint a committee, with no organization politics in it, and will try conscientiously to work out a plan of organization to fit the picture and during the year will encourage our northern California broadcasters to work in closer contact. I don't want to be arbitrary but I want some action.

CHAIRMAN CARPENTER: May I ask, Mr. Henry, what the recommendation of the committee is?

MR. HENRY: Your committee recommends that the Board of Directors appoint a committee to study the proposal and submit recommendations in the form of amendments to the Constitution if the committee deem it necessary.

CHAIRMAN CARPENTER: Mr. Church, will you withdraw your motion?

MR. CHURCH: Yes.

MR. HART: Mr. Chairman, I'm willing to second that motion if it means the Board will get busy and not only work out this plan but encourage us and help us in northern California and work in closer contact.

MR. CHURCH: Mr. Chairman, as a member of the Board I'll try to see that it gets early consideration.

CHAIRMAN CARPENTER: Is that O. K. with the second?

MR. LUTHER: Yes.

CHAIRMAN CARPENTER: Are you ready for the motion?

(The motion (that the Board of Directors appoint a committee to study the proposal and submit recommendations in the form of amendments to the Constitution if the committee deem it necessary) was put to vote, and was carried.)

MR. HENRY: These two resolutions were received by the Resolutions Committee after the formal meeting so I can only read them and pass on to you without formal recommendation.

"The Sales Managers Division of the Commercial Section of

NAB registered its approval of the purpose of the resolution passed by the NAB in convention at Cincinnati in 1934, which proposed a standardized scale of units of time for sale and quantity discounts.

"Since that time considerable progress has been made by the broadcasting industry and there is now a definite attitude on the part of the broadcasters, as well as an expressed desire by many advertising agencies, to standardize even more definitely the matter of units for sale and quantity discounts.

"Therefore, the Sales Managers Division in meeting in Chicago, January 18 and 19, 1937 respectfully submits to the Commercial Section of NAB for early consideration the following units of time for sale and quantity discounts

a—Units of time for sale	b—Quantity discounts
1 hr.	13 times - 5%
½ hr.	26 times - 10%
¼ hr.	52 times - 15%
5 min.	100 times - 20%
	300 times - 25%

Regarding announcements, we believe that further consideration should be given toward standardization. We further believe that all rate cards should be printed to show the actual rate or cost after application of the above quantity discounts."

MR. AVERY: I move that those be referred to the Board of Directors.

(The motion was seconded by several members.)

CHAIRMAN CARPENTER: I will accept a motion to refer to the Board of Directors but do not feel I could accept a motion for this body to pass on them because they were not handed to the Resolutions Committee and not acted on by them. Are you ready to vote on the motion to refer to the Board of Directors?

(The motion was put to vote, and was carried.)

Announcements.

(The meeting adjourned at 1:20 o'clock.)

JUNE 23, 1937

(Wednesday Afternoon)

The meeting, held in the Sherman Hotel, Chicago, convened at 3:00 o'clock, H. K. Carpenter (WHK, Cleveland) presiding.

CHAIRMAN CARPENTER: Gentlemen, we have established some kind of a record in opening this final meeting on time exactly when it was called—3:00 o'clock.

In the discussion this afternoon there are a few very simple rules. Outside of that, it's a free-for-all. First, you will pardon me if I should decide that any one's comments are not on the particular question which we are discussing at a given time. We must stick to the questions as outlined. Second, you may agree or disagree with anyone who speaks, violently or otherwise. You may ask questions of anyone in the room and if that person won't answer the question, they are at perfect liberty to pass the buck on to some one else. We shall continue as long as there is general interest and you care to continue because it is your meeting. We want you to participate in the discussion. And, finally, may I say that there are only two persons in the room who will not participate or take sides and that is Mrs. Gleason and myself. Don't ask me my opinion of any particular thing because if you do, I'll just simply ask somebody else.

Here is the first question for this afternoon: "How should a station service its local accounts?" I take local accounts to mean retail advertisers and by "servicing" them, I take it means how can we best satisfy them and best produce results for the retail advertiser on the station. Lew, since Mr. Oreck is a guest of ours, suppose you start first.

MR. AVERY: The view which I purpose to propound is not entirely in accord with my personal views but at the luncheon meeting this noon we decided it best to take a rather radical stand which Mr. Oreck proposes to answer in part and perhaps stimulate the rest of you to participate in the discussion.

It is my contention we have heard altogether too much about studying the retailer's problems and learning his language and why the store operates the way it does. We have become retail experts in selling merchandise. It seems to me that really is the duty of the store personnel and executives. It isn't our problem to do that; our problem is to sell the medium and make them apply it intelligently to their work. Too often—and this is from a personal case history—a department store account has been sold on radio and the buyers and merchandise managers have then sat back and said, "Make that thing work. Prove to us it is any good." And, no matter what merchandise is advertised

on the air, a sincere effort is made to hide it behind the counter or under other merchandise on the shelves. It seems to me it is about time we did something to convince store executives to make a study of our medium. After all, they have had to make a study of the newspapers and why shouldn't they know those things about our medium! Instead of telling them about the miracle we are going to perform, shouldn't we convince them they should study our work and fit themselves into it?

Would you care to answer that, Mr. Oreck?

MR. ORECK: Well, it is not my purpose to enter into a controversy with Mr. Avery—I like him too well! But, the average retailer's reaction is that radio is a new-fangled thing which might increase his costs and his advertising department is not used to writing the copy, and altogether, there is a lot against the station in soliciting and getting that business and building it.

I think the average sales promotion manager in a retail store takes the scientific attitude that if all the radio towers were put on the ground and stretched out end to end, it would be a good thing for the country. (Laughter.)

But, actually, those who have tried radio with some intelligent use have found it gives them a big dollar's worth in expenditure.

I would say the station that does our job does a particularly good job because it is almost ideal. I would like to describe it for you. They don't expect the selling and production of our job to be done by the same person. It doesn't seem to fit into one personality. There is one man who sells our account and keeps constant contact not only with the sales promotion department but with the buyers. Then they also have a continuity writer who is assigned to cover our store for the station. He, in conference with the sales promotion manager, learns which departments are going to use the radio. Then he sees the buyer and discusses the item with the buyer. He then discusses the type of copy with the advertising department, gets their ideas and some new angles, goes to his station and pounds out the copy the best way he knows how. The store executives and buyers have an opportunity to know how it is going to sound when it goes on the air. We have proofs of our copy just the same as newspaper copy. In that way, we are able to keep permanent files as it goes on the air. It gives concrete proof and the results of daily sales are written after it.

CHAIRMAN CARPENTER: I have a question I would like to ask and I ask it out of ignorance. It is this: do you mean to say, generally speaking, you think in department stores it is proper to contact the buyers direct without going through the merchandise manager or some such official as that?

MR. ORECK: That certainly varies with the store and personnel of the store executives. As a rule, the functional division of the store is so made that all advertising goes through the sales promotion or advertising department, and I wouldn't recommend it as good ball to go to the buyers without first having permission from the sales promotion division. Otherwise, you are only going to put two strikes on yourself. But, I think an intelligent discussion with the sales manager urging that certain experiments be tried, would leave you a good opening then to discuss it with the buyer.

HARRY TRENNER (WNBF, Binghamton): I'd like to ask this gentleman a few questions if I may.

Is your store a member of the National Retail Dry Goods Association?

MR. ORECK: Yes.

MR. TRENNER: Have you personally attended any of their meetings?

MR. ORECK: Yes.

MR. TRENNER: To your knowledge, was there any radio exploitation at those meetings?

MR. ORECK: No.

MR. TRENNER: There were, however, many talks about newspaper advertising—am I correct?

MR. ORECK: Yes.

MR. TRENNER: Then, with regard to what Mr. Avery said, may I suggest in view of the fact that newspapers are promoted and radio is not at the meetings of the National Retail Dry Goods Association, which is, as I believe, the outstanding department store association in the country, if there was some promotion done by radio as an industry at those meetings, it is possible there would be more buyers coming to us to know about our medium.

Now, would you mind answering some questions with regard to the method of computing the comparative costs with regard to radio and newspaper advertising?

MR. ORECK: More specifically, what questions?

MR. TRENNER: For example, you keep a pretty close check on radio?

MR. ORECK: Yes.

MR. TRENNER: As to results per dollar expended? Do you take your radio program cost in toto and divide it between the departments that participate on that particular day?

MR. ORECK: Yes. I'd like to answer that a little more directly. We charge each department with the advertising that goes directly to that department and we don't confuse them at all. We take the number of spots used to promote the department and charge that to the department directly, and then the so-called institutional ads the store might run on air cooling are charged to institutional advertising and, of course, there is no way of judging direct results.

MR. TRENNER: Spot announcements or programs?

MR. ORECK: Spot announcements.

MR. TRENNER: If you had a spot announcement on ladies' stockings, you would charge that much back to the department. Do you charge to it any of the cost of operating your advertising department?

MR. ORECK: Now, those are general advertising expenses the same as the newspaper preparation is charged to general advertising. I think that is general procedure.

MR. TRENNER: In case of newspaper advertising, how do you charge your heads and tails in newspaper ads?

MR. ORECK: What do you mean?

MR. TRENNER: If you take eight columns to advertise Jones Store, you can't charge that to a specific department.

MR. ORECK: You mean heads of ads?

MR. TRENNER: Suppose then you have a full page ad subdivided with four columns on a coat sale and a small ad for hosiery.

MR. ORECK: The general practice is to charge that pro rata to each of the participating departments.

MR. TRENNER: Would you care to give out a percentage of what you figure your cost per advertised item?

MR. ORECK: You mean the percentage of sales that we consider good practice on a particular event?

MR. TRENNER: What would be the cost per advertised item?

MR. ORECK: It is generally considered good practice in so-called sales to produce ten times the cost of the ad on your first day's business. If you spend \$100 to advertise a coat sale, you ought to do \$1,000 worth of business on the first day.

MR. TRENNER: In the course of a year, however, that would be reduced to over-all advertising cost. Does the N. R. D. G. A. prescribe any percentage of total volume?

MR. ORECK: No. The N. R. D. G. A. shows the averages; it doesn't recommend any percentage.

MR. TRENNER: And what is the average?

MR. ORECK: Let me put it this way. There are different terms in advertising. There is so-called advertising expense and publicity expense. The average costs at this time are five and one-quarter of sales for total publicity cost. Direct space and time at this particular time run slightly under four per cent.

MR. TRENNER: Did you ever receive a questionnaire from the National Retail Dry Goods Association as to how much money you spend on radio?

MR. ORECK: Yes. The figures I gave were the result of a survey of that type.

CHAIRMAN CARPENTER: May I interrupt on this question? Would you mind, Harry, indicating how you were going to tie this in—what is the thing you are driving at?

MR. TRENNER: I believe you should know how much money a store should spend and in computing that, too many of the stores will charge off the entire cost but in the case of newspapers, they are not willing to because of the heads and tails, and the cost of operating.

Now, the last figure I read for radio was that out of every dollar spent for advertising by department stores in the United States, I believe the amount of money out of that dollar for radio was a little less than one cent.

Now, that is a rather sorry state of affairs and I would like to conclude this conversation with this gentleman by suggesting that this Commercial Committee or whoever would have charge of those things take steps to make arrangements at the next meeting of the department stores that something be done for radio as an industry.

MR. ORECK: In line with this suggestion, I am so fully in accord with it that I suggest that your Association through its Directors or some other officials petition the Sales Promotion Division of the National Retail Dry Goods Association and urge that a panel discussion on radio be held at their next convention which will be at New York in January.

CHAIRMAN CARPENTER: That is fine.

MR. TRENNER: Thank you.

CHAIRMAN CARPENTER: That is a very good suggestion and we certainly will see that it is taken up with the proper committee.

Now, is there anything else on this subject of servicing the department stores? By the way, may I say this: if it is necessary, we shall limit the time assigned to any one man who cares to speak on any of these subjects because we want to cover them all and get as much out of each one as we can.

May I put my question this way: have any of you done or heard of some one else doing a particularly good job of servicing local accounts?

MR. GILLESPIE: Mr. Carpenter, I understand there is a radio station here getting the entire appropriation of a department store. I'd like to hear from that gentleman.

CHAIRMAN CARPENTER: Is Paul Morency in the meeting? Does anybody else have any information?

MR. GILLESPIE: He has a very interesting story. There is another store in Tulsa. The department store down there is spending about \$300,000 a year.

We are getting about \$25,000 out of a store account but we are having to do a complete servicing job from selling to copy writing. We are doing everything on it.

CHAIRMAN CARPENTER: Do you say you write the copy?

MR. GILLESPIE: Yes. We are doing a complete job and I think Martin Campbell is doing the same.

MR. CAMPBELL: No.

MR. ORECK: Well, I remember the time when I was a little fellow when all of the retail advertising used to be written on wrapping paper by the owner of the store, and the newspapers had to work it out and specify the type and everything else. Today the newspapers are older and specialized, and they have special people in the stores to do that. They have their own production departments. Maybe in this stage of radio it still has not served its purpose long enough to have department stores sold on it. Certainly the stores are not equipped to write broadcasting copy without the help of the station because the technique is utterly different.

CHAIRMAN CARPENTER: Any other comments?

S. P. WILLIS (WPRO, Providence): Our experience has been to approach a local account as a new idea and let the station control every phase of it. We make no promises and whatever comes in, we are more surprised than the advertiser.

CHAIRMAN CARPENTER: In that connection, I would like to ask this question: will you give that store a series of programs for nothing?

MR. WILLIS: Absolutely not because we have too much respect for our facilities!

CHAIRMAN CARPENTER: Do you guarantee any number of responses or sales?

MR. WILLIS: No guarantee. We guarantee nothing. We recently had one account that had a one-minute announcement. We went to them with a five-minute dramatization and said to them because of the nature of their product, we suggested the five-minute dramatization at a certain time of the evening to get the logical audience. We wanted them to say the right thing to the right people at the right time. They were charmed with the idea, had an audition, and even though there was an agency, we wrote the copy and helped.

MR. GILLESPIE: I was going to ask this gentleman how he combated a lot of this newspaper publicity. After all, when Jim goes to the buyers market, he gets his picture in the paper. I think if the radio stations went into that sort of thing—you don't have to mention merchandise or price—we might get farther. We get so god-almighty-high! When a new store comes to town, he might be given a thirty-minute program. He is employing people and adding to the population. The citizens of the community are on his pay roll and he is bringing in a new group of citizens. What do the newspapers do? They devote a front page to it, with a picture of the store, and he doesn't pay for it. I think radio could do that and I don't think it is giving something away or cheating.

MR. WILLIS: Well, there is a logical way to give community support. We do that in Providence. At Christmas time the leading retailers are invited to come up and give a five-minute talk. They can talk about the decorations or anything like that.

MR. TRENNER: I don't entirely agree with the gentleman about this as a test proposition. That, in my estimation, is a very negative way of trying to make a sale. I believe the medium should be presented to the store as a proposition definitely doing business for everybody else and if you are not taking some of it, you are losing your share. It is like going into a store and say-

ing, "Why don't you try this? This is pretty good stuff. Cut yourself a slice." If, instead, you say, "Here is the cake. Everybody is grabbing. If you don't stick your hand in, you are going to miss something real good," that is a much better approach. After all, they have been leaning on the newspaper crutch for nearly a hundred years. These men have been brought up on a bottle of printer's ink and are very reluctant to turn to something else.

CHAIRMAN CARPENTER: Mr. McCosker, would you mind coming up? I know you just stepped in and this looks like putting you on the spot. If you don't want to answer, it is all right. The questioning has been going on for a few minutes in connection with local department store advertising and the thought was advanced by one man that we shouldn't give anything away, but another man says that the leading light of the department store gets his fair daughter's picture in the paper or a picture of the store's decorations, and that should be done by radio, that that will encourage him to use radio. What is your opinion? Would you care to express it in any way?

MR. McCOSKER: This is probably worth what any sidewalk opinion is because I haven't given it special thought. Do I understand you to say that similarly to the way the newspaper is known to give space in the form of publicity—you are asking what in connection with radio?

CHAIRMAN CARPENTER: Should radio attempt to do the same thing or should the broadcasting station limit itself to commercial programs and anything that has the name of the store is commercial and has to be paid for?

MR. McCOSKER: I don't think you do the newspapers justice when you refer to their printing the picture of the owner's daughter. They might do that as a courtesy but they don't in the larger cities. Of course, I am not acquainted with what goes on in the smaller cities. I would say that was a very unworthy method to sell a newspaper and I don't believe it is resorted to.

I think in the matter of radio broadcasting, none of us are doing so good a job that it couldn't be improved upon. I know of one instance that endeared us to an advertiser. It is true it occurred sometime ago but I think it is along the line of effort you referred to. I happened to be listening to a program on one occasion broadcast by WOR. It was just in advance of the Christmas season and this store had the copy consist of what practically amounted to a catalog reading of presents that men might buy for women for various prices—\$5, \$10, \$15 and \$25. I came in on the middle of the program and even for the short time I listened to it, I was sure we were emptying the house rapidly and accordingly, the man who followed was not buying an audience. So I gave instructions that a credit memorandum be written for the time that followed rather than have him pay for what I suspected was fairly empty air.

Now, I think a practice of that type is apt to increase the favorable attitude of the buyer toward the station more than any backstage method of presenting the occasion of the daughter's graduation or something of that kind.

MR. GILLESPIE: May I ask Mr. McCosker a question? Mr. McCosker, WOR is in a large city but my station is in a town of 150,000. If a store does something that is purely news—builds a new front or something like that—how far should a radio station go in giving publicity to that type of thing? Do you see what I mean? My idea is simply to broadcast it as news—no commercial on it, no price. The newspapers play that type of thing up and I think it would be a swell way for the radio station to land your feet on the buyer's desk or in that man's store. That is what I mean. What do you think of that?

MR. McCOSKER: Giving a literal answer to begin with, I envy you living in a town of 100,000.

If you are speaking of a grandmothers' tea, I can't think of anything so vital there as to interest anybody but the grandmothers who hadn't been able to get out of the wheel chair to go to the tea.

But, if they were doing something in the nature of expansion of the store—I don't mean just opening another department—but if they were adding a new wing or celebrating an anniversary (not the first or second but some anniversary that had enabled tradition to accumulate), I can very well see an opportunity to felicitate, assuming the program, which is always my basis of judgment—in reaching for special events, I don't believe the motivating influence at WOR is the desire on the part of the sponsor or owner or customer, it would be more determined, determined exclusively, I am sure, at our station by the program that was to be presented.

Now, we have on occasion assisted people who have the nucleus

of a special event but either hadn't appreciated it to the fullest extent or were timid.

My belief is that what you have to sell pretty much is an audience. I regretted sincerely at luncheon that I hadn't risen to express my accord with Mr. Pryor on the subject matter of his talk this morning. I think that he has the alpha and omega of radio when he puts his finger on the matter of program content. Mr. Shakespeare said it a great many years ago, "The play's the thing," and nothing has transpired in my experience—in theatre, motion pictures or radio—to cause me to doubt that, so I take this opportunity publicly to thank Mr. Pryor.

CHAIRMAN CARPENTER: Thank you very much, Mr. McCosker.

Before going on, may I say just this one thing in case somebody else does not say it. From my little knowledge of newspapers, it is my understanding and belief that all progressive, modern newspapers do conscientiously try to keep those two departments separate and you have to go some to chisel anything out of a newspaper.

MR. PRYOR: There is one point that has often occurred to me on this subject. It seems to me a local radio station has a great opportunity to do a marvelous job of entering the consciousness of executives of a town in this manner. I often wondered (if I had time and facilities and people good enough) why it wouldn't be a good idea (one filled with civic virtue and all that sort of thing) to do a job on all the business institutions, particularly those that are clients. I think it would be very interesting if a station would outline the history of the large companies, tell where the goods come from, tell how many people they employ, and get the most important executive to come down and take part in it. I think that couldn't possibly be marred with any of the stigma that the more direct method could be accused of, and I think you would also be doing a very fine job in impressing everybody in your town with the intimate vital part your station plays in the life of the community.

CHAIRMAN CARPENTER: Lew Avery wanted the floor.

MR. AVERY: Several references have been made to the National Retail Dry Goods Association. The Executive Secretary of the Sales Promotion Division was a department store advertising manager and you will find him very helpful if you want to know what department stores are using radio. We have just finished writing thirty-five or forty stores and in some cases we have received letters with valuable information.

The second thing is that organization's publication on the use of broadcasting by department stores. The present edition is \$2.50. And, in that connection, if the Board of Directors decide to get out a new book, that decision will be reached at the fall meeting and the book would be available about a year from now.

The third thing is I feel a little discouraged that nobody has advanced my pet theory that you should sell a department store a non-cancellable contract or don't sell them at all. I sincerely believe that is the thing to do even though you don't make the sale today, tomorrow or next year. It may take a long time to sell them that way but you have a whole year to prove your case when you do it.

KENYON LEE (WQAM, Miami): I wish to ask a question. Going back to the question here, I understood Mr. Oreck to say that his station has a contact man and a man to write the copy. I wonder if it would be out of order to lead into a discussion as to what size personnel a station should have. You are speaking in terms of two men that work one large account. Would that imply you would have two men available for every account if you have a staff of five or ten in a city of 150,000?

MR. PRYOR: That function logically belongs with an advertising agency.

THE CONVENTION: Can't hear him!

CHAIRMAN CARPENTER: He says that function belongs naturally with an advertising agency. Do you mean to say we ought to have an advertising agency write our copy for us?

MR. PRYOR: Absolutely.

A MEMBER: That's a commercial! (Laughter.)

MR. LEE: It's nice work if you can get it! (Laughter.)

CHAIRMAN CARPENTER: Mr. Oreck?

MR. ORECK: I don't know anything about the expense of operating a radio station but I know the average man who can write good sound copy isn't always a good ambassador, isn't even the man who is a creator of new ideas.

I think in addition to good copy writers, the stations should have good so-called promotion men, if nothing else, personality men, who can win the confidence of store owners—and don't forget the buyers.

CHAIRMAN CARPENTER: Now, we will try to close the

discussion with Mr. Trenner's question of Mr. Avery on his recent comment.

MR. TRENNER: Mr. Avery, you said it is absolutely imperative that you sell the department store fifty-two weeks in the year and I assume you mean in addition a goodly number of times a week.

MR. AVERY: The more the merrier.

MR. TRENNER: Did you ever have advanced to you the argument that newspapers are flexible, that in good selling seasons you can use much and in bad selling seasons you can use very little and that there are other times when you don't use any at all? They may say, "We don't have to use the newspaper every day; we can use it according to our selling season. Why do we have to do it on radio?"

MR. AVERY: You are right. That is one of the most serious questions. If I had the solution, I would think I was a genius.

The only thing you can do, in my estimation, is say that the radio audience, fortunately not like newspaper circulation, is a large audience and you can retain that audience when the department store's budget is cut to the bone. They advertise every month, with the appropriations in April and September carrying the heaviest load.

CHAIRMAN CARPENTER: May I interrupt to say that I believe we have brought out those two points for your consideration and you can see that there are two sides to that, and take your own picture of the situation. Is there anything more in conclusion?

RALPH H. BRUCE (WHBC, Canton): I am from a small station in a town of 110,000 population. I'd like to ask a question that I think will bear on this subject. We find in going out to sell an account where small shops have been using newspaper ads, say, for used cars or credit furniture, they run their ads day after day in the newspapers and sometimes it works but sometimes it doesn't.

On the specialty sales, we take two or three spot announcements a day throughout the week and some of the accounts want to advertise ten or fifteen items and put a price on them. You can't do that.

This is the point I'd like to make. We have the greatest success with novelty stunts. In the small towns they can't afford these big programs that will attract a lot of listening attention. I will give you a little example. For instance, on an account where we couldn't start anything else, we started a spelling bee. Now, these ideas seem to be at a premium but pretty nearly every station gets hold of an idea for promotion. Now, if there was some way of exchanging those ideas, I think we could open a lot of accounts. We find in approaching a man in a small town, even though his fellow merchants have used radio, he will say, "Well what can you do for us. Show us!" before he wants to buy a long-time contract. If you come to him with something, from then on it is easy.

We have had several different small ideas. For instance, in the selling of used cars, we have nine accounts using spots. We take a big used car lot with seven or eight salesmen, put in a mike and have a sort of man-on-the-street program. It is very effective. That is what I mean by local promotion. In a small town if you go up with a specific idea in mind, it is easier to get him started on the use of radio than to sell them spots.

CHAIRMAN CARPENTER: Thank you, and may I say in concluding this subject we are discussing that several years ago there was an attempt to form a Program Managers Section the same as we have a Sales Managers Section and it was not very successful. I am hearing increased talk about that and I am in very great hope that something can be done within the next year to stimulate an exchange of ideas between program managers which may start us toward this thing we were discussing this morning and that Mr. Pryor mentioned.

Let's go to the next question. "How can we simplify our rate cards?" John Gillin and Arthur Church are both tied up in the board meeting. Martin Campbell is going to talk and in the meantime, John may come in.

MR. CAMPBELL: I think I want to suggest a little indoor sport. Get a copy of Standard Rate and Data. Plan a campaign covering twenty or more stations. Go through Standard Rate and Data at random. Make up your schedule and submit it theoretically to the advertiser without first having to go back to the station and ask what this means and that means. It can't be done!

Now, follow that up at the end of the theoretical twenty-six weeks when you are going to renew. Take the same twenty-odd stations. See what your discount is and what you are going to do and if you are only going to write eighteen the first time, you have to write all twenty the next time. I really mean that.

We have had to do that and I am telling you it is a job, a tough one, and I don't see how the agencies put up with it.

I am going to call on Miss Black to amplify those remarks.

ELIZABETH BLACK (Ruthrauff & Ryan, Inc., New York): Mr. Chairman.

CHAIRMAN CARPENTER: Will you come up here, Miss Black? Now, some of you may have some ideas brewing so get your ducks in a row.

MISS BLACK: I have been learning an awful lot from the session this morning. The most startling is that anybody has difficulty selling department stores. I was surprised the gentlemen had so many problems in trying to sell them.

Of course, Martin was not looking at me but he was talking about me because we have had several heated bits of correspondence about his rate card. In fact he once said that he never answered a letter from Ruthrauff & Ryan until he consulted his attorney. (Laughter.)

We found a few years ago rate card structures were very difficult for people of average intelligence to cope with and we believed it would be serving the stations as well as the agencies and our clients if uniformity would be established. We then went back to other forms of media and worked out a plan of releasing orders as we had newspaper orders and further that the contracts be on a yearly basis. We found at the time although fairly new and as far as we knew we were doing a bit of pioneering, we received considerable commendation from the stations after the first time. We have worked out what seems to us an efficient manner of handling our contract situation but we still have difficulty with the rate.

When Martin spoke about the agonies we go through, I have had considerable experience in trying to convey to the account executives when they ask us how much it is going to cost, that we can't tell them this afternoon so we have taken the trouble to show the operation. That is, first, you have the stations show the rate after the discount is taken off. You have those that show open rate and scale of discounts below so that calculation is done at the agency. They are divided fifty-fifty. Then beyond that there are a number of stations that have a three time a week discount or three spots run in the same week cost the same as five, so that even though you understand the rate card, when you come to the end of the estimate and submit it to the client, some bright person looks it over and says, "That three times a week only applies if the whole schedule is in this limit of time. Don't you see that line down there?"

We would like to see some concerted opinion about how those rates should be presented to the buyer. We'd like to have our lives made a little simpler. I realize, after being here this morning and afternoon, that you have your problems, too, but perhaps we can get together. I have discussed this with Ned Midgley and I think he has something of the same idea. I believe by suggesting the particular points we find difficult and without making undue burden for you station people, something could be worked out to the advantage of everybody.

MR. CAMPBELL: I just want to ask you a question. You mention part of the stations have discounts shown; others show the open rates and discounts. Now do you want those rates published—one, thirteen, twenty-six, and so forth—the open rates and discounts. Which do you prefer?

MISS BLACK: We prefer to have the rates shown—one time, thirteen and so on. In other words, each station would have to do that calculation once whereas for the agency with the set-up of discounts, it means a repetition of the mathematical procedure as many times as it happens.

MR. CAMPBELL: The standard form suggested by the AAAA—is that a practical form from your standpoint? Or, are you familiar enough with that ancient history to recall it?

MISS BLACK: Of course, the standard form was drawn up before I was personally engaged in the purchase of time. I have read it. It is my feeling, having read it, there are too many features apply more specifically to network than spot. There are so many contingencies arise in spot. There is no protection on rate against non-consecutive service. Then, too, it was drawn at a time when spot broadcasting wasn't as large a factor, when campaigns weren't handled the way they are now.

MR. CAMPBELL: In other words, if we want to go screwy on the rates—at least print them. (Laughter and applause.)

CHAIRMAN CARPENTER: Thank you very much, Miss Black. May I say in that connection that I believe there is one advantage of printing rates on a rate card, printing all the rates in dollars and cents rather than printing a basic rate and then giving a list of discounts. Not only should it make it easier for an agency to read but there isn't nearly as much chance of sales-

men inadvertently with his pencil figuring it wrong. It is there in dollars and cents, and anybody can read it.

I wanted to ask you, Martin, if you cared to comment on our discussion of a short time ago with reference to sending out a series of questions on rates.

MR. CAMPBELL: I'd rather ask you a question first. I notice on many of the rate cards we say one rate for one announcement a week for thirteen weeks and another for two or three up to six or seven a week. Can you tell me why six or seven announcements a week are worth less to your station than thirteen announcements run, we will say, once a week? In other words, why are six a week worth less than thirteen announcements, one a week for thirteen weeks?

CHAIRMAN CARPENTER: Let me see if I have it straight and then I'll ask somebody. (Laughter.) In other words, you want to know why a station should quote a lower rate per announcement on six a week than on thirteen announcements regardless of how they run?

MR. GREENWALD: For the same reason that the railroads give a thirty-day excursion rate.

MR. CAMPBELL: That still doesn't answer the question.

DR. GEORGE YOUNG (WDGY, Minneapolis): The basic reason for this I have heard discussed many times and that is that the greater volume that any advertiser secures, the more discount he earns. Some stations have this arrangement where if a man would use in a month's time \$10,000 worth of business, he would earn a two per cent. discount. If he would use \$20,000 worth, he would get a four per cent. discount. The amount of volume he uses designates the discount he earns.

CHAIRMAN CARPENTER: I believe you are correct in that but the thing Campbell is getting at is apparently a reversal of that on some rate cards, that is where a lower rate is quoted for six than thirteen. Am I not correct?

MR. CAMPBELL: Yes.

MR. TRENNER: Despite the presence of the gentlemen from the agencies, let's take the hogwash out of this thing and say that is done strictly for the purpose of promoting business and promoting it quickly by the same token an announcement is worth \$25 or \$15 or \$10 or whatever you charge. You charge that rate because you believe that is good value for the money. Now, if a man buys 26 or 52 or 150 of those things, they are still worth \$10 and if you are going to give discounts for additional times, there is no reason for additional discounts for quicker use.

If I may, I would like to make this additional remark while I have the mike. First, as far as Miss Black's problem, we are all naturally in accord with it although some of us feel reluctant to use the only function a representative has left. (Laughter.)

At the same time I would like to ask one of the members for the purpose—I would like to ask some of the agency people present why a thirteen-time discount is necessary. Our experience has been that the number of accounts we have received that run less than thirteen times are practically zero. Why do we have a base rate and a thirteen-time discount when our base rate is really the thirteen-time discount?

CHAIRMAN CARPENTER: Anybody have an answer to that? All right, you answer him.

MR. CAMPBELL: In Washington about two weeks ago Carpenter and Jim Baldwin and several of us were sitting around . . .

CHAIRMAN CARPENTER (interrupting): I think it was an unholy three, if I remember correctly.

MR. CAMPBELL: And among the things discussed, I made the remark—and I made it without any feeling of criticism—I made the suggestion that a good many of us talk on subjects at the convention about which we have too little information.

My report this morning doesn't mean a darned thing except take up Mrs. Gleason's time and get my name in the record, which doesn't mean a darned thing either.

My suggestion was that we have a series of questions asked of the stations not only about rates but about time discounts and frequency discounts and all of those problems that concern so many of us. There are many of those things we would like to know.

We may be standing here talking about a subject that is of concern to only a very small number of us. We may be overlooking a subject that is of vital interest to all of us. We want to try our darndest to make the job of the agency easy and as inexpensive as possible. By way of illustration, an advertiser takes a page in a national magazine. The copy goes through the mill; it goes to that publication and is published. The magazine sends the bill—\$8,000. The agency deducts the commission and pays it. Let that same advertiser try to spend \$8,000 with the

radio stations and if you don't think his costs have gone up, you better go to him and ask him a few questions.

So, we discussed whether a series of well thought-out questions could be sent out and answered. A couple of us said "yes" and others "no". I won't say who's who. But, I do think if something like that is worked out, we will at least have a basis next year for intelligent discussion of many of our questions.

**CHAIRMAN CARPENTER:** The next question we will omit for the minute and still see if we can get Mr. Gillin and Mr. Church. May we go to the next one, Mr. Pryor, which is the question we would like you to discuss briefly: "How can creative selling be encouraged?" If you wanted to ask Mr. Pryor some questions this morning and didn't get to it, here's your chance.

**MR. PRYOR:** Speaking from our own experience, here is the way it usually works out. Ned Midgley's department contacts station representatives and executives. They write a memorandum form sometimes about a program they have for another advertiser who is about to cancel or goes off for the summer, and tell us about the show. That ends it.

Another man will now come in all steamed up and tell us about the show and get us interested. If he can bring along a record of that show and tell us something about the results, how it has worked out, give us personal confidence in that program, it is much more liable to be sold.

Now, I can't recall a program causing the sale. In other words, I don't believe—maybe Ned recalls one—I don't believe I can remember when anybody brought a program in and enabled us to make a sale that there hadn't been a desire for it already.

More and more our clients and lots of other agencies' clients are supplementing their national radio job with spot. We usually are in position to place a show in a certain area if we can get a good one. Now, we have people whose job it is to visit local stations but it takes us a long time and costs us a lot of money. If you want to get a program with us, the best thing to do is write us—or, better yet, come and see us—and include a record, if you can. For the smaller stations, that isn't practical unless you happen to be in our town but in that case I believe the station representative is the next best way to contact us. Has anybody an idea that is better on how to do it? That is the way it usually works out in practice, wouldn't you say, Ned? We usually know all about what is available on that station and if we know about it in sufficient detail that we are sold on it ourselves, we very often can have one of our sponsors put in on.

**CHAIRMAN CARPENTER:** Does anybody have a question?

**DAN DWYER (WSYR, Syracuse):** Apropos of your talk, you spoke disparagingly about spot announcements between programs. I would like to know what is so harmful following Terry and Ted with 240 words, or following Procter and Gamble with 400 words—why that 35-word spot hurts radio?

**MR. PRYOR:** I believe, and a lot of my associates believe, that radio has come to a point where it is very vital to increase the prestige of the business. We cannot stay where we are. We have educated a lot of non-musical people to a point where they can criticize, and criticize intelligently, dance bands and symphony orchestras. We can't stay where we are. We have to increase our prestige.

It is my personal opinion (and it is shared by a lot of people) that one of the things that makes radio a catch-as-catch-can, cheap, unimportant, crass sort of thing is these darned announcements. I think an audience will accept a commercial at the end of entertainment, even if it is long, with much more good will than they will these thirty- or forty-second things dropped in ad lib. They are usually the cheapest kind of sales, not always, but particularly through the South, the patent medicine man or the two-pants suit man, the poorer advertiser, the less dignified advertiser, more or less monopolizes those things, and while I know the financial return comes from that part of the business, I do believe the elimination of a lot of the spot announcements would improve the situation. In other words, we are limited by our ability to create good programs.

It seems there is one thing that would have a very, very important effect on the listening public as a whole. I may be completely wrong. We raise the devil when they come in front of our own shows. I think it is one of the very definite things we can change, if we desire, that will increase the importance of the industry.

**MR. BORTON:** Mr. Pryor, I don't know whether I understood you correctly. Did you say if it was a case of the station attempting to sell it, that you weren't interested, that you knew all about the station?

**MR. PRYOR:** The mechanical details, importance in an area, general run of programs, we are pretty well familiar with. That,

of course, wouldn't apply to a number of small stations. But, in Mr. Midgley's department we have all that data. We contact the folks constantly or their representative.

Ned, I don't believe there is anything we ought to know about the stations that we don't know, from the mechanical standpoint, is there?

**Mr. Midgley:** It may sound arrogant but we really have a lot of information.

**MR. PRYOR:** We are really old—have had radio ten years. We are simply interested in available time and talent.

**SIDNEY BLISS (WCLO, Janesville):** I am glad to see one 100-watter stand up and get his ten dollars' worth.

I was interested in your statement a while ago about your having the information about the larger stations in the larger cities. I passed through the promotion display room with considerable interest and envied those who had spent probably literally thousands of dollars in preparing the promotional material and wondered how many of them were feeling the same as I do now about all this money being spent on promotion and perhaps have three or four or five nice accounts on the air. And, as I looked through the promotional material, some, I presume is in competitive markets like ours, and I would pick up one piece of promotional material after another that had probably sent you one of their promotion brochures claiming coverage of 150 or 200 miles around the station, and we have purposely been conservative in building our promotion material, I wondered whether it is worth while. I have wondered that in the past. You may know about the mechanical details but the only thing worth a damn is audience, I don't care whether it is a 100-watt station or a 10000-watt station. We have spent about as much as any station our size on such material. We send it to you agencies. I am never sure whether it gets into the file or the wastebasket. If it is filed away, I don't know whether it is referred to. It seems to me a lot of money is spent on exaggerated claims which are sent to your office. How much of that material do you believe? When you buy a market, how do you know Joe Palooka is covering the area his brochure says he covers?

I talked to a man the other day who has made a study of the spot business in the local stations in the country, and out of 100 how much national business did he find? Four national accounts on these stations. I talk with this gentleman or that gentleman. He says he is carrying a fine lot of national business but never gets down to dollars and cents. He isn't carrying much more than I am.

Now, we are developing a lot of local business. We have a local audience. Our coverage doesn't mean a thing if we haven't an audience. Now, some of those other stations are competition and some aren't. Some of them the advertiser is using because he thinks he is getting coverage. He may have an audience and he may not.

It seems to me the promotion material we have been sending out is very weak because we have had very little reaction to it and yet I think we spend as much money as the next man in sending promotional material to the agency.

**MR. PRYOR:** I think Ned Midgley would be valuable on that.

**MR. MIDGLEY:** Along about the second round, I thought Braddock was going to win the fight. I lost my voice asking him to do it. (Laughter.)

I am tickled to death that Arthur Pryor is here to take some of this cuffing around I usually get from representatives of station managers when they are in town.

These meetings today have been a lot of fun. A couple of things made me chuckle considerably. This morning one of you gentlemen said, "So you aren't buying power any more." Arthur said, "We never did."

"Well, you'd never guess it." (Laughter.)

I think the answer might be in a fable. Once upon a time there were a couple of stations in a town, a 100-watter and a big station with lots of power. It happened that the 100-watter was owned by a distributor that distributed the products for which the campaign was being considered. They intimated if the 100-watter was used on the schedule, they would buy several carloads of the product; if the 100-watter were not used, this co-operation would not be forthcoming. So we got pig-headed and strangely enough bought the station with the high power.

Another charge here is leveled against us, not too seriously, I hope. It dates back to January this year. We bought a series of Terry and Ted programs on the station and with some strange psychic instinct realized that daylight saving time would come into effect in April. Therefore, we requested the protection and guarantee of a later period for the programs after that date. Daylight saving time came and we suddenly found we could have

a much later period at noon or else he off the air entirely on that station. Then a representative of that station complains because we use 240 words in the closing commercial announcement of a program which isn't even existent on his station. At that he was lucky, because we usually try to crowd 240 words into a 100-word announcement. If he only has that many words, he is pretty lucky.

There is one thing that does worry me and I want to be serious, and that is the charge of men who run smaller stations. Yes, we get your information and we read it and, believe it or not, we file it and not in the wastebasket. You have an educational job to do with the agency. The agency has an educational job to do with the client. I can only speak for our own outfit. When we get a request for spot broadcasting, a request for specific markets, or in the case of some clients, "Here is \$10,000. We want national coverage. Three fifteen-minute programs a week for thirteen weeks," you know we can't do it and it is a gradual process of educating the client to use intermediate markets. We have darned good dope about stations here, there and other places that will give daytime audiences hut in the aggregate, the markets themselves are not of sufficient importance to the client to have them included in the plans. And, I don't want any of you people to think for one single solitary moment that B.B.D.O.—and I know I speak for Miss Black, too—doesn't digest every hit of that—although most of it gives us indigestion.

"RED" CROSS (WMAZ, Macon): This is Cross—Red Cross— from Macon. (Laughter.)

Being merely a rebellized Yankee, I would like to take the only exception, apparently, to one of Mr. Pryor's remarks, especially about the South, (Laughter.) about patent medicines and two-pants suits. (Laughter.)

Mr. Pryor, I happen to be wearing a suit that I bought with two pair of pants. I am not a bit ashamed of it. It cost me eighty dollars and Mr. Hickey-Freeman made it. It's a pretty darned good suit. You know, the secretary and treasurer of our 1000-watt station has never gotten humpbacked since 1929 carrying any B.B.D.O. checks to the bank. (Laughter.)

But, on the other hand, this little hunch of peanut shuckers that use our station have kept me and my staff in grits, gravy and groceries, and just as long, Mr. Pryor, as they pay our salaries every week and leave us \$1.15 in the hank, and as long as the President of the United States sees fit to write us twice within the year complimenting us for some national job we have done and the Governor of our State of Georgia has on many occasions accorded personal congratulations for work well done, we are still going to carry 100-word spots on two-pants suits and collect the money.

Now, you may have some accounts up there that you put out nationally. I don't know your accounts personally because we have never been favored with any of your business. (Laughter.)

If it happens to be Listerine, we could advertise Listerine very well because there is a very great need for it. But, if we advertised Listerine to the exclusion of all two-pants suits, wouldn't it be funny seeing everybody walking around with a hottle of Listerine, and with kind of a hare neck! (Laughter.)

MR. PRYOR: I was warned I'd catch hell if I brought that up! As a matter of fact, it is no secret the minute announcements have been a godsend to the radio business. It has meant fine income and done a swell job for an awful lot of you. We use it and use it all the time—get swell results.

I am looking ahead to a life in this business. I have a little different picture, or anybody in a job like mine has a different picture than anybody else can possibly have. I realize you cannot eliminate spot announcements without adequate financial return to take its place. It means running at a loss.

I do feel—and it is a firm conviction—if I could just plant it in your minds that everybody in this business has got to be conscious of a desperate need for elevating it! Which will never end! And not just use it as a means for a livelihood! I shall stand by my guns. I know just how vital it is. But, watch out. I have studied audience reports for ten years and there are entirely too many people tuning in for special events. Every year that audience you can expect to get is a little hit less and one of the worst things we can accuse our medium of is we are not jealous enough of our importance and place in the life of the community, and, mark my word, little old spot announcement is largely responsible for that—honestly!

MR. BLISS: May I ask a question? Isn't your problem of having too much commercial or too long commercial, whether or not the same thing can be said in shorter words? Isn't it true that a long announcement well done is not criticized as much on

the part of the audience as a thirty-second announcement poorly done?

MR. PRYOR: Absolutely right. I have always contended that a three-word announcement with the wrong words offends more than a three-minute announcement if done intelligently. It is that awful little offender that damns the whole thing—done by a stupid fellow or one who doesn't give a damn what he does. It is that little fellow who crucifies the whole structure.

CHAIRMAN CARPENTER: Let's have two more and just to wind up properly, let's have Trenner and Gillespie. Some of you haven't said anything at all. Won't you express your opinion?

MR. TRENNER: I am heartily in accord with Mr. Cross. Here is what I want to say: The reference to the content of an announcement is not, in my estimation, absolutely relevant because you can control the copy of announcements as well as the program. Some of our station breaks have some cute little poems with advertising in them.

There has been a contention by an automobile manufacturer in Detroit that there should not be any spot announcements before or after his program, that he bought one hour and not fifty-nine minutes and thirty seconds, and by virtue of that fact, because he concedes to you the privilege of identifying your station, you shouldn't take advantage of it with a spot announcement. That may be very well and true hut he didn't huy one hour and thirty seconds. But, I don't believe it is so much the matter of revenue we get out as whether we are doing any tangihle harm.

One question I would like to ask Mr. Pryor is does he believe the average listener accepts a commercial on a sponsored program, that they will give you their ear in appreciation for what you have done? Does he believe there is any difference in the listener's acceptance between what comes before a program and what comes at the end of a program? After all, what the audience thinks should dictate the policy along these lines.

MR. PRYOR: I do believe after you have entertained the average fellow and he has stuck with you because you have entertained him, that he is in a more sympathetic mood to accept the message on behalf of your product than he is when you jump in between two shows and give him two or three minutes with thirty seconds of somebody else's tucked in the middle. I have seen it happen. People become deaf to radio announcements simply because it doesn't interest them and that piling up of spots at the end tends to weaken the opening and closing. That is my opinion. I do believe the advertiser gets more attention because most people are nice and feel obligated to him.

MR. GILLESPIE: Mr. Pryor, it has been a pleasure to hear you talk. This is my third convention and I am like you—I am in this radio business and I regard it as a sacred thing. I give many hours a day to it. I live it. I'd like to know about it.

We have talked about spots between breaks. We have talked about how to sell national advertisers and manufacturers. I am going to ask you a question. Don't you think the station should first sell its town, the local merchants, the local distributors, even though not trying to sell them time hut trying to sell them on the program and first get the local town sold so when the manufacturer comes in and makes a survey, he might not go to the radio station but to the drug house and say, "What is the best station? Isn't it a fact that you fellows pay a great deal of attention to what those fellows say—the distributors and wholesalers?"

MR. PRYOR: The reputation of a radio station in a town is of vital importance. A radio station is the voice of the city. It represents that city to the world. And, the men and women who run a radio station and neglect to impress their own home folks with their responsibility and the sincerity of that effort are just overlooking the strongest bet, in my opinion, that they have in their business.

MR. GILLESPIE: Now, this is so critical, hut isn't it true that all radio station managers are selfish? I'll supplement that this way. We discussed department store advertising. I wonder how many stations really have men that know merchandising, seasonal trends, that can go and talk to an advertising manager sensibly. Have you ever had one come in that can discuss types of merchandise and offer suggestions how to sell, offer suggestions if you have stock that costs money to keep?

Now, instead of sending you pictures of antennas and equipment and turntables—good Lord, you know if we have a license we usually have some sort of equipment—you are more interested in the talent and civic promotion we are doing, isn't that right?

MR. PRYOR: On this business of personnel, I think that it is a grand tribute to the broadcasting industry the way they have kept broadcasting in this country on the high scale that they have.

It is a terrible responsibility when you figure in all the little personal things, the weaknesses of people. I think it is a great tribute that they have maintained the high ideals. There isn't a man in the business that doesn't hope and wish constantly it could be better.

As far as the merchandising, I think it has been my experience that most of the stations do a pretty good job as far as they can go in intelligently discussing the merchandise.

(Announcements.)

MR. GILLESPIE: One thing more. I have one man who does know merchandising. I think there is a trend you have to have that kind of a man in your station.

MR. PRYOR: Definitely.

G. T. STEWART (WKZO, Kalamazoo): With all due respect to Mr. Pryor, may I ask this question? In the national advertising agency set-up, do you have any particular objections to a station going over your head to a client when you can't sell them?

MR. PRYOR: No. Very often we have stations go direct to our clients but they usually take it up with us. We are not so thin-skinned. If we can't do it, God bless him!

MR. STEWART: With all due respect to B. B. D. O. and Ruthrauff and Ryan, my contention is 95 per cent. of the agencies expect the station to sell the business and the station representative expects his commission. I'd like to know whether stations are adopting a policy of going over the agency's or station representative's head on national business.

CHAIRMAN CARPENTER: I am wondering whether the thing you are thinking about is the thing some stations are beginning to work out, putting men in the national field to co-operate with the representative and the agencies in any way possible in supplying them material and in supplying the prospective client direct with material also, and those stations (and I have talked to a few of them) consider the thing as not going over the head of their representative or going over the head of the agency. It is more in the belief that they can supplement the work of those two organizations to their own benefit.

MR. STEWART: I don't mean supplement. I mean going direct and doing the selling with the understanding the agency gets its commission and the representative gets his but I have to do the job. Should we consult the agency or go over his head if he doesn't show the proper co-operation?

MR. PRYOR: I have just had an example where a fellow came in and wanted to sell a program to one of our clients. We took two hours with him. We said, "We know the story. We wouldn't recommend it." He said, "Do you mind if I go and see him?" Today is Wednesday. He is in my office on my turn-table playing the record.

MR. STEWART: Would you have any objection to that?

MR. PRYOR: No, we like to work with you because we can advise you of the peculiarities of the situation.

MR. STEWART: If I came to you with an idea and you still get your commission?

MR. PRYOR: If I told you, "It's lousy," and you said, "I'm going to your client," I'd say, "God bless you."

MISS BLACK: Any time they want to call on our clients, we are delighted to have them do it.

MR. PRYOR: I do believe it is wise to let us know because we might know something that is very wrong. It creates a little unrest. It's bad for the business to have a lot of people contacting people and worrying them about things. If we can advise with you, it is better.

MISS BLACK: There is just one thought in connection with that, and that is when a manufacturer appoints an agency, he does so for efficiency and expediency, and in doing so, he has looked over the field and for the time at least he is satisfied the agency will handle the assignment satisfactorily. People in the agency have a job to perform for that client. Now, I wouldn't have my job and Ned wouldn't have his if we didn't understand the needs of our clients and serve them to the best of our judgment.

We can't be right all the time. We can be wrong. But, we couldn't afford to stand in the way of a good idea or better service for the client because for purely selfish reasons we have individual interests to protect and beyond that we have to move merchandise for our clients. So, if you will keep that idea in mind, any station manager will realize he himself couldn't afford to offer that type of interference.

EDWARD PETRY (Edward Petry & Company, New York): I want to speak as a station representative. We consider ourselves as employees of the stations. Any time they want to go to any of the clients, we are perfectly willing. In the four and

a half years we have been in business, we have only gone over a station's head three times with practically the consent of the agency.

CHAIRMAN CARPENTER: There is another angle.

FLETCHER BOLLS (Eldorado, Arkansas): I'd like to ask Mr. Pryor just how you determine the difference in rate cards on 100-watt stations. I know some are higher than others. I know mine is—and I'm not apologizing for that either.

You suggested this morning that we spend a lot of money for program directors and announcers and continuity writers. We have done that. As far as our station is concerned, we have continuity writers that can really write continuity. Maybe it is because we started out that way and continue to do it. But, we have the equipment and the other fellow has the equipment. We have the personnel and the other fellow has his personnel. How do you determine the value of those?

MR. PRYOR: I didn't hear him.

CHAIRMAN CARPENTER: The question is: here are a couple of 100-watters. One is really doing an outstanding job, the best they can with continuity writers and other personnel. The other is doing very, very little. How do you distinguish between the two?

MR. BOLLS: I might put it this way: we have an announcer making money who is good enough to go to a bigger station, but we are paying him and the reason we are paying him is because he is getting a job done. We have continuity writers the same way. We wouldn't sell a 200-word announcement. You are talking about selling 75 or 100 words. I wouldn't sell that way. I make him buy a program. But, our announcer is making a good living. The other fellows hire \$15 and \$20 a week boys.

Now, do you know the difference between the two set-ups, as far as that is concerned? You probably know the equipment we have and the equipment they have but I wonder if you know the difference in the personnel and the job we are getting done or whether we have to depend on local advertising. We do not have enough business for a station representative and have to depend on ourselves. We are getting a job done to get over 50 per cent. of the money spent by the majority of merchants on our advertising. We know we are doing that because we check the man's business and find how much money he spends for advertising—how much his budget is a year and then how much he sets out for radio and newspapers and other mediums. We find that people wear clothes down in Arkansas in the summer as well as in the winter—maybe not as many. They buy about as much food in the summer. We are beginning to find out they sell merchandise in the summer. With hammering, we are able to keep going and to do that, you have to have the personnel.

MR. PRYOR: It is very true there are things other than mechanical aspects. We are aware of the personnel and other qualities as well as the mechanical features.

Now, please don't misunderstand me on the business of improving programs. I don't mean by money. Study it over to see if you are doing it with good taste. My contention is that you can include a higher type of person, a more sensitive personality, a higher intellect as well as the cheap fellow who doesn't much care. It is a matter of attention and doesn't necessarily require more money.

MR. WILLIS: I do believe there are still many stations represented here now who realize that a representative is exactly that in the true sense of the word and an agency is that in the true sense of the word. The agency represents the client as well as the medium and appreciates the function of both groups.

H. M. LOEB (WFDF, Flint): About four years ago I happened to be the man that sat in an agency in Pittsburgh and bought a great deal of time from radio salesmen. Then I slipped and bought myself a radio station. (Laughter.)

I have a great deal of sympathy for both the advertising agencies and the smaller radio stations. I listened to my friend Sidney Bliss and I can sympathize with him 100 per cent. because my station is a 100-watt station and my problems are similar. And yet, I do not blame the advertising agencies today for not being too enthusiastic about 100-watt stations even though I am one myself.

When I had my agency in Pittsburgh, there were many advertising accounts that I did not accept. I was running the business and I did not accept them because I could not make money on those accounts. I had to render a certain service and had to have a profit over and above that service if I handled those accounts, so I refused to accept them.

The same thing was true to a certain extent regarding those radio station time salesmen who came in and tried to sell me their radio station. When I was able to place KDKA at \$100

a minute—and I placed it a great deal—but when a 100-watt station came in to sell me and quoted rates at 50 per cent., my commissions were the same, always that 15 per cent. It had to be very outstanding or very unusual for me to buy that station at 15 per cent. when their rates were so low. Their packages were not large enough.

Now, I suspect much of the difficulty that faces the 100-watter may be analogous to the position in which I found myself. I wonder how many national agencies are set up today to handle the smaller radio station as it has been presented to them. If we can buy time on a 5000-watt station, it requires no more work for that station than it does for the 100-watt station. I really do not blame any advertising agency for selecting WLW as against my station even though I am a darned good radio station.

Now, I think the problem is largely that of the smaller fellow organizing himself in such a way and standardizing himself in such a way that he can be referred to by the advertising agency as part of a certain single factor. That can be done by standardizing his rates 100 per cent., by controlling them and working together as a group, and by co-operative sales and promotional plans.

I think this is the essence of much of the discussion which has occurred up to date. You have to sell your product and it has to be something that people want. You can't expect a national advertising agency to come out and say, "We are not handling your business because it isn't profitable." It isn't fair to expect him to say that. If he did, it would be admitting to his clients that he wasn't doing his job, and no national advertising agency should be placed in the position where it is even requested. It is true pressure is placed on agencies and many advertising agencies have to succumb. This is no reflection on the agencies

at all—merely a matter of business. In the case of 100-watters and other low-powered stations such as the 250- and 500-watt, I believe that the agencies should be told the story correctly and the burden is on us to do the job. I would like to know, Mr. Pryor, if there is such a thing as a marginal profit line in the purchase of radio stations.

MR. PRYOR: As a matter of fact, selection of radio stations is two things: where we would like to go and how far our money will take us. If we wouldn't consider selling stations that didn't mean much to us, where in the hell would we be! It is the same thing on trade paper copy—we don't make a profit. But, believe me, a lot of profitable accounts we couldn't handle without them. It is a case of justifying the selection of a station and having sufficient money.

CHAIRMAN CARPENTER: Now, there was one other thing we would like to get today but haven't time. May I refer you to resolution 15 on the blue sheet referring to merchandising. More discussion could be had on that, but we started at 3:00 and wanted to wind up at 5:00. It is now five minutes of five.

I personally have gotten a lot out of these discussions today and I have gotten a lot out of it because you people helped. I'd like to take this opportunity to thank very, very much Mr. Pryor, Mr. Oreck and the other persons other than broadcasters who are here and have helped so much today. I should also like to thank the men on the panel and every one of you present for being here and helping make this the successful meeting it has been.

Thank you. The meeting is adjourned.  
(The meeting adjourned at 4:55 o'clock.)

Adjournment sine die