

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.
JAMES W. BALDWIN, Managing Director

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JETT NAMED ACTING CHIEF ENGINEER

At a General Session of the Commission November 6, Lt. E. K. Jett was designated Acting Chief Engineer to succeed Dr. C. B. Jolliffe, who has resigned, effective November 12, 1935.

Lieutenant Jett has been identified with communications for 20 years, having served in the Navy 18 years and with the former Radio Commission and this Commission for the past 7 years. He has been serving as Assistant Chief Engineer since September, 1931, having charge of radio services other than broadcasting. Since the creation of the Communications Commission, wire telegraph services, including submarine cables, have been added to his duties.

PART OF COMMISSION MOVES

Several divisions of the Federal Communications Commission have again been forced to move owing to the fact that the Interstate Commerce Commission needed additional room in its own building where some divisions of the Communications Commission were housed.

The following divisions of the Communications Commission have been moved to the old Barber & Ross building, corner 11th and G Streets, Northwest: Examiners' accounting, and the engineering division of the special investigation of the telephone companies; and international accounts division.

The accounting division of the special investigation of the telephone investigation has been moved to the Washington Star Building, corner 11th and Pennsylvania Avenue, Northwest. The legal division of this investigation will be moved there shortly.

NEW YORK CASE DISMISSED WITHOUT PREJUDICE

Willis T. Shaughnessy applied to the Federal Communications Commission for a construction permit to erect a new station in New York City using 1370 kilocycles, 100 watts power, and unlimited time on the air.

Examiner John P. Bramhall, in Report No. I-132, has recommended that the application be dismissed without prejudice. When the case came on for hearing counsel for the applicant asked that the application be dismissed. The Examiner found that no one but the applicant had incurred any expense in connection with the hearing.

SECURITIES ACT REGISTRATION

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

Colon Oil Corporation's Committee, New York City. (2-1727, Form D-1)
Great Southern Morgan Coal & Coke Mining Corp., Richmond, Va. (2-1728, Form A-1)

Insured Investors, Inc., Kansas City, Mo. (2-1729, Form A-1)
American Business Shares, Inc., Jersey City, N. J. (2-1730, Form A-1)
First Manhattan Company, New York City. (2-1734, Form A-1)
Auburn Automobile Company, Auburn, Ind. (2-1736, Form A-2)
Seaboard Finance Corporation, Washington, D. C. (2-1737, Form A-1)
Chlorlyptus Chemical Company, Inc., York, Pa. (2-1740, Form A-1)
F. E. Wisecup, trustee, San Angelo, Texas. (2-1741, Form A-1)
Harris, Hall & Company, Chicago, Ill. (2-1742, Form A-1)
Keystone Steel & Wire Company, Peoria, Ill. (2-1743, Form A-2)
Menasco Manufacturing Co., Los Angeles, Calif. (2-1744, Form A-1)

SOUND ON DISK TRANSCRIPTIONS NOT TAXABLE

A decision has just been rendered by the Bureau of Internal Revenue, Treasury Department, in connection with Title IV of the manufacturers excise tax law of 1932 in which it has been held that "electrical transcriptions used for broadcasting purposes and motion picture records of the 'sound on disk' type are not taxable as 'records for phonographs.'" In this connection the Bureau has issued the following official statement:

"Inquiry is made whether electrical transcriptions used for broadcasting purposes and motion-picture records of the 'sound-on-disk' type are subject to tax as 'records for phonographs' under section 607 of the Revenue Act of 1932, which imposes a tax on certain articles (including 'records for phonographs') sold by the manufacturer, producer, or importer.

"In S. T. 550 it was held that electrical transcriptions used by broadcasting systems are records for phonographs and taxable as such under the law; and in S. T. 651 the conclusion was reached that motion-picture records of the 'sound-on-disk' type also come within the general class of records for phonographs. Reconsideration of those decisions is requested.

"At the time section 607 was enacted the word 'phonograph' had acquired a definite meaning both in the minds of the public and in judicial decisions and it is to be assumed that Congress had that meaning in mind and used the word in that sense when it enacted this provision. As was stated in *Kepner v. United States* (195 U. S., 100), 'It is a well-settled rule of construction that language used in a statute which has a settled and well-known meaning, sanctioned by judicial decision, is presumed to be used in that sense by the legislative body. * * *'

"According to the Encyclopedia Britannica the phonograph is an instrument for reproducing sound by transmitting to the air the mechanical vibrations of a stylus in contact with a sinuous groove in a moving record. Less specifically, the term designates any instrument for the recording or subsequent reproduction of sound. Congress in imposing a tax on 'records for phonographs' could not have had in mind this general definition of the word 'phonograph.' If such were the case, all records embodying the principle of the phonograph would be taxable, including motion-picture records of the sound-on-disk type, records made by police departments in gathering evidence, records of public statements for use in the event of a libel or slander suit, and many more uses to which the phonographic principle of sound recollection and reproduction is put. Technically, the machines which record sound as well as those which reproduce it are phonographs, but from a consideration of the language of section 607, it is evident that Congress had in mind only the machines which reproduce the sound. Such a machine has a revolving turntable, a sound-arm holding a diaphragm in which is fastened a needle or jewel, and a sound-box or horn. The word 'phonograph,' according to its ordinary meaning as well as its technical meaning, does not include the equipment used in broadcasting studios, but refers to those instruments which, prior to the advent of the radio, were ex-

CONGOIN

The Lockwood-Shackleford Company has advised a member that an agreement has been reached whereby they would proceed with the sale of Congoin and that this product would be marketed by a new company to be known as the Quality Food Company.

An inquiry has been received concerning the matter. The matter has been investigated at the Pure Food and Drugs Section of the Department of Agriculture, the Office of the Solicitor for the Post Office Department and the Federal Trade Commission. Mr. George L. Larrick of the Pure Food and Drugs Section of the Department of Agriculture has authorized me to say that in so far as the Pure Food and Drug laws are concerned Congoin or Yerba Mate may with propriety be advertised as a palatable and refreshing beverage; that advertising copy of this product may properly dwell upon its romantic features involving its use over many years by people in South American countries; and that the advertiser may properly speak of the millions who use it as a beverage of choice. Mr. Larrick further advised that in so far as the Pure Food and Drug laws were concerned no claims should be made for its medicinal value.

It was learned from the Office of the Solicitor for the Post Office Department that there has been no modification of the fraud order issued against the Congoin Company. It was also learned that one of the assignees of the Congoin Company, a Mr. Parr, has been advised that the Post Office Department is without authority of law to give its approval to any plan of business proposed to be operated through the mails; and that in the event the Department receives evidence showing the Congoin scheme heretofore found fraudulent is continued under some new name it will be necessary to extend the fraud order to cover the new name employed.

Investigation of the matter at the Federal Trade Commission showed that no complaint had been issued against the Congoin Company, as of November 14.

Members will observe the conflict between the Pure Food and Drugs Section of the Department of Agriculture and the Post Office Department. Whereas the Department of Agriculture finds that Congoin or Yerba Mate may properly be advertised as a beverage, the Post Office Department apparently will not permit the sale of this product in any manner which can benefit from the advertising heretofore employed by the Congoin Company. Further, it was found that instead of employing the name "Quality Food Company" as described by the Lockwood-Shackleford Company, the assignees are using instead the name "Popular Food Products Company, successor to the Congoin Company."

JAMES W. BALDWIN,
Managing Director.

tensively used in homes to reproduce sound mechanically from records designed for use on such instruments, i. e., ordinary phonograph records, or to use the language of the Act, 'records for phonographs.'

"There is strong and ample judicial authority for the view that for the purposes of the excise tax the Bureau should ascertain the commercial significance of the words 'records for phonographs' and construe them accordingly. (*American Net & Twine Co. v. Worthington*, 141 U. S., 468; *Sonn v. Magone*, 159 U. S., 417; *Philadelphia Storage Battery Co. v. Lederer*, 21 Fed. (2d), 320.) From evidence submitted it is obvious that in the industry concerned a very definite distinction is made between phonograph records and electrical transcriptions and that the latter are not commercially known as 'records for phonographs.'

"The phrase 'records for phonographs' used in the Act also indicates that *use* is the criterion. In other words, not all records are taxable but only those *for phonographs*. The courts have frequently had occasion to determine tax questions which turn on the use of the

article to be taxed. A long line of cases has consistently held that where use is the criterion, the chief use of an article, not the exclusive use, controls. The leading case on this point is *Magone v. Wiederer* (159 U. S., 555). Applying this principle to the present inquiry, it is clear that the chief use of phonograph records or 'records for phonographs' is in connection with those instruments which are technically, commonly, and commercially known as phonographs and the fact that phonograph records are also used for broadcasting purposes does not change the nature of their chief use.

"In view of the foregoing, it is held that electrical transcriptions for broadcasting purposes and motion-picture records of the 'sound-on-disk' type are not 'records for phonographs' within the meaning of section 607 of the Revenue Act of 1932 and are not subject to tax under that section. Those records which are commonly and commercially known as phonograph records, even though they are frequently played over the radio, are nevertheless 'records for phonographs' and are taxable as such.

"S. T. 550 (C. B. XI-2, 477) is revoked and S. T. 651 (C. B. XII-1, 399) is modified to accord with the views expressed herein."

RECOMMENDS DISMISSAL OF WBHS CASE

Broadcasting Station WBHS, Huntsville, Ala., applied to the Federal Communications Commission for a license renewal. The station operates on a frequency of 1200 kilocycles, 100 watts power and shares time with WFBC.

Examiner P. W. Seward, in Report No. I-133 has recommended that the application be dismissed. The Examiner states in his report that the case was heard and evidence submitted but on "November 7, 1935, a motion by the applicant was filed with the Examiner, asking permission to withdraw and dismiss the application."

STEWART ASKS CHAIN BROADCASTING SURVEY

At a recent meeting of the Federal Communications Commission en banc, the following motion by Commissioner Stewart was referred to the Broadcast Division for consideration and report to the Commission;

"I move that the Broadcast Division be directed to report to the Commission (a) whether in its opinion the Commission should adopt special regulations under section 303 (i) of the Communications Act for the regulation of chain broadcasting and (b) in the event that the adoption of such special regulations is believed by that Division to be desirable, the proposed text of such regulations.

"In support of the motion I wish to call attention to the following:

1. At the time it provided for clear channels (General Order No. 40, August 30, 1928) the Federal Radio Commission said: '* * * 40 channels will be assigned to stations with minimum power of 5,000 watts and a maximum to be determined by the Commission and announced with the allocation. On these forty channels only one station will be permitted to operate at any time during night hours, thus insuring clear reception of the station's program, up to the extreme limit of its service range.'
2. The following statement was made by the Federal Radio Commission on July 2, 1930: 'As amended, it (General Order No. 40) provides for a certain number of high power stations on interference-free channels to serve rural and sparsely settled areas over long distances under favorable conditions.'
3. The population and area of the United States dependent for broadcasting service at night on the secondary coverage of clear channel stations is shown on the following table:

Zone	Percentage of population within secondary coverage	Percentage of area within secondary coverage
First	24.0	57.3
Second	27.6	60.4
Third	56.8	70.4
Fourth	33.6	70.0
Fifth	35.4	90.38
United States	35.8	76.7

These figures are as of December 1933, but there has been little change in the situation since they were compiled.

4. The programs available at night to this 35.8% of the population of the United States who reside in 76.7% of its area are therefore those offered by clear channel stations; and their program selection is largely limited to those carried by such stations.
5. The present situation of clear channels (night time) with respect to chain programs is:

No. of clear channels	No. with NBC Network stations	No. with CBS Network stations	No. with MBS Network stations	No. having no chain stations
40	26 ^{a b}	12 ^b	3 ^a	1

^a One station included on both NBC and Mutual.

^b One channel has both CBS and NBC stations.

6. Duplication of programs on clear channel stations reduces the value of clear channels to persons dependent on secondary service (for whom the channels were set apart) and tends to defeat the announced purpose in the establishment of clear channels."

KDKA COPYRIGHT DECISION

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

Equity No. 3057

Olga Arline Jurasovic,

v.

National Broadcasting Company, Inc., and Radio Broadcasting
Station KDKA

Findings of Fact, Conclusions of Law and Opinion

MC VICAR J.:

October 29, 1935

The plaintiff, in her Bill of Complaint, prays for an injunction to restrain the defendants from infringing her copyright to a musical composition, also for an accounting. After hearing, the Court makes the following findings of fact and conclusions of law.

Findings of Fact.

1. The plaintiff is a citizen of the United States and a resident of New Brighton, County of Beaver, and State of Pennsylvania.
2. The defendant, the National Broadcasting Company is a corporation organized and existing under the laws of the State of Delaware, and a citizen of said State. The Radio Broadcasting Station KDKA is a subsidiary of the Westinghouse Electric and Manufacturing Company.
3. That plaintiff is the original composer of her composition "You Nasty Man," Exhibit "6."
4. The plaintiff began on her composition as early as November 15, 1933, and completed and performed the same musically as early as November 24, 1933.
5. That plaintiff duly deposited an unpublished copy of her composition entitled "You Nasty Man," like Exhibit "6," with the Register of Copyrights and was granted a certificate of copyright thereon on December 5, 1933, No. 79655.
6. Plaintiff sent a copy of her composition Exhibit "6" in a letter addressed to Joe Penner, to an address furnished by the plaintiff. She received a reply signed "Joe Penner" in which plaintiff was advised that, he, Penner, could not use the musical composition of plaintiff Exhibit "6."
7. That station KDKA was authorized and operated under the jurisdiction of National Broadcasting Company.
8. That for many months prior to October 18, 1933, and thereafter, Joe Penner had originated, and had been the first to use, and had made constant use of, the catch-phrase "Oh, you nasty man," in broadcasting his radio entertainment; that said catch-phrase had become very popular, particularly, because of the peculiar intonation used by said Penner, and had become identified with said Penner as his distinguishing mark, and had acquired a secondary meaning with the public as denoting Joe Penner's radio program.
9. That on or about November 12, 1933, plaintiff received the inspiration to write the lyrics of a musical composition and set music thereto and to entitle the same "You Nasty Man." That plaintiff had on said date heard said Joe Penner broadcast his radio entertainment, and had heard him use the catch-phrase "Oh, you nasty man," and said catch-phrase served as the inspiration to plaintiff for the writing and composition of her song; that after

said date, plaintiff wrote the lyrics and composed the music of her song "You Nasty Man."

10. That plaintiff played her song at one or two private entertainments. That on or about December 2, 1933, plaintiff played her said song privately for the entertainment of her friends, among whom were: Grace McDanel, Iris Kaufman, Hannah Smith, Geraldine Smith and Florence Irwin, who testified on this trial as witnesses in her behalf.

11. That plaintiff's song was never published. That with the exception of one or two private performances given at parties which plaintiff attended and where she played her said song, the same was not performed for profit to the public; that plaintiff did not expend any monies to advertise her song; and her said song did not acquire any good-will, fame or celebrity; and no secondary meaning was ever attached to plaintiff's song, and plaintiff made no use of the title of her said song "You Nasty Man," and the said title did not become exclusively identified to the public with plaintiff's song; and there has been no exclusive and continued user, at any time, by plaintiff of the title of her said song.

12. That Irving Caesar and Jack Yellen are authors of many years' experience and reputation, who have composed lyrics for musical compositions for many popular songs. Ray Henderson is a well-known composer, who has composed the music of many popular songs. All three have written and composed the lyrics and music, respectively, for successful musical comedies and stage productions.

13. That in the summer of 1933, one George White, a successful producer of musical plays, undertook to stage and produce a musical motion picture entitled "George White's Scandals," for the Fox Film Corporation, a prominent picture producing company, for representation on the screen.

14. That on October 18, 1933, said George White entered into a contract in writing with Irving Caesar, wherein and whereby White employed Caesar to write the lyrics for said motion picture "George White's Scandals," and White, Caesar, Yellen and Henderson worked on the script of said motion picture in October, 1933, and said script had a spot or cue at page 7 thereof, indicating that the song "Nasty Man," composed by Caesar, Yellen and Henderson, was to be sung at that point.

15. That prior to December 1933, Irving Caesar, in collaboration with Jack Yellen, wrote the lyrics for the musical compositions to be performed in the motion picture "George White's Scandals," and in particular, they wrote the lyrics of a musical composition to be performed in said motion picture, which they entitled "Nasty Man." That at said time said Ray Henderson composed the music for the musical compositions to be performed in said motion picture "George White's Scandals," and in particular, he collaborated with said Caesar and Yellen in composing the music of said musical composition "Nasty Man."

16. That the lyrics and music of said musical composition "Nasty Man" were, respectively, new and original with said Caesar, Yellen and Henderson, and said musical composition "Nasty Man" was a new and original work, and neither Caesar nor Yellen nor Henderson, in October of 1933, had ever seen or heard of the plaintiff's composition entitled "You Nasty Man."

17. That the song "Nasty Man" was completed by Caesar, Yellen, and Henderson prior to December 18, 1933.

18. That between October 18, 1933, and Easter Week of 1934, said motion picture "George White's Scandals" was produced by said White for the Fox Film Corporation, and during Easter Week of 1934, said picture was released for public exhibition by the Fox Film Corporation; that among the musical compositions performed in said picture was the musical composition "Nasty Man," written and composed by said Caesar, Yellen and Henderson, which was sung by an artist named Alice Faye; that said composition was designed to fit into the fabric of the manuscript of the picture.

19. That after the writing and composition of the musical composition "Nasty Man," said Caesar, Yellen and Henderson assigned to the Movietone Music Corporation their right, title and interest in said musical composition, together with the right to secure copyright therein; that on March 10, 1934, said Movietone Music Corporation published said musical composition "Nasty Man," and promptly after publication, said Movietone Music Corporation deposited two copies of said musical composition, having imprinted thereon, on the first page of music, the following notice: "Copyright 1934, by Movietone Music Corporation," with the Register of Copyrights, at Washington, D. C., together with a claim for copyright registration, and paid the fee required by law; and said Register of Copyrights thereupon registered said work for copyright and issued a certificate of registration thereof to said Movietone Music Corporation, which is now the proprietor of the copy-

right in said musical composition (Deft. Ex. "H," certificate of copyright registration of "Nasty Man").

20. That on or about February 25, 1934, the defendant herein, under license duly issued to them by the Movietone Music Corporation, performed said musical composition "Nasty Man" (copyrighted by Movietone Music Corporation) in the studio of the defendant KDKA, located at Pittsburgh, State of Pennsylvania. That said performance was by one Joe Penner, a well-known and popular radio entertainer, who sang said musical composition at said time and place. That said performance was broadcast over the air by said defendants at said time and place.

21. That the lyrics of the song "Nasty Man," copyrighted by the Movietone Music Corporation, have no substantial similarity to the lyrics of plaintiff's song, except that in each song the phrase "nasty man" or "oh, you nasty man" recurs a number of times.

22. That plaintiff never knew said Caesar, Yellen and Henderson or White or the Movietone Music Corporation, or had ever sent them or any of them a copy of her song, or in any way communicated with them in 1933; and said Caesar, Yellen, Henderson, White and Movietone Music Corporation, at no time, had any knowledge or information regarding plaintiff's song and were not aware of its existence, and had acquired no access thereto.

23. That the melody of plaintiff's song is not similar to the melody of the song "Nasty Man," copyrighted by the Movietone Music Corporation, either in the introduction, verse or chorus.

Conclusions of Law

1. That plaintiff has not made any use of the title "You Nasty Man," and said title has acquired no secondary meaning with respect to plaintiff's song, and she has acquired no exclusive right to the title "You Nasty Man," or any title similar thereto, for a musical composition.

2. That the defendants have not infringed upon the plaintiff's song "You Nasty Man."

3. The bill should be dismissed, plaintiff to pay the record costs.

Opinion

McVicar J.:

A discussion of the law on the subject whether the alleged infringing composition infringed the musical composition of the plaintiff as to lyrics or melody is not necessary in view of the Court's findings of fact. As I understand it, both parties agree that there would be no infringement if the Court's findings are correct. I am of the opinion from the evidence of the plaintiff, and the evidence of the defendants, and the playing of the two compositions in open Court on the piano, that the findings are sustained by the evidence.

Plaintiff and the authors of the alleged infringing composition seem to have produced their inspiration as to the title from the use of the words "Nasty Man" and "You Nasty Man" by Joe Penner on the radio for a considerable period of time before either composition was composed. The copyright laws do not extend to the title. *Glaser v. St. Elmo*, 175 Fed. 276; *Weldon v. Dicks*, L. R. 10 Ch. Dic. 247; *Estes v. Williams*, 21 Fed. 189; *Harper v. Ranous*, 67 Fed. 904; *Corbett v. Purdy*, 80 Fed. 901; *Black v. Ehrich*, 44 Fed. 793; *Dicks v. Yates*, L. R. 18 Ch. Div. 76; *Osgood v. Allen*, Fed. Cas. No. 10603; *Copinger's Law of Copyright*, 4th Ed., p. 64; 9 Cyc., p. 928.

Courts of equity, however, may protect the title on the theory of unfair competition. *Robertson v. Berry*, 60 Md. 591; *Frohman v. Miller*, 8 Misc. (N. Y.) 379; *Broadhurst v. Nichol*, Australia (N. S. W.) 37 R. 147. Such protection will not be afforded unless the title has acquired a secondary meaning. *Broadhurst v. Nichol*, supra; *Columbia Mill Co. v. Alcorn*, 150 U. S. 460; *Caswell v. Hazard*, 121 N. Y. 484. Priority in use is the test. *George v. Smith*, 52 Fed. 830. A mere deposit of the work and title in the office of the Register of Copyrights is not actual user. *Dickey v. Mutual Film*, 160 N. Y. Supp. 609; *Benn v. Leclercq*, 3 Fed. Cas. No. 1308.

Let a decree be prepared and submitted in accordance with the foregoing findings of fact, conclusions of law and this opinion.

ARIZONA TAX COMMISSION CONSIDERS RADIO BROADCASTING AN INTERSTATE TRANSACTION

The Arizona Tax Commission has advised Richard Lewis, Secretary, Arizona Association of Broadcasters, that radio broadcasting has been considered an interstate transaction and that there is no sales tax on radio broadcasting. The text of the letter addressed

to the Arizona Tax Commission by the Arizona Association of Broadcasters and the letter received by Mr. Lewis from the State Tax Division follow:

"June 3, 1935.

"Arizona Tax Commission,
Phoenix, Arizona.

"Gentlemen:

"The Arizona Association of Broadcasters respectfully calls your attention to the fact that after giving the matter considerable study, and holding a number of meetings and receiving the opinions of attorneys, they have reached the conclusion that Chapter 77, Session Laws, Twelfth Legislature, 1935, is unconstitutional insofar as it attempts to require licenses for broadcasting stations, and to impose a tax on so-called advertising revenue.

"Your attention is respectfully directed to Section 7 of the Act itself, wherein it is specifically set forth that the Act shall not be construed to apply to interstate commerce transactions.

"We invite your attention to the Federal statutes and regulations concerning broadcasting stations. By the law known as the 'Federal Radio Act of 1927', and the later act commonly called the 'Communications Act of 1934', broadcasting is brought within the jurisdiction of the Federal Communications Commission, and no station is allowed to operate without a Federal license. The station power, the permitted channels, the hours of operation—in fact, every step in connection with the operation of a broadcasting station, is specifically controlled by a Federal Communications Commission, acting under the laws above cited. Every radio broadcasting station receives a Federal license; every broadcasting station is required to accept and receive certain types and classes of broadcasting, to hold its station open for certain types of broadcasting, and is forbidden to broadcast certain matters forbidden by the Federal Communications Commission. In other words, every broadcasting station in Arizona operates under a Federal license, and under strict regulations specifying the manner in which it must operate, in detail.

"Without quoting from numerous cases, it can fairly be said that it has been the uniform rule of construction, in Federal as well as the State courts, that radio communication is interstate commerce. As you may know radio listeners in many parts of the country outside the State of Arizona receive programs from Arizona stations and many of these listeners depend for prime service on Arizona radio stations. Theoretically the waves travel and serve listeners unknown distances—certainly beyond the state lines of Arizona, and even into foreign countries. This has been pointed out over and over again in court decisions, and in 21 Fed. 2d, page 787, in the case of *Whitehurst v. Grimes*, the United States District Court of Kentucky said:

"Radio communications are all interstate. This is so, though they may be intended only for intrastate transmission."

"The Supreme Court of the United States, in *Radio Commission v. Nelson Bros.*, 289 U. S. 266, among other things said:

"No state lines divide radio waves. National regulation is not only appropriate, but essential."

"In another case, *American Bond and Mtg. Co. v. U. S.*, 52 Fed. 2d, 318, the Federal Court held that the power to regulate broadcasting stations was within the express, delegated power to Congress to regulate interstate commerce.

"We speak for all the broadcasting stations in Arizona. The issue here presented seems so clear that it should be unnecessary to force us to the expense of testing this matter in court. Today, and in the future, the people of the State of Arizona, will continue to find greater need for our broadcasting stations, and bear in mind, that if any broadcasting station in Arizona is compelled to close, it does not mean only that some small individual or company has failed financially, but it means that broadcasting in Arizona has lost just that much of its actual rights. The various channels in broadcasting which have been assigned to the United States of America are already overfilled. Shortly it will be utterly impossible for a new station to secure a Federal license by reason of crowded channels. We believe that our position in this matter is not only absolutely just and in accordance with the laws under which we operate, but we believe that in all fairness, the Commission should decide this matter without making it necessary to resort to litigation.

"We request your careful consideration of this matter.

Very truly yours,

ARIZONA ASSOCIATION OF BROADCASTERS,
By (Signed) EARL NEILSEN,

President."

"October 21, 1935.

"Richard Lewis,

Secy. Arizona Association of Broadcasters,
C/o KTAR,
Phoenix, Arizona.

"My dear Mr. Lewis

"Please be advised that radio broadcasting has been considered by the State Tax Commission an interstate transaction. Therefore, there is no sales tax on radio broadcasting.

Very truly yours,

(Signed) A. L. FREES,

Director Sales Tax Division."

ALF/G

FEDERAL TRADE COMMISSION ACTION

Complaints

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

No. 2602. Unfair competition through use of false, fictitious and inflated price marks is alleged in a complaint against **Englander Spring Bed Company, Inc., of Chicago, Boston and Brooklyn.** This practice tended to unfairly divert trade from competitors, according to the complaint.

No. 2603. Unfair competition in the sale of cigars is alleged in a complaint issued against **El Moro Cigar Company, of Greensboro, N. C.,** a manufacturer selling and distributing to dealers in various parts of the United States, but particularly in North and South Carolina, Georgia, Florida, Virginia and Maryland.

According to the complaint, the respondent labeled its cigars as "Havana Counts" when they did not contain tobacco grown on the island of Cuba, and as "Rees' Famous Take-Outs" when they were not that type of cigar commonly known as a "throw-out" or "take-out," but, according to the complaint, were manufactured from a grade of "scrap" tobacco to be sold at two for five cents, in simulation of a throw-out or take-out.

No. 2604. Selling incandescent lamps for general lighting purposes, the **Lednew Corporation, of New York City,** is charged in a complaint with misrepresenting the number of watts and the amount of lumens of light produced by its lamps. This had a tendency to deceive wholesale and retail dealers and the consuming public, and to unfairly divert trade to the respondent's competitors, according to the complaint.

No. 2605. A complaint has been issued against **Acme Cotton Products Co., Inc., of 245 Fifth Avenue, New York City,** alleging unfair representation in the sale of absorbent cotton, in that its product was advertised as "Sterilized," "Aseptic," or "Purified," when in fact it was not free of bacteria at the time of final packaging. This practice was alleged to be unfair competition with manufacturers who truthfully represent their products.

No. 2606. Unfair competition in the sale of candy through placing in the hands of others the means of conducting lotteries, is alleged in a complaint against **Savage Candy Company, of Denver, Colo.**

The respondent is given until Friday, December 6, to show cause why the Commission should not issue against it an order to cease and desist from the practices alleged.

No. 2607. Alleging the use of a lottery scheme in selling radio sets, fountain pen and cocktail sets and other merchandise, a complaint has been issued against **J. K. Levy, alias J. K. Lee, and David Levy, co-partners, of 130 North Wells Street, Chicago,** trading as **Levore Company,** and **J. K. Levy, alias J. K. Lee,** individually.

The complaint says the Levore Company represented that distributing agents could make big money "giving away these wonderful radios," but that in fact the respondent did not give away radios or any merchandise.

No. 2608. A complaint has been issued against **Hec Barth, of Chicago,** a dealer in beautifying preparations, trading as **Hec Barth Laboratories and Dark Eyes Laboratories.**

The respondent is alleged to have represented that he owned and operated a laboratory, and that the product he sold gave permanent beauty, and was a permanent darkener and was safe and harmless to use, when, in fact, according to the complaint, these assertions were not true.

No. 2609. Alleging unfair competition in the sale of trousers, a complaint has been issued against **Stetson Pants Co., 212 East Eighth Street, Cincinnati.**

Among practices alleged are representations that the company's merchandise goes directly from the manufacturer to the purchaser, when in fact the company is not a manufacturer but purchases its merchandise from manufacturers; also representations indicating the acquisition of good will and merchandising experience by the respondent, when in fact, according to the complaint, the company had not been in corporate existence more than four and a half months.

No. 2610. Unfair representations in the sale of cast stones used as monuments and tombstones is alleged in a complaint issued against **Granite Arts, Inc., of Omaha, Nebr.**

Among the unfair representations alleged are: Advertisement of the company's products as composed of granite, when in fact, according to the complaint, they were manufactured by the company from cement and other ingredients; and the giving of an alleged fictitious address, "Graniteway, Omaha," having a tendency to add to the deception caused by the respondent's misuse of the word "granite."

No. 2613. Conspiracies to fix prices and obstruct commerce in the candy trade in New York and Pennsylvania and other connected territory are alleged in a complaint issued against the **New York State Wholesale Confectionery Associations, Inc.,** with headquarters in **Syracuse,** and eight local and regional member associations, also the **Empire State Candy Club, Inc.,** an organization of candy brokers and agents with headquarters in **Utica,** and the officers and members of all these associations, totaling more than 700 respondents.

Regional or local associations named as respondents are: **Rochester Area Wholesale Confectioners Association, Rochester;** **Capital District Wholesale Confectionery Association, Inc., Troy;** **Mohawk Valley Wholesale Confectioners Association, Utica;** **Central New York Wholesale Confectionery Distributors, Inc., Syracuse;** **Northern New York Wholesale Confectioners Association, Inc., Watertown;** **Hudson Valley Candy Distributors Association, Newburgh;** **Southern Tier Candy Distributors Association, Wellsboro, Pa.;** and **Greater Buffalo Wholesale Confectioners Association, Inc., Buffalo.**

The complaint charges the regional or local associations with carrying out agreements, combinations and conspiracies among themselves to prevent competing dealers from obtaining candy and allied products directly from the manufacturers and to establish themselves as a class of "recognized" wholesalers, distributors and brokers. The association respondents are alleged to have fixed and established uniform prices at which their members should sell their products and to have sought to prevent others from selling at less prices.

Stipulations

The Commission has announced the following cease and desist orders:

No. 0953. **Inthol Company, Inc., New York City,** selling a product offered as a remedy for sinus trouble, athlete's foot, neuralgia and other diseases, agrees to stop asserting that it is a penetrating antiseptic or a competent treatment or effective remedy for sinus, or that it will either rid one of athlete's foot or cure that disease. The company will no longer represent that Inthol is an effective remedy for head or chest congestion, or for various types of neuralgia.

No. 0954. **Goldban Pharmacal Company, Camden, N. J.,** stipulates that it will stop advertising its treatment for rheumatism, indigestion and neuritis, known as "Carolac," as a scientifically compounded system purifier and tonic builder, and its cough treatment, known as "Tarpinod," as an effective remedy for coughs or as guaranteed to break up a cold in 24 hours or to stop a cough. Medical opinion furnished the Commission was to the effect that these products would not do the things claimed for them in the advertising.

No. 0955. **Reinhold Von Rosen Company, Inc., Washington, D. C.,** will cease asserting that its skin ointment, "Von-Ema," is a competent treatment for athlete's foot, ringworm, or eczema, unless the assertion is limited in application to the relief of itching and burning caused by these ailments, and will discontinue advertising Von-Ema as a competent treatment for dandruff and falling hair, or asserting that it will stop, cure, arrest or prevent any skin disorder.

No. 0956. **Earle Chemical Company, Wheeling, W. Va.,** selling a medication known as "Robene," offered as a treatment for foot troubles and as a pain killer, agrees to stop representing the preparation as affording lasting relief from perspiring feet, foot odors or burning feet. The company agrees to cease representing the product as highly penetrating or as a guaranteed product, or that it will bring instant relief from all pains or afford sure relief from all pain, or that it instantly kills pains of rheumatism, neu-

ralgia, neuritis, headache, aching joints or sore muscles. According to medical opinion furnished the Commission, the claims made by this respondent exceed the therapeutic value of the preparation.

No. 0957. Koskott Company, New York City, selling preparations for treatment of the hair and scalp and for coloring the hair, agrees to stop representing that any of its preparations is an effective treatment for thinning or falling hair, or that the use thereof will prevent hair from falling or being brushed or combed from the head, unless the advertising assertion is limited in reference to excessive thinning and excessive falling of the hair. Other similar representations will be discontinued.

No. 0958. Carleton & Hovey Co., Lowell, Mass., distributors of "Father John's Medicine," agrees to stop representing it as an effective therapeutic remedy for colds, coughs or throat troubles; it being understood that this agreement will not prevent the respondent from advertising the preparation as a treatment for colds, coughs due to colds or minor throat troubles. Father John's Medicine also will not be represented as effective in the treatment of colds, except by providing the beneficial effects of Vitamin A. Other representations will be discontinued.

No. 0959. Smith Brothers, Inc., Poughkeepsie, N. Y., selling Smith Brothers' Cough Syrup and Smith Brothers' Cough Drops, stipulates that it will cease advertising the drops or the cough syrup as effective remedies for treatment of colds or that either preparation has a unique advantage over other remedies due to Vitamin A content.

No. 0960. Dr. Louis L. Sherman, operating as "Clinic of the Air," Oakland, Calif., and dealing in a list of preparations including "Liquid Ferrolax," "Calwhey," and "Red Label Enterel," agrees to cease advertising that these preparations or any combination thereof constitute a competent treatment or effective remedy for any of a list of twenty-eight diseases ranging from acidosis, anemia, and hilioussness to rheumatism, spastic colon and tuberculosis. The respondent agrees also not to represent Calwhey as raising resistance or as assisting in eliminating poisons through the kidneys, and to cease asserting that by hundreds of tests Calwhey is known to be effective in changing the intestinal flora. Numerous other representations of these preparations will be discontinued, according to the stipulation.

No. 2361. Misrepresentations in the sale of perfume in interstate commerce are prohibited as an unfair method of competition in a cease and desist order issued against Leading Perfumers & Chemists, Inc., of New York City.

The order bans the advertising or labeling of perfume made in the United States by use of the term "Fleur de Martin-Cartel" or any other French words indicating that the product had been manufactured in France and imported into this country, when this was not true.

No. 2482. The United Artists and Engravers Guild, Inc., of Chicago, has been ordered to cease and desist, in the sale of social and business stationery products, from using the word "Engravers" in its corporate name or advertising matter, until and unless it actually owns or controls a plant in which those of its stationery products that are produced by the engraving process are actually engraved.

The order also prohibits use of the phrase "Process Engraved" or the words "Engraved" and "Engraving" alone or in connection with other words in advertisements or trade literature, to describe stationery, the lettering or inscriptions of which have not been produced by the engraving process but by printing from inked typed faces, the designs of which have been given a raised letter effect by application of a chemical in powder form to the ink while still wet, and subjected to heat.

No. 2493. An order has been issued against the Robert More Company, of Chicago, directing it to discontinue unfair trade practices in the sale of merchandise.

This company sells and distributes salves, Christmas seals and miscellaneous merchandise on a "return or remit" plan, under which agents are furnished with the merchandise to be sold and are allowed thirty days to sell it and remit to the respondents the agreed portion of the selling price or to return the unsold portion of the merchandise.

No. 2503. B. F. Huntley Furniture Company, of Winston-Salem, N. C., has been ordered to cease and desist from advertising that furniture made by it, but not from wood derived from the walnut tree family, is "walnut" or "oriental walnut."

The respondent is ordered to cease using the word "walnut" either independently or in connection with the word "oriental" so as to imply that its furniture is made, either in whole or in part, from trees of the walnut family, when this is not true.

FEDERAL COMMUNICATIONS COMMISSION ACTION

HEARING CALENDAR

Monday, November 18, 1935

WCBA—B. Bryan Musselman, Allentown, Pa.—Modification of license, 1440 kc., 1 KW, shares with WSAN. Present assignment: 1440 kc., 250 watts (S.A. 500 watts), shares with WSAN.

WSAN—WSAN, Inc., Allentown, Pa.—Modification of license, 1440 kc., 1 KW, shares with WCBA. Present assignment: 1440 kc., 250 watts (S.A. 500 watts), shares with WCBA.

Wednesday, November 20, 1935

NEW—Steel City Broadcasting Co., Pittsburgh, Pa.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Geo. E. Carter and Homer G. Wolfe and Clara I. Knight, partners, d/h as Carter & Wolfe, Mansfield, Ohio.—C. P., 1370 kc., 50 watts, 100 watts LS, unlimited time.

NEW—Springfield Newspapers, Inc., Springfield, Ohio.—C. P., 1120 kc., 250 watts, daytime.

WSPD—Toledo Broadcasting Co., Toledo, Ohio.—C. P., 1340 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1340 kc., 1 KW, 2½ KW LS, unlimited time.

NEW—Steel City Broadcasting Co., Pittsburgh, Pa.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Geo. E. Carter, Homer G. Wolfe and Clara I. Knight, partners, d/h as Carter & Wolfe, Mansfield, Ohio.—C. P., 1370 kc., 50 watts, 100 watts LS, unlimited time.

WSPD—Toledo Broadcasting Co., Toledo, Ohio.—C. P., 1340 kc., 1 KW, 5 KW LS, unlimited time. Present assignment: 1340 kc., 1 KW, 2½ KW LS, unlimited time.

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Renewal of license, 1340 kc., 500 watts, 1 KW LS, unlimited time.

Thursday, November 21, 1935

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. I-62:

KALE—KALE, Inc., Portland, Ore.—Modification of license, 1250 kc., 500 watts, unlimited time. Present assignment: 1300 kc., 500 watts, specified hours.

Examiner's Report No. I-93:

NEW—Quincy A. Brackett, Lewis B. Breed, Edmund A. Laport, d/h as Connecticut Valley Broadcasting Co., Springfield, Mass.—C. P., 1140 kc., 500 watts, limited time.

Examiner's Report No. I-92:

WMBC—Michigan Broadcasting Co., Detroit, Mich.—C. P., 1300 kc., 500 watts, unlimited time. Present assignment: 1420 kc., 100 watts, 250 watts LS, unlimited time.

WHBL—Press Publishing Company, Sheboygan, Wis.—Modification of license, 1300 kc., 250 watts, unlimited time. Present assignment: 1410 kc., 500 watts, shares with WROK.

Examiner's Report No. I-72:

NEW—Denton Broadcasting Co., Eugene DeBogory, Owner, Denton, Tex.—C. P., 1420 kc., 100 watts, daytime.

NEW—Eugene DeBogory, tr/as Brownsville Broadcasting Co., Brownsville, Tex.—C. P., 1370 kc., 100 watts, unlimited time.

Examiner's Report No. I-64:

NEW—Centennial Broadcasting Corp., Dallas, Tex.—C. P., 1200 kc., 100 watts, unlimited time.

NEW—Eugene DeBogory and Mildred English, d/b as Dallas Broadcasting Co., Dallas, Tex.—C. P., 1500 kc., 100 watts, daytime (specified hours at night).

NEW—Eugene DeBogory, tr/as Paris Broadcasting Co., Paris, Tex.—C. P., 1500 kc., 100 watts, daytime.

KGKB—East Texas Broadcasting Co., Tyler, Tex.—Modification of license, 1500 kc., 100 watts, unlimited day, specified hours night from LS to 8 p. m. Present assignment: 1500 kc., 100 watts, specified hours.

APPLICATIONS GRANTED

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted C. P. to make changes in equipment.

WOW—Woodmen of the World Life Ins. Assn., Omaha, Neb.—Granted modification of C. P. to extend completion date to 12-15-35.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Granted modification of C. P. to make further changes in equipment.

KSO—Cedar Rapids Broadcast Co., Des Moines, Iowa.—Granted license to cover C. P. authorizing new equipment, increase in power, and move of transmitter; 1430 kc., 500 watts night, 1 KW day, unlimited.

WCAO—Monumental Radio Co., Baltimore, Md.—Granted C. P. to install new equipment.

WCAM—City of Camden, N. J.—Granted authority to determine operating power by direct measurement of antenna.

KGDM—E. F. Pepper, Stockton, Calif.—Granted license to cover C. P. authorizing installation of new equipment and moving studio locally, and increase in power to 1 KW; 1100 kc., daytime.

KRNR—Southern Ore. Publishing Co., Roseburg, Ore.—Granted modification of C. P. approving transmitter site and antenna.

WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted license to cover C. P. authorizing local move of transmitter and changes in equipment; 1290 kc., 1 KW night, 2½ KW day, unlimited.

WAGF—John T. Hubbard and Julian C. Smith, d/b as Dothan Broadcasting Co., Dothan, Ala.—Granted license to cover C. P. authorizing changes in equipment, increase in day power to 250 watts and time of operation from daytime and S.H. on Sunday to daytime only; 1370 kc., 250 watts.

KTRH—KTRH Broadcasting Co., Houston, Tex.—Granted license to cover C. P.; 1290 kc., 1 KW night, 5 KW day, unlimited.

KFIZ—Reporter Printing Co., Fond du Lac, Wis.—Granted modification of license to increase specified hours of operation.

KELD—T. H. Barton, El Dorado, Ark.—Granted modification of license to move studio from Exchange Building to Country Club Colony, El Dorado, 1½ miles north of El Dorado.

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted authority to install automatic frequency control.

WTNJ—WOAX, Inc., Trenton, N. J.—Granted renewal of license, 1280 kc., 500 watts, divides time WCAM and WCAP.

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—C. P. in hearing docket amended and granted to install new equipment and increase power from 250 to 500 watts; 880 kc., S-WQAN.

KOIL—Mona Motor Oil Co., Council Bluffs, Iowa.—Granted consent to voluntary assignment of license to Central States Broadcasting Co. Also granted renewal of license for the regular period; 1260 kc., 1 KW night, 2½ KW day, unlimited.

WLBF—WLBF Broadcasting Co., Kansas City, Kans.—Granted consent for transfer of control of WLBF Broadcasting Co. from J. Herbert Hollister to the Kansas City Kansan, Arthur Capper, owner and publisher.

WTAX—WTAX, Inc., Springfield, Ill.—Granted renewal of license, 1210 kc., 100 watts, unlimited time.

W4XBM—WPTF Radio Co., Portable-Mobile, Raleigh, N. C.—Granted license to cover C. P. (exp. gen. exp.), frequencies 31100, 34600, 37600, 40600, 86000-400000 kc., 15 watts.

WKBF—The Evening News Assn., Aboard Aircraft NC-799-W.—Granted modification of license (temporary broadcast pickup) to add frequencies 1606, 2020, 2102, 2760 kc. and delete 2150 kc. Also granted renewal of license in accordance with modification.

KIIS—Harris County Broadcast Co., Portable (Houston, Tex.).—Granted modification of license (temporary broadcast pickup) to add frequencies 2060, 2790 kc.; also granted renewal of license in accordance with modification.

KIEG—Seattle Broadcasting Co., Portable (Seattle, Wash.).—Granted modification of license (temporary broadcast pickup) to add frequencies 1646, 2090, 2190, 2830 and delete 1622 and 2150 kc.; also granted renewal of license in accordance with modification.

WMFL—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted modification of license (temporary broadcast pickup) to add frequency 1606 kc.; also granted renewal in accordance with modification.

KIFF—Missouri Broadcasting Co., Portable (St. Louis, Mo.).—Granted modification of license (temporary broadcast pickup service) to add frequencies 2060, 2790 kc.; also granted renewal in accordance with modification.

KIEF—Seattle Broadcasting Co., Portable (Seattle, Wash.).—Granted modification of license (temporary broadcast pickup) to add frequencies 1646, 2090, 2190, 2830 kc. and delete 1622, 2150 kc.; also granted renewal of license in accordance with modification.

W3XE—Philadelphia Storage Battery Co., Philadelphia, Pa.—Granted consent to assignment of license to Philco Radio & Television Corp.

NEW—Philco Radio & Television Corp., Philadelphia, Pa.—Granted C. P. (exp. spec. exp. service), frequencies 42000-56000, 60000-86000 kc., 250 watts.

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

ACTION ON EXAMINERS' REPORTS

KMAC—Ex. Rep. No. 1-44; W. W. McAllister, San Antonio, Tex.—Denied special experimental authority to move transmitter, make changes in equipment, change frequency from 1370 kc. to 940 kc., change power from 100 watts to 1 KW, and change hours of operation from sharing with KONO to unlimited. Examiner Melvin Dalberg sustained. Order effective December 17, 1935.

KFYO—T. E. Kirksey, tr/as Kirksey Bros., Lubbock, Tex.—Denied C. P. to install new equipment; change frequency from 1130 kc. to 940 kc.; and increase power from 100 watts night, 250 watts LS, to 500 watts. Examiner Dalberg sustained. Order effective December 17, 1935.

KGKL—KGKL, Inc., San Angelo, Tex.—Denied C. P. to move transmitter; increase power from 100 watts night, 250 watts LS, to 500 watts night, 1 KW LS; change frequency from 1370 kc. to 940 kc.; and make changes in equipment. Examiner Dalberg sustained. Order effective December 17, 1935.

WSAR—Ex. Rep. No. 1-106; Doughty & Welch Electric Co., Inc., Fall River, Mass.—Granted C. P. to make changes in equipment and increase power from 250 watts to 1 KW; 1450 kc., unlimited time. Examiner Dalberg sustained. Order effective December 17, 1935.

WWAE—Ex. Rep. 1-118; Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted renewal of license, 1200 kc., 100 watts, share time with WFAM. Examiner R. H. Hyde sustained. Order effective January 7, 1936.

SET FOR HEARING

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Application for C. P. to make changes in equipment and increase day power from 500 watts to 1 KW.

WDEV—Harry C. Whitehill, Waterbury, Vt.—Application for C. P. to make changes in equipment, increase power from 500 watts daytime to 1 KW daytime.

WJBL—Commodore Broadcasting, Inc., Decatur, Ill.—Application for modification of license to change frequency from 1200 kc. to 1370 kc., change hours of operation from sharing WJBC to unlimited.

NEW—Henry William Turkel, Los Angeles, Calif.—Application for C. P. for new experimental relay broadcasting station, 6040 kc., 1 KW, unlimited.

WCMI—Ashland Broadcasting Co., Ashland, Ky.—Application for C. P. to install new equipment, change frequency from 1310 kc. to 1350 kc., increase power from 100 watts to 1 KW.

NEW—Jesse H. Jay, Miami Beach, Fla.—Application for C. P. for new station, 1500 kc., 100 watts, unlimited.

NEW—Alex F. Suss, Marysville, Calif.—Application for C. P. 1210 kc., 100 watts, unlimited time. Site to be determined subject to approval of Commission.

NEW—Symons Investment Co., Seattle, Wash.—Application for C. P., 760 kc., 250 watts night, 500 watts day, limited time, site to be determined; facilities of KXA.

NEW—Watertown Broadcasting Corp., Watertown, N. Y.—Application for C. P. for new station, 1270 kc., 250 watts, daytime, site to be determined subject to approval of Commission.

WHBI—May Radio Broadcast Corp., near Carlstadt, N. J.—Application for modification of license to increase power from 2½ to 5 KW.

NEW—Cache Valley Broadcasting Co., Logan, Utah.—Application for C. P. for new station, 1370 kc., 100 watts, unlimited time.

NEW—Herbert Hollister, Waterloo, Iowa.—Application for C. P. for new station, 1420 kc., 100 watts, unlimited, site to be determined.

NEW—Bismarck Tribune Co., Bismarck, N. Dak.—Application for C. P. for new station, 550 kc., 1 KW night, 5 KW day, unlimited, site to be determined.

NEW—Fred A. Baxter, Superior, Wis.—Application for C. P. for new station, 1370 kc., 100 watts, unlimited, site to be determined.

WMEX—The Northern Corp., Boston, Mass.—Application for C. P. to install new equipment; change frequency from 1500 kc. to 1470 kc.; increase power from 100 watts night, 250 watts day, to 5 KW night and day; move transmitter to site to be determined.

WNBC—William J. Sanders, New Britain, Conn.—Application for consent to voluntary assignment of license to State Broadcasting Corp.

WBSO—Broadcasting Service Org., Inc., Needham, Mass.—Application for consent to transfer of control of station WBSO (licensed to Broadcasting Service Org., Inc.) from Babson's Statistical Organization, Inc., to George A. Crockwell, William H. Eynon, and James K. Phelan.

NEW—J. W. Birdwell, Johnson City, Tenn.—Application, already in hearing docket, amended to read: 1370 kc., 100 watts, unlimited time, site to be determined subject to approval of Commission.

KOL—Seattle Broadcasting Co., Seattle, Wash.—Application for modification of license, already in hearing docket, amended to read: Change frequency from 1270 kc. to 920 kc., contingent upon the granting of KOMO's application for 760 kc.; increase power (day) from 2½ KW to 5 KW.

NEW—C. G. Hill, Geo. D. Walker, Susan H. Walker, Winston-Salem, N. C.—Application for C. P. for new station, 1250 kc., 250 watts daytime, site to be determined subject to approval of Commission.

WNOX—WNOX, Inc., Knoxville, Tenn.—Application for consent to voluntary assignment of license to Continental Radio Co.

NEW—Fresno Broadcasting Co., Fresno, Calif.—Application for C. P. for new station, 1410 kc., 500 watts night, 1 KW day, unlimited time.

ORAL ARGUMENTS GRANTED

NEW—Ex. Rep. 1-55: Riverside Broadcasting Co., Riverside, Calif.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-114: A. Tornek, d/b as Metro Broadcasting Co., Los Angeles, Calif.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-117: Wayne Broadcasting Co., Hamtramck, Mich.—Granted oral argument to be held on February 6, 1936.

NEW—Ex. Rep. 1-116: Knox Broadcasting Co., Inc., Schenectady, N. Y.—Granted oral argument to be held on November 27, 1935.

MISCELLANEOUS

City of Jacksonville, Fla.—Granted petition to intervene and be made a party to hearing in re application of A. O. Jenkins for new station at Jacksonville to operate on 1200 kc., 250 watts night, 500 watts day, unlimited.

Port Huron Broadcasting Co., Port Huron, Mich.—Denied petition to intervene at hearing of application of Wayne Broadcasting Co. for permit to erect new station at Hamtramck, Mich., to operate on 1370 kc., 100 watts, daytime.

Edward Hoffman, St. Paul, Minn.—Granted petition requesting continuance of hearing of application of Emmons L. Abeles and Robert J. Dean, d/b as Wise Broadcasting Corp., for new station at St. Paul, Minn., to operate on 630 kc., 250 watts, unlimited. This hearing was scheduled for December 5, 1935.

WCBA and WSAW, Inc., Allentown, Pa.—Hearing scheduled for November 18, 1935, on application for increase in power from 250 watts to 1 KW, postponed indefinitely.

Emmons L. Abeles & Robert J. Dean, d/b as Wise Broadcasting Co., St. Paul, Minn.—Granted petition to take depositions in re application for new station at St. Paul, Minn.

KLO—Interstate Broadcasting Corp., Ogden, Utah—Denied petition asking postponement of hearing to December 10, 1935, of application for increase in operating power. Hearing to be held Nov. 26 as originally scheduled.

St. Petersburg Chamber of Commerce, St. Petersburg, Fla.—Denied petition requesting amendment to application for new station so as to request daytime operation only, with 100 watt power, on 1420 kc. Also denied request asking Commission to grant without hearing, the amended application.

WAIU—Associated Radiocasting Corp., Columbus, Ohio—Granted petition to reconsider and grant application for renewal of license designated for hearing Nov. 14, 1935.

WJAS—Pittsburgh Radio Supply Co., Pittsburgh, Pa.—Denied petition asking Commission to reconsider and grant application for increase in day power from 2.5 KW to 5 KW.

WIRE—Indianapolis Broadcasting Co., Indianapolis, Ind.—Denied petition asking Commission to reconsider and grant its ap-

plication for authority to make changes in equipment; erect a new directional antenna and increase power from 1 KW to 5 KW, daytime operation.

Ralph E. Smith, San Diego, Cal.—Denied petition asking Commission to reconsider and suspend grant of authority to Pacific Acceptance Corp., for erection of new station at San Diego to operate on 1200 kc., 100 watts, daytime, effective Dec. 10, 1935.

APPLICATIONS DISMISSED

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

NEW—Essex Broadcasters, Inc., Detroit, Mich.—Authority to transmit sustaining programs from Detroit over station CKLW, Windsor, Canada.

NEW—Whittle Furniture Co., Inc., Brunswick, Ga.—C. P. 1200 kc., 100 watts, unlimited time.

NEW—W. H. Kindig, Hollywood, Cal.—C. P. 1160 kc., 5 KW, unlimited time.

NEW—J. W. Stanford, d/b as Brunswick B/C Co., Brunswick, Ga.—C. P. 1310 kc., 100 watts, unlimited time.

APPLICATIONS RECEIVED

First Zone

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Li-1270 cense to cover construction permit (B1-P-847).

WB10Y—Roy L. Albertson, Buffalo, N. Y.—Modification of construction permit (B1-P-402) for approval of antenna and transmitter at Kenmore Ave., 250 feet east of Starin Ave., Buffalo, New York, and studio at 485 Main St., Buffalo, New York.

NEW—Mary M. Whitehill, Executrix of the Estate of Harry C. Whitehill, Waterbury, Vt.—Involuntary assignment of license from Harry C. Whitehill to Mary M. Whitehill, Executrix of the Estate of Harry C. Whitehill.

Second Zone

NEW—Harmon LeRoy Stevens & Herman LeRoy Stevens, d/b as 1370 The Port Huron Broadcasting Co., Port Huron, Mich.—Construction permit for a new station to be operated on 1370 kc., 250 watts, daytime.

WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Construction permit to install new equipment, increase power from 250 watts, 500 watts day to 500 watts, 1 KW day and move transmitter from West Virginian Hotel, Federal Street, Bluefield, West Virginia, to near Bluefield, West Virginia.

WJIM—Harold F. Gross, M. Bliss Keeler & L. A. Versluis, d/b as 1450 Capitol Broadcasting Co., Lansing, Mich.—Construction permit to install new equipment, increase power from 100 watts, 250 watts day to 500 watts, 1 KW day, change frequency from 1210 kc. to 1450 kc. Requests frequency of WGAR if and when WGAR's application requesting facilities of WMMN is granted. Amended: To make changes in antenna, change frequency from 1450 kc. to 1010 kc., and omit request for WGAR's frequency.

W8XEJ—WBNS, Incorporated, Portable-Mobile—License to cover construction permit for a new general experimental station.

W8XEI—WBNS, Incorporated, Portable-Mobile—License to cover construction permit for a new general experimental station.

W10XGB—Miami Valley Broadcasting Corp., Portable-Mobile—License to cover construction permit for a new general experimental station.

W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Construction permit to increase power to 10 KW.

Third Zone

WPTF—WPTF Radio Co., Raleigh, N. C.—Special experimental 680 authorization to operate with 5 KW power from 9:00 p. m. to 7:00 a. m., EST, using both directive and non-directive antenna to 2-1-36.

WPTF—WPTF Radio Co., Raleigh, N. C.—Construction permit to move auxiliary transmitter from 400 Fayetteville St., Raleigh, North Carolina, to Cary, North Carolina. (Same site as regular transmitter.)

NEW—Memphis Commercial Appeal, Inc., Mobile, Ala.—Construction permit for a new station to be operated on 950 kc., 1 KW night, 5 KW day, unlimited time—using directional antenna at night. Amended: To change power from 1 KW night, 5 KW day to 5 KW day and night.

NEW—Memphis Commercial Appeal, Inc., Mobile, Ala.—Construction permit for a new station to be operated on **950 kc.**, 1 KW, 5 KW local sunset, unlimited time, using directional antenna at night.

NEW—Jefferson Broadcasting Co., Ormond O. Black, President, **1200** Birmingham, Ala.—Construction permit for a new station to be operated on **1200 kc.**, 100 watts, 250 watts local sunset, unlimited time.

WAML—Southland Radio Corp., Laurel, Miss.—Voluntary assignment of license from Southland Radio Corp. to New Laurel Radio Station, Inc.

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—**1310** License to cover construction permit (B3-P-376) as modified for new station on **1310 kc.**, 100 watts, unlimited time. Amended: To make changes in equipment (antenna ammeter).

NEW—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—Construction permit for a new station to be operated on **880 kc.**, 250 watts night, 500 watts day, unlimited time. Amended: To change frequency from **880 kc.** to **1330 kc.**

NEW—Nathan N. Bauer, Miami, Fla.—Construction permit for a **1420** new station to be operated on **1420 kc.**, 100 watts, unlimited time.

KNEL—G. L. Burns, Brady, Tex.—License to cover construction **1500** permit (B3-P-212) as modified for a new station to be operated on **1500 kc.**, 100 watts, daytime.

KLUF—Geo. Roy Clough, Galveston, Tex.—Extension of special **1570** experimental authorization to operate on 100 watts, 250 watts day for period from 1-1-36 to 7-1-36.

Fourth Zone

KGBX—KGBX, Incorporated, Springfield, Mo.—Extension of **1310** special experimental authorization to operate on **1230 kc.**, 500 watts power, unlimited time, using directional antenna at night, for period from 2-1-35 to 6-1-36.

KGBX—KGBX, Incorporated, Springfield, Mo.—Voluntary assignment of license from KGBX, Inc., to Springfield Broadcasting Co.

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Construction permit **1350** to install new equipment, move transmitter from Simmons Ave. & Belva Ave., Kirkwood, Missouri, to five-tenths of a mile southwest of the intersection of the St. Louis Water Works Railroad and the main line of Burlington Railroad, three-tenths of a mile due southeast of North City limits, two-tenths of a mile due east of Broadway at intersection of Riverview Drive, St. Louis, Missouri.

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Modification of **1440** construction permit authorizing move of transmitter and changes in equipment, requesting approval of antenna and transmitter site between Peoria and Pekin, Illinois, make

changes in equipment, extend commencement date to 30 days after grant and completion date to 180 days thereafter.

NEW—Robert Raymond McCulla, Oak Park, Ill.—Construction **1500** permit for a new station to be operated on **1500 kc.**, 100 watts, unlimited time.

NEW—The Steffen Ice & Ice Cream Co., Wichita, Kans.—Construction permit for a new station to be operated on **1500 kc.**, 100 watts, unlimited time.

KIGA—National Battery Broadcasting Co., Minneapolis, Minn.—Modification of license to delete frequencies **1606, 2102 kc.**, and add frequencies **1622, 2060, 2150 and 2790 kc.**

NEW—National Battery Broadcast Co., Portable-Mobile—Construction permit for a new station on **1622, 2060, 2150, 2790 kc.**, 25 watts. (Broadcast pickup.)

KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Construction permit to move transmitter from near Des Moines, Wash., to site to be determined, make equipment changes and increase day operating power from 1 KW to 5 KW. Amended: To change transmitter site from site to be determined, Wash., to 10 miles north of Tacoma, King County, Tacoma, Wash.

NEW—Tulare-Kings Counties Associates, Charles A. Whitmore, **1200** President, Visalia, Calif.—Construction permit for a new station to be operated on **1200 kc.**, 250 watts, daytime. Amended: To change frequency from **1200 kc.** to **1190 kc.**, and transmitter from site to be determined to $1\frac{1}{2}$ miles South of Visalia, California.

NEW—Howard N. Mitchell, Sacramento, Calif.—Construction **1310** permit for a new station to be operated on **1310 kc.**, 100 watts, unlimited time. Amended: To change transmitter site from 5th and J Streets to site to be determined, Sacramento, California.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, Hawaii—**1320** Authority to transfer control of corporation from J. L. P. Robinson to Pacific Theaters & Supply Co., Ltd., 85%.

KGB—Don Lee Broadcasting System, San Diego, Calif.—Modification of construction permit (5-P-B-3223) to install new equipment and increase power, requesting extension of commencement date to 30 days after grant and completion date to 180 days thereafter.

KRLC—H. E. Studebaker, Lewiston, Idaho—Construction permit **1390** to make changes in equipment, increase power from 100 watts to 250 watts, change frequency from **1420** to **1390 kc.** Consideration under Rule 6 (g). Amended: To change transmitter site from Lewis & Clark Hotel, 2nd Ave. & Main St., Lewiston, Idaho, to site to be determined, Lewiston, Idaho.

NEW—D. J. Lindberg, La Grande, Ore.—Construction permit for **1420** a new station to be operated on **1420 kc.**, 100 watts, 250 watts local sunset, unlimited time. Frequency of KRLC contingent upon KRLC being granted another frequency as applied for.