



## The Week In Washington

A sweeping investigation of both the FCC and the broadcasting industry was proposed this week by Senator White (R-Maine) in a resolution referred to the Interstate Commerce Committee whose docket already is well loaded with radio legislation.

Senator White added his resolution to his bill calling for abolition of the FCC and substitution of a new, eleven-man board which would be divided for consideration of broadcasting, telegraph, telephone and point-to-point radio communication questions. So far, Senator Wheeler (D-Montana), Committee Chairman, has neither appointed a sub-committee nor set a hearing date for the White measures or his own bill to substitute a three-man commission for the present FCC. However, he did appoint a sub-committee this week to consider the Johnson Bill to prohibit radio liquor advertising.

Judge Sykes has resigned. Dean of the Commissioners, he was extremely popular in the industry. If President Roosevelt accepts his resignation, a great many broadcasters will feel the Commission has lost a valuable member.

Representative Horton (R-Wyoming) took the FCC to task this week for its latest questionnaire. He said it was a "serious matter" and deserved "early attention by Congress".

So outspoken was Elliott Roosevelt, President of the Texas State Network, at the FCC Monopoly Hearing this week that we are printing a great deal of his testimony in another part of the REPORTS. Probably every broadcaster in the country is entirely in accord with Mr. Roosevelt's expressed views on censorship, licensing and libel, while a great many members will agree with Mr. Roosevelt on other frank statements he made. Chairman McNinch's questioning was quite revealing, too.

North Dakota and New Mexico Legislatures passed new music monopoly bills while a similar measure was introduced in Colorado.

Emily Holt, Executive Secretary of AFRA, assured the NAB that a ban on WPA jokes adopted by the American Federation of Actors, an affiliated union, would not affect radio actors. The AFA ban was the first attempt by any entertainment union to censor its members' material as far as is known.



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## WHITE ASKS INVESTIGATION OF FCC, INDUSTRY

A complete investigation of the Federal Communications Commission was asked by the Senate Committee on Interstate Commerce by Senator White of Maine in a resolution (S. Res. 94). The resolution, referred to the Committee on Interstate Commerce, follows:

*Resolved*, That the Committee on Interstate Commerce or a subcommittee thereof, as the committee may determine, is authorized and directed to make a thorough and complete investigation of:

1. The acts, rules, regulations, organization, and policies of the Federal Communications Commission.

2. Whether a censorship of communications has been practiced in the United States, the character and extent, and the principles which have been followed in the exercise thereof; whether the same has been exercised by the Commission, or has been influenced by other governmental departments, agencies, or officials or by licensees and against whom directed; whether broadcasting stations have been requested or influenced by the Commission or other governmental departments, agencies, or officials in any manner or degree to broadcast or to refuse to broadcast programs or parts thereof, or to permit or refuse opportunity for particular persons to broadcast; and in what circumstances, to what extent, and in what jurisdiction a broadcasting station shall be jointly or severally liable for words broadcast through its facilities, or by its officers or employees or whether stations shall be exempted from liability for words broadcast by its facilities.

3. The terms for which radio licenses for all classes of stations shall be issued and, in particular, whether a minimum length of term shall be fixed by statute for all classes of radio stations.

4. Whether a system of license fees shall be established, designed to produce sufficient revenue to meet the cost of maintenance of the Federal Communications Commission, or whether some other system of taxation for this specific purpose shall be enacted into law.

5. The extent to which and the circumstances under which the ownership, control, management, or interest in more than a single broadcasting station has become vested in any person or group of persons; whether such concentration of ownership, control, management, or interest has come about through assignment of licenses, through leases, stock ownership, arrangements with respect to management, or by other means and devices, and whether such transfers of ownership, control management, or interest in whatsoever form effected have been submitted to the Commission for approval and have received Commission approval or acquiescence; and whether such arrangements have seemed to recognize a right in a license or a frequency other than specified in the terms, conditions, and time of the license and beyond statutory limitations.

6. The extent to which broadcast stations are owned, controlled by, or are affiliated with newspapers or other publishing interests or by other media of information or entertainment, and the effect of such ownership, control, or affiliation upon competing newspapers not possessing such facilities and upon the public interest.

7. The development and present facts concerning broadcasting networks of chains, including the effects of chain association upon the licensee's control of his station; the effect of chain operations upon the financial results and status of chain-affiliated stations and of independent stations; the ability of chain owned or affiliated stations to render a local service, both sustaining and commercial; the duplication of broadcasting programs through chain broad-

casting; and the desirability of special regulations governing chains and stations engaged in chain broadcasting.

8. The effects upon the broadcasting systems of the United States of the use of high power by broadcasting stations and whether there should be a limitation by statute or by regulation upon the power to be used; the experience of other countries in the use of superpower; and the effects of high power upon local stations and the service by them.

9. The character and extent of information required of licensees of broadcasting stations by the Communications Commission upon the filing of applications for construction permits, licenses, modifications or renewals of licenses, or assignments thereof or at other times.

10. Competition between communication companies in domestic service and competition between companies, both wire and radio, in communication between the United States and foreign countries; the financial results thereof to the competing companies; whether these results threaten the financial soundness of any of the companies, loss of employment, or other adverse effect upon labor; the efficiency of said companies; and, in particular, whether the merger or consolidation of communication carrier companies within the United States and in the field of foreign communications should be permitted in the public interest; and if to be permitted, the terms and conditions thereof.

11. Said committee is further authorized and directed to make a study of the policies and principles which should be declared and made effective in legislation providing for the regulation and control of communications by wire or radio, whether interstate or foreign.

For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and to act at such times and places, either in the District of Columbia or elsewhere, during the sessions, recesses, and adjourned periods of the Senate during the Seventy-sixth Congress; to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, and documents; and to administer such oaths and to take such testimony as it may deem advisable.

Upon the conclusion of its hearings and study, or from time to time during the progress thereof, the committee shall report to the Senate the results of its studies and its recommendations as to legislation it deems advisable.

## Judge Sykes Resigns

Judge Eugene O. Sykes, one of the five original members of the old Federal Radio Commission, tendered his resignation from the Federal Communications Commission to President Roosevelt on Thursday. Judge Sykes in point of service is the oldest member of the Communications Commission.

While Judge Sykes would not discuss his resignation on Thursday it is understood that he intends to enter private law practice and his resignation will become effective in the very near future.

Judge Sykes first took office on the old Federal Radio Commission on March 15, 1927, when the Commission was first organized. At that time he was made Vice Chairman and served in that capacity until he was elected Chairman on March 21, 1933, a position he held until the Federal Radio Commission was abolished and the new Communications Commission established.

He was born at Aberdeen, Mississippi, on July 16, 1876. He received his academic training at St. John's College, Annapolis, a noted institution of learning, the third oldest college in the United States, and at the United States Naval Academy. He received his LL.B. degree at the

University of Mississippi in 1897, and then began the practice of law at Aberdeen, Mississippi. He was Democratic presidential elector-at-large from Mississippi in 1904.

In 1916 Judge Sykes was appointed a Justice of the Supreme Court of Mississippi and soon afterwards was elected to the same office for a term ending 1925. He voluntarily retired from the bench in 1925 and resumed the practice of law.

Judge Sykes has attended several international radio conferences in an official capacity in recent years. He was named by President Coolidge chairman of the American delegation to the North American Radio Conference held in Ottawa in 1929. President Hoover appointed him chairman of the American delegation to the International Radio Conference held in Madrid in 1932, which lasted from early September until the end of December. At Madrid he was named chairman of the important technical committee. President Roosevelt named him chairman of the U. S. delegation of the North and Central American regional radio conference held in Mexico City in 1933.

Judge Sykes is a member of the Delta Kappa Epsilon, a Mason, an Elk, and a member of the Sons of Confederate Veterans. His home is at Jackson, Mississippi.

#### REPRESENTATIVE HORTON CRITICIZES FCC QUESTIONNAIRE

Representative Horton (R-Wyo) called to the attention of Congress this week the latest FCC questionnaire, in connection with the number of tax forms that business men are forced to fill out. He said:

"While we are talking about blanks and forms I want to call your attention to FCC Forms 705 and 706, and in doing so I am not digressing too far from the question of taxes because this sort of thing piles up tax costs. This form was sent to me by one of the small broadcasting companies in my State, and despite the fact that they were told by the FCC that 'it wouldn't take more than an hour's work to fill out this financial report,' two men were kept busy 2 days in order to get the necessary information. Not only that, but this report followed closely on the heels of their 'twice-yearly' license application for renewal. This is a serious matter and is deserving of early attention by Congress. There is one broadcasting company that I do not believe has filled out this report, and that is the Federal Government. I think that it should, and I am interested in a report showing its activities. As a matter of fact this Congress should provide for an exhaustive investigation into the activities of the FCC in its relation to radio."

#### LIQUOR ADVERTISING BILL

Senator Wheeler (D-Mont) announced this week the appointment of a subcommittee of Senators Andrews of Florida, Johnson of Colorado, and Gurney of South Dakota to consider S. 517, "a bill to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio, and for other purposes," introduced by Senator Johnson of Colorado.

The purpose of Senator Johnson's bill is to prohibit any advertisement of, or information concerning, any alcoholic beverage, such advertisement or information is

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broadcast with the intent of inducing the purchase or use of any alcoholic beverage.

The Federal Alcohol Administration in each of its yearly reports has recommended that Congress take such action. Senator Johnson says he is hopeful of getting action on his bill at this session of Congress.

No date for hearings was set.

## Monopoly Hearing

The networks concluded their testimony this week at the FCC investigation of alleged monopoly in the broadcasting industry. Outsiders who asked to be heard are to go on the stand next week. A day-by-day account of the hearing:

#### MARCH 2

Arthur W. Scharfeld, appearing for the Arrowhead Network, explained that the network's three stations belonged to the same licensee and thus did not constitute a network in the sense of the Commission's Order No. 37.

Harold E. Smith of Albany, N. Y., explained that the Empire State Network, operated for 43 days during the 1938 campaign. Whether it ever would resume operation was "indefinite," he said.

G. C. Hamilton of Sacramento, General Manager of the California Radio System, explained that the California System was a co-partnership between the McClatchy Broadcasting Company and Hearst Radio when it started in 1936. Hearst retired in November, 1937, giving full control to the McClatchy Broadcasting Company, a subsidiary of McClatchy Newspapers. Mr. Hamilton then discussed the relationship between the network and affiliates, and other phases of operation, in much the same respects as had the previous witnesses.

Martin Campbell, General Manager of Station WFAA, Dallas, testified in behalf of the Texas Quality Network. He explained it was not incorporated, had no officers and kept no books. He described the network as "a cooperative sales group of stations." All the members were NBC affiliates, he pointed out. The network's only sustaining program came from Texas A. and M. College each morning from 11:30 to 11:45. Rates were the stations' card rates.

William Weisman of New York, Vice-President of the Knickerbocker Broadcasting Company (WMCA), described the Inter-City Broadcasting System.

#### MARCH 7

Elliott Roosevelt, President of the Texas State Network and son of President Roosevelt, described the formation of the Texas

Network last August 1 and explained the finance of it. From the beginning of operation September 15 through January 31, the network had lost \$105,000. He testified and predicted that the loss for the first full year would be about \$3,000 since the network now was making a "small profit."

Mr. Roosevelt then set into the financing problems which he said radio stations generally encountered because of short-term licensing and the F. C. C. policy on sale of stations.

"No bank could make a loan purely on the business of a broadcasting station," he said. "The bank is using its depositors' money and with the uncertainty of the continued operation of the broadcasting station on the basis of the six months' license no bank could justifiably make any loans. . . ."

"The radio industry has apparently not as yet felt the stifling effect of lack of adequate financing, largely because, in my opinion, of the stability and dependability of the personalities who have associated themselves with our business. In our case, for example, the Texas State Network could never have gotten under way without the help of Mr. Richardson and Mr. Rosser, who happen to be men who were public-spirited and desirous of doing a job in the public interest, and in addition they happened to have enough cash in their own names that they were willing to gamble the necessary money for this network operation to start. The same thing could be said of almost all of the affiliated stations with this network. The people who have gone in and founded those stations did not do it because they felt that they were making an investment in a sound business. They did it because of their public-spirited attitude.

"There has been lots of loose talk about trafficking in licenses and the broadcasters realizing huge profits from the sale of licenses. This talk, in my opinion, is largely engendered by a lack of appreciation of the difference between trafficking in licenses and the legitimate sale of the stations. I feel that trafficking in licenses would seem to me to take place in one of two ways, first of all, where a person secures a construction permit to build a station with no intent to construct or operate that station and, secondly, those who seek to sell this right to others for a profit after securing the permit, or else where the man buys a station with no intent of operating it but for the sole purpose of disposing of the station at a profit.

"On the other hand, a legitimate sale of a station is where a person in good faith constructs and operates it or purchases and operates it and builds up the business on the station and then, through circumstances, is forced to sell the station. He may, for any number of reasons, wish to dispose of the station, and, say he has built up a business which brings him a substantial yearly profit, then if he is required to suffer a loss in disposing of the station because in the minds of some he might be trafficking in a license, he is really in a position where it is very difficult for many of us to feel that there is a real reason to build up a station because we don't know whether we are able to dispose of the property or whether the property has a value based on earnings that we have built in the station through our own efforts in the community in which we are operating the station.

"I think sometimes criticism is made that radio stations project their potential earnings as a basis for the sale of the station beyond their six months' license period. Well, I just feel that it is true that stations are required to make capital outlays which could not possibly be earned back in a six months' period. Therefore, we must necessarily project our earnings way beyond any six months' license period.

"After all, this is not the Commission's primary interest—rather I feel that it is the Commission's primary interest, and that is, insuring the people of the United States the best radio service which this country is capable of producing. If the buyer of the station can continue to render a high grade radio service and can improve upon that service I cannot see what difference it makes whether the station sells for a dime or for a million dollars, as long as you continue to regulate the buyer just as you do the seller, and make sure that the type of operation is such that it is in the best interest of the public.

"I don't know of a single industry of comparable size which is required to apply each six months for the right to continue in business. The railroads, for instance, and the airlines are given certificates of convenience and necessity which allow them assurance of continuation, and I feel that it has not lessened on their operations in any degree the regulatory authority exercised by the government over them in the mere fact that they have a vested right in the license or certificate that is given to them. The government can step in and take it away from them at any time that they don't operate in the public convenience and necessity.

"Over and above that, it is my feeling that if we were allowed to secure assurance of continued life so long as we operate in ac-

cordance with the law and the regulations of the Commission that we should be placed on a sound basis like every other business. We feel, and I know that it is the sentiment of most of the smaller radio station operators in the country—I can't speak for the larger stations because I don't happen to be in that end of the business—but I know that if we were allowed to be honest and place a direct valuation on the license which we have, which after all is the goodwill and the type of operation which we build up in our community, if we can place a valuation on that and the banks can be made to see the investment possibilities that there are in radio, that it will go a long way toward making radio a very much better industry for the people of the United States as a whole.

"I feel that the Commission, as such, really could recommend to Congress that legislation should be enacted to give radio stations certificates to operate which are revokable upon showing that they have failed to operate according to the law and I also feel that the regulations should be clarified, more clearly defined as to what is failing in operation in the public interest, convenience and necessity. After all, I notice that in the Act there is the phrase, "public interest, convenience and necessity," but I have yet to have it explained to me exactly what public convenience is in a radio station and I would like also to have somebody explain to me what the public necessity of a radio station is, outside of the educational and entertainment values, and religious and so forth values that we have in bringing messages directly into the homes of the people of this country.

"If the regulatory right of the United States Government is not diminished, what logical reason can be advanced for holding the radio industry under such a short lease of life? We should be made the most stable industry in the country if we are to be able to be worthy of the tremendous trust which is given to us when we are given such a tremendously important method of reaching the people and are told you must operate this on behalf of the people.

"If you will look back to 1927 when the Radio Act of 1927 was passed and scan the intervening years to 1939 and then ask yourselves how many radio stations have been denied renewals of license, you can almost count them on the fingers of your two hands.

"I am confident that legislation could be enacted giving radio stations certificates which will not take away from the Commission any of its authority that it now exercises and which, in turn, would enable the radio industry to face the future with far greater confidence and far greater stability, so I feel that as a general picture the radio industry needs the help of the United States Government at the present time in putting its house on a firm basis instead of on a haphazard basis such as it now sits on."

Chairman Frank R. McNinch and Mr. Roosevelt then engaged in a long exchange on these views, during which Mr. Roosevelt suggested that the industry would like to pay the bill for its own regulation. He also told Mr. McNinch that "the majority of station owners in the United States today have entered the business, first of all because they had a very definite civic and community spirit and felt that they were rendering a service in their territory by going in and putting the money in that they did into the operation of radio stations."

Mr. McNinch asked Mr. Roosevelt at that point whether that accounted for "the scrambles for frequencies that is evident before this Commission all the time."

"Yes," replied Mr. Roosevelt, then added that broadcasters also had a feeling that radio properties would be of great value when "this business will be put on a sound basis."

Mr. McNinch questioned Mr. Roosevelt closely about the program policy on the Texas Network, stressing the handling of controversial questions and religious programs. Mr. Roosevelt explained that all parties of the controversial issues were given equal opportunity on the Network and that the religious rate in the case of many stations was 60% of the commercial rate. "Politicians paid the one time open rate for time used no matter how many times they used it," he added.

Regarding program standard in general Mr. Roosevelt said:

"Well, radio is probably the greatest force for good or evil that exists in the world today. We have seen the use to which radio has been put in the totalitarian states where its use is subjugated to the will of dictators. I think that radio can play a tremendously important role in advancing the principles of our form of government, as well as defending our form of government from the so-called "isms" that we have today which are repugnant to us in this country.

"In order that radio may be used as a potent force for the

defense of democratic institutions, radio must, of course, be used in a democratic way. Therefore when we organized the Texas State Network, we organized it with the following policy regarding programs: We said that every side of every political or public controversial question must be given an equal opportunity, on an equal basis, to discuss its views. We are merely operating a medium for a wide dissemination of intelligence, and we, therefore, have no right to decide what shall be said pro or con on any question. We have the responsibility of guarding the public, of course, against profanity, indecency, obscenity, and defamation, and we believe that the public is entitled to know what to expect in a radio address and should not be beguiled into listening to propaganda spoken by one who is broadcasting under the guise, we will say, of a comedian, or to a political talk under the guise of a sermon, or the grinding of a personal ax under the guise of general interest broadcasts. Therefore, we will insist that these and kindred subjects be properly labeled as a political talk, whether given by a preacher, politician or school teacher, or as propaganda for or against a certain movement, whether the broadcast is by a preacher, a government official or a taxpayer.

"We believe that the better informed the public is on all questions of general interest, and on all sides of such questions, the more intelligently it can act. If only one side of a question gets to the public by radio, radio is not being used in a democratic way. Any coercion or pressure exercised by the licensees of radio stations, or by any administration in power, to censor or deny to one group the use of the air while aiding another group to express its views by radio, will lay the foundation for the destruction of our form of government in this country, in my opinion. If freedom of speech by radio is ever infringed upon, then it will be but a short step before the infringement of that right goes into newspapers and every form of political, or spoken utterance in this country.

"I think that radio should be regulated by a law under which no one need fear, even if that law is administered by his worst enemy.

"The temptation, after all, is great for the operators of radio stations to assume more authority than they have, and it is a greater temptation for a government to influence the licensees of radio stations as to what should or should not be broadcast through the indirect method of holding over the head of the licensee the threat of taking away his rights to broadcast. In either case, we feel that yielding to that temptation is contrary to a democratic radio structure. In addition, we feel that the radio industry has progressed so rapidly in this country that the law should be given an opportunity of catching up, to put it briefly. Our feeling is that there is not any clear definition. We feel that there should be more in the law about the labeling of programs so the listener can tell just what he is listening to, whether it is facts or whether it is just one person's or one group's opinion.

"We have seen within the last year or so quite a bit of discussion on the censorship of radio, and we feel, in our organization, that the law could be clarified and proper labeling systems set up right in the law so that there would be absolutely no danger of ever allowing censorship to creep in, because once it creeps into radio in this country then we might just as well fold our tents as we will be just like every other country which today is losing its democratic form of government, and, after all, radio is the greatest method that there is today to speak to the people."

Toward the end of the day, after a great deal more explanation of the workings of the Texas State Network, Mr. Roosevelt told the Commission that the Communications Act of 1934 needed "a little streamlining."

This prompted the following statement by Mr. McNinch:

"Mr. Roosevelt, you have said what I think all who have given any thought to the subject will agree is the situation, that the present statute is not up to date in the sense that the industry has advanced rapidly during the past four years, both from an engineering and from a functioning standpoint, and you commented on the fact that there is a good deal written about censorship and also as to the fear of censorship. I am wondering if you have in mind anything concrete that you would suggest? In addition to the flat declaration in the statute now that there shall be no censorship, how would you better provide against it?"

The following exchange then took place:

The Witness: Mr. Chairman, I should like to make this statement with regard to censorship. I believe that there is—although

the Commission may not realize—a censorship of fear at the present time operating in the radio industry. That is largely regulated and exists because of a lack of knowledge of just exactly what can be done and can't be done in the way of radio broadcasting today. There are no set rules, and I believe that many stations are today fearful of what rights they actually have and do not have, that if they carry certain types of programs that they may be in danger of reclamation, in the form of possibly losing their license, if the Commission did not happen to think that that program was in the public interest.

Chairman McNinch: You are, of course, familiar with the fact that Section 326 carries this language, Mr. Roosevelt: "Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication." You know that that is in the statute, do you not?

The Witness: Yes, sir.

Chairman McNinch: Do you not know that if the Commission should take any action that would be contrary to that section of the statute that the courts would very promptly give relief against it?

The Witness: Yes, sir, I believe that is true. I am merely stating what is the general feeling in the industry, that there should be a more clear definition of just what would be regarded as a program which is not in the public interest. Today, we have no laws in this country which protect the radio stations in any way; we have no libel laws which would enable us to be exempt from being subject to suit for what someone else says over our radio stations, and we are today in a position where we have to request copy in advance on political broadcasts, for instance, in order to make sure that there is nothing in there which is of a libelous nature which might hurt us. Yet, at the same time, we feel that actually that may be operating in the direction of an actual censorship of what is said, even though we have no clear definition of what is right and what is wrong that can be said over the air. And we have no limit of our liability for what the other fellow said.

Chairman McNinch: If exercised at all in the direction of censorship, that would be a censorship exercised by the station though, would it not?

The Witness: Yes, sir. I think though that there should be something in the law with regard to limiting the liability of radio stations for what might be said by someone departing from their script and making remarks over the air about an individual or group which were of a defamatory character and which could be construed as not being in the public interest.

Chairman McNinch: I am not prepared at all to take issue with you about that. But to do that, you would want some sort of limitation, would you, or not, put upon the power of the station in the selection of material?

The Witness: How is that, again, Sir?

Chairman McNinch: In order to afford you the protection against libel that you refer to, would you want a statute to put some limitations upon the right of the station management in the selection of its material that goes over the air?

The Witness: I believe that the station management should be required by statute to properly label all material that goes out over the air, and they should be held responsible for proper labeling. Once having done that, if someone then utilizes that air in a manner which is deemed as being libelous, I believe that then that person should be held liable and not the station itself.

Chairman McNinch: What I was inquiring about, and am very much interested in, is to know how better you would suggest that the prohibition of censorship by the Commission—not by the station—can be stated than in the emphatic language that is in the Act, when it denounces censorship, saying that there shall be no power, nor shall the Commission devise any rules or regulations which would interfere with free speech or amount to censorship? Can you add anything of substance or meaning to that statutory prohibition?

The Witness: Well, we feel this way: that the law is emphatic in its statement to a certain extent, but we do feel that there is, to a certain extent, the possibility that if a type of program should be broadcast which did not meet the approval of the Commission—that there still is a possibility and not that this Commission has ever utilized that power—through the power of taking away a license, the Commission could exercise a form of censorship.

Chairman McNinch: But the Commission has not, so far as you know?

The Witness: No, sir.

Chairman McNinch: Now, would you want to take the position that, regardless of the character of program material, the Commission in determining whether or not a station has been operated in the public interest during the preceding six months should be deprived of any power to say that programs had not been in the public interest?

The Witness: I believe that the Commission should primarily concern itself with seeing that nothing of a profane, defamatory, or unclean type of broadcast should get out over the air, and beyond that point, I do not think that the Commission should be particularly interested in the regulation of the type of program.

Chairman McNinch: Take your term "unclean" which is not in the statute—the statute denounces matters which are obscene, or vulgar, or profane, but you say "unclean."

The Witness: Well, that is merely another word for those three?

Chairman McNinch: Well, but is it? May not a thing be unclean in the estimation of the general public but not be vulgar, not be profane and not be obscene? May it not be suggestive, and so suggestive, as to be offensive to the whole public?

The Witness: I think that anything of a suggestive nature comes under the term of a vulgar type of program.

Chairman McNinch: But unless it did come under that, unless the courts would sustain it as being suggestiveness of a vulgar type, then the Commission would not have any authority under the present statute, according to you—

The Witness: I believe though that any court would sustain that.

Chairman McNinch: That is speculation. We often miss our guesses on what courts will do. But you believe that outside of those three categories, the station should be entirely free and should never be called to account for program material, if it is not obscene, vulgar, or profane within the meaning of the statute?

The Witness: Yes, sir, as long as it properly labels its broadcasts.

Later after considerable discussion of station's profits with Mr. McNinch, Mr. Roosevelt suggested that the Commission remove its requirement that transcriptions be announced as such and then suggested that "it would be of interest to the Commission to look into the whole subject of transcriptions and whether the present set-up does not operate on behalf of the networks."

He added:

"There is also a feeling in the back of my mind, in view of a newspaper article that I saw not very long ago concerning the Columbia Broadcasting System's option to purchase the largest independent transcription in the business. It seemed to me that that was a clear move on the part of Columbia to catch up with NBC which, as we all know, is affiliated with RCA and RCA is in the transcription business. When they put on a live broadcast, they have a ruling which prohibits the advertiser who pays for that live broadcast from making a transcription of that broadcast unless he does it through RCA. I am just wondering whether maybe Columbia is not planning to do the same thing through the purchase of the World Broadcasting System, and if they do that, is that not going to operate against the best interests of the independent stations of the country who are not affiliated with those two networks?"

Mr. McNinch replied that: "In about two weeks, we are going to get to that whole subject, because we, as the Commission, believe there is a great deal to be discovered there of interest and that will be very much worthwhile to the Commission in dealing with the problem of transcriptions."

Asked about his views on "exclusive" network contracts, Mr. Roosevelt said:

"I have operated since I have been in the radio business various NBC stations and various Columbia stations, and I am familiar with their contracts. In my opinion, those contracts are contrary, for the most part, to the purpose for which the radio stations were licensed. You can take the contract of the Columbia Broadcasting Company, their standard contract that is in force on their southwest stations—I operated the Columbia station in Oklahoma City and the one in San Antonio for a considerable length of time. That contract calls for an option on 100 per cent of the time of that station, and it was subject to clearance on 28 days notice. No matter what advertiser or what group were utilizing that time, the man up in New York or in Chicago or in Los

Angeles who wanted to use that time on the station, he could have it. In my opinion, that is contrary to the purpose for which that station was licensed, because it was licensed to serve San Antonio and the surrounding territory that its frequency covered, and, therefore, I feel that the local advertisers have been very much mistreated through the type of contract that has been employed by national networks. As operated, in my opinion, the network stations are selling their birthrights and their reasons for being in business."

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Still on the stand, Mr. Roosevelt said that he felt that the regional network was "more in the public interest than the National network" because of its adaptability to meeting and serving the public interest so far as regional problems in that section are concerned."

He suggested that there was a necessity for a tieup of regional operations into a national structure for broadcasts of national and international public interest—a structure that "can be divided into regional structures which should be operated as independent units."

He also suggested that super power would be detrimental to the best interests of radio but that all 50,000 watt stations might be compelled to install 500,000 watt equipment for use in emergencies.

After discussing his own work as a commentator, and the present NBC rule about transcribing commercial programs, Mr. Roosevelt expressed the opinion that broadcasters would be far better off if they kept out the Artist Bureau and Concert Corporation business. He also said something should be done about Mexican broadcasts.

George C. Davis, Washington, D. C., the next witness, discussed the engineering phases of the Texas network's operation.

Leon Levy, W C A U, explained that the Pennsylvania network operated during the 1938 campaign for the convenience of politicians who wished to use several stations simultaneously.

That brought to a close the presentation of testimony by the industry. Next week those persons and organizations outside of the industry who filed appearances are to be heard.

## Legal

### NORTH DAKOTA, NEW MEXICO PASS NEW MONOPOLY BILLS

The legislatures of North Dakota and New Mexico have enacted new laws seeking to curb the activities of pools controlling public performance of copyrighted music, and the statutes of both states are before the respective Governors for approval. Both statutes are substantially similar and are said to be within the constitutional rights of the state legislatures as defined by the United States Supreme Court. It is reported that passage was strenuously opposed in both states by ASCAP. Legislation with a like objective has been enacted in Montana (NAB REPORTS, February 28, p. 3315) and now is the law of that state.

The North Dakota and New Mexico statutes compel copyright owners licensing performance rights in the state to make full disclosure of the material licensed by them. Blanket licensing at blanket fees by combinations of copyright owners is permitted provided the individual members of a combination also afford users the option of buying portions of the combined catalogues at prices determined by the owner and not determined by the combination. It is said this provision of the statute permits small users to acquire performance licenses only on

such material as is needed by them and establishes competition between the members of "pools" in such instances. The North Dakota statute prohibits a charge by copyright owners on programs which do not use music controlled by the licensor. This provision will prevent any new licenses being issued similar to ASCAP's general broadcasting license, which requires the payment of five per cent on programs not using ASCAP music. The statutes provide for a three per cent tax on income derived from licensing and require that, in any suits brought by a copyright owner, compliance with the provisions of the statute must be established.

The North Dakota statute is reprinted below in its entirety:

"An Act relating to copyrights and public performing rights in musical compositions and dramatico-musical compositions, requiring lists thereof to be filed, regulating the issue of licenses with respect thereto, prohibiting discrimination, providing for service of process, levying a privilege tax, providing penalties, and repealing inconsistent acts.

"Be it Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. As used in this Act, "person" means any individual, resident or non-resident, of this state, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or indirectly performs or causes to be performed musical compositions for profit; the term "blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners; the term "blanket royalty or fee" includes any device whereby prices for performing rights are not based on the separate performance of individual copyrights.

Section 2. It shall be unlawful for any person to sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition which has been copyrighted, and is the subject of a valid existing copyright, under the laws of the United States, or to collect any compensation on account of any such sale, license or other disposition, unless such person:

(a) Shall first have filed with the Secretary of State a list in triplicate describing each such musical composition and dramatico-musical composition, the performing rights in which said person intends to sell, license or otherwise dispose of in this state, which description shall include the following: The name and title of the copyrighted composition, the date of the copyright, the number or other identifying symbol given thereto in the United States copyright office, the name of the author, the name of the publisher, the name of the present owner of the copyright to said composition, and the name of the present owner of the performing rights thereto. Additional lists of such copyrighted compositions may be filed by any such person from time to time, and shall be subject to all the provisions of this Act. No payment or filing fee shall be required by the Secretary of State for filing any list under this Act.

(b) Shall simultaneously file an affidavit which shall describe the performance rights to be sold, licensed or otherwise disposed of and shall state that the compositions so listed are copyrighted under the laws of the United States, that the facts contained in the list to which said affidavit relates are true, that affiant has full authority to sell, license or otherwise dispose of the performing rights in such compositions; and the affidavit shall set forth the name, age, occupation and residence of the affiant; and if an agent, the name, occupation and residence of his principal.

Section 3. The list provided for in the preceding section shall be made available by the Secretary of State to all persons for examination, and taking of copies, in order that any user of such compositions in this state may be fully advised concerning the performing rights therein, and avoid being overreached by false claims of ownership of said performing rights, and also avoid committing innocent infringement of said works. A duplicate of any list so filed by any such person shall at his request be certified by the Secretary of State and shall by the Secretary of State be given or delivered to such person, who shall exhibit the same on

demand of anyone to whom such person seeks to sell, license or otherwise dispose of said performing rights.

Section 4. It shall be unlawful for two or more owners of the copyrights of musical compositions or dramatico-musical compositions to associate or combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their compositions upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such compositions within the state, at the option of the user, the right to perform publicly for profit each such copyrighted musical composition owned by him or it at a price established for each separate performance of each such composition. To this end, there shall be filed with the Secretary of State, either as a part of the list required by Section 2 hereof or as a separate document by such copyright owner, or by such association in behalf of such owner, a schedule of prices for the performing rights to each separate performance for profit of each such composition contained in such list, together with an affidavit of the copyright owner of such compositions that the price so stated has been determined by such copyright owner acting for himself and not either directly or indirectly in concert or by agreement with the owner or owners of any other copyrights. Such schedule of prices may contain reasonable classifications determined by use and function, or either, of the users of said compositions, with separate price for each classification, provided that there is equal treatment of all persons within each classification and that there is no unreasonable discrimination between classifications. Any copyright owner, or such association acting in his behalf, may at his election fix one price which shall be applicable to each rendition of each of such compositions owned by him except to the extent that he elects to name specific compositions and to fix other prices for each rendition thereof; and said prices shall remain in force and effect until a new schedule of prices with respect to the performing rights to such compositions has been similarly filed in the office of the Secretary of State, at any time, at the election of such owner or such association acting in his behalf, changes in prices to become effective seven days from the date of filing thereof. It shall be unlawful for any person selling, licensing the use of or in any manner whatsoever disposing of or contracting to dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge or to contract for or collect any compensation as a condition of using said performing rights based in whole or in part on any program not containing any such composition, and any such charge or contract for compensation shall be valid and enforceable only to the extent that it is based and computed upon a program in which such composition is rendered. The schedule of prices provided for herein shall be made available by the Secretary of State to all persons for examination and the taking of copies.

Section 5. Any person issuing a blanket license for performance rights shall file with the Secretary of State within thirty days from the date such blanket license is issued a true and complete copy of each such license issued or sold with respect to performance within this state, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to performing rights.

Section 6. At the time of filing the information required in Sections 2 and 3, the owner of said performing rights shall likewise execute and deliver to the Secretary of State, on a form to be furnished by the Secretary of State, an authorization empowering the Secretary of State to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this Act, and designating the address of such person until the same shall be changed by a new form similarly filed; and service of process may thereafter be effected in this state on such person in any such action or proceeding by serving the Secretary of State with duplicate copies of such process; and immediately upon receipt thereof the Secretary of State shall mail one of the duplicate copies by registered mail to the address of such person as stated on the authorization last filed by him.

Section 7. No person shall be entitled to commence or maintain any action or proceeding in any court with respect to such performing rights, or to collect any compensation on account of any sale, license or other disposition of such performing rights, in this state, except upon pleading and proving compliance with the provisions of this Act.

Copies, certified by the Secretary of State as such, of each or all of the lists, license agreements, affidavits and other documents

filed with the Secretary of State pursuant to the requirements of this Act, shall be furnished by the Secretary of State at his option to any person upon request at the prices regularly charged by the Secretary of State for such work. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

Section 8. From and after the effective date of this Act there is hereby levied, and there shall be collected, a tax, for the act or privilege of selling, licensing, or otherwise disposing of performing rights in such compositions in this state, in an amount equal to three percent of the gross receipts of all such sales, licenses or other dispositions of performing rights in this state, payable to the State Treasurer for the benefit of the general fund of the state on or before the fifteenth day of March, 1940, with respect to all such gross receipts for the portion of the calendar year 1939 after the effective date of this Act, and annually thereafter, on or before the fifteenth of March of each succeeding year, with respect to the gross receipts of the preceding calendar year. The State Treasurer shall adopt and publish rules and regulations not in conflict herewith, as well as a form of return and any other forms to carry out the provisions of this section.

Section 9. It shall be unlawful for any person, without the consent of the owner thereof, if said owner shall have complied with the provisions of this Act, publicly to perform for profit, in this state, any such composition, or for any person knowingly to participate in the public performance for profit of such composition, or any part thereof.

Section 10. Any violation of this Act shall constitute a misdemeanor, to be punished as provided elsewhere in the laws of this State.

Section 11. All laws or portions thereof whether general, special or local, which relate to the same subject matter as this Act and which are inconsistent with the provisions of this Act, are hereby superseded by the provisions of this Act to the extent that such inconsistency exists.

Nothing contained in this Act shall be so construed as to impair or affect the obligation of any contract or license which was lawfully entered into prior to the effective date of this Act.

Section 12. If any section, sentence, clause or word of this Act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this Act, it being the intent of this legislature to enact each of the provisions of this Act insofar as they conform to the Constitution of this state and of the United States.

## MUSIC MONOPOLY BILLS

A bill seeking to curb the activities of pools controlling public performance of copyrighted music has been introduced in the State of Colorado. This bill substantially follows the provisions of the statute passed in 1937 by the States of Washington, Montana and Tennessee. Bills to curb the activities of alleged music monopolies have been introduced in Arkansas, Colorado, Connecticut, Illinois, Indiana, Kansas, Michigan, Minnesota, Montana, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Washington, and other states. The majority follow the same principles involved in the new legislation in Montana, North Dakota and New Mexico, reported elsewhere in this issue.

## PHONOGRAPH RECORD BROADCASTING

Now awaiting decision before Judge Leibell in the United States District Court for the Southern District of New York is the case of RCA Manufacturing Company vs. Paul Whiteman et al. The trial was completed last December and briefs were submitted to the Court in February.

RCA claims (a) that it has common law rights in the Victor and Bluebird records manufactured and sold by

it; (b) that these rights are not lost by publication in spite of the sales to the public; (c) that the restrictive notices on the record labels and envelopes regarding broadcasting are legal and enforceable; (d) that Whiteman should be enjoined from attempting to license radio stations to broadcast these records because he had conveyed his rights to RCA and also because RCA had certain common law rights in the records by reason of the skill and labor employed in making the records; and (e) that the radio station and sponsor named as defendants should be enjoined from broadcasting records of Whiteman and of certain other leading orchestras.

The broadcasters' position was submitted to the Court in the briefs of Stuart Sprague, special copyright counsel engaged by NAB in this matter, who asserted (a) that there are no common law rights in phonograph records; (b) that any such rights as may have existed were lost upon the public sale of the records; (c) that the restrictions on the use of the records could not legally be made to follow the records after being sold in the regular channels of trade; and (d) that unfair competition was not established by RCA.

No decision is expected before the last of March or April.

## NEW LEGISLATION CONGRESS

H. R. 4684 (Mr. McLeod, Mich.) COMMUNICATIONS ACT—To amend Section 307, subdivisions (d) and (e), by requiring that broadcasting licenses be issued for a period not less than three years nor more than five years and to provide against denial of renewal application because of political views expounded over station. Referred to Interstate and Foreign Commerce Committee.

S. Res. 94 (Sen. White, Maine) COMMUNICATIONS COMMISSION—To authorize investigation of the acts, rules, regulations, organization and policies of the F. C. C. with respect to censorship of communications, ownership of broadcasting stations and other matters. Referred to Interstate Commerce Committee.

## STATE LEGISLATION

### COLORADO:

S. 415 (Ritchie) COPYRIGHTED MUSIC—To prohibit price fixing monopolies and combinations in copyrighted music and to prescribe regulations of licensing methods within the state.

### DELAWARE:

S. 79 (Simmons) FOODS—DRUGS—COSMETICS—REGULATIONS—Regulating foods, drugs, cosmetics; prohibiting manufacture, sale or delivery of adulterated misbranded articles. Referred to Public Health Committee.

### GEORGIA:

H. 532 (Trippes et al) PURE FOOD AND DRUG REGULATION—Relating to the prevention of the adulteration, substitution, misbranding and false advertising of food, live stock remedies, birth control devices, devices for the treatment and prevention of disease, cosmetics, etc., and to forbid the sale or use of unhealthful chemical products. Referred to General Agriculture No. 2. Reported by Substitute 3-1-39 in House.

H. 587 (Marshall) SMALL LOANS—INTEREST—Regulating the business of making loans or advancements of \$300 or less at a greater rate of eight per cent per annum. Referred to General Judiciary No. 1.

### MISSOURI:

H. 543 (McGuire) SHORT WAVE RADIO—OFFICERS—Requires county court judges to provide sheriffs' and officers' automobiles with locked-in radio receiving sets.

S. 307 (Donnelly) **RADIO LIABILITY**—Relates to the civil liability of owners, lessees, licensees and operators of radio broadcasting stations and their servants, agents and employees for radio defamation.

**NEW JERSEY:**

A. 317 (Farley) **MUNICIPAL RADIO STATIONS**—Concerning the creation and regulation of a separate fund for the operation of radio stations or municipal convention halls, or both, in municipalities bordering on the Atlantic Ocean, and amending Sections 40:62-33 and 40:62-34 of the Revised Statutes. Referred to Judiciary Committee.

A. 405 (Kerner) **MOTION PICTURE FILMS—CENSORSHIP**—Regulating the sale, lease and exhibition of motion picture films and stereopticon views; creates a State Board of Censors. Referred to Ways & Means Committee.

**NEW YORK:**

A. 1602 (Ostertag) **EMPLOYMENT AGENCIES**—Regulates private fee charging employment agencies. Referred to Judiciary Committee.

**NORTH CAROLINA:**

H. 542 (Taylor et al) **LOUD SPEAKERS**—Regulating and controlling the operation of loud speakers on radios and victrolas within one mile of the corporate limits of any city or town in Wayne County. Passed 3-2-39.

**VERMONT:**

H. 271 (Laber) **COMMUNICATION SYSTEM**—Providing for the establishment of a communication system for the inspectors of the motor vehicle department and sheriffs of each county. Referred to Highway Traffic Committee.

## Labor

### BAN ON WPA JOKES

Emily Holt, executive secretary of AFRA, and Ralph Whitehead, executive secretary of the American Federation of Actors, assured the NAB this week that AFA's ban on WPA jokes would not affect broadcasting.

Many AFRA members also belong to AFA, the vaudeville and night club union. When AFA ordered its members to stop making any cracks about the WPA, there was some question as to whether AFA members would refuse to read radio scripts that included WPA jokes.

Mr. Whitehead joined Mrs. Holt, however, in saying that the rule applied only when AFA members were working in AFA territory, that is, in night clubs and vaudeville.

In AFRA's jurisdiction, actors took the scripts that were given to them, Mrs. Holt added. AFRA had no intention of making a similar rule, she said.

### THIRTY-HOUR WEEK

The International Brotherhood of Electrical Workers (A. F. of L.) has instituted a drive for a 30-hour work week. The union reports that 31 lighting equipment shops in New York City already have signed 30-hour contracts.

### A. F. OF L.-C. I. O. PEACE

The first two peace conferences between the A. F. of L. and C. I. O. committees failed to produce anything other than intensified bitterness on the A. F. of L.'s part. Pri-

vately A. F. of L. leaders are saying that John Lewis is just trying to put them in a bad spot with his proposals, and doesn't want peace at all.

There is a distinct possibility that they are right.

### FCC QUESTIONNAIRE

Again the NAB Labor Department, points out the importance of filing with the NAB copies of payroll statistics asked for in the FCC questionnaire. Scarcely a day goes by that the department does not receive a request for payroll information from a member who is negotiating a union agreement. The NAB can fill these requests satisfactorily only if the membership cooperates by filing the FCC material and COPIES OF ALL UNION CONTRACTS.

### FREE OFFERS

The NAB has notified Cox and Tanz that cost-per-inquiry advertising such as they proposed in their letter of March 1 is banned by the NAB Code of Ethics.

Helen Gwetholyn Rees of New York, is suggesting the use of glycerine in preparing Lenten fish dishes. We bet the glycerine industry has something to do with Miss Rees' interest in good fish dishes.

The National Federation of Post Office Clerks is offering scripts, to be read by the union's local members, about post office oddities.

### BY-LAWS AMENDMENTS

Article XIII of the By-Laws reads as follows:

"Section 1. These By-Laws may be amended, repealed, or altered, in whole or in part, by a two-thirds vote at any annual meeting of the Association provided the proposed change is submitted by mail to the last recorded address of each member at least thirty days before the time of the meeting which is to consider the change." Headquarters will be glad to send out to the members any changes which any member desires to propose, provided they are received at Headquarters by June 1.

### STATE ASSOCIATIONS

Neville Miller has appointed the following committee to study the question of the affiliation of state broadcasters' associations with the NAB and to make recommendations to the Board of Directors:

W. Walter Tison, WFLA, chairman; Ralph R. Brunton, KJBS; John Shepard III, Yankee Network; Richard H. Mason, WPTF; Leonard Reinsch, WHIO; Martin Campbell, WFAA, and Dietrick Dirks, KTRI.

Mr. Miller suggested that the committee do its preliminary work by correspondence and meet at the NAB Convention.

### FCC ANNOUNCES POLICY ON HIGH FREQUENCY LICENSES

The Federal Communications Commission this week announced a policy in regard to the consideration of

applications for renewal of licenses of all the existing high frequency broadcasting stations. The Commission has licensed 49 high frequency broadcasting stations, all on an experimental basis. The licenses expire April 1.

The Commission set down three principles for its guidance in studying the applications for renewal. They are as follows:

1. When the applicant does not show that it has carried on any worthwhile experimental work during the last period, the application be designated for hearing.
2. If some work has been done, but of no great significance, then the licensee be informed of the work it must do during the next period and a commitment be obtained from the licensee before granting the renewal.
3. When the applicant has carried on a reasonably diligent experimental program and proposes to continue this work, a letter be prepared reviewing this course and making any suggestions for work that may be done during the next license period.

Of the 49 high frequency broadcasting stations licensed, 42 use amplitude modulation and 7 use frequency modulation.

### COURT REVERSES FCC

The United States Court of Appeals for the District of Columbia on Monday reversed an F.C.C. decision denying a construction permit for a new station at Hannibal, Missouri, to the Courier-Post Publishing Corporation.

The company applied to the Commission for a permit for a new station to use 1310 kilocycles, 250 watts day, 100 watts night. The Commission denied the application but the Court reversed the Commission and remanded the case. The Publishing Company had appealed to the Court from the decision of the Commission.

The court held that the appellant has sustained the burden of proof that there is a public need for a local station in Hannibal and ruled that the finding by the Commission that public convenience, interest and necessity would not be served in granting the permit for a local station is "in law arbitrary and capricious."

### FCC PRESS INFORMATION

The press information set-up at the Federal Communications Commission has been the subject of some controversy for some time. On Monday of this week the Commission issued the following statement on the subject:

The Commission voted today to extend the present arrangement for a temporary information set-up until March 31.

Chairman McNinch was authorized to ask the Administrator of the Rural Electrification Administration for a further detail of M. L. Ramsay until that time and to request a like detail of C. Alphonso Smith from the Soil Conservation Service.

Commissioner Walker, seconded by Commissioner Sykes, moved adoption of Chairman McNinch's recommendation for the extension. Commissioner Craven proposed a substitute motion, seconded by Commissioner Payne, to request the detail of Mr. Smith alone, which was voted down 4 to 2, with Commissioners Craven and Payne favoring the substitute.

Chairman McNinch's recommendation was then adopted unanimously, with an amendment by Commissioner Case requesting Mr. Ramsay to submit his final recommendations for a permanent information set-up by March 15, so the Commission would have more time to consider them.

## FACSIMILE BROADCAST STATIONS

(As of March 1)

Licensee and Location	Call Letters	Frequency (kc)	Power
Bamberger Broadcasting Service, Inc., New York, New York .....	W2XUP	31600, 35600, 38600, 41000	100w
The Crosley Corp., Cincinnati, Ohio .....	W8XUJ	26000	1kw
The Evening News Assn., Detroit, Mich.....	W8XTY	31600, 35600, 38600, 41000	150w
The Pulitzer Publishing Co., St. Louis, Mo.....	W9XZY	31600, 35600, 38600, 41000	100w
Radio Air Service Corp., Cleveland, Ohio.....	W8XE	31600, 35600, 38600, 41000	50w
Radio Pictures, Inc., Long Island City, N. Y.....	W2XR	1614, 2012, 2398, 23100, 41000, 86000-400000	1kw
Sparks-Withington Co., Jackson, Mich.....	W8XUF	31600, 35600, 38600, 41000	100w
Star-Times Publishing Co., St. Louis, Mo.....	W9XSP	31600, 35600, 38600, 41000	100w
WBNS, Inc., Columbus, Ohio .....	W8XUM	31600, 35600, 38600, 41000	100w
The Yankee Network, Inc., Sargents Purchase, New Hampshire .....	W1XMX	410000	500w

## FEDERAL COMMUNICATIONS COMMISSION

### EXAMINER'S REPORT

The Sentinel Broadcasting Corporation applied to the Federal Communications Commission for a construction permit for a new station at **Salina, New York**, to use **620 kilocycles**, 1000 watts, unlimited time with a directional antenna at night. The Civic Broadcasting Corporation also applied to the Commission for a construction permit for a new station at **Syracuse, New York**, to use **1500 kilocycles**, 100 watts, unlimited time. Broadcasting Station WHJB, **Greensburg, Pennsylvania**, operating daytime on **620 kilocycles** with 250 watts power, applied to the Commission to increase its power to 1000 watts, unlimited time.

Examiner Tyler Berry, in report No. I-763, recommended that all of the applications be denied. In the case of the Sentinel Corporation the Examiner stated that a need was not shown for a regional broadcasting service in the Syracuse area. There are already two regional stations in that city and the programs proposed by the applicant are virtually the same as those now being broadcast by the existing stations.

Dealing with the Civic Corporation application, it was also found by the Examiner that there was no substantial showing of the need for additional service in the Syracuse area.

In the request of WHJB to increase its power and use unlimited time, the Examiner said that "because of the

severe limitations that will be imposed upon the operation of the station on the assignment requested by the Pittsburgh Radio Supply House and the interference which would result to established stations, the granting of this application will not serve the public interest, convenience, or necessity."

## DECISIONS OF COMMISSION

The Federal Communications Commission granted the application of the Press-Union Publishing Company for the erection of a new broadcast station at **Atlantic City, New Jersey**, to operate on **1200 kilocycles**, 250 watts day, 100 watts night, unlimited hours.

It was found by the Commission that a public need exists for this service and "there is shown to be available sufficient commercial support and talent to give reasonable assurance of operation in the public interest." The Commission stated also that no objectionable interference would result to any existing or proposed station.

Commissioner Brown did not participate in this decision.

The application of **WKEU, Griffin, Georgia**, to change its frequency from **1500 kilocycles** to **1310 kilocycles** and its power from 100 watts daytime to 100 watts night, 250 watts LS, unlimited time was denied by the Commission.

It is stated by the Commission that the need shown in the Macon area for additional broadcast service "is not sufficiently compelling to warrant a grant of the application."

Commissioner Brown did not participate in this decision.

The Commission has granted the application of **WNLC, New London, Connecticut**, authorizing an increase in hours of operation from daytime to unlimited. The station operates on **1500 kilocycles** with 100 watts.

The Commission stated in its decision that the use of unlimited power will enable the station to render a satisfactory nighttime service "to an area which does not now receive such service." The operation of the station with the proposed unlimited time will not cause objectionable interference to any existing or proposed stations.

Commissioners Brown, Case and Payne did not participate in this decision.

The Commission has denied a petition for rehearing filed by **W. C. Irvin, Amarillo, Texas**, in the matter of his application for a new station to operate on **1500 kilocycles** with 100 watts night, 250 watts day, and adopted supplemental statement of facts, grounds for decision and order sustaining its original action taken No-

vember 1, 1938, in denying the Irvin application and granting the application of the **Amarillo Broadcasting Corporation, Amarillo, Texas**, for a new station to operate on **1500 kilocycles**, 100 watts, unlimited time.

Chairman McNinch and Commissioners Case and Brown did not participate in this decision.

## FCC ORDER

The Federal Communications Commission on Monday issued an Order in the so-called Brooklyn case in which **WBBC, Brooklyn**, is asking for the facilities of **WLTH** and **WARD**, both of Brooklyn.

The Commission denied the motion of **WLTH** and **WARD** "to strike the proposed findings of fact on behalf of **WBBC**." **WLTH** and **WARD** were allowed 15 days in which to file answer with the Commission to the proposed findings and **WBBC** was allowed 20 days to file answer.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, March 13. They are subject to change.

### Tuesday, March 14

Further Hearing

Broadcast

**NEW**—**Wm. C. Barnes and Jonas Weiland, tr/as Martinsville Broadcasting Co., Martinsville, Va.**—C. P., **1420 kc.**, 100 watts, 250 watts LS, unlimited time.

### Thursday, March 16

Oral Argument Before the Commission

Examiner's Report No. I-669:

**NEW**—**Colonial Broadcasting Corp., Norfolk, Va.**—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

### Friday, March 17

**WAGA**—**Liberty Broadcasting Co., Assignor, Atlanta, Ga.**—Voluntary assignment of license to **Liberty Broadcasting Corp., Assignee; 1450 kc.**, 500 watts, 1 KW LS, unlimited time.

## FUTURE HEARINGS

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

### April 3

**KGNO**—**Dodge City Broadcasting Co., Inc., Dodge City, Kans.**—C. P., **1340 kc.**, 500 watts, unlimited time. Present assignment: **1340 kc.**, 250 watts, unlimited time.

**KOVC**—**KOVC, Inc., Valley City, N. Dak.**—C. P., **1340 kc.**, 500 watts, 1 KW LS, unlimited time. Present assignment: **1500 kc.**, 100 watts, 250 watts LS, unlimited time.

April 17

WSUI—The State University of Iowa, Iowa City, Iowa.—C. P., 880 kc., 1 KW, 5 KW LS, unlimited time (DA—night). Present assignment: 880 kc., 500 watts, 1 KW LS, unlimited time.

May 3

NEW—Martin K. Calaway and Harry S. Hooper, Marysville, Calif.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

May 5

NEW—Thumb Broadcasting Co., Brown City, Mich.—C. P., 880 kc., 1 KW, daytime.

May 8

WICA—WICA, Inc., Ashtabula, Ohio.—C. P., 940 kc., 1 KW, daytime. Present assignment: 940 kc., 250 watts, daytime.

May 23

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans. (proposed studio, Kansas City, Mo.) (proposed transmitter, Kansas City, Kans.)—C. P., 1220 kc., 1 KW, 5 KW LS, shares KFKU (DA for day and night) (to move transmitter and studio). Present assignment: 1220 kc., 1 KW, 5 KW LS, shares KFKU.

WCSC—South Carolina Broadcasting Co., Inc., Charleston, S. C.—C. P., 1360 kc., 1 KW, unlimited time. Present assignment: 1360 kc., 500 watts, 1 KW LS, unlimited time.

May 24

NEW—J. R. Walker, S. S. Walker and C. F. Walker, co-partners, tr/as Patrick Henry Broadcasting Co., Martinsville, Va.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

May 25

NEW—M. L. Medley, Cookeville, Tenn.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WAWZ—Pillar of Fire, Zarephath, N. J.—Granted modification of license to employ present directional antenna system for daytime operation also.

WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Granted extension of special experimental authority to operate as a facsimile broadcast station from 12 midnight to 6 a. m., CST, for the period February 1 to August 1, 1939.

WFOR—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Granted C. P. to make changes in composite equipment and increase day power from 100 watts to 250 watts.

Columbia Broadcasting System, Inc., New York City.—Granted authority to transmit programs to a foreign station, CMCK, Havana, Cuba, from CBS in New York City, and other points throughout the U. S. where licensee maintains studios.

NEW—WBEN, Inc., Buffalo, N. Y.—Granted license for new facsimile broadcast station, provided applicant requests withdrawal of special experimental authorization of facsimile transmission over applicant's regular broadcast station; frequencies 31600, 35600, 38600 and 41000 kc., on an experimental basis only, conditionally; 100 watts.

Columbia Broadcasting System, Inc., New York City.—Granted extension of existing authority, expiring March 15, to transmit programs to Canadian Stations CFRB and CKAC, and to stations of the Canadian Broadcasting Corp., by means of wire facilities furnished by A. T. and T.

National Broadcasting Co., Inc., New York City.—Granted extension of existing authority expiring March 15, 1939, to deliver recorded programs to Canadian stations under control of the Canadian Broadcasting Corp.

National Broadcasting Co., Inc., New York City.—Granted extension of existing authority, which expires March 15, to transmit commercial programs to the Canadian Stations CFCF, CBL (formerly CRCT) and other stations under the control of the Canadian Broadcasting Corp., by means of leased wire lines through the regular chain facilities of the NBC.

W9XER—Midland Broadcasting Co., Kansas City, Mo.—Granted renewal of high frequency broadcast station license on a temporary basis only, and designated application for hearing because applicants have not furnished sufficient research or experimental report that will comply with Rule 1051, nor did applicants supply the research and experimental information that was requested by the Commission on March 7, 1938.

W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Granted renewal of high frequency broadcast station license on a temporary basis only, and designated application for renewal of license for hearing, because applicant has not submitted any tangible measurements pursuant to Rule 1051, and has not indicated he will carry forward any research or experimental program that will contribute a reasonable amount of information to the art.

W8XAI—Stromberg-Carlson Tel. Mfg. Company, Rochester, N. Y.—Granted renewal of high frequency (exp.) broadcast station license on a temporary basis only, and designated application for renewal of hearing, because applicant has failed to submit satisfactory program of research and experimentation as envisaged by Rule 1051; has provided no field intensity studies of service areas or of signal-to-noise ratios as determined by comparative reference or absolute measurements.

### DESIGNATED FOR HEARING

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

NEW—Oregon Broadcasting System, Inc., Grants Pass, Ore.—Application for C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval.

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Application for modification of license to increase night power from 100 watts to 250 watts. To be heard before the Commission. (Application designated for hearing to determine if interference might result, and because application is in violation of Rule 121).

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Application for C. P. to install new equipment and DA system; change frequency from 1210 kc. to 1270 kc., and power from 100 watts night, 250 watts day, unlimited time, to 1 KW, unlimited time, employing DA system for night-time operation. (Application designated for hearing because it requests facilities of KWLC and KGCA, and also because of the question of interference.)

W9XER—Midland Broadcasting Co., Inc., Kansas City, Mo.—Application for C. P. to make changes in equipment, increase power from 50 to 500 watts, and move transmitter of high frequency broadcast station locally. (Application designated for hearing because applicants have not furnished data of studies made of signal-to-noise ratios as required by rules governing high frequency broadcast stations.)

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Application of WGBF to move transmitter site locally; install new equipment and DA system; change frequency from 630 kc. to 1250 kc., and power and time of operation from 500 watts night, 1 KW day, simultaneous day, S-KFRU night, to 1 KW night, 5 KW day, unlimited time, employing DA system for night operation. (Application designated for hearing as it is contingent upon applications of KFRU and KXOK to change frequency, power and time of operation; also because of the question of interference.)

KFRU—KFRU, Inc., Columbia, Mo.—Application for C. P. to move transmitter site locally, exact site to be determined; install new equipment and vertical radiator; change frequency from 630 kc. to 1370 kc., and power from 500 watts night, 1 KW day, to 100 watts night, 250 watts day, and time of operation from simultaneous day, S-WGBF night,

to unlimited. (Application designated for hearing because it is contingent on applications of WGBF and KXOK.)

KXOK—Star-Times Publishing Co., St. Louis, Mo.—Application for C. P. to move transmitter site locally from ½ mile northwest of Venice, Ill., to near Washington Park, Ill.; install new equipment and directional antenna system; change frequency from 1250 kc. to 630 kc.; and increase day power from 1 KW to 5 KW, employing DA system for both day and nighttime operation. (Application designated for hearing because it is contingent upon the applications of KFRU and WGBF to change frequency, etc.)

## RENEWAL OF LICENSES

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

KDYL, Salt Lake City; KFKU, Lawrence, Kans.; KFSG, Los Angeles; KFWB, Los Angeles; KGBX, Springfield, Mo.; KGCU, Mandan, N. Dak.; KGGF, Coffeyville, Kans.; KGGM, Albuquerque, N. Mex.; KGVO, Missoula, Mont.; KHSL, Chico, Calif.; KIT, Yakima, Wash.; KLS, Oakland, Calif.; KMBC and auxiliary, Kansas City, Mo.; KOIL, Omaha, Nebr.; KOIN, Portland, Ore.; KPAC, Port Arthur, Tex.; KQW, San Jose, Calif.; KRGV, Weslaco, Tex.; KRKD, Los Angeles; KROW, Oakland, Calif.; KTFI, Twin Falls, Idaho; KTMS, Santa Barbara, Calif.; KTRH, Houston, Tex.; KTW, Seattle, Wash.; KUOA, Siloam Springs, Ark.; KVOA, Tucson, Ariz.; KVOR, Colorado Springs, Colo.; WAIR, Winston-Salem, N. C.; WAVE, Louisville, Ky.; WCAE and auxiliary, Pittsburgh, Pa.; WCAP, Asbury Park, N. J.; WCOP, Boston, Mass.; WCSH, Portland, Me.; WDAE, Tampa, Fla.; WDAY, Fargo, N. Dak.; WDEL, Wilmington, Del.; WDOD, Chattanooga, Tenn.; WEBC and auxiliary, Duluth, Minn.; WFBM, Indianapolis, Ind.; WFBR, Baltimore, Md.; WFBR, auxiliary; WHA, Madison, Wis.; WHIO, Dayton, Ohio; WIBA, Madison, Wis.; WICA, Ashtabula, Ohio; WISN and auxiliary, Milwaukee, Wis.; WJAS, Pittsburgh, Pa.; WJBO, Baton Rouge, La.; WKST, New Castle, Pa.; WNAD, Norman, Okla.; WNBX, Springfield, Vt.; WNBZ, Saranac Lake, N. Y.; WNEW, New York City; WNOX, Knoxville, Tenn.; WORC, Worcester, Mass.; WRC, Washington, D. C.; WREN, Lawrence, Kans.; WRR, Dallas, Tex.; WRR auxiliary; WTAW, College Station, Tex.; WTCN, Minneapolis; WTNJ, Trenton, N. J.; WTOG, Savannah, Ga.; KFBB, Great Falls, Mont.; KOL, Seattle, Wash.; KWSC, Pullman, Wash.

WJAX—City of Jacksonville, Jacksonville, Fla.—Granted renewal of license for the period ending September 1, 1939.

WLBL—Board of Regents, University of Wisconsin, Stevens Point, Wis.—Granted renewal of license for the period ending September 1, 1939.

WBOE—Cleveland City Board of Education, Cleveland, Ohio.—Granted renewal of non-commercial educational broadcast station, for the period April 1, 1939, to April 1, 1940.

W3XEY—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted renewal of high frequency broadcast (experimental) station license for the period April 1, 1939, to April 1, 1940, upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing, if in its discretion the need for such action arises.

W2XJI—Bamberger Broadcasting Service, Inc., New York City.—Granted renewal of high frequency broadcast (experimental) station license for the period April 1, 1939, to April 1, 1940, upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing, if in its discretion the need for such action arises.

W9XJL—Head of the Lakes Broadcasting Co., Superior, Wis.—Granted renewal of high frequency broadcast (experimental) station license for the period April 1, 1939, to April 1, 1940, upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing, if in its discretion the need for such action arises.

W3XES—Monumental Radio Co., Baltimore, Md.—Granted renewal of high frequency broadcast (experimental) station license for the period April 1, 1939, to April 1, 1940, upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing, if in its discretion the need for such action arises.

W8XH—WBEN, Inc., Buffalo, N. Y.—Granted renewal of high frequency broadcast (experimental) station license for the

period April 1, 1939, to April 1, 1940, upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing, if in its discretion the need for such action arises.

## MISCELLANEOUS

WNAC-WAAB—The Yankee Network, Inc., Boston, Mass.—The Commission reconsidered its action in setting for hearing applications for renewal of licenses, and granted the same.

KPDN—R. C. Hoiles, Pampa, Tex.—Granted special temporary authority to operate unlimited time on March 4 and 10, in order to broadcast special event Junior Chamber of Commerce Barn dances.

WNBF—Howitt-Wood Radio Co., Inc., Binghamton, N. Y.—Granted special temporary authority to rebroadcast the 440-cycle standard pitch as transmitted by National Bureau of Standards for the period March 20 to April 18.

WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 9:30 to 10 p. m., EST, on March 8, in order to broadcast special address on Americanism by Chief Justice D. Lindley Sloan.

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 to 10 a. m., EST, on Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period beginning Tuesday, March 7, and ending no later than April 5, in order to broadcast certain educational programs.

W3XL-W3XAL—National Broadcasting Co., New York City.—Granted special temporary authority to transmit programs consisting of Spanish News to be rebroadcast by Cuban Stations CMX and COCX, for a period not to exceed 30 days.

W9XEA—Paducah Broadcasting Co., Inc., Portable-Mobile.—Granted license to cover C. P. for new experimental relay broadcast station; frequencies 38900, 39100, 39300 and 39500 kc., on an experimental basis conditionally; 2 watts.

W2XSN—Paul F. Godley, Alpine, N. J.—Granted modification of C. P. to extend completion date of construction from March 18 to September 15, 1939.

WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Granted modification of C. P. authorizing extension of completion date from March 7 to July 17, 1939.

WTOG—Savannah Broadcasting Co., Inc., Savannah, Ga.—Granted modification of C. P. authorizing extension of completion date from March 19 to September 19, 1939.

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Granted authority to determine operating power by direct measurement of antenna input in compliance with terms of Rule 137.

WPTF—WPTF Radio Company, Raleigh, N. C.—Granted special temporary authority to operate from 11 p. m. to approximately 11:30 p. m., EST, or to end of broadcast on March 11, 18, 25 and April 1, in order to carry the complete programs of the NBC Symphony Orchestra.

WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 5 to 5:45 p. m., CST, on March 3; from 4 to 5 p. m., and from 7:45 to 9:45 p. m., CST, on March 4; from 4 to 5 p. m., and from 7:45 to 9:45 p. m., CST, on March 11, in order to broadcast Sectional and Regional High School Basketball Tournaments.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with Station WGBF with reduced power of 250 watts, from 7 to 9:30 p. m., CST, March 2, in order to permit WGBF to broadcast Basketball Section Tourney.

WGBF—Evansville on the Air, Evansville, Ind.—To operate simultaneously with Station KFRU as above in order to broadcast Basketball Sectional Tourney.

WATR—The WATR Company, Inc., Waterbury, Conn.—Granted special temporary authority to conduct tests during daytime hours in accordance with the terms of modified C. P., in order to make the necessary field measurements to determine the contours of the desired pattern during daytime hours for a period not to exceed 10 days.

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Granted extension of special temporary authority to operate simultaneously with station WBRB from 4:30 to 6:30 p. m., EST, March 3, 10, 17, 24, 31, in order to broadcast special All Request Club sessions, including the Civic Bulletin Board and Music of Memory features.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9 to 11 a. m., and from 2 to 6 p. m., AST, on Sundays, March 5, 12, 19 and 26, in order to broadcast baseball games; to operate from 9 to 11 a. m., and from 2 to 6 p. m., and from 10 p. m. to 12 p. m., AST, on March 22, 23, 24, 25, 26, in order to broadcast speeches and all details of the Great Industrial and Agricultural Fair, at Mayaguez and on the grounds of the College of Agricultural and Mechanic Arts.

WHBL—Press Publishing Co., Sheboygan, Wis.—Granted license to cover C. P. authorizing installation of new equipment and increase in day power from 250 watts to 1 KW.

KGCA—Charles Walter Greenley, Decorah, Ia.—Granted license to use KWLC's transmitter in order to transmit KGCA's programs through the facilities of KWLC, upon the express condition that the grant shall not be construed as a finding by the Commission upon the application of Mason City Globe Gazette Co., licensee of KGLO for C.P., nor upon the application for renewal of license of KGCA nor upon any of the issues involved therein, nor that the Commission has found that the operation of the station is or will be in the public interest beyond the express terms hereof.

W6XDA—Columbia Broadcasting System, Inc., Los Angeles, Cal.—Granted license to cover C. P. for new high frequency broadcast station; frequencies 31600, 35600, 38600 and 41000 kc., on an experimental basis only, conditionally; 100 watts.

WGNV—Peter Goelet, Newburgh, N. Y.—Granted modification of C. P. to make changes in equipment and extend commencement date to 30 days after grant and completion date to 90 days thereafter.

KDKA—Westinghouse Elec. & Mfg. Co., Pittsburgh, Pa.—Granted C. P. to move transmitter site locally and install new equipment.

WRVA—Larus & Bros. Co., Inc., Richmond, Va.—Granted license to cover C. P. authorizing change in transmitter site, installation of directional antenna for both day and nighttime operation, and increase in power from 5 to 50 KW with installation of new equipment.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted license to cover C. P. authorizing new station to operate on 1250 kc., 250 watts, daytime only.

WFTC—Jonas Weiland, Kinston, N. C.—Granted license to cover C. P. authorizing move of transmitter and studio locations and installation of new vertical radiator.

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Denied special temporary authority to operate unlimited time on 1180 kc., using 1 KW power night, for the period March 1 to March 30, in order to broadcast various civic, fraternal, etc. programs.

KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted special temporary authority to operate simultaneously with station KBST from 7:30 to 8:45 p. m., MST, on March 9, in order to broadcast speech on special Rotary Club Program.

WQDM—Regan & Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from local sunset (March, 6 p. m., EST), to 7 p. m., EST, on March 16, 17 and 18, in order to broadcast the final State Tournament of the High School basketball games to be played at Springfield, Vt., however, in event said games are played in the evening instead of the afternoon, then the time of operation to be from local sunset until 11 p. m., EST.

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from 6:30 to 11 p. m., CST, on March 17 and 18, in order to broadcast the Regional High School Basketball Tournament.

KFUO—Evangelical Lutheran Synod of Missouri, etc., Clayton, Mo.—Granted special temporary authority to operate from 1 to 3 a. m., CST, Saturday, April 15, using 1 KW power, in order to broadcast a DX program.

KLPM—John B. Cooley, Minot, N. Dak.—Granted special temporary authority to operate with power of 1 KW at night (local sunset March, 6:45 p. m., CST) on March 16, 17, 18, in order to serve the large area interested in Annual Class B Basketball Tournament to be held in Minot.

KFJM—University of No. Dak., Grand Forks, N. Dak.—Granted extension of special temporary authority to operate with increased power (from 500 watts to 1 KW, from 9 to 9:30 p. m., CST, on Wednesday and Thursdays, March 29 and 30, and April 5, 6, 12, 13, 19, 20, 26, 27, in order to broadcast educational talks.

## APPLICATIONS FILED AT FCC

### 580 Kilocycles

WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Construction permit to make changes in transmitting equipment and increase power from 1 to 5 KW.

### 610 Kilocycles

KFAR—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Modification of construction permit (B-P-2129) for a new station requesting approval of antenna and approval of transmitter site at 3 miles S.W. of city of Fairbanks, Alaska. Amended: To give transmitter site as 3½ mi. North of Fairbanks, Alaska.

### 660 Kilocycles

WEAF—National Broadcasting Co., Inc., New York, N. Y.—Construction permit to install new antenna and move transmitter from Maple Ave., Bellmore, N. Y., to Port Washington, N. Y.

### 1120 Kilocycles

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Construction permit to install new transmitter, and antenna, change frequency from 1120 to 950 kc., power from 100 watts to 1 KW, change hours of operation from daytime to unlimited, move transmitter from 526 Riverside Ave., Spokane, Wash., to site to be determined, Spokane, Wash.

### 1200 Kilocycles

WMOB—S. B. Quigley, Mobile, Ala.—Modification of C. P. (B3-P-1983) for a new station requesting approval of antenna and approval of studio and transmitter site at 600 St. Louis St., Mobile, Ala.

### 1210 Kilocycles

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—License to cover construction permit for new broadcast station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time.

WGRM—P. K. Ewing, Grenada, Miss.—Construction permit to move transmitter from Grenada Fair Grounds, Grenada, Miss. to 1½ miles N. W. of Greenwood, Miss., and move studio from Masonic Bldg., Grenada, Miss. to Leflore Hotel, Greenwood, Miss.

### 1330 Kilocycles

WTAQ—WHBY, Inc., Green Bay, Wisc.—License to cover construction permit (B4-P-1414) as modified for a new transmitter, increase in power and make changes in directional antenna.

### 1340 Kilocycles

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—Construction permit to install new transmitter and increase power from 500 watts night, 1 KW day power to 1 KW night, 2½ KW day. Amended: Transmitter to be determined, Pensacola, Florida.

### 1370 Kilocycles

WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Modification of construction permit (B2-P-1289) for a new station requesting authority to install new transmitter, approval of vertical antenna, and approval of transmitter and studio site at 2nd Ave. & Court St., Williamson, W. Va.

### 1390 Kilocycles

WHK—The Radio Air Service Corp., Cleveland, Ohio.—Extension of special experimental authority to operate a facsimile station from 1 a. m. to 6 a. m., using 1 KW power.

### 1500 Kilocycles

KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—License to cover C. P. (B5-P-2231) for a new transmitter.

## MISCELLANEOUS

W9XZV—Zenith Radio Corp., Chicago, Ill.—License to cover construction permit for new television station.

W6XBE—General Electric Co., San Francisco, Calif.—License to cover construction permit for new international broadcast (experimental) station.

King-Trendle Broadcasting Corp., Detroit, Mich.—Extension of authority to transmit programs from Station WXYZ to stations of the Canadian Broadcasting Corp.

NEW—WHB Broadcasting Co., Kansas City, Mo.—Construction permit for a new high frequency relay broadcast (experimental) station on 26100 kc., 100 watts power. To be located in Kansas City, Mo.

W9XZV—Zenith Radio Corp., Chicago, Ill.—Modification of construction permit (B4-PVB-3) for changes in equipment.

W2XDA—General Electric Co., Schenectady, N. Y.—License to cover construction permit (B1-PHB-63) for a new relay broadcast (experimental) station.

W3XAD—RCA Manufacturing Co., Inc., Camden, N. J.—Modification of license to change frequencies to 327000-333000 kc. Amended: To read 321000-327000 kc., in lieu of licensed frequencies.

KDEA—The KANS Broadcasting Co., Wichita, Kans.—License to cover construction permit (B4-PRV-149) for a new low frequency relay station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**F & F Laboratories, Inc.**—See Zo-Ak Company, Inc.

**Hyral Distributing Company**—See Zo-Ak Company, Inc.

**National Sure-Fit Quilting Company, Inc.**—Misrepresentation in the sale of bed quilts and comforters is alleged in a complaint issued against National Sure-Fit Quilting Company, Inc., 40-20 22nd St., Long Island City, N. Y.

Through use of the trade name "Villadown" and of assertions made to jobber and retail dealer customers, the respondent is alleged to have represented that the filler of its comforters was composed substantially of down, when in fact, according to the complaint, it was made by a process of combining two layers of cotton with one layer of down, the proportions being approximately 95 per cent cotton and 5 per cent down. This quantity of down is insufficient to impart qualities not possessed by all-cotton filler, according to the complaint.

The complaint points out that in the bedding trade and the feather and down industry, the word "down" is generally understood to mean the undercoating of the waterfowl consisting of light and fluffy filaments grown from one quill point, but without any quill shaft. A down or down-filled article is understood to contain not less than 90 per cent pure down, and to consist of fluffy and soft portions of the coats of birds other than feathers, according to the complaint. (3728)

**Zo-Ak Company, Inc.**—Three medicinal products companies have been served with complaints alleging dissemination of false advertisements. The respondents are Zo-Ak Company, Inc., 56 West 45th St., New York; Wallace G. Clark, Norman A. Dodge and Hyral Distributing Company, 3902 McKinney Ave., Dallas, Tex.; and F & F Laboratories, Inc., 3501 West 48th Place, Chicago. Zo-Ak Company, Inc., in the sale of Zo-Ak Tablets (blue label), or Zo-Ak for Men, and Zo-Ak Tablets (orange label), or Zo-Ak for Women, allegedly advertised the blue label tablets as com-

petent treatments for reduced virile powers and as capable of building up health and strength, and the orange label tablets as a remedy or relief for certain nervous symptoms, when, according to the complaint, such representations were misleading and untrue.

The complaint charges that the respondent failed to reveal in advertisements that use of its blue label preparation under prescribed or customary conditions may cause injury to health in some cases.

Clark and Dodge, who formerly traded under the name Hyral Distributing Company, with headquarters in Fort Worth, Tex., and are now officers of the corporation of that name, are alleged to have advertised their product Hyral as a new and important discovery in the dental hygiene field, when in fact, according to the complaint, its ingredients have long been known to the medical and dental professions. They are alleged to have represented that the product will positively remove film and whiten the teeth, prevent pyorrhea and trench mouth, liberate oxygen in the mouth, and make the gums firm and healthy, when, it is alleged, such representations are misleading. Hyral Distributing Company is charged with misleadingly representing that Hyral promotes oral hygiene, is the one sure way to obtain white and sparkling teeth; that it assures the user unobjectionable breath, and will prevent loss of teeth.

F & F Laboratories, Inc., allegedly represented that F & F Cough Lozenges, which are to be dissolved in the mouth, and F & F Cough Syrup, which is to be taken orally, will ward off, prevent and check coughs, colds and sore and irritated throat, and that each is a competent and effective treatment for these ailments, when, according to the complaint, neither, used alone or in connection with the other, is competent to treat or cure coughs, colds or sore or irritated throat. Use of the preparations in treating these ailments will not do more than afford slight temporary symptomatic relief, in some instances, according to the complaint. (3724-3726-3727)

### STIPULATIONS

The Commission has entered into the following stipulations:

**American Leader Products Company**—Louis J. Thomas, trading as American Leader Products Company, Chicago, Ill., under his stipulation, agrees to cease advertising that the American Leader Pocket Radio is new and sensational, implying that it embodies new construction or operation principles or is essentially different from other sets of its type, and to discontinue representing that any of the respondent's radios can be used in automobiles, beds, offices, camps or anywhere, or that they work immediately or can be used at once, unless, where antenna or ground or other connections are necessary, that fact is also conspicuously stated in direct connection with the advertisement. Thomas further agrees to discontinue advertising or marking his products such as wrist watches with fictitious prices exceeding the usual or customary prices. (02324)

**John B. Daniel, Inc.**, trading as Regens Laboratory, 76 Central Ave., S. W., Atlanta, agrees to cease advertising that Regens, a nerve preparation, will afford relief from and control nervousness and will enable the user to enjoy natural rest or sleep, and that it is the most effective preparation of its type. The respondent admitted that its claims were not justified by the facts. (02326)

**Kelly Precision Tool & Die Works**—Ferris Q. Sumner, trading as Kelly Precision Tool & Die Works, and as Kelly Tool & Die Works, Dodge City, Kans., agrees to discontinue selling old, worn, used or second-hand files which have been reconditioned by any process without clearly disclosing and indicating the fact that they are reconditioned and are not new. (2402)

**Odman Corporation**, Chicago, Ill., engaged in selling and distributing corrugated boxes or shipping containers, agrees to discontinue marking or stamping its products with its corporate or trade name together with the words "Certificate of Box Maker" or the word "Maker" or any other word or words of similar meaning so as to imply that it manufactures the products it sells or actually owns and operates or directly controls the plant or factory in which the boxes and containers are made, when such is not a fact. (2404)

**Stanley E. Patterson**, trading as Patterson Custom Hatchery and Breeding Farms, Lindsey, Ohio, engaged in the business of "custom hatching" eggs and of selling eggs for hatching purposes, will desist from use of the word "Breeding" in his trade name, either alone or in connection with the word "Farms" or with any other word or words so as to imply that he actually owns and operates or controls a place or farm where he breeds and raises poultry, when such is not a fact. The respondent fills orders with eggs or chicks obtained from others engaged in breeding and raising poultry. (2405)

**Jay Rose & Company**—J. A. Rosenthal, trading as Jay Rose & Co., 330 South Wells St., Chicago, engaged in selling men's clothing, has entered into a stipulation to refrain from making certain misleading representations.

The respondent agrees to cease designating or describing the fabrics not composed wholly of wool and which are used in the manufacture of clothing sold by him as "wool", "all wool" or "woolen", and to discontinue representing by means of these terms certain fabrics made partly of wool and partly of cotton, rayon, silk, linen or any other fiber, unless they are described as "wool and cotton", "wool and rayon", "wool and silk", etc., in the order of the predominating fiber content.

He will also discontinue representing as "silk celanese", garment linings which are composed entirely of celanese, a rayon fabric, and contain no silk, and will refrain from use of the word "Belgium" to describe or designate the kind of canvas used in his garments, unless such canvas has been imported from Belgium. (02327)

**S & S Hair Tonic Company**, Lexington, Ky., agrees to cease representing that use of its preparation will change hair color other than by dyeing or covering the hair shaft; that it feeds the hair roots or is of value in promoting healthy hair and scalp or in treating dandruff, or is a hair tonic. (02328)

**Wallerstein Company, Inc.**, New York City, agrees to discontinue representing that its product Bosco, a syrup to be used as a milk supplement and as a flavor, is a chocolate syrup or chocolate milk amplifier; that it is a body builder, an appetite stimulant, will give one strength, energy or red blood, or enable one to resist colds or other ills or build up vitality or weight; that all persons need the iron or copper content of Bosco, and that the product has been approved by the American Medical Association. (02329)

**Wolf Hatching & Breeding Company**—A stipulation has been entered into with Ida B., Dan A., Gilbert C. and Gerald Wolf, trading as the Wolf Hatching & Breeding Company, 120 West Stevenson St., Gibsonburg, Ohio, engaged in the purchase of eggs from poultry raisers or breeders and in the sale of baby chicks.

The respondents agree to desist from the use of the word "Breeding" as part of the trade name under which they advertise, or of the word "Company" or "Farms" in connection therewith, implying that they own, operate or control a place or farm where they breed and raise poultry, when such is not a fact. They will also discontinue representing that all chicks offered for sale by them have been registered or inspected by the American Poultry Association, or bred and hatched under supervision of a licensed A.P.A. inspector. (2403)

**Wonder Manufacturing Company**, 620 North Michigan Ave., Chicago, selling a hand cultivator and gardening tool designated Wonder 10-in-1 Cultivator, will cease representing that its product does more work easier, faster or better than ten or any similar number of ordinary tools; that its product takes the drudgery out of gardening or cultivating; that it is the most amazing, most scientifically designed and most modern or practical of all garden implements; that it will guarantee profits to salesmen; that the company offers free samples to salesmen, and that the product is used by the United States Government and other organizations, unless such is a fact at the time the statement is published. (02325)

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Ace Business Builders**—Orders prohibiting lottery schemes in the sale of products to ultimate consumers were issued against a Chicago dealer in sales promotion plans and Nashville and Chicago vendors of novelty merchandise.

The respondents are Edward and Dorothy Harris, trading as Ace Business Builders, Chicago; H. G. Payne, trading as H. G. Payne Company, Nashville, Tenn., and John Milton Bregstone, trading as J. M. Bregstone & Co., Chicago.

Ace Business Builders, according to findings, distributes to retail merchants for their use in building up trade, sales promotion cards which are punched to indicate successive purchases made by a retailer's customers. When the amounts on a card are all cancelled a perforated seal or "Treasure Chest" thereon is opened and the purchaser receives in trade and wholly by chance, the amount indicated thereunder which may range in some instances from 20 cents to \$5 and in others from 40 cents to \$10.

Under the order, Ace Business Builders is directed to cease selling and distributing its sales promotion cards or any other merchandise so designed that their use by retailers constitutes a lottery.

H. G. Payne Company and J. M. Bregstone & Co., selling novelty merchandise such as knives, watches, razors, and cocktail sets, were ordered to discontinue supplying others with push or pull cards, punchboards or other lottery devices for their use in selling merchandise. (3171, 3175 and 3326)

**Ambrosia Candy Company**—See Mutual Printing Company.

**J. M. Bregstone & Company**—See Ace Business Builders.

**Instruction Service, Inc.**—False and misleading advertisements indicating that thousands of Government jobs are open to applicants for civil service examinations was the subject of an order to cease and desist against Instruction Service, Inc., and Charles J. Ozment, individually and trading as Instruction Service and Perfect Penmanship Institute, St. Louis.

The respondents are ordered to cease and desist from representing that men and women are constantly needed for Government positions, and that such positions are immediately available; that any person having only a common school education may obtain a well-paying Government position; that railway mail clerks are allowed to travel and receive allowances for expenses immediately upon appointment, and are paid while off duty; that appointments to civil service positions are made within a few days after the taking of an examination, or soon thereafter, and that the applicant's grade alone, without any other consideration, determines the time of appointment; that the respondent Ozment has any connection with the United States Civil Service Commission, or has been within recent years employed by the United States Government in any capacity. (3628)

**Instruction Service & Perfect Penmanship Institute**—See Instruction Service, Inc.

**Johnson-Smith & Company**—Two dealers in medicinal products have been ordered to discontinue false advertising practices. The respondents are Alfred Johnson Smith and Paul and Arthur Smith, trading as Johnson-Smith & Co., 6615 East Jefferson Ave., Detroit, and Swamp and Dixie Laboratories, Inc., 301-311 Rogers Ave., Fort Smith, Ark.

The order against Johnson-Smith & Co. prohibits dissemination of false advertisements concerning Professor Wingren's Voltaic Electric Insoles and the Home Medical Battery. The insoles are not to be represented as capable of relieving aching feet, rheumatism or hip pains, nor the electric battery as constituting competent treatment for scrofula, ulcers, cancers or other malignant growths or for ailments such as granulated eyelids, neuralgia, kidney and liver troubles. The respondent also is directed to cease asserting that its so-called distemper cures and corn remover are effective for their purposes.

Swamp and Dixie Laboratories, Inc., under its order, is directed to cease disseminating false advertisements concerning Swamp Chill and Fever Tonic and Dixie Fever and Pain Powder. The tonic is not to be represented as a safe, certain and permanent cure for malaria or every kind of fever and ague, nor as being a general tonic or effective treatment for colds, chills, poor appetite and rundown condition. The powder is not to be represented as a safe remedy or treatment for sleeplessness, neuralgia, rheumatism, influenza and all kinds of fevers. (3647 and 3680)

**Mutual Printing Company**—Two Chicago houses have been ordered to discontinue lottery methods in connection with the sale of products to ultimate consumers.

The respondents are: Mutual Printing Co., trading also as Mutual Sales Promotion Service, and Ambrosia Candy Company and Samuel R. Block, its secretary-treasurer.

Mutual Printing Company, according to findings, distributes to retail merchants for their use in building up trade, sales promotion cards which are punched to indicate successive purchases made by a retailer's customers. When the amounts on a card are all cancelled a perforated "secret panel" thereon is opened and the purchaser receives in trade, wholly by chance, the amount indicated thereunder which may range in some instances from 20 cents to \$5 and in others from 40 cents to \$10.

Ambrosia Candy Company was ordered to discontinue supplying others with lottery devices, accompanying candy assortments or separately, for their use in selling candy or other merchandise. (3166 and 3315)

**Mutual Sales Promotion Service**—See Mutual Printing Company.

**National Publicity Bureau**—Prohibiting misleading representations in the sale of trade cards redeemable in Wm. A. Rogers silver-plated ware, an order to cease and desist has been issued against Hugh J. Wanke, trading as National Publicity Bureau, and Rogers Silverware Distributors, 4 East Redwood St., Baltimore.

The respondent is directed to discontinue representing, through use of the words "Rogers Silverware" in a trade or corporate name or in any manner that he has an interest in or a connection with the manufacturer of Wm. A. Rogers silverware; provided, however, that the order is not to be construed as prohibiting him from dealing in that silverware.

The order also directs the respondent to cease representing that certificates or gift cards can be redeemed in silverware or other merchandise unless all terms and conditions are clearly stated in equal conspicuousness in connection with the offer and there is no deception as to the services or other actions to be performed or the prices to be paid. (2903)

**H. G. Payne Company**—See Ace Business Builders.

**William H. Pearce & Co.**, Philadelphia, has been ordered to cease representing that tops to replace open grates on gas ranges, distributed by them are properly ventilated, unless they are so constructed as to insure proper combustion when used with one or more burners and to not emit carbon monoxide gas.

The respondents will also discontinue the representation that use of tops for gas ranges distributed by them will materially reduce gas bills or gas consumption and increase cooking capacity, until such tops are so constructed as to accomplish these results. (3071)

**Rogers Silverware Distributors**—See National Publicity Bureau.

**Shalwin Hosiery Mills**—An order has been issued against Charles W. Cromer, trading as Shalwin Hosiery Mills, Hagerstown, Md., prohibiting misleading representations in the sale of hosiery.

Under the order, the respondent is to cease representing that hosiery manufactured or sold by him contains "silk" or "pure thread silk" in greater quantity or degree than is actually a fact. The respondent also is to discontinue employing the words "silk" or "pure thread silk" to designate hosiery not made entirely of silk, except that in the case of hosiery composed in substantial part of pure silk, such silk content may be described as "silk" or "pure thread silk" if each constituent fiber is conspicuously named in the order of its predominance by weight, beginning with the largest single constituent.

The Commission specifies that the order shall not be construed as permitting the use of the unqualified word "silk" to refer to weighted silk.

The order further prohibits advertising or selling hosiery made in whole or in part of rayon without clear disclosure of the fiber content. When such hosiery is composed in part of rayon and partly of other fibers or materials, all the constituent elements shall be named in the order of their predominance by weight, beginning with the largest single constituent, according to the order. (2794)

**Swamp & Dixie Laboratories, Inc.**—See Johnson-Smith & Company.