



Miller Asks Hearing on "Censorship" Rules

Threatened government censorship of radio programs drew fire this week from Neville Miller.

The FCC on May 23 promulgated new Rules and Regulations for the operation of international broadcast stations which included a requirement that these stations "shall render only an international broadcast service which will reflect the culture of this country and which will promote international goodwill, understanding and cooperation".

"If the Commission has the authority to promulgate this character of regulation in the international field, it must have equal authority with respect to domestic broadcasting, as the same provisions of law govern both classifications", Mr. Miller pointed out in a letter to the FCC Chairman Frank R. McNinch, asking for a hearing before the rules became effective.

"If licensees of international broadcast stations can be required to restrict their programs to any regulatory authority's concept of American culture, it would seem clear that the licensees of domestic broadcasting stations could be required to limit their programs to some 'official' definition of culture, education and entertainment.

"That this would constitute a violent transgression of the basic principles of American democracy is self-evident.

"We further submit that the proposed regulations would establish the precedent for such transgression and surely no such dangerous prerogative is contemplated by the Communications Act of 1934 and is in direct conflict with Section 326 of the Act which expressly prohibits any type or character of censorship or any condition or regulation 'which shall interfere with the right of free speech by means of radio communication'."

The press joined the NAB in condemning the new rules. Editorially, the New York Herald-Tribune said the rules should be reviewed and rescinded—"unless, that is, the Administration has decided that in violation of the express provisions of the Act of Congress establishing the powers of the FCC this body is to become a board of censorship". Immediate reaction came, too, from Congress where Representative McLeod (R-Mich.) said that the Commission's action "completely destroys" the broadcasting industry's freedom and "makes it the slave of a bureaucratic government". Representative Hinshaw (R-Calif.) had Mr. Miller's letter printed in the Congressional Record June 7.

Meantime President Roosevelt notified Mr. McNinch that he was expected to continue his service with the FCC. Mr. Roosevelt sent this word to Mr. McNinch in reply to the



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

Andrew Bennett, Counsel; Edward M. Kirby, Director of Public Relations; Joseph L. Miller, Director of Labor Relations; Paul F. Peter, Director of Research

MILLER ASKS HEARING ON "CENSORSHIP" RULES

(Continued from page 3525)

Chairman's letter expressing hope that he would not be reappointed to the Federal Power Commission.

The tentative draft of the Program Standards Code, to be revised again if necessary before it is presented to the NAB convention July 10-13 in Atlantic City, will be mailed to all members this week for their study and criticism.

Censorship

MR. MILLER'S LETTER

June 3, 1939.

The Honorable Frank R. McNinch, Chairman
Federal Communications Commission
Washington, D. C.

Dear Mr. McNinch:

On May 23, 1939, the Commission promulgated new rules and regulations for the operation of international broadcast stations. These rules included new and unprecedented restrictions and requirements as to program content and were issued without prior public hearing. Of the nine licensees operating fourteen international broadcast stations, the majority are members of the National Association of Broadcasters. This organization has a committee for the study and coordination of international broadcasting and is now accumulating more comprehensive information in this field than has been available. Meanwhile, however, these new rules and regulations precipitate certain fundamental questions which are a matter of vital concern to broadcasting generally and to the entire American public. It is to these more fundamental matters that we address ourselves.

Paragraph (a) of Section 42.03 of the new regulations provides that "A licensee of an international broadcast station shall render only an international broadcast service which will reflect the culture of this country and which will promote international goodwill, understanding and cooperation." It is submitted that the question as to whether a specific program reflects the culture of this country or promotes, at any given moment, international goodwill, understanding and cooperation, is a matter upon which there may be sharp differences of opinion. A literal interpretation of this regulation would, for example, require a licensee to suppress spokesmen for minority groups if either the licensee or the Commission thought their views would not promote "international goodwill, understanding and cooperation." Freedom of speech as an integral part of the culture of this country not only is a cherished tradition, but a living reality. Any requirement that international broadcast stations suppress a speaker because his remarks might not promote "international goodwill, understanding and cooperation" would, therefore, seem to be in conflict with the requirement that the service rendered by an international broadcast station "reflect the culture of this country."

We are advised by several licensees of international broadcast stations that foreign listeners rely upon stations in the United States as a source for unbiased and uncensored news of the world. This reliance is based upon the fact that these listeners know that in the United States there is no governmental supervision or control over the matter to be broadcast. In many other countries, broadcasting is an instrument of the government and listeners to their stations are aware of the fact that their programs, including news reports and information on current events, are colored to fit the philosophy and views of the government. The consequent distortion of news into self serving propaganda has evoked a growing resentment toward the countries from which it emanates, and such resentment has reacted to enhance foreign respect for the present impartial dissemination of programs from the United States. We, therefore, feel that the confidence that has been developed in the independent operations of American short-wave stations will be destroyed when it becomes known that an agency of the government of the United States has laid down requirements to control the program content of these stations.

Moreover, it is respectfully submitted that the existence of this regulation (42.03-a) needlessly places this government in a position which we believe to be contrary to our traditional policy in the field of foreign relations. There are abundant examples of instances in which some citizen of the United States has made certain utterances by radio or through the press which have aroused the antagonism of the representatives of foreign powers. It has been the customary reply of our State Department to the protests by offended powers that this country is one in which freedom of speech is an actuality and the government has no power to abridge this fundamental right. The regulation which we are discussing definitely implies official responsibility for all matter broadcast over international stations. This we believe is unsound policy and incompatible with the operation of broadcast stations by private enterprise in a democracy. It would seem equally appropriate to require government supervision and censorship of all matter contained in American newspapers circulated abroad which use the facilities of the American Merchant Marine or the second class mail for delivery. This analogy, we believe, clearly demonstrates the errors and the immediate dangers of the policy which this new regulation embodies.

We likewise desire to invite your attention to paragraph (b) of Section 42.03 which places further restrictions upon program content to the extent that it limits and prescribes the type of commercial advertisement which can be made, the type of commodity which can be advertised and then excludes all commercial or sponsored programs that "are not consistent with the purpose or intent of this section." Such regulations are neither desirable nor necessary nor susceptible to sufficient clarity of interpretation or agreement as to meaning to permit them to be practically applied. If international broadcasting is to be continued as an instrument of private enterprise, we feel that the regulatory authority should confine its functions to questions of technical efficiency, allocation and general performance in the public interest.

It seems appropriate to emphasize that the record of licensees in the international broadcast field has been one of greatly increasing service to foreign listeners. During the past two years, there has been a marked development of facilities and personnel by the various private licensees. Their programs are being exclusively designed for international audiences. The responses that have been received indicate that foreign listeners appreciate the fact that these programs, reflecting as they do, a living pattern of our democracy, have not undertaken to propagandize any political ideology. This should be continued, because the most effective way to develop and foster international goodwill by the United States is to avoid copying the tactics of totalitarian governments who supervise and direct all broadcasting.

Finally, we have been unable to find a legal basis for the regulations which we have discussed. It need only be pointed out that the authority for all powers exercised by the Commission must be found in the Act itself and that such authority must be expressly conferred or follow by necessary implication from powers expressly conferred. In this case, we can find neither. While the Communications Act of 1934 clothes the Commission with extremely broad powers on matters of allocation and the technical and physical operations of broadcast stations, we can find nothing in the Act or in the several decisions of the court which have been based upon this Act to support this character of regulation. We have been unable to find any provision of the Act or decision of the court which would authorize the Commission to pass upon the content of programs broadcast either directly by prior examination of the program material or indirectly by imposing requirements which will have the same effect.

The Federal Communications Act of 1934 is silent on the subject of program content. Not only does this absence of language support our conclusions that the Commission is without authority to regulate program content as such, whether in the international or domestic broadcasting field, but it should be particularly noted that the statutes expressly prohibit censorship in any form. We desire to emphasize the language in Section 326, which states:

"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."

If the Commission has the authority to promulgate this character of regulation in the international field, it must have equal authority with respect to domestic broadcasting, as the same provisions of the law govern both classifications. If licensees of international broadcast stations can be required to restrict their programs to any regulatory authority's concept of American culture, it would seem clear that the licensees of domestic broadcasting stations could be required to limit their programs to some "official" definition of culture, education and entertainment. That this would constitute a violent transgression of the basic principles of American democracy is self-evident. We further submit that the proposed regulations would establish the precedent for such transgression and surely no such dangerous prerogative is contemplated by the Communications Act of 1934 and is in direct conflict with Section 326 of the Act which expressly prohibits any type or character of censorship or any condition or regulation "which shall interfere with the right of free speech by means of radio communication."

In view of the importance of the subject itself and in further view of the necessary implications to which the adoption of such regulations give rise, we request that the Commission follow the same course selected by it in the adoption and promulgation of rules and regulations governing the domestic operation of broadcast stations and that it conduct hearings on these regulations. We further request that the Commission reconsider its action of May 23, 1939, and postpone final action until such time as an opportunity may be given for the conduct of a hearing upon the questions above referred to and others which are necessarily involved in the consideration of this subject.

Very respectfully yours,
NEVILLE MILLER.

REPRESENTATIVE McLEOD'S SPEECH

Mr. Chairman, a few days ago the Federal Communications Commission issued regulations governing the broadcasting of international programs by radio stations in the United States which should alarm Congress, the press, and every person in this country.

These regulations order radio stations to broadcast only international progress of good will. In effect it gives to the Commission the power to tell radio stations what they shall or shall not say over the radio. The Commission uses the term "good will," which signifies that something has to be defined or determined; in other words, censorship of the radio and censorship of speech.

It has long been apparent that the Commission has sought greater control of the air waves, but such a brazen attempt to say what shall or shall not be broadcast—in effect censorship of radio programs—most certainly was not anticipated.

When the F. C. C. attempts to tell the broadcaster what programs he shall broadcast internationally, it knows that if it can get by with this dictation there is just one short step remaining to the control of standard broadcasts or domestic programs, and when that hurdle is cleared radio is under the domination of bureaucracy and ceases to be free.

Mr. Chairman, a little more than two decades ago this Nation had sufficient belief in democratic principles to engage in a horrible and destructive war to protect and preserve what we believed to be the inalienable rights granted by God to man. Our struggles and battles during the past 150 years present additional proof of our determination to combat any attempt to destroy or change the rights extended to our people by the Constitution and the Bill of Rights.

Fortunately it is not always necessary that we conduct a war to prevent encroachments upon these natural rights. Most of these attempts to verge away from our democratic principles are adjudicated by the Supreme Court. Our forebears in creating this

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Court realized, as we must realize, that there are bound to be differences of opinion with respect to the various phases of our Constitution. There has been little or no uncertainty, however, regarding certain of the rights granted to us by the Constitution. Among these are religious liberty, freedom of speech and of the press, and others.

These are the natural rights and require limited explanation. We have come to take them as a matter of course. Only when they are in danger of being destroyed do we arise to defend and protect them. Needless to say, there are a few limitations on each of them. Bigamy, for instance, is prohibited, irrespective of religious belief, and freedom of speech and the press does not signify a right to libel, slander, or indecency.

When the Federal Communications Commission was created by this body it was not intended that censorship was to be part of the Commission's functions. The primary duties of the Commission are to prevent confusion in the air by allocation of wave lengths and to guard against libel or indecency. But here we have a creation of Congress, suddenly turned a Frankenstein, ignoring the will of Congress, and determining just what American radio stations shall or shall not say during international broadcasts. To carry out their purposes, violation of this fascistic principle will warrant revocation of a radio station's license and thereby force it out of business.

Gentlemen, I cannot say to you too strongly that without freedom of opinions, thoughts, and ideas this Nation has no right to entertain any hope for the survival of Democratic principles. This regulation is but a small cancer now, but unless it is cut out at the start it will spread like any unattended malignant growth, until finally free speech will be throttled, the press will be a mouthpiece for the few, and radios will blare forth only the ideas of the F. C. C.

Gentlemen, no matter how you view this regulation, you can reach no other conclusion than that this is the most flagrant attempt yet made to stifle and kill the right of free speech. In all the history of our Nation no more audacious or tyrannical step has been taken to destroy a vested right. If not corrected immediately, this regulation can mean the beginning of a Fascist censorship of the press as well as of the radio.

The Supreme Court, speaking through Chief Justice Hughes, has made it clear in a unanimous decision that the scope of Federal regulation over radio relates only to the allocation of facilities. Congress, moreover, in section 326 of the 1934 Federal Communications Act, has specifically prohibited such censorship by the Commission in the following language:

Nothing in this act shall be understood or construed to give the Commission the power of censorship of 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. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication.

The danger of the unadulterated censorship as imposed by the Commission only last week must be apparent to all of you. It is a real threat against the newspaper and the freedom of the individual. It is something abhorrent to every American to whom freedom of speech is a precious heritage.

This action of the Radio Commission is undemocratic control of radio, and we have only to look at some of the countries of the Old World where broadcasting has been converted into the most powerful weapon of dictatorship to fully appreciate the significance of such control.

Heretofore, radio has taken its place with freedom of religion, speech, and the press, but this action completely destroys that freedom and makes it the slave of a bureaucratic government.

Mr. Chairman, the amazing predicament in which we find ourselves today calls for immediate remedial action. The President of the United States, in view of this serious situation, should forthwith demand the resignation of the entire Commission.

THE HERALD-TRIBUNE EDITORIAL

It was a foregone conclusion that the National Association of Broadcasters would protest the latest ruling of the Federal Communications Commission which restricts the broadcasting of international programs to material that "reflects the culture of the country and will promote international good will, understanding and co-operation." This, as others had already pointed out, is a form of censorship, and as such is to be resisted and rejected. As the National Association of Broadcasters is interested not only to see all efforts to impose censorship nipped in the bud, but also to see the standards of broadcasting maintained at their highest, it has naturally taken up the fight against the FCC ruling.

As a matter of fact this ruling deserves the widest possible attention on the part of every one interested in freedom of speech. Whether or not the FCC intended that the ruling should serve as an entering wedge for censorship is not the question. No matter how well intentioned the Commission's motives, the fact remains that the ruling can be interpreted so broadly that it implies drastic powers of interference in and control of broadcasting programs by the government, and that, coupled with the existing provision whereby the licenses of broadcasting stations are renewable every six months at the pleasure of the Commission, what is in effect a form of censorship is thus established.

The experience in Europe has shown very plainly that control of the air is the first objective of those who wish to see freedom of speech curtailed. The next is control of the press. These things are inseparable, and they are in defiance of the guaranties in the Constitution. For this reason the FCC ruling concerns not only the radio broadcasters but also the country at large. It should be reviewed and rescinded—unless, that is, the Administration has decided that in violation of the express provision of the act of Congress establishing the powers of the FCC this body is to become a board of censors. If this is what is intended the country has a right to know—and to act accordingly.

COPYRIGHT COMMITTEE

The Copyright Committee was in session in New York for two days (June 5-6) and gave very serious consideration to all angles of the copyright problem. Although no definite announcement can be made at this time, there were several significant developments all of which augur well.

All the various elements of the industry were represented by members who were well versed in the problems facing each particular class of station and all problems were carefully analyzed. Definite detailed information collected in various surveys, from FCC records and from questionnaires and letters from stations were presented to the committee for study.

It is the intention of the committee to know the possible effect of all plans and to select a plan which will be fair to all and which will work when adopted.

The most significant thing is that all elements of the industry are united and determined to approach copyright on an industry-wide basis, and to obtain a solution which will be both acceptable and fair to all elements. It was definitely agreed that all elements were represented

on the committee and that the committee would be the sole negotiating agency for the industry, and that no negotiations would be carried on with ASCAP except through the committee.

The negotiating committee consisting of Messrs. Klauber, Lohr, Rosenbaum, Elmer and Miller met June 7 for further discussion. This committee has made an appointment with ASCAP officials for Thursday, June 15, for further discussion.

It is the object of the committee to push the negotiations as rapidly as possible so the industry may know what the final proposal of ASCAP is in the near future and long before the expiration of the present contracts.

At the meeting were:

Edwin W. Craig, WSM, Nashville, Tenn.; Walter J. Damm, WTMJ, Milwaukee, Wis.; John Elmer, WCBM, Baltimore, Md.; Gregory Gentling, KROC, Rochester, Minn.; Edward Klauber and Joseph Ream, CBS, New York City; Lenox Lohr and Mark Woods, NBC, New York City; I. R. Lounsberry, WGR, Buffalo, N. Y.; Ed Cranny, KGIR, Butte, Mont.; Sam Rosenbaum, WFIL, Philadelphia, Pa.; Clair McCollough, WGAL, Lancaster, Pa.; John Shepard, 3rd, Yankee Network, Boston, Mass.; Theodore C. Streibert, MBS, New York City; and Harold Wheelahan, WSMB, New Orleans, La.

Headquarters was represented by Neville Miller, President; Paul Peter, Research; Andrew Bennett, Legal Department; and Edwin M. Spence, Secretary-Treasurer.

TENTATIVE, PROPOSED CODE RELEASED TO MEMBERS TOMORROW

The proposed and tentative Code and new Standards of Practice which have been in the process of development since last December will be mailed tomorrow to all members.

Members are asked to examine and study it carefully and thoroughly during the intervening thirty days between now and the opening of the Annual Convention when the adoption of a code in final form will be the first order of business.

President Miller has asked every member to make comment, criticism and to advance suggested revisions between now and the time of the next meeting of the Code Committee, which will hold its final session two days prior to the convention to consider changes and recommendations made by NAB members.

The Committee has earnestly endeavored to bring forth a Code under which all might live, which protects the interests of both the listening public and the industry. It is a Code *voluntarily* imposed by member stations who will pledge *mutually* to comply with its provisions to the ultimate advance of the radio art itself in the service and acceptance of the American people. It is regarded as one of the most forward-looking steps undertaken in democratic, industrial self-regulation.

Committee members present at the New York meeting:

Edgar L. Bill, WMBD, Peoria, Ill.; E. B. Craney, KGIR, Butte, Mont.; Walter J. Damm, WTMJ, Milwaukee, Wis.; Earl J. Glade, KSL, Salt Lake City, Utah; Gilson Gray, CBS, New York City; William S. Hedges, NBC, New York City; Herbert Hollister,

KANS, Wichita, Kans.; Paul W. Morency, WTIC, Hartford, Conn.; Theodore C. Streibert, MBS, New York, N. Y.; Mark Woods, NBC, New York City; and Karl O. Wyler, KTSM, El Paso, Tex. Messrs. Neville Miller, Edward M. Kirby, and Edwin M. Spence, of Headquarters Office were also in attendance.

McNINCH TO STAY AT FCC

The following letters between Chairman Frank R. McNinch of the FCC and President Roosevelt were exchanged this week:

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

June 7, 1939

My dear Mr. President,

You will recall that some time ago we discussed your reappointment of me to the Federal Power Commission, from which I had resigned to take up the work as Chairman of the Federal Communications Commission, at such time as my work at the latter Commission had been completed. I then expressed doubt as to whether or not I would feel like undertaking the responsibility of another five year term on the Federal Power Commission. You were gracious enough to leave this matter for my further consideration.

Now that the term of office on the Federal Power Commission expires June 22, 1939, I deem it my duty to call this fact to your attention and to advise you that, after most careful consideration, I must regretfully tell you that I hope you will not further consider me in that connection.

With assurances of my appreciation for your generous consideration and of my continuing high regard of and loyalty to you, I am

Faithfully yours,

FRANK R. McNINCH, *Chairman*,
Federal Communications Commission.

To the President
The White House.

THE WHITE HOUSE

WASHINGTON

June 8, 1939

Dear Frank:

Please accept my thanks for your thoughtful note of June seventh, reminding me that the term for which you were appointed as a member of the Federal Power Commission expires on June twenty-second and that you do not feel like returning to the responsibilities which a reappointment would entail.

I received word of your decision with less misgiving because it means that you can continue your service as Chairman of the Federal Communications Commission and devote all of your time to the exacting duties of that difficult post. I cannot, however, allow this opportunity to pass without expressing my sincere thanks for the splendid work you did as Chairman of the Federal Power Commission. Your industry, your skill in the elucidation of complex problems and your faithful stewardship of the public interest at all times, have made your services invaluable. You will be interested to know that I have decided to nominate Mr. Leland Olds of New York as your successor.

I do hope you will have a care for your health and with all good wishes remain, as always,

Very sincerely yours,

/s/ FRANKLIN D. ROOSEVELT.

Honorable Frank R. McNinch,
Chairman,
Federal Communications Commission,
Washington, D. C.

RADIO TO BE SPOTLIGHTED AT ADVERTISING CONVENTION

With Mayor Fiorello LaGuardia of New York as guest speaker, the NAB Sales Managers' Committee, in con-

junction with the new NAB Bureau of Radio Advertising, will occupy the spotlight at the Advertising Federation of America's annual convention at a luncheon to be attended by leading advertisers and agency executives, at the Hotel Waldorf-Astoria in New York, on June 20 at 12:30 P. M.

Neville Miller, president of the NAB, will introduce Mayor LaGuardia and act as toastmaster. Mr. LaGuardia will speak on "Radio By the American Plan." Entertainment throughout the luncheon will be made possible by the cooperation of the networks.

During the morning of June 20, the Sales Managers' Committee, under the chairmanship of Craig Lawrence, KSO-KRNT, will meet with advertising and sales managers, agency principals, account executives and radio time buyers from eastern, midwestern and far western points, for a discussion of mutual problems and for an informal analysis of the proposed new NAB Code and Standards of Practice. Mr. Miller will be present at this meeting and will be assisted by Paul Peter, Director of Research, and Ed Kirby, Director of Public Relations, who have the joint responsibility for the creation and development of the new Bureau of Radio Advertising.

Representatives of international short-wave stations will discuss the problems of international advertising by short-wave which has recently been permitted by FCC ruling. Curtis Mitchell, editor of RADIO GUIDE, will deliver an analysis of some of the shortcomings of commercial program promotion and publicity under the title "Sacred Cows of Broadcasting."

Following the luncheon there will be a closed meeting of all Sales Managers in attendance. This meeting is scheduled at 2:30.

Station owners, managers and sales managers are urged to be present at these important advertising conferences where leaders in advertising will take part in a discussion of mutual problems vital to the welfare of radio.

MILLER TO ADDRESS RMA

President Neville Miller will address the annual convention of the Radio Manufacturers Association to be held in the Hotel Stevens, June 13. His subject will be "Teamwork between RMA and NAB."

It is expected that he will outline new plans for the extension and intensification of the year-round NAB-RMA campaign.

KIRBY ADDRESSES BETTER BUSINESS MEETING IN BUFFALO

Speaking at the Business-Consumer Relations Conference, held under the auspices of the National Association of Better Business Bureaus in Buffalo this week, Ed Kirby, Director of Public Relations, told the critics of advertising that advertising furnishes the economic foundation of both a free press and a free American radio, and as such "bears a profound social importance in our democracy."

He stated further that honest merchants and manufacturers, engaged in the production, distribution and advertising of legitimate commerce through established avenues not only "welcome such consumer-relations gatherings, but encourage them." "Only the back-alley manufacturer, the fly-by-night vendor have anything to fear from a searching inquiry into the truth of advertising claims and statements," he stated.

Among those present at the gathering were Mr. John Benson, president of the AAAA; Mr. Walter D. Fuller, president of the Curtis Publishing Company; representatives from the Federal Trade Commission, the Department of Agriculture, the Consumer-Relations Division of the Securities and Exchange Commission, and various organized women's consumer study and cooperative groups.

It was the feeling of those representing advertising media that one of the new developments in the field of public relations would be in the inauguration of special studies in "consumer relations."

ACCOUNTING COMMITTEE

At a meeting of the Accounting Committee held at the Ritz Tower Hotel, New York City, June 1 and 2, the proposed questionnaire to be sent to all licensees by the FCC Accounting Department was thoroughly discussed. Mr. William J. Norfleet, FCC Chief Accountant, and Mr. de Quincy Sutton, of the FCC, attended the two day conference. Messrs. Norfleet and Sutton, on behalf of the department, were very cooperative. As a result of information obtained at previous meetings and the agreements reached at this meeting, the NAB hopes that the form of the questionnaire will be simplified so that information desired may be more easily obtained from the records as kept by station licensees. Members of the Committee present were: Chairman Harry C. Wilder, and N. L. Kidd, WSYR, Syracuse, New York; E. E. Hill, WTAG, Worcester, Massachusetts; Frank White, CBS; S. R. Dean and Harry F. McKeon, NBC; and Edwin M. Spence of NAB Headquarters Office.

Legal

TRANSCRIPTIONS AND RECORDS

Congressman James P. McGranery (D-Penna) on June 6 introduced a new bill (H. R. 6695) in Congress to amend the Communications Act so as to prohibit and penalize the recording or other mechanical reproduction of "music or other program material" without the consent in writing of the performers. This bill is similar to that introduced by Congressman Schulte (H. R. 5791) at the instigation of the Musicians' Union. It is understood that Mr. McGranery's bill is sponsored by Maurice J. Speiser,

attorney for the National Association of Performing Artists. This Association is patterned after ASCAP and has been conducting a campaign for some time with the objective of preventing the use of phonograph records by stations without a license from the Association.

The McGranery bill is a word-for-word copy of the Schulte bill, with the exception that the following sentence is included in the McGranery bill: "This act is not to apply to any case of recording for private, personal, civic, or political use, or to any recording of any address or talk on subjects of a public nature." The proposed statute provides that the consent in writing of all performers of music or other program material must be obtained before the program can be recorded or otherwise mechanically reproduced for profit or gain. This includes each member of an orchestra and each participant in a program, including announcers. The penalty for violation is a fine of not more than \$10,000 or imprisonment for a term of not more than two years, or both. Unless the written consent of each performer is obtained, the proposed law may prevent: (1) recording for audition purposes; (2) recording network program for subsequent rebroadcast when conditions prevent a broadcast at the time the program is delivered by the network; (3) rebroadcast of programs originating in foreign countries; (4) broadcasting of transcriptions or phonograph records; (5) the recording or rebroadcast of all addresses or speeches except those on subjects of a public nature, whether originating in this country or in a foreign country. The bill does not define what constitutes an address or talk of "a public nature."

The attention of all broadcasters is called to the NAB special mimeographed bulletin dated May 4 with respect to the Schulte bill. If you have not already advised Headquarters of the effect this bill will have on your station, it is urged that you do so immediately. The McGranery bill as introduced reads:

"A BILL

"To amend the Communications Act of 1934 so as to prohibit and penalize the unauthorized mechanical reproduction of music and other wire and radio-program material.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Communications Act of 1934 is hereby amended by adding after section 505 a new section reading as follows:

"Sec. 506. It is hereby declared to be unlawful for any person, without the consent in writing of the performer or performers of said music or other program material, (a) to record or otherwise mechanically reproduce or cause to be recorded or otherwise mechanically reproduced within the United States, for profit or gain, any music or other program material of any kind transmitted in any manner mentioned or described in section 2 (a); or (b) to offer for sale, sell, lease, or license, or to have in his possession for the purpose of sale, lease, or license, any record or other mechanical reproduction of music or other program material of any kind transmitted as aforesaid. This Act is not to apply to any case of recording for private, personal, civic, or political use, or to any recording of any address or talk on subjects of a public nature. Any person violating this section shall, upon conviction thereof, be punished as provided in section 501; and all records or other mechanical reproductions made in violation of this section may be seized on warrant issued by or under the direction of Attorney General of the United States, and the appropriate district

court of the United States or any judge thereof may on proper cause shown order the destruction of such records or other mechanical reproductions.' "

BILLS AFFECTING BROADCASTING

CONGRESS

H. R. 6695 (Mr. McGranery, D.-Penna.) COMMUNICATIONS ACT—To prohibit recording for profit or gain any program without consent in writing of the performers. Referred to Interstate and Foreign Commerce Committee.

STATE LEGISLATION

CONNECTICUT:

S. 167 (Fraser) FOOD AND DRUGS—FALSE ADVERTISING—Uniform State Food, Drug and Cosmetic Act, prohibiting adulteration, false advertising, mislabeling, etc., with penalty of not more than six months in jail or not more than \$500 fine for violation. Prepared by the State Food and Dairy Department in line with federal regulations. Referred to Public Health and Safety.

FLORIDA: (Adjourned Sine Die June 2)

H. 2038 (House Committee on Finance & Taxation) GROSS RECEIPTS TAX—Amending Sections 1, 2, 3, 4, 6, 7, 8, 10 and 15 of Chapter 16848 of 1935 relating to the relief of public free schools, imposing a tax upon the privilege of operating stores, etc., by decreasing a license or flat tax and by increasing the tax on gross receipts to be collected thereunder and by levying a gross receipts tax on other businesses and providing for penalties. Killed in Senate 6-1.

S. 1199 (Committee on Finance and Taxation) RACING REGULATION—Prohibiting any person, firm or corporation, operating a race track in this state, to maintain or to allow any other person, etc., to maintain and operate any telephonic or telegraphic facilities for the transmission of any information concerning racing from such track, without first obtaining permit to do so from the racing commission, etc. Referred to Calendar without reference.

PENNSYLVANIA: (Adjourned Sine Die 5-30.)

H. 389 (Atkins et al) PENAL LAWS—Revision of the penal laws of the Commonwealth. Passed House 4-27 and Senate, as amended, 5-23.

SOUTH CAROLINA:

S. 858 (Bates) HOSPITAL DISTURBANCE—Makes it unlawful to annoy or disturb hospital or sanatorium patients by the use of radios or other musical instruments. Referred to Medical Affairs Committee.

Engineers, FCC Discuss New Rules and Regulations

Following the oral argument held before the FCC June 1, an informal engineering conference was held to discuss all the engineering questions involved in the proposed new rules and standards of good engineering practice. The conference was started by Chief Engineer Jett who had to leave early and turned the chairmanship of the conference over to Andrew Ring.

The conference lasted from June 5 to June 6. R. M. Wilmotte represented the NAB Engineering Committee. There were present of the Engineering Committee O. B. Hanson (NBC), William Lodge (CBS), E. J. Content (Mutual and WOR), John DeWitt, Jr., (clear channel group), G. P. Houston (WCBM). There were also present among others, representatives of WLW, WCAU and several consulting engineers.

The conference was ably led by the Chairman who clarified many regulations, the purpose of which had not been clear to broadcasters generally. Mr. Ring was receptive to many suggestions made and, although he explained that his report based on information that he gathered at the conference, would be reviewed by the FCC, it appeared likely that most of the suggestions of the NAB Engineering Committee had a good chance to be adopted.

Much of the discussion dealt with highly technical matters but

on the whole, the Chairman seemed to react favorably to many suggestions which tended to make some of the regulations less rigid. Many such points were in themselves of minor importance but the trend on the whole seemed desirable. For instance, on page 12.3a of the Standards of Good Engineering Practice, it was originally proposed to require "proper bleeder resistors" to be installed across all condenser banks so as to reduce the danger of shock. It was suggested and accepted that bleeder resistors be changed to "effective automatic means." With this change, the broadcaster is at liberty to use any reasonable means that is suitable.

Another example in the same direction was the suggestion by Mr. Wilmotte that there should be some leeway between the required standards of performance of equipment under laboratory tests and the required standard of performance under normal operating conditions. That is when passing on the acceptability of a transmitter, for instance, the FCC should require a higher standard than it should require from the performance of the same transmitter under normal operating conditions in the field. The proposed standards did not differentiate between these two conditions. The suggested principle seemed to be accepted.

Many of these technical standards are difficult to establish and it was indicated that it might be desirable to continue studying them even after their adoption with a view of improving the engineering requirements to fit in with reasonable standards of operation.

Some of the broad problems and principles which had been brought up by Mr. Hogan at the original hearing on June 6, 1938 on behalf of the Engineering Committee of NAB were presented again by Mr. Wilmotte with the suggestion that the present Rules and Standards should not be held up for any major modification which might cause delay, and that committees be set up to study the possibility of amending the Proposed Rules and the Standards of Good Engineering Practice to fit in more closely with the broad principles suggested by Mr. Hogan.

Of special interest to broadcasters were the following amendments to the Proposed Standards of Good Engineering Practice which seemed likely to be adopted.

In the Proposed Standards the adjacent channel interference to the secondary service of clear channel stations were not protected from the adjacent channel interference. The Proposed Amendment was to give consideration to the protection of this service based on the merits of each case.

On page 1.3a, it is indicated that in certain cases protection may be granted beyond the normally protected contour of a station. "When it is shown that primary service is rendered beyond the normally protected contour, and when primary service of 90% of the population of the area between the normally protected contour and the contour to which such station actually serves, is not supplied by any other station or stations carrying the same general program service, the contour to which protection may be afforded in such cases will be determined from the individual merits of the case under consideration."

It was suggested that the figure 90% be deleted, but Mr. Ring pointed out that, if no standard were used, there would be danger of abuse developing and of considerable variations existing between decisions in individual cases. He also stated that the figure of 90% was not to be interpreted as a rule but only as a guide and that in certain cases it might be possible to consider much smaller percentages than 90%. He was in favor of retaining the figure 90% but thought that it was reasonable to change the wording to read "approximately 90%."

Mr. Ring suggested that it might be desirable that the measurements of power be made uniform and that the direct method of measurement be used in all cases. Owing to the increased efficiency of low powered transmitters, many 100 watt stations would have to reduce their power if it was measured by the direct method. Mr. Ring pointed out in the new Rules, local stations could apply for 250 watts of power and considered that there would be no hardship in this case. Representatives of the local stations who were present agreed.

In conclusion, it was stated that the Standards of Good Engineering Practice particularly as they affect the allocation of stations were to be interpreted as guides. In all cases special consideration would be given by the FCC to special conditions and requirements for the service of areas that were not properly served. In other words, broadcasters and applicants will have the right to present evidence indicating that the Standards of Good Engineering Practice should not be applied strictly in certain cases where they can show that deviation from these standards would be for the benefit of the listening public.

R. M. WILMOTTE.

773 STATIONS

The FCC during the month of May issued an operating license to one new station and granted a permit for the construction of one new station. A comparative table by months is given below:

	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	Jun. 1
Operating stations . . .	722	727	729	732	734	735
Construction permits . .	42	39	37	37	38	38
Total	764	766	766	769	772	773

FEDERAL COMMUNICATIONS COMMISSION

PROPOSED FINDINGS OF FACT

The Federal Communications Commission, in a Proposed Findings of Fact, proposes to grant the application of **WJAC, Johnstown, Pennsylvania**, to change its assignment from sharing time with WFBG on **1310 kilocycles**, 250 watts day, 100 watts night, to unlimited operation on **1370 kilocycles**, using the same power.

In its Proposed Findings, the Commission stated that the granting of the application will result in a "more fair, efficient, and equitable distribution of radio service to a population of more than one hundred thousand persons." The Commission stated also that the operation of the station as proposed will not cause objectionable interference.

The application of **Richland, Inc.**, for a new broadcast station at **Mansfield, Ohio**, to use **1370 kilocycles**, 250 watts power, daytime only, is proposed to be granted in a Proposed Findings of Fact of the Commission.

It is stated by the Commission that the applicant is in all ways qualified to construct and operate the proposed station and that a public need exists for the service which the applicant seeks to render. It is stated also by the Commission that the availability of economic support and of program talent "has been shown to a degree which gives reasonable assurance of operation in the public interest."

DECISION OF COMMISSION

The Federal Communications Commission has granted the application of the **Sunbury Broadcasting Corporation**, licensee of **WKOK, Sunbury, Pennsylvania**, to operate unlimited time instead of specified hours on its frequency of **1210 kilocycles**, 100 watts power.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of June 12. They are subject to change.

June 9, 1939

Thursday, June 15

Further Argument Before the Commission

Examiner's Report No. I-664:

NEW—King-Trencle Broadcasting Corp., Grand Rapids, Mich.—C. P., **1010 kc.**, 250 watts, unlimited time.
WSBT—The South Bend Tribune, South Bend, Ind.—C. P., **1010 kc.**, 1 KW, unlimited time (DA night). Present assignment: **1360 kc.**, 500 watts, shares **WGES**.

Thursday, June 15

Further Hearing

Broadcast

NEW—Central Broadcasting Corp., Worcester, Mass.—C. P., **1500 kc.**, 100 watts, 250 watts LS, unlimited time.

Friday, June 16

KRKO—Lee E. Mudgett, Everett, Wash.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1370 kc.**, 50 watts, shares **KEEN**.
KRKO—Lee E. Mudgett, Everett, Wash.—Renewal of license, **1370 kc.**, 50 watts, shares **KEEN**.
KRKO—Lee E. Mudgett, Everett, Wash.—Voluntary assignment of license to The Everett Broadcasting Co., Inc. (Assignee); **1370 kc.**, 50 watts, shares **KEEN**.
NEW—Cascade Broadcasting Co., Inc., Everett, Wash.—C. P., **1420 kc.**, 100 watts, 250 watts LS, unlimited time.

FUTURE HEARINGS

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

July 7

KUSD—University of South Dakota, Vermillion, S. Dak.—Renewal of license, **890 kc.**, 500 watts, 500 watts LS, shares **KFNF**.

July 11

WCOV—John S. Allen and G. W. Covington, Jr., Montgomery, Ala.—Modification of license, **1210 kc.**, 100 watts, unlimited time. Present assignment: **1210 kc.**, 100 watts, daytime.
KNEL—G. L. Burns, Brady, Tex.—Modification of license, **1500 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1500 kc.**, 250 watts, daytime.

July 14

KRLH—Clarence Scharbauer, Midland, Tex.—C. P., **1420 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1420 kc.**, 100 watts, daytime.

September 6

KUTA—Jack Powers, David G. Smith, Frank C. Carman and Grant Wrathall, d/b as Utah Broadcasting Co., Salt Lake City, Utah.—C. P., **570 kc.**, 1 KW, unlimited time (DA night and day). Present assignment: **1500 kc.**, 100 watts, unlimited time.

September 11

In the Matter of Amendment of Rules 177 and 177.1 on Petition of Mayor LaGuardia of the City of New York.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

KSAL—R. J. Laubengayer, Salina, Kans.—Granted assignment of license of **KSAL** from R. J. Laubengayer to **KSAL, Inc.**

W8XKA—Westinghouse E. and M. Co., Pittsburgh, Pa.—Granted C. P. to install a new transmitter in high frequency broadcast station; change frequency to 42600 kc. on an experimental basis conditionally; increase power to 1 KW; move to new transmitter location in Springfield, Mass., and change emission to special for frequency modulation on an experimental basis in accordance with Sec. 40.01-40.11 and Sec. 44.01-44.07 of high frequency broadcast station W8XKA.

W1XKB—Westinghouse E. and M. Co., East Springfield, Mass.—Granted C. P. to install a new transmitter and change frequency to 42380 kc., and increase power to 1 KW on an experimental basis in accordance with Sec. 40.01-40.11, of high frequency broadcast station W1XKB.

WBNO—The Coliseum Place Baptist Church, New Orleans, La.—Granted voluntary assignment of license of WBNO from Coliseum Place Baptist Church to WBNO, Inc.

RENEWAL OF LICENSES

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

KABC, San Antonio, Tex.; KBST, Big Spring, Tex.; KCMC, Texarkana, Tex.; KDB, Santa Barbara, Calif.; KELD, El Dorado, Ark.; KEUB, Price, Utah; KERN, Bakersfield, Calif.; KFAM, St. Cloud, Minn.; KFGQ, Boone, Iowa; KFJZ, Fort Worth, Tex.; KGFF, Shawnee, Okla.; KFKL, San Angelo, Tex.; KGGY, Scottsbluff, Nebr.; KLUF, Galveston, Tex.; KMAC, San Antonio, Tex.; KNEL, Brady, Tex.; KONO, San Antonio, Tex.; KORE, Eugene, Ore.; KOVC, Valley City, N. Dak.; KPLC, Lake Charles, La.; KPLT, Paris, Tex.; KPQ, Wenatchee, Wash.; KRBC, Abilene, Tex.; KSAM, Huntsville, Tex.; KTOK, Oklahoma City, Okla.; KUJ, Walla Walla, Wash.; KUTA, Salt Lake City, Utah; WAGM, Presque Isle, Maine; WBNY, Buffalo, N. Y.; WCBS, Springfield, Ill.; WDAS and auxiliary, Philadelphia; WDWS, Champaign, Ill.; WELL, Battle Creek, Mich.; WGPC, Albany, Ga.; WHBB, Selma, Ala.; WHLB, Virginia, Minn.; WJMS, Ironwood, Mich.; WKBZ, Muskegon, Mich.; WMBC, Detroit, Mich.; WMBH, Joplin, Mo.; WMBR, Jacksonville, Fla.; WMAS, Springfield, Mass.; WNBK, Binghamton, N. Y.; WNLN, New London, Conn.; WOMI, Owensboro, Ky.; WPAR, Parkersburg, W. Va.; WPRR, Mayaguez, P. R.; WRGA, Rome, Ga.; WRTD, Richmond, Va.; WSLI, Jackson, Miss.; WWSW, Pittsburgh, Pa.

DESIGNATED FOR HEARING

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

NEW—Dr. Willard Craver, Thomas B. Williams and Byrne Ross (a partnership), Lawton, Okla.—C. P. for new station at Lawton, Okla., to operate on frequency 1420 kc., 100 watts night, 100 watts day, unlimited time, exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

WSPR—Quincy A. Brackett, Lewis B. Breed, Edmund A. Laport, co-partners as Conn. Valley Broadcasting Co., Springfield, Mass.—Modification of license to change frequency from 1140 kc. to 1240 kc., and power from 500 watts, limited time, to 250 watts night, 500 watts day, unlimited time. Application designated for hearing because pending applications involve increase in service and interference.)

KGHF—Curtis P. Ritchie, Pueblo, Colo.—C. P. to move transmitter site locally from 111 Broadway to corner Lake and Maryland Avenues; make changes in composite equipment and increase power from 500 watts to 1 KW. (Application designated for hearing on the following issues: to determine whether the interests of any other stations may be adversely affected by reason of interference, particularly stations KID and KRNT; because of the pendency of other applications with which a conflict may be had by reason of interference, i.e., Yuba-Sutter Broadcasters and F. W. Meyers; to determine whether the equipment which applicant proposes to use will comply in all respects with the rules and regulations of the Commission, particularly Rules 131 and 139, and will render proper service.)

MISCELLANEOUS

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate

simultaneously non-synchronously with station KFAB commencing 4:45 a. m., CST, for the period June 10 to July 9, in order to conform to Daylight Saving Time.

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate as above except simultaneously non-synchronously with station WBBM.

WILM—Delaware Broadcasting Co., Wilmington, Del.—Granted special temporary authority to operate simultaneously with station WAZL from 8:30 p. m., EDT, to conclusion of National and American League teams games on June 15, 16, 20, 26 and July 6 and 13.

W8XUM—WBNS, Inc., Columbus, Ohio.—Granted special temporary authority to operate a test transmitter for a period not to exceed 10 days, alternately on frequency 25.25 megacycles and frequency 43.54 megacycles, with power of 50 watts, in order to determine which of these frequencies would be most satisfactory for operation of facsimile broadcast station W8XUM.

In re: Amendment of Rules 177 and 177.1 on Petition of Mayor LaGuardia of the City of New York.—Granted request filed by counsel for Mayor LaGuardia for continuance of hearing heretofore scheduled for June 7, and continued same until September 11, 1939.

W9XUY—Central States Broadcasting Co., Lincoln, Nebr.—Designated application for renewal of high frequency broadcast station for hearing and granted temporary license pending hearing and decision. (Application was designated for hearing to determine technical and financial qualifications, equipment, and program service.)

WGST—Georgia School of Technology, Atlanta, Ga.—Granted special temporary authority to reduce power 15 minutes earlier than specified in license when necessary to prevent interruption of continuous programs during month of June.

W9XA—Commercial Radio Equipment Co., Kansas City, Mo.—Granted special temporary authorization to rebroadcast over high frequency broadcast station W9XA programs originating from standard broadcast station KCMO, for the normal license period of high frequency broadcast stations expiring April 1, 1940.

WKRC—Columbia Broadcasting System, Inc., Cincinnati, Ohio.—Granted special temporary authority to rebroadcast the program material to be received from American Air Lines Plane NC-14966, operating on frequency 2790 kc., from 12:30 to 12:45 p. m., EST, on June 4, in connection with the flood control program sponsored by the Ohio Chamber of Commerce.

KROY—Royal Miller, Sacramento, Calif.—Granted extension of special temporary authority to rebroadcast Naval Observatory time signals over station KROY from NAA-NSS at Washington, D. C., for the period June 1 to December 1, 1939.

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Denied special temporary authority to operate from 8:30 p. m. to approximately 11 p. m., CST, or to end of game, on May 31, June 1, 2, 5, 6, 7, 8, 9, 12, 13, 14 and 15, in order to broadcast night games of Northern Baseball League.

KRLH—Clarence Scharbauer, Midland, Tex.—Granted motion to accept late appearance in re application for C. P. to change power and time of operation.

WPAX—H. Wimpy, Thomasville, Ga.—Granted request for order to take depositions in re application of John F. Arrington, Jr., for a new station in Valdosta, Ga., to use 1230 kc., 250 watts, unlimited time.

KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Granted motion for postponement of hearing now scheduled for July 12, new date to be fixed by Secretary's Office, in re application of KUTA for C. P. to install new transmitter and antenna, and change frequency, power, and time of operation.

NEW—Samuel M. Emison, Vincennes, Ind.—Granted motion for order to take depositions in re application for new station to operate on 1420 kc., 100 watts, unlimited time.

KUSD—University of South Dakota, Vermillion, S. Dak.—Granted petition to postpone hearing now scheduled for June 6, new date to be fixed by Secretary's Office, in re application for renewal of license.

KMAC—W. W. McAllister and Howard W. Davis, d/b as The Walmac Company, San Antonio, Tex.—Granted motion for leave to amend application so as to request change in frequency from 630 kc. to 930 kc.

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Granted petition to vacate order to take depositions in re application

- for C. P. to install new transmitter, change frequency, power, and time of operation.
- NEW**—Roy E. Martin, Opelika, Ala.—Denied petition for leave to dismiss without prejudice application for C. P. to operate on **1310 kc.**, 100 watts night, 250 watts LS, unlimited time.
- WSAJ**—Grove City College, Grove City, Pa.—Granted special temporary authority to remain silent for the period June 15 to September 20, in order to observe college vacation.
- WMC**—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted extension of special temporary authority to operate with 5 KW at night, for the period June 4 to July 3, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on frequency **780 kc.**, or reduces power so that additional interference is not involved.
- WHP**—WHP, Inc., Harrisburg, Pa.—Granted C. P. to install new type transmitter.
- WHDV**—Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 9:30 to 10:30 a. m., CST, on June 13, in order to broadcast Soumi College Dedictory Services.
- WSAL**—Frank M. Stearns, Salisbury, Md.—Granted special temporary authority to operate with power of 100 watts, from 7:30 p. m., June 6, to 1 a. m., EST, on June 7, in order to broadcast congressional election returns.
- KFRO**—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from local sunset (June 7:30 p. m., CST) to 11:05 p. m., using 100 watts power, on June 3, 10, 17, 24, in order to broadcast Fair programs; on June 5 and 12, in order to broadcast Legion programs; on June 16, 23, 30, in order to broadcast Community Jamboree.
- WKRC**—Columbia Broadcasting System, Inc., Cincinnati, Ohio.—Granted special temporary authority to rebroadcast program material to be received from the American Air Line Plane No. 66, NC-14966, operating on frequencies **1622, 2058, 2150 and 2790 kc.**, from 10 a. m. to 1 p. m., EST, on June 4.
- WDAY**, Inc., Fargo, N. Dak.—Granted special temporary authority to operate a relay broadcast station on June 6, 7, 8, 9 and 10, on frequencies **30820, 33740, 35820, 37980 kc.**, 25 watts power, in connection with visit of Norwegian Crown Prince and Princess and Shrine Convention on June 7.
- RCA Mfg. Co., Inc.**, New York City.—Granted extension of special temporary authority to operate general experimental station **W3XDS**, using frequency **950 kc.**, with 1 KW, to conduct a comprehensive field survey to study the effects of fading on amplitude modulated facsimile emission during the hours 2 to 7 a. m., DST, on Sundays, midnight to 5 a. m., DST, on Mondays, and 1 to 5 a. m., DST, from Tuesday through Saturday, for the period June 9 to July 8.
- In re: Frequency Monitors Required by Sec. 40.02.**—The Commission approved a notice to be sent to all licensees of relay, international, high frequency, non-commercial educational, facsimile, television and developmental broadcast stations, relative to the extension of the effective date of Sec. 40.02 (old Rule 981).
- WBNX**—WBNX Broadcasting Co., Inc., New York City.—Granted petition for reconsideration and grant of application for renewal of license, which was heretofore designated for hearing.
- WCBA**—B. Bryan Musselmann, Allentown, Pa., Assignor, and Lehigh Valley Broadcasting Co., Assignee, Allentown, Pa.; and **WSAN**—WSAN, Inc., Allentown, Pa., Assignor, and Lehigh Valley Broadcasting Co., Assignee, Allentown, Pa.—Denied motion of these parties to strike the issues, quash the hearing notice, and reconsider the applications for consent to assignment of licenses of stations WCBA and WSAN (Commissioner Craven voting "No").
- KOY**—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Denied motion requesting that the Commission dismiss and return the application of Oregon State Agricultural College (KOAC) for authority to increase its power from 1 KW to 5 KW, on frequency **550 kc.**, unlimited time.
- NEW**—Marion C. McCabe, Atlantic City, N. J.—Dismissed motion to set aside Order Granting Motion to Strike Protest and Petition for Rehearing that the said Marion C. McCabe has any legal interest in or is aggrieved or adversely affected by the action of the Commission involving the application of Press Union Publishing Co. for a new station in Atlantic City, N. J.
- WJBL**—Commodore Broadcasting, Inc., Decatur, Ill.—Dismissed petition of WJBL for denial of the application of Sherman V. Coultas, Milton Edge and Hobart Stephenson, because of dissolution of the applicant partnership, and denied petition of Edge and Stephenson for leave to amend their application by substitution of Edgar J. Korsmeyer as a member of the partnership for Sherman V. Coultas, deceased, and the application of the aforesaid applicant partnership was dismissed without prejudice to the right of the partners Edge and Stephenson to participate in the filing of a new application for the same or similar facilities.
- WMBG**—Havens & Martin, Inc., Richmond, Va.—Dismissed the petition of WMBG for severance of its application (Docket 4846) from that of WBNX Broadcasting Co., Inc. (Docket No. 4406) for the purposes of decision.
- NEW**—WDAY, Inc., Fargo, N. Dak., Portable-Mobile.—Granted C. P. for new relay broadcast station to operate on **1606, 2022, 2102, 2758 kc.**; power 100 watts, unlimited time.
- NEW**—The Champaign News-Gazette, Inc., Champaign, Ill., Portable-Mobile.—Granted license for new relay broadcast station (utilizing the equipment of high frequency relay broadcast station, **W9XSM**, owned by the applicant); to operate on **1606, 2022, 2102, 2758 kc.**; power 10 watts, unlimited.
- NEW**—The Champaign News-Gazette, Inc., Champaign, Ill., Portable-Mobile.—Granted license for new high frequency relay broadcast station (utilizing the equipment of relay broadcast station **WAHJ**, owned by the applicant), to operate on **30820, 33740, 35820, 37980 kc.**; power 25 watts, unlimited.
- WNYL**—City of New York, Municipal Broadcasting System, New York, N. Y., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station to operate on **1622, 2058, 2150 and 2790 kc.**; power 50 watts, according to Section 41.04.
- WNYK**—City of New York, Municipal Broadcasting System, New York, N. Y., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station to operate on **1622, 2058, 2150 and 2790 kc.**; power 50 watts, according to Section 41.04.
- W2XVP**—City of New York, Municipal Broadcasting System, New York, N. Y.—Granted modification of C. P. for extension of time of completion date from June 15 to December 15, 1939, conditionally.
- WGKV**—Kanawha Valley Broadcasting Co., Charleston, W. Va.—Granted modification of C. P. for approval of transmitter and studio sites, at Coal Branch Heights, near Charleston and 1016 Lee St., Charleston; changes in equipment and installation of vertical radiator.
- WSGN**—The Birmingham News Co., Birmingham, Ala.—Granted special temporary authority to make transmitter site tests, using 100 watts portable transmitter between the hours of 12 midnight and 6 a. m., CST, for the period June 15 to July 7, 1939.
- KFDY**—South Dakota State College, Brookings, S. Dak.—Granted special temporary authority to operate from 7:30 p. m. to 9:30 p. m., CST, on June 5, 1939, in order to broadcast Commencement exercises of South Dakota State College.
- WHBY**—WHBY, Inc., Green Bay, Wis.—Granted application for renewal of license for the period ending November 1, 1939.
- KWTO**—Ozarks Broadcasting Co., Springfield, Mo.—Granted extension of special temporary authority to operate from 5 to 6 a. m., CST, with 1 KW only, for the period June 8 to July 7, in order to conduct experimental farm programs.
- CKLW**—Essex Broadcasters, Inc., Detroit, Mich.—Granted special temporary authority to pick up Man on the Street program daily from 5 to 5:15 p. m., EST, for the period June 7 to June 17.
- WQDM**—Regan and Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from 8:45 to 10 p. m., on June 15, in order to broadcast graduation exercises of St. Mary's High School in St. Albans.
- W2XWC**—Kolorama Labs., Inc., Irvington, N. J.—Granted extension of special temporary authority to operate a television transmitter for test and experimental purposes only, for radio television transmitter in the **2000-2100 kc.** band, for operation between the hours of 12 midnight and 6 a. m., on a non-interference basis, with power of 500 watts, for the period June 7 to July 6.

APPLICATIONS FILED AT FCC

560 Kilocycles

- KWTO**—Ozarks Broadcasting Company, Inc., Springfield, Mo.—Modification of license to change hours of operation by adding time from 5 to 6 a. m., using 1 KW power. (In

addition to present licensed time of daytime with 5 KW power.)

680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Extension of special experimental authority to operate with 5 KW power, using directional antenna, from sunset at KPO to 11 p. m., EST, for period 8-1-39 to 2-1-40.

WLAW—Hildreth & Rogers Co., Lawrence, Mass.—License to cover construction permit B1-P-2363, for equipment changes.

700 Kilocycles

WLW—The Crosley Corp., Cincinnati, Ohio.—Construction permit to make changes in transmitting equipment.

850 Kilocycles

WWL—Loyola University, New Orleans, La.—Extension of special experimental authority to operate unlimited time, period 8-1-39 to 2-1-40.

930 Kilocycles

KMAC—W. W. McAllister & Howard W. Davis, d/b as Walmac Co., San Antonio, Texas.—Construction permit to make changes in equipment, antenna, change frequency from 1370 to 630 kc., increase power from 100 watts, 250 watts LS, to 1 KW, change hours of operation from S-KONO to unlimited. Amended: Antenna changes and change requested frequency to 930 kc.

1040 Kilocycles

KRLD—KRLD Radio Corp., Dallas, Texas.—Modification of construction permit B3-P-2080, for increase in power, new transmitter and directional antenna for day and night use, move of transmitter requesting authority to extend completion date from 7-1-39 to 8-1-39.

1120 Kilocycles

WISN—Hearst Radio, Inc., New York, N. Y.—Modification of license to increase power from 250 watts night, 1 KW day, to 500 watts night, 1 KW day.

1140 Kilocycles

WSPR—Quincy A. Brackett, Lewis B. Breed, and Edmund A. Laport, co-partners, d/b as Connecticut Valley Broadcasting Co., Springfield, Conn.—Voluntary assignment of license from Quincy A. Brackett, Lewis B. Breed and Edmund A. Laport, co-partners, d/b as Connecticut Valley Broadcasting Co., to WSPR, Inc.

1200 Kilocycles

NEW—W. B. Dennis, Plainview, Tex.—Construction permit for a new station on 1200 kc., 100 watts, daytime operation.

WJBW—Charles C. Carlson, New Orleans, La.—License to cover construction permit B3-P-2244 as modified for new equipment and move of transmitter.

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Construction permit to move transmitter locally 150 feet (same address).

1390 Kilocycles

NEW—Hazlewood, Inc., Orlando, Fla.—Construction permit for a new broadcast station to be operated on 1390 kc., 1 KW, unlimited time.

1420 Kilocycles

WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—Modification of license to change hours of operation from simultaneous day, shares night with WILM, to unlimited time.

WILM—Delaware Broadcasting Company, Wilmington, Del.—Modification of license to change hours of operation from simultaneous day, shares night with WAZL, to unlimited time.

1430 Kilocycles

WHP—WHP, Inc., Harrisburg, Pa.—Modification of construction permit (B2-P-2090) to increase power, install new trans-

mitter and directional antenna for night use, further requesting change in type of transmitting equipment.

1480 Kilocycles

WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Construction permit to change hours of operation from specified hours to unlimited time, employing directional antenna, day and night.

1500 Kilocycles

NEW—Frank R. Pidcock, Sr., Moultrie, Ga.—Construction permit for a new broadcast station to be operated on 1500 kc., 100 watts night, 250 watts day, unlimited time. Amended to request 1370 kc. frequency.

WJBK—James F. Hopkins, Inc., Detroit, Mich.—License to cover construction permit B2-P-2299 to install new antenna and move of transmitter.

MISCELLANEOUS

NEW—William G. H. Finch, New York, N. Y.—License to utilize the equipment of W2XBF for high frequency broadcast station to be operated on 42260 and 43400 kc., 1 KW, A3 and Special Emission. Amended to request frequency 42180 kc., and emission A3 for amplitude modulation.

NEW—Joe L. Smith, Jr., area of Beckley, W. Va. (Portable-Mobile).—Construction permit for a new relay broadcast station on 1622, 2058, 2150 and 2790 kc., power 75 watts, A-3 emission.

NEW—Donald C. Treloar, vicinity of Kalispell, Mont.—Construction permit for a new portable-mobile relay broadcast station on 31220 kc., 10 watts power, A-3 emission. Amended to request frequencies 30820, 33740, 35820 and 37980 kc.

NEW—Don Lee Broadcasting System, Inc., Portable-Mobile, Los Angeles and environs.—Construction permit for a new television broadcast station on 156000-162000 kc., 100 watts power, A-5 for Visual Emission only.

NEW—WGN, Inc., Portable-Mobile, area of Chicago, Ill.—Construction permit for a new relay broadcast station on 31620, 35260, 37340, 39620 kc., 1 watt power, Emission A-3.

NEW—Echo Park Evangelistic Association, Inc., Los Angeles, Calif.—Construction permit for a new high frequency broadcast station on 26400 kc., 100 watts power, A-3 emission. Amended to request frequency 25300 kc.

W7XCY—Oregonian Publishing Co., Portland, Ore.—Construction permit for changes in equipment, increase power to 4.5 watts, and request frequencies 31220, 35620, 37020, 39260 kc., in accordance with new rules.

W1XPW—WDRG, Inc., Meriden, Conn.—License to cover construction permit as modified, B1-MPHB-35, for frequency 43.4 mc., in lieu of 40.3 mc., in accordance with revised rules.

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.

American Maize Products Company—See Anheuser-Busch, Inc.

Anheuser-Busch, Inc.—Eight organizations producing finished corn products both for household and industrial use have been served with complaints alleging discriminations in price in violation of Robinson-Patman Act.

Respondents are: (1) Anheuser-Busch, Inc., St. Louis; (2) Piel Brothers Starch Company, Indianapolis; (3) Clinton Company,

Clinton, Iowa, and Clinton Sales Company, Chicago; (4) The Hubinger Company, Keokuk, Iowa; (5) Penick & Ford, Ltd., Inc., New York; (6) A. E. Staley Manufacturing Company and The Staley Sales Corporation, Decatur, Ill.; (7) Union Starch & Refining Co. and Union Sales Corporation, Columbus, Ind., and (8) American Maize-Products Company, New York.

The respondents are alleged to discriminate in price between purchasers of commodities of like grade and quality by selling such commodities to some purchasers at a higher price than sold to other purchasers generally competitively engaged with those receiving the more favorable prices.

It is alleged that the effect of the discriminations may be substantially to lessen competition in the sale and distribution of corn products between the respondents and their competitors and between those who buy corn products from the respondents and receive lower discriminatory prices and others who buy from the respondents but do not receive the favorable prices. It is also alleged that the effect of the discriminations may be to create a monopoly in the lines in which the respondents and those in which the buyers are engaged and to injure and prevent competition between the respondents and their competitors and between the buyers who receive the favorable prices and those who do not.

The allegations of these 8 complaints are similar to those made in an amended complaint recently issued against Corn Products Refining Co., New York.

The mills of the Corn Products Refining Company and of the 8 respondent organizations are alleged to have a corn grinding capacity of approximately 382,000 bushels a day.

Principal products derived from corn, as sold by the respondents, are: (1) starch, both for food and other purposes; (2) glucose or corn syrup, and (3) corn sugar. Starch is first manufactured from the corn, and glucose and grape sugar are made by treating the starch with certain acids, the resulting solid product being sugar and the resulting syrup being glucose. Glucose is largely used in manufacturing candy, jellies, jams and preserves and in mixing syrups. (3798-3805, inclusive)

Benson Specialty Company—Pens, jewelry and electric water heaters were misleadingly advertised by Robert H. Benson and Emma Benson, distributors, 251 Plymouth Bldg., Minneapolis, it is alleged in a complaint. The respondents trade as Benson Specialty Company.

Fountain pens allegedly were advertised as being unbreakable and guaranteed for life, and necklaces as being 14-carat gold or silver, set with facsimile diamonds and guaranteed against tarnish or loss of stones, when, according to the complaint, the pens were not unbreakable or guaranteed for life and the jewelry was of cheap grade and quality.

Prices represented by the respondents as customary were in fact fictitiously and greatly in excess of regular prices, according to the complaint, and it is alleged that coupons advertised as having values of \$4.41, \$3.02 or \$2.41 when offered as part payment for articles, actually had no such values or any value, as the prices charged by the respondents in addition to the coupons were the regular and customary prices.

Advertisements implying that the respondents' "Electro Heat Kwick" water heaters have an Underwriters' Laboratories seal of approval and also the approval of the Automotive Test Laboratories of America were misleading, according to the complaint, in that only the cord for attaching the heater has been approved by the Underwriters' Laboratories, and the Automotive Test Laboratories of America has no official standing and lacks the facilities for efficient testing of such a device. Further, the complaint alleges that the respondent's heater has been found unsafe for use by attachment to ordinary household sockets. (3795)

Clinton Company—See Anheuser-Busch, Inc.

Clinton Sales Company—See Anheuser-Busch, Inc.

Cravex Company—Trading as Cravex Company, Sara B. Plant, Burbank, Calif., distributor of an alleged cure for the alcohol habit, has been served with a complaint charging misleading representations.

"Stop Drink Habit," the respondent is alleged to have advertised. "Just put tasteless Cravex in his coffee, tea, liquor or food. * * *

He won't know and soon his craving for whiskey, beer or wine should disappear."

The complaint alleges that the respondent's preparation is not a competent and effective treatment for alcoholism. (3794)

Hubinger Company—See Anheuser-Busch, Inc.

Illinois Nut Products Company, 613 West Lake St., Chicago, Ill., manufactures candy and distributes it through wholesalers, jobbers and retailers. It is alleged that dealers are furnished with assortments of malted milk balls together with push cards and that they award prizes to purchasers by the following method: Customers purchase discs or pushes on the card concealed beneath which are football terms such as "Touchdown," "Dropkick," "Field Goal" and "Off Side." Each play costs 1 cent and every play is described as a winner although a person drawing a "Touchdown," for instance, receives 20 pieces of candy as a prize, where an "Off Side" play receives only 1, the number of pieces of candy awarded being determined wholly by chance. (3807)

National Pen Company—Trading as National Pen Company and Phoenix Sales Company, Louis G. Meyers, Birmingham, Ala., has been served with a complaint alleging unfair trade practices in the sale of specialty merchandise including fountain pens and jewelry.

In advertisements the respondent is alleged to misrepresent retail prices by exaggerating the customary prices and indicating so-called marked-down figures which are in fact the customary prices. He also is alleged to offer worthless coupons represented as having certain values when offered as part payments on the purchase prices of articles.

Meyers also is charged with misrepresenting that he conducts special or introductory offers for a limited time only; that he guarantees the pens and jewelry for a lifetime and against tarnishing, and, by use of the word "facsimile" as descriptive of diamonds, that the cheap grade jewelry he sells is equipped with stones having the general appearance, qualities and brilliance of diamonds and having greater quality and value than imitation diamonds. (3796)

Penick & Ford, Ltd., Inc.—See Anheuser-Busch, Inc.

Phoenix Sales Company—See National Pen Company.

Piel Brothers Starch Company—See Anheuser-Busch, Inc.

A. E. Staley Mfg. Company—See Anheuser-Busch, Inc.

Staley Sales Corp.—See Anheuser-Busch, Inc.

Union Sales Corp.—See Anheuser-Busch, Inc.

Union Starch & Refining Company—See Anheuser-Busch, Inc.

United Factories, Inc.—A complaint has been issued against United Factories, Inc., 1302 McGee St., Kansas City, Mo., alleging misleading representations in the sale of a product designated as a reconditioner of automotive engines.

This product, "Micaseal," is described by the respondent as a "paste-like substance" which "when put into the motors through the spark plug openings, spreads and works itself around leaky pistons and rings, has an affinity for metal, and is not affected by heat of the motor."

In advertising its preparation the respondent is alleged to represent, contrary to the facts, that its use will effect substantial economies in operating an automobile through lessening of oil and gas consumption, and that it fills scores and scratches on cylinder walls and forms a cushion seal which increases compression, checks excessive carbon formation, and adds speed, power and smoothness. The respondent also is alleged to advertise, contrary to the facts,

that its preparation reconditions a motor at a saving of 95 per cent over the ordinary mechanical methods of reboring cylinders and refitting pistons, and to represent, in effect, that use of its preparation produces the equivalent of a mechanical reconditioning job. (3797)

Wright Products Company—Isaac S. Friedman, trading as Wright Products Company, 4303 North Keeler Ave., Chicago, Ill., who sells and distributes hosiery, clocks, pen and pencil and manicure sets, is alleged to furnish his operators with push cards containing feminine names on discs concealing numbers. Customers allegedly purchase chances through selection of the names and the person who gets a name identical with that concealed and finally revealed under a master seal receives wholly by chance an "Animated Spinning Wheel Clock," while the recipients of a certain number also receive a prize. It is alleged that numbers 1 to 19 cost only the amount the participant draws but that any number over 19 costs 19 cents and four numbers are free. (3806)

STIPULATIONS

The Commission has entered into the following stipulations:

American Premium House—Jack Chertow, trading as American Premium House, 269 Canal St., New York, has made a stipulation to desist from the use of lottery methods in the sale of novelty merchandise to ultimate consumers.

The respondents agree to discontinue supplying or placing in the hands of others, pull cards or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof and to cease the use of a scheme, plan or method of sale or of promoting the sale of merchandise which involves the use of any lottery, gift enterprise or scheme of chance whereby the identity of an article of merchandise to be purchased or the price to be paid therefor are determined by lot or chance. (2474)

American Spectacle Company, Inc., 136 West 52nd St., New York, has entered into a stipulation to discontinue misleading representations in the sale of sun glasses.

The respondent corporation agrees to desist from representing or from placing in the hands of others the means of representing that its sun glasses bar or exclude 94 per cent of harmful glare or any other percentage which exceeds the actual capacity to exclude glare. (2476)

American Seed & Plant Company—Trading as American Seed and Plant Company, A. Otis Arnold, Quincy, Ill., has entered into a stipulation to discontinue misleading representations in the sale of "Golden Seal" and "Ginseng" plant seeds.

The respondent agrees to desist from representing, either directly or by implication, that any one can grow Ginseng or Golden Seal, or that to cultivate these plants is easy or in all instances profitable, and that Golden Seal and Ginseng prices have increased in recent years. (02383)

Master Laboratories, Inc., 2626 West End St., Omaha, Nebr., has signed a stipulation to cease misleading representations in the sale of poultry remedies.

In advertising "Poultone," "Master Capsule" or similar products, the respondent agreed to desist from representing that administration of such remedies to sick poultry will solve all worm problems faced by the poultry raiser or will kill all worms or serve as a treatment and control of worms generally. (2477)

Milshire Garment Company, Inc., 270 West 38th St., New York, has made a stipulation to discontinue misleading representations in the sale of sport coats and suits.

The respondent company agrees to cease representing directly or by implication that a garment is 100 per cent camel's hair when the fiber content is not such and to discontinue indicating directly or by implication or appearance of a product the composition of

a garment of mixed fibers without naming all such fibers, with equal conspicuousness, in the order of their predominance by weight and without giving the percentage of each such fiber present to such extent as is necessary to prevent misunderstanding.

Under its stipulation, the respondent company will also forego the use, in connection with its labels or brands, of pictures or depictions of a camel or other animal in a manner tending to deceive purchasers concerning such merchandise, and the use of the legend "100%" or any representation of similar import in connection with its labels or brands as descriptive of merchandise in a manner tending to deceive the purchasing public as to the quality, composition or character thereof. (2473)

Ring-Rout, Inc., 710 Queen & Crescent Bldg., New Orleans, will discontinue advertising that treatment by means of its product, Ring-Rout, will kill the fungi of athlete's foot, in actual cases of infection, without an appreciable length of time between its application to the infected area and the killing of the fungi, and that laboratory tests indicate Ring-Rout is effective in completely destroying the fungi of athlete's foot. The respondent admitted in its stipulation that its preparation will not kill athlete's foot fungi unless brought into direct contact therewith. (02382)

Scholl Manufacturing Co., Inc., 211 West Schiller St., Chicago, agrees to discontinue representing that arthritic or rheumatic-like foot and leg pains, callouses, fatigue, sore heels and tired feet are always signs or symptoms of weak or fallen arches and that "Dr. Scholl's Scientific Arch Supports" will quickly relieve all foot pains and physical disturbances and will assure the wearer of correction of weak or fallen arches without massage or exercise, or that they will alone restore the arch to normal. The respondent also will cease representing that "Dr. Scholl's Scientific Shoes" will eliminate the possibility of fatigue whether caused by improperly fitting shoes or otherwise, or will eliminate the possibility of strain on muscles, nerves and ligaments. (02381)

Clifford W. Wells—Selling information as to "How to Obtain a Job in the American Merchant Marine", Clifford W. Wells, 109 North Front St., Baltimore, has entered into a stipulation.

"Become a seaman. Sail the seven seas", Wells is quoted as advertising in his literature. "You can sail to whatever country you want, simply by waiting for a ship that makes a regular voyage to it. No experience or training is required to fill the jobs that you start in at—advancement is rapid."

The stipulation recites that this type of advertising implies that Wells has particular, exclusive knowledge about available positions in the American Merchant Marine or on sea vessels and is able to inform applicants how to obtain such jobs. He admitted, however, that the information imparted in his "instructions" is general and readily available from sources other than himself. (02385)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Cotton Belt Mattress Company—E. E. Phillips, trading as Cotton Belt Mattress Company, Pinetops, N. C., has been ordered to discontinue misleading representations in the sale of mattresses.

Phillips was found to have falsely advertised the constituent fiber and material of certain of his mattresses by use of the terms "All Layer Felt," "100% Layer Felt—Staple Cotton," "Felt-Plated—Cleaned Cotton Motes," and "Felt-Plated—Washed Cotton," when in fact such products were not all layer felt or otherwise as represented.

Pointing out that the word "felt," when used in connection with mattresses, is recognized in the trade as meaning a product made of fibers of cotton or wool which have been garnetted together into a mat or web, the Commission ordered the respondent to cease and desist from using the term "felt" alone or in connection with other terms to describe mattresses not made in accordance with this definition. (3781)

Monarch Stove Top Company—An order has been issued prohibiting misleading representations in the interstate sale of the "Monarch Stove Top," an appliance for use on open top gas

ranges or stoves, by W. K. Honbaum, Hamburg, Mich., trading as Monarch Stove Top Company.

The order directs the respondent to cease and desist from representing that use of his appliance will prevent soiling of windows, walls or curtains by open top gas stoves or ranges; that the appliance is properly ventilated or insures proper combustion and is safe or harmless, and that its use will reduce gas consumption and increase the cooking capacity of a stove or range.

Bureau of Standards tests show and the Commission finds that the respondent's representations are not according to facts; that use of the appliance may be dangerous because of a possibility of producing carbon monoxide gas, and that the device is not a perfect sanitary system for gas ranges and open top gas stoves. (3383)

Publix Printing Corporation, 633 South Plymouth Court, Chicago, manufacturer of sales promotion cards, has been ordered to cease and desist from selling or distributing its cards or any other devices so made that their use by retail dealers may constitute the operation of a gift enterprise or lottery in the sale of products to ultimate consumers.

The Commission also has served Mason, Au & Magenheimer Confectionery Manufacturing Company, 22 Henry St., Brooklyn, with an order prohibiting the use of lottery methods in connection with the sale of candy to ultimate consumers. Findings are that the respondent company distributed to dealers candy assortments packed in a manner involving use of lottery plans. (3742-3477)

Technical Laboratories—Misrepresentation of the healing properties of a preparation for treating nasal catarrh, hay fever

and asthma, is prohibited under an order issued against H. F. Allen, trading as Technical Laboratories and as Technical Products Company, 24 Bridge Road, Berkeley, Calif.

The order directs that Allen cease representing that his preparation, designated as "Aratone" and "Sinozone," is a competent and safe remedy, cure or treatment for nasal catarrh, hay fever, asthma or colds; that it is healing, will prevent or cure nasal irritation, and will aid in preventing poisons being carried from the nasal passage into other parts of the body; that its use is harmless and that it has any medicinal or therapeutic value in treating the diseases named other than as a palliative remedy to afford temporary relief. (3435)

Technical Products Company—See Technical Laboratories.

FTC CLOSES CASE

The Federal Trade Commission has closed its case against A. L. Hilkemeyer and R. J. C. Tricou, trading as Louisiana Hatcheries, 822 Poydras St., New Orleans. The respondents had been charged with unfair competition in the interstate sale of baby chicks.

The case, in so far as it referred to Hilkemeyer, was dismissed, it appearing that he is not a partner in the business. The case against Tricou, sole owner of the business, was closed without prejudice to the Commission's right to reopen it, should future facts so warrant.

Tricou agreed to observe and abide by the trade practice rules for the baby chick industry promulgated by the Commission December 31, 1938. The rules were held to regulate the practices with which the respondent had been charged.