

Broadcasting of Phonograph Records

The members have been advised of the decision of the Trial Court in *RCA v. Whiteman* last July, RCA's subsequent demand for payment by stations, the meetings of the Special NAB Committee with representatives of the phonograph-record manufacturers, the postponement by RCA of the effective date of license agreements to December 1st, and the appeals taken by Whiteman, RCA and WNEW from the decision of the trial court to the United States Circuit Court of Appeals (NAB Reports, July 21, August 11, 18, 25, September 1, October 27, 1939).

Because these appeals clearly indicated that none of the parties was fully satisfied with the decision of Judge Leibell in the District Court, Neville Miller last week discussed a further postponement with RCA representatives. He was told, however, that RCA would proceed on December 1st with its broadcast-station licensing campaign. Accordingly, the members should be informed of a number of additional facts bearing on the situation.

At the last annual convention of the American Federation of Musicians held in June, several resolutions dealing with the broadcasting of phonograph records were introduced and referred to the International Executive Board with power to act. The effect of these resolutions was to direct the Board to investigate the feasibility of having all union musicians who make records assign to AFM all of their property rights in perpetuity and to forbid all union members engaged in such recording work from making records unless a waiver or release had first been secured from AFM.

In September as a direct result of RCA's favorable Court decision followed by its campaign to license broadcasting stations, AFM addressed to all locals and members of AFM the following communication:

"The attention of the Federation has again been called to the fact that various recording companies, as a result of recent court decisions, are using every effort, through contractual provisions, to have members who make records assign their property rights therein to the recording companies.

"As a result, the International Executive Board has adopted the following rule: 'Any member who assigns any property right in any recording to any recording company, or to any other party without the consent of the American Federation of Musicians, by such action gives notice to the Federation and makes effective immediately his resignation from the A. F. of M.'

"This rule is effective immediately and will be strictly enforced."

The above letter was described at AFM headquarters as purely a precautionary measure to protect the rights of their members engaged in making records. Up to the present date

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*

BROADCASTING OF PHONOGRAPH RECORDS

(Continued from page 3849)

the International Executive Board of AFM has not adopted any other rule and so far as is known the rule above quoted has as yet not resulted in any resignations of AFM members.

The National Association of Performing Artists has informed broadcasters that RCA is not authorized to exact royalties on behalf of members of that organization. NAPA is the association which instigated and financed the Waring suit in Pennsylvania, the Whiteman and Crumit suits in New York and several other suits in other states. Recently Jimmie Walker, former New York City mayor, was elected president of NAPA in place of Fred Waring who becomes chairman of its Board.

The Music Publishers Protective Association, comprising practically all of the leading music publishers, notified all broadcasters that the licensing campaign of the phonograph record manufacturers was not authorized or sanctioned by its members. MPPA further stated:

"The recording licenses granted to the record manufacturers by the copyright owners do not give them the right to demand from you license fees for the broadcasting of phonograph records."

NAPA has approached MPPA looking towards an alliance for the collection of royalties from cafes, dance halls and other establishments using coin-operated phonographs, with a split of the royalties between NAPA and MPPA. It is understood MPPA has not entered into any such arrangement and will not do so unless its members approve of the idea. Anyway, the scheme is said not to embrace broadcasting; therefore, at the moment broadcasters are not affected by the potentialities of such an arrangement.

It is expected that either the MPPA or one of its publisher members will attempt to intervene in the appeal in RCA v. Whiteman on the ground that the decision below was erroneous in that the engrafting of a common-law right on the copyrights of the publishers was improper and interfered with the publishers' copyrights and its business of licensing the use of its compositions.

RCA will on December 4th argue a motion made by it to dismiss the appeal of WNEW on the ground that the

appeal is moot, the station having taken out a license with RCA for the broadcasting of RCA and Bluebird records. This motion will be vigorously opposed.

Station owners should also consider the effect of the contracts they hold with AFM based upon the settlement by IRNA and NCIB of the musicians' union controversy involving, among other things, the use of phonograph records. The current negotiations between IRNA and AFM should also be borne in mind as the use of records is involved in the discussions. Consideration should also be given to the fact that in order to make phonograph records the manufacturers must each hold licenses from AFM and that AFM, at the termination of its present licenses with the recording companies, may be in a position to exact certain terms regarding the ownership of the property rights, if any, that exist in the records.

It is apparent that the rights claimed by RCA are challenged at every turn. It is understood that NAPA and the music publishers each wish half of any royalties collected from broadcasters by the record manufacturers so that no revenue would remain for the record manufacturer. NAPA wants to own whatever property rights there are for the benefit of their band-leader members. AFM does not sanction NAPA's ownership because it does not take into account the work of the individual members of the orchestras and vests all rights in band leaders through NAPA. AFM therefore wants to control these rights. The music publishers contend that RCA does not have the right to license phonograph records for broadcasting. NAPA through Whiteman's appeal contests the injunction obtained by RCA against Whiteman and the station. The station contests the injunctions obtained by both RCA and Whiteman. RCA contests the injunction obtained by Whiteman against the station and objects to the Court failing to find a property right in RCA by virtue of its manufacturing skill. In other words, no one is satisfied.

The NAB believes it is of the utmost importance that the rights of broadcasters be fully protected and has retained legal counsel to represent broadcasters' interests in the RCA vs. Whiteman case. Until the whole issue is settled, the NAB will continue its efforts to protect the interests of broadcasters.

CODE COMMITTEE TO MEET WOMEN'S GROUPS

Distinguished national and state leaders of women's clubs will have a luncheon-conference meeting with members of the Code Compliance Committee next Wednesday, following the Committee's two meetings at Headquarters, November 28-29. Neville Miller, president of the NAB, will preside at the luncheon.

The meeting of the Code Compliance Committee has been called by its chairman, Edgar Bill. A full attendance is expected.

Details of the Code, with especial reference to its social aspects in the children's section will be stressed. It is anticipated that further cooperative effort between state and local women's groups and member stations will follow.

HUGH JOHNSON JOINS THOSE APPROVING CODE

General Hugh S. Johnson this week added his strong voice to those who have approved the new NAB Code. Appearing on the American Forum of the Air, over the Mutual Broadcasting System, last Sunday night, General Johnson expressed further approval of the controversial issue section: "If I understand the Code, it is the best that could have been written. There remains only the question of method—how best to provide the public with adequate and efficient radio debate—whether on sponsored or sustaining programs. That presents a real problem, but it is certainly not beyond the ingenuity of this up and coming industry. Let's speed it up."

Appearing on the same round-table discussion were Morris Ernst, prominent attorney and counsel for the American Civil Liberties Union; Martin Codel, publisher of *Broadcasting Magazine*, and Ed Kirby, NAB Director of Public Relations and secretary of the Code Compliance Committee.

Admitting that his organization, the American Civil Liberties Union had endorsed the Code, Mr. Ernst, in expressing disapproval of the Code, said that "even the Civil Liberties Union believes in individual free speech of its members." He declared that he believed the United States has the freest and best radio programs in the world, but that he was "worried about the Code no matter how idealistic it is in principle because of the threat implicit in the increasing concentration of broadcasting power in the hands of a few companies. It will be wholesome for the broadcasters if the public keeps an eye on the operations of this Code, particularly if the Code should ever have incorporated in it a referee, arbiter or enforcer."

Mr. Codel, in opening the discussion, pointed out that the Code had been the result of nearly a year's work by experienced broadcasters representing every section of the industry, that it had been submitted last spring to both the industry and the public, and that it had been considered and passed at the last convention of the NAB. "The language is clear and simple. Yet there has been more bunk spread around about what the Code means and what it doesn't mean than anything in recent days in radio." Mr. Codel reviewed the names of some of those individuals and organizations who were objecting to the Code, as well as those who had expressed approval.

In his remarks, Mr. Kirby stated: "The listener expects more from his radio set than a continuous flow of political harangue." He declared that each radio manager endeavors to program his station with sufficient variety so as to cater to the interests of the greatest number of lis-

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teners, serving the social, educational, religious and cultural needs of all. He stated that though we have 130,000,000 citizens each with the right of free speech, we have just some 800 radio stations. "Suppose everybody wanted to exercise his right of free speech at the same time on each of the stations? Actually this is impossible. Practically it is absurd. Yet there are those newly-become students of broadcasting who would have it this way." He pointed out that we manage our affairs through a system of "representative spokesmen in a representative government. The NAB Code extends the same American precept to radio."

Labor

THURMAN ARNOLD DISCUSSES ILLEGAL LABOR PRACTICES

Thurman Arnold, Assistant Attorney General in charge of the Justice Department's anti-trust division, made an interesting statement this week regarding certain union labor practices which he felt were illegal.

Although the statement dealt primarily with the building trades, it might be construed to apply to certain practices in the broadcasting industry.

The statement, printed in full below, was in the form of a letter to the secretary of the Central Labor Union (A. F. of L.) in Indianapolis, who had inquired about the recent indictment of a number of building union leaders, under the Sherman Act, in federal courts.

"Dear Sir:

"I reply to your letter inquiring about the application of the anti-trust laws to labor unions. I make this reply public because numerous other inquiries similar to yours indicate widespread public interest in the question.

"The anti-trust laws should not be used as an instrument to police strikes or to adjudicate labor controversies. The right of collective bargaining by labor unions is recognized by the anti-trust laws to be a reasonable exercise of collective power. Therefore, we wish to make it clear that it is only such boycotts, strikes or coercion by labor unions as having no reasonable connection with wages, hours, health, safety, the speed-up system or the establishment and maintenance of the right of collective bargaining which will be prosecuted.

"The kind of activity which will be prosecuted may be illustrated by a practice frequently found in the building industry. Suppose

a labor union, acting in combination with other unions who dominate building construction in a city, succeeds by threats or boycotts in preventing the use of economical and standardized building material in order to compel persons in need of low-cost housing to hire unnecessary labor.

Not Private Police Force

"Here is a situation with no reasonable connection with wages, hours, health, safety, or the right of collective bargaining. The union may not act as a private police force to perpetuate unnecessarily costly and uneconomic practices in the housing industry. Progressive unions have frequently denounced this 'make work' system as not to the long-run advantage of labor. Such unions have found it possible to protect the interests of labor in the maintenance of wages and employment during periods of technological progress without attempting to stop that progress.

"Preventing improved methods of production—as distinguished from protecting labor from abuses connected with their introduction—is, of course, not the only labor activity which goes beyond any legitimate labor purpose. We cite the example to emphasize the fact that union practices may become illegal where they have no reasonable connection with such legitimate objectives as wages, hours, safety, health, undue speeding up or the right of collective bargaining.

"We have no choice in this matter. Such practices go beyond even the dissenting opinions of the Supreme Court of the United States, which recognize a broader scope for the legitimate activities of labor unions than the majority opinions. In our anxiety to be fair to labor we are not subjecting to criminal prosecution practices which can be justified even under the dissenting opinions of the United States Supreme Court.

"In the present building investigation, a large number of legitimate activities of labor unions have been brought to our attention by complaint. We have been asked to proceed against unions because they maintain high rates of wages, because they strike to increase wages, and because they attempt to establish the closed shop. We have consistently disregarded all such requests.

Conflict of Opinions

"Refusals by unions to work upon goods made in non-union shops have also been brought repeatedly to our attention. In the past, courts have held that such secondary boycotts are violations of the anti-trust laws. In the Duplex and Bedford cut stone cases a minority of the Supreme Court presented the argument against this view. In view of this unsettled conflict of opinion among judges of the highest court as to the reasonableness of such activities we have instructed the attorneys in the building investigation not to institute criminal prosecutions in such cases.

"The types of unreasonable restraint against which we have recently proceeded or are now proceeding illustrate concretely the practices which in our opinion are unquestionable violations of the Sherman Act, supported by no responsible judicial authority whatever.

"1. Unreasonable restraints designed to prevent the use of cheaper material, improved equipment, or more efficient methods. An example is the effort to prevent the installation of factory-glazed windows or factory-painted kitchen cabinets.

"2. Unreasonable restraints designed to compel the hiring of useless and unnecessary labor. An example is the requirement that on each truck entering a city there be a member of the local teamsters' union in addition to the driver who is already on the truck. Such unreasonable restraints must be distinguished from reasonable requirements that a minimum amount of labor be hired in the interests of safety and health or of avoidance of undue speeding of the work.

"3. Unreasonable restraints designed to enforce systems of graft and extortion. When a racketeer, masquerading as a labor leader, interferes with the commerce of those who will not pay him to leave them alone, the practice is obviously unlawful.

"4. Unreasonable restraints designed to enforce illegally fixed prices. An example of this activity is found in the Chicago milk case, where a labor union is charged with combining with distributors and producers to prevent milk being brought into Chicago by persons who refuse to maintain illegal and fixed prices.

"5. Unreasonable restraints, designed to destroy an established and legitimate system of collective bargaining. Jurisdictional strikes have been condemned by the A. F. of L.

itself. Their purpose is to make war on another union by attacking employers who deal with that union. There is no way the victim of such an attack may avoid it except by exposing himself to the same attack by the other union. Restraints of trade for such a purpose are unreasonable whether undertaken by a union or by an employer restraining trade or by a combination of an employer and a union, because they represent an effort to destroy the collective bargaining relationships of a union with an employer.

Equal Responsibility

"The principle applicable to unions is the same as that applicable to other groups specially protected by law. Investors may combine into a corporation, farmers into a co-operative, and labor into a union. The anti-trust division has the duty to prevent the use of such legal rights of association in an illegal way for purposes far different from those contemplated in the statutes.

"Unions stand to gain by the vigorous performance of this duty. In the past most labor cases under the Sherman Act have arisen through private suits instituted without public responsibility and often conducted as a part of a struggle to destroy a union or to avoid dealing with it. Organized labor suffers when the selection of labor cases under the Sherman Act and the presentation of argument in such cases is left in the hands of those who may be hostile to organized labor itself. By contrast, enforcement of the law by officials with a public duty to be fair, consistent, and constructive involves an equal care to protect legitimate union activities and to prevent unlawful ones. In such enforcement, labor and the public will necessarily be informed as to the boundary between lawful and unlawful union action; and by virtue of such information the harassment of unions by unjust private suits will become more difficult. Sincerely,

"THURMAN ARNOLD,
"Assistant Attorney General."

Editorial reaction was extremely favorable. The *Washington Post* called the statement "forthright and constructive" and said "progressive labor groups are not likely to challenge this policy." The *Philadelphia Record*, a pro-labor paper, called it "clear thinking on labor's malpractices," adding that the majority of labor unions were not guilty of such "but because these abuses are so flagrant, so indefensible, all organized labor suffers." The *Baltimore Sun* remarked that "tolerant Mr. Arnold finds some union policy intolerable" while the *New York Herald-Tribune*, probing deeper, wondered whether "the President's desire for labor peace has something to do with this sudden threat of prosecution?" William Green, A. F. of L. president, addressed a letter to Attorney General Murphy, however, protesting the Arnold statement and concluding "it seems inconceivable to me that an Administration notable for its friendliness to labor should adopt a retrogressive policy advocated hitherto only by the most extreme reactionary enemies of labor." Mr. Green maintained that labor organizations were wholly exempt from the anti-trust laws.

A. F. OF M. NEGOTIATIONS

November 1—The IRNA executive committee met with representatives of the networks to canvass the situation and to discuss policy with regard to the expiration of A. F. of M. agreements expiring January 17, 1940.

Present: Messrs. Rosenbaum, Ethridge, Damm and Shepard for IRNA; Messrs. Klauber, Wood and Lowman for the networks; Mr. Lafount of the Independents, and J. L. Miller of the NAB.

November 2—The IRNA executive committee met the executive board of the A. F. of M. The working of the present agreements was discussed. The A. F. of M. board announced it wanted an additional \$1,500,000 annual expenditure for staff musicians by network affiliates and an increase of \$60,000 at each key station by the three major networks.

Present: Messrs. Rosenbaum, Damm and Shepard for IRNA; Messrs. Wood, Lowman and Seebach for the networks; Mr. Lafount of the Independents and J. L. Miller of the NAB. It was explained that Messrs. Lafount and Miller were present as observers.

November 17—The IRNA board of directors met alone and with representatives of the networks, to discuss what answer should be given to the A. F. of M.

Present: Messrs. Rosenbaum, Carpenter, Craney, Damm, Ethridge, Lounsberry, Morency, O'Fallon, and Shepard for IRNA; Messrs. Lohr, Klauber, Streibert, Wood, Lowman and Ream for the networks; J. L. Miller of NAB.

November 20—An IRNA committee met with the A. F. of M. executive board, and proposed that the matter of new agreements be left to individual stations and local unions. This the A. F. of M. board rejected. The IRNA committee then proposed an attempt to make a new national settlement if the A. F. of M. would discuss changes in Schedule A of the present national settlement and would agree to substantially the same total expenditure now required. The A. F. of M. board said it would reply to this second proposal after executive consideration. A copy of the IRNA statement, read by Mr. Rosenbaum, was mailed to all broadcasters.

Present: Messrs. Rosenbaum, Ethridge, Shepard, and Norton for IRNA; Messrs. Wood, Lowman, Streibert and Seebach for the networks; J. L. Miller of NAB.

FREE OFFERS

Flower Industries Council, who want stations to use publicity intended to promote the sale of flowers for Christmas, is the only free offer reported to NAB this week. The Bureau of Radio Advertising has invited them to use radio on a regular basis, in which case they will be assured of 100% station cooperation and results that will more than justify the expenditure.

COST-PER-INQUIRY

Ken Hoffman (Christmas Cards) is an enterprising citizen of New York City, who would like stations to sell his Christmas cards on a percentage basis, at the same time serving as a clearing house for orders. NAB has advised him that member stations consider this bad business practice, and has expressed the hope that he can see fit to buy time at stations' quoted card rates, with correspondingly improved results.

DECEMBER COMING EVENTS

- December 3-10—International Golden Rule Week
- December 16 —Boston Tea Party, 1773
—Beethoven, composer, born 1770
- December 17 —John Greenleaf Whittier, born 1807
—Wilbur Wright's first flight, 1903
- December 21 —Forefather's Day—Landing of Pilgrims in 1620 (celebrated mostly in New England)
- December 22 —Winter Begins Today
- December 25 —Christmas Day
- December 31 —New Year's Eve.

KENTUCKY BROADCASTING CORPORATION ORDERED TO SHOW CAUSE

The Federal Communications Commission on its own motion, ordered the Kentucky Broadcasting Corporation to show cause, on or before December 5th, why a construction permit issued to that corporation for a new station at Louisville should not be recalled on the ground that the concern is not financially qualified to construct and operate the proposed station in the public interest.

On February 8, 1939, the Commission granted the construction permit for the proposed Louisville station, to use 1210 kilocycles, 100 watts night and 250 watts day, unlimited time. On October 10, 1939, the Commission, without hearing, authorized the Northside Broadcasting Corporation to increase hours of operation of its station (WGRC), at New Albany, Indiana, from daytime only with 250 watts power to unlimited time with the same power.

On October 30th the Kentucky Broadcasting Corporation petitioned for rehearing of the Northside Broadcasting Corporation grant. It claimed that the authorization "would result in such severe loss of operating revenue to petitioner's proposed station as to impair the service which it could render" and, further, that "it would destroy the ability of the Kentucky Broadcasting Corporation to render proper service in the public interest." No facts were stated in the petition in the support of these conclusions.

In formally denying the Kentucky Broadcasting Corporation's request for rehearing, the Commission said:

"Since the petitioner's station is not yet constructed, much less operating, and petitioner is not a licensee under the Act, and is not engaged in the operation of a broadcast station, it is difficult to see how proof of the allegations * * * would constitute proper grounds for a denial of Northside's application. At the most, such allegations cast serious doubts upon the petitioner's financial qualifications to construct and operate its proposed station."

In view of such "voluntary admissions as to its inability to operate its proposed station if the Northside Broadcasting Corporation is authorized to operate full time," the Commission issued its supplemental show cause order in the case of the Kentucky Broadcasting Corporation.

FCC CALLS ATTENTION TO TEMPORARY PERMIT RULES

Attention of broadcasters has been called by the Federal Communications Commission to its rules dealing with special temporary authorizations. In an official announcement on this subject this week the Commission said:

The attention of all licensees of standard broadcast stations is called to the provisions of Section 1.365 of the Rules of Practice and Procedure. This section governs the filing and action on requests for special temporary authorizations. Two provisions are particularly called to the attention of these licensees. These provisions are briefly summarized as follows:

1. Requests must be made 10 days prior to the time of desired operation. In special cases where the request could not be made on time, a full explanation must be made in the request as a basis for acceptance.

2. The requests must be limited to temporary periods for the transmission of programs or events which are not recurrent.

All requests for special temporary authorizations will be considered strictly under all other provisions of Section 1.365, as well as the two provisions outlined above. Requests for operation not in accordance with this section will not be granted.

The provision requiring that the request be made 10 days prior to the desired time of operation means that events which are known 10 days in advance, such as the broadcast of election returns, addresses by prominent citizens, sports events, etc., must be filed 10 days before the event. In such cases a request for acceptance upon the basis that arrangements for the broadcast were not made 10 days prior to the event cannot be accepted. However, requests for operation in connection with an emergency or play-off of a sports event tie or championship which could not have been foreseen, would constitute a basis for requesting an exception to the requirement for filing 10 days in advance.

Requests must be limited to temporary periods for transmission of programs which are not recurrent. This means, for example, that a program concerning a community chest drive, the dedication of a public building, an address by a prominent citizen, a sports event, etc., may be considered, provided that only the actual time required for such operation is involved. Additional time for holding the audience or for the convenience of the licensee is not in order. Requests to carry programs which are recurrent and extend over considerable time, particularly beyond a definite 30-day interval, cannot be considered as proper basis for a request for temporary operation. Requests for such operation should be made by formal application in accordance with the rules governing the same.

Any licensee making a request for a temporary authorization should read carefully and must comply fully with all provisions of Section 1.365. Such procedure is essential to avoid unnecessary expense and delay in the handling of the request.

Section 1.365 referred to is as follows:

Sec. 1.365 of the Rules of Practice and Procedure of the Federal Communications Commission

Sec. 1.365. *Special temporary authorizations.* (a) Special temporary authority may be granted for the operation of a station for a limited time, or in a manner and to an extent or for service other or beyond that authorized in an existing license upon proper application therefor;¹ *Provided, however,* That no such request will be considered unless:

(1) It is received by the Commission at least ten days previous to the date of proposed operation: *Provided, however,* That any such request received within less than ten days may be accepted upon due showing of sufficient reasons for the delay in submitting such request;

(2) Full particulars as to the purpose for which the request is made are stated.

(b) If the request is for operation of a standard broadcast station, the following additional requirements shall apply:

(1) No such authority may be granted to a person other than the licensee of an existing standard broadcast station.

(2) The request shall be limited to a definite or temporary period or periods for the transmission of programs or events which are not recurrent, and approval thereof will not be granted for a period in excess of thirty days.

¹ Informal Applications.

(3) The request shall show that it has been seasonably submitted to other stations whose operations may be affected (to be determined as indicated below), and the date on which such request was so submitted, which such stations shall submit direct to the Commission waiver of objection to the granting thereof or a statement of the nature of any objections that such stations may desire to interpose.

(4) If the request is for operation upon a clear channel, showing required above shall be made with respect to the Class I station or stations on the channel.

(5) If the request is made by time sharing station, the showing required above shall be made with respect to the station or stations with which time is shared.

(6) In any case, the showing required above must be made with respect to any station on the same or adjacent channels when any such station is located within the interference range of the station making the request to be determined by the "Standards of Good Engineering Practice Concerning Standard Broadcast Stations."

(7) Waiver of objections, or statement of objections, when furnished under this rule, shall be forwarded direct to the Commission by the responding station, and in the case of waiver shall show whether the waiver covers simultaneous operation or whether the station is giving up the time sought by the applicant. Where it appears that the proposed operation has been seasonably submitted to the station or stations referred to in subparagraphs (4), (5), and (6), above, and no reply has been received, it will be considered that such stations have waived any objections to the granting of the request.

FCC RULES AMENDED

Section 1.142 of the FCC Rules of Practice and Procedure was amended, effective immediately, to read as follows:

"Unless otherwise specifically provided, an original and fourteen copies of all petitions, motions, pleadings, and other documents required or permitted to be filed under these rules shall be furnished the Commission."

BROADCAST MEASUREMENTS

During October the Federal Communications Commission measured 714 broadcast stations, leaving 82 not measured.

Six hundred and thirty-six stations showed a maximum deviation within 0-10 cycles; 68 stations within 11-25 cycles; 8 stations within 26-50 cycles; and 2 stations over 50 cycles.

FEDERAL COMMUNICATIONS COMMISSION

FINAL ORDERS

The Federal Communications Commission has adopted a final order granting the applications of KQV, Pittsburgh, Pa., and WNBC, New Britain, Conn., for modification of licenses: KQV for authority to operate on frequency **1380 kilocycles** with 1000 watts, unlimited time, using directional antenna at night, and to change the phasing of directional antenna, instead of 500 watts night, 1000 watts LS, using directional antenna at night; and WNBC to operate on the same frequency with 1000 watts, unlimited time, using directional antenna, instead of 250 watts night, 1000 watts LS.

An amendment to a final order of the Commission has been adopted in connection with the granting of the application of the Saginaw Broadcasting Company for the erection of a new station at **Saginaw, Michigan**, to operate **1200 kilocycles**, 100 watts night, 250 watts LS, with specified hours of operation, and the application of Gross and Shields for a new station also at Saginaw to operate on **950 kilocycles**, 500 watts, daytime hours, calling for the approval by the Commission of the transmitter site.

Final order was adopted by the Commission granting the application of Vincennes Newspapers, Inc., for construction permit to erect a new station at **Vincennes, Indiana**, to operate on **1420 kilocycles**, 100 watts, unlimited time.

The Commission denied in an order the request of Yuba-Sutter Broadcasters, **Marysville, Calif.**, to reopen the proceedings for the purpose of adducing additional evidence, and for authority to amend its application. The Commission adopted its proposed findings of fact and entered its decision denying the application of the company to operate a new station at Marysville on **1320 kilocycles**, 250 watts, unlimited time, using a directional antenna after local sunset.

Final order was also adopted by the Commission granting the application of WJMS, Inc., for a construction permit to erect a new station at **Ashland, Wisconsin**, to operate on **1370 kilocycles**, 100 watts, unlimited time, subject to certain conditions.

FINDING OF FACT

The Federal Communications Commission has announced its proposed finding of fact proposing to grant the application of WJBO, **Baton Rouge, La.**, and WAPO, **Chattanooga, Tenn.**, WJBO for a construction permit to operate with 1000 watts on **1120 kilocycles**, instead of 500 watts, unlimited time, and WAPO for authority to change its frequency from **1420 kilocycles**, 100 watts night, 250 watts day LS, unlimited time to **1120 kilocycles**, 500 watts night, 1000 watts day on an unlimited time basis, employing a directional antenna at night.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearing is scheduled before the Commission in a broadcast case for the week beginning Monday, November 27. It is subject to change.

Friday, December 1

Hearing Before Paul A. Walker, Commissioner,
To Be Held in Grand Jury Room No. 212, U. S. Court House,
Phoenix, Arizona
KUMA—Albert H. Schermann, Yuma, Ariz.—Hearing upon Order of Revocation of License of Station KUMA.

FUTURE HEARING

During the week the Commission has announced the following tentative date for a broadcast hearing. It is subject to change.

January 29

WINS—Hearst Radio, Inc. (Assignor), Metropolitan Broadcasting Corp. (Assignee), New York, N. Y.—Voluntary assignment of license, **1180 kc.**, 1 KW, limited time (KEX and KOB).

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

- KPDN—R. C. Hoiles, Pampa, Tex.—Granted modification of license to increase hours of operation from daytime to unlimited, using present frequency **1310 kc.** and power of 100 watts.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Granted modification of license to change time of operation from specified hours to unlimited.
- WHMA—Harry M. Ayers, Anniston, Ala.—Granted construction permit to make changes in equipment and increase power from 100 to 250 watts.
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted modification of construction permit to make changes in directional antenna system and increase night power from 250 watts to 1 KW, employing directional antenna system for nighttime operation; also extension of commencement date to 30 days after grant and completion date to 180 days thereafter.
- WOW—Woodmen of the World Life Ins. Society, Omaha, Nebr.—Granted construction permit to move transmitter site locally, install new equipment, and increase night power from 1 KW to 5 KW. Exact transmitter site and type of antenna to be determined with Commission's approval.
- WROL—S. E. Adcock and S. E. Adcock, Administrator of Estate of Ruth Adcock, deceased, Knoxville, Tenn.—Granted authority to transfer control of Stuart Broadcast Corporation (licensee of Station WROL) to S. E. Adcock.
- WBNS, Inc., Columbus, Ohio.—Granted construction permit for new high frequency broadcast station to operate on **43000 kc.**, with 250 watts, special emission for frequency modulation, unlimited time.
- KFXD—Frank E. Hurt, Nampa, Idaho.—Granted modification of license to increase night power from 100 to 250 watts.
- WGIL—Galesburg Broadcasting Co., Galesburg, Ill.—Granted modification of license to increase time of operation from daytime only to unlimited, using 250 watts day and night.
- WMEX—The Northern Corp., Chelsea, Mass.—Granted modification of license to increase night power from 100 to 250 watts.
- KTRI—Sioux City Broadcasting Co., Sioux City, Iowa.—Granted modification of license to increase night power from 100 to 250 watts.
- KDRO—Albert S. and Robert A. Drohlich, d/b as Drohlich Bros., Sedalia, Mo.—Granted modification of license to increase night power from 100 to 250 watts.
- WCOS—Carolina Advertising Corp., Columbia, S. C.—Granted modification of license to increase night power from 100 to 250 watts.
- KTSM—Tri State Broadcasting Co., Inc., El Paso, Tex.—Granted modification of license to increase night power from 100 to 250 watts.

WDAH—Tri State Broadcasting Co., Inc., El Paso, Tex.—Granted modification of license to increase night power from 100 to 250 watts.

RENEWAL OF LICENSES

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

KADA, Ada, Okla.; KALB, Alexandria, La.; KAND, Corsicana, Tex.; KARM, Fresno, Calif.; KAST, Astoria, Ore.; KDLR, Devils Lake, N. Dak.; KDON, Monterey, Calif.; KFDA, Amarillo, Tex.; KFJB, Marshalltown, Iowa; KFOR, Lincoln, Nebr.; KFPL, Dublin, Tex.; KFXJ, Grand Junction, Colo.; KFXM, San Bernardino, Calif.; KGDE, Fergus Falls, Minn.; KGEK, Sterling, Colo.; KGEZ, Kalispell, Mont.; KGLO, Mason City, Iowa; KGY, Olympia, Wash.; KHUB, Watsonville, Calif.; KITE, Kansas City, Mo.; KLAH, Carlsbad, N. Mex.; KMLB, Monroe, La.; KOCT, Oklahoma City, Okla.; KOOS, Marshfield, Ore.; KPDN, Pampa, Tex.; KPFA, Helena, Mont.; KPMC, Bakersfield, Calif.; KRBA, Lufkin, Tex.; KVNU, Logan, Utah; KVOL, Lafayette, Ind.; KVSF, Santa Fe, N. Mex.; KVSO, Ardmore, Okla.; KWG, Stockton, Calif.; KWOC, Poplar Bluff, Mo.; WABL, Bangor, Maine; WAML, Laurel, Miss.; WBBL, Richmond, Va.; WBRB, Red Bank, N. J.; WCLO, Janesville, Wis.; WCLS, Joliet, Ill.; WCMI, Ashland, Ky.; WCOU, Lewiston, Maine; WCOV, Montgomery, Ala.; WEMP, Milwaukee, Wis.; WEST, Easton, Pa.; WEXL, Royal Oak, Mich.; WFBG, Altoona, Pa.; WFDF, Flint, Mich.; WFOY, St. Augustine, Fla.; WGBB, Freeport, N. Y.; WGRM, Grenada, Miss.; WHAT, Philadelphia, Pa.; WHBU, Anderson, Ind.; WHBU, Green Bay, Wis.; WIBU, Poynette, Wis.; WJBY, Gadsden, Ala.; WJEJ, Hagerstown, Md.; WJIM, Lansing, Mich.; WJMC, Rice Lake, Wis.; WJNO, West Palm Beach, Fla.; WJTN, Jamestown, N. Y.; WJW, Akron, Ohio; WLBC, Muncie, Ind.; WLOK, Lima, Ohio; WNBH, New Bedford, Mass.; WOMT, Manitowoc, Wis.; WQXR, New York City; WRAL, Raleigh, N. C.; WRAW, Reading, Pa.; WRBL, Columbus, Ga.; WROL, Knoxville, Tenn.; WSAJ, Grove City, Pa.; WSAY, Rochester, N. Y.; WSGN, Birmingham, Ala.; WSNJ, Near Bridgeton, N. J.; WTAX, Springfield, Ill.; WTHH, Hartford, Conn.; WTMA, Charleston, S. C.; WSOY, Decatur, Ill.; WWAH, Hammond, Ind.; KBTM, Jonesboro, Ark.; KHBG, Okmulgee, Okla.; KSUN, Lowell, Ariz.; KVOX, Moorhead, Minn.

WBNS—WBNS, Inc., Columbus, Ohio.—Granted renewal of license for auxiliary transmitter for the period ending August 1, 1940.

WHEC—WHEC, Inc., Rochester, N. Y.—Granted renewal of license for the period ending August 1, 1940.

WRR—City of Dallas, Texas, Dallas, Tex.—Granted renewal of license for the period ending June 1, 1940.

WRR—City of Dallas, Texas, Dallas, Tex.—Granted renewal of license for auxiliary transmitter for the period ending June 1, 1940.

KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Present license extended on a temporary basis for the period ending January 1, 1940, pending receipt of and determination upon application for renewal.

KFXD—Frank E. Hurt, Nampa, Idaho.—Present license extended on a temporary basis for the period ending January 1, 1940, pending receipt of and determination upon application for renewal.

KWJB—Sims Broadcasting Co., South of Globe, Ariz.—Present license extended on a temporary basis for the period ending January 1, 1940, pending receipt of and determination upon application for renewal.

KOME—Oil Capital Sales Corp., Tulsa, Okla.—Present license extended on a temporary basis for the period ending January 1, 1940, pending receipt of and determination upon application for renewal.

WBRY—American Republican, Inc., Waterbury, Conn.—Present license extended upon a temporary basis only, pending receipt of and determination upon application for renewal, but in no event longer than January 1, 1940.

KGBU—Alaska Radio & Service Company, Inc., Ketchikan, Alaska.—Present license further extended upon a temporary basis only, for the period ending January 1, 1940, pending determination upon application for renewal.

KVOS—KVOS, Inc., Bellingham, Wash.—Present license extended on a temporary basis only for the period ending October 1, 1940, upon the express condition that the grant shall not be construed as a finding by the Commission upon the application of Bellingham Broadcasting Co. for construction

permit, nor upon the application for renewal of license of KVOS, nor upon any of the issues involved therein, nor that the Commission has found that the operation of this station is or will be in the public interest beyond the express terms of the temporary license.

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Granted renewal of license on a temporary basis only for the period ending October 1, 1940, subject to whatever action may be taken by the Commission upon pending application for renewal.

WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Granted renewal of license on a temporary basis only for the period ending October 1, 1940, subject to whatever action may be taken upon pending application for renewal of license.

The following relay broadcast stations were granted renewals for the regular period:

WLWC, area of Cincinnati; KEGR, area of Seattle; WEIA and WEIB, area of Schenectady; WEIO, WEIN, WEIP, area of Milwaukee; KEIF, area of Fort Worth, Tex.; KEIH, area of Denver; WEIQ, area of New York City; KEIQ, KEIR, area of Los Angeles; KEIS, area of Kansas City, Mo.; WEJA, area of New York City; WEJC, area of Washington, D. C.; WEJH, area of Chicago; KEJH, KEJI, area of San Francisco; KEIX, KEIW, area of Denver; WEKJ, area of Pittsburgh, Pa.; WEOH, area of Richmond, Va.; KEGZ, area of Spokane, Wash.; WEKU, area of Hartford, Conn.; WELK, area of Springfield, Ill.; WEIK, area of Indianapolis.

KIJG—Eagle Broadcasting Co., Inc., area of Brownsville, Tex.—Granted renewal of relay broadcast station license for the period ending October 1, 1940.

MISCELLANEOUS

WSVS—Seneca Vocational High School, Buffalo, N. Y.—Granted special temporary authority to remain silent on November 23, 24 and 25, instead of November 30, December 1 and 2, as authorized by grant of June 8, in order to observe Thanksgiving holidays.

KVAK—Carl Latenser, Atchison, Kan.—Granted special temporary authority to operate from 7 to 11 p. m., CST, on November 17, in order to broadcast Atchison High School v. Hiawatha Kansas High School football game only.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts nighttime on November 17, in order to broadcast football game only.

WNBH—E. Anthony & Sons, Inc., New Bedford, Mass.—Granted special temporary authority to operate a crystal controlled portable transmitter in the vicinity of New Bedford, Mass., using power of 50 watts, frequency 1360 kc., between the hours beginning one hour after sunrise and ending one hour prior to local sunset, for a period not to exceed 10 days, in order to conduct site survey.

KRKO—Lee E. Mudgett, Everett, Wash.—Granted special temporary authority to operate simultaneously with station KEEN from 7 p. m. to 12 p. m., Midnight, on November 18 and December 2, in order to broadcast Everett City election returns.

WLAW—Hildreth & Rogers Co., Lawrence, Mass.—Granted special temporary authority to operate from local sunset (December 4:15 p. m., EST) to midnight on December 12, using 1 KW power, in order to broadcast final election results of the city of Lawrence.

KWHB—WHB Broadcasting Co., Kansas City, Mo.—Granted special temporary authority to use equipment described in construction permit granted October 23, with 100 watts power, frequencies 1622, 2058, 2150 and 2790 kc., for a period not to exceed 30 days, pending filing and action on application for license to cover said construction permit.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate from local sunset (November 5:00 p. m., EST) to midnight on November 21, 1939, in order to broadcast the proceedings attendant upon the Democratic Victory Banquet.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate from 8:30 p. m. EST, to the conclusion of the Mercer College v. Howard College football game on November 16, 1939, in order to broadcast football game only.

KUMA—Albert H. Schermann, Yuma, Ariz.—Adopted an order authorizing the Commissioner designated to preside at the

- hearing, to fix the time and place such hearing shall be held, to hear, consider, determine and act upon any and all petitions, motions, and other preliminary matters in connection with, or pertaining to, said proceedings which may arise prior to the date of said hearing.
- E. B. Sturdivant, d/b as Silver Crest Theaters, Yuma, Ariz.—Adopted an order authorizing the Commissioner designated to preside at the hearing, to fix the time and place such hearing shall be held, to hear, consider, determine and act upon any and all petitions, motions, and other preliminary matters in connection with, or pertaining to, said proceedings which may arise prior to the date of said hearing.
- WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—Granted special temporary authority to use a 100-watt crystal-controlled Collins transmitter, operating on 1510 kc., during daylight hours, for the period November 15 to November 24, in order to make field intensity measurements.
- WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Granted special temporary authority to operate additional time from 7:00 p. m. to conclusion of game on November 16, 1939, in order to broadcast high school football game only.
- WFTL—Tom M. Bryan, Ft. Lauderdale, Fla.—Granted modification of construction permit for approval of transmitter and studio sites at 403 Tarpon Drive, Ft. Lauderdale, Fla., and installation of vertical radiator.
- KADA—C. C. Morris, Ada, Okla.—Granted special temporary authority to maintain studios at the transmitter site (Highway No. 48, 1 mile north of Ada, Okla.), for a period not to exceed 30 days, pending determination of studio site due to fire.
- KABC—Alamo Broadcasting Co., Inc., San Antonio, Texas.—Granted special temporary authority to rebroadcast transmissions between the ground and plane of Army Stations at Randolph Field over Radio Station KABC on November 16, 23, 30, December 7 and 14, 1939.
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Denied extension of special temporary authority to operate unlimited time with 1 KW, for the period November 16, 1939, to not later than December 15, 1939, in order to broadcast civic, charitable, religious, educational, fraternal, and commercial programs, and news of national and international events of extreme local interest, both of local origin and from the Columbia Broadcasting System.
- KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted special temporary authority to operate simultaneously with Station KBST from 4:45 p. m. to 6:00 p. m., EST, on November 24 and 30, 1939, in order to broadcast football games only.
- WCLS—WCLS, Incorporated, Joliet, Ill.—Granted special temporary authority to operate additional time on December 5, 12, and 19, 1939, in order to broadcast high school football games only.
- KVAK—Carl Latenser, Atchison, Kans.—Granted special temporary authority to operate additional time from local sunset on November 19, 1939, in order to broadcast football game only.
- KFDY—South Dakota State College, Brookings, S. D.—Granted special temporary authority to remain silent on November 30, 1939, in order to observe Thanksgiving holiday.
- WSVS—Elmer G. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Granted special temporary authority to remain silent on January 1, 1940, February 12 and 22, 1940, March 30, 1940 (noon) to March 31, 1940, May 30, 1940 and June 17, to September 8, 1940, in order to observe holidays and vacations as described in letter dated November 9, 1939.
- KGER—Consolidated Broadcasting Corp, Ltd., Long Beach, Calif.—Dismissed without prejudice to the filing of another petition which complies with the Rules and Regulations of the Commission, the petition for leave to intervene in the hearing on the application of Broadcasting Corporation of America, for a new station in Riverside, Calif.
- KFRU—KFRU, Inc., Columbia, Mo.—Granted petition to intervene in the hearing on the application of Stephenson, Edge and Kormsmeier, for a new station in Jacksonville, Ill., but denied request for enlargement of issues.
- Radio Voice of Springfield, Inc., Springfield, Ohio.—Granted petition for leave to amend application for new station.
- Metropolitan Broadcasting Corp., Assignee, New York City.—Granted motion for continuance of hearing 60 days from November 27, on the application to assign license of Station WINS from Hearst Radio, Inc., to Metropolitan Broadcasting Corp.
- W1XPW—WDRG, Inc., Meriden, Conn.—Granted extension of special temporary authority to rebroadcast over high frequency broadcast station W1XPW the transmissions from high frequency broadcast station W2XMN, for the period November 29 to December 28, in order to experiment as to the feasibility of such a system.
- WHA—State of Wisconsin University of Wisconsin, Madison, Wis.—Granted special temporary authority to operate from local sunset (November 4:30 p. m., CST) to 5 p. m., CST, on November 18, in order to broadcast University of Wisconsin Homecoming football game only.
- KHGB—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted special temporary authority to operate from local sunset (November and December 5:15 p. m., CST) to 9 p. m., CST, on November 19, 26, and December 3, in order to broadcast church services only.
- E. B. Sturdivant, d/b as Silver Crest Theaters, Yuma, Ariz.—Granted motion to dismiss without prejudice the application for a new station in Yuma.
- WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Designated for hearing the application of WBHP for renewal of license on the issues relating to technical violations of the Commission's Rules and Regulations, and to determine whether applicant is capable or willing to operate the station in accordance with the Rules of the Commission.
- KRSC—Radio Sales Corp., Seattle, Wash.—Adopted amended order in the matter of the application of KRSC for construction permit to make changes in transmitting equipment, move transmitter site and increase power, by adding a paragraph that permittee shall file with the Commission within two months after effective date of order, an application for modification of construction permit, specifying exact transmitter site.
- Gateway Broadcasting Co., Louisville, Ky.—Denied petition for hearing or rehearing in the application of WGRC, Northside Broadcasting Corp., New Albany, Ind., for modification of license to increase hours of operation from daytime to unlimited, on frequency 1370 kc., with 250 watts power, which was granted by the Commission without a hearing on October 10, 1939.
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Adopted an order authorizing the Commissioner designated to preside at the hearing in re the application of WHDH to change operating time from daytime (KOA) to unlimited, and increase power from 1 KW to 5 KW, to fix the time and place such hearing shall be held, to hear, consider, determine and act upon any and all petitions, motions, and other preliminary matters in connection with and pertaining to said proceedings.
- KIEV—Cannon System, Ltd., Glendale, Calif.—Assigned Ralph L. Walker to preside at the hearing on the application for renewal of license for station KIEV, hearing to be held in the office of the Inspector in Charge, in Los Angeles, on December 7, 1939.
- WSPA—Spartanburg Advertising Co., Spartanburg, S. C.—Denied petition for extension of effective date of final order in re Docket No. 5451.
- WTHT—The Hartford Times, Inc., Hartford, Conn.—Granted special temporary authority to perform site surveys in or near Hartford during the experimental period on frequency 1200 kc., with a portable modified radio telephone transmitter, 50 watts power, with unmodulated carrier, for a period not to exceed 10 days.
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period November 20 to December 19, 1939.
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent from 2 to 3 p. m., on December 5, 6, 7, 12, 13, 14, 19 and 20, and from 3 to 3:30 p. m., CST, on December 4, 11 and 18, in order to permit WNAD to broadcast special educational programs; to operate from 7:15 p. m. to 9:15 p. m., December 21, 26, and 28, and from 8:15 to 9:15 p. m., CST, on December 27, in order to permit WNAD to remain silent during Christmas vacation (provided WNAD remain silent).
- WNAD—University of Oklahoma, Norman, Okla.—To operate from 2 to 3 p. m. on December 5, 6, 7, 12, 13, 14, 19 and 20, and from 3 to 3:30 p. m., CST, on December 4, 11 and 18, in order to broadcast special educational programs (provided KGGF remains silent); to remain silent from 7:15 to 9:15 p. m. on December 21, 26 and 28, and from 8:15

to 9:15 p. m., CST, on December 27, in order to observe Christmas vacation.

The Louisville Times Co., Louisville, Ky.—Granted construction permit for new low frequency relay broadcast station to operate on frequencies 1646, 2090, 2190 and 2830 kc., 50 watts.

J. T. Ward, d/b as WLAC Broadcasting Service (Nashville, Tenn.), Portable-Mobile.—Granted construction permit for new high frequency relay broadcast station to operate on frequencies 30820, 33740, 35820 and 37980 kc., 2 watts.

KHIQ—K. M. T. R. Radio Corp. (Los Angeles, Cal.), Portable-Mobile.—Granted construction permit for reinstatement of low frequency relay broadcast station to operate on frequencies 1622, 2058, 2150 and 2790 kc., 200 watts.

KBQA—Maxwell H. White & Herman R. Wiecking, d/b as Winona Radio Service, Portable-Mobile (area of KWNQ, Winona, Minn.).—Granted license to cover construction permit for new low frequency broadcast station to operate on frequencies 1646, 2090, 2190, 2830 kc., 20 watts.

KMED—Mrs. W. J. Virgin, Medford, Ore.—Granted license to cover construction permit authorizing installation of new equipment and increase in day power from 250 watts to 1 KW.

KVAN—Vancouver Radio Corp., Vancouver, Wash.—Granted license to cover construction permit authorizing new station to operate on 880 kc., 250 watts, daytime only. Also granted authority to determine operating power by direct measurement of antenna input.

WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Granted special temporary authority to operate a 50-watt site test transmitter, on the frequency 740 kc., in the vicinity of Portsmouth, during the experimental period when station WSB is not in operation, for a period not to exceed 10 days, in order to make a survey of a proposed new transmitter site for station WHEB.

WKST—Keystone Broadcasting Co., New Castle, Pa.—Granted special temporary authority to operate unlimited time on November 23, in order to broadcast programs as described in letters received November 13.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate additional time on November 23, in order to broadcast a football game only.

WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited to a minimum of 8 hours daily, for the period December 17, 1939, to January 3, 1940, in order to observe Christmas vacation.

WLWG—The Crosley Corp. (Cincinnati, Ohio—area of WLW and WSAI), Portable-Mobile.—Granted construction permit to make changes in equipment and increase power from 1 to 2 watts in High Frequency Relay Broadcast Station.

WLWH—The Crosley Corp. (Cincinnati, Ohio—area of WLW and WSAI), Portable-Mobile.—Granted construction permit to make changes in equipment of High Frequency Broadcast Station.

WLWI—The Crosley Corp. (Cincinnati, Ohio—area of WLW and WSAI), Portable-Mobile.—Granted construction permit to make changes in equipment of High Frequency Broadcast Station and increase power from 5 to 15 watts.

WOLS—O. Lee Stone, Florence, S. C.—Granted license to cover C. P. authorizing changes in composite equipment and increase power from 100 to 250 watts.

WEGS—Donald A. Burton, Muncie, Ind.—Granted license to cover C. P. for changes in equipment of High Frequency Relay Broadcast Station.

KORE—Eugene Broadcast Station, Eugene, Ore.—Granted license to cover C. P. authorizing changes in equipment and increase in power from 100 to 250 watts.

KANS—The KANS Broadcasting Co., Wichita, Kans.—Granted modification of construction permit authorizing changes in equipment and extension of commencement date to 90 days after grant and completion date to 90 days thereafter.

WCOP—Massachusetts Broadcasting Corp., Boston, Mass.—Granted authority to determine operating power by direct measurement of antenna input.

WRAK—WRAK, Inc., Williamsport, Pa.—Granted authority to determine operating power by direct measurement or antenna input.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Granted license to cover C. P. authorizing move of transmitter site, changes in equipment and installation of vertical radiator.

Westinghouse Electric and Mfg Co. (Pittsburgh, Pa.), Portable-Mobile.—Granted construction permit for new high frequency relay broadcast station to operate on frequencies 31220, 35620, 37020 and 39260 kc., 2 watts. Also granted license to cover same.

Bamberger Broadcasting Service, Inc., New York City.—Granted special temporary authority to use a Beer-Mug type transmitter manufactured by Fred M. Link, Model No. 388, power 0.2 watt, under area license of station WEGK, instead of regularly licensed equipment, for a special pickup at Seven-Day Bicycle Races, Madison Square Garden, New York City, on November 20, on frequencies 31620, 35260, 37340, 39620 kc.

WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Granted special temporary authority to rebroadcast two-way communication between plane and ground on the frequencies 7385 and 6290 kc., at Chanute Field, Ill., on November 20, in connection with serial program concerning Army expansion.

KUMA—Albert H. Schermann, Yuma, Ariz.—Denied petition for indefinite postponement of hearing in re revocation of license of KUMA.

APPLICATIONS FILED AT FCC

580 Kilocycles

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Modification of license to increase power from 1 KW; 5 KW day to 5 KW day and night.

590 Kilocycles

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, Hawaii.—Modification of construction permit B-P-2220, for change in frequency, increase in power, move of transmitter, install new transmitter and antenna, further requesting authority to increase power from 1 KW; 5 KW day to 5 KW day and night, and change name to Hawaiian Broadcasting System, Ltd.

630 Kilocycles

WPRO—Cherry & Webb Broadcasting Company, Providence, R. I.—Construction permit to use old W. E. 353 E-1, transmitter as an auxiliary move transmitter from 680 Barrington Parkway, E. Providence, R. I., to Wampanoag Trail, E. Providence, R. I. (site of new main transmitter), increase power from 500 watts; 1 KW day to 1 KW day and night, and use antenna described in construction permit B1-P-2369 as modified.

660 Kilocycles

WEAF—National Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit B1-P-2339, to install new antenna and move transmitter, further requesting authority to install directional antenna for day and night.

800 Kilocycles

WBAP—Carter Publications, Inc., Fort Worth, Texas.—Authority to determine operating power by direct measurement of antenna power.

810 Kilocycles

WCCO—Columbia Broadcasting System, Inc., Minneapolis, Minn.—Authority to determine operating power by direct measurement of antenna power.

850 Kilocycles

WKAR—Michigan State College, East Lansing, Mich.—Modification of construction permit B2-P-1767, as modified, for increase in power, new equipment, new antenna, and move of transmitter, further requesting authority to install new transmitter.

890 Kilocycles

WBAA—Purdue University, W. Lafayette, Ind.—Construction permit to install new transmitter, make changes in antenna, change hours of operation from specified hours to unlimited time, increase power from 500 watts; 1 KW day to 1 KW; 5 KW day, move transmitter from Northwestern Ave., West Lafayette, Ind., to State Road #43, 3 miles north of Romney, Randolph Township, Ind.

900 Kilocycles

WKY—WKY Radiophone Co., Oklahoma City, Okla.—Construction permit to increase power from 1 KW; 5 KW day to 5 KW day and night, using directional antenna nighttime.

920 Kilocycles

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Authority to determine operating power by direct measurement of antenna power.

1010 Kilocycles

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Modification of license to increase power from 1 KW; 5 KW day to 5 KW day and night, using directional antenna at night.

1050 Kilocycles

WEAU—Central Broadcasting Co., Eau Clair, Wis.—Authority to determine operating power by direct measurement.

1060 Kilocycles

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—License to cover construction permit B1-P-2327 for installation of directional antenna for night use.

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Modification of special experimental authority to operate simultaneously with KRLD (unlimited time) on 1040 kc., using directional antenna at night.

1110 Kilocycles

WRVA—Larus & Brothers Co., Inc., Richmond, Va.—Authority to determine operating power by direct measurement of antenna power.

1120 Kilocycles

WISN—Hearst Radio, Inc., Milwaukee, Wis.—Construction permit to install new transmitter, directional antenna for day and night use; increase power from 250 watts night, 1 KW day, to 5 KW day and night; and move transmitter from 231 West Michigan St., Milwaukee, Wis., to near Milwaukee, Wis.

1200 Kilocycles

WFTC—Jonas Weiland, Kinston, N. C.—Authority to determine operating power by direct measurement of antenna power.

WMOB—S. B. Quigley, Mobile, Ala.—Modification of construction permit B3-P-1983 as modified for a new station, requesting authority to make changes in transmitting equipment.

WSOO—Hiawathaland Broadcasting Co., Sault Ste. Marie, Mich.—Modification of construction permit B2-P-2423 for a new station, requesting approval of antenna, new transmitter, and studio site at Sault Ste. Marie, Mich., and transmitter at south of town, Sault Ste. Marie, Mich.

KVCV—Golden Empire Broadcasting Co., Redding, Calif.—Construction permit to install new transmitter and increase power from 100 to 250 watts day and night.

WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—License to cover construction permit B4-P-2107 for changes in equipment, antenna, frequency, power, and hours of operation.

WJBW—Charles C. Carlson, New Orleans, La.—Construction permit for equipment changes and increase in power from 100 watts to 250 watts.

WDLF—Panama City Broadcasting Co., Panama City, Fla.—Modification of construction permit B3-P-2213 for new station, requesting approval of antenna and approval of studio and transmitter site at near Cove Hotel, Panama City, Fla. Amended: to specify transmitter and studio site at First and Mercer Sts., Panama City, Fla., and antenna changes.

1210 Kilocycles

WFTM—Ft. Myers Broadcasting Co., Ft. Myers, Fla.—Modification of construction permit (B3-P-2444) for a new station, requesting approval of antenna and approval of studio and transmitter site at 51 E. First St., Ft. Myers, Fla., and increase night power from 100 to 250 watts.

WTMA—Y. W. Scarborough & J. W. Orvin, d/b as Atlantic Broadcasting Co., Charleston, S. C.—Voluntary assignment of

license from Y. W. Scarborough & J. W. Orvin, d/b as Atlantic Coast Broadcasting Co., to Atlantic Coast Broadcasting Co.

KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Construction permit to make changes in equipment, increase power from 100 to 250 watts, time from day to unlimited.

WJMC—Walter H. McGenty, Rice Lake, Wisc.—Authority to determine operating power by direct measurement.

KDON—Monterey Peninsula Broadcasting Co., Monterey, Calif.—Construction permit to install new transmitter, antenna, increase power from 100 watts to 500 watts night, 1 KW day, change frequency from 1210 to 1440 kc., and move transmitter from Municipal Wharf, Monterey, Calif., to site to be determined, near Monterey, Calif. Amended: To omit request to move transmitter and omit request for changes in antenna.

NEW—Midland National Life Insurance Co., Watertown, S. Dak.—Construction permit for a new broadcast station to be operated on 1210 kc., 250 watts power, unlimited time, requesting facilities of KWTN.

WGCM—WGCM, Inc., Gulfport, Miss.—Construction permit to install new antenna, increase power from 100; 250 watts day, to 250 watts day and night, and move transmitter from Great Southern Country Club (East Beach, Gulfport), Mississippi City, Miss., to Arlington Heights, Gulfport, Miss.

WMFG—Head of the Lakes Broadcasting Co., Hibbing, Minn.—Authority to determine operating power by direct measurement of antenna power.

KOVO—Clifton A. Tolboe, tr/as Citizens Voice & Air Show, Provo, Utah.—Modification of license to increase power from 100 watts; 250 watts day, to 250 watts day and night.

1240 Kilocycles

KFJZ—Tarrant Broadcasting Co., Ft. Worth, Texas.—License to cover construction permit (B3-P-2564) for new equipment.

1250 Kilocycles

WKST—Keystone Broadcasting Co., New Castle, Pa.—Modification of license to change corporate name to WKST, Inc.

1260 Kilocycles

KOIL—Central States Broadcasting Co., Omaha, Nebr.—Construction permit to install directional antenna for night use, increase power from 1 KW night, 5 KW day to 5 KW day and night.

1290 Kilocycles

WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Authority to determine operating power by direct measurement of antenna power.

1310 Kilocycles

KWFC—Clyde E. Wilson & Howard A. Shuman, d/b as Hot Springs Broadcasting Co., Hot Springs, Ark.—Modification of construction permit (B3-P-2380) for a new station, requesting approval of antenna, installation of new transmitter, and approval of studio and transmitter site at 633 Central, Hot Springs, Ark.

KGEZ—Donald C. Treloar, Kalispell, Mont.—Construction permit to install new transmitter, increase power from 100 watts, to 1 KW, change frequency from 1310 to 1380 kc.

WJPR—John R. Pepper, Greenville, Miss.—Modification of license to increase power from 100 watts; 250 watts day, to 250 watts day and night.

WGTM—WGTM, Inc., Wilson, N. C.—Authority to determine operating power by direct measurement.

NEW—Dixie Broadcasting Corp., La Grange, Ga.—Construction permit for a new broadcast station to be operated on 1310 kc., 250 watts power, unlimited time.

1370 Kilocycles

KUJ—KUJ, Inc., Walla Walla, Wash.—Construction permit to move transmitter from Second and Rose Sts., Walla Walla, Wash., to site to be determined, Walla Walla, Wash., install new antenna, new transmitter, change frequency from 1370 to 1390 kc., and increase power from 100 watts to 1 KW. (Contingent on KRLC application B5-ML-902 for 1370 kc.).

NEW—C. P. Edwards, Jr., & Howard Long, d/b as Kingsport Broadcasting Co., Kingsport, Tenn.—Construction permit for a new broadcast station to be operated on **1370 kc.**, 250 watts, unlimited time.

WDAS—WDAS Broadcasting Station, Inc., Scranton, Pa.—License to cover construction permit (B2-P-2287), as modified, for move of auxiliary transmitter and install antenna for auxiliary transmitter.

KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Modification of construction permit (B4-P-2166) for a new station, requesting approval of antenna, installation of new transmitter, and approval of studio site at 6th & Broad Sts., Fremont, Nebr., and transmitter at East Sixteenth St., Fremont, Nebraska.

WHLB—Head of the Lakes Broadcasting Co., Virginia, Minn.—Authority to determine operating power by direct measurement of antenna power.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Modification of license to move main studio from New Albany, Ind., to Louisville, Ky.

WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1390 Kilocycles

KRLC—H. E. Studebaker, Lewiston, Idaho.—Modification of license to change frequency from **1390 to 1370 kc.**, contingent on KUJ (B5-P-2610), for change in frequency from **1370 to 1390 kc.**

WHK—Radio Air Service Corp., Cleveland, Ohio.—Extension of special experimental authorization to transmit facsimile signals from 1 a. m. to 6 a. m., EST, using 1 KW power, for period ending 8-1-40. Amended: To change the name to The United Broadcasting Co.

1420 Kilocycles

KRBM—KRBM Broadcasters, Bozeman, Mont.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

KABC—Alamo Broadcasting Co., Inc., San Antonio, Tex.—Construction permit to install new transmitter, new antenna, change in frequency from **1420 kc. to 710 kc.**; increase power from 250 watts to 10 KW; move transmitter from 811 East Myrtle St., to site to be determined, San Antonio, Tex.

KDNT—Harwell V. Shepard, Denton, Texas.—Modification of license to change hours of operation from daytime to unlimited time, using 100 watts power.

WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Construction permit for changes in equipment, and increase in power from 100 to 250 watts.

KVAK—Carl Latenser, Atchison, Kans.—Modification of license to change hours of operation from daytime to specified hours. Amended: to request unlimited time using 100 watts power.

1430 Kilocycles

KINY—Edwin A. Kraft, Juneau, Alaska.—License to cover construction permit B-P-2401, as modified for changes in equipment and increase in power.

1460 Kilocycles

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—License to cover construction permit B4-P-2493 for auxiliary transmitter. Amended: re frequency check.

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. Amended: re antenna changes.

1500 Kilocycles

KSAL—KSAL, Inc., Salina, Kans.—Modification of construction permit B4-P-2068, for change in frequency, increase in power, make changes in equipment, install directional antenna for night use, further requesting changes in directional antenna system, and installation of new transmitter. Extend

commencement date 60 days after grant and completion date 180 days thereafter.

WSYB—Philip Weiss, tr/as Philip Weiss Music Co., Rutland, Vt.—License to cover C. P. (B1-P-2454) for equipment changes and increase in power.

WKBB—Sanders Brothers Radio Station, Dubuque, Iowa.—License to cover construction permit (B4-P-1147) as modified, for move of transmitter and studio from East Dubuque, Ill., to Dubuque, Iowa, install new antenna and increase night power.

WOMI—Owensboro Broadcasting Co., Owensboro, Ky.—Authority to determine operating power by direct measurement.

1550 Kilocycles

NEW—Henry Joseph Walczak, Springfield, Mass.—Construction permit for a new television station at 360 Worthington St., Springfield Mass., to be operated on **1550 kc.**, 250 watts, special emission, unlimited time.

MISCELLANEOUS

W2XWI—Bamberger Broadcasting Service, Inc., Carteret, N. J.—Modification of construction permit B1-PHB-82, for approval of transmitter site at Pauline St. and Park Ave., Carteret, N. J.

WLWO—The Crosley Corporation, Mason, Ohio.—Modification of construction permit B2-PIB-17, as modified, requesting extension of completion date from January 1, 1940 to July 1, 1940.

W9XBA—WHB Broadcasting Co., Kansas City, Mo.—License to cover construction permit B4-PHB-68, as modified, for new high frequency broadcast station.

KWHB—WHB Broadcasting Co., Kansas City, Mo.—License to cover construction permit B4-PRY-195 for new low frequency broadcast station.

WENX—Brown Radio Service and Laboratory (Gordon P. Brown, Owner), area of Rochester, N. Y.—Construction permit for reinstatement of station, requesting changes in equipment and increase in power from 25 watts to 50 watts.

W9XHW—Columbia Broadcasting System, Inc., Minneapolis, Minn.—Construction permit to move transmitter to site to be determined, Boston, Mass., Worcester, Mass., and adjacent areas in Massachusetts; install new transmitter; change emission from A-3 to special emission; change frequency from **42300 kc. to 42800 kc.**; increase power from 50 watts to 1 KW.

W2XDV—Columbia Broadcasting System, Inc., New York, N. Y.—Construction permit to move transmitter to Chrysler Bldg., 405 Lexington Ave., New York, N. Y.; install new transmitter; change frequency from **42300 kc. to 43000 kc.**; increase power from 50 watts to 1 KW; and change emission from A-3 to special.

WBOS—Westinghouse Electric & Manufacturing Co., Millis, Mass.—Modification of license to change frequency from **9570 kc. to 6140, 9570, 15210, 21540 kc.**, sharing time with WPIT on all four frequencies.

WRPM—Radio Air Service Corp., Cleveland, Ohio.—Voluntary assignment of construction permit to United Broadcasting Co.

NEW—Westinghouse Electric & Manufacturing Co., Allison Park, Pa.—Construction permit for a new high frequency broadcast station to be located at Clearview Road at Route 8, Allison Park, Pa., to be operated on **42600 kc.**, 1 KW, unlimited time, and special emission.

KEHI—WDAY, Inc., area of Fargo, N. Dak.—Construction permit to change location of transmitter from portable-mobile to fixed at 118 Broadway, Fargo, N. Dak.

NEW—Midland Broadcasting Co., Inc., Kansas City, Mo.—Construction permit to erect new high frequency station located at 106 W. 14th St., Kansas City, Mo., to be operated on **42600 kc.**, 1 KW power, unlimited time, special emission.

WEHX—United Broadcasting Co., Cleveland, Ohio.—Modification of license to increase power from 25 to 100 watts.

NEW—Balaban & Katz Corp., Chicago, Ill.—Construction permit for new television station located at northeast corner Washington Blvd. and Crawford Ave., Chicago, Ill., to be operated on **66600-72000 kc.**, 1 KW power, A-3 and A-5 emission, unlimited time.

KEIL—KMTR Radio Corporation, area of California.—Construction permit for reinstatement of station on **30820, 33740, 35820, 37980 kc.**, using 50 watts power for orders on **33740 kc.** and 25 watts for programs.

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.

Charles A. Brewer & Sons—Kenneth E., Everett R. and Nelson C. Brewer, individually and as copartners trading under the name of Chas. A. Brewer & Sons, 6320-32 Harvard Ave., Chicago, manufacturers and distributors of push cards and punch boards used in the sale and distribution of merchandise by lottery methods, are respondents in a complaint.

The complaint charges that the sale and distribution of the push card and punch board devices by respondents supplies to, and places in the hands of others the means of conducting lotteries, games of chance or gift enterprises in the sale and distribution of their merchandise to ultimate consumers. The respondents thus supply to and place in the hands of persons, firms and corporations the means of and instrumentalities for engaging in unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. (3952)

Jean Ferrell, Inc., 112 East Walton St., Chicago, engaged in the sale and distribution of a preparation known as "Concentra", represented as a concentrated food product for use in treating obesity and as a tonic, is charged in a complaint with dissemination of misleading advertisements concerning its preparation.

Among the respondent corporation's representations are that "Concentra" is a highly concentrated food, safe for use, and one which, with the addition of liquids, will constitute a balanced diet and replace the ordinary diet. It is alleged to be a highly concentrated, dehydrated food in capsule form, containing rhubarb, soya bean meal, Irish sea moss, gravel root and dehydrated cranberries.

The complaint charges that by reason of the high content of rhubarb present in this preparation it is, in fact, a drug, and is not safe for use by either adults or children, and that serious injury to health may result from its continued use as recommended by the respondent. The preparation, the complaint continues, will not constitute a balanced diet and does not have sufficient nutritive value to replace the ordinary diet. It will not, as advertised, supply deficiencies to the human body or aid in furnishing the corrective organic elements; nor will it correct either overweight or underweight or restore a healthy, normal figure. (3950)

Hudson Fur Dyeing Company—Misrepresentation of rabbit peltries as seal, is charged in a complaint against Louis, Charles, Sidney, Esther and Belle Estrin, trading as Hudson Fur Dyeing Company, 29 Congress St., Newark, N. J. The respondents are engaged in the processing and dyeing of rabbit peltries and also in the distribution of these furs.

The complaint alleges that the respondents attached labels and tags to the peltries and furnished the purchasers tags for use on finished garments made therefrom, reading: "HUDSEAL (Seal Dyed Coney) Trade Mark Reg. * * * Super Quality", and "SATINSEAL REGISTERED Seal Dyed Coney * * * Hudson Fur Dyeing Process", the words "Seal Dyed Coney" being printed in much smaller type than the words "Hudson Fur Dyeing" and "Satinseal".

By furnishing false and misleading labels and tags to customers, the complaint charges, and causing them to be placed upon the peltries, respondents place in the hands of uninformed or unscrupulous dealers a means whereby members of the purchasing public may be misled into the erroneous belief that fur garments made from rabbit peltries are in fact composed of seal peltries.

The complaint points out that there is a preference on the part of the purchasing public for fur products made from peltries of seal because of their superior qualities such as pliability, durability and luster, and that the false and misleading statements on respondents' labels and tags have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that the garments so labeled are made of seal peltries. (3951)

Retonga Medicine Company, 161 Spring St., N. W., Atlanta, is charged in a complaint with misrepresenting in newspaper advertisements that a medicinal preparation containing drugs, known as "Retonga", is a competent treatment for nervousness, biliousness, undernourishment and other disorders.

The complaint alleges that the representations are grossly exaggerated and misleading, and that "Retonga" is not an alternative medicine or powerful stomachic, and its therapeutic properties are limited to little more than those of a laxative. (3949)

Sure Laboratories—"Sure", a breath purifier manufactured and distributed by Fannie P. Fox, trading as Sure Laboratories, 841 North Wabash Ave., Chicago, will not accomplish the claims made for it in radio broadcasts and newspaper advertising according to a complaint nor can ordinary salesmen, under normal conditions, earn "\$300 profit weekly," as suggested in advertisements alleged to have been disseminated by the respondent.

"Just put a drop of 'Sure' on your tongue, swirl it around in your mouth . . . and every trace of offensive breath is gone instantly!" * * * Anyone can make money with "Sure", and "One man has averaged \$300 profit weekly for the last 60 days." are among such advertisements in newspapers and broadcasts.

The complaint alleges that the preparation will not neutralize breath odors, and that its effect is limited to masking such odors to a greater or less degree, and that salesmen, under ordinary conditions, cannot earn \$300 per week or sums which could be characterized as representing large earnings. (3948)

STIPULATIONS

The Commission entered into the following stipulations during the week:

Apex News and Hair Company, Inc., Indiana and Arctic Avenues, Atlantic City, N. J., operates schools for beauty culture in different cities and manufactures and sells beauty preparations for members of the colored race. The respondent agreed to discontinue advertising that its "Apex Skin Bleach" instantly lightens the complexion or brings to the skin new life and color or youthful vitality, and to cease representing that any of its products will correct dandruff, nourish the scalp, or promote a growth of hair. The respondent agreed to cease designating any of its preparations as a hair grower. (2573)

M. H. Arndt Manufacturing Company—Milton H. Arndt, trading as M. H. Arndt Manufacturing Company, Trenton, N. J., and Webster, Mass., engaged in breeding and developing chickens and in making, selling and distributing poultry raising equipment, agreed to discontinue representing that the use of contact heat results in production of hump-backed broilers or chicks, if used continuously, or that chicks brooded by contact heat are inferior to those brooded by means of radiant heat. The respondent also stipulated that he would cease publishing or exhibiting drawings or other pictorial representations of competitive products, the effect of which may be to misrepresent the desirability or other qualities of the competitive products. (2570)

Bar-Je, Inc., 540 North Michigan Ave., Chicago, agrees to cease and desist from representing that "Bar-Je Dry Skin Cleanser", "Bar-Je Night Cream", or any cosmetics containing substantially the same ingredients or properties, will supply nourishment, food values or building materials to the skin or underlying tissues, or will duplicate, restore, maintain, replace or replenish the natural oils; will overcome dry skin or impart, or maintain a protective

film on the skin; will keep the skin young, youthful, or looking young and youthful, or will prevent or remove lines or wrinkles of the skin; and that the preparations contain "Lipiderm" or that there is any product or element recognized, designated or known as "Lipiderm." The respondent corporation will also discontinue representing that the preparations are new, secret, newly discovered, or scientific in principle, method of application or use, or that such methods are adhered to only in "Bar-Je" products, or that any price is special or introductory, unless it is a price substantially lower than the price at which such preparation is customarily sold and is specifically limited to a reasonable time and discontinued at the end of such time limit. (02460)

Casnati Derm-Esthetic Institute, Inc., 75 East 55th St., agrees to cease representing that "Fermo-Derm", a skin lotion distributed by it, will draw all clogging substances from the pores, or that it shows the same chemical analysis as the life-giving essentials of healthy glands; that it will accelerate circulation or feed the skin or revitalize the supporting tissues until they become charged with youthful virility and reproduce themselves. The respondent corporation also agrees to cease use of the word "Institute" as part of its corporate or trade name or to imply that the business conducted by it is that of an institute for the promotion of dermatological study or of learning. (2571)

Central States Amateur Independent Basket Ball Assn.—See Central States Basket Ball Association.

Central States Basket Ball Association—Wayne G. Emmelmann, sole trader as Central States Basket Ball Association and also as Central States Amateur Independent Basket Ball Association, 4260 Roland Rd., Indianapolis, engaged in the sale and distribution of sporting goods and athletic and school trophies, has entered into a stipulation to discontinue certain misleading representations.

The respondent agrees to cease and desist from use in his trade name of the word "Association" or similar designation to imply that such personal business enterprise is an association of individuals, or use of the title "Secretary" in the conduct of his business or promotional undertakings, or in any way to hold himself out as an official or representative of a group or body which does not exist; from representing that the so-called Central States Basket Ball Association is an organization, or the outstanding organization of America, or that such a purported organization publishes an "Association Co-Operative Catalog", or that the business conducted by him individually is the "sales division" of such an alleged association.

Emmelmann further agrees not to represent that his business is a "Co-Operative Service", or was started or is maintained by some association "not to commercialize basket-ball", but only to "make it possible for all schools and organizations to purchase their athletic supplies at sane prices". The respondent will also desist from use of the terms "Sunburst Gold" or the words "Gold" or "Silver" to apply to products not composed in whole or in part of gold or silver. (2574)

Certified Products Company—W. Raymond Roose, trading as Certified Products Company, 223 South Western Parkway, Louisville, Ky., dealer in razor blades, combs, and novelty articles, agreed to cease using the word "Manufacturers" on letterheads or in advertising matter so as to imply that he manufactures the things he sells or operates or controls a factory in which they are made, and to discontinue representing that products sold by him have an alleged valuation which is fictitious or in excess of the price for which they customarily can be purchased. (2575)

Champion Distributing Company—See Model Lingerie Company.

Duratex Plush Company—Gerson Greenberg, trading as Duratex Plush Company, Oak Lane, Philadelphia, in the sale of "Dorise" mohair upholstery fabrics, will desist from employing the word "Weavers" as part of a trade name under which he sells his products which are not woven by him, or in a manner implying that he weaves the products he sells or controls the

plant in which they are woven. According to the stipulation, Greenberg originally used the trade name "Duratex Plush Weavers," but has dropped the word "Weavers," substituting therefor the word "Company." Greenberg also stipulated that he would cease representing that his products are "A Government Standard" or are "Made to Comply with Government Specifications," when in fact there is no proper basis for these claims. (2569)

Early & Daniel Company, Inc., 1117 West Sixth St., Cincinnati, agrees to cease representing that the feeding of "Tuxedo Turkey Growing & Developing Mash" to turkeys will enable one to have an increase in profits over profits that might be obtained by the feeding of any other similar product; that the feeding of the mash will cause an increase in the development or growth of poults and turkeys over such development or growth as may be obtained through use of similar products; that correct feeding will assure one of an increase in profits, or that feed alone is responsible for the quality or size of poultry or stock; that "Tuxedo Growing & Developing Mash" will insure large bodied breeders or that by feeding this product one is assured of strong, healthy or vigorous poults, or that the vitamin guarantee offered with the product will assure such result. The respondent corporation will also discontinue representations that Tuxedo hog feeds are complete feeds of highest quality, or that by use of "Tuxedo Porkmaker" a person may expect hogs to attain any definite weight within any specific time greater than the average weight obtained by other persons feeding other similar products under normal conditions; or that any unusual weight has been obtained by persons feeding the product, unless in direct connection therewith full disclosure is made of the conditions under which such feeding was carried on. (02461)

Eastern Hosiery Mills, Inc., 330 Fifth Ave., New York, wholesaler of hosiery, agrees to cease use of the word "Mills" as part of its corporate name or in any way to imply that it manufactures the products it sells or actually owns and operates or directly controls the factory in which they are made, when such are not the facts. (2580)

J. Harris & Company—Jacob Harris and Emanuel Harris, trading as J. Harris & Co. and as Majestic Pen Co., 115 East 23rd St., New York, agreed to discontinue representing or placing in the hands of others the means of representing, that any fountain pen made, assembled or sold by them holds 109 per cent more ink than other pens, or holds any proportion exceeding the actual quantity as compared to other fountain pens on the market. (2568)

L. Hemmerdinger & Co., Inc., 424 East 123rd St., New York, distributor of bronze powders, paints and varnishes, will discontinue employing the word "Manufacturers" on letterheads in connection with the sale of its powder product, so as to imply that it manufactures such product, or owns or controls the plant in which it is made, when such are not the facts. The respondent also agrees to desist from using the word "Importers" misleadingly, when it is not an importer of the powdered material. (2567)

Levy Bros. & Adler Rochester, Inc., Rochester, N. Y., manufacturer of men's and boys' suits, in its stipulation, agreed to discontinue using, or furnishing others for their use, labels or advertising matter bearing the words "Olde English," to be employed in connection with the sale of this firm's domestically made products. (2565)

Majestic Pen Company—See J. Harris & Company.

Mother Goose Bedding Company—J. L. Bashor, trading as Mother Goose Bedding Company, 565 Whitehorn Ave., Columbus, Ohio, a dealer in goose feather quilts, agreed to cease using in advertising matter the words "Special Introductory," or either word in connection with the phrase "One Week Only," or otherwise as descriptive of a sales offer so as to imply that it is special, introductory, or other than the respondent's regular offer, when

such are not the facts. Bashor also stipulated that he would not represent (1) that modern bedding is made of fabrics that absorb moisture and conduct heat away from the body while drawing cold from the outside; (2) that ordinary quilts and blankets absorb body heat, speeding up heart action; (3) that use of down or feather quilts will cause a person to wake up more refreshed than if he had used ordinary quilts, and (4) that use of down and feather quilts is an effective treatment or preventive for sinus, arthritis, rheumatism and catarrhal conditions. (2566)

Model Lingerie Company, also trading as Champion Distributing Company, 209 West Jackson Boulevard, Chicago, sells lingerie, hosiery, men's shirts, cameras, clocks, silverware and other merchandise. Under its stipulation, it agrees to discontinue supplying to, or placing in the hands of others, punch boards, push or pull cards, or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof. It also agrees to cease representing that the sale of premium merchandise by means of push cards or similar devices is a "unique plan of advertising," or, by the use of any other words of similar implication, that any merchandising plan involving a lottery scheme is intended for mere advertising purposes or is other than a method of disposing of merchandise. The respondent also agrees to discontinue certain misleading uses of the words "free" and "guarantee" and of fictitious figures purporting to be "values" of articles sold. (2576)

R. A. Nichols, 113 York St., Rumford, Me., agrees to cease and desist from representations in connection with the sale of instructions and formula for the compounding of "Mexican Cough Remedy"; that the remedy will stop, check or have any effect on the cause, course or degree of night sweats, will purify the blood or relieve coughs not due to or associated with colds, or supply energy for the human body. The respondent further agrees to cease designating or describing the formula he offers for sale, or the syrup composed according to such formula, as "Mexican," by using the term "Mexican" or any other word or term that simulates "Mexican" by spelling or sound. (02459)

Pioneer Publications, Inc., 1270 Sixth Ave., New York, agrees to cease representing in connection with the sale of a book of instructions on dancing, sold and distributed by it, that "ease or assurance" on the dancing floor can be acquired by merely reading the book and practicing a few hours. The respondent corporation agrees to cease representing "That anyone, by reading the information and following the instructions in said book, will be enabled to dance with ease or assurance or will be enabled to become a wonderful dancer, or that thereby anyone can, with but a few hours practice, learn to dance." (02458)

Vapoo Products Company, Inc., 1775 Broadway, New York, in the sale of "Arctic Syntex M." sold also under the name "Vapoo," and used in the cleaning of carpets, rugs and upholstery, agreed to discontinue employing as descriptive of its product the word "sanitizes" or any other word of similar implication, the effect of which may tend to convey the belief that the preparation is effective as a germicide or an antiseptic; and to cease using any representation importing that the product will remove all stains regardless of cause. (2572)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Alle-Rhume Remedy Company, Inc.—The Commission has reconsidered and modified its cease and desist order issued last August against Alle-Rhume Remedy Company, Inc., and Block Drug Company, Inc., Jersey City, N. J., directing the respondents to discontinue certain misleading representations in the sale of "Allenru," or any similar preparation.

The modified order is similar to the original order except that

it eliminates that provision thereof which prohibited the respondents from disseminating any advertisements which failed to reveal that their preparation is not a wholly safe drug to be used by the lay public in self-medication. (3678)

Block Drug Company, Inc.—See Alle-Rhume Remedy Company, Inc.

James Heddon's Sons—The Commission, upon notice and opportunity for hearing, has issued an order altering the terms of a cease and desist order issued last August against James Heddon's Sons, Dowagiac, Mich., which firm had been directed to discontinue misleading representations in the sale and distribution of its "Improved Heddon Pal" hollow steel fishing rod, or other fishing rods.

Under the original order, the respondent was directed to cease representing, among other things, that all hollow steel fishing rods, other than its own, have walls which are thicker at the butt than at the tip.

The order has now been corrected to prohibit the representation that all hollow steel fishing rods, other than the respondent's own, have walls which are thicker at the tip than at the butt. (3792)

Marlin Firearms Company, New Haven, Conn., has been ordered to cease and desist from representing that it manufactures the razor blades it sells and distributes.

In advertisements in newspapers and periodicals, the Commission finds, the respondent alleged "It is not hard to understand why Marlin is one of the finest blades in the world. They are made with the same care that has made Marlin guns tops in quality for 67 years," and "Marlin, world-famous firearms manufacturer, has found a way to produce a truly fine razor blade * * *."

In truth, the findings continue, the respondent corporation does not make or manufacture the blades sold by it under its trade name and represented as "Marlin" blades, but they are manufactured by another company not owned or controlled by the respondent.

A substantial part of the purchasing and consuming public and dealers, the findings continue, prefer to deal direct with the manufacturer in the belief that lower prices, elimination of middlemen's profits, superior products, and other advantages, can be obtained. Furthermore, the name "Marlin" has long been associated with the manufacture of high-grade firearms, and there would be a preference on the part of a substantial portion of the purchasing public for razor blades manufactured by the Marlin Firearms Company in the belief that the company, by reason of its reputation, is better equipped to manufacture a high-grade product.

The Commission orders that the respondent corporation forthwith cease and desist from representing that it is the manufacturer of the razor blades which it sells, unless and until it owns and operates, or directly and absolutely controls, the factory in which the blades are manufactured. (3871)

Pillsbury Flour Mills Company—On petition of the Pillsbury Flour Mills Company, Minneapolis, the Commission has reconsidered certain parts of its findings and order to cease and desist issued last April against Quality Bakers of America, Inc., and other respondents, who were directed to discontinue violations of the brokerage section of the Robinson-Patman Act.

Among the respondents named in that order were Pillsbury Flour Mills Company, and the Consolidated Flour Mills Company and Kansas Milling Company, both of Wichita, Kans.

Upon reconsideration, the Commission has modified its findings and order as to these three companies and has dismissed the complaint insofar as it relates to them for the reason that prior to its issuance they ceased paying brokerage fees as alleged to the respondent Quality Bakers of America, Inc., an intermediary, the stock of which was owned by various baking companies, members of Quality Bakers of America, a trade association.

The provisions of the findings and order relating to Quality Bakers of America, Inc., and other respondents, were not amended. These respondents have petitioned the United States Circuit Court of Appeals, First Circuit, Boston, for review of the Commission's order to cease and desist. The record in the proceeding will shortly be certified to the court, as provided by law, and the case will be proceeded with there in the regular course. (3218)

Purity Products Company—Willard C. McAhren and Maude B. McAhren, trading as Purity Products Company, 801 Bluff Road, Sioux City, Iowa, have been ordered to cease and desist from misrepresentations made in the sale and distribution of a medicinal preparation designated "Wheatol."

In advertisements circulated through United States mails and in circulars and other printed matter, the Commission finds, the respondents represented that Wheatol, "one of the most potent sources known for VITAMIN E," is effective in the treatment of certain ailments and conditions, and that the loss of vigor, vitality and general well-being of males up to and considerably over 50 years of age, and inability of women to bear children successfully after conception, among other things, are due to a deficiency of Vitamin E, and will be remedied by the use of Wheatol. These representations, the findings continue, are misleading and untrue.

Respondents Willard C. and Maude B. McAhren are ordered to desist from further representations that impairment of youthful vigor and vitality, and general conditions which accompany advancing years in a male, are due to a deficiency in Vitamin E, or that such impairment can be averted or delayed by use of their preparation, or that the preparation will affect women's ability to successfully conceive or bear children, except in rare cases involving habitual involuntary abortion, which may be due to a Vitamin E deficiency of a degree susceptible of replacement by the Vitamin E content of "Wheatol."

It was further ordered that the case against Landon & Warner, 360 North Michigan Ave., Chicago, named in the complaint as advertising agents for the respondents, be closed without prejudice to the right of the Commission to reopen it in the event that facts so warrant. In answering the complaint, Landon & Warner denied participation in the preparation or dissemination of the advertising to which the complaint refers. (3847)

Quality Bakers of America, Inc.—See Pillsbury Flour Mills Company.

Standard Toykraft Products, Inc., 319 McKibbin St., Brooklyn, N. Y., a distributor, has been ordered to discontinue misleading representations in the sale of toys.

Findings are that the respondent company caused to be inserted on containers of certain toy sets the language: "Toykraft Knitting Spool Set, Copyright 1936, and Made by Standard Toykraft

Products, Inc., New York, U. S. A." In this manner the respondent United States, when in fact a substantial portion of the units comprising the sets were manufactured in Japan, purchased by the respondent from importers, and assembled by the respondent, according to findings. (3876)
represented that its toy sets were wholly manufactured in the

Superior Textile Mills—Abraham Starr, trading as Superior Textile Mills, 16-20 East 12th St., New York, has been ordered to cease and desist from misrepresentations in the sale and distribution of haberdashery.

Findings are that the respondent employs about 75 salesmen, who take orders from consumers in house-to-house canvasses. Through the media of price lists, advertisements and other printed matter, the respondent is alleged to have made misleading statements with reference to commodities offered for sale by him. Among these are: "Established 1905. . . SUPERIOR TEXTILE MILLS, 16-20 East 12th Street, New York, N. Y. Postage paid to all parts of U. S. A. . . SUPERIOR TEXTILE MILLS, Makers of Superior Quality Shirts and Wearing Apparel for Men, 16-20 East 12th Street, New York." and "Direct from Mills to Wearer," and offers of 4 shirts or other garments for the price of 3, for a certain limited period.

Findings also are that respondent was not established in business until after 1925, does not own or control any textile mill and does not sell direct from mill to wearer.

Starr is ordered to cease and desist from use of the word "Mills" in his trade name or from representing that he is the manufacturer of the products sold by him, unless and until he actually owns or operates the manufacturing plant wherein such products are made; from representing that any article regularly included in a combination offer with other articles, is "free," or that the sale thereof constitutes a "free merchandising sale"; from representing any articles delivered to purchasers of other articles as "free," until and unless the conditions under which such articles are delivered to purchasers are stated in immediate connection or conjunction with the term "free," in words, letters and figures of equal conspicuousness, and there is no deception as to the price, quality, character or any other feature of any of the items in the offer.

The respondent also will discontinue representing that his business was established at any time other than the time of its actual establishment, or that any offer of merchandise is limited as to time, unless such offer is in fact so limited. (3190)