

## BMI Developments

At ASCAP's annual dinner last week, Gene Buck took down the old blunderbuss and got in a little target-practice. He was, as usual, aiming at the broadcasters and, as usual, no hits were registered.

According to *Variety* he "defied the broadcasters to produce a single instance where any American industry was able to purchase the raw material, on which it lives, anywhere 'for such a ridiculously low percentage of its gross earnings as that requested from radio by the Society.' "

The broadcasters might in turn ask Mr. Buck to produce any other instance of an American industry which is being forced by a monopoly to buy raw material which it does not need and cannot use.

A recent, widely circulated magazine article showed that 84% of daytime network programs are non-musical. Yet they are all taxed by ASCAP for "raw material" that is not used.

Approximately 22% of commercial time makes use of Mr. Buck's "raw material." On that ground his organization demands an amount estimated by *Variety* to be approximately 50% of the networks' profits. "Ridiculously low percentage!" wails Mr. Buck.

Mr. Buck is actually a man of unflinching nerve. In his speech that night he charged that the radio receipts, on which the broadcasters had agreed to pay 5%, during 1939 were about \$130,000,000 and that the broadcasters had nevertheless paid only about \$4,000,000.

The statement took the nerve of a Baron Munchausen. It is phony on its face. If it were true, of course, ASCAP would file suit for its extra \$2,500,000 instead of twiddling its thumbs in despair while Gene Buck does his Demosthenes impersonation.

The answer is that every radio station paid its 5% as agreed and Buck is simply grouching because the contracts were not made stiffer than they were.

Carl Haverlin, BMI's station relations director, has made a statistical analysis of the position of BMI and the results are a cause of great enthusiasm. He finds that a large majority of the broadcasting industry is solidly behind the company. Commercial stations, making up 53.2% of the total number and doing more than 80% of the dollar-volume of business are now committed to the enterprise.

This total includes 73.7% of all CBS stations, 68.1% of NBC, 45% of Mutual, 39.4% of the independents.

Arthur H. Gutman has joined the staff of BMI as director of arrangements and publication. He is one of the best known arrangers in the country and an outstanding composer. The list of songs he has arranged reads like a section from a list of the leading hits of the last eighteen years—"What'll I do?"—"Always"—"All Alone"—"Russian Lullaby"—"Underneath the Harlem Moon"—"Yes, Sir, That's My Baby!"—and so on into the hundreds.

He was head arranger for ten years for Irving Berlin, Inc., for four years for Crawford Music Co., and for the past four years with Local 802, the important New York unit of the American Federation of Musicians.

Under a pen-name he himself has written many popular numbers and under his own name he has produced notable symphonic works. His Third Symphony is to be played by the New York Philharmonic under Frieder Weissman at the Lewisohn Stadium in New York this summer; his string suite will be broadcast by an orchestra under Howard Barlow on the Everybody's Music program during the summer; and his Second Symphony will be played by the Pittsburgh Orchestra under Fritz Reiner next November.

Mr. Gutman is a living embodiment of the present trends of progress in American music. The old idea that "popular" music was not "good" or that good music could not be popular is going the way of Prohibition, mah-jong, and jokes about Haile Selassie. America is swinging around to the point where people will question whether music is "good" unless it is also popular. One evidence of that trend is that the same men write and play both for dance-bands and for symphony orchestras. Benny

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

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## BMI DEVELOPMENTS

(Continued from page 4213)

Goodman plays Mozart at New York's Town Hall. Arthur Gutman arranges BMI songs for dancing.

BMI steps into the lead in the progress of American music.

CBS issued another memorandum to its affiliated stations on the ASCAP situation last week. Herbert V. Akerberg, vice president in charge of station relations signed the letters.

Mr. Akerberg's letter:

DEAR MR. \_\_\_\_\_:

Since Mr. Klauber's letter of April second, the situation on the music front is proceeding entirely satisfactorily. Broadcast Music, Inc., has secured the Cole catalogs and has closed other deals, and current releases of new popular numbers are now being made available to us. Our own efforts in the past three weeks have resulted in substantial elimination of ASCAP numbers on our network sustaining programs.

You will also be interested to know that, in spite of the fact that no response was requested to Mr. Klauber's letter, a large number of stations have voluntarily written expressing their appreciation and endorsement of Columbia's position. Other stations to whom we talked since this letter was received by them have also taken the same position. No station has indicated any disposition to accept the ASCAP bait.

As many have expressed it to us, this unanimous reaction is conclusive proof of the complete failure of the old ASCAP tactics of "divide and rule." This first, and perhaps decisive, battle having been won, we are even more convinced of the ability of broadcasters to break the ASCAP strangle hold on our industry.

If you have not already written us, I would certainly appreciate hearing from you and getting your reaction.

E. C. Mills, chairman of the administrative committee of ASCAP, confirmed reports that the society had paid royalties amounting to \$5,099,302 to its members during the last year, and \$33,187,440 since it first began to realize an actual income in 1921. The figures were given out by Gene Buck, president of the society, at the annual fifteen wired music corporations and closed dinner on April 24.

Mr. Buck's report also showed that during 1939 the society had issued licenses to 14,836 theaters, 678 commercial radio stations, 9,991 restaurants, 1,852 hotels, 2,895 dance halls, 2,257 miscellaneous commercial establishments.

From these licensees the society received a gross income of \$6,565,592.18, which, after being reduced by 19 per

cent for administrative overhead and another 10 percent for the foreign affiliates of the society, was distributed among the members. The first royalties which the society gave out, in 1921, amounted to \$81,883, as compared to the present \$5,099,302. Of the royalties for 1939, approximately \$4,000,000 came from radio, the report stated.

The BMI board met April 30, but made no statement after the meeting.

## ORCHIDS TO DORSEY

The correspondence which we print below speaks volumes on the broadcasting of phonograph records. The artists need radio's plugs. That goes for the songwriters, too. Orchids to Tommy Dorsey for being a realist! Here are the letters:

"April Twenty-fourth, 1940.

Mr. Neville Miller  
 National Association of Broadcasters  
 Washington, D. C.

DEAR NEVILLE:

I know that all stations are delighted with the trend the phonograph record situation has taken. I have felt all along that if a sufficient number of stations discontinued the playing of records that the manufacturers would soon realize the advantage of this promotion and understand fully that they could not "hornswaggle" the stations into paying for the privilege of selling their commodity.

For your files, I am enclosing copy of a letter from Mr. Jack Egan, Public Relations Manager for Tommy Dorsey. This clearly indicates the value the recording artist places on the publicity given their records by radio stations.

Sincerely yours,

E. K. CARGILL,  
*President-Manager,*  
 RADIO STATION WMAZ."

"DEAR SIR:

. . . It has always been our desire to cooperate with those who help in the promotion of Tommy Dorsey and his band and wish to offer any cooperation I might be able to give in this respect at this time.

Naturally, we'd like to see you use Tommy's records on some of your wax shows and assure you there will be no complaint from this quarter as long as it's okay with the Victor people for the stations to play the recordings of their artists. . . .

Trusting we may find our way to your turntables again in the Victor-Bluebird packages and with many thanks for your kind favors, I remain,

Cordially,

JACK EGAN,  
 Public Relations for Tommy Dorsey."

"April 29, 1940.

Mr. E. K. Cargill, President  
 Radio Station WMAZ  
 Macon, Georgia

DEAR E. K.:

Many thanks for your letter enclosing copy of letter from Jack Egan. I believe that the last few months have proved conclusively what we all knew, i.e., that the playing of records on the radio really is beneficial to the artists and the record companies.

With kindest regards, I am,

Very truly yours,

NEVILLE MILLER."



## Promotion

### RADIO FESTIVAL PLANNING UNDER WAY EVERYWHERE

Radio Festival planning is getting into high gear with more stations reporting activity and progress, east, west, north and south.

From one end of the "Father of Waters" to the other, from the Atlantic to the Pacific and in-between, station executives and their staffs are hard at work to insure a job well done.

Governor Payne Ratner, of Kansas, was the first state chief executive officially to proclaim National Radio Festival. Date for observance of the event in Kansas was announced, on May 1, for the week of May 20-25, on account of the early closing of schools. Ben Ludy, manager, WIBW, Topeka, personally, made arrangements with Governor Ratner.

The first Mayor to proclaim a municipal Radio Festival Week, as previously reported, was Mayor Ralph L. Lewis, of Greensboro, N. C. Major Edney Ridge, manager, WBIG, who negotiated this deal, has secured similar proclamations from the Mayors of Burlington, Reidsville, High Point, Gibsonville and Asheboro.

Date for every Radio Festival, may we repeat, is to be determined by the station executive. The date need not agree with that named in a state proclamation. This is repeated because the date for closing schools is the chief factor influencing the timing of Radio Festival Week; and it has been noted that in adjacent counties the closing dates sometimes vary as much as ten days or two weeks.

WHIZ, Zanesville, Ohio; KGVO, Missoula, Mont.; WICC, Bridgeport, Conn.; WDRC, WTHT and WTIC, Hartford; WNBC, New Britain; WELI, New Haven; WNLC, New London, and WBRY, Waterbury, have prepared truly outstanding plans for impressing their youngsters and oldsters with reasons for the existence and continuance of the American System of Broadcasting.

Fairly complete accounts of their plans were mailed to members on April 30, because it was believed that they contain helpful suggestions which may have a bearing on the problems of others.

Short accounts of various Radio Festival plans not previously reported follow:

#### BECKLEY, W. VA.—WJLS

Manager Joe L. Smith, Jr., writes: "A thing like this (Radio Festival) we want to do well, and it is only by giving the proper amount of planning that we find we are able to do so. We will keep you informed as we progress."

#### CONNECTICUT STATIONS—Week of June 3-8.

WATERBURY	WBRY	HARTFORD	WDRC
NEW LONDON	WNLC	HARTFORD	WTHT
NEW HAVEN	WELI	HARTFORD	WTIC
NEW BRITAIN	WNBC	BRIDGEPORT	WICC

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At a joint meeting stations decided to hold National Radio Festival the week of June 3-8.

Dr. Alonzo Grace, state commissioner of education, will carry the torch in the Essay Contest. He will deliver, by radio, the basic information for students who enter the competition.

The first essay broadcast is scheduled over WTIC, 7:45-8:00 p.m., on May 7, by Dr. Grace. On subsequent days, over the other stations, will be played his recording which is to be made at the time of the WTIC broadcast. Assistance of other educators in the state school system insures maximum participation.

Radio sets for all winners from the sixth grade through high school have been provided for award to Connecticut students. Other plans are in the making, with James F. Clancy, WTIC's sales promotion manager, sitting in the slot.

An additional prize of \$100, provided by WTIC, will compensate for entries received from the station's service area outside of Connecticut in Western Massachusetts, Vermont and New Hampshire.

#### DURHAM . . . WDNC . . . Week of June 3-8.

When Robert J. Stratton, program director, received news of Radio Festival, he and the staff immediately went to work to produce an outstanding celebration. As a result of their planning the Durham interpretation will greet the public during the week of June 3-8.

The essay contest will be conducted in the city schools. All essays will be received at WDNC by May 27. Adequate prizes are provided.

The police department has been tied into Radio Festival through a two-way police radio demonstration which will be broadcast.

Windows in the business district will carry appropriate displays and in the station's large studio there will be a week's showing of products from local mercantile establishments.

#### EL PASO . . . KISM.

Plans are under way in El Paso Manager Karl O. Wyler said: "... you can expect some information on our activities within a short time."

#### FORT WORTH, TEXAS . . . WBAP.

Harold Hough, general manager, is looking after Radio Festival. Pre-Radio Festival promotion should be under way in the immediate future according to word just received.

#### MIAMI . . . WQAM.

Norman MacKay, advertising director, writes that WQAM's participation is set for the early part of June. "Congratulations on your aggressiveness."

#### MINNESOTA.

Minneapolis and St. Paul.

WCCO, WDGY, WLB, WTCN, KSTP, WMIN.

All Twin City broadcasters, at an evening meeting, last week, decided to take on what may be billed as an outstanding observance of Radio Festival. Plans are in the making. Without knowing a single detail, it's a safe bet that the whole Northwest

will know about this industry-wide event. Earl H. Gammons, general manager, WCCO, is to report progress.

**MISSOULA, MONT. . . KGVO . . . May 12-18.**

Because of early school closings, Missoula's Radio Festival is scheduled for May 12-18 with the last three grammar school grades, high schools and Montana State University cooperating.

Two significant programs are the PTA sponsored show which will discuss: "Using the Radio as a Means of Making the Home the Center of Family Culture, Entertainment and Education," and the University's special Radio Festival thirty minute broadcast on which President George Finlay Simmons will detail: "What Radio Has Done and Is Doing for Montana State University."

The Mayor of Missoula will proclaim the event. Merchants will decorate their windows and there will be special displays of local and nationally advertised products. The city and county schools are even now engaged in the Essay Contest.

Another contest will be conducted in the State "U" by Program Director James Alden Barber. It will concern dramatic scripts with the winner to be produced by and cast with college students; and broadcast by KGVO.

Several special shows, straight across the board, will be broadcast during the week. Grammar school youngsters will appear in "Citizens of Tomorrow," in which they will be interviewed. Those to appear before the microphone will be selected by their classmates.

Outlying high school students will appear daily on the "Man on the Street" show.

On another quarter hour series persons from various walks of life will give the answers to what radio means to them.

A lengthy five-minute series will be devoted to service talks by the station's engineer, selected service men and radio dealers.

The station itself will sponsor a show along the lines of CBS' "Americans at Work." The struggle to launch a commercial program through all stages, from the time of its inception, is the theme selected.

One of the city's newspaper editors has been booked to discuss: "The Freedom of Radio and the Press."

The university chorus and orchestra will appear on the half hour show with President Simmons. Invitations to visit the station, both written and over the air, will be extended listeners by A. J. Mosby, president, KGVO.

Institutional posters placed in downtown store windows will explain that advertising is the economic base of the American System of Broadcasting; that merchants using time help support the many hours of radio entertainment available every day.

**NEW ORLEANS . . . WDSU, WJBW, WNOE, WSMB, WWL.**

Henry Dupre, special events, WWL, writes that a meeting of all New Orleans broadcasters has been called to iron out other plans for National Radio Festival.

The ceremonies centered about the opening of WWL's new studios, on or about May 6, will also be tied in the Radio Festival, according to Mr. Dupre. He has been assured that the Governor of Louisiana and the Mayor of New Orleans will proclaim National Radio Festival Week.

**PHILADELPHIA . . . KYW, WCAU, WDAS, WFIL, WHAT, WIP, WPEN, WTEL, WIBG.**

Says Joseph Connolly, of WCAU: "There is a meeting here Tuesday (April 30) of the representatives of all local stations at which time plans for cooperative promotion will be laid. Each station will also handle individual promotions, too. We hope to match last year's performance."

**PITTSBURGH . . . KDKA, KQV, WJAS, WWSW, WCAE.**

Pittsburgh broadcasters are almost ready to announce final plans. Tentative plans are most imposing. They're even talking of a "giant radio ball" as a part of Radio Festival, "in which the orchestra from each of the stations would play . . . in addition there would be a floor show made up of talent of radio, stage and screen stars."

**QUINCY, ILL. . . WTAD . . . Week of May 27.**

Examinations in public schools necessitate setting of WTAD's National Radio Festival celebration for the week of May 27.

C. Arthur Fifer, general manager, has arranged for the demonstration-talk to be given before six (6) civic organizations. The basic information for public school essay contestants will be broadcast on May 28, 29 and 30. Thank you, Mr. Rothschild and Mr. Fifer.

**ROSWELL . . . KGFL.**

Manager W. E. Whitmore will bring National Radio Festival to the listeners of Roswell and Hobbs, N. M. The demonstration-talk, from Edward A. Allen, president, WLVA, Lynchburg, will be given before the civic clubs in both cities. Other events are being planned. Preliminary information indicates that Mr. Whitmore will receive the state Radio Festival proclamation from the Governor.

**WASHINGTON.**

Seattle . . . KIRO, KRSC, KXA, KOMA, KJR.

Tacoma . . . KVI.

Representatives of the above six stations had their first joint meeting some ten days ago and decision was made to get behind National Radio Festival. Special station programs are now being planned, according to word from Peter Lyman, director of public relations, KOMO and KJR, and Dorothy Doernbecher, promotion, KVI.

**TOPEKA . . . WIBW . . . May 20-25.**

In accordance with Governor Payne Ratner's proclamation, naming May 20-25, National Radio Festival week, Ben Ludy, manager, WIBW, is busy with plans for the event. On one of the special programs, the Governor will undoubtedly appear.

Mr. Ludy sparks to the job search idea. On Sunday, May 19, on the "I Want a Job" program, participants will consist entirely of students. "This is just one angle that we are working on to date. I will keep you fully advised as to developments," he said.

**ZANESVILLE . . . WHIZ . . . May 13-20.**

The Mayor of Zanesville will officially open Radio Festival week in that Ohio city on Monday, May 13, during a full hour broadcast over WHIZ, in accordance with firm arrangements completed by Allen Haid, program director. A choir of 350 voices and other smaller groups will also appear on the opening broadcast.

The city's twelve public schools have been tied in with the event and at least 750 of the more than 6,000 boys and girls will appear before the microphone. Big blocks of time, a minimum of one hour, will be utilized every day.

Coincident with Radio Festival, the Zanesville Board of Education will hold a series of meetings for teachers and educators of Zanesville and vicinity to discuss the possibilities and eventualities of education by radio.

Radio merchants, servicemen and distributors are participating at station's invitation. Its management is keenly aware that this group is basically important if a station is to render maximum service.

Following the opening hour show on Monday, Radio Festival observation will be shifted to a full hour in the afternoons, except on Friday when it will be extended an additional thirty minutes. On Friday evening WHIZ will also carry the banquet program arranged by the Institute for educators and townspeople.

Dr. James Roland Angell, former Yale president and NBC's Educational Counselor, will deliver the main address. The cream of the school talent which will have appeared during the previous days will surround Dr. Angell's talk with a musical setting.

## Sales

### ADVERTISING BUREAU RELEASES SIXTH SUCCESS STORY

The NAB Bureau of Radio Advertising has issued the sixth in its series of "Results from Radio" studies. Vol. 1, No. 6 is on the subject of Garden and Field and tells the case history of "The Old Dirt Dobber", a participating program heard daily for six years over WLAC, Nashville, Tenn.

The four sponsors, all of whom report unusual sales results from the informal, low-cost program of gardening advice and information, are Eason-Morgan (Paint-Glass), H. J. Grimes (Dry Goods), Boyd Nursery (Plants), and Nashville Electric Service (Light & Power).



The Bureau's series of radio success stories are available to advertisers, agencies and member stations on request.

## REAL ESTATE AND BUILDING FIELD SALES MANUAL READY

A 42-page compendium of program ideas, success stories, promotion plans and other aids in selling more real estate and building trades advertising has been released to all members by the NAB Bureau of Radio Advertising.

Entitled "Building Field Sales Manual," the loose-leaf folder was produced in cooperation with the Federal Housing Administration, who provided detailed facts and figures on the FHA Insured Mortgage Plan for new, low-cost home financing.

Housing experts predict 1940 will see large-scale production of the \$2,500 home, which has recently been developed to answer the widespread public demand for a small, but well-built dwelling, to be purchased through a moderate 5% to 10% down payment and monthly installments averaging less than a dollar a day. Here, it is believed, is the *mass* housing market, and the Bureau of Radio Advertising for some time has felt that radio is the ideal medium to carry this story of the \$2,500 home to the entire public on behalf of the builders, contractors, and many other types of business concerns who will benefit thereby.

The Building Sales Manual is an attempt to gather, all under one cover, the successful ideas and experiences of radio stations and other media in developing real estate into an important field of local advertising. Extra copies of the manual are available without charge to NAB member stations.

## FREE OFFERS

Bert Nevins Publicity Offices in New York City have a new angle on the old game of "trying to get something for nothing" from radio stations. Representing Fierman & Kolmer, manufacturers of women's coats, they would like broadcasters to make an air survey to find out just what sort of coats women will buy next fall. They offer listeners merchandise prizes, and in return for the broadcasters' assistance in donating free time, etc., Nevins "are giving stations an opportunity to entice mail response and test their audience . . ."

The Bureau of Radio Advertising has urged them to withdraw their request rather than endanger the goodwill and reasonable cooperation of the broadcasting industry. The Bureau has also sent the usual letter to the following firms, who have recently sought free time for commercial purposes:

Fox Feature Syndicate—Transcriptions of "The Blue Beetle" Comic Feature  
Hal Roach Studios—Special Deal on "1 Million B. C." Movie

Metro-Goldwyn-Mayer—Weekly Radio Script Service  
Lawrence H. Selz Organization—Scripts on behalf of manufacturers of insulating materials.

## COST-PER-INQUIRY

The percentage advertising proposals are almost as numerous, and twice as persistent, as the free offer boys. Although H. W. Kastor Advertising Agency reported to the Bureau that they have withdrawn their recent "30% of sales" proposition on behalf of Pazo, similar offerings have come from three other agencies:

Barron Advertising Company, Kansas City, Mo. (on behalf of National Protective Insurance Company)  
Burton G. Feldman & Associates, Chicago, Ill. (on behalf of a perfume account)  
C. J. Ollendorf Advertising, Chicago, Ill. (on behalf of M-G Laboratories).

The Bureau of Radio Advertising has written these concerns, stating the industry's position on such contingency offers, and inviting them and their clients to use radio at card rates for best results. At the same time, the Bureau has pointed out what it believes to be a short-sighted attitude on the part of these agencies in trying to place business on a percentage basis, since such propositions would tend to break down radio's rate structure, thus eventually eliminating agency commissions. (If all advertising were bought on a per-inquiry basis, there would be little need for agency advice and services, since results would be automatically guaranteed or there would be no cost to the advertiser. NAB and its members, however, would prefer not to see the agency eliminated from the advertising picture, and for that reason, among others, are definitely opposed to cost-per-inquiry.)

## ATTENTION: SALES MANAGERS

All sales managers should read that section of this week's **REPORTS** dealing with the Wage and Hour Act and local advertisers on this page. Local advertisers might have been confused by the newspaper editorial mentioned, and should be set straight.

## Labor

## WAGE AND HOUR ACT

Col. Philip B. Fleming, Wage and Hour Administrator, and his legal advisors say that broadcasters are not safe in following Social Security tax procedure in determining whether talent charges should be lumped with staff salary in determining an overtime rate.

The Wage and Hour Administration's Interpretative Bulletin No. 13 (Section 17) says, in part:

"An employee may work 40 hours for Company A and 15 additional hours during the same week on a different job for Company B. In this case it would seem that if A and B are acting independently of each other with respect to the employment of the particular employee, both A and B, in ascertaining their (overtime) obligations under the Act, would be privileged to disregard all work performed by the employee for the other company. If, on the other hand, the employment by A is not completely disassociated from the employment by B, the entire employment of the employee for both A and B should be considered as a whole for the (overtime) purposes of the statute. Whether the employment by A and B are completely disassociated depends, of course, upon the facts in the particular case."

Col. Fleming told Joseph L. Miller, NAB Labor Relations Director, last week that he did not consider the employment of, say, an announcer by an advertiser as "completely disassociated" from employment by the station unless the advertiser hired, paid, and fired the announcer *directly*.

A long list of arguments against this interpretation failed to move either Col. Fleming or his lawyers.

The NAB has asked the *New York Herald-Tribune* to correct an editorial statement (April 26) that "if a local business advertises over a radio station heard outside its state it has been construed to be in interstate commerce within the meaning of this grotesque statute."

Local advertisers might take the *Herald-Tribune's* statement to mean that advertising by radio would automatically bring the advertisers' employees under the Wage and Hour Act. This is not so.

Joseph L. Miller, NAB Labor Relations Director, sent the following radiogram to the newspaper:

The broadcasting industry certainly would appreciate a correction of the statement in your editorial entitled "Wage and Hour Absurdities" this morning that "If a local business advertises over a radio station heard outside its state it has been construed to be in interstate commerce." In an opinion on this question given us last November 27, Joseph Rauh, Assistant General Counsel of the Wage and Hour Division, U. S. Department of Labor, stated that "The mere fact that the employer uses the facilities of radio broadcasting to advertise his products would not ordinarily make his entire business subject to the coverage of the Act." The broadcasting industry has had its troubles under the Wage and Hour Act despite the fact that its average weekly wage of \$45.20 is one of the highest in the country. However, the prospective radio advertiser whose employees are at present exempt from the Act need not fear that advertising by air will bring those employees under the Act.

Chances for amendment of the Wage and Hour Act at the current session of Congress are slim.

Even if the Senate approves the amendments that the House likely will pass this week, they face a Presidential veto. But the Senate probably won't pass them.

## KGCU PROCEEDINGS SETTLED

The National Labor Relations Board today announced approval of a consent decree to be presented to the

Eighth United States Circuit Court of Appeals settling the issues involved in proceedings involving Mandan Radio Association, Inc. (KGCU), Mandan, North Dakota.

The decree provides that the company will cease discouraging membership in the International Brotherhood of Electrical Workers (A. F. of L.), by discharging or refusing to reinstate any employee because of union activities.

The consent decree also provided for the payment by the company of \$300 to Paul M. Edwards in full satisfaction of amounts he would have earned from March 21, 1939, to the present day.

On May 2, 1939, the Board issued a complaint against the company, operator of radio station KGCU, alleging certain unfair labor practices. Subsequently, after an Intermediate Report by the Board's trial examiner, the parties entered into a stipulation providing for the entry of an order by the Board and further providing for a consent decree to be entered upon the basis of that stipulation.

The Board today announced approval of the stipulation and also approved of the consent decree to be entered by the Court.

## Legal

### RADIO IN THE COURT

On Friday, April 26, the Special Committee on Cooperation between Press, Radio and Bar met in New York at the office of Mr. Arthur Hays Sulzberger, President and Publisher of the *New York Times*. A draft of a summary statement of principles to serve as a guide in relations between the three interested groups was submitted in behalf of the Chairman, Mr. Giles Patterson, Jacksonville attorney, who was absent on account of illness. Discussion of the draft centered chiefly around the use of cameras and microphones in the courtroom. Committee members will study the proposal and submit their views at a later date. It is worthy of mention that radio in all respects is accorded equality of treatment with the press in the draft statement.

A subcommittee was appointed to serve as a conference committee on any cases which may arise requiring co-operative action. The conference committee is composed of: Mr. Giles Patterson, representing the American Bar Association; Mr. Neville Miller, representing Radio; Mr. Paul Bellamy, representing the American Newspaper Publishers Association; Mr. Stuart H. Perry, representing the American Society of Newspaper Editors.

The radio members of the committee in attendance were: Neville Miller, Frank M. Russell, Harry C. Butcher.



Russell P. Place, Louis G. Caldwell, and Philip M. Loucks. Other members attending were:

American Bar Association:

Mr. John G. Jackson—Jackson, Fuller, Nash & Brophy, New York City.

Mr. Alfred A. Cook—Cook, Nathan, Lehman & Greenman, New York City.

Judge Oscar Hallam—Dean, St. Paul College of Law, St. Paul Minn. (formerly Associate Justice, Minn. State Supreme Court).

American Newspaper Publishers Association:

Mr. Paul Bellamy—Cleveland Plain Dealer—Chairman.

Mr. Richard W. Clark—New York News.

Mr. W. F. Wiley—Cincinnati Enquirer.

Mr. Arthur Hays Sulzberger—The New York Times.

American Society of Newspaper Editors:

Mr. Stuart H. Perry—Adrian (Michigan) Telegram—Chairman.

## CONTEMPT OF COURT

Recent cases have highlighted the conflict of public interests involved in comment by the press on court cases and judges. They apply with equal force to comment by radio.

In California, the Los Angeles Times was adjudged guilty of contempt of court for editorials held tending to interfere with the administration of justice in two cases which were still pending. In affirming the judgments, the upper court followed the Bridges case holding unconstitutional the California statute providing that comment not made in the presence of the court shall not be deemed contumacious. The United States Supreme Court on April 8 decided to review the Bridges case. Their decision, it is expected, will resolve the conflict between the inherent power of the court to punish for contempt, and freedom of speech, press and radio.

In St. Louis the editor of the *Post-Dispatch* was recently adjudged in contempt for criticizing a judge after the case was over. Missouri has a statute banning criticism of a judge after a case is closed. Appeal has been taken.

## STATE LEGISLATION

MISSISSIPPI:

H. 1137 (Patterson) PRIVILEGE TAX CODE—To revise the privilege code and to repeal Chapter 20, Laws of the Extraordinary Session of 1935, and amendments thereto. Referred to Committee on Ways and Means.

## Miscellaneous

### EDUCATIONAL BROADCASTING INSTITUTE HOLDS BANNER MEETING

Featured by the largest attendance of commercial broadcasters in its history, the Eleventh Institute for Education by Radio held a three-day session in Columbus, Ohio, this week.

Among the 500 persons present were representatives of some 60 commercial radio stations.

The affiliates of NBC and CBS held closed meetings. There was also a general meeting of stations, under the auspices of the NAB, to discuss problems of public service broadcasting. Ed Kirby, Director of Public Relations, and Joseph L. Miller, Director of Labor Relations, represented the Association.

William J. Dempsey, retiring General Counsel of the Federal Communications Commission, addressed the dinner session on April 30.

The list of awards for the Fourth American Exhibition of Recordings of Educational Radio Programs was announced as follows:

#### I. Network, National Organization, or Clear-Channel Station

a. *For general use by adults. Lecture, talk, speech.*

FIRST AWARD. "What Makes an American." From the series "Meet Mr. Weeks." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "Frances Scott Key." From the series "Pilgrimage of Poetry." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "The Movable Feast of Thanksgiving." From the series "The Story Behind the Headlines." Planned and produced by the American Historical Association.

HONORABLE MENTION. "Elmer Davis and the News." Broadcast of March 11, 1940. Planned and produced by the Columbia Broadcasting System.

b. *For general use by adults. Demonstration or participation program.*

FIRST AWARD. "Tour of Palomar Telescope." A special broadcast. Planned and produced by Station KFI, Earle C. Anthony, Inc., Los Angeles.

c. *For general use by adults. Dialog, round-table conversation, interview, debate, question and answer.*

FIRST AWARD. "Propaganda." From the series "University of Chicago Round Table." Planned and produced by the National Broadcasting Company and the University of Chicago.

HONORABLE MENTION. "What Are the Real Issues in the European War?" From the series "America's Town Meeting of the Air." Planned and produced by the National Broadcasting Company in cooperation with Town Hall, Inc.

d. *For general use by adults. All forms of dramatization.*

FIRST AWARD. "Abraham Lincoln." From the series "Cavalcade of America." Planned and produced by the E. I. duPont de Nemours & Co., Inc.

HONORABLE MENTION. "Seems Radio Is Here to Stay." From the series "So This Is Radio." Planned and produced by the Columbia Broadcasting System.

HONORABLE MENTION. "Johnny Got His Gun." From the series "Arch Oboler's Plays." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "My Client, Curly." From the series "Columbia Workshop." Planned and produced by the Columbia Broadcasting System.

e. *For general use by children. Any type of out-of-school children's program.*

No FIRST AWARD.

HONORABLE MENTION. "Rapunzel." From the series "Let's Pretend." Planned and produced by the Columbia Broadcasting System.

f. *For use in school by primary children (approximately Grades I-III).*

FIRST AWARD. "Mind the Signs!" From the series "Let's Sing." Planned and produced by the Prairie Farmer, Station WLS.

- g. *For use in school by elementary children (approximately Grades IV-VI).*

FIRST AWARD. "Animals in Our Pattern of Life." From the series "New Horizons, American School of the Air." Planned and produced by the Columbia Broadcasting System.

HONORABLE MENTION. "Current Events." A special broadcast of March 22, 1940. Planned and produced by Station KEX, Radio Service of the Oregonian.

- h. *For use in school by junior and/or senior high-school pupils (approximately Grades VII-XII).*

FIRST AWARD. "Where We Live." From the series "This Living World, American School of the Air." Planned and produced by the Columbia Broadcasting System.

FIRST AWARD. "Square Dances." From the series "Folk Music of America, American School of the Air." Planned and produced by the Columbia Broadcasting System.

- Special Class. Distinguished productions containing educational values.*

FIRST AWARD. "Pursuit of Happiness." Broadcast of December 31, 1939. Planned and produced by the Columbia Broadcasting System.

## II. Local and Regional Station or Organization

- a. *For general use by adults. Lecture, talk, speech.*

FIRST AWARD. "Talk by Thomas Mann: 'The Problem of Freedom'." From the series "University of Minnesota Convocations." Planned and produced by University of Minnesota Radio Station WLB.

- b. *For general use by adults. Demonstration or participation program.*

FIRST AWARD. "The School of Modern Miracles." From the series "Know Your Schools." Planned and produced by the Spokane Public Schools.

FIRST AWARD. "Adventures in Music." A special broadcast. Planned and produced by the Municipal Broadcasting System, Station WNYC.

- c. *For general use by adults. Dialog, round-table conversation, interview, debate, question and answer.*

FIRST AWARD. "Student Council and Student Government." From the series "Student Opinion." Planned and produced by the Radio Council of the Chicago Public Schools.

HONORABLE MENTION. "Diplomas and Jobs." From the series "Careers in Public Service." Planned and produced by New York University.

- d. *For general use by adults. All forms of dramatization.*

FIRST AWARD. "Civil Liberties in Wartime." From the series "Accent on Liberty." Planned and produced by Station WOSU.

HONORABLE MENTION. "Guam and the Naval Appropriations Bill." From the series "Following Congress." Planned and produced by Wisconsin State Station WHA.

- e. *For general use by children. Any type of out-of-school children's program.*

NO FIRST AWARD.

HONORABLE MENTION. "World of Music." From the series "World of Choral Music." Planned and produced by the Wayne University Broadcasting Guild.

HONORABLE MENTION. "The Three Dwarfs." From the series "Children's Theatre of Junior League of Roanoke." Planned and produced by Station WDBJ.

- f. *For use in school by primary children (approximately Grades I-III).*

NO FIRST AWARD.

HONORABLE MENTION. "Feeling Phrases." From the series "Rhythmic Activities." Planned and produced by the Cleveland Public Schools.

- g. *For use in school by elementary children (approximately Grades IV-VI).*

NO FIRST AWARD.

HONORABLE MENTION. "Upper Lakes Region." From the series "This Land of Ours." Planned and produced by Wisconsin State Station WHA.

- h. *For use in school by junior and/or senior high-school pupils (approximately Grades VII-XII).*

FIRST AWARD. "Senator Borah Died Last Friday." From the Series "Living History." Planned and produced by Wisconsin State Station WHA.

- Special Class. Distinguished productions containing educational values.*

FIRST AWARD. "America Calling." A special broadcast. Planned and produced by Station KSTP, Minneapolis.

## NAB CITED AS OUTSTANDING TRADE ASSOCIATION

A certificate of merit for the NAB was presented to Neville Miller last week by the American Trade Association Executives.

The NAB was cited "for its achievement in instituting a system of self-regulation designed to make further Government regulation or control unnecessary, and which would deserve and earn public confidence. Its code included industrial regulation requirements as to the broadcasting of controversial public issues, religious and current news broadcasts, and the types of advertising acceptable. The self-imposed restraint caused some loss in revenue, but won wide public approval."

## MILLER CONGRATULATES McCARRENS

Neville Miller congratulated John S. McCarrens of the Cleveland *Plain Dealer* last week upon his reelection as president of the American Newspaper Publishers Association.

In a letter to Mr. McCarrens, Mr. Miller said:

"I think that radio and the newspapers have much in common, especially during times such as these, and I hope that if any matters come up at any time concerning which you believe I could be of help to you, that you will not hesitate to call upon me."

## INSTITUTE OF PACIFIC RELATIONS

The Institute of Pacific Relations says that it has no hidden motive in offering broadcasters material about the Far East. The Institute says it is financed for the most part by research foundations, including the Rockefeller. (See NAB REPORTS, p. 4185.)

## FRED M. SHELDON

Charles Lee Harris, business manager of WGRC, Louisville, Ky., wants to know the whereabouts of Fred M. Sheldon.

## Engineering

## CHANGE IN FREQUENCY BROADCASTS

Important changes in the broadcasting of standard frequency signals by the National Bureau of Standards,



Department of Commerce, were announced this week by D. J. H. Dellinger, Chief of the Bureau's Radio Section.

The new service differs from that heretofore available as follows: (a) the frequency of 20 megacycles per second is replaced by 15 megacycles per second; (b) announcements will be given by voice only, not by telegraphic keying; (c) the announcements during the broadcasting of the standard musical pitch will be given every 5 instead of every 10 minutes; (d) the ionosphere bulletins are to be discontinued.

For some time the Bureau has broadcast standard frequencies and other services from its radio station WWV at Beltsville, Maryland, near Washington, D. C. The services include standard radio frequencies, standard time intervals in the form of pulses accurately spaced one second apart, a standard audio frequency, and a standard of musical pitch. The last named is on a frequency of 440-cycles per second and is broadcast continuously day and night.

This service makes generally available the national standard of frequency which is of value in scientific and other measurements. Any desired frequency may be measured in terms of any of the standard frequencies either audio or radio. This may be done by aid of harmonics and beats with one or more auxiliary oscillators.

Those desiring to utilize this service should write to the National Bureau of Standards, Washington, D. C., for a copy of Letter Circular LC591 "Standards of Frequency and Musical Pitch Broadcast by National Bureau of Standards." Copies will be sent without charge to those having a real need for them.

## The Commission

### FROM THE FCC MAIL BAG

During the past three months the FCC had to write nearly 600 letters to individuals who complained about particular radio programs. In the vast majority of these cases, the Commission had to explain that it had no jurisdiction in the matter.

These complaints ran the gamut from objecting to radio advertising to protesting certain performers or their utterances. Many complaints had to do with the dropping of certain radio programs. In the case of one speaker, 129 letters were received in his behalf.

Most of this correspondence seems to be due to a mistaken idea that the Commission has authority to pass judgment on radio artists and programs. It is expressly prohibited by law from censoring individual radio programs. It can take action only in cases involving use of obscenity and lotteries.

The determination as to who shall appear on programs is a matter resting solely with the particular broadcast station. Broadcast stations have the duty of serving public interest, convenience, and necessity. In carrying out this obligation they have the duty of making provision for well-rounded rather than one-sided discussion of public questions. However, the duty of serving the public interest does not imply any requirement that the use of broadcast facilities shall be afforded any individual or group. The Communications Act declares that a broadcast station is not a common carrier, hence the station may refuse or permit the use of its facilities as it sees fit. By the same token, the station can give free time or charge for time. No standard tariffs apply to broadcast stations.

The Communications Act expressly provides that "no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication." The Commission has promulgated no regulation and imposed no condition which might circumvent this prohibition.

This statutory provision, of course, does not imply that all who may wish to do so must be given the right to speak over the air. The number of hours available in the day over the limited number of broadcast stations which physically may be set up in the various communities would make such a requirement impossible of fulfillment. The selection of who may use broadcast facilities, and the conditions with respect to time, charges and other stipulations are under the American system of broadcasting, left to the discretion of the broadcasters.

The Communications Act provides equal opportunities to legally qualified candidates for public office, providing the licensee allows the use of its station to any such candidate, but imposes no obliga-

tion upon the licensee to allow his station to be used for this purpose.

Apart from this stipulation, there is no Federal statute or Commission regulation dealing expressly with the matter of controversial subjects on the air. However, the broadcasters themselves have adopted a code of ethics which is often mistaken as part of the Commission's rules and regulations. Adopted last July, this code governs the National Association of Broadcasters, a private organization composed of persons engaged in the broadcast business, including many of those licensed by the Commission to operate broadcast stations. The code sets forth certain standards of conduct for broadcasters which the association believes are conducive to the best interests of the industry. The Commission has no say in the code's enforcement. However, adoption of this code or voluntary acceptance of its provisions does not in any way alter the duties and responsibilities of broadcasting stations under the existing law.

Since the Commission has no jurisdiction in the matter of individual programs and artists, complaints and other comment should be sent direct to the station or the network involved. Such "fan" mail wields considerable influence in broadcasting policies.

### "PIRATE" RADIO STATION LOCATED

The FCC Inspector in Charge at New York reports tracing and locating, at Passaic, N. J., an unlicensed radio station which had been a nuisance to and interfered with authorized broadcast programs.

The operation of this outlaw station was unique, in that it used frequencies assigned to regularly licensed stations and, in an attempt to make detection more complex, faked the call letters of regular stations using these channels. At one time it operated on 900 kilocycles, the frequency allocated WBEN at Buffalo, and employed those call letters. More recently it usurped the call letters of the Hartford Times radio station—WTHT, 1200 kilocycles, at Hartford, Conn.

In general, this "pirate" station broadcast phonograph recordings. Such unauthorized operation was quickly detected, and there was early complaint, but the task of tracing the culprit took a little time. The usual methods of detection were employed, that is, records were made of the illegal programs and subsequent bearings and measurements of the field strength eventually brought the investigators to an address on Monroe Street, in Passaic.

By this means the Commission feels that it has obtained sufficient evidence to secure indictment for violating Sections 301 and 318 of the Communications Act.

### FCC FUNCTIONS

The FCC announces that the work, business and functions of the Commission for the month of May have been assigned as follows:

Commissioner Thompson Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.

Commissioner Craven Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of

a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; *provided*, however, that such matters shall be handled in accordance with the provisions of Sections 1.251 and 1.256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled to be heard by the Commission for the week beginning Monday, May 6. They are subject to change.

### Monday, May 6

WRTD—Times Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW, unlimited time (DA night). Present assignment: 1500 kc., 100 watts, unlimited time.

### Thursday, May 9

#### Oral Argument Before the Commission

Report No. P-5:

NEW—Eddie Erlbacher, Cape Girardeau, Mo.—C. P., 2738 kc., 50 watts, Emission A-3, unlimited time; Pts. of Comm.: With vessels on Mississippi and Ohio Rivers.

Report No. B-88:

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—C. P., 1200 kc., 100 watts, 250 watts LS, unlimited time.

### FUTURE HEARINGS

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

### May 16

#### Oral Argument Before the Commission

Report No. B-95:

NEW—Neptune Broadcasting Corp. (A. Harry Zoog, Pres.), Atlantic City, N. J.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the period ending August 1, 1940:

WCOC, Meridian, Miss.; WFMD, Frederick, Md.; WLBI, Stevens Point, Wis.; and WMFJ, Daytona Beach, Fla.

Licenses for the following stations were further extended upon a temporary basis only, until June 1, 1940, pending determination upon applications for renewal of licenses:

May 3, 1940

KFAR, Fairbanks, Alaska; KFDM, Beaumont, Texas; WMC and auxiliary, Memphis, Tenn.; WGST and auxiliary, Atlanta, Ga. WSM—National Life and Accident Ins. Co., Nashville, Tenn.—

Special experimental authorization to operate a regular broadcast transmitter for experimental transmission of facsimile signals, was further extended for a period of one month, ending June 1, 1940.

KSUB—Leland M. Perry, Cedar City, Utah.—Further extended until June 1, the special temporary authorization to Leland M. Perry, surviving partner of Johnson & Perry, to operate station KSUB on a temporary basis only, subject to whatever action may be taken on formal application for regular authorization that may be submitted with respect to station KSUB.

KWJB—Sims Broadcasting Co., Globe, Ariz.—Further extended until June 1, the special temporary authorization to Bartley T. Sims, remaining partner of Sims Broadcasting Co., to operate station KWJB on a temporary basis, subject to whatever action may be taken upon application for renewal.

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

KXO—E. R. Irely, F. M. Bowles, El Centro, Calif.—Present license further extended upon a temporary basis until June 1, subject to whatever action may be taken upon pending application for renewal.

KTHS—Hot Springs Chamber of Commerce, Hot Springs Natl. Park, Ark.—Present license further extended upon a temporary basis until June 1, pending determination upon application for renewal.

W1XCS—Conn. State College, Storrs, Conn.—Granted renewal of developmental broadcast station license for the period ending May 1, 1941.

W9XOK—The Star Times Pub. Co., St. Louis, Mo.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1941.

W1XEH—Travelers Broadcasting Service Corp., Avon, Conn.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1941.

W2XDR—Radio Pictures, Inc., Long Island City, N. Y.—Granted renewal of television broadcast station license for the period ending Feb. 1, 1941.

W9XSP—Star-Times Pub. Co., St. Louis, Mo.—Present license for facsimile broadcast station further extended on a temporary basis only, for the period ending June 1, 1940, pending determination upon application for renewal of license.

W9XG—Purdue University, W. Lafayette, Ind.—Present television broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W9XK—State University of Iowa, Iowa City, Iowa.—Present television broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W8XWJ—The Evening News Assn., Detroit, Mich.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XDA—General Electric Co., Schenectady, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XOY—General Electric Co., Albany, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XQO—Knickerbocker Broadcasting Co., Inc., Flushing, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

### EXPERIMENTAL AUTHORIZATIONS

The Commission has announced that it had extended until August 1 the special experimental authorizations of nine radio stations listed below, and at the same time advanced the effective date of Section 3.32(3) (b), which prohibits the broadcasting of



commercial programs on experimental authorizations, to the August date:

- WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Special experimental authority to operate simultaneously with KRLD, unlimited time, on **1040 kc.**, DA-N.
- KRLD—KRLD Radio Corp., Dallas, Tex.—To operate simultaneously with WTIC, unlimited time, on **1040 kc.**, 50 KW, DA-day and night.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—To operate on **1060 kc.**, simultaneously with WBAL from 6 a. m. to local sunset, suspend operation from local sunset until 8 p. m., and operate unlimited time from 8 p. m. to midnight.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—To operate simultaneously with KTHS on **1060 kc.** from 6 a. m. to local sunset at Hot Springs, Ark., and operate from local sunset at Hot Springs to 9 p. m., EST, on **1060 kc.**, and operate synchronously with WJZ on **760 kc.**, 2½ KW, using DA from 9 p. m., EST.
- WAPI—Alabama Polytechnic Institute, Birmingham, Ala.—To operate unlimited hours on **1140 kc.**, simultaneously with KVOO at Tulsa, using DA after sunset at Tulsa.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—To operate unlimited hours on **1140 kc.**, with 25 KW, using DA at night-time.
- WWL—Loyola University, New Orleans, La.—To operate unlimited time on **850 kc.**, 50 KW, employing DA both day and night.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate synchronously with WBBM from local sunset at Lincoln, Neb., to midnight, CST.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—To operate synchronously with KFAB from local sunset at Lincoln, Neb., to midnight, CST.

All outstanding broadcast licenses are being made to expire August 1 as a preliminary to reallocation of frequencies under the recently ratified North American Regional Broadcasting Agreement.

## MISCELLANEOUS

- WGEO—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to conduct 2-way communications with Stations KRTA, KRTC and KRTK of the Byrd Antarctic Expedition between 12 midnight and 2 a. m., EST, from April 26, 1940, to not later than 3 a. m., EST, November 1, 1940.
- W2XOY—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority to relay through high frequency station W2XOY the frequency modulated programs of high frequency station W2XMN from April 27, 1940, to not later than 3 a. m., EST, June 1, 1940 (provided this authority to terminate immediately upon the withdrawal of consents by either the Columbia Broadcasting System, Inc., or Edwin A. Armstrong).
- W2XNB—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority to relay through television broadcast station W2XNB the television programs to be received from the NBC, Inc., transmitter, call letters W2XBS, located atop the Empire State Building, from April 27, 1940, to not later than 3 a. m., EST, February 1, 1941 (provided this authority to terminate immediately upon the withdrawal of consent by the National Broadcasting Co., Inc.).
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 2 to 3 p. m., CST, on May 1, 2, 7, 8, 9, 14, 15, and 16, 1940, in order to broadcast special educational programs (provided KGGF remains silent), to remain silent from 7:15 p. m. to 9:15 p. m., CST, on May 21, 23, 28, and 30 and from 8:15 p. m. to 9:15 p. m., CST, on May 22 and 29, 1940, during University examinations, and to remain silent from 7:15 p. m. to 9:15 p. m., CST, on May 7, 1940, in order to permit KGGF to broadcast an address by Governor Phillips (B3-S-464).
- Midnight Sun Broadcasting Co., Portable-Mobile (area of Fairbanks, Alaska).—Granted construction permit for new relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**, power 2 watts (B-PRE-344).
- WOEG—General Electric Co., Portable-Mobile (area of Schenectady, N. Y.).—Granted construction permit to install new transmitter (B1-PRY-216).

- WEIC—General Electric Co., Portable-Mobile (area of Schenectady, N. Y.).—Granted construction permit to increase power from 15 watts to 50 watts and install new transmitter (B1-PRE-346).
- West Virginia Newspaper Pub. Co., Morgantown, W. Va.—Granted motion to dismiss without prejudice the application for new station to operate on **1200 kc.**, 250 watts, unlimited time.
- Riverside Broadcasting Co., Riverside, Calif.—Granted petition to intervene in the hearing on the application of Worcester Broadcasting Corp. for a new station in San Diego, Calif., to operate on **1420 kc.**, 250 watts, unlimited time.
- WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.—Granted extension of effective date to 30 days from April 29, 1940, of Provision (3) of Commission Order of December 5, 1938, re temporary license to operate on time previously utilized by Station WMBQ.
- KGGF—Hugh J. Powell Coffeyville, Kans.—Granted special temporary authority to remain silent during above periods in order to permit WNAD to broadcast special educational programs; to operate from 7:15 p. m. to 9:15 p. m., CST, on May 21, 23, 28, and 30 and from 8:15 p. m. to 9:15 p. m., CST, on May 22 and 29, 1940, in order to fill WNAD's time during University examinations (provided WNAD remains silent); to operate from 7:15 p. m. to 9:15 p. m., CST, on May 7, 1940, in order to broadcast an address by Gov. Phillips (provided WNAD remains silent) (B4-S-710).
- KAQY—The Farmers & Bankers Broadcasting Corp., Abilene, Kans.—Granted special temporary authority to operate equipment described in application (File No. B4-PRY-215) from 4 to 5 p. m., CST, on April 29, 1940, at Anthony, Kans., and from 5 to 6:30 p. m., CST, on May 1, 1940, at Winfield, Kans., on **1606, 2022, 2102, 2758 kc.**, power 40 watts, in connection with the Good Will Tour of the Wichita Chamber of Commerce (B4-S-507).
- WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate from 8:00 p. m. to 8:30 p. m., EST, on May 21, 1940, in order to broadcast special Wilmington Day Celebration.
- WRCA—National Broadcasting Co., New York, N. Y.—Granted special temporary authority to operate Station WRCA on **9670 kc.**, with parallel antennas as described in application B1-MLIB-33, for a period not to exceed ten days, in order to attempt to overcome the interference reported in letter dated April 22 and telegram of April 19, and to attempt to retain priority for the United States to this frequency.
- KSTP—KSTP, Inc., St. Paul, Minn.—Granted modification of construction permit as modified for move of transmitter, installation of new equipment and directional antenna, and increase in power, for extension of completion date from May 8, 1940, to August 8, 1940; frequency **1460 kc.**, power 50 KW, unlimited time (B4-MP-968).
- L. B. Wilson, Inc., Portable-Mobile (area of Cincinnati, Ohio).—Granted construction permit for new relay broadcast station, frequencies **1646, 2090, 2190, 2830 kc.**, power 25 watts (B2-PRY-218).
- WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit for increase in power from 1 KW, 5 KW day, to 5 KW day and night, changes in directional antenna, for further changes in directional antenna and change in type of transmitter (B1-MP-970).
- WEOA—Evansville on the Air, Inc., Evansville, Ind.—Granted construction permit to make changes in transmitting equipment, frequency **1370 kc.**, 250 watts, unlimited time (B4-P-2851).
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10:00 p. m. to 12:00 p. m., AST, on May 4, 11, 18, and 25, 1940, in order to broadcast dance music from the Escambron Beach Club at San Juan; to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m., AST, on May 5, 12, 19, and 26, 1940, in order to broadcast amateur baseball games from the municipal stadium.
- WPAA—A. H. Belo Corp., Dallas, Tex.—Granted authority to install automatic frequency control apparatus (B3-F-140).
- WBAP—Carter Publications, Inc., Fort Worth, Tex.—Granted authority to install automatic frequency control apparatus (B3-F-141).
- KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Granted authority to make changes in automatic frequency control.

L. B. Wilson, Inc., Portable-Mobile (area of Cincinnati, Ohio).—Granted construction permit for new relay broadcast station, frequencies **1616, 2090, 2190, 2830 kc.**, power 250 watts (B2-PRY-217).

WGN, Inc., Chicago, Ill.—Granted construction permit for new relay broadcast station, frequencies **133030, 134850, 136810, 138630 kc.**, power 50 watts (B4-PRE-347).

W8XVC—The Cincinnati Times Star Co., Cincinnati, Ohio.—Granted modification of construction permit for new facsimile broadcast station, to extend commencement date from May 6, 1940 to November 6, 1940, and completion date from November 6, 1940 to May 6, 1941 (B2-MPFB-7).

General Electric Co. (area of South Schenectady, N. Y.), Portable-Mobile.—Granted license for new special relay broadcast station to be used in connection with International Broadcast Stations WGEA and WGEO, when the same program is not being broadcast by Station WGY; frequencies **31220, 35620, 37020 and 39260 kc.**, power 2 watts (B1-LRE-309).

WENS—Radio Station WSOC, Inc. (area of Charlotte, N. C.), Portable-Mobile.—Granted construction permit to make changes in equipment (T3-PRE-348).

KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Granted authority to make changes in automatic frequency control equipment (B4-F-143).

Neptune Broadcasting Corp., Atlantic City, N. J.—Scheduled oral argument on May 16, 1940, in re application for construction permit for new broadcast station to operate on **1420 kc.**, 100 watts night, 250 watts local sunset, unlimited time (B-95).

WLWO—The Crosley Corp., Cincinnati, Ohio.—Granted special temporary authority to operate the old transmitter of International Broadcast Station WLWO on **6060 kc.**, for a period not to exceed 30 days, pending adjustments to be made on new transmitter before other frequencies licensed for the use of that station can be employed over the new transmitter.

KYOS—Merced Broadcasting Co., Merced, Calif.—Granted special temporary authority to operate from 7:00 p. m., May 7, until 2 a. m., PST, May 8, 1940, for the purpose of broadcasting election returns only.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 7:00 p. m. to 9:00 p. m., CST, on May 3, 1940 and from 7:00 p. m. to 9:00 p. m., CST, on May 4, 1940, and from 4:00 p. m. to 5:00 p. m., CST, on May 5, 1940 in order to broadcast Gala Week activities on Purdue Campus.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate on May 3, 1940, from 8:00 p. m. to 9:00 p. m., EST, in order to broadcast speeches of U. S. Senators Tydings and Radcliffe of Maryland, only; to operate on May 6, 1940 (LS May 7:15 p. m.), from 7:15 p. m. to midnight, EST, in order to broadcast the State of Maryland primary election returns only.

WOCB—Harriet M. Alleman and Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., near Hyannis, Mass.—Granted modification of construction permit for new station, for extension of completion date from May 1, 1940, to July 1, 1940; frequency **1210 kc.**, power 250 watts, unlimited (B1-MP-961).

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Granted license to cover construction permit for new station to operate on **1370 kc.**, 250 watts, unlimited time (B1-L-1139). Also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (B1-Z-389).

WLOK—The Fort Industry, Co., Lima, Ohio.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate from 8:15 p. m. to 10:00 p. m., EST, May 2, 1940, for the purpose of broadcasting a political speech by Senator Neely of West Virginia, only.

WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate unlimited time on the evening of May 14, 1940, in order to broadcast election returns.

#### APPLICATIONS FILED AT FCC

##### 580 Kilocycles

WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—License to cover construction permit (B3-P-2650) for changes in auxiliary transmitter.

##### 610 Kilocycles

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-P-1927) for increase in power, new transmitter and directional antenna for day and night and move of transmitter, further requesting changes in equipment and move transmitter from E. Brooklawn, N. J., to Creek Road, Bellmawr, N. J. Extend commencement date 10 days after grant and completion 120 days thereafter.

##### 780 Kilocycles

NEW—Atlantic Broadcasting Corp., West Palm Beach, Fla.—Construction permit for new broadcast station to be operated on **780 kc.**, 500 watts night, 1 KW day, unlimited time. Studio: Geo. Washington Hotel, Flagler Drive at First St., West Palm Beach, and transmitter at the SW 400' Square, corner of Sec. 16, Twp. 43 S. Range 43 E, West Palm Beach, Fla. Class III-B Station.

##### 920 Kilocycles

NEW—Seaboard Broadcasting Corp., Tampa, Fla.—Construction permit for new broadcast station to be operated on **880 kc.**, 250 watts, unlimited time. Amended to change frequency to **920 kc.**, increase power to 500 watts night, 1 KW day, antenna changes and request Class III-B Station. Also change type of transmitter.

WSPA—Virgil V. Evans, tr/as The Voice of South Carolina, Spartanburg, S. C.—Voluntary assignment of license and construction permit (B3-P-2716 for auxiliary transmitter) to Spartanburg Advertising Company.

##### 940 Kilocycles

WICA—WICA, Inc., Ashtabula, Ohio.—Construction permit to make changes in equipment and increase power from 500 watts to 1 KW.

##### 1060 Kilocycles

WBAL—WBAL Broadcasting Co., Baltimore, Md.—Construction permit for new transmitter, directional antenna for night use, change hours of operation from S-WTIC to unlimited, increase power from 10 to 50 KW, and move transmitter to near Reisterstown, Md. Amended to make changes in directional antenna and designate station as Class I-B and **1090 kc.** under the North American Regional Agreement.

KTSH—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Construction permit for new transmitter; directional antenna for night use; change frequency from **1049 kc.** to **1060 kc.** (Class I-B and **1090 kc.** under North American Regional Agreement); increase power from 10 to 50 KW and 250-watt amplifier; change hours from share KRLD to unlimited; move transmitter. Amended: changes in directional antenna.

##### 1190 Kilocycles

WSAZ—WSAZ, Inc., Huntington, W. Va.—Construction permit for new transmitter, directional antenna for day and night; change frequency from **1190 kc.** to **900 kc.**; change hours from limited to unlimited; move transmitter from Pleasant Heights, W. Va., to near Burlington, Ohio.

##### 1200 Kilocycles

WLOF—Hazlewood, Inc., Orlando, Fla.—Modification of construction permit (B3-P-2394) for new station requesting approval of antenna and transmitter site at Texas Ave. & Winter Garden Rd., Orlando, Fla., change Studio to No. 7 N. Orange Ave. and install new transmitter.

##### 1210 Kilocycles

NEW—Black River Valley Broadcasts, Inc., Watertown, N. Y.—Construction permit for new broadcast station on **1420 kc.**, 100 watts night, 250 watts day, unlimited time. Amended to change frequency requested to **1210 kc.**, power to 250 watts day and night, and make equipment changes.

##### 1310 Kilocycles

WFIG—J. Samuel Brody, Sumter, S. C.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.



- WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.
- WAWZ—Pillar of Fire, Zarepath, N. J.—License to cover construction permit (B1-P-2731) for equipment changes.

### 1330 Kilocycles

- KSCJ—Perkins Brothers Co. (The Sioux City Journal), Sioux City, Iowa.—Modification of construction permit (B4-P-2290) to install directional antenna for night use and increase power, requesting changes in directional antenna.

### 1340 Kilocycles

- KGNO—Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Authority to make changes in automatic frequency control equipment.

### 1350 Kilocycles

- KTSM—Tri-State Broadcasting Co., Inc., El Paso, Tex.—Modification of construction permit (B3-P-1871) for change in frequency, increase power, change hours, new transmitter, change antenna and move transmitter, further requesting authority to change type of transmitter, approval of antenna and transmitter site at On First Ave., 0.3 miles South U. S. Highway 80, El Paso, Tex.
- WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-P-2238) for changes in directional antenna, increase in power, requesting authority to make changes in directional antenna and change type of transmitter.

### 1370 Kilocycles

- NEW—R. B. Terry, D. A. Rawley, C. M. Waynick and H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C.—Construction permit for new broadcast station on 1120 kc., 250 watts, unlimited. Amended to change frequency requested to 1370 kc., power 100 watts, change transmitter, give site as corner North Main St. and Sheraton Sts., High Point, N. C.

### 1420 Kilocycles

- NEW—Middle Georgia Broadcasting Co., Macon, Ga.—Construction permit for new broadcast station to be operated on 1420 kc., 250 watts, unlimited time. Transmitter and studio sites to be determined, Macon, Ga. Class IV station.

### 1430 Kilocycles

- KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Modification of license to change hours from daytime to unlimited, using 1 KW day and night. Amended to request change in frequency from 1430 kc. to 1380 kc.

### MISCELLANEOUS

- NEW—Midland Broadcasting Co., Kansas City, Mo.—Construction permit for new television broadcast station on 50000-56000 kc., 1000 watts visual and 500 watts aural, A5 and A3 station. Amended: Form 318 submitted to request Class I station.
- KGEI—General Electric Co., San Francisco, Calif.—Modification of license to add 9670 kc. to present authorized frequencies.
- KLS—S. E. & E. N. Warner d/b as Warner Brothers, Oakland, Calif.—Construction permit to increase power from 250 watts to 1 KW, new transmitter and change antenna. Amended: request Class III-B Station.
- W1XOJ—The Yankee Network, Inc., Paxton, Mass.—License to cover construction permit (B1-PHB-39) as modified for new high frequency broadcast station.
- W2XVT—Allen B. DuMont Labs., Inc., Passaic, N. J.—Construction permit for changes in equipment; increase power to 5000 watts (aural and visual); frequencies 78000-84000 kc. Amended to request frequencies Channels 1 to 19, delete Special emission. Form 318 submitted to specify Class I station.
- NEW—Missouri Broadcasting Corp., St. Louis, Mo.—Construction permit for new high frequency broadcast station on 43400 kc., 1000 watts, special emission for frequency modulation.
- NEW—Columbia Broadcasting System, Inc., Chicago, Ill.—Con-

struction permit for new high frequency broadcast station on 43200 kc., 1000 watts, special emission for frequency modulation.

- W6XDA—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Construction permit to change frequency from 42300 kc. to 43200 kc.; increase power from 100 watts to 1000 watts; change emission from A3 to Special for frequency modulation and install new equipment.
- NEW—Gilbert H. Jertberg, Executor of the Estate of George Harm, deceased, area of Fresno, Calif.—Construction permit for new relay broadcast station on 30820, 33740, 35820, 37980 kc., power 10 watts, Emission A3.
- NEW—Gilbert H. Jertberg, Executor of the Estate of George Harm, deceased, area Fresno, Calif.—License to cover construction permit (B5-PRE-350) above for new relay station.
- W3XMC—McNary & Chambers, Washington, D. C.—Construction permit to move transmitter to 2701 14th St., N.W., Washington, D. C.
- NEW—Allen B. DuMont Labs., Inc., Washington, D. C.—Construction permit for new television broadcast station on 44000-50000 kc., aural and visual power 1000 watts, Emission A3 and A5. Amended re equipment and to request Class II (Form 318).
- W2XWE—WOKO, Inc., Albany, N. Y.—Construction permit to move transmitter locally to State Office Bldg., Swan St., Albany, N. Y.
- John Shepard, Jr., Boston, Mass.—Transfer of control of The Winter Street Corp. (parent corp. of The Yankee Network, Inc.) from John Shepard, Jr., to John Shepard, 3rd, and Geo. R. Blodgett, Trustees of the John Shepard, 3rd, and The Robert F. Shepard Trusts.
- WENJ—WJW, Inc., Vicinity Akron, Ohio.—Construction permit to install new transmitter.
- NEW—Columbia Broadcasting System, Inc., E. of Wheaton, Md.—Construction permit for new high frequency broadcast station on 43200 kc., 1000 watts, special emission for frequency modulation.
- WLWO—The Crosley Corp., Mason, Ohio.—License to cover construction permit (B2-PIB-17) as modified which authorized increase in power to 50 KW and new equipment.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Hosiery Mills**—See American Mills.

**American Mills**—Philip Adler, Jr., Indianapolis, Ind., trading as American Mills, American Hosiery Mills, and American Silk Hosiery Mills, is charged, in a complaint issued by the Federal Trade Commission, with misrepresentation.

The complaint alleges that the respondent, in magazines, periodicals and other publications, inserted, among other things, a picture showing two silk hose on a wearer, opposite which is the following wording:

"If you agree to show your friends I'll send you actual sample snag-proof silk hose FREE! And show you how to earn up to \$22.00 in a week. Just show FREE ACTUAL SAMPLE amazing new kind of Snag-Proofed Chiffon Hosiery!"

"NO EXPERIENCE—NO MONEY NEEDED. Just show FREE ACTUAL SAMPLE OF SNAG-PROOFED HOSE, and make good money—up to \$22.00 in a week—even in spare time."

Through these and other advertisements, the complaint alleges, the respondent has represented that he will give a sample pair of silk hose free to anyone agreeing to demonstrate their quality to friends; that he will pay up to \$22 a week for demonstrating silk hosiery; that valuable demonstrating equipment will be sent and

given free of cost to persons requesting it; that his chiffon silk hose are "snag-proofed" and will not under any circumstances snag; that he operates a large factory, pictured in an advertisement, which is devoted exclusively to the manufacture of silk hosiery, and that purchasers of the respondent's hose deal directly with the respondent without intervention of any middleman.

The complaint alleges that these representations are false and misleading. (4109)

#### **American Silk Hosiery Mills—See American Mills.**

**Louis Baskind & Company, Inc.**—Alleging misrepresentation in the sale and distribution of shirts, a complaint has been issued against Louis Baskind and Company, Inc., 1220 Broadway, New York.

Representations attached to the respondent's products allegedly indicated that they are "fully pre-shrunk"; that the buttons on the shirts are genuine ocean water pearl buttons, and that the shirts are of superior grade or quality. The complaint alleges that these representations were misleading because the respondent's shirts will shrink appreciably when subjected to ordinary laundering; the buttons are not genuine ocean water pearl buttons but are fresh water pearl buttons, which are of lower quality, and the shirts are not of superior grade or quality.

The respondent also is alleged to have used the term "Silken-spun" to designate its shirts, when in fact they contain no silk but are made entirely of cotton. (4095)

**Hiram Carter, Inc.**, and S. Fred Griffin, president and principal owner of the corporation, 5706 Hoffman Drive, Elmhurst, Long Island, N. Y., engaged in the sale and distribution of medicinal preparations designated "Old Surgeon's," "Old Surgeon's Remedy" and "Old Surgeon's Double Duty Remedy," are charged in a complaint with misrepresentation.

In circulars, pamphlets and other printed and written matter distributed throughout the States, the complaint alleges, the respondents have disseminated, among other things, pictures of a dejected, haggard, worried-looking man, followed by pictures, apparently of the same man, in robust health and in a bright, gay and cheerful mood, with the following statements directly underneath:

"He's listless and low, sleeps poorly, nerves on edge, bothered with indigestion and sundry aches and pains, but worst of all his strength seems to have ebbed away so he's only half the man he used to be."

"Back on the job again feeling tip top. Hard work means nothing now—and after a good day's work he feels like going out evenings for a good time. Life is worth living once more. He tells all his friends about Old Surgeon's and he's sending his photograph and testimonial for the benefit of others who need the same kind of help. His message is 'Go thou and do likewise.'"

Through these and other representations, the complaint charges, the respondents have represented that their preparations are a cure or remedy for impotence or lost energy, indigestion, rheumatism, asthenia, neurasthenia, gout, sciatica, general debility, neuritis and arthritis, and that the price at which the preparations are offered is a special or reduced price much less than that at which they are customarily offered for sale. (4101)

**Julian S. Cohn**, 260 Fourth Ave., New York, engaged in the sale and distribution of handkerchiefs, is charged in a complaint with misrepresentation.

The complaint alleges that the respondent has represented, in the solicitation of orders for his handkerchiefs, that he is a "manufacturer of handkerchiefs." Use of the term or of the word "manufacturer," the complaint charges, is a representation that the respondent owns, operates or controls a factory or mill wherein the product which he offers for sale or sells is made or manufactured, when in fact he does not make or manufacture any of his products, but has them made elsewhere under contracts. The complaint points out that there is a common belief among purchasers that they save the middleman's profit and obtain other advantages by purchasing directly from the manufacturer. (4106)

#### **Chocolate Confections Company—Merrick National Company.**

**Evans Candy House**—William C. Evans, trading as Evans Candy House, 309 Marietta St., Atlanta, engaged in the sale and

distribution of candy to dealers, is charged with the distribution to dealers of certain assortments of candy so packed and assembled as to involve the use of a game of chance or lottery scheme when the product is sold or distributed to ultimate consumers. One of these assortments, the complaint charges, consists of a number of bars of candy together with a device commonly called a push card. The complaint alleges that each purchaser selects and removes a numbered disc from the push card, paying in cents the amount of the number contained in the disc, and receives a bar of candy. Each bar allegedly has a retail value greater than many of the prices to be paid therefor, and the amounts to be paid for the candy are thus determined wholly by lot or chance. (4102)

**Globe-Union, Inc.**—Charging price discrimination in violation of the Robinson-Patman Act in the sale of radio volume and tone controls a complaint has been issued against Globe-Union, Inc., 900 East Keefe Ave., Milwaukee, manufacturer of storage batteries and radio accessories.

The complaint alleges that the respondent corporation sold its radio tone and volume controls at widely varying prices, discriminating in price between certain radio manufacturers and accessory jobbers.

It is alleged that the respondent sold controls to Belmont Radio Corporation and Wells-Gardner & Co., Chicago radio set manufacturers, at prices ranging from 10 to 20 cents each, and that it charged radio accessory jobbers for products of like grade and quality prices varying from 36 to 72 cents per control.

The jobbers, it is alleged, then sold the Globe-Union, Inc., tone and volume controls to dealers (radio repairmen) at prices ranging from 60 cents to \$1.20.

It is alleged that Belmont Radio Corporation and Wells-Gardner & Co., who sell radio sets to Montgomery Ward & Co., Inc., resold the controls they purchased from the respondent corporation to the Chicago mail order house at prices ranging from 12 to 24 cents a control, and that Montgomery Ward & Co., Inc., distributed these products in the same territories and places as, and in competition with, dealers who purchased the respondent's controls from jobbers.

The effect of the discriminations, according to the complaint, has been and may be to destroy and prevent competition with Montgomery Ward & Co.

The complaint points out that during 1938 the respondent company sold more than 2,600,000 tone and volume controls to radio manufacturers for original equipment of radios, and in excess of 500,000 tone and volume controls for replacement or original equipment. (4103)

**Hills Brothers Company**—Alleging a combination and conspiracy to restrain trade and create a monopoly in the sale in the United States of dates grown in the Kingdoms of Iraq and Iran a complaint has been issued against several foreign and American importers, distributors and agents.

Respondents are: Hills Brothers Company, 110 Washington St., New York, importer of Iraq dates which it sells under the trade name of "Dromedary"; T. A. Suren, proprietor of E. Suren, an English private company selling and distributing dates, with headquarters in London, England; Hund Steinharter and Lester Nordlinger, trading as Steinharter & Nordlinger, 99 Hudson St., New York, United States agents for E. Suren; Joseph Essaye, 99 Hudson St., New York, agent for E. Suren; United Africa Company, Ltd., an English private company, London, England, importer and distributor; W. A. West and Balfour, Guthrie & Co., Ltd., 67 Wall St., New York, agents for United Africa Company, Ltd.; Persian Gulf Products Company, 67 Wall St., New York (wholly owned subsidiary of Lebanon Trading Company, Ltd., Freetown, West Africa, which in turn is owned and controlled by United Africa Company, Ltd.), and Andrew Weir, proprietor of Andrew Weir & Co., an English private company, London, England.

The complaint points out that Iraq produces about 80 per cent of the world's supply of dates, including approximately 83 per cent of those consumed in the United States in the last four or five years, and that most of the remainder originate in Iran (Persia) and in California. From 700,000 to 900,000 cases of dates, averaging in weight about 70 pounds per case, the complaint continues, have been imported into the United States yearly for several years, and of this quantity the respondent Hills Brothers Company has imported and sold annually about 200,000 cases, or 14,000,000 pounds, and the respondents E. Suren, and United Africa Company, Ltd., have imported and sold most of the remainder.



The complaint alleges that early in 1939 the Kingdom of Iraq entered into a five-year agreement with the respondent Andrew Weir & Co., London, which provided, among other things, that the respondent should have the exclusive right to purchase all dates grown in Iraq for export, and that that firm in turn should buy from the growers in Iraq a specified quantity of dates at specified prices for export.

It is alleged that, pursuant to an understanding, agreement and conspiracy entered into by the respondents in May, 1939, the respondent Andrew Weir & Co. sells specified quantities of Iraq dates at specified prices exclusively to the respondents E. Suren, United Africa Company, Ltd., and Hills Brothers Company for United States importation and distribution, and refrains from selling dates to others to fill United States demands; and that the respondents E. Suren, United Africa Company, Ltd. and Hills Brothers together fix the price at which they will sell Iraq dates in the United States to the wholesale and retail trade and the general public.

It is further alleged that, through mutual agreement, Hills Brothers Company, United Africa Company, Ltd., and E. Suren, since May 15, 1939, have purchased Iraq dates from Andrew Weir & Co. for sale in the United States only upon the condition that the Weir firm sell dates exclusively to them for the United States trade, and that they have agreed with Weir and amongst themselves that they will not import into the United States dates grown in Iran.

The complaint also alleges that the respondents, by their own and their representatives' acts, have brought about within the United States certain results forbidden by United States laws; that there is no longer any competition in the sale of Iraq dates in the United States, and that the prices are fixed at arbitrary levels. (4105)

**Imperial Knife Company, Inc.**—Complaints have been issued against seven cutlery manufacturing corporations alleging that they have sold pocket knives of such design and appearance that, when marked or labeled by use of the word "Scout," "Boy Scout," or other marks or insignia characteristic of The Boy Scouts of America, the tendency is to induce buyers to believe that the respondents' products have been endorsed by that organization and are a part of its standard equipment.

Respondent manufacturers are: Imperial Knife Company, Inc., and Colonial Knife, Company, Inc., Providence, R. I.; Utica Cutlery Company, Utica, N. Y.; Schrade Cutlery Company, Walden, N. Y.; W. R. Case & Sons Cutlery Company, Bradford, Pa.; Robeson-Rochester Corporation, Rochester, N. Y., and H. Boker & Co., Inc., New York.

The complaints point out that while The Boy Scouts of America supervises and licenses the manufacture of certain equipment which is marked or labeled by use of words such as "Boy Scout," "Scout," or "Scouting," it has not taken such action with respect to the respondents' pocket knives nor has it endorsed or sponsored them. (4115-4116-4117-4118-4119-4120-4121)

**Robert A. Johnston Company**, 4023 West National Ave., Milwaukee, which maintains a branch office at 437 Eleventh Ave., New York, is engaged in the manufacture and sale of candy. The complaint alleges that the respondent sells to dealers certain assortments of candy so packed and assembled as to involve the use of a game of chance or lottery scheme when sold or distributed to ultimate consumers.

The plan is alleged to be as follows: One of the assortments consists of a number of boxes or packages of candy, with an additional article of merchandise, together with a device commonly called a punch board. The board bears statements or legends informing purchasers and prospective purchasers that the person selecting a certain designated number receives a basket of candy; that persons selecting certain other designated numbers receive boxes of candy of varying sizes, and that the person selecting the last number on the board receives the additional article of merchandise. Purchasers who do not punch the designated numbers receive nothing for their money. The numbers are effectively concealed from purchasers until slips of paper have been punched or removed from the board, and the fact as to which package or box of candy the purchaser is to receive, if any, is thus determined wholly by lot or chance. (4104)

**Merrick National Company**—Montague L. and Edna H. Merrick, trading as Merrick National Company and Chocolate Confections Company, 617 Washington Ave. North, Minneapolis, engaged in the sale and distribution of candy to dealers, are charged

with selling to dealers assortments of candy so packed and assembled as to involve the use of a game of chance, gift enterprise or lottery scheme when the candy is sold to ultimate consumers. One assortment allegedly consists of a number of small pieces of candy of uniform size, a number of bars of candy and a giant loaf of candy. A majority of the smaller pieces of candy have centers of a certain color, a minority having centers of a different color. The colors are alleged to be concealed from purchasers until a purchase is made and the piece of candy broken open. Purchasers of the differently colored pieces receive, without additional charge, the larger bars of candy, and the buyer of the last piece of candy obtains the giant loaf, according to the complaint. The respondents are also charged with distributing assortments of candy together with a push card by means of which prizes are allotted. (4097)

**Milford Rivet & Machine Company**, Milford, Conn., Judson L. Thomson Manufacturing Company, Waltham, Mass., and Tubular Rivet & Stud Company, Boston, have each been served with a complaint alleging violation of the "exclusive dealing" section of the Clayton Act (Section 3).

The complaints point out that these corporations manufacture and lease and license the use of rivet-setting machines, and manufacture tubular and bifurcated rivets. It is alleged that the Thomson company manufactures approximately 40 per cent of the rivet-setting machines and about 30 per cent of the tubular and bifurcated rivets entering interstate commerce; that the Tubular Rivet company makes approximately 35 per cent of the rivet-setting machines and about 25 per cent of the tubular and bifurcated rivets, and that the Milford company is also an important member of the industry.

It is further alleged that each respondent company leased and licensed its rivet-setting machines on and with the condition, agreement or understanding that the lessees or licensees thereof would use such respondent's rivet-setting machines only for setting rivets manufactured by that respondent company or sold under its authority, and on the further condition, agreement or understanding that the lessees or licensees allow such respondent or its agent to inspect the machines at all reasonable times.

The effect of the provisions in the license and lease agreements, it is alleged, may be to substantially lessen competition or tend to create a monopoly in each respondent in tubular and bifurcated rivets in interstate commerce. (4110-4111-4113)

**P. R. Mitchell Company**, 2201 Spring Grove Ave., Cincinnati, engaged in manufacturing, selling and distributing pillows, bedding and like products, is charged in a complaint with misrepresentation.

In pamphlets, circulars, advertising folders and other material circulated throughout the United States, the complaint charges, the respondent has made representations such as:

#### "FINE DOWN PILLOWS

SPECIAL \$4.99—size 21" x 27"

Here's the pillow you've always wanted—soft luxurious snow white goose down—at a price you can't afford to pass by."  
" \* \* \* not just 'Down', but the finest quality, to give you years of comfort and service \* \* \* "

"Best of all, you can have these superb pillows, not for the \$9.00; \$8.00 or \$7.00 you've always expected to pay for such a luxury product, but for \$4.99 complete, if you act now, to take advantage of this special sale."

#### "GUARANTEE

This Pillow Contains  
ALL NEW DOWN"

"With our process the down is so purified and Sterilized it is soft and fluffy and will give maximum comfort."

The complaint charges that the respondent's pillows contain a large percentage of goose feathers and chicken feathers; that the filling is not composed entirely of white goose down, and that the price of \$4.99 at which the respondent sells the pillows is not a reduced or special price, but is the usual, regular and customary retail selling price of the pillows at all times. (4100)

**Oak Lane Candy Company**, York, Pa., sellers and distributors of candy and peanuts to dealers, are charged with distributing assortments of candy together with push cards. Persons selecting

certain designated numbers allegedly receive pieces of candy which have retail values in excess of the amounts to be paid for them. (4099)

**Rogers Redemption Bureau**—See Rogers Silverware Exchange.

**Rogers Silverware Exchange**—Misleading and deceptive representations in the sale to retail merchants of promotion plans, consisting of gift cards, advertising material and silverware are alleged in a complaint issued against J. L. Ramsay and G. P. Masters, trading as Rogers Silverware Exchange and as Rogers Redemption Bureau, St. Louis.

Use of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" constituted a deceptive representation that the respondents' business was connected with Oneida, Ltd., manufacturer of "Wm. A. Rogers Silverware," when such was not a fact, according to the complaint.

The complaint also alleges that the respondents or their agents represented that by means of their sales stimulator plan as sold to retail merchants the respondents were conducting an advertising campaign for the makers of Rogers silverware, when in fact the plan was not sponsored by Oneida, Ltd., but was used solely by the respondents as a means of selling their so-called gift cards.

Under written contracts obtained by the respondents from retail merchants in connection with the sales stimulating plan, it is alleged, agreements were made that the merchants would purchase gift cards at \$4 a thousand for distribution to their own customers buying merchandise; that the respondents would redeem specified numbers of such cards by sending to a merchant's customer a designated number of Rogers silverware pieces packed in units of six pieces; that when 25 per cent of a merchant's consignment of gift cards had been forwarded for redemption the respondents would make a cash refund to the merchant at the rate of \$4 a thousand cards so forwarded, and that the respondents would supply the merchant without cost a 26-piece silverware set to be used for display purposes and to remain as the merchant's property.

The complaint charges that the provisions of the written contract with respect to the number of cards required for obtaining silverware were couched in ambiguous and deceptive language which enabled the respondents and their agents to deceive prospective purchasers of gift cards; that in many instances the respondents failed to redeem the gift cards in silverware; that in many instances they did not forward to the holder of such cards a unit of six pieces of silverware but required the forwarding of six times the designated number of cards; that in many instances they failed to supply dealers with silverware sets as promised, and that they did not make to dealers the cash refunds provided for in the contracts. (4094)

**Royal Metal Manufacturing Co.**, 175 North Michigan Ave., Chicago, engaged in the manufacture, sale and distribution of household, office and trade furniture, with a factory located at Michigan City, Ind., is charged, in a complaint, with misrepresentation concerning its products.

In magazines and other publications, the complaint charges, the respondent, in describing its products, makes use of the following terms, and others of similar nature and import: "Chrome," "Chromium" and "Chromium Steel." The terms "Chrome" and "Chromium," the complaint alleges, are generally understood by the purchasing public to be applicable solely to a steel alloy made by combining carbon steel with chromium. Chromium (or chrome) steel, the complaint points out, is a much more expensive and valuable product than plain carbon steel, and combines intense hardness with a high elastic limit, while possessing unusual wearing qualities. In truth, the complaint charges, the respondent's furniture is not made of the steel alloy commonly known as chromium steel or chrome steel, but, on the contrary, is made of plain carbon steel with only a plating of chromium. (4107)

**C. H. Stallman & Son, Inc.**, 31 West Philadelphia St., York, Pa., engaged in the sale and distribution of cigars, candy and other merchandise, is charged with selling to dealers assortments of merchandise, together with devices commonly called punch boards and push cards. One of the assortments allegedly consists of a number of cigars together with a punch board which bears a legend informing purchasers and prospective purchasers that persons select-

ing certain designated numbers receive 10 cigars each. Purchasers of other numbers, it is alleged, receive 1, 3 or 5 cigars, but those not successful in selecting one of the designated numbers receive nothing for their money. (4096)

**Stiefel Medicinal Soap Company**—Misrepresentation is charged in a complaint against Stiefel Medicinal Soap Company and August Stiefel, Preston Hollow, N. Y., sellers and distributors of medicinal soaps.

The complaint alleges that August Stiefel, president of the corporation, was, until 1936, the exclusive sales agent in the United States of J. D. Stiefel, Offenbach-on-the-Main, Germany, manufacturer of medicinal soaps which have been imported into the United States and sold extensively to members of the medical profession and the purchasing public. After the sales agency was withdrawn from the respondent, August Stiefel, in 1936, the complaint continues, the respondent organized the Stiefel Medicinal Soap Company, formerly located at Montclair, N. J., and entered into the sale and distribution of soaps other than those produced by the German concern.

In advertisements in trade journals and other periodicals, and by means of circulars, price lists and other advertising material, the respondent is alleged to have represented, among other things—

"Domestic manufacture, with most modern methods and equipment, coupled with the elimination of import duties and foreign exchange disadvantages, permits us to reduce our prices, effective with this issue of our price list.

"The traditionally high quality of our products, which the Medical Profession of the United States has relied on for over half a century, has been fully maintained in our domestic products. In order to avoid substitution, please specify STIEFEL'S Medicinal Soaps always when ordering from your wholesaler."

In addition to these and other representations, the complaint continues, the respondents package and sell their products in cartons and with labels similar in size, color and printed matter to the cartons and labels used by the J. D. Stiefel concern of Offenbach-on-the-Main, Germany.

Through the use of these representations and practices, the complaint charges, the respondents represent that their business is a part of or is connected with the German firm, and that the products distributed by them are the products of the German manufacturer and are identical in character and quality. In truth, the complaint alleges, the respondent corporation is in no way connected with the German concern, and aside from a small quantity of soaps which August Stiefel had on hand when the sales agency was withdrawn from him, the respondents have sold none of the J. D. Stiefel soaps since 1936, but obtain their products from other sources. (4098)

**Judson L. Thomson Mfg. Co.**—See Milford Rivet & Machine Co.

**Tubular Rivet & Stud Company**—See Rivet & Machine Co.

**Wamill Quilt Factories**—Walter L. Miller, trading as Wamill Quilt Factories, is charged in a complaint with misrepresentation.

The respondent, with office and place of business at 1026 Seventeenth St., Denver, Colo., is engaged in the business of manufacturing, selling and distributing quilts, comforts, bedding and like products.

Through various advertising mediums, the complaint charges, the respondent has represented, among other things:

"Wamill Feather and Down Quilts—50% finest Goose Down, 50% finest Feather Down (quills out). Regular price \$37.50; sale price, 2 for \$37.50 \* \* \* \$37.50 for 2, \$18.95 for one."

"Research work \* \* \* testing, surveying \* \* \* for years was secretly carried on to find the elements that could possibly combine to form the ideal."

"This work necessitated developing special manufacturing processes and machines; raw materials were tried, changed, discarded for others. Finally all these elements essential to the ideal quilt were developed."

The complaint points out that "down" means the under coating of water fowl, consisting of the light, fluffy filaments growing from one quill point, but without any quill shaft. It is alleged that there is no such thing as "feather down"; that the respondent does not maintain a laboratory fully equipped with facilities for



experimenting with and testing quilts and like products; that the quilts are not filled with 50 per cent goose down and 50 per cent feather down; that they are not extra large in size, light of weight and extra warm, or free from lint, and that the quilts have never had the usual, customary and regular retail sales prices of \$37.50, the purported introductory half-price of \$18.95 being in fact the usual, regular and customary retail selling price of the respondent's quilts at all times. (4108)

### CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**Kaufmann Bros. & Bondy, Inc.**, West New York, N. J., distributor of smoking pipes and other merchandise, has been ordered to discontinue lottery methods in the sale of its products.

The Commission order directs the respondent to cease and desist from (1) selling and distributing merchandise so packed and assembled that sales to the public are to be made by means of a game of chance; (2) supplying to or placing in the hands of others (a) merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling any merchandise to the public, and (3) selling or otherwise disposing of any merchandise by the use of such lottery devices. (3881)

**McKinley-Roosevelt College of Arts and Sciences**, Chicago correspondence school, has been ordered to cease and desist from certain unfair competitive methods and deceptive practices in the sale of home study instruction courses in education, writing, psychology, chemistry, business and other subjects.

The order directs the respondent McKinley-Roosevelt College of Arts and Sciences to cease and desist from using the words "College" or "University" in its corporate or trade name, and from representing, through use of such words in its official name or in advertising literature or otherwise, that its business is that of a university, college or institution of higher learning. The respondent also is directed to desist from representing, through use of symbols indicating academic degrees or by any other means, that members of its faculty are educators duly qualified by higher education, when the degrees so indicated are not the result of study pursued in residence at recognized colleges or universities duly authorized to grant the respective degrees indicated, or when the symbols used do not represent degrees actually granted by such institutions to the respondent's faculty members, or when the persons receiving such degrees are not teachers, educators, or persons of high educational attainment. (3571)

### STIPULATIONS

During the week the Commission has entered into the following stipulations:

**Absorene Mfg. Co.**, 1609 North 14th St., St. Louis, stipulates that it will cease representing its product "Abso Crystals" as being capable of whitening clothes perfectly or naturally, as giving longer life to fabrics, as making clothes whiter with less washing or rinsing, as being superior to soap or soap powders, and as being the most powerful water softener ever discovered by chemists and the most effective or economical cleanser or cleaner for all house cleaning, laundry and bath. The respondent also agrees to cease representing that "Absorene" sanitizes the atmosphere for healthful cleaning or that it does not crumble. (02548)

**Bowey's, Inc.**, 401 West Superior St., Chicago, has entered into a stipulation in which it agrees to cease certain representations in the sale of its "Dari-Rich Syrup."

The respondent agrees to discontinue advertising that a drink prepared by dairies and others from its "Dari-Rich" chocolate flavored syrup, is made of milk, or otherwise representing that it is made of whole milk. The stipulation does not inhibit Bowey's,

Inc., from representing the finished drink to be milk or made of whole milk in localities where whole milk is used by dairies and others in the preparation of the respondent's product.

Under its stipulation, the respondent also agrees to cease representing that the drink prepared by dairies and others from its syrup is a chocolate drink or is chocolate milk; that it is an aid to so-called "beauty diets" and that it contains 100 per cent more energy value than other beverages, unless a direct comparison is made with a beverage specifically mentioned, the energy value of which has been determined scientifically.

The respondent also agrees to desist from advertising that the drink will not lessen mealtime appetite if consumed between meals, and that it is a health-building drink. (02550)

**Brigham Oil Burner Company**—See Diagraph-Bradley Stencil Machine Co.

**Diagraph-Bradley Stencil Machine Corporation**, trading as Brigham Oil Burner Company, 3745 Forest Park Blvd., St. Louis, has entered into a stipulation in which it agrees to cease certain representations in the sale of oil burners of the so-called "blue flame" type for installation in stoves and ranges.

In its advertising matter, the respondent corporation, according to the stipulation, represented its product as a "new invention" which "burns 96 per cent air, 4 per cent of a cheaper variety of oil obtainable everywhere" and provides "cheaper heat without coal," and "quick, clean violent heat \* \* \* 3 times hotter than coal, and cheaper."

The stipulation points out that the respondent's device is not new; that the greater proportion of air to oil consumed in the device is not of substantial, if any, difference from the proportion of air to oil generally consumed in other oil burners, and that the fuel oil consumed in the device is not cheaper in all sections of the country.

Under its stipulation, the respondent agrees to cease the foregoing representations and to discontinue advertising that there is scientific basis for its claims; that all features of its device, including lighting, are automatic; that exclusive trade territory is reserved to each of the respondent's agents, and that its agents or salesmen can make profits or earnings within a specified time which are in excess of the average net profits or earnings of the respondent's full-time agents under normal conditions in a like period of time. (2766)

**Eagle Pencil Company, Inc.**, 703 East 13th St., New York, has entered into a stipulation in which it agrees to cease certain representations in the sale of pens.

The respondent stipulates that it will discontinue use of the descriptive designation "Iridoid" as applied to pen points, and will cease use of this word or any other coined or fictitious expression the effect of which is to imply that the pen points so designated are made of or tipped with any purported substance having special or exceptional qualities.

The stipulation points out that certain of the respondent's pen points advertised as being equipped with "Spherical Iridoid Tip" were in fact made of chromium steel or stainless steel alloy; that there is no substance known to science or industry as "Iridoid," and that the tips of the pens thus designated did not contain any added valuable ingredient as implied. (2762)

**Earnshaw Knitting Company**, Newton, Mass., distributor of hosiery and garments, including diapers known by the trade name "Vanta," stipulates that in the sale of its packaged products, it will cease use on its cartons or in advertising matter of the word "Sterilized" or any other word of similar implication as descriptive of products which are not in a state of sterility at the time of their removal from the package by the purchaser, and from use of such word in any manner tending to convey the idea that the products are free from pathogenic bacteria and other micro-organisms at the time of their removal from the package by the purchaser. The stipulation points out that diapers sold by the respondent had been subjected to sterilization processes at the plant but had not been so packaged and treated as to remain sterile or free from bacteria at or until the time of their removal from the package by the purchaser. (2760)

**Falls Rubber Company of Akron, Inc.**, Findlay, Ohio, manufacturing and distributing automobile tires, has entered into a

stipulation in which it agrees to desist, in connection with the sale or distribution of certain of its tires, from marking, stamping, branding or labeling such tires with either the phrase "Silent Safety Six" or "Heavy Duty 6," or with any other phrase of similar implication tending to convey the belief that the tires so referred to are composed, constructed or equipped with six plies. The corporation also agrees to cease and desist from use on its tires or the wrappings thereof, or in connection with the advertisement, sale or distribution of such tires, of any mark, stamp, brand or label which imports or implies that such tires contain more plies in their construction than they actually contain. (2770)

**Elam G. Hess**, Manheim, Pa., in the sale of "Kano", a food product previously known as "Pecano," agrees to cease advertising that a comparison of the number of calories contained in his product with that contained in other foods is a correct basis for comparison of their respective nourishing values; that the food value of "Pecano" or "Kano" is to any extent greater than that of other specified food, when such comparison is not based on measurable units; that the product supplies more nourishing value than does either beefsteak, eggs, whole milk or fish; that it costs less than other specified foods, unless such representation is accompanied by a complete statement of the basis for the purported price comparison; that it is the best source of tissue building material, and revitalizes or recleanses one's body, and that it is effective in treating malnutrition in all cases or in cases which may be due to causes other than a deficiency of the food elements supplied by this product. (02546)

**Hodges Candy Company**—See Klotz Confection Company.

**Klotz Confection Company**—F. C. Klotz, Jr., trading as Klotz Confection Company, 731 Brent St., Louisville, Ky., Mark D. Hodges, trading as Hodges Candy Company, Milledgeville, Ga., and Gorton Cigar and Candy Company, Flora, Ill., a dealer in candy, pipes and cigarettes, have agreed to cease using lottery methods in the sale of their products.

Under their stipulations the respondents agree to cease and desist from (1) selling or distributing their merchandise so packed and assembled that sales to the public are to be or may be made by means of a lottery scheme or gift enterprise; (2) supplying to or placing in the hands of others (a) assortments of their merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling such merchandise to the public, and (3) selling or otherwise disposing of any merchandise by means of such lottery devices. (2765-2768-2769)

**Lilly Products Company, Inc.**, Attleboro, Mass., insecticide manufacturer, has entered into a stipulation in which it agrees to cease certain representations in the sale of its arsenical preparation "Ant Cups," designed for use as an ant and roach eliminator.

The respondent company agrees to cease selling its insecticides placed in containers simulating the dress or appearance of containers in which similar merchandise is sold by a competitor, with a tendency to deceive purchasers into believing that its merchandise is that of a competitor.

The stipulation recites that Lilly Products Company, Inc., sold its "Ant Cups" in packages similar in dress and appearance to those containing "Ant Buttons" sold by Harris Products Company, Miami, Fla., and that the resulting tendency was for purchasers to confuse the two products. The Miami company's product, in its characteristic container, had become well identified in the public mind and had been on the market for several years prior to the appearance of the Lilly company's preparation, according to the stipulation. (2764)

**Magic Iron Cement Company**—Herman J. Reich and A. W. Render, trading as Magic Iron Cement Company, Cleveland, Ohio, in the sale of their "Magic" casein glue, agree to cease employing in advertising matter the word "Waterproof" or any words of similar meaning or implication as descriptive of their glue which is not waterproof, and to desist from the use of such word in any manner conveying the impression that their product is impervious to water or its effects. (2773)

**Mystic Laboratories, Inc.**, 257 Cornelson Ave., Jersey City, N. J., in the sale of "Mystic Cream," stipulates that it will cease representing that the product is an amazing or scientific development, or that, when rubbed on the hands, it will cause them to be as soft or as white as the hands of a child, or that it will cause any immediate transformation in the condition of the skin. The respondent also agrees to desist from representing that the product has any other than a temporary effect upon the skin unless used regularly, or unless such representations are limited to rough, red or chapped hands. (02547)

**New York Handkerchief Manufacturing Company**, 1015 West Adams St., Chicago, agrees to desist from the use, directly or indirectly, of the terms "Pre-Shrunk" or "Shrunk" or representations of like effect as descriptive of its goods when they are not shrink-proof or non-shrinkable, or have not been fully shrunk or pre-shrunk to the extent that no residual shrinkage is left remaining in them. The stipulation provides that if the terms "Pre-Shrunk" or "Shrunk" are used properly to indicate that such goods have undergone a shrinkage process and have been shrunk to a substantial extent but there remains some residual shrinkage, then such term or word shall be accompanied by an explanatory statement of the percentage of residual shrinkage remaining in both the warp and the filling, or in the warp or the filling, whichever has the greater residual shrinkage; for example, "Pre-Shrunk (or shrunk)—will not shrink more than —%". The percentage of residual shrinkage so designated is not to be less than the percentage shown under recognized and reliable test methods such as Commercial Standard CS59-39. (2759)

**Nu-Enamel Corporation**, Cleveland, Ohio, stipulates that it will desist from representing that "Nu-Enamel Enamelized Paint" is the first basic improvement in house paint in more than 400 years; that the respondent corporation was the first to discover the process for using tung oil as a base for paint, enamel and varnish; that "Nu-Enamel Enamelized Paint" will last three times as long as lead and oil paints; that lead and oil paint, or "even the best grade" thereof, produces a "shocking" appearance or that the three basic ingredients of Nu-Enamel possess certain distinct virtues not found in ordinary lead and oil paint. (2767)

**Perry-Field Tire & Rubber Company**, 2328 South Michigan Ave., Chicago, and Herman M. and Alfred A. Bilski and Wolf Levy, have entered into a stipulation to discontinue certain representations in the sale of used automobile tires.

The respondents agree to discontinue using the word "reconditioned" or any other word of similar import, without qualification, or the picturization of tires purportedly equipped with treads simulating those of new tires, or of such picturization in connection with the unqualified word "reconditioned", the effect of which may convey the belief to purchasers that tires to be furnished them will be equipped with treads like those on new tires, or that the treads of such tires will be of such sound condition as the pictured treads, namely, the treads on new tires. The stipulation points out that the treads of tires sold in numerous instances by the respondents had not been restored to new tire condition or to the condition as portrayed in the advertising.

Other representations to be discontinued are use of any statement or so-called agreement purporting to assure a continuity of service from tires which is improbable, and use of the phrase "for a limited time only" or words of similar meaning in connection with an alleged gift offer of merchandise, when in fact such gift offer is an ordinary and usual one, made in the normal course of business.

The respondents agree to cease requiring customers who seek to avail themselves of an advertised 12-months service, to ship their tires to the respondents' Chicago office for inspection and pay the transportation costs, unless the fact that such conditions are imposed and such charges made is clearly set forth in the advertisement. (2763)

**Pioneer Publications, Inc.**, R.K.O. Building, Rockefeller Center, New York, sells books entitled "Eugenics and Sex Harmony" and "New Birth Control Facts." The stipulation recites that in its advertising this corporation represented that the method outlined in "New Birth Control Facts" is dependable as a means of avoiding and of causing conception, and that the book contains a table of periods during which conception is impossible. In its



stipulation the respondent admitted that as to a substantial number of persons the method outlined is not effective, and that for a substantial number there is at present no way of exactly computing the periods in which conception is impossible. The respondent agrees to cease representing that the method outlined is dependable in bringing about or avoiding conception, and that the book contains a table or information, which, if followed, enables all users to compute a safe period. (02549)

**Rothenberg and Schloss Cigar Company, Kansas City, Mo.,** in connection with the sale and distribution of its cigars, tobacco and pipes in commerce, has agreed to cease and desist from supplying to or placing in the hands of others, cigars, tobacco and pipes or other merchandise, together with punch boards, push or pull cards or other lottery devices, which devices are to be or may be used in selling or distributing such merchandise to the general public; supplying to or placing in the hands of others punch boards, push or pull cards or other lottery devices either with cigars, tobacco and pipes or other merchandise, or separately, which lottery devices are to be or may be used in selling or distributing such merchandise to the general public, and selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme. (2771)

**Sabbagh Brothers, Inc.,** 230 Fifth Ave., New York, a distributor of decorative linens and handkerchiefs, agrees to cease using the word "Manufacturers" as descriptive of its business and to discontinue representing that it has factories in Chefoo, Swatow, or Shanghai, China, or elsewhere, when such is not a fact. (2758)

**A. Zaphirio & Company**—Peter Zaphirio, trading as A. Zaphirio & Co., Chicago, Ill., engaged in the sale and distribution of cigarettes under his private brand of "Zaphirio," agrees to cease and desist from (a) use of the word "Manufacturers" as descriptive of his business, or of the legend "Fac. No. 335, 2nd Dist. N. Y.," in a manner importing or implying that such factory is his own, and from use of any other words of similar implication tending to convey the belief that he makes or manufactures the products sold by him, or that he actually owns and operates or directly and absolutely controls the plant or factory in which such products are made or manufactured; (b) representing that the cigarettes sold by him are "blended from our own direct importation of choice Turkish tobacco," or in any other way representing that he is an importer of such tobacco or of any other

commodity, and (c) representing that he has branch places of business in New York or in Cavalla, Macedonia, or elsewhere. (2772)

## FTC CASES CLOSED

The Federal Trade Commission has closed without prejudice its case against Tanen Shirt Company, Inc., 596 Broadway, New York, charged with misleading representations in the sale of men's shirts.

The closing order recites that the respondent has discontinued the unfair practices alleged in the Commission's complaint and has agreed to accept and abide by the rules of fair trade practice concerning shrinkage of woven cotton yard goods promulgated by the Commission June 30, 1938.

Closing of the case was ordered without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.

The Commission has also dismissed a complaint charging Paul S. Hervey, trading as Aldine Dental Stationers, Des Moines, Iowa, with misleading representations in the sale of stationery.

The Commission also has dismissed a complaint issued against the late Daniel A. Brennan, who had maintained an office at 10 South LaSalle St., Chicago, and Acco Products, Inc., 39th Ave. and 24th St., Long Island City, N. Y., paper fastener manufacturer, who had been charged with a combination and conspiracy tending to suppress competition and create monopoly in the sale of paper fasteners.

The Commission has made findings as to the facts in the case, based on the respondents' acts and practices up to the time of the death of the respondent Brennan on February 15, 1940, and has concluded that these acts and practices had a tendency to prevent competition and restrain interstate trade in paper fasteners.

Commission findings are that the respondent Brennan, who had been a Chicago patent attorney and also an inventor, had obtained patents for certain paper fasteners and licensed Acco Products, Inc., to manufacture and sell paper fasteners under his patents, and that under an agreement entered into between the respondent Brennan and Acco Products, Inc., they had cooperated and conspired in circularizing other paper fastener manufacturers and retailers, by means of letters in the respondent Brennan's name, threatening suit for infringement of patents owned by Brennan. The findings are further that such letters had not been written in good faith; that the respondent Brennan had never instituted any such infringement suits, and that the purpose of the letters had been to enhance the sale of the Acco company's products and to harass Acco's competitors.