1760 N STREET, N. W. WASHINGTON, D. C. Vol. 11, No. 20, May 14, 1943

NAB In Action

OPA RECOGNIZES RADIO'S PART IN PRICE NEWS COVERAGE

When a news story was recently released which quoted Prentiss Brown, OPA administrator, as asking newspapers to cooperate in releasing new price ceiling information and indicating newspapers only would receive that information, NAB through Neville Miller swung into action.

The same story, released to International News Service by Cranston Williams, ANPA general manager, quoted Williams to the effect that radio would be able to get the price information from the newspapers.

After conferring with OPA officials, Miller authorized release by the NAB of the two following stories, first to the general and trade press, the second to INS only. Also listed below is Brown's telegram sent NAB after the price ceiling information was issued last week-end:

(Released by NAB News Bureau)

Washington, D. C., May 7—Radio will again play a vital part in acquainting the public with government regulations when the Office of Price Administration announces the community area maximum food price ceilings this week-end in 150 cities throughout the country, Neville Miller, National Association of Broadcasters president, announced today.

Miller released the following telegram received from Prentiss Brown, OPA administrator:

"Our field offices in the various cities in which the new OPA community top price program will be effective on Monday are reporting the splendid cooperation which the radio stations and networks are giving us. I am sure this aid in our fight against inflation will continue through the entire life of the program."

Radio news wires and editors will receive the same price releases as issued to newspapers at 8 p.m., Saturday, May 8, Miller said.

Network broadcasts are being arranged for OPA for Sunday night. Station managers in cities where there are OPA district directors may get full information and plan local broadcasts accordingly. Other stations may play up the news angles of the new regulations if OPA offices are not available, Miller said.

(Released by NAB News Bureau to INS)

Washington, D. C., May 7—The Office of Price Administration joined Neville Miller, president, National Association of Broadcasters, in denying discrimination would be shown against radio stations in release of the new price regulations as reported by Cranston Williams, general manager, American Newspapers Association, in a statement to International News Service May 6.

"Radio will play fully as vital a part in the release and handling of the price ceiling regulations this week-end as will the newspapers," Miller said.

OPA officials backed Miller up by stating that radio stations will receive the same releases in the 150 cities affected, at 8 p.m., Saturday, May 8, as will newspapers.

Williams' statement to INS was to the effect that "There will be no release locally to radio stations . . . but of course it is to be expected that local radio stations will make broadcasts as soon as the radio stations see the newspapers . . ."

In answer to this Prentiss Brown, OPA administrator, released the following telegram to Miller:

"Our field offices in the various cities in which the new OPA community top price program will be effective on Monday are reporting the splendid cooperation which the radio stations and networks are giving us. I am sure this aid in our fight against inflation will continue through the entire life of the program."

NEVILLE MILLER
NATIONAL ASSOCIATION OF BROADCASTERS

ALL OF RADIO STATIONS NETWORK AND SPONSORS CONTRIBUTED GREATLY TO THE SPLENDID COVERAGE GIVEN THE NEW OFFICE OF PRICE ADMINISTRATION FOOD TOP PRICE PROGRAM. ALTHOUGH THE PLAN BECAME EFFECTIVE ONLY THIS MORNING WE KNOW IT WILL BE SUCCESSFUL AND RADIO SHOULD TAKE WELL-EARNED PRIDE IN ITS SHARE OF THIS SUCCESS.

PRENTISS M. BROWN, ADMINISTRATOR

Supreme Court

FCC AUTHORITY UPHELD

The Supreme Court May 10 upheld the FCC's authority under the Communications Act to promulgate the Network regulations. In an opinion of sweeping import written by Justice Frankfurter, the court held that the Act gave the Commission power to regulate the contractual relations of stations with networks under the phrase "public interest, convenience or necessity" as read in conjunction with other sections of the Act. Chief Justice Stone and Justices Reed, Jackson and Douglas concurred. Justice Murphy wrote a vigorous dissent in which Justice Roberts joined. Justices Black and Rutledge did not participate.

The network regulations will become effective 10 days after receipt by the District Court in New York of the mandate from the Supreme Court. Although the date of

(Continued on page 214)

1760 N St., N.W. WASHINGTON Phone NAtional 2080

Neville Miller, *President* C. E. Arney, Jr., *Secretary-Treasurer*

Lewis H. Avery, *Director of Broadcast Advertising;* Walter L. Dennis, *Chief, News Bureau;* Willard D. Egolf, *Assistant to the President;* Howard S. Frazier, *Director of Engineering;* Joseph L. Miller, *Director of Labor Relations;* Paul F. Peter, *Director of Research;* Russell P. Place, *Counsel;* Arthur C. Stringer, *Director of Promotion.*

SUPREME COURT

(Continued from page 213)

receipt of the mandate by the lower court cannot be predicted with certainty, in normal course, it would be between June 14 and 17.

Complete text of the majority and dissenting opinions will be found on pages 221 to 233 of this issue of the REPORTS.

Neville Miller's stand on the decision, which followed the expressed action of the NAB in convention in 1941, is embodied in a statement released by the NAB following the court's decision to all the trade and general press. It follows:

"Hearings on the White-Wheeler Bill to review the present Communications Act are set to commence May 25th. Today's decision of the Supreme Court once more emphasizes the necessity for prompt Congressional review of the radio law in the light of present development of the broadcasting art."

The White-Wheeler bill seeks to re-define the operation and regulation of the broadcasting industry.

In today's decision, the Supreme Court upheld the right of the Federal Communications Commission to regulate certain business practices of the networks.

It will be recalled that at the 1941 NAB convention the following resolution was passed:

"Be it resolved that the National Association of Broadcasters urge the United States Senate to give prompt and favorable consideration to a resolution introduced by Senator Wallace White of Maine, which would result in a thorough investigation of the whole radio structure with a view to the enactment of a new radio law; and would request the Federal Communications Commission to suspend operation of the new network rules pending completion of the Senate investigation."

CHAIRMAN FLY COMMENTS

In response to a question from the press concerning reports to the effect that the broadcasting industry is under the impression that the FCC has decided to postpone its chain broadcasting regulations until September, or possibly later, Chairman James Lawrence Fly stated:

> "I want to correct any such misapprehension. The enforcement of the chain broadcasting regulations has already, as a result of litigation, been postponed over a year and a half since they were promulgated in their present form. The effective date of the regulations is now stayed by Supreme Court order for ten days after its mandate goes to the lower court, or in normal course, until June 14. The Commission has no intention of delaying their effective date further. A full month thus remains for stations and networks to make necessary adjustments of contracts."

COMMISSIONER DURR FILES A PETITION AND WRITES A LETTER

To the Speaker of the House of Representatives:

Petition That the Honorable E. E. Cox be Disqualified as a Member of the Select Committee to Investigate The Federal Communications Commission

I, Clifford J. Durr, a citizen of the United States and a duly qualified member of the Federal Communications Commission (hereinafter sometimes referred to as the "Commission"), respectfully petition the House of Representatives of the Congress of the United States that the Honorable E. E. Cox be disqualified by said House as a member of its Select Committee appointed pursuant to House Resolution 21, 78th Congress, 1st Session, to investigate the organization, personnel and activities of the Federal Communications Commission, for the following reasons:

1. That said E. E. Cox has a personal interest in the investigation authorized by such resolution in that:

(a) Such resolution was introduced by the said E. E. Cox and he was at the time of the introduction of such resolution and at the time of the adoption thereof the record owner of $2,500 aggregate par value of stock of Albany Herald Broadcasting Company and, so far as petitioner has been able to ascertain, is still the record owner of such stock; proceedings are now pending before the Commission to determine whether or not the renewal of a license heretofore issued by the Commission to Herald Publishing Company, an affiliate of Albany Herald Broadcasting Company, for the operation of the broadcasting station in Albany, Georgia, and the transfer of such license to Albany Herald Broadcasting Company will be in the public interest; the facts indicate that the said E. E. Cox, in introducing such resolution, was motivated to a large degree, if not wholly, by the Commission's activities in connection with the ownership of Station WALB.

(b) The $2,500 of stock above referred to was purchased by the said E. E. Cox with the proceeds of a check in the amount of $2,500 issued by Albany Herald Broadcasting Company to the said E. E. Cox accompanied by a voucher stating that said check was in payment of "legal expenses"; the Commission being of the opinion that such information should be submitted to the Department of Justice for a determination as to whether or not such payment was made for services rendered by the said E. E. Cox in an endeavor to secure favorable action in connection with applications filed with the Commission with respect to said broadcasting station and was therefore in violation of Section 113 of the Criminal Code of the United States, the matter was, pursuant to unanimous action of the Commission, duly reported to the Attorney General of the United States for appropriate action; so far as petitioner is advised such matter is still under consideration by the Attorney General.

In his remarks in support of House Resolution 31 Congressman Cox stated on the floor of the House on January 19, 1943:

> "Mr. Speaker: I am this morning bringing to you a matter in which I have the deepest possible personal interest."

2. That the said E. E. Cox, prior to this appointment to the Select Committee had already prejudged and con-

demned the Commission, its personnel and activities and has shown himself to be biased, prejudiced, and lacking in the objectivity of mind requisite for a member of such Committee in that he, in a speech on the floor of the House on January 19, 1943, in support of Resolution 21, accused the Commission of being "the nastiest nest of rats to be found in this entire country" and "a nest of Reds"; and has otherwise on numerous occasions publicly denounced in violent and intemperate language, the Commission, its personnel and activities.

Respectfully submitted,

Clifford J. Durr

May 13, 1943.

May 13, 1943

Honorable E. E. Cox
Honorable Richard B. Wigglesworth
Honorable Warren B. Magnuson
Honorable Edward J. Hart
Honorable Louis E. Miller,
House of Representatives,
Washington, D. C.

Gentlemen:

Attached hereto is a copy of a Petition and Memorandum which I have today handed the Speaker of the House of Representatives, asking that Congressman E. E. Cox be disqualified from serving as a member of the Select Committee to Investigate the Federal Communications Commission.

As you are aware from copies of letters which I have forwarded to you from time to time, I have on several occasions raised objections to procedures being followed by the Committee's staff in obtaining information. I have stated that these procedures were unnecessarily hampering this Commission in the performance of its duties, that they did not afford assurance that the members of the Committee, or of Congress, would receive all the information they should have, and that certain specific inquiries from the Committee's staff seemed to call for information of an entirely personal nature, in which I assumed the members of the Committee were not interested. In addition to these objections to inquiries addressed to me individually, I have also opposed the action of my fellow Commissioners in permitting the carting away by truck of Commission files when time was not allowed even to list what was taken or to see to it that irreplaceable Government records were properly receipted for.

A further incident has now arisen. On May 10, 1943, Dr. Robert D. Leigh, Director of our Foreign Broadcast Intelligence Service, was called by Eugene L. Garey, the General Counsel of the Select Committee, and was asked to testify, with no member of the Committee present. Dr. Leigh asked that a transcript of what was taken down be made available to him and was told that no copy would be made available. He then expressed his unwillingness to testify under oath in closed session, with no member of the Committee present and with no transcript made available to him.

A subpoena was thereupon served upon him, and he was ordered to testify forthwith in a closed hearing at which the only member of the Committee present was Congressman Cox. Dr. Leigh asked again whether he would be given a copy of the transcript, to make certain that his testimony was correctly recorded, and was again told that no copy would be furnished him. This incident, and particularly the requirement that witnesses testify behind closed doors before Congressman Cox alone, raises an issue even more fundamental than the procedures previously adopted, and intensifies a concern which I have felt for some time.

I would like to make it clear that I recognize the right of Congress to full and complete information with respect to the activities of any agency created by it. This is essential to the proper functioning of a government responsible to the people, and that is the only kind of government I want to live under. I recognize, too, that Congress must, as a practical matter, act through its committees in obtaining the information it desires or should have with respect to the agencies of the Government. If, therefore, Congress is to be fully and accurately informed, it is not only necessary that the agencies and their officials be cooperative in furnishing the basic information needed, but it is of equal importance that the Committees of Congress which are charged with the responsibility for receiving and analyzing such information and for reporting to Congress on the basis thereof, be motivated only by a desire to obtain and present the facts fairly and fully. If the Committee, or any member thereof, has any purpose other than this, or if any member enters upon his duties with either a predilection or a prejudice so strong as to impair or destroy his objectivity, the best interests of neither the public nor the Congress itself will be served.

It is because of my strong belief in the importance of Congressional committees to the successful functioning of our democratic form of government that I feel I should call to the attention of the Congress certain facts which raise a serious question as to whether or not Congressman Cox has the disinterest and objectivity requisite for the chairman or member of a Committee charged with a duty to investigate and to report upon its investigation to the House of Representatives. The facts indicate that Congressman Cox was inspired to a large degree, if not wholly, by prejudice, animosity, and personal interest in introducing the resolution pursuant to which this investigation is being conducted, in pressing for its adoption, and in conducting the investigation since its passage.

In the opening remarks made by Congressman Cox in his speech on the floor of Congress on January 19, 1943, in support of the resolution pursuant to which this investigation is being conducted, he stated:

> "Mr. Speaker: I am this morning bringing to you a matter in which I have the deepest possible personal interest."

The matter to which he then referred was Station WALB in Albany, Georgia, which Congressman Cox served as legal counsel, from which he received a $2,500 fee for "legal services", and in which he is a stockholder.

Because of his personal interest and because of the prejudice and bias which he has already shown, both of which are fully set forth in the Petition and Memorandum, I do not think that Congressman Cox is an appropriate person to conduct an inquiry into my activities as a member of the Federal Communications Commission or into my personal affairs. Nor, in the light of long-standing precedents of the House of Representatives, do I believe that, having the full information before it, the House of Representatives will deem it appropriate for him to conduct an inquiry into the activities of the Federal Communications Commission.

In view of the above I am unwilling to testify before the Committee—and certainly not before Congressman Cox or Mr. Garey in closed session—or to furnish its staff with any further information unless and until the House of Representatives, with full knowledge of the facts which I have herein outlined, indicates its desire that the Committee, as now constituted, should continue with the investigation or indicates that it does not deem such facts of sufficient importance to warrant its attention. If the House of Representatives so indicates, I will appear before the Committee at any time it may request my attendance

and answer to the best of my ability any question that the Committee may address to me concerning the Commission or my activities as a member of the Commission, including any questions the Committee may deem it appropriate to ask with respect to my personal financial affairs, whether or not these questions relate to periods prior to or during my tenure of office as a member of the Commission.

The attached petition has been filed because I know of no other way of bringing the matter formally to the attention of the House of Representatives.

Very truly yours,

C. J. Durr,
Commissioner.

IN THE PUBLIC INTEREST

Recently Sterling Drug Co. Inc., manufacturers of Fletchers Castoria, was confronted with the serious problem of warning the consuming public that due to certain mysterious causes, their product contained some elements which made it unusable. Their object was to warn distributors to remove all stock from their shelves and to try to get in from customers all Fletchers Castoria sold within the last few months.

Harold B. Thomas, Vice President of Sterling Drug, Inc., has made the following signed statement to the National Association of Broadcasters:

"The speedy and sympathetic cooperation given to the manufacturer of Fletchers Castoria in broadcasting a nationwide warning against the sale and use of this product is a dramatic demonstration of the effectiveness with which the broadcasting industry serves the public interest. As the manufacturer of Fletchers Castoria, the Centaur Company Division of Sterling Drug, Inc., brought this matter to the attention of the major networks in order that its warning to consumers and retailers might be speedily disseminated. Networks pointed out that they could not carry such an announcement on a commercial basis, but NBC, CBS, Blue and MBS offered to, and did, carry the announcement a number of times on Tuesday, May 4, on a public service basis. We understand that many independent stations also carried this announcement. The manufacturer deeply appreciates this cooperation."

The record speaks for itself.

Selective Service

Employers engaged in war production or in activities essential to support of the war effort should file with Selective Service local boards written evidence of their employment of registrants who maintain bona fide homes with children less than 18 years of age, born on or before September 14, 1942, the Selective Service Bureau of the War Manpower Commission emphasized last week. Selective Service form No. 42B, which is available at local board offices, should be used for this purpose. (See Supplement No. 10 to NAB Selective Service Handbook, dated May 8, 1943.)

The local board, it was pointed out, thus will be advised of the registrant's employment in an essential activity, and the employer will receive notice of reopening of the registrant's classification any time it is undertaken by the local board. The employer, after receiving such notification, will have opportunity to submit additional evidence of the essentiality of necessary men in his employ.

Urge Filing of 42B

The only fathers now being inducted under the Selective Service Act are those engaged in activities or occupations on the War Manpower Commission's non-deferrable list; farm workers who, without permission of their local board, leave essential agriculture pursuits for which they have been deferred, and fathers whose children were born on or after September 15, 1942. Submission of Form 42B is urged, however, for men who have a child, or children, with whom they maintain a bona fide family relationship in their homes, to assure the employer that if the time comes when such registrants are needed in the armed forces he would receive notice of his employees' Selective Service status.

Heretofore, form 42B was used by employers to indicate men with dependents engaged in an activity essential to war production or in support of the war effort for whom a Class III-B deferment was requested. However, now that Class III-B, for the designation of such men, has been eliminated, form 42B will be filed only for men with children who are in Class III-A.

Coincident with these suggestions to employers, Selective Service also announced an interpretation of its previously issued memorandum relating to filling calls. On April 12, 1943, in a memorandum to local boards Selective Service said:

"Insofar as possible, men who are finally classified in Class I-A, men fit for military service; Class I-A-O, men fit for noncombatant service in the armed forces; or Class IV-E, men fit for work of national importance, who are available for induction or assignment to work of national importance, should be called for induction or assignment to work of national importance from the following groups in the order listed: (1) single men with no dependents, (2) single men with collateral dependents, (3) married men with wives only, and (4) men with children."

WEATHER LEAKS

The Office of Censorship requests the active cooperation of all station managers to prevent leaks which disclose weather conditions. Unwittingly information which reflects weather conditions creeps into many reports such as those emanating from state highway departments or state conservation or fishing commissions. All such releases should be carefully scrutinized by some responsible person in every radio station.

No paragraph in any such release which reflects "unseasonable", "recent rainy" or similar weather conditions as effecting fishing or hunting should be given on the air. These are quite apparently violations of the Wartime Code of Censorship.

Broadcasters' Responsibility

The duty of enforcing this Code is a solemn responsibility on the part of every broadcaster. If steps can be taken to eliminate incidental reference to weather in these official reports by contact at the source. this should be done. Where stations feature a sportsman's program care should be exercised so that no reference is made to the effect of changing weather upon fishing conditions.

Station managers are urged to advise the Office of Censorship of the contents of any pamphlets or releases gotten out by such authorities as above mentioned which make reference to weather conditions. This is in order that the Office may take the necessary steps to prevent recurrence of this practice.

Labor

SALARIES AND MANPOWER

A low cloud of administrative confusion still hangs over both the salary and manpower "freeze" programs,

making exact answers to many questions still impossible.

On the salary side, there are signs that the cloud will soon lift. On Wednesday of this week, the freeze order of April 8 (Executive Order 9328) was modified. The War Labor Board is now permitted to allow salary increases under the "Little Steel" formula; in cases of "gross inequities," to promote "effective prosecution of the war." A "gross inequity" was defined as a salary under the lowest salary in the prevailing bracket for the same job in the same area.

For instance, if a substantial majority of the technicians in the stations in Podunk receive between $40 and $50, the WLB can now on the application of an employer permit any technician receiving less than $40 to be raised to that amount.

How the WLB will define "effective prosecution of the war" remains to be seen.

In connection with the "Little Steel" formula, it should be remembered that this *cannot* be applied to individuals. Here is how it works:

Take the average, hourly, straight time earnings of the *group* involved as of January, 1941. Say this is $1. Under the "Little Steel" formula, this group is entitled to an *average* increase of 15 cents an hour unless there have been increases since January, 1941. If they have, the average of these increases must be deducted from the 15 cents. The total increase allowable may be apportioned among individuals in any way the employer (or the employer and a union) sees fit.

On the manpower front, the best bet for broadcasters still is to consult their local War Manpower Commission officials or the local United States Employment Service before hiring. The administration of the job freeze program is being decentralized, and the rules and regulations may vary from place to place. It apparently is necessary for an employee to swap jobs at a higher rate of pay without a "certificate of availability," but the conditions for obtaining these may vary from place to place.

ANOTHER MANPOWER SOURCE

Stations are advised that investigation at WMC and Selective Service headquarters discloses that men in substantial numbers are now being discharged from the armed services, and that many of these men have specialized training in radio. It is suggested that stations interested in employing such men communicate their needs to their state director of Selective Service and their state director of the USES.

Men who are service casualties are granted a Certificate of Disability Discharge, and their names are reported to the Reemployment committeemen at their local draft boards by Selective Service, and to their local USES offices. Other disability cases are reported by WMC to their local USES offices. Both sources may afford excellent opportunities for securing replacement technicians.

Consideration should be given to the individual's acceptability as a permanent employee, both from the standpoint of the reemployment requirements of the Selective Training and Service Act and the public relations problems to be encountered in the possible discharge of a wounded veteran.

AFRA BLOCKS CBS USE OF "THIS IS THE ARMY"

AFRA this week turned thumbs down on a new CBS commercial which was to have used the cast of "This Is The Army."

Mrs. Emily Holt, AFRA's executive secretary, said that the decision had been a difficult one for the union's board to make lest it be thought that the actors were interfering with Army relief needs, even though the performers of the country had helped raise a total of $2,120,212.60, by official accounting, for Army and Navy relief during 1942.

The deciding factor in the board's decision, she said, was the realization that the cast of "This Is the Army," working for regular Army pay, would be promoting a venture that would mean substantial profits for the Columbia network and its affiliated stations and national advertising for the sponsor's product.

"We feel that soldiers and sailors ought not to be asked to sell soap or any other product," Mrs. Holt said.

Since the show was commercial, she said, the technical issue raised was whether A. F. R. A. members, some of whom are in "This Is the Army," should be asked to work with non-union performers. Of equal importance, she said, was the fact that the sponsor, with a proved program on its hands, would have a tremendous competitive advantage over the sponsors who paid the usual union wages and met all other commercial working conditions.

Engineering

WARTIME RECOMMENDATION FOR FIELD INTENSITY SURVEYS

During wartime, it is recognized that facilities for making a sufficient number of field intensity measurements to determine average daytime contours may not be available. The NAB executive engineering committee has therefore recommended an alternate wartime method for calculating these contours.

The new recommendation has been issued as a supplement page of the NAB Engineering Handbook, and will be mailed to all NAB member stations with the May 14 issue of the Swap Bulletin.

NOTICE

WANTED: For publication in a profusely illustrated brochure, to be published by NAB, 8 x 10 gloss print of your women radio technicians.

PURPOSE: To show that womanpower is relieving manpower. By "proof of the pudding" technique, to assist stations, not now employing women technicians, to recruit them.

COMPOSITION: Show the girls at work. Photo should tell the story—women handling equipment in studio or at transmitter.

COPY: Write your own story. Say whether training was given under supervision of your chief engineer or whether girls were formally trained, say in an ESMWT radio course . . . or combination. Comment on ability as proven in practice. What grade license, if any, do they hold? Full information will permit us to conform your copy to format.

DEADLINE: Photo and copy should reach NAB by June 7, 1943. Send to Arthur Stringer.

THANK YOU: If you are now employing women operators or technicians, you will help the industry by participating in this promotion. Thanks for your help.

WSJS WILL TRAIN TECHNICIANS OVER 45

In an effort to help relieve the shortage of trained technical personnel for radio, WSJS will inaugurate a radio technician training school to train women and men over 45 as transmitter and control operators.

Phil Hedrick, technical supervisor of WSJS, will teach the school, which will be tuition-free to students who are accepted for enrollment. Hedrick has had ample previous experience in such work, having been on the faculty of two previous radio technical school terms in Winston-Salem, conducted under the supervision of the extension division of North Carolina State College.

"The school," says station director Harold Essex, "was planned to be of benefit to other stations in our area, as well as to our own. Each student accepted understands that he or she is under no obligation to accept employment at WSJS after successful completion of the course, nor is the station to be under any obligation to provide or obtain employment for a student. Naturally, we expect to pick up one or two good ones for ourselves, but we expect also to turn out many students who will find connections with other stations as well."

From six to eight weeks, with classes two evenings each week, will be required for the course it is estimated. Plans are to "graduate" a group of students in time to have them take the F.C.C. examination the first Saturday in August, the next date on which the examination will be given in Winston-Salem.

NAB COVERS SCHENECTADY RADIO COUNCIL MEETINGS

The Northeastern Radio Council of New York will meet this week-end at Union College, Schenectady, to hold its first regional conference on radio in education.

Dorothy Lewis, NAB coordinator of listener activity, is scheduled to speak on "What A Council Can Mean." Walt Dennis, NAB news bureau chief, will be on hand to cover the meeting and to renew acquaintance with P. Schuyler Miller, of the Schenectady Board of Education, and discuss news broadcasts for children.

Miller is author of the children's news broadcast scripts over stations in that area as well as publicity director of the radio council.

Kenneth Bartlett, director of Syracuse university's radio workshop and Dr. James Rowland Angell, NBC public service counsel, also are scheduled speakers.

Leon Levine, assistant director of education for CBS, and Grace Johnson, director of women's and children's programs for the BLUE, will also speak. Kolin Hager, WGY manager, will preside at the Saturday luncheon. Mrs. Carolyn G. Tarbell is council president.

BMI TOP TUNES

(These songs currently are listed by Variety "sheets" as being among those most played on the air.)

DON'T CRY—National Music Co.
BRAZIL—Southern Music Publishing Co.
CANTEEN BOUNCE—Edward B. Marks Music Corp.
DO I KNOW WHAT I'M DOIN'?—Melody Lane.
I HEARD YOU CRIED LAST NIGHT—Campbell, Loft and Porgie.
I DON'T BELIEVE IN RUMORS—BMI.
IT STARTED ALL OVER AGAIN—Embassy.
I'M THINKING TONIGHT OF MY BLUE EYES—Peer.
GOODNIGHT LITTLE ANGEL—Wells.
SH! DON'T LOOK NOW—Top Music.

PEABODY "LISTENING POSTS"

To aid the George Foster Peabody Radio Awards Board in its annual selections, listening post committees are being set up in institutions of higher learning throughout the United States, according to Dean John E. Drewry, Henry W. Grady School of Journalism, The University of Georgia, which, with the National Association of Broadcasters administers these "Pulitzer prizes of the air."

Institutions that have already set up such committees, which will function through the office of the dean of the Grady School, are the state universities of California, Colorado, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Minnesota, New Jersey (Rutgers), Montana, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Washington, West Virginia, and Wisconsin.

Under the direction of Dorothy Lewis (NAB), coordinator of listener activity, New York City, similar listening post committees are being established through the groups with which she works.

At least twice, and possibly three times, each year, members of these listening post committees will make reports as to significant broadcasting activities within their respective areas.

Adella A. Spence

Adella A. Spence, wife of Edwin M. Spence, former secretary-treasurer of NAB and manager of WWDC, died Wednesday, May 12, in Stuart, Florida. Mrs. Spence had been ill for more than a year and had been moved from her native city of Atlantic City to Florida to recuperate. Funeral services will be held from the Jeffries and Keates funeral home in Atlantic City with interment at Pleasantville cemetery.

AWD ANALYZES ACTIVITIES

An analysis and crystalization of the wartime activities of the members of the Association of Women Directors was made during the recent NAB and Ohio Institute sessions.

Plans to extend these projects were incorporated into the following statement of policy: "The Association of Women Directors of the National Association of Broadcasters pledge their wholehearted support and talents to the promotion of essential war projects. Believing that the enlistment of woman power for the services, for industry and for civilian wartime activities presents an immediate and serious problem, the steering committee recommends that the members carefully consider the needs in their locality, and as their current major responsibility offer their services and talents to the solution of the problem."

The following members attended the sessions:

Ruth Chilton, president, WSYR, Syracuse, N. Y.; Mildred Bailey, secretary, WTAG, Worcester, Mass.; Rhea McCarty, treasurer, WCOL, Columbus, Ohio; Dorothy Lewis, NAB, New York City; Mary Mason, district chairman, WRC, Washington, D. C.; Ann Ginn, district chairman, WTCN, Minneapolis, Minn.; Ruth Crane, district chairman, WJR, Detroit, Mich., and Peggy Cave, district chairman, KSD, St. Louis, Mo.

Others included: Florence Shugars, district chairman, WROK, Rockford, Ill.; Victoria Corey, district chairman, KDKA, Pittsburgh, Pa.; Marvel Campbell, district chairman, WAIR, Winston-Salem, N. C.; Frances Wilder, state district chairman, KNX, Hollywood, Cal.; Jane Weaver, WTAM, Cleveland, Ohio: Duffy Schwartz, WBBM, Chicago, Ill.; Marjorie A. Wever, WHIZ, Zanesville, Ohio; Gladys Borne, WISR, Butler, Pa.; Virginia Pierson,

WTAD, Quincy, Ill.; Judith Waller, WMAQ, Chicago, Ill., and Madge L. Cooper, WMRN, Marion, Ohio.

Also: Hilda C. Wothrmeyer, WOWO-WGL, Fort Wayne, Ind.; Verda Mae Zeigler, Fort Wayne Public School, Fort Wayne, Ind.; Grace E. Ingledue, WFIN, Findlay, Ohio: Gertrude Broderick, FREC, Washington, D. C.; Lt. Hazel Markel, U. S. Navy, Washington, D. C.; Capt. Ruth Morton, WAAC, Washington, D. C.; Linnea Nelson, J. Walter Thompson, New York City; Dorothy Spicer, Chicago, Ill.; Hayle Cavenor, Regional Director, OWI, Minneapolis, Minn., and Madeline Johnson, WCOL, Columbus, Ohio.

Also: J. A. Barber, representing Ruth Schleber, KGVO, Missoula, Mont.; Lillian Gold, Chicago, Ill.; Kirt Cuff, Variety, Chicago, Ill.; Mrs. Oscar A. Ahlgren, president, Indiana Federation Women's Clubs; Mrs. R. F. Grosskopf, 7th District, Indiana Federation of Women's Clubs; Mrs. Esther Cook, state radio chairman, Wisconsin Federation of Women's Clubs; Mrs. Clarence A. Muth, Children's Theater, WTMJ, Milwaukee, Wis.; Mrs. George B. Palmer, national radio chairman, General Federation of Women's Clubs and regional director of listener activity for NAB; Mrs. R. K. Stoddard, regional director of listener activity of NAB in Iowa; Mrs. W. F. Ottmann, regional director of listener activity in Nebraska; Mrs. Robert Sterling, Illinois Federation of Women's Clubs, and Willard Egolf, NAB, Washington, N. C.

MORE REPORTS RECEIVED

Additional reports on the repairs to materials survey launched on March 26, 1943, have been received and are acknowledged with thanks.

Reporting cities are listed below. These are in addition to the cities reported in NAB Reports of April 16 and May 7.

Charleston, W. Va., Cincinnati, Ohio, Dixon, Ill. (and surrounding territory), Fairmont, W. Va., Harrisburg, Pa., Huntington, W. Va., Parkersburg, W. Va., Redding, Calif.

EXCESS PROFITS TAX

The Bureau of Internal Revenue this week issued regulations covering the excess profits tax relief provisions contained in Sec. 222 of the Revenue Act of 1942, Title II. Regulation 109 as thus amended may be procured from the Bureau of Internal Revenue, Washington, D. C., or from the nearest Collector of Internal Revenue.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

HEARINGS

The following broadcast hearing is scheduled to be heard before the Commission during the week beginning Monday, May 17th. It is subject to change.

Monday, May 17

Further Hearing

WJRM—Allegheny Broadcasting Corp., Elkins, W. Va.—Modification of C. P., under C. P. 1240 kc., 250 watts, unlimited.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

WPTZ—Philco Radio & Television Corp., Wyndmoor, Pa.—Granted permission for licensee to use the announcement "WPTZ, Philadelphia", at its transmitter-studio when desirable for program correlation, until such time as national defense restrictions permit the use of the Tioga and C Streets studio in Philadelphia, or a new studio is acquired elsewhere within the city limits of Philadelphia.

KYA—Palo Alto Radio Station, Inc., San Francisco, Calif.—Granted special service authorization to permit broadcast of calls directed to Longshoremen, in accordance with request of the Pacific Coast Maritime Industry Board service to be rendered without charge. These announcements will be of 5 minutes duration in the a. m. and 5 minutes duration in the p. m.

LICENSE RENEWALS

Renewal of licenses for the following stations were granted for the period ending April 1, 1945:

KALB, Alexandria, La.; KDLR, Devils Lake, N. Dak.; KFJI, Klamath Falls, Ore.; KGY, Olympia, Wash.; KPFA, Helena, Mont.; KVSO, Ardmore, Okla.; WFOY, St. Augustine, Fla.; WGCM, Gulfport, Miss.; WJEJ, Hagerstown, Md.; WMFG, Hibbing, Minn.; WSNJ, Bridgeton, N. J.

KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Granted renewal of license for the period ending June 1, 1945.

WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted renewal of license for the period ending June 1, 1945.

WFTC—Jonas Weiland, Kinston, N. C.—Granted renewal of license for the period ending February 1, 1945.

Renewal of licenses for the following stations were granted for the period ending June 1, 1945:

KBND, Bend, Ore.; KOCY, Oklahoma City, Okla.; KVIC, Victoria, Texas; KVOL, Lafayette, La.; KWOC, Poplar Bluff, Mo.; KXRO, Aberdeen, Wash.; WAIR, Winston-Salem, N. C.; WBRK, Pittsfield, Mass.; WCLS, Joliet, Ill.; WFBG, Altoona, Pa.; WGTM, Wilson, N. C.

W9XBT—Balaban & Katz Corp., Portable-Mobile, area of Chicago, Ill.—Granted renewal of license for the period ending February 1, 1944.

KALW—Board of Education of the San Francisco Unified School Dist., San Francisco, Calif.—Granted renewal of license for the period ending May 1, 1944.

WBRY—University of Kentucky, Beattyville, Ky.—Granted renewal of license for the period ending May 1, 1944.

W75NY—Metropolitan Television, Inc., New York City.—Granted renewal of license for the period ending June 1, 1944.

W9XER—Midland Broadcasting Co., Kansas City, Mo.—Granted renewal of license for the period ending May 1, 1944.

ORDER ADOPTED

The FCC has adopted an Order, pursuant to its Proposed Findings of Fact and Conclusions (B-170) entered on March 23, 1943, denying without prejudice the application of Georgia School of Technology, Atlanta, Ga., for renewal of license of Station WGST. The application was denied without prejudice to the filing of a further application for renewal of license in accordance with the conclusions reached in these proceedings, such further application to be filed within 60 days from March 23, 1943, and to set forth the plan of the applicant for the acquisition of the necessary facilities and equipment, and for the business management, representation, and control of its future operations, together with a list of all persons to participate therein.

The Commission further ordered that the outstanding temporary license for the operation of Station WGST be extended for a period of 90 days from March 23, 1943, or until June 21, 1943. (Docket No. 5903)

MISCELLANEOUS

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Granted license to cover construction permit as modified, for installation of new equipment and directional antenna for day and night use, change frequency, increase power, and move of transmitter (B2-L-1762); granted authority to determine operating power by direct measurement of antenna power (B2-Z-1517).

W9XMB—The Moody Bible Institute of Chicago, Ill.—Granted modification of construction permit as modified, which authorized new ST broadcast station, for extension of completion date from May 16 to August 16, 1943 (B4-MPST-14).

WSAY—Brown Radio Service and Laboratory (Gordon P. Brown, owner), Rochester, N. Y.—Granted modification of construction permit as modified, which authorized change of frequency, increase in power, installation of directional antenna for day and night use and new transmitter, and move of transmitter, for extension of completion date from May 1 to November 1, 1943 (B1-MP-1710).

WWPG—Lake Worth Broadcasting Corp., Lake Worth, Fla.—Granted modification of license (B3-ML-1154) to change designation of station from Lake Worth to Palm Beach, Florida.

WCOP—Massachusetts Broadcasting Corp., Boston, Mass.—Action on petition for order to take depositions in re application for renewal of license, was passed over until June 16. (Docket No. 6476)

WLAN—Thomas J. Watson, Endicott, N. Y.—Granted petition for leave to dismiss without prejudice application for modification of construction permit to operate on **1450 kc.**, 250 watts, unlimited time. (Docket No. 6453)

WJRM—Allegheny Broadcasting Corp., Elkins, W. Va.—Granted motion for continuance of hearing on application for construction permit; hearing continued to June 7, 1943. (Docket No. 6488)

Transradio Press Service, Inc. (Complainant).—Granted motion for extension of time in which to file proposed findings of facts and conclusions in the matter of Trans-radio Press Service, Inc., complainant, vs. American Telephone and Telegraph Co., et al., defendants (Docket No. 5993), and in the matter of investigation of the rates, charges, classifications, regulations, practices and services of American Telephone and Telegraph Co., et al., in the rendition of press private line teletypewriter service (Docket No. 6202); time extended to August 2, 1943.

APPLICATIONS FILED AT FCC

550 Kilocycles

KTSA—Sunshine Broadcasting Co., San Antonio, Tex.—Authority to determine operating power by direct measurement of antenna power.

920 Kilocycles

WMMN—Monongahela Valley Broadcasting Co., Fairmont, W. Va.—License to cover construction permit (B2-P-2913) as modified, for changes in directional antenna for night use, and increase in power.

WMMN—Monongahela Valley Broadcasting Co., Fairmont, W. Va.—Authority to determine operating power by direct measurement of antenna power.

1010 Kilocycles

KLRA—Arkansas Broadcasting Co., Little Rock, Ark.—License to cover construction permit (B3-P-3049) as modified, which authorized move of transmitter, new transmitter, change in frequency, changes in directional antenna for night use, and increase in power; also for approval of new type transmitter.

KLRA—Arkansas Broadcasting Co., Little Rock, Ark.—Authority to determine operating power by direct measurement of antenna power.

1330 Kilocycles

WHAZ—Rensselaer Polytechnic Institute, Troy, N. Y.—Authority to determine operating power by direct measurement of antenna power.

TELEVISION APPLICATION

W2XMT—Metropolitan Television, Inc., New York, N. Y.—Modification of construction permit (B1-PVB-40 as modified, for new experimental television station) for extension of completion date from 5-31-43 to 12-31-43.

MISCELLANEOUS APPLICATION

WLOL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Transfer of control from Beatrice L. Devaney, Executrix of Estate of John P. Devaney, David J. Winton and Charles J. Winton, Jr., to Ralph Atlass (972 shares common stock).

NEW—Blue Network Co., Inc., New York, N. Y.—Extension of authority to transmit programs to Stations CFCF and CBL and the Canadian Broadcasting Corp.

FEDERAL TRADE COMMISSION DOCKET

Any NAB member wishing to have the full text of any of the FTC releases, printed in part below, should write to the NAB, referring to the number in parentheses at the end of each item.

COMPLAINTS

The 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.

Atlantic City Wholesale Drug Company, Atlantic City, N. J., and Roy H. Cochran and Rodney S. Pullen, Jr., president and sales manager of the corporation, are charged in a complaint with violation of the Robinson-Patman Act. (4957)

Carter Products, Inc., 53 Park Place, New York, engaged in the sale of a cosmetic and deodorant designated "Arrid," is charged in a complaint with disseminating advertisements containing false representations concerning the preparation. The complaint also is directed against Small & Seiffer, Inc., advertising agency at 24 West 40th St., New York, which prepares and places advertising copy to promote the sale of the preparation. (4960)

Sculler Safety Corp.—A complaint charges that the Sculler Safety Corporation, 116-122 Broad Street, New York, engaged in the sale and distribution of marine signal equipment and supplies has sold and distributed in commerce certain old and obsolete signal pistol cartridges bearing fictitious dates and which are worthless and ineffective, thus placing in jeopardy the lives of passengers and crew and the safety of the vessels in which the undated cartridges have been used. (4958)

Willys-Overland Motors, Inc.—Misrepresentation in the advertising of Willys-Overland Motors, Inc., as to the creation and perfection of the U. S. Army "Jeep," is charged in a complaint. The complaint alleges that the idea of creating a "Jeep" was originated by the American Bantam Car Company, of Butler, Pa., in collaboration with certain officers of the United States Army. (4959)

ORDER

National Administrators. An order to cease and desist from misrepresentation in connection with the sale of questionnaire forms used by creditors and collection agencies in obtaining information concerning delinquent debtors has been issued against Dan Trainor, trading as National Administrators, Winona, Minn.; John A. Janssen and Lloyd L. Hill, operating a collection agency known as Consumer Distribution Consultants, 520 North Michigan Ave., Chicago; and Chicago Mail Order Co. and Spiegel, Inc., Chicago corporations operating mail order businesses for the sale of merchandise at retail. (4870)

STIPULATIONS

During the past week the Commission has announced the following stipulations:

G. S. Dowdy Sales Co., 602 North Walnut St., Florence, Ala., stipulated that in connection with the sale or distribution of his

candy products he will cease and desist from the use of any sales plan involving a lottery scheme, gaming device or gift enterprise. (3641)

Elfco Service, 440 North Wells St., Chicago, stipulated that it will cease and desist from certain misrepresentations in connection with the sale of publications containing formulas recommended for various ailments and conditions of the body. The titles of the publications are "Formula Book" and "Brains Boiled Down." (03106)

J. E. Hanger, Inc.—Two corporations engaged in the manufacture of artificial limbs, and the advertising representative of one of them, have entered into stipulations to cease and desist from certain misrepresentations in connection with the sale of their products. Entering into the stipulations were J. E. Hanger, Inc., of Texas, located at 1914 Olive St., St. Louis, Mo.; and J. E. Hanger, Inc., of Delaware, located at 221 G St., N. W., Washington, D. C., and its advertising representative, R. Loran Langsdale, Inc., Baltimore. (3639-3640)

Kovac Laboratories, Inc., 6219 South Main St., Los Angeles, has entered into a stipulation to discontinue certain misrepresentations it has made concerning the therapeutic properties of food preparations sold under the names "Kovac," "Chikovac," "Papaya Dyjestin" and "Kovac Type Acidophilus Culture." (3642)

Kroehler Manufacturing Co., Naperville, Ill., stipulated that in connection with the sale and distribution of its furniture, it will cease and desist from representing that any comparative figures or data pertaining to volume of sale, turnover, gross margin or cost of merchandise of Kroehler dealers, as compared with furniture dealers generally, is based upon reports by any number of Kroehler dealers in excess of the number actually reporting on each and every item concerning which representations are made. (3643)

Si-Oze Co., 116 South Michigan Ave., Chicago, engaged in selling a medicinal preparation designated "Si-Oze," entered into a stipulation to cease and desist from disseminating any advertisement which fails to reveal that excessive use of the preparation may be dangerous and that it should not be administered to infants and younger children except on competent advice nor used by individuals suffering from high blood pressure, heart disease, diabetes or thyroid trouble except on competent advice, and, further, that frequent or continued use may cause nervousness, restlessness or sleeplessness; provided, however, that such advertisement need only contain the statement, "CAUTION: Use only as directed," if and when the directions for use, wherever they appear on the label or in the labeling, contain a warning to the same effect. (03109)

CEASE AND DESIST ORDERS

The Commission issued the following cease and desist orders last week:

Bristol-Myers Co., Hillside, N. J., has been ordered to cease and desist from certain misrepresentations concerning the therapeutic and curative properties of the laxative designated "Sal Hepatica." The representations prohibited were made by the respondent corporation in advertisements in newspapers and magazines and in radio continuities. (3645)

Franklin Sales Co., 212 South Franklin St., Chicago, has been ordered to cease and desist from selling or otherwise disposing of any merchandise by means of a lottery scheme. The respondent deals in various articles of merchandise, including glassware, silverware, pen and pencil sets, radios, luggage and electrical appliances, which are sold to ultimate purchasers by means of push cards furnished by the respondent to his distributors. (4782)

Howe & Company—An order to cease and desist from certain misrepresentations in connection with the sale of cosmetics has been issued against Phil Howe, David A. Howe, and Joanne B. Howe, trading as Howe & Co., 1535 11th Ave., Seattle, Wash. (4729)

McNeil Drug Company, Inc., and Associated Advertising Agency, Inc., both of Jacksonville, Fla., have been ordered to cease and desist from certain misrepresentations and false advertising in connection with the sale and distribution of a medicinal preparation variously designated as "Magic Remedy," "McNeil's Magic Remedy," and "McNeil's Magic Remedy Brand." The advertising corporation is engaged in the preparation, editing and dissemination of advertising material for the McNeil Corporation. (4923)

Samuel H. Moss, Inc., 36 East 23rd Street, New York, a manufacturer, processor and distributor of "made to order rubber stamps," has been ordered to cease and desist from certain price discriminations in the sale of its products. (4405)

Nash Brothers Drug Co., Jonesboro, Ark., compounding, selling and distributing a medicinal preparation formerly designated "Nash's C & L Tonic," now designated "Nash's C & L Malaria Chill Tonic and Laxative," has been ordered to cease and desist from misrepresentation and false advertising in connection with the sale of the preparation. (3775)

Stetson Felt Mills, 223 East Fourth St., St. Paul, Minn., has been ordered to cease and desist from the use of false representations and fraudulent schemes to promote the sale of the felt rugs they manufacture. (4234)

FTC CLOSES PART OF CASE

The Federal Trade Commission has closed without prejudice a portion of its case involving alleged misrepresentation in connection with the sale of Nucoa Oleomargarine, manufactured and distributed by The Best Foods, Inc., New York.

The effect of the order is to strike out those portions of the complaint in which the Commission alleged as misleading and deceptive the representations that oleomargarine "is a fit food for children" and that "wholesome margarine and butter are equally delicious and nutritious (both yield 3400 calories—food-energy units—to the pound)." The allegation that such representations are untrue unless vitamin A is added to the product in sufficient quantity also is stricken from the complaint.

Remaining in force are those portions of the complaint which allege that the respondent's representations concerning the whole milk content of its product and its method of manufacture are misleading and deceptive.

Full Text of FCC Opinion

May 10, 1943

Nos. 554-555.—October Term, 1942.

National Broadcasting Company, Inc., Woodmen of the World Life Insurance Society, and Stromberg-Carlson Telephone Manufacturing Company, Appellants,
554 *vs.*
The United States of America, Federal Communications Commission, and Mutual Broadcasting System, Inc.

Columbia Broadcasting System, Inc., Appellant,
555 *vs.*
The United States of America, Federal Communications Commission, and Mutual Broadcasting System, Inc.

Appeals from the District Court of the United States for the Southern District of New York.

[May 10, 1943.]

Mr. Justice Frankfurter delivered the opinion of the Court.

In view of our dependence upon regulated private enterprise in discharging the far-reaching role which radio

plays in our society, a somewhat detailed exposition of the history of the present controversy and the issues which it raises is appropriate.

These suits were brought on October 30, 1941, to enjoin the enforcement of the Chain Broadcasting Regulations promulgated by the Federal Communications Commission on May 2, 1941, and amended on October 11, 1941. We held last Term in *Columbia System* v. *U. S.*, 316 U. S. 407, and *Nat. Broadcasting Co.* v. *U. S.*, 316 U. S. 447, that the suits could be maintained under § 402(a) of the Communications Act of 1934, 48 Stat. 1093, 47 U. S. C. § 402(a) (incorporating by reference the Urgent Deficiencies Act of October 22, 1913, 38 Stat. 219, 28 U. S. C. § 47), and that the decrees of the District Court dismissing the suits for want of jurisdiction should therefore be reversed. On remand the District Court granted the Government's motions for summary judgment and dismissed the suits on the merits. 47 F. Supp. 940. The cases are now here on appeal. 28 U. S. C. § 47. Since they raise substantially the same issues and were argued together, we shall deal with both cases in a single opinion.

On March 18, 1938, the Commission undertook a comprehensive investigation to determine whether special regulations applicable to radio stations engaged in chain broadcasting[1] were required in the "public interest, convenience, or necessity". The Commission's order directed that inquiry be made, *inter alia*, in the following specific matters: the number of stations licensed to or affiliated with networks, and the amount of station time used or controlled by networks; the contractual rights and obligations of stations under their agreements with networks; the scope of network agreements containing exclusive affiliation provisions and restricting the network from affiliating with other stations in the same area; the rights and obligations of stations with respect to network advertisers; the nature of the program service rendered by stations licensed to networks; the policies of networks with respect to character of programs, diversification, and accommodation to the particular requirements of the areas served by the affiliated stations; the extent to which affiliated stations exercise control over programs, advertising contracts, and related matters; the nature and extent of network program duplication by stations serving the same area; the extent to which particular networks have exclusive coverage in some areas; the competitive practices of stations engaged in chain broadcasting; the effect of chain broadcasting upon stations not licensed to or affiliated with networks; practices or agreements in restraint of trade, or in furtherance of monopoly, in connection with chain broadcasting; and the scope of concentration of control over stations, locally, regionally, or nationally, through contracts, common ownership, or other means.

On April 6, 1938, a committee of three Commissioners was designated to hold hearings and make recommendations to the full Commission. This committee held public hearings for 73 days over a period of six months, from November 14, 1938, to May 19, 1939. Order No. 37, announcing the investigation and specifying the particular matters which would be explored at the hearings, was published in the Federal Register, 3 Fed. Reg. 637, and copies were sent to every station licensee and network organization. Notices of the hearings were also sent to these parties. Station licensees, national and regional networks, and transcription and recording companies were invited to appear and give evidence. Other persons who sought to appear were afforded an opportunity to testify. 96 witnesses were heard by the committee, 45 of whom were called by the national networks. The evidence covers 27 volumes, including over 8,000 pages of transcript and more than 700 exhibits. The testimony of the witnesses called by the national networks fills more than 6,000 pages, the equivalent of 46 hearing days.

The committee submitted a report to the Commission on June 12, 1940, stating its findings and recommendations. Thereafter, briefs on behalf of the networks and other interested parties were filed before the full Commission, and on November 28, 1940, the Commission issued proposed regulations which the parties were requested to consider in the oral arguments held on December 2 and 3, 1940. These proposed regulations dealt with the same matters as those covered by the regulations eventually adopted by the Commission. On January 2, 1941, each of the national networks filed a supplementary brief discussing at length the questions raised by the committee report and the proposed regulations.

On May 2, 1941, the Commission issued its Report on Chain Broadcasting, setting forth its findings and conclusions upon the matters explored in the investigation, together with an order adopting the Regulations here assailed. Two of the seven members of the Commission dissented from this action. The effective date of the Regulations was deferred for 90 days with respect to existing contracts and arrangements of network-operated stations, and subsequently the effective date was thrice again postponed. On August 14, 1941, the Mutual Broadcasting Company petitioned the Commission to amend two of the Regulations. In considering this petition the Commission invited interested parties to submit their views. Briefs were filed on behalf of all of the national networks, and oral argument was had before the Commission on September 12, 1941. And on October 11, 1941, the Commission (again with two members dissenting) issued a Supplemental Report, together with an order amending three Regulations. Simultaneously, the effective date of the Regulations was postponed until November 15, 1941, and provision was made for further postponements from time to time if necessary to permit the orderly adjustment of existing arrangements. Since October 30, 1941, when the present suits were filed, the enforcement of the Regulations has been stayed either voluntarily by the Commission or by order of court.

Such is the history of the Chain Broadcasting Regulations. We turn now to the Regulations themselves, illumined by the practices in the radio industry disclosed by the Commission's investigation. The Regulations, which the Commission characterized in its Report as "the expression of the general policy we will follow in exercising our licensing power", are addressed in terms to station licensees and applicants for station licenses. They provide, in general, that no licenses shall be granted to stations or applicants having specified relationships with networks. Each Regulation is directed at a particular practice found by the Commission to be detrimental to the "public interest", and we shall consider them *seriatim*. In doing so, however, we do not overlook the admonition of the Commission, that the Regulations as well as the network practices at which they are aimed are interrelated: "In considering above the network practices which necessitate the regulations we are adopting, we have taken each practice singly, and have shown that even in isolation each warrants the regulation addressed to it. But the various practices we have considered do not operate in isolation; they form a compact bundle or pattern, and the effect of their joint impact upon licensees necessitates the regulations even more urgently than the effect of each taken singly." (Report, p. 75.)

The Commission found that at the end of 1938 there were 660 commercial stations in the United States, and that 341 of these were affiliated with national networks. 135 stations were affiliated exclusively with the National Broadcasting Company, Inc., known in the industry as NBC,

[1] Chain broadcasting is defined in § 3(p) of the Communications Act of 1934 as the "simultaneous broadcasting of an identical program by two or more connected stations." In actual practice, programs are transmitted by wire, usually leased telephone lines, from their point of origination to each station in the network for simultaneous broadcast over the air.

which operated two national networks, the "Red" and the "Blue". NBC was also the licensee of 10 stations, including 7 which operated on so-called clear channels with the maximum power available, 50 kilowatts; in addition, NBC operated 5 other stations, 4 of which had power of 50 kilowatts, under management contracts with their licensees. 102 stations were affiliated exclusively with the Columbia Broadcasting System, Inc., which was also the licensee of 8 stations, 7 of which were clear-channel stations operating with power of 50 kilowatts, 74 stations were under exclusive affiliation with the Mutual Broadcasting System, Inc. In addition, 25 stations were affiliated with both NBC and Mutual, and 5 with both CBS and Mutual. These figures, the Commission noted, did not accurately reflect the relative prominence of the three companies, since the stations affiliated with Mutual were, generally speaking, less desirable in frequency, power, and coverage. It pointed out that the stations affiliated with the national networks utilized more than 97% of the total nighttime broadcasting power of all the stations in the country. NBC and CBS together controlled more than 85% of the total nighttime wattage, and the broadcast business handled by the three national network companies amounted to almost half of the total business of all stations in the United States.

The Commission recognized that network broadcasting had played and was continuing to play an important part in the development of radio. "The growth and development of chain broadcasting", it stated, "found its impetus in the desire to give widespread coverage to programs which otherwise would not be heard beyond the reception area of a single station. Chain broadcasting makes possible a wider reception for expensive entertainment and cultural programs and also for programs of national or regional significance which would otherwise have coverage only in the locality of origin. Furthermore, the access to greatly enlarged audiences made possible by chain broadcasting has been a strong incentive to advertisers to finance the production of expensive programs. . . . But the fact that the chain broadcasting method brings benefits and advantages to both the listening public and to broadcast station licensees does not mean that the prevailing practices and policies of the networks and their outlets are sound in all respects, or that they should not be altered. The Commission's duty under the Communications Act of 1934 is not only to see that the public receives the advantages and benefits of chain broadcasting, but also, as far as its powers enable it, to see that practices which adversely affect the ability of licensees to operate in the public interest are eliminated." (Report, p. 4.)

The Commission found that eight network abuses were amenable to correction within the powers granted it by Congress:

Regulation 3.101—Exclusive affiliation of station. The Commission found that the network affiliation agreements of NBC and CBS customarily contained a provision which prevented the station from broadcasting the programs of any other network. The effect of this provision was to hinder the growth of new networks, to deprive the listening public in many areas of service to which they were entitled, and to prevent station licensees from exercising their statutory duty of determining which programs would best serve the needs of their community. The Commission observed that in areas where all the stations were under exclusive contract to either NBC or CBS, the public was deprived of the opportunity to hear programs presented by Mutual. To take a case cited in the Report: In the fall of 1939 Mutual obtained the exclusive right to broadcast the World Series baseball games. It offered this program of outstanding national interest to stations throughout the country, including NBC and CBS affiliates in communities having no other stations. CBS and NBC immediately invoked the "exclusive affiliation" clauses of their agreements with these stations, and as a result thousands of persons in many sections of the country were unable to hear the broadcasts of the games.

"Restraints having this effect", the Commission observed, "are to be condemned as contrary to the public interest irrespective of whether it be assumed that Mutual programs are of equal, superior or inferior quality. The important consideration is that station licensees are denied freedom to choose the programs which they believe best suited to their needs; in this manner the duty of a station licensee to operate in the public interest is defeated. . . . Our conclusion is that the disadvantages resulting from these exclusive arrangements far outweigh any advantages. A licensee station does not operate in the public interest when it enters into exclusive arrangements which prevent it from giving the public the best service of which it is capable, and which, by closing the door of opportunity in the network field, adversely affect the program structure of the entire industry." (Report, pp. 52-57.) Accordingly, the Commission adopted Regulation 3.101, providing as follows: "No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization."

Regulation 3.102—Territorial exclusivity. The Commission found another type of "exclusivity" provision in network affiliation agreements whereby the network bound itself not to sell programs to any other station in the same area. The effect of this provision, designed to protect the affiliate from the competition of other stations serving the same territory, was to deprive the listening public of many programs that might otherwise be available. If an affiliated station rejected a network program, the "territorial exclusivity" clause of its affiliation agreement prevented the network from offering the program to other stations in the area. For example, Mutual presented a popular program, known as "The American Forum of the Air", in which prominent persons discussed topics of general interest. None of the Mutual stations in the Buffalo area decided to carry the program, and a Buffalo station not affiliated with Mutual attempted to obtain the program for its listeners. These efforts failed, however, on account of the "territorial exclusivity" provision in Mutual's agreements with its outlets. The result was that this program was not available to the people of Buffalo.

The Commission concluded that "It is not in the public interest for the listening audience in an area to be deprived of network programs not carried by one station where other stations in that area are ready and willing to broadcast the programs. It is as much against the public interest for a network affiliate to enter into a contractual arrangement which prevents another station from carrying a network program as it would be for it to drown out that program by electrical interference." (Report, p. 59.)

Recognizing that the "territorial exclusivity" clause was unobjectionable in so far as it sought to prevent duplication of programs in the same area, the Commission limited itself to the situations in which the clause impaired the ability of the licensee to broadcast programs otherwise available. Regulation 3.102, promulgated to remedy this particular evil, provides as follows: "No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another sta-

tion serving a substantially different area from broadcasting any program of the network organization. This regulation shall not be construed to prohibit any contract, arrangement, or understanding between a station and a network organization pursuant to which the station is granted the first call in its primary service area upon the programs of the network organization."

Regulation 3.103—Term of affiliation. The standard NBC and CBS affiliation contracts bound the station for a period of five years, with the network having the exclusive right to terminate the contracts upon one year's notice. The Commission, relying upon § 307(d) of the Communications Act of 1934, under which no license to operate a broadcast station can be granted for a longer term than three years, found the five-year affiliation term to be contrary to the policy of the Act: "Regardless of any changes that may occur in the economic, political, or social life of the Nation or of the community in which the station is located, CBS and NBC affiliates are bound by contract to continue broadcasting the network programs of only one network for 5 years. The licensee is so bound even though the policy and caliber of programs of the network may deteriorate greatly. The future necessities of the station and of the community are not considered. The station licensee is unable to follow his conception of the public interest until the end of the 5-year contract." (Report, p. 61.) The Commission concluded that under contracts binding the affiliates for five years, "stations become parties to arrangements which deprive the public of the improved service it might otherwise derive from competition in the network field; and that a station is not operating in the public interest when it so limits its freedom of action." (Report, p. 62.) Accordingly, the Commission adopted Regulation 3.103: "No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which provides, by original term, provisions for renewal, or otherwise for the affiliation of the station with the network organization for a period longer than two years:[2] *Provided*, That a contract, arrangement, or understanding for a period up to two years, may be entered into within 120 days prior to the commencement of such period."

Regulation 3.104—Option time. The Commission found that network affiliation contracts usually contained so-called network optional time clauses. Under these provisions the network could upon 28 days' notice call upon its affiliates to carry a commercial program during any of the hours specified in the agreement as "network optional time". For CBS affiliates "network optional time" meant the entire broadcast day. For 29 outlets of NBC on the Pacific Coast, it also covered the entire broadcast day; for substantially all of the other NBC affiliates, it included 8½ hours on weekdays and 8 hours on Sundays. Mutual's contracts with about half of its affiliates contained such a provision, giving the network optional time for 3 or 4 hours on weekdays and 6 hours on Sundays.

In the Commission's judgment these optional time provisions, in addition to imposing serious obstacles in the path of new networks, hindered stations in developing a local program service. The exercise by the networks of their options over the station's time tended to prevent regular scheduling of local programs at desirable hours. The Commission found that "shifting a local commercial program may seriously interfere with the efforts of a [local] sponsor to build up a regular listening audience at a definite hour, and the long-term advertising contract becomes a highly dubious project. This hampers the efforts of the station to develop local commercial programs and affects adversely its ability to give the public good program service. . . . A station licensee must retain sufficient freedom of action to supply the program and advertising needs of the local community. Local program service is a vital part of community life. A station should be ready, able, and willing to serve the needs of the local community by broadcasting such outstanding local events as community concerts, civic meetings, local sports events, and other programs of local consumer and social interest. We conclude that national network time options have restricted the freedom of station licensees and hampered their efforts to broadcast local commercial programs, the programs of other national networks, and national spot transcriptions. We believe that these considerations far outweigh any supposed advantages from 'stability' of network operations under time options. We find that the optioning of time by licensee stations has operated against the public interest." (Report, pp. 63, 65.)

The Commission undertook to preserve the advantages of option time, as a device for "stabilizing" the industry, without unduly impairing the ability of local stations to develop local program service. Regulation 3.104 called for the modification of the option-time provision in three respects: the minimum notice period for exercise of the option could not be less than 56 days; the number of hours which could be optioned was limited; and specific restrictions were placed upon exercise of the option to the disadvantage of other networks. The text of the Regulation follows: "No license shall be granted to a standard broadcast station which options for network programs any time subject to call on less than 56 days' notice, or more time than a total of three hours within each of four segments of the broadcast day, as herein described. The broadcast day is divided into 4 segments, as follows: 8:00 a.m. to 1:00 p.m.; 1:00 p.m. to 6:00 p.m.; 6:00 p.m. to 11:00 p.m.; 11:00 p.m. to 8:00 a.m. Such options may not be exclusive as against other network organizations and may not prevent or hinder the station from optioning or selling any or all of the time covered by the option, or other time, to other network organizations."

Regulation 3.105—Right to reject programs. The Commission found that most network affiliation contracts contained a clause defining the right of the station to reject network commercial programs. The NBC contracts provided simply that the station "may reject a network program the broadcasting of which would not be in the public interest, convenience, and necessity." NBC required a licensee who rejected a program to "be able to support his contention that what he has done has been more in the public interest than had he carried on the network program". Similarly, the CBS contracts provided that if the station had "reasonable objection to any sponsored program or the product advertised thereon as not being in the public interest, the station may, on 3 weeks prior notice thereof to Columbia, refuse to broadcast such program unless during such notice period such reasonable objection of the station shall be satisfied."

While seeming in the abstract to be fair, these provisions, according to the Commission's finding, did not sufficiently protect the "public interest". As a practical matter, the licensee could not determine in advance whether the broadcasting of any particular network program would or would not be in the public interest. "It is obvious that from such skeletal information [as the networks submitted to the stations prior to the broadcasts] the station cannot determine in advance whether the program is in the public interest, nor can it ascertain whether or not parts of the program are in one way or another offensive. In practice, if not in theory, stations affiliated with networks have delegated to the networks a large part of their programming functions. In many instances, moreover, the network further delegates the actual production of

[2] Station licenses issued by the Commission normally last two years. Section 3.34 of the Commission's Rules and Regulations governing Standard and High-Frequency Broadcast Stations, as amended October 14, 1941.

programs to advertising agencies. These agencies are far more than mere brokers or intermediaries between the network and the advertiser. To an ever-increasing extent, these agencies actually exercise the function of program production. Thus it is frequently neither the station nor the network, but rather the advertising agency, which determines what broadcast programs shall contain. Under such circumstances, it is especially important that individual stations, if they are to operate in the public interest, should have the practical opportunity as well as the contractual right to reject network programs. . . .

"It is the station, not the network, which is licensed to serve the public interest. The licensee has the duty of determining what programs shall be broadcast over his station's facilities, and cannot lawfully delegate this duty or transfer the control of his station directly to the network or indirectly to an advertising agency. He cannot lawfully bind himself to accept programs in every case where he cannot sustain the burden of proof that he has a better program. The licensee is obliged to reserve to himself the final decision as to what programs will best serve the public interest. We conclude that a licensee is not fulfilling his obligations to operate in the public interest, and is not operating in accordance with the express requirements of the Communications Act, if he agrees to accept programs on any basis other than his own reasonable decision that the programs are satisfactory." (Report, pp. 39, 66.)

The Commission undertook in Regulation 3.105 to formulate the obligations of licensees with respect to supervision over programs: "No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which (a), with respect to programs offered pursuant to an affiliation contract, prevents or hinders the station from rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable; or which (b), with respect to network programs so offered or already contracted for, prevents the station from rejecting or refusing any program which, in its opinion, is contrary to the public interest, or from substituting a program of outstanding local or national importance."

Regulation 3.106—Network ownership of stations. The Commission found that NBC, in addition to its network operations, was the licensee of 10 stations, 2 each in New York, Chicago, Washington, and San Francisco, 1 in Denver, and 1 in Cleveland. CBS was the licensee of 8 stations, 1 in each of these cities: New York, Chicago, Washington, Boston, Minneapolis, St. Louis, Charlotte, and Los Angeles. These 18 stations owned by NBC and CBS, the Commission observed, were among the most powerful and desirable in the country, and were permanently inaccessible to competing networks. "Competition among networks for these facilities is nonexistent, as they are completely removed from the network-station market. It gives the network complete control over its policies. This 'bottling-up' of the best facilities has undoubtedly had a discouraging effect upon the creation and growth of new networks. Furthermore, common ownership of network and station places the network in a position where its interest as the owner of certain stations may conflict with its interest as a network organization serving affiliated stations. In dealings with advertisers, the network represents its own stations in a proprietary capacity and the affiliated stations in something akin to an agency capacity. The danger is present that the network organization will give preference to its own stations at the expense of its affiliates." (Report, p. 67.)

The Commission stated that if the question had arisen as an original matter, it might well have concluded that the public interest required severance of the business of station ownership from that of network operation. But since substantial business interests have been formed on the basis of the Commission's continued tolerance of the situation, it was found inadvisable to take such a drastic step. The Commission concluded, however, that "the licensing of two stations in the same area to a single network organization is basically unsound and contrary to the public interest", and that it was also against the "public interest" for network organizations to own stations in areas where the available facilities were so few or of such unequal coverage that competition would thereby be substantially restricted. Recognizing that these considerations called for flexibility in their application to particular situations, the Commission provided that "networks will be given full opportunity, on proper application for new facilities or renewal of existing licenses, to call to our attention any reasons why the principle should be modified or held inapplicable." (Report, p. 68.) Regulation 3.106 reads as follows: "No licensee shall be granted to a network organization, or to any person directly or indirectly controlled by or under common control with a network organization, for more than one standard broadcast station where one of the stations covers substantially the service area of the other station, or for any standard broadcast station in any locality where the existing standard broadcast stations are so few or of such unequal desirability (in terms of coverage, power, frequency, or other related matters) that competition would be substantially restrained by such licensing."

Regulation 3.107—Dual network operation. This regulation provides that: "No license shall be issued to a standard broadcast station affiliated with a network organization which maintains more than one network: *Provided*, That this regulation shall not be applicable if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such network." In its Supplemental Report of October 11, 1941, the Commission announced the indefinite suspension of this regulation. There is no occasion here to consider the validity of Regulation 3.107, since there is no immediate threat of its enforcement by the Commission.

Regulation 3.108—Control by networks of station rates. The Commission found that NBC's affiliation contracts contained a provision empowering the network to reduce the station's network rate, and thereby to reduce the compensation received by the station, if the station set a lower rate for non-network national advertising than the rate established by the contract for the network programs. Under this provision the station could not sell time to a national advertiser for less than it would cost the advertiser if he bought the time from NBC. In the words of NBC's vice-president, "This means simply that a national advertiser should pay the same price for the station whether he buys it through one source or another source. It means that we do not believe that our stations should go into competition with ourselves." (Report, p. 73.)

The Commission concluded that "it is against the public interest for a station licensee to enter into a contract with a network which has the effect of decreasing its ability to compete for national business. We believe that the public interest will best be served and listeners supplied with the best programs if stations bargain freely with national advertisers." (Report, p. 75.) Accordingly, the Commission adopted Regulation 3.108, which provides as follows: "No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, fixing or altering its rates for the sale of broadcast time for other than the network's programs."

The appellants attack the validity of these Regulations

along many fronts. They contend that the Commission went beyond the regulatory powers conferred upon it by the Communications Act of 1934; that even if the Commission were authorized by the Act to deal with the matters comprehended by the Regulations, its action is nevertheless invalid because the Commission misconceived the scope of the Act, particularly § 313 which deals with the application of the anti-trust laws to the radio industry; that the Regulations are arbitrary and capricious; that if the Communications Act of 1934 were construed to authorize the promulgation of the Regulations, it would be an unconstitutional delegation of legislative power; and that, in any event, the Regulations abridge the appellants' right of free speech in violation of the First Amendment. We are thus called upon to determine whether Congress has authorized the Commission to exercise the power asserted by the Chain Broadcasting Regulations, and if it has, whether the Constitution forbids the exercise of such authority.

Federal regulation of radio[3] begins with the Wireless Ship Act of June 24, 1910, 36 Stat. 629, which forbade any steamer carrying or licensed to carry fifty or more persons to leave any American port unless equipped with efficient apparatus for radio communication, in charge of a skilled operator. The enforcement of this legislation was entrusted to the Secretary of Commerce and Labor, who was in charge of the administration of the marine navigation laws. But it was not until 1912, when the United States ratified the first international radio treaty, 37 Stat. 1565, that the need for general regulation of radio communication became urgent. In order to fulfill our obligations under the treaty, Congress enacted the Radio Act of August 13, 1912, 37 Stat. 302. This statute forbade the operation of radio apparatus without a license from the Secretary of Commerce and Labor; it also allocated certain frequencies for the use of the Government, and imposed restrictions upon the character of wave emissions, the transmission of distress signals, and the like.

The enforcement of the Radio Act of 1912 presented no serious problems prior to the World War. Questions of interference arose only rarely because there were more than enough frequencies for all the stations then in existence. The war accelerated the development of the art, however, and in 1921 the first standard broadcast stations were established. They grew rapidly in number, and by 1923 there were several hundred such stations throughout the country. The Act of 1912 had not set aside any particular frequencies for the use of private broadcast stations; consequently, the Secretary of Commerce selected two frequencies, 750 and 833 kilocycles, and licensed all stations to operate upon one or the other of these channels. The number of stations increased so rapidly, however, and the situation became so chaotic, that the Secretary, upon the recommendation of the National Radio Conference which met in Washington in 1923 and 1924, established a policy of assigning specified frequencies to particular stations. The entire radio spectrum was divided into numerous bands, each allocated to a particular kind of service. The frequencies ranging from 550 to 1500 kilocycles (96 channels in all, since the channels were separated from each other by 10 kilocycles) were assigned to the standard broadcast stations. But the problems created by the enormously rapid development of radio were far from solved. The increase in the number of channels was not enough to take care of the constantly growing number of stations. Since there were more stations than available frequencies, the Secretary of Commerce attempted to find room for everybody by limiting the power and hours of operation of stations in order that several stations might use the same channel. The number of stations multiplied so rapidly, however, that by November, 1925, there were almost 600 stations in the country, and there were 175 applications for new stations. Every channel in the standard broadcast band was, by that time, already occupied by at least one station, and many by several. The new stations could be accommodated only by extending the standard broadcast band, at the expense of the other types of service, or by imposing still greater limitations upon time and power. The National Radio Conference which met in November, 1925, opposed both of these methods and called upon Congress to remedy the situation through legislation.

The Secretary of Commerce was powerless to deal with the situation. It had been held that he could not deny a license to an otherwise legally qualified applicant on the ground that the proposed station would interfere with existing private or Government stations. *Hoover* v. *Intercity Radio Co.*, 286 Fed. 1003. And on April 16, 1926, an Illinois district court held that the Secretary had no power to impose restrictions as to frequency, power, and hours of operation, and that a station's use of a frequency not assigned to it was not a violation of the Radio Act of 1912. *United States* v. *Zenith Radio Corp.*, 12 F. 2d 614. This was followed on July 8, 1926, by an opinion of Acting Attorney General Donovan that the Secretary of Commerce had no power, under the Radio Act of 1912, to regulate the power, frequency or hours of operation of stations. 35 Ops. Atty. Gen. 126. The next day the Secretary of Commerce issued a statement abandoning all his efforts to regulate radio and urging that the stations undertake self-regulation.

But the plea of the Secretary went unheeded. From July, 1926, to February 23, 1927, when Congress enacted the Radio Act of 1927, 44 Stat. 1162, almost 200 new stations went on the air. These new stations used any frequencies they desired, regardless of the interference thereby caused to others. Existing stations changed to other frequencies and increased their power and hours of operation at will. The result was confusion and chaos. With everybody on the air, nobody could be heard. The situation became so intolerable that the President in his message of December 7, 1926, appealed to Congress to enact a comprehensive radio law:

> "Due to the decisions of the courts, the authority of the department [of Commerce] under the law of 1912 has broken down; many more stations have been operating than can be accommodated within the limited number of wave lengths available; further stations are in course of construction; many stations have departed from the scheme of allocations set down by the department, and the whole service of this most important public function has drifted into such chaos as seems likely, if not remedied, to destroy its great value. I most urgently recommend that this legislation should be speedily enacted." (H. Doc. 483, 69th Cong., 2d Sess., p. 10.)

The plight into which radio fell prior to 1927 was attributable to certain basic facts about radio as a means of communication—its facilities are limited; they are not available to all who may wish to use them; the radio spectrum simply is not large enough to accommodate everybody. There is a fixed natural limitation upon the number of stations that can operate without interfering with one another.[4] Regulation of radio was therefore as vital to its development as traffic control was to the development of the automobile. In enacting the Radio Act of 1927,

[3] The history of federal regulation of radio communication is summarized in Herring and Gross, Telecommunications (1936) 239-86; Administrative Procedure in Government Agencies, Monograph of the Attorney General's Committee on Administrative Procedure, Sen. Doc. No. 186, 76th Cong., 3d Sess., Part 3, dealing with the Federal Communications Commission, pp. 82-84; 1 Socolaw, Law of Radio Broadcasting (1939) 38-61; Donovan, Origin and Development of Radio Law (1930).

[4] See Morecroft, Principles of Radio Communication (3d ed. 1933) 355-402; Terman, Radio Engineering (2d ed. 1937) 593-645.

the first comprehensive scheme of control over radio communication, Congress acted upon the knowledge that if the potentialities of radio were not to be wasted, regulation was essential.

The Radio Act of 1927 created the Federal Radio Commission, composed of five members, and endowed the Commission with wide licensing and regulatory powers. We do not pause here to enumerate the scope of the Radio Act of 1927 and of the authority entrusted to the Radio Commission, for the basic provisions of that Act are incorporated in the Communications Act of 1934, 48 Stat. 1064, 47 U. S. C. § 151 *et seq.*, the legislation immediately before us. As we noted in *Federal Communications Comm'n* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 137, "In its essentials the Communications Act of 1934 [so far as its provisions relating to radio are concerned] derives from the Federal Radio Act of 1927. . . . By this Act of Congress, in order to protect the national interest involved in the new and far-reaching science of broadcasting, formulated a unified and comprehensive regulatory system for the industry. The common factors in the administration of the various statutes by which Congress had supervised the different modes of communication led to the creation, in the Act of 1934, of the Communications Commission. But the objectives of the legislation have remained substantially unaltered since 1927."

Section 1 of the Communications Act states its "purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges". Section 301 particularizes this general purpose with respect to radio: "It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license." To that end a Commission composed of seven members was created, with broad licensing and regulatory powers.

Section 303 provides:

> "Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—
> (a) Classify radio stations;
> (b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;
>
> * * * * * * *
>
> (f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this Act . . . ;
> (g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;
>
> * * * * * * *
>
> (i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;
>
> * * * * * * *
>
> (r) Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act. . . ."

The criterion governing the exercise of the Commission's licensing power is the "public interest, convenience, or necessity". §§ 307(a)(d), 309(a), 310, 312. In addition, § 307(b) directs the Commission that "In considering applications for licenses and modifications and renewals thereof, when and insofar as there is demand for the same the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."

The Act itself establishes that the Commission's powers are not limited to the engineering and technical aspects of regulation of radio communication. Yet we are asked to regard the Commission as a kind of traffic officer, policing the wave lengths to prevent stations from interfering with each other. But the Act does not restrict the Commission merely to supervision of the traffic. It puts upon the Commission the burden of determining the composition of that traffic. The facilities of radio are not large enough to accommodate all who wish to use them. Methods must be devised for choosing from among the many who apply. And since Congress itself could not do this, it committed the task to the Commission.

The Commission was, however, not left at large in performing this duty. The touchstone provided by Congress was the "public interest, convenience, or necessity", a criterion which "is as concrete as the complicated factors for judgment in such a field of delegated authority permit". *Federal Communications Comm'n.* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 138. "This criterion is not to be interpreted as setting up a standard so indefinite as to confer an unlimited power. Compare *N. Y. Central Securities Co.* v. *United States*, 287 U. S. 12, 24. The requirement is to be interpreted by its context, by the nature of radio transmission and reception, by the scope, character, and quality of services . . . ." *Radio Comm'n.* v. *Nelson Bros. Co.*, 289 U. S. 266, 285.

The "public interest" to be served under the Communications Act is thus the interest of the listening public in "the larger and more effective use of radio". § 303(g). The facilities of radio are limited and therefore precious; they cannot be left to wasteful use without detriment to the public interest. "An important element of public interest and convenience affecting the issue of a license is the ability of the licensee to render the best practicable service to the community reached by his broadcasts." *Federal Communications Comm'n.* v. *Sanders Radio Station*, 309 U. S. 470, 475. The Commission's licensing function cannot be discharged, therefore, merely by finding that there are no technological objections to the granting of a license. If the criterion of "public interest" were limited to such matters, how could the Commission choose between two applicants for the same facilities, each of whom is financially and technically qualified to operate a station? Since the very inception of federal regulation by radio, comparative considerations as to the services to be rendered have governed the application of the standard of "public interest, convenience, or necessity". See *Federal Communications Comm'n.* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 138 n. 2.

The avowed aim of the Communications Act of 1934 was to secure the maximum benefits of radio to all the people of the United States. To that end Congress endowed the Communications Commission with comprehensive powers to promote and realize the vast potentialities of radio. Section 303(g) provides that the Commission shall "generally encourage the larger and more effective use of radio in the public interest"; subsection (i) gives the Commission specific "authority to make special regulations applicable to radio stations engaged in chain broadcasting"; and subsection (r) empowers it to adopt "such rules and regulations and prescribe such restrictions and conditions

not inconsistent with law as may be necessary to carry out the provisions of this Act".

These provisions, individually and in the aggregate, preclude the notion that the Commission is empowered to deal only with technical and engineering impediments to the "larger and more effective use of radio in the public interest". We cannot find in the Act any such restriction of the Commission's authority. Suppose, for example, that a community can, because of physical limitations, be assigned only two stations. That community might be deprived of effective service in any one of several ways. More powerful stations in nearby cities might blanket out the signals of the local stations so that they could not be heard at all. The stations might interfere with each other so that neither could be clearly heard. One station might dominate the other with the power of its signal. But the community could be deprived of good radio service in ways less crude. One man, financially and technically qualified, might apply for and obtain the licenses of both stations and present a single service over the two stations, thus wasting a frequency otherwise available to the area. The language of the Act does not withdraw such a situation from the licensing and regulatory powers of the Commission, and there is no evidence that Congress did not mean its broad language to carry the authority it expresses.

In essence, the Chain Broadcasting Regulations represent a particularization of the Commission's conception of the "public interest" sought to be safeguarded by Congress in enacting the Communications Act of 1934. The basic consideration of policy underlying the Regulations is succinctly stated in its Report: "With the number of radio channels limited by natural factors, the public interest demands that those who are entrusted with the available channels shall make the fullest and most effective use of them. If a licensee enters into a contract with a network organization which limits his ability to make the best use of the radio facility assigned him, he is not serving the public interest. . . . The net effect [of the practices disclosed by the investigation] has been that broadcasting service has been maintained at a level below that possible under a system of free competition. Having so found, we would be remiss in our statutory duty of encouraging 'the larger and more effective use of radio in the public interest' if we were to grant licenses to persons who persist in these practices." (REPORT, pp. 81, 82.)

We would be asserting our personal views regarding the effective utilization of radio were we to deny that the Commission was entitled to find that the large public aims of the Communications Act of 1934 comprehend the considerations which moved the Commission in promulgating the Chain Broadcasting Regulations. True enough, the Act does not explicitly say that the Commission shall have power to deal with network practices found inimical to the public interest. But Congress was acting in a field of regulation which was both new and dynamic. "Congress moved under the spur of a widespread fear that in the absence of governmental control the public interest might be subordinated to monopolistic domination in the broadcasting field." *Federal Communications Comm'n* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 137. In the context of the developing problems to which it was directed, the Act gave the Commission not niggardly but expansive powers. It was given a comprehensive mandate to "encourage the larger and more effective use of radio in the public interest", if need be, by making "special regulations applicable to radio stations engaged in chain broadcasting". § 303(g)(i).

Generalities unrelated to the living problems of radio communication of course cannot justify exercises of power by the Commission. Equally so, generalities empty of all concrete considerations of the actual bearing of regulations promulgated by the Commission to the subject-matter entrusted to it, cannot strike down exercises of power by the Commission. While Congress did not give the Commission unfettered discretion to regulate all phases of the radio industry, it did not frustrate the purposes for which the Communications Act of 1934 was brought into being by attempting an itemized catalogue of the specific manifestations of the general problems for the solution of which it was establishing a regulatory agency. That would have stereotyped the powers of the Commission to specific details in regulating a field of enterprise the dominant characteristic of which was the rapid pace of its unfolding. And so Congress did what experience had taught it in similar attempts at regulation, even in fields where the subject-matter of regulation was far less fluid and dynamic than radio. The essence of that experience was to define broad areas for regulation and to establish standards for judgment adequately related in their application to the problems to be solved.

For the cramping construction of the Act pressed upon us, support cannot be found in its legislative history. The principal argument is that § 303(i), empowering the Commission "to make special regulations applicable to radio stations engaged in chain broadcasting", intended to restrict the scope of the Commission's powers to the technical and engineering aspects of chain broadcasting. This provision comes from § 4(h) of the Radio Act of 1927. It was introduced into the legislation as a Senate committee amendment to the House bill (H. R. 9971, 69th Cong., 1st Sess.) This amendment originally read as follows:

> "(C) The commission, from time to time, as public convenience, interest, or necessity requires, shall—
>
> *   *   *   *   *   *   *
>
> (j) When stations are connected by wire for chain broadcasting, determine the power each station shall use and the wave lengths to be used during the time stations are so connected and so operated, and make all other regulations necessary in the interest of equitable radio service to the listeners in the communities or areas affected by chain broadcasting."

The report of the Senate Committee on Interstate Commerce, which submitted this amendment, stated that under the bill the Commission was given "complete authority . . . to control chain broadcasting." Sen. Rep. No. 772, 69th Cong., 1st Sess., p. 3. The bill as thus amended was passed by the Senate, and then sent to conference. The bill that emerged from the conference committee, and which became the Radio Act of 1927, phrased the amendment in the general terms now contained in § 303(i) of the 1934 Act: the Commission was authorized "to make special regulations applicable to radio stations engaged in chain broadcasting". The conference reports do not give any explanation of this particular change in phrasing, but they do state that the jurisdiction conferred upon the Commission by the conference bill was substantially identical with that conferred by the bill passed by the Senate. See Sen. Doc. No. 200, 69th Cong., 2d Sess., p. 17; H. Rep. 1886, 69th Cong., 2d Sess., p. 17. We agree with the District Court that in view of this legislative history, § 303(i) cannot be construed as no broader than the first clause of the Senate amendment, which limited the Commission's authority to the technical and engineering phases of chain broadcasting. There is no basis for assuming that the conference intended to preserve the first clause, which was of limited scope, and abandon the second clause, which was of general scope, by agreeing upon a provision which was broader and more comprehensive than those it supplanted.[5]

[5] In the course of the Senate debates on the conference report upon the bill that became the Radio Act of 1927, Senator Dill, who was in charge of the bill, said: "While the commission would have the power under the general terms of the bill, the bill specifically sets out as one

A totally different source of attack upon the Regulations is found in § 311 of the Act, which authorizes the Commission to withhold licenses from persons convicted of having violated the anti-trust laws. Two contentions are made —first, that this provision puts considerations relating to competition outside the Commission's concern before an applicant has been convicted of monopoly or other restraints of trade, and second, that in any event, the Commission misconceived the scope of its powers under § 311 in issuing the Regulations. Both of these contentions are unfounded. Section 311 derives from § 13 of the Radio Act of 1927, which expressly commanded, rather than merely authorized, the Commission to refuse a license to any person judicially found guilty of having violated the anti-trust laws. The change in the 1934 Act was made, in the words of Senator Dill, the manager of the legislation in the Senate, because "it seemed fair to the committee to do that". 78 Cong. Rec. 8825. The Commission was thus permitted to exercise its judgment as to whether violation of the anti-trust laws disqualified an applicant from operating a station in the "public interest". We agree with the District Court that "The necessary implication from this [amendment in 1934] was that the Commission might infer from the fact that the applicant had in the past tried to monopolize radio, or had engaged in unfair methods of competition, that the disposition so manifested would continue and that if it did it would make him an unfit licensee." 47 F. Supp. 940, 944.

That the Commission may refuse to grant a license to persons adjudged guilty in a court of law of conduct in violation of the anti-trust laws certainly does not render irrelevant consideration by the Commission of the effect of such conduct upon the "public interest, convenience, or necessity". A licensee charged with practices in contravention of this standard cannot continue to hold his license merely because his conduct is also in violation of the anti-trust laws and he has not yet been proceeded against and convicted. By clarifying in § 311 the scope of the Commission's authority in dealing with persons convicted of violating the anti-trust laws, Congress can hardly be deemed to have limited the concept of "public interest" so as to exclude all considerations relating to monopoly and unreasonable restraints upon commerce. Nothing in the provisions or history of the Act lends support to the inference that the Commission was denied the power to refuse a license to a station not operating in the "public interest", merely because its misconduct happened to be an unconvicted violation of the anti-trust laws.

Alternatively, it is urged that the Regulations constitute an *ultra vires* attempt by the Commission to enforce the anti-trust laws, and that the enforcement of the anti-trust laws is the province not of the Commission but of the Attorney General and the courts. This contention misconceives the basis of the Commission's action. The Commission's Report indicates plainly enough that the Commission was not attempting to administer the anti-trust laws:

"The prohibitions of the Sherman Act apply to broadcasting. This Commission, although not charged with the duty of enforcing that law, should administer its regulatory powers with respect to broadcasting in the light of the purposes which the Sherman Act was designed to achieve. . . . While many of the network practices raise serious questions under the antitrust laws, our jurisdiction does not depend on a showing that they do in fact constitute a violation of the antitrust laws. It is not our function to apply the antitrust laws as such. It is our duty, however, to refuse licenses or renewals to any person who engages or proposes to engage in practices which will prevent either himself or other licensees or both from making the fullest use of radio facilities. This is the standard of public interest, convenience or necessity which we must apply to all applications for licenses and renewals. . . . We do not predicate our jurisdiction to issue the regulations on the ground that the network practices violate the antitrust laws. We are issuing these regulations because we have found that the network practices prevent the maximum utilization of radio facilities in the public interest." (Report, pp. 46, 83, 83n. 3.)

We conclude, therefore, that the Communications Act of 1934 authorized the Commission to promulgate regulations designed to correct the abuses disclosed by its investigation of chain broadcasting. There remains for consideration the claim that the Commission's exercise of such authority was unlawful.

The Regulations are assailed as "arbitrary and capricious". If this contention means that the Regulations are unwise, that they are not likely to succeed in accomplishing what the Commission intended, we can say only that the appellants have selected the wrong forum for such a plea. What was said in *Board of Trade* v. *United States*, 314 U. S. 534, 548, is relevant here: "We certainly have neither technical competence nor legal authority to pronounce upon the wisdom of the course taken by the Commission." Our duty is at an end when we find that the action of the Commission was based upon findings supported by evidence, and was made pursuant to authority granted by Congress. It is not for us to say that the "public interest" will be furthered or retarded by the Chain Broadcasting Regulations. The responsibility belongs to the Congress for the grant of valid legislative authority, and to the Commission for its exercise.

It would be sheer dogmatism to say that the Commission made out no case for its allowable discretion in formulating these Regulations. Its long investigation disclosed the existences of practices which it regarded as contrary to the "public interest". The Commission knew that the wisdom of any action it took would have to be tested by experience: "We are under no illusion that the regulations we are adopting will solve all questions of public interest with respect to the network system of program distribution. . . . The problems in the network field are interdependent, and the steps now taken may perhaps operate as a partial solution of problems not directly dealt with at this time. Such problems may be examined again at some future time after the regulations here adopted have been given a fair trial." (Report, p. 88.) The problems with which the Commission attempted to deal could not be solved at once and for all time by rigid rules-of-thumb. The Commission therefore did not bind itself inflexibly to the licensing policies expressed in the Regulations. In each case that comes before it the Commission must still exercise an ultimate judgment whether the grant of a license would serve the "public interest, convenience, or necessity." If time and changing circumstances reveal that the "public interest" is not served by application of the Regulations, it must be assumed that the Commission will act in accordance with its statutory obligations.

Since there is no basis for any claim that the Commission did not fail to observe procedural safeguards required by law, we reach the contention that the Regulations should be denied enforcement on constitutional grounds. Here, as in *N. Y. Central Securities Co.* v. *United States*, 287 U. S.

of the special powers of the commission the right to make specific regulations for governing chain broadcasting. As to creating a monopoly of radio in this country, let me say that this bill absolutely protects the public, so far as it can protect them, by giving the commission full power to refuse a license to anyone who it believes will not serve the public interest, convenience, or necessity. It specifically provides that any corporation guilty of monopoly shall not only not receive a license but that its license may be revoked; and if after a corporation has received its license for a period of three years it is then discovered and found to be guilty of monopoly, its license will be revoked. . . . In addition to that, the bill contains a provision that no license may be transferred from one owner to another without the written consent of the commission, and the commission, of course, having the power to protect against a monopoly, must give such protection. I wish to state further that the only way by which monopolies in the radio business can secure control of radio here, even for a limited period of time, will be by the commission becoming servile to them. Power must be lodged somewhere, and I myself am unwilling to assume in advance that the commission proposed to be created will be servile to the desires and demands of great corporations of this country." 68 Cong. Rec. 2881.

12, 24-25, the claim is made that the standard of "public interest" governing the exercise of the powers delegated to the Commission by Congress is so vague and indefinite that, if it be construed as comprehensively as the words alone permit, the delegation of legislative authority is unconstitutional. But, as we held in that case, "It is a mistaken assumption that this is a mere general reference to public welfare without any standard to guide determinations. The purpose of the Act, the requirements it imposes, and the context of the provision in question show the contrary." *Ibid.* See *Radio Comm'n* v. *Nelson Bros. Co.*, 289 U. S. 266, 285; *Federal Communications Comm'n* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 137-38. Compare *Panama Refining Co.* v. *Ryan*, 293 U. S. 388, 428; *Intermountain Rate Cases*, 234 U. S. 476, 486-89; *United States* v. *Lowden*, 308 U. S. 225.

We come, finally, to an appeal to the First Amendment. The Regulations, even if valid in all other respects, must fall because they abridge, say the appellants, their right of free speech. If that be so, it would follow that every person whose application for a license to operate a station is denied by the Commission is thereby denied his constitutional right of free speech. Freedom of utterance is abridged to many who wish to use the limited facilities of radio. Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation. Because it cannot be used by all, some who wish to use it must be denied. But Congress did not authorize the Commission to choose among applicants upon the basis of their political, economic, or social views, or upon any other capricious basis. If it did, or if the Commission by these Regulations proposed a choice among applicants upon some such basis, the issue before us would be wholly different. The question here is simply whether the Commission, by announcing that it will refuse licenses to persons who engage in specified network practices (a basis for choice which we hold is comprehended within the statutory criterion of "public interest"), is thereby denying such persons the constitutional right of free speech. The right of free speech does not include, however, the right to use the facilities of radio without a license. The licensing system established by Congress in the Communications Act of 1934 was a proper exercise of its power over commerce. The standard it provided for the licensing of stations was the "public interest, convenience, or necessity". Denial of a station license on that ground, if valid under the Act, is not a denial of free speech.

A procedural point calls for just a word. The District Court, by granting the Government's motion for summary judgment, disposed of the case upon the pleadings and upon the record made before the Commission. The court below correctly held that its inquiry was limited to review of the evidence before the Commission. Trial *de novo* of the matters heard by the Commission and dealt with in its Report would have been improper. See *Tagg Bros.* v. *United States*, 280 U. S. 420; *Acker* v. *United States*, 298 U. S. 426.

Affirmed.

Mr. Justice BLACK and Mr. Justice RUTLEDGE took no part in the consideration or decision of these cases.

Mr. Justice MURPHY, dissenting.

I do not question the objectives of the proposed regulations, and it is not my desire by narrow statutory interpretation to weaken the authority of government agencies to deal efficiently with matters committed to their jurisdiction by the Congress. Statutes of this kind should be construed so that the agency concerned may be able to cope effectively with problems which the Congress intended to correct, or may otherwise perform the functions given to it. But we exceed our competence when we gratuitously bestow upon an agency power which the Congress has not granted. Since that is what the Court in substance does today, I dissent.

In the present case we are dealing with a subject of extreme importance in the life of the nation. Although radio broadcasting, like the press, is generally conducted on a commercial basis, it is not an ordinary business activity, like the selling of securities or the marketing of electrical power. In the dissemination of information and opinion radio has assumed a position of commanding importance, rivalling the press and the pulpit. Owing to its physical characteristics radio, unlike the other methods of conveying information, must be regulated and rationed by the government. Otherwise there would be chaos, and radio's usefulness would be largely destroyed. But because of its vast potentialities as a medium of communication, discussion and propaganda, the character and extent of control that should be exercised over it by the government is a matter of deep and vital concern. Events in Europe show that radio may readily be a weapon of authority and misrepresentation, instead of a means of entertainment and enlightenment. It may even be an instrument of oppression. In pointing out these possibilities I do not mean to intimate in the slightest that they are imminent or probable in this country, but they do suggest that the construction of the instant statute should be approached with more than ordinary restraint and caution, to avoid an interpretation that is not clearly justified by the conditions that brought about its enactment, or that would give the Commission greater powers than the Congress intended to confer.

The Communications Act of 1934 does not in terms give the Commission power to regulate the contractual relations between the stations and the networks. *Columbia System* v. *United States*, 316 U. S. 407, 416. It is only as an incident of the power to grant or withhold licenses to individual stations under §§ 307, 308, 309 and 310 that this authority is claimed,[1] except as it may have been provided by subdivisions (g), (i) and (r) of § 303, and by §§ 311 and 313. But nowhere in these sections, taken singly or collectively, is there to be found by reasonable construction or necessary inference, authority to regulate the broadcasting industry as such, or to control the complex operations of the national networks.

In providing for regulation of the radio the Congress was under the necessity of vesting a considerable amount of discretionary authority in the Commission. The task of choosing between various claimants for the privilege of using the air waves is essentially an administrative one. Nevertheless, in specifying with some degree of particularity the kind of information to be included in an application for a license, the Congress has indicated what general conditions and considerations are to govern the granting and withholding of station licenses. Thus an applicant is required by § 308(b) to submit information bearing upon his citizenship, character, and technical, financial and other qualifications to operate the proposed station, as well as data relating to the ownership and location of the proposed station, the power and frequencies desired, operating periods, intended use, and such other information as the Commission may require. Licenses, frequencies, hours of operation and power are to be fairly distributed among the several States and communities to provide efficient service to each. § 307(b). Explicit provision is made for dealing with applicants and licensees who are found guilty, or who

[1] The regulations as first proposed were not connected with denial of applications for initial or renewal station licenses but provided instead that: "No licensee of a standard broadcast station shall enter into any contractual arrangement, express or implied, with a network organization", which contained any of the disapproved provisions. After a short time, however, the regulations were cast in their present form, making station licensing depend upon conformity with the regulations.

are under the control of persons found guilty of violating the federal anti-trust laws. §§ 311 and 313. Subject to the limitations defined in the Act, the Commission is required to grant a station license to any applicant "if public convenience, interest or necessity will be served thereby". § 307(a). Nothing is said, in any of these sections, about network contracts, affiliations, or business arrangements.

The power to control network contracts and affiliations by means of the Commission's licensing powers cannot be derived from implication out of the standard of "public convenience interest or necessity". We have held that: "the Act does not essay to regulate the business of the licensee. The Commission is given no supervisory control of the programs, of business management or of policy. In short, the broadcasting field is open to anyone, provided there be an available frequency over which he can broadcast without interference to others, if he shows his competency, the adequacy of his equipment, and financial ability to make good use of the assigned channel." *Commission* v. *Sanders Radio Station*, 309 U. S. 470, 475. The criterion of "public convenience, interest or necessity" is not an indefinite standard, but one to be "interpreted by its context, by the nature of radio transmission and reception, by the scope, character and quality of services", . . . *Radio Comm'n* v. *Nelson Bros. Co.*, 289 U. S. 266, 285. Nothing in the context of which the standard is a part refers to network contracts. It is evident from the record that the Commission is making its determination of whether the public interest would be served by renewal of an existing license or licenses, not upon an examination of written applications presented to it, as required by §§ 308 and 309, but upon an investigation of the broadcasting industry as a whole, and general findings made in pursuance thereof which relate to the business methods of the network companies rather than the characteristics of the individual stations and the peculiar needs of the areas served by them. If it had been the intention of the Congress to invest the Commission with the responsibility, through its licensing authority, of exercising far-reaching control—as exemplified by the proposed regulations—over the business operations of chain broadcasting and radio networks as they were then or are now organized and established, it is not likely that the Congress would have left it to mere inference or implication from the test of "public convenience, interest or necessity", or that Congress would have neglected to include it among the considerations expressly made relevant to license applications by § 308(b). The subject is one of such scope and importance as to warrant explicit mention. To construe the licensing sections (§§ 307, 308, 309, 310) as granting authority to require fundamental and revolutionary changes in the business methods of the broadcasting networks—methods which have been in existence for several years and which have not been adjudged unlawful—would inflate and distort their true meaning and extend them beyond the limited purposes which they were intended to serve.

It is quite possible, of course, that maximum utilization of the radio as an instrument of culture, entertainment, and the diffusion of ideas is inhibited by existing network arrangements. Some of the conditions imposed by the broadcasting chains are possibly not conducive to a freer use of radio facilities, however essential they may be to the maintenance of sustaining programs and the operation of the chain broadcasting business as it is now conducted. But I am unable to agree that it is within the present authority of the Commission to prescribe the remedy for such conditions. It is evident that a correction of these conditions in the manner proposed by the regulations will involve drastic changes in the business of radio broadcasting which the Congress has not clearly and definitely empowered the Commission to undertake.

If this were a case in which a station license had been withheld from an individual applicant or licensee because of special relations or commitments that would seriously compromise or limit his ability to provide adequate service to the listening public, I should be less inclined to make any objection. As an incident of its authority to determine the eligibility of an individual applicant in an isolated case, the Commission might possibly consider such factors. In the present case, however, the Commission has reversed the order of things. Its real objective is to regulate the business practices of the major networks, thus bringing within the range of its regulatory power the chain broadcasting industry as a whole. By means of these regulations and the enforcement program, the Commission would not only extend its authority over business activities which represent interests and investments of a very substantial character, which have not been put under its jurisdiction by the Act, but would greatly enlarge its control over an institution that has now become a rival of the press and pulpit as a purveyor of news and entertainment and a medium of public discussion. To assume a function and responsibility of such wide reach and importance in the life of the nation, as a mere incident of its duty to pass on individual applications for permission to operate a radio station and use a specific wave length, is an assumption of authority to which I am not willing to lend my assent.

Again I do not question the need of regulation in this field, or the authority of the Congress to enact legislation that would vest in the Commission such power as it requires to deal with the problem, which it has defined and analyzed in its report with admirable lucidity. It is possible that the remedy indicated by the proposed regulations is the appropriate one, whatever its effect may be on the sustaining programs, advertising contracts, and other characteristics of chain broadcasting as it is now conducted in this country. I do not believe, however, that the Commission was justified in claiming the responsibility and authority it has assumed to exercise without a clear mandate from the Congress.

An examination of the history of this legislation convinces me that the Congress did not intend by anything in § 303, or any other provision of the Act to confer on the Commission the authority it has assumed to exercise by the issuance of these regulations. Section 303 is concerned primarily with technical matters, and the subjects of regulation authorized by most of its subdivisions are exceedingly specific—so specific in fact that it is reasonable to infer that, if Congress had intended to cover the subject of network contracts and affiliations, it would not have left it to dubious implications from general clauses, lifted out of context, in subdivisions (g), (i) and (r). I am unable to agree that in authorizing the Commission in § 303(g) to study new uses for radio, provide for experimental use of frequencies, and "generally encourage the larger and more effective use of radio in the public interest", it was the intention or the purpose of the Congress to confer on the Commission the regulatory powers now being asserted. Manifestly that subdivision dealt with experimental and development work—technical and scientific matters, and the construction of its concluding clause should be accordingly limited to those considerations. Nothing in its legislative history suggests that it had any broader purpose.

It was clearly not the intention of the Congress by the enactment of § 303(i), authorizing the Commission "to make special regulations applicable to radio stations engaged in chain broadcasting", to invest the Commission with the authority now claimed over network contracts. This section is a verbatim re-enactment of § 4(h) of the Radio Act of 1927, and had its origin in a Senate amendment to the bill which became that Act. In its original form it provided that the Commission, from time to time,

as public convenience, interest, or necessity required, should:

"When stations are connected by wire for chain broadcasting, [the Commission should] determine the power each station shall use and the wave lengths to be used during the time stations are so connected and so operated, and make all other regulations necessary in the interest of equitable radio service to the listeners in the communities or areas affected by chain broadcasting."

It was evidently the purpose of this provision to remedy a situation that was described as follows by Senator Dill (who was in charge of the bill in the Senate) in questioning a witness at the hearings of the Senate Committee on Interstate Commerce:

". . . During the past few months there has grown up a system of chain broadcasting, extending over the United States a great deal of the time. I say a great deal of the time—many nights a month—and the stations that are connected are of such widely varying meter lengths that the ordinary radio set that reaches out any distance is unable to get anything but that one program, and so, in effect, that one program monopolizes the air. I realize it is somewhat of a technical engineering problem, but it has seemed to many people, at least many who have written to me, that when stations are carrying on chain programs that they might be limited to the use of wave lengths adjoining or near enough to one another that they would not cover the entire dial. I do not know whether legislation ought to restrict that or whether it had better be done by regulations of the department. I want to get your opinion as to the advisability in some way protecting people who want to hear some other program than the one being broadcasted by chain broadcast." (Report of Hearings Before Senate Committee on Interstate Commerce on S. 1 and S. 1754, 69th Cong., 1st Sess. (1926) p. 123.

In other words, when the same program was simultaneously broadcast by chain stations, the weaker independent stations were drowned out because of the high power of the chain stations. With the receiving sets then commonly in use, listeners were unable to get any program except the chain program. It was essentially an interference problem. In addition to determining power and wave length for chain stations, it would have been the duty of the Commission, under the amendment, to make other regulations necessary for "equitable radio service to the listeners in the communities or areas affected by chain broadcasting." The last clause should not be interpreted out of context and without relation to the problem at which the amendment was aimed. It is reasonably construed as simply as authorizing the Commission to remedy other technical problems of interference involved in chain broadcasting in addition to power and wave length by requiring special types of equipment, controlling locations, etc. The statement in the Senate Committee Report that this provision gave the Commission "complete authority . . . to control chain broadcasting" (R. Rep. No. 772, 69th Cong., 1st Sess., p. 3) must be taken as meaning that the provision gave complete authority with respect to the specific problem which the Senate intended to meet, a problem of technical interference.

While the form of the amendment was simplified in the Conference Committee so as to authorize the Commission "to make special regulations applicable to radio stations engaged in chain broadcasting", both Houses were assured in the report of the Conference Committee that "the jurisdiction conferred in this paragraph is substantially the same as the jurisdiction conferred upon the Commission by . . . the Senate amendment." (Sen. Doc. No. 200, 69th Cong., 2d Sess., p. 17; H. Rep. No. 1886, 69th Cong., 2d Sess., p. 17). This is further borne out by a statement of Senator Dill in discussing the conference report on the Senate floor:

"What is happening to-day is that the National Broadcasting Co., which is a part of the great Radio Trust, to say the least, if not a monopoly, is hooking up stations in every community on their various wave lengths with high powered stations and sending one program out, and they are forcing the little stations off the board so that the people cannot hear anything except the one program.

"There is no power to-day in the hands of the Department of Commerce to stop that practice. The radio commission will have the power to regulate and prevent it and give the independents a chance." (68 Cong. Rec. 3031.)

Section 303(r) is certainly no basis for inferring that the Commission is empowered to issue the challenged regulations. This subdivision is not an independent grant of power, but only an authorization to: "Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act." There is no provision in the Act for the control of network contractual arrangements by the Commission, and consequently § 303 (r) is of no consequence here.

To the extent that existing network practices may have run counter to the anti-trust laws, the Congress has expressly provided the means of dealing with the problem. The enforcement of those laws has been committed to the courts and other law enforcement agencies. In addition to the usual penalties prescribed by statute for their violation, however, the Commission has been expressly authorized by § 311 to refuse a station license to any person "finally adjudged guilty by a Federal court" of attempting unlawfully to monopolize radio communication. Anyone under the control of such a person may also be refused a license. And whenever a court has ordered the revocation of an existing license, as expressly provided in § 313, a new license may not be granted by the Commission to the guilty party or to any person under his control. In my opinion these provisions (§§ 311 and 313) clearly do not and were not intended to confer independent authority on the Commission to supervise network contracts or to enforce competition between radio networks by withholding licenses from stations, and do not justify the Commission in refusing a license to an applicant otherwise qualified, because of business arrangements that may constitute an unlawful restraint of trade, when the applicant has not been finally adjudged guilty of violating the anti-trust laws, and is not controlled by one so adjudged.

The conditions disclosed by the Commission's investigation, if they require correction, should be met, not by the invention of authority where none is available or by diverting existing powers out of their true channels and using them for purposes to which they were not addressed, but by invoking the aid of the Congress or the services of agencies that have been entrusted with the enforcement of the anti-trust laws. In other fields of regulation the Congress has made clear its intentions. It has not left to mere inference and guess-work the existence of authority to order broad changes and reforms in the national economy or the structure of business arrangements in the Public Utility Holding Company Act, 49 Stat. 803, the Securities Act of 1933, 48 Stat. 74, the Federal Power Act, 49 Stat. 838, and other measures of similar character. Indeed the Communications Act itself contains cogent internal evidence that Congress did not intend to grant power over network contractual arrangements to the Commission. In § 215(e) of Title II, dealing with common carriers by wire and radio, Congress provided:

"The Commission shall examine all contracts of common carriers subject to this Act which prevent the other party thereto from dealing with another common carrier subject to this Act, and shall report its findings to Congress, together with its recommendations as to whether additional legislation on this subject is desirable."

Congress had no difficulty here in expressing the possible desirability of regulating a type of contract roughly sim-

iliar to the ones with which we are now concerned, and in reserving to itself the ultimate decision upon the matters of policy involved. Insofar as the Congress deemed it necessary in this legislation to safeguard radio broadcasting against arrangements that are offensive to the anti-trust laws or monopolistic in nature, it made specific provision in §§ 311 and 313. If the existing network contracts are deemed objectionable because of monopolistic or other features, and no remedy is presently available under these provisions, the proper course is to seek amendatory legislation from the Congress, not to fabricate authority by ingenious reasoning based upon provisions that have no true relations to the specific problem.

Mr. Justice ROBERTS agrees with these views.

JOHN T. CAHILL (JAMES D. WISE, A. L. ASHBY, HAROLD S. GLENDENING, and JOHN W. NIELDS with him on the brief) for appellant, National Broadcasting Co., Inc.; E. WILLOUGHBY MIDDLETON (THOMAS H. MIDDLETON with him on the brief) for appellant Stromberg-Carlson Telephone Mfg. Co.; CHARLES E. HUGHES, Jr. (ALLEN S. HUBBARD, HAROLD L. SMITH, and WRIGHT TISDALE with him on the brief) for appellant, Columbia Broadcasting System, Inc.; CHARLES FAHY, Solicitor General (VICTOR BRUDNEY, RICHARD S. SALANT, CHARLES R. DENNY, General Counsel, Federation Communications Commission, HARRY M. PLOTKIN, DANIEL W. MEYER, and MAX GOLDMAN with him on the brief) for appellees, United States and Federal Communications Commission; LOUIS G. CALDWELL (LEON LAUTERSTEIN, EMANUEL DANNETT, and PERCY H. RUSSELL, JR. with him on the brief) for appellee, Mutual Broadcasting System, Inc.; ISAAC W. DIGGES filed brief on behalf of Association of National Advertisers, Inc., as amicus curiae; GEORGE LINK, JR., filed brief on behalf of American Association of Advertising Agencies as amicus curiae; HOMER S. CUMMINGS, MORRIS L. ERNST, BENJAMIN S. KIRSH, WILLIAM DRAPER LEWIS, and HARRIET F. PILFEL filed brief on behalf of American Civil Liberties Union as amicus curiae.

National Association of Broadcasters

1760 N STREET, N. W. ★ ★ ★ ★ ★ ★ ★ WASHINGTON, D. C.

May 14, 1943 SWAP BULLETIN No. 35

RECORD ENGINEERING ATTENDANCE AT NAB WAR CONFERENCE

The Engineering Committee Meeting at Chicago was attended by engineers from all but three of the seventeen NAB Districts. Many who were unable to be present cooperated by mailing an advance report on conditions in local areas.

The Executive Engineering Committee appreciates the efforts of all who contributed to the success of the meetings dealing with wartime technical problems.

A detailed report will be forwarded to all NAB member stations after review of the stenographic transcripts of the meetings is completed.

A list of those participating follows:

Attending at Chicago

G. P. Adair, FCC, Washington, D. C.
Ernest L. Adams, WHIO, Dayton, Ohio
Harry E. Adams, WIBC, Indianapolis, Ind.
J. J. Beloungy, WBT, Charlotte, N. C.
Leonard T. Carlson, WKBB, Dubuque, Iowa
E. K. Cohan, Director of Engineering, CBS, New York, N. Y.
Wayne N. Cook, WCAR, Pontiac, Mich.
Roy C. Corderman, OWI, Washington, D. C.
John Creutz, WPB, Washington, D. C.
C. F. Daugherty, WSB, Atlanta, Ga.
Robert A. Dettman, KDAL, Duluth, Minn.
Frank A. Dieringer, WFMJ, Youngstown, Ohio
Franklin M. Doolittle, President WDRC, Hartford, Conn.
Perry W. Esten, WGRC, Louisville, Ky.
Howard S. Frazier, NAB, Washington, D. C.
A. Friedenthal, WJR, Detroit, Mich.
Fay Gehres, WGBF, Evansville, Ind.
D. W. Gellerup, WTMJ, Milwaukee, Wisc.
E. L. Gemoets, KTSM, El Paso, Texas
Ted A. Giles, WMBD, Peoria, Ill.
O. B. Hanson, Vice President, NBC, New York, N. Y.
William J. Harris, WCHS, Charleston, West Va.
Harry Harvey, KMOX, St. Louis, Mo.
Karl B. Hoffman, WGR-WKBW, Buffalo, N. Y.
Royal V. Howard, KSFO, San Francisco, Calif.
Wilbur E. Hudson, WAVE, Louisville, Ky.
Edward W. Jacker, WAIT-WGES-WSBC, Chicago, Ill.
C. M. Jansky, Jr., Jansky & Bailey, Washington, D. C.
L. L. Lewis, WOI, Ames, Iowa
George M. Lohnes, Jansky & Bailey, Washington, D. C.
F. H. McIntosh, WPB, Washington, D. C.
Italo A. Martino, WDRC, Hartford, Conn.
Walter F. Meyers, WJJD, Chicago, Ill.
M. R. Mitchell, WJR, Detroit, Mich.
S. Robert Morrison, WMRN, Marion, Ohio
J. F. Novy, WBBM, Chicago, Ill.
Bernard C. O'Brien, WHEC, Rochester, N. Y.
George J. Podeyn, KQV, Pittsburgh, Pa.
Charles F. Quentin, WMT, Cedar Rapids, Iowa
George P. Rankin, Jr., WMAZ, Macon, Ga.
N. J. Richard, WISN, Milwaukee, Wisc.
A. D. Ring, Secretary Committee IV, BWC, Washington, D. C.
Robert J. Sinnett, WHBF, Rock Island, Ill.
Cecil E. Smith, KUOA, Siloam Springs, Ark.
Kirby Smith, KBUR, Burlington, Iowa
Herbert F. Tank, WWJ, Detroit, Mich.
Herman D. Taylor, WTIC, Hartford, Conn.
Victor H. Voss, WIND, Gary, Ind.
Charles W. Wirtanen, WIBM, Inc., Jackson, Mich.
Lt. Col. L. McC. Young, AC, KMOX, St. Louis, Mo.

Participating by Mail

Leo W. Born, KGLO, Mason City, Iowa
Lee Clough, KLUF, Galveston, Texas
R. F. Crossthwaite, KWYO, Sheridan, Wyo.
Amos Dadisman, KFH, Wichita, Kans.
W. R. Harmon, WMVA, Martinsville, Va.
Scott Helt, WIS, Columbia, S. C.
Roger W. Hodgkins, WGAN, Portland, Me.
Robert D. Hough, WMMN, Fairmont, W. Va.
Vernon Hughes, KICA, Clovis, N. M.
Thomas R. Humphrey, WHYN, Holyoke, Mass.
August Jarvi, WJMS-WATW, Ironwood, Mich.
Paul G. Lindsay, WHEB, Portsmouth, N. H.
H. J. Lovell, WKY, Oklahoma City, Okla.
John C. McCormack, KWKH-KTBS, Shreveport, La.
Noel A. Martin, WALB, Albany, Ga.
Albert F. Mason, KOCA, Kilgore, Texas
Herbert J. Mayer, WHBL, Sheboygan, Wisc.
Ronald Oakley, KGER, Long Beach, Calif.
A. W. Oschmann, WARM, Scranton, Pa.
Harold C. Singleton, KGW-KEX, Portland, Oreg.
R. C. Porter, KVSF, Santa Fe, N. M.
L. J. Rolfe, WCMI, Ashland, Ky.
Richard T. Sampson, KFXM, San Bernardino, Calif.
Wilfred T. Siddle, WRBL, Columbus, Ga.
Alvin H. Smith, KSCJ, Sioux City, Iowa
Jno. W. Smith, WMSL, Decatur, Ala.
Ray C. Spence, WAJR, Morgantown, W. Va.
Vernon Stahl, WCED, Dubois, Pa.
R. B. Sutton, KPQ, Wenatchee, Wash.
William H. Torrey, KGNC, Amarillo, Texas
Earle Travis, KVEC, San Luis Obispo, Calif.
J. M. Troesch, WSTV-WJPA, Steubenville, Ohio
J. C. Vessels, WDOD, Chattanooga, Tenn.
Harold Walker, KADA, Ada, Okla.
Fred U. Wamble, KGVO, Missoula, Montana
H. T. Wheeler, KPRC, Houston, Texas
C. C. Williams, WRGA, Rome, Ga.
D. E. Yates, KRBA, Lufkin, Texas

Please do your part to keep every broadcaster supplied with essential parts and materials. Check your stock today. List your long items under the heading "WILL SELL" and the items you need under "WILL BUY." Then write: POOL, National Association of Broadcasters, 1760 N Street, N.W., Washington, D. C. Your fellow broadcasters will do the rest.

WILL SELL

For sale by William C. Uzzell, 85-12 165th St., Jamaica, N. Y.

a. 1 GE 4.25 KVA trans., 110 v. pri. output 2000 to 4000 v. with 6 step switch, oil filled type, price $50.00.
b. 1 Acme filament trans., 300 watts, for 10/12 v. filament, price $9.00.
c. 1 Thordarson type 5448 trans., 800 v., each side of center tap.
d. 1 Thordarson type 2073 filter choke, 300 H., 500 MA, $15.00.
e. Several filament and plate trans., various voltages and sizes, what do you want?
f. 50 ft. Bassett concentric cable, 64 ohms, 1000 watts, 20 meters, price $10.00.
g. Several sets of head phones.
h. 1 amateur type trans. for C. W. only, final stage input power 450 watts with coils for 10, 20, 40, 80, and 160 meter bands. Entirely self contained in a broadcast station type trans. rack with 2 doors. Priced not as a complete trans. but for the parts only at $300.00. Detailed information upon request.
i. Battery charger, Forest Electric Co., for several auto type storage batteries or equivalent, output to 46 v. at 6 amps, 10 step regulator switch and meter, Tungar bulb burned out. $15.00.
j. Flechtheim 4 mfd 1500 v. Filter Cond. $3.50.
k. Tobe 2,000 v. 2 mfd. Old style very large, $2.25.
l. Aerovox .002 plate blocking cond. in aluminum case for 5,000 v., $2.50.
m. National type DX 100 mmf 6,000 v. trans., variable cond., $6.50.
n. Allen Bradley Rheostat, 500 watts for use in pri. of trans.
o. Following are older style meters in metal cases, all repaired, but in good cond.
  2 Jewell #74, 15 v. AC, each $5.50.
  1 Jewell #454, 200 Ma, DC, $5.50.
  1 Jewell #54, 300 MA, DC, $5.50.
p. 2 WE 304B, used 1 hr., $18.00.
  1 WE 242A, well used, $2.00.
  2 WE 242B, $12.00.
  2 WE 258B, mercury vapor rectifiers, new, $24.00.
  1 WE 258A, mercury vapor, almost new, $10.00.
q. 2 new Johnson 50 watt sockets.
  All are subject to prior sale and any offer may be refused.

For sale by KIUP, Durango, Colo.

10 type 203-A tubes. Some new. $5.00 each for the lot.
1 GE FG17 tube, new. $10.00.

For sale by WMRF, Lewistown, Penna.

100 watt, 120 v., A21, clear, tower lights, up to 6 doz., $.45 each.

For sale by KWLM, Willmar, Minn.

7 1609 tubes, make offer. Address replies to Vernon Baumgartner.

For sale by KWKW, Pasadena, Calif.

235′ #8 Lead covered wire at $.08 foot.
143′ #8 " " " " .08 "
120′ #14 " " " " .07½ "
221′ #14 " " " " .07½ "

For sale by Dukes Radio Co., 114 West 4th St., Sioux City, Iowa

1 860 RCA tube, $32.50.

For sale by Frank Huberman, 1256 Main St., East Hartford, Conn.

a. 1 Meissner AC-DC FM tuner (no cabinet), in perfect cond.
b. 1 Abbott DK3 (2½ M. transceiver), comp. with batteries, antenna and microphone.
c. 1 Astatic D104 microphone with desk stand. Make offer.

For sale by WASK, Lafayette, Indiana

1 Thordarson type T65 mike trans. $2.00.
1 U T C type HA 101X mike trans. $10.00.

For sale by WLAK, Lakeland, Florida

RCA instantaneous recorder, type 72-A, price $75.00.
2 old style WE turntables, comp. with lateral and vertical pickups, make offer.

For sale by WELL, Battle Creek, Mich.

1 Dumont type 54-XH 5″ C. R. tube, used. Address reply to Earl J. Stone.

For sale by KGER, Long Beach, Calif.

1 RCA 1000 watt trans., type 1-B (modified).
1 RCA type EX 4180 freq. monitor.
Complete description and photographs available upon request. Address Ronald Oakley, Chief Eng.

For sale by KILO, Grand Forks, N. Dak.

1 RCA model ACR-175 communications receiver with spare tubes, $35.00.

WILL BUY

Wanted by WELL, Battle Creek, Mich.

a. Fairchild unit 220-3 or 199-3 recorder.
b. Fairchild 214-3A cutterhead.
c. Uni-directional mikes.
  Address reply to Earl J. Stone.

Wanted by WMRN, Marion, Ohio

1 to 4 Hi-quality input trans. 250 ohms (balanced) to grid.
1 Output trans. for 6J7 (triode connected) to 500 or 250 ohms.

Wanted by KWFT, Wichita Falls, Texas

2 HRO national coil 175 to 400 KC, also 900 to 2000 KC.

Wanted by KGKY, Scottsbluff, Nebr.

A Presto 10A trans. reproducing turntable, new or used.

Wanted by WDEV, Waterbury, Vt.

RCA instantaneous recording and playback equip., type No. MI 4822.

Wanted by WLVA, Lynchburg, Va.

1 RCA 40-C amplifier in good cond.

Wanted by WRDW, Augusta, Ga.

1 Dummy antenna for 5,000 kilowatt. 200 to 240 ohms.

Wanted by WIS, Columbia, S. C.

New RCA type 1603, non-microphonic type, vacuum tubes.

Wanted by WDEV, Waterbury, Vt.

Portable recorder for 16″ discs with amplifier preferred.

Wanted by WBML, Macon, Ga.

RCA 70-C turntable with 72-c recorder attachment or similar combination. Line trans., 1 to 1 ratio. Address reply to H. S. Goodrich, Chief Eng.

Wanted by W67NY, 500 Fifth Ave., N. Y.

WE type 300A turntables with extra RCA MI-4875 or WE9A heads, or RCA type 70. Give price and cond. of units.

Wanted by WLPM, Suffolk, Va.

An A.C. remote amplifier preferably with 3 channels. State full particulars including whether a meter is available with the above.

WILL SWAP

WIBC, Indianapolis, Ind., will swap

5 Cannon P3-CG-12S cord plugs used but good cond. and

8 Cannon P3-13 panel receptacles used but good cond.

FOR VU meter or vertical pickup with arm.

TUBES AVAILABLE FROM AMATEURS

The American Radio Relay League is cooperating with the NAB Engineering Department in an effort to secure tubes for broadcast stations now in the possession of amateur stations. A notice appeared in QST, official organ of the ARRL, requesting amateurs to list available tubes with NAB. This section of the Swap Bulletin contains some of the offers.

Broadcasters desiring to purchase any of these tubes are asked to correspond directly with the owner.

For sale by W. W. Bingham, 2706 Warren Blvd., Chicago, Ill.

1 807, new
2 TZ20, new
1 TZ40, new
2 T-866, new
3 T-866, used approx. 50 hrs.

Sell at amateur net price.

For sale by Darl F. Wood, Science Dept., Mishawaka High School, Mishawaka, Ind.

1 RCA 810, in original carton, never used. $13.50.

For sale by George E. Rehl, 627 S. Market St., Galion, Ohio

1 HK 354-E tube, 100 hrs. use, $22.00 f.o.b., Galion, Ohio.

Subject to buyer's approval.

For sale by John Fontana, West River Road, Grand Island, N. Y.

1 Eimac 150T, new, $12.00.
4 RCA 807, new.
Several 6L6.
Make offer.

For sale by Bart J. Geib, 324 W. Crawford St., Findlay, Ohio

1 RK-28
1 RK-23
4 866

All tubes used 1 yr. $32.50 f.o.b. Findlay for all 6, otherwise $27.50 for RK 28.

For sale by V. DeMai, Naval Radio Station, Amagansett, N. Y.

2 Taylor 866 tubes, good cond., new, $1.50 each.

For sale by Alvin C. Demmin, 705 Grinnell St., Peoria, Ill.

2 Amperex HF-100 tubes, used few hrs., $15.00 for both.

For sale by Kenneth C. Kirkland, Box 428, Mt. Vernon, Ill.

2 Hytron 866 tubes, $1.50 each.
1 Taylor T-200, used 50 hrs., $14.00.

For sale by Frank H. Carlson, 112 N. Maple St., New London, Iowa

1 RCA 809 tube, new, in original carton, $3.50.

For sale by F. H. Bailey, 251 Delaware Ave., Elsmere, N. Y.

2 204A tubes, used approx. 3 yrs., good cond. Make offer.

For sale by Jerome B. Abernathy, 1850 34th Ave., San Francisco, Calif.

a. 8 866-A mercury vapor rectifiers. 4 used approx. 250 hrs., other 4 used 5 hrs. $1.00 each.
b. 1 GE 203-A, used approx. 75 hrs., good cond., $7.50.
c. 1 National Union 211, used approx. 175 hrs., good cond., $5.00.
d. 2 210 Raytheon tubes, new and unused. Make offer.
F. O. B. San Francisco, Calif.

For sale by P. Arthur Smoll, Alamogordo, New Mexico

6	Eimac,	35-T, new.	1	RK-39, new
2	"	100-TH, new.	1	HK-54, "
2	"	250-TH, used 100 hrs.	2	802, "
2	"	RX-21, new.	2	805, "
			12	866, "

Sell at current list price.

For sale by J. C. Nelson, 75 Minaville St., Amsterdam, N. Y.

1 803 tube, also 802 and 807. Several 814. Make offer.

For sale by Frank Huberman, 1256 Main St., East Hartford, Conn.

4 WE 249C (rectifiers), used	2 RCA 800, new
3 RCA 807, used	1 HK354 (not HF type) used
2 RCA 802, used	2 Eimac 100TH, used
2 Acratone 210, used	1 GE 80 rectifier, new
1 RK39 (807), used	

Make offer.

For sale by E. G. Bentley, c/o Brown & Williamson Tobacco Corp., 1600 West Hill St., Louisville, Ky.

2 Taylor 822, 30 hrs. use, $17.50 each.
2 Taylor 200, 20 hrs. use, $20.00 each.
2 RCA 872, 75 hrs. use, $6.00 each.
1 Eimac 250TH, 200 hrs. use, $12.50.

For sale by Lee G. Davy, 1604 Pineola Ave., Kingsport, Tenn.

1 RK48-A, new, never used, in original carton. $25.00 f.o.b. Kingsport, Tenn.

For sale by John O. Bondy, 93 New St., Belleville, N. J.

3 RCA 865, 2 are new, one used. $26.50 for all 3.

For sale by George Waslovas, 2728 Robert Ave., Cincinnati, Ohio

1 RCA 803 tube, new, never used. $20.00.

For sale by Albert F. Hill, Jr., P. O. Box 297, Leevining, Calif.

a. 1 Eimac 100TH, 2 yrs. old, 15 hrs. use, new cond., $10.00.
b. 1 Eimac 35T, 2 yrs. old, 30 hrs. use, excellent cond., $4.00.
c. 2 RCA 866-866A, 2 yrs. old, 15 hrs. use, new cond., $1.00 each.

For sale by L. T. Phelan, 1637 Hobart St., N. W., Washington, D. C.

2 RK-20 tubes, excellent cond. in 1941, not used since.
Make offer.

For sale by John H. Elrod, 2500 K Street, N. W., Apt. 308, Washington, D. C.

1 Taylor TZ-40, 100 watts, new, in original carton. Make offer.

For sale by Harold Slaydon, P. O. Box 1208, Martinsville, Va.

1 new 866-866A	$1.50	1 used 807	$3.00
2 used 866	2.50	1 used 203-A	8.00
2 new 816	2.00		

For sale by Linwood Cook, 1302 Broadway, S. Portland, Maine

2 RCA 211, used 100 hrs., $5.00 each.
3 RCA 865, good cond., make offer.

For sale by Robert J. Robinson, 102 Lyon Place, Lynbrook, N. Y.

1 100TH, good cond., $15.00.

For sale by Clarence Seid, 513 Crown St., Brooklyn, N. Y.

851 tubes, several 204A, and 1 849. Good cond.
5 oil condensers, .25 mfd 10,000 v.d.c. working voltage, Dubilier make.
Make offer.

For sale by Shovel Hodge, W9NBV, 1916 Nebraska Ave., St. Louis, Mo.

2 WE 212 at $25.00 each, used 1500 hrs.
3 276-A.
2 242-C.
Make offer for last two items.

For sale by Hobart Price, 317 Leah St., Utica, N. Y.

1 GE pliotron PR 11-A, new, never used.
Make offer.