



1760 N STREET, N. W.

WASHINGTON 6, D. C.

Vol. 11, No. 36, September 3, 1943

ROBERT T. BARTLEY NAB WAR DIRECTOR

Karl A. Smith, Special Counsel

Two new appointments by Neville Miller reinforce NAB's war-depleted staff with a War Director and Special Legislative Counsel.

Robert T. Bartley, vice-president of the Yankee Network, will take the War Director's post, a newly created position, between September 15 and October 1.

Karl A. Smith, Washington attorney, will act as special legislative counsel and will work with the NAB special legislative committee, which authorized the appointment.

Cooperation with government bureaus and departments requires a directing head with wide experience in Washington. Bartley is well qualified for this important task as war director. He will also assume many of the duties of Russell Place, former counsel for NAB, who is now with the Office of Strategic Services.

Born in Ladonia, Texas, May 20, 1909, Mr. Bartley attended Southern Methodist university and was married to Ruth Adams of Washington in 1936. They have two children, Robert, Jr., 5, and Jane, 2.

Following his employment as assistant to Walter M. W. Splawn, special counsel to the house committee on Interstate and Foreign Commerce, in 1932-33, Mr. Bartley continued with Mr. Shawn when he became a member of the Interstate Commerce Commission in 1934. During these years, Speaker Sam Rayburn of the House, who is Mr. Bartley's uncle, was chairman of the House Interstate Foreign and Commerce committee.

When the Federal Communications Commission was formed in 1934, Mr. Bartley transferred there as telegraph division director, a post abolished in 1937 with Mr. Bartley becoming senior securities analyst with the Securities and Exchange Commission.

In March, 1939, he became John Shepard's executive secretary in the Yankee Network, and was elected a vice president of that organization in August, 1942, resigning effective September 25, 1943, to assume his NAB duties.

Mr. Smith will continue his connection with his law firm and act in a special consulting capacity for NAB.

MORE DISTRICT PUBLIC RELATIONS CHAIRMEN APPOINTED

The names of three more district public relations chairmen have been received at headquarters. They are Walter Tison, general manager, WFLA, Tampa, Fla., appointed by James W. Woodruff, Jr., fifth district director; P. G. Paltridge, director of public relations, Earle C. Anthony, Inc., Los Angeles, appointed by Calvin J. Smith, director of the sixteenth district; and Edward E. Lindsay, WSOY, Decatur, Ill., appointed by Director Leslie C. Johnson of the ninth district.

Only four NAB Districts remain without Public Relations Chairmen. They are 3, 6, 11 and 14. Willard Egolf

expects to complete the panel prior to the Public Relations Committee meeting in New York, September 15-16, if District Directors will furnish him with the names of their appointees.

FIFTH DISTRICT AND FLORIDA MEETINGS

The fifth district will meet in Atlanta Sept. 10.

The Florida Broadcasters Association will meet at the George Washington Hotel, Jacksonville, Sept. 12.

NEWSPAPER-RADIO COMMITTEE RESOLVES ON NEWSPAPER OWNERSHIP OF STATIONS

The steering committee of the Newspaper-Radio Committee, which is headed by Harold V. Hough, of KGKO, has adopted a resolution requesting legislation to do away with discrimination against newspaper ownership of broadcasting stations.

The resolution is:

"Resolved—that the Newspaper-Radio Committee should immediately advocate legislation which will make it impossible for there to be any present or future discrimination against newspaper ownership of broadcasting stations, and that this advocacy should include the support of provisions intended to accomplish this end in the White-Wheeler bill, the Holmes bill, as well as other legislation relating to the subject."

Appearance of members of the committee before hearings on the bills mentioned above and active support by them of other pertinent legislation which may be introduced was action approved.

Steering committee members present at the meeting in New York recently are: Walter J. Damm, WTMJ, committee vice chairman; H. Dean Fitzer, WDAF, treasurer; John E. Person, WRAC; Gardner Cowles, Jr., KSO-KRNT; A. H. Kirchhofer, WBEN; Truman Green, WFLA; Harry M. Ayers, WHMA, and Mr. Hough.

Labor

CIO PETITION REFERRED TO ENTIRE FCC BY COMM. CASE

A decision on the CIO petition (see below) requesting a hearing on the radio industry's alleged unfair programming of labor programs now rests with the full FCC, following a preliminary hearing Wednesday, Sept. 2, before Commissioner Norman S. Case, sitting as a single delegated member.

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WASHINGTON

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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*; Arthur C. Stringer, *Director of Promotion*.

CIO PETITION REFERRED TO ENTIRE FCC BY COMM. CASE

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Commissioner Case, in referring the petition to the full Commission, said that a broad matter of policy was involved. Consideration of the petition is scheduled for the Tuesday, Sept. 7, regular Commission meeting.

CIO, in its petition, requests that the hearings on its allegations be made a part of public hearings on the transfer of the Blue network (changed to the American Broadcasting System by the new owner) from RCA to Edward J. Noble, now scheduled for Sept. 10 in Washington.

Eugene Cotton, representing CIO, presented oral arguments on the petition before Commissioner Case and was answered by Gustav B. Margraf, for RCA, who claimed that the subject matter of the petition was broad and irrelevant to the transfer hearings. John P. Lipscomb represented Mr. Noble and Willard D. Egolf represented NAB as counsel and secretary of the NAB Code Compliance Committee.

Following, in the order named, are the CIO petition and NAB's release answering the petition:

CIO PETITION

The Congress of Industrial Organizations, acting to secure "relief necessary when labor organizations are not permitted either to buy time or to receive free time to put their programs on the air," today petitioned the Federal Communications Commission for permission to intervene in the transfer of the Blue Network from RCA to new owners.

The petition, filed by Lee Pressman, general Counsel of the CIO, follows in full:

The Congress of Industrial Organizations petitions the Federal Communications Commission to intervene in the above proceeding to be held on September 10, 1943, and states:

1. The Congress of Industrial Organizations is a labor organization representing approximately five million organized workers who with their families comprise over twenty million persons in the population of the United States.

2. The membership of the labor organizations affiliated to the Congress of Industrial Organizations have a vital interest in the operation of radio broadcast stations and radio networks. This interest arises from the fact that organized labor represents a substantial portion of the listening audience and is the largest single organization of persons composing that audience. Organized labor is also interested because it uses time on radio broadcast stations and radio networks.

3. This hearing affords an opportunity to present certain problems of organized labor in relation to radio broadcasting both to the Federal Communications Commission and to the radio broadcasting industry. Through the influence of the spoken word, and its ability to reach

audiences numbered in the millions, radio is the outstanding medium of mass communication. To achieve its greatest benefits organized labor must use this medium, and the radio industry in performing its role in the public interest must serve organized labor which forms so large a part of its listening audience.

4. Members of unions affiliated to the Congress of Industrial Organizations desire to present to the public at large as well as to potential members and themselves radio programs regarding the merits of collective bargaining and the value of membership in a trade union, the legislative programs of the unions, discussions of public affairs, and labor's point of view on current public issues.

5. At the present time business and commercial concerns buy time from radio broadcast stations and the networks not only for the purpose of selling their particular product but to a growing extent for goodwill programs and institutional advertising. Sustaining free time or a sustaining program is given by one of the networks at the present time to the National Association of Manufacturers. This is a half hour program weekly. From time to time spokesmen for employing interests on the other end of the bargaining scale from labor are given time for speeches to present their program.

6. Organized labor, however, has one fifteen-minute sustaining program once a week on one of the major networks. From time to time officials of labor organizations and other spokesmen secure free time for speeches.

7. Although organized labor also is anxious to present programs for the purpose of securing the goodwill of the community, certain restrictions exist which prevent labor's full participation in the public service of radio broadcast stations. Labor may not buy time on the networks or on a large number of individual stations.

It has not been given a large proportion of the regularly organized sustaining programs on networks. Labor may not solicit memberships on the air. These restrictions are based on the code of the National Association of Broadcasters.

8. The National Association of Broadcasters is, of course, a trade association of the owners of broadcast stations. Some years ago this association adopted a code which provided that time is not to be sold for programs involving controversial issues but sustaining time may be given for such program. Individual stations belonging to the National Association of Broadcasters, either acting on their own or with advice of the National Association of Broadcasters staff, have for practical purposes uniformly held that labor programs are controversial. It should be noted that the National Association of Broadcasters code has no provision that any time or a certain proportion of time need be given at all for controversial issues, so that a station or a network may abide by the code by neither giving nor selling labor any time on the air at all. In the spring of this year, this code was further amended to provide that solicitations of membership in organizations are deemed to be unacceptable under the basic theory of the code and therefore time should be neither given nor sold for this purpose. The major activity of labor organizations is to extend their membership and the benefits achieved by them to workers as yet unorganized. To the extent that broadcast stations and networks abide by this provision of the code, labor organizations are seriously crippled in one of their major activities.

9. A recent instance of the unfairness of the operation of the code, and indeed an example of the dangers inherent in the code, is the treatment accorded certain transcriptions of the United Automobile, Aircraft, Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, dealing with price control. The National Association of Broadcasters circulated its members on July 23, 1943, regarding these transcriptions for which the United Automobile, Aircraft, Agricultural Implement Workers of America sought to purchase time at commercial rates on various broadcast stations. The National Association of Broadcasters informed its members that this was a controversial program and should not be presented on paid time.

10. The above review of the National Association of Broadcasters code and its effects in restricting labor's use of the air points to a serious defect in the control and

operation of broadcast stations and networks. Decisions to exclude labor from the air are made either by the individual broadcaster, the owners of the network, or by the commercial broadcasters represented in the code committee of the National Association of Broadcasters. In none of these bodies is there representation of the public, including labor, nor is there any machinery for appeal or relief from unfair and discriminatory actions of the code committee.

11. Operation of radio broadcast stations and radio networks in the public interest requires that the Federal Communications Commission and radio broadcast station managements recognize:

- (a) That a larger proportion of free time should be made available to labor organizations in the form of organized weekly recurring sustaining programs.
- (b) That labor organizations should suffer no blanket restriction on their purchase of time on stations or on the networks.
- (c) That labor organizations should suffer no blanket restrictions on their solicitation of memberships or use of broadcasting programs in an organizing campaign.
- (d) That machinery should be promptly established for the relief necessary when labor organizations are not permitted to either buy or to receive free time to put their programs on the air.

MILLER ANSWERS PETITION

(Released by NAB News Bureau)

American Labor is entitled to and has the same access to the facilities of American broadcasting stations as any other individual or group, Neville Miller, NAB president, declared.

Mr. Miller's statement was in answer to a petition sent by the Congress of Industrial Organizations to the Federal Communications Commission, requesting that FCC afford CIO time during the FCC hearings on the transfer of the BLUE network to present CIO's grievance against NAB and the radio industry in not giving CIO all the radio time it wants.

The NAB president pointed out that organized labor was given more than 100 broadcasts on the networks in 1942 and this gesture by radio to labor was heartily commended by William Green, A. F. of L. president, and Philip Murray, CIO president.

It was also recalled that at the NAB Code Compliance Committee meeting June 16-17 the four members of the Radio Committee of the National Council on Freedom from Censorship, Thomas R. Carskadon, chairman, met with the NAB group. As a result of that meeting, Carskadon himself issued the following statement to the effect that "labor has ample opportunity for the use of broadcasting facilities in this country."

Mr. Carskadon, who is also radio committee chairman of the American Civil Liberties Union, had the concurrence of Roger Baldwin, ACLU president, when he further stated that "no changes are recommended" in the NAB code.

Mr. Carskadon also suggested that labor organizations avail themselves of the opportunities to become educated as to what their broadcast privileges are and how better to take advantage of them.

In referring to Mr. Carskadon's suggestion, Mr. Miller said: "The ACLU has stated that labor should become better acquainted with its opportunities for the use of broadcasting facilities. This position is supported by the radio industry.

"A public hearing would not only reveal radio's cooperation with labor throughout the United States, but might also provide the education apparently most needed by the CIO."

CHECK YOUR TURNTABLE NEEDS

A three sentence NAB memo on turntables, distributed at the Fourth District meeting in Asheville on September 3, read:

Patch up your present turntables as long as you can but—anticipate new turntable requirements for the first half of 1944 and place orders now:

"Apparently, turntables are to remain a hard-to-get item. It will be easier for factories to deliver on time if they know your needs months in advance."

PETRILLO HEARING SEPT. 7

Gilbert Edmund Fuller, president of Raymond Whitcomb Co., Boston, has been appointed to succeed Henry Woodbridge as Industry Member of the War Labor Board Panel for the Petrillo Case. The Panel will start its public hearing Tuesday, September 7, in New York.

SAN FRANCISCO WLB DISAPPROVES RULING

The Regional War Labor Board, San Francisco, has disapproved an arbiter's award which set the technicians scale at Station KPAS at \$1.68 per hour.

The Board substituted a scale ranging from \$1.25 to \$1.70, depending upon length of service.

The NAB intervened in the proceedings after the arbiter had found that all technicians were entitled to the same rate of pay, no matter what size station they worked in.

Public Service

4 SAN FRANCISCO STATIONS CITED FOR FINE WORK BY TUBERCULOSIS ASSOCIATION

The following report compiled by the San Francisco Tuberculosis Association shows the amount of radio activity engendered by four local stations on behalf of the station over the last two years. The stations are KSAN, KJBS, KSFO and KYA.

Edward W. Koehler, association public relations director, wrote the report and it was sent to NAB by NAB Director Arthur Westlund, of KRE.

SERIES ONE

"The Tuberculosis Battle" as sponsored by the Department of Public Health and the San Francisco Tuberculosis Association, was originated by Dr. Edward A. Schaper. The first broadcast on KSAN was on September 6, 1941. This was a half-hour transcribed program, 15 minutes of which were given over to the discussion of the various phases of tuberculosis by qualified physicians. The second portion of the program was given over to a question and answer period in which Dr. Schaper answered questions sent in by listeners.

Between September 6, 1941 and June 27, 1942 there were forty-three weekly broadcasts from KSAN. The time was donated by the management of the station. The transcriptions were made at the expense of the San Francisco Tuberculosis Association, more than \$2,100 being expended for this purpose.

These same transcriptions were rebroadcast over KALW, the Board of Education's frequency modulation station, to all schools in San Francisco. Between February 20, 1942 and June 19, 1942 fifteen weekly half-hour broadcasts were made.

SERIES TWO

In order to utilize fully the transcriptions it was felt that they should be offered to various other radio stations in San Francisco. The management of radio station KJBS agreed to use the transcriptions if only the first portion could be used. They felt that a full half-hour was too much for their listening audience.

Between February 14, 1942 and July 22, 1942 KJBS rebroadcast nineteen 15-minute transcriptions of "The Tuberculosis Battle."

KALW rebroadcast thirteen 15-minute programs from the same series of records between December 5, 1942 and March 23, 1943.

All of the radio time was donated free of charge by the radio stations as a public service. The only expense was that of having the transcriptions made.

SERIES THREE

Resuming on KSAN sixteen 10-minute transcribed programs were broadcast between September 5, 1942 and December 26, 1942. The Association expended approximately \$365 for this series.

The management of KSFO selected and rebroadcast fourteen of the 10-minute programs originally produced for KSAN between January 7, 1943 and April 8, 1943.

KALW rebroadcast this same 10-minute series and between May 26, 1943 and January 12, 1944, eighteen records will have been broadcast to the schools of San Francisco.

KYA rebroadcast this same 10-minute series and between May 26, 1943 and January 12, 1944, eighteen records will have been broadcast to the schools of San Francisco.

KYA rebroadcasts this 10-minute series each Thursday evening and between July 6, 1943 and September 28, 1943 thirteen 10-minute records will have been broadcast.

SERIES FOUR—"live" programs

10-minute "live" programs were released through KSAN starting January 2, 1943.

The first 5 of these broadcasts originating from the Telenews Theater featured tuberculosis specialists and public health nurses.

Fifteen additional "live" 10-minute broadcasts featured personnel of the following organizations:

- WACS
- WAVES
- SPARS
- Maritime Service
- Navy
- Coast Guard
- U. S. Maritime Corps Women's Reserve
- State Bureau of Vocational Rehabilitation
- California Tuberculosis Association
- Booker T. Washington Community Center
- San Francisco Tuberculosis Association
- U. S. Army
- Board of Education

The scripts for these programs were written and produced by the San Francisco Tuberculosis Association with the official sanction of the various services and the Office of War Information. This new format consisted of an 8-minute discussion of the particular branch of the armed service, their traditions, and uniforms. Two minutes were given over to a discussion of the type of examination for tuberculosis given by their particular branch of the service, the kind of X-ray equipment used, and the method of follow-up used when an inductee was found to have active tuberculosis.

One particular broadcast featuring Lt. Dorothy Davis of the U. S. Navy Nurse Corps resulted in more than 15 Bay Area nurses joining this organization. Between January 2, 1943 and May 5, 1943 there were twenty 10-minute "live" broadcasts from KSAN.

Because the management of KSFO liked the format used on KSAN they requested that we continue over KSFO as a "live" program. The scripts were rewritten and brought up-to-date for use over KSFO and between April 15 and July 1, 1943 there were 12 "live" broadcasts from this station. Mrs. Leo J. Clayburgh was guest speaker on the concluding broadcast over KSFO on July 1, 1943.

Approximately \$2,550 were expended to produce transcriptions between September 6, 1941 and December 26, 1942. Between September 6, 1941 and January 12, 1944 there will have been 178 weekly broadcasts of "The Tuberculosis Battle" without cost of radio time to the Association. This is approximately 36 hours of free radio time.

THE STORY OF WNAX AND THE 'TYPICAL MIDWEST FARMER'

Station WNAX recently undertook to name the "typical Midwest farmer." As indicated in a fine report of this activity to NAB by Phil Hoffman, vice president of WNAX, it was a "giant" undertaking based on the desire to afford some recognition to that great soldier of the home front—the farmer.

September 4 is the day on which the climax of all the activities connected with this plan came to be.

More than two thousand bankers in the Dakotas, Minnesota, Iowa and Nebraska submitted case histories on outstanding farm families with Charles Worcester, CBS farm director in Washington, acting as judge.

An outstanding farm family for each state was selected for the five states and these families were invited to Yankton, South Dakota, on the big day.

Celebrities and notables present included the governors and senators of the five states, Commissioner John P. Carmody, Maritime Commission, and Commissioner M. Clifford Townsend, of the Food Commission, who together acted as a jury to select the one family of the five represented to be the typical Midwest farm family, and to award the family a tractor as a prize.

The evening doings saw Gardner "Mike" Cowles, jr., of the Cowles stations (of which WNAX is one) dedicate America's tallest radio tower—the new WNAX radiator, which was dedicated to the typical farmer and all Midwest farmers.

Speeches were an integral part of the day's activities, of course, with Governor Sharpe of South Dakota making the keynote address.

The Maritime Commission will name a Liberty ship "Midwest Farmer" and the wife of the typical farmer will be sent to the west coast with her entire family to dedicate the ship, which will be launched about Sept. 12.

Mary Little, Des Moines Register and Tribune radio columnist, handled publicity for the events, while Bob Hawk of the "Thanks to the Yanks" program was on hand with "Ma Perkins" to help glorify the Midwest farmer. Three CBS network "feeds" were made during the course of the day and evening.

All in all, an outstanding job by a great radio station.

Engineering

10 ENGINEERING COMMITTEEMEN NAMED; 7 TO COME

Ten NAB district directors have notified NAB of appointments to the engineering committee. Howard Frazier, NAB director of engineering, asks that the chairmen for the remaining districts be appointed as soon as possible. It is anticipated that the growing shortage of transmitting

tubes and technical manpower will require the committee's early attention.

The ten chairmen already appointed and the NAB district director making the respective appointments are listed below:

- District 1 Paul W. Morency, Director
F. M. Sloan, Chief Engineer
Radio Station WBZ-WBZA
275 Tremont Street
Boston, Massachusetts
- District 3 Roy Thompson, Director
T. C. Kenney, Chief Engineer
Radio Station KDKA
Grant Building
Pittsburgh, Pennsylvania
- District 4 Richard Shafto, Director
Clyde M. Hunt, Chief Engineer
Radio Station WTOP
Earle Building
Washington, D. C.
- District 5 James W. Woodruff, Jr., Director
J. C. Bell, Chief Engineer
Radio Station WBRC
2nd Ave. & 18 St. N.
Birmingham, Alabama
- District 7 Nathan Lord, Director
Lester H. Nafzger, Chief Engineer
Radio Station WBNS
33 North High Street
Columbus, Ohio
- District 8 John E. Fetzner, Director
A. Friedenthal, Chief Engineer
Audio Division
Radio Station WJR
Detroit, Michigan
- District 10 John J. Gillin, Jr., Director
Henry E. Goldenberg
Radio Station WHB
Scarritt Building
Kansas City, Missouri
- District 13 Hugh Halff, Director
George W. Ing, Chief Engineer
Radio Station KONO
317 Arden Grove
San Antonio, Texas
- District 15 Arthur Westlund, Director
George Greaves, Chief Engineer
Radio Station KPO
420 Taylor Street
San Francisco, California
- District 17 Harry R. Spence, Director
Joseph Kolesar, Chief Engineer
Radio Station KMO
914 Broadway
Tacoma, Washington

TURNER APPOINTED TO FCC ENGINEERING STAFF

The FCC announces the appointment of George S. Turner as chief of the field division of the FCC's Engineering Department, replacing William D. Terrell, who retired from government service today after 40 years' outstanding work in the field of communications. Mr. Turner has been Assistant Chief of the Field Division since 1940.

A native of Independence, Md., Mr. Turner has the degrees of Bachelor and Master of Law from the Atlantic Law School in Atlanta, Ga. During World War I he served as radio instructor at the Great Lakes Naval Training Station and was subsequently commissioned Ensign in the Volunteer Naval Reserve.

After the war, Mr. Turner became the original radio operator-engineer at stations 9XAB, Kansas City, Mo.,

one of the first experimental radio broadcast stations in the Middle West, and in 1921 was employed by the Southwestern Bell Telephone Co. in Kansas City. From 1924 to 1931 he served with the Department of Commerce, first as a Radio Inspector and later as Assistant Radio Supervisor of the Radio Division. Mr. Turner came with the Federal Radio Commission in 1931 as Radio Inspector in Charge at Atlanta. He is a member of the Institute of Radio Engineers and the Georgia bar.

ALFRED STEELE NAMED WAR BOND RADIO ADVISOR

Alfred M. Steele, vice president of the D'Arcy Advertising Agency of St. Louis, was today appointed by Secretary of the Treasury Henry Morgenthau, as radio advisor of the War Finance Division, in charge of production of the various War Bond air programs.

Mr. Steele is at present responsible for such radio programs as the Andre Kostelanetz program, the Spotlight Band series; the Morton Downey-Raymond Paige programs; the Home Front Reporter programs and others.

REYNOLDS HITS AGAIN

A program titled "Armed Forces Week" to stimulate sale of war bonds during the impending Third War Loan drive has been accepted by Vincent F. Callahan, War Savings Staff advertising, press and radio director, according to John E. Reynolds, now with the Marine Corps, and formerly manager of station WJRD.

Private Reynolds is author of the program idea just accepted and also of the highly successful "War Bond Week" idea originated by him at WJRD and accepted by the Treasury last January.

"Armed Forces Week" would include naming each day during a specified week of the drive as "Navy Day", "Marine Day", etc. On each of these days special programs and stunts could be originated which would include the Armed Forces personnel represented on the particular day. Speeches by returned heroes could be made, letters from overseas could be read, etc.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

WDSU—J. H. Uhalt (transferor), E. A. Stephens, H. G. Wall, and Fred Weber (transferees), WDSU, Inc., New Orleans, La.—Granted consent to transfer control of WDSU, Inc., licensee of Station WDSU, from J. H. Uhalt to E. A. Stephens, H. G. Wall, and Fred Weber, for a consideration of \$200,000 cash plus additional consideration. (B3-TC-327)

Columbia Broadcasting System, Inc., New York, N. Y.—Granted extension of authority to transmit programs to Stations CFRB and CKAC and other stations under the control of the Canadian Broadcasting Corp. (B1-FP-113)

WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Granted special service authorization to operate from 7 a. m. to local sunrise with 250 watts power for the remainder of the license period. (B2-SSA-71)

LICENSE RENEWALS

WSAY—Brown Radio Service & Laboratory (Gordon P. Brown, owner), Rochester, N. Y.—Granted renewal of license for the period ending not later than April 1, 1945. (B1-R-892)

KVSF—New Mexico Broadcasting Co., Santa Fe, N. Mex.—Granted renewal of license for the period ending not later than June 1, 1945. (B5-R-840)

WLBj—The Bowling Green Broadcasting Co., near Bowling Green, Ky.—Granted renewal of license for the period ending not later than June 1, 1945. (B2-R-1076)

KWLK—Twin City Broadcasting Corp., Longview, Wash.—Granted renewal of license for the period ending not later than August 1, 1945. (B5-R-959)

WEOA—Evansville on the Air, Inc., Evansville, Ind.—Granted renewal of license for the period ending not later than August 1, 1945. (B4-R-883)

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Granted renewal of license for the period ending not later than August 1, 1945. (B2-R-1062)

ACTION ON RELAY BROADCAST STATIONS

Upon consideration of a further report of its Committee on Critical Radio Materials, the Commission announced that under certain enumerated conditions it would be in the public interest to authorize judicious use of idle equipment to increase the power of relay broadcast stations when existing power is insufficient, to make other changes in relay equipment to render improved service, and to construct new relay broadcast stations for the following purposes:

- (a) To be used as an emergency program link between the studio and the main transmitter in case of failure of the normal wire lines.
- (b) To facilitate the transmission of programs in connection with the war effort, particularly from camps and other places where adequate telephone line facilities are not available or where the cost is prohibitive.
- (c) To facilitate the broadcast of programs from remote points where the shortage of lines has made it impossible or extremely difficult to obtain these facilities.

Applications for authorizations to change facilities or to construct new relay broadcast stations for the purposes set forth herein may be granted upon a satisfactory showing that:

- (1) All required materials may be obtained without priority assistance for either construction or maintenance;
- (2) Such applications involve no inconsistencies with the Commission's Rules and Regulations;
- (3) Such applications tend toward a fair, efficient, and equitable distribution of radio service, are consistent with sound allocation principles, and offer substantial improvement in relay broadcast service; and
- (4) Such applications are otherwise in the public interest.

Applications to change facilities or to construct new relay broadcast stations, which have been dismissed without prejudice pursuant to the policy announced in Memorandum Opinion of April 27, 1942, may be reinstated for consideration in the light of the new circumstances upon the filing of petitions within thirty (30) days of this date showing (1) that such applications are in conformity with the foregoing conditions; and (2) any and all changes with respect to facts and circumstances given in original applications.

MISCELLANEOUS

WBEZ—Board of Education, City of Chicago, Ill.—Granted license to cover construction permit for new non-commercial educational broadcast station. (B4-LED-9)

In re Harold Gilliam, Fairbanks, Alaska.—Adopted order for substitution of parties in the proceedings in Dockets 5646, 5647, 5656, 5709 and 5710, to change the name of the applicant to Thomas H. Appleton and Thomas M. Donohoe, administrators of the estate of Harold Gilliam.

APPLICATIONS FILED AT FCC

570 Kilocycles

WNAX—WNAX Broadcasting Co., Yankton, S. Dak.—Modification of construction permit (B4-P-3288 as modified) which authorized increase in power and installation of directional antenna for night use requesting extension of completion date from 9-7-43 to 11-7-43.

620 Kilocycles

KWFT—Wichita Broadcasting Co., Wichita Falls, Tex.—Voluntary assignment of license to Wichita Broadcasters, a partnership, Joe B. Carrigan, Mrs. Joe B. Carrigan, P. K. Smith, Trustee, P. K. Smith, Mrs. Claude M. Simpson, Jr.

790 Kilocycles

KVOS—KVOS, Inc., Bellingham, Wash.—Modification of construction permit (B5-P-3237 as modified) which authorized change in frequency, increase in power, installation of new transmitter and directional antenna and move, FOR decrease in power from 1 KW to 250 watts, using present licensed transmitter and antenna at licensed site, and extension of commencement and completion dates.

820 Kilocycles

WTBO—Associated Broadcasting Corp., Cumberland, Md.—Acquisition of control of licensee corporation by Aurelia S. Becker through the purchase of 50 shares of stock from Leon E. Pamphilon.

WTBO—Associated Broadcasting Corp., Cumberland, Md.—Construction permit to change frequency from 820 kc. to 1450 kc. and hours of operation from limited to unlimited time.

930 Kilocycles

WJAX—City of Jacksonville, Jacksonville, Fla.—Construction permit to install an auxiliary transmitter.

1240 Kilocycles

KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Involuntary transfer of control of licensee corporation from John A. Kincaid to George Kincaid, Executor of the Last Will and Testament of John A. Kincaid, Deceased (64% of stock).

1320 Kilocycles

KXYZ—Harris County Broadcast Co., Houston, Tex.—Special service authorization to operate on 1320 kc., unlimited time, with power of 5 KW day and 2½ KW night, employing temporary non-directional antenna, for the period ending 10-1-44.

KXYZ—Harris County Broadcast Co., Houston, Tex.—Authority to determine operating power by direct measurement of antenna power under above application for special service authorization.

1340 Kilocycles

WSAV—WSAV, Inc., Savannah, Ga.—Acquisition of control of licensee corporation by Harben Daniel and Catherine Murrey Daniel through transfer of 32 shares of stock from E. E. Murray, Sr., to Catherine Murrey Daniel.

WDAK—L. J. Duncan, Leila A. Duncan, Josephine A. Keith, Effie H. Allen, Aubrey Gay, d/b as Valley Broadcasting Co., Columbus, Ga.—License to cover construction permit (B3-P-3529) which authorized move of station from West Point, Ga., to Columbus, Ga.

WDAK—L. J. Duncan, Leila A. Duncan, Josephine A. Keith, Effie H. Allen, Aubrey Gay, d/b as Valley Broadcasting Co., Columbus, Ga.—Authority to determine operating power by direct measurement of antenna power.

MISCELLANEOUS APPLICATIONS

W8XAL—The Crosley Corp., Cincinnati, Ohio.—Extension of special experimental authorization and modification requesting authority to operate a 1-KW transmitter on 6080 kc., with 1 KW power, A-0 and A-1 emission for identification purposes only to be used with WLWK and WLWO, for the period ending 11-1-44.

KDNT—Harwell V. Shepard, Denton, Tex.—Construction permit to increase power from 100 watts to 250 watts and make changes in transmitting equipment.

NEW—World Publishing Company, Omaha, Nebr.—Construction permit for a new high frequency broadcast station (FM) to be operated on 45,500 kc., with coverage of 11,660 square miles.

FEDERAL TRADE COMMISSION DOCKET

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.

Good Value Bargain House, 643 E. 9th St., New York, engaged in buying and selling new and old, worn and previously used articles of clothing, including dresses and overcoats, is charged in a complaint with violation of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act. (5034)

Mid-West Drug Co., Inc.—A complaint has been issued charging Mid-West Drug Co., Inc., Fort Wayne, Ind., and its officers, J. R. Dale and W. O. Duane, with misrepresenting the therapeutic properties of Ju-Van, advertised as a treatment for obesity, and with failing to reveal in advertisements that use of the preparation may be injurious to health. (5036)

Peggy Shop, 1412 Chestnut St., Philadelphia, selling women's clothing, is charged in a complaint with violation of the Wool Products Labeling Act of 1939, and the Federal Trade Commission Act. (5035)

CEASE AND DESIST ORDER

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

Utilities Engineering Institute, 1314 Belden Ave., Chicago, has been ordered to cease and desist from representing that students who complete its correspondence courses of instruction in refrigeration, air-conditioning and welding qualify as experts in those fields and have unusual opportunities for employment. (4532)

STIPULATIONS

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

Thomas W. Dunn Co., 546 Greenwich St., New York, selling and distributing various products, has stipulated that in connection with the sale and distribution of food gelatine it will cease and desist from representing that it makes or manufactures any such product unless it actually owns and operates, or directly and absolutely controls, a plant or factory wherein is made any and all products sold or offered for sale by it under such representation. (3702)

Dwarfies Corporation, Council Bluffs, Iowa, selling and distributing a breakfast cereal designated "Dwarfies Wheatmix," has stipulated to cease and desist from the use of any statement or representation the effect of which tends to convey the belief or impression that the product can be depended upon to provide increased energy, vigor or "pep"; supply children with vim, vigor or vitality, or put color in their cheeks; promote growth or energy, benefit the nervous system, improve the appetite, or result in strong nerves or nerve strength.

It also agrees to discontinue representing that the product, due to its iron or copper content, makes "red blood" or is a blood builder, or that it contains iron or copper in such significant or substantial amount as to render the product of therapeutic value in the treatment of any type of anemia. (3704)

Fusion Engineering, 1836 Euclid Ave., Cleveland, Ohio, and conducting an experimental and research laboratory for the development of formulas for solders to meet specific industrial needs, has stipulated that, in connection with the advertising, sale or distribution of its products in commerce, it will cease and desist from use of the words "Silver Fuse" as a brand name for the products; and from use of the word "silver" in any way as descriptive of said products, so as to imply that they are composed of silver. If the products are composed of silver in substantial part, and the word "silver" is used to designate such silver content, then the word "silver" whenever used shall be immediately accompanied by some other words printed in type equally as conspicuous so as to indicate clearly that the product is not composed of silver or of silver in excess of the quantity actually contained therein. (3706)

Miller's Furs, Inc., 1235 G St., N. W., Washington, D. C., selling and distributing furs and fur garments, has entered into a stipulation in which it agrees to cease and desist from using the words "Civet Cat" or words of like meaning, either alone or in connection with other words, to describe furs or fur garments made from the peltries of little spotted skunks or any peltries other than civet cat peltries; the word "Mink" or other word of like meaning to describe furs made from rabbit or muskrat peltries or peltries other than mink peltries; the word "Sable" or other word of like meaning to describe or refer to furs made from rabbit, muskrat or any peltries other than sable peltries; the word "Beaver" to describe garments made from rabbit peltries or peltries other than beaver peltries; the word "Seal" or other word or term of like meaning to describe or refer to furs or fur garments made from rabbit peltries or any peltries other than seal peltries; the word "Caracul" to describe furs or fur garments made from kid peltries; or the word "Marmink" or other word connoting mink to describe furs or fur garments made from marmot peltries or any peltries other than mink peltries; unless each of the foregoing words or terms is compounded with the word "Dyed" and, when so compounded, is immediately followed in equally conspicuous type by the true name of the fur. (3701)

Northern Research Industries, 402 East First St., Dayton, Ohio, selling cosmetic preparations designated "Vita-Fluff," "Lovili" and "Glamour," has stipulated to cease and desist from representing that Vita-Fluff adds natural sheen or any sheen or luster to the hair; that Lovili is not similar to Vita-Fluff or that they are not identical except for a small content of synthetic oil added to Lovili; that Lovili creates a true sheen which will last indefinitely or for any longer time than that produced by ordinary oil shampoos; that Glamour is made from actual lemon, or that, as an acid-free product, it may be relied upon to accomplish results equivalent to those obtained from a lemon rinse. (3699)

Pharmaceutical Products Co., Inc., 480 Lexington Ave., New York, selling and distributing electrically operated shaving devices called "Roto-Shavers," has stipulated to discontinue use of the statement "Thousands have been sold for \$18.75" and from use of any statement or representation which may convey the belief that the product is of an indicated value in excess of what is actually the fact, or that it has been regularly sold for a stated amount which is fictitious or in excess of the amount for which it has been customarily sold in the usual course of business. (3707)

Plato Training Service and formerly as Plato Institute, 15224 Plato Ave., Cleveland, Ohio, engaged in the sale and distribution of correspondence school courses of home study intended to assist students to pass civil service examinations, have stipulated to cease and desist from use of the word "Institute" as part of the trade name under which they carry on their business and from use of other words implying that the business conducted by them is an organization for the promotion of learning, such as philosophy, art or science, and has equipment and faculty such as to entitle it to be designated an institute; from referring to any persons as "President" and "Secy. Treas." of Plato Training Service and from any other representation which may convey the belief or impression that the business is incorporated; and from representing that a course of instruction or enrollment in the school

conducted by them is a condition precedent to qualifying for a civil service position or that subscription to or completion of such course or any other home study course of instruction is a prerequisite for success in passing civil service examinations. (3703)

Morris Schwartz Corp., 363 Seventh Ave., New York, engaged in the sale and distribution of furs, has stipulated to cease and desist from use of the words "Menton Beaver", "Beaver" or words of like meaning, either alone or in connection with other words, to describe furs or fur products made of other than beaver peltries; from use of the words "Hudseal Sealine", "Norm. Sealines" or other words or terms to describe furs or fur products made of peltries other than seal peltries, and from use of the word "Persian" or any other word of like meaning to designate furs or fur products made of peltries other than true or pure bred Persian lamb peltries, unless in each case the word or term is compounded with the word "dyed" or the word "processed", and, when so compounded, is immediately followed in equally conspicuous type by the true name of the fur. (3705)

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National Association of Broadcasters

1760 N STREET, N. W. * * * * * WASHINGTON 6, D. C.

September 3, 1943

SPECIAL LEGISLATIVE BULLETIN

No. 15

New York City Hearings of the Select Committee Sub-Committee to Investigate the Federal Communications Commission

Representative E. E. Cox sitting for the House of Representatives, Seventy-Eighth Congress.

(The following reports are written in news style in digest form because the volume of material transcribed has grown to proportions beyond the means of NAB to reprint verbatim. The digest is objective and contains the full sense of each day's hearings. Should any station manager wish the full transcript of the hearings, information as to cost may be obtained from Althea Arceneaux, Shorthand Reporter, 1060 National Press Building, Washington, D. C.)

TUESDAY, AUGUST 17, 1943

(Representative E. E. Cox sitting as the Select Committee Sub-Committee.)

Several letters concerning foreign language broadcast stations, analyses and the file on the application for transfer of ownership of station WOV were entered on the record by Counsel Eugene Garey of the Committee.

A letter from J. P. Warburg, of the Coordinator of Information, to Alan Cranston, OFF (which preceded OWI) dated March 13, 1942, was entered on the record and concerned Mr. Warburg's suggestion that WOV was about to be sold by the Bulova people to an "undesirable" owner and that the probable way to stop the sale was to block it when the new owners apply for an FCC license.

James Alfred Guest, attorney, FCC, took the stand.

Mr. Garey questioned Mr. Guest about his traffic with Ralph Weil, general manager of WOV, whom Mr. Garey labeled as one of Mr. Guest's "informers." Mr. Garey asked about certain personnel on WOV and other stations, including the Luotto brothers, with the view to establishing that Mr. Guest had the "help" of station WOV personnel in obtaining information for FCC. Mr. Guest said that such information was sent to FCC in Washington and not to him. One such 15-page "report" was a

criticism of station WOV sent to FCC by a WOV employe.

The investigation of George Brunner, of station WBNX, by Mr. Guest's offices was next taken up. Mr. Brunner, as related in previous hearings' testimony, had been put off the air in June, 1942, at the suggestion of Lee Falk of OWI and in January, 1943, Mr. Guest began his investigation, which determined that Mr. Brunner was not connected with any subversive organization. Mr. Guest insisted, under persistent questioning by both Mr. Garey and Representative Cox, that he was told to investigate Mr. Brunner by FCC at Washington and he did as he was told.

Guest Is On the Spot

When the questioning of Mr. Guest got around to asking him about material in the FCC files, Leonard Marks and Nathan David both objected that the files were confidential and the witness was so warned by them, with Representative Cox overruling their objections and ordering the witness to testify.

Mr. Guest refused.

Subsequent questioning on Mr. Brunner revealed that Mr. Guest's investigation was thorough, but that nothing was established to show Mr. Brunner was connected with subversive agencies in any way. Repeated insistence of Representative Cox and Mr. Garey for Mr. Guest to an-

swer the question "what legal jurisdiction did the Commission (FCC) have over Brunner?" finally resulted in Mr. Guest answering that the Commission was interested in Mr. Brunner because he was employed in a non-broadcast capacity by WBNX and that there were rumors about Mr. Brunner's affiliations with subversive organizations.

Mr. Garey read a memorandum dated March 20, 1942, from Lee Falk to Alan Cranston, both of OWI, in which Mr. Falk wrote "the following is an initial list of the people we believe should be removed from the radio stations: WBNX, George Brunner, Lido Belli, Carl Heinz (Jander), and Herbert Oettgen; WHOM, Maria Troja, Andre Luotto; WOV, Rino Negri, Ignio Mannechai."

The memorandum further suggests that "suspicious personnel be banned from all broadcasting stations."

Mr. Garey established that Short Wave Research, Inc., through Marya Blow, also acted as "informer" for Mr. Guest and Miss Blow was one of the persons who reported unfavorably to Mr. Guest about Mr. Brunner.

'Combination of Stooze and Pimp'

Manfred Abraham, of WBNX, whom the FCC New York office thought could be "helpful" in getting information on Mr. Brunner, was characterized by Mr. Garey as another "informer" and Representative Cox defined "informer" as a combination of "stooze and pimp."

Mr. Garey continued to ask Mr. Guest about several other "informers" he had used from various New York area foreign broadcast stations, including one man who was found to be an alien, a syphilitic and a dope addict, who was another person who apparently had "information" about Mr. Brunner.

Mr. Guest said they dropped the dope addict "like a hotcake" when they learned his past record.

Upshot of a long series of questions on the dope addict and information concerning Mr. Brunner was that Mr. Brunner was finally cleared by FCC and FCC Counsel Denny so notified station WBNX.

The renewal of station WBNX's license, due to expire June 1, 1943, was next discussed and Mr. Garey drew from Mr. Guest that the question of renewal hinged on Mr. Guest's report of his investigation of WBNX programs and personnel, an investigation Mr. Garey declared was illegal and usurped the powers of the Office of Censorship.

After Mr. Guest's letter of June 21, 1943, "dropping" the dope addict and devaluating the dope addict's information on Mr. Brunner to zero, WBNX was granted a permanent license.

Dorothy Waring, director of investigation, Anti-Nazi League, New York, was called to the stand.

Questioning developed around Mario Buzzi, identified as an investigator for the Anti-Nazi League, with Mr. Garey attempting to find out if Mr. Buzzi had been given funds to leave New York on or about July 8, 1943, when he was last seen in New York by Miss Waring.

Miss Waring Doesn't Know

Mr. Garey soon dispensed with Miss Waring, commenting that it was obvious she didn't have the information about Mr. Buzzi that the Select Committee counsel wanted. He asked Miss Waring to have Professor James Sheldon, Anti-Nazi League director, appear at the next day's hearings to testify.

Andre Luotto took the stand.

Mr. Garey asked Mr. Luotto about a meeting he had had with Arnold Hartley of WOV in Mr. Weil's office at WOV with Mr. Weil present. During this meeting Mr. Hartley assured Mr. Luotto that he (Hartley) had nothing but the highest regard for S. Luotto, Andre's brother, and wanted A. Luotto to know that. At this meeting, which took place about May 5, 1943, A. Luotto said Mr. Weil didn't say a "single word."

A. Luotto then made a plea to the Select Committee that he would like to know "what I am accused of in the files of the FCC and have an opportunity to answer each and every one of those dastardly lies." Representative Cox said the Select Committee could not give A. Luotto that satisfaction.

Stefano Luotto was called to the stand.

Mr. Garey extracted S. Luotto's biography and the admission that he was not pro-Fascist or pro-Nazi. S. Luotto came to New York from Italy in 1931 and became the first commercial broadcaster in Italian in that city; associated with his brother in the Commercial Radio Service. He went to Chicago in 1937.

S. Luotto testified that on November 2, 1942, John Dyer of station WGES called him into the station office and told him he didn't "have the right kind of friends in Washington" and that the FCC wanted him put off the air, giving no reason.

S. Luotto Is 'Naive'

S. Luotto told Mr. Dyer that he "had a serene conscience" and that FCC would be "anxious to right a wrong" in his case. Mr. Dyer, so S. Luotto testified, told S. Luotto he was "very naive."

Mr. Dyer told S. Luotto that Nathan David of FCC told WGES to get S. Luotto off the air or the station would not get its license. Mr. Dyer then asked S. Luotto to "kindly tip toe out of the station," according to the testimony, and S. Luotto "tip toed" out that very afternoon and was off the air.

The balance of the S. Luotto testimony corroborated that related in previous hearings by Andre Luotto, with the exception of a complete explanation of what the Dante Alighieri Society of Chicago was, and according to S. Luotto, it was a very harmless society devoting its meetings to lectures on art, literature or music with singing concerts sometimes interspersed.

S. Luotto did inject the startling comment into the hearing that Gene Dyer, co-owner of WGES, during a conference with the Luotto brothers in Chicago on S. Luotto's situation referred to dealing with a combination like Hartley-David is like "having a pissing contest with a skunk." Representative Cox attempted to have the witness "soften" the language, but S. Luotto stubbornly insisted that was what Gene Dyer said and so the chairman let it go.

When questioned about his citizenship, S. Luotto said he didn't want to take out his citizenship papers until he was absolutely sure his full allegiance to the United States could be sworn to as the oath of citizenship requires. S. Luotto took out his citizenship papers in June, 1941, having satisfied his conscience that he could renounce all ties with Italy, so he testified.

WEDNESDAY, AUGUST 18, 1943

Giuseppe Lupis, Brooklyn, N. Y., was called to the stand.

Mr. Garey questioned Mr. Lupis on his background and work in Italy, France and the United States prior to Mr. Lupis' assuming the job as censor and monitor at station WHOM in "40 or '41." He came to the U. S. twice, once in 1926 as a visitor, leaving to return to France, then re-entering the U. S. in 1929 as a grocery store operator, leaving in 1935.

He returned in 1936 and in 1941 was employed by OWI as an overseas broadcast announcer. He also published the Italian magazine, *Il Mondo*, in addition to working at WHOM, and with OWI. Mr. Lupis' WHOM employment first began in 1938. Mr. Garey questioned him about his relations with Alan Cranston and Lee Falk and Mr. Lupis said the two OWI men requested information from him about Italian broadcasts and personnel.

Mr. Lupis also testified he was a consultant to Mr. Lang of WHOM on matters of hiring and discharging certain personnel, stating that he (Lupis) would give Mr. Lang the "facts" and Mr. Lang would hire and fire.

A long discussion concerning Mr. Lupis' duties at WHOM ensued in which it was established he acted as script writer, commentator, censor, monitor and announcer on Italian programs.

Mr. Garey had considerable difficulty in getting the witness to answer questions concerning what Mr. Lupis' contacts were and the subjects discussed among government agencies, including Army and Navy intelligence. It finally developed that Mr. Lupis discussed quite a number of things from possible sabotage committed by Italians in American Navy yards to foreign language broadcast personnel. It also was made apparent that Mr. Lupis had a great deal of "facts" about many alleged pro-Fascists, and that when he ascertained these facts he "exposed" the people involved.

Lupis Denies Getting Paid by FCC

On being questioned about being paid by FCC for doing some foreign language translation, Mr. Lupis explained he had signed the contract for the work as publisher of *Il Mondo*, but that one of his staff members had received the pay and nothing ever was paid to Mr. Lupis by FCC. Mr. Lupis further said that in 15 years of exposing Fascists he had never been paid by anyone to do that.

Testimony next revolved around Mr. Lupis' editor, Carlo A. Prato, with Mr. Garey attempting to establish that Mr. A. Prato was a Communist and had been "kicked out" of Switzerland because of that. Mr. Lupis termed these allegations "lies."

Another series of questions about whom Mr. Lupis knows in New York foreign language broadcasting and FCC and OWI circles followed, with Mr. Lupis admitting knowing few persons named by Mr. Garey. Most persons named have been mentioned throughout the New York Select Committee hearings to date.

Mr. Lupis steadily denied getting anyone "jobs" with OWI, FCC or foreign language stations.

The matter of the article in *PM* against Andre Luotto came up and Mr. Lupis remembered reading it and also discussing it with *PM's* editor and Jerry Franken, who wrote the story. Mr. Lupis denied giving Mr. Franken

any information contained in the story, and insisted everything he published in *Il Mondo* was the truth. An article he published in *Il Mondo*, which concerned A. Luotto, Mr. Lupis said was reprinted in part from a San Francisco Italian paper, which caused Mr. Garey to ask about the truth of the San Francisco material and Mr. Lupis said he "assumed" the material to be true.

James H. Sheldon Takes Stand

James H. Sheldon, administrative chairman, Anti-Nazi League, was called to the stand following luncheon recess.

Mr. Garey questioned Mr. Sheldon on his background and determined that he had joined the Anti-Nazi League in 1938, prior to which he had been on the faculty of Boston University.

A history of the League, which was organized in 1933 to boycott German products, was next taken up, with Mr. Sheldon admitting that propaganda became the chief function of the League about 1936.

The League maintained a staff, which included investigators and Mr. Sheldon testified his office has built up a considerable file on various people in all parts of the U. S. A.

Mr. Sheldon further testified that transfer of some of this information was made to government agencies, including the FCC, most information dealing with activities of the German-American Bund and people connected with it.

Investigations made by the League stemmed from its own sources and not requests from outside agencies, Mr. Sheldon said.

Lengthy questioning concerning Mr. Buzzi, who was employed as an investigator by the League, then occurred, with Mr. Sheldon testifying along similar lines taken by Miss Waring at the previous day's hearing (August 17), in answer to much the same questioning given Miss Waring.

Mr. Sheldon was excused after he had promised to tell Mr. Buzzi to appear before the Select Committee the next time Mr. Sheldon heard from Mr. Buzzi, who apparently had gone south to convalesce from an illness.

Mr. Lupis took the stand again.

Mr. Garey recalled to him that he had said in the morning session that he had never made any reports on radio personnel to the FCC, but when Mr. Garey mentioned the name of Salvatore Nifosi, Mr. Lupis remembered he had made a report about that man.

Lupis 'Not Recollect'

When Mr. Garey then read a memorandum from the FCC files concerning Andre Luotto and quoting Mr. Lupis as the source, Mr. Lupis "not recollect" telling FCC anything about Mr. Luotto, although certifying that statements in the memorandum were true. The day's hearings closed with Representative Cox ordering Mr. Lupis to return the next day and to bring all correspondence with FCC and OWI officials he had, even though Mr. Lupis said he had destroyed most of his letters and kept no files.

THURSDAY, AUGUST 19, 1943

Mr. Lupis resumed his testimony.

Questioning opened on Mr. Lupis' employment at OWI and he testified he had worked for OWI for several

months, but had been paid by Short Wave Research, Inc. He also denied ordering a young Italian lawyer friend of his to monitor Italian programs over station WBNX, but admitted suggesting that his friend "give him a report" if he "had time to listen."

Mr. Garey asked Mr. Lupis what business it was of his what a competitive station broadcast and Mr. Lupis said he had fought Fascist propaganda for 27 years.

Letters from Lee Falk and Alan Cranston to Mr. Lupis, commenting on "cooperation" and "plans" extended OWI and FCC by Mr. Lupis were read into the record by Mr. Garey. The letter of Mr. Lang to Andre Luotto about the meeting they had with Mr. Lupis with reference to the *PM* article was read to Mr. Lupis, who confirmed its text substantially (letter is mentioned in previous hearings in A. Luotto testimony), but said most statements in the letter "were not exact."

Mr. Lupis volunteered the flat statement that the Dante Alighieri Society was the "most powerful Fascist agency in the United States," in testimony concerning his comments about the Luotto brothers.

Lupis 'Suggests' to Lang

Mr. Garey, after exhaustive questioning, finally drew from Mr. Lupis the fact that he suggested to Mr. Lang that S. Luotto be barred from broadcasting until the Luotto libel suit against Mr. Valenti of LA PAROLA was concluded, even though the Office of Censorship officially had cleared S. Luotto.

Mr. Lupis also said he advocated getting people off the air who had pro-Fascist sympathies by any possible legal method, even though direct or indirect.

Following luncheon recess, Arnold B. Hartley, program director, WOV, took the stand.

Biographical data revealed that Mr. Hartley began work at WOV on May 2, 1943, having previously worked at station WGES, with a total of 13 years' radio experience altogether.

Testimony then embraced Mr. Hartley's meeting August 2, 1943, with Mr. Guest (FCC). The two discussed Mr. Garey's pre-hearing questioning of Mr. Guest about Mr. Hartley with the principal point being whether Mr. Hartley was trying to "masquerade as a non-Jew." Mr. Guest then told Mr. Hartley that Nathan David was coming in town and would Mr. Hartley like to meet Mr. David? "No," Mr. Hartley said.

Not deterred, Mr. David called Mr. Hartley at home that same evening, Mr. Hartley testified. Mr. David referred to the letter Mr. Hartley had written to Dr. John Dyer (see Dyer testimony in previous hearings) on October 28, 1942, with a view to refreshing Mr. Hartley's recollection of the meeting with him (David) in Washington on the day of the letter, points of which were substantially as Mr. Hartley had written them to Dr. Dyer. Mr. Garey attempted to establish the point that Mr. David's call to Mr. Hartley was for the purpose of influencing Mr. Hartley's possible testimony before the Select Committee, a supposition Mr. Hartley agreed had "occurred" to him.

In October, 1942, at a meeting in Washington of the Foreign Language Radio Control Committee, Mr. Hartley said he had talked with A. Luotto and suggested to him that A. Luotto get up an Italian propaganda program.

Hartley Sees Spingarn

Mr. Hartley said that after the meeting in October, 1942, he attempted to find out why WGES was still on a temporary license and he was referred to Mr. David or Mr. Spingarn by WGES attorneys. Mr. Hartley saw Mr. Spingarn and asked him about the license, receiving the information that the license was being held up because of some complaints about Stefano Luotto and Remo Conti. It was brought out that Mr. Spingarn represented these two men as being alleged to be pro-Fascist.

Mr. Garey then tried to establish that at the committee meeting Mr. Spingarn had by implication warned station operators that FCC could use its licensing power to discipline stations indirectly. Mr. Hartley denied this implication, by testifying he could not recall anything like that.

Mr. Hartley went to see Mr. David following the talk with Mr. Spingarn. The discussion with Mr. David is contained in the letter Mr. Hartley wrote to Dr. "Jack" dated October 28, 1942. (See previous hearings—Dyer testimony.) Mr. Hartley confirmed the substance of this letter to the effect that if WGES were to stay on the air S. Luotto would have to get off—or else.

In trying to draw out Mr. Hartley as to what the opinion of the radio industry about the FCC was, Mr. Garey led questioning along lines that station operators felt FCC was motivated by "conditions of favor or disfavor" and Mr. Hartley parried these attempts by saying he was not familiar enough with industry feelings.

The only thing Mr. Hartley had against S. Luotto, testimony shows, was that S. Luotto wouldn't use OWI "canned" materials on newscasts—nothing else. Mr. Hartley said Lee Falk addressed the foreign language broadcasters of Chicago in October, 1942, and told them to use OWI material, both transcriptions and news material, and Mr. Garey got from Mr. Hartley the admission that S. Luotto's newscast was sponsored and, so long as station policy was followed, the station did not try to tell sponsors what to put in their programs.

Garey Says He Is 'Timid'

In lengthy questioning of Mr. Hartley to determine his feelings about OWI transcribed Polish programs, Mr. Garey said he would not say anything derogatory to OWI as he was a "very timid person." Mr. Hartley said OWI was a better judge as to whether Polish anti-Nazi programs were a waste of government money than he was, after Mr. Garey led questioning in that line.

Mr. Garey returned to Mr. Hartley's report to the Dyer brothers on the occasion of his return from the Washington visit with Messrs. Spingarn and David. It was recorded that Messrs. S. Luotto, Conti and Alfedì were summarily put off the air at WGES the day after Mr. Hartley's return, an action taken to "avoid unpleasantness" with FCC.

At this juncture Mr. Hartley said the fear of losing his license should be in every broadcaster's mind and such fear is "wholesome" for the broadcasting activities of a station. He admitted that soon after the three men had been discharged WGES received its permanent license and further said this was a result of the firings as he saw it.

Mr. Garey transferred questioning to the meeting Andre Luotto had with Gene Dyer and Mr. Hartley in Chicago

in December, 1942, in which the previously-mentioned Hartley "melodramatic" performance took place. (See A. Luotto testimony.) Mr. Hartley said he could not recall details of the meeting, but confirmed A. Luotto's report as being substantially accurate.

Consideration of the program idea Mr. Hartley had shortly after going to WOV of counter-action against Italian propaganda broadcasts from Italy by answering such broadcasts shortly after they were aired was next taken up. Mr. Hartley broached this idea to Lee Falk and OWI helped Mr. Hartley with it, did the monitoring and furnished the scripts for the Bulova stations.

Service Not Exclusive

Mr. Garey pressed home questioning trying to establish that this program series was given exclusively to Bulova stations and to WGES in Chicago at the recommendation of Mr. Falk, but Mr. Hartley said that when OWI began furnishing the show it, of course, could not be exclusive and was sent to whomever requested it.

Referring to Mr. Hartley's private and confidential statement to Alan M. Becker, FCC attorney, about S. Luotto, Mr. Garey was told by Mr. Hartley that this statement was not authorized by him to be released to anyone but Mr. Becker or to be revised, yet Mrs. Shea "polished" it up and then notified Mr. Hartley. This revision was sent to the Office of Censorship and Mrs. Shea attached a note that it was made at Mr. Hartley's request, a statement Mr. Hartley testified was false as the revision had already been made when he first heard about it.

Mr. Hartley said he didn't remember telling Andre Luotto in New York that he (Hartley) the fine things A. Luotto's testimony said Mr. Hartley had said. (See A. Luotto's testimony.) Mr. Hartley also denied that Lee Falk told the foreign language broadcasters at the NAB War Conference in Chicago that they would lose their license if they didn't clean up their stations.

Mr. David rose at this point to ask Representative Cox if the half dozen people whom the testimony had blackened the reputations of would be allowed to testify while the charges were fresh and the answer was given that these people would be given an opportunity to make answer in "due time."

FRIDAY, AUGUST 20, 1943

William Carlton Alcorn, vice-president and general manager of station WBNX, took the stand.

Facts concerning Mr. Alcorn's background and the station were entered on the record. In discussing awards given WBNX for outstanding operation in the "public interest, convenience and necessity," Mr. Garey asked Mr. Alcorn what yardstick was used in measuring "p.i., c. and n." and Mr. Alcorn answered "I'll bite," which was taken to mean he didn't know.

Mr. Alcorn said further, in answer to Mr. Garey's questioning, that Congress should define the terms "p.i., c. and n." so that station managers would know exactly what is meant, or eliminate it entirely from the Radio Act and substitute statutory "norms" or safeguards to guide the FCC in determining public interest.

Private enterprise cannot live under the present method of FCC operation, Mr. Alcorn stated flatly, in answer to a direct question by Mr. Garey.

It was brought out that in August, 1942, when WBNX was placed on a temporary license, it immediately suffered a severe cut in revenue as sponsors cancelled, because the license was only good for 30-day periods, and some of the WBNX personnel was under "a little cloud" as to their stability on the station.

Mr. Alcorn explained in detail the operation of his station, censorship of programs and made the point that since Pearl Harbor additional safeguards have been taken to protect the listener and the station from Censorship violations.

One complaint was made by the newspaper *PM* that on a program in German someone said "Hitler is God" and, furthermore, that *PM* was going to write to the FCC about it. Investigation proved the complaint was groundless, that someone at *PM* had only half-listened and got the wrong impression.

WBNX Checks with Recordings

By means of recordings, Mr. Alcorn said his station has a constant and reliable check on all foreign language broadcasts as sometimes persons complained even about the way music was played.

In June, 1942, Mr. Silver of FCC visited WBNX and obtained recordings of news programs broadcast by George Brunner, Mr. Alcorn testified. Mr. Brunner to date has been with WBNX 12 years, is an American citizen and well thought of by the station management, the testimony showed.

Mr. Alcorn said Mr. Brunner's removal from the air was the "most undemocratic thing I ever heard of; that he had no opportunity to justify or answer any complaints."

At the only meeting he ever had with Lee Falk—in June, 1942—Mr. Alcorn said Mr. Falk suggested that Mr. Brunner be taken off the air, giving no satisfactory reasons, but Mr. Brunner was thereupon taken off because Mr. Alcorn wanted to cooperate with the "wartime control board."

However, Mr. Alcorn did write to NAB president Neville Miller on June 19, 1942, relating all the facts concerning Mr. Brunner's dismissal, including the information that if Mr. Alcorn had trouble replacing Mr. Brunner to see Mr. Falk, who offered to recommend someone, and, in any event, who wanted to pass on anyone whom Mr. Alcorn did hire. Mr. Alcorn suggested in this letter that inasmuch as Mr. Falk had said that if Mr. Alcorn didn't comply with the request to dismiss Mr. Brunner, the Army might do something about it, that Mr. Falk's branch of the Office of Facts and Figures (preceding OWI) be formally endowed with authority of censorship, for which his department apparently was created.

FCC Press Release Refuted

(The following press release issued by Chairman Fly of FCC is herewith inserted because the testimony of Mr. Alcorn and insertions from FCC files made by Mr. Garey at this point concerns this release:)

"The FCC had nothing whatsoever to do with the dismissal of George Brunner as an announcer for Station WBNX.

"FCC's interviews with Henry H. Wolfgang had nothing whatsoever to do with the dismissal of Mr. Brunner.

"Mr. Brunner was dismissed in June 1942—

one whole year before any representative of FCC ever met Henry Wolfgang.

"It was in May 1943—one year after the Brunner dismissal—that Wolfgang came to the FCC legal office in New York and told the sensational story concerning alleged Nazi radio activities. FCC agents in conjunction with the FBI investigated his charges immediately. They discovered the New York police record which listed Wolfgang as a potential spy with definite indications of working for the Gestapo, and his history as a narcotic addict, and dropped the man at once.

"The record will substantiate each of these facts."

In answering the above press release, Mr. Garey placed in the record letters and memoranda from FCC files which showed FCC personnel to be familiar with and to be compiling material on Mr. Brunner and other foreign language station personnel. A Mr. Clift from the FCC also investigated the files of WBNX in June, 1942. Mr. Alcorn said he took the matter up with Censorship and Mr. Brunner was cleared by OC.

Mr. Brunner was also cleared by Mr. Guest and Mr. Fenner of FCC when Mr. Alcorn brought the matter to their attention in the spring of 1943, testimony indicated.

In a letter from his Washington attorneys dated February 6, 1943, giving Mr. Alcorn reasons why he was having trouble with his license, several points were emphasized, the principal one being that Mrs. Hilda Shea of FCC was strongly of the opinion that foreign language broadcasts during war, even including musical programs, should be actively pro-Allied and so propagandized. It appears from this letter that Mr. Alcorn was derelict in his management of his station in allowing some passivity to creep into foreign language broadcasts and, therefore, his license was involved. The programs by Lido Belli were specifically cited as not being "active" enough on the pro-Allied propaganda side.

Charges in Letter Inaccurate

The letter further cited that two other points on which Mr. Alcorn might be cited by FCC (according to Mrs. Shea) were that scripts were not always submitted in advance for programs (by broadcasters to WBNX) and that broadcasts were not monitored "on the air."

Mr. Alcorn termed these charges inaccurate.

The attorneys summed up their letter by urging Mr. Alcorn to require full and complete scripts in advance for all programs, and to have all programs monitored "on the air" by qualified linguists. With regard to Mr. Belli they made no recommendation except to mention that "your license is in jeopardy because of him." However, they did "suggest" two courses—either dispense with Mr. Belli entirely or try to compromise with Mrs. Shea's views by making the station personnel on foreign programs pro-democratic and to retain Mr. Belli to service commercial accounts, but not to broadcast or to select program material.

OC cleared Mr. Belli when it investigated him, the letter reported.

Mr. Alcorn said that when he received this letter he

called Reed T. Rollo (the attorney who wrote it) and said: "this is about the most unusual letter I have ever received from you, and I still can't quite understand it. If you feel that way about it, you get right up out of your chair and go over to the Commission and set our license down for a hearing; we are perfectly willing to go through with that."

The license was granted.

It was revealed by Mr. Garey through reading letters into the record that Mr. Falk had recommended that a man named Ernest Angel, a German language broadcaster, see Mr. Alcorn for possible employment. A letter from Mr. Alcorn to Mr. Falk in June, 1943, pointing out that Mr. Guest had cleared Mr. Brunner for broadcasting and asking some disposition from Mr. Falk was read and Mr. Alcorn said he had received no answer to it.

Another Letter Unanswered

Mr. Alcorn's letter to Mr. Guest of March 17, 1943, requesting a bill of particulars on any "shortcomings" of WBNX in view of the investigations of WBNX conducted by Messrs. Silver and Clift also remained unanswered, Mr. Alcorn said.

Testimony next turned to Lido Belli, whom Mr. Alcorn characterized with the best recommendations. Mr. Belli was interned shortly after Pearl Harbor as an alien and was released shortly thereafter when Mr. Alcorn signed with immigration authorities as sponsor for Mr. Belli.

In August Mr. Alcorn was called back to Ellis Island and asked to sign a new parole agreement which stipulated that Mr. Belli was to cease all broadcasting or control or preparation of broadcast material. This stipulation was the "economic ruination" of Mr. Belli, Mr. Alcorn said. Mr. Garey said this stipulation was imposed after Mr. Falk had written the Department of Justice demanding Mr. Belli be interned for the duration.

Mr. Alcorn said he did everything he could to get the parole changed, getting a clearance from OC again after an intensive investigation by Mr. Richards of OC.

Correspondence between Mr. Alcorn and Mr. Belli's attorney and the Department of Justice relative to getting Mr. Belli's right to service his customers (he operated an ad agency) even if he could not broadcast was entered on the record. In October, 1942, the FBI said the matter was now in the hands of OC.

Letters also were introduced by Mr. Garey "in view of the constant thread that runs from the FCC to the OWI and from these offices through . . . Short Wave Research. . . ."

Letters from Alfonso Vanacore (Hugo Neri on the air), who had been discharged from Mr. Belli's employment because of the foreign language broadcast situation, to OC and OWI in which Mr. Vanacore asked clearance to get back on the air were read.

Mr. Garey then returned to the FCC investigations of Mr. Alcorn's station files.

'Everybody' Investigated

FCC began investigating his station completely in the spring of 1943, Mr. Alcorn testified, and "everybody" at the station and who ever broadcast on it in a foreign language was investigated, including Mr. Alcorn and his executive staff. Investigations included backgrounds and foreign political and native leanings of the people and all operations of the station.

Copies of IL MONDO, which attacked WBNX as an outlet of "Fascist hokum," were put in the record by Mr. Garey, after which Mr. Alcorn was excused from the stand.

Luncheon recess over, Mr. Garey introduced a letter dated June 3, 1942, from Chairman Fly to Arthur Simon, Foreign Language Broadcasters Wartime Control chairman, which stated if the control code were to be effective 100% cooperation must be had from foreign language broadcasters.

On June 5, 1942, Mr. Simon wrote to Mr. Alcorn requesting a contribution toward helping running the Control Committee. On June 8, Mr. Alcorn wrote Mr. Simon, returning a copy of the Control Code, in which Mr. Alcorn asked pointed questions as to who gave the Control Committee a "mandate" over stations—FCC or OWI?

A letter dated June 9, 1942, from Mr. Hartley to Mr. Simon contained information that Mr. Hartley's impression of the Control Code did not jibe with copy of it he received—in fact, did not jibe to such an extent that Mr. Hartley tendered his resignation from Wartime Control saying that the Code was an arbitrary ruling infringing upon rights of managements and powers of government.

A letter from Gene Dyer, of WGES, to Chairman Fly dated June 10, 1942, indicated that Mr. Dyer thought Wartime Control was "running away with itself" and that WGES would sign only if Mr. Fly so recommended.

Neville Miller's letter to Mr. Alcorn dated June 13, 1942, mentioned a meeting of members of the NAB staff with OC and with Mr. Simon, Joe Lang and Harry Henshel of Wartime Control, in which it was decided the Control Committee should not dictate to stations, but should set up a code of cooperation.

More Letters

In October, 1942, Mr. Alcorn wrote Mr. Simon that WBNX would not participate in a meeting of Wartime Control at Washington because WT "has failed in its objective."

Edward Ervin's (WBNX employe) statement before the FCC (Fenner) in New York on February 24, 1943, was introduced by Mr. Garey. Mr. Ervin made the point that WBNX may have made some mistakes of omission because it is "human," but the station was operated with utmost conscientiousness and concern for its duties under its license, giving details on how the station controlled its programs and the personnel which appeared on them by thorough checking of this personnel over long periods of time.

Giulio Ascarelli, of station WHOM, was called to the stand.

The usual biographical questioning occurred, during which Mr. Ascarelli said he came to the U. S. A. in February, 1939, and applied for citizenship two weeks later. After trying to get work at Metro-Goldwyn-Mayer, for whom he had worked in Italy, he tried WHOM after hearing there was an opening there for an Italian language broadcaster. He looked in the telephone book for the station address, he said.

Mr. Ascarelli talked to Mr. Wilcox, who referred him to Mr. Amauli, director of Italian programs. Mr. Ascarelli got the job after several conferences with Mr. Amauli.

Mr. Ascarelli said his membership in the Fascist Party in Italy was for "practical reasons of working" and not political. He said he was suspected by the Fascist Party of anti-Fascist actions because he worked for an American concern. A quota visa was given him to come to America because he was Jewish, he testified.

Subsequently Mr. Ascarelli was employed by CBS and OWI, the latter work being paid for through Short Wave Research.

Aliens Can't Be Paid by U. S. A.

Because he was an alien, Mr. Ascarelli testified he had to be paid through Short Wave Research and not by a U. S. government agency.

Mr. Garey asked Mr. Ascarelli if he knew certain people (mentioning them by name) who have appeared in the hearings records and Mr. Ascarelli said he met Miss Keene of Short Wave Research, Mr. Tabet and Mr. Colombo of WOV and others after he came to America. He met Remo Nissin in Italy, he said.

Mr. Garey questioned Mr. Ascarelli about his duties as censor at WHOM, which are mainly that he compare the English text with the Italian translations in newscast scripts to see they coincide exactly.

It was revealed during questioning of Mr. Ascarelli that he was grilled by Mr. Fenner of FCC concerning possible Fascist activity at WHOM, or any persons there with Fascist leanings, and also as to his own background and family.

After further brief questioning on how Mr. Ascarelli got his visa (on a "break," he admitted) the hearings adjourned until Tuesday, August 24.

(The following letter was sent to the New York *Times* by Chairman Fly. It is dated August 19, 1943, and was printed by the New York *Times* on Sunday, August 21:)

TO THE EDITOR OF THE NEW YORK TIMES:

During the past three weeks the Cox Committee to investigate the Federal Communications Commission has held what it terms "hearings" in New York City. The *New York Times* has run substantial accounts of the local activity of this Committee. There are, however, other less publicized facts concerning the history and procedures of the Cox Committee, the knowledge of which is essential to any public appraisal of the Committee and its work.

I do not wish to go into the matter of the \$2,500 check Congressman Cox received from Radio Station WALB in Albany, Georgia, for "legal services" he purported to perform in connection with that station's application for a license from the Commission. This matter is now in the hands of the Attorney General and the facts are widely known to the public. The relation of that item to the origin of the investigation and the scurrilous remarks regarding the Commission which are made by the Congressman on the floor of the House even before the investigation began are likewise relegated to the background. At this juncture, however, one may well inquire as to the character of "judicial inquiry" which has developed from such a genesis.

The Congressional power of investigation is too essential an instrument for maintaining the health of our

body politic to permit it to be prostituted for personal vengeance. Since the earliest years of our Congressional system, investigations have been the most thorough means by which the Congress informs itself on crucial topics, in order to legislate wisely and remedy abuses. But to the extent that the Congressional power is diverted to the personal and political purposes of the investigators, the Congressional investigative power is impaired. The constructive force of such an inquiry can rise little higher than the judicial quality of the proceeding; and the quality of the Cox proceedings is at such a level that it must be understood and remedied if the future Congressional power of investigation is to enjoy the respect and public confidence to which it is entitled.

From its inception the Cox Committee and its Counsel have abandoned any attempt at objectivity or constructive accomplishment. The principle of a full and fair presentation of all the facts has been rejected. Suppressing the true facts, the Committee has sought the headlines by twisting and distorting meagre evidence carefully calculated to do injury to the Commission and its personnel. Careful design is all too apparent.

The Commission has never been permitted to answer the irresponsible charges made, to make any statement through counsel or to offer any document in evidence. The procedural controls of the Committee are exercised to the end that startling news will be created and its publication assured, while evidence reflecting upon the validity of the story is completely smothered. Thus after six months of "investigation" and seven weeks of "hearings," the Committee has still not afforded the Commission an opportunity to answer any of the charges or to get a word in edgewise.

The other day a reporter who I am sure is sophisticated enough to know his way around, asked me why it was that the wee, small voice of the Commission was never heard at these hearings. He remarked that he knew of the Commission's answer to at least one of the pettifogging charges made at the public hearing, and that he could not understand why the Commission did not speak up. It was shameful, he said, for the Commission to allow such a distorted record to stand. I agree with him, but there is nothing apparently that can be done. We have demanded without avail an opportunity to be heard. Our pleas for a hearing have continually been ignored.

Observers at the Committee hearings have seen the Commission's representatives silenced, their proffers of proof rejected, and even the fact that the proffer was made stricken from the record. They have noted the oft-repeated Edgar Bergen-Charley McCarthy act in which Cox and his Counsel exchange speeches carefully prepared to emphasize the point which they desire the press to accentuate. In the hearing room the Committee's own hired press representative seeks to spur on the reporters. Adjournments and recesses are utilized to grasp the headlines and, indeed, to smother countervailing statements.

This procedure has, indeed, been reduced to formal rules. Thus on July 6, the Cox Committee in meeting assembled was offered the suggestions of an expert headline-getter for the control of the Committee procedures. The next day the Committee's Counsel, no doubt apprehensive that some member of the Committee might not appreciate the importance of these rules, resubmitted them

in ready reference form. These rules are so revealing that I quote them verbatim,

"1.—Decide what you want the newspapers to hit hardest and then shape each hearing so that the main point becomes the vortex of the testimony. Once that vortex is reached, *adjourn*.

"2.—In handling press releases, first put a release date on them, reading something like this: 'For release at 10.00 A.M. EWT July 6', etc. If you do this, you can give releases out as much as 24 hours in advance, thus enabling reporters to study them and write better stories.

"3.—Limit the number of people authorized to speak for the Committee, to give out press releases or to provide the press with information to the *fewest number possible*. It plugs leaks and helps preserve the concentration of purpose.

"4.—Do not permit distractions to occur, such as extraneous fusses with would-be witnesses, which might provide news that would bury the testimony which you want featured.

"5.—Do not space hearings more than 24 or 48 hours apart when on a controversial subject. This gives the opposition too much opportunity to make all kinds of counter-charges and replies by issuing statements to the newspapers.

"6.—Don't ever be afraid to recess a hearing even for five minutes, so that you keep the proceedings completely in control so far as creating news is concerned.

"7.—And *this is most important*: don't let the hearings or the evidence ever descend to the plane of personal fight between the Committee Chairman and the head of the agency being investigated. The high plane of a duly-authorized Committee of the House of Representatives *examining* the operations of an Agency of the Executive Branch for constructive purposes should be maintained at all costs."

Although the rules themselves are the best evidence of the unfair character of this investigation, the vicious results their operation achieves invites a few supplemental remarks. For example, under Rule 1 the prejudgment of the Committee is made obvious. I would suppose an investigation of this kind would strive for the facts, not decide in advance of hearing what it wants "newspapers to hit hardest." Then, as if this decision were not enough, the Committee seeks to "shape" the entire hearing to this prejudged point. At this juncture the gavel falls. The decision to skirt around any facts that might prevent reaching a predetermined "vortex" is laid bare in Rule 1.

By Rule 3, the Committee "plugs leaks and helps preserve the concentration of purpose." Plugs what leaks? Preserves concentration of what purpose? Could it be that the Cox Committee has so shrewdly staged its proceedings to "grab the headlines" that it is now fearful lest its simultaneous secret proceedings and gagging of witnesses is likely to leak out? Or, is it merely fearful some of the facts which will refute the wild charges are likely to be anathema to the concentration of purpose?

Rule 5 is, of course, the most tainted of all. Not only are the "hearings" so-called, rigged to garner headlines and prevent any answer of Committee charges by the Commission but also the truth can be avoided if only the "opposition" can be outmaneuvered in press relations.

For the government agency investigated to be termed the "opposition" is something new. The press has a public trust to present the facts upon which the day's news is based; they as well as the Commission must have an interest in discouraging tactics of the Rule 5 type.

Rule 6 indicates to what degree "policy sits above conscience" in this Committee. Admonitions for short recesses to regain a lost position and to "keep the proceedings completely in control so far as creating news is concerned" seems hardly necessary in the face of the tight rules laid down. The rule shows that the Cox Committee is not taking any chances on losing complete mastery of the publicity and hence control of the "job" it started out to do on the Commission. Even though early warnings of what was to come were clearly visible still I cannot believe that Congress contemplated a procedure of this kind in its name.

Control of the public procedures and the publicity mechanism, while a hearing is denied, has been accompanied by complementary behind-the-scenes activity fitting into the same pattern. Early in the investigation the Commission discovered that various "witnesses" from the industry, from the Government, and from the Commission's own staff were being grilled by Committee Counsel in secret sessions. At these proceedings no member of the Congressional Committee has been present. The press and public have been kept similarly in the dark. Even the "witness," if not antagonistic to the Commission, has been refused permission to see or correct the transcript of his own testimony.

These "star chamber" proceedings by the employees of the Committee have been held in private hotel suites, in the private law offices of Committee Counsel and his personal associates, and in other places of seclusion. On occasion, the attendance of "witnesses" at such places before these Committee employees has been compelled by subpoenas issued without any authority of law. This unlawful procedure has been amplified by the Committee staff member purporting to place the witness under oath.

Under these circumstances the "witnesses" have been grilled for hours on end and full transcripts of the "testimony" taken. The Commission has never been permitted to purchase or even to see a copy of those transcripts.

Reprehensible as the taking of this secret testimony is, the manner in which it is finally used is worse. When the witness is very antagonistic to the Commission and is not able to be present at the public hearings, only the most damaging parts are read into the record; any countervailing statements even of the same witness are studiously suppressed. When the witness of the "secret session" is a Commission employee, only those statements which appear to be damaging because read out of context are uttered for the public record.

After the witnesses who might be fair and state the facts as they really are have been culled out by these secret sessions, the anti-Commission witnesses who are sufficiently disgruntled are finally called to public hearing, and their secret testimony is used to force them to go at least as far in "public hearings" as they were cajoled or threatened to go in the closed session. That even these witnesses, hostile as they are to the Commission, are reluctant to go this far on the public stand is evident from the record.

The press, the public, and the Commission have a right to an open, impartial, and objective investigation which will not merely admit but also will affirmatively seek the full and true facts. If the Commission has on occasion erred, let the facts be fully known and the errors promptly corrected. Meanwhile, let's have an end to hearings which reach a "vortex" and then adjourn, before the full facts may appear, secret hotel-room seances, gags, intimidation, and "conclusions" released to the press 24 hours or more before the hearings are held. My interest here is of small concern; the public and the Congress have much at stake.

/s/ JAMES LAWRENCE FLY
Chairman, Federal Communications Commission