



Reports

The NATIONAL ASSOCIATION OF BROADCASTERS

1760 N STREET, N. W.

WASHINGTON 6, D. C.

Vol. 13, No. 25, June 22, 1945

"Telling the World" Report No. 5

Local Originations in Support 7th War Loan

Period—June 3-9

(Excluding Network and National Spot)

Sing for the 7th	5-min ET	4,088
Treasury Salutes	15-min ET	3,193
Music for Millions	15-min ET	3,203
Treasury Songs	5-min ET	52
Buy, Buy Bonds	3-min ET	299
Spots	Live & ET	100,919
	2-min	2,163
	3-min	608
Programs	5-min	968
	10-min	422
	15-min	1,473
	20-min	21
	25-min	32
	30-min	587
	35-min	1
	45-min	20
	50-min	5
	1 hour	82
	1½ hours	14
	2 hours	15
	3 hours	5
	6¼ hours	1
	7 hours	1

No. 7 Report is due June 25

No. 8 Report is due July 2

Please send Reports Nos. 6, 5, 4, and 3 if you haven't

J. H. Ryan, President

C. E. Arney, Jr., Secretary-Treasurer

Lewis H. Avery, Director of Broadcast Advertising; Robert T. Bartley, Director of Government Relations; Helen A. Cornelius, Asst. Director of Broadcast Advertising; John Morgan Davis, General Counsel; Willard D. Egolf, Director of Public Relations; Howard S. Frazier, Director of Engineering; Dorothy Lewis, Coordinator of Listener Activity; Paul F. Peter, Director of Research; Harlan Bruce Starkey, Chief, News Bureau; Arthur C. Stringer, Director of Promotion.

"RADIO COMMERCIALS MEAN AMERICA", SAYS EISENHOWER

General Dwight D. Eisenhower, Supreme Commander of the Allied Forces in the European Theater, received a rousing reception from Washingtonians on Monday (18). In the course of his talk at the luncheon tendered him by Washingtonians at the Statler, General Eisenhower is reported in the Washington "Evening Star" as having said in part, "Were I a speaker instead of a soldier, there's one thing I would try to do today. I would try to describe the feelings of the soldier who returns home from the war after a long time.

"We have long been in countries where we didn't understand the language, and later when we were in Germany, not only were we unable to understand the language, but the faces were hostile and sullen.

"You don't know what it means to hear language that clicks sweetly in our ears—to hear commercials on the radio—and in all it means America to us.

"To all the men who have considered themselves almost expatriates, it means coming home. They have earned the gratitude of their country, and from what I saw today, they are going to have it."

BOARD PERSONNEL CHANGES

While no definite date has as yet been fixed for the next meeting of the Board of Directors, July 1 has been designated as the beginning of an "NAB year." At that time four new Directors-at-Large and three newly elected District Directors will assume Board membership.

Re-elected as Directors-at-Large for the ensuing one-year term were J. Leonard Reinsch, WSB, in the large station classification, and T. A. M. Craven, WOL, for the medium stations. Re-elected District Directors were: 1st District, Paul W. Morency, WTIC; 9th District, Leslie C. Johnson, WHBF; 11th District, E. L. Hayek, KATE; 17th District, Harry R. Spence, KXRO.

Newly elected Directors-at-Large are: Harold Ryan, WWVA, and Executive Vice President of the Fort Industry Company, in the large station classification; G. Richard

Shafto, WIS, in the medium station classification; and Matthew H. Bonebrake, KOCY, and Clair R. McCollough, WGAL, for small stations.

Mr. Ryan is well known to all in the industry, having been a member of the Board for four years representing the 7th NAB District (Kentucky, Ohio), and having served the past 14 months as NAB President.

Mr. Shafto is no stranger to the Board, having served as District Director for the 4th District (D. C., Virginia, West Virginia, North Carolina, South Carolina) from 1942 to 1944. He was born in Clifford, New Jersey, in 1904 but when 10 years old removed, with his family, to Richmond, Virginia, where he completed his high school education. He studied technical radio and advertising at the Radio Institute, New Orleans, Georgia Tech and Columbia University. In 1923 he built Station WQAT at Richmond and during 1924 and 1925 was a shipboard radio operator. There followed two years of service with Westinghouse in selling broadcast receivers. He then went with Graybar selling broadcast transmitters. In 1932 he became Manager of Radio Station WIS, Columbia, South Carolina. He is President of the Forest Lake Country Club and formerly a member of the Board of Kiwanis and the Chamber of Commerce of Columbia. He is former chairman of the Richland County Red Cross and served as OWI Regional Consultant. He is 4th District member and chairman of the NBC Stations Planning and Advisory Committee. He is an Episcopalian and was married in 1927. His hobbies are hunting, fishing and golfing. He succeeds Don S. Elias, WWNC, as medium station Director, Mr. Elias having declined renomination.

Mr. Bonebrake, who has long taken an active interest in NAB affairs but has not had previous experience on the Board, was born in Rolla, Missouri, in 1907. He graduated from the University of Missouri in 1929, following which he joined the advertising staff of the "Daily Oklahama." He then became commercial manager of WKY where he served from 1931 to 1938. He joined in the organization and became manager of KOCY in 1938.

Mr. McCollough, in addition to being Executive Vice President and Director of WGAL, occupies the same position with WKBO, WDEL, WORK, WAZL and WEST, and is General Manager of the Mason-Dixon Radio Group, comprising these stations. He previously served on the NAB Board and has for the past two years been a member of the NAB Legislative Committee. He has always taken an active interest in the affairs of the industry. He is a strong advocate of close cooperation and a united front within the industry as well as the obligation of all broadcasters to give the public consistent public service.

George D. Coleman, WGBI, replaces Roy Thompson, WFBG, as Director for the 3rd District (Pennsylvania, Delaware, Maryland). Mr. Coleman was born in Scranton, Pennsylvania in 1899. He was educated in Scranton Public Schools and Penn State Extension College. His first employment was with the Hudson Coal Company and later he accepted a position with the General Electric Company, Schenectady. In 1929 he became manager of Frank Megargee's radio store in Scranton and in 1932 was appointed General Manager of WGBI. He has been active in civic affairs and is First Vice President of the Scranton Rotary Club; Vice Chairman of the Radio Committee of the American Legion, Department of Pennsylvania; and Director of the Scranton Better Business Bureau. He is married to the former Ruth Lenore LaBar and is the father of a son, Ronald, aged 8. He resides in Clarks Summit, Pennsylvania.

James D. Shouse, WLW, returns to the Board as 7th District Director (Kentucky, Ohio). He previously served as Director-at-Large for large stations for two consecutive one-year terms. Mr. Shouse was born at Newcastle, Kentucky. He graduated from Miami University, following

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which he taught school for two years. He was then affiliated with "Liberty" Magazine for a term of four years and with CBS for six years. For one year following that he was with Stack-Goble Advertising Agency and left that position to assume the General Managership of CBS-owned KMOX at St. Louis, where he served for one year. He then became General Manager of the Crosley broadcasting activities where he has served since 1937. Under his management Station WLW has won 15 national awards. In 1943 he was sent to London as special consultant of the Office of War Information. He succeeds Nathan Lord of WAVE, who was not a candidate for re-election.

William B. (Bill) Smullin, KIEM, replaces Arthur Westlund, KRE, as 15th District Director, Mr. Westlund having declined renomination. Mr. Smullin was born in Pennsylvania in 1907. At an early age he removed with his family to the Hood River Valley at Parkdale, Oregon, where he received his early schooling. He attended Willamette University at Salem, Oregon, and graduated in the class of '29. He was manager and then editor of the college paper. Following his university graduation he became managing editor of the Southwestern Oregon News, Marshfield, and was successively advertising manager of the Oregon Grange Bulletin, Portland, and then became President-Manager of the Redwood Broadcasting Company (KIEM). He also operates the Coast Broadcasting Company and is Secretary-Treasurer and Director of the Southern Oregon Broadcasting Company (KUIN). He married Patricia Duell of Spokane and is the father of two children, Shirley, 12, and William David, 3. He is a member of the Executive Committee of the California Aviation Committee and past President of the Eureka Chamber of Commerce and the Kiwanis Club. He is Vice Chairman of the North California State Chamber of Commerce, Transportation Committee, and presently is Director of the Eureka Chamber of Commerce, Campfire Girls, Boy Scouts, Kiwanis, Red Cross, YWCA and USO. He is a member of the San Francisco Press Club, the Masons, Shrine, Eastern Star, NAA and an associate member of IRE. He is also Secretary-Treasurer-Director of the Santa Clara Broadcasting Company, San Jose, as yet non-operating.

In addition to these new faces upon the Board, Martin B. Campbell, WFAA, replaces Hugh A. L. Halff, WOAI, who resigned in March. Mr. Campbell had, previous to Mr. Halff's resignation, been elected as 13th District Director for the two-year term beginning July 1.

Fred W. Borton, President of WQAM, was elected by the Board to succeed John C. Bell, WBRC, who was compelled to resign as 5th District Director on account of ill health. Mr. Borton assumed his duties at the Board meeting held in Omaha in May. He had previously been elected by referendum vote to represent the 5th District for the two-year term beginning July 1.

Following is a complete list of the Board of Directors for the ensuing "NAB year," beginning July 1:

District 1	Paul W. Morency, WTIC Hartford, Connecticut
District 2	Kolin Hager, WGY Schenectady, New York
District 3	George D. Coleman, WGBI Scranton, Pennsylvania
District 4	Campbell Arnoux, WTAR Norfolk, Virginia
District 5	F. W. Borton, WQAM Miami, Florida
District 6	Hoyt B. Wooten, WREC Memphis, Tennessee
District 7	James D. Shouse, WLW Cincinnati, Ohio
District 8	John E. Fetzer, WKZO Kalamazoo, Michigan

District 9	Leslie C. Johnson, WHBF Rock Island, Illinois
District 10	John J. Gillin, Jr., WOW Omaha, Nebraska
District 11	E. L. Hayek, KATE Albert Lea, Minnesota
District 12	William B. Way, KVOO Tulsa, Oklahoma
District 13	Martin B. Campbell, WFAA Dallas, Texas
District 14	Hugh B. Terry, KLZ Denver, Colorado
District 15	William B. Smullin, KIEM Eureka, California
District 16	William B. Ryan, KFI Los Angeles, California
District 17	Harry R. Spence, KXRO Aberdeen, Washington

Directors-At-Large

Large Stations	J. Leonard Reinsch, WSB Atlanta, Georgia J. Harold Ryan, WWVA Wheeling, West Virginia
Medium Stations	T. A. M. Craven, WOL Washington, D. C. G. Richard Shafto, WIS Columbia, South Carolina
Small Stations	Matthew H. Bonebrake, KOCY Oklahoma City, Oklahoma Clair R. McCollough, WGAL Lancaster, Pennsylvania
Network—CBS	Frank Stanton, CBS New York, N. Y.
Network—NBC	Frank M. Russell, NBC Washington, D. C.

IN MEMORIAM

Judge Sykes

Judge Eugene Octave Sykes, who as much as any one man set the course of the American System of Broadcasting, passed away Thursday afternoon, June 21, at his Washington home.

"The Judge" as he was affectionately known throughout the radio industry was an original appointee to the Federal Radio Commission and the first Chairman of the Federal Communications Commission.

His constructive criticism during the early days of the industry did much to establish and encourage the growth of broadcasting as it now exists in America.

NAB PLEADS FOR OWI RADIO BUREAU

Harold Ryan, NAB President, appeared before the subcommittee of the Senate Appropriations Committee on Friday (15) to plead for the restoration in the budget of an item sufficient to maintain the Radio Bureau of the Domestic Branch of the Office of War Information.

By House action the OWI budget had been cut to \$17,000,000 as against a request for \$42,000,000. This drastic cut would, according to Elmer Davis, OWI Director, have necessitated the abandonment of the entire Domestic

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Branch, including the Radio Bureau. Mr. Ryan's testimony follows:

"This Association is a voluntary organization comprising the owners and operators of domestic broadcast stations. Of the 928 stations now in operation 649 are active members of NAB. They represent every type of broadcasting and stations of every power, large, medium and small.

"Prior to the declaration of the war this Association had adopted an industry policy under which all government programs and announcements were broadcast without any charge whatsoever. With the advent of the war a most chaotic condition developed in the matter of requests from government agencies upon individual stations for time. The several agencies had no means of knowing what requests for radio time were being made by other agencies with the result that demands were being made upon the stations for time far in excess of the amount that could be broadcast without destroying the effectiveness of the messages and producing confusion in the minds of the listeners. A situation developed under which the stations were unable to determine which of these requested programs and announcements should take precedence.

"This Association, therefore, assisted in the organization of a radio section in the Office of Facts and Figures which was the predecessor of the Office of War Information. When the Domestic Branch of the Office of War Information was created a Radio Bureau was made a separate unit.

"Through this Bureau an orderly method of handling the programs and announcements coming from various war agencies was perfected. Allocation plans covering both networks and individual stations were worked out. Requests from all of the war agencies are channelled through the Radio Bureau of the Office of War Information and decision is made as to the relative importance to the war effort of the material submitted. The stations and the

networks set aside a definite portion of their time daily for these OWI approved announcements and programs. Thus those matters which are first in importance are given priority over others of lesser importance.

"As a result a maximum of efficiency is achieved and the radio stations are enabled to conduct their operations with full knowledge of the amount of time they will be called upon to devote to war effort announcements and programs. In event the activities of the Radio Bureau are impaired or terminated for any reason during the war it is certain that an even more chaotic condition than that existing prior to the development of the Radio Bureau would result. Immediately all of those agencies which have been clearing their material through OWI will undoubtedly send it direct to the stations. The volume will be so great that no station can carry all of it and there will be a wide variance of opinion as to the order of importance of the items submitted.

"It is clear, then that such a condition would seriously impair the war effort. Unquestionably a tremendous contribution has been made to a better understanding by the public of the important war activities because of the coordination of war messages by the Radio Bureau of the OWI.

"It may be argued that such a clearing bureau could or should be maintained by the industry. This, however, would not be possible unless some means of compelling the compliance by governmental agencies with the bureau's decision was instituted. It is almost certain that compliance could not be gotten by voluntary action. The objections to compelling government agencies to clear material through a private agency are obvious.

"Some idea of radio's participation in the war information campaigns conducted by the Domestic Radio Bureau of OWI may be gained from an examination of the following tabulation:

Radio Participation in War Information Campaigns—1944

A Summary of Campaigns Conducted by OWI Domestic Radio Bureau with Time and Talent Contributed by Advertisers, Networks and Stations.

OWI FACILITIES	No. of Programs	No. of War Messages		Est. "Listener Impressions" Per Week	Est. Annual Value of Time & Talent (Net)
		Per Week	Per Year		
1. Network Allocation Plan.....	410	210	10,920	460,000,000	\$39,000,000**
Sponsored.....	260				
Sustaining.....	150				
2. Special Assignment Plan.....	...	50	2,575	95,000,000	8,449,000**
3. Nat'l Spot & Regional Network Allocation Plan.....	185	1,617*	84,048	24,000,000	2,774,000**
4. Station Announcement Plan:	(Stations)				
Network Affiliates.....	621	26,082	1,356,264	.....	.....
Independent.....	272	17,136	891,072	.....	.....
Total.....	893	43,218	2,247,336	63,000,000	15,861,000
5. Special Events.....	32	.....	.....	.....	57,600**
6. Women's Radio War Program Guide.....	1,000	.....	.....	.....	.....
Total.....	.....	45,095	2,344,879	642,000,000	\$66,141,600

*Represents number of station-broadcasts per week.

**Figures represent commercial value of time and talent of programs carrying OWI assigned messages.

Typical OWI Radio Campaigns in 1944

Campaigns	Weeks	Programs	Station Announcements	Est. Listener Impressions	Est. Value of Time & Talent
WAC Recruiting.....	43	600	112,144	1,318,256,000	\$2,700,000
Prepare for Winter.....	10	484	43,218	583,725,000	1,500,000
Victory Gardens.....	16	274	36,330	1,095,480,000	805,000
Red Cross War Fund.....	10	431	93,765	1,166,205,000	2,000,000
Fourth War Loan.....	5	472	87,994	1,390,543,000	2,574,000
War Production Comes First.....	4	226	.....	519,798,000	1,000,000
Cadet Nurse Corps.....	13	223	25,515	625,695,000	1,250,000
Income Tax Regulations.....	8	315	10,248	686,345,000	1,314,000
Sixth War Loan.....	4	817	25,012	1,675,297,000	2,812,840
National War Fund.....	5	421	41,514	787,616,000	1,500,000

"We most earnestly request that your honorable committee report favorably the restoration in the budget of the funds necessary to maintain on an efficient basis the

Radio Bureau of the Domestic Branch of the Office of War Information for the duration of the war."

FEDERAL AID FOR PUBLIC AIRPORTS

"Hazards" to airports included in a national plan for the development of public airports proposed by the Administrator of Civil Aeronautics, under S. 2 in the U. S. Senate and H. R. 3170 are defined as structures or objects of natural growth located on or in the vicinity of a public airport which obstructs the air space required for the flight of aircraft or in landing or taking off of aircraft.

A project sponsor who desired to develop an airport included in the national plan and is unable to secure the necessary land and landing areas free from hazards may call upon the Administrator to exercise "eminent domain" procedures. The court in which such condemnation proceedings is instituted has jurisdiction to determine whether the acquisition desired is "necessary." If successful the Administrator is authorized to turn over to the project sponsor the condemned property.

The House Bill provides for hearings before the Administrator by Public Agencies (including the FCC) which may have reasonable objections to the proposed plan. NAB is attempting to secure a provision giving a right of hearing before the Administrator for stations which would be adversely affected by any such plan.

The Senate Bill introduced by Senator Pat McCarran (D-Nevada) which has been reported favorably by the Committee on Commerce may be called up for consideration by the Senate the week of June 26.

The House Bill is still under consideration by a subcommittee of the House Committee on Interstate and Foreign Commerce.

PUBLIC RELATIONS COMMITTEE MEETS

(As released by NAB News Bureau, June 20)

The Public Relations Executive Committee of the National Association of Broadcasters met in New York on Monday and Tuesday (18-19). In attendance were Edgar L. Bill, WMBD, Peoria; George Crandall, CBS, New York; Craig Lawrence, WHOM, New York; Leslie W. Joy, KYW, Philadelphia; Michael R. Hanna, WHCU, Ithaca; Willard D. Egolf, public relations director of the National Association of Broadcasters and secretary of the Committee, and J. Harold Ryan, NAB president.

Committee members unable to attend were John F. Patt, WGAR, Cleveland; Harry Kopf, NBC, Chicago; Karl O. Wyler, KTSM, El Paso; and Lewis Allen Weiss, KHJ, Hollywood.

The Committee received and discussed a report on distribution of the recently published NAB public relations book, *Management in the Public Interest*. The report indicated that a copy of the book has gone to all NAB members and rapidly is being distributed to national organizations and persons of national prominence. Mr. Egolf stated that 5,000 extra copies of the book have been ordered by stations.

The Committee discussed ways and means of increasing public distribution of *Management in the Public Interest* to the possible extent of 25 or 30 thousand copies through NAB stations. Expressions of approval were voiced by all Committee members who inspected numerous letters of commendation which have been received at NAB headquarters from top-flight industry executives and heads of national organizations. These letters unanimously extolled *Management in the Public Interest* as an excellent public relations work.

The Committee carefully considered the desirability of compiling a list of case histories as exemplified in the various illustrations contained in *Management in the Public Interest* into a manual for the use of station operators. These case histories would not be limited to those who sent in photos but would be solicited from all stations.

It was decided to round out a complete library of photos on radio's war activities, these to be published in a book similar to *Management in the Public Interest*. Suggested title of this new book is "Radio in the War." Major part of this book would be devoted to radio's war job on the home front.

Much time was devoted to discussion of Twenty-fifth Anniversary activities. A report was made on Kiwanis Radio Week. One hundred per cent participation by Kiwanis Clubs was reported by Kiwanis International which had sent many pictures of Citation presentations in towns throughout the country. Many other details of Twenty-fifth Anniversary observance were discussed. It was pointed out that radio is very busily engaged in the war effort and that the "Pledged to Victory" theme is the salient feature of Twenty-fifth Anniversary observance. Previously discussed plans for a Twenty-fifth Anniversary week which had been tentatively scheduled for the coming Fall were definitely shelved so that the industry may more effectively train its sights on V-J Day with a view to bringing it to an earlier realization.

Meeting with the Committee for the purpose of discussing participation of radio manufacturers in broadcasters' Twenty-fifth Anniversary observance were John S. Garceau, Director of Personnel and Public Relations for the Farnsworth Radio and Television Company; W. B. McGill, Director of Advertising, Westinghouse Radio Stations, Inc., and Philip Lesly, Vice President of Theodore Sills and Company, RMA Public Relations Counsel.

Much time was spent considering the Lee and Losh suggestion for Radio Academy Awards. Mr. E. T. B. Harris of Lee and Losh explained the plan in minute detail to the Committee. The Committee suggested several modifications.

Frances Farmer Wilder, Consultant on Daytime Serials for the Columbia Broadcasting System, gave a summary of the findings of the CBS Survey on Daytime Serials. This summary was received with great interest by the Committee. A complete discussion of audience reaction to radio in general ensued.

A report on listener activity was made by a liaison subcommittee of the Public Relations Committee. This Committee, consisting of George Crandall, Craig Lawrence, Michael Hanna and Leslie Joy, Chairman, had previously conferred with Dorothy Lewis, NAB Director of Listener Activity. Mrs. Lewis has recently returned from the San Francisco Conference.

The Committee considered a suggestion made by William B. Way, Vice President of KVOO, Tulsa and Director for NAB District 12, who has proposed that stations be supplied with a newspaper mat service dealing with the American system of broadcasting. Steps were considered for furtherance of this program. Committee consensus was that an expanded budget would be necessary.

CODE COMMITTEE MEETS

The NAB Code Committee was in session in New York for the second day of its scheduled two-day meeting (June 20-21) as NAB REPORTS went to press.

A full report of this meeting will be carried in next week's issue of REPORTS.

COURT HEARS NABET CASE

A hearing on the petition of the National Labor Relations Board for a decree to compel NBC and the American Broadcasting Company (Blue) to recognize the Board's certifications of the National Association of Broadcast Electricians and Technicians (NABET) as the bargaining

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agent for platter turners was held before the Second Circuit Court of Appeals (New York) last week.

The court consists of Judge Thomas W. Swan, presiding, and Judges Harris B. Chase and Charles E. Clark. NLRB was represented by Alvin J. Rockwell, its General Counsel. John T. Cahill and Franklin S. Wood appeared respectively for NBC and the American-Blue. AFM, while not officially represented, put in an appearance through Henry A. Friedman, assistant to Joseph A. Padway, General Counsel.

The action was brought by NLRB pursuant to provisions of the Wagner Act and is designed to put the full force of a judicial decision behind the NLRB order awarding jurisdiction over platter turners in NBC and American-Blue stations outside of Chicago to NABET. An early ruling is expected.

"RIGHT-TO-WORK" LAW UPHELD

A special three-judge Federal court declares as constitutional a "Right-to-Work" amendment to the Federal Constitution.

The amendment provides that:

"The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization; provided, that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer."

The court distinguishes between this constitutional amendment and state statutes which ban picketing or require union organizers to buy a license before doing business. The Florida amendment does not conflict with the Wagner Act either, the court decides. Nowhere does it deny the right to organize or to bargain collectively; it recognizes that right. All it does is to declare that membership in a union shall not be a condition of getting or keeping a job, presumably extending to people not union-minded a right they lacked under some conditions prior to the adoption of the amendment.

The court, among other things, makes the following statements:

* * * "Instead of preventing or abridging the rights of speech, press, assembly, and petition, the amendment seeks to preserve it to those who do not join a labor union as well as to those who do." * * *

* * * "There is no prohibition against a citizen belonging to any union that he chooses, but the prohibition seems to be against requiring membership in the union in order for a citizen to be eligible for work." * * *

* * * "The Florida constitutional amendment prohibits no one from joining a union but undertakes to declare that it shall not be a condition precedent to the right to work. It does not deny the labor union member the equal protection of the law, but appears to be designed to give to the non-union worker a protection of law which he had not theretofore enjoyed."

COURT BANS UNION-MANAGEMENT COMBINATIONS

The Supreme Court of the United States in the case of *Allen Bradley Company et al vs. Local Union No. 3, IBEW*, rendered a decision on Monday (18) under which agreements between electrical equipment manufacturers of metropolitan areas, contractors, and electrical workers' union to boycott out-of-area and non-union goods constitute a combination in restraint of trade and a monopoly over the electrical industry in violation of the Sherman Anti-trust Act and, in view of union participation with business men who had power to eliminate competition among themselves, the situation is not within the exemptions afforded unions under Clayton and Norris-LaGuardia

Acts; declaratory judgment and injunction against union must be amended so as to enjoin only those prohibited activities in which union engaged in combination with non-labor groups.

PANEL 4, RTPB, HEARD IN ORAL ARGUMENT

Supplementing the brief filed with the Federal Communications Commission on June 13, on behalf of Panel 4, Standard Broadcasting, of the Radio Technical Planning Board (NAB REPORTS—page 235) Howard S. Frazier, chairman of the Panel, appeared before the Commission on Wednesday (20).

The complete text of Mr. Frazier's statement follows:

On behalf of Panel 4 on Standard Broadcasting of the Radio Technical Planning Board, may I take this opportunity to express to the Commission our appreciation of the Commission's action in adopting several of the recommendations which we submitted. I refer to the extension of the broadcast band to include 540 kc; the experimental authorization of high frequency controlled satellite transmitters; facilities for the relay broadcast service and studio-transmitter links for aural broadcast stations.

With respect to relay broadcasting, I have been asked by members of the Panel to again call to the Commission's attention the importance of the 1600 to 3000 kc region for this service over comparatively long distances. The proposed allocation states, "Number and width of channels will be left for future determination." I wish to reiterate our plea that an adequate number of channels in this region of proper width be provided for this very important service.

With reference to the Panel's proposal to extend the broadcast band to either 530 or 520 kc, may I read the following excerpts from the testimony of Dr. Charles B. Aiken, a technical consultant, at the Informal Engineering Conference held by the Federal Communications Commission in June of 1936. Dr. Aiken was appearing at that time on behalf of the National Association of Broadcasters. I read from Dr. Aiken's statement.

"It must be admitted that the present American broadcast band is overcrowded, and yet the clamor for new frequency assignments steadily increases. The public has enthusiastically supported the majority of the stations in existence, and would certainly support more. There are many rural parts of the country that need additional service, especially during the day, when signals from a distance cannot be heard. Such regions can be served only by more stations or more power, or both.

"Another fault to be found with the present system of allocation arises from the fact that broadcasting has been forced to use certain frequencies not well suited to its needs. While aware of the technical shortcomings of these frequencies, the Industry has made every effort to utilize them as fully as possible, and, under direction of the Federal Communications Commission, has built up a system unequalled anywhere in the world.

"RURAL COVERAGE.—Obviously, rural areas should receive as good service as it is possible to give them. Not only the United States, but Canada and Mexico as well, contain large regions which can best be served by relatively long distance broadcasting. It would appear therefore, that our needs for long range transmission are better established than are those of any European nation except Russia. Although faced with the difficult problems raised by the clash of national interests, these nations have succeeded in allocating their broadcast services where they can be most effective, while the North American nations have completely failed in efforts to secure such allocations.

"A more satisfactory broadcast structure can be obtained only by the assignment of new groups of frequencies. One group below 550 kc would do much to improve rural coverage in the United States and Canada, but would be of less use to Mexico because of the high noise levels and low latitudes.

"It is well known that, for a given radiated power, the

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radius of ground-wave coverage decreases rapidly as the frequency is increased, and that the zone of serious fading also draws in toward the transmitter. . . . There is a tremendous change in ground-wave coverage with frequency, and it is therefore not surprising that there should be general agreement that the higher frequencies (of the standard broadcast band) are not well suited to broadcasting. . . . The high frequencies can be used for local coverage only, and the problem of delivering a satisfactory service to large suburban regions and to rural areas can be solved only by the efficient use of longer waves.

"The United States, Canada, and Mexico are large countries having well developed needs for rural coverage. The longest waves are perhaps less interesting to Mexico, because of the high noise levels which commonly exist on the low frequencies in southern latitudes, but Canada and the northern part of the United States present coverage problems which can best be solved by the use of low-frequency broadcasting. The European countries have long recognized the advantages of such services, even though no one nation except Russia has anything like such distances to cover as are regularly met with in North America. In spite of conflicting national interests and in spite of the great value which is accorded to the military services by all European countries, their administrations have realized the tremendous importance of broadcasting and the technical value of long waves for rendering efficient service. As a result, a continent which has less need for it, has evolved a fairly satisfactory structure employing frequencies from 153 to 546 kc., while the continent which, from the standpoint of national boundaries, geographical distances, and economic capabilities, has the most obvious need for low-frequency broadcasting stations has succeeded in acquiring none below 540 kc. That this is an unfortunate state of affairs can hardly be denied."

I have taken the liberty of quoting so extensively of Dr. Aiken's report because I feel that his testimony is just as pertinent and to the point today as it was nine years ago.

As we pointed out in our Memorandum Brief filed with the Commission on June 13 there is reason to believe that the radio listeners in the post-war period will purchase great quantities of AM-FM combination receivers. Also many listeners will purchase new AM receivers, due to the obsolescence brought about by the wartime years during which no new receivers were manufactured for civilians. This prediction is fully sustained by testimony presented during the course of the hearing. It is the opinion of the Panel that most of these new receivers, which will go into production in the very near future, can be designed to include 530 as the lower limit of the standard broadcast band if the Commission now declares its intent to further expand the broadcast band when the frequencies can be made available for broadcast service.

SUPREME COURT DECIDES WOW CASE

The Supreme Court of the United States on Monday (18) handed down its decision in the case involving the license and ownership of Radio Station WOW, Omaha. The full text of the decision in so far as it pertains to all but jurisdictional questions follows:

No. 593.—OCTOBER TERM, 1944

On Writ of Certiorari to the Supreme Court of the State of Nebraska

Radio Station WOW, Inc. (a Nebraska Corporation),
Woodmen of the World Life Insurance Society (a Nebraska Corporation), De E. Bradshaw, *et al.*, Petitioners,
vs.

Homer H. Johnson.

[June 18, 1945.]

MR. JUSTICE FRANKFURTER delivered the opinion of the Court.

This case concerns the relation of the Federal Communications Act, 48 Stat. 1064, 47 U. S. C. § 151 *et seq.*, to the power of a State to adjudicate *conflicting claims to the property used by a licensed radio station*. At the outset,

however, our power to review the decision below is seriously challenged.

The facts relevant to the jurisdictional problem as well as to the main issues are these, summarized as briefly as accuracy permits. Petitioner, Woodmen of the World Life Insurance Society, a fraternal benefit association of Nebraska, owns radio station WOW. The Society leased this station for fifteen years to petitioner, Radio Station WOW, Inc., a Nebraska corporation formed to operate the station as lessee. After the Society and the lessee had jointly applied to the Federal Communications Commission for consent to transfer the station license, Johnson, the respondent, a member of the Society, filed this suit to have the lease and the assignment of the license set aside for fraud. While this suit was pending, the Federal Communications Commission consented to assignment of the license, and the Society transferred both the *station properties* and the *license* to the lessee. Thereafter the Society answered that "the Federal Communications Commission . . . has and concedes that it has no jurisdiction over the subject matter of plaintiff's action, except jurisdiction to determine the transfer of the license to operate said radio station, which jurisdiction after full and complete showing and notwithstanding objections filed thereto, was exercised in the approval of the transfer of said license to the defendant Radio Station WOW, Inc., and further order to the Society to execute and perform the provisions of said lease by virtue of which the possession of said lease property has now been delivered to the lessee, all as more particularly herein found." Respondent's reply admitted "that the Federal Communications Commission has and concedes that it has no jurisdiction over the subject matter of plaintiff's action except jurisdiction to determine the transfer of the license to operate said radio station." The trial court found no fraud and dismissed the suit.

The Supreme Court of Nebraska, three Judges dissenting, reversed and entered judgment for respondent, directing that the lease and license be set aside and that the original position of the parties be restored as nearly as possible. 144 Neb. 406, 13 N. W. 2d 556. The judgment further ordered that an accounting be had of the operation of the station by the lessee since it came into its possession and that the income less operating expenses be returned to the Society. On motions for rehearing the petitioners asserted that only the Federal Communications Commission and the federal courts had jurisdiction over the subject matter, not the Nebraska courts. These motions were denied in an opinion in which the Nebraska Supreme Court stated, "We conclude at the outset that the power to license a radio station, or to transfer, assign or annul such a license, is within the exclusive jurisdiction of the Federal Communications Commission. . . . The effect of our former opinion was to vacate the lease of the radio station and to order a return of the property to its former status, the question of the federal license being a question solely for the Federal Communications Commission. Our former opinion should be so construed." The claim that the Nebraska courts had no jurisdiction over the subject matter of the action was thus dealt with: "The fact that the property involved was used in a licensed business was an incident to the suit only. The answer of the defendants, heretofore quoted, squarely contradicts the position they now endeavor to assume. Their position is unsound on its merits and, in addition thereto, it was eliminated from the case by the pleadings they filed in their own behalf." 144 Neb. 432, 14 N. W. 2d 666. Because of the importance of the contention that the State court's decision had invaded the domain of the Federal Communications Commission, we granted certiorari. In the order allowing certiorari we directed attention to the questions whether the judgment is a final one and whether the federal questions raised by the petition for certiorari are properly presented by the record. 323 U. S. 705.

This brings us to consider what federal questions are here. The court below decreed the transfer of property used as a radio station. It conceded that it had no jurisdiction over the transfer of the license under which WOW was operating. That is a matter which Congress has put in the keeping of the Federal Communications Commission. Petitioner claims that the court's decree in effect involves an exercise of the very authority which the Court dis-

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avowed. This presents a federal question which was duly made below, and we must consider it.

But it is not open to us to consider independently the claim that the Federal Communications Act has withdrawn from the State court jurisdiction over the physical properties of the station and given it to the Federal Communications Commission. The Society's answer admitted that this controversy was outside the jurisdiction of the Commission except as it related to the transfer of the license, and respondent joined in this view. Only after the Nebraska Supreme Court's original opinion did petitioners, by motions to dismiss the suit and for rehearing, claim that the Nebraska courts were wholly without jurisdiction over the controversy. In its opinion on rehearing the Nebraska Supreme Court rejected this claim as "contrary to the pleadings filed" in the trial court, and also denied it on its merits. "The answer of the defendants, heretofore quoted," that court wrote, "squarely contradicts the position they now endeavor to assume. Their position is unsound on its merits and, in addition thereto, it was eliminated from the case by the pleadings they filed in their own behalf." Questions first presented to the highest State court on a petition for rehearing come too late for consideration here, unless the State court exerted its jurisdiction in such a way that the case could have been brought here had the questions been raised prior to the original disposition. *Simmerman v. Nebraska*, 116 U. S. 54; *Godchaux Co. v. Estinopal*, 251 U. S. 179; *American Surety Co. v. Baldwin*, 287 U. S. 156. Here the Nebraska Supreme Court held that the federal question had dropped out as a matter of pleading and also denied its merits.

This brings the situation clearly within the settled rule whereby this Court will not review a State court decision resting on an adequate and independent non-federal ground even though the State court may have also summoned to its support an erroneous view of federal law. "Where the judgment of the state court rests on two grounds, one involving a federal question and the other not . . . and the ground independent of a federal question is sufficient in itself to sustain it, this Court will not take jurisdiction." *Lynch v. New York*, 293 U. S. 52, 54-55. One of the petitioners, Radio Station WOW, Inc., seeks to avoid the force of this rule by suggesting that its answer did not make the concession as to the limited jurisdiction of the Federal Communications Commission upon which the Nebraska court relied. But it is not for us to consider the correctness of the non-federal ground unless it is an obvious subterfuge to evade consideration of a federal issue. See *Neilson v. Lagow*, 12 How. 98, 109-111. It may be Nebraska State practice that the answer of one defendant binds the others, or that failure to raise a question in the pleadings precludes its consideration on rehearing. These are matters of State law and not our concern. Cf. *Fair Haven R. R. Co. v. New Haven*, 203 U. S. 379, 386.

The federal question that remains is whether, although the Nebraska court clearly recognized that the power to vacate a license and to authorize its transfer lies exclusively with the Federal Communications Commission, its decree in effect is inconsistent with such recognition. This is urged on two grounds. It is asserted that the Nebraska Supreme Court, by ordering the transfer of the licensed facilities from Radio Station WOW, Inc., to the Society although not having power to direct the transfer of the license, severed the licensed facilities from the license and therefore nullified the license. Secondly, it is urged that by ordering the parties "to do all things necessary" to secure a return of the license to the defrauded Society, the State court invaded the Commission's function.

The judgment, following the original opinion, ordered that "the transfer of the license to operate the station be vacated and set aside." On rehearing, the court made it quite plain that it was within the exclusive jurisdiction of the Communications Commission to vacate radio licenses and declared that its former opinion should be so construed. While it did not formally modify its judgment, it is reasonable to assume that the view which it unambiguously rejected in its opinion it did not mean to assert through its judgment. *Hotel Employees' Local v. Board*, 315 U. S. 437, 440-441; *Burke v. Unique Printing Co.*, 63 Neb. 264. But in matters of potential conflict between State and federal authorities, avoidance of needless friction no less than good draftsmanship counsels explicit and not merely

argumentative restriction of a State court's judgment within its powers.

In any event, we think the court went outside its bounds when it ordered the parties "to do all things necessary" to secure a return of the license. *Plainly that requires the Society to ask the Commission for a retransfer of the license to it and requires WOW not to oppose such transfer.* The United States, in a brief filed at our request, suggests that this provision of the decree would probably also disqualify WOW from "applying for a new license to operate a radio station in Omaha on the same frequency, should it become equipped to do so." To be sure, the Communications Commission's power of granting, revoking and transferring licenses involves proper application of those criteria that determine "public convenience, interest, or necessity". But insofar as the Nebraska decree orders the parties "to do all things necessary" to secure the return of the license it hampers the freedom of the Society not to continue in broadcasting and to restrict itself, as it properly may, to its insurance business. Equally does it prevent WOW from opposing a return to the Society, or, as the United States suggests, from seeking another license of its own. These are restrictions not merely upon the private rights of parties as to whom a State court may make appropriate findings of fraud. They are restrictions upon the licensing system which Congress established. It disregards practicalities to deny that, by controlling the conduct of parties before the Communications Commission, the court below reached beyond the immediate controversy and into matters that do not belong to it.

The most troublesome question raised by this case remains. While the decree of the State court concerning the transfer of the leasehold is, in view of the pleadings, not here as an independent question, due consideration of the federal question relating to the transfer of the license makes it proper to consider the bearing of a decree ordering an immediate transfer of the leasehold upon the status of the radio license. A proper regard for the implications of the policy that permeates the Communications Act makes disposition of licensed facilities prior to action by the Communications Commission a subsidiary issue to the license question. *We have no doubt of the power of the Nebraska court to adjudicate, and conclusively, the claim of fraud in the transfer of the station by the Society to WOW and upon finding fraud to direct a reconveyance of the lease to the Society. And this, even though the property consists of licensed facilities and the Society chooses not to apply for retransfer of the radio license to it, or the Commission, upon such application, refuses the retransfer.* The result may well be the termination of a broadcasting station. The Communications Act does not explicitly deal with this problem, and we find nothing in its interstices that dislodges the power of the States to deal with fraud merely because licensed facilities are involved. The "public interest" with which the Commission is charged is that involved in granting licenses. Safeguarding of that interest can hardly imply that the interest of States in enforcing their laws against fraud have been nullified insofar as licensed facilities may be the instruments of fraud.

On the other hand, if the State's power over fraud can be effectively respected while at the same time reasonable opportunity is afforded for the protection of that public interest which led to the granting of a license, the principle of fair accommodation between State and federal authority, where the powers of the two intersect, should be observed. Severance of the licensed facilities from the license so precipitously that the Federal Communications Commission is deprived of the opportunity of enabling the two to be kept together needlessly disables the Commission from protecting the public interest committed to its charge. This presents a practical and not a hypothetical situation. To carry out abruptly a State decree separating licensed facilities from the license deprives the public of those advantages of broadcasting which presumably led the Commission to grant a license. To be sure, such a license is merely a permit to serve the public and not a duty to do so. Therefore, as we have concluded, the State has not been deprived by federal legislation of the practical power

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to terminate the broadcasting service by a proper adjudication separating the physical property from the license. *We think that State power is amply respected if it is qualified merely to the extent of requiring it to withhold execution of that portion of its decree requiring retransfer of the physical properties until steps are ordered to be taken, with all deliberate speed, to enable the Commission to deal with new applications in connection with the station.* Of course, the question of fraud adjudicated by the State court will no longer be open insofar as it bears upon the reliability as licensee of any of the parties.

New situations call for new adaptation of judicial remedies. We have had occasion to limit the conceded jurisdiction of the federal courts in order to give State courts opportunity to pass authoritatively on State issues involved in federal litigation. See, e.g., *Spector Motor Co. v. McLaughlin*, 323 U. S. 101. It will give full play both to the powers that belong to the States and those that are entrusted to the Federal Communications Commission, where the two are intertwined as they are here, to enforce the accommodation we have formulated.

Accordingly the judgment is reversed and the cause remanded for further proceedings in conformity with this opinion.

Mr. Justice DOUGLAS concurs in the result.

Mr. Justice ROBERTS is of the opinion that the judgment should be affirmed.

Mr. Justice BLACK took no part in the consideration of this case.

Mr. Justice JACKSON, dissenting.

I am unable to agree with the Court's disposition of this case and will indicate briefly the reason.

Petitioner is incorporated under the laws of Nebraska and operates a radio station owned by the Woodmen of the World, an insurance society also organized under the laws of Nebraska. It is clear that the State of Nebraska has plenary power over the internal affairs of both of these corporations.

The Woodmen of the World, in addition to its insurance business, went into the radio business through radio station WOW. It became involved in controversies and eventually decided that it ought to get out of the radio operation.

From 1923 to 1928, it had carried the radio station at a loss but its net average earnings from 1936 to 1942 were \$194,724.14 per year. The property and facilities of the corporation were leased to a new corporation in 1942 for \$74,000.00 per year. The new corporation consisted of organizers whom the Court found sustained such a relation to the President of the insurance company who managed the negotiations on its behalf that the transfer constituted a constructive fraud on policy holders. It ordered that the transaction be undone and complete restitution be made. I take it that this judgment was fully within the competence of the State.

Meanwhile, the transferees had obtained approval of the Federal Communications Commission of the transfer of the license to them. Because of this, it is claimed that in some way the power of the State to undo this transaction is limited. Certainly no power has been conferred on the Federal Communications Commission to hear, try or determine the case of fraud between Nebraska stockholders and the officers of Nebraska corporations. The Commission has, of course, powers to look after the public interest in the transfer of stations.

There is possibility of conflict between the judgment rendered by the state court of Nebraska and the Federal Communications Commission and this possibility of conflict leads to the decision of the Court today. That conflict can occur only if the Federal Communications Commission shall hold that the federal public interest requires this radio station to be kept in the hands of those who are adjudged to be guilty of fraud and that the public interest cannot be served by those who have been adjudged to have been victims of that fraud although they had operated the station for many years with success and without any question as to the public interest. If the Communications Commission should render such a decision by refusing to retransfer the license in accordance with the judgment we would then have a question as to the faith and credit due the state court judgment and its effects in an adminis-

trative tribunal. I would deal with that sort of question not hypothetically, but when it arises and upon the record which is made before the Communications Commission.

But even if the Commission should decide that the federal interest requires this station to be operated by those who have obtained it by constructive fraud, I think the judgment of the state court of Nebraska would still be good. It has the power not only to compel restitution of property obtained from its corporations in violation of its laws but if by federal proceedings or otherwise the wrongdoers have put some part of the value of this station beyond their power to recapture, the State has the right to compel them to account for its value. The State, it seems to me, has the right to strip the wrongdoers of every fruit of the wrong including the value of the federal license even if the license itself cannot be obtained.

For these reasons, I would affirm the judgment of the Nebraska courts and leave the problem of conflict to be dealt with when and if it arises.

WHIO EXECUTIVE DIES

Dayton, Ohio—Richard Brant Mead, for nearly forty years an executive in the James M. Cox organization and at the time of his death Secretary and Treasurer of the Miami Valley Broadcasting Company, operators of WHIO, died here June fifteenth.

Mr. Mead was also Secretary and Treasurer of other Cox interests including the Evening News Co., Dayton, and the Springfield Newspapers, Inc., of Springfield.

RED CROSS CITES INDUSTRY

The American Red Cross has again bestowed upon the National Association of Broadcasters, as representative of the radio industry, a Certificate of Honor for the distinguished achievements in the 1945 War Fund. The Certificate is issued in recognition of the services rendered by members of NAB in scheduling War Fund transcriptions and programs.

NBC CONTRACT REVISION O.Kd.

The Federal Communications Commission has made public the following letter regarding a proposed revision of NBC form of affiliation agreement for standard broadcast stations:

"National Broadcasting Company, Inc.
RCA Building, Radio City
New York 20, New York

Gentlemen:

"Receipt is acknowledged of your letter of May 18, 1945, setting forth the following provision which you intend to include in your affiliation contracts:

"(2) From time to time you may desire to sell to us and we may desire to purchase from you specific periods of time, during hours other than those designated as network optional time, for the broadcasting of a particular series of network commercial programs for a designated advertiser. In the event such sale is consummated it is understood and agreed that, subject to our 28-day right of cancellation provided for in Paragraph (5) of Section III, you shall broadcast such series of programs for the duration of our commitment to deliver your station to such advertiser but in no instance shall you be so obligated for more than 52 weeks. We shall advise you of the expiration date of our initial commitment and of each renewal commitment subsequently made for your station to such advertiser and you shall notify us at least 35 days prior to each such date in the event you do not desire to broadcast a continuation of said series of programs. In the event you fail to so notify us we shall consider your station to be available for the immediately following renewal term of not more than 52 weeks should such advertiser elect to continue said series of programs over your station.

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Except as expressly provided to the contrary in this paragraph, your use and the broadcasting of such programs shall be subject to all the terms and conditions of this contract.'

"You request the Commission's opinion as to whether the foregoing provision is in conformity with the Commission's chain broadcasting regulations.

"The Commission has determined that the provision in question is not in contravention of the chain broadcasting regulations.

Very truly yours,

T. J. SLOWIE,
Secretary."

FORMER MANAGER HEARS OWN GLOBAL SHOW

When A. E. Spokes, WJTN, Task Force Commander, produced the Jamestown, N. Y., "Let's Go to Town" show, he had little hope that it would be heard by the station's former manager. But the very first letter verifying reception came from no other than "Manager" Si Goldman, now U. S. Army Corporal in Germany.

Si was doing his regular stretch as telephone operator when American Forces Network brought him the Jamestown home town show.

"It was a swell show," wrote Si. "Everyone did a super job. What a grand feeling to hear all those familiar voices and the organist from Hotel Jamestown."

PRICE EXTOLS FREE RADIO AND PRESS

Byron Price, Director of the Office of Censorship, made a strong plea for freedom of radio and the press in an address delivered before the Board of Editors of the Public Opinion Quarterly at Princeton, New Jersey, on June 13. Following is complete text of Mr. Price's remarks:

"Under a government by the people, the virility and general health of public opinion must be an object of perpetual concern to all good citizens. Under such a government, public opinion is no less than the bloodstream of the body politic. If the heartbeat weakens, if indolence or infection appears, the resulting agonies cannot fail to wrack the nation itself. Whoever keeps public opinion under the microscope, analyzes its tempo and questions every sign of malady, performs a paramount public service. In a sense even more significant than that sung by the poet, the proper study of mankind governing himself is always man.

"It need not discourage us that the doctors do not always agree either as to the symptoms or the cure. That also is the way of democracy, and surely it is preferable to a system under which one dictator makes all the diagnoses and writes all the prescriptions. The freshly-made graves of two European powers and the dying convulsions of their totalitarian colleague in Asia testify amply to the results attained by that school of medicine.

"By comparison, at least, this American democracy is doing very well indeed, even though we are not exactly free of cares and worries. Government by popular will attains its maximum stature only when it rests on a public opinion which is not only free, but is also informed and intelligent; and I know some are worried over the present level of our public information and public thinking. We were all shocked a couple of years ago when the New York Times informed us of the great vacuum of historical knowledge existing among college freshmen. We get a jolt now and then when we listen to the quiz programs or read in one of Dr. Gallup's surveys, in the midst of a national campaign, that nearly half the voters have forgotten the names of both vice-presidential nominees. It was not many years ago that one of the highest officials of the Federal Government told a voter he was 'too damn dumb' to understand public issues.

"Of such testimony we cannot be proud. Yet there is good cause to refuse to share the misgivings of the pessimists. I do not believe that in the aggregate the American citizen is dumb or badly informed. Surely, neither

ignorant guesswork nor clairvoyance alone could have brought the nation safely through one great crisis after another from the day of its birth. We have our shortcomings, as have all nations; but let it be recognized that the balance is heavily on the side of credit. There is room to doubt whether the election returns last November would have been changed appreciably if every voter had kept the names of Governor Bricker and Senator Truman on the tip of his tongue. And as for the college freshmen of 1943, and their reliability as citizens, have they not written on the world's battlefields a glorious and even immortal answer to all our questionings?

"It is only the perfectionist who expects every American to be a model for Utopia. We are a race, not of angels, but of men. When the whole story of our national eminence is told, and the issues decided wrongly by popular will are set opposite those decided rightly, the sum is an almost fabulous record of progress and attainment. We need not speak apologetically of public opinion in the United States. If we speak of it truly and understandingly, we shall speak proudly and confidently.

"This is not to say that there is no need to be diligent in protecting what we have, and seeking always for improvement. Because in a democracy public opinion holds the power of life and death over public issues and public men, we must do what we can to raise the level of public opinion ever higher; for the best is none too good. What can we do? I would like to suggest four requisites:

"1. Preservation of a free but responsible press and radio, devoted to the exact truth and to public service.

"2. Organized aid to public understanding, through schools and other agencies, so that the individual will know better how to read and listen capably.

"3. Acceptance of increased personal responsibility for public policy, on the part of individual citizens, not only on election day but through constant attention to public issues.

"4. A willingness on the part of public men to live in glass houses, to seek advice and accept it judicially, and to answer inquiries by explaining reasons, rather than by merely enclosing a copy of a regulation.

"The first of these four requirements needs no advocacy. It is axiomatic that no public opinion of value can exist in a democracy without freedom of expression, including freedom to print. It is equally indisputable that public expression must be responsible expression if the ends of democracy are to be served, and that information must be placed before the public in clear and understandable words if the level of public opinion is to be elevated.

"Yet, this is not always easy. What city editor has not had the experience of intensively interviewing his own reporters so that he might understand an obscure or ambiguous passage, and reword it for the reader? Here again, due to human limitations, we never can hope for perfection. You may recall the passage from Arlo Bates: 'Bob, thinking of Betty, remarks to Jack that he does admire a pretty girl; and Jack, fondly recalling the features of Jane, receives the idea with all the variations which belong to an altogether different idea of feminine loveliness.' And again: 'No man has written much and written earnestly without experiencing moments of complete despair in regard to being able to convey to his readers what it is in his heart to say.'

"This is a problem which deserves more than the casual attention it frequently receives. The fact is that far too often, somewhere along the way, the thread of understanding between writer and reader, or between speaker and listener, breaks of its own weight. Much of the trouble may be put down to indifferent reading and listening; but still let the writer and speaker also beware. No matter where the blame, he who seeks to impart information has wasted time and effort unless the goods arrive in good condition at their destination. If they do not, the effort to improve public comprehension has failed at the point of its beginning.

"The second requirement is that when the goods do arrive, the consignee be in a position to receive them. Jefferson wrote to Yancey, '... where the press is free and every man able to read, all is safe.' But we may be quite sure that the father of the University of Virginia

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would insist on placing his own definition on the words 'able to read.' We may be sure he was not speaking merely of literacy. How often we hear it said: 'The newspaper certainly missed it today on the weather!' Nor would the case be so bad if the harassed editor had only to take the blame for the misjudgments of the Weather Bureau. Every day in a multiplicity of matters, great and small, he finds himself misunderstood, misquoted, and in the end maligned by careless and indifferent readers.

"In his present-day classic 'How to Read a Book,' Mortimer J. Adler has illuminated brilliantly—for those who can read—the pathway to understanding of the printed word. It is a pity he did not give more specialized attention to the proper reading of newspapers and magazines, and add a chapter also on listening to broadcasts. A comparatively small investment in that area could not fail to produce a large return in the stimulation of public understanding.

"The effort to promote better reading and listening, as a sure step toward a higher level of public opinion, should be an organized effort. I am not speaking now of classes in current affairs, or forums and round-tables. I mean organized instruction in the art of understanding definitely and exactly what the newspapers and the broadcasters are saying. It should not be difficult for schools and colleges to teach their students what the differences are—and they are basic differences—between news items, editorials, and newspaper or radio commentaries; to distinguish clearly whether a thing is stated as a fact, or as a quoted opinion; to read and listen, as Bacon recommended, 'not to contradict and confute; not to believe and take for granted; . . . but to weigh and consider.'

"If we grant that the purpose of education is to produce better citizens, then the place of such instruction as this in all of our schools cannot be exaggerated. Carlyle perceived this long ago when he said that 'all that a university . . . can do for us still is what the first school began—teach us to read.' Yet how many who rate themselves 'educated' are still today badly and often dangerously mixed in their facts because they have not really learned to read and listen.

"In the cultivation of better reading and listening the newspapers and the radio can themselves provide leadership to their own great advantage, as well as to the inestimable benefit of their country. The motion picture is fully capable of adding a third dimension by instructing its audiences how to observe. Nor is there a civic organization anywhere which could not well afford to give to this effort a part of the attention it now bestows on matters of less consequence to the welfare of community and nation. If we are to have a better informed public opinion in the troubled days ahead—and the need for the best cannot be denied—then the ordinary citizen must have the help which by united endeavor can be so easily provided.

"The third requirement for a higher level of public opinion rests on the individual himself. This he must do for his own salvation. He must take an interest in reading and listening, and he will be encouraged to do so if he has received the help he needs. He must be vocal. He must let his government know if he disagrees with its policy, not merely grumble to himself and to his neighbors. He must try to understand as many of the issues as possible and receive with an open mind, but not gullibly, what he reads and hears. And he must vote; for it is at the ballot box alone that public opinion comes to its final and triumphant usefulness. All of this also has been said many times before. It must continue to be said as long as the nation stands.

"There still is a fourth requirement, and it rests inescapably on the public official, high or low. Democratic governments which lose the common touch cease speedily to be democratic governments. The public official must work in the open if he is to contribute his part to the formation of sound public opinion. Not only his policies and his decisions, but the reasons for them, must be regarded as essentially public property. He must keep himself in a position to reply promptly and in understandable words when he is asked for information. He must think of himself for what he is, a public servant. He need not be timid or obsequious, but unless he really serves, he is not a good servant.

"In brief, public officials discharge their duties in the scheme of our democratic system only if they take the very broadest view of their public relations. This is a topic about which books could be written, but so much is self-evident: The effective conduct of public relations does not consist in hiring a good press agent. Every official act is public relations, and good administration is in itself the best brand of public relations. Every visitor, every letter is public relations. The most enterprising press agent this side of Heaven cannot save from a just public wrath the official who does his thinking in the closet, and neglects the golden opportunity of contact and discussion with the people, who are the authors and progenitors of public opinion.

"Taken together, the four objectives I have outlined contemplate a unity of effort and accomplishment which in itself is essentially democratic. Attainment of these objectives will not cure overnight all of the shortcomings of the human society. But it will help."

Federal Communications Commission Docket

HEARINGS

The following broadcast hearings and scheduled to be heard before the Commission during the week beginning Monday, June 25. They are subject to change.

Monday, June 25

KJR—Fisher's Blend Station, Inc., Assignor; Birt F. Fisher, Assignee; Seattle, Wash.—Voluntary assignment of license of Station KJR and relay station KEGR; 950 kc., 5 KW (main), DA-night, 1 KW (auxiliary), unlimited.

Wednesday, June 27

WINS—Hearst Radio, Inc., Assignor; The Crosley Corporation, Assignee; New York, N. Y.—Voluntary assignment of license and construction permit.

Federal Communications Commission Action

APPLICATIONS GRANTED

KOIL—Charles T. Stuart and James Stuart (transferors), Stuart Investment Company (transferee), Central States Broadcasting Co. (licensee), Omaha, Neb.—Granted consent to voluntary transfer of control of Central States Broadcasting Co., licensee of station KOIL, from Charles T. Stuart and James Stuart to Stuart Investment Company. Transferors will exchange all outstanding capital stock of licensees of station KFOR (1000 shares) and Station KOIL (1000 shares); and transferee to deliver to transferors 2350 shares of its unissued common stock, each transferor to receive 50%. (B4-TC-433)

KFOR—Charles T. Stuart and James Stuart (transferors), Stuart Investment Company (transferee), Cornbelt Broadcasting Corp. (licensee), Lincoln, Neb.—Granted consent to voluntary transfer of control of Cornbelt Broadcasting Corp., licensee of station KFOR, from Charles T. Stuart and James Stuart to Stuart Investment Co. (B4-TC-432)

KSWO—Byrne Ross and R. H. Drewry, d/b as KSWO Broadcasting Co. (assignor), Oklahoma Quality Broadcasting Company, a co-partnership composed of R. H. Drewry, et al. (assignees), Lawton, Okla.—Granted consent to volun-

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tary assignment of license of station KSWO from Byrne Ross and R. H. Drewry, d/b as KSWO Broadcasting Co., to Oklahoma Quality Broadcasting Co., a co-partnership, composed of R. H. Drewry, J. R. Montgomery, Ted R. Warkentin and Robert P. Scott, a newly formed partnership. Byrne Ross is to be paid \$35,000 for his 50% interest in the assignor partnership and give R. H. Drewry a 53.5% interest in assignee for his 50% interest in assignor, plus payment by Drewry of \$2,555 to the assignee. (B3-AL-490)

Evangelistic Mission, Pontiac, Mich.—Granted extension of permit under Sec. 325 (b) of the Communications Act to transmit programs to Canadian Station CKLW, Windsor, Ontario, Canada.

Scripps-Howard Radio, Inc., Cincinnati, Ohio—Granted construction permit for new relay broadcast station to be used with standard station WCPO; frequencies 31220, 35620, 37020, 39260 kc., 10 watts.

W2XJT—William B. Still tr/as Jamaica Radio Television Co., Jamaica, L. I., New York—Granted modification of exp. television station CP conditionally, for extension of completion date only, from 6-30-45 to 8-31-45.

W2XMT—Metropolitan Television, Inc., New York City—Granted modification of construction permit for new experimental television station granted conditionally, for extension of completion date only, from 6-30-45 to 9-30-45.

WEHS—WHFC, Inc., Chicago, Ill.—Granted modification of construction permit authorizing new FM broadcast station, for extension of completion date only from 7-8-45 to 10-8-45.

W3XMB—Maryland Broadcasting Co., Baltimore, Md.—Granted modification of construction permit for new developmental broadcast station, for extension of completion date from 6-30-45 to 8-22-45.

W9XLA—KLZ Broadcasting Co., Denver, Colo.—Granted license to cover construction permit which authorized change in frequency and change in class of station from temporary Class 2 experimental high frequency to developmental broadcast station, upon condition that it is subject to change or cancellation by the Commission at any time without advance notice or hearing if in its discretion the need for such action arises. Nothing contained herein shall be construed as a finding by the Commission that the operation of this station on the frequency authorized is or will be in the public interest beyond the express terms hereof; frequency of 43.5 mc. and other frequencies that may be assigned by the Comm. from time to time; 1 KW.

DESIGNATED FOR HEARING

Frederic Le Mieux, 3rd, and Mrs. Edna Capo Le Mieux, d/b as Teche Broadcasting Co., New Iberia, La.; and George H. Thomas, James J. Davidson, Jr., and Daniel H. Castille, a partnership, d/b as New Iberia Broadcasting Co., New Iberia, La.—Designated for consolidated hearing with application of New Iberia Broadcasting Company application of Teche Broadcasting Co., both applicants requesting frequency of 1240 kc., 250 watts, unlimited time.

LICENSE RENEWALS

KSUB—Southern Utah Broadcasting Co., Cedar City, Utah—Granted renewal of license for the period ending February 1, 1947 (Comr. Durr voting for further inquiry).

KWJJ—KWJJ Broadcast Company, Inc., Portland, Ore.—Granted renewal of license for the period ending May 1, 1948.

KSWO—Byrne Ross and R. H. Drewry, d/b as KSWO Broadcasting Co., Lawton, Okla.—Granted renewal of license for the period ending May 1, 1947.

MISCELLANEOUS

Fred O. Grimwood, Bloomington, Ind.—Granted motion to continue hearing on application for construction permit for new station, now scheduled for June 20, and continued hearing to July 24, 1945. (Docket 6753)

WMC—Memphis Publishing Co., Memphis, Tenn.—On the Commission's own motion, continued hearing on application for renewal of license, now scheduled for June 21, to July 23, 1945. (Docket 6610)

Richard W. Joy and Donald C. McBain, d/b as Palm Springs Broadcasting Co., Palm Springs, Calif.—Adopted memorandum opinion granting application for a new station to operate on 1340 kc., 250 watts, unlimited time; conditions. Corinth Broadcasting Company, Inc., Corinth, Miss.—Adopted memorandum opinion and order granting petition for reconsideration and grant of its application for construction permit; and ordered that the application be granted conditionally for a new station to operate on 1230 kc., 250 watts, unlimited time.

The following applications for new high frequency FM broadcast stations were placed in the pending file in accordance with the Commission's policy of February 23, 1943:

Pacific Radio Advertising Service, Portland, Ore.; Miami Valley Broadcasting Corp., Dayton, Ohio; Midwest FM Network, Inc., Fort Wayne, Ind., Grand Rapids, Mich., and Peoria, Ill.

James E. Lambeth, et al., d/b as Radio Station WMFR, High Point, N. C.—Retained in the pending files amended application for new high frequency FM broadcast station.

WSAU—Northern Broadcasting Co., Inc., Wausau, Wisc.—Granted petition for leave to intervene in the hearing on application of WREN for construction permit to move transmitter and studio, increase night power from 1 to 5 KW and install directional antenna.

Fisher's Blend Station, Inc., assignor, Birt F. Fisher, assignee, Seattle, Wash.—Granted motion for continuance of hearing on application for voluntary assignment of license of station KJR and relay station KEGR, now scheduled for June 25, and continued same to July 25, 1945.

APPLICATIONS FILED AT FCC

560 Kilocycles

WQAM—Miami Broadcasting Co., Miami, Fla.—Construction permit to make changes in antenna system.

570 Kilocycles

WSYR—Central New York Broadcasting Corp., Syracuse, N. Y.—License to cover construction permit (B1-P-3640) which authorized changes in directional antenna for daytime.

WSYR—Central New York Broadcasting Corp., Syracuse, N. Y.—Authority to determine operating power by direct measurement of antenna power.

590 Kilocycles

WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Authority to determine operating power by direct measurement of antenna power.

620 Kilocycles

WKAQ—Radio Corporation of Puerto Rico, San Juan, P. R.—License to cover construction permit (B-P-3501), as modified, which authorized move of auxiliary transmitter to new site of main transmitter.

WKAQ—Radio Corporation of Puerto Rico, San Juan, P. R.—Determine operating power by direct measurement of antenna power.

680 Kilocycles

NEW—The Alamo Broadcasting Co., Inc., San Antonio, Texas—Modification of construction permit (B3-P-3599, which authorized change in frequency, increase in power, installation of new transmitter and directional antenna for night use, and change in transmitter location) for changes in transmitting equipment and extension of completion date from 7-13-45 to 60 days from date of grant.

890 Kilocycles

WHNC—Henderson Radio Corp., Henderson, N. C.—License to cover construction (B3-P-3641) as modified, which authorized a new standard broadcast station.

WHNC—Henderson Radio Corp., Henderson, N. C.—Authority to determine operating power by direct measurement of antenna power.

(Continued on next page)

1240 Kilocycles

WATT—Midwestern Broadcasting Co., Cadillac, Mich.—Modification of construction permit (B2-P-3810, which authorized a new standard broadcast station) for change in transmitter location.

1340 Kilocycles

WBAC—Robert W. Rounsaville, Cleveland, Tenn.—License to cover construction (B3-P-3689) for a new standard broadcast station.

WBAC—Robert W. Rounsaville, Cleveland, Tenn.—Authority to determine operating power by direct measurement of antenna power.

FM APPLICATIONS

NEW—Unity Corporation, Inc., Lima, Ohio (P. O. 1014 Edison Bldg., Toledo, Ohio)—Construction permit for a new high frequency (FM) broadcast station to be operated on 45.9 mc., with coverage of 5,920 square miles.

NEW—Eastern States Broadcasting Corp., near Bridgeton, N. J. (P. O. Carll's Corner, Bridgeton, N. J.)—Construction permit for a new high frequency (FM) broadcast station to be operated on frequency to be selected in the 95 mc. band, with coverage of 9,900 square miles.

TELEVISION APPLICATIONS

NEW—Central Ohio Broadcasting Co., Columbus, Ohio—Construction permit for a new commercial television broadcast station to be operated on Channel #8 (162-168 mc.), with ESR of 160. Amended: to change frequency to 186-192 mc. as proposed in reallocation.

NEW—Filene's Television, Inc., Boston, Mass.—Construction permit for a new commercial television broadcast station to be operated on Channel #7 (102 to 108 mc.), with ESR of 3160. Amended: to change frequency to Channel #9 (192-198 mc.) as proposed in reallocation.

NEW—Allen B. DuMont Laboratories, Inc., area of New York, N. Y.—Construction permit for a new experimental television relay broadcast station to be operated on experimental band 480-920 mc. to be determined by Chief Engineer, with visual power of 1 KW peak and aural power of 1 KW, and emission of A-5 for visual and A3, special for FM or other experimental sound.

NEW—Cincinnati Broadcasting Co., Cincinnati, Ohio—Construction permit for a new commercial television broadcast station to be operated on Channel #7 (102-108 mc.), with ESR of 3940. Amended: to change frequency to Channel #9 (192-198 mc.) as proposed in reallocation.

W9XZC—Zenith Radio Corp., Chicago, Ill.—Modification of construction permit (B4-PVB-125, which authorized a new experimental television broadcast station) for extension of completion date from 8-19-45 to 2-19-46.

NEW—Hearst Radio, Inc., Milwaukee, Wis. (P. O. 25 W. 43rd St., New York, N. Y.)—Construction permit for a new commercial television broadcast station to be operated on Channel #4 (78-84 mc.), with ESR of 1111.

MISCELLANEOUS APPLICATIONS

NEW—Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, Baton Rouge, La.—Construction permit for a new non-commercial educational broadcast station to be operated on 43.9 mc., with power of 3 KW, and frequency modulation emission.

WJWC—J. W. Woodruff, J. W. Woodruff, Jr., and E. B. Cartledge, Jr., d/b as Columbus Broadcasting Co., area of Columbus, Ga.—Construction permit for reinstatement of B3-PRY-442 which authorized a new relay broadcast station.

KCBR—Columbia Broadcasting System, Inc., Delano, Calif.—License to cover construction permit (B5-PIB-62) which authorized a new international broadcast station.

NEW—National Broadcasting Co., Inc., Cleveland, Ohio (P. O. RCA Frequency Bureau, 60 Broad St., New York, N. Y.)—Construction permit for a new relay broadcast station to be operated on 1606, 2074, 2102, 2758 kc., with power of 150 watts, and A1, A2, and A3 emission.

NEW—Georgia School of Technology, area of Atlanta, Ga. (P. O. Box 674)—Construction permit for a new relay broadcast station to be operated on 1646, 2090, 2190, and 2830 kc., with power of 150 watts and A3 (special) emission. Amended: to change emission from A3 (special) to A3.

NEW—Stanley G. Boynton, Highland Park, Mich.—Extension of authority to transmit programs to CKLW, Windsor, Ontario, Canada, from Highland Park Baptist Church, each Sunday evening from 8 to 8:30 p. m., EST.

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.

Athenson & Passin, Inc.—A complaint has been issued charging Athenson & Passin, Inc., 330 Seventh Ave., New York, manufacturer of fur garments, with misrepresenting certain products as being made of leopard peltries. (5334)

J. V. Blevins Brokerage Co.—Violation of the brokerage section of the Robinson-Patman Act is alleged in a complaint against James V. Blevins, trading as J. V. Blevins Co. and J. V. Blevins Brokerage Co., 155 Second Ave. S., Nashville, Tenn. The respondent is engaged in business as both a broker and a direct buyer of food products, turpentine, mineral oil, cottonseed oil, linseed oil and other merchandise. He also is engaged in business with Horace Norrell at Trussville, Ala., under the firm name of Blevins & Norrell Co. (5333)

Cohn-Hall-Marx Co.—Deception of the public as to the qualities and fiber content of fabrics designated "Cohama Nylon Fleece" and "Cohama's Super Rayon Lambskin" is alleged in a complaint issued against Cohn-Hall-Marx Co., 1412 Broadway, New York. (5335)

Shepherd Knit-Wear Co., Inc., 48 West 38th St., New York, manufacturer of knitted garments, is charged in a complaint with misrepresenting the country of origin and fiber content of sweaters. (5336)

CEASE AND DESIST ORDERS

The Commission issued no cease and desist orders last week.

STIPULATIONS

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

Casite Corp., Hastings, Mich., entered into a stipulation in which it agrees to stop representing that its preparation Casite, advertised for use as an additive to crankcase oil, will cause an automobile to start as readily in winter as in summer, or as easily in cold weather as in warm weather; that the product prevents oil from acting as a brake on the motor in winter; or that at winter temperatures the viscosity of oil to which the preparation has been added is comparable to that of oil of like grade at summer temperatures to which it has not been added. (4076)

Dermatological Products Corp., trading as Glenn Products Co., 110 Observer Highway, Hoboken, N. J., and Samuel Thomas, (Continued on next page)

Maurice C. Thomas and Philip C. Thomas, stipulated that they will discontinue misrepresenting the therapeutic properties of a medicated salve designated as Dr. Thomas' Ointment. The individual respondents are associated with the corporation in the manufacture of pharmaceutical products. (4074)

Helwig & Leitch, Inc., 101 North Haven St., Baltimore, manufacturer of household ammonia, has entered into a stipulation to discontinue using the statement, "This Ammonia is Extra Strength. Use Smaller Quantity Than Usual," in referring to its Majestic brand of ammonia. (4073)

Multi-Packer Distributing Co., and **Multi-Packer Manufacturing Corp.**, both of 6319 San Fernando Road, Glendale, Calif., entered into a stipulation to cease and desist from certain representations in connection with the sale of the "Multi-Packer," a machine designed for use in counting and packaging pills, capsules, tablets and like pharmaceutical products. (4077)

Remnant Shop, Sesser, Ill., entered into a stipulation to discontinue certain misrepresentations in connection with the sale of quilt pieces which he processes from remnants purchased from textile mills and junk dealers. (4072)

Sears, Roebuck & Co., Chicago, stipulated that it will cease and desist from representing or designating the tube capacity of

radio receiving sets as being greater than the number of tubes which perform the recognized and customary functions of radio tubes in the detection, amplification and reception of radio signals. (03290)

FTC COMPLAINTS DISMISSED

A complaint alleging misrepresentation in the sale of a medicinal preparation designated "Rest-Eez" has been dismissed by the Federal Trade Commission as to one of the respondents, Jan Rozenaal, 10 Rockefeller Plaza, New York. The other respondents named in the complaint are Frederick Latter and George D. Boinet, trading as Ter-O-Sul Products Co., Inc., and as Decimal Chemical Co., 18 East 17th St., New York. Boinet is trustee of the creditors of Ray Forest, who formerly operated the business.

The Commission denied a motion filed by Boinet to dismiss the complaint as to him or, in the alternative, to suspend hearings pending the discharge of Ray Forest from the military service.

Upon motions of the respondents, the Commission has dismissed its complaint charging Roofer Manufacturers' Association, Inc., Cuthbert, Ga., and New Jersey Lumbermen's Association, Inc., Newark, N. J., with misrepresenting the grade and dimensions of soft wood lumber products known as roofers.

The complaint also was directed against the members and officers of the two associations and certain independent lumber dealers in the States of New York and New Jersey.