



# Reports

The NATIONAL ASSOCIATION OF BROADCASTERS

1760 N STREET, N. W.

WASHINGTON 6, D. C.

Vol. 13, No. 32, August 10, 1945

## NAB BOARD MEETS

In a two-day session, Monday and Tuesday (6-7), the Board of Directors gave formal approval to the action of the Committee to Select the President in appointing Justin Miller as NAB President for a five-year term beginning October 1.

They also endorsed the action of the Committee in electing A. D. (Jess) Willard, Jr., to the newly created position of Executive Vice President of the Association. Mr. Willard is now the Manager of WBT, Charlotte, North Carolina.

He has a background of almost 20 years in radio and is thoroughly familiar with all phases of the business. He started his career with WCAO in Baltimore in 1927 with the first morning musical clock program to be broadcast. The following year he went with WFBR and later became sales manager and manager of that station. In 1932 when CBS purchased WJSV (now WTOP) in Washington, Willard joined the staff and was named sales manager the following year. He became General Manager in 1937 and continued in that capacity until he was transferred to Charlotte in 1942 to guide the destiny of Columbia owned WBT.

During his residence in Washington, as well as in Charlotte, he has been active in many civic affairs. In Charlotte he has been campaign chairman of two YMCA membership campaigns; general solicitation chairman of the War and Community Chest; a member and Vice President of the Mecklenberg Council of Boy Scouts of America; a member of the board of the Salvation Army and the Red Shield Boys' Club; a Kiwanian; and a member of the Charlotte Country Club.

Mr. Willard married the former Georgianna Courtney. They have two children, Courtney, age 13, and Arthur DeWalt, III, who is 6.

## Ryan Continues

Acceding to the unanimously expressed wishes of the Board, J. Harold Ryan, Vice President and Treasurer, on leave, of the Fort Industry Company, who has served as NAB President since April, 1944, has agreed to continue in that capacity until October 1, when Justin Miller assumes his duties. Although Mr. Ryan will spend a part of his time in Toledo, the home offices of the Fort Industry Company, he will be in constant touch with NAB headquarters. C. E. Arney, Secretary-Treasurer, will direct NAB activities in the periods of Mr. Ryan's absence from Washington.

## FMBI Invited

The Board, by resolution, extended a cordial invitation to officers and members of Frequency Modulation Broadcasters, Inc., to join with them in working out a constructive plan through which FMBI may be absorbed by NAB to the end that there will be one over-all industry organization.

## Associate Member Fees Fixed

Pursuant to a recently enacted By-Law, the Board fixed the fees which are to apply to the new classes of Associate Members. FCC qualified attorneys, lawyers representing member stations, and consulting engineers are eligible to associate membership on the basis of annual dues of \$75.00. Dues of applicants for new station permits was fixed at \$50.00 annually; and construction permit holders, at \$60.00 annually.

## Employer-Employee Activities Broadened

Acting upon the report of the Labor Executive Committee, the Board authorized an expansion in the services which the Association renders to its member stations with respect to employer-employee relationships. The new plan contemplates the gathering of all possible information and data respecting existing employer-employee relationships, and also all information with respect to rules, regulations, and laws, which affect these relations. It likewise embraces the rendition of personalized service to individual station management.

## Revised Standards of Practice

The Board approved revised Standards of Practice submitted by the Code Committee. A full statement regarding this revision is contained elsewhere in this issue of the REPORTS.

## IRE Building Fund

A request for a subscription from NAB of \$5,000 for the IRE Building Fund was considered. The Board commended the project as one worthy of the consideration of the individual broadcasters but felt that subscription to the building fund of an outside organization would establish a dangerous precedent for the NAB. For this reason the request was denied.

## Next Board Meeting

The Board is to meet again in Washington early in October at which time Justin Miller will be formally inaugurated. The plans to mark this ceremony have not yet been fully developed. Announcement will be made later.

## RADIO DID 55% 7TH WAR LOAN PROMOTION

The broadcast industry—stations, networks, advertisers—contributed 55 per cent of the combined support given the 7th War Loan by all media. Broadcast support was \$23,513,742; all other \$19,121,717—total \$42,635,459. This is in accordance with the release issued by the War Finance Division, Treasury Department, August 6.

7th War Loan broadcasting showed an increase of 109 per cent over the \$11,250,000 reported for the 6th War Loan. For the same period all media, excluding broadcasting, registered a 36 per cent increase.

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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*; Barry T. Rumble, *Director of Research*; Harlan Bruce Starkey, *Asst. Director of Public Relations, Chief, News Bureau*; Arthur C. Stringer, *Director of Promotion*.

Here is the breakdown of media support to the 7th:

Daily & Sunday Newspaper display....	\$ 7,426,935
Daily Classified .....	303,535
Weekly Newspapers .....	3,125,386
Controlled Circulation Newspapers.....	1,163,344
(Give-away sheets)	
Magazines (general, public, farm) .....	3,751,495
Outdoor and Car Cards.....	3,351,022

Support—less broadcasting.....	\$19,121,717
Broadcasting support .....	23,513,742

Total ..... \$42,635,459

### THAW

The FCC has announced (Aug. 7) that it will commence to process applications after October 7 and expects that standard permittees will be able to complete construction within the normal period without unreasonable difficulty. FM and Television applications cannot be acted upon until the FCC adopts regulations for those services.

The following procedures will be observed in processing applications:

- Pending applications upon which no Commission action has been taken*—These applications will not be acted on for a period of at least 60 days from August 7, 1945. During that interim applicants may file such amendments as may be necessary to reflect new or changed conditions from those stated in the application. Such amendments shall be made in accordance with section 1.121 of the Rules of Practice and Procedure, in triplicate, and shall become part of said application. At the termination of this 60-day period consideration will be given to these applications in the ordinary course of business and attention will also be given to conflicting applications filed during this 60-day period.
- Applications which have been designated for hearing but not yet heard*—The Commission will not announce hearing dates for applications in this category, until the expiration of the 60-day period. Applicants desiring to file amendments shall do so within this period.
- Applications which have been heard and the records closed*—Applicants whose cases have been heard and upon which the record has been closed are requested to advise the Commission within the next 60 days of any changes which may have occurred reflecting upon matters of evidence introduced into the record. Copies of such notification shall also be served upon other parties to the proceeding and where additional testimony is required appropriate petitions may be filed to reopen the record for the introduction of this additional evidence.

### COURT RESTRICTS AFM

The United States Circuit Court of Appeals at New York has rendered a decision enforcing an order of the

National Labor Relations Board requiring the National Broadcasting Company and the American Broadcasting Company to bargain with the National Association of Broadcast Electricians and Technicians as representatives of platter turners in their owned and operated stations outside of Chicago. This court decision resulted from the application of the National Labor Relations Board for a court decision to enforce its order granting jurisdiction of platter turners in the M&O stations outside of Chicago to NABET, which was opposed by the American Federation of Musicians.

If the musicians attempt to interfere with the agreements which are reached between NBC, American and NABET, NLRB presumably can go into court and have the musicians cited for contempt. The full text of the decision follows:

### UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 368—October Term, 1944

(Argued June 15, 1945—Decided July 27, 1945)

NATIONAL LABOR RELATIONS BOARD, Petitioner,  
 v.  
 NATIONAL BROADCASTING COMPANY, INC.,  
 AMERICAN BROADCASTING COMPANY, INC.,  
 and AMERICAN FEDERATION OF MUSICIANS,  
 Respondents.

Before: SWAN, CHASE and CLARK, Circuit Judges.  
 PETITION FOR ENFORCEMENT OF AN ORDER OF  
 THE NATIONAL LABOR RELATIONS BOARD

Petition by the National Labor Relations Board pursuant to Section 10 (e) of the Wagner Act, 29 USCA § 160 (e), for the enforcement of an order issued by the Board on March 31, 1945, requiring National Broadcasting Company, Inc., and American Broadcasting Company, Inc., respectively, to bargain collectively, upon request with National Association of Broadcast Engineers and Technicians, American Federation of Musicians was a party to the proceedings and is named as a respondent to the Board's petition. It has moved to remand the proceedings for the taking of additional evidence.

Motion denied and petition granted.

ALVIN J. ROCKWELL, General Counsel, Malcolm F. Halliday, Associate General Counsel, Joseph B. Robison and Dominick L. Manoli, attorneys, for petitioner.

CAHILL, GORDON, ZACHRY & REINDEL, attorneys for National Broadcasting Company, Inc.; John T. Cahill, A. L. Ashby and Charles F. Metmar, Jr., of counsel.

FRANKLIN S. WOOD, attorney for American Broadcasting Company, Inc.; Joseph A. McDonald, of counsel.

JOSEPH A. PADWAY, HENRY A. FRIEDMAN and ROBERT A. WILSON, attorneys for American Federation of Musicians.

SWAN, Circuit Judge:

This case is before us upon the petition of the Board for enforcement of an order made in consolidated proceedings brought under Section 10 of the Act, 29 U.S.C.A. § 160, against National Broadcasting Company, Inc., hereafter called NBC, and American Broadcasting Company, Inc., hereafter called ABC.<sup>1</sup> American Federation of Musicians, a labor organization hereafter called AFM, was a party to the proceedings and is named as a respondent to the Board's petition. The order sought to be enforced requires NBC and ABC, respectively, to bargain collectively with National Association of Broadcast Engineers and Technicians, a labor organization hereafter called NABET.

The Section 10 proceedings are a sequel to representation proceedings under Section 9, 29 USCA § 159, which arose out of a jurisdictional labor dispute between AFM and NABET. The dispute between the rival unions involved work known in the broadcasting industry as "platter turning."<sup>2</sup> In the Chicago broadcasting stations of the

<sup>1</sup> 61 N.L.R.B. 21.

<sup>2</sup> The work of "platter turners," sometimes called turntable-operators, consists of placing phonograph records on one of the two turntables used in broadcasting studios for "on the air playback," adjusting it for either lateral or vertical cut records and fixing its speed in accordance with instructions appearing on the fact of the record, opening the fader control, and after the record has been played, removing it from the turntable.

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respondent companies,<sup>3</sup> platter turning had for many years been done by musicians who were members of a local AFM union, known as Local 10, while in the companies' stations in other cities platter turning had been done by technicians who were members of NABET. Early in 1944 AFM undertook to negotiate contracts with the companies which would require them to employ musicians for platter turning in all their stations after June 1, 1944. NABET countered by initiating representation proceedings. After hearings in which all the parties in interest participated, the Board determined that the appropriate collective bargaining unit in which to include platter turners in Chicago was the unit of musicians, Local 10; but, outside Chicago, platter turners should be included in system-wide units of engineers and technicians. Since the companies, AFM and Local 10 consented to the certification of NABET in such units without further proceedings, no election was directed but NABET was certified as the bargaining representative of the technical employees of NBC and ABC respectively, outside Chicago.<sup>4</sup>

Thereafter the companies notified NABET that they would not bargain with it in respect to platter turners because AFM disputed the validity of the certification of NABET as the representative of platter turners and threatened the companies with strikes if they recognized it as the bargaining representative of such employees. On January 15, 1945, the Board brought the Section 10 proceedings, charging unfair labor practices in violation of Section 8 (1) and (5) of the Act, 29 USCA § 158 (c) and (5) in refusing to bargain collectively with NABET. Copies of the complaint and notice of hearing were served on AFM and it became a party to the proceedings. By its order of March 31, 1945, now before us on petition for enforcement, the Board reaffirmed its unit determination, found that the companies had violated the Act in the respects charged, and ordered them to bargain with NABET upon request.

Neither of the respondent companies disputes the validity of the Board's order or opposes the granting of an order of enforcement. They urge, however, that the enforcement order be so drawn as to protect them from economic reprisals by AFM. Respondent AFM attacks the validity of the order and opposes the granting of an order of enforcement. It contends that the Board's determination that the appropriate unit, outside Chicago, consists of technical employees is arbitrary and unlawful because (1) NABET has never represented or bargained for platter turners as such, and (2) NABET is a company-dominated union. In support of the latter contention it asks leave to adduce additional evidence before the Board.

*Pittsburgh Plate Glass Co. v. Labor Board*, 313 U. S. 146; *Labor Board v. Hearst Publications*, 322 U. S. 111, 134; *Merlin-Rockwell Corp. v. Labor Board*, 116 F. 2d 586, 587 (C.C.A. 2), cert. den. 313 U. S. 594. The Board found that neither musical nor technical nor technical skill is essential for turntable operation and made its determination on the basis of the collective bargaining history.<sup>5</sup> AFM contends that the record is barren of evidence that NABET have ever bargained for platter turners. It is true that outside of Chicago the respondent companies have had no employees engaged exclusively in the work of platter turning; in other cities this work has been done by the engineer in the control room as an incident to his other duties. Nevertheless, the contracts between NBC and

NABET since 1940 have all contained a provision substantially as follows:

"No NBC technical equipment other than television lighting shall be operated by any person other than a Technical Employee of NBC, as hereinbefore defined." And "technical equipment" for the purpose of the contract was defined as "those facilities of the Engineering Department of NBC used in \* \* \* on the air playback." We think the Board could properly conclude that these contracts did represent a collective bargaining as to the work of platter turning even though the employees who performed it were not exclusively engaged in such work, as were the platter turners in the Chicago stations of the companies.

It is also argued that in January 1944 the companies entered into valid contracts with AFM to employ musicians as platter turners in stations outside Chicago after June 1, 1944. But the Board's decision on March 31, 1945, states that the representation proceeding as well as at the oral argument in the complaint proceedings it was admitted that the alleged agreements had been made subject to the Board's determination in a proper representation proceeding that platter turners, except in Chicago, would be included in a musician's unit represented by AFM. This condition was never met. We conclude that the Board's unit determination was not arbitrary or capricious but is supported by substantial evidence.

2. The second contention of AFM is that the trial examiner at the representation hearing unlawfully excluded evidence that NABET was a company dominated union.

The record, however, scarcely justifies the assertion that such evidence was offered and rejected.<sup>6</sup> Counsel for AFM was evidently familiar with the Board practice ordinarily to require an issue of domination to be tried in a separate proceeding and he seems to have acquiesced in this procedure. No objection to it was voiced before the trial examiner nor, so far as appears, was any criticism of his ruling made by AFM in its oral argument at the hearing before the Board on the trial examiner's report. The Board's brief states that this general practice was adopted in representation proceedings in order to avoid the delay that would ensue from the detailed investigation and hearings which must precede the adjudication of unfair labor practice issues.<sup>7</sup> We believe the adoption of such practice is within the Board's discretion. In the *Pittsburgh Plate Glass case*, 313 U. S. 146, at 156 Mr. Justice Reed said:

"\* \* \* It can hardly be said that the domination of a labor union by an employer is irrelevant to the question of what unit is appropriate for the choice of labor representative but certainly it is a collateral matter in that investigation. \* \* \* In short, domination pertains directly to representation but influences the choice of a unit only casually."

<sup>6</sup> At the representation hearing on September 28, 1944, the following occurred:

"Trial Examiner Paradise: \* \* \* May it be stipulated that the National Association of Broadcast Engineers and Technicians is a labor organization within the meaning of the National Labor Relations Act. \* \* \* ?

Mr. O'Donoghue: Yes.

Mr. Padway: I want to say this. We won't say yes and we won't say no. Put that on the record at this time. Our people are of the opinion that NABET, so-called, is not a labor organization within the Act, and that it is company-dominated. Since that is not an issue in this proceeding, I take it if evidence were offered you would probably refuse to take it. Am I right on that?

Trial Examiner Paradise: Yes.

\* \* \* \* \*  
Mr. O'Donoghue: But for the purpose of this hearing, it is a labor organization?

Mr. Padway: For the purpose of this hearing it is a labor organization within the Act. In saying that, I do not foreclose myself or our organization from establishing in any other proceeding that it is dominated. Will that be all right?

Trial Examiner Paradise: All right.

<sup>7</sup> The Board's brief states that exceptions to the general practice have been recognized "where the constitution of a labor organization participating in a representation proceeding on its face discloses the unlawful character of the organization, *Matter of Phelps Dodge Corp.*, 6 N.L.R.B. 624; where the organization has been previously found by the Board in a complaint proceeding to be company dominated, *Labor Board v. Falk Corp.*, 308 U. S. 453; where a previously disestablished organization appears in a representative proceeding under a different name and the parties have been apprised in advance of the hearing that the issue of identity would be litigated, *Matter of Baltimore Transit Co.*, 59 N.L.R.B. No. 35; and where the evidence has fortuitously disclosed employer participation in the formation of the organization, *Matter of Douglas Aircraft Co.*, 53 N.L.R.B. 486; *Matter of the Toledo Stamping Mfg. Co.*, 53 N.L.R.B. 486; *Matter of the Toledo Stamping Mfg. Co.*, 55 N.L.R.B. 865. The instant case falls into none of these categories."

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<sup>3</sup> ABC's stations were formerly owned by Blue Network Co., Inc., which was merged with ABC on December 30, 1944. Our opinion will not differentiate between them, unless it expressly so states.

<sup>4</sup> 59 N.L.R.B. No. 97.

<sup>5</sup> On this subject the Board stated: "In the absence of other compelling circumstances, we are of the opinion that the collective bargaining history is determinative of the issue in this proceeding. The status of turntable operating work has been crystallized by long-standing custom in the Companies. On the other hand, Local 10 has had agreements in Chicago from the very infancy of the radio broadcasting industry which have covered turntable operators and, in the development of broadcasting techniques, the Companies have adjusted their operations in Chicago by placing their turntables in the broadcasting studios where they can be operated most conveniently by employees in musicians' units. On the other hand studio engineers, employees in technical units, members of the N.A.B.E.T. and its predecessor, have performed turntable work outside Chicago for at least 4 years. The location of the turntables in the engineer's booth was the inevitable result of this situation. We conclude that the turntable operators outside Chicago should be included in units of technical employees, while those in Chicago should be included in units of musicians."

In the present case not only did counsel for AFM appear to acquiesce in the Board's practice of requiring an issue of domination to be tried in a separate proceeding, but the record shows inexcusable delay on the part of AFM in initiating such a proceeding. Both during the pendency of the representation proceeding and afterward, there was ample opportunity for AFM to bring to the attention of the Board charges of company domination of NABET. The representation proceeding was initiated in April 1944, the hearings were held in September and the unit determination and certification were made on November 24th. Not until January 27, 1945, three days before the date set for the hearing of the refusal to bargain complaint did AFM file its charges. Then at the January 30th hearing it applied for a postponement pending the investigation of the charges filed three days before. In our opinion there was no abuse of discretion in the trial examiner's denial of a postponement.

No adequate excuse is shown for AFM's delay in filing charges and a majority of the court are of the opinion that its motion to remand the proceedings for additional evidence on this subject should be denied. The motion papers show that on March 7, 1945, AFM was notified by the Regional Director that its charges had been carefully investigated and he was refusing to issue a complaint. AFM thereupon filed a request of a review of the dismissal of the charges, and on April 17th the Chairman of the Board wrote Mr. Padway that the Board had concluded that a complaint should not be issued. There is nothing in the motion papers to indicate that a remand for additional evidence would produce anything new or additional to what the Board has already investigated. Determination whether or not to file a complaint after investigating charges of unfair labor practices is discretionary with the Board. See *Labor Board v. Indiana & Michigan Electric Co.*, 318 U. S. 9, 18-19; *Jacobsen v. Labor Board*, 120 F. 2d 96, 100 (C.C.A. 3).

3. For the reasons above stated we think the attacks upon the validity of the order must fail and we reach the question whether the petition for enforcement should be granted. It is plain that the respondent companies' refusal to bargain with the union certified by a valid order of the Board was a violation of Sections 8 (1) and (5) of the Act, 29 U.S.C.A. § 158 (1) (5). It is equally plain, and firmly established by authority, that an unfair labor practice cannot be excused because of economic pressure exerted against the employer by one of the unions engaged in a jurisdictional labor dispute. See *National Labor Relations Board v. Isthmian S.S. Co.*, 126 F. 2d 598, 599 (C.C.A. 2); *National Labor Relations Board v. John Engelhorn & Sons*, 134 F. 2d 553, 557-8 (C.C.A. 3); *South Atlantic S.S. Co. v. National Labor Relations Board*, 116 F. 2d 480 (C.C.A. 5), cert. den. 313 U. S. 582; *National Labor Relations Board v. Goodyear Tire & Rubber Co.*, 129 F. 2d 661, 664 (C.C.A. 5); *National Labor Relations Board v. Hudson Motor Car Co.*, 128 F. 2d 528 (C.C.A. 6); *McQuay-Morris Mfg. Co. v. National Labor Relations Board*, 116 F. 2d 748, 752 (C.C.A. 7), cert. den. 313 U. S. 565; *National Labor Relations Board v. Gluek Brewing Co.*, 144 F. 2d 847, 853 (C.C.A. 8); *Warehousemen's Union v. National Labor Relations Board*, 121 F. 2d 84 (App. D. C.), cert. den. 314 U. S. 674. Indeed, no contention to the contrary has been advanced by any of the parties in the case at bar. Consequently, the Board's petition should be granted.

4. The final question is whether the enforcement order should run against AFM as well as the respondent companies. That section 10 (h), 29 U.S.C.A. § 160 (h), gives the court authority to make such a restraining order is argued by ABC and NBC, and nothing has been asserted in opposition to it. We are not, however, convinced of the necessity of expressly restraining AFM. At the oral argument before the Board in the section 10 proceeding, Mr. Padway said:

"We can't tell the company what to do but we hope it will do the logical and proper thing, namely, to refuse recognition until it gets to the Circuit Court of Appeals and let the Circuit Court of Appeals then in the Section 10 proceedings determine whether your finding in the Section 9 proceedings was correct.\* \* \*

That has occurred and we shall not assume that AFM

will not respect our decision. If an attempt to prevent the companies from complying with our order should be made it would seem that the ordinary contempt procedures available against a person with knowledge of the decree although not named in it would enable the court to protect its order. Accordingly the enforcement order will issue in the customary form directed against the respondent companies only. \* \* \*

National Broadcasting  
J-930

CLARK, Circuit Judge (dissenting):

Due process, the Act, and the Board's own rules of procedure all seem to me to require the conclusion that AFM here cannot be deprived of the opportunity of presenting whatever evidence it has that NABET is company dominated, and hence that its motion to remand for that purpose should be granted. A hearing in representation proceedings is mandatory under S 9 (c), U.S.C.A. S 159 (c); cf. *Inland Empire Dist. Council v. Graham*, D. C. W. D. Wash., 53 F. Supp. 369, appeal dismissed 9 Cir., 142 F. 2d 455; and the Board's rules specifically so require, 29 U.S.C.A. Appendix, SS 203.6, 203.7, with a full inquiry into the question of representation, and with the right to any part "to call, examine and cross-examine witnesses," as provided in *ibid.* S 202.25. The only reason for a hearing is to hear relevant evidence; and the proffered evidence is clearly relevant. *N.L.R.B. v. Falk Corp.*, 308 U. S. 453, 461, 462; *Pittsburgh Plate Glass Co. v. N.L.R.B.*, 313 U. S. 146; *Madden v. Brotherhood and Union of Transit Employees*, 4 Cir., 147 F. 2d 439, 441, 442. The petitions for representation were made by NABET and the employers, and AFM was a party. It is well settled that company domination is to be presumed where disconnection with a former company union is not shown, *N.L.R.B. v. Standard Oil*, 2 Cir., 138 F. 2d 885; *Westinghouse Electric & Manufacturing Co. v. N.L.R.B.*, to Cir., 112 F. 2d 657, affirmed per curiam 312 U. S. 600; and here AFM's evidence points directly to such original domination. This is the first occasion AFM has had to contest the Board's asserted "consistent practice," since there is no direct review of representation proceedings. *Pittsburgh Plate Glass Co. v. N.L.R.B.*, supra; *American Federation of Labor v. N.L.R.B.*, 308 U. S. 401. And refusal to receive relevant evidence is appropriate ground for the grant of a motion to adduce additional evidence. *N.L.R.B. v. New York Merchandise Co.*, 2 Cir., 134 F. 2d 949.

In short, AFM has not been accorded the full hearing to which it is entitled, and is now seeking, at its first opportunity, and in the only way open to it, to procure that full hearing. Indeed, its right would seem to me so clear that I am rather surprised at the Board's vigorous objection and assertion of a contrary practice "to leave the aggrieved parties to their right to file charges under Section 10 of the Act"—a practice all the more doubtful, since it is not consistently followed, as the Board itself showed in its brief quoted in note 7 of the opinion. And in the *Madden case*, supra, 147 F. 2d 439, 441, involving the employees of the Baltimore Transit Company and the Baltimore Coach Company, the court, in reversing an injunction against the conduct of an election ordered by the Board after hearing and deciding the question of domination, D. C. Md., 58 F. Supp. 366, said quite properly: "It was clearly not the intention of Congress that the Board should place on the ballot in an election an employer dominated organization (*N.L.R.B. v. Falk Corporation*, 308 U. S. 453, 461, 462, 60 S Ct. 307, 84 L. Ed. 396); and it is inconceivable that it should have been intended that the summary procedure provided by section 9 (c) should be delayed while complaint proceedings under Section 10 were being conducted."

Indeed, the Board makes its own answer to its practice when it says in its brief: "But, plainly, the Board's refusal to issue a complaint upon that charge is not relevant to the issues in the instant proceedings nor does the evidence sought to be adduced have any bearing upon them. Moreover, both the Act and judicial authority make it clear that the Board may in its discretion refuse to issue a complaint and its action in that respect is not subject to judicial review." The action of a prosecutor in refusing

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to prosecute can hardly be made the subject of direct review; and the only relevancy of reference to the Section 10 procedure would seem to be a more complete demonstration that AFM is seeking here and now the only real relief open to it.

The Board's fear of great delay in representation proceedings is answered by the statutory requirement of a hearing which must be had, whatever the delay. And if it must be had anyhow, it will certainly take little additional time to determine whether or not a party can establish a *prima facie* case in support of its claims, and thus only force an extended hearing. Our holding here upholding such a *practice* as discretionary with the Board, notwithstanding the *statute* and the Board's own published *rules*, seems to me seriously disturbing. I read the *Pittsburgh Plate Glass* case, *supra*, cited in support of this conclusion, as pointing rather to the contrary, even without reference to the vigorous opinion of the present Chief Justice for the dissenting Justices to the very point that relevant evidence was erroneously refused. For that case has no suggestion that relevant evidence may be refused in a Section 9 hearing because charges may be filed under Section 10; it holds only that the evidence there sought to be adduced, in view of the facts already known to the Board, would not have required a change in the result. The issue there was one of the effectiveness of a bargaining agent representing a plurality of the employer's plants as against the independence of separate units (an issue upon which the Board's views seem to have been changing towards the latter view, 51 Yale L. J. 155-162); and the majority held that the Board, having a full picture before it, could favor the broader bargaining unit because of its advantages, even if steps must be taken to stop the company domination. If, together with the decision below, 8 Cir., 113 F. 2d 698, has been taken by the court rendering the original decision as reinforcing the requirement that the Board must consider relevant evidence. *Donnelly Garment Co. v. N.L.R.B.*, 8 Cir., 123 F. 2d 215, 222, 223. Of course, had the Board here determined that NABET, even if company dominated, must nevertheless be the employees' representative, we would have been faced with a different problem of review.

In denying AFM's motion, the opinion relies on two further grounds, which are not pressed by the Board and are essentially inconsistent with the Board's position. The first is that counsel acquiesced in the Board's practice so far as present proceedings are concerned, intending only to attack it elsewhere. And the second is that AFM was guilty of inexcusable delay in filing charges under Section 10. As to the second, it must fall if we accept the Board's view (as I think we must) of the complete irrelevancy of the Section 10 issue here and the absence of any right of review of the Board's decision not to issue a complaint. But it is to be noted that AFM did file such charges, without result, in 1942, and that it again filed the same charges just before the hearing in January, 1945, on the real proceedings to enforce the results of the election, i.e., contemporaneously with the taking of steps by the Board for putting its decision into effect. This does not seem like inexcusable delay; it does prompt the question as to how many footless collateral proceedings are necessary that AFM preserve its right to a full hearing in the proceeding to which it is a direct party.

The first ground seems also answered by the quotation from the record in the opinion, viewed in the light of the background of the Board's practice and its own simple stark submission here, "that the Board committed no error in refusing to permit in the representation proceedings an inquiry into the legality of NABET." (Italics supplied.) Clearly counsel was bowing to the clear ruling of the Board, so that the hearing might proceed, but *expressly* reserving the right to establish "in any other proceeding that it is dominated." Not only is this quite completely another proceeding, but, as we have seen, it is the *only one* where the issue can really be raised judicially or reviewed judicially. In view of the background, the intent of counsel seems so clear that the result is thus made to turn upon his mischoice of appropriate words in the midst of trial, though no one was or could be misled thereby; and, quite obviously, no different result would have followed had he argued all day and with the most careful choice of precise English. This seems to me a result harsher

than that now reached in federal courts of law where the exception has been abolished. F.R.C.P. 46. I suggest that these parties, like litigants in court, should not suffer important and damaging loss of rights because of hasty, though not misleading, mistakes of counsel during trial, and that tranquillity in labor relations will not be promoted by holding otherwise.

Not only has AFM not delayed these proceedings in the slightest, so far as the record shows, but they have attained an almost unknown speed for labor cases, since even the representation hearing occurred only last fall. While we certainly ought not to decry expedition when it does occur, yet it is proper to suggest that this is not the case where speed is likely to safeguard rights which the Act aims to protect. On the contrary, the few weeks needed at most to determine if AFM has a case will cause harm to no one, but will impress all the litigants as a real endeavor to secure a completely fair and final settlement of litigation which otherwise bids fair to leave substantial union interests dissatisfied not merely with the outcome, but with the means by which it has been achieved.

## FREE RADIO AND PRESS HELPED MAKE ATOM BOMB

Development of the atom bomb is universally regarded as the best-kept secret of the war. In June, 1943, 18 months after we had entered the war, a request went out to broadcasters and editors from Censorship asking that radio and the press refrain from disseminating information about experiments involving atoms and a list of unusual equipment, elements and compounds thereof.

Effective testimony to the superb manner in which radio and the press kept faith with Censorship came with the recent lifting of restrictions. In rescinding the ban, Director of Censorship Byron Price commented as follows: "This is the biggest story of our time. To the everlasting credit of radio and the press it has been a well-kept secret."

Secretary of War Henry L. Stimson, in a release on the development of the new weapon, says: "Radio and the press of the nation, as in so many other instances, have complied wholeheartedly with the requests of the Office of Censorship that publicity on any phase of this subject be suppressed."

The Office of Censorship release follows:

"The Office of Censorship's special request on scientific experiments, originally issued on June 28, 1943, and repeated on May 15, 1945, is hereby rescinded in view of the President's announcement of the use of the atomic bomb against Japan. Editors and broadcasters are reminded, however, of the Production section of the Press and Radio Code which restricts information without appropriate authority on 'new or secret weapons . . . secret designs, formulas, processes or experiments connected with the war.'

"In the interest of the highest national security it is requested that editors and broadcasters continue to withhold information without appropriate authority concerning scientific processes, formulas, and mechanics of operation of the atomic bomb; location, procurement and consumption of uranium stocks; quality and quantity of production of these bombs; their physics, characteristics and future military employment; and information as to the relative importance of the various methods or plants, or of their relative functions or efficiencies.

"In case of doubt concerning any of the foregoing material you are urged to get in touch with the Office of Censorship."

## BROADCASTERS TO ETO

The War Department has announced that the eleven selected representatives of the radio industry and three trade press representatives who will make a three-weeks tour of the European Theater of Operations were briefed yesterday (9), and likely will take off today via plane for London, the first scheduled stop on the itinerary.

The group will be headed by Justin Miller, president-  
(Continued on next page)

elect of NAB. The tour will be made under War Department auspices with Col. Edward M. Kirby, Chief, Radio Branch, Army Public Relations, in immediate charge as escorting officer.

In addition to Miller, those making the trip are: J. Leonard Reinsch, managing director of the Cox Radio Stations and radio adviser to President Truman, who will go as the White House representative; Mark Woods, president of American Broadcasting Co.; William S. Hedges, vice-president of NBC, in charge of planning and development; Joseph H. Ream, senior vice-president of CBS; R. D. Swezey, vice-president and general manager of Mutual; John E. Fetzner, WKZO, Kalamazoo, assistant director of Censorship for radio; Clair R. McCollough, managing director, Mason-Dixon Group; Col. Harry S. Wilder, WSYR, Syracuse; Martin Campbell, WFAA, Dallas; and Morris Novik, manager of WNYC, New York, municipally owned non-commercial station and part owner of WKNY, Kingston, New York. News representatives scheduled for the trip are Sol Taishoff, editor and publisher of *Broadcasting*; Abel Green, editor of *Variety*; Jack Ali-coate, publisher of *Film Daily* and *Radio Daily*; and Joseph Csida, general manager of *Billboard*.

The trip to Europe represents a return to familiar scenes for many of the broadcasters, veterans of World War I. The group will travel as fully accredited war correspondents, making the trip in uniform.

### CLEAR CHANNEL HEARING OCT. 23

Federal Communications Commission has continued the Clear Channel Hearing to 10:30 a. m. October 23, instead of September 5, due to the fact that Commission members and others interested will be at Rio de Janeiro, Brazil, for the Third Inter-American Radio Conference which convenes September 3.



### "FREE RADIO" REFERENCE MATERIAL IN THIS WEEK'S BULLETIN ON JAYCEE RADIO WEEK

Accompanying this issue of NAB REPORTS is Special Twenty-Fifth Anniversary Bulletin No. 15. This Bulletin contains the NAB statement of policy with reference to the "Freedom of Speech" theme adopted for Jaycee Radio Week, August 26-September 1.

Relation of Freedom of Speech to the American system of broadcasting is the sole aim of the industry in this observance.

The Bulletin contains numerous references to source material on the subject of Free Radio and Freedom of Speech, with some selected statements in full.

Extra copies will be mailed to all state and local Jaycee presidents.

The attention of station managers and program departments is called to this Bulletin, as a source of program material for Jaycee Radio Week.

### REVISED STANDARDS OF PRACTICE

(As released by NAB News Bureau)

Washington, D. C., Aug. 8: Recognition of the responsibility of station management is the keynote of revised Standards of Practice adopted by the Board of Directors

of the National Association of Broadcasters in Washington, August 7. Described by NAB President J. Harold Ryan as "a strong safeguard of free radio in America," the foreword says, "determination of what shall be broadcast rests entirely with the station licensee and this responsibility may not be delegated." In these revised standards broadcasting is dedicated to freedom of expression, limited only as prescribed by law and by considerations of decency and good taste.

Shorter commercials are recommended for daytime programs. The recommended length of commercials for both nighttime and daytime programs is now identical. Effect of this provision, however, will not be immediate because of existing station and network advertising commitments.

The revised standards recommend that political broadcasts and those dealing with public questions be confined to straightforward statements appealing to intelligence and reason.

Acting upon the recommendation of the NAB Code Committee, headed by Lee B. Wailes, manager of Westinghouse Radio Stations, with headquarters in Philadelphia, the Board adopted these revised Standards of Practice substantially in the language submitted by the Code Committee on February 27 of this year. During the intervening months, the wording of several sub-sections has been worked out with the help of other NAB committees, including the Sales Managers Executive Committee, the Radio News Committee and Board Liaison members of the Code Committee. Code Committee members serving under Lee Wailes were: Richard H. Mason, WPTF, Raleigh; Jan Schimek, CBS, New York; Edgar L. Bill, WMBD, Peoria; William S. Hedges, NBC, New York; Eugene P. O'Fallon, KFEL, Denver; Herbert Hollister, KANS, Wichita; and William B. Quarton, WMT, Cedar Rapids.

J. Harold Ryan, who agreed upon request of the Board to continue as President of NAB until Justin Miller takes office October 1, expressed great satisfaction with the new Standards of Practice. "The twenty-fifth year of broadcasting is most appropriate for a renewed declaration of principles which assert the complete independence of station management in determining its own operation in the public interest," Ryan stated. "These Standards of Practice provide flexibility and enable the individual licensee to meet the varying social and economic problems growing out of our democratic processes, as they affect the area which his station serves."

The new Standards of Practice will be given wide circulation immediately.

### Ryan's Statement to Industry

J. Harold Ryan makes the following separate statement to the industry:

"The Code of the National Association of Broadcasters was first adopted in 1939. While its language was mandatory, it was always construed by the Association as being advisory to station management, upon whom the obligation rests by law to make the selection of programs within the framework of public interest, convenience and necessity.

"In the winter of 1944 it became evident that the added experience and greater maturity of broadcasting invited and required certain changes in the Code. Starting with the Spring of 1944 the Code Committee has been at work on the revision of this document. Several meetings have been held and a great many of the leaders of the industry have given careful thought to the preparation of the revised Standards of Practice, including two other Committees of the National Association of Broadcasters, the Sales Managers Executive Committee and the Radio News Committee, and Board Liaison members of the Code Committee. The Chairman of the Code Committee has been Lee Wailes, Manager of Westinghouse Radio Stations, and the other members of the Committee were: Edgar L. Bill, (Continued on next page)

WMBD, Peoria, Illinois; William S. Hedges, NBC, New York, New York; Herbert Hollister, KANS, Wichita, Kansas; Richard H. Mason, WPTF, Raleigh, North Carolina; Eugene P. O'Fallon, KFEL, Denver, Colorado; William B. Quarton, WMT, Cedar Rapids, Iowa; Jan Schimek, CBS, New York, New York. The language of the Standards of Practice that has just been approved by the Board was decided on substantially at the Chicago meeting of a special sub-committee of the Code Committee on January 23, 1945.

"In general, the accepted practice of the advisory nature of the Code has been expressed in the language, and complete emphasis has been placed upon the responsibility of individual management in the question of programming consistent always with management's obligation under public interest, convenience and necessity.

"Shorter commercials are recommended for daytime programs. The recommended length of commercials for both nighttime and daytime programs is now identical. Effect of this provision, however, will not be immediate because of existing station and network advertising commitments. The revised Standards recommend that political broadcasts and those dealing with public questions be confined to straightforward statements appealing to intelligence and reason.

"The Code Committee is one of the standing Committees of the National Association of Broadcasters and can at any time be convened. The Code is a living and growing document, capable of additions, changes or deletions as conditions and experience show the need for such alterations. It is intended as a guidebook to help management in its decisions to the end that discussion of all matters of public interest may be as free as possible under the American system of broadcasting consistent with the natural limitations of facilities."

The complete text of the Standards of Practice follows:

## FOREWORD

Broadcasting is dedicated to freedom of expression, limited only as prescribed by law and by considerations of decency and good taste.

The National Association of Broadcasters formulates and publishes the following Standards of Practice as a guide to assist the licensee in operating in the public interest.

Determination of what shall be broadcast rests entirely with the station licensee and this responsibility may not be delegated.

## Public Questions

Station licensees should provide time for the presentation of public questions. Such time should be allotted with due regard to the value and interest of the subject to the public.

## Treatment of Political and Public Question Broadcasts

Broadcasts designed for the presentation of political, economic, social or philosophic questions or the candidacy of any person for public office or a measure to be voted upon should be presented by straightforward statement appealing to intelligence and reason.

## News

News should be presented with fairness and accuracy and the station licensee should be satisfied that the arrangements made for obtaining news insure this result. News should not be selected for the purpose of furthering or hindering either side of any public question nor should it be colored by the opinions or desires of the station management, the editor, or others engaged in its preparation or the person actually delivering it over the air, or, in the case of sponsored news broadcasts, the advertiser.

The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand the meaning of events so that they may form their own conclusions.

## Children's Programs

Programs designed specifically for children reach impressionable minds and influence social attitudes, aptitudes and approaches and, therefore, they require the closest supervision of broadcasters in the selection and control of material, characterization and plot.

This does not mean that the vigor and vitality common to a child's imagination and love of adventure should be removed. It does mean that programs should be based upon sound social concepts and presented with a superior degree of craftsmanship; that these programs should reflect respect for parents, adult authority, law and order, clean living, high morals, fair play and honorable behavior. Such programs should not contain sequences involving horror or torture or use of the supernatural or superstitious or any other material which might reasonably be regarded as likely to over-stimulate the child listener, or be prejudicial to sound character development. No advertising appeal which would encourage activities of a dangerous social nature should be permitted.

To establish acceptable and improving standards for children's programs, the National Association of Broadcasters will continuously engage in studies and consultation with parent and child study groups. The results of these studies will be made available for application to all children's programs.

## Education

While all radio programs possess some educative values, broadcasters should endeavor to assist specific educational efforts. In cooperation with educators and other appropriate groups, broadcasters should search for improving applications of radio as a medium of education.

## Religion

Broadcasting, which reaches men of all creeds and races simultaneously, should not be used to convey attacks upon another's race or religion. Rather it should be the purpose of the religious broadcast to promote the spiritual harmony and understanding of mankind and to administer broadly to the varied religious needs of the community.

## Commercial Programs and Length of Commercial Portion

Acceptance of programs and announcements should be limited to products and services offered by individuals and firms engaged in legitimate commerce; whose products, services, advertising, testimonials and other statements comply with pertinent legal requirements, fair trade practices and accepted standards of good taste.

Brief handling of commercial copy is recommended procedure at all times, with special consideration being given to the effect on the listener of the manner of presentation.

Member stations should hold the length of the commercial portion, including that devoted to contests and offers, to the following number of minutes and seconds:

Five minute programs.....	1:45
Five minute news programs.....	1:30
Ten minute programs.....	2:00
Fifteen minute programs.....	2:30
Twenty-five minute programs.....	2:45
Thirty minute programs.....	3:00
Sixty minute programs.....	6:00

## Exceptions:

The above limitations do not apply to participation programs, announcement programs, "musical clocks," shoppers' guides and other local programs falling within these general classifications.

## "Standards of Good Taste"

The following are deemed to be generally unacceptable under these Standards of Practice:

*(Continued on next page)*

1. Unfair attacks upon competitors, competing products, or upon other industries, professions or institutions.
2. Misleading statements of price or value or misleading comparisons of price or value.
3. Continuity which describes repellantly any functions or symptomatic results of disturbances, or relief granted such disturbances through use of any product.
4. Cures and products claiming to cure.
5. Advertising statements or claims member stations know to be false, deceptive or grossly exaggerated.
6. Any remedy or other product the sale of which or the method of sale of which constitutes a violation of law.
7. Any spirituous or "hard" liquor.
8. Any fortune-telling, mind-reading, or character-reading, by handwriting, numerology, palm-reading, or astrology, or advertising related thereto.
9. Schools that offer questionable or untrue promises of employment as inducements for enrollment.
10. Matrimonial agencies.
11. Offers of "home work" except by firms of unquestioned responsibility.
12. Any "dopester," tip-sheet or race track publications.
13. All forms of speculative finance. Before member stations accept any financial advertising, it should be fully ascertained that such advertising and such advertised services comply with all pertinent federal, state, and local laws.

### FCC RADIO OPERATOR SURVEY

In response to the continued need for additional radio operators and technicians expressed by government agencies and the communications industry, the Federal Communications Commission has continued the manpower survey launched in the summer of 1943. The list of such persons now being released as the sixth report encompasses holders of radiotelephone and radiotelegraph licenses as well as those holding both types of licenses.

List Number 6 is divided into three sections: holders of radiotelephone licenses (first- and second-class), holders of radiotelegraph licenses (first- and second-class), and holders of both radiotelephone and radiotelegraph licenses (first- and second-class).

The new list contains 307 names and addresses of licensees who have reported themselves available for employment according to replies received up to July 15, 1945, by the Federal Communications Commission in response to a postcard questionnaire. In addition to the names and addresses, the list also shows the present draft status, nature of present employment, and whether the licensee states his availability for full- or part-time employment. To facilitate use of the list, the names of the license holders are grouped according to state of residence and the states are grouped according to Census Regions.

The Commission does not certify as to the experience or availability of any person listed but merely sets forth the information as received.

The FCC lists are made part of the NAB Technicians Pool. Broadcasters requesting lists of available personnel from NAB are given names from both the NAB registrations and the FCC lists.

### FM HEARING BULLETIN

Special Allocation Hearing Bulletin No. 17 will contain the complete transcript of the proceedings before the FCC on July 30, 31 and August 1. This hearing, identified by Docket Number 6768, was in connection with the "Promulgation of Rules and Regulations and Standards of Good Engineering Practice for FM Broadcasting Other Than Non-educational Services."

Copy of this special bulletin is now in the hands of the printer and will probably be mailed on or about August 22. It is suggested that broadcasters be on the lookout for this bulletin as it contains the views of engineering authorities and others prominent in the industry concerning the FM broadcast service.

### CREUTZ NAMED RADIO AND RADAR ASSISTANT DIRECTOR

In a move to utilize experienced personnel to best advantage in coordinating related activities of the War Production Board's Radio and Radar Division Melvin E. Karns, Director of the Division, today announced certain administrative appointments.

John Creutz, of McLean, Va., has been appointed Assistant Director for Production succeeding Mr. Karns who became Director of the Division upon the resignation of Louis J. Chatten on August 1st. Mr. Creutz has been Chief of the Domestic and Foreign Branch since June 1944. Mr. Creutz has been in close association with all phases of the industry since he joined the Division in December 1942. Previously he served the industry as a radio engineer and consultant. He is a graduate of the University of Wisconsin and holds a degree in electrical engineering.

Henry B. Esterly, of Pottsville, Pa., former Assistant Chief of the Domestic and Foreign Branch since September 1944, succeeds Mr. Creutz as Branch Chief. He has had long experience in the distribution end of the radio industry previous to joining the Division in Sept. 1943.

### SURVEY OF BEER ADVERTISING

A nation-wide survey of beer advertising acceptance by radio stations has just been completed for one of its clients by J. Walter Thompson Company. The information, which has been made available to the National Association of Broadcasters by the agency, reveals that out of the nation's total of 884 commercial radio stations, 88% accept beer advertising, 10% do not, and 2% have failed to express themselves either way.

Out of the nation's total of all commercial radio stations, non-affiliated and network affiliated, replies were tabulated as follows:

Do accept beer advertising.....	783 stations	88%
Do not accept beer advertising.....	88 "	10%
Failed to respond to questionnaire....	13 "	2%
<hr/>		
Total radio stations.....	884	100%

The questionnaire was sent to all commercial radio stations in the country asking this question, "Do you accept advertising for beer?" It did not go to the 32 college and religious non-commercial stations which do not accept advertising of any kind.

### MASON HEARS FROM GLOBAL SHOW

Richard H. Mason, manager, WPTF, Raleigh, Task Force Commander for the Raleigh "Let's Go to Town" program, is beginning to receive letters from overseas personnel who heard the Raleigh show on July 20.

Pfc. G. R. Johnson wrote for himself and another combatant, from Camberg, Germany:

"It was very good and I was glad to get to hear the home news. My home was in the Willow Springs and Raleigh section. I have a buddy here from Winston-Salem. We are in the 70th Inf. Div. and we hope to soon be back. The program was damn good and was short waved all over Europe. Tell Kingham Scott and Uncle Milt that the G.I.'s think they're swell. Send us more programs from Raleigh."

Sgt. Elizabeth G. Arnold, a native of Raleigh, and a "homesick North Carolinian," wrote:

"It has been almost thirteen months since I walked down Fayetteville Street but I sure walked down it the morning I listened to you. Gee you don't know how it made me feel to hear you mention the different stores and people. You made a comment on the ladies' legs and how they looked in rayon hose. The women over here don't wear any hose at all but I know that the women's legs at home are much better looking than the ones over here. Here's hoping I will hear another broadcast soon. I have been

*(Continued on next page)*

here at Bovington about 30 miles from London for about a year and I hope that I will be walking down Fayetteville Street soon."

### WBAP IS COOPERATING

WBAP, Fort Worth, is cooperating in the "Music from Your Hometown" series for broadcast to overseas military personnel. Ed Lally, program director, is in charge according to General Manager Harold Hough. WBAP was inadvertently omitted from the list of cooperating stations published in last week's REPORTS.

### OWEN TO AMERICAN

Clure H. Owen, Assistant Chief of the Broadcast Division of the Engineering Department, has resigned to accept a position as Allocations Engineer with the American Broadcasting Co., Inc.

Mr. Owen has been with the Commission and its predecessors since 1931. Mr. Owen has been active as chairman of Committee 2 of the Clear Channel Hearings which was assigned the determination of what constitutes objectionable interference insofar as interference between standard broadcast stations is concerned. He was chairman of committee 1 (standard broadcasting) of the allocations hearing. He has been in charge of the Hearing Section of the Broadcast Division since 1937. As representative of the Board of War Communications Mr. Owen had charge of two functions of the BWC: (1) the Vacuum Tube analysis conducted in 1942, and (2) the survey to determine existence and location of surplus radio equipment, following which a catalog was published in January 1943 which aided Government and industry in locating such equipment.

Mr. Owen has been associate member of the Institute of Radio Engineers since 1926.

Mr. Owen is married and has two children.

### FCC FACSIMILE COMMITTEE

George P. Adair, Chief Engineer of the Federal Communications Commission today announced the appointment of the following committee to prepare recommendations for engineering standards for facsimile:

Curtis B. Plummer, chairman, Assistant to Chief, Non-Standard Broadcast Application Section, Broadcast Division, Engineering Department of FCC; Virgil R. Simpson, Assistant to Chief Engineer of FCC; Hart S. Cowperthwait, Radio Engineer, Non-Standard Broadcast Application Section, Broadcast Division, Engineering Department of FCC; William H. Bauer, Chief, Technical Section, Law Department of FCC; John V. L. Hogan, Faximile, Inc., New York, N. Y.; F. R. Brick, Jr., Finch Telecommunications, Inc., Passaic, N. J.; Stuart L. Bailey, of Jansky & Bailey, Consulting Radio Engineers, Washington, D. C.; T. A. M. Craven, Vice-President, Cowles Broadcasting Co., Washington, D. C.; and Charles J. Young, RCA Laboratories, Princeton, N. J.

The committee will submit its recommendations to an informal engineering conference to be called by Mr. Adair within the next month.

### TEXAS U RADIO DEGREE

Austin, Tex.—The University of Texas announces that it will offer a degree in professional training for radio, thus becoming the first of the southwestern universities to provide a full course in the subject. The course will open with the advent of the fall term.

Radio courses will include broadcasting, radio drama, production, announcing, program planning and many other phases.

The degree will be conferred by the College of Fine Arts, and the courses will be supervised by the University's radio committee.

### KTUC FREE BIKE-CHECK FOR KIDS

Tucson, Ariz.—Radio station KTUC is following up on a recent overwhelmingly successful auto brake check campaign with a free bicycle check for children.

### HIGH HONOR PAID KMBC SERVICE FARMS

Kansas City, Mo.—In recognition of outstanding accomplishments by "KMBC Service Farms" in the first two years of operation, the National Hampshire Hog Type Conference came west of the Mississippi river for the first time in its history. The conference was held Aug. 7th and 8th on "KMBC Service Farms," 20 miles southwest of Kansas City, just over the Missouri line in Kansas.

KMBC's farm service includes the direct operation of livestock farms for developmental purposes. The KMBC developmental farms of 1,000 acres have built up outstanding purebred Angus cattle herds, Hampshire and Berkshire hogs. Hundreds of these purebred offspring have been distributed to many farms in the 100 miles primary radius of KMBC.

In addition to the obvious many ways that the farm project has served farmers, including three-times-daily remote broadcasts direct from the farms, an eye has been kept to the future with the development of new local 4-H clubs and the fostering of improved farming methods actually put to test on "KMBC Service Farms."

## Federal Communications Commission Docket

### HEARINGS

No broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, August 13.

## Federal Communications Commission Action

### APPLICATIONS GRANTED

WLBZ—Maine Broadcasting Co., Inc., Bangor, Maine.—Granted modification of license to change from employing directional antenna day and night to employing directional antenna night only. (B1-ML-1215)

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted modification of license to operate with nighttime directional antenna pattern from 15 minutes before local sunset to 15 minutes after local sunrise during those months in which the average hour of local sunset and/or local sunrise occurs on the quarter-hour or three-quarter hour. (B3-ML-1216)

Fred O. Grimwood, Bloomington, Ind.—Granted petition for leave to amend application for new station to show changes made in equipment installed, etc.

Martinsburg Broadcasting Co., Martinsburg, W. Va.—Granted motion for continuance of hearing scheduled for August 23,

(Continued on next page)

and continued consolidated hearing on applicant's application and that of Berkeley Broadcasting Company, to September 13, 1945.

WCNC—Albemarle Broadcasting Co., Elizabeth City, N. C.—Granted motion to vacate hearing now scheduled for August 22, on its application for modification of license to move transmitter and studio, and dismissed the application without prejudice.

O. H. Richardson, et al, d/b as The Voice of Marion, Marion, Ind.—Granted motion for continuance of hearing now scheduled for August 29 on application for construction permit, and continued same to September 12, 1945.

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Granted construction permit to install a composite 250-watt transmitter at present site of main transmitter, to be operated as an auxiliary transmitter with power of 250 watts.

KPKW—Western Radio Corp., Pasco, Wash.—Granted modification of construction permit which authorized a new station, for extension of completion date from 8-7-45 to 9-6-45.

KRMD—T. B. Lanford, et al, d/b as Radio Station KRMD, Shreveport, La.—Granted authority to make changes in automatic frequency control equipment.

WOSH—Myles H. Johns, et al, d/b as Oshkosh Broadcasting Co., Oshkosh, Wisc.—Granted authority to determine operating power by direct measurement of antenna power.

WBNS—WBNS, Inc., Columbus, Ohio.—Granted modification of license to change corporate name to RADIOHIO INCORPORATED.

WBNS, Inc., Area of Columbus, Ohio.—Granted modification of licenses for relay stations WBNT, WGBD, WJLF, WMJA, WMJB, WMJC, WMJH, WELE, WMJD, WRBC, to change corporate name from WBNS, Inc., to RADIOHIO INCORPORATED.

W8XUM—WBNS, Inc., Columbus, Ohio.—Granted modification of facsimile station license to change corporate name to RADIOHIO INCORPORATED.

WELD—WBNS, Inc., Columbus, Ohio.—Granted modification of FM station license to change corporate name to RADIOHIO INCORPORATED.

KXOA—Lincoln Deller, Sacramento, Calif.—Granted license to cover construction permit authorizing a new station to operate on **1490 kc.**, 250 watts; also granted authority to determine operating power by direct measurement of antenna power. The licensee hereunder is granted a waiver of Sec. 3.55(b) and 3.60 of the Commission's Rules and Regulations upon the following conditions: (a) That a cathode ray oscilloscope will be used to continuously monitor percentage modulation; (b) that frequency checks by an external standard will be submitted to the Commission weekly; and (c) that approved frequency and modulation monitors will be installed as soon as such equipment becomes available. (Action taken 8-1)

## LICENSE RENEWALS

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

WATA, Ashland Broadcasting Co.; KFBL, KFBM, Frontier Broadcasting Co.; WABG, Memphis Publishing Co.; WAIJ and WAIY, WIBX, Inc.

Granted renewal of following station licenses to not later than June 1, 1946, subject to changes in frequency assignment which may result from proceedings in Dockets Nos. 6651 and 6768: WABC-FM, WBBM-FM, Columbia Broadcasting System, Inc.; WGF, General Electric Co.; WDL, The Moody Bible Institute of Chicago; WPEN-FM, Wm. Penn. Broadcasting Co.; WCAU-FM, WCAU Broadcasting Co.; KDKA-FM, WBZA-FM, WBZ-FM, Westinghouse Radio Stations, Inc.

Granted renewal of following station licenses for the period ending February 1, 1947:

WMFF, Plattsburg Broadcasting Corp., Plattsburg, N. Y.; KGF, Central Nebraska Broadcasting Corp., Kearney, Nebr.; WWP, Palm Beach Broadcasting Corp., Palm Beach, Fla.; KOME, Oil Capital Sales Corp., Tulsa, Okla.; KRMD, Radio Station KRMD, Shreveport, La.; WEBR, WEBR, Inc., Buffalo, N. Y.; WIZE, Radio Voice of Springfield, Inc., Springfield, Ohio.

Granted renewal of following station licenses for the period ending May 1, 1948:

KFAB, KFAB Broadcasting Co., Lincoln, Nebr.; KFVD, Standard Broadcasting Co., Los Angeles, Calif.; KMOX, Columbia Broadcasting System, Inc., St. Louis, Mo.

WBIR—Radio Station WBIR, Inc., Knoxville, Tenn.—Granted renewal of license for period ending August 1, 1946. (B3-R-1113)

## MISCELLANEOUS

The following applications for FM stations were placed in the pending files in accordance with policy adopted February 23, 1943:

Southern Minn. Supply Co., Mankato, Minn.; Johnston Broadcasting Co., Birmingham, Ala.; Textile Broadcasting Co., Greenville, S. C.; West Va. Broadcasting Corp., Wheeling, W. Va.

Raytheon Mfg. Co., Waltham, Mass.—Retained in the pending files amended application for FM station.

KOWH—World Publishing Company, Omaha, Neb.—Denied request for special service authorization to operate on **660 kc.** with 100 watts night, 500 watts day, unlimited time, for the period ending November 1, 1946. (B4-SSA-130)

## APPLICATIONS FILED AT FCC

### 810 Kilocycles

KGO—American Broadcasting Co., Inc., San Francisco, Calif.—Construction permit to increase power from  $7\frac{1}{2}$  KW. to 50 KW., install new transmitter and directional antenna for day and night use, and change transmitter location from Oakland, Calif., to Dumbarton, Calif.

KGO—American Broadcasting Co., Inc., San Francisco, Calif.—Construction permit to increase power from  $7\frac{1}{2}$  KW. to 50 KW., install new transmitter and directional antenna for day and night use, and change transmitter location from Oakland, Calif., to Dumbarton, Calif.

### 1240 Kilocycles

NEW—H. L. Corley, tr/as Corley Radio and Sound Service, Trinidad, Colo. (P. O. 108 N. Maple St.)—Construction permit for a new standard broadcast station to be operated on **1240 kc.**, with power of 100 watts, and daytime hours of operation.

### 1490 Kilocycles

NEW—Joseph P. Ernst, Worland, Wyo. (P. O., P. O. Box 92)—Construction permit for a new standard broadcast station to be operated on **1490 kc.**, with power of 250 watts, and unlimited hours of operation.

NEW—S. Marvin Griffin, Bainbridge, Ga. (P.O., P. O. Box 367)—Construction permit for a new standard broadcast station to be operated on **1490 kc.**, with power of 250 watts, and unlimited hours of operation.

## FM APPLICATIONS

NEW—Pontiac Broadcasting Co., Pontiac, Mich. (P. O. 606 Riker Bldg., 35 W. Huron St.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **48.5 mg.**, with coverage of 11,100 square miles.

NEW—Muskogee Broadcasting Co., Muskogee, Okla. (P. O. 800 Manhattan Bldg.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **105 mg.**, with coverage of 7,500 square miles.

NEW—Sunshine Broadcasting Co., San Antonio, Tex. (P. O. Box 1161, Gunter Hotel)—Construction permit for a new high frequency (FM) broadcast station to be operated on **45.1 mg.**, with coverage of 16,534 square miles.

NEW—Peninsula Newspapers, Inc., Palo Alto, Calif. (P. O. 248 Hamilton Ave.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **48.9 mg.**, with coverage of 624 square miles.

NEW—Plains Radio Broadcasting Co., Amarillo, Tex. (P. O. 8th & Harrison Sts.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **45.5 mg.**, with coverage of 12,781 square miles.

NEW—WJHL, Incorporated, Johnson City, Tenn. (P. O. 412 S. Roan St.)—Construction permit for a new high frequency (FM) broadcast station to be operated on a frequency (Continued on next page)

quency located within the channel selected by the FCC, with coverage of 8,000 square miles.

NEW—KOMA, Incorporated, Oklahoma City, Okla. (P. O. Biltmore Hotel)—Construction permit for a new high frequency (FM) broadcast station to be operated on **46.5 mg.**, with coverage of 21,675 square miles.

NEW—Radio Projects, Inc., West New Brighton, N. Y. (P. O. Room 2201, 233 Broadway, New York 7, N. Y.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **49.7 mg.**, with coverage of 2,250 square miles.

NEW—Radio Projects, Inc., Jamaica, L. I., N. Y. (P. O. Room 2201, 233 Broadway, New York 7, N. Y.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **49.3 mg.**, with coverage of 1,508 square miles.

NEW—Marshall S. Neal, Paul Buhlig, E. T. Foley, and Edwin Earl, d/b as Southern California Broadcasting Co., Pasadena, Calif. (P. O. 425 E. Green St.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **49.9 mg.**, with coverage of 17,540 square miles.

NEW—Queen City Broadcasting Co., Inc., Boise, Idaho. (P. O., Cobb Bldg., Fourth & University Sts.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **48.1 mg.**, with coverage of 2,220 square miles.

NEW—Radio Projects, Inc., West New Brighton, N. Y. (P. O., Room 2201, 233 Broadway, New York 7, N. Y.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **49.7 mg.**, with coverage of 2,250 square miles.

NEW—Radio Projects, Inc., Jamaica, L. I., N. Y. (P. O., Room 2201, 233 Broadway, New York 7, N. Y.)—Construction permit for a new high frequency (FM) broadcast station to be operated on **49.3 mg.**, with coverage of 1,508 square miles.

## TELEVISION APPLICATION

NEW—Keystone Broadcasting Corp., Harrisburg, Pa. (P. O., 31 N. Second St.)—Construction permit for a new commercial television broadcast station to be operated on Channel #2, **60-66 mg.**, with ESR of 1110.

## MISCELLANEOUS APPLICATIONS

W3XMB—Maryland Broadcasting Co., Baltimore, Md.—License to cover construction permit (B1-PEX-46, as modified) which authorized a new developmental broadcast station.

W2XJC—Atlantic Broadcasting Co., Inc., Jersey City, N. J.—Modification of construction permit (B1-PEX-55, as modified, which authorized a new developmental broadcast station) for approval of transmitter site at 115 Central Park West, New York, N. Y.

NEW—Mutual Broadcasting System, Inc., Chicago, Ill.—Extension of authority to transmit programs to Mexican Stations known as "Radio Mil's Network."

# Federal Trade Commission Docket

## COMPLAINT

The Federal Trade Commission has alleged unfair competition against the following firm. The respondent will be given an opportunity to show cause why a cease and desist order should not be issued against it.

**Henry Modell & Co.**, and Modell's, with principal office and place of business at 280 Broadway and retail establishments at 198 Broadway, 204 Broadway, and 243 West 42nd Street, New York, selling and distributing substantial quantities of so-called Army and Navy equipment in connection with their sale of general merchandise such as clothing, sheets and blankets, are charged in a complaint with misrepresentation. (5363)

## STIPULATIONS

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

**Bell Umbrella Co.** A stipulation to cease and desist from the use of unfair and deceptive practices in connection with the sale of umbrellas has been entered by Edward Wegbreit and Leo Wegbreit, trading as Bell Umbrella Manufacturing Co., 39 West 32nd Street, New York. (4095)

**Morris Schwartz Fur Corp.**, 330 Seventh Avenue, and Biltwell Furs, Inc., 210 West 30th Street, both of New York, and Green's Furs, Inc., 17 North Pennsylvania Street, Indianapolis, stipulated that they will discontinue using the word "seal," either alone or with other words, to designate or describe furs or fur products made from sea lion peltries. (4096)

## CEASE AND DESIST ORDERS

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

**Bennettsville Mattress Factory**, Bennettsville, S. C., manufacturing mattresses and other bedding, was ordered to cease representing that bedding composed in whole or in part of "sweeps" is composed of new material. (5024)

**Frederick A. Clark**, trading as Bonquet Laboratories, 1416 South Central Avenue, Glendale, California, selling and distributing a preparation designated "Bonquet Blood Building Tablets," "Bonquet Hemo-Tabs" or "Bonquet Tablets," has been ordered to cease and desist from misrepresentation of the preparation. (3660)