

The National Association of Broadcasters

NATIONAL PRESS BUILDING * * * * * WASHINGTON, D. C.
PHILIP G. LOUCKS, Managing Director

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DUFFY COPYRIGHT BILL OVER

The Duffy Copyright Bill, which would eliminate \$250 statutory minimum from the law, came up for consideration in the Senate June 25 but went over, Senator Duffy of Wisconsin serving notice upon the Senate that he will call up the bill at an early date.

Senators Wagner and Copeland of New York objected to consideration of the measure and Senator Vandenberg of Michigan said he would offer amendments to the bill when it came up for action.

With the Congress hurrying through the program outlined by the President and aiming at early adjournment, every effort must be made to have the bill taken up in the Senate at an early date. The broadcasting industry should stand solidly back of Senator Duffy in his efforts to have the bill enacted.

Following is the discussion in the Senate on the bill:

The bill (S. 3047) to amend the act entitled "an act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended, and for other purposes, was announced as next in order.

"Mr. Wagner: Mr. President, I ask that the bill go over.

"Mr. Copeland: Mr. President, I desire to ask the Senator from Wisconsin (Mr. Duffy) a question about the bill.

"Mr. Wagner: I am objecting to its present consideration.

"Mr. Copeland: I am glad my colleague is objecting, but I should like to ask the Senator from Wisconsin a question about it.

"Mr. Duffy: Mr. President, will the junior Senator from New York (Mr. Wagner) withhold his objection a moment?

"Mr. Wagner: I ask that the bill go over today.

"Mr. Duffy: I have sat here and let the Senator from New York proceed day after day by unanimous consent, and I am willing to continue doing it. I merely ask him to withhold his objection a moment.

"Mr. Wagner: Does the Senator desire to explain the bill?

"Mr. Duffy: In the first place, the senior Senator from New York (Mr. Copeland) desires to propound a question and I want to make a very brief statement about the bill.

"Mr. Wagner: There is no objection to that at all.

"The Presiding Officer: The objection is withheld temporarily.

"Mr. Copeland: Mr. President, I should like to ask the Senator whether extensive hearings were held on the bill and if all parties in interest had an opportunity to present their views regarding it?

"I ask the question because I am quite overwhelmed with protests from my State against the bill. There seems to be a feeling that it will work a great injustice; that it will deny to American authors certain rights to which they feel they are entitled, and that it is not a good bill and ought not to be passed. I do not profess to have any knowledge of it at all and I am simply reciting to the Senator what is coming to my desk in the way of protests.

"May I ask the Senator what has been done about the matter?

"Mr. McAdoo: Mr. President, will the Senator from Wisconsin yield?

"The Presiding Officer: Does the Senator from Wisconsin yield to the Senator from California?

"Mr. Duffy: I yield.

"Mr. McAdoo: Mr. President, this bill came before the Committee on Patents. While that committee did not hold extensive hearings, it had a number of conferences with representatives of the various interests affected by the bill. The matter has been under discussion for a long time between the State Department and the Patent Office; and the Senator from Wisconsin (Mr. Duffy) has been particularly in touch with the various negotiations, in the effort to see if a bill could not be framed which would satisfy the many conflicting interests. There are many complex questions involved. They are not easy to settle, and certainly the differences are not easy to reconcile.

"There have been, heretofore, extensive hearings in the House;

and those hearings, of course, were available to the Senate committee. I have asked the Senator from Wisconsin (Mr. Duffy) to take charge of the discussion on the floor, because he is more familiar with the bill than am I, since lately I have been necessarily engaged in the Banking and Currency Committee to such an extent that I have not been able to give the matter as much time as the Senator from Wisconsin has been good enough to give it. The Senator from Wisconsin is not on the Patents Committee, but he introduced the bill; and for that reason I will ask him to take charge of it on the floor.

"Mr. Duffy: Mr. President, I will say to the Senator from New York that I was chairman of the subcommittee of the Foreign Relations Committee which had hearings on the question of the adherence of the United States to the International Copyright Union. In a very large measure this bill is an enabling act. The Copyright Union Treaty, or convention, was reported to the Senate by the Foreign Relations Committee and is now on the Executive Calendar, although we had a gentleman's understanding that it would be held on the calendar until the present bill could receive consideration by the Senate.

"In the meantime, after the Foreign Relations Committee had held hearings where the various conflicting interests appeared, at the request of the Foreign Relations Committee an informal interdepartmental committee was formed, consisting of two members from the Copyright Office, two members from the Department of State, and one member from the Department of Commerce. They had 25 or 26 different conferences with all the various conflicting interests; and this bill is largely the result of the 25 or 26 conferences, where all parties had a chance to be heard.

"I will say that authors will gain a great deal by adherence of the United States to the International Copyright Union. There is in this particular bill, however, one matter to which authors object; that is, we have eliminated the provision for \$250 minimum statutory damages, which has been made a racket in this country by the organization familiarly known as the 'ASCAP,' the American Society of Composers, Authors, and Publishers. The United States Government is now conducting a prosecution against that organization in a case which, I understand, was commenced in New York last week. The authors do object because the minimum of \$250 statutory damages has been eliminated. On the other hand, the maximum has been largely increased, from \$5,000 to \$20,000, and the courts will give the authors full protection, but they will not be able to go into a bootblack stand or a little pool hall somewhere and hold up the proprietor for \$250 as a minimum if this bill shall become a law.

"There are many things in the bill which the authors very much desire, and of which they are very much in favor. Because the treaty is on the Executive Calendar, although it was ratified and then, at my request, restored to the calendar by unanimous consent, and because of the coming conference of the International Copyright Union, I am going, as soon as possible, to ask for consideration of this bill by the Senate. I cannot do so today in view of the objection which will be made by the junior Senator from New York (Mr. Wagner).

"Mr. Copeland: Mr. President, if the Senator from Wisconsin will permit me to make a statement, I hold in my hand a telegram from John Erskine, one of the most popular writers of the day; and I had a similar message from Gene Buck, who is at the head of the music writers.

"Mr. Duffy: He is the head of 'ASCAP.'

"Mr. Copeland: Mr. Erskine, in his telegram, says:

"I sincerely hope you will oppose copyright bill S. 3047. The bill gives foreign authors basic copyright without formality, but denies it to American authors. The bill seems to protect chiefly the commercial enterprises which live on the authors.'

"Of course, I am not competent to judge the merits of the matter; but I assume that the Senator will not press the bill today, and that we shall have an opportunity to look into it.

"Mr. Duffy: I think that should be done; but I desire to give notice that as early as possible I shall try to have the bill considered by the Senate, because we are holding up the Copyright Union treaty until this bill can receive consideration by the Senate.

"Mr. Wagner: Mr. President, if the bill is a meritorious one, of course, I have no desire to delay its consideration. I have received protests from a number of people in New York in whom I have very great confidence, who tell me that the bill is unfair to their profession. I did not, of course, wish to be discourteous to the Senator in making the objection. I thought he had in mind persuading me to withdraw my objection.

"In view of these protests, not having had an opportunity to study the bill in detail, I shall have to press my objection today. I will confer with the Senator a little later on.

"Mr. Vandenberg: Mr. President, before the bill goes over, I ask leave to offer a series of amendments to it, so that they may be pending when the bill comes back.

"The Presiding Officer: The amendments will be received, printed, and lie on the table.

"Objection being made to the consideration of the bill, it will be passed over."

FINIS

Since May, 1930, the Managing Director has been writing and publishing bulletins to members of the NAB as a part of his official duties. The bulletins started with the "Washington News Service of the NAB" and the name was later changed to the "Broadcasters' News Bulletin" and finally, when membership had grown to a point where printing was advisable, to "NAB REPORTS." Your present Managing Director announced May 15, just five years to the day when the first of these reports was issued, that he would not be a candidate for reappointment and would retire from activities of your Association. He will leave Sunday for Colorado Springs, Colo., to attend the meeting of the NAB membership and so this is the last bulletin which will carry his name in the masthead. The job of writing NAB REPORTS, he is sure, will now fall into abler hands.

COME TO COLORADO SPRINGS, COLO.

The complex copyright situation which the broadcasters face at the present time has stimulated attendance at the 13th NAB meeting at Colorado Springs, Colo., July 7, 8, 9, and 10. Indications are that it will be the most important of all NAB meetings. If you want to know what broadcasters are thinking and doing about the copyright matter and hear all sides debated completely, come to the meeting. If you can't get accommodations at the Broadmoor, register at the Antlers in Colorado Springs.

HAVE YOU WIRED YOUR SENATOR?

Have you wired your Senator to help Senator Duffy pass the Copyright Bill in the Senate? If you have not done so, please do so at once.

STATEMENT OF ASCAP NEGOTIATIONS

The Board of Directors of the NAB, at its meeting held in New York, authorized the Managing Director to send to the membership of the Association the following statement on ASCAP negotiations made on June 22 by A. L. Ashby, vice president and general attorney of the National Broadcasting Company:

"It is believed that there should be placed upon the records of this Association the facts regarding the recent copyright negotiations with ASCAP.

"On April 18th Mr. Klauber and Mr. Ashby each received long telephone calls from Mr. Mills of ASCAP to the effect that at the last ASCAP Board Meeting ASCAP was willing to enter into negotiations with the Broadcasters for a continuance of the license agreements. Further discussions were had the following day and Mr. Mills telephoned Mr. Hostetler, the NAB copyright counsel in Cleveland.

"Messrs. Ashby and Klauber talked with Mr. Loucks, the Managing Director of NAB, who was in New York the week of the 22d, and on the 24th Mr. Loucks called a meeting of the Copyright Committee of NAB for Friday, April 26th, at 9 a. m. Mr. McCosker invited Messrs. Klauber and Ashby to attend this meeting.

"At that meeting it was decided that a committee would call on the ASCAP Committee which had been waiting at the ASCAP offices since 10 a. m. to meet with the Broadcasting Committee. The ASCAP Committee consisted of Messrs. Buck, Harbach, Mills, Romberg, Bornstein, Allen, Burnstein and Fisher. This meeting started shortly after 12 o'clock noon.

"At this meeting Mr. Mills read to the two committees his previous letter of April 11, 1932, in which all broadcasting revenue would be taxed 5 per cent. The Broadcasting Committee rejected the letter and stated that they thought an offer was to be presented to the Broadcasters. Mr. Mills stated he was not interested in the Government's suit as he was not entering into any consent decree. Considerable discussion took place regarding the per piece plan and Mr. Mills brought in a lot of cards showing how many separate titles would complicate such a plan and make it unworkable.

"Mr. Ashby, at about 5 o'clock, stated he wanted to know whether or not ASCAP would give us at this time an extension of the present contracts to December 31, 1935, otherwise the Broadcasters would have to go elsewhere to get their music, meaning by his remark to the Warner Brothers Group of Music Publishers. ASCAP agreed to consider this and advise the Broadcasters the following week.

"The Broadcasters were thereafter advised by ASCAP orally that the present contracts would be continued upon exactly the same basis until December 31, 1935.

"A further meeting was held May 23, 1935, between the NAB Committee and ASCAP. At that meeting Mr. Mills stated that the Board of ASCAP had approved a five-year extension of the present contracts with one modification, that modification being that each station would pay 5 per cent of the rate card on the station for chain programs as well as local programs, irrespective of the amount paid to the station by the chain for the broadcasting of chain programs. This was immediately objected to by the Broadcasters as being the payment of a royalty on monies never received by the station. The Broadcasters then made a proposal to ASCAP in the early afternoon that ASCAP again consider the proposal made by the Broadcasting interests at a prior meeting with ASCAP which contemplated an agreement to extend the present contracts on exactly the same terms for a five-year period; that the extension should be made subject to the approval of the Federal Court and should be coupled with a further agreement that as soon as possible there would be prepared and presented to the Court for approval the most feasible plan possible to enable the owners of copyright music individually and not in combination to decide the price which they wished to have paid for the single performance of the copyright numbers with the right of the music user to deal with any copyright owner singly for the performance in bulk of all numbers owned or controlled by him. Mr. Mills replied to this proposal that ASCAP was unwilling to enter into any agreement in the nature of a consent decree of the law suit or to recognize the right of the Government's contentions, but asked whether the NAB Committee would be willing to consider a five-year extension of the present contract without any change except as to increasing the fees of the network companies.

"The Broadcasters Committee withdrew to consider this proposal and decided that they would not accept it for fear that it might prejudice the Government in its suit. It was decided to advise ASCAP accordingly and ask ASCAP whether they would be willing to extend the contracts until the final determination of the Government's suit, which it was felt would not prejudice the Government in any way. This proposal was made to ASCAP and the ASCAP Committee stated it would have to be considered by the Board and they would advise the Broadcasters Committee later. Later the Broadcasters Committee was advised by a telephone call from Mr. Mills that his Board had refused the extension of the contracts for the period ending with the final determination of the Government's suit.

"Several of the Broadcasters on various occasions discussed the situation with Government representatives and were advised that since the Broadcasters' proposal to extend for the duration of the suit had been rejected that the Government would have no objection to the Broadcasters entering into a five-year contract, that being the only contract that was available to the Broadcasters. At that time it was pointed out to the Government representatives that we had long-term contracts with our advertisers running far beyond December 31, 1935, and that the ASCAP case was so important that it would undoubtedly be appealed to the United States Supreme Court and that it would be doubtful if it could finally be determined by the highest Court before two years and

that we had to make some sort of an arrangement to cover our business after December 31, 1935.

"On June 3d at 5 p. m. the NAB Copyright Committee again met in New York to consider an offer that ASCAP was to make to the NAB Committee. The meeting began without any written offer having been received. (A quorum of the Committee was not present.)

"Mr. Klauber, on behalf of the Committee, and in its presence, talked with Mr. Mills on the telephone and Mr. Mills stated he did not have any formal paper prepared, but he had written out something on the train that morning and was having it typewritten at that time. He read it to Mr. Klauber over the telephone and asked whether or not he should come over with it or send it over. Mr. Klauber told Mr. Mills he would discuss it with the Committee and would telephone him the answer. After some discussion it was decided that the best way to review the offer, since it seemed considerably complicated as read over the telephone to Mr. Klauber, was to have copies sent over by Mr. Mills. Mr. Mills was accordingly advised and copies were received about 6 p. m. There seemed to be considerable extraneous matter in this proposal and Mr. Levy telephoned Mr. Mills and asked whether or not ASCAP would extend all broadcasting contracts on the same basis as before in a simple extension agreement without any excess language. Mr. Mills informed Mr. Levy he would do this and that he was not interested in the language of the proposal which he had sent to the Committee and the only change in the terms of the present contracts would be those applying to the network companies. Mr. Levy announced this to the Committee and made the statement that he was going to get his contract extended the following day. Mr. Klauber also announced he was going to get his contract extended the following day if he could get the proper terms. Mr. Ashby similarly announced he was going to get an extension of the NBC contracts if the increases were on the right basis.

"Mr. Hostetler stated he believed the acceptance of contracts by the Broadcasters would seriously hamper the Government in its case.

"Mr. Sprague and Mr. Kaye, attorneys for NBC and CBS respectively, stated that the Government's attorney had definitely advised them it would not prejudice the case and we should go ahead and get the extension if we wanted to. Mr. Sprague stated that this statement of the Government's attorney had been made in the presence of Mr. Bemis, the attorney associated with Mr. Hostetler. Mr. Hostetler advised that he did not know of this, but anyway he disagreed with it.

"Mr. Loucks stated that he felt the Government attorney was not so sure of this because a few days later he, Mr. Loucks, had talked with the Government attorney and that he had apparently talked with some of his superiors who felt the extension might cause the Court to postpone the trial date from June 10th. Mr. Loucks stated he thought it would be bad to enter into these five-year contracts, but aside from Mr. Loucks and Mr. Hostetler no one else at the meeting made any opposition to a simple extension of the present contracts.

"Mr. Kaye and Mr. Sprague both stated it was their confirmed opinion that the Government was not prepared to try its case; that while it had a great amount of factual information it had no concrete idea of what to present or how to present it; that it had prepared no trial brief and no opening statement to the Court and there was a very good chance that the Government would lose the case. Mr. Hostetler stated that he felt the Government was prepared and that he was convinced that it was going to win.

"As it was apparent that nothing further could be done that evening by the Committee, the meeting adjourned without taking any formal action.

"The following day, June 4th, Messrs. Klauber and Colin of CBS, Messrs. Ashby and Sprague of NBC and Mr. Levy met at the ASCAP offices in the forenoon and continued their discussion until late in the afternoon. They were successful in removing the objectionable features of Mr. Mills' written proposal which had been received the night before so that the primary question remaining was as to the amount of increase to be paid by the network companies, Mr. Mills insisting that an increase must be paid on the two New York stations of the NBC networks and the one New York station of the CBS network.

"NBC stated that it was prepared to put its managed and programmed stations on the new rate and compensation plan and pay a percentage of the network revenue from these stations based on the new plan. NBC said that it felt it was the soundest basis on which to figure the station revenue for ASCAP royalty purposes on these stations and that it would increase the payment

to ASCAP on these stations by around \$70,000 to \$75,000 per annum.

"Mr. Mills said that he thought this principle was sound, but that he did not fully understand it and he would not be able to enter into any arrangement on that basis in lieu of increasing the fees for the New York stations on the networks without putting the whole matter up to his Board again and he felt that his Board would not understand it and might very likely reject it. He then made the proposal that each of the two New York stations of the NBC and the New York station of the CBS have their payments to ASCAP increased by the sum of \$25,000 per annum. NBC stated that while this amount probably meant less money to be paid to ASCAP than under the rate and compensation plan, it would prefer to pay on the rate and compensation plan rather than on a flat increase on two stations. However, in view of the fact that Mills could not approve any contract except providing for the additional revenue to come from an increase on the New York stations NBC stated that it would sign an extension on the basis of the increase of its two New York stations and a similar increase on the New York station of CBS.

"The representatives of the Broadcasters inquired of ASCAP at this time if the offer to extend the contracts for five years was made to all broadcasting stations and Mr. Mills replied that it was and that a written offer would go out to the NAB and to the stations to that effect.

"NBC, CBS and WCAU then signed extension agreements and an extension agreement was prepared for WOR and sent to Mr. McCosker, Mr. Levy having advised Mr. McCosker from Mr. Mills' office of what the Broadcasters had been able to accomplish in the way of a five-year extension without any exceptions or changes except as to the increases to the networks. Mr. McCosker, as chairman of the Copyright Committee, stated he was engaged in other appointments and could not come over, but asked that a contract be sent to him. He voiced no objection to the signing of these contracts and to the negotiations which had taken place that day. Mr. McCosker, however, received no firm offer in writing until June 17.

"Briefly summarized, the reasons for the signing of these agreements by WCAU, CBS and NBC were as follows:

"1. No written extension had been procured prior to that time for the period from September 1 to December 31, 1935.

"2. The Government's suit was, in the opinion of those Broadcasters present, inadequately prepared and stood a good chance of being lost.

"3. The Government's suit could not be finally determined by the highest Appellate Court for probably two years.

"4. The Broadcasting stations have contracts with advertisers extending far beyond December 31, 1935, and ASCAP music must be made available for these advertisers.

"5. Broadcasting stations cannot satisfactorily operate under present conditions without the music controlled by ASCAP.

"6. The Courts have no power, in the opinion of counsel, to order the extension of the ASCAP contracts on the present terms or any other terms without the consent of ASCAP.

"7. In the event of a Government victory, finally upheld in the highest courts, the five-year contract would operate during the transition period which would be necessary to work out the details of the new methods of licensing the performance of music and to put such new methods into actual operation.

"8. Should the Government be unsuccessful in its suit, this five-year contract would insure us against any further increases being demanded of the Broadcasters for five years.

"9. The Government counsel definitely advised us that this extension would not prejudice the Government's suit since it was the only extension that could be procured.

"10. In the event of an ASCAP victory, ASCAP and its members would undoubtedly be so drunk with power that tremendous increases would be demanded with little hope of negotiating a favorable contract.

"11. Should the Government's case appear weak, it would be practically impossible to secure an extension on the present terms prior to a decision of the trial court.

"As practical business men and lawyers, the need of the immediate extension of the ASCAP licenses was obvious. NAB, being merely a trade association, was not in a position to act with authority with regard to the ASCAP offers and it was vital for the protection of the broadcasting industry as a whole, as well as to the companies signing the extensions on June 4, that commitments on behalf of ASCAP be made immediately. Had the matter waited

until the Copyright Committee could again be convened and then a report made to the Board of Directors, also to be convened, such action would have been delayed beyond the beginning of the Government's trial on June 10th. Even action by the Board of Directors would not have been binding upon any of the members and could only consist of recommendations.

"It was a case where the Broadcasters participating in the discussions of June 4th saved the day for the entire broadcasting industry and these men and the companies they represent should be thanked for their efforts and the results accomplished.

"As the facts eventuated, the opinions of those broadcasters who obtained the renewal agreements have been fully sustained and it has been made apparent that their action was not only justified, but extremely fortunate for the entire broadcasting industry. If these extensions had not been obtained, the Government would either (a) have been compelled to continue the trial of a case which in the opinion of all observers was futile, or (b) obtain an adjournment up to the very eve of the day on which the contracts between ASCAP and the Broadcasters would expire. If the offer to extend the Broadcasters' contracts had not been accepted, it is doubtful if the representatives of the Government would have dared to adjourn the case and they would have felt impelled to continue with an attempt to present testimony which was continually being ruled out by the Court, with the result that the Court, in all likelihood, would have granted a motion to dismiss the complaint at the end of the Government's case.

"In any event, whether the case was continued under extremely adverse circumstances or whether it was adjourned, the threat of the suit would no longer have been a weapon to compel ASCAP to grant extensions upon the same terms. A failure to seize the opportunity to extend these contracts at the time when ASCAP offered to do so would therefore quite possibly have resulted in a complete loss of the Government's case and would very probably have resulted in the immediate imposition upon all Broadcasters of higher license fees."

SPEARMAN RESIGNS AS GENERAL COUNSEL

Paul D. P. Spearman, who has been general counsel of the Federal Communications Commission since its inception, resigned that post on June 27. His resignation becomes effective on June 30. He will return to the private practice of law. The Commission accepted his resignation in the following communication:

June 27, 1935.

Mr. Paul D. P. Spearman,
Federal Communications Commission.

My Dear Mr. Spearman:

The Commission yesterday received and accepted your letter of resignation as General Counsel to become effective June 30, 1935.

At that time the Commission requested me to acknowledge your letter. In your letter you paid this Commission and the members of its staff a very high compliment in the work which they have performed, and you ask that you be permitted to claim a small share of the credit for the success of the work that has gone before. I believe I may say, and I am sure my colleagues will join me in saying, that a large measure of the success is due to your efficient and painstaking studies of the problems which have come before us during this past year.

In your return to private practice the Commission wishes you a full measure of success and is sincere in its appreciation of your offer of further service.

By direction of the Commission:

ANNING S. PRALL,
Chairman.

RECOMMENDS INCREASED POWER FOR WIND

Broadcasting station WIND, Gary, Ind., filed an application with the Federal Communications Commission asking that its daytime power be increased from 2,500 to 5,000 watts. The station now operates on a frequency of 560 kilocycles, unlimited hours, with a power of 1,000 watts and 2,500 watts local sunset.

Melvin H. Dalberg(e) in Report No. I-67 recommends that the application be granted. The Examiner found that there is some demand for such increased service and that no serious interference would be caused with existing facilities.

A. T. & T. PROPOSES TELEVISION CABLE

The application of the American Telephone and Telegraph Company and the New York Telephone Company for authorization to construct a coaxial cable from New York to Philadelphia, as a part of the experiment to determine the future possibilities of the coaxial cable in television as well as telephone and telegraph use, has been set for hearing before the Commission en banc for July 15, 1935.

All parties interested in, or who may be affected by, the use of the coaxial cable, if and when it may be devoted to general commercial use, will, upon application to the Commission, be afforded opportunity to participate in the hearing.

The Commission feels that it is in the public interest to ascertain in advance the facts surrounding the future uses to which the cable may be put.

CORRECTION

NAB REPORTS, issue of June 15, contained an item stating that Station WREN, Leavenworth, Kansas, has been denied rehearing by the United States Court of Appeals for the District of Columbia in its appeal to that court against a decision of the Federal Communications Commission in which the court upheld the action of the Commission in denying WREN permission to intervene in the WHB, Kansas City, Missouri, where that station was allowed to operate at night. It is pointed out that the case referred to was not an appeal by WREN but an appeal by the Commission from a decision of the Supreme Court of the District of Columbia. Neither the Supreme Court of the District nor the United States Court of Appeals upheld any action of the Commission in denying WREN permission to intervene. The decision of the majority of the United States Court of Appeals is merely to the effect that the Jenny Wren Company mistook its remedy when it sought an injunction against the holding of a hearing at which the question of further operating hours for WHB would be taken up. The court held that the remedy of the Jenny Wren Company for the failure of the Commission to allow the Jenny Wren Company to participate would be by appeal after the granting of the WHB application, should such application be granted, and not by a suit for an injunction against the holding of the illegal hearing.

RECOMMENDS NEW TEXAS STATION

The Palestine Broadcasting Association filed an application with the Federal Communications Commission asking for authority to construct a new broadcasting station at Palestine, Texas, to operate daytime only on 1420 kilocycles and 100 watts power.

In Report No. I-66, Ralph L. Walker(e) recommends that the application be granted. The examiner found that there is a substantial need in the Palestine area for daytime broadcast service, that the applicant appears to be qualified for the erection and running of such station, and that granting of the application would not interfere with any existing radio facilities.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

- WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—Granted extension of special temporary authority to operate daily a maximum of 4 hours simultaneously during daytime with station WILM, Wilmington, Del., for a period of 3 months from July 1.
- WPG—WPG Broadcasting Corp., Atlantic City, N. J.—Granted consent to voluntary assignment of license to the city of Atlantic City.
- WBZ—Westinghouse Electric and Manufacturing Co., Boston, Mass.—Granted C. P. to make changes in equipment.
- KLZ—The Reynolds Radio Co., Ltd., Denver, Colo.—Granted modification of C. P. to change transmitter site to a new location to be determined subject to approval of the Commission, increase day power from 2½ to 5 KW, extend commencement date to 60 days after grant and completion date to 180 days thereafter.
- KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Granted modification of C. P. to extend completion date from July 7 to 90 days thereafter.
- KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Granted amended C. P. to move transmitter locally, install new equipment and increase day power from 1 to 5 KW.

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted license to cover C. P. authorizing move from Kearny, N. J., to Carteret, N. J., installing new equipment and increasing power to 50 KW.

KINY—Edwin A. Kraft, d/b as Northwestern Radio Advertising Co., Juneau, Alaska.—Granted license to cover C. P. authorizing erection of new station; **1310 kc.**, 100 watts, unlimited time.

WCAD—St. Lawrence University, Canton, N. Y.—Granted modification of license for increase of specified hours of operation from 9 to 12 hours a week, to operate as follows: Daily except Sundays, 12:30 to 1:30 p. m., EST; 3 to 4 p. m., EST.

WREN—Wren Broadcasting Co., Lawrence, Kans.—Granted modification of C. P. to make changes in equipment and increase in daytime power to 5 KW.

WJR—WJR, The Goodwill Station, Detroit, Mich.—Granted C. P. to make changes in equipment and increase power to 50 KW.

NEW—WCBS, Inc., Portable (Springfield, Ill.)—Granted C. P. (temporary broadcast pickup), frequencies **1622, 2060, 2150 and 2790 kc.**, 25 watts.

WADC—Allen T. Simmons, Tallmadge, Ohio.—Granted authority to determine operating power by direct measurement of antenna input.

W10XF—National Broadcasting Co., Inc., Portable-Mobile.—Granted modification of license to delete schooner *Seth Parker* as point of communication and to utilize the station for other general research purposes in connection with the design and development of transmitting equipment, as well as investigation of propagation characteristics of assigned frequencies.

W8XAZ—Buffalo Broadcasting Corp., Portable-Mobile (Buffalo, N. Y.)—Granted renewal of exp. gen. exp. license for the regular period to expire October 1, 1936. Also granted modification of license to include frequencies **31100, 34600, 37600 and 40600 kc.** for broadcast pickup in gen. exp. service.

W8XAY—Buffalo Broadcasting Corp., Portable-Mobile (Buffalo, N. Y.)—Granted renewal of license for regular period to expire October 1, 1936. Also granted modification of license to include frequencies **34600, 37600, 40600 kc.** for broadcast pickup in gen. exp. service.

W10XCT—Shepard Broadcasting Service, Inc., Portable-Mobile (Boston, Mass.)—Granted renewal of license in conformity with existing authorization; also granted modification of license to include frequencies **31100, 34600, 37600 kc.** for broadcast pickup in the gen. exp. service.

W8XAA—Howitt-Wood Radio Co., Inc., Portable-Mobile (Binghamton, N. Y.)—Granted renewal of license; also modification of license to add frequency **40600 kc.** for broadcast pickup in the gen. exp. service.

SPECIAL AUTHORIZATIONS

KPOF—Pillar of Fire (a corporation), near Denver, Colo.—Granted special temporary authority to remain silent from 2:30 to 4:30 p. m., MST, July 4, 1935, in order to observe institutional holiday.

WJAG—The Norfolk Daily News, Norfolk, Nebr.—Granted special temporary authority to operate from 12 noon to 2 p. m., CST (and/or such additional time within its broadcast day as station may desire) instead of limited time, as at present licensed, July 4, 1935, in order to allow staff a partial vacation.

KGCK—E. E. Krebsbach, Wolf Point, Mont.—Granted special temporary authority to operate from 3:30 to 6 p. m., MST, July 11, 12, and 13, in order to broadcast the 15th Annual Wolf Point Stampede.

WHAZ—Rensselaer Polytechnic Institute, Troy, N. Y.—Granted special temporary authority to remain silent August 5, 12, 19, 26 and September 2, in order to observe school vacation period.

KGGF—Powell & Platz, Coffeyville, Kans.—Granted extension of special temporary authority to operate from 7:15 to 9:15 p. m. on Tuesdays and Thursdays, and from 8:15 to 9:15 p. m., CST, on Wednesdays, for the period July 5 to August 2, 1935, provided station WNAD remains silent, in order to allow WNAD to observe school holiday period.

WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted special temporary authority to operate simultaneously with WLBC from 7:30 to 11 p. m., CST, June 27, 28 and 29, in order to broadcast Barn Dance Talent Try-outs of station WLS to be held in the Goshen High School.

KFDY—South Dakota State College, Brookings, S. Dak.—Granted special temporary authority to operate from 2 to 3 p. m., CST, June 28, in order to broadcast State College Farm and Home day program.

WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted special temporary authority to operate without an approved frequency monitor for a period not to exceed 10 days.

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted extension of special temporary experimental authority to operate on **560 kc.**, 1 KW power, night, for period July 1 to July 31, 1935.

WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—Granted extension of special temporary authority to operate with additional power of 750 watts at night for the period beginning July 1 and ending not later than July 31, 1935.

WAML—Southland Radio Corp., Laurel, Miss.—Granted special temporary authority to remain silent, but for a period not to exceed 30 days, for the purpose of moving studio and installing new equipment.

KFNF—Henry Field Company, Shenandoah, Iowa.—Granted special temporary authority to use the time assigned to but not used by KUSD (provided KUSD will remain silent) but for the period ending in no event later than August 31, 1935, in order to permit KUSD to observe summer vacation period.

RENEWAL OF LICENSES

WGPC—Americus Broadcast Corp., Albany, Ga.—Granted renewal of license for the regular period.

WPAY—Vee Bee Corp., Mt. Orab, Ohio.—Granted renewal of license for the regular period.

WEVD—Debs Memorial Radio Fund, Inc., New York City.—Granted renewal of license for the period ending November 1, 1935.

KPJM—Scott & Sturm, Prescott, Ariz.—Granted renewal of license on a temporary basis only subject to such action as the Commission may take on their pending application for renewal.

KWKC—Wilson Duncan Broadcasting Co., Kansas City, Mo.—Granted renewal of license on a temporary basis only subject to such action as the Commission may take on their pending application for renewal.

WJTL—Oglethorpe University, Atlanta, Ga.—Granted renewal of license on a temporary basis only subject to such action as the Commission may take on their pending application for renewal.

WRDO—WRDO, Inc., Augusta, Maine.—Granted renewal of license on a temporary basis only subject to such action as the Commission may take on their pending application for renewal.

WPFB—Otis P. Eure, Hattiesburg, Miss.—Present license extended for a period of 1 month from July 1, on a temporary basis, subject to such action as may be taken on pending application for renewal of license.

KCMC—North Miss. Broadcasting Corp., Texarkana, Ark.—Present license extended for a period of 3 months from July 1, 1935, on a temporary basis, subject to such action as may be taken on pending application for renewal.

KGFG—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Present license extended on a temporary basis to August 1, 1935, pending receipt and action on renewal application.

KGFL—KGFL, Inc., Roswell, N. Mex.—Present license extended on a temporary basis to August 1, 1935, pending receipt and action on renewal application.

WKBO—Keystone Broadcasting Corp., Harrisburg, Pa.—Present license extended on a temporary basis to August 1, 1935, pending receipt and action on renewal application.

W10XEV—Nichols & Warinner, Inc., Portable-Mobile.—Granted renewal of gen. exp. station license for the period ending October 1, 1936.

W10XBH—Charles L. Jaren, Portable-Mobile.—Granted renewal of gen. exp. station license for the period ending October 1, 1936.

W6XAR—Julius Brunton & Sons Co., Portable-Mobile.—Present licenses extended for a period of 1 month from July 1 to August 1, 1935, on a temporary basis, subject to such action as may be taken upon pending application for renewal.

SET FOR HEARING

- NEW—Ralph Perez Perry, Santurce, P. R.—Application for C. P. for new station; **1340 kc.**, 250 watts, unlimited time.
- NEW—V. H. Lake and H. E. Stanford, d/b as L & S Broadcasting Co., Atlanta, Ga.—Application for C. P. for new station; **1210 kc.**, 100 watts, daytime.
- WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Application for modification of license amended to increase hours of operation from S-WHBL to unlimited.
- NEW—Walker Jamar, Duluth, Minn.—Application for C. P. (already in hearing docket), amended to read: **1500 kc.**, 100 watts, unlimited, requests facilities of KGKF.
- WMBG—Havens & Martin, Inc., Richmond, Va.—Application for C. P. (already in hearing docket), amended to read: **1350 kc.**, 500 watts, unlimited, and make changes in equipment.
- WKAR—Michigan State College, E. Lansing, Mich.—Application for modification of license amended to read: Change frequency from **1040 kc.** to **850 kc.**, and change hours of operation from S.H. daytime, 1 KW, to daytime, sunset at WWL.
- WRDW—Augusta Broadcasting Co., Augusta, Ga.—Application for C. P. (already in hearing docket) amended to read: **1240 kc.**, 250 watts night, 1 KW day, unlimited time, move transmitter locally, change frequency from **1500 kc.** to **1240 kc.**, increase night power from 100 to 250 watts and day power from 100 watts to 1 KW; install new equipment.
- KFPY—Symons Broadcasting Co., Spokane, Wash.—Application for C. P. to install new equipment; increase day power from 1 to 5 KW; move station locally to a site to be determined subject to approval of Commission.
- KUSD—University of South Dakota, Vermillion, S. Dak.—Application for modification of license to change hours of operation from share KUSD and WILL $\frac{1}{2}$ time, KFNF $\frac{1}{2}$ time, to share KFNF-KUSD $\frac{1}{8}$ time, KFNF $\frac{7}{8}$ time.
- KGFK—Red River Broadcasting Co., Inc., Moorhead, Minn.—Renewal of license set for hearing and temporary license granted pending hearing.
- WEBC—Head of the Lakes Broadcasting Co., Superior, Wis.—Application for modification of license to increase nighttime power from 1 to 5 KW. (To be heard before the Broadcast Division.)
- KMA—May Seed & Nursery Co., Shenandoah, Iowa.—Renewal of license; **930 kc.**, 1 KW night, $2\frac{1}{2}$ KW day, shares with KGBZ.
- KGCX—E. E. Kresbach, Wolf Point, Mont.—Application for C. P. (already on hearing docket) amended to read: **1450 kc.**, 1 KW, and time of operation unlimited.
- NEW—Knox Broadcasting Co., Inc., Schenectady, N. Y.—Application for C. P. for new station; **1240 kc.**, 1 KW, unlimited time. Requests call letters WKBA.

MISCELLANEOUS

- KSO—Cedar Rapids Broadcast Co., Cedar Rapids, Iowa.—Denied petition asking Commission to reconsider action in designating for hearing application to increase night power to 500 watts and day power to 1 KW and grant same.
- WILL-KFNF—University of Illinois, Urbana, Ill., and Henry Field Co., Shenandoah, Iowa.—Denied request for special temporary authority to operate simultaneously from 7 to 8 a. m. and from 10 to 11 a. m., CST, daily, except Sundays, for period June 18 to 30, 1935, in order to broadcast additional programs.
- Ex. Rep. No. 1-65—D. A. Wark and H. H. Hedstrom, Twin Falls, Idaho.—Adopted examiner's report recommending that the application of Wark and Hedstrom to erect a new station at Twin Falls, Idaho, be withdrawn without prejudice. The application was for **1500 kc.**, 100 watts.

- NEW—David Parmer, Columbus, Ga.—Granted petition to intervene in opposition to application of WJTL (Oglethorpe University) for voluntary assignment of license. Petitioner has application pending for facilities of WJTL.
- WGN—WGN, Inc., Chicago, Ill.—Granted petition to intervene at hearing of application of WJJD, Chicago, for modification of license. Applicant seeks to modify license so as to operate with 5 KW after sunset Salt Lake City, and with 20 KW from 6 a. m. to 8:30 p. m. Station now operates with 20 KW, limited time.
- WCFL—Chicago Federation of Labor, Chicago, Ill.—Granted petition to intervene at hearing of application of WJJD, Chicago, for modification of license. Applicant seeks to modify license so as to operate with 5 KW after sunset Salt Lake City, and with 20 KW from 6 a. m. to 8:30 p. m. Station now operates with 20 KW, limited time.
- WMAQ-WENR—National Broadcasting Co., Chicago, Ill.—Granted petition to intervene at hearing of application of WJJD, Chicago, for modification of license. Applicant seeks to modify license so as to operate with 5 KW after sunset Salt Lake City, and with 20 KW from 6 a. m. to 8:30 p. m. Station now operates with 20 KW, limited time.
- KPOF—Pillar of Fire, Inc., Denver, Colo.—Denied petition asking Commission to reconsider action in designating application for hearing and to grant same. Applicant requests authority to increase daytime power from 500 watts to 1 KW.
- KGCC—Golden Gate Broadcasting Co., San Francisco, Calif.—Denied petition asking Commission to reconsider action in designating application for hearing and to grant the same. Applicant seeks to increase time of operation to unlimited.

The Commission will hear oral arguments in re Examiner's Report No. 1-54, concerning the applications of the Helena Broadcasting Co., Helena, Mont.; Montana Broadcasting Co., Boulder, Mont.; and E. B. Craney, Helena, Mont., to establish a new radio station to operate on **1420 kc.**, with 100 watts.

APPLICATIONS DISMISSED

- The following applications, heretofore set for hearing, were dismissed at request of applicants:
- WDEL—WDEL, Inc., Wilmington, Del.—C. P., **1120 kc.**, 500 watts, 1 KW LS, unlimited.
- WESG—Cornell University, Elmira, N. Y.—Modification of license, **850 kc.**, 1 KW LS, daytime.
- WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—Special experimental authority, **1450 kc.**, 1 KW, unlimited time.
- WEBQ—The Harrisburg Broadcasting Co., Harrisburg, Ill.—Modification of license, **1210 kc.**, 100 watts, 250 watts LS, unlimited.
- NEW—Wm. B. Smullin, Salem, Ore.—C. P., **1440 kc.**, 500 watts, unlimited.

The following application, heretofore set for hearing, was denied as in cases of default for failure to file an appearance in accordance with Rule 48 (b):

- NEW—Alaska Radio & Service Co., Inc., Juneau, Alaska.—C. P., **1200 kc.**, 100 watts, unlimited time.

ACTION ON CASES HEARD BY BROADCAST DIVISION

(Action taken June 11, 1935)

- NEW—Winger & Thomas, Chattanooga, Tenn.—Denied application for C. P. for new broadcast station to operate on **1200 kc.**, 100 watts, unlimited time.
- NEW—Valley Broadcasting Service, Inc., Chattanooga, Tenn.—Denied application for C. P. for new station to operate on **1120 kc.**, 100 watts, daytime hours.