

The National Association of Broadcasters

NATIONAL PRESS BUILDING ★ ★ ★ ★ ★ WASHINGTON, D. C.
JAMES W. BALDWIN, Managing Director

NAB REPORTS

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Vol. 5 - No. 17
APRIL 22, 1937

W. WRIGHT GEDGE, NAB DIRECTOR, DIES

It is with the deepest regret that we have learned of the death at Detroit, Michigan, of W. Wright Gedge. Mr. Gedge was a Director of the NAB, having been elected for a three-year term at the Colorado Springs Convention in 1935. Burial was at Wyoming Village, a suburb of Cincinnati, Ohio, on Monday of this week. Mr. Gedge, who was associated with WMBC in Detroit, had been prominent in the broadcasting industry and the activities of the Association for several years. The members of the NAB have lost a loyal and faithful servant.

BROADCAST STATION TAX BILL

Representative Boylan of New York has introduced a bill (H. R. 6440) in the House "to provide for the taxation of operators of radio-broadcast stations". It has been referred to the House Committee on Ways and Means. This is the bill which was suggested to Mr. Boylan by Federal Communications Commissioner Payne and it was printed in full in last week's issue of NAB Reports.

COMMISSION GRANTS NEW STATION

The Federal Communications Commission this week granted a construction permit for the erection of a new station to A. Frank Katzentine at Miami Beach, Fla., to operate on 1500 kilocycles, 100 watts unlimited time. The order is effective May 25.

APPEALS COURT UPHOLDS FCC

The United States Court of Appeals for the District of Columbia this week affirmed the decision of the lower court in the Monocacy Broadcasting Company case.

The decision is as follows:

UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA.

No. 6818:

THE MONOCACY BROADCASTING COMPANY, A CORPORATION, Appellant,

v.

ANNING S. PRALL, EUGENE O. SYKES, NORMAN S. CASE,
IRVIN STEWART, THAD H. BROWN, GEORGE H. PAYNE,
AND PAUL A. WALKER, AS THE FEDERAL COMMUNICATIONS COMMISSION.

Appeal from the District Court of the United States for
the District of Columbia.

Decided April 19, 1937.

G. Ridgely Sappington, of Baltimore, Md., and *Stuart T. Saunders* and *J. V. Morgan*, of Washington, D. C., for appellant.

Hampson Gary, *George B. Porter*, and *Fanny Neyman*, all of Washington, D. C., for appellee.

Before MARTIN, Chief Justice, and ROBB, GRONER and STEPHENS, Associate Justices.

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Make Your Plans Now to Attend the NAB Convention at Hotel Sherman, Chicago, June 20-23, 1937

MARTIN, *Chief Justice*: This is an appeal from a decree of the District Court of the United States for the District of Columbia granting a motion of the appellee to dismiss a bill of complaint filed by appellant. The appellant was plaintiff below, the Federal Communications Commission was defendant, and the parties will be so named in this opinion.

It was alleged in substance in the plaintiff's bill that on June 7, 1935 the plaintiff, the Monocacy Broadcasting Company, a corporation, filed an application with the Federal Communications Commission for a permit to construct a new broadcasting station near Rockville, Md., and appellant set out as a statement of facts in support of the application;

That on July 2, 1935 the Commission considered the application and forthwith granted it without a hearing, under the provisions of Rule 44 of the Commission's Rules and Regulations. A permit accordingly was issued to the applicant;

That Rule 44 aforesaid provided that any application which is properly filed and conforms to the regulations of the Commission may be granted by the Commission without a hearing, if it appears conclusive to the Commission from the face of such application, and from other information had by the Commission, that the granting of such application would serve public interest, convenience, and necessity, and would not adversely affect the interest of any other person or corporation holding a permit or other authorization from the Commission, or having an application therefor pending before the Commission, "provided, however, that any such grant shall be conditional and may be suspended and reconsidered by the Commission as hereinafter provided.";

That on July 23, 1935 WCAU Broadcasting Company, owner and operator of Station WCAU, Philadelphia, filed a protest against the application of plaintiff on the ground that the proposed station would cause objectionable interference with the service rendered by Station WCAU. The protest complied in every respect with the provisions of the Commission's Rule 45 covering such procedure;

That Rule 45 aforesaid provides in substance as follows: In any case where an application is granted in whole or in part without a hearing as provided in Rule 44, any person, whose interests are adversely affected by such grant, may obtain a hearing upon such application by adhering to the following procedure: Such parties shall, within 20 days from the date on which public announcement of such grant is made at the principal office of the Commission, or from its effective date if a later date is specified by the Commission, file with the Commission and serve upon or mail to the applicant a protest in writing directed to the action of the Commission making such grant. Upon the receipt by the Commission of such

protest the application involved will be set for hearing and the applicant and other parties in interest notified thereof; provided, however, that upon such hearing the verified protest shall be taken as a pleading limiting the issues to be tried, but not as evidence of the facts therein stated;

That on January 25, 1935 the American Broadcasting Company, owner and operator of Station WOL, Washington, D. C., filed a protest, which however failed to comply with the requirements of Rules 45, *supra*, and the protest was denied by the Commission;

That on September 5, 1935, the Commission notified the plaintiff that its application had been set for hearing on September 25, 1935 upon the protest of Station WCAU, such hearing to be "upon the issues set forth in said protest.";

That on September 16, 1935 the American Broadcasting Company, filed a petition for leave to intervene in the hearing to be held on September 25th upon plaintiff's application, pursuant to the protest of Station WCAU, but the petition did not set out any problem of interference with the WOL service area;

That on September 18, 1935 plaintiff filed an opposition to the aforesaid petition of WOL for leave to intervene, and moved to strike the petition from the files, on the ground that it failed to comply with the Commission's Rule 59, requiring that a petition to intervene in a proceeding must disclose "a substantial interest in the subject matter of the hearing.";

That on September 19, 1935 Station WCAU voluntarily withdrew its protest, and the Commission notified appellant that the hearing scheduled for September 25th was cancelled;

That plaintiff claimed that pursuant to the Commission's Rule 46 no further action was then necessary under the rules to make final a formal grant of the plaintiff's application, inasmuch as no protest remained before the Commission;

That nevertheless on September 24, 1935 the Commission reconsidered the plaintiff's application for the construction of a new station as aforesaid, and designated it for hearing with instructions that notices of the hearing be sent to Stations WCAU and WOL; that this action of the Commission was based upon no facts whatsoever in addition to those originally set forth by plaintiff and upon consideration of which the Commission had found that the public interest would be served and no person adversely affected by the operation of the proposed station;

That on September 27, 1935 plaintiff filed a motion with the Commission to reconsider its action designating appellant's application for a rehearing and to make final the original grant to plaintiff; this motion however was denied by the Commission on October 29, 1935, and the

application of appellant was set for hearing before an examiner on February 3, 1936.

Plaintiff avers that upon the aforesaid facts it is lawfully possessed of a valid and absolute construction permit; that the only action which remained for the Commission to perform was to issue its approval of a site for the transmitter of the proposed station, but the Commission refuses to approve a transmitter site, and without such approval plaintiff may not commence construction and its permit may automatically be forfeited and lost; that plaintiff will thereby suffer irreparable damage. Plaintiff alleges that it had no remedy at law and only by the prompt interposition of a court of equity can plaintiff's interest be protected and irreparable injury to it avoided, wherefore, it prays that the court may grant to plaintiff an injunction enjoining the defendant from holding any hearing upon plaintiff's application to construct the new radio station set out in its original application, and to issue a modified permit to plaintiff for the construction of the radio station first applied for by it.

The defendant filed a motion to dismiss the bill of complaint above set out upon the ground, among others, that plaintiff had a plain, speedy, and adequate remedy at law under Sec. 402 (b) of the Communications Act of 1934 which provides for appeals to the United States Court of Appeals for the District of Columbia, and the bill of complaint does not show that plaintiff has exhausted his legal remedy thereunder.

Thereupon the district court sustained the motion and dismissed plaintiff's bill.

We are of the opinion that the decision of the district court is correct. It is fundamental that a court of equity will not issue an injunction where plaintiff has a plain, adequate, and complete remedy at law. Appellant had such a remedy under Sec. 402 (b), Subsec. (2) of the Communications Act of 1934 (48 Stat. 1093) which provides in part as follows:

"An appeal may be taken, in the manner hereinafter provided, from decisions of the Commission to the Court of Appeals of the District of Columbia [now United States Court of Appeals for the District of Columbia] in any of the following cases:

(1) By any applicant for a construction permit for a radio station, or for a radio station license, or for renewal of an existing radio station license, or for modification of an existing radio station license, whose application is refused by the Commission.

(2) By any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application."

Under Subsection 2 the appellant had a right to appeal immediately from the refusal of the Commission to make final, without a hearing, the original grant to it. It has been repeatedly held that the foregoing statute delegates to this court exclusive jurisdiction over all such appeals as the present one, and that other courts will not grant equitable relief by injunction in such cases. *United States v. American Bond & Mortgage Co.*, 31 F. (2d) 448; *White v. Fed. Radio Commission*, 29 F. (2d) 113; *Sykes v. Jenny Wren Co.*, 64 App. D. C. 379; 78 F. (2d) 729.

Section 267 of the Judicial Code (28 USCA 384) reads as follows: "Suits in equity shall not be sustained in any court of the United States in any case where a plain, adequate, and complete remedy may be had at law." In the case of *Matthews v. Rodgers*, 284 U. S. 521, Mr. Justice Stone, referring to sec. 267 of the Judicial Code, said:

"The effect of this section which was but declaratory of the rule in equity, established long before its adoption, is to emphasize the rule and to forbid in terms recourse to the extraordinary remedies of equity where the right asserted may be fully protected at law."

It is contended by appellant that the case of *Federal Radio Commission v. Stromberg-Carlson Tel. Manufacturing Co.*, 60 App. D. C. 31, is authority for a different rule. We think however that this contention cannot be sustained. In that case the company was an existing licensee and the terms of its unconditional license had been changed by the Commission during a license period without notice to the licensee and without a hearing or an opportunity to the licensee to be heard. The opinion of this court in that case was that the ruling of the Commission was not simply erroneous, but was void. The decision does not furnish authority for the appellant's claim in the present case.

It is contended further by appellant that Sec. 414 of the Communications Act of 1934 is contrary to our conclusion. The section reads as follows:

"Nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies."

It may be observed however that the rule followed in our present decision does not "abridge or alter the remedies now existing at common law or by statute" but is consistent with such existing remedies at common law and by statute.

The decree of the lower court is therefore affirmed.

Affirmed.

TRENTON STATION RECOMMENDED

The Journal Company, Milwaukee, Wis., the Mid-Atlantic Corporation, Washington, D. C., and the Trenton Times, Trenton, N. J., all applied to the Federal Communications Commission for construction permits in their respective cities, all asking for 1570 kilocycles, and unlimited time on the air. The Journal and Mid-Atlantic Corporation asked for 1,000 watts with the Trenton Times asking for 250 watts.

Examiner Ralph L. Walker in Report No. I-395 recommended that the application of the Trenton Times be granted and that the other two applications be denied.

The Examiner stated in his report that "while the programs of research and experimentation of the Journal Company and the Mid-Atlantic Corporation may be expected to provide additional and desirable data in connection with the development and practical application of high fidelity broadcasting, the proposal of the Trenton

Times gives more promise of substantial contribution to the radio art as a whole."

TENNESSEE APPLICATIONS RECOMMENDED FOR DENIAL

The Knoxville Journal Broadcasting Company applied to the Federal Communications Commission for the erection of a new station at Knoxville, Tenn., to use 1200 kilocycles, 100 watts and 250 watts LS and unlimited time. Also Richard M. Casto applied for the same facilities at Johnson City, Tenn.

Examiner George H. Hill in Report No. I-389 recommended that both of the applications be denied. He found that there is sufficient radio service at Knoxville and in the case of the Johnson City application recommendation has been made for the erection of a new station at that point.

MAINE-MASSACHUSETTS APPLICATION RECOMMENDATIONS

The Cumberland Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Portland, Me., to use 1210 kilocycles, 100 watts and unlimited time. Also the Twin City Broadcasting Company and Philip J. Wiseman both applied to the Commission for the same assignment and both asking to erect a station at Lewiston, Me. The Cape Cod Broadcasting Company applied to the Commission to construct a station at Barnstable, Mass., and George M. Haskins to erect a station at Hyannis, Mass., both asking for 1210 kilocycles, 100 watts and 250 watts LS and unlimited time on the air. Also Arthur E. Seagrave asked for a construction permit for a new station at Lewiston, Me., to use 1420 kilocycles, 100 watts and 250 watts LS and unlimited time on the air.

Examiner Melvin H. Dalberg in Report No. I-388 made the following recommendations relative to these requests.

1. The application of Philip J. Wiseman, of Lewiston, Maine, be dismissed as in the case of default.
2. The application of George M. Haskins, of Hyannis, Massachusetts, which, it was stated, had been withdrawn, be dismissed as in the case of default.
3. The application of Twin City Broadcasting Company, Inc., of Lewiston, Maine, be *denied*.
4. The application of Arthur E. Seagrave, of Lewiston, Maine, be *denied*.
5. The application of Cumberland Broadcasting Company, Inc., for a construction permit to operate on 1210 kilocycles with 100 watts power, unlimited time, be *granted*.

6. The application of Harriett M. Alleman and Helen W. MacLellan, doing business as Cape Cod Broadcasting Company, of Barnstable, Massachusetts, for a construction permit to operate on 1210 kilocycles with 100 watts power at night and 250 watts until local sunset, unlimited time, be *granted*.

RECOMMENDATION ON NEW WYOMING STATION

The Frontier Broadcasting Company applied to the Federal Communications Commission for a construction permit for the erection of a new station at Cheyenne, Wyo., to use 1420 kilocycles, 100 watts night and 250 watts LS, with unlimited time.

Examiner P. W. Seward in Report No. I-391 recommended that the Commission "suspend action until final disposition by the Courts of the application of Paul H. Heitmeyer for authority to construct a radio station in Cheyenne." The Examiner states that if the Heitmeyer application is denied that the granting of this application would be in the public interest.

CHANGES RECOMMENDED FOR WMEX

Broadcasting station WMEX, Boston, Mass., applied to the Federal Communications Commission to change its frequency from 1500 to 1470 kilocycles, and to increase its power from 100 watts and 250 watts LS to 5,000 watts. The station operates on unlimited time.

Examiner John P. Bramhall in Report No. I-392 recommended that the application be granted. He found that a need for the additional service in the area proposed to be served was definitely established. It was also found that no interference would be caused by the changes and the increased power and changed frequency would be in the public interest.

NEW TENNESSEE STATION RECOMMENDED

The Johnson City Broadcasting Company has applied to the Federal Communications Commission for a construction permit for the erection of a new broadcasting station at Johnson City, Tenn., to use 1200 kilocycles, 100 watts and 250 watts LS and unlimited time on the air.

Examiner George H. Hill in Report No. I-387 recommended that the application be granted "subject to the selection of an approved transmitter site" by the Commission. The Examiner states that no objectionable interference would occur to any existing station if the application were granted. Also the Examiner states that adequate local talent is available to supply the needs of the proposed station.

RECOMMENDATIONS IN DALLAS CASES

Richard S. Gozzaldi applied to the Federal Communications Commission for a construction permit for the erection of a new broadcast station at Dallas, Texas, to use 1500 kilocycles, 100 watts and daytime operation. Also A. L. Chilton applied for a construction permit for Dallas to use 990 kilocycles, 1000 watts power and daytime operation.

Examiner Robert L. Irwin in Report No. I-390 recommended that both of the applications be denied, that the latter application be denied if the Commission grants the applications of the Dallas Broadcasting Company and the Centennial Broadcasting Company but that the Chilton application be granted if either of these applications are denied by the Commission. The Examiner found that the operation of the proposed Chilton station would not be expected to cause objectionable interference with any existing station but the operation of the proposed Gozzaldi station would cause interference. The Gozzaldi application is not in the public interest but the Chilton application would be except for the applications now pending before the Commission.

POWER INCREASE RECOMMENDED FOR KARK

Broadcasting station KARK, Little Rock, Ark., operating unlimited time on 890 kilocycles applied to the Federal Communications Commission to increase its power from 500 watts and 1,000 watts LS to 1,000 watts all the time.

Examiner John P. Bramhall in Report No. I-393 recommended that the application be granted. He states that there is need for additional service in the area proposed to be served and that the granting of the application would be in the public interest.

RECOMMENDS DENIAL OF NEW STATION

Arthur H. Groghan applied to the Federal Communications Commission for a construction permit for the erection of a new station at Minneapolis, Minn., to use 1310 kilocycles, 100 watts power and daytime operation.

Examiner Melvin H. Dalberg in Report No. I-394 recommended that the application be denied. He found that it is doubtful if the applicant would be able financially to continue the operation of the proposed station "in the event that the same should not operate at a profit over an appreciable period of time." The Examiner stated also that the evidence failed to disclose a need for the establishment of a new station at Minneapolis and that it would not be in the public interest.

FEDERAL TRADE COMMISSION ACTION

Complaints

The Federal Trade Commission has alleged unfair competition in complaints against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them:

No. 3103. Use of unfair methods of competition, in violation of Section 5 of the Federal Trade Commission Act, is alleged in a complaint issued against **Lawton V. and Henry F. Crocker, Chester, Vt.**, engaged in publishing and selling advertising folders and maps in interstate commerce.

Trading as The National Survey Co., The National Survey, and National Survey, the respondents are said to represent their maps as being "official" when, according to the complaint, they are not "official" maps.

The respondents allegedly cause one of their trade names to appear on their advertising folders and maps, together with such labels and designations as "Official National Survey Maps", "Official Map of the World", "Official Map of the United States", "Official Map of New England", and "Official Map of New York". On some of the maps, the complaint alleges, the respondents make use of an imprint of a state seal together with a designation such as "The Official Map of Maine".

No. 3104. Misrepresentations in the sale of cosmetics is alleged in a complaint issued against **Colonial Dames Co., Ltd.**, trading also as **Colonial Dames, Inc.**, 4652 Hollywood Blvd., **Hollywood, Calif.**

Alleging violation of Section 5 of the Federal Trade Commission Act, the complaint charges the respondent company with representing that Colonial Dames Beauty Wash has an instant beautifying effect on the skin, that Colonial Dames Massage Cream will quickly banish all traces of dryness and sluggishness, leaving the skin freshly stimulated and vibrant, and that Colonial Dames Beautifier remains always on the skin surface, thereby preventing pores from becoming clogged and actually building beauty into the skin.

No. 3105. Alleging unfair competition in the sale of hosiery through use of a lottery scheme, a complaint has been issued against **Carl Smith**, 618 Roscoe St., **Chicago**, trading as **Fashion Silk Co.**

The respondent, the complaint charges, distributes through the mails sales outfits, including pushcards and circulars, explaining his plan of selling hosiery and of allotting it and other articles as premiums. Sales of hosiery are made by means of the pushcards and in accordance with instructions printed on the cards, it is alleged. Premiums are awarded to purchasers in accordance with such instructions.

No. 3106. **George C. Miller & Co., Inc.**, 927 Washington St., **Boston**, is charged, in a complaint, with unfair competition in the sale of candy through use of a sales plan involving a lottery. The lottery was conducted by means of punchboards distributed to dealers with assortments of candy, according to the complaint.

No. 3107. Charged with entering into an unlawful agreement to suppress competition and to create a monopoly in the sale of industrial rivets, 13 companies manufacturing such products, their trade association and its president, are named respondents in a complaint alleging violation of Section 5 of the Federal Trade Commission Act.

The respondent companies are: **Shelton Tubular Rivet Co.** and **Shelton Tack Co.**, both of **Shelton, Conn.**; **Tubular Rivet & Stud Co.**, 87 Lincoln St., **Boston**; **Judson L. Thomson Mfg. Co.**, South St., **Waltham, Mass.**; **Milford Rivet & Machine Co.**, **Milford, Conn.**; **Chicago Rivet & Machine Co.**, 1830 South 54th Ave., **Chicago**; **Manufacturers' Belt Hook Co.**, 1315 West Congress St., **Chicago**; **National Rivet & Mfg. Co.**, **Waupun, Wis.**; **Seovill Mfg. Co.**, Mill St., **Waterbury, Conn.**; **Penn Rivet Corporation**, 3rd and Huntingdon Sts., **Philadelphia**; **Townsend Co.**, **New Brighton, Pa.**; **John Hassall, Inc.**, Clay and Oakland Sts., **Brooklyn**, and **J. W. Coombs Mfg. Co., Inc.**, **Fort Washington, Pa.**

Stipulations and Orders

The Commission has issued the following cease and desist orders and stipulations:

Nos. 1963-1964. Under two stipulations entered into, a **Chicago** mail order house and a **St. Louis** firm have agreed to discontinue misbranding and misrepresenting turtle oil cream which they sell in interstate commerce.

Chicago Mail Order Co., 511 South Paulina St., **Chicago**, stipulated that in the sale of a turtle oil cream designated "Vivani", it will cease using the words "turtle oil" as descriptive of a product whose oil content is not composed of turtle oil, and will stop using the words "turtle oil" in any manner so as to imply that the oil content is composed wholly of turtle oil, when such is not a fact. The stipulation provides that when the words "turtle oil" are used to describe a product whose content is composed in substantial part of turtle oil, then such words shall be immediately accompanied by other words in type equally conspicuous, so as to indicate clearly that the oil content is composed in part of other oils.

Benjamin Anselh Co., 6000 Goodfellow Blvd., **St. Louis**, signed a stipulation to discontinue use of the words "turtle oil" to describe preparations sold under the names "Vivani" and "Ame-thyst." It agreed also to discontinue the use on labels or in advertising matter of representations to the effect that its so-called "Tissue Cream", when applied externally to the skin, will penetrate or be absorbed by the skin so as to nourish or revitalize impoverished tissues, and thereby prevent cracking, fine lines and wrinkles, or fill in hollows of the neck and arms, when such are not the facts.

Nos. 1965-1966. **Graef & Schmidt, Inc.**, 456 Fourth Ave., **New York**, and **Utility Blade & Razor Corporation**, 200 Burnett Ave., **Maplewood, N. J.**, both engaged in the sale of razor blades, have entered into stipulations to discontinue use of the words "English Razor Steel", as descriptive of blades not made from English steel.

The two companies also agreed to cease using the words "English Razor Steel" in any manner implying that the blades to which such words refer are made from English razor steel or manufactured in England from such steel, when such are not the facts.

No. 1967. **E. A. Morgan**, 622-626 Broadway, **Cincinnati**, has entered into a stipulation to cease representing in advertising matter, or in any manner, that runs, snags and breaks in silk hosiery and lingerie are prevented by use of two preparations he sells and designates as "Run-safe" and "Runless."

Trading as **Runsafes Sales Co.** and as **E. A. Morgan & Co.**, **Morgan** also agreed to discontinue the use in advertising matter of pictorial representations purporting to show, in the form of "before" and "after" treatments, the effects of the use of his products on silk hosiery and lingerie, but which pictorial representations are said to be merely the reproduction of incorrect drawings.

Nos. 2322 and 2325. Prohibiting certain unfair representations in the sale of metal grave vaults, orders have been issued to cease and desist against the **Champion Company, Springfield, Ohio**, and **Perfection Steel Body Company**, trading as **Perfection Burial Vault Company, Galion, Ohio**. The respondent companies' representations were held to constitute unfair competition in violation of Section 5 of the Federal Trade Commission Act.

In the sale and distribution of ferrous metal burial vaults in interstate commerce, the **Champion Company** is directed to stop the use of representations, in certificates of warranty or guaranty, in advertising, or in any other manner, to the effect that the metal contained in the vaults is able for any fixed period of time, after being placed underground, to resist rust and corrosion or the effects thereof, and that the vaults will remain air-tight, vermin-proof or water-proof.

The order against the **Perfection Company** directs it to discontinue making representations, in the same manner, to the effect that the metal of which its vaults are made is able to resist rust or corrosion or the effects thereof, or that the vaults will remain air-tight, vermin-proof or water-proof for 50 years, or for any fixed period after being placed underground.

No. 2644. An order to cease and desist has been issued against **Paul Greenberg**, trading as **Beverly Products Co.**, 66 Vernon St., **Springfield, Mass.**, prohibiting certain unfair representations in the sale of medicinal preparations advertised as **Beverly Femin Tablets** and **Beverly Menses Tablets**.

Selling these products in interstate commerce, **Greenberg** was directed to stop representing **Beverly Femin Tablets** as an effective, potent and powerful germicide under the conditions of use for feminine hygiene, and **Beverly Menses Tablets** as a cure, remedy or competent and adequate treatment for women's diseases generally.

No. 2916. Prohibiting unfair competition through sale of candy by methods involving use of a lottery, an order to cease and desist

has been issued against **Maple City Candy Co.**, 405 Tyler St., **LaPorte, Ind.** The respondent company's practices were held to be in violation of Section 5 of the Federal Trade Commission Act.

CASES CLOSED BY FTC

No. 2622. The Federal Trade Commission has issued an order closing its case against **C. E. Trees & Co., Inc.**, **Indianapolis**, charged with unfair competition in the sale of flavoring extracts.

Closing of the case followed the respondents signing of a stipulation to cease unfair representations in the sale of its product, called "Four Per Cent—the Perfect Mixer". The respondent company agreed to stop describing its product by use of the symbol "4%" or any per cent designation unless such be qualified by use of the phrase "contains no alcohol", in conspicuous type. In closing the case, the Commission reserved its right to reopen it should circumstances warrant.

No. 2632. The Commission has dismissed without prejudice its complaint against **Cummer Products Co.**, **Bedford, Ohio**, which had been charged with using unfair methods of competition in connection with the sale of a cleaning fluid designated "Energine".

FEDERAL COMMUNICATIONS COMMISSION ACTION

Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, April 26.

Monday, April 26

HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Frank M. Stearns, Salisbury, Md.—C. P., 1200 kc., 250 watts, daytime.

WHBB—W. J. Reynolds, Jr., J. C. Hughes, and J. S. Allen, d/b as Selma Broadcasting Co., Selma, Ala.—Modification of license, 1500 kc., 100 watts, unlimited time.

WHBB—W. J. Reynolds, Jr., J. C. Hughes, and J. S. Allen, d/b as Selma Broadcasting Co., Selma, Ala.—Voluntary assignment of license, 1500 kc., 100 watts, daytime.

Thursday, April 29

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. 1-337:

WOAI—Southland Industries, Inc., San Antonio, Tex.—Transfer of control of corporation; 1190 kc., 50 KW, unlimited time.

Examiner's Report No. 1-352:

NEW—George Harm, Fresno, Calif.—C. P., 1310 kc., 100 watts, unlimited time.

Examiner's Report No. 1-355:

WAAB—Bay State Broadcasting Corp., Boston, Mass.—Modification of license, 1410 kc., 500 watts, 1 KW LS, unlimited. Present assignment: 1410 kc., 500 watts, unlimited time.

Examiner's Report No. 1-357:

KWBG—The Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—C. P., 550 kc., 250 watts, unlimited time. Present assignment: 1420 kc., 100 watts, unlimited time.

HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Robert Raymond McCulla, Oak Park, Ill.—C. P., 1500 kc., 100 watts, daytime.

Friday, April 30

HEARING BEFORE AN EXAMINER (Broadcast)

NEW—F. W. Borton, Coral Gables, Fla.—C. P., 1420 kc., 100 watts, unlimited time.

FURTHER HEARING BEFORE AN EXAMINER (Broadcast)

NEW—Earl Weir, St. Petersburg, Fla.—C. P., 1370 kc., 100 watts, unlimited time.

APPLICATIONS GRANTED

KEHE—Evening Herald Publishing Co., Los Angeles, Calif.—Granted voluntary assignment of license from Evening Herald Publishing Co. to Hearst Radio, Inc.; 780 kc., 1 KW night, 5 KW day, unlimited.

WMFN—P. K. Ewing, Grenada, Miss.—Granted modification of C. P. extending commencement date to 4-28-37 and completion date to 10-28-37.

KSUB—Harold Johnson and Leland M. Perry, d/b as Johnson & Perry, Cedar City, Utah.—Granted modification of C. P. to make changes in equipment.

WNYC—City of New York, Dept. of Plant and Structures, New York City.—Granted modification of C. P. to extend completion date to 11-15-37.

WDSM—Fred A. Baxter, Superior, Wis.—Granted modification of C. P. approving transmitter site at 38th St. and Tower Ave., Superior, Wis., and studio site 1507 Tower Ave., Superior; and vertical radiator.

KGER—Consolidated Broadcasting Corp., Ltd., Long Beach, Calif.—Granted license to cover C. P., 1360 kc., 1 KW, unlimited time.

KRMD—Radio Station KRMD, Inc., Shreveport, La.—Granted license to cover C. P., 1310 kc., 100 watts night, 250 watts day, unlimited.

WEBR—WEBR, Inc., Buffalo, N. Y.—Granted license to cover C. P., 1310 kc., 100 watts night, 250 watts day, unlimited time.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted license to cover C. P. and modifications thereof; 1420 kc., 100 watts night, 250 watts day, unlimited time.

WJJD—WJJD, Inc., Chicago, Ill.—Granted modification of license to change time of operation from limited, i.e., 6 a. m., CST, to LS at Salt Lake City, Utah, to limited, i.e., 6 a. m., EST, to LS at Salt Lake City, Utah, for period April 25 to September 25, 1937, during Chicago daylight saving time.

NEW—WBNS, Inc., Mobile (Columbus, Ohio)—Granted C. P. for new relay broadcast station, frequencies 1646, 2090 and 2830 kc., 175 watts.

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Granted C. P. approving transmitter site southeast of St. Joseph, and approving vertical radiator.

WJBL—Commodore Broadcasting, Inc., Decatur, Ill.—Granted license to cover C. P., 1200 kc., 100 watts night and day, sharing with WJBC.

KROY—Royal Miller, Sacramento, Calif.—Granted license to cover C. P. as modified; 1210 kc., 100 watts, daytime only.

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted amended C. P. covering local move of transmitter to 100 N. Pulaski Road; studio to 14 North Western Ave.; installation of new equipment and vertical radiator.

WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—Granted C. P. covering changes in equipment and increase in day power from 1 KW to 5 KW.

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Granted C. P. to move transmitter site to North 3rd Ave., Kingston, Pa., and install vertical radiator.

WAYX—E. F. and S. F. Sapp, d/b as Waycross Broadcasting Co., Waycross, Ga.—Granted C. P. to install new equipment and increase day power from 100 watts to 250 watts.

KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Granted license to cover C. P., 1230 kc., 1 KW, unlimited time.

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Granted license to cover C. P. as modified; 1400 kc., 1 KW night, 5 KW day, unlimited time, using directional antenna system for night-time operation only.

WMBO—WMBO, Inc., Auburn, N. Y.—Granted modification of C. P. for changes in equipment and extend completion date from July 24, 1937, to 180 days after grant.

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Granted consent to involuntary transfer of control of the National Battery Broadcasting Co. from Lytton J. Shields, deceased, to the present stockholders' legal representatives—The First Trust Co. of St. Paul, Helen B. Shields and Frank J. Anderson, representatives of the estate. Also granted

renewal of license for the period May 1 to November 1, 1937; 1460 kc., 10 KW night, 25 KW day, unlimited.

King Trendle Broadcasting Corp., Detroit, Mich.—Granted extension of authority to transmit programs from Station WXYZ to stations of the Canadian Radio Commission by means of commercial telephone wires of Michigan Bell Telephone Company.

Houston Printing Corp., Houston, Tex.—Granted extension of special temporary authority to operate with power of 5 KW night, for period April 24 to May 23, 1937.

NEW—Radio Air Service Corp., Cleveland, Ohio.—Granted C. P. for new high frequency station, frequencies 31600, 35600, 38600 and 41000 kc. on experimental basis and these frequencies subject to change without prior notice or hearing; 50 watts.

WABV—Juan Piza, Mobile, San Juan, P. R.—Granted C. P. for relay station, frequencies 1622, 2058, 2150 and 2790 kc., 50 watts. Also granted license covering same.

NEW—National Broadcasting Co., Inc., Chicago, Ill.—Granted C. P. for new relay station, frequencies 31100, 34600, 37600 and 40600 kc., 50 watts. Also granted license covering same.

NEW—The Crosley Radio Corp., Cincinnati, Ohio.—Granted amended C. P. for new high frequency station, frequency 25950 kc., on experimental basis, 200 watts.

W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Granted license to cover C. P. for new high frequency broadcast station on experimental basis, 88000, 120000, 240000 and 500000 kc., 500 watts.

W2XAX—Columbia Broadcasting System, Inc., New York City.—Granted C. P. authorizing changes in equipment; increase power of visual broadcast transmitter to 7500 watts power; and move of transmitter to top of Chrysler Bldg., New York City.

APPLICATIONS DISMISSED

The following applications, heretofore set for hearing, were dismissed at request of applicants:

NEW—Utica Observer Dispatch, Inc., Utica, N. Y.—C. P., 950 kc., 1 KW LS, daytime.

KFXM—J. C. Lee and E. W. Lee (Lee Bros. Broadcasting Co.), San Bernardino, Calif.—C. P., 1210 kc., 100 watts, 250 watts LS, share KPPC.

NEW—E. Virginia Newspaper Publishing Co., Clarksburg, W. Va.—C. P., 1250 kc., 1 KW LS, daytime.

KSLM—Oregon Radio, Inc., Salem, Ore.—C. P., 1110 kc., 500 watts, 500 watts LS, unlimited.

W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Modification of license, 6060, 9590 kc., 15290 kc., 10 KW, 10 KW LS, unlimited time.

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Modification of license, 940 kc., 1 KW LS, daytime until 6 p. m., EST.

APPLICATION RETIRED TO FILES

WAIM—Wilton E. Hall, Anderson, S. C.—Application for C. P. requesting changes in equipment, move transmitter and change frequency to 630 kc., power to 1 KW, time to daytime only, which was granted April 7, 1936, contingent upon selection of a satisfactory transmitter site and antenna design, was retired to closed file since the applicant has requested to relinquish this authority.

ACTION ON EXAMINERS' REPORTS

NEW—Ex. Rep. 1-333: A. Frank Katzentine, Miami Beach, Fla.—Granted C. P. for new broadcast station to operate on 1500 kc., 100 watts, unlimited time (site to be determined subject to Commission's approval). Examiner John P. Bramhall sustained. Order effective May 25, 1937.

WCOA—Ex. Rep. 1-359: Pensacola Broadcasting Co., Pensacola, Fla.—Granted C. P. to make changes in antenna and transmitter; move transmitter from San Carlos Hotel, northwest corner Palafox and Garden Sts., Pensacola, to (site to be determined subject to Commission's approval); and increase power from 500 watts to 1 KW; 1340 kc., unlimited time. Examiner M. H. Dalberg sustained. Order effective May 25, 1937.

NEW—Ex. Rep. 1-374: H. O. Davis, Mobile, Ala.—Denied as in cases of default application for C. P. for new station to operate on 610 kc., 250 watts night, 500 watts LS, unlimited time. Examiner P. W. Seward sustained.

ORAL ARGUMENTS GRANTED

- NEW—Ex. Rep. 1-370: Falls City Broadcasting Corp., Falls City, Nebr.—Granted oral argument to be held May 20, 1937.
- NEW—Ex. Rep. 1-373: J. L. Statler, d/b as Baker Hospital, Muscatine, Iowa.—Granted oral argument to be held May 20, 1937.
- NEW—Ex. Rep. 1-377: Radio Enterprises, partnership of J. R. Curtis and R. Lacy, Lufkin, Tex.—Granted oral argument to be held May 20, 1937.
- NEW—Red Lands Broadcasting Assn., Ben T. Wilson, Pres., Lufkin, Tex.—Granted oral argument to be held May 20, 1937.
- WJBR—Ex. Rep. 1-378: J. B. Roberts, Gastonia, N. C.—Granted oral argument to be held May 27, 1937.
- NEW—Virgil V. Evans, Gastonia, N. C.—Granted oral argument to be held May 27, 1937.

EFFECTIVE DATE EXTENDED

- NEW—Ex. Rep. 1-291: The Niagara Falls Gazette Publishing Co., Niagara Falls, N. Y.—Effective date of order extended to May 15, 1937.
- NEW—Power City Broadcasting Corp., Niagara Falls, N. Y.—Effective date of order extended to May 15, 1937.
- WSBT—Ex. Rep. 1-315: The South Bend Tribune, South Bend, Ind.—Effective date of order extended from April 20 to April 27, 1937.
- WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—Effective date of order extended from April 20 to April 27, 1937.

RENEWAL OF LICENSES

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

- KGNO, Dodge City, Kans.; WBNX, New York City; WFAB, New York City; WFBL, Syracuse, N. Y.; WHAZ, Troy, N. Y.; WSBT, South Bend, Ind.; WTAQ, Green Bay, Wis.
- KOAC—Oregon State Agricultural College, Corvallis, Ore.—Granted renewal of license for the period ending September 1, 1937.
- KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Granted renewal of license for the period ending October 1, 1937.

SET FOR HEARING

- NEW—State Broadcasting Corp., New Orleans, La.—C. P. for new station, **1370 kc.**, 100 watts, unlimited time. Exact site to be determined with Commission's approval.
- NEW—Zenith Radio Corp., Chicago, Ill.—C. P. for new television broadcast station at Chicago, on an experimental basis under the provisions of Rules 1031, 1033 and 1034; frequencies **42000-55000** and **60000-86000 kc.**, visual power 1000, aural power 1000 watts, unlimited time.
- WRVA—Larus & Bros. Co., Inc., Richmond, Va.—C. P. to move transmitter site 15 miles southeast of Richmond, Va.; install new equipment and a directional antenna system for day and night operation, and increase power from 5 KW to 50 KW.
- KGB—Don Lea Broadcasting System, San Diego, Calif.—C. P., already in hearing docket, amended so as to request change in transmitter site locally to site to be determined; install new equipment and vertical radiator; and increase power from 1 KW to 5 KW, unlimited time. To be heard before the Broadcast Division.
- KJBS—Julius Brunton & Sons Co., San Francisco, Calif.—Modification of license to change frequency from **1070 kc.** to **1080 kc.** and change hours of operation from limited time to specified hours as follows: 6 a. m. to 6:30 p. m. and 9 p. m. to midnight, PST, daily. To be heard before the Broadcast Division.
- NEW—Ann Arbor Broadcasting Co., Inc., Ann Arbor, Mich.—C. P., already in hearing docket, amended to request new special broadcast station; **1550 kc.**, 1 KW, unlimited time, using directional antenna system at night to protect WQXR. Hearing scheduled for April 23.
- KFNF—KFNF, Inc., Shenandoah, Iowa.—Application for C. P. amended to request move of transmitter locally; install directional antenna for night-time operation, and new equipment; increase night power to 1 KW, day power to 5 KW.
- KRKD—Radio Broadcasters, Inc., Frank P. Doherty, Los Angeles, Calif.—Authority to transfer control of corporation from Frank P. Doherty to J. F. Burke, Sr., and Loyal K. King.

Operates on **1120 kc.**, 500 watts night, $2\frac{1}{2}$ KW day, S-KFSG.

- NEW—Summit Radio Corp., Akron, Ohio.—C. P. amended to request application for new station to operate on **1530 kc.**, 1 KW, unlimited time, using directional antenna system for night-time operation to protect stations WBRV and KXBY. Transmitter site adjacent to Manchester Road, south of Akron city limits, near Akron; studio to be determined in business district of Akron.
- NEW—El Paso Broadcasting Co., El Paso, Tex.—Application for C. P. amended to request **940 kc.**, 1 KW, unlimited time; approval of transmitter site at 2250 ft. South Spruce Street on line of Boone Street, extended southward, El Paso, Tex.
- NEW—W. W. Luce, Lauderdale, Fla.—Application for C. P. amended to request **1050 kc.**, 1 KW, daytime only, exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- WMAL—National Broadcasting Co., Inc., Washington, D. C.—Application for modification of license to increase night power from 250 to 500 watts; **630 kc.**
- NEW—Fall River Herald News Publishing Co., Fall River, Mass.—Application for C. P. amended to request **1210 kc.**, 100 watts night, 250 watts day, unlimited time, exact transmitter site and type of antenna to be determined with Commission's approval.
- NEW—Centennial Broadcasting Corp., Dallas, Tex.—C. P. for new station, **1500 kc.**, 100 watts, daytime only, exact transmitter site to be determined with Commission's approval.
- NEW—Thomas J. Watson, Endicott, N. Y.—Application for C. P. for new station, **1240 kc.**, 1 KW, unlimited time, using directional antenna system for night-time operation.
- NEW—W. W. Hunt, J. B. DeMotte and F. H. Miller, d/b as The Ocala Broadcasting Co., Ocala, Fla.—Application for C. P. for new station, **1500 kc.**, 100 watts night, 250 watts day, unlimited time.
- NEW—F. B. Clements & Company, a co-partnership consisting of F. Braden Clements, Clara D. Clements, and C. C. Clements, d/b as Southern Minn. Supply Co., Mankato, Minn.—Application for C. P. for new station, **1500 kc.**, 100 watts night, 250 watts day, unlimited time, exact transmitter site to be determined with Commission's approval.
- NEW—A. Annas, K. C. Elliott, D. L. Green, and C. D. Newton, d/b as Hickory Broadcasting Co., Hickory, N. C.—Application for C. P. for new station, **1370 kc.**, 100 watts, daytime only.

EXAMINERS' REPORTS RELEASED

- WCOP—Ex. Rep. 1-380: Massachusetts Broadcasting Corp., Boston, Mass.—Examiner George H. Hill recommended grant of modification of license to change frequency from **1120 kc.** to **1130 kc.**, and hours of operation from daytime to limited time until local sunset at Salt Lake City.
- NEW—Ex. Rep. 1-381: Cadillac Broadcasting Co., Dearborn, Mich.—Examiner M. H. Dalberg recommended grant of C. P. for new station to operate on **1140 kc.**, 500 watts, daytime.
- NEW—Ex. Rep. 1-382: Peninsula Newspapers, Inc., Palo Alto, Calif.—Examiner P. W. Seward recommended denial of C. P. for new station to operate on **1160 kc.**, 250 watts, daytime.
- WMBD—Ex. Rep. 1-382: Peoria Broadcasting Co., Peoria, Ill.—Examiner Hill recommended grant of C. P. to increase power from 500 watts night, 1 KW LS, to 1 KW night, 5 KW LS.
- NEW—Ex. Rep. 1-384: Edwin A. Kraft, Petersburg, Alaska.—Examiner R. H. Hyde recommended grant of application for C. P. for new station to operate on **1420 kc.**, 100 watts, unlimited.
- NEW—Ex. Rep. 1-385: W. H. Marolf, Escanaba, Mich.—Examiner Hyde recommended denial of C. P. requesting new station to operate on **1500 kc.**, 100 watts, unlimited time.
- NEW—The Escanaba Daily Press Co., Escanaba, Mich.—Examiner Hyde recommended dismissal of application for C. P., **1500 kc.**, 100 watts, daytime.
- KINY—Ex. Rep. 1-386: Edwin A. Kraft, Juneau, Alaska.—Examiner Hyde recommended denial of C. P. requesting change in frequency from **1310 kc.** to **1430 kc.**, and increase in power from 100 to 250 watts.
- NEW—Ex. Rep. 1-387: Johnson City Broadcasting Co., Johnson City, Tenn.—Examiner Hill recommended grant of C. P. for new station to operate on **1200 kc.**, 100 watts night, 250 watts local sunset, unlimited time.

NEW—Ex. Rep. 1-389: Knoxville Journal Broadcasting Co., Knoxville, Tenn.—Examiner Hill recommended denial of C. P. for new station to operate on 1200 kc., 100 watts night, 250 watts LS, unlimited time.

NEW—Richard M. Casto, Johnson City, Tenn.—Examiner Hill recommended denial of C. P. for new station to operate on 1200 kc., 100 watts night, 250 watts LS, unlimited time.

NEW—Ex. Rep. 1-390: Richard S. Gozzaldi, d/b as The Oak Cliff-Dallas County Broadcasting Co., Dallas, Tex.—Examiner R. L. Irwin recommended denial of application for C. P., 1500 kc., 100 watts, daytime.

NEW—A. L. Chilton, Dallas, Tex.—Examiner Irwin recommended denial of application for C. P., 1500 kc., 100 watts, daytime, if Commission grants applications of Dallas Broadcasting Co. and Centennial Broadcasting Co., and grant if Commission denies either the application of the Dallas Broadcasting Co. or the Centennial Broadcasting Co.

NEW—Ex. Rep. 1-391: Frontier Broadcasting Co., Cheyenne, Wyo.—Examiner P. W. Seward recommended suspension until the final disposition by the courts of the application of Paul H. Heitmeyer for authority to construct a radio broadcast station in Cheyenne. In event the decision of the Commission be sustained by the courts, then it is recommended that application of the Frontier Broadcasting Co. for C. P. to operate on 1420 kc., 100 watts night, 250 watts LS, unlimited time, be granted.

NEW—Ex. Rep. 1-388: Cumberland Broadcasting Co., Inc., Portland, Maine.—Examiner Dalberg recommended grant of C. P. for new station to operate on 1210 kc., 100 watts, unlimited time.

NEW—Twin City Broadcasting Co., Inc., Lewiston, Me.—Examiner Dalberg recommended denial of C. P. for new station to operate on 1210 kc., 100 watts, unlimited time.

NEW—Philip J. Wiseman, Lewiston, Me.—Examiner recommended dismissal of application as in cases of default, same facilities as above.

NEW—Harriet M. Alleman and Helen M. MacLellan, d/b as Cape Cod Broadcasting Co., Barnstable, Mass.—Examiner Dalberg recommended grant of C. P. for new station to operate on 1210 kc., 100 watts night, 250 watts LS, unlimited time.

NEW—George M. Haskins, Hyannis, Mass.—Examiner recommended dismissal as in cases of default application for same facilities as above.

NEW—Arthur E. Seagrave, Lewiston, Me.—Examiner recommended denial of application for C. P., same facilities as above.

MISCELLANEOUS

KLZ—KLZ Broadcasting Co., Denver, Colo.—Dismissed without prejudice application for C. P. to erect new broadcast station in Denver to operate on 1210 kc., 100 watts night, 250 watts LS, unlimited. Dismissed petition of Colorado Radio Corporation to intervene in hearing of above application.

WHN—Marcus Loew Booking Agency, New York City.—Accepted answer as respondent to appearance of applicant KYW, Westinghouse E. & M. Co., Philadelphia, Pa., for C. P., Docket 4265. Hearing scheduled for May 18, 1937.

NEW—William F. Maag, Youngstown, Ohio.—Denied petition to intervene at hearing of application for C. P. to erect new radio broadcasting station at Youngstown, Ohio, to operate on 1350 kc., 1 KW, unlimited. Petition filed only four days before hearing scheduled for April 19, 1937. Rule 105.20 requires that petitions to intervene be filed 10 days prior to hearing.

WBAX—John H. Stenger, Jr., Wilkes Barre, Pa.—Denied petition asking Commission for special temporary authority to operate unlimited time beginning April 15, pending action on application for full time authorization.

KGMB—Honolulu Broadcasting Co., Ltd., Honolulu, T. H.—Denied petition asking Commission to reconsider its action of March 10, 1936, in designating for hearing application for consent to transfer control of stations KGMB, Honolulu, and KHBC, Hilo, from J. L. P. Robinson to the Pacific Theatres and Supply Co., Ltd.

KTSA—KTSA Broadcasting Co., San Antonio, Texas.—Granted petition to intervene in hearing of application of Wichita Falls Broadcasting Company for modification of C. P. to increase power from 250 watts night to 1 KW, and day power from 1 KW to 5 KW LS, unlimited time.

NEW—J. Leslie Boss, Sarasota, Fla.—Denied request for a further extension of 90 days for taking depositions in re application for C. P. to erect new broadcast station at Sarasota, to operate on 1390 kc., 250 watts, daytime only.

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Denied petition to operate under its new assignment of 1260 kc., 250 watts, unlimited time, pending compliance with Rule 131. This rule was adopted October 15, 1935, and requires applicants for new, additional or different broadcast facilities to specify a radiating system the efficiency of which complies with the requirements of good engineering practice.

NEW—Smith Keller & Cole, San Diego, Calif.—Granted petition to intervene in hearing of application of Radiotel Corp., for C. P. to erect new broadcast station at San Diego to operate on 920 kc., 500 watts, unlimited time.

WSVS—Seneca Vocational High School, Buffalo, N. Y.—Granted renewal of regular license for period ending July 1, 1937. Application for renewal of license for period Jan. 1 to July 1, 1937, was designated for hearing January 26, 1937, because of pendency of application of WHNY, Buffalo, N. Y., for facilities of WSVS. This application has been dismissed from hearing calendar at request of WHNY.

WXYZ—King-Trendle Broadcasting Co., Detroit, Mich.—Granted petition to intervene in hearing of application of Voice of Detroit, Inc., for C. P. to erect new broadcasting station at Detroit, to operate on 1120 kc., 500 watts night, 1 KW, LS.

WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Granted postponement of hearing from May 14, 1937, to approximately 30 days, new date to be fixed by Docket Section, on application for C. P. to install vertical antenna and increase night time power from 500 watts to 1 KW.

NEW—Virgil V. Evans, d/b as Voice of South Carolina, Spartanburg, S. C.—Waived Rule 106.5(b), and directed that answer filed on behalf of Virgil V. Evans, d/b as the Voice of South Carolina, to the appearance of Carolina Radio, Inc., applicant for C. P. to erect a new station at Charlotte, N. C., to operate on 880 kc., 500 watts night, 1 KW, LS, unlimited time, be accepted and that said answer be made a part of the record.

NEW—J. Laurence Martin, Tucumcari, New Mexico.—Denied petition requesting Commission to set aside order of the Broadcast Division rendered October 13, 1936, denying application for a new radio station at Tucumcari, to operate on 1200 kc., 100 watts, limited time, and to grant the same. Also denied request for further extension of effective date.

WHB—WHB Broadcasting Company, Kansas City, Mo.—Denied petition for review and reversal of decision of Broadcast Division denying application to install new equipment, change frequency from 860 to 1120 kc., change hours of operation from daytime to unlimited, with 500 watts power at night and 1 KW day, and employing a directional antenna system during nighttime operation. Also denied alternate proposal for rehearing and stay of effective date of order fixed as April 15, 1937.

WNNY—Black River Valley Broadcasts, Inc., Watertown, N. Y.—Denied petition requesting Commission to reconsider and set aside its action of December 2, 1936, in which it reversed the order of the Broadcast Division of September 22, 1936, which granted an application for C. P. for a new station at Watertown, N. Y., to operate on 1420 kc., 100 watts night, 250 watts day, unlimited time.

SPECIAL AUTHORIZATIONS

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 5 to 6 P. M., C. S. T., April 30, in order to broadcast game; 10 to 11 A. M., May 1, baseball game; 4 to 6:30 P. M., May 1, football game and President's banquet; 12 noon to 2 P. M., May 2, Loyalty Luncheon, and from 4 to 6 P. M., May 2, to broadcast Purdue band concert.

WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate from 2:45 to 4:15 P. M., E. S. T., May 9, (instead of May 2, 1937, as granted in minutes of April 2, 1937), in order to observe Charter-Day College Holiday.

WKAR—Michigan State College, East Lansing, Mich.—Granted special temporary authority to operate with reduced power for a period not to exceed 10 days while installing new transformers.

WSMK—WSMK, Inc., Dayton, Ohio.—Granted special temporary authority to operate simultaneously with KQV from 7:15 to 7:30 P. M., E. S. T. (Sundays), April 18 and 25.

WICA—C. A. Rowley, Ashtabula, Ohio.—Granted special temporary authority to operate a 50 watt test transmitter on 940 kc., during daytime hours for a period April 15 to

May 14, 1937 in order to test for transmitter sites near Ash-tabula. However, such tests not permitted during hours prescribed for Commission monitoring schedule, during experimental period except from 5:10 to 5:30 A. M., May 11.

- WBZ—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Granted special temporary authority to operate a 500 watt radio transmitter at and near the site specified in application for C. P., on frequency 1020 kc., between hours of 1 and 6 A. M., E. S. T., for period April 26 to May 6, 1937, in order to make measurements as to possible coverage of transmitter to be located as proposed in above mentioned C. P. Schedule should be arranged so as to cause no interference to any station monitoring regular schedule.
- WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Granted special temporary authority to operate from 5 to 6 A. M., C. S. T., for period of 30 days, in order to reach farmers in the territory surrounding station WBZ who are in their fields during the summer months by 5 A. M.
- WCAL—St. Olaf College, Northfield, Minn.—Granted special temporary authority to operate from 2 to 3 P. M., C. S. T., the following Sundays: April 25, May 2, 9, 16, 23 (provided WTCN remains silent), in order to continue to schedule NBC programs with commencement of daylight saving time in New York City.
- WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Same as above except from 3 to 4 P. M., C. S. T., provided WCAL remains silent.
- WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted extension of temporary authority to operate on 560 kc., with power of 1 KW at night, for period May 1 to May 31, pending filing of and action on license application to cover C. P. for this authority.
- WHDF—The Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 10 to 10:30 A. M., C. S. T., April 27 to May 1, inclusive, in order to broadcast (first fifteen minutes) Magic Hour Programs and the balance of the time to broadcast transcription program utilizing music of World Sustaining Library.
- KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted special authority to operate 7:30 to 10:30 P. M., C. S. T., April 21, 22, May 13, 14, 17 to 21 inclusive, in order to broadcast night baseball games.
- KFRO—Voice of Longview, Longview, Texas.—Granted special temporary authority to operate from local sunset (May sunset, 7:15 P. M.) to 9 P. M., C. S. T., using power of 100 watts, on Sundays, May 2, 9, 16, 23 and 30, 1937, in order to broadcast church services of the Kelly Memorial Methodist Church of Longview.
- WEST—Associated Broadcasters, Inc., Easton, Pa.—Granted special temporary authority to operate simultaneously with station WKBO from 10 to 11 A. M. and 5 to 6 P. M., E. S. T., for period April 25 to May 24, 1937, due to adoption of Daylight Saving Time in Easton, Pa.
- WMBG—Havens & Martin, Inc., Richmond, Va.—Granted extension of special temporary authority to operate from 5:30 to 7 P. M., E. S. T., on Sundays from May 1, 1937, to May 31, 1937, inclusive (provided WBBL remains silent), in order to broadcast special programs.
- WFBZ—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted special temporary authority to operate a 50 watt portable transmitter between the hours 1 and 6 A. M., E. S. T., for the period April 21 to May 20, 1937, in order to conduct a location survey in and around Baltimore. However, such tests not permitted during those hours prescribed for Commission monitoring schedule.
- RCA Communications, Inc., Bolinas, Calif.—Granted special temporary authority to operate point-to-point telegraph stations KEQ on frequency 11950 kc., KEW on 7715 kc., and KEG on 5110 kc., to communicate with relay broadcast station aboard plane of United Air Lines Transport Corp., call letters KHAZT, for period April 19 to May 30, 1937, for the purpose of maintaining contact-control communication connection with reception of preliminary test schedules incidental to reception of one-half-hour programs to be delivered to NBC on April 25, May 2, 9, 16, 23 and 30.
- W3XDS—RCA Communications, Inc., Camden, N. J.—Granted special temporary authority to operate with power of 5 KW on 590 kc. during broadcast experimental hours from 1 to 6 a. m., EST, for period not to exceed 10 days, provided schedule is arranged so as to cause no interference to stations maintaining regular programs, in order to make certain measurements of radio frequency harmonic radiation.
- KGDY—Voice of South Dakota, Huron, S. Dak.—Granted extension of special temporary authority to remain silent for

the period April 16 to May 1, 1937, for the purpose of rebuilding transmitter to comply with Rule 132. Provided, this authority shall not be construed as a finding by the Commission with respect to any application of KGDY pending before it, particularly the renewal application or upon any issues raised thereby. Also that station shall not resume operation until such time as photographs and other necessary evidence are submitted showing equipment is in entire agreement with all requirements of rules and regulations of Commission and good engineering practices.

- WJBW—Chas. C. Carlson, New Orleans, La.—Granted special temporary authority to remain silent if necessary for a period not to exceed 15 days pending necessary repairs.

RATIFICATIONS

The Division ratified the following acts authorized on the dates shown:

- KABE-KIGA—National Battery Broadcasting Co., St. Paul, Minn.—Granted authority to operate as licensed on Thursdays for period of 30 days from April 22, relaybroadcast from University of Minnesota Farm School instead of authority granted by wire on April 14. Also granted authority to operate as licensed on April 20 relaybroadcast from University of Minnesota Mechanical Engineering Bldg.
- W8XIK—Crosley Radio Corp., Cincinnati, Ohio.—Granted authority to operate as licensed April 20 relaybroadcast interviews of early arrivals opening ball game on 4-20 or 4-21, relaybroadcast events at ball game.
- W8XHV—The Evening News Assn., Inc., Detroit, Mich.—Granted authority to operate as licensed 4-24 relaybroadcast program connection opening trout fishing season in Michigan.
- W10XDX—National Broadcasting Co., Inc., New York City.—Granted authority to operate as licensed April 22, 23 and 24 relaybroadcast description intercollegiate track meet, Philadelphia.
- W9XPY—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted authority to operate as licensed for period April 17 to 29, inclusive, relaybroadcast from Keeneland Race Track.
- WKOK—Radio Station WKOK, Sunbury, Pa.—Granted authority to continue use of present transmitter until not later than midnight April 30, that is Rule 132 waived until that date. Authority granted change coupling system as necessary to match new transmitter; however, if necessary, change antenna system, necessary submit details which must comply with Rule 131. Above authority shall not be construed as acceptance of explanation of discrepancy report. Use new equipment must comply Rules 164 and 165.
- WJEP—Stromberg-Carlson Tel. Mfg. Co., Rochester, N. Y.—Granted temporary authority to operate relay station WJEP as licensed, April 16 to April 25, 1937, to relay broadcast of safety campaign in Rochester.
- W4XBT—Radio Station WSOC, Inc., Charlotte, N. C.—Granted temporary authority to operate relay stations as licensed, for period April 15 to 17, 1937, inclusive, to relay broadcast from Carnival Grounds, provided no wire lines available.

Granted petition of WGAR Broadcasting Company to intervene in the proceedings on the application of the Food Terminal Broadcasting Co. for a C. P. to erect a broadcast station at Cleveland, Ohio. Docket 4436.

Granted petition of WKBN Broadcasting Corp. to intervene in the proceedings on the application of Valley Broadcasting Co. for a C. P. to erect a broadcast station at Youngstown, Ohio. Docket 4066.

Denied petition of Isle of Dreams Broadcasting Corp. (WIOD-WMBF), Miami, Fla., requesting that the Commission reconsider its action of February 9, 1937, in designating for hearing its application for modification of license, Docket No. 4425, and grant same without a hearing.

Granted petition of the Great Lakes Broadcasting Corp. to intervene in the proceedings on the application of the Food Terminal Broadcasting Co., Cleveland, Ohio, for a C. P. to erect a new station at Cleveland, Ohio. Docket No. 4436.

Granted the petitions of the Pennsylvania Broadcasting Company (WIP), the Seaboard Radio Broadcasting Corp. (WIBG), and WDAS Broadcasting Station, Inc. (WDAS), to intervene in the proceedings on the application of the Philadelphia Radio Broadcasting Co. for a C. P. to erect a broadcast station in Philadelphia, Pa. Docket 4439.

- KVGB—Ernest Edward Buehlen, Great Bend, Kans.—Granted extension of program test for period of 30 days from April 8, 1937.

W9XPS—Peoria Broadcasting Co., Peoria, Ill.—Granted temporary authority to operate relay station W9XPS as licensed on April 30, 1937, to relay broadcast of WMBD Good Neighbor Program.

KROY—Royal Miller, Sacramento, Calif.—Granted extension of program test for period of 30 days from April 14.

WSAY—Brown Radio Service Lab. (Gordon P. Brown, Owner), Rochester, N. Y.—Granted special temporary authority to operate from local sunset April 6:45 p. m. to 8:45 p. m., EST, April 19 to 24, inclusive, in order to contribute time to the Rochester Post of Volunteers of America, who are conducting a drive for funds for welfare and mission work.

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted special temporary authority to operate from local sunset April 6:30 p. m. to 6:45 p. m., CST, each evening from April 16 to 30, inclusive, in order to broadcast the baseball scores in the Cotton States, Southern, National and American leagues.

Granted petition of Decatur Newspapers, Inc., to intervene in the proceedings upon the application of Ann Arbor Broadcasting Co., Inc., for C. P. for new special experimental broadcast station at Ann Arbor, Mich (Docket No. 4178).

Denied petition of Robert J. Craig, d/b as Golden Gate Broadcasting Co. (KGGC), to reconsider and grant their pending application for modification of license without hearing oral argument.

Waived requirements of Rule 104.6(b) and excepted the answers of WKBH, Inc., to the applicants' appearances in Docket No. 4068 (Joplin Broadcasting Co.), Docket No. 4469 (KQV Broadcasting Co.), and Docket No. 4470 (WSMK, Inc.).

NEW—General Electric Co., near Belmont, Calif.—The Broadcast Division reconsidered its action of April 2, 1937, in denying C. P. for 9530, 15330 kc., 20 KW, Emission A3, shares W2XAF and W2XAD (unlimited by reason of difference in International time), as in cases of default for failure to file appearance and statement of facts to be proved (R. 104.6(b)), and directed that above application be reinstated on hearing docket, hearing to be held commencing on May 17, 1937, and that Rule 104.6(b) be suspended and the appearance of applicant be excepted, and also directed that an order be entered accordingly and forwarded to all interested parties.

APPLICATIONS RECEIVED

First Zone

NEW—Colonial Broadcasting Co., Morristown, N. J.—Construction permit for a new station to be operated on 620 kc., 1 KW, unlimited time. Amended to specify directional antenna for day and night use and give transmitter site as near Whippany, N. J.

NEW—The Yankee Network, Inc., Quincy, Mass.—Construction permit for a new facsimile broadcast station to be operated on 41000 kc., 500 watts.

NEW—The Yankee Network, Inc., Quincy, Mass.—License to cover above.

NEW—City of New York, Dept. of Plant and Structures, New York, N. Y.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 40 watts.

Second Zone

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Modification 560 of construction permit (B2-P-1085) for changes in equipment, new antenna, increase in power, and move of transmitter, further requesting authority to install new transmitter, directional antenna for day and night use, increase power from 1 KW to 5 KW, move transmitter from 1500 feet north of Monument and City Line Ave., Merion Twp., Pennsylvania, to 63rd Street and Schuylkill River, Pennsylvania, and extend commencement and completion dates.

WHKC—Associated Radiocasting Corp., Columbus, Ohio.—Construction permit to install a new transmitter; increase power from 500 watts to 1 KW night, 5 KW day; change hours of operation from limited time to unlimited time; make changes in antenna and move transmitter from Sharon Road (10 miles north), Columbus, Ohio, to site to be determined, Columbus, Ohio. Amended to omit request for unlimited time.

NEW—Genesee Radio Corporation, Flint, Mich.—Construction 1200 permit for a new station to be operated on 1200 kc., 100 watts night, 250 watts day, specified hours.

NEW—The Crosley Radio Corp., Cincinnati, Ohio.—Construction permit for a new relay broadcast station to be operated on 1605, 2022, 2102, 2758 kc., 50 watts.

W2XGN—Berkus Broadcasting Co., Reading, Pa.—Modification of construction permit (B2-PRE-34) to extend commencement and completion dates.

W3XGM—Reading Broadcasting Co., Reading, Pa.—Modification of construction permit (B2-PRE-35) to extend commencement and completion dates.

Third Zone

KMIB—Liner's Broadcasting Station, Inc., Monroe, La.—Construction permit to change frequency from 1200 kc. to 620 kc.; make changes in equipment; increase power from 100 watts night, 250 watts day, to 500 watts day and night, and install directional antenna for night use. Amended re antenna and change transmitter site from Milhaven Road to Loop Road, Monroe, La.

WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—880 Modification of construction permit (B3-P-1434) for changes in equipment, requesting authority to install vertical antenna and move transmitter from U. S. Highway No. 45, 2½ miles southeast city limits, Meridian, Miss., to U. S. Highway 45 North, 1.3 miles north of city limits, Meridian, Miss.

WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—1080 Construction permit to install a directional antenna for night use.

NEW—Radio Station WFNC (Partnership of C. Frank Walker & 1210 Waldo W. Primm) Fayetteville, N. C.—Construction permit for a new station to be operated on 1210 kc., 250 watts, daytime.

NEW—Ward Optical Co., Dr. T. B. Ward, Owner, Fayetteville, 1310 Ark.—Construction permit for a new station to be operated on 1310 kc., 15 watts, daytime and limited time. Amended: To change power from 15 watts to 100 watts, hours of operation from daytime and limited time to unlimited time, make changes in equipment and give transmitter and studio sites as Wolf Building on West Mt. St., Fayetteville, Ark.

NEW—Harry Schwartz, Tulsa, Okla.—Construction permit for a 1310 new station to be operated on 1310 kc., 250 watts, daytime.

NEW—Burl Vance Hedrick, Near Salisbury, N. C.—Construction 1340 permit for a new station to be operated on 1340 kc., 1 KW, daytime.

WATL—J. W. Woodruff, tr. as Atlanta Broadcasting Co., Atlanta, 1370 Ga.—License to cover construction permit (B3-P-1228) as modified, for new transmitter and antenna, increase in power and move of transmitter and studio.

NEW—Brenau College, Gainesville, Ga.—Construction permit for 1420 a new station to be operated on 1420 kc., 100 watts night, 250 watts daytime, unlimited time.

NEW—Station WIS, Incorporated, Columbia, S. C.—Construction permit for a new relay broadcast station to be operated on 31100, 34600, 37600, 40600 kc., 2 watts.

W4XCA—Memphis Commercial Appeal Co., Memphis, Tenn.—Construction permit to change location of station from Madison & Third Streets to 139 S. Main St., Memphis, Tenn.

W5XCL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—License to cover construction permit for a new relay broadcast station.

W5XR—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—License to cover construction permit for a new relay broadcast station.

Fourth Zone

KFRU—KFRU, Inc., Columbia, Mo.—Construction permit to 630 make changes in transmitting equipment, install a vertical antenna, increase power from 500 watts, 1 KW day, to 5 KW, and move transmitter from 1200 Broadway to site to be determined, Boone County, Missouri.

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—770 Modification of license to change hours of operation from simultaneous daytime, synchronously (experimentally) night with KFAB, to unlimited (contingent upon KFAB being granted change in frequency).

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Construction 1080 permit to install a new transmitter and directional antenna for night use; change frequency from 770 kc. to 1080 kc., power from 10 KW to 50 KW, hours of operation from simultaneous day, share WBBM night, to unlimited time; and move transmitter from 17th and Holdrege Streets, Lincoln, Nebr., to Range 7 E., N. W. ¼ Sec. 4, Twp. 12, N. Lancaster County, Nebraska.

KRMC—Roberts-MacNab Co. (Arthur L. Roberts, R. B. Mac-
1370 Nab, A. J. Breitbach, Gen. Mgr.), Jamestown, N. Dak.—
 Modification of license to change frequency from 1310 ke.
 to 1370 ke., and change hours of operation from simul-
 taneous day KVOX, share KVOX night, to unlimited time.
 WSAU—Northern Broadcasting Co., Inc., Wausau, Wis.—Au-
1370 thority to make changes in automatic frequency control
 equipment.
 NEW—Curtis Radiocasting Corp., Richmond, Ind.—Construction
1420 permit for a new station to be operated on 1420 ke., 100
 watts night, 250 watts day, unlimited time.
 NEW—The Champaign News-Gazette, Inc., Champaign, Ill.—
 Construction permit for a new relay broadcast station to be
 operated on 39700, 39900, 40800, 41400 ke., 10 watts.
 NEW—The Champaign News-Gazette, Inc., Champaign, Ill.—
 Construction permit for a new relay broadcast station to be
 operated on 39700, 39900, 40800, 41400 ke., 2 watts.

Fifth Zone

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—
1010 Construction permit to install a new transmitter, erect a
 vertical antenna, increase power from 1 KW to 1 KW night,
 5 KW day, and move transmitter from 87 East San Antonio
 Street, San Jose, Calif., to site to be determined, Santa
 Clara County, California.

KOOS—Pacific Radio Corp., Marshfield, Ore.—Modification of
1200 license to change hours of operation from daytime to un-
 limited time, using 100 watts night, 250 watts daytime.
 Amended to install vertical antenna.
 KSUB—Harold Johnson and Leland M. Perry, d/b as Johnson &
1310 Perry, Cedar City, Utah.—Modification of construction
 permit (B5-P-841) as modified for a new station, request-
 ing changes in authorized equipment.
 KIDO—Frank L. Hill and C. G. Phillips, d/b as Boise Broadcast
1350 Station, Boise, Idaho.—Construction permit to make changes
 in equipment and increase power from 1 KW night, 2½
 KW day, to 5 KW night and day. Amended to omit re-
 quest for increase in night power.
 KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—Construc-
1360 tion permit to install a new transmitter and change fre-
 quency from 1500 ke. to 1360 ke., change power from 100
 watts night, 250 watts day, to 1 KW.
 KGER—Consolidated Broadcasting Corp., Ltd., Long Beach,
1360 Calif.—License to cover construction permit (B5-P-1483) for
 changes in equipment.
 KSLM—Oregon Radio, Inc., Salem, Ore.—Construction permit
1370 to change frequency from 1370 ke. to 1360 ke., install a
 new transmitter, make changes in antenna, and increase
 power from 100 watts to 500 watts.
 KAWM—A. W. Mills, Gallup, N. Mex.—License to cover construc-
1500 tion permit (B5-P-601) as modified for a new station.