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FCC ANNOUNCES NEW FREQUENCY ALLOCATION

The Federal Communications Commission has announced (Mimeograph 23463) action with reference to the entire useful radio spectrum comprising frequencies from 10 kilocycles to 300,000 kilocycles.

Heretofore the rules of the Commission with respect to the use of radio for practical purposes have been confined to that portion of the radio spectrum from 10 kilocycles to 25,000 kilocycles. As a result of experimentation during the past few years, and as a result of a hearing held on June 15, 1936, and further as the result of collaboration with the various Government Departments utilizing radio for their own purposes, the Commission has decided to provide allocations of frequencies to various classes of service in the newly developed portion of the radio spectrum from 25,000 kilocycles to 300,000 kilocycles. In other words, from the standpoint of space in the so-called radio ether, there now comes under regulation ten times the "ether space" than has ever before been attempted in this country.

The Commission's Orders in addition took into consideration certain minor changes developing as a result of experience in the older established portion of the spectrum up to and including 25,000 kilocycles. However, the most significant action is with reference to the so-called ultra high frequencies up to and including 300,000 kilocycles, and in this the Commission has not only allocated space for various radio services utilized for the preservation of life and property, but also has allocated considerable space for broadcasting, including television.

The importance of this action is the profound influence it will have upon the development of the radio industry, because in a manner it sets up guiding-posts for every phase of the industry, including research, design, manufacture and practical operation.

With respect to television, the action taken by the Commission is merely one step of many which in the opinion of the Commission may be required before television can become a reliable service to the public. Some of these many steps must be taken by the industry in the development of proper standards which in turn the Commission must approve before television can technically be of the greatest use to the public on any scale.

At the proper time in the future, the policies which will

govern the operation of television service in this country must be determined, particularly with reference to those matters which relate to the avoidance of monopolies. The Commission must in the future prescribe such rules as will insure the utilization of television stations in a manner conforming to the public interest, convenience and necessity, particularly that phase which will provide television transmission facilities as a medium of public self-expression by all creeds, classes and social-economic schools of thought.

The investigations and determinations of the Commission justify the statement that there does not appear to be an immediate outlook for the recognition of television service on a commercial basis. The Commission believes that the general public is entitled to this information for its own protection. The Commission will inform the public from time to time with respect to further developments in television.

It is considered that the step taken by the Commission in promulgating the orders concerning the new allocation constitutes one of the most important basic actions taken in recent years in the development of radio; and while future technical developments and perhaps international agreements may require some modification in detail, there is now laid the corner stone of a vast new development of radio in its application to the service of the public.

IN THE MATTER OF FREQUENCY ALLOCATION TO SERVICES IN THE FREQUENCY RANGE FROM 10 KILOCYCLES TO 300,000 KILOCYCLES.

The Federal Communications Commission (Mimeograph 23263) has issued Orders Nos. 18 and 19 and a report of the Commission covering the allocation of frequencies throughout the radio spectrum from 10 to 300,-

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000 kilocycles. (See Mimeograph Nos. 23415, 23416, 23417 copies of which have or will be mailed to all licensees.) These orders and the report of the Commission contain the decision of the Commission on the informal engineering hearing which was held before the Commission en banc from June 15 to 29, 1936.

Order No. 18 carries with it Part I of Rule 229 covering the allocation of frequencies between 10 kilocycles and 30,000 kilocycles. It is pointed out that no changes are involved with respect to frequencies between 10 kilocycles and 25,000 kilocycles and 28,000 and 30,000 kilocycles. Since Rule 229 was printed in 1932, the Commission has from time to time adopted a number of individual changes with respect to certain services. The order gives an up to the minute listing of such changes and should be considered merely as a recapitulation of frequencies in accordance with past actions of the Commission with the exception of the band 25,000 to 28,000 kilocycles, which has been specifically reallocated to new services except for broadcasting between 25,600 and 26,600 kilocycles, effective 3:00 a. m., E.S.T., October 13, 1938.

Order No. 19 carries with it Part II of Rule 229 covering the allocation of frequencies between 30,000 and 300,000 kilocycles. All of the frequencies listed in this range, except amateur between 56,000 and 60,000 kilocycles, are assigned to specific services for the first time. All outstanding licenses in this frequency range, except amateur and point-to-point communication in Hawaii, are for experimental services.

Inasmuch as only a relatively few frequencies above 25,000 kilocycles are now in use, it may be possible for the Commission to make some regular assignments within this band prior to the effective date of the order; however, it is not expected that the existing licensed frequencies will be changed over to the new frequencies or that assignments of a permanent nature will be made on the present experimental channels prior to the effective date of the order.

Although the transmission characteristics of frequencies above 30,000 kilocycles for which commercial apparatus has been provided, are sufficiently well known at this time to leave no doubt as to their usefulness in many established services, there has not yet been enough developments to permit frequencies within this range to be used with closer separations than those shown in the table. In the actual assignments to be made, proper technical consideration will be given to such items as radio wave propagation characteristics, limitations with respect to available equipment, portability of apparatus, frequency band of emission, stability of carrier frequency, selectivity of receivers, power, and station locations.

It is to be understood that the action of the Commission in promulgating Rule 229, listing frequencies above 30,000 kilocycles to specific services, is to serve only as

a guide to the specific frequencies which may be used by a given service. At a later date the Commission will modify its rules and regulations governing individual services so as to make provision for restricted use of these frequencies by individual station assignments. For example, it will be noted that twenty-nine frequencies are assigned to the police service in the band 30,000 to 40,000 kilocycles. This does not mean that all of these frequencies are available to all police departments, but rather that the service as a whole will be assigned frequencies from those designated for police use. In all probability, certain of these frequencies will be designated for low-power mobile police operation and will be duplicated over relatively short distances, as compared to the police frequencies which will be assigned for high-power fixed police stations. The regulation embodying restrictions as to all classes of stations will be promulgated well in advance of the effective date of October 1938, when Order No. 19 becomes effective.

Broadcasting

The allocation of ultra high frequencies virtually affects several important broadcast services, namely: television, facsimile, relay, high frequency and experimental broadcast services.

The action taken by the Commission today with respect to television is merely one step of many which are required before television can become a reliable service to the public. Some of these many steps must be taken by the industry in the development of proper standards which in turn the Commission must approve before television can technically be of the greatest use to the public on any scale.

Also the Commission, at the proper time in the future, must determine the policies which will govern the operation of television service in this country, particularly with reference to those matters which relate to the avoidance of monopolies. And the Commission must also in the future prescribe such rules and policies as will insure the utilization of television stations in a manner conforming to the public interest, convenience and necessity, particularly that phase which will provide television transmission facilities as a medium of public self-expression by all creeds, classes and social-economic schools of thought.

The investigations and determinations of the Commission justify the statement that there does not appear to be an immediate outlook for the recognition of television service on a commercial basis. The Commission believes that the general public is entitled to this information for its own protection. The Commission will inform the public from time to time with respect to further developments in television.

Seven channels between 44,000 and 108,000 kilocycles are made available for the assignment of television stations. Television broadcast is also assigned twelve chan-

nels between 156,000 and 300,000 kilocycles. Each television channel is 6 megacycles in width and provides for the picture broadcast as well as the accompanying synchronized sound. Television stations will be assigned these channels on an experimental basis with the same requirements as are now imposed. This experimental basis will be continued until the several remaining technical problems have been solved and standards of transmission and reception are adopted.

In the band 41,020 to 43,980 kilocycles, 75 channels are made available for assignment to aural broadcast stations. The Commission at an early date will consider carefully the needs and requirements for high frequency broadcast stations using both conventional modulation and frequency modulation, as well as the needs of educational broadcast systems. The record of the June 15, 1936 hearing concerning the purpose and needs for the educational broadcast systems will be given most careful consideration in the details of assignment.

Sixteen channels for relay broadcast stations are provided in the band from 30,830 to 39,820 kilocycles. These channels will enable a continuance of the existing stations as well as provide additional facilities for the growth of relay broadcast service. This number of channels and limited interference range is such that consideration may be given the licensing of every regular broadcast station for two relay stations in this band, the frequencies, however, being available on a shared basis with other relay stations.

Police Service

The allocation of frequencies between 30,000 kilocycles and 40,000 kilocycles provides twenty-nine frequencies for assignment to the police service. Of these frequencies, twenty-five will be available to municipal and county government and four to state police agencies. The frequencies will be assigned on a shared use basis in accordance with an engineering plan which will be announced at a future date and embodied in the Rules and Regulations. This plan will take into consideration important factors such as geographical separation, maximum power employed, number of mobile units operated in conjunction with a fixed station, area to be served and other important considerations.

It is contemplated that one group of frequencies will be assigned to fixed stations of relatively large power outputs and another group to those fixed stations employing lesser powers. A third group will be available exclusively for mobile units.

As in the past, it will be necessary that contiguous municipal and county governments serving the same or adjacent areas cooperate to the fullest extent and coordinate their needs for radio communication service.

The four frequencies to be assigned for state police communication will be available for relatively low-power

portable or mobile units to be used for such purposes as riots, floods, traffic congestion, etc., in local areas within a state.

It is anticipated that, for the present, the nine frequencies assigned to the police service in the frequency band 132-144 megacycles, will more or less remain somewhat experimental in nature.

Aviation

In view of the projected plans of the Bureau of Air Commerce to use ultra high frequencies for radio beacons, airport traffic control, blind landing devices and other navigational aids, it was only necessary to provide a limited number of frequencies for this service to take care of uses not included in the scope of the Bureau's plans.

In the frequency band 30,000-40,000 kilocycles, four frequencies have been allocated and are designed primarily for use in instructing student pilots during initial solo flights. The use of radio as a safety aid during such instruction has proven itself invaluable in the prevention of aircraft accidents; especially at airports where there is a large volume of traffic.

The frequency band 129,000-132,000 kilocycles has been allocated to aviation for airport traffic control. This band is adjacent to a band allocated to the government for a similar use. Provision has been made for six airport frequency assignments separated by approximately 500 kilocycles. This allocation will permit the use of a separate and distinct frequency for each airport in localities where several airports are in close proximity to each other. Each assignment is protected by intervening guard bands to provide the maximum degree of safety.

In the frequency band 132,000-144,000 kilocycles, 11 frequencies have been assigned to the aviation service and are designed primarily for radiotelephone service for aircraft in flight. However, it is anticipated that other aviation uses may also be made of these frequencies in accordance with rules and regulations to be promulgated in the future.

Fixed Service

In view of the decided and extensive demand for frequencies for the various classes of service, which by their very nature are dependent upon radio for communication rather than wire lines, it is only possible to provide frequencies for the fixed service for use in areas where wire facilities are either not available or, due to circuitous wire routing, the use of radio may be found justified for economic reasons. Consequently, a limited number of frequencies have been made available for fixed service.

Experimental Service

This service has been assigned a number of frequencies throughout the bands 30,000 to 40,000 kilocycles and

132,000 to 140,000 kilocycles for shared use by all persons who are granted licenses to carry on fundamental research for development of the technique of the radio art. It is the purpose of the Commission to encourage experimentation in all cases where fundamental research for the development of the technique of the radio art is the prime purpose of such experimentation.

Forestry Service

The Commission has recognized the value of radio communication in forestry development and conservation work and in the suppression of forest fires. Ten frequencies have been provided for this service to be used on a shared basis. Contiguous states, necessarily, must cooperate in their use to reduce any interference to each other.

The Commission will promulgate rules and regulations governing this new class of service well in advance of the effective date of the allocation.

Mobile Press Service

The primary purpose of allocating frequencies to this service, which differs essentially from the mobile press service now authorized in the existing Rules and Regulations, is to provide channels of communication for the collection of press material from points where wire facilities are unavailable or inadequate.

Geophysical and Motion Picture Services

In order to permit these services to render a short distance radio communication service similar to the service now authorized by the existing Rules and Regulations, frequencies have been allocated to a limited extent. These frequencies will be available on a shared basis to both services.

Coastal and Ship Harbor

Frequencies allocated to this service are designed primarily for the purpose of providing a public coastal harbor service in the higher frequency range similar to that now authorized in the band 2100-2200 kilocycles and 2500 to 2600 kilocycles.

Special Emergency

In view of the increasing demand for this type of service, additional frequencies have been allocated for short distance communication, particularly within corporate city limits. For the present, the existing Rules and Regulations governing this service will apply and all frequencies will be assigned on a shared basis.

Marine Fire

Frequencies allocated to marine fire are to be used in a similar manner to the service now conducted in accordance with existing Rules and Regulations. However,

provision has been made to permit two-way radio communication with mobile ship stations if desired.

Special Services

At present, the Commission receives many requests for the use of radio facilities by services not recognized in the existing Rules and Regulations. Such services are usually of a temporary nature and of short duration. It is proposed to assign frequencies whenever the Commission finds such use is in the public interest, convenience or necessity. Authorizations will be made on a temporary basis for a specific period of time.

PENNSYLVANIA SUPREME COURT DECIDES AGAINST BROADCASTER IN WARING RECORD CASE.

The appeal of Station WDAS was without avail when the highest Court of Pennsylvania, on October 8, affirmed the lower court which had enjoined the station from broadcasting phonograph records of Fred Waring's Orchestra.

The appellate court, in the majority opinion of Judge Stern, ruled that though "it may be said the ordinary musician does nothing more than render articulate the silent composition" great actors and vocal and instrumental artists by their interpretations add something to the composition which is a right of property and which in no way overlaps or duplicates the property right of the author of the composition. "All that need now be decided," the Court said, "is that such a property right inheres in the case of those artists who elevate interpretations to the realm of independent works of art." The court decided that the testimony showed that Waring's Band measured up to this standard. In overruling the station's contention that Waring individually had no rights but that the musicians or the incorporated orchestra owned these rights the Court ruled that the orchestra's performance is a composite work, Waring and the musicians contributing thereto, no one individual being able to claim an individual property right in the composite production and that although Waring individually would ordinarily have no right of action, the orchestra being incorporated, the Court would disregard the fact that the corporation should have been the plaintiff instead of Waring and consider Waring, as the owner of all but two of the shares of the corporate stock, to be in reality the real party in interest. The Court further held that it was no defense to the station that Waring may have assigned his rights to the National Association of Performing Artists.

The Court then discussed the argument of the station that the property rights of the plaintiff had been lost upon the general public sale of the records and that such rights could not be reserved and said that such cases as supported that principle were comparatively early deci-

sions and involved situations where the restrictions were against public policy as in restraint of trade or situations where the rights could have been protected by copyrighting the work under the statute. It held that no such public policy against the restriction on the use of the records existed in this case and that the rights could not be protected by copyright registration of the records as the statute does not permit the copyrighting of records. It said that restrictions have, notably in England, been held to follow an article after it is sold and, in this country in the trading stamp and ticket scalper cases. The Court said the notice on the record was not an unreasonable restriction and was sufficient notice to purchasers of the existence and extent of the restriction imposed upon them by the understanding between the Victor Company and Waring.

The Court found an additional ground for the injunction forbidding the use of Waring records, namely that of unfair competition. The station and the Waring Band were in competition as both were furnishing entertainment to the public over the radio and both were receiving revenue from advertisers, said the Court, and furthermore it probably must become increasingly difficult for the Band to obtain \$13,500 a broadcast if innumerable reiterations of it are permitted for 75 cents, and the constant broadcasting of records must diminish the commercial value of the Band performances. The records being old ones, said the Court, the public would be liable to judge the ability of the Band by work rendered before it had attained its present degree of excellence.

Judge Maxey wrote a separate opinion concurring in the result but on the sole ground that Waring's right of privacy had been invaded by the broadcasting of the records. He expressed the belief that the standard of excellence of the artist's work should have no bearing on the case but that any artist who restricted his work should be permitted to enjoin the broadcasting of his performance.

Comments

The Waring case of course turned on peculiar facts in that Waring had not signed the usual form of contract conveying all rights to the phonograph record company. There are six other suits pending in other states where such written contracts are involved and decisions in which may be rendered this winter, notably the Crumit case in New York. The Federal Court in Boston has already decided that under the standard form of Victor contract the band leader Noble had no rights left to assert against a hotel using the records in its cafe.

NEW MINNESOTA STATION RECOMMENDED

F. B. Clements & Company applied to the Federal Communications Commission for a construction permit

to erect a new station at Mankato, Minn., to use 1500 kilocycles, 100 watts and 250 watts, LS, and unlimited time on the air.

Examiner P. W. Seward, in Report No. I-504, recommended that the application be granted. The Examiner states that the evidence adduced at the hearing showed a need for additional radio broadcast service in the area proposed to be served. Also he found "that the interests of no other radio station will be adversely affected by reason of the grant."

RECOMMENDS DENYING CLEVELAND STATION

The Great Lakes Broadcasting Corporation applied to the Federal Communications Commission for a construction permit for a new broadcasting station at Cleveland, Ohio, to use 1270 kilocycles, 1,000 watts and 5,000 watts LS and unlimited time.

Examiner Tyler Berry, in Report No. I-502, recommended that the application be denied. It is stated that "the evidence does not show that the applicant is financially qualified to construct and operate the proposed station." The Examiner further states that "the evidence does not show a substantial need for the additional service proposed by the applicant as the service proposed does not differ materially from the service now being rendered by the stations serving the area."

DENIAL OF FALL RIVER STATION RECOMMENDED

The Fall River Herald News Publishing Company applied to the Federal Communications Commission for a construction permit for a new station at Fall River to use 1210 kilocycles, 100 watts night and 250 watts LS and unlimited time on the air.

Examiner Robert L. Irwin, in Report No. I-503, recommended that the application be denied. In recommending the denial of the application the Examiner states that "The applicant has shown that it has the necessary legal qualifications to hold a construction permit, and that it has adequate financial and technical ability to construct and operate a station such as proposed. But the applicant owns and publishes the only English-language newspaper in the city, and considers Station WSAR, the only station in the city, a competitor in the advertising and news field to such an extent that it does not permit local advertisers to refer to programs of the station in their paid ads in the paper. If the Commission were to authorize the applicant to establish a new station in the city, it would then give to the applicant a two to one advantage over the established broadcasting facilities in the city, in so far as news and advertising dis-

semination is concerned. Such condition is not conducive to the public interest."

RECOMMENDS DENIAL FOR RHODE ISLAND STATION

The Colonial Network, Inc., applied to the Federal Communications Commission for a construction permit for the erection of a new broadcast station at Providence, R. I., to use 720 kilocycles, 1,000 watts and limited operation.

Examiner Tyler Berry, in Report No. I-505, recommended that the application be denied. He states that "the record does not show definitely how much of the capital stock of the applicant corporation has been issued and paid for."

Also the Examiner states that the interests of several pending applications would be affected because of possible interference if this application were granted. The interest of existing stations would also be affected through interference if the application were granted. It is further stated by the Examiner that "the applicant failed to show any substantial need for the additional service proposed."

CHANGES RECOMMENDED FOR KRE UNDER CONDITIONS

Broadcasting Station KRE, Berkeley, Calif., operating on 1370 kilocycles, 100 watts and 250 watts LS and unlimited time applied to the Federal Communications Commission to change its frequency to 1440 kilocycles, and increase its power to 500 watts and 1,000 watts LS.

Examiner Melvin H. Dalberg, in Report No. I-507, recommended that the application be granted "contingent upon the granting of the application of Station KGGC for a change in frequency from 1420 kilocycles to 1370 kilocycles and a denial of the application of Charles S. Osborne, Jr., for a new station at Fresno, Calif., on 1440 kilocycles." The Examiner states also that there appears to be need for additional service in the area proposed to be served.

RECOMMENDS DENYING WITH PREJUDICE

Geraldine Alberghane applied to the Federal Communications Commission for a construction permit for the erection of a new station at Pawtucket, R. I., to use 720 kilocycles, 1,000 watts and daytime operation.

Examiner Tyler Berry, in Report No. I-506, recommended that the application be dismissed with prejudice. When the case came on for hearing no appearance was entered for the applicant and no evidence was offered in support of the application. Counsel for the respondents moved that the application be dismissed with prejudice.

APPLICATION DISMISSED WITH PREJUDICE RECOMMENDED

The Chickasha Daily Express applied to the Federal Communications Commission for a construction permit for the erection of a new station at Chickasha, Okla., to use 1500 kilocycles, 250 watts and daytime operation.

Examiner Tyler Berry, in Report No. I-508, recommended that the application be dismissed with prejudice. The Examiner states that at the hearing counsel for the applicant entered a motion that the applicant be permitted to withdraw the application on the ground that after it had been filed it was discovered that the operation of a station on the proposed assignment would result in objectionable interference.

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. 3237. Use of practices which result in misleading retail dealers and their customers as to the fiber content of women's cloth coats is alleged in a complaint issued against two **New York City** concerns, **Form Maid Coat Company, Inc.**, 545 Eighth Ave., and **Walter-Lewis & Co.**, 450 Seventh Ave. Form Maid Coat Company manufactures the coats in question from a fabric sold to it by Walter-Lewis & Co.

The complaint alleges that the two firms have an understanding under which Walter-Lewis & Co., in selling the fabric to Form Maid Coat Company, supplies this customer with labels to be attached to the garments manufactured from such fabric. These labels, according to the complaint, depict a camel together with palm trees and mountains or pyramids, bear the words "Genuine Camel's Hair", and are attached to the finished garment.

No. 3241. **Al Hartman, Inc.**, 1400 Broadway, **New York**, is named respondent in a complaint alleging unfair methods of competition in connection with the interstate sale of certain dresses.

The complaint alleges that dresses sold by Hartman, Inc., were described in newspaper advertising as "Indo-China washable crepe prints", and had attached to them tags bearing certain assertions, one of which was that "Owing to the peculiar delicacy of all silk weaves, manufacturers will not guarantee them as flawless, or against perspiration, slipping or roughing".

The descriptive phrase used in such advertisements and the language appearing on the tags, it is charged, served as representations to purchasers that the garments so referred to were silk dresses, when, according to the complaint, they were not composed of silk, but of other materials.

No. 3242. **Rudolph H. Ray**, 422 North D Street, **Fremont, Nebr.**, engaged in the manufacture and sale of cement burial vaults, is charged in a complaint with making false representations in advertising his products. The respondent trades as Ray Individual Mausoleum Company, Fremont, and as The Individual Mausoleum Company, Deshler, Nebr.

In advertising matter furnished to undertakers who are his customers, Ray, the complaint alleges, falsely represents that his individual mausoleum or cement vault is a perfect surface burial vault which assures preservation of the body encased therein; that the bodies are forever preserved, are absolutely secure from water and will continue to remain in a perfect state of preservation indefinitely, and that the vaults are everlasting and waterproof.

No. 3243. A complaint has been issued against **The Eta Company, Inc.**, 227 West Huron St., **Chicago**, and **Willis J. Sheeman**, president and principal stockholder. The complaint alleges unfair competition in the sale of so-called dehydrated or concentrated foods, and of books and other printed matter purportedly relating to health and hygiene.

Various representations allegedly were made concerning the respondents' 18 foods, sold under the general name of Eta Concentrated Food, such as that Eta Food Sodium will improve digestion, prevent fermentation of food, and remove acid and waste, and that Eta Food Chlorine will remove impurities and make tissues dense and elastic. These and various other representations, according to the complaint, are misleading and deceptive, both as to the efficacy of the respondents' foods in remedying the ailments and diseases mentioned, and as to conditions resulting from a lack of minerals purportedly supplied by such foods. The complaint charges that these foods, when taken as directed by the respondent, do not contain a sufficient amount of certain minerals to remedy or correct a deficiency thereof in the diet.

No. 3244. Alleging use of certain unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, a complaint has been issued against **Harry A. and Louis G. Rippner**, trading as **John Hancock Pen Company**, 1514 Prospect Ave., Cleveland, Ohio.

The respondents allegedly advertised in circulars that certain of their fountain pens, which they represented as being worth \$5, could be purchased for a limited time only by remitting 60 cents with a certificate having a purported value of \$4.40.

The pens so advertised, the complaint alleges, are not offered for sale for a limited time, the certificate referred to does not have any value whatever, and the pens are not of \$5 value, but are of a type having a value much less than that represented, and ordinarily are sold in the usual course of trade for approximately 60 cents, the price advertised as a special introductory offer.

Stipulations

The Commission has entered into the following stipulations:

No. 01890. **General Pharmacal Company**, 205 East 6th St., Cincinnati, has entered into a stipulation to discontinue certain misleading representations in advertising its medicinal preparations, **Pep-Ti-Kao**, **Etro Tablets**, and **Feyex**.

The respondent company agrees to stop asserting that **Pep-Ti-Kao** will rid the stomach of the trouble-making portion of acid, unless the word "rid" is qualified by use of the word "temporarily" or some similar word.

Other allegations to be banned are that **Etro Tablets** will relieve nervous tension caused by excitement, work, or worry, and that **Feyex** is a competent remedy in the treatment or prevention of hay fever.

No. 01891. Under a stipulation entered into, **Print-Rite, Inc.**, 1115 Hennepin Ave., Minneapolis, agrees to cease certain misleading advertising representations in the sale of **Handy Record System**, an accounting system for cafes and restaurants.

In soliciting salespersons or dealers, the respondent company will not represent or imply that such persons can earn any amount which actually is in excess of amounts earned by its salespersons under normal business conditions.

No. 01892. **American Pliench Corporation**, 4809 North Ashland Ave., Chicago, has entered into a stipulation to desist from certain misleading representations in the advertisement of its **Eifel-Gear**ed Pliench.

In the sale of this tool, the respondent agrees to cease representing that any article is given free, when the purchase of other articles is required to obtain the purported gift article. The respondent company also will discontinue making unmodified representations of possible earnings of prospective salesmen in excess of the average earnings of its regular salespersons achieved under normal business conditions.

No. 01893. **H. R. Blumstengel**, 728 Delaware St., Kansas City, Mo., entered into a stipulation to cease representing that the use of **M-Royds Treatment**, which he sells, may save one from an operation, that the treatment is a tonic, or will help build strength, and will give one freedom from the affliction of piles.

No. 2069. **Louis Eugene Lensky**, trading as **Lelens Silver Company**, 4175 Woolwine Boulevard, Los Angeles, will stop using any plan of promoting the sale of silverware, chinaware or novelties which involves the use of a lottery or any scheme of chance whereby any article is given as a premium in consideration of the purchase of any other article, or whereby the price to be paid for the article is determined by lot or chance. According to the stipulation, Lensky used push cards to promote the sale of his merchandise.

No. 2070. **B. B. B. Company, Limited**, 620 Fifth Ave., New York, selling smoking pipes, agrees to discontinue using the words "Best British Brand" as descriptive of pipes not made in England.

The company also will cease using the slogan "A Quality Pipe Since 1847", or the phrase "Established 1847", so as to imply that the pipes so represented are the same as those which are now and have been manufactured in England since 1847, or that the **B. B. B. Company, Limited**, was established in 1847.

No. 2071. **James McCreery & Co.**, operating a department store at 5th Ave. and 34th St., New York, agrees to discontinue using in advertising matter or otherwise the word "linen", alone or in connection with the word "acetate", so as to imply that the products to which the words refer are composed of linen when such is not a fact. The company advertised certain garments for women as "Acetate linen", when in fact they were not made of linen, but were composed of other materials.

No. 2072. **Weiss Trading Corporation**, 158 Bowery, New York, will cease using in advertising matter any pictorial or other representations implying that orders it receives for show case cement will be filled with the cement depicted and described in its catalog, when this is not a fact. The corporation will stop representing its products in any manner which may tend to mislead purchasers into the erroneous belief that it fills orders only with the advertised products for which orders have been received. According to the stipulation, the corporation advertised **Diamond Show Case Cement** in its catalog, but, in some instances, filled orders received in response to the advertisement with a cement of another brand.

No. 2073. **Bruce Company**, 206 East Monroe St., Springfield, Ill., dealer in musical instruments, stipulated that it will discontinue representations to the effect that certain pianos it offers for sale are instruments which, having been sold previously on a deferred payment plan, have been repossessed because of the inability of the purchasers to meet the payments, with the result that such pianos are being sacrificed for the balances due, when such is not a fact. The company also will desist from the use of any false and misleading representations with respect to the retail price for which the instruments originally sold.

No. 2074. **Jack Schwartz, Inc.**, operating a retail clothing store at 705 Seventh St., N. W., Washington, D. C., will refrain from the use in advertising matter, or otherwise, of the word "free", alone or with other words, as descriptive of merchandise represented to be given with the purchase of other merchandise, when, in fact, the so-called free merchandise is not given as a gratuity but only in consideration of the purchase of some other product. According to the stipulation, the company advertised that an article of wearing apparel would be given to the purchaser of a suit or top coat, when, in fact, the price of the article referred to as free was included in the price asked for the suit or top coat.

Cease and Desist Order

The Commission has issued the following cease and desist order:

No. 2477. An order has been entered directing **Nacional Destilerias Corporation**, 130 East Washington Building, Indianapolis, to discontinue representing itself to be a distiller of spirituous beverages, when such is not a fact.

The Commission found that the respondent corporation is a wholesaler of rum, brandy, gins and cordials which it imports from the Philippine Island. According to the findings, the words "Nacional Destilerias" are the Spanish equivalent for "National Distillers", and are so similar in spelling and sound to the English equivalent thereof as to be readily misunderstood by a substantial portion of the purchasing public to mean "National Distillers".

FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no meeting of the Broadcast Division of the Commission at the usual time this week because all of the members of the Commission were hearing disbarment proceedings against **Paul M. Segal** and **George S. Smith**.

Hearing Calendar

The following broadcast hearings are scheduled at the Commission for the week beginning Monday, October 25.

Monday, October 25

HEARING BEFORE AN EXAMINER

(Broadcast)

- WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 1050 kc., 50 KW, shares with WBAL (SA for 1040 kc. simultaneous operation with KRLD, unlimited).
- WIXEH—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 63500 kc., 150 watts, unlimited, according to rule 983.
- W1XLU—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 105000, 200000, 290000, 450000 kc., 5 watts, to operate according to Rules 983, 1002, 1004).
- W1XO—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 31100, 34600, 40600 kc., 50 watts, to operate according to Rules 983, 1002 and 1004).
- W1XT—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; 31100, 34600, 40600, 37600 kc., 100 watts, to operate according to Rules 983, 1002 and 1004).
- NEW—George H. Payne, San Jose, Calif.—C. P., 1440 kc., 500 watts, unlimited.
- NEW—Floyd A. Parton, San Jose, Calif.—C. P., 1170 kc., 250 watts, daytime.

Tuesday, October 26

HEARING BEFORE AN EXAMINER

(Broadcast)

- WGNV—Peter Goelet, Newburg, N. Y.—C. P.; 1210 kc., 100 watts night, 250 watts LS; shares with WBRB, WFAS and WGBB. Present assignment: 1210 kc., 100 watts; shares with WBRB, WFAS and WGBB.
- NEW—Colonial Broadcasters, Inc., Savannah, Ga.—C. P.; 1310 kc., 100 watts, unlimited time.
- WDWS—The Champaign News-Gazette, Inc., Champaign, Ill.—C. P.; 1370 kc., 100 watts night, 250 watts LS, unlimited time. Present assignment: 1370 kc., 100 watts LS, daytime.
- NEW—Seaboard Broadcasting Corp., Savannah, Ga.—C. P.; 1310 kc., 100 watts night, 250 watts LS, unlimited time.

Thursday, October 28

HEARING BEFORE AN EXAMINER

(Broadcast)

- NEW—J. T. Griffin, Fort Smith, Ark.—C. P.; 880 kc., 1 KW LS, daytime.
- KTSM—Tri-State Broadcasting Co., El Paso, Texas.—C. P.; 1350 kc., 500 watts night, 500 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts night, shares WDAH, 250 watts LS. Permanent authority to carry WDAH's schedule.

ORAL ARGUMENT BEFORE THE BROADCAST DIVISION

Examiner's Report No. 1-435:

- NEW—West Texas Broadcasting Co., Wichita Falls, Tex.—C. P.; 1380 kc., 1 KW, unlimited time.
- NEW—Wichita Broadcasting Co., Wichita Falls, Tex.—C. P.; 620 kc., 250 watts, 1 KW LS, unlimited time.
- NEW—Faith Broadcasting Co., Inc., Wichita Falls, Tex.—C. P.; 1380 kc., 1 KW, 5 KW LS, unlimited time.
- KFPL—C. C. Baxter, Dublin, Tex.—Voluntary assignment of license; 1310 kc., 100 watts, 100 watts LS (C. P., 100 watts, 250 watts LS, unlimited time).
- KFPL—WFTX, Inc., Wichita Falls, Tex.—C. P.; 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. 1-439:

- NEW—Chase S. Osborn, Jr., Fresno, Cal.—C. P.; 1440 kc., 500 watts, unlimited time.

Examiner's Report No. 1-432:

- NEW—The Bend Bulletin, Bend, Ore.—C. P.; 1310 kc., 100 watts, 250 watts LS, unlimited time.

Examiner's Report No. 1-441:

- NEW—The Waterloo Times-Tribune, Pub. Co., Waterloo, Ia.—C. P.; 1370 kc., 100 watts, daytime.

Examiner's Report No. 1-421:

- WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Authority to transfer control of Corporation. 1220 kc., 1 KW night, 5 KW LS shares with KFKU.

Friday, October 29

HEARING BEFORE AN EXAMINER

(Broadcast)

- WLAJ—Lake Region Broadcasting Co., Lakeland, Fla.—C. P.; 1310 kc., 100 watts night, 250 watts LS, unlimited time.

APPLICATIONS RECEIVED

First Zone

- WNBX—WNBX Broadcasting Corp., Springfield, Vt.—Modification of license to change name from WNBX Broadcasting Corp., to Twin State Broadcasting Corp.
- WATR—The WATR Co., Inc., Waterbury, Conn.—Modification of construction permit (B1-P-1207) for changes in equipment, increase in power, change in frequency and hours of operation and move of transmitter, requesting extension of commencement and completion dates from 10-3-37 and 4-3-38 to 1-3-38 and 7-3-38.

Second Zone

- NEW—Joe L. Smith, Jr., Beckley, W. Va.—Construction permit 1210 for a new station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time.
- WGAR—WGAR Broadcasting Co., Cleveland, Ohio.—License to 1450 cover construction permit (B2-P-1887) for changes in equipment.
- WOMI—Owensboro Broadcasting Co., Owensboro, Ky.—Modification of construction permit (B2-P-1013) as modified, for a new station, requesting changes in authorized equipment and change power from 100 watts to 100 watts night, 250 watts.
- W3XPF—Farnsworth Television, Inc. of Pennsylvania, Springfield, Pa.—Modification of construction permit (B2-PF-12) as modified, for a new television station, requesting extension of completion date from 11-5-37 to 1-5-38.

Third Zone

- WFLA—Florida West Coast Broadcasting Co., Inc., Clearwater, 620 Fla.—Modification of license to increase power from 1 KW night, 5 KW day to 5 KW day and night.
- WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Modification of construction permit (B3-P-1434) as modified, for changes in equipment, increase in power and move of transmitter, requesting extension of completion date from 11-10-37 to 1-10-38.
- NEW—Brenau College, Gainesville, Ga.—Construction permit for 1210 for a new station to be operated on 1210 kc., 100 watts, unlimited time. Amended: To make changes in antenna.
- WHEF—Attala Broadcasting Corp., Kosciusko, Miss.—Authority to transfer control of corporation from C. E. Wharton, M. B. Wharton & J. E. Wharton to Roy L. Heidelberg and J. E. Richards. Amended: To transfer control of corporation from J. E. Wharton to Roy L. Heidelberg, 1834 shares common stock.

Fourth Zone

- WCAT—South Dakota State School of Mines, Rapid City, S. Dak. 1200 —Modification of license to change specified hours from 1:30 to 2:30 p. m. to 12:00 to 2:00 p. m.
- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Construction permit to change frequency from 1210 kc. to 1240 kc., install a new transmitter, increase power from 100 watts night, 250 watts day to 500 watts night, 1 KW day, move

transmitter from 102 18th St., Rock Island, Illinois, to SE $\frac{1}{4}$ of Section 2, Twp. 17 N Range 1 W, near Rock Island, Illinois and install directional antenna for night use. Amended: To make changes in directional antenna for night use.

WSBT—The South Bend Tribune, South Bend, Ind.—Construction
1360 permit to make changes in equipment, install directional antenna, change frequency from 1360 kc. to 1010 kc., increase power from 500 watts to 1 KW, change hours of operation from S-WGES to unlimited and move transmitter locally. Amended: Re-directional antenna.

WTMV—Mississippi Valley Broadcasting Co., Inc., E. St. Louis,
1510 Ill.—Construction permit to install new transmitter, install directional antenna for night use, change frequency from 1500 kc. to 1510 kc., power from 100 watts night, 250 watts day to 1 KW night, 5 KW day and move transmitter locally. Amended: To make changes in directional antenna for day and night use.

Fifth Zone

KUJ—KUJ, Inc., Walla Walla, Wash.—Construction permit to
560 change frequency from 1370 kc. to 560 kc.; make changes in transmitting equipment; install a new vertical antenna; increase power from 100 watts to 250 watts; and move transmitter from 2nd and Rose Streets, Walla Walla, Wash., to site to be determined, Walla Walla, Wash.

KALE—KALE, Inc., Portland, Ore.—Construction permit to make
1300 changes in equipment and increase power from 500 watts to 1 KW.

NEW—Anna Jay Levine, Palm Springs, Calif.—Construction permit for a new station to be operated on 1370 kc., 100 watts night, 250 watts unlimited time. Amended to give transmitter site as site to be determined, Palm Springs, Calif.

KIUP—San Juan Broadcasting Co., Durango, Colo.—Authority to
1370 make changes in automatic frequency control apparatus.