

## THE WEEK IN WASHINGTON

Attorney General Robert H. Jackson announced that the Justice Department would bring criminal procedure under the anti-trust law against ASCAP, BMI, NBC and CBS. Next day, at a press conference, Thurman Arnold indicated that others might be indicted, too. (p. 1)

The Wage and Hour Division says that weekly salaries can be stabilized by prepayment of overtime when salaried employees work less than their regular work week. (p. 5)

Paul Peter, NAB Research Director, told the American Marketing Association convention that advertisers should "put more in radio". (p. 6)

A new plan for associate membership in the NAB has been approved by the Board of Directors. The country now has 50,100,000 receiving sets. (p. 7)

Radio engineers throughout the country are getting ready for the Ohio State University Engineering Conference starting February 10. (p. 8)

Neville Miller tells the country, in a broadcast, that the American System of Broadcasting is coming through the emergency period with flying colors. (p. 9)

The FCC has been asked to follow last year's procedure with regard to financial reports. The Commission sent its annual report to Congress without any recommendations for major broadcasting legislation. (p. 9)

Colonel Charles H. March has been elected chairman of the Federal Trade Commission for the coming year. The Commission discussed advertising at length in its report to Congress. (p. 11)

All proposed legislation affecting broadcasting dies with the adjournment of Congress January 3. Many of the bills listed in this issue will be reintroduced. (p. 13)

Starting with this issue, the page numbers of the NAB REPORTS will start with "one" with the start of each volume each January 1. This is to facilitate back reference.

## BMI Developments

### JUSTICE DEPARTMENT STEPS IN

Attorney General Robert H. Jackson announced December 26 that he had authorized Thurman Arnold, As-

sistant Attorney General in charge of the Antitrust Division, to institute criminal proceedings under the Sherman Act against the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., the National Broadcasting Company, and the Columbia Broadcasting System. The proceedings, he said, will be brought in Milwaukee, Wisconsin, immediately after the first of January, and will be based on the following charges:

1. The illegal pooling of most of the desirable copyright music available for radio broadcasting in order to eliminate competition and to monopolize the supply.
2. Illegal discrimination against users of copyright music.
3. Illegal discrimination against composers who are not members of ASCAP or Broadcast Music, Inc.
4. Withholding music from publication in order to exact fees not permitted by the copyright laws.
5. Illegal price fixing.
6. Restraining composers in their right to bargain for the sale of their own music.
7. Requiring users of music to pay for tunes on programs in which no music is played.
8. Mutual boycotts by ASCAP and by the broadcasting chains (through Broadcast Music, Inc.) in an attempt by each of these conflicting groups to obtain for themselves control over the supply of music by depriving the others of control, which boycotts threaten to restrain and obstruct the rendition over the radio of about ninety percent of the desirable modern copyright music.

Explaining the Department's decision to institute criminal proceedings, Assistant Attorney General Arnold said:

"For a number of years the Antitrust Division has received constant complaints against the activities of ASCAP. The original purpose of ASCAP was one which the Department recognizes to be legitimate, i.e., collective action to protect its members from piracy of their copyrights. Activities which further this purpose have not been questioned by the Department, and are not attacked in these proceedings. However, the Department for many years past has frequently called to the attention of ASCAP practices which went far beyond the necessity of protecting its members in their copyright privileges,—practices which were designed solely for the purpose of eliminating competition in the furnishing of music, and securing a monopoly control over the supply.

"Recently, through Broadcast Music, Inc. (an association controlled by the major broadcasting chains), the National Broadcasting Company and the Columbia Broadcasting System have engaged in, and threaten to continue on a larger and larger scale, restrictive practices similar to those which the Department charges were illegally instituted by ASCAP. It is claimed that these activities were necessary to protect the broadcasting chains from the illegal activities of ASCAP. The Department is not concerned with the

*(Continued on page 2)*



1626 K St., N. W.

WASHINGTON

Phone NATIONAL 2080

Neville Miller, *President*

C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## BMI DEVELOPMENTS

(Continued from page 1)

question as to which organization was the aggressor. Each of these groups today is charged with using illegal methods to wrest the control of copyright music from the other. The threatened conflict is already in its first stage. The mutual boycotts already begun will hamper and obstruct the rendition of all copyrighted music over the radio and deprive the public of the privilege of hearing that music except on terms dictated by the victor in the contest. In such a struggle the public is in the position of a neutral caught between two aggressive belligerents.

"This Department cannot sit by and see ASCAP and the broadcasters engage in a private war at the expense of the public, using violations of law as their weapons in order to fight fire with fire. We have tried to obtain voluntary agreement to form the basis of a working peace which would eliminate the illegal activities and allow the associations of composers to continue their legitimate function of protecting their members from piracy. Those efforts, which a few days ago appeared to be on the verge of success, have failed. Now we have no choice but to proceed with a criminal prosecution to protect the interests of the public in orderly competition in the distribution of music.

"It should be added that complaints have also been received against the Society of European Stage Authors and Composers, commonly called SESAC. These complaints are now being investigated."

Neville Miller that night made the following comment on the Justice Department's statement:

"The Department of Justice is on the right track in bringing criminal charges against the American Society of Composers, Authors and Publishers. For many years broadcasters have sought relief from the grip of this illegal monopoly. It is a fact that the Department has had pending an anti-trust suit against ASCAP for more than six years and it is also true that for many weeks now the Department has been dicker with ASCAP for a consent decree which would have eliminated the monopolistic practices of which the broadcasters complain. This consent decree would have established an open and competitive market for music which once more would give broadcasters access to the great supplies of music controlled by the Society in a monopolistic pool.

"It is significant of the justice of the broadcasters' complaints against the Society and of the propriety of the Department of Justice's pressing for a consent decree on the part of ASCAP that only two days ago three justices of the Federal Court in Washington unanimously held that ASCAP was an illegal monopoly in the restraint of trade.

"It is most unfortunate that the Department appears to have confused the illegal practices of ASCAP with the perfectly legitimate effort of broadcasters to create an alternative competitive supply of music. Broadcast Music, Inc., is not the creature of

NBC and CBS. It was formed by mandate of the National Association of Broadcasters in open convention, and more than 600 stations are the owners of its stock and the users of its music. It was at the urging of many of these stations and of myself that the networks cooperated in the formation of BMI, of which they together own less than 20% of the stock. Broadcasters throughout the country set up BMI after they had found it impossible to deal with ASCAP on any basis other than paying a tax on all programs whether they used music or not. In forming BMI, we had competent legal advice and are confident that it is in no sense violative of the law.

"The statement issued by the Department of Justice shows that the Department does not understand the set-up of Broadcast Music, Inc. This is not surprising in view of the fact that the Department of Justice has made no attempt to discuss this set-up with broadcasters, nor has it pointed out to us any ways in which it believed we were violating the law. Certainly if it believes that broadcasters are attempting a boycott, it is completely misinformed. For weeks the Department of Justice discussed a consent decree with ASCAP and, when it failed to get one, it suddenly accuses practically the whole broadcasting industry, represented in BMI, of criminal practices without giving us any opportunity at all for a similar discussion. The reason for this unusual behavior is not at all clear to me, and I hope that before the Department carries out its announced plan, it will be willing to give at least as much consideration to the broadcasters as it has given to a society which it has itself branded as a law violator over an extended period of years."

## BMI FEATURE TUNES

January 6-13

1. I GIVE YOU MY WORD
2. SO YOU'RE THE ONE
3. THERE I GO
4. I HEAR A RHAPSODY
5. ACCIDENT'LY ON PURPOSE
6. HIGH ON A WINDY HILL
7. YOU WALK BY
8. MAY I NEVER LOVE AGAIN
9. I CAN'T REMEMBER TO FORGET
10. IT ALL COMES BACK TO ME NOW

The way BMI music continues to mount in the public favor is indicated by the fact that the week ended December 28 was the biggest in BMI's history, so far as sheet music sales are concerned, in spite of the fact that this is ordinarily a dull season of the year in the music business and that last week included the Christmas holiday. BMI chalked up a record of 39,043 regular sheet music copies sold and 3,323 orchestrations. *There I Go* has now sold about 106,000 regular copies and 9,300 orchestrations. *I Give You My Word*, *I Hear A Rhapsody*, and *So You're The One* account for nearly 90,000 more. All four of these numbers appear on the Enquirer's list of sheet music best sellers—*twice as many as the number shown by any other publishing house*. This record is the complete answer to the ASCAP claim that BMI music



cannot stand comparison with the music of ASCAP houses in public favor.

In the column next to their list of sheet music best sellers, the Enquirer carries news items on two new songs which are now being featured—*Until Tomorrow, Good Night*, composition by Sammy Kaye which the composer is featuring with his own band, and *Monday's Wash*, a new boogie-woogie instrumental by Erskine Butterfield, WOR entertainer and Decca recording artist. The Enquirer says, "Plans of recording managers indicate that record companies will go after these numbers in a big way."

Both of these promising numbers come under the BMI license. Sammy Kaye's music is published by the Republic Music Corporation and *Monday's Wash* is a publication of Joe Davis's Beacon Music Company. BMI has recently concluded agreements for the performing rights in music of both of these companies and also in the catalogue of Mayo Music Corporation, another Joe Davis company. Mr. Davis has been well known for many years in the music business and his catalogues are valuable additions to BMI.

As the old year ends, BMI has become practically identical with the radio industry in the United States. As we go to press, 658 stations (672 including non-commercials) are in the BMI membership list. We welcome to the BMI ranks the following:

WLAK—Lakeland, Fla.  
WFBG—Altoona, Penna.  
WBAB—Atlantic City, N. J.  
WBCM—Bay City, Mich.  
KOOS—Marshfield, Ore.  
WAIM—Anderson, S. C.  
WCBA-WSAN—Allentown, Pa.  
KHBG—Okmulgee, Okla.  
WING—Dayton, Ohio  
WIZE—Springfield, Ohio  
WJPF—Herrin, Illinois  
WCNW—Brooklyn, N. Y.  
KGHL—Billings, Mont.

WQBC—Vicksburg, Miss.  
WOLS—Florence, S. C.  
WJJD—Chicago, Ill.  
KADA—Ada, Oklahoma  
WINX—Washington, D. C.  
KBKR—Baker, Oregon  
KHUB—Watsonville, Calif.  
KODL—The Dalles, Ore.  
KBTM—Jonesboro, Ark.  
WLW—Cincinnati, Ohio  
KVOX—Moorhead, Minn.  
WGNV—Newburgh, N. Y.  
WAAT—Jersey City, N. J.  
WWRL—Woodside, N. Y.

BMI receives many letters which contain expressions of support. One recently received by Mr. Tompkins sums up the substance of so many that it merits quotation. It is from Bob Nolan of Miami, Florida:

"BMI, in my humble opinion, is destined to become the most powerful musical organization in the country. Any thinking person can reach this decision by simple deduction.

"You have an excellent staff of arrangers and composers. The printing layout is simple, clean cut and, therefore, perfectly legible.

"Your professional department is quick, courteous and never too busy to personally correspond.

"Taking all these attributes and topping them with executives who are thoroughly familiar with the trials and tribulations of broadcasting and musicians, you have the fundamental requisites of a top flight organization that will bring a smile to the countenance of the musical world.

"... I have been in radio for twenty-one years and have spent a great many of those years in and out of this territory.

... All of us down here are with you one hundred per cent. "Having spent so many years in the profession I have innumerable friends in ASCAP and, as you and I both know, there are amongst them many brilliant, intelligent men who, upon hearing similar reports to mine from all over the country (as they are bound to do), there can be little doubt will 'see the light.'" ...

The following wire was sent December 31st to all member stations:

THIS IS LAST MINUTE REMINDER TO BE VIGILANT IN AVOIDING COPYRIGHT INFRINGEMENT BUT NOT TO BE PANICKED BY BRINGING OF INFRINGEMENT ACTIONS AGAINST YOU BY ASCAP. THESE ACTIONS ARE USUALLY HARD TO PROVE, SUBJECT TO MANY DEFENSES, AND TAKE CONSIDERABLE TIME TO REACH COURT. IF CLAIM IS MADE ON WORK WHICH IS IN OUR CATALOGUE, PLEASE NOTIFY YOUR LOCAL COUNSEL SO THAT THERE WILL NOT BE A DEFAULT PENDING ADVICE FROM US AND SEND US COPIES OF COMPLAINTS OR WRITTEN CLAIMS OF COPYRIGHT INFRINGEMENT IMMEDIATELY. WE HAVE TAKEN OUT ONE MILLION DOLLARS OF COPYRIGHT INSURANCE COVERING OUR CATALOGUE AND PROTECTING OUR BROADCASTING STATIONS AND THEIR ADVERTISERS, ADVERTISING AGENCIES AND PERFORMING ARTISTS. DETAILS OF THIS COVERAGE WILL BE FURNISHED YOU LATER.

BROADCAST MUSIC, INC.

## Tacoma Decision

Here is the text of the three-judge Federal District Court decision in Tacoma, Washington, denying ASCAP an injunction against enforcement of the Washington state copyright law:

HANEY, Circuit Judge

This is a suit to enjoin enforcement of a Washington Statute on the ground of its unconstitutionality. The cause has been submitted on an application for a permanent injunction.

Briefly stated, the Statute attacked declares it to be unlawful for separate copyright owners to pool the copyrights in order to fix prices, collect fees, or issue blanket licenses for the use of such copyrights, except where the licenses are issued assessing rates on a "per piece" system of usage. The detailed provisions of the Statute need not be discussed.

The Bill prayed for a permanent injunction restraining defendants from taking any act or proceeding under the Statute, and for a decree declaring such Statute unconstitutional. It is alleged in the Bill that on February 13, 1914, a small group of composers, authors and publishers organized a voluntary unincorporated nonprofit association under the laws of New York, which they designated as the American Society of Composers, Authors and Publishers, hereafter called the Society, for the purpose of licensing to users of music throughout the country the right to publicly perform for profit the works of its members. It was further alleged that there are approximately 123 publisher members of the Society and about 1000 writer and composer members of the Society. ... That such members assign their respective exclusive right of public performance for profit in their respective musical compositions ... that similar organizations exist in foreign countries, and the Society has the exclusive right to and does license within the United States, the public performance for profit of the musical compositions copyrighted by all members of such foreign

societies . . . and that the Society's blanket license permits the licensee to use many hundreds of thousands of compositions composed and written by more than 44,000 members of such foreign societies.

It appears that the members assign to the Society the exclusive right of public performance, and the Society then has the exclusive right to permit by licenses, licensees to use or not to use the compositions of the Society's members, to fix the prices for licenses, to sue for infringement, and in general, to manage the right of public performance in the same manner as the owner of the copyright.

The motion to dismiss on behalf of the defendants, was based on several grounds, one of which was "That mere unconstitutionality, even assuming it to exist, does not warrant injunctive relief, but that the facts alleged must bring the case within the recognized rules of equity relating to injunctions, and that complainants have not done so." The motion to dismiss filed by intervenor KMO, Inc., states a number of grounds, one being that the plaintiffs are not entitled to equity because they were a monopoly. Although no answers have been filed, we may treat the motions to dismiss as answers. Intervener Lockhart argues the monopoly question, but his motion to dismiss does not present such question. We treat his motion as an answer and amended so as to present the question.

Regarding the completeness of the monopoly of the Society, it is said in *Buck v. Swanson*, D. C., Neb. . . . J. 33 F. Supp. 377, 386. . . .

"Of the popular music necessary for the successful operation of radio stations, dance halls, hotels and theaters, the Society has control of about 85 per cent or 90 per cent and also has control of from 50 per cent to 75 per cent of the standard or older music that is played occasionally. All of the large and more influential publishers of music in the United States are members of the Society. The users of music in Nebraska can not successfully carry on their business except they deal with the plaintiff Society because there is no place where nor person or agency to whom users of music in Nebraska may go in order to deal for public performance rights and negotiate for music in any substantial amount sufficient to meet the ordinary needs of music users in the State, except the Society."

Mr. Justice Black in *Gibbs v. Buck*, 307 U. S. 66, 81, says:

"This combination apparently includes practically all—probably 95 per cent—American and foreign copyright owners controlling rendition of copyrighted music for profit in the United States. Not only does this combination fix prices through a self-perpetuating board of twenty-four directors, but its power over the business of musical rendition is so great that it can refuse to sell rights to single compositions, and can, and does, require purchasers to take, at a monopolistically fixed annual fee, the entire repertory of all members controlled by the combination."

In the instant case the testimony of the operators of two of the largest radio broadcasting stations in Washington was that it would be impossible to operate such stations without the music controlled by the Society. The Society has neither submitted evidence, nor made argument to the contrary.

On the hearing for an injunction pendente lite, we dismissed the cause for lack of jurisdiction. *Buck v. Case*, 24 F. Supp. 541. On appeal our decree was reversed with directions to take evidence on the jurisdictional question. *Buck v. Gallagher*, 307 U. S. 95. Subsequently, we referred the cause to a special master for the taking of evidence on the question, and directed him to make findings. The special master found facts disclosing jurisdiction in the court below. Believing that the evidence supports such findings, we sustain them as not being clearly erroneous.

Plaintiffs contend that the Washington Statute is unconstitutional for a number of reasons, and rely on *Buck v. Swanson*. . . . D. C. Neb. . . ., 33 F. Supp. 377, *Buck v. Harton*. . . . D. C. Tenn. 33 F. Supp. 1014, and *Buck v. Gibbs*. . . . D. C. Fla. . . . 34 F. Supp. 510, holding somewhat similar statutes unconstitutional. Before passing on that question, it is necessary to determine whether or not plaintiffs may invoke the aid of a court of equity. If a party "has been engaged in an illegal business and has been cheated, equity will not help him." *Wheeler v. Sage*, 68 U. S. . . . 1 Wall. . . . 518, 529.

In other words, before plaintiffs may invoke the aid of a court of equity, they must come into court with clean hands. *Keystone Co. v. Excavator Co.*, 290 U. S. 240, 244. If the Society exists in violation of the Sherman Anti-Trust Act, it and the members composing it, are not entitled to a decree for its benefit. Section 1 . . . 15 USCA Sec. 1 . . . of the Sherman Anti-Trust Act provides in part . . .

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor." . . .

Section 2 . . . 15 USCA Sec. 2 . . . of such Act provides in part:

"Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several states, or with foreign nations, shall be deemed guilty of a misdemeanor. . . .

Whatever the distinction between these two sections may be, the supreme court has recently said that Congress, by the act in question, "Extended the condemnation of the statute to restraints effected by any combination in the form of trust or otherwise, or conspiracy, as well as by contract or agreement, having those effects on the competitive system and on purchasers and consumers of goods or services which were characteristic of restraints deemed illegal at common law."

*Apex Hosiery Co. v. Leader*, 310 U. S. 469, 498. The "Effects" mentioned were "business and commercial transactions which tended to restrict production, raise prices or otherwise control the market to the detriment of purchasers or consumers of goods and services." *Id.*, p. 493.

Such effects were brought about by "Contracts for the restriction or suppression of competition in the market, agreements to fix prices, divide marketing territories, apportion customers, restrict production and the like practices, which tend to raise prices or otherwise take from buyers or consumers the advantages which accrue to them from free competition in the market." *Id.*, p. 497.

There can be little question here that the Society has the power to fix prices for the right to publicly perform compositions for profit. Likewise, it has restricted substantially all competition in the sale of such rights, because it has all such rights. Since the Interstate Commerce feature is conceded to be present, the Society clearly violates the Act in question . . . *United States v. Socony Vacuum Oil Co.*, 310 U. S. 150, 223 . . . unless the right to publicly perform for profit is not embraced within the Act. Upon that point the Act says nothing expressly about rights or commodities. The statute is aimed at "Restraints" of trade and commerce, and not at the "subjects" of the trade or commerce. Rights may be and often are the subject of trade or commerce, and the Sherman law limits restraints of trade in "rights" as well as commodities. *Standard Sanitary Mfg. Co. v. United States* 226 U. S. 20, 49.



The restraint here is the power acquired by the assignments of the Society's members, to deal in a right acquired by copyrights and thus we have a contract or combination in restraint of trade. *Straus v. Am. Publishers Assn.*, 231 U. S. 222, 234. Plaintiffs contend that if the activity of the Society "Affects trade or commerce, it promotes rather than restrains it." Here, we are not concerned with such questions. Congress has decided that if such a combination has acquired power to fix prices, it is an illegal combination in restraint of trade. Plaintiffs further contend that the power to fix prices, as here, is not the odious "price fixing" condemned by the Act in question. They say that while a gallon of oil is the same no matter who sells it, musical compositions are not gallons of oil, but each of them is different. All we have said before, it is immaterial what the subject of the trade or commerce may be. The fact is that the Society has acquired the power to fix the prices at which rights of a particular nature may be purchased by prospective users. We think that is sufficient under the statute.

*Buck v. Swanson*. . . D. C. Neb. . . . *Supra*, *Buck v. Horton*. . . D. C. Tenn. . . . *Supra*, and *Buck v. Gibbs*. . . D. C. Fla. . . . *Supra*, do not involve the point herein taken.  
Let the bill be dismissed.

## Labor

### OVERTIME PRE-PAYMENT

A great many broadcasters are failing to take advantage of the money-saving overtime prepayment plan that can be used to avoid extra cost under the Wage and Hour Act.

The plan is simple. Take the case of an announcer who regularly works 40 hours a week for \$40. You need him only 36 hours one week. Pay him his usual \$40, and credit yourself *on your books* with \$4 overtime prepayment. Three weeks later (or at any later date) he works 44 hours. He is entitled to his regular \$40, plus \$6 overtime. However, he has been prepaid \$4 of the \$6, and so his payment that week will be only \$42.

Time off for fishing trips, funerals, and the like can be used to the same advantage, *provided that it is understood between the employer and employee that the regular salary is for a full week's work, and that any time off will be used to establish credit against future overtime.*

Vacations, holidays, and sick leave could be used for the same purpose if it were similarly understood between the employer and employee. However, the NAB is of the opinion that it would be of doubtful wisdom, in the long run, to compel employees to make up time off for vacations, holidays and sick leave when this has not been the practice in the past.

Any broadcaster contemplating the use of the prepayment plan should notify in writing each employee involved how he will be affected. A copy of this notice should be retained in case it is requested by the Wage and Hour inspector.

The prepayment plan cannot be used in the cases of employees who customarily work an irregular number of hours. Their regular hourly rate for the purpose of determining overtime, must be determined week by week.

Here is the Wage and Hour Division's official statement on the prepayment plan:

#### Salaried Employees

Let us take the example of a salaried employee who earns \$20.00 a week for a regular workweek of 42 hours and whose regular rate of pay is therefore 50 cents an hour. ( $\$20 \div 40$  hours.)

Weeks	1	2	3	4	5	6	7	8
Hours	36	40	40	40	40	40	40	48

For the first week the employee will receive \$20.00 although he earned and is entitled to only \$18.00 (36 hours  $\times$  50 cents). The employer will credit himself with \$2.00 as a prepayment of compensation for overtime to be subsequently worked. The employee will receive \$20.00 during each of the next six weeks. For the eighth week the employee is entitled to \$26.00. ([40 hours  $\times$  50 cents] + [8 hours  $\times$  75 cents]). He will thus have worked off the entire credit of \$2.00 accumulated by the employer and will receive \$24.00 in cash.

The validity of the plan as outlined depends upon the assumption that the employee is overpaid when he received \$21.00 for the first week of 36 hours and that therefore the employer has loaned or advanced him \$3.00. In addition to the criteria set forth under case I to determine whether the "loan" or "advance" is real or only a bookkeeping device an additional consideration comes into play with respect to the salaried employee who works a regular number of hours. If the employer, who contemplates adopting a "prepayment" plan is presently required by contract or agreement with the employee, express or implied, to pay him the fixed wage or salary even when the employee works less than the regular number of hours in some week or weeks, it cannot be said that the employee is paid in excess of what he earns or is entitled to when he receives the fixed wage or salary in such weeks.\* He has received no "loan" or "advance" and no amount therefore may be credited to the employer as a prepayment of compensation for overtime to be subsequently worked.

For the same reason a prepayment plan cannot be applied to a salaried employee who works a fluctuating number of hours.

\* It cannot be emphasized too strongly that the validity of the plan depends upon the assumption that when the employee receives \$20.00 in the weeks when he works less than 40 hours, he is being paid in excess of what he earns or is entitled to and is therefore given a loan or advance which he may work out by subsequent overtime. . . . The determination of this question may depend upon what the parties understand will happen when an employee severs his relationship with the employer. If the employer still has some accumulated credits at that time, will some attempt be made to get back the amount of the "loan" or "advance" from the employee since there is no further possibility that it will be worked out by subsequent overtime? The fact that no attempt will be made by the employer to collect the amount due him either by deducting such amount from the employee's last check or by some other way, is some indication that the "loan" or "advance" is simply a fictitious bookkeeping device.

Similarly the fact that at the end of the year or at the end of some shorter period credits accumulated by the employer are simply wiped off the slate and a new start is made, is some indication that there is no "loan" or "advance" in fact but simply a bookkeeping device. If there is no "prepayment" in fact and the plan is nothing but a bookkeeping device, the Act will have been violated. No one criteria may be sufficient to determine this question but all the criteria set forth herein will be given weight in deciding this question.

Since the nature of such an employee's employment is that he will receive the fixed basic salary regardless of the number of hours worked it cannot be said that such an employee is paid in excess of what he earns or is entitled to in any week in which he receives the fixed salary even though such weeks may have been short weeks.

We have considered above the question of the conversion of a salaried employee working a fluctuating number of hours into an hourly rate employee.

*The amounts paid to an employee while absent from work on a vacation, holiday, sick leave or other miscellaneous periods of leave, may not be considered by the employer as prepaid overtime compensation just as the time off during such periods may not be used to balance overtime worked within the pay period. Payment during holidays, vacations, etc., is not payment for overtime and may not be considered by the employer as compensation for the employee's overtime work under the Act.*

In two respects a prepayment plan, if it may be properly applied to salaried employees, is not subject to the same restrictions as a "time off" plan. It is not confined, in its operation, to the pay period. Credits to the employer, i. e., amounts paid by him in excess of the amounts earned by the employee or to which the employee is entitled, may be carried over beyond the pay period until they are consumed by the overtime work of the employee. Secondly, a prepayment plan may be applied to employees who are paid weekly.

It need not be restricted in its application, as is the "time off" plan, to employees paid on a bi-weekly, semi-monthly, or monthly basis. Under a prepayment plan the employee is being paid the overtime compensation due him, either in advance or, at the latest, at the time of the regular pay period.

Where applicable, a "time off" and "prepayment" plan may be applied in conjunction with each other.

## Sales

### PAUL PETER ADDRESSES MARKETING ASSOCIATION

Paul Peter, NAB Director of Research, spoke Thursday, December 26, before the American Marketing Association in convention at Chicago. The convention session, at which Mr. Peter spoke, was titled "Advertising, 1941 Model—How to Get More For Your Advertising Dollar". Mr. Vernon D. Beatty, Advertising Manager of Swift & Company, was chairman of the session and introduced the speakers as follows:

"Put More in Newspapers"—Fred Dickinson, Bureau of Advertising, American Newspaper Publishers Association.

"Put More in Magazines"—Frank Braucher, Periodical Publishers Association.

"Put More in Outdoor"—F. N. McGehee, Outdoor Advertising, Inc.

"Put More in Radio"—Paul F. Peter, Director of Research, National Association of Broadcasters.

Mr. Peter summarized his discussion as follows:

"Why Put More in Radio? Because broadcasting faces 1941 with the largest circulation of any advertising medium . . . 9 out of 10 homes with radio . . . more than a third of passenger cars are radio-equipped . . . 50 million radios in the country.

"Because the use of these sets is increasing . . . a greater percentage of families use their sets daily . . . use them for more

hours per day . . . use them more in the summer as well as the winter . . . use them more in the daytime; morning, afternoon and evening.

"Because the use of sets in upper, middle, and lower income families is increasing . . . average program ratings are rising giving advertisers lower cost per thousand results . . . lower than any other advertising medium.

"Because the nation's largest advertisers are giving a greater share of their advertising appropriations to radio . . . greater than any other advertising medium.

"Because the 'super-advertisers', those spending a million dollars or more in the three major media, put the major share of their budgets in radio . . . more of them 'major' in radio than any other medium.

"Because the average American family is spending more money annually for radio listening (operations, ownership and upkeep) than for purchases of newspapers and magazines combined. Etc. . . . Etc. . . ."

### NRDGA ASSOCIATE MEMBERSHIP

As a result of a conference with Joseph E. Hanson, manager of the Promotion Department of NRDGA, the solicitation of radio stations to take out associate membership in that organization will be held in abeyance. We are endeavoring to work out a plan with Mr. Hanson which we feel will be mutually beneficial to his organization, to the broadcasters and to NAB. Any contemplating membership in NRDGA are asked to communicate with us before taking any action.

### VOORHIS BILL

The Voorhis Bill (H. R. 10720) to tax advertising expenditures in excess of \$100,000 annually, has died with the close of this Congress. Presumably, however, it will be introduced again early in the new Congress.

If enacted, it would operate to prevent advertisers from deducting advertising expense,—over and above a basic exemption of \$100,000 to each business,—from gross income in computing taxable net income under the Federal income tax and excess-profits tax laws. The effect of such enactment would be widespread, as there are several hundred advertisers whose expenditures for advertising in major media annually exceed \$100,000.

The Voorhis Bill (Voorhis, D.—Cal.):

### A BILL

To provide funds for the national defense; to prevent avoidance of taxes by unlimited investment in advertising; to control un-economic advertising expense engaged in by the liquor, tobacco, and luxury trades; to discourage advertising on the public highways and to derive revenue therefrom; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Advertising Tax Act".

#### FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds (1) that some taxpayers are and for many years have been avoiding income taxes by making extravagant investments in good-will advertising; (2) that the graduated levies of the new defense taxes will be largely nullified if unlimited deductions for advertising expense are permitted in computing taxable net income; (3) that much of the advertising sponsored by the liquor, tobacco, and luxury trades is an economic waste not permitted in other countries; and (4) that advertising



on the public highways is a partial use of the public domain and advertisers are fairly chargeable therefor.

(b) It is hereby declared to be the policy of this Act that the conditions hereinbefore referred to shall be corrected.

#### DEFINITIONS

##### SEC. 3. When used in this Act—

(a) "Advertising" means and shall include all expense incurred which publicizes within the boundaries of the United States a business or its products and is for the purpose of promoting the business enterprise. It shall include all radio programs, publications, posters, and notices except items of office stationery and expense. It shall also include all legislative and lobbying expense and all attorney's fees directed toward the influencing of legislation.

(b) "Taxpayer" means and shall include any person, individual, trust, estate, corporation, or organization who files a return under the income-tax or excess-profits-tax laws of the United States.

(c) "Billboard" means and shall include all billboards, signs, posters, or posted advertisements fronting on and visible from a public highway. Each variation or change in subject matter shall constitute a different billing or billboard. "Billboard" within the meaning of this Act shall not include signs or posters which advertise a business conducted or a product sold on the premises and such signs or posters shall be exempt from the special license fee or tax imposed by section 4 of this Act.

(d) "License" means a suitable tag or label to be devised by the Commissioner and appended by the taxpayer to the lower left corner of each billboard to indicate payment of the tax.

(e) The "Secretary" means the Secretary of the Treasury of the United States.

(f) The "Commissioner" means the Commissioner of internal Revenue of the United States.

(g) The "United States", when used in a geographical sense, means and includes the several States, the District of Columbia, the Territories, and all possessions.

#### EXCISE, TAX, OR DUTY

SEC. 4. (a) There is hereby levied an excise, tax, or duty of \$1 for each calendar year or part thereof on each billboard in the United States.

(b) Failure to pay the said excise, tax, or duty and affix a license to a billboard within ten days following the erection thereof shall subject both the advertiser and the erector to a fine of \$100 for each such offense and the billboard shall be subject to destruction or sale at the discretion of the Commissioner.

(c) The revenue raised under this section shall be paid into the special fund established by title III of the Revenue Act of 1940 for the national defense.

#### DEDUCTIONS FOR ADVERTISING

SEC. 5. (a) All advertising expense of any taxpayer shall be taxed as net income under the income-tax and excess-profits-tax laws of the United States (titles I and II of the Revenue Acts of 1940). No deduction of advertising expense from gross income shall be allowed in computing taxable net income thereunder.

(b) A basic exemption of \$100,000 a year shall be permitted each business. If two or more taxpayers constitute the ownership of a single business, they shall be entitled to only a single exemption to be shared between them. What constitutes a single business shall be governed by regulations to be issued by the Commissioner.

(c) The Secretary, the Commissioner and taxpayers shall have the same rights and duties hereunder as they have in regard to the income-tax law.

#### CONFLICTING LAWS

SEC. 6. All Federal Acts or parts of Acts in conflict with any of the terms of this Act are hereby expressly repealed to the extent of such conflict.

#### DATE

SEC. 7. This Act shall take effect upon its enactment.

## Miscellaneous

### NAB ASSOCIATE MEMBERSHIP

At its meeting last month, the Board of Directors approved a plan of Associate Membership submitted by the

Board committee consisting of Messrs. John J. Gillin, Jr., Earl Gammons, and Eugene P. O'Fallon. The plan opens Associate Membership in NAB to Transcription Companies, Equipment Manufacturers, Station Representatives and News Services. Dues are based upon a classified schedule and have been worked out on a fair and equitable basis.

The new plan accords to Associate Members all rights of membership except voting and gives them official recognition at the NAB convention. Only those who are Associate Members in good standing will be permitted to conduct exhibits or establish their headquarters rooms in the hotel where the convention is being held. An official list of exhibitors will be published and the Association will stand a certain portion of the Associate Members' exhibiting expense. The members of NAB are asked to assist in securing associate memberships from those companies which are eligible. Before the next copy of the REPORTS reaches you, the number one mailing piece in the associate membership campaign will have been gotten out to all prospects. Any assistance which any of the members can render us in rounding up these associate memberships will be greatly appreciated.

### 50,100,000 RADIO SETS

#### MEMO TO STATION EXECUTIVES:

*It is suggested that the information below be included in an appropriate news show over your station and be used additionally where it will do the most good.*

**ARTHUR STRINGER.**

The number of radio sets in use in the United States is estimated by the National Association of Broadcasters to be 50,100,000 as of January 1, 1941. This is a net increase of 6,100,000 receivers in use over the year previous.

Included are consoles of all types, portable sets, new "personal" radios and auto radios.

The figures of set ownership in the United States indicate that the country is well along on a program of a set in every room and in every automobile. This increasing availability to the instrument of program reception points to far more radio listening than was considered possible two or three years ago.

"50,000,000 Radio Sets by Christmas", the radio industry's special promotion, during the past December, played an important part in lifting set ownership to the new high figure.

## NEW YORK TAX

The NAB-New York Tax Committee, appointed last week by Neville Miller to resist the proposed assessment of station operating equipment by the City of New York, met in New York last Friday. Decision was reached to employ local tax counsel at once and to urge New York City stations to give the committee their support. The City of New York Tax Department proposes to tax as real estate under the state law all radio, television and facsimile equipment. The committee contends such equipment is personal property and not taxable as real estate. The next meeting will be held in New York on January 3.

Those in attendance were: Emanuel Dannett, WOR; Howard Hausmann, CBS; Henry Ladner, NBC; E. C. Sanger, WQXR; and Russell P. Place, NAB.

## FEATURE SPORTS SHOW

Ellis Atteberry, manager of KCKN, Kansas City, had an outstanding feature sports show on Christmas Day. His effort was ably supported by a four column spread in the *Kansas City Kansan*.

Greetings from members of the Kansas City Blues baseball team, 1939 American Association pennant winners, received from all parts of the United States, were read over the air. The program also featured interviews with:

Roy Hamey, secretary of the pennant-winning blues, and Walt Lochman, winner of the Minor League's "most popular announcer" award; and included Christmas messages from the Mayor and City Manager, from five sports writers of Kansas City newspapers, from Ed Barrow, president of the Yankees, from Gabriel Paul of the World's Champions Cincinnati Reds; and from Frank Collety of the American Association.

## Engineering

### OHIO STATE CONFERENCE

The announcement of the full program for the Fourth Ohio State Broadcast Engineering Conference shows that an unusually interesting number of talks and lectures are to be given. Talks and lectures previously announced in the NAB REPORTS (p. 4819) are to be by E. K. Jett, Chief Engineer of the FCC; A. D. Ring, Assistant Chief Engineer of the FCC in charge of broadcasting; Harvey Fletcher, Bell Telephone Laboratories; Major Armstrong of Columbia University; W. R. G. Baker, Director of Engineering for the Radio Manufacturers Association and Peter Goldmark of the Columbia Broadcasting System.

Recent discussions on high fidelity in connection with FM have produced considerable interest in quality. Sev-

eral sessions such as "Speech Input Systems" by C. M. Lewis and J. D. Colvin, "Studio Acoustics" by Paul J. Washburn, "Sound Reproduction from Recordings" by V. F. Hunt, "Loud Speakers" by H. F. Olson and "Hearing The Determining Factor For High Fidelity" by Harvey Fletcher will deal with the subject of faithful reproduction.

Kenneth A. Norton from the FCC, long noted for his scientific work on radio will deliver a lecture on transmission in the Ultra High Frequencies. Mr. Norton has done some outstanding work on UHF transmission and his talk should be of unusual interest. Andrew Alford, well known for his antenna work in connection with blind landing, has recently turned his attention to the application of some of his developments for other UHF services. His talk will be entitled "UHF Antennas and Transmission Lines." Raymond F. Guy of the National Broadcasting Company, one of the keenest students on FM will deliver a talk entitled "FM Field Tests". Mr. Guy's talk will deal with the evaluation of the merits of AM and FM with various deviations. The talk will be illustrated with a set of test records recorded to demonstrate the various effects encountered under different conditions.

There will be a Round Table on FM problems under the Chairmanship of Paul deMars of the Yankee Network with E. J. Content of WOR and Dan Gallerup of WTMJ at the table. Those who have particular questions on FM that they would like to hear discussed at the Round Table, are requested to send the questions to the Director of Engineering of NAB.

Lynne C. Smeby, Director of Engineering for NAB will be Chairman of the "General Discussion and Question Box", conducted by Andrew Ring of the FCC. Those who have questions on FCC engineering matters that they would like to have discussed during this session, are requested to send their questions to the Director.

Following is the complete schedule:

Speech Input Systems, C. M. Lewis, J. D. Colvin, RCA; Studio Acoustics, Paul J. Washburn, Johns-Manville; Polyphase Broadcasting, Paul Loyet, Central Broadcasting Company; Round Table on Receivers, J. Kelly Johnson, Hazeltine Corp., E. B. Passow, Zenith Radio Corp., W. L. Dunn, Belmont Radio Corp.; Sound Reproduction from Recordings, F. V. Hunt, Harvard University; General Discussion and Question Box, Andrew D. Ring, FCC, Lynne C. Smeby, NAB; Loud Speakers, H. F. Olson, Radio Corporation of America; Television Standards, W. R. G. Baker, General Electric Company; Color Television, Peter C. Goldmark, Columbia Broadcasting System; The Status of Television, Harry Sadenwater, Radio Corporation of America; Television Station Operation, Robert M. Morris, National Broadcasting Company; Television Field Pickups, Harold P. See, National Broadcasting Corp.; The Status of Frequency Modulation, Edwin M. Armstrong, Columbia University; FM Receivers, M. L. Levy, Stromberg-Carlson; FM Field Tests, Raymond F. Guy, National Broadcasting Company; Operating Problems in FM Transmitters, I. R. Weir, General Electric Company; FM Broadcast Transmitter Circuit Design, John F. Morrison, Bell Telephone Laboratories; FM Allocation and Coverage, Stuart Bailey, Jansky & Bailey; UHF Antennas and Transmission Lines, Andrew Alford, Mackay Radio and Telegraph Company; Round Table on FM Problems, E. J. Content, WOR, Paul deMars, Yankee Network, Dan Gallerup, WTMJ; Hearing the Determining Factor for High Fidelity, Harvey



Fletcher, Bell Telephone Laboratories; UHF Transmission, Kenneth A. Norton, Federal Communications Commission; UHF Tubes, E. D. McArthur, General Electric Company.

Special Features—E. K. Jett, "Communications in National Defense"; Dinner, Ft. Hayes Hotel; Basketball Game—Ohio State vs. Purdue; G. C. Southworth, "Wave Guides"; and Banquet, Ft. Hayes Hotel.

The Conference is to be held at Columbus, Ohio, between February 10 and 21. Full details may be obtained by addressing Dr. W. L. Everitt, Director of the Conference, Ohio State University, Columbus, Ohio.

## Outlook for Radio

*Remarks of Neville Miller, President, National Association of Broadcasters—America's Outlook for 1941, MBS, Sunday, December 29, 1940.*

Available reports indicate that you, the American radio listeners, have purchased ten million additional radios in the past year, increasing the total number of sets in use to more than fifty million. It is safe to say that in 1941 there will be more listening to radio than in any previous year. What this means in terms of national unity; what it means in maintaining the morale of the nation will be well illustrated later in this evening when the President speaks to the nation. Through radio, his voice is within the hearing of every man, woman and child in the nation. If there be a threat to our home security our leaders now may sound the warning to all within the matter of seconds where before the days of broadcasting, hours, weeks and even months were required. It is of the greatest importance that this system of mass communication stand up in times of need.

In the past year the American system of privately operated, competitive radio was given its greatest test. Both a presidential campaign and a world war were upon us. Both combined to create problems of programming and operation without precedent in broadcasting experience. I believe that the record turned in is another tribute to American enterprise and to the sincerity of the American broadcaster in serving the public interest. Candidates of the contending parties were given equal opportunity before the microphone. Debates and challenges filled the air in typical American style. As we listened to the candidates we heard the issues explained. We made up our minds and went to the polls and voted as free men and women are privileged to do. And having made our choices we now forget our differences and rally behind our leaders in the common defense of our homes and of our liberties. This is the essence of democracy and American Radio is proud to be its voice.

In the year ahead, radio's responsibility to the home and to the nation will be greatly enlarged. The reporting of our national defenses, day by day, and hour by hour if needs be, is a prime responsibility. The cooperation of radio with government, with the Army and Navy is growing as new situations arise. The religious, the educational and the cultural contributions of radio must and will go on. And none the less important will be the programs of entertainment and amusement to bring us moments of diversion and relaxation in the trying days ahead. We will need, as well, the inspiration of great music, of great drama and of great artists. These radio will bring us. The service of radio to agriculture, to commerce and to the consumer will not be diminished. Also it is with confidence that we can look forward to further progress in the radio art, technical and otherwise. All in all radio enters 1941 proud of its past and come what may in this new year our microphones are ready and prepared for the task.

## FEDERAL COMMUNICATIONS COMMISSION

### FCC FINANCIAL QUESTIONNAIRE

Several points have arisen in connection with the filing of the Financial Report required by the FCC. FCC Rules and Regulations require this Report to be filed on or before March 1. It will be recalled that last year the Commission granted an extension of time, to April 15, to those stations which requested it and set forth justifiable reasons for the delay (NAB REPORTS January 12, 1940, p. 3951).

The matter has been again presented to the Commission and there is every hope the same procedure will be followed this year. It is suggested to those stations finding an extension necessary file application therefor with the Commission at a reasonable time before March 1.

In addition to this final report, it will be noted that the Commission also requests the submission by January 15 of an "Analysis of Station Broadcast Revenue". Such report is for the purpose of aiding the accounting department of FCC to determine the financial position of the industry in advance of the availability of final data. Broadcasters are requested, wherever possible, to cooperate. This request of the Commission is not a demand order, but merely asks for advance information from those stations which can supply such income information in advance. It should be further noted that the Commission requires all financial information on an accrual basis, which means that all business performed in the year 1940 would be included in the revenue schedule regardless of when the service is billed or finally paid for. Most stations will have such information readily available in the form of sales reports.

NAB feels that there is value in the advance filing of the revenue schedule and, therefore, urges those stations who can supply the information required by January 15th, to make every effort to do so. Those stations not finding it possible to complete the schedule should so advise the Commission and set forth the reasons for their failure to comply.

### FCC ANNUAL REPORT

Following is the FCC's summary of its annual report to Congress, covering the year ended last June 30:

In an annual report which incorporates important developments since the close of the fiscal year, the FCC chronicles new milestones in the advancement of broadcasting, and cites augmented duties in supervising radio, telephone, telegraph, and cable in connection with the national defense program.

This streamlined report is almost half the size of the one last year. To summarize some of its highlights:

NATIONAL DEFENSE—The Commission's particular role in the preparedness program is to "police" radio communications. In

consequence, it has added to its monitoring and other field facilities. Also, it must keep tab on the many persons who operate electrical apparatus capable of farflung and almost instantaneous communication. So it is requiring all radio operators (about 100,000 licensees—including commercial and amateur) to prove their citizenship. Common carriers are compiling similar data with respect to employees who engage in international communication. The Commission has banned amateur communication with foreign countries, and, further, prohibits the use of portable long-distance transmitters by amateurs. Such steps are precautionary rather than disciplinary. The Commission does not want to interfere with radio and wire communications any more than is necessary for the national protection. Individuals and industries concerned are collaborating in this common contribution toward the national security. The relationship of radio, wire, and cable facilities to the preparedness picture is being further coordinated in planning by the Defense Communications Board, created by Executive order in September.

**BROADCASTING (FM)**—Last year, which marked the 20th anniversary of broadcasting, was notable because of Commission recognition of a new type of public service in frequency modulation, popularly known as "FM." The ensuing year will offer practical demonstration of FM's claimed clarity and staticless qualities. Also, by utilizing the high frequencies, FM promises to relieve the long congested standard broadcast band. Business will benefit by the new equipment, sets, and servicing which FM requires. And, by being generally limited to local coverage, this new service should have a stimulating effect on local programming. Distinctive call letters have been assigned. To date the Commission has authorized 25 FM stations to engage in full commercial operation.

**BROADCASTING (Standard)**—This older type of broadcast (which uses amplitude modulation) should experience a marked improvement in service by reason of the North American Regional Broadcasting Agreement, effective March 29th next. Mutual interference problems are expected to be eliminated or minimized as a result of this compact between Canada, Cuba, Mexico, and the United States. To make agreement possible, the Commission is effecting an orderly shift of frequencies without disturbing the general broadcast structure. A total of 846 standard broadcast stations were operating or under construction during the fiscal year. There were 79 new authorizations and 10 deletions. Increased use of directional antennas is necessary in coping with the interference problem. During the calendar year 1939 a total of 705 standard broadcast stations (including networks) reported total time sales approaching \$130,000,000, making a net income of nearly \$24,000,000. They also listed a payroll of nearly \$52,000,000 for nearly 25,000 employees. The report of the Commission's special committee on chain broadcasting was the subject of oral argument in December in connection with its consideration by the full Commission. Commission inquiry revealed some 200 domestic stations broadcasting in about 30 foreign languages. Commission action in five broadcast cases was upheld by the United States Supreme Court.

**BROADCAST (International)**—Broadcast service to Latin America was improved by reason of the Commission requiring power of at least 50 kilowatts for international program service. In this country 13 international broadcast stations were operative.

**TELEVISION**—Television is now making substantial progress with the cooperative assistance of that industry and the Commission. More than a score of stations geographically distributed throughout the nation have been licensed to experiment with various types of transmission with a view to reaching early accord on uniform standards which will enable television to move forward on a full commercial basis. Participating stations have budgeted a total of \$8,000,000 for this practical experimental work. In conjunction with such effort, a National Television Systems Committee, jointly sponsored by the Radio Manufacturers Association and the Commission, has made a thorough study of the engineering phases of the situation which should be helpful in arriving at a general agreement. The continued rapid evolution of television is attested by developments in color reproduction, large-screen projection, and new service demonstrations.

**MISCELLANEOUS RADIO SERVICES**—Increased use of radio for miscellaneous services is noted. Police stations have increased to 6,300, aviation stations to nearly 2,000, and more than 1,000 stations are employed for forest conservation work. The Commission clarified its rules with respect to more than 450 special emergency stations. This class of station has demonstrated its ability to establish radio communication in time of emergency. The Commission completed its final report on a special study of

radio requirements for safety purposes on the Great Lakes and Inland Waters, and gathered information with respect to possible like need on the Mississippi River system. There are 56,300 amateur stations in operation. Some 40,000 commercial operator licenses were handled during the year. Inspection was made of radio installation on more than 14,000 ships and at some 8,600 land stations.

**TELEGRAPH**—As a remedy for many ills in the highly competitive telegraph industry, the Commission recommended merger of the domestic telegraph companies, and, further, urged consolidation of international communication carriers domiciled in the United States in the interests of defense and other national needs.

**TELEPHONE**—Savings to telephone users aggregating \$10,000,000 annually are indicated by tariff revisions filed with the Commission since its previous annual report. New construction amounting to more than \$9,000,000 was authorized.

**CABLE**—Some cable, as well as radio, circuits were disrupted as a result of the war, and the Commission speeded authorizations for new or temporary replacements.

**ACCOUNTING**—More than 23,000 tariff schedules were filed by common carriers. The Commission adopted a revised uniform system of accounts for telegraph and cable carriers, to become operative in 1942. The new system, which conforms to Government accounting principles, will supplant one in use since 1914.

**RECOMMENDATIONS TO CONGRESS**—None, other than those contained in the Great Lakes and telegraph merger reports.

## FCC APPROPRIATIONS

FCC officials will go before a subcommittee of the House Committee on Appropriations within the next few days asking for an appropriation of \$2,315,229 for the 1942 fiscal year. The appropriation under which the Commission is now operating is for \$2,176,340.

The breakdown of the money being asked by the Commission for the coming fiscal year includes: for the Legal Division, \$281,952; Engineering Division, \$840,000; Accounting, \$379,227; Secretary's office, \$534,767; and "other obligations", \$271,296.

## FCC DUTIES

FCC has announced that the work, business and functions of the Commission for the month of January have been assigned as follows:

Commissioner Case	Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.
Commissioner Thompson	Designated to hear and determine, order, certify, report or otherwise act upon: (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including all motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; <i>provided</i> , however, that such matters shall be handled in accordance with the provisions of Sections 1.251 and 1.256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.



## FROM THE FCC MAIL BAG

A Californian asked the Federal Communications Commission to do something about interference to his radio reception caused by a flasher used by a neighbor on his Christmas lights. The Commission advised that under the law it has no authority itself to interfere in such local matters, but suggested that a number of states and municipalities do have ordinances intended to curb radio interference of this type.

Another Californian, who complains of interference from Mexican stations, is told that the Commission has no jurisdiction over broadcast stations in other countries, but is reminded that reallocations of frequencies under the North American Regional Broadcasting Agreement, scheduled to go into effect March 29 next, promise a general improvement in radio reception.

Though the Commission cannot pass upon individual radio programs, it refers a Schenectady man direct to a station which he complains is using the national anthem as part of a commercial continuity. By the same token, it bids a Philadelphian write to networks which he feels are using programs that are "mob spirited" and "appeal to greed". However, the Commission can't oblige an Indianapolis music fan who would like to see a local station compelled to carry a certain concert program.

A Mount Vernon, N. Y., resident is informed that there is nothing in the Communications Act or regulations to prevent the solicitation of new bank accounts by radio. A Rhode Island woman is told that the Commission cannot undertake the collection of alleged over-due music royalties and that the matter is rather one of legal proceeding.

A North Carolinian, who is interested in recording programs as they come over the air for use in public schools, is advised that such practice is not contrary to Commission rules but may involve problems of copyright law.

The Commission is in receipt of a suggestion by a Californian that radio broadcast stations be equipped with sirens to warn listeners of air raids in event of war.

It is pointed out to a Philadelphia concern that broadcast is not a common carrier service like telephone and telegraph, hence the Commission has promulgated no accounting regulations for radio stations. However, it does require station licensees to file annual financial reports.

A Harvard law student who inquires about "res judicata" in Commission administrative proceedings is informed:

The doctrine of "res judicata" does not play a major part in the Commission's action in granting or denying an application for a license to operate a radio station. If a person desires a license, he files an application which the Commission is under a duty to grant if public interest, convenience or necessity will be served thereby. The proceeding does not partake of a controversy between the applicant and existing licensees, but is an application to the licensing agency for the grant of a written instrument of authorization permitting the operation of radio-transmitting equipment. Existing licensees, who will be competitors of the applicant, or who will suffer electrical interference, frequently do oppose the granting of a license. The basis of such opposition is that public interest, convenience or necessity will not be served by a grant of the application. The Commission will consider such information from any source. Since there is no element of private controversy in the granting of a license, the Commission has not deemed it necessary or appropriate to apply the doctrine of "res judicata" to the granting of licenses.

"Can a wavelength in a radio wave be changed after it has been broadcast?" and "Can a wave be superimposed on long carrier wave?" are questions from a Washington State resident. The answer is of the "yes" and "no" variety depending upon the medium through which the wave or waves travel. In other words, radio waves may be modulated or imposed one upon the other within the path between transmitter and receiver, but only under abnormal conditions. The Commission explains:

"The frequency or wavelength of an electromagnetic wave does not change when the wave travels through air, through a copper wire or through any medium which has linear transmission characteristics. The amplitude of the wave and the phase are altered but the wavelength remains constant. If a square law detector or a vacuum tube is included in a wire circuit, however, the output wave becomes a function of the square of the input wave and the frequency of the wave is doubled.

"Two carrier waves of different frequency, each modulated and carrying different signals, may be transmitted on the same pair of wires and they will not interfere with each other in

any way. At the output of the circuit both carrier frequencies and both signal frequencies will be the same as they were at the input and no additional waves or other frequencies which were not in the original waves will have appeared:

"Again, if a device with non-linear transmission characteristics, such as a square law detector, is inserted in the circuit, the situation is altered. The output wave is now the square of the sum of the two input waves and many additional waves of different frequency are produced. Among them will be the harmonics of the carriers, the beat note between the carriers and a large number of the so-called modulation products of the signals—not only those which were present in the original signals but others which were not, such as the sums and differences of the modulation frequencies, etc. With this phenomenon you are undoubtedly familiar from your experience with broadcast reception and your knowledge of radio receivers. The same principles apply in the case of radio waves of different frequency radiated to a receiver from two broadcast stations at different locations. Each wave reaches the receiver unaffected by the other unless there is some region of space through which both signals have passed which has non-linear transmission characteristics. While the conditions for such are not normal ones they do sometimes occur. Two examples will be given. The signals of one broadcast station may modulate the signals of another when under certain conditions—which are again unusual—both pass through portions of the ionosphere having non-linear transmission characteristics. A certain type of cross-talk interference is observed in broadcast reception caused by rectification of broadcast signals in the house wiring system. This may occur when the wiring leads are loose or in some cases broken. The signals of other broadcast stations beyond the tuning range of the receiver when rectified in these leads may then have components within the tuning range of the receiver, thus capable of causing interference."

## Federal Trade Commission

### MARCH HEADS FTC

Colonel Charles H. March, a member of the Federal Trade Commission since 1919, has been elected by the Commission to serve as Chairman during the calendar year 1941, succeeding Judge Ewin L. Davis.

Col. William H. England has been appointed Chief Economist of the Federal Trade Commission, succeeding Dr. Francis Walker, who retires January 1, 1941.

### FTC REPORTS TO CONGRESS ON ADVERTISING

Advertising matter as published in newspapers, magazines, catalogs, and almanacs and as broadcast over the radio is surveyed and scrutinized for false and misleading representations by the Federal Trade Commission through its radio and periodical examining staff on a continuing current basis, says the Commission in its annual report. This work includes duties devolving on the Commission with the enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act. Discussing the radio and newspaper advertising work the Commission in its report to Congress says:

The survey of magazine and newspaper advertising was inaugurated by the Commission in 1929, and the surveying of commercial advertising continuities broadcast by radio was started

in 1934. As expanded in 1939, this survey includes mail-order catalogs and domestic newspapers published in foreign languages.

Apparent and probable misrepresentations detected through this survey are carefully investigated, and where it appears from the facts developed that the advertising is false or misleading and circumstances warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure, more fully explained at page 123, which permits their executing stipulations in which they agree to cease and desist from the use of the acts and practices involved. A large majority of the cases are adjusted in this manner. In those cases where this informal procedure is not applicable or does not result in the elimination of the misleading claims, and the facts so warrant, formal procedure is instituted.

In cases of advertising involving food, drugs, devices, and cosmetics, the Commission has directed the negotiation of stipulations with the advertising agencies which have disseminated those advertisements as well as with the advertisers in whose behalf the agencies acted.

In its examination of advertising, the Commission's only purpose is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say under the law.

The Commission believes that its work in this field contributes substantially to the improvement that has been evident in recent years in the character of all advertising.

*Newspaper and magazine advertising.*—In examining advertisements in current publications, it has been found advisable to call for some newspapers and magazines on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are some 20,000, it is physically impossible to survey continuously all advertisements of a doubtful nature; also, it has been found unnecessary to examine all the issues of publications of recognized high ethical standard whose publishers carefully censor all copy before acceptance.

Generally, copies of current magazines and newspapers are procured on a staggered monthly basis, at an average rate of three times yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls for magazines and newspapers during the fiscal year ended June 30, 1940, the Commission procured 1,631 editions of representative newspapers of established general circulation and 1,339 editions of magazines and farm journals of interstate distribution representing a combined circulation of 122,995,074. Among these periodicals were included representative foreign-language publications having a combined circulation of 1,417,587 copies.

The Commission examined 300,741 advertisements appearing in the aforementioned newspapers and magazines and noted 24,104 as containing representations that appeared to be false or misleading. The 24,104 questioned advertisements provided current specimens for check with existing advertising cases as to their compliance with orders of the Commission and stipulations accepted from advertisers, and also formed the bases of prospective cases not previously set aside for investigation.

*Almanac advertising.*—As an important supplement to its review of periodical advertising, the Commission examines almanacs of wide distribution which are used as advertising media for distributors of drugs, devices, and other commodities sold for the treatment of various ailments.

*Mail-order advertising.*—In January 1939, the Commission extended its examination of current published advertisements to include a continuous systematic survey of advertising matter appearing in mail-order catalogs and circulars. During the fiscal year ended June 30, 1940, the Commission procured mail-order catalogs and circulars containing an aggregate of 15,314 pages, being distributed periodically by mail-order companies. Of the 56 mail-order houses included in this survey, 5 represent combined annual net sales in excess of \$996,000,000 worth of merchandise.

In the subsequent examination of 15,208 pages of the mail-order advertising, 441 pages have been marked by the preliminary reviewing staff as containing possibly false, misleading, and deceptive material, and have been set aside for investigation. A wide variety of commodities (including food, drugs, devices, and cosmetics) is included in this questioned advertising.

*Radio advertising.*—The Commission, in its systematic review of advertising copy broadcast over the radio, issues calls to individual radio stations, generally at the rate of four times yearly for each station. However, the frequency of calls to such individual broadcasters is varied from time to time, dependent prin-

cipally upon transmittal power, the service radius or area of specific stations, and the advertising record of certain types of stations, as disclosed in analyses of previous advertising reviews.

National and regional networks respond on a continuous weekly basis, submitting copies of commercial continuities for all programs wherein linked hook-ups are used involving two or more affiliated or member stations.

Producers of electrical transcription recordings submit monthly returns of typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodic reports from individual stations listing the programs of recorded commercial transcriptions and other essential data.

During the fiscal year ended June 30, 1940, the Commission received 759,595 copies of commercial radio broadcast continuities, amounting to 1,518,237 pages of typewritten script. These comprised 1,072,537 pages of individual station script and 445,700 pages of network script.

The staff read and marked 684,911 commercial radio broadcast continuities, amounting to 1,398,561 pages of typewritten script. These comprised 436,700 pages of network script and 961,861 pages of individual station script. An average of 4,570 pages of radio script were read each working day. From this material 22,556 commercial broadcasts were marked for further study as containing representations that might be false or misleading. The 22,556 questioned commercial continuities provided current specimens for check with existing advertising cases as to their compliance with orders of the Commission and stipulations accepted from advertisers, in addition to forming the bases for prospective cases which may not previously have been set aside for investigation.

*Cooperation of radio and publishing industries.*—In general, the Commission has received the helpful cooperation of nation-wide and regional networks and transcription producers, in addition to that of some 717 active commercial radio stations, 468 newspaper publishers, and 540 publishers of magazines and journals, and has observed an interested desire on the part of such broadcasters and publishers to aid in the elimination of false, misleading and deceptive advertising.

*Source of radio and periodical cases.*—Examination of current newspaper, magazine, radio, and direct mail-order house advertising, in the manner described, has provided the basis of 79 percent of the radio and periodical advertising cases handled by the Commission during the fiscal year ended June 30, 1940. Information received from other sources including information from other divisions of the Commission, and from other Government agencies, formed the basis of the remainder of this work.

*Analysis of questioned advertising.*—An analysis of the questioned advertising which was assembled by cases and given legal review discloses that it pertained to the following classification of 3,014 commodities in the proportions indicated:

## Classification of Products

Commodity	Percent
Food, drugs, devices, and cosmetics:	
Food .....	11.2
Drugs .....	33.4
Cosmetics .....	12.8
Devices .....	2.3
	— 59.7
Other products:	
Specialty and novelty goods .....	11.2
Automobile, radio, refrigerator, and other equipment lines .....	4.9
Home study courses .....	2.8
Tobacco products .....	1.2
Gasoline and lubricants .....	1.6
Poultry and livestock supplies and equipment, including hatchery products, etc. ....	2.0
Miscellaneous, including apparel, coal and oil fuels, house furnishings and kitchen supplies, specialty building materials, etc. ....	16.6
	— 40.3
Total .....	100.0

In the item of drug preparations listed above, a substantial proportion of the related advertising contained positive misrepresentations or representations which encompassed possible injurious results to the public and for that reason were given preferred attention.



*Number of cases handled.*—During the fiscal year the Commission sent questionnaires to advertisers in 739 cases and to advertising agencies in 109 cases, and negotiated 190 stipulations, which were accepted and approved by the Commission.

A total of 532 cases were disposed of by the various methods of procedure. Of this number, 188 cases were considered settled upon receipt of reports showing compliance with previously negotiated stipulations. The remaining 344 cases were closed without prejudice to the right of the Commission to reopen if warranted by the facts: 333 of them for such reasons as no evidence of violation, lack of jurisdiction, and insufficient public interest; 2 because the Post Office Department had issued fraud orders against the advertisers, and 9 because the Post Office Department had accepted from the parties concerned affidavits of discontinuance of business.

In addition, the Commission, in 36 cases, ordered issuance of complaint: in 17 instances where advertisers failed to stipulate; in 1 case in which the advertiser was not given an opportunity to stipulate because of gross deception, and in 18 involving violation of the terms of existing stipulations previously accepted and approved. In 41 cases field investigations were ordered, including 13 wherein it appeared that application for injunction or criminal proceedings might be warranted. Also, 3 cases were referred to other governmental agencies as concerning matters more appropriately coming within their jurisdiction.

Seven hundred forty-three radio and periodical cases were pending on July 1, 1939, and 979 were pending on June 30, 1940.

*Commission has access to scientific services.*—Effective cooperation continued with other departments of the Government. The Commission has access to the laboratories, libraries, and other facilities of Federal Government agencies, including the National Bureau of Standards, United States Public Health Service, and the Food and Drug Administration, Bureau of Home Economics, and Bureau of Animal Industry of the Department of Agriculture, to any of which it may refer a matter for scientific opinion.

Since the passage of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has had the services of a medical staff under the supervision of an experienced and highly qualified physician assigned to it by the United States Public Health Service, so that the therapeutic claims of advertisers can be competently and carefully examined. (See Medical Advisory Service, p. 145.)

When necessary, the Commission obtains medical and other scientific information and opinions from nongovernmental hospitals, clinics, and laboratories. Such material and cooperation are often particularly helpful in enabling the Commission to reach sound and fair conclusions with respect to scientific and technical questions which come before it, and especially so in connection with much of the work of the Radio and Periodical Division.

*Procedure in advertising cases.*—If it appears that a published or broadcast advertisement coming to the Commission's attention may be misleading, a questionnaire is sent to the advertiser, and request is made for a sample of the product advertised, if this is practicable, and the quantitative formula, if the product is a compound. Copies of all advertisements published or commercial continuities broadcast during a specific period are also requested, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used.

Upon receipt of these data, the claims, sample, and formula are referred to the Commission's Medical Advisory Division or to an appropriate technical agency of the Government for a scientific opinion. Upon receipt of the opinion, a list of such claims as then appear to be false or misleading is prepared and sent to the advertiser, along with pertinent portions of the opinion. The advertiser is extended the privilege of submitting such evidence as he may desire in support of his claims; he may answer by letter or, upon his request, may confer with the Commission's Radio and Periodical Division in person or through counsel.

If, after a consideration of all available evidence at hand including that furnished by the advertiser, the questioned claims appear to be true, the division reports the matter to the Commission with the recommendation that the case be closed.

If it appears from the weight of the evidence before it that the advertising is false or misleading, the division refers the matter to the Commission with recommendation either that complaint issue or the case be returned to the division for negotiation of a stipulation, provided it is one appropriate for stipulation procedure and the advertiser desires to dispose of it by such voluntary agreement to cease and desist from the use of the acts and practices involved.

If the Commission so authorizes, the division prepares a stipulation and forwards it to the advertiser for execution. Should he object to any of its provisions, he may discuss them by mail or

in person. If and when he agrees upon the terms of the stipulation and signs and returns it, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed without prejudice to the right of the Commission to reopen the matter at any time the facts so warrant. If the Commission accepts and approves the stipulation, the advertiser is required to submit within 60 days from the date of acceptance a report in writing showing the manner and form in which he has complied and is complying with the provisions of his agreement.

*Stipulation provides simplified methods.*—The object of all Commission procedure is to prevent unfair methods of competition and unfair and deceptive acts and practices in commerce, and experience has shown that this can be accomplished not only by cease and desist orders, but by the stipulation method, which is effective and speedy as well as inexpensive for both Government and advertiser.

## RADIO LEGISLATION SLATE CLEAN AS CONGRESS ADJOURNS

The first session of the 77th Congress convenes Friday. The third session of the 76th Congress has just adjourned, the longest session in history outlasting the 345-day session in the war days of 1917-1918. The third session of the 76th Congress convened on January 3, 1940. A number of attempts were made to adjourn the last session but there were always enough members who insisted that Congress should stay in session during the present emergency.

Following is a complete list and status of bills of interest to the broadcasting industry when the last session adjourned. The slate is now clean as far as all pending bills and resolutions are concerned. All the old ones "die" when the session of Congress adjourns:

### SENATE BILLS

S. 517 (SEN. JOHNSON, Colo.) LIQUOR ADVERTISING—Same as H. R. 251. Referred to Interstate Commerce Committee. Hearings held. Reported to Senate.

S. 517 (SEN. JOHNSON, Colo.) LIQUOR ADVERTISING—Same as H. R. 251. Amendment (in the nature of a substitute) to the committee amendment to the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio. Ordered to lie on the table and to be printed. No action.

S. 517 (SEN. JOHNSON, Colo.) LIQUOR ADVERTISING—Same as H. R. 251. Amendment (in the nature of a substitute) to the committee amendment to the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio. Ordered to lie on the table and to be printed. No action.

S. 547 (SEN. LODGE, Mass.) COPYRIGHT—To create renewal rights in author of articles in periodicals, encyclopedias, etc., when such articles are not separately copyrighted but were included in copyright of periodical or other composite work. Referred to Patents Committee. Passed by Senate. Reported to House.

S. 550 (SEN. SHEPPARD, Texas) COMMUNICATIONS ACT—To amend Section 303 by limiting the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate Commerce Committee. The bill as introduced refers to Section 303 (e), whereas the correct designation is 303 (1). A corrected bill will be introduced. No action.

S. 575 (SEN. CAPPER, Kans.) LIQUOR ADVERTISING—Same as H. R. 924. Referred to Interstate Commerce Committee. No action.

S. 594 (SEN. REYNOLDS, N. C.) GOVERNMENT RADIO STATIONS—To establish marine schools in each state and other purposes, including the construction and operation by each school of one or more stations on "a wave-length and power prescribed by the Maritime Commission." Referred to Commerce Committee. No action.

S. 635 (SEN. SCHWELLENBACH, Wash.) COMMUNICATIONS ACT—To strike Section 315 of the Communications Act and to require each station to set aside regular and definite periods of desirable day and evening time for uncensored discussion on "non-profit basis of public, social, political and economic problems, and for educational purposes." Qualified candidates for public office are not covered by the amendment. Referred to Interstate Commerce Committee. No action.

S. 636 (SEN. SCHWELLENBACH, Wash.) COMMUNICATIONS ACT—To add to Section 315 with respect to candidates for public office the requirement that the station shall keep complete records open to public inspection. Referred to Interstate Commerce Committee. No action.

S. 637 (SEN. SCHWELLENBACH, Wash.) COMMUNICATIONS ACT—To strike Section 326 and substitute in lieu thereof a similar provision with respect to censorship by the Commission with the proviso that it does not exempt stations from liability for defamatory, profane, indecent or obscene language or action broadcast by any officer, employee, agent or representative of the station. Referred to Interstate Commerce Committee. No action.

S. 1095 (SEN. SHEPPARD, Texas) COMMUNICATIONS ACT—To amend Section 303 (1). Corrected bill in substitution for S. 550. Limits the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate Commerce Committee. No action.

S. 1268 (SEN. WHEELER, Mont.) COMMUNICATIONS ACT—To reorganize the Communications Commission by creating a new agency to be known as the Federal Communications and Radio Commission, consisting of an administrative board of three members. Referred to Interstate Commerce Committee. No action.

S. 1520 (SEN. WHITE, Maine) COMMUNICATIONS ACT—To amend the Communications Act by creating an eleven-man commission and for other purposes. Referred to Committee on Interstate Commerce. No action.

S. 2058 (SEN. NYE, N. D.) PRIZE CONTESTS—Requires publication of prize winners and the prize winning entry in all promotion contests carried on through the use of the mails or any facilities of interstate or foreign commerce. Referred to Committee on Post Offices and Post Roads. No action.

S. 2251 (SEN. CHAVEZ, N. M.) GOVERNMENT BROADCASTING STATION—Directs Secretary of Navy to construct, maintain and operate high frequency stations to broadcast programs to all nations in Western Hemisphere; to appropriate three million dollars for construction purposes and one hundred thousand dollars for operative expense during year ending June 30, 1940. To Committee on Foreign Relations. No action.

S. 2466 (SEN. SHEPPARD, Texas) COMMUNICATIONS ACT—Same as H. R. 5508. To amend the Communications Act of 1934 by adding Section 307½, which would prohibit licenses in excess of fifty kilowatts to any station broadcasting network programs. Referred to Committee on Interstate Commerce. No action.

S. 2611 (SEN. WHEELER, Mont.) GOVERNMENT RADIO STATION—Authorizing the purchase of site and erection of building in Massachusetts for use as radio-monitoring station at cost not to exceed \$30,000. To Committee on Interstate Commerce. Passed by Senate. Reported to House.

S. 2719 (SEN. O'MAHONEY, Wyo.) ANTITRUST LAWS—Same as H. R. 7035. To Committee on Judiciary. No action.

S. 2846 (SEN. WHEELER, Mont.) COPYRIGHT—Provides that in network and transcription broadcasts originating station or transcription manufacturer is solely liable for infringement. To Committee on Patents. No action.

S. 3043 (SEN. THOMAS, Idaho) COPYRIGHT—To amend and consolidate the Acts respecting copyright. Referred to Committee on Patents. No action.

S. 3512 (SEN. PEPPER, Fla.) COMMUNICATIONS ACT—To provide for public hearings on applications for licenses under the Communications Act of 1934. Referred to Committee on Interstate Commerce. No action.

S. 3515 (SEN. BAILEY, N. C.) TO AMEND THE COMMUNICATIONS ACT OF 1934 IN ORDER TO PRESERVE AND PROTECT LIBERTY OF EXPRESSION IN RADIO COMMUNICATION—Prohibits Federal Communications Commission's taking adverse action for alleged program offenses; establishes for broadcast stations minimum license period of 3 years and maximum of 10 years; requires hearing where the Commission's action would adversely affect the interest of any holder of a license or any applicant therefor; requires a hearing prior

to any order of revocation of license; limits powers of the President in time of peace and war. Referred to Committee on Interstate Commerce. No action.

S. 3745 (SEN. BARBOUR, N. J.) COMMUNICATIONS ACT—To limit the powers of the Federal Communications Commission in certain cases. Referred to Committee on Interstate Commerce. No action.

## SENATE RESOLUTIONS

S. Res. 94 (SEN. WHITE, Maine) COMMUNICATIONS COMMISSION—To authorize investigation of the acts, rules, regulations, organization and policies of the FCC with respect to censorship of communications, ownership of broadcasting stations and other matters. To Interstate Commerce Committee. No action.

S. Res. 251 (SEN. LUNDEEN, Minn.)—WHEREAS the Federal Communications Commission on Feb. 29, 1940, issued an order permitting limited commercial sponsorship of television beginning Sept. 1, 1940; and

WHEREAS television interests immediately launched a manufacturing, advertising and sales promotion campaign; and

WHEREAS the Federal Communications Commission on Mar. 22, 1940, rescinded its order of Feb. 29, 1940, with resultant confusion in the minds of the public and causing abandonment of manufacturing, advertising, and sales programs which had, in effect, been authorized by the Commission's earlier ruling: THEREFORE BE IT

RESOLVED, That the Senate Committee on Interstate Commerce is hereby requested to investigate the action of the Federal Communications Commission in connection with the development of television and, in particular, to ascertain whether the Commission has exceeded its authority, and whether it has interfered with the freedom of public and private enterprise. Referred to the Committee on Interstate Commerce. No action.

S. Res. 300 (SEN. TOBEY, N. H.)—RESOLVED, That the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is authorized and directed to make a full and complete investigation with respect to (1) the existence, extent, formation, legality, and effect upon the public or any individual or group, of any monopoly in radio broadcasting or any phase thereof or in the production, sale, or distribution of radio receiving or broadcasting apparatus; (2) the administration by the Federal Communications Commission of those provisions of the Communications Act of 1934, as amended, which relate in any manner to radio communication; (3) the manner of exercise by licensees of the Federal Communications Commission of the privileges conferred upon them by their licenses from the Federal Communications Commission; (4) the effect upon the public interest of any contract pertaining to radio to which any such licensee or any broadcasting network is a party; and (5) any attempts made by any such licensee, broadcasting network, or any person, company, or corporation, engaged in any business relating to radio, or by any attorney, agent, or representative of any such licensee, network, person, company, or corporation to unduly influence any public official in the exercise of his duties with respect to any matter pertaining to radio. The committee shall report to the Senate, at the earliest practicable date, the results of its investigation, together with its recommendations, if any, for necessary legislation. Referred to the Committee on Interstate Commerce. No action.

## HOUSE BILLS

H. R. 94 (MR. MALONEY, La.) PAID TESTIMONIALS—To require announcement of paid "recommendations" (testimonials), if any at time of broadcast. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 251 (MR. CULKIN, N. Y.) LIQUOR ADVERTISING—To prohibit radio advertising of alcoholic beverages. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 252 (MR. CULKIN, N. Y.) LIQUOR ADVERTISING—Same as H. R. 251, except that it specifically defines "alcoholic beverage" as including "beer, ale, wine, gin, whiskey, or brandy." Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 253 (MR. CULKIN, N. Y.) LIQUOR ADVERTISING—To prohibit the transportation in interstate commerce of intoxicating liquor advertising, either by mail or otherwise, including radio broadcasting. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 924 (MR. CULKIN, N. Y.) LIQUOR ADVERTISING—Same as H. R. 253, except that it pertains to "alcoholic beverages" and is not limited to "intoxicating liquor." Referred to Interstate and Foreign Commerce Committee. No action.



H. R. 926 (MR. DALY, Pa.) COPYRIGHTS—To amend and consolidate acts respecting copyright, including the creation of a copyright in recording artists for renditions reproduced on phonograph records, disks, sound tracks, or any other substances. Referred to Patents Committee. No action.

H. R. 1651 (MR. DICKSTEIN, N. Y.) IMMIGRATION OF PERFORMING ARTISTS—Denies admission to United States for professional engagement of actor, singer or dancer where country of origin does not grant, both in law and in fact, substantially similar privileges to citizens of the United States. Referred to Immigration and Naturalization Committee. No action.

H. R. 1964 (MR. LUCY, Mass.) COPYRIGHTS—To create renewal rights in author of articles in periodicals, encyclopedias, etc., when such articles are not separately copyrighted. Same as S. 547. Referred to Patents Committee. No action.

H. R. 2721 (MR. CELLER, N. Y.) GOVERNMENT RADIO STATION—To construct and maintain Government radio broadcasting station in vicinity of Washington by Secretary of Navy, with programs under direction of the United States Commissioner of Education. Referred to Naval Affairs Committee. No action.

H. R. 2981 (MR. CELLER, N. Y.) LIBEL—SLANDER—Exempts station from liability for libel or slander when station proves the exercise of due care to prevent the utterance of such statements. Referred to Judiciary Committee. No action.

H. R. 3582 (MR. FLANNERY, Pa.) ADVERTISING—Requires informative advertising of imported articles. Referred to Interstate and Foreign Commerce Committee. Superseded by H. R. 5985. No action.

H. R. 3752 (MR. LEA, Calif.) COMMUNICATIONS ACT—To amend Section 303 (1). Limits the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4224 (MR. LEA, Calif.) COMMUNICATIONS ACT—To reorganize Communications Commission. Same as S. 1268. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4433 (MR. LANHAM, Texas) COPYRIGHTS—To secure prompt deposit of copyrightable material and prompt registration of claims to copyright in the copyright office. Referred to Committee on Patents. Hearing held. Superseded by H. R. 5319. No action.

H. R. 4684 (MR. MCLEOD, Mich) COMMUNICATIONS ACT—To amend Section 307, subdivisions (d) and (e), by requiring that broadcasting licenses be issued for a period not less than three years nor more than five years and to provide against denial of renewal application because of political views expounded over station. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4871 (MR. DALY, Pa.) COPYRIGHT ACT—To amend the Copyright Act in various respects, including the creation of copyright in recording artists covering the rendition of their recordings when reproduced mechanically. Referred to Committee on Patents. No action.

H. R. 5319 (MR. LANHAM, Texas) COPYRIGHTS—To secure prompt deposits of copyrightable material with Register of Copyrights and prompt registration of claims to copyright. Referred to Committee on Patents. No action.

H. R. 5435 (MRS. NORTON, N. J.) WAGE AND HOUR ACT—To amend, to remove hours restrictions on employees making \$200 or more a month, et al. Reported to House.

H. R. 5508 (MR. PETERSON, Fla.) COMMUNICATIONS ACT—To amend the Communications Act of 1934 by adding Section 307½, which would prohibit licenses in excess of fifty kilowatts to any station broadcasting network programs. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 5791 (MR. SCHULTE, Ind.) COMMUNICATIONS—To prohibit recording for profit or gain any program without consent in writing of the performers. To Interstate and Foreign Commerce Committee. No action.

H. R. 5985 (MR. FLANNERY, Pa.) ADVERTISING—To require announcement of place origin of all imported articles or articles assembled in the United States from imported products, ingredients, parts or materials. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 6160 (MR. McGRANERY, Pa.) COPYRIGHTS—To amend the Copyright Act of 1909 in many respects, including the creation of copyright in phonograph records, the extension of the duration of copyright to 56 years. Referred to Committee on Patents. No action.

H. R. 6219 (MR. DOUGHTON, N. C.) ALCOHOLIC BEVERAGES—To amend the Federal Alcohol Administration Act so as to prohibit, among other things, the advertising of alcoholic beverages by radio. Referred to Committee on Ways and Means. No action.

H. R. 6243 (MR. MOSER, Pa.) COPYRIGHTS—Regulating use of copyrighted works. Authorizes Federal Communications Commission to grant licenses and fix the fees for use of copyrighted works when an agreement with copyright owner cannot be secured. To Committee on Patents. No action.

H. R. 6695 (MR. McGRANERY, Pa.) COMMUNICATIONS ACT—To prohibit recording for profit or gain any program without consent in writing of the performers. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 6973 (MR. LEA, Calif.) GOVERNMENT RADIO STATIONS—Authorizing the purchase of site and erection of building in Massachusetts for use as radio monitoring station at cost not to exceed \$30,000. Referred to Committee on Interstate and Foreign Commerce. Same as S. 2611. No action.

H. R. 7035 (MR. HOBBS, Ala.) ANTITRUST LAWS—To amend Sec. 8 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and to provide additional civil remedies against violations. Referred to Judiciary Committee. No action.

H. R. 7188 (MR. COCHRAN, Mo.) COMMUNICATIONS ACT—To abrogate FCC Rule 42.03(a), adopted by FCC May 23, 1939, requiring international broadcast stations to limit programs to those which reflect the culture of the United States and promote international goodwill, understanding and cooperation, and to prohibit FCC adopting any similar rule. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 7192 (MR. FAY, N. Y.) PATENTS—To provide for the compulsory granting of licenses under patents which are brought by competitors within a single control in order to dominate an industry. Referred to Patents Committee. No action.

H. R. 7456 (MR. KENNEDY, N. Y.) COPYRIGHT—Provides that in network and transcription broadcasts originating station or transcription manufacturer is solely liable for infringement. Referred to Committee on Patents. No action.

H. R. 8263 (MR. O'BRIEN, N. Y.) TO AMEND THE COPYRIGHT ACT—Provides that the damages for infringement of copyright of musical compositions played in hotels or restaurants when no entrance fee is charged, or cover or its equivalent charge made, shall not exceed \$10 for each performance, unless greater damages are shown. Referred to the Committee on Patents.

H. R. 8509 (MR. DITTER, Pa.) TO AMEND THE COMMUNICATIONS ACT OF 1934 IN ORDER TO PRESERVE AND PROTECT LIBERTY OF EXPRESSION IN RADIO COMMUNICATION—Prohibits Federal Communications Commission's taking adverse action for alleged program offenses; establishes for broadcast stations minimum license period of 3 years and maximum of 5 years; requires hearing where the Commission's action would adversely effect the interest of any holder or a license of any applicant therefor; requires a hearing prior to any order of revocation of license; limits powers of the President in time of peace and war. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 9665 (MR. CLASON, Mass.) COPYRIGHT—To reduce the amount of damages for infringement of copyright of musical compositions in certain hotels and other places. Referred to the Committee on Patents. No action.

H. R. 9703 (MR. McGRANERY, Pa.) COPYRIGHT—To amend the Act entitled "An Act to amend and consolidate the Acts respecting copyright," approved March 4, 1909, as amended, and for other purposes. Referred to the Committee on Patents. No action.

H. R. 10205 (MR. BLAND, Va.) COMMUNICATIONS ACT—To amend section 4(f) of the Communications Act of 1934, as amended, to provide for extra compensation for overtime of inspectors in charge and radio inspectors of the Field Division of the Engineering Department of the Federal Communications Commission. Referred to the Committee on Merchant Marine and Fisheries. Reported to House.

H. R. 10720 (MR. VOORHIS, Calif.) ADVERTISING—To provide funds for the national defense; to prevent avoidance of taxes by unlimited investment in advertising; to control uneconomic advertising expense engaged in by the liquor, tobacco, and luxury trades; to discourage advertising on the public highways and to derive revenue therefrom; and for other purposes. Referred to the Committee on Ways and Means.

## HOUSE RESOLUTIONS

H. Res. 70 (MR. CONNERY, Mass.) FCC INVESTIGATION—Provides for exhaustive investigation of Federal Communications Commission. Referred to Rules Committee. No action.

H. Res. 72 (MR. WIGGLESWORTH, Mass.) BROADCASTING AND FCC INVESTIGATION—Provides for investigation of the broadcasting industry in the United States and of the acts, rules, regulations and policies of the Communications Commission. Referred to Rules Committee. No action.

H. Res. 234 (MR. LARRABEE, Ind.) FCC—To authorize the FCC to take steps to provide an adequate method to obtain data and and other factual information and material necessary to determine the effects of power in excess of fifty kilowatts, and to provide that the FCC shall not be restrained from licensing one or more than one station to operate on power of more than fifty kilowatts for such experimental operation as may be necessary. Referred to Committee on Interstate and Foreign Commerce. No action.

H. Res. 462 (MR. CONNERY, Mass.) MONOPOLY INVESTIGATION—A resolution to investigate radio broadcasting monopoly. Referred to Committee on Rules. No action.

## HOUSE JOINT RESOLUTIONS

H. J. Res. 149 (MR. SIROVICH, N. Y.) COPYRIGHT—To create a Bureau of Fine Arts in the Department of the Interior with authority in the Secretary of the Interior to undertake and carry on "such projects and activities as may be necessary or appropriate to foster, develop and encourage the use of copyrighted and copy-rightable material." Referred to Patents Committee. No action.

H. J. Res. 585 (MR. DINGELL, Mich.) NATIONAL RADIO DAY—Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and directed to issue a proclamation designating August 26 of each year as National Radio Day, calling upon officials of the Government to display the flag of the United States on all Government buildings on that day, and inviting the people of the United States to observe the day with appropriate ceremonies. Referred to the Committee on the Judiciary. No action.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings and oral arguments will be held before the Commission during the week beginning Monday, January 6. They are subject to change.

### Wednesday, January 8

WARM—Union Broadcasting Company, Scranton, Pa.—License to cover C. P., 1370 ke., 250 watts night, 250 watts day, unlimited.

### Thursday, January 9

#### Oral Argument Before the Commission

Report No. B-115:

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Renewal of license, 1210 ke., 100 watts night, 100 watts LS, unlimited time.

### Friday, January 10

KRMC—Roberts Mac Nab Company (Assignor) (Arthur L. Roberts, R. B. Mac Nab and A. J. Breitbach, General Mgr.), and Jamestown Broadcasting Co., Inc. (Assignee), Jamestown, N. D.—Voluntary assignment of license, 1370 ke., 250 watts night, 250 watts day, unlimited time.

## FUTURE HEARINGS

During the past week the Commission has announced the following dates for future broadcast hearings. They are subject to change.

## February 4

To Be Held in the U. S. Court Building, San Juan, Puerto Rico

NEW—Puerto Rico Advertising Co., Inc., Arecibo, P. R.—C. P., 1200 ke., 250 watts, unlimited.

NEW—Puerto Rico Advertising Co., Inc., San Juan, P. R.—C. P., 1500 ke., 250 watts, unlimited.

NEW—Caribbean Broadcasting Association, Inc., San Juan, P. R.—C. P., 1500 ke., 250 watts, unlimited.

WPRR—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Renewal of license, 780 ke., 1 KW night, 2½ KW day, unlimited.

## February 17

WGNV—WGNV Broadcasting Company, Inc., Newburgh, N. Y.—C. P., 1370 ke., 250 watts, unlimited.

NEW—Stephen R. Rintoul, Stamford, Conn.—C. P., 1370 ke., 250 watts, unlimited.

## February 19

KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—C. P., 600 ke., 500 watts night, 1 KW LS.

## February 21

WMBG—Havens & Martin, Inc., Richmond, Va.—Modification of license, 1350 ke., 5 KW, unlimited, DA day and night. Present assignment: 1350 ke., 1 KW night, 5 KW day, unlimited, DA night and day.

## February 24

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—C. P., 1500 ke., 250 watts, unlimited.

## February 26

KFRO—Voice of Longview, Longview, Tex.—Modification of construction permit, 1340 ke., 5 KW, unlimited, DA night. Present assignment: 1340 ke., 1 KW, unlimited, DA night.

KGNO—The Dodge City Broadcasting Company, Inc., Dodge City, Kans.—Modification of license, 1340 ke., 500 watts night, 1 KW day, unlimited. Present assignment: 1340 ke., 250 watts night, 1 KW day, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

Because of the holiday there was no meeting of the Commission this week. The next regular meeting of the Commission is scheduled for January 7.

## MISCELLANEOUS

KFDY—South Dakota State College, Brookings, S. Dak.—Granted special temporary authority to remain silent on December 25, 1940, and January 1, 1941, in order to observe the holidays.

WLBL—State of Wisconsin, Dept. of Agriculture, Stevens Point, Wis.—Granted special temporary authority to remain silent December 25, 1940, due to closing Federal Marketing Offices.

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Granted special temporary authority to operate from 1 a. m. to 2 a. m., EST, on December 25, 1940, in order to broadcast Midnight Mass only.

W1XK—Westinghouse Electric & Mfg. Co., Hull, Mass.—Granted special temporary authority to operate a high frequency experimental broadcast station on 42600 ke., 1000 watts power, special emission for frequency modulation, with transmitter located at Hull, Mass., and described as: Westinghouse, Type HE, maximum rated carrier power 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W1XK on a commercial basis.



- W1XSN—Westinghouse Electric & Mfg. Co., E. Springfield, Mass.—Granted special temporary authority to operate a high frequency experimental broadcast station on **42600 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at E. Springfield, Mass., and described as: Westinghouse, Type HE, maximum rated carrier power 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W1XSN on a commercial basis.
- W1XSO—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43700 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at Avon, Conn., and described as: Composite, maximum rated carrier power output 1000 watts, for period January 1, 1941, to not later than March 1, 1941.
- W9XAO—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted special temporary authority to operate a high frequency experimental broadcast station on **42600 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at Milwaukee, Wis., and described as: REL, Type 519, maximum rated carrier power output 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W9XAO subsequent to January 1, 1941, and until the new high frequency broadcast station now being constructed is ready for operation; denied authority to operate station W9XAO under the new call letters assigned new construction permit; denied authority to operate station W9XAO on frequency **45500 kc.**
- William G. H. Finch, New York, N. Y.—Denied authority to operate Western Electric transmitter commercially, using 1000 watts, **45500 kc.**, at 1819 Broadway, New York City (File No. B1-PH-42).
- W8XVB—Stromberg-Carlson Telephone Mfg. Co., Rochester, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts power, special emission for frequency modulation with transmitter located at Rochester, N. Y., and described as: R.E.L. Type Cat. No. 519, maximum rated carrier power 2000 watts, for the period January 1, 1941, to not later than March 1, 1941.
- W1XOJ—The Yankee Network, Inc., Paxton, Mass.—Granted special temporary authority to operate a high frequency experimental broadcast station on **44800 kc.**, 50000 watts power, special emission for frequency modulation, with transmitter located at Paxton, Mass., and described as: Radio Engineering Laboratories, Type 521, maximum rated carrier power 50 KW, for period January 1, 1941, to not later than March 1, 1941.
- W3XO—Jansky & Bailey, Washington, D. C.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at Georgetown, D. C., and described as: Composite, maximum rated carrier power 1000 watts, for period January 1, 1941, to not later than March 1, 1941.
- W8XVH—WBNS, Inc., Columbus, Ohio.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43000 kc.**, 250 watts power, special emission for frequency modulation, with transmitter located at Columbus, Ohio, and described as: GE, Type 4GF1A1, maximum rated carrier power 250 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W8XVH on a commercial basis.
- W8XAD—WHEC, Inc., Rochester, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **42600 kc.**, 1000 watts, special emission for frequency modulation, with transmitter located at Rochester, N. Y., and described as: R.E.L., Type 519, maximum rated carrier power output 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W8XAD on a commercial basis.
- W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43900 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at 350 Fifth Ave., New York City, and described as: RCA Modified, Type 100 FA exciter with an MI-7151 RF amplifier, maximum rated carrier power output 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate Station W2XWG on **45100 kc.** with 1000 watts power for period of three months.
- W1XPW—WDRG, Inc., Hartford, Conn.—Granted special temporary authority to operate a high frequency experimental broadcast station on **41100 kc.**, in order to continue experiment in rebroadcasting high frequency broadcast station W2XMN emissions which are to be rebroadcast by W1XOJ, 1000 watts power, special emission for frequency modulation, with transmitter located at Meriden, Conn., and described as: Composite, Type FM1, maximum rated carrier power 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority of Station W1XPW to operate on **46500** instead of **41100 kc.**
- WBNS, Inc., Columbus, Ohio.—Denied authority to operate a 3 KW GE transmitter on frequency **44500 kc.** at 1035 Barnet Road, Columbus, Ohio, and a quarter-wave antenna on top of the present 382 foot WBNS antenna tower for the period December 26, 1940, to not later than January 24, 1941, in order to render FM broadcast service in the Columbus area pending completion of Station W45CM.
- W9XZR—Zenith Radio Corp., Chicago, Ill.—Granted special temporary authority to operate a high frequency experimental broadcast station on **42800 kc.**, 5000 watts, special emission for frequency modulation with transmitter located at 505 N. Michigan Ave., Chicago, and described as: Zenith & REL (using REL Modulation Unit), Type ZR-11 (494-B), maximum rated carrier power output 5000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate on **45100 kc.**, 5000 watts, at 135 S. LaSalle St., Chicago, with present transmitter; denied authority to operate for 90 days from December 20 with power of 5000 watts on **45100 kc.** at 505 N. Michigan Ave., Chicago.
- W2XMN—Edwin H. Armstrong, N. of Alpine, N. J.—Granted special temporary authority to operate a high frequency experimental broadcast station on **42800 kc.**, 4000 watts power, special emission for frequency modulation, with transmitter located at North of Alpine, N. J., and described as: Composite, Type RCA, maximum rated carrier power 40000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate Station W2XMN on a commercial basis.
- W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at Long Island City, N. Y., and described as: Composite, maximum rated carrier power output 1000 watts; facsimile modulation may be employed in connection with the program of research and experimentation (no authority is contained herein to conduct a facsimile broadcast service); authority granted for period January 1, 1941, to not later than March 1, 1941; denied authority to operate Station W2XQR on **48300 kc.**
- WBCM—Bay Broadcasting Company, Inc., Bay City, Mich.—Granted petition for dismissal without prejudice of application for modification of license to increase nighttime power from 500 watts to 1 KW.
- WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Granted petition for dismissal without prejudice of application for modification of license to increase nighttime power from 500 watts to 1 KW.
- WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Granted motion to dismiss without prejudice application for construction permit to install new equipment, increase power from 500 watts night, 1 KW day, to 1 KW night, 5 KW day.
- WTNJ—WOAX, Inc., Camden, N. J.—Dismissed petition to intervene in the hearing on the application for renewal of license for WCAM.
- WTNJ—WOAX, Inc., Camden, N. J.—Same except in re application of WCAP.
- WTNJ—WOAX, Inc., Camden, N. J.—Dismissed petition to intervene in the hearing in re application of Trent Broadcast Corp., for a new station in Trenton, N. J., to operate on **1230 kc.**, 1 KW, unlimited time, D.A. and on its own motion the Commission consolidated the hearings on Trent Broadcast Corp., application and renewal for WTNJ.
- The Gazette Co., Cedar Rapids, Iowa.—Granted motion for leave to amend application for new station so as to request frequency **1550** instead of **1420 kc.**, and 5 KW power instead of 100 watts, unlimited time.

- WCBA—Lehigh Valley Broadcasting Co., Allentown, Pa.—Granted motion to accept amendments to application to increase power from 500 watts to 5 KW, to include engineering affidavit which proposes a new directional antenna (which protects station CKGB, Timmons, Ontario).
- WSAN—Lehigh Valley Broadcasting Co., Allentown, Pa.—Granted motion to accept amendments to application to increase power from 500 watts to 5 KW, to include engineering affidavit which proposes a new directional antenna (which protects station CKGB, Timmons, Ontario).
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from 5:15 p. m. to 5:45 p. m., CST, December 25, 1940, in order to broadcast NBC nation-wide salute to affiliation of WEAU with NBC network, only.
- T. B. Gillespie, Palatka, Fla.—Denied as in case of default application for construction permit for new broadcast station to operate on 1310 kc., 250 watts, unlimited time. (B3-P-2941)
- WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—Granted modification of construction permit (B3-P-2893), which authorized increase in power, move of transmitter and studio, etc., for new transmitter and extension of commencement and completion dates to one day after grant and 150 days thereafter respectively.
- KFBC—Frontier Broadcasting Co., Cheyenne, Wyo.—Granted license to cover construction permit (B5-P-1339), which authorized a new station to operate on 1420 kc., 100 watts, 250 watts LS, unlimited time. Also granted authority to determine operating power by direct measurement of antenna power.
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted license to cover construction permit (B2-P-3013), which authorized installation of new transmitter.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs Nat'l Park, Ark.—Granted special temporary authority to operate from 12 midnight, December 31, to 3 a. m. CST, January 1, in order to broadcast New Years Celebration only.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate from 4:30 to 8 p. m. CST, December 27, and from 4:30 to 11 p. m. CST, December 28, in order to broadcast sectional basketball tournament games only.
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off (January, 5:30 p. m. CST), to completion of Rose Bowl football game on January 1st, in order to broadcast said game only.
- WNYE—Board of Education, City of New York, New York, N. Y.—Granted special temporary authority to continue to operate noncommercial educational broadcast station WNYE after January 1, 1941, on 41100 kc., for a period of 30 days pending action on application to change frequency 42100 kc.
- WNAD—Univ. of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 2 to 3 p. m. CST, January 7, 8, 9, 14, 15, 16, 21 and 22, and from 2 to 3:15 p. m. CST, on January 6, 13, 20 and 27, in order to broadcast educational programs; and to remain silent from 8:15 to 9:15 p. m. CST, on January 1 and 29, and from 7:15 to 9:15 p. m. CST, on January 2, 23, 28 and 30, during Christmas vacation and semester examinations.
- KGGF—Hugh J. Powell, Coffeyville, Kans.—To remain silent from 2 to 3 p. m. CST, on January 7, 8, 9, 14, 15, 16, 21 and 22, and from 2 to 3:15 p. m., CST, on January 6, 13, 20 and 27, in order to permit WNAD to broadcast educational programs; to operate from 8:15 to 9:15 p. m. CST, on January 1 and 29, and from 7:15 to 9:15 p. m. CST, on January 2, 23, 28 and 30, in order to fill WNAD's time during Christmas vacation and semester exams.
- WRUL—World Wide Broadcasting Corp., Boston, Mass.—Granted special temporary authority to operate International Broadcast Station on frequencies 11730 and 6040 kc., with power of 50 KW on Sunday, December 29, in order to broadcast speech of the President.
- WSTV—The Valley Broadcasting Co., Steubenville, Ohio.—Denied special temporary authority to operate simultaneously with WSAJ from 5 to 5:30 p. m. EST, on January 5, 12, 19 and 26, in order to broadcast Mutual Broadcasting System program entitled "Wheeling Steel Makers".
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from 8:30 p. m., CST, to conclusion of President's speech on December 29th, for purpose of broadcasting said speech only.
- WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 6:30 p. m. to 10:30 p. m., January 16, 7 to 10 p. m., January 17, 4 to 5 p. m., and 7:30 to 9:30 p. m. CST, January 18, 1941, in order to broadcast basketball games only.
- WAJR—West Virginia Radio Corp., Morgantown, W. Va.—Granted license to cover construction permit (B2-P-2871) which authorized a new station to operate on 1200 kc., 250 watts, unlimited time; also granted authority to determine operating power by direct measurement of antenna input.
- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted modification of construction permit (B5-P-2783) which authorized changes in equipment and increase in power, for extension of completion date from January 7 to March 8, 1941.
- WNAL—National Broadcasting Co., Inc., Washington, D. C.—Granted modification of construction permit (B1-P-2475) authorizing installation of new transmitter, increase in power, etc., for extension of completion date from 1-27-41 to 3-27-41.
- WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Granted license to cover construction permit (B1-P-2980) which authorized move of old Composite transmitter from Flushing, L. I., to site of new main transmitter, Bellesville Turnpike, N. J., use power of 1 KW, emergency use only, employing directional antenna day and night.
- WMFF—Plattsburg Broadcasting Corp., Plattsburg, N. Y.—Granted authority to determine operating power by direct measurement of antenna input.
- WIBM—WIBM, Inc., Jackson, Mich.—Granted authority to determine operating power by direct measurement of antenna input.
- W9XBK—Balaban & Katz Corp., Chicago, Ill.—Granted modification of construction permit (B4-PVB-50) which authorized a new television station, for approval of antenna system and transmitter location at 190 No. State St., Chicago, Ill.
- W9XYN—Head of the Lakes Broadcasting Co., Superior, Wis.—Granted special temporary authority to operate a high frequency experimental broadcast station on 43000 kc., 1 KW power, special emission for FM, with transmitter at 39th St. and Tower Ave., Superior, for period January 1 to March 1, 1941.
- W3XMC—McNary & Chambers, Washington, D. C.—Granted special temporary authority to operate a high frequency experimental broadcast station on 42600 kc., 100 watts, special emission for FM, with transmitter at 2701 14th St., N. W., for the period January 1 to March 1, 1941.
- WRCA-WNBI—National Broadcasting Co., Inc., New York City.—Suspended the effective date of modification of license B1-MLIB-45 and special temporary authority granted under B1-MLIB-44 until January 31, in order to permit the simultaneous utilization of 9670 and 17780 kc. while changes in equipment are being made in accordance with outstanding construction permits.
- KYOS—Merced Broadcasting Co., Merced, Calif.—Granted special temporary authority to operate from local sunset (Dec. 4:45 p. m., PST), December 31, 1940, to January 1, at 1 a. m., 1941, in order to broadcast New Year's Eve celebrations, and from local sunset (Kan. 5:15 p. m., PST) to 9 p. m., PST, January 1, in order to broadcast football program from Hawaiian Islands.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate simultaneously with KFAB from 6 a. m., CST, to local sunrise (Dec. 7:45 a. m.; Jan. 7:45 a. m., CST), for the period December 30 and ending January 28, pending action on formal application for such authority.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate as above except simultaneously with WBBM.
- WJOB—O. E. Richardson and Fred L. Adair (a partnership), Hammond, Ind.—Granted special temporary authority to operate simultaneously with WFAM from 7:30 to 8 p. m., CST, on December 28, in order to broadcast basketball game tournament only, in addition to authority granted Dec. 16.
- WSPA—Spartanburg Advertising Co., Inc., Spartanburg, S. C.—Granted special temporary authority to operate from 9:30 p. m., EST, to conclusion of President's speech on December 29, in order to broadcast the speech only.

The Commission has granted further extension of relay broadcast stations, upon a temporary basis only, pending receipt and deter-



mination of renewal applications, for the period January 1 to February 1, 1941:

KAOU, Tucson, Ariz.; WEGZ, New Haven; WEIC, Schenectady; KEIM, Phoenix, Ariz.; KEIN, Walla Walla, Wash.; KEGN, San Francisco; KFAS, Fairbanks, Alaska; WEOM, Aurora, Ill.; WEOC, Charleston, S. C.; WEKW, Hartford, Conn., and WENK, Erie, Pa.

W2XOR—Bamberger Broadcasting Service Corp., New York, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **43500 kc.**, with 1000 watts power, special emission for frequency modulation, with transmitter located at 444 Madison Ave., New York City, and described as Western Electric, Type D-151182, maximum rated carrier power output 1000 watts, for period January 1, 1941, to not later than March 1, 1941; denied authority to operate station W2XOR on the frequency of **47100 kc.** (which frequency was granted for new high frequency broadcast construction permit).

KFJZ—Tarrant Broadcasting Co., Fort Worth, Tex.—Granted modification of construction permit (B3-P-2497) which authorized new transmitter, increase in power, etc., for move of transmitter from northeast of Fort Worth to ½ mile northwest of Birdville, Tex.; extend commencement and completion dates from 11-17-40 and 5-17-41 to date of grant and 120 days thereafter.

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Authority to transfer 50 per cent of interest in corporation from Strawberry & Clothier to Lit Brothers, 7100 shares common stock.

### 600 Kilocycles

WCAO—Monumental Radio Co., Baltimore, Md.—Construction permit to change power from 500 watts night, 1 KW day, to 5 KW day and night, install new transmitter, install directional antenna for day and night use, and move transmitter. Amended to make changes in directional antenna for day and night use.

### 930 Kilocycles

WDBJ—Times-World Corporation, Roanoke, Va.—Modification of construction permit (B2-P-2522) for installation of directional antenna for night use, increase in power, requesting approval of transmitter location at present licensed site and approval of directional antenna as specified under construction permit (B2-P-2522).

### 1050 Kilocycles

WIBC—Indiana Broadcasting Corp., Indianapolis, Ind.—Modification of construction permit (B4-P-2886) for change of hours of operation, power, move of transmitter, and installation of directional antenna day and night, requesting installation of new transmitter, increase power from 1 KW to 1 KW night, 5 KW day, using directional antenna night only, and extend commencement and completion dates. Amended to make changes in directional antenna for night use and move transmitter.

### 1200 Kilocycles

KFXD—Frank E. Hurt, Nampa, Idaho.—Authority to determine operating power by direct measurement of antenna power.

### 1210 Kilocycles

WGRM—P. K. Ewing, Greenwood, Miss.—License to cover construction permit (B3-P-3009) for new transmitter.

### 1220 Kilocycles

KPAC—Port Arthur College, Port Arthur, Tex.—Modification of license to increase power from 500 watts to 500 watts night, 1 KW day. Amended to request 1 KW day and night (using directional antenna night).

### 1280 Kilocycles

WORC—Alfred Frank Kleindienst, Worcester, Mass.—License to cover construction permit (B1-P-2563) for changes in equipment and increase in power.

WORC—Alfred Frank Kleindienst, Worcester, Mass.—Authority to determine operating power by direct measurement of antenna power.

### 1310 Kilocycles

KRJF—Star Printing Co., Miles City, Mont.—Modification of construction permit (B5-P-2533) for a new station, requesting approval of studio and transmitter sites at U. S. Highway No. 212, south near intersection of road to Miles City Country Club, Miles City, Mont., approval of antenna and change type of requested transmitting equipment.

WINX—Lawrence J. Heller, Washington, D. C.—License to cover construction permit (B1-P-2546) as modified for a new 50-watt amplifier.

### 1350 Kilocycles

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Modification of construction permit (B4-ML-386) to change power and install directional antenna for day and night use, requesting approval of directional antenna for day and night use.

### 1370 Kilocycles

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Construction permit to change frequency from **1370 to 1020 kc.** (**1060 kc.** under North American Regional Broadcasting Agreement), increase power from 250 watts to 10 KW, install a new transmitter, install directional antenna for day and night use, and move transmitter. Amended: To change type of requested transmitting equipment.

### 1500 Kilocycles

KROD—Dorrance D. Roderick, El Paso, Texas.—Modification of construction permit (B3-P-2725) to install new transmitter, change frequency, and increase power, further requesting authority to change type of transmitter, and extend commencement and completion dates.

## FM APPLICATIONS

NEW—Stromberg-Carlson Telephone Manufacturing Co., Rochester, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **45100 kc.**, coverage, 2240 square miles; population, 543,000.

NEW—FM Radio Broadcasting Co., Inc., New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **48300 kc.**, coverage, 8600 square miles; population, 9,800,000.

NEW—Columbia Broadcasting System, Inc., Boston, Mass.—Construction permit for a new high frequency broadcast station to be operated on **44100 kc.**, coverage, 16230 square miles; population, 5,972,246.

NEW—Gordon Gray, Winston-Salem, N. C.—Construction permit for a new high frequency broadcast station to be operated on **44100 kc.**, coverage, 69400 square miles; population, 4,125,000.

NEW—The Gazette Company, Cedar Rapids, Iowa.—Construction permit for a new high frequency broadcast station to be operated on **44700 kc.**, coverage, 7400 square miles; population, 282,000.

## MISCELLANEOUS

KLX—Tribune Building Co., Oakland, Calif.—Authority to determine operating power by direct measurement of antenna power. (Not signed or verified by an officer.)

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition against the following firms. The respondents will

be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Copinol Company**—Robert E. Overell, trading under the firm name of Copinol Company, 7th and Main Sts., Los Angeles, engaged in the distribution of a medicinal preparation designated "Copinol" and sometimes "Copinol Nasal Medicine," is charged in a complaint with false advertising.

The complaint charges that in advertisements distributed through the United States mails and other means in commerce, the respondent has represented among other things: "Secret Formula for Nose Catarrh Revealed at Last!" "Special ingredient retains medication longer in nose—speeds relief in catarrh-choked nasal congestion, shrinks swollen membranes," and " \* \* \* New laws require that Copinol reveal its treasured formula and now the whole world knows that LANOLIN, blended with six other scientific ingredients, is the amazingly effective medication that insures such lasting relief from stuffy head colds, catarrh-choked nose and throat, nasal catarrh, and sinus congestions. \* \* \*

These representations, the complaint continues, are false and misleading; the preparation has no therapeutic value in the treatment of head colds, nasal catarrh, or sinus congestion in excess of furnishing temporary relief to congested nasal mucous membranes, and is nothing more than a mild antiseptic emollient and constrictor of the arterioles.

The complaint charges further that respondent's preparation contains ephedrine, and the preparation may be harmful to those suffering from heart trouble, high blood pressure, diabetes or thyroid trouble, and that use of the preparation over a long period of time is likely to produce such prolonged nasal constriction as to cause tissue damage from anoxemia with secondary inflammatory reaction.

The advertisements disseminated by the respondent, the complaint continues, contain no cautionary statements to the effect that this preparation should not be used by persons having heart trouble, high blood pressure, diabetes or thyroid trouble, and constitute false advertising in that they fail to reveal that use of the preparation under the conditions prescribed in the advertisements or under such conditions as are customary or usual, may result in injury to health. (4431)

**Ethel Bellamy, Inc.**, 30 Elm St., Nutley, N. J., engaged in the sale and distribution of a cosmetic and drug preparation designated "Ethel Bellamy Eyelash Luxuriant," is charged, in a complaint with misrepresentation of the product.

In advertisements circulated in commerce, the complaint charges, the respondent has represented that the product is of substantial therapeutic value in the treatment of granulated eyelids; that its use promotes the growth of eyelashes, and that it supplies pigment to eyelashes and darkens eyelashes permanently.

These representations, the complaint continues, are exaggerated, misleading and untrue. (4424)

**Food Service Equipment Industry, Inc.**—Charging various members of the food service equipment industry with combinations and agreements to unlawfully restrict competition in the sale of their products and create monopolies, a complaint has been issued against Food Service Equipment Industry, Inc., Chicago. Its officers, directors, and member companies who are representative of the some 75 or 80 of the country's leading dealers in food service equipment; corporations manufacturing such equipment, who are representative of concerns holding "Honor Roll Certificates" from the industry association; Illinois Brass Mfg. Co., Chicago; Columbia Stamping and Enameling Company, Long Island City, N. Y.; American Vitrified China Manufacturers' Association, New Castle, Pa., two of its officers, and its member manufacturing companies.

The complaint alleges that each of the various respondents, in cooperation with one or more other respondents, either directly, or through Food Service Equipment Industry, Inc., or its officers or directors, or American Vitrified China Manufacturers' Association, or its officers, or by other means, entered into agreements, combinations, policies and practices which had the effect, among other things, of monopolizing in the respondent food service equipment dealers the resale and distribution of food service equipment to hotels, clubs, restaurants and other users, and in monopolizing in the respondent manufacturers the manufacture of such equipment.

The complaint alleges that by means of agreements and under-

standings; (1) the distributors comprising the industry association membership, through the association required all manufacturers of food service equipment to sell their products through the industry association members and not directly to ultimate users, and pursued a general policy of reducing competition throughout the United States which tended to maintain a monopoly in the respondent dealers and manufacturers, such policies and practices having been accomplished through national and local association meetings, special committees, publications and by other means; (2) the industry association issued to respondent manufacturers "Honor Roll Certificates" signifying that they had agreed, and abided by their agreement, not to sell through any but "recognized" dealers and to discontinue selling directly to hotels, restaurants, chain stores and similar users, the tendency and effect being to set up the respondent manufacturers Honor Roll Certificate recipients, as a "White List" of manufacturers to receive exclusively the industry members' business; and (3) the industry association members entered into and carried out agreements with manufacturers of stainless steel and enamel cooking equipment, the china manufacturers' association member and three of the largest commercial gas range manufacturers, all respondents in the proceeding, to monopolize in the respondent industry association members the resale, and in the respondent manufacturers all purchases of these manufacturers' products by industry members.

The complaint alleges that Illinois Brass Mfg. Co. and Columbia Stamping and Enameling Co., although not recipients of Honor Roll Certificates, cooperated as manufacturers with the other respondents in effectuating the industry corporation members' policies and practices.

The respondents officers of Food Service Equipment Industry, Inc. are: I. S. Anoff, Chicago, chairman; M. P. Duke, St. Louis, vice-chairman; Miss L. E. Iwert, Chicago, secretary, and S. R. Spears, New York, treasurer; directors: A. H. Beadle, St. Paul, Minn.; S. J. Carson, Denver, Colo.; H. C. Davis, Baltimore; W. F. Dougherty, Philadelphia; B. Dohrmann, San Francisco; P. L. Ezekiel, Richmond, Va.; A. W. Forbriger, Cincinnati; W. Friedman, New York; C. A. Winchester, Boston; and C. Winkler, Seattle.

The respondent member companies, named as being representative of some 75 or 80 corporations, firms or individuals engaged in the purchase and resale of food service equipment, are: A. L. Cahn & Sons, New York; Duke Manufacturing Co., St. Louis; Ezekiel & Weiman Co., Inc., Richmond, Va.; Alex Janows & Company, Chicago; Albert Pick Co., Inc., Chicago; The Stearnes Company, Chicago; and Straus-Duparquet, Inc., New York.

The respondent manufacturers, named as being representative of some 40 or 45 manufacturers, all recipients of Honor Roll Certificates, are: American Stove Co., St. Louis; Josiah Anstice & Co., Inc., Rochester, N. Y.; G. S. Blakeslee & Co., Cicero, Ill.; G. S. Blodgett Co., Inc., Burlington, Vt.; Carrollton Metal Products Co., Carrollton, Ohio; Colt's Patent Fire Arms Manufacturing Co., Hartford, Conn.; Detroit-Michigan Stove Co., Detroit; Hobart Manufacturing Co., Troy, Ohio; Lalance-Grosjean Manufacturing Co., Woodhaven, Long Island, N. Y.; McGraw Electric Co., Chicago; Polar Ware Co., Sheboygan, Wis.; Standard Gas Equipment Corporation, New York; United States Stamping Co., Moundsville, W. Va.; and Vollrath Co., Sheboygan, Wis.

Active officers of the respondent American Vitrified China Manufacturer Association named respondents are: Albert M. Walker, Bedford, Ohio, president, and James K. Love, New Castle, Pa., secretary-treasurer. Respondent members of the china association are: Bailey-Walker China Co., Bedford, Ohio; Buffalo Pottery Co., Inc., Buffalo, N. Y.; Carr China Company, Grafton, W. Va.; Iroquois China Co., Syracuse, N. Y.; Jackson Vitrified China Co., Falls Creek, Penna.; D. E. McNichol Co. of W. Va., Clarksburg, W. Va.; Mayer China Company, Beaver Falls, Penna.; Onondaga Pottery Co., Syracuse, N. Y.; Scammell China Company, Trenton, N. J.; Shenango Pottery Co., New Castle, Penna.; Sterling China Company, Wellsville, Ohio; and Wellsville China Co., Wellsville, Ohio. The respondents Buffalo Pottery Co., Inc., and D. E. McNichol Co. of W. Va., according to the complaint, received Honor Roll Certificates. (4433)

**National Distillers Products Corporation**, 120 Broadway, New York, which conducts a distillery and factory in Cincinnati in which it prepares and from which it ships into various States a poultry feed supplement variously designated as "Produlac Brand Semi-Solid Distillers Grains Mash", "Semi-Solid Produlac" and "Produlac", is charged, in a complaint with misrepresentation of its product,



The complaint charges that the respondent corporation, in letters and circulars transmitted by mail and otherwise through the various States of the United States (except into and in certain States where the respondent has been compelled by requirement of statutes relating to poultry feeds to modify its representations), has represented and implied that poultry rations generally are inadequate and must be supplemented by the vitamins and nutritional factors represented and implied as being contained in sufficient quantities or percentages in its product. The complaint also alleges that the respondent also represents and implies that the addition of its product as a supplement to a diet or ration already containing the necessary food elements and vitamins results in substantially increased egg production, better health, hatchability of eggs, decreased mortality and other advantages set forth in its representations.

The complaint alleges that these representations are unwarranted, grossly exaggerated and misleading, and that the respondent's product is merely one of a class of dried grain after-distillation remnants and does not have the qualities and efficacy claimed for it. (4425).

**Powerine Company**, Denver, Colo., engaged in the sale and distribution of petroleum products to retail dealers and jobbers, is charged, in a complaint with the use of lottery methods in the sale of its products, designated "Powerine" and "Powerlube".

The complaint charges that in connection with the sale of these products the respondent has distributed to dealers a so-called "Right in the Palm of Your Hand" device for use in the sale and distribution of the products to the consuming public in a manner involving the operation of a game of chance, gift enterprise or lottery scheme. The device consists of a booklet, the complaint continues, together with a number of sales receipts or coupons. The petroleum products, services or cash awards to be awarded purchasers vary in value in accordance with each individual booklet, the complaint alleges, and are effectively concealed from purchasers until certain seals are broken and removed from the booklets, thus the prizes or awards are distributed to the purchasing public wholly by lot or chance.

The aforesaid acts and practices of the respondent, the complaint alleges, constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the meaning of the Federal Trade Commission Act. (4423).

**Rosse Products Company**—Edward C. Rose, trading under the firm name of Rosse Products Company, 2708 West Farwell Ave., Chicago, engaged in the advertising, sale and distribution of a medicinal preparation designated as "Rosse Rheuma Tabs", is charged, in a complaint with misrepresentation.

By the dissemination of advertisements concerning his preparation circulated by United States mails and other means in commerce, the complaint charges, the respondent has represented that his product is a cure or remedy for rheumatism, rheumatic pains, and sensitive joints, and constitutes a competent and effective treatment therefor, and that it will relieve the pain attendant upon which such conditions for a longer period of time than any other preparation.

The complaint charges that the product is nothing more than a laxative and diuretic having mild analgesic properties; has no curative action on the underlying factors that cause rheumatic pains; and has no therapeutic value in the treatment of rheumatism, rheumatic pains or sensitive joints, in excess of furnishing temporary relief from the symptoms of pain. (4428).

**Ruth Gowns, Inc.**, 498 Seventh Ave., New York, engaged in manufacturing, selling and distributing various grades and types of dresses and other wearing apparel for women, is charged, in a complaint with falsely representing the constituent fiber or material of which its products are made. Such representations, according to the complaint, are made by means of tags, labels, price lists and invoices, as well as in various advertising material circulated in commerce, through statements made to purchasers, and by the respondent's failure to disclose the rayon content of certain of its products.

The complaint alleges that an example of the respondent's representations is its placing on price lists and invoices and in various advertising circulars of the term "Tie Silk Taffeta Dress", or other terms indicative of silk, thus representing that the fabrics so described are composed of silk, when in fact they consist in whole or in part of rayon.

In a large portion of the respondent's sales, the complaint alleges, no indication of the fabric content of its products is made by tag,

label or invoice, in advertising, or by any other means, and a large portion of the respondent's products which have the appearance and feel of silk but are composed entirely of rayon, are therefore sold through wholesalers, jobbers and retail dealers to the purchasing public without any disclosure being made of their rayon content. (4426).

**Siegel & Alenikoff**—Joseph Henschel, Jacob Siegel and Philip Alenikoff, copartners trading as Siegel & Alenikoff, 520 Eighth Ave., New York; H. M. Thorman and Alfred Schuster, trading under the name H. M. Thorman, 2101 Superior Ave., Cleveland; Joseph Bloomfield, trading as Bloomfield Company, 75 Kneeland St., Boston; Lou Littman, 153 East Grand River Ave., Detroit, and Sugar, Feinberg & Frankel, 318 West Adams St., Chicago, are charged in a complaint with unfair and deceptive acts and practices in commerce.

Respondents Joseph Henschel, Jacob Siegel and Philip Alenikoff, trading as Siegel & Alenikoff, have been engaged in the manufacture and sale of women's textile fabric coats and other garments, some made of fabrics composed of wool and cotton, and some of rayon, wool and cotton. The other respondents are engaged in selling and distributing women's textile fabric coats and other garments manufactured for and shipped to them by Henschel, Siegel and Alenikoff.

The complaint charges that the respondents, in connection with the offering for sale and sale of their textile fabric garments, refer to and designate such textile garments through use of the word "Persian" and by the trade names "Galykurl" and "BABELAMM," and advertise the garments by means of trade journals, window display cards and other advertising matter which describe and refer to the garments as "Persian," "Genuine BABELAMM," and "Persian Fur Fabrics," together with the word "Imported," and other words of like import and meaning, accompanied by pictorial designs of sheep or lambs, and showing a woman wearing a coat having the appearance of fur.

The respondents also, the complaint continues, attach to the textile fabric garments certain tags and labels, some of which bear upon their faces pictorial designs of sheep or lambs and the trade names "Galykurl" and "BABELAMM." These garments, the complaint continues, are constructed so as to have the appearance of silky, tightly-curved and highly prized fur of the young of the Karakul breed of sheep, and convey the impression and induce the belief from their appearance that they are in fact made of the peltries of "Persian" lambs, the young of such Karakul sheep, or are made from silky hair or wool of peltries coming from such lambs.

The respondents also, the complaint charges, by use of labels and tags and other advertising matter, have created the impression in the minds of purchasers and prospective purchasers that the garments are made in whole or in part from the peltries of the young of the Karakul breed of sheep or from the wool taken from such sheep, and that the materials of which they are made are imported from Persia.

In truth, the complaint alleges, the garments are made in the United States of fabrics composed of wool and cotton, or of rayon, wool and cotton. The labels, tags and other advertising material employed by the respondents, the complaint continues, to describe, designate or refer to their products, do not disclose or indicate the presence of rayon or cotton in the garments, and the respondents, by furnishing such deceptive and misleading labels and tags and other advertising material to customers, and causing such labels and tags to be placed upon the garments for resale to the purchasing public, have placed in the hands of retail dealers a means and instrumentality whereby they might deceive or mislead members of the purchasing public. (4427).

**Snap-On-Tools Corporation**, Kenosha, Wis., engaged in the manufacture and distribution of tools, is charged, in a complaint with the use of lottery methods in the sale and distribution of its products.

In the conduct of its business, the complaint charges, the respondent has sold its merchandise to members of the public in accordance with a sales plan involving a game of chance, gift enterprise or lottery scheme, and has supplied the managers of its branch offices with sales posters and circular letters outlining the sales plans or methods by which its merchandise was to be and has been sold and distributed to the purchasing public. (4429).

**Worthmore Sales Promotion Service, Inc.**, 221 East 20th St., Chicago, engaged in the manufacture and sale of a device

called "Rap-A-Pak," a novelty holder for cigarette packages, is charged, in a complaint with misrepresentation.

In magazines and periodicals having an interstate circulation, the complaint alleges, and to potential representatives, the respondent has represented that "A man should make \$75 to \$100 commission weekly," and Earn \$75 to \$100 commission weekly." Through use of the foregoing statements and others of similar import, the complaint continues, the respondent represented that agents and salesmen selling the respondent's device customarily earn from \$75 to \$100 per week in the usual and normal course of business.

The complaint alleges that these representations are grossly exaggerated, false and misleading, and that it is impossible for agents and salesmen selling the device to earn, in the usual and normal course of business, \$75 to \$100 per week or any amount approximating either of such figures. (4430).

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Allred Brothers Candy Company**—Two North Carolina candy distributors have been served with orders directing them to cease and desist from the use of lottery methods in the sale of candy. The respondents are Jesse W. and Robert A. Allred, trading as Allred Brothers Candy Co., Charlotte, N. C., and J. T. Tarlton, trading as J. T. Tarlton Candy Co., Marshville, N. C.

The orders prohibit the respondents from selling or distributing any merchandise so packed and assembled that its sale to the public may be made by means of a lottery; from supplying others with assortments of merchandise, together with push or pull cards, punch boards or other lottery devices, or separately, which devices may be used in selling or distributing such merchandise to the public by means of a game of chance; and from selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme. (4244-4256).

**Augusta Knitting Corporation**, manufacturer and distributor of knitted garments, with its place of business in Utica, N. Y., and sales office at 180 Madison Ave., New York, has been ordered to cease and desist from certain misrepresentations concerning its products.

The Commission finds that the respondent has falsely represented the constituent fiber or material of which the various products sold and distributed are made, by means of false representations on labels attached to its products. Typical of such acts and practices, the Commission finds, is that the respondent represents that certain ladies' knitted undergarments manufactured and distributed by it are composed of a mixture of silk and wool, by means of labels, tags and markers attached to the garments which designate and describe the products. One of such labels reads:

"50%

SILK AND WOOL"

Another label reads:

"50%

SILK AND WOOL

27% 27%"

The word "and" on the above labels is printed in minute type and in such a manner as to be illegible to all practical intents and purposes. On the second label the notation "27%" appearing underneath the words "silk and wool" is in much smaller type than the "50%" appearing above the words "silk and wool." By means of the above labels, the Commission finds, the purchasing public are misled into believing that the undergarments so labeled are composed entirely of silk and wool in the proportion of 50 per cent silk and 50 per cent wool. The use on certain labels of "27%" in fine print is according to findings, contradictory to the label itself and would not be noticeable to the purchasing public or understood by them.

In fact, the Commission findings continue, the knitted undergarments so labeled are not composed entirely of silk and wool, but contain a cotton content ranging from 45 per cent to 57 per cent.

In addition, the Commission finds, the respondent fails to disclose by appropriate labels all the fiber constituents from which

its garments are made, and fails to disclose the existence of cotton as a substantial constituent of the garments.

The respondent is ordered to cease and desist from representing, in any manner or by any means, that its products are composed of fibers or materials other than those of which such products are actually composed; from using the term "silk" or the term "wool" or any other terms indicative of either silk or wool to describe or designate any fabric or product which is not composed entirely of silk or entirely of wool, provided that in the case of a fabric or product composed in part of silk or wool and in part of materials other than silk or wool, such terms or similar terms may be used as descriptive of the silk or wool content, as the case may be, when immediately accompanied by a word or words accurately describing and designating each constituent fiber or material thereof in letters of equal size or conspicuousness in the order of its predominance by weight, beginning with the largest single constituent.

The order further directs the respondent to cease representing in any manner or by any means that the fabrics or products offered for sale or sold by the respondent contain wool or silk in greater quantity or percentage than is actually the case and to discontinue representing that the respondent's products have longer wearing qualities than garments of equivalent price and quality ordinarily and customarily sold in the usual course of business; or that the quality, grade, material or character of the respondent's products are superior to or different from the actual quality, grade, material or character of such products. (4162)

**Minetree Brokerage Company**—T. A. Ward, Carr Ward and Wilma Ward, trading as Minetree Brokerage Company, Poplar Bluff, Mo., have been ordered to cease and desist from violation of the brokerage provision of the Robinson-Patman Act in the sale of merchandise, particularly foodstuffs.

Commission findings are that the Poplar Bluff Wholesale Grocery Company, Poplar Bluff, Mo., in which the respondents, T. A. and Wilma Ward own 88 per cent of the outstanding capital stock and of which they are officers, places orders for a substantial portion of its merchandise requirements, particularly foodstuffs, with sellers through the respondent brokerage firm of T. A. Ward, Wilma Ward and Carr Ward, trading as Minetree Brokerage Company.

Sellers delivering the goods ordered by Poplar Bluff Wholesale Grocery Company, the findings continue, transmit and pay to the respondent brokerage firm substantial brokerage fees or commissions amounting to a certain percentage, usually from 2½ to 5 per cent, of the sales price of the grocery company's purchases. In all of these transactions, the findings continue, the respondents have acted for and on behalf of the Poplar Bluff Wholesale Grocery Company.

The Commission order directs the respondents, individually and trading under the firm name of Minetree Brokerage Company, to cease and desist from accepting or receiving from sellers, directly or indirectly, in connection with the purchase of commodities in interstate commerce by the Poplar Bluff Wholesale Grocery Company, under the facts and circumstances as found, any brokerage fees or commissions, or any allowance or discount in lieu of brokerage, in whatever manner or form they may be offered, allowed, granted, paid or transmitted.

The order also directs the respondents to cease and desist from accepting or receiving, directly or indirectly, any brokerage fees or commissions, or any allowance or discount in lieu of brokerage, in whatever manner or form they may be offered, allowed, granted, paid or transmitted by sellers on purchases of commodities in interstate commerce, by any person, partnership, firm or corporation where all or any of the respondents are subject to the direct or indirect control of such buyer or act for or in behalf of such buyer. (4285)

**Patent Specialties Company**—George W. Brenner and John M. Kurtz, trading as Patent Specialties Company, 4020 Tenth Ave., New York, engaged in the manufacture and sale of two devices, the "Magic Wand Welder" and "Super Magic Wand Welder," intended for use in welding different kinds of metals, using electric current as the heating agency, have been ordered to cease and desist from certain misrepresentations of their products.

The Commission finds that in advertisements in trade publications and other media, the respondents represented that the Magic Wand welding device is a "genuine" heavy-duty device which, when connected with an ordinary automobile storage battery, will weld all base metals in any form, and that it is practical for such use in home tinkering and shop production, and that the respondent



ents give each purchaser of the device a full kit of welding supplies "free" and as a gratuity.

The Commission further finds that the respondents represented and implied that the "Super Magic Wand" device is a tool built for use and is useful for heavy-duty in welding base metals of all kinds, and more particularly cylinder blocks and heavy parts of mechanical and farm machinery; that it will heat such metals to the extent that they will run so that a proper weld can be effected; that its construction is sturdy enough to withstand such hard use and the electric current necessary for such welding; that it is safe to operate on an ordinary AC or DC branch electric household circuit; that its operation will injure neither the operator nor the branch electric current to which it is attached, and that it is a safe and efficient device to use in obtaining a "sun tan" on the skin.

The respondents are ordered to cease and desist from representing, directly or by implication, that the "Magic Wand" welder is a heavy-duty welder which is of practical use in shop welding; that it will generate sufficient heat, when connected with an automobile storage battery, to prepare materials for welding; that the "Super Magic Wand" welder conforms to the standard method of design or construction for electrical devices, either as to the suitability of materials used or as to the proper guarding and spacing of "live" electric parts; that it is a heavy-duty welder, or that it is useful in welding heavy mechanical and farm machinery, such as cylinder blocks; that the "Super Magic Wand" welder may be used on ordinary alternating or direct branch electrical household circuits without injury either to the operator of the welder or to the household circuit to which it is attached; that the "Super Magic Wand" welder may be used with safety and efficiency in "sun tanning" the skin, or that welding supplies offered regularly as part of a combination offer are free or a gift or gratuity. (4336)

**Primrose House, Inc.**, 111 Eighth Ave., New York, and Delv, Limited, 76 Ninth Ave., New York, engaged in the sale and distribution of various cosmetics, have been ordered to cease and desist from certain misrepresentations of their product.

Primrose House Sales Company, Inc., a wholly-owned subsidiary of the respondent Primrose House, Inc., with identical officers and directors, was engaged in the sale and distribution of a skin cream, "Delv," from January, 1934 until May, 1935, at which time it was dissolved and its assets taken over by the parent company. During the time mentioned above, the Commission finds, Primrose House Sales Company, Inc., in promoting the sale of the skin cream by various advertising media such as radio broadcasts and printed matter circulated in the various States, represented, among other things, that "Delv is based upon a new cosmetic principle for it contains a precious new beauty ingredient. This ingredient, called 'Triactin' has the same action on the skin as the skin's own gland fluids that keep it young and vital."

In May, 1935, Primrose House Sales Company, Inc., entered into a stipulation with the Federal Trade Commission by which it agreed to abandon the use of certain allegedly false representations in connection with the sale of the product. Notwithstanding the aforesaid agreement to cease and desist, the findings continue, the respondents have, since May, 1935, in promoting the sale of Delv through radio broadcasts and by printed matter circulated in various States, represented that Delv contains an ingredient which acts on the skin as the natural fluids of the skin, and that it serves the same purpose as such fluids; that it will rid the skin of wrinkles, large and unsightly pores and other imperfections; that it will nourish and rejuvenate the skin and will create a new skin texture and keep the face young and the complexion beautiful. The Commission finds that these representations are false and misleading.

The respondents are ordered to cease and desist from representing that the preparation acts on the skin as the natural fluids of the skin, or that it serves the same purpose as the natural fluids of the skin; that it will cause wrinkles, large or unsightly pores or other imperfections to disappear from the skin; that it will nourish or rejuvenate the skin or create a new skin texture, or that the preparation will keep the face young and the complexion beautiful. (3314)

## STIPULATIONS

During the week the Commission has entered into the following stipulations:

**American Mattress Mfg. Company**—Harry Malneck, trading as American Mattress Manufacturing Company, 1305 Larimer St.,

Denver, engaged in the manufacture and distribution of mattresses, has agreed to cease and desist from failing to clearly and unequivocally disclose that his products, which are made, either in whole or in part, of used or second-hand materials, are in fact made of or actually do contain materials which have been used or are second-hand, and from representing that the products are made in compliance with Colorado bedding laws, or the laws of any other State, or that they have been thoroughly cleaned and renovated, that is, restored to a state of freshness by cleaning, when in fact the products are not made so as to conform to such laws and have not been thoroughly cleaned and renovated as represented. (3007)

**Arceady Farms Milling Company**, 223 West Jackson Boulevard, Chicago, engaged in manufacturing various feed mixes for poultry, including a product known as "Wonder Live Milk Pellets," has stipulated to discontinue certain representations in the sale of its products.

The respondent agrees to cease use of the term "Live Milk" as a trade name or designation for its products, and use of the words "Live Milk" or "Milk" in any way so as to imply that the products are composed of milk, that is, the fresh, clean, lacteal secretion such as is obtained in the pure or native state from a milk-producing animal.

Under its stipulation, the respondent also agrees to desist from use of any statement or representation which implies that there are quantities of beneficial bacteria present in the respondent's products sufficient to have any therapeutic effect, or that there is scientific basis for the representation that putrefactive bacteria will cause all the dire consequences recited in certain advertising issued by the corporation, or that the presence of so-called beneficial bacteria will alleviate such conditions.

The respondent, according to the stipulation, advertised, among other things, that the presence of lactic acid and lactic acid producing bacteria in its products "prevent the development of putrefactive types of bacteria, which retards digestion, produces waste, develops poisonous putrefactive gases in the system, and retards all bodily functions \* \* \*." (3008)

**Cenol Company, Inc.**, 4250-56 North Crawford Ave., Chicago, engaged in selling two rat killing preparations designated "Cenol Squill Powder" and "Cenol Rat Destroyer," has stipulated to cease representing that "Cenol Squill Powder" will kill any species of mice except house mice, or that it is the leading "raticide" in the United States and is superior to or more effective than similar preparations containing the same amount and toxic quality of red squill powder.

The respondent also agrees to desist from representing that "Cenol Rat Destroyer" will destroy any species of mice except house mice, or that the effect of the barium carbonate content contained in "Cenol Rat Destroyer" will drive poisoned rats out of doors to die in the open. (02692)

**Colorado Mattress Mfg. Company**—Morris Stein and Morris Nierenberg, trading under the name Colorado Mattress Manufacturing Company, 2363 Larimer St., Denver, in connection with the labeling, tagging or other advertising of their products, agree to discontinue designating, describing or representing their products, which are made either in whole or in part of used or second-hand material, to be products made of or containing all new material; failing to clearly and unequivocally disclose that such products are composed, either in whole or in part, as the case may be, of used or second-hand material, and representing that the products are made in compliance with the laws of the State of Colorado, or of any other State, or that they or the materials used as filler therefor have been subjected to a cleansing process so as to be free from dirt or other extraneous matter, when in fact the products are not so made as to conform to such laws and have not been cleaned as represented. (3006)

**Crown Silver Company, Inc.**, 62 Harvard St., Brookline, Mass., manufacturer of copies of reproductions of Sheffield silverware, has entered into a stipulation to cease and desist from certain representations in the sale of its products.

The stipulation points out that in England there exists an outgrowth of the Guild System which requires that articles made of silver be submitted to Goldsmith Hall for assaying, and that articles found to be of the standard prescribed are stamped with hall-

marks indicating the place and year of manufacture. The practice of using hall-marks in England dates back several centuries. These well-known and understood hall-marks, when impressed upon the silver, inform purchasers that the silverware is Old English and of ancient origin. Old English Silverware and Sheffield Plate that have been manufactured and imprinted with the genuine English hall-mark have for many years enjoyed widespread demand in the United States.

Crown Silver Company, Inc., in connection with the sale and distribution of silverware in commerce, agrees to cease and desist

(1) from representing its product as "Hall-Marked" or using or causing to be used or aiding or abetting others to use upon or in connection with such silverware, an English hall-mark or any hall-mark, stamp, brand, label or other mark or device which simulates or imitates an English hall-mark, unless such silverware has been manufactured in England and has been submitted to Goldsmith's Hall of England and has met the standards prescribed thereby for use of the English hall-mark;

(2) from in any way using or causing to be used, or aiding or abetting others to use or cause to be used, upon or in connection with such silverware any mark, stamp, brand or other device which represents or indicates directly or by implication that such silverware has been manufactured in England or has been submitted to Goldsmith's Hall of England, or has met the tests or requirements prescribed by Goldsmith's Hall of England, or is silverware of a certain hall-mark, grade, quality, standard, design or manufacture, when such is not true in fact. (3005)

**Fram Corporation**, East Providence, R. I., engaged in selling a filter for the lubricating oil of internal combustion engines, designated "Fram Oil and Motor Cleaner," has stipulated to discontinue representing that by the use of the "Fram Oil and Motor Cleaner," motorists are freed from all oil and mechanical motor trouble; that the product will double the possible length of service of an internal combustion engine, or that the possible length of service of such engine can be extended beyond any period not in accord with the facts, and that installation of a "Fram Oil and Motor Cleaner" will effect savings sufficient to equal its cost in instances where a motor is consuming excessive oil because of a need for mechanical repairs. (02684)

**Gillespie Furniture Company**, 3011 East Pico Boulevard, Los Angeles, a corporation engaged in the manufacture and sale of furniture, including mirrors, has stipulated that in connection with the advertisement, sale or distribution of its mirror products, it will cease using the words "copper plating on the back" as descriptive of the mirrors, and will cease using any other words of similar import, the effect of which tends to convey the impression that the mirrors are backed with genuine metallic copper applied by the electrolytic process, when in fact they are not so backed. (3004)

**Lester Meyers**, 112 East 17th St., New York, engaged in conducting an advertising agency which disseminated advertisements for a preparation designated "Activanad" on behalf of Charles J. Ashbabs, trading as Neo-Products Company of America, New York, has stipulated that he will cease and desist from representing, directly or indirectly, in future advertising, that the preparation is praised or recommended by eminent physicians and psychiatrists; that it strengthens the body; is beneficial for persons afflicted with fear, anxiety, irritability, worry or fatigue; benefits failing physical processes and prevents chronic disorders. The respondent also agrees to cease otherwise representing that the preparation has any therapeutic value in the prevention of any ailment or disease; prevents fatigue; builds up the body; promotes formation of new blood, or is of any therapeutic value in the treatment thereof; strengthens the muscles, or promotes sleep; increases capacity for mental concentration; provides new reserves of power, new funds of energy, better poise or self-confidence; provides energy for the body and strengthens the nerves; is an effective aphrodisiac; produces a striking or prompt effect, or is beneficial following childbirth or physical collapse. (02687)

**Charles H. Lilly Co.**, Seattle, Wash., engaged in selling "Lilly's Dog Food," has entered into a stipulation in which it agrees to cease and desist from representing that its dog food is better than uncooked dog food; that it owns, operates or controls a laboratory; that its product prevents any skin disorder, aids in assimilat-

ing mineral matter, stimulates the glands, tones the digestive tract, or aids the luster or sleekness of the hair coat. (02690)

**Newmark's Advertising Agency, Inc.**, 217 Seventh Ave., New York, which disseminated advertisements for a cosmetic product designated "Lucone Herb Tonic" on behalf of Lucone, Inc., New York, has agreed to cease and desist from disseminating any advertisements which represent, directly or by implication, that the product is an herb tonic, or from otherwise representing or implying that it is composed wholly of herbs, or from making any other untrue statement regarding its composition; that the product contains no greasy substances; that it will promote, provide or cause or assure a healthy or robust hair growth, or from otherwise representing or implying that it will cause hair to grow; that the product will prevent baldness, hair loss or dandruff, or will save hair or end falling or thinning hair or dandruff. (02693)

**Rexbell Huntington Station**—W. F. Hagel, doing business under the trade name Rexbell, Huntington Station, New York City, engaged in selling a preparation designated "French Love Drops," has stipulated to cease and desist from representing, by use of the word "French" as a part of the name of the product, that the product was manufactured or compounded in France, or by use of the word "exotic," as descriptive of the product, that the product was introduced from a foreign country. (02691)

**Sears, Roebuck and Company**, Chicago, in connection with the sale of electric fence controllers designated "Sears Thrifty," "Defiance," "4 Star" and "Cross Country," has entered into a stipulation in which it agrees to discontinue representing that any electric fence controller offered for sale or sold by it has been approved by the Underwriters' Laboratories or any other laboratory, commission or authority, when such is not the fact; that any such controller has a value in excess of the current market price or has had a value in excess of the recent market price at which such controller was regularly sold; that an electric fence served by the respondent's controllers is "absolutely" safe; that purchasers can save more than half the cost of their electric fence controllers or any other sum in excess of the average difference in the current market prices of controllers of equal quality, efficiency and durability; that one or two wires will stop both large and small animals, including sheep and goats, or that an electric wire fence will assure protection of fields or crops. (02689)

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