

## THE WEEK IN WASHINGTON

Neville Miller clarifies the ASCAP situation as of this week. (p. 349).

The program for the NAB's St. Louis convention, May 12-15, is beginning to take form, and promises to be most interesting. (p. 350).

Frank King, WMBR, was elected director at a District 5 meeting in Jacksonville, Fla. (p. 351).

Ohio State University's annual institute for education by radio will be held May 4-7 in Columbus. The Third National Conference on Consumer Education discussed broadcasting at length at its Columbia, Mo., meeting April 7-9. (pp. 351-352).

Advertising agencies will be asked to return audition transcriptions to stations on account of the threatened aluminum shortage. (p. 352).

The NAB Labor Committee expresses an opinion on employment. (p. 352).

Sales managers should attend their district meetings before the NAB convention. Aviation schools are good business prospects. (p. 352).

Hit songs by newcomers are BMI specialties. (p. 355).

The FCC authorized consolidation of four Brooklyn stations. (p. 356).

### The ASCAP Situation

Neville Miller today made the following statement:

The number of inquiries we have been receiving with respect to negotiations with ASCAP suggests that a clarification of the situation may be helpful.

Last November, I wrote to Fred Waring to the effect

that if ASCAP would present definite proposals based upon the per-program plan, I would immediately present same to the Board of the NAB. No such proposals were ever received from ASCAP.

ASCAP signed its Consent Decree on February 26 of this year. Immediately thereafter I wrote Mr. Buck reminding him that ASCAP was now in a position to withdraw the contract submitted to broadcasters last March and which was now illegal under the terms of the Consent Decree, and to submit instead a new proposal in conformity with the terms of the Consent Decree. I urged Mr. Buck to submit such a proposal to the industry, and I volunteered to call a meeting of the Board of Directors of the NAB to consider it.

On March 4th, Mr. Buck wrote me a letter which indicated that he had the mistaken notion that the entire broadcasting industry had delegated the National Association of Broadcasters as its negotiator and that the NAB was authorized to sign contracts on behalf of the industry.

I wrote Mr. Buck on March 6th that he was mistaken in thinking that the NAB had taken over the rights of individual broadcasters, but that if it would be helpful to him and his associates I would be delighted to ask the Board of Directors of the Association to appoint a committee to sit with ASCAP to assist it in formulating the proposals which it wished to submit to individual broadcasters.

Mr. Buck answered on March 7th, requesting that such a committee be appointed. Accordingly, I called a meeting of the Board of Directors of the NAB to be held in New York on March 17-18. I wrote Mr. Buck on March 10th, telling him I was doing this, and again pointed out that I thought it would be unfortunate to bring from every part of the United States the twenty-six members

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**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**

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

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

## THE ASCAP SITUATION

(Continued from page 349)

of the Board without being able to lay before them for consideration an outline of the alternative bases of licensing which ASCAP's Consent Decree required it to offer.

No such proposals were received from ASCAP to present to the meeting of the NAB Board. The Board, as requested by ASCAP, appointed a committee and a meeting with the ASCAP committee was immediately arranged for March 20th. At that meeting, ASCAP again failed to present any proposals, but at the close of the meeting, ASCAP agreed to prepare proposals in accordance with the requirements of the Consent Decree and to submit same to the NAB Committee for consideration. It was indicated that the proposals would be ready within a week or ten days.

Twelve days later, April 1st, John Paine came to my office in New York and stated that the ASCAP Committee not only did not have any proposals to present for consideration by the NAB Committee, but had decided that instead of having a further meeting with the NAB Committee, ASCAP desired to discuss the question individually with the networks. I pointed out to Mr. Paine that the NAB Committee had been appointed at ASCAP's request, that I would be glad to call a meeting of the Committee to consider any proposals, and that I thought it would be in the best interests of all concerned for ASCAP to comply with the Consent Decree by formulating complete proposals. I further pointed out to Mr. Paine that any proposal which was made to the networks in contemplation of clearance at the source would naturally be dependent upon contribution by affiliates and that probably no affiliate would be willing to commit itself regarding network programs until it knew what would be the ASCAP proposal as to its local business. That, therefore, I thought ASCAP would eventually have to make a complete proposal and that his present plan would result only in delay.

I further stated that I was sure that the networks would meet with ASCAP if requested. It is the opinion of all lawyers that such individual meetings should be held if requested by ASCAP.

Mr. Paine stated that ASCAP had already held a meet-

ing with Mutual and would seek a meeting with NBC and a meeting with CBS within the next few days.

ASCAP held a meeting with representatives of CBS and CBS affiliates on Thursday, April 10th, and a meeting with representatives of NBC and NBC affiliates was held on Tuesday, April 15th. Meetings have also been held with representatives of Mutual.

I regret that ASCAP has not as yet formulated any proposals in accordance with the terms of the Consent Decree, in spite of the many requests which have been made for such proposals.

The industry will be kept advised of developments.

## Convention Program Shapes Up

The program for the Nineteenth Annual NAB Convention, Hotel Jefferson, St. Louis, May 12-15, is beginning to take form. While no definite announcement as yet can be made with reference to speakers, outstanding figures are assured as participants upon the program. National defense, the music situation, Government and public relations of the industry, labor matters, and problems of the commercial phases of broadcasting will all come in for treatment.

Monday, May 12, is registration day, with the Golf Tournament—competition for the BROADCASTING Magazine trophy—in the afternoon at the Sunset Hill Country Club.

At the Tuesday morning business session, President Miller will submit his annual report, along with those of the various Directors of the Departments of the Association. By-Law amendments will be submitted and voted upon. Then follows the discussion on national defense in which, among others, Major General Robert C. Richardson, Jr., Public Relations Director of the Army is definitely scheduled to participate. The speaker for the noon luncheon has not yet definitely been decided.

The afternoon of Tuesday will be given over to the meetings of the IRNA, NIB and Sales Managers groups, and the clear, regional and local channel stations.

Wednesday will be entirely devoted to the discussion of music matters, with President Miller, Sydney Kaye, Vice President and Counsel, Merritt Tompkins, General Manager and Carl Haverlin, Director of Station Relations, all of BMI participating. In the late afternoon a session of the FM broadcasters will be held.

On Thursday, the morning program will consist of a discussion of the aims and policies of the recently reorganized Department of Broadcast Advertising, the commercial sections of the Code, the unit plan of volume measurement and other commercial problems. Colonel Willard Chevalier, publisher of BUSINESS WEEK, a



McGraw-Hill publication, and a recognized authority on the subject of advertising, will feature the session with a half-hour talk on some subject having to do with the place of advertising in the national emergency.

At the noon session a speaker from the industry will summarize the industry's problems and in the afternoon, labor will be the topic of discussion. Then will follow the election of Directors-at-Large and the expressions of choice on the part of the membership as to the site of the 1942 convention. These latter two are contingent upon the passing at the Tuesday meeting of amendments covering those subjects.

In the evening the annual banquet will be held in the Gold Room of the Jefferson Hotel. The entertainment for this banquet is being jointly arranged by CBS, MBS and NBC with the cooperation of the St. Louis broadcasters, under the direction of Merle Jones, General Chairman. A lively, varied show is assured with radio personalities participating.

### ST. LOUIS BROADCASTERS LAY PLANS

Merle Jones, KMOX, General Chairman of the St. Louis Broadcasters' Committee, coordinating local activity in connection with the Nineteenth Annual NAB Convention to be held in St. Louis, May 12 to 15, reports a most enthusiastic meeting of all his committeemen at the Jefferson Hotel on Monday, April 14.

All of the St. Louis broadcasters have displayed a remarkable spirit of cooperation and in so far as it is possible, the every wish of those who will be in attendance, both men and women, has been anticipated.

The hotel reservation situation was thoroughly discussed and it was revealed that the advance reservations far exceed those of any previous NAB convention. The headquarters hotel, the New Jefferson, will undoubtedly be crowded to the roof and other St. Louis hotels will enjoy a splendid business.

The St. Louis merchants are cooperating in providing entertainment for the ladies. The Golf Tournament arrangements have been perfected and in fact, every detail has now been cared for.

The St. Louis Convention and Publicity Bureau, under the able direction of F. H. Rein, general manager has rendered every possible assistance. All in all, this Nineteenth Annual Convention promises to be a most successful one.

Following is a complete list of the St. Louis broadcasters' committees:

#### GENERAL CHAIRMAN

Merle S. Jones, KMOX.

#### GENERAL COMMITTEE

Chairman, Merle S. Jones, KMOX; L. A. Benson, WIL; George M. Burbach, KSD; Rev. W. A. Burk, WEW; Robert T. Convey, KWK; John C. Roberts, Jr., KXOK; William H. West, WTMV.

#### ENTERTAINMENT AND RECEPTION COMMITTEE

Chairman, William H. West, WTMV; Robert T. Convey, KWK; Nicholas Pagliara, WEW; Chester G. Renier, KMOX; Bart Slatery, WIL.

#### EXHIBITS COMMITTEE

Chairman, Clarence G. Cosby, KXOK; L. A. Benson, WIL; Edward W. Hamlin, KSD.

#### GOLF COMMITTEE

Robert Richardson, Jr., KWK, and J. Roy Stockton, KSD.

#### HOUSING COMMITTEE

Chairman, Ray E. Dady, KWK; Rev. W. A. Burk, WEW; Arthur Casey, KMOX; Frank Eschen, KSD; Elzey Roberts, KXOK.

#### PUBLICITY AND PUBLIC RELATIONS COMMITTEE

Chairman, George M. Burbach, KSD; Luther L. Hill, KSO; John C. Roberts, Jr., KXOK; Vernon H. Smith, KOWH.

### DISTRICT 5 MEETING

With the holding of the District 5 meeting at Jacksonville on Friday, April 11, the series of District meetings required by the By-Laws was completed.

All three of the states in the Fifth District, Florida, Georgia and Alabama, were well represented. Unfortunately none were present from Puerto Rico which also is within that District.

A most interesting discussion of industry problems, including music was held. Carl Haverlin of BMI led the discussion on the music problem and C. E. Arney, Jr., represented the NAB staff.

Frank King, WMBR, Jacksonville, was chosen for the two-years Director's term succeeding Walter Tison of WFLA, Tampa. The meeting heartily endorsed the work of BMI and urged continued support of it by the broadcasters.

Following the election, the Sales Managers of the Fifth District held an interesting meeting presided over by Norman MacKay, WQAM, Miami, Chairman of the Fifth District Sales Managers Committee.

The following attended the meeting:

Don Ioset, Maurice C. Coleman, WAGA; Ed Lord, WALB; Thad Holt, Ed Norton, WAPI; J. M. Comer, Jr., WATL; Jack Williams, John J. Tobola, WAYX; J. C. Bell, WBRC; H. G. Wells, Jr., WCOA; Bill Covington, R. B. Raney, WCOV; Ralph Nicholson, L. S. Mitchell, WDAE; L. J. Duncan, WDAK; Harold P. Danforth, WDBO; Walter Tison, WFLA; Glenn Marshall, Jr., WFOY; J. W. Woodruff, Jr., WGPC; Harry E. Cummings, WIOD; John Hopkins, Evelyn Boote, WJAX; H. G. Wells, Jr., WJHP; George A. Hazlewood, WLOF; "Red" Cross, WMAZ; Frank King, WMBR; W. Wright Esch, WMFJ; John F. Pidcock, WMGA; H. Wimpy, WPAX; Fred Mizer, Norman MacKay, WQAM; J. W. Woodruff, Jr., J. A. Davenport, WRBL; W. R. Ringson, WRDW; Happy Quarles, WRGA; Francis Kearney, WRUF; John M. Outler, Jr., WSB; Howard E. Pill, John B. DeMotte, WSFA; Henry Johnston, WSGN; Jerry A. Wigley, WSUN; Marjorie Willis, Weldon Heiner, WTOG.

C. O. Langlois, John Langlois, Lang-Worth Feature Programs, Inc.; D. A. Reesor, RCA; Herbert Denny, Standard Radio; Carl Haverlin, BMI; H. R. Mason, Associated Press; Leonard D. Callahan, SESAC; Andrew W. Bennett, Attorney.

### OHIO STATE EDUCATION CONFERENCE MAY 4-7

Ohio State University's Twelfth Institute for Education by Radio will be held at the Deshler-Wallick Hotel,

Columbus, May 4-7, with "radio in the current crisis" the theme of the meeting.

A record number of broadcasters attended last year's institute, and were enthusiastic about it. The NAB hopes that an even larger number can attend this year.

George V. Denny, Jr., moderator of Town Hall of the Air; Dorothy Lewis, vice chairman of the Radio Council on Children's Programs; Paul White, director of news broadcasts for CBS; Leonard Power of the FREC; Walter G. Preston, Jr., manager of NBC's Public Service Program Division; Ed Kirby, War Department, and Neville Miller are a few of the many prominent radio authorities scheduled to speak or conduct meetings.

A complete program may be had on request at the NAB.

## CONSUMER MEETING

The Third National Conference on Consumer Education held at Stephens College in Columbia, Missouri, April 7-9.

Since the conference was purely educational, most of the discussions were confined to ways and means of disseminating Consumer material and the use of "National Defense," as the means to an end. Advertising methods were discussed very little, but when they were brought up, they were attacked not from the "over" Advertised angle, but the "under" Advertised angle; E. I. a breakfast food advertises protein content, but a human would have to eat one-tenth of his weight of this breakfast food to get enough proteins for a normal day.

It was the consensus in the radio discussions that a Consumers' program must be sustaining, that any attempt to commercialize a Consumer's program would completely destroy its value.

Exclusive of the above, the conference attempted to set up machinery to spread Consumer information. "Since radio stations devote approximately 50% of their time to programs of a public service nature, the Institute for Consumer Education should use a great percentage of that." Daily and weekly market reports should be broadcast both on networks and local stations informing the public of the unwarranted rise in prices, reports on the National Defense Program, and the broadcasts of unethical business practices and principles in the line of National Defense. New techniques should be found to reach the listeners in the lower income bracket, possibly thru the "Soap Opera" medium. Material from the Institute of Consumer Education should be organized nationally and sent to local groups interested in such material. These local groups, Federated Women's Clubs, Better Business Bureaus, etc., would, in turn, request time on local stations for broadcasts in the Institute interest.

Charles Berry's National Defense talk on the National Farm and Home Hour was commended, and it was suggested in the Keith Tyler discussion that the National Broadcasting Company should be approached and requested to use more Consumer Material, and incorporate market reports on commercial products during the National Farm and Home Hour.

In the consumer group, radio is recognized as the best medium for Consumer Education, and on the strength of the programs now on the air of the General Federated Women's Clubs, the further use of independent radio stations for consumer education programs is urged.

## ALUMINUM DISCS

In the NAB REPORTS (p. 265), reference was made to the possible effect of defense priorities upon available aluminum for the making of radio transcriptions. Some stations express apprehension lest this problem may become acute if proper steps are not taken.

One forward looking operator writes:

"Would it not be appropriate to appeal to advertising agencies to go through their piles of transcriptions that stations have sent them as samples of different programs, air checks, and so on, and ask their return to the respective stations as determined by the labels thereon. The stations can get an equal number of new recording blanks for the old ones they send in to the disc manufacturers. In this way the supply to the stations is assured, without interfering with defense needs for aluminum. This, of course, would only apply to the acetate type of blank which has an aluminum base. If stations can get their used blanks back we can probably keep going indefinitely, but with a constant outgo and no new stock available, we are all going to suffer from this shortage."

This is a good suggestion and we commend it to the attention of all station managers.

## Labor

### JOB CHANGES

The NAB Labor Committee believes that stations employing members of other stations' staffs should require them to give due notice to their old employers before leaving.

The committee emphasizes that it believes broadcasting employees should have absolute and unrestricted opportunity for self-advancement. Nevertheless, it appears to be only fair that due notice be given by employees before leaving their jobs—and that this notice be required by the new employers.

The Labor Committee expresses this opinion in the light of information that some stations have been hard hit when their employees left for better jobs without adequate notice, to fill jobs made vacant in other stations by the departure of men for selective service or reserve officer duty.

## Sales

### SALES MANAGERS' MEETINGS

In all districts where they have not already been held, meetings of the Sales Managers' Division have been scheduled for some date before the NAB convention.

Station managers are urged to be represented, either in person if they direct sales, or by their sales manager.



Under the general chairmanship of E. Y. Flanigan of WSPD, Chairman of the Sales Managers' Executive Committee, an agenda has been supplied to each division chairman listing a number of topics of the greatest concern to executives in charge of sales. Your presence is required not only for the contributions you can make to the discussions of these serious problems, but also for the good you can derive from them.

## AVIATION SCHOOLS GOOD PROSPECTS

If you are not now getting your share of business from trade and mechanical schools that can prepare young men for jobs as aviation mechanics, we suggest that you lay the groundwork for some of this business as soon as possible.

Through the cooperation of many radio stations, thousands of recruits were secured for the flying corps of the army and navy. Congress has appropriated money for the construction of thousands of planes. Now the chief need is for mechanics and ground crews. At present the navy is soliciting aviation machinists for their 10,000 ships already appropriated for, and requires that such recruits be "graduates of an aviation vocational or aviation trade school."

The need for machinists will soon be even greater, both by the army and navy, as well as by aviation manufacturing companies. One such company is already using radio to solicit workers, undoubtedly an outgrowth of the success radio stations have had in providing national defense agencies with 300,000 skilled workers through Civil Service up to March 1, 1941.

Numerous aviation trade schools already exist, and most of them already use radio to secure students. However, many other types of trade and mechanical schools, such as diesel engine, air-conditioning, radio and television, etc., could be converted into aviation training schools and swell their enrollments thereby. Radio stations can suggest and cooperate in this effort, and thereby increase commercial revenue.

## SEARS-ROEBUCK BUYS BASEBALL

A departure from usual advertising practice by a Sears-Roebuck store is the sponsorship of baseball re-creations over KROY, Sacramento, Calif., for road games of the Sacramento team, and scores by innings of home games.

## RADIO CHECKING SERVICE

Many stations may already be familiar with the newly organized "National Radio Checking Service, Inc.," soliciting business from radio advertisers and offering to check the performance of stations to show the advertiser whether he is getting the service he is buying or not.

In a promotion piece soliciting shut-ins and others to do this checking, the company wrote:

"We work for the advertisers and that is what we need you for—to see that the advertiser gets the service he has paid for. Advertisers are interested only in the commercial part of their programs. They want and insist that this must be right and just as ordered. Our job is to see that there are no mistakes made by the station or the announcer."

It is not within the province of NAB or its member stations, of course, to deny this company the right to solicit business from advertisers. But why there should be any need for such an outside agency, charging a separate fee to the advertiser, is what concerns broadcasters.

This service is available to advertisers without extra charge from the broadcasters themselves, who keep official logs and furnish affidavits of performance, as required by the FCC.

If there have been any abuses in commercial broadcasting such as to require advertisers to engage an outside checking service, the stations should act immediately to correct them. If errors are reported immediately by the station, and not charged for or make-goods scheduled, their interests will best be served in the long run. Other abuses, such as doubling-up or "backing" of spot announcements unless sold on that basis, should also be corrected.

Money that the advertiser spends for checking up on radio's performance of its contract obviously cannot be spent for more time, and the very need for such a service (which we deny exists) would constitute a black eye for the broadcasting industry. Remember that checking copies of printed media are furnished and need no check-up at additional expense.

## SUCCESS STORIES NEEDED

An important aim of the NAB Department of Broadcast Advertising is to serve as a national clearing house for success stories in all types of business, as well as for all other effective sales helps. The cooperation of every broadcaster is required, and this service in turn will be made freely available to any NAB member whenever requested.

Therefore please send all available success stories now, and place this Department on your mailing list to receive all future success stories and other promotion mailings.

## PER-INQUIRY and FREE OFFERS

The moral in the following exchange of correspondence is, we think, obvious. The matter concerns the Mendenhall Mfg. Co., makers of women's hosiery, previously reported in these columns. Every station manager, sales manager and credit manager should read it.

The following letter was received this week by the NAB Department of Broadcast Advertising:

Dear Mr. Pellegrin:

In the NAB REPORTS of April 11, 1941, page 335, there appears an article headed "Advertiser Threatens Suit."

I think that our experience with this same advertiser, the Mendenhall Mfg. Company, might prove of interest to NAB and to all NAB member stations. We would ask, however, that all references to this station be omitted if you see fit to publicize our experience.

About January 16th or 17th, we were approached by the Mendenhall Mfg. Company for rates and available spot time. There was no least hint that this company desired P. I. rates and we had no suspicion that it sought time on a P. I. basis. In our reply of January 17th, we quoted our rates and available time on a strictly card rate basis. Replying on January 24th, the Mendenhall Company wrote as follows:

Dear Mr. ———:

Replying to your favor of January 17th, please enter our order for 300 announcements of the enclosed continuity at \$6.60 each, to begin at your earliest convenience and to run daily on your 7:40 a. m. spot and Sunday on the 12:59 p. m. spot. Thanking you, I am,

Very truly yours,

(Signed) SPURGEON PICKERING,  
Mendenhall Mfg. Company."

We were not content with this blanket order for the spots and under date of January 29th, we sent our regular contract with the times and number of spots clearly stated together with the unit price. One paragraph of this letter was as follows:

"We are enclosing our contract form made out in duplicate in accordance with provisions in your letter. Will you please sign and return both copies; the duplicate will be accepted by this station and returned to you for your files. Although your letter is considered our authority to run the announcements, it is a station policy in all cases to have our contract forms duly signed in order that we have a permanent record of our mutual understanding in our files."

We have had a large number of complaints about the non-delivery of hosiery to those who sent in letters with the requisite price and which were forwarded to the Mendenhall Company. Again and again we urged them to be more prompt in delivery, at the same time sending our regular weekly bills for their indebtedness to us. After six weeks, we ceased broadcasting the spots as we had not been paid. Finally, about two weeks ago, our manager succeeded in getting Mr. Spurgeon Pickering on the telephone and told him that unless we had a check within the next three days we would short-rate him and institute suit. Mr. Pickering promised faithfully that we would have the check. But no check has been forthcoming. Finally, on April 9th, we wired him as follows: "Holding legal summons forty-eight hours. Stop. Must have check in full for account. Advise Western Union." Back came the following answer: "What in the H—— do you mean legal summons. Your city is not place for a summons. I am not any novice in business. In the first place you had no right to run my announcements without pulling four returns for each dollar."

It scarcely seems worthwhile to institute suit as the case would have to be tried in Mississippi and the court costs, attorney's fees, etc., would amount to more than Mendenhall's indebtedness to this station, namely \$277.20. I suppose, therefore, that we shall have to take the beating.

It seems to me that these and similar cases of bad faith and crookedness on the part of advertisers should be handled by some appropriate department of NAB. If some sort of insurance plan

under which stations would pay NAB a definite premium were set up for the conduct of such cases and the prosecution of wrongdoers, it would be for the benefit of the whole industry and, at the same time, estop such practices on the part of unscrupulous individuals. Had this station management ever suspected that Mendenhall was a P. I. account, it would not, of course, have even considered taking the Mendenhall spots.

We would be very much interested in knowing what may be the ultimate outcome of the case you published in the April 11th NAB REPORTS, page 335. Likewise, we would like your advice as to procedures other than prosecution by which we might obtain a part, at least, of what this firm owes us.

Respectfully yours,

(Signed).

NAB replied as follows:

Dear ———:

Your letter of April 14 regarding the Mendenhall Co. poses some interesting problems which have had the serious study of our staff members here. Russell Place, NAB Counsel, advises that legal action would have to be instituted by your attorneys in Mississippi; that the likelihood of your recovering would be slight, and that the expenses of legal action would entail further loss. Nevertheless, you would like to obtain at least part of the money Pickering owes you, and the only practical suggestion we can offer at this time is for you to take your record of response on this account, and submit a bill to Pickering based on four returns per dollar, since he has already admitted his indebtedness to you on that basis. Although this would not cover the full amount of your bill, and although you definitely did not understand this to be a P-I account, that is one practical way for you to recover at least part of your costs without further expense.

We cannot emphasize too strongly the necessity for stations to secure credit ratings on unknown accounts of this type, to avoid sad experiences such as this. One station to my knowledge handled the Pickering proposal as follows:

On receipt of his original offer, the station replied that announcements could be bought only at card rates, and quoted its price for a month's service. Pickering accepted and authorized the station to proceed. Unable to learn his credit rating, however, the station requested payment for the month's service in advance. This was never received—and the announcements never went on the air. The station did not lose any money; its listeners were not disgruntled by slow delivery of merchandise ordered, and Pickering did not get the benefit of "free" radio advertising. Procedure similar to that should, we think, be followed in all such cases.

A slight amount of "business" may be lost by rigorous adherence to such procedure, but in the long run collections will be higher, expenses less, listeners better served, legitimate advertisers protected, per-inquiry dealers and outright chisellers effectively discouraged, and the ultimate best interests of the radio industry and advertising in general better served.

Your suggestion for the establishment of some sort of insurance plan is being referred to the NAB Board of Directors, to be considered at their next meeting.

Sincerely yours,

FRANK E. PELLEGRIN,

Director,

Dept. of Broadcast Advertising.

A request for free time has been reported by several members from the "Society of Inter-American Relations, Sociedad Panamericana, Quito, Ecuador." This organi-



zation, capitalizing on a "good neighbor" approach, seeks free announcements to promote the sale of Equadorean seeds at 10¢ per package "to cover handling and mailing costs." The announcement says that "with the seeds will come a list of Equadorean trade and merchandise offerings designed to increase business between the Americas . . ."

We believe that since broadcasters get regular rates to promote the sale of seeds and nursery products of regular advertisers, it would hardly be fair nor good business practice to give time free to this applicant, and the follow-up mentioned seems to us to be an effort to secure mail-order business, another type of business for which broadcasters are entitled to regular rates.

The Hicks Advertising Agency of Dallas, Tex., is seeking contingent deals on behalf of the Breedlove Nurseries. Stations are advised to adhere to regular rates if approached by this advertiser.

It is confidentially reported by an NAB member that the President of the Eastern Wire Corporation made the statement that he had never bought anything at card rates and that he was not going to start now.

Commented our member: "I simply send this along to show how stations that do not observe their rate cards do have an effect upon and hurt the whole industry."

## BMI

### "BMI HAS THINGS IN CONTROL"

That is the conclusion of a reporter for the *Charlotte News* (Charlotte, North Carolina) after making inquiries. The article reads in part as follows:

#### Reporter on Assignment

The Assignment:

Whatever happened to the ASCAP-BMI row? Is Jeannie still wearing her hair light brown?

#### ' AND THE REPORT

By Pete McKnight, Reporter

Apparently the lady hasn't changed the tint of her locks. It's just that we don't hear so much about it now. And that's the whole story behind the present status of the BMI-ASCAP deadlock. BMI has things in control.

\* \* \* \* \*

BMI is new, you know. Its first song was published early in 1940. . . . At first, the available songs were limited and your radio and mine played *Jeannie* until the poor gal was worn out.

But it wasn't long before the nation's previously-suppressed young songwriters started things humming. ASCAP hadn't given them a look-in. BMI was a God-send. Thus, such tunes as *You Walk By, So You're The One, I Hear A Rhapsody, High On*

*A Windy Hill*, and dozens of other acceptable ones went out over the air, started selling sheet music and phonograph records.

\* \* \* \* \*

The fight seems to be over, and ASCAP will have to meet BMI's terms (*sic*) which originally were simple—charge us for using your music on the radio on the basis of the frequency each tune is played.

### NEW HIT MAKERS TO THE FORE

Hit songs by newcomers are a specialty with BMI. The two numbers from the BMI catalogue which lead in the best selling sheet music list this week, *Wise Old Owl* and *Walkin' by the River*, are the works of writers whose names have not appeared among the hit makers.

The story of Una Mae Carlisle, who wrote *Walkin' by the River*, is so striking that it was the feature of this week's *We, the People* program. The gifted young colored girl told the audience that she took her first piano lessons from her mother, a school teacher, and was later graduated from the music department of Wilberforce University. She had two great ambitions, one to write music and the other to go to Europe. A trip to England started her on the road to success in music. The way she electrified friends in England with her American music led to opportunities for appearances in public and before the war began she had made a sensation in Paris which could probably be compared to nothing except the place which Josephine Baker made for herself in the entertainment world in Paris. At the moment when war broke, Miss Carlisle was appearing at Shepard's in Cairo, Egypt, one of the most famous resorts of international society.

She returned to New York with the manuscript of a song which had been inspired by memories of peaceful evenings along the Thames in England, and *Walkin' by the River* has now landed among the lists of hit song writers the name which she had already put into bright lights as a singer and orchestra leader.

Both words and music of *Wise Old Owl* were written by Joe Ricardel, a New York boy, who first set out to become a concert violinist. He was the pupil of one of New York's greatest violin teachers, Ferdinand Carri, and his career was radically changed by Carri's death. Arrangements had been made for Mr. Ricardel's debut at Town Hall in New York when Carri died and plans for the debut were thrown into confusion and ultimately abandoned.

Joe Ricardel, crushed by the loss of the master to whom he had been so deeply devoted, could find no inspiration in the various efforts he made to carry on his studies under other teachers. He gave up his plans for the concert field and went into work with dance orchestras. The violin was no longer in much demand among the dance bands so he bought himself a saxophone and learned to play that as well as the clarinet and trumpet. Before long he had organized his own dance band and for several years has been building his reputation as band leader up and down the Atlantic Coast from Maine to Florida. His

band has also been heard throughout the country in broadcasts originating from WOR in New York. Meanwhile, he was studying singing at the Mackie School of Music and also with Mlle. Liazza, formerly of the Metropolitan Opera. He does the vocal work with his own band. Last summer his band was at the Claremont Inn, which overlooks the Hudson River from the heights of upper Manhattan, and he is scheduled to return there for the summer of 1941.

The idea for his current hit, *Wise Old Owl*, grew out of an episode at the Claremont last summer. "About 1 o'clock one morning," he says, "I was on the open terrace when a young boy and girl strolled by. In the course of the conversation the young man asked the girl whether she loved him. The girl answered Yes rather hesitantly. Just at this point a tug went by on the river and hooted just like an owl. Immediately I began to wonder what it was that did say Hoo. When I finally remembered it was an owl, I had a song title."

BMI's second year begins auspiciously with this evidence that the company continues its policy of holding the door wide open to new talent.

### BMI FEATURE TUNES

April 21-27

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HIGH ON A WINDY HILL
8. YOU WALK BY
9. HERE'S MY HEART
10. IT ALL COMES BACK TO ME NOW
11. MAY I NEVER LOVE AGAIN
12. LOAFING ON A LAZY DAY
13. TALKING TO THE WIND
14. BREAKFAST FOR TWO
15. WITH A TWIST OF THE WRIST
16. WHERE'S THE CAPTAIN'S HAT

### SEVEN MONTHS' CHANGE

*Variety* for April 16th announces in headlines, "ASCAP NUMBER 7TH ON LIST," meaning thereby that an ASCAP publication reaches 7th place on *Variety's* list of the fifteen best sheet music sellers for the past week. The fact that *Variety* regards this as an item of news becomes particularly significant after a glance back through the files. On August 21st *Variety* announced in two-column headlines, "BMI LANDS 2 AMONG 'MOST PLAYED' LEADERS, BUT NONE IN 25 'BEST-

SELLERS.'" On August 28th *Variety* carried a two-column box with the headline, "BMI'S 'PRACTICE' MOVES UP." The item reported that *Practice Makes Perfect* was tied for first place in network performances and had made the Lucky Strike Hit Parade the week before in 9th place. "Also for the first time since the song was introduced the sheet sales on *Practice* started Monday (26th), according to jobbers, to show they were going some place." It was not, however, until the issue of the following week, September 4th, that the BMI initial appeared for the first time on the *Variety* list of best-sellers. Now, just over seven months later, *Variety* finds it worth a headline when the other team scores.

The general proportion of numbers from BMI and affiliated publishers on the best-seller lists remains about what it has been for some weeks. The current sensation is the behavior of the Marks tune, *Amapola*, which heads the lists of best-selling records and sheet music as well as the *Variety* list of network plugs. Sheet sales on the number are reported to approach the 300,000 mark and the Jimmy Dorsey record heads the lists throughout the country.

*Amapola* was written in 1924 by Joseph McCalle, who was for twenty-five years music director and critic for the Columbia Phonograph Company. It was originally published by Master Music. Several years later G. Schirmer bought it and successfully featured it as a semi-classical selection. In 1933 the copyright was acquired by Marks who published it as a concert number and also as a tango. Late in 1940, Marks brought it out as a foxtrot with new lyrics by Albert Gamse, and the song soon began to find favor with band leaders. To date, some twenty *Amapola* recordings have been made, including those by Sammy Kaye, Les Brown, Chick Bullock, Xavier Cugat, Henry Horlick, Nano Rodrigo, Connie Boswell, Deanna Durbin, and Jimmy Dorsey. The Dorsey recording, featuring two vocals in different tempo by Bob Eberly and Helen O'Connell, is the one now heading the best-seller lists.

In addition to *Amapola*, McCalle also wrote a number of military marches and tangos. A native of Spain, he studied at the Paris Conservatory before coming to America where he spent most of his life. In 1924, McCalle returned to Spain and so inspired by the beauty of his native land, it is reported, that he composed *Amapola*.

### FEDERAL COMMUNICATIONS COMMISSION

#### CONSOLIDATION OF FOUR BROOKLYN STATIONS AUTHORIZED

Voluntary consolidation of four Brooklyn, N. Y., broadcast stations, now sharing time on 1430 kilocycles,



into a single station for more effective operation is made possible by action of the FCC in approving assignment of the license of Station WARD from the United States Broadcasting Corporation to the Unified Broadcasting Corporation of Brooklyn and, at the same time, modifying the license of the latter to permit unlimited time operation and move studios to 554 Atlantic Avenue, that city.

Under this authorization, the new operating company will absorb the facilities of WLTH, licensed to WLTH-New York, Inc.; WVFW, Paramount Broadcasting Corporation, and WBBC, Brooklyn Broadcasting Corporation, and operate with equipment of WARD, with 250 watts power as heretofore.

The move was pursuant to suggestion made by the Commission in its decision in the so-called "Brooklyn cases" October 22 last. At that time, in renewing licenses of WLTH and WARD and denying the application of WBBC for the facilities of WLTH and WARD, the Commission stated that it would "entertain any feasible proposal for the consolidation of the four present licensee corporations into a new organization to operate one station under a single management and control for the purpose of supplanting the four existing stations. In this connection, however, such new corporation or other organization must be prepared to demonstrate to the satisfaction of the Commission that the management selected will consist of persons who are highly responsible and fully qualified to operate the new station."

### CAIRO TREATY

The United States Government Printing Office, Washington, D. C., now has available for immediate distribution 5,000 copies of Treaty Series No. 948, which contain the General Radio Regulations adopted at Cairo in 1938.

A copy of this publication may be obtained from the Public Printer at a price of fifty cents. All orders should be accompanied by a remittance as the rules of the United States Government Printing Office require payment before delivery.

Attention is invited to Item 7, Part A, Appendix 10 of the General Radio Regulations, Cairo Revision 1938 Annexed to the International Telecommunication Convention in Force (Madrid 1932), which requires that "Ship Stations" on board ships compulsorily equipped with radiotelegraph installation must provide themselves with these Regulations.

Also other stations whose operations involve international aspects should provide themselves with these regulations.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, April 21. They are subject to change.

### Monday, April 21

#### Consolidated Hearing

NEW—The Yankee Network, Inc., Boston, Mass.—C. P., **44300 kc.**, 19,230 square miles.

NEW—The Outlet Company, Providence, R. I.—C. P., **44300 kc.**, 16,370 square miles, unlimited time.

### Tuesday, April 22

NEW—Camden Broadcasting Co., Camden, N. J.—C. P., **800 kc.**, 500 watts, daytime.

### Wednesday, April 23

NEW—Columbia Broadcasting System, Inc., Boston, Mass.—C. P., **43500 kc.**, 20,200 square miles, unlimited time.

### Friday, April 25

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

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast and television cases. They are subject to change.

### April 29

#### Television

W1XG—General Television Corporation, Boston, Mass.—Modification of license (considered as C. P.), **50000-56000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a).

W1XG—General Television Corporation, Boston, Mass.—C. P., **42000-56000, 60000-86000 kc.**, 500 watts aural and visual. Emission A-3 and A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts visual only, emission A-5, Sec. 4.4(a).

### May 1

To Be Held in U. S. Court of Appeals Court Room, Old Post Office Building, in Atlanta, Georgia.

WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), **890 kc.**, 1 KW night, 5 KW LS, unlimited time.

### May 5

Hearing To Be Held in Pensacola, Florida, Beginning May 5 and Continued Thereafter in Panama City, Florida, and Ocala, Florida, as Follows:

Pensacola, Florida, in Court Room, County Court Building.

Panama City, Florida, in Court Room, County Court House.

Ocala, Florida, in U. S. Court Room, 2nd Floor, U. S. Post Office Building.

WTMC—Ocala Broadcasting Company, Inc., Ocala, Florida.—In the Matter of Revocation of License of Station.

WDLP—Panama City Broadcasting Company, Panama City, Fla.—In the Matter of Revocation of License of Station.

May 16

KMA—May Broadcasting Company, Shenandoah, Iowa—Renewal of license, **930 kc.**, 1 KW night, 5 KW day, unlimited time.

May 28

KRBC—Reporter Broadcasting Company, Abilene, Texas.—C. P., **940 kc.**, 1 KW, unlimited, DA night and day. Present assignment: **1420 kc.**, 250 watts, unlimited time.

May 29

WRDW—Augusta Broadcasting Company, Augusta, Georgia.—C. P., **1450 kc.**, 500 watts night, 1 KW day, unlimited time. Present assignment: **1500 kc.**, 250 watts, unlimited time.

June 2

NEW—Symons Broadcasting Company, Ellensburg, Wash.—C. P., **1110 kc.**, 1 KW, unlimited time.

#### Consolidated Hearing

WPAY—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Transfer of control of corp., **1370 kc.**, 100 watts, unlimited time.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, **1370 kc.**, 100 watts, unlimited time.

June 4

KFRO—Voice of Longview, Longview, Texas.—Modification of C. P., **1340 kc.**, 5 KW, unlimited time, DA night. Present assignment: **1340 kc.**, 1 KW, unlimited time, DA night.

June 12

WQBC—Delta Broadcasting Company, Inc., Vicksburg, Miss.—Modification of C. P., **1360 kc.**, 500 watts night, 1 KW day, unlimited time. Present assignment: **1360 kc.**, 1 KW day-time.

June 16

#### Television Broadcast

W2XD—General Electric Company, Schenectady, N. Y.—For license to cover C. P., **162000-168000 kc.**, 40 watts, emission A-5, Sec. 4.4(a).

W2XI—General Electric Company, New Scotland, N. Y.—For renewal of license, **162000-168000 kc.**, 10 watts, emission A-5, Sec. 4.4(a).

W2XB—General Electric Company, New Scotland, N. Y.—For renewal of license, **60000-86000 kc.**, A. 3 KW, V. 10 KW, Sec. 4.4.

June 18

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—C. P. to erect a synchronous station, **1310 kc.**, 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### NEW STATIONS GRANTED

Inter-City Advertising Co., Charlotte, N. C.—Granted construction permit for new standard broadcast station to operate on **610 kc.**, 1 KW unlimited, subject to approval of directional antenna design (B3-P-2878).

Ruben E. Aronheim, Fitchburg, Mass.—Granted construction permit for new standard broadcast station to operate on **1340 kc.**, 250 watts night and day, unlimited time; exact site and antenna system to be determined with Commission's approval (B1-P-3061).

### NEW FM STATIONS

St. Louis University, St. Louis, Mo.—Granted construction permit for new high frequency (FM) broadcast station to operate

on **45100 kc.**; coverage of 13,000 sq. mi.; with more than 1,500,000 population (B4-PH-37).

### APPLICATIONS GRANTED

KTRH—KTRH Broadcasting Co., Houston, Tex.—Granted construction permit to change frequency from **1290 kc.** (**1320 kc.** under NARBA) to **740 kc.**, increase power from 1 KW night, 5 KW day, to 50 KW, move transmitter site, install new transmitter, and directional antenna for day and night use, subject to engineering approval (B3-P-3011).

KXYZ—Harris County Broadcast Co., Houston, Tex.—Granted construction permit to move transmitter to Deepwater, Tex., use KTRH transmitter, increase power from 1 KW day and night to 5 KW day and night, change frequency from **1470 kc.** (NARBA) to **1320 kc.** (NARBA), install directional antenna for night use; antenna system to comply with Commission's requirements (B3-P-3016).

KAND—Navarro Broadcasting Assn., Corsicana, Tex.—Granted construction permit to increase power from 100 watts unlimited to 250 watts night and day, and make changes in equipment; station operates on **1340 kc.** (B3-P-3121).

W9XZY—The Pulitzer Publishing Co., St. Louis, Mo.—Granted renewal of license of facsimile broadcast station W9XZY for the period March 1, 1941 to March 1, 1942; granted upon an experimental basis only and upon the express condition that it is subject to change or cancellation by the Commission at any time, without advance notice or hearing (B4-FRB-5).

WARD—United States Broadcasting Corp. (assignor), Unified Broadcasting Corp. of Brooklyn (assignee), Brooklyn, N. Y.—Granted consent to the assignment of license of Station WARD from United States Broadcasting Corp. to Unified Broadcasting Corp. of Brooklyn, to effect a consolidation of four Brooklyn stations (WARD, WLTH, WVFW, and WBBC), now sharing time, into operation of a single station (WARD) (B1-AL-302).

WARD—Unified Broadcasting Corp. of Brooklyn, Brooklyn, N. Y.—Granted modification of license to increase hours of operation from sharing with WLTH, WVFW, WBBC, to unlimited, and change studio location to 554 Atlantic Ave., Brooklyn, N. Y. (requests facilities of WBBC, WVFW and WLTH) (B1-ML-1054).

### DESIGNATED FOR HEARING

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Application for construction permit to change frequency from **1400 kc.** to **1060 kc.**, increase power from 250 watts to 10 KW night and day, install new transmitter, install directional antenna for day and night use and move transmitter (B3-P-3036).

WDAE—Tampa Times Co., Tampa, Fla.—Application for construction permit to change frequency from **1250 kc.** to **740 kc.**, increase power from 5 KW unlimited (using directional antenna) to 10 KW; move transmitter site from Tampa, Fla., to Thonotosassa, Fla.; install new transmitting equipment and install directional antenna for night use (B3-P-2841).

KVOA—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Application for construction permit to change frequency from **1290 kc.** to **590 kc.** and install directional antenna for day and night use (B5-P-2906).

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Application for modification of license to increase hours of operation from specified to unlimited. (Requests facilities of KFGQ.) Joint hearing with KFGQ (B4-ML-1052).

### MISCELLANEOUS

WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla., and WDLF—Panama City Broadcasting Co., Inc., Panama City, Fla.—Granted motions filed by Harry W. Reinstine, Jacksonville, Fla., to permit his appearance on behalf of Ocala Broadcasting Co., Inc., Ocala, Fla., and Panama City Broadcasting Co., Inc., Panama City, Fla., in re hearing on revocation of licenses of Stations WTMC and WDLF; granted petitions of John H. Perry, Palm Beach, Fla., to intervene in above causes; granted motions filed by Ocala Broadcasting Co., Inc., Panama City Broadcasting Co., Inc., and John H. Perry, for postponement of hearings on revocation of licenses



- of Station WTMC now scheduled for April 14 and of Station WDLP now scheduled for April 17, to May 5, 1941, said hearing to be held at Pensacola, Fla., on such date and thereafter be transferred to Panama City and Ocala, Fla., as may be directed.
- KTRB**—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to the conclusion of Fifth Annual Convention of the California Young Farmers Association program on April 8, 1941, in order to broadcast said program only, and from 7:45 p. m. to approximately 9:30 p. m., PST, April 11, 1941, in order to broadcast presentation of Stainer's "Crucifixion", only.
- WSUI**—State University of Iowa, Iowa City, Iowa—Granted special temporary authority to operate a minimum of nine hours daily for the period April 9, 1941, to not later than April 14, 1941, in order to observe the Easter vacation period at the University of Iowa.
- Sears, Roebuck & Co.**, Philadelphia, Pa.—Granted petition to intervene in the hearing on New Jersey Bell Tel. Co.'s application for authority to acquire capital stock of Imperial Securities Co.
- WPAY**—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Granted petition for continuance of hearing until June 2, on application for consent to transfer control of Vee Bee Corp., licensee of station WPAY, and application for renewal of license of WPAY.
- WPAY**—Vee Bee Corp., Portsmouth, Ohio.—Granted petition for continuance of hearing until June 2, on application for consent to transfer control of Vee Bee Corp., licensee of station WPAY, and application for renewal of license of WPAY.
- W1XG**—General Television Corp., Boston, Mass.—Granted petition to continue hearing now scheduled for April 15 to April 29, on applications for construction permits to change frequencies.
- KGFI**—Eagle Broadcasting Co., Inc., Brownsville, Texas.—Granted authority to install automatic frequency control equipment on **1490 kc.** under NARBA (B3-F-205).
- WAPO**—W. A. Patterson, Chattanooga, Tenn.—Granted authority to install automatic frequency control equipment on **1150 kc.** under NARBA (B3-F-207).
- KYW**—Westinghouse Radio Stations, Inc., Philadelphia, Pa.—Granted authority to install automatic frequency control equipment on **1060 kc.** under NARBA (B2-F-185).
- WFAS**—Westchester Broadcasting Corp., White Plains, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on **1240 kc.** (NARBA) (B1-Z-755).
- KOL**—Seattle Broadcasting Co., Seattle, Wash.—Granted authority to determine operating power by direct measurement of antenna input on **1300 kc.** (NARBA) (B5-Z-749).
- WHN**—Marcus Loew Booking Agency, New York, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on **1050 kc.** (NARBA) (B1-Z-743).
- WFBG**—The Gable Broadcasting Co., Altoona, Pa.—Granted authority to determine operating power by direct measurement of antenna input on **1310 kc.** (NARBA) (B2-Z-757).
- KTSW**—Emporia Broadcasting Co., Inc., Emporia, Kans.—Granted authority to determine operating power by direct measurement of antenna input on **1400 kc.** (NARBA) (B4-Z-747).
- WTMA**—Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted authority to determine operating power by direct measurement of antenna input on **1250 kc.** (NARBA) (B3-Z-754).
- WGAU**—J. K. Patrick & Co., Athens, Ga.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-756).
- WAAT**—Bremer Broadcasting Corp., Jersey City, N. J.—Granted modification of construction permit for installation of new transmitter and directional antenna for night use, change in hours of operation and increase in power, move of transmitter, for **970 kc.** under NARBA and changes in directional antenna (B1-MP-1237).
- W8XCT**—The Crosley Corp., Cincinnati, Ohio.—Granted modification of construction permit which authorized new television broadcast station, for extension of completion date from April 28, 1941 to October 28, 1941 (B2-MPV-39).
- WRCA**—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted license to cover construction permit as modified, to install new equipment, change frequencies and increase power; **9670, 17780 kc.**; 50,000 watts; shares time on **17780 kc.** with Station WBOS; unlimited time on **9670 kc.** (B1-LIB-14).
- WCSH**—Congress Square Hotel Co., Portland, Maine.—Granted modification of construction permit which authorized installation of directional antenna for day and night use and increase in power, for changes in directional antenna on **970 kc.** under NARBA (B1-MP-1231).
- WFCI**—Pawtucket Broadcasting Co., Pawtucket, R. I.—Granted modification of construction permit for new station, for extension of completion date from April 17, 1941 to May 17, 1941 (B1-MP-1246).
- KEYS**—Earl C. Dunn and Chas. W. Rossi, d/b as Nueces Broadcasting Co., Corpus Christi, Tex.—Granted license to cover construction permit as modified for new station, specifying **1490 kc.** under NARBA (B3-L-1354). Also granted authority to determine operating power by direct measurement of antenna power on **1490 kc.** (NARBA) (B3-Z-730).
- WFCR**—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Granted license to cover construction permit which authorized increase in power and equipment changes; **1400 kc.** (NARBA), 250 watts, unlimited time (B3-L-1368).
- KUJ**—KUJ, Inc., Walla Walla, Wash.—Granted license to cover construction permit as modified for changes in equipment, antenna changes, increase in power, change in frequency and move transmitter; **1420 kc.** under NARBA, 1 KW, unlimited time (B5-L-1366). Also granted authority to determine operating power by direct measurement of antenna input on **1420 kc.** NARBA (B5-Z-744).
- KFEL**—Eugene P. O'Fallon, Inc., Denver, Colo.—Granted license to cover construction permit as modified for increase in power, installation of new transmitter and directional antenna, and move transmitter; **950 kc.** (NARBA), 5 KW, unlimited time, directional antenna (B5-L-1370). Also granted authority to determine operating power by direct measurement of antenna power (B5-Z-762).
- KOY**—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Granted license to cover construction permit which authorized installation of new transmitter; **550 kc.**, 1 KW, unlimited time (B5-L-1369).
- Essex Broadcasters, Inc.**, Detroit, Mich.—Granted special temporary authority to transmit to radio station CKLW for broadcast by that station program in connection with The Lutheran Charities in Detroit from 4:30 p. m. to 5 p. m. EST, May 4, 1941.
- Western Mass. Broadcasting Co.**, Pittsfield, Mass.—Granted motion for indefinite postponement of hearing on application for construction permit to operate on **1500 kc.**—**1490** under NARBA—100 watts; unlimited time.
- WNAX**—So. Dakota Broadcasting Corp. (Transferor), and Iowa Broadcasting Co. (Transferee), Yankton, So. Dak.—Granted petition for leave to withdraw without prejudice application for transfer of control of station WNAX, scheduled for hearing April 16.
- WEAU**—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from 4:30 to 5:30 a. m., CST, on April 13, in order to broadcast the Pope's Message, only (B4-S-924).
- WGES**—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted special temporary authority to operate on **1390 kc.** with power of 500 watts, during hours vacated by WGES (6 to 7 a. m., 12 to 3 p. m. and 8 to 12 midnight, CST) for period not to exceed 30 days to broadcast non-sponsored programs only, pending completion of construction for unlimited time operation (B4-S-557).
- KFUO**—Evangelical Lutheran Synod, etc., Clayton, Mo.—Granted special temporary authority to operate from 2 to 4 a. m., CST, on April 26, in order to broadcast DX program only.
- KGIW**—E. L. Allen, Alamosa, Colo.—Granted special temporary authority to remain silent until April 10, 1941, pending installation of new equipment.
- KTHS**—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted special temporary authority to operate simultaneously with Station WBAL from 5 a. m., CST, to local sunrise (April 5:45 a. m., CST), April 13, 1941, in order to broadcast Sunrise Services only.
- District Radio Broadcasting Co.**, Murray, Utah.—Granted motion for leave to amend petitioner's application for construction permit (Docket 6003) relating to stockholders.
- KFNF**—KFNF, Inc., Shenandoah, Iowa.—Continued hearing for renewal of license now scheduled for April 16 to May 4, 1941.

KLX—Tribune Building Co., Oakland, Calif.; WSAR—Doughty & Welch Electric Co., Inc., Fall River, Mass.; KFAC—Los Angeles Broadcasting Co., Inc., Los Angeles, Calif.; KVOR—Out West Broadcasting Co., Colorado Springs, Colo.—Dismissed applications for modification of licenses to be classified as a "III-A" station and reiterated that station classification as I, II, III-A, etc., is merely for administrative convenience and is not a part of any license nor a source of any right in the licensee.

WCAO—The Monumental Radio Co., Baltimore, Md.—Denied petition for reconsideration and grant filed by Lewis M. Milbourne and Clarence W. Miles for transfer of control of The Monumental Radio Co. (WCAO), from themselves, as voting trustees, to themselves and L. Waters Milbourne as voting trustees under a Voting Trust Agreement dated April 16, 1941; set aside action of the Commission of April 8, 1941, designating said application for hearing, and granted said application upon the condition that the voting trust agreement, dated April 16, 1941, be modified in accordance with the applicants' letter of April 14, 1941; form of consent (Form No. 727) to specify 60 days rather than the usual 30 days, as the period within which the transfer may be completed thereunder.

KXL—KXL Broadcasters, Portland, Ore.—Granted application to change frequency from **1450 kc.** to **750 kc.**, increase power from 250 watts to 10 KW, change hours of operation from sharing with KBPS to limited time, and install a directional antenna.

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted application to increase power from 250 watts to 1 KW, on **860 kc.**, unlimited time provided a directional antenna is installed, subject to approval of the Commission, for the protection of other stations; granted upon condition that applicant file with the Commission within 30 days an appropriate application for the installation of a directional antenna; alternative, daytime operation.

Butler Broadcasting Corp., Hamilton, Ohio.—Adopted order denying petition of Butler Broadcasting Corp. to reconsider and grant application for construction permit for new station to operate on **1450 kc.**, with power of 250 watts, unlimited time.

Brookdale Civic Association, Bloomfield, N. J.—Dismissed formal protest filed March 29, 1941, and letter filed February 7, 1941, by Brookdale Civic Association, directed against the action of the Commission January 9, 1941, granting the application of North Jersey Broadcasting Co., Inc. (WPAT), Paterson, N. J., for approval of antenna, studio and transmitter sites, inasmuch as the North Shore Broadcasting Co., Inc., has given the Commission written assurance that station WPAT will correct all reasonable complaints of blanketing or external cross modulation with the 250 mv/m contour of station WPAT.

## APPLICATIONS FILED AT FCC

### 590 Kilocycles

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—Authority to determine operating power by direct measurement of antenna power.

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—License to use old RCA 250-D transmitter for auxiliary purposes.

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—License to cover construction permit (B2-P-2711) as modified for installation of new transmitter, change in frequency, increase in power and directional antenna for night use.

### 690 Kilocycles

KGGF—Hugh J. Powell, Coffeyville, Kansas.—Authority to determine operating power by direct measurement of antenna power.

### 740 Kilocycles

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Construction permit to change frequency from **1010 kc.** to **740 kc.**, increase power from 5 KW to 50 KW, install new transmitter and make changes in directional antenna for day and night use. Amended: re changes in directional antenna.

### 930 Kilocycles

WKY—WKY Radiophone Co., Oklahoma City, Okla.—Construction permit to install directional antenna for night use.

Amended: re changes in directional antenna and move transmitter.

### 960 Kilocycles

KMA—May Broadcasting Co., Shenandoah, Iowa.—Authority to determine operating power by direct measurement of antenna power.

### 1160 Kilocycles

WJJD—WJJD, Inc., Chicago, Ill.—Authority to install automatic frequency control equipment.

### 1190 Kilocycles

KEX—Oregonian Publishing Co., Portland, Oregon.—Construction permit to install new transmitter, directional antenna for day and night use, change frequency from **1180 kc.** to **1160 kc.**, increase power from 5 KW to 50 KW, change hours of operation to unlimited and move transmitter. Amended: re changes in directional antenna, specify **1190 kc.** under NARBA and change transmitter location.

### 1210 Kilocycles

NEW—Capital City Broadcasting Co., Inc., Topeka, Kans.—Construction permit for a new broadcast station to be operated on **1170 kc.**, 5 KW, daytime (Class II station). Amended: To change transmitter location and request **1210 kc.** under NARBA.

### 1230 Kilocycles

NEW—WFAM, Inc., Lafayette, Ind.—Construction permit for new standard broadcast station to be operated on **1230 kc.**, 100 watts power, unlimited time. Facilities of WFAM.

NEW—Southwest Broadcasters, Inc., Las Vegas, N. Mex.—Construction permit for a new standard broadcast station to be operated on **1230 kc.**, 250 watts, unlimited time.

### 1240 Kilocycles

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—Authority to determine operating power by direct measurement of antenna power.

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—License to cover construction permit (B4-P-3087) for changes in equipment, antenna changes, increase in power and move of transmitter.

NEW—Birney Imes, Tupelo, Miss.—Construction permit for a new standard broadcast station to be operated on **1240 kc.**, 250 watts, unlimited time.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### 1250 Kilocycles

WTMA—Atlantic Coast Broadcasting Co., Charleston, S. C.—Modification of construction permit (B3-P-2985) to install new transmitter, directional antenna for night use, increase in power, requesting **1250 kc.**, under NARBA and changes in directional antenna system, extension of commencement and completion dates 30 and 50 days respectively.

### 1290 Kilocycles

KVOA—Arizona Broadcasting Co., Tucson, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### 1300 Kilocycles

KOL—Seattle Broadcasting Co., Seattle, Wash.—Authority to install automatic frequency control equipment.

### 1310 Kilocycles

WCAM—City of Camden, N. J.—Authority to determine operating power by direct measurement of antenna power.

### 1320 Kilocycles

WATR—The WATR Co., Inc., Waterbury, Conn.—Construction permit to increase power from 250 watts to 1 KW, install new transmitter and make changes in directional antenna. Amended: To specify **1320 kc.** under NARBA.



### 1330 Kilocycles

WFBC—Greenville News-Piedmont Co., Greenville, S. Car.—Modification of construction permit (B3-P-1849) requesting changes in directional antenna and extension of commencement and completion dates. Amended: To make further changes in directional antenna and 1330 kc. under NARBA.

### 1340 Kilocycles

WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Authority to determine operating power by direct measurement of antenna power.

KWOS—Tribune Printing Co., Jefferson City, Mo.—Authority to determine operating power by direct measurement of antenna power.

KARM—KARM, The George Harm Station, Fresno, Calif.—Authority to determine operating power by direct measurement of antenna power.

WLAV—Leonard A. Versluis, Grand Rapids, Mich.—Authority to determine operating power by direct measurement of antenna power.

WLAJ—Lake Region Broadcasting Co., Lakeland, Fla.—Authority to determine operating power by direct measurement of antenna power.

### 1390 Kilocycles

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Modification of construction permit (B4-P-3063) requesting change in type of transmitter, changes in directional antenna system for day and night use on 1390 kc. under NARBA, and extension of commencement and completion dates.

### 1410 Kilocycles

WNBC—State Broadcasting Corp., New Britain, Conn.—Modification of construction permit (B1-P-2723) as modified, requesting changes in directional antenna, 1410 kc. under NARBA, increase in power from 1 KW night, 5 KW day to 5 KW day and night, using directional antenna day and night and extension commencement and completion dates to 30 days after grant and 180 days thereafter respectively.

### 1450 Kilocycles

KMYC—Marysville-Yuba City Broadcasters, Inc., Marysville, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 1470 Kilocycles

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Authority to determine operating power by direct measurement of antenna power.

### 1490 Kilocycles

KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—Construction permit to install new transmitter, make changes in antenna, change frequency from 1490 to 560 kc., increase power from 250 watts to 500 watts night, 1 KW day.

KYCA—Southwest Broadcasting Co., Prescott, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### FM APPLICATIONS

NEW—Columbia Broadcasting System, Inc., Boston, Mass.—Construction permit for a new high frequency broadcast station to be operated on 44100 kc.; coverage, 16,230 square miles; population, 5,972,246. Amended: To request 43500 kc.; coverage, 20,200 square miles; population, 5,384,179, change type of antenna and location of transmitter to Summit of Mt. Asnebumskit, Paxton, Mass.

NEW—Hughes Productions, Division of Hughes Tool Co., Los Angeles, Calif.—Construction permit for a new high frequency broadcast station to be operated on 44500 kc.; coverage, 7,315 square miles; population, 2,575,558.

NEW—Hughes Productions, Division of Hughes Tool Co., San Mateo County, Calif.—Construction permit for a new high frequency broadcast station to be operated on 44500 kc.; coverage, 10,790 square miles; population, 1,893,802.

NEW—Columbia Broadcasting System, Inc., St. Louis, Mo.—Construction permit for a new high frequency broadcast station to be operated on 44700 kc.; coverage, 10,950 square miles; population, 1,708,332.

NEW—McNary and Chambers, Washington, D. C.—Construction permit for a new high frequency broadcast station to be operated on 47500 kc.; coverage, 2,610 square miles; population, 762,485.

W63SY—Central New York Broadcasting Corp., Syracuse, N. Y.—Modification of construction permit (B1-PH-50) for new high frequency broadcast station requesting changes in antenna, change in transmitter site from Sentinel Heights Road, Onondaga, New York, to Pompey, New York, population, 827,879.

NEW—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Construction permit for a new high frequency broadcast station to be operated on 45300 kc.; coverage, 13,640 square miles; population, 1,017,471.

## 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.

**Alvi Company**—Charging dissemination of false advertisements in the sale of a hair dye cosmetic a complaint has been issued against Casimiro Mujo, trading as Alvi Co., and as Alvi, Inc., 158 Grand St., New York. According to the complaint, the respondent sells his preparation as "Vitale Instantaneous Hair Dye" and under other designations containing the word "Vitale".

The complaint charges that in newspaper and other advertisements the respondent represents that his preparation is scientific, safe, and free from harmful, dangerous and injurious chemicals; will end premature gray hair; will produce a permanent, natural, uniform shade; will give the hair the warmth, color, luster and glint of youth, and will have no ill effects upon the body. However, the complaint further alleges that the respondent's product is a chemical dye incapable of affecting the hair in any way other than as a dye, and will not accomplish the results claimed.

According to the complaint, the respondent's preparation contains paraphenylene-diamine, a toxic coal tar derivative, in sufficient quantity to cause in some cases skin irritation and other harmful effects, if used under the conditions prescribed in the advertisements, or under customary and usual conditions.

The complaint charges that the advertisements disseminated by the respondent contain neither warnings against the use of the preparation on the eyelashes or eyebrows, nor adequate warnings as to the necessity of a proper skin patch test before each application so as to determine the user's toxic reaction. Consequently, the complaint alleges, the respondent's advertisements constitute false advertisements in that they fail to reveal that use of the preparation under customary conditions or under conditions prescribed in the advertisements may result in injury to health (4484).

**Mumm, Romer, Robbins & Pearson, Inc.**—A complaint has been issued charging W. K. Sterline, Sidney, Ohio, distributor of preparations for treating hay fever and asthma, and Mumm, Robbins & Pearson, Inc., Columbus, Ohio, an advertising agency handling the Sterline advertisements, with misrepresentation in the sale of such preparation.

The complaint alleges that by means of circular matter distributed in various States, the respondents advertised that "W. K. Sterline's Compound", sometimes referred to as "Double Strength Hay Fever Compound", and by other similar names, is a cure, remedy or effective treatment for hay fever; will fortify one's system against that ailment and enable one to avoid it, and will

check sneezing and discharging from the nose, when such are not the facts.

According to the complaint, the respondents also represented that "Sterline's Combination Home Treatment" is a cure, remedy or competent treatment for asthma and that it will restore one to health and prevent the return of asthma. The respondents, according to the complaint, further represented that this treatment is a cure or remedy for bronchitis when that disease is associated with asthma.

The complaint alleges that the respondent's combination asthma treatment and the individual preparations which constitute it ("W. K. Sterline's Compound", sometimes referred to as "Sterline's Asthma Compound"; "W. K. Sterline's Elixir", sometimes referred to as "Sterline's Bronchial Elixir"; and "Korona" or "Asthma Powder"), used separately or in any combination, have no generally recognized therapeutic value in the treatment of asthma or bronchitis in excess of affording temporary relief from the paroxysm usually associated with asthma.

The complaint further charges that W. K. Sterline's Compound contains the drugs potassium iodide and fluid extract of lobelia and that its use as thus constituted may be harmful to those suffering from active or latent tuberculosis; that this product also contains sodium bromide and that use of the preparation as thus constituted over a long period is likely to cause mental derangement; that the advertisements disseminated by the respondents contain no warnings concerning the safe and proper use of this preparation under the circumstances; and that consequently such advertisements constitute false advertising in that they fail to reveal that use of this preparation under customary conditions or under conditions prescribed in the advertisements may result in serious injury to health (4485).

**Pioneer Mattress Company**—A complaint has been issued charging William E. Evans, trading as Pioneer Mattress Co., 980 Church St., Spartanburg, S. C., with misrepresentation.

According to the complaint, the respondent has represented on advertising letters and cards bearing the signatures of certain purported women's clubs, namely, "American Good Housekeepers Club" and "The Great Northern Women's Club," and by other means, that his mattresses are approved or recommended by various women's clubs; that they are designed, sponsored or recommended by a physician and made of new and unused materials; that the prospective purchaser's name has been specially selected and that by reason thereof he is given an opportunity to obtain a mattress at a special or reduced price which represents the actual cost of manufacture. The complaint further alleges that the respondent also advertised that his offer was open for a limited time only, and was made in connection with a special advertising campaign.

However, the complaint charges that the respondent's mattresses have not been recommended as advertised, either by physicians or by women's clubs; that the names of women's clubs advertised are wholly fictitious; that names of prospective purchasers are not chosen on a particular basis but merely from a part of general mailing lists used by the respondent and his advertising agency, and that the prices advertised are not special but the regular prices. The complaint further alleges that in many instances the respondent's products are not made entirely of new materials but of used or second-hand materials.

The complaint also charges the respondent with the use of fictitious price markings and with use of the name "Simmons" to designate certain of his mattresses, misleadingly giving the impression that such products are made by the Simmons Co. (4483).

**Reed-Harlin Grocer Company**—Charging violation of the brokerage provision of the Robinson-Patman Act a complaint has been issued against the Reed-Harlin Grocer Co., West Plains, Mo., which operates branch warehouses in Missouri and Arkansas; against John R. and Orr M. Reed, trading as West Plains Brokerage Co., West Plains, Mo., and against six companies which allegedly sell merchandise to Reed-Harlin Grocer Co. through the brokerage firm.

The respondent seller companies are: Ady and Milburn, Inc., Denver, Colo.; Arkansas State Rice Mill Co., Abbeyville, La.; William D. Wright and Frank E. Hockensmith, trading as Midwest Bean Co., Denver; The Great Western Sugar Co., Denver; Inness Bros., Inc., Kansas City, Mo., and Louis S. Taube, Theodore Taube and Lloyd B. Holden, trading as L. S. Taube & Co., Kansas City, Mo.

According to the complaint, the respondents, John R. Reed and Orr M. Reed, who control the West Plains Brokerage Co., are stockholders and officers of Reed-Harlin Grocer Co., John R. Reed being a majority stockholder and active manager of the grocery company.

The complaint further alleges that the respondent sellers pay to the respondents John R. Reed and Orr M. Reed, trading as West Plains Brokerage Co., and acting on behalf of the Reed-Harlin Grocer Co., substantial brokerage fees and commissions on purchases of the grocery company, particularly foodstuffs. Such amounts, according to the complaint, represent a percentage of the quoted sales prices agreed upon between each of the respondent sellers and the respondents Reed, trading as West Plains Brokerage Co. These fees and commissions, according to the complaint, have been received by the respondents Reed and by the Reed-Harlin Grocer Co. through the respondent brokerage firm.

The complaint further charges that the transmission and payment of the brokerage fees or commissions by the seller respondents and their receipt and acceptance by the respondents Reed, trading as West Plains Brokerage Co., upon the purchases of the Reed-Harlin Grocer Co., and the receipt and acceptance of such fees or commissions by the Reed-Harlin Grocer Co., upon its own purchases, constitutes violation of the brokerage provision of the Robinson-Patman Act (4486).

**Scientific Manufacturing Co., Inc.**, 426 Prescott Ave., Scranton, Pa., and Howard J. Force, the corporation's president, have been served with a complaint alleging misrepresentation in the sale of medicinal preparations.

According to the complaint, the respondents disseminate false advertisements in which they represent that their preparations "Pheno-Isolin" and "Pheno-Isolin Ointment" constitute competent and effective antiseptics and germicides, and possess substantial therapeutic value in treating skin infections generally, and about 20 specific ailments or conditions including ulcers, carbuncles, abscesses, athlete's foot, eczema, gangrenous conditions, diphtheria and influenza. The complaint alleges that the respondents' claims exceed actual accomplishments.

The complaint further charges the respondents with representing that their preparation "Dialin" constitutes a remedy and effective treatment for diabetes; effects a chemical change in the blood so as to reduce the quantity of sugar in the blood; assists the pancreas to produce insulin in the natural way; eliminates the unnatural thirst of diabetes victims, and corrects other abnormal conditions caused by diabetes, when such are not the facts.

According to the complaint, the respondents circulated leaflets captioned "What the Profession is Doing with Pheno-Isolin" and "What They Say About Dialin", such literature containing purported testimonials of physicians recommending the respondents' preparations. The complaint alleges that the respondents' preparations are not used or recommended by the medical profession generally (4482).

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Hyal Distributing Co.**, and Wallace G. Clark and Norman A. Dodge, of Fort Worth, Texas, have been ordered to cease and desist from misrepresentations in the sale of "Hyal", a dental preparation.

Commission findings are that prior to 1937, when Hyal Distributing Co., a corporation, obtained a license to do business in Texas, the respondents Clark and Dodge conducted a business as a co-partnership under the trade name of Hyal Distributing Co.; that some of the representations involved in the Commission proceeding were made by the respondent co-partnership during its existence, and that others were made subsequently by the respondent successor corporation.

The Commission order directs the respondent corporation and the respondents Clark and Dodge as individuals to cease and desist from representing that the preparation "Hyal" is a new discovery, has germicidal properties, is a cure or remedy for bleeding gums or other mouth disorders, or constitutes an effective treatment for such conditions in excess of that afforded by a mild antiseptic.



These respondents also are ordered to cease representing that their preparation is a cure or remedy for trench mouth or an effective treatment therefor in excess of temporarily inhibiting the growth of the bacteria causing trench mouth.

The order further prohibits the representation that Hyral has therapeutic value in the treatment of pyorrhea or is a remedy for pyorrhea; that it will make the gums firm, hard or healthy; that its use will prevent loss of teeth; that the preparation will remove tobacco stains or tartar formations, or that it will have any effect on unpleasant breath odors in excess of temporarily masking them.

The Commission order further directs the respondent corporation and the respondents Clark and Dodge, both individually and as its officers and directors, to cease disseminating advertisements which represent that their preparation is a new or different dentifrice or has any special properties which would be effective in making or keeping the gums firm. (3726)

**Kongo Chemical Company, Inc.**—A cease and desist order has been amended which, as announced January 5, was issued against Kongo Chemical Co., Inc., 66 East 131st St., New York, manufacturer and distributor of "Kongolene", a cosmetic preparation for the hair.

The original order had directed the respondent to cease and desist from disseminating advertisements of its product which represented, among other things, that its use was safe and harmless, and which advertisements failed to reveal that use of the preparation may result in severe caustic action upon the skin and scalp, with resulting burns.

The modified order is the same as the original order in prohibiting such dissemination, but adds the proviso that the advertisement need contain only a statement that the preparation should be used only as directed on the label when such label contains a warning that use of the product may result in severe caustic action upon the skin and scalp with resulting burns, and certain directions for the safe and proper use of the preparation which are detailed in the Commission order. (4193)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Adlerika Co.**, 98 South Wabasha Street, St. Paul, Minn., entered into a stipulation in which it agrees to cease representing that "Adla Tablets" will bring about neutralization of hyperacidity, bring relief from "acid stomach", protect irritated parts or membranes of the stomach in any manner, or form a protective coating over the stomach parts or membrane. (02767)

**Buel Company**—S. D. Cates, operating as Buel Co., 800 North Clark St., Chicago, has entered into a stipulation in which he agrees to cease representing that his preparation "Buellene" is effective in the treatment of falling hair or dandruff, unless the representation is limited to assistance in the removal of accumulated dandruff scales; that his "Hot Oil Treatments" make the hair healthy or stop brittle, breaking hair, or that any of his products will increase the growth of hair or is a hair grower. (02770)

**Arnold Constable & Co., Inc.**, Fifth Ave. at Fortieth St., New York, operating a department store, has entered into a stipulation in which it agrees to cease certain representations in the advertisement and sale of ladies' shoes. The respondent corporation agrees to discontinue employing the word "Alligator" or other similar word to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. (3060)

**Diatest Laboratories**—Alfred Muller, trading as Diatest Laboratories, 1133 Broadway, New York, has entered into a

stipulation in which he agrees to cease advertising that a device known as "Diatest Tester" is the only tester for determining the sugar content of urine which does not use or require flame, and that it is the most accurate tester available for determining such sugar content. (02768)

**Burton G. Feldman and Associates Incorporated**, 540 North Michigan Ave., Chicago, an advertising agency, stipulated that it will cease disseminating advertisements on behalf of Gellman Manufacturing Co., Rock Island, Ill., which represent that that company's vapor-electric bath cabinets known as "Beauty Builder and Beauty Fount" have a direct value in the permanent reduction of excess weight; that such cabinets, by means of vapor-heat, infra-red, or ultra-violet rays, help eliminate excess fat, or that the use of the cabinets will "cure", "banish" or "erase" fatigue. (02765)

**Frohlich Laboratories**—A Seattle, Wash., group has entered into a stipulation to cease certain representations in the sale of "Dr. Frohlich's Z'Out Hair Destroyer". The respondents are Louis B. Frohlich, trading as Frohlich Laboratories; Frohlich Laboratories, Inc., and David F. Griffl, trading as Frohlich Distributing Co., with offices in the Peoples Bank Building, Seattle. They agree to cease representing that their preparation will permanently destroy hair or prevent the regrowth of hair, or that its use will result in the permanent removal of hair. They also agree to cease employing statements which have the capacity to cause the impression that their preparation possesses any marvelous qualities or that its development is the result of seven years work or of any amount of work, effort, experimentation or research greater than that actually used or performed in its development. (3061)

**Helix Co., Inc.**, 79 Fifth Ave., New York, and four other textile merchandise corporations having executive offices at that address, have entered into a stipulation to cease certain representations in the sale of their products which include men's and women's wearing apparel and sheets and pillowcases.

The Helix Co., Inc., according to the stipulation, purchases the merchandise used by each of the four other companies which are a New Jersey, a Massachusetts, a Michigan and an Illinois corporation each operating under the name Royal Crown Hosiery Co., Inc.

The respondents agree to cease using the words "Silk," "Satin" or other words connoting silk in advertisements or trade literature to describe fabrics or merchandise not composed of silk; and to properly qualify the descriptions when the products consist in part of silk and in part of other fiber material. They also stipulate that they will discontinue employing the term "Lisle" as descriptive of goods not made of lisle.

The respondents further agree to cease employing the word "Bemberg" or other name or word, alone or with other words, as descriptive of the rayon content of garments, fabric or material, unless such name or word is immediately accompanied by the word "Rayon" in letters or type of equal conspicuousness, as "Bemberg Rayon." They also agree to cease advertising, branding, labeling, invoicing or selling any product composed in whole or in part of rayon without complete disclosure of the fiber content by naming each constituent fiber in the order of its predominance by weight.

In the case of goods which are not shrinkageproof or nonshrinkable, or which have not been fully shrunk or "pre-shrunk" to the extent that no residual shrinkage remains in them, the respondents agree to cease employing the term "Pre-Shrunk" or similar descriptive words. If, according to the stipulation, the term "Pre-Shrunk" or other similar terms are properly used to indicate that goods have undergone a shrinking process, but there still remains in them a certain amount of residual shrinkage, such terms shall be accompanied by a statement of percentages clearly indicating the amount of remaining residual shrinkage.

The respondents also agree to desist from using statements which tend to cause the impression that sheets, pillowcases or other textile products to which starch has been added contain no starch. (3062)

**Inspire, Incorporated**, 552 Mission St., San Francisco, and Edgar D. Sloat, its president, has entered into a stipulation in which they agree to cease advertising that their device designated

"Deep-Skin Electro-Mask," will re-establish natural functions of the underskin, glands, circulation or nervous system; will normalize the skin or revitalize the tissues; is an effective remedy for wrinkles, crow's feet, lines, enlarged pores, pimples, blackheads, dry skin or oily skin, and that the device accomplishes all the benefits of the most extravagant salon facial and is a sure means of attaining beauty. The respondents also agree to cease using the words "Deep Skin" as part of the brand name for their product; to cease representing in any manner that the effect of the device extends deeply into the skin; that it has any effect directly upon the dermis, or that it acts from the inside outward. (02763).

**Kaucky's Pharmacy**—Agreeing to discontinue certain representations in the sale of a medicinal preparation designated "Kaucky's Formula Herb Tea", Emanuel Kaucky, trading as Kaucky's Pharmacy, 6348 West 26th St., Berwyn, Ill., entered into a stipulation. The respondent agrees to cease advertising that the use of his product will cause one to have a clean body or a clear mind; will cause the system to return to normal; will relieve rheumatism, and will have any therapeutic value in the treatment of headaches in excess of affording relief from headaches due to constipation. The respondent also stipulates that he will cease representing that his preparation has any therapeutic value in the treatment of constipation or stomach, intestinal, bladder or kidney ailments in excess of that afforded by a laxative and diuretic. (02764)

**Knox-All Company**—Trading as The Knox-All Co., W. C. Stewart, of 18 West Exchange St., Freeport, Ill., stipulated that in connection with the sale of poultry and animal preparations he will desist from advertising that "K-A Poultry Spray" prevents or eliminates cold, roup or other poultry diseases; keeps the flock or the poultry house free from mites or bluebugs; penetrates to all parts of the poultry house; aids in killing germs before they attack the birds, and is endorsed by leading hatcheries. The respondent

also stipulates that he will cease representing that "K-A Fur Farm Fluid" destroys vermin which infests animals; is effective against fleas, lice or ticks on fur-bearing animals, and effectively combats earmites; that "K-A Neptol Tablets" is effective against symptoms of diarrhea, sour crop, poor appetite or temporary constipation, and that "K-A Alroc Tablets" is effective in the control of cholera, or typhoid, in chickens, turkeys, geese or ducks. (02769)

**Paxton and Gallagher Co.**, Omaha, Nebr., entered into a stipulation in which it agrees to cease advertising that a pound of its "Butter-Nut Coffee" makes more cups of coffee than a pound of any other coffee; that it has discovered a new or extraordinary process of maturing coffee and that its maturing method eliminates all trace of harshness or coffee acids. (02762)

**Potts-Turnbull Co.**, 912 Baltimore Ave., Kansas City, Mo., an advertising agency stipulated that it will cease advertising, on behalf of Gooch Feed Mill Co., Lincoln, Nebr., that favorable results in egg production or chick raising depend solely on using Gooch's chicken feeds; that a low feeding cost or a balanced egg making ration is insured by using "Gooch's Best Laying Mash"; that mash will enable hens to lay more eggs, have better body weight or condition, or be more vigorous or resistant to disease than any other product, and that the use of "Gooch's Best Starting Feed" insures healthy chicks or a certain weight within a specified time. (02766)

#### FTC CASE DISMISSED

The Federal Trade Commission dismissed without prejudice a complaint which had charged Consolidated Book Publishers, Inc., 537 South Dearborn St., Chicago, with violating the Federal Trade Commission Act in the sale of books. This case involved certain representations concerning the quality of the bindings of books sold by the respondent corporation.