

White Hearing

Indications this week-end were that industry proponents of the White Resolution (S. 113) would start their testimony before the Senate Interstate Commerce Committee either Thursday or Friday. It is possible, however, that this testimony will not start until the third week of the hearing. The hearing, recessed Wednesday noon, will be resumed Monday at 10 a. m. Chairman Fly will appear for the fourth day. Mutual Broadcasting System witnesses are scheduled to follow Mr. Fly with about two days of testimony. Commissioner Craven who, with Commissioner Case dissented in the Monopoly Report, is to follow Mutual. Industry proponents are scheduled to follow Mr. Craven.

Following are some portions of the transcript of remarks at the hearing this week which may be of interest to members. Remarks of **THE CHAIRMAN** are those of Senator Wheeler, Chairman of the Interstate Commerce Committee.

Commission vs. Congress

SENATOR WHITE. About 15 or 20 minutes ago my attention was called to a newspaper account of some of the testimony of yesterday. It made particular reference to quotations by the witness from a speech which I made in the Senate in 1937. At the time the Chairman of the Commission was making reference to that speech I had not had occasion to read it for a substantial length of time. I know it was a good speech, and I recommended its reading to the chairman some time back, but I had not read it myself.

I recall that the Chairman of the Commission said that that speech of mine was a part of the motivating force for the investigation conducted by the Commission. I have no objection to that at all, because I do approve of the Commission's studying these problems, but I rather pull away from the suggestion that I think is involved in what the Chairman of the Commission said, that I necessarily approve of the findings of the Commission or of the specific recommendations by the Commission.

As a matter of fact, Mr. Chairman, I have very definite ideas as to the responsibility of the Congress itself for the determination of principles and for the laying down of policies which should guide a regulatory body in the performance of its duties; and I think, if one will read that 1937 speech I made, it will show beyond all peradventure that what I was urging was not any specific action by the Commission, and certainly they will agree that I was not approving any recommendations that the Commission might hereafter reach, but what I was undertaking to do in that speech was to stress the obligation of the Congress itself to give study to these problems and to reach its conclusions with respect to these problems, and lay down rules which should guide the regulatory body.

For the purposes of the record I want to read the very first paragraph of the speech from which the Chairman of the Commission quoted yesterday. I do not challenge the accuracy of the references or the quotations of the Chairman of the Commission, but I think

a conclusion has been drawn as to what I had in mind which was not and is not justified.

This is a speech made on March 17, 1937—and I do not suppose there ever was a talk of mine so long remembered, before.

THE CHAIRMAN. We can all agree with you on that.

SENATOR WHITE. I said at the very start (reading):

"Mr. President, the pendency in the other body of the Congress of a resolution authorizing an investigation of various phases of the radio industry, and reports that the Senator from Montana (Mr. Wheeler), Chairman of the Interstate Commerce Committee of the Senate, contemplates the introduction of a resolution of similar purposes, prompts me to bring to the attention of the Senate some of the principles and policies embodied in existing law, summarizing the present facts which have relation to those declared policies and to voice my approval of a Congressional survey of law and facts, that we may more wisely consider what the public interest in this field of communications is, whether present law rightly declares this public interest and is calculated to serve it, and whether the Federal Communications Commission is respecting the law and, in its administration, is furthering its interest or is heedless of the Congressional purpose."

I have read that because I think it clearly states in the very opening of the talk I made my major purpose, which was an effort to induce the Congress to undertake these studies and to reach its own conclusions.

I did not mean to suggest at all that the study by the Congress was to be exclusive of study by the Communications Commission, but I mean to say that it was then my thought, and it is now my thought, that major questions of policy should be the responsibility of the Congress to determine, and that the obligation of the regulatory body is only to make its studies and its recommendations to the Congress and to administer the law as the Congress has laid it down in accordance with the purpose of the Congress so far as that purpose can be ascertained.

And then, if I may go on for a moment, I made another speech in 1938, and in that speech I spoke of various problems. I want to quote two or three extracts from that speech, because I think they reinforce and make still clearer what my purpose was in this whole matter.

THE CHAIRMAN. We have all made speeches at times that we wish we had not made.

SENATOR WHITE. I still stand by this. I said (reading):

"Most of the problems which are confronting us today involve questions of policy and questions of principle, and I conceive it to be the duty of the legislative body to determine matters of fundamental policy and to lay down the principles which shall guide an administrative body in the performance of its legitimate functions.

"Mr. President, the Federal Communications Commission should neither have the right nor should it have placed upon it the burden of determining questions of governmental policy."

And then there was an interruption from the Senator from Montana; but I shall not quote what he said. I will pass that over in such silence as I can. Then I went on and said this:

"One of the questions which has been under agitation for a long while is the question of chain broadcasting. As early as 1927 Con-

(Continued on page 498)

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*

WHITE HEARING

(Continued from page 497)

gress recognized that there might be special and peculiar problems arising from the development of chains throughout the United States, and it wrote into the original Act of 1927 authority in the Communications Commission to make special rules and regulations for the government of stations engaging in such activities."

Then I went on and mentioned the fact that back in 1935 one of the Commissioners had moved in the Commission that the Commission undertake a study of this problem, and I mentioned the fact that although that motion had been made in 1935, up to this time—that is, May, 1938—nothing had been done, although it was understood that the Commission was about to undertake a study of the problem.

Then I went on and discussed chain broadcasting somewhat, the number of stations that were controlled by the chains, the power utilized by the chains, the hours upon which the chains had unlimited time, and so forth and so on. And then I said this:

"That, in a very brief way, is the story of the chains and of the stations associated therewith. I submit to the Senate that those facts present a problem not only to the Commission but to this body which, together with the House of Representatives, has a responsibility in the determination of the policies which shall obtain and the principles which shall be followed in the regulation of the broadcasting industry. I do not see how we, as responsible public officials, can turn our backs upon the questions presented by these facts and leave to an administrative body, a quasi-judicial body, the determination of matters of grave public policy."

Then I referred to the Senator from Montana; but I will pass him by and keep him in the background for the moment.

SENATOR HILL. That is impossible.

THE CHAIRMAN. A lot of people have tried to keep me in the background.

SENATOR WHITE. I understand that; and that is why I know better than to attempt it.

Then there was the question of the wattage which should be assigned to chains, and in what I said I had reference particularly to a suggestion that we were to have a governmental station of 500,000 watts, or something of that sort, that would be disseminating the views of the United States throughout the world.

MR. FLY. That is socialism, Senator.

SENATOR WHITE. Yes. I did not say I approved of it. I said:

"This is a question of public policy. It is not a judicial question; it is not an administrative problem to be dealt with solely by an administrative body, but is a question involving the public interest, on which the Congress of the United States ought to have opinions and ought to express them."

Then I went along and said a lot of interesting things, I hope, and then I turned again to the question of monopoly. I said that the question of monopoly was involved, monopoly of the transmission of information to the American people, and that I happened

to be one of those who did not want to see such a monopoly developed in the United States. I said, further:

"There are other questions. All of these are, in my opinion, of supreme importance to the American people. They are all problems involving principles and policies, and we in the Congress have no right to evade our responsibility. We ought to undertake a study of the problems. We ought to undertake to find an answer for them. We ought to lay down the general and the broad rules which shall guide and which shall control our creature, the administrative body."

I hope those quotations make clear my general thought about this whole subject matter, about the relative obligations of an administrative body or regulatory commission and of the Congress itself. I had felt, too, that in the very legislation proposed to guide us we had indicated clearly to the Communications Commission that in its annual reports to be made to Congress it should tell us of the results of its studies and should make its recommendations as to legislation.

Those things are all fundamental with me, and I just have the feeling—and it is one of the questions which trouble me most gravely about this whole problem—that there is a question whether you really should not have submitted to the Congress your findings of fact and your recommendations as to legislation, for I have the thought that what you are doing or attempting to do here is to lay down a principle or a basic public policy and as I said a while ago, I rather shrink from Commission-made law and from the determination of what I call basic policies by anybody other than the Congress of the United States.

I apologize for making this statement; but I did not interrupt you when you were making references to me yesterday morning, and I wanted to get this before both you and the other members of the Commission and anybody else who is interested.

THE CHAIRMAN. We all read your speech without your calling it to our attention.

SENATOR WHITE. But I do not think you profited sufficiently.

MR. FLY. May I have the liberty of amplifying Senator White's views slightly?

THE CHAIRMAN. Proceed.

MR. FLY. God forbid such immodesty on my part as to claim to be the originator of the ancient struggle against monopoly. I certainly did not originate it. I do claim the credit of having some small part in the enforcement of the Sherman Act. But going even beyond the Sherman Act, back into days immemorial, so far as we are concerned, anti-monopoly has been the policy of the English-speaking peoples. We go back beyond the days of Adam Smith; we go back to the laws against engrossment and forestalling, and come down in the American commonwealth to the common law outlawing contracts and combinations in restraint of trade, and we come to July 2, 1890, and find that with the aggressive development in America of new industries and with the tendency to monopoly in a number of those, involving interstate commerce on a great scale, the ancient policy against monopoly demands Federal implementation. At that time Congress passed the Sherman Act, and since that time the Congress, ever cognizant of that same basic philosophy and the problems arising in new American industries, under that philosophy has supplemented that Act with such measures as the Clayton law and the Federal Trade Commission Act; and at no time has the Congress of the United States receded from that policy. Now, without further ado, the anti-trust philosophy, the rules against monopoly, become applicable to the broadcasting industry engaged in interstate commerce, and the Congress, being especially mindful of the problem of monopoly in the radio industry, took the extraordinary pains to write the policy against monopoly into the Radio Act of 1927 and into the Federal Communications Act of 1934.

I do not think that under those circumstances there can be any suggestion that this Commission has undertaken to fix that policy or to establish any rule of law other than that laid down as a clear mandate by this body.

Now, as to the implementation in matters of detailed and specific enforcement—and I think that is a much smaller question than the question as to whether or not we fixed the policy; that is, basically it is smaller, although in this situation I think it is an important question—there the Congress took special pains again to move into this particular field and to provide for special regulations applicable to stations engaged in chain broadcasting; and to further elaborate Senator White's views, I again refer to the speech of March 17, 1937 (reading):

"Study of the facts with respect to ownership and control of stations brings the conviction that Congress must either recede from its position of hostility to monopoly or it must take steps to insure that its wishes be respected by the regulatory body.

"The provisions of the 1927 Act, which are also found in the 1934 Act, leave no possibility of doubt as to the will of Congress; they confer ample powers to make that will effective.

"The Congress at the time the 1927 Act was passed, while perhaps not fully appreciating the growth of the chain system, did recognize the possibilities of the situation and wrote into this early Act the authority to make special regulations applicable to radio stations engaged in chain broadcasting."

The situation that the distinguished Senator was referring to there was the monopoly situation.

SENATOR WHITE. You say that with reference to 303 (i) I was referring especially to the monopoly situation?

MR. FLY. I was quoting from your speech, sir, and the reference, I take it, was to 303 (i), although I think that apart from 303 (i), with the general regulatory power and with the mandate against monopoly in the Act, then that the Commission would be obliged to use its licensing power in the public interest to forestall the establishment of monopoly.

I cannot conceive that we should continue to hold that the building up of a monopoly is in the public interest, when the Congress has taken the pains to say in this Act, "You must observe this basic law." To say that it is in accordance with public opinion to continue to build up these monopolies I think is a fallacious contention.

SENATOR WHITE. Does anybody contend that? I do not think anyone contends that, and I do not think you ought to impute that thought to anyone.

MR. FLY. I am sorry, sir, if we are not in agreement upon that. I certainly did not intend to misrepresent your position. I did not intend to embarrass you in any way.

SENATOR WHITE. You cannot embarrass me. I will take care of myself when it comes to the matter of embarrassment. But you have no right to suggest that in anything that I have ever said or that in any vote that I have ever cast with respect to monopoly in radio communications I have been an advocate of monopoly.

MR. FLY. I would not suggest that, sir.

SENATOR WHITE. You were getting pretty close to it.

MR. FLY. I think your advocacy has been all in the other direction.

THE CHAIRMAN. I did not understand Chairman Fly's statement in that way.

MR. FLY. I am sorry if there is any misunderstanding on that point.

POWERS OF THE FCC

SENATOR WHITE. Of course what troubles me about the situation is that I see in these present regulations the very definite suggestion of an assertion of authority in the Commission to do pretty nearly whatever it wants to do if it says it is in the public interest. It is pretty hard to see, if we accept these regulations as being within the authority of the Commission, why the Com-

mission could not assert almost anything as being in the public interest and then going ahead to do it.

MR. FLY. I would say this: If anything were written into a statute in such clear terms and into the philosophy of the whole system of laws, and into the matter of public interest, as is the policy against monopoly, we ought to be able to do any and every thing within reasonable and proper bounds to prevent such a monopoly, and to that extent I do agree with you.

SENATOR WHITE. But of course you cannot turn to a line in the present law which authorizes the Federal Communications Commission to determine the acts which singly or in their totality are to be regarded as in restraint of competition or as monopolistic practices.

MR. FLY. Sir, I would say—

SENATOR WHITE (continuing). On the contrary the penalty for control of monopolistic practices is reposed in the courts, and under the Act as it now stands whatever authority you may have to declare a license forfeited because of monopoly, or to refuse to issue a license because of monopoly, must rest first upon the determination by a court that a licensee or an applicant has been guilty of monopolistic practices. Then you have some authority. But there was never in this Act, and there cannot be found language, nor was there the purpose to give to this Commission authority to say what constitutes a breach of the anti-trust statutes. And that is pretty nearly what you have undertaken to do in these regulations. The question of whether a person or a corporation is guilty of violating the penal statutes of the United States was left to the determination of the courts, and after such determination then the Commission has authority to act.

MR. FLY. I, of course, would not urge that such a decision is not with the courts, but I would say that clearly under the statute it is not exclusively with the courts, and I do not think the Senator would urge that we should build up a monopoly if one would assume that we have the power to do it.

In order to avoid monopoly is it the Senator's suggestion, for example, that while litigation is in progress—or I will put it this way: Suppose the Department of Justice procures an indictment, or suppose it brings an equity action alleging that there is a monopoly here, and that there is a growing tendency toward monopoly and to restraint of interstate commerce, and suppose we thoroughly agree with that. Then in the two or three years that cases are pending must the Commission go right ahead and be guilty of building up the very thing that other agencies of the Government are tearing down? And, I ask: Is that in the public interest? I think the question answers itself I will say, because I know it is not my privilege to ask you, Senator White, questions.

SENATOR WHITE. I just said to the Chairman, and to my colleague on my left (Senator Tobey) that I had not up to this time gone into the phase of the question which most deeply interested me in connection with these regulations, and that is, the authority of the Commission to issue any such regulation. However, it does seem to me that basically you have undertaken in these regulations to describe acts which you believe are monopolistic, are monopolistic practices, and therefore against public policy.

Now, I do not believe it is within the authority of the Commission to declare what are acts violative of the antitrust statutes of the United States. It may be that the law should specify the things, should proscribe certain practices. But my complaint is that you did not make—and when I say "you" I do not refer to you personally but to the Commission—that the Commission did not report its findings as to these exclusive contracts, as to the effects of these exclusive contracts, to the Congress; that the Commission did not make recommendations to the Congress for such changes in the law as it thought would be right and proper; that the Commission did not put upon the Congress the burden to determine that matter.

MR. FLY. Since we disagree upon that, Senator White, is not that the job of the courts?

ADVERTISING AGENCIES

THE CHAIRMAN. While on that question let me ask you this: What is there to the idea that has been abroad to the effect that if these stations did not have exclusive contracts, or optional time, then some advertising agency could come in and pick out just the stations they wanted and operate in that way, without taking the matter up or going through the chain broadcasters? Have you looked into that matter?

MR. FLY. I do not think that would be wholly feasible for two or three reasons: In the first place there are a number of these big basic stations that are owned by the networks; and then the agency would have to go into the full network business except for the ownership of stations. The agency would have to do the programming and have its own studios, either directly or indirectly, and do that entire job. Then it would have to arrange for its own wire facilities. And then, due to failure to get access to various key points, it has to be scattered, with stations long distances apart, even assuming that they do complete contracts for certain stations. So I cannot think that anything short of a pretty thoroughgoing network system is going to be feasible. I do not believe that advertisers can run in spasmodically and make a system of that kind.

COURT REVIEW

SENATOR WHITE. I assume that if you have power to make these regulations you have the power to modify them and change them or to wipe them out in their entirety.

MR. FLY. I do not so assume, sir, unless the modifications that we would make would be in accordance with the law, as these regulations are.

SENATOR WHITE. Do you want to start another debate?

MR. FLY. We can modify them, of course.

SENATOR WHITE. If you can make them, you can modify them or un-make them.

MR. FLY. I think, from the tone of your voice you suggest absolute discretion. But we are bound by the law and its very clear principles and we do not have that discretion that the tone of your voice suggests, sir.

SENATOR WHITE. All right. We will let that answer stand. But if your regulations are now in effect, unless you do modify them you cannot reissue the license of any station in the Red network or any station in the Blue network, can you?

MR. FLY. We can modify them in any case.

SENATOR WHITE. Of course you can modify them; but, I say, unless you do modify them, and if you stand on that regulation as it is now written you cannot renew the license of one of the Red network stations or one of the Blue network stations until at least there is a divorcement.

MR. FLY. We must conform to these principles in the rules. I do not think it should be suggested that there would be any tendency not to give the ample time that is necessary. If there is an attempt in good faith to move this network out, with all of the success and the glory that it ought to have in going into this field and making an effective sale of it, if there is a good faith attempt to do that, you need not worry about the attitude of the Commission. And I want to make this point, because it is basic in this whole thing. If the attempt is to get these principles of the Commission held up and the processes of the administrative agency paralyzed while an effort then is made to tear down the basis of it, in effect, to wreck the decision through long delays, through extensive debates, the pendency of bills that never come out of the Senate or the House, and if in the meanwhile these gentlemen can enforce their will, their publicly announced will, by saying who shall sit and who shall not sit upon regulatory bodies, then I think you have something that challenges the very integrity of an orderly and democratic system of government.

SENATOR WHITE. If I get the real significance of what you have just said, if I or any other member of the Congress should introduce a bill which challenges the authority of these regulations, or if one of these chains or one of these affiliated stations appeals to the court, are you suggesting that there will be further penalties imposed upon them by the Commission?

MR. FLY. Oh, no, sir. Do not misunderstand me. I welcome their going to court. I think that is where these terribly legalistic questions ought to be decided; and no station is going to be injured by going to court. That is a course that I have advocated and will continue to advocate.

SENATOR WHITE. I thought there was rather a punitive suggestion in what you said, and I wanted to get that clear.

MR. FLY. No. I want to reiterate that, sir.

THE CHAIRMAN. I am afraid that you are both thinking of punitive action, and in this matter it seems to me we ought to look at it from a reasonable standpoint. Let us consider the Blue network. I do not feel that the Commission ought to say to them, "You have got to dispose of this in 90 days time."

MR. FLY. I do not, either.

THE CHAIRMAN. If in good faith they are making an effort and saying that they are going to dispose of it, I think they ought to be given six months time or such reasonable time as is necessary to dispose of it.

MR. FLY. I agree wholly, sir.

THE CHAIRMAN. And I do not think that they ought to be penalized if they go into court. I would be one of the first to criticize the Commission if I thought you or the Commission itself for one moment was going to penalize any of these people if they went into court. I think that is the wrong spirit with which the Government should act.

MR. FLY. And I would expect that criticism if we did, sir.

THE CHAIRMAN. On the other hand I know, as we all know, that in certain matters there has been an attempt, not in the radio industry, to my knowledge, but in some other matters, to go into court with litigation and tie it up, through injunctions, for a long period of time. I assumed that was what you had reference to.

MR. FLY. Yes.

SENATOR WHITE. Perhaps that was not a fair comment of mine, but your statement rubbed me a little the wrong way.

MR. FLY. I was referring to what these gentlemen are proposing, and that is a reorganization of the Commission, to be composed of men of whom they approve—stating who may and who may not go upon the Commission. It is an unfortunate fact for you, sir, that the forces that are taking that position are flying your flag. They are marching behind this particular bill which is designed to obstruct the decision of the Commission and to play for time during which the other results can be brought about. If great pressures and great schemes of propaganda can be used to such an end by the very industry that has this great public trust in its hands—and it has a tremendous public trust in its hands in the form of licenses and in the effect upon public opinion and, indeed, in the effect upon political opinion—then if they are successful in accomplishing those results, which I know you and I disagree with, then to that tragic extent democratic government is impaired.

SENATOR WHITE. You say that I disagree, and yet in the same breath you say I am flying their flag. I am flying mine. That is a wholly gratuitous and unnecessary reflection on me.

MR. FLY. I did not say that, Senator. I certainly apologize if I approached that suggestion. I say they are marching behind you, and I do not think it is your intention to lead them in that sort of a fight.

SENATOR WHITE. Let me ask you another thing about this. Let us assume that the National Broadcasting Company wanted to dispose of the Blue network: is there anybody, outside of the other chains, to whom they could dispose of it in totality as a practical proposition?

MR. FLY. As a practical proposition, in choosing between purchasers? I know there is a ready market for the network, sir.

THE CHAIRMAN. Considering the amount of money that these networks have made, they ought not to have any trouble in selling.

THE SMALLER STATIONS

SENATOR JOHNSON of Colorado. How do you account for the fact that many of the stations do not want the liberty and freedom which you say they should have?

MR. FLY. Senator, I do not accept the premise that, in view of their close relations and the power which these networks exercise over the stations and over the means of assembling the stations and getting opinions, that we have ever had any independent expression of opinion from the stations themselves.

THE CHAIRMAN. The chains are in position to exert, if they want to—I do not know that they have, but they are certainly in position to—a tremendous economic pressure against any station against whom they want to exert it.

MR. FLY. I think that is utterly inescapable in this picture. I do not think there is any doubt that in any procedure those New York gentlemen dominate, you would get anything other than that sort of a general result; though I may say that the suggestions of unanimity, even amongst any particular groups, are just not true, because there are many dissents.

THE CHAIRMAN. There are two things that the stations are afraid of: they are afraid of the Commission and they are afraid of the industry.

MR. FLY. I found out in St. Louis that they were not afraid of me.

The following members of the committee attended the hearings:

Monday: Senators Wheeler (chairman), Smith, Bone, Truman, Andrews, Johnson of Colorado, Hill, Stewart, Clark of Idaho, Tunnell, McFarland, White, Shipstead, Tobey, Gurney and Brooks.

Tuesday: Senators Wheeler (chairman), Smith, Bone, Schwartz, Hill, Stewart, Clark of Idaho, Tunnell, McFarland, White, Shipstead, Tobey, Gurney and Brooks.

Wednesday: Senators Wheeler (chairman), McFarland, White, Tobey, Gurney and Brooks.

National Defense

Constructive Suggestions Welcome

During the past two weeks many stations have written NAB to register opinions on matters centering in requests for free time by various agencies. The St. Louis convention authorized the appointment of a Radio National Defense Committee and these letters will be referred to that committee.

Prior to its first meeting, it is suggested that other broadcasters may care to make constructive suggestions. Address your letters to Arthur Stringer, at headquarters, and he will bring the file to the attention of the committee at first session.

Two Changes for the Better

Two constructive changes in handling Army and Navy recruiting announcements have already been made. In both branches local recruiting personnel has been directed to discontinue the solici-

tion of time. Henceforth it is planned to channel the distribution of live recruiting announcements through NAB to all stations.

Both services take the attitude that is shared by broadcasters that every effort should be made to produce maximum results with a minimum of time. This minimum time becomes extremely productive for the Army and Navy because there is almost 100 per cent cooperation by stations.

The Navy's Recruiting Campaign

The Navy's present recruiting campaign is limited to three suggested announcements per week. At the end of the current test period it will become evident whether the frequency should be reduced, maintained or increased. This can be done because broadcasters, themselves, have been good enough to specify whether they have been able to find time on their schedules for such announcements.

The Army's Recruiting Campaign

The Army's recruiting radio campaign also embraces three suggested announcements per week. These likewise are sent to all stations through NAB. There is also a weekly 15-minute program which has been on the air for many months. The availability of this program has been unknown by some broadcasters and this week, WTEL, Philadelphia, and WHLN, Harlan, Ky., requested it.

Radio Men in Service

WDZ—TUSCOLA, ILL.

Larry Sanford, Battery D-123rd F. A.,
Camp Forrest, Tullahoma, Tenn.
J. Kent Saunders, 47th Infantry,
Camp Bragg, N. C.
Robert B. Harrington,
Scott Field,
Belleville, Ill.—next July.

WMBD—PEORIA, ILL.

Lt. Frank C. Schroeder,
Fort Knox, Ky.

WQXR—NEW YORK

William D. Strauss,
Fort Jackson, S. C.
Herman Kuch,
Fort Riley, Kans.

WIBX—UTICA, N. Y.

John Frederick Sullivan, V-6 RM3C, General Detail Receiving
Ship,
Brooklyn, N. Y.

635 Stations Take Army Recruiting

Up to the middle of the week 631 stations had reported that they had found time for Army recruiting announcements. Since the list was compiled such news has come in from:

WORL—Boston
WLW—Cincinnati
WSAI—Cincinnati
WTOC—Savannah

Joseph Ries will coordinate defense programs for WLW, WSAI and the Crosley international station, WLWO.

BMI

Supreme Court Decision

Copy of letter to BMI Affiliated Publishing Companies:

Statements have been made that the recent decisions against ASCAP, rendered by the Supreme Court of the United States,

may affect BMI's ability to serve its associated affiliated publishing firms. This is not the case. The decisions will in no substantial way affect either the structure or activities of BMI, which has already taken steps to comply with the provisions of all State statutes applicable to it. The very premise upon which BMI was founded was that there should be an avoidance of all of the monopolistic features of ASCAP which have now been held to be illegal.

You may, therefore, be assured that BMI will continue to be able to make all of the music licensed by it available to all music users in all of the States of the United States.

Very truly yours,

BROADCAST MUSIC, INC.

Hymn of Freedom

Ode To America, new BMI patriotic song by Jules Bledsoe, negro baritone, owes its inspiration to a trip to the nation's Capital. While looking down from the Washington Monument across to Lincoln Memorial, Mr. Bledsoe was stirred by the thought of what Washington and Lincoln had contributed to the freedom-loving spirit of the United States and the vitality of this spirit when it came in open conflict with the dominating philosophies of the totalitarian states.

"Conditions have not been ideal in the United States for the negro race," said Mr. Bledsoe, "but we have sound reasons to be thankful that we are Americans, as have the people of every other minority living in our country."

A line of the song, "Oh, thou land by God inspired," grew to a complete lyric by the time Mr. Bledsoe reached his home in California following his trip to Washington. He sang *Ode To America* on his recent concert tour where the audience was asked to join with him in this paen of triumphant praise to a freedom-loving country. He believes that as the war sentiment grows, the people of the United States will seek closer communion with religion and that much of the strength of our country will lie in genuine religious conviction.

BMI FEATURE TUNES

June 9 - June 16

1. I WENT OUT OF MY WAY
2. ALL ALONE AND LONELY
3. MY SISTER AND I
4. WALKIN' BY THE RIVER
5. WISE OLD OWL
6. FRIENDLY TAVERN POLKA
7. G'BYE NOW
8. WHAT D'YA HEAR FROM YOUR HEART
9. HERE'S MY HEART
10. WITH A TWIST OF THE WRIST
11. THE RELUCTANT DRAGON

In preparation: *Wasn't It You?*, by the writers of *You Walk By*.

With *My Sister and I* leading the Hit Parade as well as the list of best selling retail records, BMI entered the month of June well represented in the tunes that are "coming up," those that are "going strong," and in the surprises that await. *Amapola* continues its sensational run for the tenth week; the "now" songs, *Oh, Look At Me Now* and *G'Bye Now*, rank second and fifth respectively in the leading music machine records on Billboard's music popularity chart. Among those fighting for the first division

are *Maria Elena*, *Daddy*, *The Hut Sut Song*, *Do I Worry*, *Friendly Tavern Polka* and *Walkin' By the River*. Just around the corner are *I Went Out of My Way* and *All Alone and Lonely*. Awaiting introduction is *Wasn't It You*, a new torch tune by the writers of *You Walk By*, which has two of the best lyric lines that have been heard at BMI since Hy Zaret and Irving Weiser led with their hearts in *There I Go*. George Marlo, BMI's Professional Manager, has a theory that two good lines coupled with a good tune spell H-I-T in the popular song field. He believes that *Wasn't It You* says more in two lines than most popular songs say in an entire chorus.

BMI Decree Conformed to ASCAP's

Judge F. Ryan Duffy, of the Federal Court in Milwaukee, has signed an order eliminating the technical differences between the consent decrees signed by ASCAP and BMI. ASCAP's decree permitted freedom in contractual relations with licensees which was not permitted in the BMI decree. In the opinion of BMI counsel, this gave ASCAP a competitive advantage not contemplated by the Government in making the decrees. The modifications, which put BMI and ASCAP on a parity, have the approval of Thurman Arnold, Chief of the Anti-Trust Division of the Department of Justice, and Victor O. Waters, Special Government Counsel.

Exhibit

"The Evolution of My Sister And I," which was displayed at the NAB Convention in St. Louis, is now on exhibition at the High School of Music and Arts, Convent Avenue and 135th Street in New York City, and has been requested by other schools and colleges for its educational value. During the past week, the leading Kresge store in Detroit, devoted a window to *My Sister And I*. The center of interest was a rotating model of a little Dutch refugee boy and his sister.

Comic Strip Meets Love Song

For the first time a popular song has been written specifically for a comic continuity. The title of the song is *How Long Has This Been Going On*. The two hit song writers, Bobby Worth and Stanley Cowan (*Do I Worry* and *Til Reveille*), wrote the music and the lyrics are by Fred Fox. The title page of the song, published by Melody Lane and controlled by BMI, carries the subtitle, *From a celebrated NEA comic strip, "Freckles and His Friends," by Merrill Glosser*.

According to the story in the comic strip, the song, which Dick Jurgens will play on June 14th, has been "written" by Freckles and one of his friends. Its acceptance for performance by Jurgens and its introduction over the air from Catalina Island will be part of the story related in the continuity running in some 720 newspapers throughout the country.

Daddy

Sammy Kaye has the biggest hit of his career on his hands, and it's all the "fault" of a young University of Pennsylvania student.

Bob Troup is a senior at the University, and only 21. When he isn't studying he spends his time writing tunes. Recently he concocted a ditty he called *Daddy*. It had a certain bounce and some clever lyrics but Troup figured it was no better or worse than any of a half dozen others he had turned out.

Sammy Kaye was eating dinner at the Embassy Club in Philadelphia one night and heard a small four-piece band play the Troup tune. He inquired as to who wrote it, and three days later met Troup in person. Kaye, who operates Republic Music Corp., bought *Daddy* on the spot and published it. Soon the Kaye band was playing it. And in twenty-four hours the public was clamoring for it. Sammy's recording of *Daddy* sold 15,000 copies eight days after it was released.

Sales

Please direct this section to the attention of your sales manager.

NAB Sales Calls

Acting on the request of NAB Members, the Director of the Department of Broadcasting Advertising last week began a campaign to sell the J. C. Penny Co. and the W. T. Grant Co. on the use of local radio advertising. Facts learned are as follows:

J. C. Penny Co.—The Pedlar & Ryan agency has discontinued the transcribed serial story "Adopted Daughter," but local Penny store managers can buy radio advertising if they want it. As a general policy the home office does not encourage radio because they claim it is more difficult to control than newspaper; that local managers can easily spend an excessive amount on radio advertising without an adequate day-to-day check; that home office approval depends to some extent on the particular market involved: the number of Penny stores in that area, the comparative rates of radio and newspaper advertising, etc. The agency is understood to be seeking an effective way of returning to radio on a wide scale. Meanwhile, local store managers can buy spot radio if they are sufficiently sold to insist upon it, and stations are urged to exercise special care in developing and selling a wisely planned, economical and effective campaign, for the sake of long-range objectives. In time, by the accumulation of local successes, this company and many like it can be developed into important radio buyers.

W. T. Grant Co.—This company reports that each local store has its own advertising budget, charged entirely against that store, and that these budgets are so small as almost to preclude the possibility of consistent use of radio. Spot campaigns, chiefly announcements, have been tried by various stores but without general success. The company frequently buys programs to advertise the opening of new stores. Some local Grant managers are using spot radio, and others can do so if they are sufficiently sold to insist upon it, despite a general policy of discouragement by the home office, based on past experience. Here again the long-range objective can be attained only by careful selling and servicing on the part of local stations, so that an accumulation of successful experiences can be built up to counteract past carelessness and lack of success.

Per-Inquiry and Free Time

Harry M. Miller, Inc., of Columbus, O., is seeking cost-per-inquiry deals on behalf of a representative of the **American Schools**.

Metro-Goldwin-Mayer Pictures, of Culver City, Cal., is seeking free time for a series of "Hollywood Radio Reporter" programs. Writes James L. Howe, manager of WBTM, Danville, Va., to NAB: "I believe if all of the radio stations in the country would stick together on this proposition, for once, we might convince the movie industry they can't play us for suckers any longer."

Mr. Howe's letter to Harry Loud of M-G-M states:

"We are very sorry to be unable to schedule your 'Hollywood Radio Reporter.' We have no bone to pick with the motion picture industry but we have a rate card and a policy which says that such programs come under the classification of commercial advertising and as such must be paid for at card rate.

"We cannot agree with your premise that you are offering us the biggest names in the entertainment world and that because of that fact we should schedule the programs on sustaining time. In that event, few of the fine commercial programs on the air at the present time would be paid for as they are composed of the biggest names in the entertainment world also.

"We would like to call to your attention the fact that anything that is worth asking for free is usually worth paying for. It has been our practice to cooperate with our local motion picture theatres and we have no objections in cooperating with you as a motion picture firm, but we feel that advertising must be paid for if we are to successfully operate a good radio station."

"Radio Income Builders", of Des Moines, Ia., previously listed in these columns, are seeking per-inquiry deals on behalf of **Speed King Hot Water Heaters**.

The **Max Goldberg Advertising Agency**, Denver, Colo., previously reported in these columns as attempting to purchase radio time for the state of Colorado at local rates, in response to correspondence from NAB states: "Because this is the first national order we have ever placed, our over-anxiety to get as much as possible for the money allotted resulted in a letter which wasn't worded exactly as it should have been. It certainly never occurred to us that the national radio rate was so much higher than the local rate, and it is our last thought in the world to do anything that would undermine established radio rates. Please accept this letter as a sincere apology, and completely disregard our last letter. From now on all our letters will be clear and with highest respect to established rates as well as the hours governing those rates. A letter to the member stations of NAB clearing up any complimentary impression our letter brought about, would be most appreciated." Mr. Goldman has been advised that NAB members are now being assured that they can work with him in the future in all confidence.

Effective Retail Selling

Because Bruff W. Olin, Jr., manager of WKIP, Poughkeepsie, N. Y., has had unusual success in selling radio advertising to retailers, he was asked by NAB to outline his sales technique, and his contribution is printed fully here for the benefit of all NAB sales executives:

I have held strictly to two basic beliefs in the selling of radio time: (1) Selling on the *facts* is much more permanently effective, and (2) Radio's story of greater circulation per advertising dollar spent is really a potent sales weapon.

It has been my experience that many stations (in this whole discussion I refer to small local stations with which I am most familiar) sell the Jones Store because the Smith Store is on the air and getting good results. In the process of getting over such a sales story, the salesman inadvertently overstates Smith's results and instills in the prospect the belief that radio's power is so potent that his business is bound to grow beyond all reasonable expectations as soon as he goes on the air. Thus is many a 13-week schedule doomed to a three-month death because the prospect is led to expect far more than any radio station can produce—far more than *any* medium can produce.

How much better to let your hair down and admit that only 25% of the total number of home radios are being listened to at the "peak" day-time period! But, when you do that, be armed with sufficient information about newspaper ad readership to use this information as a yard-stick by which your prospect can judge for himself whether a fair estimate of your station's portion of the "available audience" is worth his investment.

Here is the procedure that I have found to be the most effective in selling radio. Here is the sales story, step by step:

1. Most advertisers will admit that no medium can do more than "deliver a message"; they'll admit that advertising, therefore, is circulation—the greater the circulation, the greater the results therefrom. This is your premise.

2. Don't even intimate that newspaper advertising is "no good"; to do so insults the intelligence of every prospect who has ever spent good money in newspapers, and most radio prospects have. Admit that it "pays out". Then, show him, by using newspapers as a yard-stick, why radio should be *even more effective*.

3. Make full use of NAB's "Radio Listening" studies. Request from NAB the break-down of their listening studies into half-hour periods from 6:00 A. M. to Midnight. If possible, obtain a copy of ANPA's studies showing newspaper ad readership. I believe the basic idea is conveyed in the fact that a Gallup study of newspaper readership published in the February 8, 1940, issue of "Editor and Publisher" estimated the actual readership of a "better-than-average" half-page advertisement to be only 10% of the newspaper's total circulation. Know your competing newspaper's rates. You know, of course, your own.

4. Tear out one of the newspaper ads your prospect has run recently. Point out the probable "effective circulation" of that ad. (Note: I have found that many local newspaper advertisers have never consciously analyzed the *effective* circulation of their newspaper advertising; rather, they have hazily

thought of their ad's circulation as approximating the total circulation of the newspaper.) Estimate the cost of the ad.

5. Analyze the proposal for the radio time you are offering the prospect in the light of *known radio audience factors*. Show him the NAB report of total actual audience at the time of day you propose he advertise on your station. Admit you haven't all the audience. Point out factors that would indicate a good audience for your station at that time. Then, agree with him upon a fair estimate of your probable audience percentage. The chances are that the resulting "agreed fair estimate" will seem extremely small. But then, apply that percentage to the total number of radio homes in your station's primary area. (Here is the first factor that will boost your estimated circulation far above the newspaper's; because, the chances are that your station's primary includes far more radio homes than the total homes represented in the newspaper's circulation figure.)

6. Point out the cost of the proposal you suggest. Here is the factor that will lower your cost-per-listener-per-broadcast far below the newspaper's cost-per-reader-per-insertion; because, the chances are that the cost of a *single* half-page newspaper ad would be more than enough to buy a heavy series of announcements or a good program on your station. Compare the cost-per-listener-per-broadcast of your proposal with the cost-per-reader-per-insertion of the newspaper advertisement. My experience has been that these comparative costs will show the newspaper's figure to be several times greater than the figure for a well-thought-out radio advertising proposal. The difference is *so great* that your prospect can make all further allowances for possible errors in estimates, *plus* all reasonable allowances for the oft-repeated claim that "impressions through the ear are less effective than through the eye" (don't argue about this point; it's endless), and he'll still have to admit the bare possibility that "you've got something there."

This may seem like a complicated procedure. Actually, it is as simple as A-B-C if you have the information necessary, and I'm certain NAB can supply it. And, it's worth its weight in increased time sales. (I was going to say "in gold".)

During the entire sales story, you haven't *promised* a single result—you haven't led your prospect to expect the world with a fence around it; you have merely given him all facts necessary to form a logical conclusion. He is impressed with your evident honesty in revealing facts that, unexplained, might seem to reflect upon radio's ability to produce. He has confidence in your knowledge of your product. Frankly, I have found him to be more impressed with radio as a medium than if I had gone in with a briefcase full of testimonials that would lead him to believe in radio's ability to cure all business ills. But, more than that, I have found the prospect thus sold to have a more *solid belief* in radio and a more *permanent belief* in its effectiveness—even though it is not immediately justified by consumers pounding down the aisles to get at radio-advertised merchandise.

Double-Billing Condemned

The practice of doubling-billing by some media (whereby service is rendered an advertiser at a local rate but he is billed at the national rate for collection on a cost-sharing basis from the manufacturer) is clearly unethical and dishonest. Any collusion on the part of media with local dealers or retailers is purely and simply a matter of defrauding the manufacturer or national advertiser.

A recent case was reported by an NAB member where his local newspaper competitor was engaging in this practice. NAB took the matter up with the American Newspaper Publishers Association, and received this reply:

"The ANPA does not have any control over its individual members as to what rates they should charge and how they shall make out bills.

"It goes without saying that the ANPA does not countenance a statement or bill of any kind except that it represents the real facts of the true situation . . ."

NAB also took this up with the Association of National Manufacturers, and received this reply:

"We have never had occasion to take any action with regard to the practice of double billing by advertising media. To the best of my knowledge such cases are relatively few and

we have usually found that as soon as they are discovered by the advertiser he refuses to pay a higher rate. Certainly such practice is to be deplored and discouraged.

"Therefore, anything which the media can do along this line would be of very constructive service in their own interests as well as that of their customers."

It is the opinion of NAB that radio stations encountering such unfair competition are entitled, in self-defense, to notify national advertisers using the competitive medium that a double-billing practice is being carried on.

Excessive Merchandising

Few radio stations will object to doing a reasonable merchandising job for a good client. It is the abuse of this service that causes most of the trouble, and NAB notes an alarming tendency on the part of some advertisers and agencies to over-reach themselves with excessive and exorbitant demands. So all NAB members may be fully informed, and may keep these tendencies in check, we reprint parts of a letter written by "Red" Cross, Commercial Manager of WMAZ, Macon, Ga., to George Duram of the Kastor Agency, Chicago:

"I am being deluged by your B. F. Green with requests that seem to me to be slightly beyond the pale of good business. . . . We are requested now to prepare banners and do a bill posting job on all personal appearances and we are told that many stations are providing their talent with sweaters emblazoned with some reference to Groves. To cap the climax, we are now asked to post Chill Tonic road signs and to do so without compensation to property owners or space owners. Please let me assure you we want to do everything possible *within reason* for any national client, but we cannot be expected to follow every mental aberration of some merchandising expert whose main job seems to be the procuring of as much free advertising as possible.

"Please note that the client in this instance is now receiving free advertising weekly on the spots which are used to trail the Groves program, thereby eliminating one spot in our schedule that has a salable value. If you will check the entire setup of correspondence and our telephone conversations, the subject of Porter's Oil was never brought up until after the orders were issued covering the Chill Tonic show. No one knew that the show was carrying a tail end parasite.

"I would sincerely suggest that if the client wants the wholehearted cooperation of his talent, including boosting on all personal appearances, that you immediately make available an extra \$30 weekly in talent money, retroactive. . . . While we have facilities for the creation of drugstore displays and dealer calls, we are not in the bill posting business. This may sound like a hard letter, but the requests made by your promotion department exceed anything we have ever seen before. . . ."

It is not meant to single out this advertiser or agency, but merely to cite this as the latest example to come to our attention of the growing tendency towards exorbitant merchandising demands. Unless NAB members stand squarely together in enlightened discouragement of such excesses, they will surely grow worse, because no agency can be blamed for attempting to get as much service as possible for its client, and for attempting to outdo its competitors in this regard.

What the end result would be, of course, is obvious, and the *only* people who can put an effective brake on this snowball rolling down hill *are the station operators themselves*.

Deupree Talks Available

Through the cooperation of the ANPA, 100 copies are available of the talk given by Richard R. Deupree, president of the Procter & Gamble Co., on "Advertising Is Essential to the Proper Growth of the Nation and Its People," before the ANPA convention in New York, April 23.

As long as this supply lasts, they are available free upon request by NAB members.

FTC Radio Script Review

Figures released May 27 by the Federal Trade Commission show that during the year ending December 31, 1940, a total of 701,197 radio commercial continuities were examined from 718 stations in 500 cities, and only 1.87% set aside as "questionable" and marked for further investigation. This percentage relates only to an initiation of inquiry, and does not represent any final adverse action taken by the Commission.

Labor

AFRA, IBEW Oppose Tax

Both AFRA and the IBEW went to bat for the industry this week against the Connery (D.-Mass.) special income tax on radio—instigated by the printing trades unions.

Said AFRA in a telegram to the House Ways and Means Committee:

"We see no justification whatever for imposing a discriminatory tax that affects radio employees only and which is class legislation not directed against any industry other than that in which we are working."

The IBEW, in a letter, called the proposed tax "unreasonable, discriminatory, arbitrary" and "partaking of the character of class legislation," with its sole purpose to shift advertising from radio to the printed media.

Wage and Hour Act

The NAB frequently is asked whether a talent fee, when greater than required overtime payment, can be used to cover the overtime an announcer spends on the sponsored show for which he receives the talent fee.

For example:

An announcer works 40 hours for \$40. He spends his 41st hour each week doing a sponsored show, for which he receives a \$5 fee. Does the \$5 cover the overtime?

The answer: No.

He is entitled to his \$40, plus his \$5 fee, plus overtime. His regular hourly rate is determined by dividing his gross earnings (\$45) by his total hours (41), or \$1.10. He works one hour over time, and so he is entitled to half his regular hourly rate extra, or a total of \$45.55.

The only alternative is not to give the announcer the \$5 fee, but to pay him a total of \$41.50 (40 hours at his regular rate plus \$1.50 for an hour's overtime).

The NAB is of the opinion that neither announcers (save, possibly, chief announcers) nor technicians (save, possibly, chief engineers or supervisors) can be classified as "administrative employees" under the definitions issued by the Wage and Hour Administration. Announcers who meet the salary qualification (\$200 or more a month) can usually be classified as professional employees. Ordinary technicians, usually, are subject to the hours provisions of the act, even though they make \$200 or more a month. The facts must be known in each case to obtain a definite opinion.

Rennaker Heads ABTU

Russell Rennaker became business manager of the Associated Broadcast Technicians Unit of the I.B.E.W., effective June 1, succeeding D. J. Dunlop. Rennaker has been an organizer for the ABTU and has been an engineer at Stations WBBM, WJSV and WFBM.

Miscellaneous

Broadcast Business Up 19%; Industry Income Up 39%

The broadcast business in the United States reached a new high of \$154,823,787 last year, which was an increase of \$24,855,761, or 19 per cent, over the figures for 1939, according to annual financial data released May 31 by the FCC. This amount was for sale of time only, as reported by three major networks, five regional networks, and 765 stations.

In addition to time sales, the industry derived \$13,181,948 from the sale of talent and other services during 1940, which was \$1,871,696 better than the year previous.

In consequence, the broadcast service income (operating profit) of the entire industry increased in 1940 by more than \$9,000,000 over 1939, or about 39 per cent. This despite the fact that the industry's expenses increased by \$13,806,089, of which \$994,573 was for 62 new stations.

The three major networks (National, Columbia, and Mutual) had combined time sales of \$71,919,428 for the year, which is up about 15 per cent over 1939. They paid out \$22,123,760 to stations and regional networks compared with \$18,023,195 the year previous. Thus, the three major networks recorded a broadcast service income (operating profit) of \$13,705,043. This came from operation of their own stations as well as their networks and constituted 41 per cent of the broadcast income of the entire industry compared with 46 per cent in 1939.

National, Columbia and Mutual had net income down to about half a million dollars after taxes and other payments accounted for \$8,885,694. The three major networks had net income of \$9,313,856 in 1939. These three network organizations paid two and one-half million dollars more in Federal income tax for 1940 than 1939.

Of the business of the major network group, National Broadcasting Company, through its dual network, accounted for \$37,137,823 of the total major network time sales of \$71,919,428, and had a net profit of \$3,918,772, including operation of its own stations. Columbia Broadcasting System's amount was \$31,137,823, with a net profit of \$5,006,634, including its own stations. Mutual Broadcasting System's share of the business was \$3,600,161. It had a loss of \$39,712.

The purely non-network business of the industry—i.e., time sold to local and national advertisers by the 765 stations—was \$81,897,236, bettering the previous year by \$14,109,409, or 20 per cent.

The broadcast income of 734 stations not operated by or for the networks amounted to \$19,123,609, being up \$6,345,807, or half again as much as for 1939. This non-network business showed an increase in the station sales to local advertisers of 20 per cent, and station sales to national advertisers of 22 per cent, as well as a 21 per cent increase in amounts received from networks.

The total time business of \$154,823,787 for the entire industry includes \$956,925 with respect to the 62 stations which operated less than the full year 1940. So the networks and stations which were on the air in 1939 obtained \$23,898,836 of new business during the year 1940. The 62 new stations as a class had expenses in excess of their sales for 1940 and showed loss from operation in the aggregate amount of \$37,648.

All told, there were 187 stations losing money in 1940. These stations had total time sales of \$8,402,886, total expenses of \$9,778,019, and lost in the aggregate \$1,551,812, after considering their talent and incidental sales.

These figures include losses for 27 of the 62 new stations, the remaining 35 having operated at a profit. However, the number of stations losing money was under the figure for 1939, when 227 stations lost \$2,220,471. The number 187 includes 61 stations which have lost money every year since 1937.

There were 457 network stations and 308 non-network stations operating last year compared with 397 and 308 respectively for 1939.

EXCESS PROFITS TAX

Following an appearance by the NAB, the House Ways and Means Committee on Wednesday, June 4, in a preliminary vote rejected a Treasury Department request for a change in method for computing the excess profits tax that would have been adverse to the broadcasting industry. The Treasury Department request seeks a net revenue from defense profits of \$585,000,000. In order to obtain this amount it was proposed that the optional method of average income during the base period, or normal income, be set aside in favor of the percentage of invested capital method for computing excess profits.

The House Committee is still committed to the request for \$585,000,000 revenue from excess profits tax but has rejected the method proposed.

NAB testified at the committee's hearings on the subject. J. Robert Myers, Assistant Director of Research, appeared before the committee Wednesday, May 28th to oppose the proposed method change. Mr. Myers stated that NAB's appearance was in no way to be construed as opposition to the raising of revenue required for national defense since "when more revenue is needed, the radio industry along with every other branch of American business will gladly pay the necessary taxes." NAB did oppose the method change which in effect redefined the term—excess profits—to include far more than profits in excess of normal return during the base period, particularly as it applies to the broadcasting industry. The business of broadcasting embodies to a great extent personal service as well as invested capital, but fails to qualify as a personal service business under the excess profits tax law definition, and would be severely penalized if the average earnings method were withdrawn.

The House Ways and Means Committee is still considering the excess profits tax question and is reported to be studying various bracket changes in the present structure of the law which can increase the tax yield to the desired amount. There is every indication that the committee will evolve a revision which will materially increase the tax by raising the rates or lowering the exemptions.

NATIONAL DAYLIGHT TIME

The Office of Production Management is reported to be ready to recommend nation-wide observance of daylight saving time to conserve electric power needed for national defense production.

The OPM has been asked to report to Congress on a pending bill advocating adoption of daylight time throughout the country as a defense measure. It is reported that many of the OPM officials feel this move desirable.

NEBRASKA ASSOCIATION

Nebraska Broadcasters Association held their annual session in Norfolk on May 24 and elected the following officers and directors:

Vernon H. Smith, KOWH, Omaha, President
L. L. Hilliard, KGKY, Scottsbluff, Vice President
Art Thomas, WJAG, Norfolk, Secretary-Treasurer
W. I. LeBarron, KGNF, North Platte, Director
Don Searle, KOIL, Omaha

The annual meeting also authorized a request to NAB that something constructive be done regarding the competition of various government agencies for free time.

FATHER BURK ILL

Father W. A. Burk, S.J., director of Station WEW, St. Louis, has returned to St. Mary's Hospital following a heart attack May 24. Father Burk was scheduled to return June 15 to Station WWL, New Orleans, but his return has now been postponed indefinitely.

FEDERAL COMMUNICATIONS COMMISSION

Newspaper Stations

The FCC announced June 2 that it would formally open its investigation with respect to the joint control of newspapers and radio stations, with public hearings beginning on June 25. It is felt that a substantial portion of the testimony can be taken at that time, but the Commission may schedule subsequent hearings to permit the development of more extensive studies.

This is pursuant to Commission Order No. 79 of March 20th which seeks to determine what policy or rules, if any, should be promulgated with respect to applications for high frequency (FM) broadcast stations and for the future acquisition of standard broadcast stations by newspapers without impairing existing investment.

At the time it promulgated its order, the Commission stated that its investigation does not imply that it is opposed to newspaper ownership of radio stations in general or in any particular situation. The purpose of the inquiry is to obtain for the Commission sufficient information to decide whether or not a general policy should be adopted, and if a general policy seems advisable, to shape such a policy for application in the future to particular cases involving newspaper interests.

This action was prompted by the large number of applications for FM facilities. The Commission deemed the inquiry advisable at this time, in the early development of FM broadcasting when FM is just starting and there is opportunity for evaluating the situation before there has been any considerable investment in the new service.

EDUCATIONAL FM

Applications by the Board of Education of the City of Chicago, the San Diego (Calif.) Unified School District and the University of Illinois to engage in non-commercial educational broadcast service is indicative of the value of FM in developing the five high frequency channels reserved by the Federal Communications Commission for non-profit educational use.

Common interest in making the most of the new opportunity to use these facilities is evinced in the following letter to Dr. John W. Studebaker, Commissioner of Education, from Edwin H. Armstrong, prominent in the practical utilization of FM, which was read at the recent Twelfth Institute for Education by Radio:

"I have been much gratified with the reports that are reaching me about the experiments with FM transmission conducted by the Cleveland Board of Education and I have been considering for some time what might be done to further encourage other, similar, projects.

"From time to time letters have come in from educational institutions requesting information about royalty rates under my Frequency Modulation patents in the event that these institutions should decide to erect stations and construct transmitters themselves. It has seemed to me that it might help the development of this new branch of radio if I should arrange to issue licenses, to those educational institutions which are interested in going ahead, at a nominal royalty of One Dollar. This is to advise you that I am willing to do that.

"I am writing this letter, therefore, in order that you may, if you see fit, make whatever announcement would be most effective in reaching those of your institutions that you feel could successfully carry on an educational program. This offer would, of course, apply only to stations whose purpose is educational and which do not obtain income from their broadcasting activities.

"Should there be any way in which I could assist the cause of educational broadcasting by the furnishing of technical advice or information, I hope that you will always feel free to call upon me for it."

Commissioner Studebaker hailed the offer as a spur to school systems and colleges interested in setting up an ultra-high frequency

educational radio station because it provides a sizable reduction in the cost of such a station.

"FM's value as a unit of the school system has been demonstrated by these pioneers", Commissioner Studebaker comments. "An FM station, useful to the classroom, also makes possible adult education. Educational FM channels adjoin the new commercial bands just being developed and, as FM receivers are introduced into homes, adults may tune in programs of educational radio stations."

An average school station can now be installed at the price of one classroom, according to officials of the Federal Radio Education Committee, of which the Commissioner is chairman, and requires in personnel only a radio engineer and a program director, both of whom may be drafted from the regular school staff.

"In a city", Commissioner Studebaker points out, "the potential educational value of this radio classroom is probably greater than that of any other room or shop in the school system—and the home radio class may be from ten to a hundred times as large."

"In rural areas, its comparative value is even greater. Radio can bring scattered one-room schools as close together as the classrooms of a city school building. The radio classroom in a rural area may be reasonably expected to serve all who live in the county."

When the Federal Communications Commission authorized regular FM broadcast service last year, five channels adjacent to the high frequency broadcast band were set aside for non-commercial educational use. These channels are 42,100; 42,300; 42,500; 42,700 and 42,900 kilocycles.

This rearrangement of the high frequencies to make commercial FM broadcast service possible has a distinct advantage in that the close proximity of the non-commercial educational bands and the new FM commercial bands makes it possible to adapt standard FM receivers to receive both types of broadcast. In other words, the FM receivers now being marketed are capable of receiving non-profit educational as well as the regularly sponsored programs.

Until that time only two educational bodies were making actual use of the high frequency bands long open to non-profit educational service employing amplitude modulation. They were WNYE, the Board of Education of the City of New York, and WBOE, the Cleveland City Board of Education.

However, the University of Kentucky had received a construction permit for a system to bring educational program service to some 50 mountain schools, available to adults as well as students. The University of Kentucky, Station WBKY, now plans to substitute FM for the standard transmission.

Subsequently, the Board of Education of the San Francisco Unified School District was authorized to use radio for instructional, administrative, supervisory and other functions through the medium of 13 studios in schools in that area, all connected with the central broadcast station KALW, by leased wires.

More recently the Cleveland Board of Education, which serves more than 150 receivers in its municipal school system, received permission to change to FM.

Detailed regulations regarding non-commercial educational stations are contained in Sections 4.131 to 4.137, inclusive, of Part 4 of the Commission's Rules and Regulations. This pamphlet, which is obtainable from the Superintendent of Documents, Government Printing Office, Washington, at a cost of 10 cents, also includes standards of good engineering practice applicable to non-commercial educational broadcast stations.

The Commission in Section 4.131 defines a non-commercial educational broadcast station as a station licensed to an organized nonprofit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public. In Section 4.132 the Commission provides that a non-commercial educational broadcast station will be licensed only upon a showing that the station will be used for the advancement of the agency's educational program, particularly with regard to use of the educational system consisting of several units.

The Commission recognizes two phases of the service of educational broadcast stations: First, the transmissions to specific schools for classroom work and, second, the transmission of adult educational and entertainment programs to the general public.

The Commission requires each applicant for a new non-commercial

educational broadcast station to make a complete showing as to the plans for programs of the station. For example, a municipal or common school system may use an educational station for classes transmitted simultaneously to the several units comprising the educational system. Where a prospective applicant is not itself engaged in the operation of several units of an educational system, a complete showing should be made of the cooperation with the several schools in the proposed service area which should include agreements or statements from the heads of such schools, for example, a university or college.

Development of education through radio is also being furnished by the Federal Radio Education Committee. Organized in 1935 under the Federal Communications Commission, this committee is a cooperative effort on the part of broadcasters and educators to advance the cause of education on the air. The committee has operated under private grants, chiefly from the National Advisory Council on Radio in Education, National Association of Broadcasters, Rockefeller Foundation, and General Education Board.

ILLEGAL BROADCASTER APPREHENDED

Incident to its national defense monitoring operations, the FCC uncovered, at Salida, Colorado, an unlicensed radio station which, using the unauthorized call letters "KIDA", was rendering transcription entertainment with the evident idea of soliciting commercial sponsors.

The operator, a mature man who described himself as O. W. Trueblood, was held in \$1,000 bail in consequence. He was broadcasting on 890 kilocycles with 15 watts power.

The FCC announces that the work, business and functions of the Commission for the month of June have been assigned as follows:

Commissioner Walker: Designated to determine, order, report or otherwise act upon all applications of requests for special temporary standard broadcast authorizations.

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

STATE LEGISLATION

CALIFORNIA:

A. 2645 (HAWKINS) COPYRIGHTS—Provides that any person may file with the Secretary of State a copy of any lecture, sermon, address, dramatic composition, story, radio script, radio program, or motion picture scenario, together with an affidavit of authorship, and thereby be entitled to all rights and benefits accruing therefrom. Referred to Committee on Judiciary General.

FLORIDA:

H. 1396 (Same as S. 641) (OVERSTREET) TRANSMISSION OF NEWS—Relating to the regulation, transmission of news and in-

formation from within the premises of horse race tracks. Referred to Committee on Finance and Taxation.

H. 1792 (CRARY, et al.) **MUSICAL COMPOSITIONS**—Amend Chap. 17,807, Acts of 1937, repealing certain sections and relating to an unlawful monopoly for the privilege of rendering musical compositions. Passed by the House.

S. 815 (WHITAKER) **MUSIC COPYRIGHTS**—Amends Chap. 17,807, Acts of 1937, an "Act declaring to be an unlawful monopoly and combination of persons or firms which determine the amount of money to be paid to it for the privilege of rendering privately or publicly for profit copyrighted vocal or instrumental musical compositions." Referred to Committee on Judiciary "C".

ILLINOIS:

H. 914 (J. G. RYAN) **LICENSES EMPLOYMENT AGENCIES**—Authorizes Department of Labor to license and regulate employment agencies or agents. Referred to Committee on Judiciary.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings or oral arguments are scheduled to be heard before the Commission during the week beginning Monday, June 9.

FUTURE HEARINGS

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

July 21

KGO and Auxil.—National Broadcasting Company, Inc., San Francisco, Calif.—Renewal of license, main: **810 kc.**, $7\frac{1}{2}$ KW, unlimited time; auxiliary: **810 kc.**, $2\frac{1}{2}$ KW, unlimited time.
KOA—National Broadcasting Company, Inc., Denver, Colo.—Renewal of license, **850 kc.**, 50KW, unlimited time.
WMAL—National Broadcasting Company, Inc., Washington, D. C.—Renewal of license, **630 kc.**, 5 KW, unlimited time.

August 1

NEW—Symons Broadcasting Company, Ellensburg, Wash.—C. P., **1110 kc.** (**1140 kc.**, NARBA), 1 KW, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

WNAX—WNAX Broadcasting Co., Yankton, S. Dak.—Granted modification of construction permit to make changes in directional antenna system; station operates on **570 kc.**, 5 KW night and day; directional antenna night, unlimited time (B4-MP-1182).
KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted special service authorization to operate with 25 KW night time and 50 KW day for a period of 180 days, using transmitter authorized under construction permit (B5-P-2783), and frequency **1030 kc.**; this authority is granted subject to the condition that in the event the proposed operation cause interference which in the judgment and discretion of the Commission is objectionable, the authority for such operation may be modified or cancelled without prior notice or hearing (B5-SSA-1).
WGNV—WGNV Broadcasting Co., Inc., Newburgh, N. Y.—Granted construction permit to install new transmitter, change frequency from **1250 to 1220 kc.** and increase power from 250 watts to 1 KW, daytime only (B1-P-2948).
KRLH—Clarence Scharbauer, Midland, Texas.—Granted modification of construction permit to change frequency from **1450**

to **1230 kc.** and extend commencement and completion dates to 20 days after grant and 30 days thereafter, respectively (B3-MP-1260).

KWBG—W. B. Greenwald (transferor), Stanley Marsh, William Wyse and Wesley E. Brown (transferees), Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Granted consent to transfer control of The Nation's Center Broadcasting Co., Inc. (KWBG), from W. B. Greenwald (owner of all licensee's outstanding stock), to Stanley Marsh (50%), William Wyse (49.9%) and Wesley E. Brown (.1%), for a cash consideration of \$40,000, or on terms, at the option of the seller; station operates on **1450 kc.**, 100 watts night and day (construction permit for 250 watts), unlimited time (B4-TC-251).

WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit to make changes in equipment, install directional antenna for day and night use, increase power from 5 KW night and day to 10 KW night and day, **1560 kc.** Dismissed request for classification as a I-B station (B1-MP-1086).

WSAZ—WSAZ, Inc., Huntington, W. Va.—Reconsidered action taken in morning session in designating for hearing application for construction permit and granted same, authorizing approval of changes in directional antenna and approval of transmitter site at 3 miles southwest of center of Huntington, W. Va. (B2-MP-1290).

MISCELLANEOUS

KFDY—South Dakota State College, Brookings, S. D.—Granted special temporary authority to operate from 10 to 11:30 a. m. CST on June 9, 1941, in order to broadcast the inauguration of the President of South Dakota State College only (B4-S-645).

KFDY—South Dakota State College, Brookings, S. D.—Granted special temporary authority to remain silent on May 30, 1941, in order to observe Memorial Day.

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Granted special temporary authority to operate on May 27, 1941, in order to broadcast the President's speech only.

WALB—Herald Publishing Co., Albany, Ga.—Granted special temporary authority to operate unlimited time on **1590 kc.** with power of 1 KW, employing a directional antenna at night for a period of 10 days.

WFNC—W. C. Ewing & Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Granted special temporary authority to operate additional time to broadcast President Roosevelt's address on May 27, 1941, only.

WSAZ, WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate additional time to broadcast the President's speech on May 27, 1941, only.

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Denied request for special temporary authority to operate from 7:30 p. m. to the conclusion of broadcast in honor of the 20th Anniversary of the Founding of the Modesto Junior College, on May 28, 1941, only.

W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 2500 watts, for period May 31 to June 29, 1941, conditionally.

KGBS—Harbanito Broadcasting Co., Harlingen, Texas.—Granted modification of construction permit (B3-P-2747 covering a new station) for installation of new transmitter, changes in antenna system and extension of commencement date to 60 days after grant and completion date to 180 days thereafter (B3-MP-1305).

WBEN—WBEN, Inc., Buffalo, N. Y.—Granted modification of construction permit (B1-P-2757) for increase in power to 5 KW, installation of directional antenna for night use; move transmitter, installation of new transmitter, change frequency to **930 kc.** under NARBA, to extend completion date to September 1, 1941 (B1-MP-1302).

WRLC—R. G. LeTourneau, Toccoa, Ga.—Granted license to cover construction permit (B3-P-2767) for new station to operate on **1450 kc.**, 250 watts, unlimited time (B3-L-1408). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-897).

WAIM—Wilton E. Hall, Anderson, S. C.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-914).

- WJAX—City of Jacksonville, Jacksonville, Fla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-631).
- KFAB—KFAB Broadcasting Co., Lincoln, Neb.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-904).
- WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-923).
- KRSC—Radio Sales Corp., Seattle, Wash.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-921).
- KVGB—Helen Townsley, Great Bend, Kans.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-822).
- WGKV—Kanawha Valley Broadcasting Co., Charleston, W. Va.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-907).
- KOVC—KOV, Inc., Valley City, N. D.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-895).
- KATE—Albert Lea-Austin Broadcasting Co., Inc., Albert Lea, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-885).
- WBOC—The Peninsula Broadcasting Co., Salisbury, Md.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-894).
- WJHO—Opelika-Auburn Broadcasting Co., Opelika, Ala.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-863).
- WBKR—Louis P. Thornton, Baker, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-911).
- WHEC—WHEC, Inc., Rochester, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-880).
- WICA—WICA, Inc., Ashtabula, Ohio.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-879).
- KDTH—Telegraph-Herald, Dubuque, Iowa.—Granted license to cover construction permit (B4-P-960) for new station to operate on 1370 kc., 1 KW power, unlimited time, using directional antenna at night (B4-L-1410). Also granted authority to determine operating power by direct measurement of antenna input (B4-Z-902).
- KIJG—Eagle Broadcasting Co., Inc., area of Brownsville, Tex.—Granted further extension of relay broadcast station license upon a temporary basis for the period ending July 1, 1941, pending determination upon application for renewal of license (B3-ZRY-10).
- WAOB—National Broadcasting Co., Inc., Port Washington, N. Y.—Granted construction permit to change type of transmitting equipment and move relay transmitter to Port Washington, N. Y. (B1-PRY-246).
- May Broadcasting Co., Portable-Mobile (Shenandoah, Ia.).—Granted construction permit for new relay broadcast station to be used with standard broadcast station KMA; frequencies 1616, 2090, 2190, 2830 kc., 25 watts (B4-PRY-243).
- The Tribune Co., Portable-Mobile (area of Tampa, Fla.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station WFLA; frequencies 1622, 2058, 2150, 2790 kc., 40 watts power (B3-PRY-240).
- The Tribune Co., Portable-Mobile (area of Tampa, Fla.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station WFLA; frequencies 1622, 2058, 2150, 2790 kc., 40 watts power (B3-PRY-241).
- Merced Broadcasting Co., Portable-Mobile (area of Merced, Cal.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station KYOS; frequencies 1616, 2090, 2190, 2830 kc., power 15 watts (B5-PRY-245).
- WALH—Piedmont Publishing Co., Portable-Mobile (area of Winston-Salem, N. C.).—Granted license to cover construction permit (B3-PRY-233) for new relay station to be used with applicant's standard broadcast station WSJS; frequencies 1622, 2058, 2150, 2790 kc., 100 watts power (B3-LRY-225).
- W47NV—The National Life & Accident Ins. Co., Nashville, Tenn.—Granted license to cover construction permit (B3-PH-44) which authorized a new FM station (B3-LH-1).
- WKST—WKST, Inc., New Castle, Pa.—Granted modification of construction permit (B2-P-2809, covering installation of directional antenna for night use; change hours of operation from daytime to unlimited, using 1 KW night and day, and for 1280 kc. under NARBA) for extension of completion date to July 1, 1941 (B2-MP-1303).
- WTAL—Fla. Capitol Broadcasters, Inc., Tallahassee, Fla.—Granted construction permit to make changes in transmitting equipment (B3-P-9175).
- WTAW—Agricultural and Mechanical College of Texas, College Station, Texas.—Granted license to cover construction permit (B3-MP-1006, for new transmitter, increase in power to 1 KW, and change in frequency under NARBA (B3-L-1414).
- KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to conclusion of broadcast of Annual Commencement Exercises of the Modesto Junior College on June 12, 1941, only.
- WHKC—United Broadcasting Co., Columbus, Ohio.—Granted special temporary authority to operate from 9:45 p. m., EST, to conclusion of President Roosevelt's address only, approximately 10 p. m. EST on May 27, 1941.
- KWJJ—KWJJ Broadcasting Co., Inc., Portland, Ore.—Granted extension of special temporary authority to operate on 1080 kc., 500 watts, limited time, and resume operation from 9 p. m. or until WTIC and KRLD sign-off, to 3 a. m. PST, for the period March 29, 1941, and ending at completion of construction, proof of performance and grant of an application for license to cover construction permit (B5-S-87).
- WCNW—Arthur Faske, Brooklyn, N. Y.—Denied request for special temporary authority to operate daily from 12:01 a. m. to 1 a. m. on a non-commercial basis in order to broadcast Associated Press and Standard News Association news reports, Americanization programs; also musical selections by means of records and transcriptions only, for period June 2, 1941 to not later than July 1, 1941.
- W2XMN—Edwin H. Armstrong, Alpine, N. J.—Granted special temporary authority to rebroadcast program of W71NY on May 27, in order to carry speech of President Roosevelt, only.
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted extension of special temporary authority to operate from local sunrise, Glenside, Pa., to local sunset Knoxville, Tenn. (radio station WNOX), instead of daytime as stipulated in reallocation for the period May 28, 1941, and ending not later than June 26, 1941, pending action on formal application for such authority.
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 9 to 10 p. m. EST on June 14, 1941, in order to broadcast the Convention Dinner held in Boston on Flag Day only (B1-S-205).
- KIUP—San Juan Broadcasting Co., Durango, Colo.—Granted special temporary authority to remain silent from 7 to 10 p. m. LST for a period of 10 days beginning June 1, to not later than June 10, 1941.
- KSUB—Southern Utah Broadcasting Co., Cedar City, Utah.—Granted special temporary authority to remain silent after 7 p. m. MST for a period not to exceed 30 days.
- WNYE—Board of Education, New York City, N. Y.—Granted extension of special temporary authority to continue to operate non-commercial educational broadcast station WNYE on 4110 kc., for the period May 31, 1951, to not later than June 29, 1941, pending completion of construction under construction permit (B1-PED-18).
- KEHR—Donald C. Treloar, Kalispell, Mont.—Granted special temporary authority to operate on 2058 kc. for test and broadcast of farmers convention to be held 15 miles northeast of Kalispell to KGEZ during the week beginning June 8 and ending not later than June 14, 1941.
- WGN—WGN, Inc., Chicago, Ill.—Granted special temporary authority to rebroadcast a program originating in U. S. Army plane 1B-18M 36-274 flying over Soldiers Field, Chicago, on May 29, 1941, from 9 to 9:30 p. m. EST only.
- WDLF—Panama City Broadcasting Co., Panama City, Fla.; WTMG—Ocala Broadcasting Co., Inc., Ocala, Fla.—Continued hearings in re revocation of licenses of Stations

- WDLP and WTMC, now scheduled for June 2, 1941, until June 16, 1941. (Dockets Nos. 6001 and 6000.)
- W71SB—South Bend Tribune, South Bend, Ind.—Granted issuance of construction permit for FM station without prejudice to determination of hearing on Order No. 79 (B4-PH-54).
- Gibraltar Service Corp., Philadelphia, Pa.—Placed in pending file pursuant to Order No. 79, application for construction permit for new FM station (B2-PH-92).
- Texas Star Broadcasting Co., Houston, Tex.—Adopted order denying petition for reconsideration and grant without hearing application for construction permit for new standard broadcast station to operate on 1250 kc., 250 watts, unlimited time (B3-P-6089).
- WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Adopted decision and order denying petition for rehearing filed by Drovers Journal Publishing Co. (WAAF), directed against the action of the Commission January 28, 1941, granting the application for modification of construction permit of The Evening News Association (WWJ), Detroit, Mich., for approval of directional antenna for nighttime use.
- Ralph L. Lewis, Greensboro, N. C.—Adopted order denying petition of Ralph L. Lewis, Greensboro, N. C., to sever and disassociate the hearing on his application for construction permit for new station from the application of R. B. Terry, D. A. Rawley, C. M. Waynick, and Y. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C., for construction permit for new station, which were designated for consolidated hearing.

APPLICATIONS FILED AT FCC

550 Kilocycles

- WKRC—The Cincinnati Times-Star Co., Cincinnati, Ohio.—Authority to determine operating power by direct method.

570 Kilocycles

- KUTA—Jack Powers, David G. Smith, Frank C. Carman and Grant R. Wrathall, d/b as Utah Broadcasting Co., Salt Lake City, Utah.—Authority to determine operating power by direct method.

580 Kilocycles

- WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Authority to determine operating power by direct method (auxiliary transmitter).

610 Kilocycles

- WAYS—Inter-City Advertising Co., Charlotte, N. C.—Modification of construction permit (B3-P-2878) for a new station, requesting approval of directional antenna for day and night use.
- WMUR—The Radio Voice of New Hampshire, Inc., Manchester, N. H.—Modification of construction permit (B1-P-2897) as modified for a new broadcast station, requesting extension of completion date to July 1, 1941.

650 Kilocycles

- WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Authority to determine operating power by direct method for auxiliary transmitter.
- WSM—The National Life and Accident Insurance Co., Inc., Nashville, Tenn.—Authority to determine operating power by direct method.

670 Kilocycles

- WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Authority to determine operating power by direct method.

680 Kilocycles

- WISR—David Rosenblum, tr. as Butler Broadcasting Co., Butler, Pa.—Modification of construction permit (B2-P-3046) for a new station, for approval of antenna and approval of studio and transmitter sites.
- KPO—National Broadcasting Co., Inc., San Francisco, Calif.—Authority to determine operating power by direct method.

710 Kilocycles

- WOR—Bamberger Broadcasting Service, Inc., New York, N. Y.—Authority to determine operating power by direct method.

770 Kilocycles

- WJZ—National Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct method.
- WJZ—National Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct method. (Auxiliary transmitter.)

790 Kilocycles

- WMC—Memphis Publishing Co., Memphis, Tenn.—Construction permit to make changes in directional antenna for night use and increase power from 1 KW night, 5 KW day to 5 KW day and night. Amended: to request 790 kc. under NARBA and make changes in directional antenna.

810 Kilocycles

- KGO—National Broadcasting Co., Inc., San Francisco, Calif.—Authority to determine operating power by direct method.

860 Kilocycles

- KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Authority to determine operating power by direct method.

910 Kilocycles

- KPOF—Pillar of Fire (a corporation), Denver, Colo.—Authority to determine operating power by direct method.

920 Kilocycles

- NEW—Trent Broadcast Corp., Trenton, N. J.—Construction permit for a new broadcast station to be operated on 1230 kc., 1 KW, unlimited hours, Class III-B, directional antenna day and night. Amended: to request 920 kc., changes in equipment and directional antenna.

950 Kilocycles

- KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Modification of construction permit (B5-P-2848) as modified, for installation of directional antenna for night use, and increase power, requesting extension of completion date from 6-22-41 to 8-1-41.

1020 Kilocycles

- KFVD—Standard Broadcasting Co., Los Angeles, Calif.—Authority to determine operating power by direct method.
- KDKA—Westinghouse Radio Stations, Inc., Pittsburgh, Pa.—Authority to determine operating power by direct method.

1030 Kilocycles

- WBZA—Westinghouse Radio Stations, Inc., Boston, Mass.—Authority to determine operating power by direct method.

1100 Kilocycles

- WTAM—National Broadcasting Co., Inc., Cleveland, Ohio.—Authority to determine operating power by direct method.
- KJBS—Julius Brunton & Sons Co., San Francisco, Calif.—Authority to determine operating power by direct method.

1110 Kilocycles

- WMBI—The Moody Bible Institute of Chicago, Chicago, Ill.—Authority to determine operating power by direct method.

1170 Kilocycles

- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Authority to determine operating power by direct method.

1190 Kilocycles

- WOWO—Westinghouse Radio Stations, Inc., Ft. Wayne, Ind.—Authority to determine operating power by direct method.

1230 Kilocycles

- KWNO—Maxwell H. White and Herman R. Wiecking, d/b as Winona Radio Service, Winona, Minn.—Authority to determine operating power by direct method.
- WMIN—WMIN Broadcasting Co., St. Paul, Minn.—Authority to determine operating power by direct method.
- WJBC—Arthur Malcolm McGregor, Dorothy Charlotte McGregor and Hugh L. Gately, d/b as Radio Station WJBC, Bloomington, Ill.—Authority to determine operating power by direct method.
- KYSM—F. B. Clements and Co., a co-partnership, composed of F. Braden Clements, Clara D. Clements and C. C. Clements, d/b as Southern Minnesota Supply Co., Mankato, Minn.—Authority to determine operating power by direct method.
- WCOL—WCOL, Inc., Columbus, Ohio.—Authority to determine operating power by direct method.
- KGDE—Charles L. Jaren, Fergus Falls, Minn.—Authority to determine operating power by direct method.
- NEW—R. M. Wallace and G. E. Schnibben, d/b as Norfolk County Broadcasting Co., Norfolk, Va.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited hours (contingent on WBOC going to **1230 kc.**).
- KGfJ—Ben S. McGlashan, Los Angeles, Calif.—Authority to determine operating power by direct method.
- WBBZ—Adelaide Lillian Carrell, Exe. of Estate of Charles Lewis Carrell, Deceased, Ponca City, Okla.—Authority to determine operating power by direct method.
- WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—License to cover construction permit (B2-P-3109) for changes in equipment and increase in power on **1230 kc.** (Section 10c).
- WHVC—The Ohio Broadcasting Co., Canton, Ohio.—Authority to determine operating power by direct method.
- KVOS—KVOS, Inc., Bellingham, Wash.—Authority to determine operating power by direct method.

1240 Kilocycles

- KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Authority to determine operating power by direct method.
- WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—License to cover construction permit (B3-P-2802) to make changes in equipment and increase in power.
- WIBU—Wm. C. Forrest, Poynette, Wis.—Authority to determine operating power by direct method.

1270 Kilocycles

- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—License to cover construction permit (B4-P-2568) as modified to change type of transmitter, make changes in directional antenna.
- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Authority to determine operating power by direct method.
- KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Authority to determine operating power by direct method.

1280 Kilocycles

- WMRO—Martin R. O'Brien, Aurora, Ill.—Authority to determine operating power by direct method.

1290 Kilocycles

- KUOA—KUOA, Inc., Siloam Springs, Ark.—Authority to determine operating power by direct method.

1310 Kilocycles

- KFBB—Buttrey Broadcast, Inc., Great Falls, Mont.—Modification of construction permit (B5-P-2920) as modified, for increase in power and installation of directional antenna for night use, requesting extension of completion date from 6-30-41 to 7-31-41.

1330 Kilocycles

- WEVD—Debs Memorial Radio Fund, Inc., New York, N. Y.—Authority to determine operating power by direct method.

1340 Kilocycles

- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Construction permit to change frequency from **1340** to **1320 kc.**

under NARBA, power from 250 watts to 1 KW night, 5 KW day, using directional antenna night, make equipment changes and move transmitter. Amended: to request change in frequency to **1560 kc.**, power to 10 KW day and night, change type of transmitter, make changes in directional antenna for night use, and change requested location of transmitter.

1360 Kilocycles

- KGB—Don Lee Broadcasting System, San Diego, Calif.—Construction permit to increase power from 1 to 5 KW, install new transmitter and new antenna and move transmitter and studio.

1400 Kilocycles

- WSVS—Board of Education, City of Buffalo, Buffalo, N. Y.—Authority to determine operating power by direct method.
- WCOS—Carolina Advertising Corp., Columbia, S. C.—Authority to determine operating power by direct method.

1440 Kilocycles

- WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Authority to determine operating power by direct method.

1450 Kilocycles

- WGL—Westinghouse Radio Stations, Inc., Ft. Wayne, Ind.—Authority to determine operating power by direct method.
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Calif.—Authority to determine operating power by direct method.
- KEUB—Eastern Utah Broadcasting Co., Price, Utah.—Authority to determine operating power by direct method.
- WNAB—Harold Thomas, Bridgeport, Conn.—Modification of construction permit (B1-P-2410) as modified, for a new broadcast station, requesting extension of completion date from 6-30-41 to 9-30-41.

1460 Kilocycles

- KGfN—Great Plains Broadcasting Co. (a Corporation), North Platte, Nebr.—Authority to determine operating power by direct method.

1490 Kilocycles

- WBTA—Batavia Broadcasting Corp., Batavia, N. Y.—Authority to determine operating power by direct method.
- WRDW—Augusta Broadcasting Co., Augusta, Ga.—Authority to determine operating power by direct method.

1590 Kilocycles

- WAKR—Summit Radio Corp., Akron, Ohio.—Authority to determine operating power by direct method.
- WALB—Herald Publishing Co., Albany, Ga.—Authority to determine operating power by direct method.

1600 Kilocycles

- KPMC—Pioneer Mercantile Co., Bakersfield, Calif.—Authority to determine operating power by direct method.

FM APPLICATIONS

- NEW—Tribune Building Co., Oakland, Calif.—Construction permit for a new high frequency broadcast station to be operated on **46500 kc.**; coverage, 1,216 square miles; population, 1,350,000.
- 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. Amended: To change coverage to 12,900 square miles, population to 1,847,060 and make changes in antenna system.
- W53H—The Travelers Broadcasting Service Corp., Hartford, Conn.—Modification of construction permit (B1-PH-12) for a new high frequency broadcast station, requesting approval of transmitter and antenna system and change population from 4,893,439 to 1,036,400. Amended: To make changes in transmitter and antenna system and population to 936,448.

TELEVISION APPLICATION

W2XCB—Columbia Broadcasting System, Inc., Portable-Mobile.—Modification of construction permit (B1-PVB-46) as modified for new television broadcast station, requesting change in frequency from 336000-348000 to 346000-358000 kc.

MISCELLANEOUS APPLICATIONS

- NEW—Hagerstown Broadcasting Co., Hagerstown, Md.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 50 watts, emission A3. Amended: re location.
- NEW—Morgan County Board of Education, West Liberty, Ky.—Construction permit for a new non-commercial educational broadcast station to be operated on 42100 kc., 500 watts, A3 emission.
- W8XO—The Crosley Corp., near Mason, Ohio.—Modification of license to change maximum power of transmitter from 500000 watts to 750000 watts, increase power from 100000 and 500000 watts to 100000 and 750000 watts, and make minor changes in equipment.
- WHAЕ—Courier-Journal and Louisville Times Co., Louisville, Ky.—License to cover construction permit (B2-PRE-361) for a new relay broadcast station. (C. P. EXPIRED, SHOULD FILE FOR REINSTATEMENT.)
- NEW—Board of Education of the Memphis City Schools, Memphis, Tenn.—Construction permit for a new non-commercial educational broadcast station to be operated on 42100 kc., 250 watts, A3 emission, unlimited time. (SECTION 6 of Form 313, SECTIONS 17, 21b, 23, 24, 28d of Form 309.)
- WAUR—University of Illinois, S. of Champaign, Ill.—License to cover construction permit (B4-PRY-226) for a new relay broadcast station. (SECTIONS 5g and 7b and SHOULD FILE FOR REINSTATEMENT.)
- NEW—WSAZ, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 40 watts, emission A3.

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.

Concord Distributing Company, Inc.—A complaint has been issued charging Concord Distributing Co., Inc., 603 6th Ave., New York, with the use of lottery methods in the sale of cameras, souvenirs, thermometers, clocks and other merchandise.

According to the complaint, the respondents, in selling such articles, furnish various devices and plans of merchandising which involve the operation of a lottery scheme or game of chance by which the merchandise is sold to the consuming public. (4508)

Kay's Cut Rate—A complaint has been issued against David L. Silver and O. C. Colwes, trading as Kay's Cut Rate and as Kay's Cut Rate Drugs, Beckley, W. Va., alleging misrepresentation in the sale of a medicinal preparation.

The complaint charges the respondents with disseminating advertisements in which they represent, directly and by implication, that their preparation designated as "Madame Bea's Capsules" constitutes a competent and effective treatment for delayed menstruation, and is safe and harmless.

According to the complaint, the product sold by the respondents is not a competent or effective treatment for delayed menstruation, and is not safe or harmless in that it contains certain drugs in quantities sufficient to cause serious and irreparable injury to health, if the preparation is used under the conditions prescribed in the advertisements or under customary or usual conditions.

The complaint further charges that the advertisements disseminated by the respondents constitute false advertisements in that they fail to reveal that use of the preparation under such conditions may result in gastro-intestinal disturbances or other serious injury. (4510)

Seamless Rubber Co., New Haven, Conn., in a complaint is charged with misrepresentation in the sale of electrical heating pads intended for use in treating diseases.

The complaint alleges that advertisements disseminated by the respondent in various States represented, directly or through inference, that its heating pads are capable of generating and maintaining three different sustained levels of temperature, and that the temperature may be controlled and the desired uniform heat obtained by simply setting the switches at points marked "L", "M" or "H".

According to the complaint, the respondent's heating pads do not maintain three levels of temperature and the temperature cannot be controlled, except by alternately attaching and detaching the connecting electric current cords. The complaint alleges that the pads, if connected to the current and turned on, eventually attain their maximum level of temperature and are thermostatically controlled at that level regardless of the positions at which the switches may be set. The sole function of the switches, according to the complaint, is to regulate the input or wattage of electric current used by the pads and thus to some extent control the speed with which the maximum temperature will be attained. (4509)

CEASE AND DESIST ORDERS

Following cease and desist orders have been issued by the Commission:

Edwin Cigar Co., Inc., 100 East 16th St., and House of Westminster, Ltd., 191 Fourth Ave., New York, and four individuals have been ordered to cease and desist from misrepresentations in the sale of cigars, smoking tobacco, pipes, tobacco pouches, razor blades, shaving cream, and novelties.

The respondent individuals are Leonard R. Edwin and Jules M. Cole, officers and directors of the two corporations; Max Rosenblum, formerly both an officer of Edwin Cigar Co., Inc., and a director of House of Westminster, Ltd., and Sadie Rosenblum (Mrs. Max Rosenblum), formerly an officer and director of Edwin Cigar Co., Inc., and a stockholder in the Westminster corporation.

The Commission order directs the respondents to cease using the name "House of Westminster, Ltd.," as a corporate, trade or other name, or employing any other distinctively British name to describe a business which is not a British concern or branch, or agent of or affiliated with a British concern. In connection with any such business, the order further prohibits the use on letterheads or otherwise of pictorial representations simulating the British Royal Arms, or a Gothic cathedral or abbey, or similar representations.

The respondents further are ordered to cease employing the names "Park Royal", "The Duke of Windsor", or other distinctively British names to refer to pipes not imported from England, and the name "Belvedere London Plug Cut British Pipe Mixture" and other distinctively British names, separately or in conjunction with pictorial representations implying British origin, to refer to smoking tobaccos not imported from England.

The Commission order also bars the respondents from using the fictitious name "Westminster Steel Co." or otherwise representing that they manufacture the razor blades they sell.

The respondents also are ordered to discontinue representing that small-sized or defective cigars are full-sized, full-bodied and fine-flavored, and to cease using the term "Havana" or other terms indicative of tobacco grown in Cuba, alone or in combination with other terms, to designate cigars not made entirely of tobacco grown there. The order makes the exception that cigars containing a substantial amount of tobacco grown in Cuba may be referred to as "blended with Havana", or by any similar term, provided that the words "blended with" or other qualifying words are set out in immediate conjunction with the word "Havana" or other term indicative of tobacco grown in Cuba, and in equally conspicuous type.

Certain misrepresentations of price and the nature, size or extent of the respondents' business also are prohibited under the order.

The Commission dismissed its complaint in this proceeding as to Fredi Mannara and John Schwab, former employees of Edwin

Cigar Co., Inc., and associates in the Cigar Makers' Federation, and Ruth Hess, Charles Grothe, and Park G. Shaw, former associates in that federation. (4085)

Fong Wan—Fong Poy, also known as Fong Wan, a distributor of Chinese herbs, 576 10th St., Oakland, Calif., and his co-partners, Fong Kwongii, Yee Nun Yet, Chan Woon Sheung, and Lee Bing Lim, individually and trading as Fong Wan, has been ordered to cease and desist from misrepresentation in the sale of their herbs.

Commission findings are that the respondents have advertised Fong Poy as being qualified to diagnose diseases, and their herbs, when administered in the form of tea, as constituting cures or remedies for, or as possessing therapeutic value in the treatment of cancer, tuberculosis, ulcers and numerous other diseases and disorders.

Fong Poy, according to Commission findings, is not a physician and has had no formal medical or scientific training. The contention that he is qualified to diagnose human ailments and prescribe for them is based entirely on his claim that he has made a study of ancient Chinese writings upon the subject of herbs.

According to further findings, Fong Poy's methods of diagnosis are based upon doctrines which are of historical interest only, and which have had no acceptability in the scientific sense for several centuries. One such doctrine involves analogy between color of plant preparations and color of organs of the body or color of symptoms that may occur in the body.

In his purported diagnosis, the findings continue, Fong Poy places particular emphasis on the nature and sound of the patient's voice. His theory, as stated in the respondents' publication "Herb Lore," is that: "Many sufferers make a low moaning sound. This is the tone of the Yii and signifies kidney trouble. A loud, cranky, quick-tempered voice indicates an ailment of the heart. A crying, choking voice signifies trouble in the lungs, while a sighing sound directs one to the spleen, intestines, etc. * * *" For persons writing to the respondents Fong Poy has selected herbs on the basis of information contained in the letters.

The evidence shows and the Commission finds that it is impossible correctly to diagnose human ailments or disorders through the method employed by the respondents.

The Commission order directs the respondents to cease disseminating advertisements which represent, directly or through inference, that their herbs constitute cures or remedies for, or possess therapeutic value in the treatment of, cancer, tuberculosis, diabetes, Bright's disease, influenza, prostate gland disorders, paralysis, varicose veins, hardening of the arteries, cross-eyes, obesity, gallstones, stomach ulcers, or pyorrhea; that the herbs are cures or remedies for heart, kidney, bladder, liver and stomach troubles, blood disorders, high or low blood pressure, or bronchial disorders; that the respondent's herbs will build up the body, purify the blood, renew strength, and wash away diseases from the body, or that Fong Poy or any of the respondents have the ability to diagnose diseases or prescribe remedies.

The respondents further are ordered to cease representing that their herbs have therapeutic value in the treatment of (1) arthritis or rheumatism, beyond affording temporary relief from symptoms of pain; (2) asthma, in excess of temporary relief from paroxysms of asthma; (3) colds, in excess of temporary relief from symptoms of congestion of the mucous membrane; and (4) goiter, in excess of supplying iodine in cases where there is iodine deficiency, and that the herbs are cures or remedies for any of these ailments. (3964)

STIPULATIONS

The Commission has entered into the following stipulations:

Quaker Stretcher Co., 2500 60th St., Kenosha, Wis., has entered into a stipulation that in the sale of curtain stretchers it will cease using any representation, either by printed statement, pictorial illustration or otherwise, the effect of which may cause the impression that curtain stretchers are equipped with ball point pins when in fact they are not so equipped; or that the pins used in stretchers cannot loosen or come out when in fact they can loosen and come out. (3118)

Sheer Mold Company—LaVel Co., trading as Sheer Mold Co., 1019 North Las Palmas Ave., Hollywood, Calif., distributor of a

garment designated "Sheer Mold Reducing Girdle", and the General Advertising Agency, Inc., 1265 North Vermont Ave., Los Angeles, have entered into stipulations to cease disseminating certain advertising matter in connection with the sale of this garment.

Under their respective stipulations, the respondents agree to cease employing in advertising matter the word "Reducing" as part of the trade name of the product, and to cease using the word "Reducing" or similar words as descriptive of the product or of the accomplishments which purportedly result from its use, so as to imply that the wearing of this garment will cause a reduction of local or bodily tissue or will effectively remove fat and thus overcome or lessen a condition of fatness or weight.

The stipulation of the LaVel Co. recites that while the wearing of this garment may change physical appearance by compressing that portion of the body about which it is placed, it will not effectively remove fat. (3116-3117)

Victor Silk Hosiery Corporation of Maryland, Hagerstown, Md., entered into a stipulation to cease certain representations in the sale of women's hosiery.

The respondent corporation agrees to cease using the word "Silk" as part of its corporate or trade name, and such word or any other word or coined words connoting silk in or on advertising, trade literature, labels, invoices, or otherwise, in describing stockings or merchandise not composed wholly of silk.

The stipulation provides that (1) if the products are composed partly of silk and partly of some other fiber material, the word "Silk", or similar words, if used to refer to the silk content, shall be accompanied by other words in equally conspicuous type to indicate clearly that the products are not made wholly of silk; and (2) if the fiber other than silk constitutes the major portion of the product, the name of the predominating material shall precede the word "Silk", as for example, "Rayon and Silk".

The respondent further agrees to cease advertising, branding, labeling, invoicing or selling hosiery or other products composed wholly or partly of rayon without clearly disclosing (1) the rayon content by use of the word "Rayon" and (2) each constituent fiber of products composed of both rayon and other materials in the order of each fiber's predominance by weight, and in immediate connection with the word "Rayon".

Under its stipulation, the respondent corporation further agrees to cease advertising, branding by transfer or otherwise labeling, invoicing or selling hosiery marked "42 gauge" when in fact it is not "42 gauge". (3120)

Westinghouse Electric & Manufacturing Co., Pittsburgh, has entered into a stipulation to cease certain representations in the sale of electrical heating pads. The respondent stipulated that in the sale of such pads not equipped with adequate thermostatic or other heat controls calibrated for three different degrees of heat, it will cease making representations which imply that the pads are capable of maintaining, or that operation of the switches used in connection with the pads results in maintaining, three different temperatures. According to the stipulation, the operation of the switches merely regulates the time required to heat the pads to a single maximum temperature for which the heat control units are calibrated. (3119)

Wohl Shoe Co., St. Louis, and Stern Brothers, a New York department store, entered into stipulations to cease certain representations in the sale of shoes.

Under their respective stipulations, Wohl Shoe Co. agrees to cease using the word "Alligator", alone or in connection with the word "Calf", or other similar words, and Stern Brothers agrees to cease employing the word "Alligator" or other similar words, to describe such of their products as are 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. (3121-3122)

FTC CASES DISMISSED

The Federal Trade Commission dismissed complaints which charged 11 tile concerns with price discrimination in the sale of their products in violation of the Robinson-Patman Act.

Nine of the 11 concerns are: United States Quarry Tile Co., Canton, Ohio (2951); Superior Ceramic Corporation, Anderson, Ind. (3546); Mosaic Tile Co., Zanesville, Ohio (3548); C. Pardee Works, Perth Amboy, N. J., Matawan Tile Co., Matawan, N. J., and their jointly owned distributing agency, Pardee Matawan Tile Co., Perth Amboy, N. J. (3549); Wenzel Tile Co., Trenton, N. J. (3550); Wheeling Tile Co., Wheeling, W. Va. (3551), and National Tile Co., Inc., Anderson, Ind. (3553).

The Commission orders note the record does not establish that the 9 concerns named had discriminated in price between purchasers competitively engaged, as had been alleged.

Complaints also were dismissed in the cases of Trent Tile Co., Inc., Trenton, N. J. (3547), and Architectural Tiling Co., Inc., Keyport, N. J. (3552), the Commission order in the Trent case noting that that concern had been adjudicated a bankrupt and dissolved.

May Index

	Page
Army	394-457
Book Collections	394
Names of Radio Men Drafted	482
Program Director	457
American Society of Composers, Authors and Publishers	387-407-440-475
ASCAP Loses in Supreme Court	475
BMI Statement Concerning ASCAP-Mutual Contract	440
Factual Analysis of ASCAP-Mutual Proposal	407
Miller's Telegram Regarding Mutual-ASCAP Proposal	387
Miller's Statement Regarding ASCAP-Mutual Contract	440
Broadcast Advertising Record	422
Broadcast Music, Incorporated	392-424-482
Activities at NAB Convention	439
Britain Accepts BMI	482
Canadian Government Program	424
Copyright Research Department	426
Exhibit at NAB Convention	392
Feature Tunes	392-425-482
Foreign Language Music	424
Grants Clearance at Source to Exhibitors	425
Hemispheric Solidarity	392
I Am An American	426
Kaye Stays at BMI	392
Receives Canadian Fees	482
Subscribers More Than Doubled	425
China Relief Seeks 5,000,000	394
Contest on WJZ-Blue	394
Daylight Saving Time	426
Federal Communications Commission	395-428-457-483
Fly Discusses "Monopoly"	457
Fly Discusses Television, FM	483
Foreign Language Broadcasts	485
Harris Assistant General Counsel	458
"Heil Hitler" Station Seized	395
Hilmer Assistant General Counsel	458
Jacksonville, Illinois, Broadcast Grant	459
New California Station	459
Policy with Respect to Newspapers	395
Procedure Revised	396
Report on March 20, 1941, Television Hearing	428
Sections 1.351 and 1.382 of Rules of Practice and Procedure Amended	396
Section 1.71 Amended	484
Section 2.92 of the General Rules and Regulations Adopted	484
Short Wave Propaganda	484
Statistical Yearbook	396
Studio Transmitter Link Rules Amended	396
Supplemental Form Adopted	483
Television Application Forms	458

	Page
Federal Communications Commission—Continued	
Television Gets Green Light	428
Report on Chain Broadcasting	414-418-421
"Minority Comment" by Commissioners Case and Craven	418
New Network Rules	415
Sent to Department of Justice	421
Where Obtainable	421
WOC Increased Facilities	458
Forum Programs	394
Insurance	482
Institute of Radio Engineers Convention	481
IRNA Resolution	438
Labor	389-421
Classification of Salesman-Writers-Announcers	389
Discrimination	389
Outside Salesmen	421
Regular Hourly Rate	389
Statement of the American Federation of Labor About Cost of Living Prices	389
Technicians Not "Professional"	389
Legal	394-427
ASCAP Cases Argued	394
Copyright and Libel Insurance	395-427
Selective Service	427
Legislative	395-427-437-457-483
Federal Legislation	395-427-457
Radio Income Tax	457
State Legislation	395-427-457-483
White Resolution	437
Senator Wheeler Calls Hearing	437
Name Band Tax	482
National Association of Broadcasters	387-421-427-452
Convention	387-437
Attendance	453
BMI Exhibit	392
Golf Winners	453
Miller's Statement on National Defense Program	387-407
Promotion Display Winners	453
Resolutions	451
Speeches	442
Chairman Fly	442
Commander Thurber	450
General Richardson	448
Mark Ethridge	444
Vice President Wallace	446
Executive Committee	421
Insurance Committee Meeting	427
New Board of Directors	452
National Defense	481
Army Maneuvers	481
Radio Branch, Bureau of Public Relations, War Department	481
Sales	390-422-454-479
AAAA Convention	390
AFA Convention Program	423-456
Apple Commission Uses Radio	422
Circus Time	391
Circus Succeeds with Radio	422
Cost-Per-Inquiry	391-423-455
Armand S. Weill Company (Sachinal Perfume)	423-455
Bozell and Jacobs Agency (Hayo)	455
Electronic Radio—Television Institute	391
Frank R. Steel Associates (Princess Pat)	455
Henry Holt	423
Pondrom and Collins Advertising Agency (Crazy Water Crystal Co.)	455
Radio Income Builders	423-455
Rogers and Smith Advertising Agency	391
Daylight Saving	456
Dealer-Cooperative Advertising by Tire Manufacturers	454
Defense Stamps as Prizes	480
Financial Advertisers Manual	454
Free Time Requests	391-455
American Hotel Association	455
Esperanto Clubs	391

Sales—Continued	Page
Rogers and Smith Agency (Schutter Candy Co.)	455
Golden Glint Pays Full Rate	423
Hotels Include Radio in Cooperative Advertising Campaign	480
How to Improve Commercials	479
Importance of Local Business	479
International Advertisers Agency	454
Is Radio Advertising Economic?	479
Max Goldberg Advertising Agency (State of Colorado) Request for Cut Rate	455
Milliners Blame Radio	479
Motion Picture Plugs Requested	390
Movies Use International Radio	422
National Defense Bond Campaign	390

Sales—Continued	Page
No Movie Chisel for Cisler	480
Participation Planned at AFA Convention	390
Saturday Time	455
Savings and Loan Reprints Available	455
Station Cooperation	390
Success Stories Needed	391-422
Tested Methods to Make Salesmen Use Helps More Resultfully	423
Why Advertising is Essential During National Defense Emergency	480
Sunbrock, Larry	482
USO Radio Committee	393
U. S. Chamber of Commerce Refers Broadcasting Situation to Its Board of Directors	394
Women Endorse Radio	475