

## White Hearing

The following excerpts from the transcript of the Senate Interstate Commerce Committee's hearing on the White Resolution may prove interesting to broadcasters. *The Chairman* is Senator Wheeler.

**The Chairman.** Let me ask you a question right there: Let us suppose that the National Broadcasting Company, or the Columbia Broadcasting System, or any one of them, should come to the Commission and ask for a station—or, let me put it this way: ask permission to buy all broadcasting stations in the country, what would you say about that?

**Mr. Craven.** It is my understanding that in the Communications Act of 1934 our power with respect to concentration of stations in the hands of any one person is in the licensing authority, and I feel that we cannot grant licenses for too many stations to one person.

**The Chairman.** Why cannot you do that?

**Mr. Craven.** Because it would be against public interest.

**The Chairman.** And why would it be against public interest?

**Mr. Craven.** Because I think the Act implies that we shall not have concentration of licenses in the hands of a few.

**The Chairman.** Exactly. And that is because of the fact that to do so would be in effect to create a monopoly. I mean if you were to have all broadcasting stations in the hands of one person, owned by one person.

**Mr. Craven.** But that is quite a different thing, Mr. Chairman, in my view of passing upon business practices.

**The Chairman.** Just one minute.

**Mr. Craven.** Excuse me.

**The Chairman.** If you have that power, and then, as you say, you have the right to say that there shall not be too much concentration of broadcasting stations in the hands of one chain—and you do feel that you have that right, do you not?

**Mr. Craven.** In the matter of the licensing power.

**The Chairman.** Yes, that is in the licensing power. Now, if instead of giving them the actual license you give them control, is not that after all in effect the same thing?

**Mr. Craven.** No, sir. There is another section of the Communications Act, Section 309 (b) (2) and Section 310 (b) which gives explicit instructions with respect to control and transfer of control of stations. But that is a different thing from this.

**The Chairman.** But when you transfer control over a station and give all of the time of that station to anybody, you are giving him control of that station.

**Mr. Craven.** That would depend a good deal upon the circumstances. My position is that the type of contracts which the chain has with its affiliates does not represent transfer of control of operation of stations in the same sense as is meant in Sections 309 and 310 of the Communications Act. If that were the case then any time they made a sale to anybody of time it would be implied.

**Mr. Chairman.** I have some constructive suggestions I should like to make later on as to modification or amendment of the Act that I think would help to solve some of these situations.

**Mr. Craven.** I will admit that the question of the power of the Commission is a most debatable subject, and so far as I know there is a vast difference of opinion existing even in Congress and among the members of this committee. Yes, among the members of the Commission, among the Commissioners who are lawyers, as well as among the lawyers on the staff of the Commission. And I will say that there is a vast difference of opinion among lawyers engaged in outside practice.

It seems to me there is a real doubt in the matter, and that is the reason why the minority feel a clarification of the intent of Congress might go far toward pouring oil on the troubled waters.

Furthermore, we were deeply concerned when we were convinced that the majority desired to usurp the power rather than refer the matter to Congress for a clear determination of our power and an unequivocal standard of public policy.

**The Chairman.** The trouble about that is that whatever Congress might write into the law there would still be contention in the minds of lawyers as to what Congress meant. That would be true regardless of what Congress actually meant, and consequently I think the only way it can be cleared up is for the courts, which have the final say as to what the intent of a statute is, to decide whether or not in their opinion it means this, that or the other. They may be right or wrong in their construction, but anyway they have the final say.

**Mr. Craven.** Might I say something on that point?

**The Chairman.** Yes, certainly.

**Mr. Craven.** I agree with you. There is nothing wrong in anyone going to court; and it is a pity that the industry has not the courage to take that course of action.

However, I think more than that is required in this instance. What is involved here is a fundamental change in the pattern of American broadcasting. In effect it amounts to new legislation. I believe regardless of the power of the Commission the Communications Act of 1934 should be reappraised by the Congress rather than have the Commission institute a radical change in the pattern.

**Senator Clark** of Idaho. This resolution that is pending before us does not, of course, look to that end, as I understand it. It seems to be more or less a resolution calling for a committee review of the Commission's order or regulations looking to an order.

Suppose that the pending resolution were held in abeyance and that extensions were granted by the Commission for the going into effect of its regulations and order. Then, suppose a bill were introduced in the Senate and in the House looking toward hearings

(Continued on page 538)



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## WHITE HEARING

(Continued from page 537)

on an ultimate revision of the law as it now exists and that the Commission would agree to grant reasonable stay orders on the effectiveness of its regulations, while a subcommittee appointed by this committee acted in good faith expeditiously. Do you think something would then be gained in the revision of this entire law? I do not know whether or not I have made myself clear.

**Mr. Craven.** Yes, sir, you have. I hesitate, however, to tell the committee things which it knows, but I should think that would be helpful.

**Senator Clark** of Idaho. This resolution as introduced is a peculiar thing. It is not the ordinary resolution looking toward legislation—with all due deference to the dean of the committee in point of service—I suppose—Senator White. Is that right?

**Senator White.** No. Not in point of capacity, anyway.

**Senator Tobey.** Scripture says: "He that humbleth himself shall be exalted."

**Senator Clark** of Idaho. I know, of course, that Senator Wheeler is the chairman, but I thought perhaps Senator White had served longer; however, that is of no consequence in my remarks.

I was just wondering whether this thing could not be approached, perhaps, from a little broader aspect than this resolution contemplates. If the law should be revised, Mr. Chairman, I think there is one particular in which it might well be done. Now the stations are required to give equal time on political broadcasts, but they are not apparently required to give equal time on public service programs. It occurs to me that since we shall have a lot of time free this summer, we might have a subcommittee go to work on a bill, rather than on a resolution, looking toward a revision of the law, and yet not unduly hold up the regulations of the Commission as issued. In that way something might be accomplished.

Do you care to comment, Commander Craven?

**Mr. Craven.** I prefer not to, sir; I think that is a matter for the committee.

**Senator White.** Mr. Chairman, may I say a word about the suggestion of Senator Clark? I think I have said that I have been working on a tentative draft of legislation which I think will cure some serious defects in the law as it now stands. I have definitely in mind some things that ought to be dealt with that are in addition to anything I now have in the drafts to which I have referred.

I introduced this resolution because I could not see any immediate prospect of legislation and because I thought there was presented to us a definite and a clear-cut issue to which we should give study and which we ought to face. I felt very definitely that this was not something emergent that had arisen in front of us. The situation which now exists has been growing up over the years, and it took the Commission all of three years to make

up its mind—the majority of the Commission, I should say—which course to pursue in dealing with the thing.

I felt it was proper and highly desirable that we ask the Commission just to hold up on the execution of its regulations until the committee had had a chance to study and possibly until the committee had had a chance to formulate legislation. I still believe that if the effective date of these regulations could be postponed a reasonable time, only a part of the time which it took the Commission to bring them forth, legislation could be presented which would form, at least, a basis for committee consideration.

If the chairman of this committee would just say to this commission, "We want to consider legislation. We want to deal with this subject matter to which these regulations are primarily addressed. We want to consider some other phases of the present law that are not satisfactory to us. We suggest to the Commission that it hold up until we have had a reasonable chance to do it." I think this whole problem could be solved, for the moment anyway.

Of course, you are always going to have problems, because the law is never going to keep up with the changes in the industry, the art, and the science; it will always be lagging somewhat behind. But I would definitely join with the Senator from Wyoming.

**The Chairman.** From Idaho.

**Senator White.** From Idaho. Excuse me. I knew it was out in the open spaces.

**The Chairman.** One of those backward states, like Maine.

**Senator White.** It is backward because it is so far away from Maine. (Laughter.)

I want to concur with the Senator from Idaho.

**Senator Clark** of Idaho. I was just thinking out loud when I made that suggestion.

**Senator White.** That is what I am doing, so I think I must be somewhere near right. All that needs to be done is to have you work on the chairman. (Laughter.)

Get him to say to this commission, "We want to study this thing. We want to undertake some changes in the radio law. It took you three years to evolve these regulations. No public calamity will follow if you just hold up for a little while."

I think we could accomplish something really worthwhile.

**Mr. Craven.** I think that if we need power, we should come to this Congress and ask for it, in order to do certain things; that we should recognize that there are other jurisdictions. One is the Federal Trade Commission, and the other is the Department of Justice. I do not think it is in the public interest—

**Senator Tobey.** And one is the courts on appeal?

**Mr. Craven.** Yes, sir. I do not think, Senator, that it is in the public interest for the Communications Commission to usurp power. I think that is just as much of importance in this whole matter of public interest as anything else.

**The Chairman.** I entirely agree with you in your idea that the Federal Communications Commission should not usurp power. I agree with you entirely when you say they should not usurp power.

The question here is as to whether or not they did usurp power, and secondly, if they did usurp power, of course, there exists the right to go into court to test the Commission's authority.

I also agree that the law is not as explicit as it should be. It can easily lead to some confusion. Probably it should have been made cleaner with reference to monopolies. There is confusion as to whether or not the Commission has the right, under the language of the statute, to regulate monopolistic practices and to say, "This is a monopoly; therefore we are going to find that it is a monopoly and punish you."

On top of that, you have the question of public interest. The term "public interest" has been recognized by the courts generally and in these regulatory commissions as giving the commissions very broad authority.

It seems to me, therefore, that the real question is whether or



not the Commission, under the provisions with reference to public interest and under the provisions giving them special authority with reference to chain broadcasting, have usurped authority. I think that probably the law ought to be clarified, but in the meantime there is the question whether or not Congress ought to go ahead now and say to the Commission, "Hold up all your orders while we pass a law," because if we undertake to pass a law, it may be at this session of Congress, it may be at the next session of Congress, or it may be that it will not be for two or three sessions of Congress that we will get a law passed that we might like to see.

**Senator White.** Mr. Chairman, may I comment just briefly on what Senator Tobey said?

**The Chairman.** Of course.

**Senator White.** I am, of course, in complete agreement with him that the Commission was entirely within its authority when it determined upon the investigation of these subject matters. I think it was within its authority, and I think it was meeting the obligation which had rested on it for a long while.

It does not follow, however, that because the law authorized the Commission to make an investigation, and the Commission upon its own responsibility determined to go ahead and make an investigation, that any and every regulation which it may agree upon as a result of that investigation is either in the public interest or is within its authority to make a particular recommendation which they presumed to make.

**Senator Tobey.** Right there, who is to determine whether or not it is in the public interest? The courts?

**Senator White.** I want Congress to say something about it.

**Senator Tobey.** That puts Congress in the position of reviewing decisions of bureaus. We would then become a body reviewing every decision that is made.

**Senator White.** As a matter of fact, when we look at the legislative history—and we do it only occasionally—we will not find many occasions when that has been done.

Of course, basically it does not involve criticism of the Commission because it has made its study. It does not involve criticism of the Commission because it has reached conclusions of law. The criticism rests upon my deep conviction that the Commission undertook in these regulations to define monopolistic acts. I do not think that is within its province, and I do not think we should yield to that situation. I do not think it is the right of a regulatory body to say that this thing is a monopolistic act, that thing is a monopolistic act, and the other thing is a monopolistic act.

Then, I would not think it is within the right—and we never ought to concede it—that it is within the right of a regulatory body to determine whether you have breached the particular things which they say constitute monopoly, and pass judgment on it. You, if you go down to the Commission, are not advised, except perhaps in the most general terms, of the issue before the Commission. They have conducted hearings in which they did not permit a man to put on witnesses in his own behalf. They have conducted hearings there where they did not permit the interested party to examine, through his counsel, hostile witnesses. They have no set rules of evidence, and they have a vagrant authority and a vagrant practice and procedure. I just think that it is fundamentally wrong that we should permit that type of authority and that degree of authority in a regulatory body.

**The Chairman.** I am sure you would not feel that this committee, or any other committee, as a practical matter of administration of law, every time a commission decides some case or makes some rule which a particular industry or a particular party may feel affects them adversely, should permit them to come to Congress and ask us to review the decisions of that particular commission. If that should happen, then as a practical matter you would not have any decent administration of law by these commissions. It is, frankly, in my judgment, and always has been assumed to be very bad practice. But I can understand that. If that is done, then the committee, as a matter of fact, ought to lay

down the rules, instead of having the Commission do it. From a practical standpoint we just could not do that. We have to leave a lot of these matters to the Commission. In this particular instance I am not going to disagree with you at all about the need of some clarifying legislation. I certainly hesitate to do it. While we have done it in some few instances, it has been generally recognized as a bad practice. Every time the Interstate Commerce Commission hands down a decision or makes some rule, we might disagree with it or the industry might disagree with it, as has happened in the past. But if we undertook to try to correct it, then you are going to have these commissions constantly looking to the Congress and being afraid to act because of the fact that they might be yanked up here to Congress. In some cases we have a right to investigate the commission, the same as we have the right to investigate the industry itself. But I am extremely hesitant about simply taking over and saying that the Interstate Commerce Commission or this or that commission, every time it makes a rule that the industry does not like or that somebody else does not like, should be brought up here before the Committee.

I think the hearings that have gone on will do some good for both sides. I think probably they will.

**Senator White.** May I make an observation in answer to what you have said, Mr. Chairman?

**The Chairman.** Certainly.

**Senator White.** If this were a decision by the Commission in a particular case I would have a good deal of sympathy with your point of view; but the truth about it is that this is a declaration by the Commission of a far flung and revolutionary policy. It is something that the Commission has determined to do after three years of study. That might suggest that the Commission was right. But I think it also cries aloud that the Commission was dealing with something which it itself recognized as a basic change in the practice which had been followed by the previous Commission and by this Commission over a period of many years. There is a vast difference, I submit, Mr. Chairman, between reviewing an isolated or a particular case and giving consideration by a committee to the effects of such a change as the Commission now proposes; and I think there is a vast difference between passing upon a particular case and this committee and the Congress giving consideration to whether or not the action of the Commission is authorized by law.

That is where I pull away from you; and when I pull away from you I always have doubt as to whether I am right, but I feel very strongly that I am right with respect to this matter.

**Mr. Ethridge.** May I add this, Senator? I hope you will read the first two pages of my statement. I think you were out of the room when I made it. I stated then, and I repeat it, not to embarrass you, but to express the point—

**The Chairman.** You cannot embarrass me; too many people have tried that.

**Mr. Ethridge.** In the high power situation you felt it was of great moment and you introduced a resolution which was a direction of policy to the Commission. Now, I feel very strongly that this body, the Senate and the House, are responsible to the public and the public will in a degree that an administrative agency is not, and that where you have a major matter of national policy and an imminent action, as you have here, paralleling your high power matter, it is eminently proper for this body to take cognizance of it. I have rested on that particular thing and said that it was an anomalous situation where the industry was the aggressor and the Commission more or less the defendant in resisting a study of its action.

The radio industry subscribes heartily to the President's desire for a new law—in fact, much more heartily than ever since Mr. Fly has testified, because his testimony is in conflict with another expression from the President:

"This technical limitation on the number of transmitters gives the Government its principal function in the realm of radio, that of referee to determine who the operators of the limited number of transmitters shall be."

In the same letter the President also expressed the desire to know how to keep radio free "as part of our purpose to keep all channels of public information free . . . how to prevent monopoly of radio operation or ownership and how best to utilize radio in the public interest."

We do not feel, therefore, that we are either improperly or whimsically before this committee. Personally, I am hoping that the committee will share the feeling of Senator Smith when he said, "I wish I knew more about this whole operation," and undertake to find out more; and of Senator Wheeler, when he said on page 213, "There are vital problems of national policy involved in this matter."

We of the radio industry might not like the result when it is transformed into law, but it will at least be more democratic if 96 Senators and 435 Representatives make the law than if seven men make it.

Personally, I feel that it will be a fairer law and a fairer administration if you make the rules.

Mr. Fly occupied almost four pages setting out the number of witnesses and the number of words in the hearing in giving the radio people what he called "not only the due process of law to which they are legally entitled but a full measure in excess" in the hearings on the regulations. The only figures he left out were the weight of the volumes in pounds and how much they would measure if laid end to end. But what he did not say was what he could not say, but which we can—that a least a great many of us in the radio industry feel that the verdict was arrived at before the indictment was drawn.

When I was a newspaper man in Georgia there was a negro by the name of John Downer who was arrested for rape in north Georgia. He was granted a change of venue to the adjoining county. The National Guard was called out and lined the walk way from the jail to the court house and occupied all of the seats in the court house except those reserved for the jury, the judge, and counsel. In the afternoon of the day he was arrested, or the day the Guard was called out and the indictment was drawn, he was tried and convicted and sentenced to be electrocuted. Everybody knew in advance what would happen, but the State of Georgia was proud that it had not lynched him. It had given him due process of law, but none of the substance of justice.

That is the way I feel about this matter. I feel that it is only necessary to have the Commission's order for hearing, which is in the record at page 95 and was read earlier by Senator Tobey, to know in general terms what the outcome will be. I think that is probably true in the newspaper case as well. The order is indeed likely to be a death sentence.

I favor the White resolution because I hope it will result in a new law clarifying what Congress intends and defining the Commission's powers, duties, and limitations.

**The Chairman.** It seems perfectly simple to the laymen; but if the White resolution holds up the orders of the Commission—and I am frank to say that we are too severe in giving such a short time in some instances, but they have the right to go to court, and I think they not only should have the right to go to court in a particular instance where it is felt that the Commission has exceeded its jurisdiction, but the Commission ought to grant them a stay. I do not agree with the Commission's actions in refusing a stay. I think it is wrong, particularly if application is made in good faith. But I think you can appreciate some of the difficulties you are going to have with new legislation, because you will find that there will be a great divergence of opinion both in the House and the Senate upon what the provisions of the new law should be. That is going to be particularly true when you come to write into the law specific rules and regulations. You are going to have a very wide divergence of view upon that question, both in the committee and on the floor of the Senate and in the House, which will probably mean a long delay in getting legislation through. That is where most of the difficulty comes in connection with legislation, when you begin to write out the rules and regulations which should govern the Commission.

**Mr. Ethridge.** I am speaking of the course of regulation. The Pottsville case and the subsequent decision the Circuit Court

gave the industry no great hope as to regulation. I for one felt it was bad to abolish the system of open examinations of license applications in public hearings. I felt that under the Commission's theory, set out in one section of the Sanders case, cited by the Chairman of the Commission in his testimony, too little attention was being paid to the economic consequences of indiscriminate license granting. By that I mean I had thought just a mere granting of more licenses for the sake of removing restraint of trade or creating competition might be a good thing in some circumstances but one must consider the consequences that may arise. I have seen that happen in the case of newspapers where they took all sorts of advertising.

**The Chairman.** I think it a mistake to grant too many stations in a community because you may force them to put on more advertising.

**Mr. Ethridge.** Yes, sir.

**The Chairman.** Or to put on cheap advertising that would destroy the effectiveness of programs.

**Mr. Ethridge.** But, Senator Wheeler, the Sanders case is the Commission's theory at the moment that does not conform to the economics of the situation. That is another argument moving us to ask the Senate to give us a new law. I think it is bad for radio.

**The Chairman.** You cannot disagree with me in the matter of the need for a new law.

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We have been very happy to hear the Chairman of this Committee say on several occasions that he thinks the networks have been fair in broadcasting discussion of current controversial questions. At the same time, it is apparent that there is in his mind and in the minds of many other thoughtful persons uneasiness on this score. I stated publicly six years ago that I thought fairness in news and discussion, and freedom from editorial bias, should be a condition to holding a broadcasting license. In that public statement I said that the Commission if it had the power, and the Congress if the Commission did not, might well make such fairness a condition to receiving or holding a license. I have come now to believe more emphatically than I did six years ago that such fairness is absolutely essential on the part of a limited medium if it is to fulfill its social obligations in a democracy. I am absolutely confident that under Columbia's publicly proclaimed code and under the similar codes of the National Association of Broadcasters, the other networks and most of the individual broadcasters, this fairness is assured.

**The Chairman.** I should think it would be helpful to the industry itself if something of that kind were written into the law, because then, in instances in which pressure was brought to bear you could turn to the law.

**Mr. Paley.** At least it would eliminate the vagueness that now exists in the minds of some broadcasters and, I think, in the minds of some Commissioners.

**The Chairman.** It would eliminate vagueness when people undertook to put pressure on you. You could simply turn to the law and say, "This is what we have got to do."

**The Chairman.** Did they not serve you with a copy of these rules prior to their adoption?

**Mr. Paley.** There were suggestions made, I think, at the December hearing, various suggestions, none of which went to the extremes that the rules now represent. I think, as a matter of fact, there were three or four alternative suggestions as to what the Commission might do; and at that time we objected to the rules very strenuously and tried to point out why, even in the form when they were not quite so drastic, we thought our operations would suffer tremendously and that public service as such would also suffer.



**The Chairman.** Did you ever give the Commission any constructive alternative suggestions yourself? I understood from Chairman Fly that you did not.

**Mr. Paley.** Our suggestion made at that time, and it is the suggestion we have been making ever since, that if anything as drastic and revolutionary as that is to be done to any broadcaster or any group of broadcasters, that should be a problem for the Congress or some higher authority, for them to have something to say about that.

**The Chairman.** But it does seem to me that, in the first place, you ought to have tried to work things out; that when they made certain suggestions which you thought were wrong you should have pointed out to them the mistakes as you saw them, and made to them some alternative suggestions. Instead of that as I understand the situation, you turned everything down.

**Mr. Paley.** Well, Senator Wheeler, I can remember one conversation I had with Chairman Fly when we were given to understand that we would probably be outlawed about these things, and he said maybe they were not so drastic as I thought them. I said, "Now, really what have you in mind? How do you intend to offer a solution of this? How do you answer the practical suggestions that we make?" And the only answer I got was, "Wouldn't I be a fool to tell you what I have in mind." That was as far as I got with Chairman Fly in trying to work this thing out.

**The Chairman.** And what do you think he had in mind?

**Mr. Paley.** Oh, I know what he had in mind—these very rules we are now here talking about; rules that I think will destroy our industry, or at least destroy network broadcasting as a part of the industry.

**Mr. Paley.** Going back to the argument about exclusivity, I want to point out that unlike the publication field a station affiliated with a network has two functions. In the publication field you have the local newspaper and you have the national magazine, each attempting to do a part of the job. A broadcasting station affiliated with a network has to do the combination of the local and the national job. He provides his own local programs in an attempt to render the public service necessary for that community to have in that regard. Then he turns to us to do the national job. So, as you will see, it is the over-all job. As long as we are doing a complete national job over that station we can do a very well ordered and balanced national job, one which, from the record, a record that has been made by the broadcasters of this country, demonstrates the fact that we have been able to respond to the public desires and needs, and demonstrates that we can take care of the public service in a very fine way. When a station starts out to take this national service from two or three sources it gets a certain amount of duplication. And you start to take our incentive away from us, because someone will be cashing in on what we have built up.

**The Chairman.** Oh, now, I do not think they will take your incentive away.

**Mr. Paley.** Well, if stations won't take our time that will happen.

**The Chairman.** It might and it might not, but I do not think it will happen that it will take your incentive away.

**Mr. Paley.** I see that I have not convinced you, Mr. Chairman. Nevertheless I want to say to you that I think I am right, that I feel certain I am right about it.

**The Chairman.** You have not convinced me that it will take your incentive away when you have done the job you have; when you came into the radio broadcasting field without anything and licked N. B. C. you certainly cannot convince me that you are not going to continue.

**Mr. Paley.** I am only talking now about the incentive toward developing that kind of service, that kind of service you want from us.

**The Chairman.** You are going to have the same incentive and the same service; yes, you must have the same incentive in your own system, and each of the other companies will have it. You will want to build up your stations and you will want to build up the Columbia Broadcasting System.

**Mr. Paley.** But we do not want to build it up for someone else to come in and cash in on us. Let us suppose that a lot of advertising hook-ups developed. In that case I think you would have chaos and that it would be destructive.

**The Chairman.** I think it can be worked out in fairness to the chains. I think we want to be fair to the chains and at the same time be fair to everybody else.

**Mr. Paley.** I want to say one thing right there as we seem to disagree on this particular point and yet we seem wholly to agree on other points I have discussed here. For instance, this whole question of option time—

**The Chairman** (interposing). This has to be worked out.

**Mr. Paley.** But elimination of option time is a part of the rules under which we are supposed to operate.

**The Chairman.** I understand that, and am not agreeing entirely with the report of the Commission by any manner of means.

**Mr. Paley.** And is not that a good reason for passing this White resolution?

**The Chairman.** No, I do not think so. From a practical standpoint the contention here is that what you want first is a hearing and an investigation of the matter. You are getting that without the adoption of the resolution. If we were to pass the resolution and hold hearings the only thing would be that you would come here and testify all over again.

**Mr. Paley.** Oh, no.

**The Chairman.** This is just a cold-blooded practical matter. You would not get as many people to attend those hearings as you have now, because to a large extent you have covered that same thing. Frankly it may be necessary and probably some think it would be best to have an entirely new law, or at least some amendment of the present law. I think that subject should be gone into, and it may very well be gone into. I do think the law ought to be amended in some particulars. I think some of these points should be clarified to the end that the industry may know as definitely as possible what they are going to have to do, and what rules of the game will be set out, instead of depending on those who may be on the Commission at the time. I think there is a great deal in that. I have had that feeling for a considerable period of time.

Now, there is the probability of a bill being introduced, and when it is introduced you will have a hearing upon that particular bill. We will discuss its various provisions, and doubtless some of them you will oppose and then that bill will be threshed out.

In the meantime I think you can go into court, if you wish to do so, and have, as Chairman Fly intimated, the knowledge that the matter of the rules will be held up by stay order while the case is in court.

**Mr. Paley.** If you think there is going to be a new radio law, and I certainly devoutly hope so, would not that be the time to have all these considerations looked into? What is the rush here? We have had the law for 14 years and have operated pretty well. Why have these drastic and revolutionary ideas from day to day when broadcasters are giving the best public service any industry has ever been called upon to give?

**The Chairman.** You will have to ask the Commission about that.

**Mr. Paley.** We are asking you to hold up the Commission's action by passing this resolution. That is the only way we can have any assurance it will be held up. We can very well wait a

year or so if necessary; and if a new law is to be written is not that the time to look into all these things so that we may have a well-rounded radio law? Would not that be better than having the radio industry damaged to a great and unnecessary degree? And that is just what will happen if we have to live under these rules or parts of these rules for the next year or so. Why jump onto something that has rendered pretty good service indeed?

**The Chairman.** You do not think it necessary to prove that?

**Mr. Paley.** As a matter of fact I would like to have you see some of the serials that have been gotten out.

**The Chairman.** I think on the whole the chains have rendered a very good service. On the other hand, I do not think you are lily white by any manner of means in all of your dealings.

**Mr. Paley.** I agree with that.

**The Chairman.** Either in your dealings with the Commission or in your dealings with the public or anybody else. But nobody is. Candidly I think every new industry that has come up as chain broadcasting has shows some of these situations, but for a new industry you are less subject to criticism than almost any new industry that has sprung up.

**Mr. Paley.** Then, what is the rush? Why cannot this thing be held up until you gentlemen here in the Congress have had an opportunity to write a new law that will take care of the advance in the art, that will take care of the changes that have come about since the present law was enacted?

**The Chairman.** That is a question you will have to propound to the Commission.

**Mr. Paley.** I did, and my answer was the eight rules and regulations we are now complaining about; and that is why we come before you, to try to get relief. Give us peace while you have an opportunity to examine the whole radio structure. Then, after you have decided what if anything is wrong with us, you can put into the new law those things you think ought to be prohibited, or those things that would spell the kind of regulation you think we should have in the future.

As a matter of fact, even if the Commission has the power now, and let us forget for the moment the question of jurisdiction, they may not be wisely exercising it. They may be doing things you would not go along with.

The radio industry comes to this committee and asks that you give us peace, so that these things may not happen. We ask you to examine this question very carefully and at the end of the hearing give us a law, a well-defined law, under which we may live. We think that is not asking too much.

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And now, finally, gentlemen, may I just very briefly tell you why I feel that if the Commission can exert the kind of powers it now seeks to exert, can regulate the whole business of network broadcasting and network station relationship, can impose a whole multitude of conditions under which it threatens to jerk stations' licenses, nobody in broadcasting is going to have the faintest conception of what its ultimate powers may be and nobody is going to be able to call his soul his own.

The whole industry today is harassed, worried and jittery and finds itself threatened and condemned as if its history were shabby and evil. If Chairman Fly can successfully assert the revolutionary powers over the business practices of the networks and the stations, make no mistake about it, gentlemen, his control will be so absolute that we will have in this field regulation by raised eyebrows, in which a nod will put one program on the air and a frown will keep another off. If this type of regulation is dangerous with respect to a business dealing with wholly physical things, how much more deadly is it in the whole realm of information, ideas and culture.

I have heard it argued that since the Commission's lawyers assert the broad powers which we here assail, and our lawyers

strenuously deny, the whole issue is one for the courts. May I point out to you that we could well suffer irreparable damage in the years while this legal fight was in progress, and if I am sound in my contentions, the public would suffer with us at the very time when broadcasting should, more than ever before, be a powerful instrument for the public good. If we win, it may well be too late. If we lose on the technical issue of the Commission's power, the important issue of public policy still is this: Did the Congress intend and does the Congress now want a radical revision of the whole broadcasting structure by administrative fiat?

I want to say this. We have been operating under the present law for fourteen years. I believe that every Government department and every defense agency in Washington will tell you that we are doing a job for national defense. Our stations are satisfied, and only a Commission majority, which has been constantly cynical about the major networks, and only a small segment of the industry, are complaining; and this small segment of the industry complains solely in the interest of being enabled to sell commercial programs to the affiliates of other networks. If this monkey wrench is to be thrown into the machinery it should not be thrown at a time like this. I hope you will stay these regulations and work out a new law. Under such a program we can devote ourselves immediately, completely, and fully to our broadcasting again and play an important part in the present emergency.

You have expressed some hesitancy, Senator Wheeler, on the score of how long it will take legislation to go through. I cannot dispute with you as to how long it will take to get new legislation. You know and I do not.

**The Chairman.** I do not think anybody knows.

**Senator White.** I can tell you how long it will take to pass it in the Senate if Senator Wheeler gets back of it. He can produce a draft in 24 hours, can get it reported out of his committee in 48 hours, and get it through the Senate in ten days' time.

**The Chairman.** I will say you are stretching it.

**Mr. Paley.** I can assure you in complete good faith that the broadcasters will do everything they can to expedite the obtaining of whatever information your committee may want in this connection. I am told that there are Senators on this particular committee who are perfectly competent to work out problems as intricate as ours, with fairness to the public and to all parties concerned, and to do so with reasonable dispatch.

We have told you as earnestly as we can that we believe these regulations really imperil the broadcasting structure of this country. The questions that have been asked by a number of the Senators on this committee, and the statements which have been made have indicated to you about the wisdom of some of these rules. Chairman Fly himself seems to have made some on the spot modifications while he was testifying, and he has just released a telegraphic interpretation of one rule and a formal modification of another. All this casts doubt on the workability of the whole scheme and suggests that the public interest cannot be seriously damaged by holding up the effectiveness of these rules until you can reach your own orderly decision.

We are hopeful that a careful, impartial and judicial examination of broadcasting by Congress will provide us with a law that is clear and a manner of administration that is fair.

We are hopeful that as a result of your deliberations we will no longer be besieged by doubt and confusion and threatened with punitive action, and that we will be allowed to bend our energies toward evolving a constantly improving broadcasting service.

We are hopeful that an investigation such as is called for by the White Resolution will provide a law that insures freedom of the air and eliminates the threats which radio is now facing.

We are hopeful of all these things, and I am convinced they can be accomplished.

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First of all, I do not think that the primary issue before this committee is a question of jurisdiction, because, after all, if the



Commission did not have jurisdiction, if it exceeded its powers and if we can get into court to test that—and about that there are some handicaps which I will explain later, pursuant to Senator White's suggestion that we address ourselves to the question of procedure—why, then, we will get to court, and if we are right, the action of the Commission will be set aside.

But, as has been pointed out by Senator Johnson and mentioned by Mr. Ethridge, the Supreme Court has recently pointed out how limited is the scope of judicial review in administrative affairs. In the Pottsville case Mr. Justice Frankfurter practically invited those who quarrel with the wisdom or lack of wisdom on the part of administrative agencies to come to Congress, saying, in effect, that Congress is the agency to correct administrative mis-chief.

**The Chairman.** Of course the reason he probably said that was to "pass the buck" back to Congress.

**Mr. Burns.** I do not think that is so, Senator Wheeler. Apart from any judgment you might want to express about the Court, I think for the last ten years there has been a steady development in our system whereby the courts, either because of words in the statutes or because of a feeling that under our constitutional system it is not a judicial task to review administrative action, they have said, "We will only look to see whether or not errors of law have been committed."

Where can you go except to this committee? We say, quite apart from the issue of jurisdiction, that these regulations are unwise. The issue of jurisdiction is important, because if the Chairman and his majority associates have acted without jurisdiction, it certainly throws light upon the question of wisdom. Secondly, in the Supreme Court it may well be that our activities will be so circumscribed that serious damage to private and public interests will have been brought about.

**The Chairman.** I think that there probably is a very close question as to whether or not the Commission has jurisdiction in certain instances. Of course if it has exceeded its jurisdiction, certainly the courts would take cognizance of that and say that it had exceeded its jurisdiction; there is not any question about that.

**Mr. Burns.** But, in the meantime, we may have been very seriously damaged, because it may take a year or a year and a half before that issue is ultimately decided; and in any event we will be back here, because when a commission can make a judgment after 14 years, and when you have considered the other factors which have been brought out here, and additional ones which I hope to call to your mind, it is plain that the law needs clarification; it has to be stream-lined and brought up to date, because 14 years ago what is today a major force in radio broadcasting, namely, the networks, was virtually unknown. Certainly networks were unknown in so far as their present operation is concerned.

The quarrel we have with the Commission is that it did not pay any attention to our evidence but went ahead on preconceived prejudices, and out of it came first the committee report. Some of you Senators are familiar with the shortcomings of that report, where it was shown in a committee hearing that it was false in many particulars.

When the question of writing the Commission report was undertaken, smarter gentlemen were called in as draftsmen, because it is a slicker, more crafty, more clever, and more workmanlike job, but it still does not reflect what the testimony was before that Commission.

The only evidence dealing with exclusivity and time option was what we ourselves offered and what was offered by Mutual. But even Mutual only pointed out that the combination of exclusivity and time option made their access to the markets rather difficult. Even they did not offer any evidence on the question of what would be the practical effect on the advertising business if these practices were abolished.

We had no idea while that was going on that the Commission had designs on the contractual provisions of the station outlet con-

tract. It is true that they wanted them, and they went into them. On cross-examination they asked questions as to how they operated. But the Commission did not put on an advertising expert. It did not even put on an expert from its own staff to contradict our evidence that the abolishment of these two touchstones of the present radio network business would be serious.

**The Chairman.** It was not necessary for them to put it on. In the trial of lawsuits you sometimes prove your case by your adversary's witnesses.

**Mr. Burns.** I give you my word that that was not this kind of case.

I am not going to take your time to read excerpts from the record, but I suggest that this record should show reference to page 57, where there is a beautiful example of the lack of logic on the part of the authors of this report. They proceed from hypothetical instances of probability and they draw sweeping conclusions of certainty. They do not even salt it with a phrase, "Well, perhaps," but they say, "Certainly this will happen."

**Senator White.** They proceed on the basis that what is possible is probable and may be assumed to be true.

**The Chairman.** One thing I have never been able to understand about the Commission is why in certain instances they deny a station on some particular ground and grant it to somebody else where the same identical objections are raised. Is not that due, to a large extent, to the engineering side of it?

**Mr. Trammell.** Senator, of course I cannot answer that, but here is a case where the interference in Cleveland would be up to the 4.8 millivolt line, and the Commission has subsequently, in spite of the need, as Mutual has stated here, for a full time station in Cleveland, denied the application, and later in other cities it has granted applications where the interference was much greater.

**The Chairman.** Perhaps the political pull was not as great in Cleveland as it was some place else. That is really one of the bad things that have gone on down at the Commission, that there has been too much favoritism shown here or there. I do not think that NBC has suffered any from it.

**Mr. Trammell.** I would not know anything about that, Senator.

**The Chairman.** No; I know you would not. I do not think NBC or Columbia either, has suffered any at all.

**Mr. Trammell.** We have certainly not opposed any station coming into Cleveland, Senator.

**The Chairman.** No; I did not mean to infer that you had. There is another thing: The Commission goes ahead without hearings and grants licenses or transfers, and in other instances it holds hearings. It seems to me there ought to be a general rule laid down by the Commission so that everybody who comes in there, regardless of whether he is poor or rich, or whether he is influential or whether he has political backing or not, would know what is going to happen, and that rule should be adhered to.

**Mr. Trammell.** I agree with you fully.

**The Chairman.** I think some of the things done in that respect are outrageous. That is one of the reasons why the Interstate Commerce Commission with all of its difficult problems has certainly in my time not been accused of being influenced by members of Congress. I certainly would hate to try to do it myself.

**Senator White.** Mr. Chairman, you have made a good statement on that score and I will remain silent. I have some ideas myself on that subject but will let your statement stand for me, if you do not object.

I note in the Wednesday, June 18, 1941 issue of Variety, a headline reading: "Rivals Exploit Radio Grief. Say Air Ads to

Cost More. Network Sales Departments Aware of Newspaper and Magazine Contact Staffs Making Capital of Present Trouble with FCC—but They Are Ready to Counter-Blasts When Hearings Are Out of Way.”

**The Chairman.** What is that paper?

**Mr. Trammell.** That is Variety.

**The Chairman.** That does not worry you very much?

**Mr. Trammell.** I do say this, Senator: Without our being able to deliver stations, without having any option time, and in trying to sell coast to coast, advertisers will be going into other media.

**The Chairman.** Frankly, I cannot see very much excuse for not giving you option time. I may be wrong about it, but I cannot see very much reason why you should not be able to have it. If I wanted to give you an option on some of my time, I do not see any reason why I should not be permitted to give you some option time. I am frank to say that, unless there is some reason I do not know of now, I think the Commission is wrong in saying you should not have any option time at all.

### Chairman Interprets Regulations

In response to many requests made to him for a brief interpretation of the Federal Communications Commission's new chain broadcasting regulations, Chairman James Lawrence Fly today released the text of a recent telegram to a broadcast station covering certain phases of this subject:

“May 24, 1941  
Day Letter Prepaid

“Mr. Gordon P. Brown  
Radio Station WSAY  
192 S. Goodman Street  
Rochester, New York.

Retel May 23 you are authorized to release following statement as my interpretation of the chain broadcasting regulations. The regulations do not prohibit a contract establishing a network and station affiliation whereby a network agrees to offer all its programs to one particular station in a community. However, the station must make a reasonably prompt determination whether it will carry any program and there can be no restriction upon the right of other stations in the community to make arrangements for the broadcast of any refused or rejected programs. Nor do the regulations prohibit a contract whereby a station agrees to take all the programs of a network if the time is available when such programs are offered, subject to the station's right to refuse or reject the programs pursuant to section 3.105 of the regulations.

JAMES LAWRENCE FLY,  
*Chairman, Federal Communications Commission.*”

### Chairman's Letter to Committee

Chairman Fly made public the text of a letter he has addressed to Senator Burton K. Wheeler, Chairman of the Senate Interstate Commerce Committee. It reads as follows:

“June 14, 1941.

“The Honorable  
Burton K. Wheeler,  
United States Senate,  
Washington, D. C.

Dear Senator Wheeler:

“I shall, of course, remain at the service of the Committee during the course of the current investigation and shall be prepared to appear later to assist the Committee to the best of my ability. Meanwhile, I think it may be helpful to comment now on two significant points mentioned by recent witnesses:

“1. Witnesses have urged that the large stations may take over the good programs from the small stations. On the contrary we have consistently pointed out that a station may make a contract with a network which will give that station first call upon

all the network's programs. This being true, no station can deprive another station of its network programs unless the latter station, itself, has voluntarily rejected those programs. This was made clear in my telegram to Gordon Brown of Rochester, New York, on May 24. For the information of the Committee, I attach herewith a copy of that telegram. I have checked the point with the Commission and we are agreed upon the foregoing construction of the rule.

“2. It has been suggested that there has been a reversal of the practice by which the Commission has maintained a station on the air throughout the administrative proceedings and throughout the litigation involving the question as to whether the station should continue on the air. This is a long-standing policy of the Commission and this is the policy which I, as Chairman of the Commission, assured the Committee would be applied in connection with the antimonopoly rules. The case urged upon your Committee was that involving the *granting* of nighttime operation to Station WHDH at Boston on the same wave length as Station KOA at Denver. KOA unsuccessfully sought to stay the grant to WHDH. There was no threat to the continued existence of KOA as a 50 kw station and there is no real impairment of its day or night service. Permitting the Boston station to operate at night during the period of litigation is a far cry from the notion that the license of any station would be *terminated* without a completion of any judicial proceeding involving that question.

Respectfully yours,  
JAMES LAWRENCE FLY,  
*Chairman.*”

### Commission Clarifies “Blue” Order

To clarify the Commission's intent that the National Broadcasting Company shall have ample time in which to dispose of one of its two networks in order to conform to the new chain broadcasting regulations, the FCC amended the last paragraph of its order of May 2 so as to leave no question but that the stipulated 90-day deferment period pertains to disposal of one NBC network as well as to the disposition of individual stations by networks, and, further, that the effective date of compliance in either case “may be extended from time to time in order to permit the orderly disposition of properties.”

The concluding paragraph of the order, as amended, now reads:

“IT IS FURTHER ORDERED, That these regulations shall become effective immediately: *Provided*, That, with respect to existing contracts, arrangements, or understandings, or network organization station licenses, or the maintenance of more than one network by a single network organization, the effective date shall be deferred for 90 days from the date (May 2, 1941) of this Order: *Provided further*, That the effective date of Regulation 3.106 with respect to any station and of Regulation 3.107 may be extended from time to time in order to permit the orderly disposition of properties.”

In thus clarifying its purpose that the networks and stations concerned shall have ample time for adjusting themselves to the new requirements, the Commission points out that it is now permissible for stations to enter into new affiliation contracts with NBC, pending disposal by the latter of one of its networks, if such contracts satisfy all other requirements of the May 2 regulations.

## Technicians Shortage

Following is a summary of a survey of the shortage of broadcast technicians which the NAB is sending to the National Selective Service Board. That board, if it finds it advisable, can recommend that local boards give special consideration to broadcast technicians. Under the law, no blanket exemptions are permitted. Broadcasters may be able to use this information to advantage in discussing individual problems with local boards.

Seventy-six percent of the radio technicians employed by the Broadcasting Industry May 1, 1941, are either within the Selective Service ages 21-35 or hold reserve commissions.



More than six percent of the radio technicians have been drawn from the industry to the armed forces by Selective Service, enlistment or call to duty as reservists. Three percent of presently employed technicians hold reserve commissions and are subject to immediate call. Twenty-three percent of presently employed technicians are single men, subject to early Selective Service call.

In addition, heavy toll in technical ranks has been taken by the FCC, apparently for monitoring service; by the Civil Service Commission for specialized training courses; by other Federal Agencies, and by other defense industries in need of men with such training.

This heavy drain is not being replaced. Training schools which formerly trained men for technical positions in the broadcasting industry are now devoting their entire facilities to training men for Army, Navy and Aircraft communications services.

The stringency of the situation is reflected in the majority of stations reporting difficulty in securing technical replacements. Many stations report inability to obtain any replacements and are forced to operate "short-handed" with costly over-time payments. Others have been forced to take inexperienced replacements who lack the required FCC operator's license and are of little value until trained for six months. Those reporting no particular difficulty yet are, for the most part, larger stations. These have drawn replacements from the ranks of the smaller stations by the ability to pay higher salaries.

As of the time of this survey the situation is difficult, but the above facts reveal that it is rapidly moving to a point where continued operation of the nation's broadcast stations is endangered.

## BMI

### BMI Composers Hit the Jack Pot

Broadcast Music, Inc., announced today that checks were being sent out to authors and composers in compensation for the performance of their works on the air during the first quarter of 1941. This marks the first time in the history of music that authors and composers have been paid performance royalties on popular music in direct ratio to the performance of their compositions in the United States. They are receiving 2c per performance per station, representing double the amount which BMI originally stated it would pay. In the case of a network hookup, payment is made for each participating station. Publishers' payments will go out next week and will include a 1c bonus per performance per station over the contract price.

Under the BMI system of performance payments, individual hit numbers earned from \$800 to \$1200 for their writers in the first quarter of this year. Research reveals that the amount BMI is paying on performances for a hit number for a quarter-year is higher than that paid heretofore to all but approximately 175 writers for the performance of their works for an entire year.

Authors and composers of BMI hits are individually receiving more than five thousand dollars a quarter from their combined royalties (air, sheet music and mechanicals). These payments are going to writers who, for the most part, have not been able to earn any money from their talents for musical composition prior to the formation of BMI.

### ASCAP Decrees Suit

ASCAP has announced that it has authorized its legal counsel to institute civil suit for damages under the Sherman Anti-Trust Act against the NAB, BMI, NBC and CBS. The suit, if brought, will be vigorously defended.

### New Radio Logging Begins

The radio log and program analysis of popular music compiled by the Office of Research, Radio Division, and directed by Dr.

John G. Peatman, Professor of Psychology of the College of the City of New York, got under way on Monday, June 16th with the most complete records of performance which have been made available. BMI is financing the research job by Dr. Peatman following a refusal by the Accurate Reporting Service to check performances on all New York Stations. The work is done both day and night and distributed the following morning to those interested in performance compilations. The figures constitute a valuable record which will be useful later on in combining trend studies in regard to popular music.

### Suit to Clarify Performance Rights in Marks' Songs

Broadcast Music, Inc. and Edward B. Marks Music Corporation commenced suit against ASCAP for a declaratory judgment in the Supreme Court of New York today (Wednesday). The action is a test case which does not seek damages but asks that "the court declare the rights and other legal relations of the plaintiffs and ASCAP" in certain musical compositions. The compositions selected for the test case are *Bluer Than Blue* by Lew Pollack and Tot Seymour, *You Fit Into The Picture* by Bud Green and Jesse Greer, and *Mississippi River* by J. Rosamond Johnson and Frank Abbott. All of the composers of these compositions, except Abbott, are members of ASCAP.

Edward B. Marks Music Corporation resigned from ASCAP at the end of 1940 and granted all of its performing rights in the works included in their catalogue to BMI. The suit does not involve in any way the numbers in the Marks' catalogue which are presently being performed by BMI licensees. However, BMI has to date voluntarily refrained from the performance of works written by ASCAP members during the period of their membership in ASCAP as ASCAP has asserted certain rights in these works.

BMI officials pointed out that a clarification of the issues involved would be beneficial to all parties concerned and to the public as the result of ASCAP's claims has been to prevent certain works from being performed. Under the agreements between ASCAP writers and their respective publishers, an executive of BMI said, ASCAP writers assigned all of the performing rights in their works to their publishers. As a result, Edward B. Marks Music Corporation claims that it owns all of the performing rights in the works named in the suit. ASCAP has not hitherto made clear whether it contends that the performing rights under these works are the property of ASCAP's publisher members or ASCAP's composer members. The suit is intended to have the court declare who owns the rights so that the compositions involved will be available for performance.

### Let's Look at the Record

Listening to musical radio programs has increased since January 1st.

The "vested interests" of the musical world said it couldn't be done. They said that after January 1st, 1941 the public would stop listening to musical programs on the radio. They said their music was indispensable.

What actually happened? Let's look at the record.

Average C.A.B. Rating for Period	Popular Music	Concert Music
Jan. 1940 to April 20, 1940 . . . . .	10.0	9.6
Jan. 1941 to April 20, 1941 . . . . .	10.2	10.2
Percent of Increase 1941 over 1940 . . . . .	2.0%	6.2%

Listening to musical programs went up. This increase ran against the general listening trend. More network programs of popular music are being sponsored. The Hooper analysis shows an increase of 9% in the number of hours devoted to sponsored popular music on networks.

### Musical Feast

There are so many solid hits now among the BMI controlled tunes that coin machines are not only reaping a harvest, but records

are selling unusually well. The *Hut Sut Song* is the sensation of the year having climbed to the top more rapidly than any other song this season.

*Amapola* is still going strong; *G'bye Now* is fighting for the top and *My Sister And I*, *Maria Elena* and *Daddy* are all in the first division. Coming into the spot light of popularity are, *Everything Happens To Me*, *A Little Bit South of North Carolina*, *Green Eyes*, *Let's Get Away From It All*, *Friendly Tavern Polka*, and *The Things I Love*. Among the possibilities, Billboard has this to say in regard to BMI's *The Reluctant Dragon*: "This song comes from the soon-to-be-released Walt Disney movie cartoon feature of the same title. It is quite possible that it may be a strong follow-up to the currently popular *Daddy*".

## BMI FEATURE TUNES

June 23 - June 30

1. I WENT OUT OF MY WAY
2. ALL ALONE AND LONELY
3. MY SISTER AND I
4. WISE OLD OWL
5. WALKIN' BY THE RIVER
6. BECAUSE OF YOU
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*

## "Dipping Into the Claret"

Under date of June 18th, *Variety* points out in a Hollywood dispatch that a lifetime studio job awaits the songwriter who can get picture tunes on the air. Says the correspondent:

"Understood studio heads have grapevined the word that the one who comes through with a solution to the problem goes on the payroll for life, or rather the life of the studio. Unique arrangement is the result of the alarm felt at 20th-Fox and other major studio front offices over the dismal grosses of musicals. Since the first of the year, when the broadcasters broke with ASCAP, not a single musical has earned its keep and the red smears are said to be broad and scarlet. . . .

"While in somewhat of a dilemma over the reasons behind tobogganning grosses, studio heads concede it is no secret why musicals are hitting so many sour notes at the box office. It is pointed out that in previous depressions in picture revenue, musicals more than held their own and showed profit where the others dipped into the claret. Once back on NBC and CBS, to get the millions of listeners humming and whistling ditties from the filmicals, it is assumed that biz will take the upbeat fast-like. In support of this contention they have but to scan receipts of musicals released prior to the muting of ASCAP tunes on the major webs. Black ink was used with few exceptions."

## Labor

### Pay Averages

Radio's 21,646 full time employees the week of October 13, 1940, received an average of \$47.13—probably the highest weekly wage in any industry in the country. This average compared with

\$45.92 the corresponding week of 1939, and with \$45.12 the week of March 6, 1938.

These figures are based on statistics made public by the FCC. They do *not* include the employees of advertising agencies and thus do not reflect the pay of stars on the big commercial shows.

Here are some of the averages for classifications of most interest:

Stations		Networks
All Executives	84.69	251.68
Operators	40.49	62.05
Production	41.03	62.56
Writers	32.43	57.99
Announcers	34.63	61.86
Staff Musicians	48.01	111.92
Outside Salesmen	55.59	105.22

## ACA Plans

The ACA (C.I.O.) has decided to concentrate its drive to organize broadcasting employees to the area "bounded roughly on the north by the Great Lakes, on the east by Boston, on the south by Virginia and on the west by Pittsburgh." This was decided at an executive committee meeting May 17 in Philadelphia.

## Cost of Living

The Labor Department reports that the cost of living advanced 0.7 per cent from April 15 to May 15, and on the latter date was 2.4 per cent above the level of last June. The increase since August, 1939, has been 4.4 per cent.

## A. F. of M. Convention

The Seattle convention of the A. F. of M. directed the union's executive board to "make every endeavor . . . at the earliest possible moment" to solve what the delegates apparently thought was an extremely serious situation growing out of the use of recordings.

This action was taken in lieu of action on several resolutions directed at the making and use of recordings.

The convention rejected a resolution which would have revoked a recent rule by the national officers against the announcement of engagements by bands playing on the radio.

All officers were reelected, and Dallas, Texas, was chosen for the next convention.

James C. Petrillo opened the convention with a lengthy attack on Thurman Arnold.

## Sales

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

## Bankers Hear Talk on Radio

Representing the NAB, Craig Lawrence, commercial manager of the Iowa Broadcasting Co. and member of the NAB Sales Managers' Executive committee, addressed the annual convention of the American Industrial Bankers Association June 17, at Colorado Springs, Colo., on "Radio and the Industrial Banker."

Highlights of Mr. Lawrence's speech are given here. A limited number of complete copies of the talk are available free upon request while they last.

Broadcasting is one of the greatest social forces of our time, as its growth during the past ten years will illustrate. In 1930 there were 12 million radio homes in the United States; in 1940, over 29 million, a gain of 250 per cent. In 1930 there were no automobile sets; last year there were 8 million. Ten years ago the total sets in use were 13 million; today we have the staggering total of 50 million sets, exceeding the number of telephones, electric refrigerators and washing machines combined.



Radio has an especially significant social aspect, representing the quickest way to communicate with our millions of citizens. Seventy per cent of the radio homes in the United States—the Glutzes and the Morganbilts—heard President Roosevelt declare a total emergency, by *radio*, meaning that 90 million people in over 20 million homes were listening.

Although a child of the depression years, radio advertising has increased from a gross of 62 million dollars in 1930 to 207 millions in 1940. While radio was *increasing 850 per cent*, magazine advertising declined 30 per cent, newspaper declined 31 per cent, outdoor declined 41 per cent, and farm paper advertising fell 51 per cent—chiefly because radio is extremely sound as a social force.

The real meat of radio consists not merely of entertainment, but in the free services given the radio public: the broadcasting of News, fast, accurate, unbiased; of such undramatic things as weather forecasts, temperature reports, livestock and grain quotations, and other public service features of that type. It is the broadcasting of King Edward's abdication speech, a Roosevelt Fireside Chat, Winston Churchill reporting to an empire, America's Town Meeting of the Air, a Toscanini Symphony, the New York Philharmonic, and dozens of other educational and cultural features for men, women and children. That's why Americans listen to 50 million radio sets an average of four and one-half hours per day. That's what really makes broadcasting.

David Sarnoff has said "The richest man cannot buy for himself what the poorest man gets free by radio." That is radio as a social force. *To me it is actually remarkable that business men are permitted to buy advertising (and fellows like me are permitted to sell it) in connection with an instrument of so much public influence. It could probably only happen in America. Yet, that is what has built American broadcasting and that is why the American public gets the most complete, the most satisfactory and the most expensive radio service in the world today.*

## Comparison of Media

Since our organization publishes four newspapers and operates four radio stations, I can regard both forms without prejudice. They have several points in common: circulation, space, and selling copy.

In all media, circulation is *potential*: the total distribution of newspapers and total number of radio homes; and it is *actual*: the number that actually *sees* or *hears* your advertisement. Radio leads among all media in establishing means of learning the actual circulation of its programs. Continuous listener check-ups, organizations such as the C.A.B., the C. E. Hooper Co. and others are constantly enabling advertisers to follow the trends of their programs, and making it easier to buy radio because it is the only medium so far in which there is a constant over-all check-up of *net*, or *actual*, circulation.

The primary function of the newspaper advertisement or the radio program is to attract attention and arouse interest. In the newspaper this is done by the proper combination of layout, art work and heading; in radio by a well-balanced, well-produced program of entertainment or service value. The size of the ad or length of the program has a bearing on the amount of *actual* circulation you get, and the favorable setting created for the selling copy.

In both media, selling copy must complete the job, because all media are only a means of contact between you and your prospect. You can influence your results by the effectiveness of what you say.

*The one big advantage radio enjoys is the human voice. Since time began the voice has been the natural and most used form of communication, and now through the miracle of radio it reaches bigger audiences than were ever before possible by any means. Our educational system is based on it (what if we had to depend entirely upon correspondence schools?); most business is conducted upon exchange of ideas or agreements through the spoken word. You can complete arrangements for a loan with a man and his wife much easier in your office than you can by mail. Experiments by institutions such as Harvard and Ohio State College show*

*that the ear gets information easier and retains it longer than the eye.*

To advertise your product, which is money, first give plenty of attention to the subject of whom you wish to reach and the best way of doing it. Who are your prospects? What type of people are they? How do they live? Are they married or single?

*Radio is an extremely elastic medium.* You can build your program or select your time to reach any type of person, or any income group; by using the proper program content you can control your circulation to an amazing degree.

Borrowing or investing money is a serious concern in the business of running a home, decided nine times out of ten by the board of directors which consists of Mr. and Mrs. America. Here is another of radio's unique advantages; you have the family board of directors together, listening to your program. There is no competition from any other advertising at the time they are listening, no big or little advertisements playing around on all sides of it, vying for their attention—extremely important from a sales and public relations standpoint. *Radio's ability to deliver uninterrupted and undivided attention for your message in the homes of your prospects is definitely worth money to you.*

The Federal Home Loan Bank System, querying its 1200 members, learned that the average spent by each of these on radio advertising was \$898 per year, but the most successful advertisers spent more than that. When expenditures were over \$1000 the ratio of satisfied sponsors to dissatisfied sponsors was three to one; the average expenditure of those experiencing good or excellent results was \$1518 per year, and the average duration of their campaign was 32.3 weeks per year. There is a great argument there for *consistency*, true of any advertising but particularly true of radio.

The most satisfactory unit of time was 15 minutes; next, 5 minutes; next, one minute, and next, 30 minutes. The most satisfactory frequency was a five-per-week schedule for programs; most announcement users were on the air either six or seven days per week. One-third of all campaigns consisted of spot announcements; music and News programs ranked next, and News sponsors reported the highest proportion of good or excellent results.

## Answers to Questions

"Which is most effective, intensive broadcasting or periodic broadcasting?" Unless your short-time schedule is very sensational, it will probably not be as effective as regular, consistent, 52-week advertising, because of the habit-forming characteristics of radio, because constant repetition in selling is a strong factor, because of the economy of frequency discounts. Stop-and-go advertising is often expensive.

"What percentage of the budget should be devoted to radio?" That depends upon the size of the total appropriation, competition and other factors. To do a thorough, consistent job, in some cases it might require 90 percent, or 50 percent, or only 15 or 20 percent.

"What type of radio is most effective?" The Federal Savings and Loan report lists News and popular music programs as highly effective, but also shows a great variety including news commentators, five-minute talks, Musical Clocks, women's participating programs, man-on-the-street, historical, little-known facts about the city, etc. Let's put it this way: find a program with a built-up audience among the type of people you want to reach, at a time they are available, or build one which will create such an audience quickly. I suggest you put the burden of proof and selection on the radio station; all radio men I know are anxious to get results for their advertisers. Talk over your problems, the type of people who borrow or invest with you, determine your budget, and let him deliver the maximum on your investment.

"Do you recommend large stations and fewer announcements or programs, or small stations and more advertising for the same budget?" This depends on the coverage you want, relative station popularity, and whether or not your budget will buy a consistent, adequate service

"Is radio more effective in large or small cities?" There is prac-

tically no difference; radio success stories come from markets of all sizes.

"Is it effective for a small company in a large city?" Especially so; few people can compare one institution with another and tell which is bigger or more substantial, and very few care to look at financial statements to find out. To them the size of the company is *whatever they make it in their own minds*. In creating this mental picture of your business and the desirability of doing business with you, they depend upon your advertising. A small business, advertising creditably on a good radio station in association with leading advertisers, benefits from this association.

"How much commercial should a 15-minute News program contain?" This is a matter of judgment, of course, but generally not over 2½ to 3 minutes, preferably divided into two sales talks at approximately the 5-minute and 12-minute points, and with the commercials in the same tempo and mood as the program itself.

"What times and frequency are most effective for spot announcements?" Personally, we have had best results from spot announcements scheduled three or more times per day, seven days per week. A morning-afternoon-and-evening schedule gives you a very large circulation; otherwise, times should be selected to reach the type of audience you want.

"What length of campaign is most effective?" I would say that your first contract should preferably be for 52 weeks, with 26 weeks as a minimum. A large agency states that from its records it can usually gauge a program's success at the end of the 26th week. Their formula requires checks at the end of the 6th, 13th and 26th weeks; they say the 13-week response should double the 6th, and the 26th should double the 13th. Some programs draw immediate response; others require a longer build-up. I recall one large bakery which saw no sales increase at the end of 11 weeks, and almost cancelled the program which later the same year gave them increases up to 25 per cent of their monthly volume.

"Can 50-word announcements have real advertising pull?" Absolutely, if you have an interesting story to tell. The highlights can easily be told in 50 words.

"What type of bank clients are secured by radio advertising?" Mr. Pittman, president of the Morris Plan Bank of Philadelphia, says: "We were told before our broadcast started that radio would reach a lower income group mass audience; however, we found that many of our new customers came from a higher income group than our advertising had previously attracted. The size of our average loan increased 21 per cent in the first eight months of our radio campaign. Results not only kept pace but each succeeding month produced greater results than the previous one. During our first year on the air our loan volume increased 51.7 per cent over the same period the previous year; our savings increased by the unbelievable total of 152.9 per cent." This firm sponsors a daily evening News broadcast.

Let me add an evangelistic note. *More people are listening to more radio sets more hours every day than ever before, because radio is basically sound, is the most direct and fastest means of communication in existence today, and is one of the greatest social forces of our time.* In any business, such as yours, where public relations is such a vital factor, you must look to the future. Advertising, your chief means of public relations, is also communication, and communication changes. The jungle method of smoke fires and tom-toms seems ludicrous today. Who knows what the next ten years will bring, such as in the fields of frequency modulation and television? In other words, radio is of today and tomorrow. Every business firm which is in tune with progress and is looking to its future will do well to begin to use radio broadcasting, and find the most effective formula for its use today. It is something that will pay great dividends—immediately and in the years to come.

### Per-Inquiry and Free Offers

**Regnis Advertising**, New York, is seeking per-inquiry deals for the **Nu-Phonic Corporation**, manufacturers of phonograph records.

**Metropolitan Life Insurance Co.**, New York, offers a free "information service" to broadcasters.

**Miami Beach, Fla.**, is reported by NAB members as securing considerable free radio time by promoting a contest to select the "Radio Queen of the South." In a newspaper publicity story the contest director boasts that last year's contest "produced some \$7,000 in free radio publicity for Miami Beach." Comments an NAB member: "This prejudices the opportunity of selling resort advertising. Potential advertising from municipalities, chambers of commerce and individuals with resorts and vacation spots can constitute a sizeable amount of business, but if we give it away we have little chance of ever selling it."

**Ringling Brothers Circus**, through its advance man, is reported to be offering passes in exchange for time.

### Correction in Dates

In the article on "Effective Retail Selling" by Bruff Olin published here in the June 6 issue, it was said that "a better-than-average half-page newspaper advertisement is read by less than 10 per cent of a newspaper's circulation" according to **EDITOR & PUBLISHER** of February 8, 1940. The date should be the issue of February 8, 1930.

## Legislation

### New Recording, Libel Laws

Florida legislation effective June 12 abolished any asserted common law rights to collect royalties on the recorded performances embodied in phonograph records and electrical transcriptions once the records and transcriptions are sold in commerce for use in Florida. This act, in effect, writes the holding of the court in *RCA v. Whiteman* into the statute law of Florida.

The act is as follows:

An Act to prevent claims for additional compensation, fees or payment after sale of phonograph records, transcriptions or any form of recorded music and entertainment, or collection of licenses for the use of same after sale, by any performing artist, manufacturer or organization representing such performing artist or manufacturer, and to protect the purchaser thereof in its or their use for any purpose whatsoever.

Be it enacted by the Legislature of the State of Florida:

Section 1. When any phonograph record or electrical transcription, upon which musical performances are embodied, is sold in commerce for use within this State, all asserted common law rights to further restrict or to collect royalties on the commercial use made of any such recorded performances by any person is hereby abrogated and expressly repealed. When such article or chattel has been sold in commerce, any asserted intangible rights shall be deemed to have passed to the purchaser upon the purchase of the chattel itself, and the right to further restrict the use made of phonograph records or electrical transcriptions, whose sole value is in their use, is hereby forbidden and abrogated.

Section 2. Nothing in this Act shall be deemed to deny the rights granted any person by the United States Copyright laws. The sole intent of this enactment is to abolish any common law rights attaching to phonograph records and electrical transcriptions, whose sole value is in their use, and to forbid further restrictions or the collection of subsequent fees and royalties on phonograph records and electrical transcriptions by performers who were paid for the initial performance at the recording thereof.

Section 3. If any section in this Act or any part of any section shall be declared invalid or unconstitutional such declaration of invalidity shall not affect the validity of the remaining portions hereof.

Section 4. All acts or parts of acts in conflict herewith are hereby expressly repealed.

Section 5. This Act shall take effect upon its approval by the Governor.

Approved June 12, 1941.

Also on June 12, an amendment to the Florida libel law became effective. By this amendment a radio station has the right, but



is not compelled, to require the submission of written script 24 hours before the time of broadcast. If submission of the script is so required, the station is freed from liability for any libelous or slanderous utterances broadcast which were not contained in the script.

The amendment is as follows:

An Act to amend Section 1 of Chapter 19616 Laws of Florida, Acts of 1939 entitled "An Act in Relation to the Civil Liability of Owners, Lessees, Licensees and Operators of Radio Broadcasting Stations and the Agents and Employees of Any Such Owner, Lessee, Licensee or Operator, for Radio Defamation or Libelous Statements."

Be it enacted by the Legislature of the State of Florida:

Section 1. That section 1 of chapter 19616 laws of Florida, 1939, be and it is hereby amended to read as follows:

"Section 1. The owner, lessee, licensee or operator of a radio broadcasting station shall have the right, but shall not be compelled, to require the submission of a written copy of any statement intended to be broadcast over such station twenty-four hours before the time of the intended broadcast thereof; and when such owner, lessee, licensee or operator has so required the submission of such copy, such owner, lessee, licensee or operator shall not be liable in damages for any libelous or slanderous utterance made by or for the person or party submitting a copy of such proposed broadcast which is not contained in such copy; but this Act shall not be construed to relieve the person or party, or the agents or servants of such person or party, making any such libelous or slanderous utterance from liability therefor."

Section 2. If any section in this Act or any part of any section shall be declared invalid or unconstitutional such declaration of invalidity shall not affect the validity of the remaining portions hereof.

Section 3. All acts or parts of acts in conflict herewith are hereby expressly repealed.

Section 4. This Act shall take effect upon its approval by the Governor.

Approved June 12, 1941.

## National Defense

### Radio Men in Service

#### KNX—LOS ANGELES

George G. Carter, Company L, 53rd Infantry, Fort Ord, Cal.  
Robert T. Hall, Company A, 76th Infantry, Camp Roberts, San Miguel, Cal.

Alden C. Packard, U. S. N. R., USS Albermarle, % Postmaster, New York, N. Y.

George R. Haysel, Comm. 9, 3rd Student Training Bn. Officers, Infantry School, Fort Benning, Ga. After August at Fort Ord, Cal.

Glenn Y. Middleton, Company D, 79th Infantry, Camp Roberts, Cal.

Jack Clinton, Aviation Cadet, Class I-C, Room 106, Bldg. 24-6, Naval Air Station, Corpus Christi, Texas.

Erle Frady, Headquarters Company, 17th Infantry, Fort Ord, Cal.

#### KFDM—BEAUMONT

Al Donaldson, U. S. N. R., Charleston, S. C.  
Leon Taylor, Fort Sam Houston, San Antonio, Texas. Intelligence Service, Headquarters Troop, Third Army.

#### WCAO—BALTIMORE

Captain Francis R. Dice, 175th Infantry—"C" Barracks, Room 20, Fort Meade, Maryland.

Private Raymond R. Moffett, Company "B"—7th Engineering Training Battalion, Engineer Replacement Center, Fort Belvoir, Virginia.

### War Department Transcriptions

It is understood that the FCC has approved War Department transcription programs containing incidental personal messages.

## Gilbert Newsome

Edward E. Bishop, WGH, Norfolk, Va., asks for information as to the whereabouts of Gilbert Newsome, an announcer.

## Father Burk

Father W. A. Burk, S. J., has had another serious heart attack which has made it impossible for him to return from St. Louis to Station WWL, New Orleans, as planned. Although the date of Father Burk's return to radio is now indefinite, the NAB and all its members join in hoping that it will be soon.

## FEDERAL COMMUNICATIONS COMMISSION

### FCC Refuses Stay

The FCC on June 12 refused to stay its decision of April 1, pending appeal by NBC, of an order permitting Station WHDH, Boston, to share a "clear channel" with Station KOA, Denver. Said Chairman Fly in his "specially concurring" opinion:

For the reasons stated above and particularly since there is no real injury to Station KOA, and since Station WHDH moves forward with knowledge of any legal risks involved, I concur in the foregoing decision denying the stay. The Commission heretofore has arrived at a final decision upon the merits of this case, in which I did not participate, and I do not want by expressing any opinion on a procedural matter to be understood as expressing an opinion on the merits of the decision. At the same time I entertain no doubt as to its legality.

Great waste results from the fact that clear channel stations whose *raison d'être* is to serve over great distances and in vast rural areas of the country, have to a great extent been concentrated along the coasts and the borders of the country. The power is impacted into the lucrative markets of large metropolitan areas which are already fully served, if, in fact, not over served, while a great portion of the signal strength of the clear channel station is wasted upon the sea. Thus, while listeners in New York, Chicago, and Los Angeles may tune in on a dozen stations, there are vast rural regions in upper New England, in some areas of the South, and in the great trans-Mississippi area where the listening public has difficulty in receiving programs of even one station. The need for a studious, careful appraisal of this vital problem is apparent. If the clear channel wave lengths are to be further exploited, the plans for that exploitation ought to be made in the light of these dominant factors and as a result of a full study.

### "Little Brooklyn Cases"

Though radio stations have "a recognized duty to present well rounded programs on subjects which may be fairly said to constitute public controversies of the day within the framework of our democratic system of government," the FCC "will not tolerate hostile propagandizing in the interest of any foreign government which has repeatedly and flagrantly expressed its enmity to this country and to the continued existence of its basic system of government."

The Commission so declared in adopting its decision and order in the so-called "Little Brooklyn cases," which involved 11 Brooklyn, N. Y., radio stations or applicants. The Commission has concluded on the basis of the record, and in view of the oral argument, to depart from its Proposed Findings of Fact and Conclusions (B-131), as announced February 5 of this year, and to leave the parties as it found them at the date of the oral argument.

Consequently, today's decision and order grants renewal of the license of WCNW, Arthur Faske, which the Proposed Findings and Conclusions would have denied.

The decision and order permits WWRL, Long Island Broadcasting Corporation, Woodside, Long Island, N. Y., to operate

as now, but denies WWRL's request to assume the operating hours of WCNW, which had been proposed.

In modifying its proposed findings to permit the two stations to operate on the same time-sharing basis as now, the Commission comments:

"In so doing the Commission is not to be construed as departing from its position that time-sharing stations "do not represent a healthy situation and are not to be encouraged. The Commission does feel, however, that there is nothing in the record to warrant the economic death penalty on either station at the instance of the other. The situation as it now exists will be permitted to continue but the Commission will be continually interested in the public service records which these two applicants may compile."

Commissioner Case voted for adoption of the proposed findings and conclusions as adopted February 5.

### New York "FM" Congestion

Because applications for FM broadcast stations in New York City exceed the number of available frequencies for operation in that locality, the FCC is considering establishment of a North Jersey service area, meanwhile making certain reallocations to enable as many applicants as possible to engage in this new type of broadcast service.

There are six Class A, 22 Class B, and seven Class C frequencies set aside for FM broadcast. However, it is not feasible to use all of the FM channels in the same area, as operation of stations on adjacent channels would result in objectionable interference. Consequently, FM construction permits for the Manhattan area were held up pending solution of this local problem.

On the basis of engineering study, and as a result of conferences with New York applicants, the Commission is now enabled to issue permits pursuant to grants previously announced, except in the cases of the Frequency Broadcasting Corporation, Brooklyn, which is expected to shift from 45900 to 49900 kilocycles, and Pennsylvania Broadcasting Company, Philadelphia, which is expected to go from 44700 to 44900 kilocycles.

The Commission is notifying two applicants—Bremer Broadcasting Corporation and New Jersey Broadcasting Corporation—that establishment of a North Jersey FM service area is under consideration, and that they may request Class A frequencies for such service.

In view of these adjustments, the Commission is now able to announce the grant of three additional New York FM applications as follows:

Muzak Corporation, to use 44700 kilocycles (Class B channel), to serve 8500 square miles.

Interstate Broadcasting Company, Inc., to use 45900 kilocycles (Class B channel), to serve like area.

City of New York Municipal Broadcasting System, to use 43900 kilocycles (Class C channel), to serve 3900 square miles.

### FCC Notice

Report No. 9—Actions on Rules and Regulations

The Commission en banc today modified the Rules Governing STL (Studio Transmitter Link) broadcast stations effective immediately as follows:

At each place in which the designation "STL" appears in Section 4.31-4.36 inclusive, of the Commission's Rules and Regulations, the designation "STL" is hereby stricken and the designation "ST" substituted therefor.

Footnote No. 1 appended to Section 4.31 of the Rules is hereby amended to read as follows:

<sup>1</sup> The abbreviation "ST" is derived from "studio-transmitter."

### Order Amendment

The FCC adopted an amendment to the order in the matter of the applications of Hobart Stephenson, Milton Edge, and Edgar

J. Korsmeyer, d/b as Stephenson, Edge and Korsmeyer, and Helen L. Walton & Walter Bellatti, all applicants for a new station in Jacksonville, Ill. (B-130).

The sixth paragraph of the Order of May 22, 1941, referring to grant of Stephenson, Edge and Korsmeyer application, was amended by inserting therein the following:

"Prior to the issuance of a construction permit, the applicant shall obtain approval of the Commission of the exact transmitter location and antenna system to be used. Application for such approval shall be filed within two months after the effective date of this order. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor."

### 897 Stations

During the month of May, 1941, the FCC issued operating licenses to thirteen stations and granted seven permits for the construction of new stations. One station was deleted. A comparative table by months follows:

	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	June 1
Operating.....	783	791	799	806	810	816	825	831	835	836	837	836	849
Construction.....	53	56	58	57	54	52	51	51	46	54	54	55	48
	836	847	857	863	864	868	876	882	881	890	891	891	897

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

### FUTURE HEARINGS

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

#### Monday, June 30

##### Broadcast

NEW—KNOE, Incorporated, Monroe, La.—C. P., 1420 kc., 250 watts, unlimited.

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license. 920 kc., 500 watts night, 1 KW day, SH-KUSD.

##### Television-Broadcast

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

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

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

#### Wednesday, July 16

##### Broadcast

##### Consolidated Hearing

NEW—Mid-America Broadcasting Corporation, Louisville, Ky.—C. P., 1040 kc. (1080 kc. NARBA), 1 KW night, 5 KW day, unlimited time, DA-day and night.

WGRC—Northside Broadcasting Corporation, New Albany, Ind.—C. P., 1040 kc. (1080 kc. NARBA), 5 KW, unlimited time, DA-night and day. Present assignment: 1400 kc., 250 watts, unlimited time.

#### Monday, July 21

##### Broadcast

KGO & Auxil.—National Broadcasting Company, Inc., San Francisco, Calif.—Renewal of license. Main: 810 kc., 7½ KW,



unlimited time. Auxiliary: **810 kc.**, 2½ KW, unlimited time.  
KOA—National Broadcasting Company, Inc., Denver, Colo.—  
Renewal of license. **850 kc.**, 50 KW, unlimited time.  
WMAL—National Broadcasting Company, Inc., Washington, D. C.  
—Renewal of license. **630 kc.**, 5 KW, unlimited time.

#### Consolidated Hearing

KONB—MSB Broadcast Company, Omaha, Neb.—C. P., **1500 kc.**,  
250 watts, unlimited time.  
KONB—MSB Broadcast Company, Omaha, Neb.—Modification of  
C. P., **1500 kc.**, 250 watts, unlimited time, under C. P.

#### Thursday, July 24

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Renewal  
of license. **990 kc.**, 1 KW, daytime.

#### Friday, July 25

KORN—Nebraska Broadcasting Corporation, Fremont, Neb.—  
Renewal of license. **1400 kc.**, 250 watts, unlimited time.  
KORN—Clark Standiford (Transferor), and C. J. Malmsten, A. C.  
Sidner, S. S. Sidner and Arthur Baldwin (Transferees), Fremont,  
Neb.—Transfer of control. **1400 kc.**, 250 watts, unlimited  
time.

#### Monday, July 28

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal  
of license. **930 kc.**, 1 KW night, 5 KW day, unlimited.  
NEW—Hawaiian Broadcasting System, Ltd., Honolulu, T. H.—  
C. P., **1310 kc.** (1340 kc. NARBA), 250 watts, unlimited.

#### Wednesday, July 30

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Modi-  
fication of license. **1210 kc.**, 250 watts, unlimited. Present  
assignment: **1400 kc.**, 250 watts, unlimited.

#### Monday, August 25

##### Broadcast

KDRO—Albert S. and Robert A. Drohlich, d/b as Drohlich Bros.,  
Sedalia, Mo.—C. P., **800 kc.**, 1 KW day, daytime. Present  
assignment: **1490 kc.**, 250 watts, unlimited.

#### Consolidated Hearing

KFJM—University of North Dakota, Grand Forks, N. Dak.—  
Renewal of license. **1440 kc.**, 500 watts night, 1 KW day,  
unlimited.  
KFJM—University of North Dakota, Grand Forks, N. Dak.—  
Modification of license. **1440 kc.**, 500 watts night, 1 KW  
day, S.H.-3 to 5 p. m. daily. Present assignment: **1440 kc.**,  
500 watts night, 1 KW day, unlimited.  
NEW—Dalton LeMasurier, Grand Forks, N. Dak.—C. P., **1440**  
**kc.**, 500 watts night, 1 KW day, specified hours.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Standard Broadcasting Co., Los Angeles, Calif.—Granted construction  
permit for new high frequency (FM) broadcast station in  
Los Angeles to operate on frequency **45300 kc.** with a  
service area of 7,000 square miles (B5-PH-32).  
Muzak Corporation, New York City.—Granted construction permit  
for new high frequency broadcast station (FM) to use  
**44700 kc.** (Class B channel), to serve 8,500 square miles  
(B1-PH-48).  
Interstate Broadcasting Co., New York City.—Granted construction  
permit for new high frequency (FM) broadcast station  
to use **45900 kc.** (Class B channel) to serve 8,500 square  
miles (B1-PH-109).  
City of New York Municipal Broadcasting System, New York  
City.—Granted construction permit for new high frequency

(FM) broadcast station, to use **43500 kc.** (Class C channel)  
to serve 3,900 square miles (B1-PH-83).

WCBD—WCBD, Inc., Chicago, Ill.—Granted modification of construction  
permit (B4-P-2974) for decrease in power of station  
WCBD from 10 KW (under construction permit) to  
5 KW and increase hours of operation from limited to day-  
time and until sunset at Fort Worth, Texas; extend com-  
mencement date to 1 day after grant and completion date to  
10 days thereafter. Also adopted order granting dismissal  
of petition of Ohio State University (WOSU) for rehearing in  
the above entitled matter and dismissed said petition  
(B4-P-2974).

KWLM—Lakeland Broadcasting Co., Willmar, Minn.—Granted  
construction permit to make changes in transmitting equip-  
ment and increase power from 100 to 250 watts on **1340 kc.**  
(B4-P-3155).

W2XB—General Electric Co., New Scotland, N. Y.—Granted modi-  
fication of license of experimental television broadcast sta-  
tion, to change frequency assignment to **66000-72000 kc.**  
(Channel No. 3).

### DESIGNATED FOR HEARING

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Application  
for modification of license to change frequency from **1230**  
**to 1400 kc.**, increase power from 100 watts night, 250 watts  
day to 250 watts, and change time of operation from speci-  
fied hours to unlimited time (B2-ML-1055).

James F. Hopkins, Inc., Ann Arbor, Mich.—Application for con-  
struction permit for new station at Ann Arbor, to be oper-  
ated on **1600 kc.**, with power of 1 KW, unlimited time  
(B2-P-3073).

### APPLICATIONS PLACED IN PENDING FILES

J. I. Sims, Orangeburg, S. C.—Placed in pending files pursuant  
to Order No. 79, application for new station to operate on  
**1450 kc.**, 250 watts, unlimited time (B3-P-3169).

Fort Smith Newspaper Publishing Co., Fort Smith, Ark.—Placed  
in pending files pursuant to Order No. 79, application for  
new station to operate on **550 kc.** with power of 1 KW,  
using directional antenna, unlimited time (B3-P-3117).

### MISCELLANEOUS

WNAD—University of Oklahoma, Norman, Okla.—Granted modi-  
fication of construction permit (for new antenna system,  
change in hours of operation, frequency and move of trans-  
mitter) for approval of antenna and transmitter site; **640**  
**kc.**, 1 KW, daytime (B3-MP-1296).

W9XBK—Balaban & Katz Corp., Chicago, Ill.—Granted extension  
of special temporary authority to operate two transmitter  
units to be installed and operated from the State-Lake Bldg.,  
Chicago; Link Transmitter Type No. 50-UTX with 100  
watts power for visual and Link Transmitter Type No.  
25-UBX, 25 watts power for aural; temporary steel tower  
to be used on roof of said building, in order to conduct tests  
for the period June 18, 1941, to not later than July 17, 1941,  
in accordance with construction permit.

K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—  
Granted extension of special temporary authority to operate  
frequency modulation station commercially on **44500 kc.**,  
1000 watts, special emission for frequency modulation, with  
transmitter located on top of Mt. Lee, Los Angeles, Calif.,  
and described as Western Electric type 503-A-1, maximum  
rated power 1000 watts and using a 4-bay turnstile an-  
tenna, for a period July 8, 1941, to not later than Sep-  
tember 5, 1941, pending completion of construction pursuant  
to construction permit.

KFNF—KFNF, Inc., Shenandoah, Iowa—Hearing on application  
for renewal of license now scheduled for June 16, 1941, was  
continued two weeks.

KGEZ—Donald C. Treloar, Kalispell, Mont.—Ordered issuance  
of modification of construction permit for approval of  
directional antenna system for night use on **1460 kc.**; station  
operates on 100 watts (construction permit for 1 KW)  
(B5-MP-1173).

Cascade Broadcasting Co., Inc., Everett, Wash.—Ordered issuance  
of construction permit for new station to operate on **1460**  
**kc.**, 500 watts, unlimited time, employing non-directional  
antenna system (B5-P-2008).

- WNBI—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate international station WNBI on **17780 kc.** in order to permit simultaneous operations of Stations WNBI and WNCA on frequencies **17780 kc.** and **9670 kc.** for the period June 15, 1941, and ending not later than July 14, 1941.
- WNBI—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to utilize the presently authorized WRCA **9670 kc.** power amplifier NRA50A Serial No. 1 for WNBI operation on **11890 kc.** for a period June 14 to not later than July 13, 1941.
- WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate mobile relay station WADA licensed to Charleston Broadcasting Co., on June 13, 20 and 27, 1941, only.
- KOA—National Broadcasting Co., Denver, Colo.—Denied petition for stay during appeal to the Court of Appeals for the District of Columbia, from the Commission's order of April 7, 1941, granting application of WHDH, Matheson Radio Co., Inc., Boston, Mass., for unlimited hours of operation on frequency **850 kc.** with power of 5 KW (B-121), and amending its rules accordingly. The Commission reaffirmed its order of April 7, 1941. (Chairman Fly and Commissioners Walker and Thompson voted for denial of petition; Commissioners Case and Wakefield against; Commissioners Craven and Payne absent.) The Chairman submitted a specially concurring opinion.
- WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Granted motion for leave to amend application to specify frequency **1060 kc.** and 50 KW power. Application directed be removed from Hearing Docket.
- KDRO—Drohlich Brothers, Sedalia, Mo.—Granted motion to continue hearing to August 25, in re application for construction permit to change frequency from **1490 to 800 kc.**; power from 250 watts to 1 KW, and time of operation from unlimited to daytime only.
- The Evening News Press, Inc., Port Angeles, Wash.—Granted petition to amend application to specify **1450 kc.** and 250 watts, unlimited time, instead of **1500 kc.**, 100 watts night, 250 watts LS.
- KFNF—KFNF, Inc., Shenandoah, Ia.—Dismissed motion for postponement of hearing date on application for renewal of license.
- KORN—C. J. Malmsten, S. S. Sidner, A. C. Sidner, H. A. Gundersen, E. J. Lee (Transferors) and John F. Palmquist and Paul Boyer, co-partners, d/b as Fremont Broadcasting Co. (Transferees), Fremont, Neb.—Granted request to withdraw without prejudice application for authority to transfer control of station KORN.
- KONB—C. J. Malmsten, John K. Morrison and Arthur Baldwin (Transferors) and Ross C. Glasmann, Wm. W. Glasmann, Blaine V. Glasmann (Transferees), Omaha, Neb.—Application for transfer of control of station KONB dismissed; request for withdrawal without prejudice denied.
- W2XD—General Electric Co., Schenectady, N. Y.; W2XI—New Scotland, N. Y.; W2XB—New Scotland, N. Y.—Granted motion for continuance of hearing to June 30 on application for license to cover construction permit for station W2XD, and for renewal of licenses for television stations W2XI and W2XB.
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 9 to 10 p. m. DST on June 14, 1941, in order to broadcast the Convention Dinner held in Boston on Flag Day only.
- KBUR—Burlington Broadcasting Co., Burlington, Ia.—Granted modification of construction permit (B4-P-1799, authorizing a new station), for approval of transmitter and studio sites at National Bank Bldg., Jefferson & Main Sts., Burlington, approval of antenna, and installation of new type transmitter; **1490 kc.**, 250 watts, unlimited time (B4-MP-1301).
- WIS—The Liberty Life Ins. Co., Columbia, S. C.—Granted modification of construction permit (B3-P-2870) to make changes in directional antenna system and increase power to 5 KW day and night, for extension of commencement and completion dates to July 15, 1941, and Jan. 15, 1942, respectively (B3-MP-1304).
- WALA—Pape Broadcasting Co.—Granted modification of construction permit (B3-MP-932, which authorized increase in power, installation of new equipment and directional antenna for night use, and move of transmitter), for extension of completion date to Sept. 29/41 (B3-MP-1312).
- WBYN—Unified Broadcasting Corp. of Brooklyn, Brooklyn, N. Y.—Granted modification of license to change licensee's name from Unified Broadcasting Corp. of Brooklyn to WBYN—Brooklyn, Inc. (B1-ML-1073).
- WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Granted authority to determine operating power by direct measurement of antenna power on **1380 kc.** under NARBA (B5-Z-789).
- WMUR—The Radio Voice of New Hampshire, Inc.—Manchester, N. H.—Granted modification of construction permit (B1-P-2897, for new station) authorizing extension of completion date to July 1, 1941 (B1-MP-1320).
- KFBB—Buttery Broadcast, Inc., Great Falls, Mont.—Granted modification of construction permit (B5-P-2920, which authorized increase in power and installation of directional antenna for night use), for extension of completion date to July 13/41 (B5-MP-1319).
- WNAB—Harold Thomas, Bridgeport, Conn.—Granted modification of construction permit (B1-P-2410, authorizing new station) for extension of completion date to September 30, 1941; **1450 kc.**, 250 watts, unlimited time (B1-MP-1310).
- WENE—WJIM, Inc., Portable-Mobile, Area of Lansing, Mich.—Granted modification of construction permit (B2-MRE-368, which authorized changes in equipment and increase in power to 50 watts in relay station), for extension of commencement and completion dates to 30 and 180 days respectively, after grant (B2-MPRE-51).
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-910).
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-849).
- WJR—WJR, The Goodwill Station, Detroit, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-973).
- WMIN—WMIN Broadcasting Co., St. Paul, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-924).
- WSVS—Board of Education, City of Buffalo, Buffalo, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-1012).
- KJBS—Julius Brunton & Sons Co., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1035).
- WBBZ—Adelaide Lillian Carrell, Executrix of Estate of Charles Lewis Carrell, Deceased, Ponca City, Okla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1008).
- KYSM—Southern Minn. Supply Co., Mankato, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-1031).
- KMOX—Columbia Broadcasting System, Inc., St. Louis, Mo.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-926).
- KEUB—Eastern Utah Broadcasting Co., Price, Utah—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1009).
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-991).
- KGNF—Great Plains Broadcasting Co. (a Corp.), North Platte, Neb.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-997).
- WOMT—Francis K. Kadow, Manitowoc, Wis.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-951).
- KUOA—KUOA, Inc., Siloam Springs, Ark.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-984).
- KWG—McClatchy Broadcasting Co., Stockton, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-927).
- KGFJ—Ben S. McGlashan, Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1030).
- WJBC—Radio Station WJBC, Bloomington, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-946).
- WMBI—The Moody Bible Institute of Chicago, Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-1003).



- KPO—National Broadcasting Co., Inc., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-979).
- WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-980).
- WTAM—National Broadcasting Co., Inc., Cleveland, Ohio.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-981).
- WJZ—National Broadcasting Co., Inc., New York City.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-978).
- WSM—The National Life and Accident Ins. Co., Nashville, Tenn.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-1001).
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-1002).
- KOME—Oil Capital Sales Corp., Tulsa, Okla.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-905).
- KPOF—Pillar of Fire (a Corp.), Denver, Colo.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-952).
- WAWZ—Pillar of Fire, Zarephath, N. J.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-1032).
- KPMC—Pioneer Mercantile Co., Bakersfield, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-983).
- WEEU—Berks Broadcasting Co., Reading, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-917).
- WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-913).
- KMED—Mrs. M. J. Virgin, Medford, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-943).
- WGL—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-985).
- WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-967).
- WRWA—Reading Broadcasting Co., Reading, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-916).
- KFIZ—The Reporter Printing Co., Fond du Lac, Wis.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-941).
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-968).
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-937).
- WKBZ—Ashbacker Radio Corp., Muskegon, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-963).
- KVOL—Evangeline Broadcasting Co., Inc., Lafayette, La.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-912).
- WFOR—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-964).
- WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-965).
- KGFF—KGFF Broadcasting Co., Inc., Shawnee, Okla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-920).
- KMMJ—KMMJ, Inc., Grand Island, Neb.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-919).
- WKBV—Knox Radio Corp., Richmond, Ind.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-896).
- KFAC—Los Angeles Broadcasting Co., Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-899).
- WWL—Loyola University, New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna power on **870 kc.** under NARBA (B3-Z-738).
- KMAC—W. W. McAllister and Howard W. Davis, d/b as Walmac Co., San Antonio, Tex.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B3-Z-774).
- KGO—National Broadcasting Co., Inc., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-982).
- WJAC—The Norfolk Daily News, Norfolk, Neb.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-966).
- WSXWI—Guy S. Cornish, Portable-Mobile, area of Cincinnati, Ohio.—Granted license to cover construction permit (B2-PARE-1) for new Class II experimental public address relay station on an experimental basis only; frequency **310000 kc.**, 1 watt; to be used to provide a means of relaying to a public address system, aural signals from locations where wire facilities are not available (B2-LARE-1).
- WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.; WDLP—Panama City Broadcasting Co., Panama City, Fla.—Amended Commission order of April 8, 1941, designating the place of hearing in re revocation of licenses of WTMC and WDLP for Pensacola, Fla., and thereafter at Panama City and Ocala, Fla., to specify that the said hearing shall be held on June 16, 1941, at Jacksonville, Fla., and thereafter at Ocala, Panama City, and Pensacola, Fla., as directed (Docket Nos. 6000 and 6001).
- KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 10:45 to 11:30 p. m. CST on June 18 and 25, and July 2, 1941, in order to broadcast the Luther College summer session convocations only.
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off time (June 7:45 p. m.) until 10 p. m. on June 14, 1941, only, in order to broadcast special Flag Day Celebration.
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to remain silent for the period August 1, 1941, until not later than September 14, 1941, in order to observe College summer vacation only.
- WCNW—Arthur Faske, Brooklyn, N. Y.—Denied request for special temporary authority to operate from 12 midnight to 1 a. m. for the period June 15 to not later than July 14, 1941, in order to conduct a non-commercial experimental program consisting of Associated Press News, music and Americanization talks.
- WBPA—National Life and Accident Insurance Co., Nashville, Tenn.—Granted special temporary authority to use an experimental 20 watt FM transmitter on the I group of frequencies as a relay broadcast station in order to broadcast the second Army Maneuvers from the vicinity of Manchester and Tullahoma, Tenn., for the period June 14, 1941, to not later than June 30, 1941.
- WABA—Agricultural Broadcasting Co., Chicago, Ill. (WLS).—Granted special temporary authority to operate a special laboratory transmitter as a relay broadcast station on **37980 kc.** with a power of  $\frac{1}{2}$  watt in order to record on the ground and to rebroadcast over WLS the human voice and the rate of the heart beat, and other scientific data during a free fall in the air prior to the opening of a parachute, for the period June 12 to not later than July 11, 1941.
- WMAL—National Broadcasting Co., Washington, D. C.—Adopted order canceling license dated March 24, 1941, issued to NBC, authorizing use of an auxiliary transmitter in connection with operation of WMAL; canceled hearing, and dismissed application for renewal of auxiliary transmitter license (B1-R-142, Docket 6071).
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Adopted order granting petition of WKZO to vacate the order of April 8, 1941, designating for hearing application for construction permit; vacated Commission action of April 8, and canceled hearing, and granted application of WKZO in part, for construction permit to install new transmitter and increase daytime power from 1 to 5 KW (B2-P-2898, Docket No. 6055).
- W2XD—General Electric Co., Schenectady, N. Y.; W2XI—New Scotland, N. Y.; W2XB—New Scotland, N. Y.—Adopted order granting petition to reconsider and grant without hearing the applications for renewal of licenses of stations W2XI and W2XB and for license to cover construction permit for station W2XD; canceled hearing heretofore scheduled, and

granted said applications (B1-LVB-24; B1-RVB-26, and B1-RVB-25).

W2XBS—National Broadcasting Co.—Adopted order granting application for construction permit for commercial television broadcast station pursuant to Commission's Order of April 30, 1941, together with license to cover said construction permit (B1-PCT-1 and B1-LCT-1).

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and Other States, Clayton, Mo.—Modification of construction permit (B4-P-2882) for installation of new transmitter and vertical radiator, increased power to 5 KW day and night, requesting extension of completion date from 7-13-41 to 8-13-41.

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Construction permit to change frequency from 550 to 940 kc., increase power from 1 KW night, 5 KW day to 50 KW day and night, install new transmitter and new directional antenna for night use, and change transmitter location, requesting WTAD be transferred from 930 to 550 kc., unlimited time.

### 570 Kilocycles

WOSU—Ohio State University, Columbus, Ohio.—Modification of construction permit (B2-P-3138) for change in frequency, increase in power, change in hours of operation, and installation of new transmitter, requesting authority to install new transmitter and extension of commencement and completion dates to 30 days after grant and 90 days thereafter, respectively.

### 910 Kilocycles

WFDF—Flint Broadcasting Co., Flint, Mich.—License to use old Collins 300B-100-watt main transmitter as an auxiliary transmitter with power of 100 watts.

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Authority to determine operating power by direct method (Auxiliary transmitter).

WQAN—The Scranton Times (Co-partnership), E. J. Lynett, Wm. R. Lynett, Elizabeth R. Lynett and Edward J. Lynett, Jr., Scranton, Pa.—Authority to determine operating power by direct method.

### 960 Kilocycles

WSBT—The South Bend Tribune, South Bend, Ind.—Authority to determine operating power by direct method.

WSBT—The South Bend Tribune, South Bend, Ind.—License to cover construction permit (B4-P-900) as modified, to install directional antenna, change frequency and hours, and move transmitter.

### 970 Kilocycles

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Authority to determine operating power by direct method.

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—License to cover construction permit (B1-P-2704) as modified, to install new transmitter, directional antenna for night use, change hours of operation from daytime (to 6 p. m.) to unlimited time, increase power from 500 watts to 1 KW day and night and change transmitter site.

### 980 Kilocycles

WHAL—Harold F. Gross and Edmund C. Shields, Saginaw, Mich.—Modification of construction permit (B2-P-936) as modified, for a new station, requesting additional time for commencement and completion of construction from 1-14-41 and 7-14-41 to 10-14-41 and 180 days thereafter, respectively.

### 990 Kilocycles

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Construction permit to install new transmitter, directional antenna, day and night use, increase power from 1 to 10 KW, time from day to unlimited, move transmitter and move studio.

### 1120 Kilocycles

WCBD—WCBD, Incorporated, Chicago, Ill.—Modification of construction permit (B4-P-2974) to change frequency, increase power and change hours of operation; requesting decrease

in power from 10 to 5 KW, change hours of operation from daytime to limited to sunset at Fort Worth, Texas, change transmitting equipment and extension of commencement and completion dates from 6-30-41 and 12-30-41 to 1 day after grant and 10 days thereafter, respectively.

### 1210 Kilocycles

Contra Costa Broadcasting Co., Richmond, Calif.—Construction permit for a new broadcast station to be operated on 1210 kc., 500 watts, limited time, and for changes in antenna. Amended: To change proposed transmitter location.

### 1240 Kilocycles

KBIZ—J. D. Falvey, Ottumwa, Iowa.—Modification of license for increase in power from 100 watts to 250 watts.

KFBC—Frontier Broadcasting Co., Cheyenne, Wyo.—Authority to determine operating power by direct method.

KOVO—Clifton A. Tolboe, tr. as Citizens Voice & Air Show, Provo, Utah.—Authority to determine operating power by direct method.

WGCM—WGCM, Incorporated, Gulfport, Miss.—Authority to determine operating power by direct method.

WJIM—WJIM, Incorporated, Lansing, Mich.—Authority to determine operating power by direct method.

WSAY—Brown Radio Service & Laboratory (Gordon P. Brown, Owner), Rochester, N. Y.—Authority to determine operating power by direct method.

### 1260 Kilocycles

KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Authority to determine operating power by direct method.

### 1290 Kilocycles

KRGV—KRGV, Incorporated, Weslaco, Texas.—Authority to determine operating power by direct method.

### 1320 Kilocycles

KLCN—Fred O. Grimwood, Blytheville, Ark.—Authority to determine operating power by direct method.

### 1340 Kilocycles

Birney Imes and Robin Weaver, d/b as Imes-Weaver Broadcasting Co., Columbia, Tenn.—Construction permit for a new broadcast station to be operated on 1340 kc., 250 watts, unlimited time.

KFPL—C. C. Baxter, Dublin, Texas.—Authority to determine operating power by direct method.

KVSF—New Mexico Broadcasting Co., Santa Fe, N. Mex.—Authority to determine operating power by direct method.

WGAA—Northwest Georgia Broadcasting Co., Cedartown, Ga.—Modification of construction permit (B3-P-3029) for a new broadcast station, requesting changes in transmitting equipment.

WSGN—The Birmingham News Co., Birmingham, Ala.—Authority to determine operating power by direct method.

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Authority to determine operating power by direct method.

### 1350 Kilocycles

WORK—York Broadcasting Co., York, Pa.—Construction permit to install new directional antenna system for night use only.

### 1390 Kilocycles

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Authority to determine operating power by direct method.

### 1400 Kilocycles

WCBM—Baltimore Broadcasting Corp., Baltimore, Md.—Authority to determine operating power by direct method.

WMGA—Frank R. Pidcock, Sr., Moultrie, Ga.—Authority to determine operating power by direct method.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Authority to determine operating power by direct method.



### 1450 Kilocycles

- Dyke Cullum, Washington, D. C.—Construction permit for a new station to be operated on **1450 kc.**, 250 watts with 100-watt amplifier, unlimited time, facilities of WWDC. Amended: To change requested location of amplifier.
- Utica Broadcasting Co., Inc., Utica, N. Y.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts, unlimited time.
- KGIW—E. L. Allen, Alamosa, Colo.—Construction permit to increase power from 100 watts to 250 watts and install new transmitter.
- WACO—Frontier Broadcasting Co., Inc., Waco, Texas.—Authority to determine operating power by direct method.
- WGOV—E. D. Rivers, Valdosta, Ga.—Authority to determine operating power by direct method.
- WHFC—WHFC Inc., Cicero, Ill.—Authority to determine operating power by direct method.
- WPAD—Paducah Broadcasting Co., Inc., Paducah, Ky.—Authority to determine operating power by direct method.

### 1470 Kilocycles

- KELA—Central Broadcasting Corp., Centralia-Chehalis, Wash.—Authority to determine operating power by direct method.
- WSAN—Lehigh Valley Broadcasting Co., Allentown, Pa.—Modification of construction permit (B2-P-2637) for new transmitter, directional antenna for day and night use, increase in power, and unlimited time, requesting change in frequency to **1470 kc.** under NARBA and changes in directional antenna system and type of transmitter.

### 1480 Kilocycles

- KGXC—E. E. Kresbach, Wolf Point, Mont.—Modification of license to move studio to transmitter location.

### 1490 Kilocycles

- R. M. Wallace & 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 time, contingent on WBOC going to **1230 kc.**
- KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif.—Authority to transfer control of corporation from Thomas S. Lee and R. D. Merrill, Executors of Estate of Don Lee, deceased, to Don Lee Broadcasting System.
- KSAM—Sam Houston Broadcasting Ass'n., H. G. Webster, Pres., Huntsville, Texas.—Authority to determine operating power by direct method.
- WMIS—Natchez Broadcasting Co., Natchez, Miss.—License to cover construction permit (B3-P-2999) for a new broadcast station.
- WMIS—Natchez Broadcasting Co., Natchez, Miss.—Authority to determine operating power by direct method.

### 1590 Kilocycles

- KITE—First National Television, Inc., Kansas City, Mo.—Authority to determine operating power by direct method.
- WALB—The Herald Publishing Co., Albany, Ga.—License to cover construction permit (B3-P-2774) as modified, for a new broadcast station.

## FM APPLICATIONS

- W6XEA—Earle C. Anthony, Inc., Los Angeles, Calif.—Modification of construction permit (B5-PVB-26) for a new television station, requesting extension of commencement and completion dates from 1-15-41 and 7-15-41 to 7-15-41 and 1-15-42, respectively.
- W45BR—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—License to cover construction permit (B3-PH-4) for a new high frequency broadcast station, and change studio site.
- W47C—WJJD, Inc., Chicago, Ill.—Modification of construction permit (B4-PH-17) for a new high frequency broadcast station, requesting change in type of transmitter, antenna changes, and change population from 4,051,000 to 4,750,000.

## MISCELLANEOUS APPLICATIONS

- KEHT—The KANS Broadcasting Co., Portable-Mobile.—License to cover construction permit (B4-PRE-388) for a new relay broadcast station.

- WAUR—University of Illinois, Farm Area, South of Champaign, Ill.—Reinstatement of construction permit (B4-PRV-226) for a new relay broadcast station to be operated on **1646, 2090, 2190, and 2830 kc.**, 20 watts, A3 emission.
- Bay County Publishers, Inc., Panama City, Fla.—License for a new broadcast station to be operated on **1230 kc.**, 100 watts night, 250 watts day, unlimited time, facilities of WDLF. Amended: Re Section 15(a).
- Birney Imes & Robin Weaver, d/b as Imes-Weaver Broadcasting Co., Cleveland, Tenn.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts, unlimited time. Amended: To specify transmitter site as site to be determined, Cleveland, Tenn.
- The Metropolis Co., Ocala, Fla.—License for a new broadcast station to be operated on **1490 kc.**, 100 watts, unlimited time, facilities of WTMC. Amended: Re Section 15(a).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Construction permit to increase power from 500 watts night, 1 KW day, to 5 KW, move transmitter, change hours from specified to unlimited, and request **690 kc.** under NARBA. Amended: To increase power from 500 watts night, 1 KW day, to 1 KW, change transmitter, and make changes in directional antenna for night use.
- Bernard N. Walker, Concord, N. C.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited time.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition against the following firm. The respondent will be given an opportunity to show cause why a cease and desist order should not be issued against them.

**Harper Manufacturing Co.**—Alleging misrepresentation in the sale of men's clothing, a complaint has been issued against J. Fred Malone and Joe P. Malone, Rome, Ga., who are in business under the names of Harper Manufacturing Co., Malone Clothing Manufacturing Co., Gray-Dickson Clothing Co., and Piedmont Clothing Co.

The complaint alleges that the respondents' sales representatives, in promoting the sale of men's clothing, represent that The duPont Company is back of or associated with the respondents in their business; that the material used in their suits is manufactured by The duPont Company, and that The duPont Company furnishes free the goods to be used in the making of the garments sold, the customer paying only for the labor involved, when in fact The duPont Company is in no manner associated with the respondents and does not manufacture the material used in the respondents' garments, and the customer pays not only for the labor involved in making a suit but for the material used and for a profit to the respondents.

According to the complaint, the respondents' agents also represent that garments will be made-to-order or measure and be of a certain material, color, design, weave or pattern, as per sample shown; that the customer will have opportunity to inspect and try on the garments before accepting them, and that the respondents manufacture all of such garments and ship them to the customer direct from their own factory.

The complaint alleges that the garments delivered by the respondents to such customers are not made-to-measure or made-to-order but are of the ready-made variety or stock type of clothing, altered by the respondents when deemed necessary partially to conform to the measurements shown on order blanks; that in many instances the garments as delivered are made of materials inferior to and different from the samples selected by purchasers; that the respondents in many instances have failed and refused to return the purchase price received from the customer or deliver a garment made from the material he selected; that customers do not have an opportunity to inspect or try on garments before accepting them and paying the C. O. D. balance due, and that the respondents neither manufacture all the garments they sell nor ship them direct from their factory. (4516)

**Horton Fifth Avenue Jewelers**—Frackman Diamond Corporation, and Morton Frackman, Joseph Frackman, and Gilbert E. Horton, doing business under the name Horton Fifth Avenue Jewelers, all of 545 Fifth Avenue, New York, sellers and distributors of jewelry locally and who also conduct a retail mail order business in jewelry, are charged in a complaint with misrepresentation.

In catalogs distributed through several States, the respondents are alleged in the complaint to have represented that diamond and precious stone jewelry was available "at authentic manufacturers' wholesale prices." Among other representations were:

#### "SOLITAIRE ENGAGEMENT RING,

yellow gold; 1 large round white center diamond,  
and 1 round white diamond on each side.

Customary retail price: \$50

Our net cost to you: \$23"

The complaint alleges that these representations are false and misleading in that the prices designated by the respondents as the "customary retail prices" are inflated and fictitious. In truth, the complaint alleges, the prices quoted are those at which the respondents customarily sell their jewelry at retail to the purchasing public and are substantially the same as, or higher than, the customary retail prices of the same or similar articles of jewelry of comparable quality and value offered by other retailers.

The complaint also alleges that in the respondents' catalogs descriptions of many of the rings offered for sale include representations and statements as to the carat weight of the diamonds in the rings in such a manner as to mislead the purchasing public and cause it to believe that the carat weight so set forth is the weight of the largest diamond in the ring, when actually the carat weight given is the combined weight of all the diamonds in the ring. (4518)

**Kol-Tone Manufacturing Co.**—A complaint has been issued charging Gus. H. Cohn, trading as Kol-Tone Manufacturing Co., 7516 Delmar Blvd., St. Louis, with misrepresentation in the sale of chemicals mixed to form the product "Kol-Tone," formerly called "Koltreat," designed for use when mixed with water as a treatment for bituminous coal and bituminous coal products, and in the sale of such product and a bituminous coal product treated with "Kol-Tone."

The complaint alleges that in newspaper and periodical advertisements circulated in various States the respondent has represented and implied that "Kol-Tone" or "Koltreat," when used in treating or processing bituminous coal or bituminous coal products, accomplishes a material reduction in soot and smoke, a saving in fuel, and increased efficiency with less combustibles remaining in the ash, and that it gives the purchaser more for his money than would be received through the use of such coal or coal products not so treated or processed.

The complaint further alleges that the respondent's product is a chemical mixture consisting largely of common salt, with a small percentage of metallic salts, and has no material or appreciable beneficial effect when used in treating or processing bituminous coal and bituminous coal products. According to the complaint, neither the respondent's product "Kol-Tone," nor its bituminous coal product treated with "Kol-Tone," will accomplish the results claimed. (4515)

#### STIPULATIONS

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

**Consolidated Cigar Corporation**, 730 Fifth Ave., New York, stipulated to cease certain representations in the sale of its "Harvester Cigars." The respondent agrees to cease advertising that these cigars depend entirely for their flavor upon Havana tobacco, or by the unqualified use of the phrase "Heart of Havana," or in any other manner, that the filler of its cigar is composed predominantly of tobacco grown in and imported from Cuba, or otherwise describing the source of the tobacco content of these cigars unless in all such descriptive matter the country of origin of each of the tobaccos used is set forth with equal emphasis in the order of their predominance by weight. According to the stipulation, the filler of Harvester Cigars is not composed predominantly of

tobacco grown in Cuba but consists in comparatively small part of genuine Havana tobacco blended with much greater amounts of tobaccos originating from other sources. (02804)

**W. H. Kirkland Co.**—A stipulation was accepted from an Anniston, Ala., co-partnership to cease certain representations in connection with the sale of cast iron soil pipe, pipe fittings and other allied products. The respondents are W. H. Kirkland, Aimeida H. Kirkland and Elsie K. Weatherly, who, from 1934 to 1940, engaged in the sale of such products under the firm name of W. H. Kirkland Co.

The respondents agree to cease employing in their advertisements the words "Manufacturers" or "Manufactured" to identify the business conducted by them, and to desist from use of these words or other words of similar import which imply that they manufacture the products they sell or own, operate or control the factory in which they are made. (3130)

**National Woolen Co.**—Chester Krone, trading as National Woolen Co., 15 East 17th St., New York, entered into a stipulation to cease representing as the customary or regular prices or values of men's suits prices or values which are in fact fictitious and in excess of the customary prices. According to the stipulation, the respondent's agents represent that the regular price of certain suits is \$35, but that they are being sold at a special price of \$23.95, when in fact the customary price is not \$35 but \$23.95. (3129)

**Nutty Brown Mills**—C. A. Sears, trading as Nutty Brown Mills, Houston, Tex., entered into a stipulation that the respondent will cease advertising "Nutty Brown Bread" as being beneficial in reducing or maintaining body weight, unless used as an integral part of a diet intended for that purpose. The respondent also agrees to cease representing that this bread contributes less fat-producing substances than ordinary breads, gives one the assurance of Vitamin B adequacy, or is low in assimilable carbohydrates. The respondent further agrees to cease representing that the protein of Nutty Brown Bread products is complete in its biologic value and supports normal growth; that the average thin slice contains only 20 calories, and that the respondent's bread is essentially a protein food. (02805)

**Walter-Lewis Woolen Corporation**, 450 Seventh Ave., New York, entered into a stipulation to cease certain representations in the sale of textile fabrics.

The stipulation points out that the Wool Products Labeling Act of 1939 defines the term "wool" as meaning the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama and vicuna) which has never been reclaimed from any woven or felted wool product.

In the sale of textile fabrics composed predominantly of fibers other than camel's hair, the respondent agrees to desist from the use in its brands, labels, or other trade indicia, of the words "Camels" or "Camels Hair" or a depiction of a camel, or of other words of similar meaning so as to imply that camel's hair constitutes a substantial proportion of the fiber content of such fabric.

The stipulation provides, however, that the words "Camels Hair" or other words properly descriptive of the so-called specialty fiber content of the fabric may be used to describe the so-called specialty fiber content when immediately accompanied in equally conspicuous type by accurate designations of each constituent fiber or material in the order of its predominance by weight and specifying the proportion or percentage of such so-called specialty fiber as, for example, "Wool and Camels Hair, Camels Hair 1%." (3127)

#### CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Von Schrader Manufacturing Co.**—H. D. Rench and Francis U. Von Schrader, trading as Von Schrader Manufacturing Company, 1600 Junction Ave., Racine, Wis., engaged in the sale and distribution of electrically operated portable carpet washing ma-



chines, have been ordered to cease and desist from misrepresentations concerning the machines.

The Commission finds that the respondents, in magazines and other publications, represented to prospective purchasers and operators that the "Von Schrader Carpet Washer" removes "the deeply imbedded grime and the microbes of disease which are carried into the home by every shoe that crosses the threshold," and "When you are getting started, naturally your profits depend on how diligently you go after business, but \$200 to \$400 a month is an easy average."

The Commission finds further that the soap solution used in the machines sold by the respondents, which perform their cleaning function by means of rapidly oscillating rubber brushes, is not a germicide and will not "destroy every vestige of germ" or remove "the microbes of disease," as represented. The cleansing action of the machine is limited to the removal from rugs and carpets of such dirt and other foreign material as may be loosened by the scrubbing action of the machine and incorporated in the lather which is then removed.

The Commission finds that \$200 to \$400 a month profit is not an "easy average" for operators of the respondents' machines, nor in fact an average of any kind of such operators' earnings. Because of the seasonal nature of the rug cleaning business, the findings continue, representations as to large gross amounts that may have

been earned by individual operators in their best day, week, or month are misleading in that they represent exceptional rather than normal conditions.

The respondents are ordered to cease and desist from representing or implying:

- (1) That the Von Schrader rug and carpet washer, or any substantially similar machine, will in any way or to any degree restore the original color or colors of rugs or carpets;
- (2) That the Von Schrader rug and carpet washer, or any substantially similar machine, will destroy germs or other microorganisms in, or otherwise sterilize or substantially sterilize, rugs and carpets;
- (3) That the profits of operators of the Von Schrader rug and carpet washer, or any substantially similar machine, average \$200 or \$400 per month, or any other sum in excess of the actual average net profits of such operators over a sufficient period of time to give effect to the seasonal nature of such business, or using statements of specific sums earned by any particular operator or operators in any stated periods of time in a manner which imports or implies that any unusual or exceptional earnings represent the usual and ordinary course of business. (3924)