

RADIO TIME SALES TAX

Possibility that the House Ways and Means Committee, on its own motion, would remove the radio time sales tax from the new revenue bill developed Thursday.

The committee was scheduled to meet Saturday, and again Monday. At one of these meetings, the committee was to vote on a proposal to offer an amendment on the House floor to remove the radio tax. Only committee amendments can be considered under the rule governing debate and amendment on the floor.

The NAB legislative committee has been at work in Washington throughout the week, explaining the effect this discriminatory bill would have on the industry.

The NAB board of directors will meet next Wednesday and Thursday to review the situation and to map plans for carrying the fight to the Senate if the tax is not removed in the House.

The House Ways and Means Committee is made up of the following:

Robert L. Doughton, of North Carolina
Thomas H. Cullen, of New York
Jere Cooper, of Tennessee
John W. Boehne, Jr., of Indiana
Wesley E. Disney, of Oklahoma
Frank H. Buck, of California
Richard M. Duncan, of Missouri
John D. Dingell, of Michigan
A. Willis Robertson, of Virginia
Patrick J. Boland, of Pennsylvania
Milton H. West, of Texas
Raymond S. McKeough, of Illinois
Knute Hill, of Washington

Arthur D. Healey, of Massachusetts
Aaron Lane Ford, of Mississippi
Allen T. Treadway, of Massachusetts
Frank Crowther, of New York
Harold Knutson, of Minnesota
Daniel A. Reed, of New York
Roy O. Woodruff, of Michigan
Thomas A. Jenkins, of Ohio
Donald H. McLean, of New Jersey
Bertrand W. Gearhart, of California
Frank Carlson, of Kansas
Benjamin Jarrett, of Pennsylvania

Some members of the House were under the impression that the tax carried the approval of the American Federation of Labor because several (Continued on page 642)

Application of Proposed Radio Time Sales Tax to Affected Groups of Stations and Networks, 1940 Basis

(Compiled by NAB Research Department)

Time Sales Group	No. of Stations	Net Time Sales Retained	Rate of Tax	Amount of Tax
1,000,000 or More	8	\$ 12,301,466	15%	\$ 1,845,220
500,000 to 1,000,000	42	26,651,476	10%	2,665,148
100,000 to 500,000	188	39,555,996	5%	1,977,800
Total	238	78,508,938		6,488,168
3 National Networks	...	33,275,943	*15%	4,991,391
5 Regional Networks	...	771,833	** 5%	38,592
Total	...	\$112,556,714		***\$11,518,151
Industry Total	765	\$133,964,769		

* Assumes all 3 National Networks have retained time sales of over \$1,000,000.

** Assumes all 5 Regional Networks have retained time sales of over \$100,000 but less than \$500,000.

*** It now appears that 1941 sales will run about 15 per cent above 1940. If 1942 sales increase 5 per cent above 1941, the tax for 1942 will be approximately \$13,900,000.

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

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

RADIO TIME SALES TAX

(Continued from page 641)

small printing trades unions affiliated with the A. F. of L. had proposed a similar levy. William Green, A. F. of L. president, notified both the Ways and Means and Senate Finance committees that the A. F. of L. had not endorsed the tax. Unions in the radio field have taken an active role in fighting the tax.

Using as a basis the FCC releases of 1940 operating data, it is found that the proposed tax on radio time sales will affect 238 stations with time sales of \$100,000 or over. The affected stations constitute 31% of the total of 765 reporting stations for the year 1940. The retained time sales of the 238 stations taxed in the three brackets of 5%, 10% and 15% amount to \$78,508,938 or 79% of the retained time sales of \$99,916,993 of the total of 765 stations.

The amount of tax payable by the 238 stations is calculated to be \$6,488,168 on the 1940 basis. This represents an additional expense deductible from income to the extent of 28% of the net income (before Federal income taxes) of \$23,533,440 reported in 1940. This percentage naturally varies between the three tax brackets. For the 8 stations in the 15% bracket (time sales of \$1,000,000 or more) the tax payable is \$1,845,220 or 40% of the net income of \$4,587,798. For the 42 stations in the 10% tax bracket (time sales of \$500,000 to \$1,000,000) the tax payable is \$2,665,148 or 29% of the net income of \$9,336,703. For the 188 stations in the 5% tax bracket (time sales of \$100,000 to \$500,000) the tax payable is \$1,977,800 or 21% of the net income of \$9,608,939. Included in this latter group of 188 stations are 13 which had an aggregate operating deficit of \$522,444. For these stations the effect of the proposed bill is to further increase the amount of such deficits by the amount of tax payable.

It is assumed that the retained time sales of the 3 national networks will be taxed at 15%. CBS and NBC retained time sales are many times the lower limit of \$1,000,000 of the 15% bracket. Mutual is questionable, but lacking definite information, the rate of 15% is applied to the total reported for the 3 networks. The amount taxable is \$33,275,943 and the tax at 15% is \$4,491,391. This represents 60% of the net income before Federal income taxes of \$8,342,450 reported by the 3 networks. These network figures apply to network operations only. M&O stations are included with the data covering all stations.

In addition, there are 5 regional networks included in the FCC data. Combined time sales amounted to \$771,883. Assuming all had retained time sales of over \$100,000 (the average is \$154,377) the tax rate applicable is 5% and the amount of the tax is \$38,592. This represents 23% of the net income of \$169,610.

Recapitulating for the entire industry, retained time sales of \$112,556,714 or 84% of the total of \$133,964,769 are subject to the tax. The total of the tax computed in the 3 brackets is \$11,518,151, which represents 35% of the net income before Federal income taxes of \$33,296,708.

This tax will be a deduction from income prior to the calculation of Federal income and excess profits taxes. Consequently it will

reduce the amounts of such taxes payable to the Federal Government in proportion to the reduction of net income in individual cases. The net tax yield to the Federal Government or net Federal taxes payable by the industry, cannot be calculated in the absence of detailed information by individual stations. The Treasury Department apparently has estimated the reduction in income and excess profits taxes to be in the neighborhood of \$7,000,000, which accounts for the estimate of the net yield of \$5,000,000 from the time sales tax.

In these calculations it has not been possible to take into account the provision which acts as a cushion when a station's net time sales are just over the lower limit of a bracket or move from one bracket to the next highest one. This constitutes a possible error of a very minor nature. If there are any stations whose net time sales are just over the lower limit of any of the three brackets, they will not have to pay, in effect, the full percentage of tax called for within that bracket. Not having individual figures, it is not possible to determine whether there are any stations within the narrow limits where this cushioning provision operates.

Revenue Bill of 1941

TITLE VI—RADIO BROADCASTING AND NETWORK TAX

SECTION 601

Tax on Radio Broadcasting Stations and Networks

Subtitle B of the Internal Revenue Code is amended by inserting after Chapter 6 the following new chapter:

"CHAPTER 6A

"SEC. 1220. TAX ON RADIO BROADCASTING STATIONS AND NETWORKS.

"(a) **RATE.**—For each calendar year beginning after December 31, 1941, there shall be imposed upon every person with respect to operating a radio broadcasting station or engaging in network broadcasting for any part of such year, an excise tax computed as follows:

"(1) If the net time sales exceed \$100,000 and do not exceed \$500,000, an amount equal to 5 per centum of the net time sales, or an amount equal to the net time sales in excess of \$100,000, whichever is the lesser.

"(2) If the net time sales exceed \$500,000 and do not exceed \$1,000,000, an amount equal to 10 per centum of the net time sales, or an amount equal to \$25,000 plus the amount of the net time sales in excess of \$500,000, whichever is the lesser.

"(3) If the net time sales exceed \$1,000,000, an amount equal to 15 per centum of the net time sales, or an amount equal to \$100,000 plus the amount of the net time sales in excess of \$1,000,000, whichever is the lesser.

"(b) **DEFINITIONS.**—For the purposes of this section—

"(1) 'Network broadcasting' means the making of arrangements with persons operating radio broadcasting stations for the simultaneous broadcast of an identical program by two or more connected stations and the distribution of programs by wire or radio to such persons.

"(2) 'Time sales' means the gross amount received or accrued from the sale of broadcast time. Where the sale is for a consideration other than money the gross amount considered to be received or accrued shall be the seller's published card rate for broadcast time. Where the sale is for a consideration, less a commission to an advertising agency (whether such sale is made to such agency or its principal) the amount of such commission (not in excess of 15 per centum of such consideration) shall be excluded in determining the gross amount received or accrued with respect to such sale.

"(3) 'Net time sales' means time sales minus the amounts paid or incurred for broadcast time to other persons operating radio stations or engaged in network broadcasting.

"SEC. 1221. RETURNS.

"(a) REQUIREMENT.—Every person liable for tax under section 1220 shall make a return under oath. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe.

"(b) TIME FOR FILING.—

"(1) GENERAL RULE.—Such return shall be made within two months after the close of the year with respect to which such tax is imposed.

"(2) EXTENSION OF TIME.—The Commissioner may extend the time for making the returns, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

"(c) PLACE FOR FILING.—The return shall be made to the collector for the district in which is located the principal place of business of the taxpayer, or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

"SEC. 1222. OTHER LAWS APPLICABLE.

"All provisions of law (including penalties) applicable in respect of the taxes imposed by chapter 6 shall, insofar as not inconsistent with this chapter, be applicable in respect of the tax imposed by this chapter."

Committee Report

TITLE VI—RADIO BROADCASTING STATIONS AND NETWORKS

Section 601

Radio Broadcasting Stations and Networks

This section imposes an excise tax for the calendar year 1942 and each succeeding calendar year upon every person who during the year operates a radio broadcasting station or engages in network broadcasting at any time during such calendar year. The tax is equal to a given percentage of net time sales during the year. A net time sale is the gross amount received or accrued from a sale of radio time, not including the amount of any commission to an advertising agency (up to 15 percent of the gross amount), and minus any amounts paid or incurred by the taxpayer, pursuant to the sale of radio time by him, for broadcasting time to other persons operating radio stations or engaged in network broadcasting. Such other persons are in turn liable with respect to the amounts so paid to them. If the taxpayer is on a cash basis of accounting, net time sales are computed with reference to amounts received and amounts paid. In the case of a taxpayer on an accrual basis of accounting, net time sales are computed with reference to amounts accrued and liabilities incurred.

The rates of tax are 5 percent where the net time sales during the year exceed \$100,000 and do not exceed \$500,000, 10 percent where the net sales exceed \$500,000 and do not exceed \$1,000,000, and 15 percent where the net sales exceed \$1,000,000. The tax is measured in each case by the entire amount of the net time sales but the liability of a taxpayer in one classification cannot exceed the maximum liability under the next lower classification plus the amount of the taxpayer's net time sales in excess of the maximum net time sales taxable under the lower classification. If the net sales do not exceed \$100,000 no tax is imposed.

A return for the calendar year must be made prior to March 1 of the succeeding year.

Taxes on Advertising

EXTENSION OF REMARKS

OF

HON. FRANK E. HOOK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1941

TELEGRAMS FROM MICHIGAN CITIZENS

Mr. HOOK. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following telegrams:

IRONWOOD, MICH., July 29, 1941.

HON. FRANK E. HOOK,
House of Representatives,
Washington, D. C.:

In behalf our two radio stations, WATW, Ashland, Wis., and WJMS, Ironwood, Mich., we protest as unfair, confiscatory, and discriminatory, the proposed taxing of radio and outdoor advertising revenue in occupational tax provision of general tax bill. Urgently request you consider carefully all points brought to your attention by National Association of Broadcasters and proceed to drastic modification or elimination of advertising taxation feature of the bill. Certainly due consideration should be given to great demands made by Government Department and defense program for free radio and billboard publicity. We have always complied with each request and propose to continue to do so, but such discriminating taxes, omitting newspapers, magazines, direct mail, etc., will make our costs much higher. Though applying to large stations now, the step will affect small stations as well.

UPPER MICHIGAN-WISCONSIN
BROADCASTING CO., INC.,

N. C. RUDELL,
Vice President and General Manager.

White Introduces Sweeping FCC Law Amendments

Senator White (R-Maine) on Thursday introduced a bill to make sweeping changes in the Communications Act of 1934, and urged Congress to act upon it immediately.

The senator made the following detailed explanation of the measure:

The bill today introduced by Senator White has its source in S. 1268, a bill introduced by Senator Wheeler in the last Congress; in S. 1520 introduced in the last Congress by Senator White; in recommendations recently made to the Federal Communications Bar Association by a committee thereof; in court decisions; and in recommendations found in the Report of the Attorney General's Committee on Administrative Procedure. This measure should not be regarded as a general revision of our Communications Act of 1934, but the changes in the organization of the Federal Communications Commission, in procedure, in the sections of present law with respect to appeals to the courts, in the efforts made to assure equality of right and opportunity among those who utilize radio for public discussion and finally the attempt to further provide against censorship, make this bill of supreme importance and justify, indeed demand, its study and approval in substantially its present form by the present Congress.

There follows an explanation of the Sections of the bill.

Section 1

This section defines the terms "license," "station license" or "radio station license," appearing throughout the Act, as that instrument of authorization required by the Act or the Commission's Rules and Regulations for the use or operation of radio apparatus. This definition is made necessary because of a recent tendency upon the part of the Commission to treat what are in fact licenses as instruments of a different character thereby making possible avoidance of compliance with procedural and appellate provisions of the Act intended as safeguards against arbitrary administrative action, provisions necessary to be respected if orderly procedure is to be had. This broad definition of the term license tends to insure that result.

Sections 2 and 3

Sections 2 and 3 basically change the administrative setup and functions of the Commission. They can be summarized as the separation of the Commission of seven members into two statutory divisions of three members each and a clarification of the status and functions of the Chairman or seventh man of the Commission.

Under this plan, the whole Commission would have power and authority to adopt and promulgate any rule or regulation of general application required or authorized by the Act, including procedural rules and regulations for the Commission and each division. The whole Commission would have plenary authority over amateur services, emergency services, the qualification and licensing of operators, the selection and control of personnel, the assignment of bands of frequencies to the various radio services and many other subjects and services as at present. But the present judicial and quasi-judicial functions of the Commission would be vested in the proposed divisions insofar as those functions relate to the most important and controversial subjects within the jurisdiction of the Commission.

Jurisdiction to hear and determine all cases arising under the Act or regulations, relating to broadcast, television, facsimile and kindred communications intended for public reception is vested in the Division of Public Communications. Similar jurisdiction with respect to common carriers and communications intended for a designated addressee is vested in the Division of Private Communications. This plan not only recognizes the basic and fundamental differences between the two types of communications involved and the nature of the questions presented by each but it also provides a method for obtaining proper consideration of those cases by persons who will be able to devote their time and attention to the questions committed to them without undue interruption or interference occasioned by the demands of basically different problems.

Under the plan proposed, the status of the Chairman would be that of an executive officer and coordinator participating fully in all matters within the jurisdiction of the Commission except the determination and decision of contested matters which are made the exclusive business of the divisions. Experience has amply demonstrated that the Chairman can not be expected to devote the time and attention necessary to the proper handling and disposition of these matters and also efficiently to discharge the many other duties which are unavoidably his under the Act. As to these other duties, an attempt has also been made to clarify the status of the Chairman and to make him, and him only, the official spokesman and representative of the Commission in certain important respects.

When the present Act was before the Congress in 1934, the bill passed by the Senate provided for a mandatory separation of the Commission into divisions as is now proposed but this plan was later abandoned and the present Commission has been operating under a law which permitted but did not require it to organize itself into divisions. For the last two or three years the division plan has been entirely abandoned and it seems certain that such abandonment has operated to the detriment of orderly procedure. We believe students of our legislation are thoroughly convinced of the wisdom of the mandatory division plan for at least two important reasons. They recognize that there are fundamental differences in the two classes of communications above referred to; that rate making and public utility concepts are the very essence of private communications but have little, if any, application to communications with the public directly; that there has been a tendency upon the part of the Commission to confuse the two and to apply the same concepts and philosophies in the regulation of the two. This must be avoided. In the second place, it is apparent that the subject of public or mass communications and the problem incident to the regulation thereof are so interesting and attractive that they draw public attention; that on the other hand, there is very little of news value or opportunity for publicity in the regulation of

common carriers and that this has had the result of centering the attention of the Commission and its personnel almost exclusively on broadcasting and related problems and of preventing the giving of sufficient attention to equally important problems relating to private communications.

The changes proposed in these two sections would bring about a much needed and desired separation of the judicial and legislative functions of the Commission; would contribute to a sounder knowledge on the part of the Commissioners of the communication problems committed to them; would make for orderly procedure and harmony of decision; and would speed up the disposition of cases before the Commission and the divisions thereof.

Sections 4 and 5

These sections proposed certain amendments to the procedural sections of the present Act (Sections 308 and 309). These amendments are made necessary by the restrictive character of the language now employed and by the disposition of the Commission to give that language an extremely literal rather than a broad interpretation. The result has been to deprive applicants for certain types of licenses of the right to be heard before their application is denied and to deprive persons who are adversely affected by the action of the Commission in granting the application of others, of an opportunity to be heard before the Commission.

The amendment to Section 308 will make it clear that all instruments of authorization granted by the Commission entitling the holders to construct or operate radio apparatus should be the subject of a written application. The amendments to Section 309 make it clear that any person filing an application described in Section 309 is entitled as a matter of right to have his application handled in a definite procedural way.

The procedure to be followed in the handling of applications is that which was successfully followed by the Commission for a considerable period of time pursuant to rules and regulations enacted by it but which method was recently abandoned apparently upon the theory that the Commission was according to applicants and others in interest greater rights than those which the Act guaranteed to them. Since the right to notice and hearing is of the very essence of orderly procedure, amendments to the Act which leave no doubt that such right is secured are absolutely imperative. The amendments proposed would assure this result.

Section 6

This section proposes a redraft of the transfer section of the present Act (Section 310 (b)). As now drafted, this section in terms relates only to station licenses and does not apply to construction permits or other instruments of authorization which the Commission may issue under its rules and regulations. The redraft would remedy this deficiency. The present transfer section is also silent concerning the procedure to be employed by the Commission in passing upon such applications and the proposed amendment would remedy this defect by providing that transfer applications be handled in the same manner and in accordance with the same procedure employed in the handling of applications for original instruments of authorization.

Aside from these questions of procedure, the decisions of the Commission relating to transfer applications have given rise to the theory that the proposed transferee of a station license may be subjected to conditions not required of an applicant for an original license. This is believed to be unsound and has been due, at least in part, to the fact that the statutory standard employed in the present transfer section differs slightly in phraseology from that used elsewhere in the Act. By providing for the use of the same statutory standard in the proposed amendment and by the use of other clarifying language, it is believed that this cause for controversy will be eliminated.

Section 7

This section proposes amendments to Section 315 of the present Act relating to the use of broadcast facilities by candidates for public office. The amendments proposed are the deletion of the proviso clause now appearing in that section which provides that the licensee shall have no power of censorship over the material broadcast under the provisions of this section and the substitution thereof of clearer language to the same purpose found in a proposed new Section 332. This present proviso has been the source of much uncertainty and controversy. I believe the change urged clarifies and enforces the Congressional intent.

Section 8

This section of the bill proposes the addition of an entirely new section to the Act (Sec. 330) which will require the identification of the speaker in the case of broadcasts dealing with public or political questions either local, State or national in their scope and application. Ever since the enactment of the Radio Act of 1927, the law has carried a provision requiring that in the case of the commercial use of a station the person or organization sponsoring such broadcast be identified in connection with the broadcast. Such a provision is found in Section 317 of the present Act. The proposed new Section would merely carry the principle of identification further and make it obligatory in the discussion of political or public questions to make clear not only who the speaker is but whose views he expresses. It is unfortunately a fact that most propaganda by radio is found in sustaining programs or programs which have no commercial sponsor. The adoption of this new section would carry the salutary principle of identification into a field where it is much needed.

Section 9

Section 9 of the bill proposes the inclusion of a new section (Sec. 331), the effect of which would be to require the licensee of any station to afford a right of reply where public officers, other than the President of the United States, use his station for the discussion of public or political questions. This right of reply is to be exercised by the accredited representatives of the opposition political party or parties, and is to be afforded upon the same terms and conditions as the initial discussion. This substantially enlarges the scope of Section 315 of the 1934 Act. The subject matter of this proposed section merits immediate consideration.

Section 10

Section 10 of the bill proposes the addition of another new section (Sec. 332), the effect of which would be to clarify the duties and responsibilities of a licensee where his station was used by a candidate for public office or by public officers or others for the discussion of public or political questions. The "no censorship" clause of Section 315 of the present Act does not adequately define the duties of a licensee under such circumstances. The proposed new section (Section 332) affords the licensee an opportunity to examine the material to be broadcast before its intended use and to delete therefrom any material which is slanderous or libelous or which the licensee may have reason to believe would subject him or his station to any action for damages or to a penalty or forfeiture under any local, State or Federal law or regulation. This section specifically provides that no licensee of any broadcast station shall have the power to censor, alter, or in any way affect or control the political or partisan trend of any material submitted by a candidate for public office or by public officers or others discussing public and political questions. With the exception of material which might subject the licensee to damages or penalties or material which is submitted for broadcast by or upon behalf of any person or organization which advocates the overthrow of government by force or violence, the licensee has no discretion.

Section 11

Section 11 of the bill proposes a new sentence as an amendment to Section 326 of the present Act which codifies an interpretation placed upon the Act by the Supreme Court of the United States in the case of the Federal Communications Commission versus Sanders Brothers Radio Station decided March 25, 1940. In this case the Supreme Court said:

"But the Act does not essay to regulate the business of the licensee. The Commission is given no supervisory control of the programs, of business management or of policy. In short, the broadcasting field is open to anyone, provided there be an available frequency over which he can broadcast without interference to others, if he shows his competency, the adequacy of his equipment, and financial ability to make good use of the assigned channel."

Notwithstanding this pronouncement of the Supreme Court, notwithstanding the fact that no language can be found in the Act which confers any right upon the Commission to concern itself with the business phases of the operation of radio broadcast

stations and notwithstanding the further fact that Section 3(h) of the Act provides that a person engaged in radio broadcasting should not be regarded as a common carrier, the Commission has nevertheless concerned itself more and more with such matters. The charge is made that the Commission is attempting to control both the character and source of program material and the contractual or other arrangements made by the licensee for the acquisition of such material.

The amendment proposed spells out in black and white what it is believed was not only the original intention of Congress but is its present intention, with respect to this subject, in the hope that confusion and controversy can be eliminated. The amendment preserves the prohibition now contained in the Act against interference with the right of free speech and that against the utterance of obscene, indecent or profane language by means of radio communication.

Section 12

Section 12 is designed to clarify provisions of existing law relative to proceedings to enforce or set aside orders of the Commission and in appeals from decisions of the Commission. The present law upon this subject is now found in Section 402 of the Act.

Paragraph (a) of Section 402 deals with actions to enforce or set aside orders of the Commission except those appealable under paragraph (b) of that section. More specifically, paragraph (a) of this section relates to those orders of the Commission entered in matters involving common carriers and certain other orders relating to radio broadcast stations not now appealable to the United States Court of Appeals for the District of Columbia under paragraph (b) of Section 402. Under the proposed amendment, all orders entered by the Commission in the performance of its licensing functions would be appealable under paragraph (b) and would not be brought before a statutory three judge district court. Moreover, suits brought before a statutory three judge court to enjoin the enforcement of an order of the Commission could be brought in the District of Columbia as well as in other judicial districts.

The principal changes proposed in paragraph (b) of Section 402 can be summarized as follows: (1) persons desiring to appeal from orders of the Commission entered in cases where the Commission exercises its licensing functions would be permitted to appeal either to the United States Court of Appeals for the District of Columbia, as at present, or to the United States Circuit Court of Appeals for the district in which they reside or have their principal place of business; (2) language is adopted which will remove doubt as to which cases are appealable and which will extend the right of appeal to persons which should have such right but which have been excluded due to imperfections in the present Act; (3) the time in which an appeal must be taken is made thirty rather than twenty days, as at present, and the contents of the Notice of Appeal are specified with certain particularity along the lines now provided by the rules of the United States Court of Appeals for the District of Columbia; (4) jurisdiction is expressly conferred upon the Court to which an appeal is taken to grant temporary relief either affirmative or negative in character; (5) the Court is given authority to specify by rule what the record upon appeal shall contain; (6) the questions which can be raised upon appeal and which the Court must consider in determining an appeal are specifically enumerated; and (7) the Commission will be required to comply with the mandate or decision of the Court upon the basis of the record upon which an appeal is taken unless the Court upon petition shall otherwise determine. Other provisions of the present Act relating to the right of persons to intervene in an appeal and the right to review by writ of certiorari the judgment rendered by the courts upon such appeal are retained.

All of these changes are, in my opinion, not only desirable but necessary if adequate judicial review of the Commission's exercise of its licensing function is to be made effective. Present language of Section 402 and particularly paragraph (b) thereof is so vague as to result in great doubt concerning the proper court in which to seek judicial review in many cases. Moreover, recent decisions of the United States Court of Appeals for the District of Columbia and of the Supreme Court of the United States are such as to cast further doubt upon the meaning and application of these provisions. An illustration of this is afforded by a recent decision of the United States Court of Appeals for the District of Columbia which finds that court to be without jurisdiction to grant interim or temporary relief to any licensee where an order of the Commission is appealed from notwithstanding the fact that it has been the uniform practice of that court to grant such relief in meritorious

cases since the first appeal taken to that court under the Radio Act of 1927.

Generally speaking, the same considerations which controlled the Attorney General's Committee on Administrative Procedure in the making of its recommendations concerning judicial review of the decisions and orders of other administrative tribunals have prompted the amendments to Section 402 here proposed. But I have gone further in certain respects than the Attorney General's Committee and have attempted to adapt the theory of that report to the peculiar problems incident to the licensing of radio stations and the review of decisions and orders of the Commission in licensing such stations.

Section 13

Section 13 of the bill provides for such changes in Section 405 of the present law relating to the subject of rehearings as are necessary to conform to the changes in the administrative organization of the Commission proposed in sections 2 and 3 of the bill. Further provision is made for delaying the effective date of any decision, order or requirement made in any case which is the subject of petition for rehearing until after final decision upon such petition. An attempt has also been made to eliminate doubt now prevalent concerning when his petition for rehearing must be filed before judicial review of the Commission's order can be had. Under the provisions of the amendment proposed, the petition for rehearing will not be a condition precedent to judicial review except where the party seeking such review was not a party to the proceeding before the Commission resulting in such order or where the party seeking such review relies upon questions of law or fact upon which the Commission has been afforded no opportunity to pass.

Section 14

Section 14 of the bill proposes an amendment to paragraph (a) of Section 409 of the present Act which deals with the cases heard by less than a quorum of the Commission or either division thereof. The procedure employed by the Commission in cases of this character has lead to a great deal of controversy and there has been a decided lack of uniformity both in the handling of such matters and the character of reports submitted by the hearing officer. The proposed amendment requires not only the submission of a uniform type of report setting out in detail and with particularity all basic or evidentiary facts developed as a result of the evidence taken but also conclusions of fact and law upon each issue submitted for hearing. It further makes mandatory the hearing of oral argument by the Commission or the division having jurisdiction of any case upon request of any party before the entry of a final order. The Commission or division is also required to accompany any final order with a full statement in writing of all the relevant facts as well as conclusions of law upon those facts.

Here again an attempt has been made to conform to the recommendations of the report of the Attorney General's Committee on Administrative Procedure, and these provisions, if enacted, would be wholly consistent with those recommendations or any legislation which may result therefrom.

Section 15

Section 15 of the bill proposes the addition of an entirely new section. This section is designed to curb an alleged tendency upon the part of the Commission to discriminate in a manner not authorized by the statute between applicants for broadcast and other radio facilities and to require as a condition to grants made the doing of certain acts which the Commission has no authority under the statute to require.

When the Congress enacts a law creating an administrative tribunal and defines its powers, duties and functions, we consider it as fundamental that the delegation of authority thus made must be limited by the enabling Act. Such a tribunal has and must exercise these powers which are specifically enumerated. In addition, it must exercise those powers which are necessarily incident to the exercise by it of those powers expressly enumerated. It is not, however, authorized or permitted to set itself up as a general legislative body making its own rules of conduct and decision wholly apart from and beyond the language of the statute. The tendency to do this, prevalent among virtually all administrative tribunals, has recently become very aggravated at the Commission. This, in my opinion, must be arrested by the enactment of specific legislation along the lines here suggested.

The White Bill

Be it enacted by the Senate and House of Representatives in Congress assembled, "That section 3 of Title I of the Communications Act of 1934 be amended by adding after paragraph (aa) of said section the following:

"(bb) The term "license", "station license", or "radio station license" means that instrument of authorization required by this Act, or the Rules and Regulations of the Commission enacted pursuant to this Act, for the use or operation of apparatus for the transmission of energy, or communications, or signals by radio, by whatever name the same may be designated by the Commission."

SEC. 2. Amend paragraph (b) of section 4 of said Title I by striking out the last sentence of said paragraph and by inserting in lieu thereof the following:

"Not more than four members of the Commission and not more than two members of either division thereof shall be members of the same political party."

SEC. 3. Amend section 5 of said Title I by striking out the whole of said section and by inserting in lieu thereof the following:

"(a) The members of the Commission other than the Chairman shall be organized into two divisions of three members each, said divisions to be known and designated as the Division of Public Communications and the Division of Private Communications and no member designated or appointed to serve on one division shall have or exercise any duty or authority with respect to the work or functions of the other division, except as hereinafter provided. The President shall designate the Commissioners now in office who shall serve upon a particular division but all Commissioners other than the Chairman subsequently appointed shall be appointed to serve upon a particular division and the Chairman subsequently appointed shall be appointed to serve in that capacity.

"(b) The Division of Public Communications shall have jurisdiction over all cases and controversies arising under the provisions of this Act and the rules and regulations of the Commission enacted pursuant to this Act relating to wire and radio communications intended to be received by the public directly, and shall make all adjudications involving the interpretation and application of those provisions of the Act and of the Commission's regulations.

"(c) The Division of Private Communications shall have jurisdiction over all cases and controversies arising under the provisions of this Act and the rules and regulations of the Commission enacted pursuant to this Act relating to wire and radio communications by a common carrier or carriers, or which are intended to be received by a designated addressee or addressees, and shall make all adjudications involving the interpretation and application of those provisions of the Act and of the Commission's regulations.

"(d) The whole Commission shall have and exercise jurisdiction over the assignment of bands of frequencies to the various radio services; over all matters arising under the provisions of part 2 of Title III of this Act, as amended; over all signals and communications of an emergency nature, including distress signals by ships at sea and communications relating thereto, signals and communications by police and fire departments and other like emergent signals and messages; over all signals and communications by and between amateur stations; over the qualification and licensing of all radio operators; over the adoption and promulgation of all rules and regulations of general application required or authorized by this Act, including procedural rules for the Commission and the Divisions thereof; over the selection and appointment of all officers and other employees of the Commission and the Divisions thereof; and generally over all matters with respect to which authority is not otherwise conferred by other provisions of this Act. In any case where a conflict arises as to the jurisdiction of the Commission or any division thereof, such question of jurisdiction shall be determined by the whole Commission.

"(e) The Chairman of the Commission shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the whole Commission, to represent the Commission in all matters relating to legislation

and legislative reports, to represent the Commission or any division thereof in all matters requiring conferences or communications with representatives of the public or other governmental officers, departments, or agencies and generally to coordinate and organize the work of the Commission and each division thereof in such manner as to promote prompt and efficient handling of all matters within the jurisdiction of the Commission. The Chairman of the Commission shall not be a member of or serve upon either of said divisions, except that in the case of a vacancy or the absence or inability of any Commissioner appointed to serve thereon, the Chairman may temporarily serve on either of said divisions with full power as a member thereof until the cause or circumstances requiring said service shall have been eliminated or corrected.

"(f) Each division of the Commission shall choose its own chairman, and, in conformity with and subject to the foregoing provisions of this section, shall organize its membership and the personnel assigned to it in such manner as will best serve the prompt and orderly conduct of its business. Each division shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions over which it has jurisdiction. Any order, decision, report made or other action taken by either of said divisions with respect to any matter within its jurisdiction, shall be final and conclusive, except as otherwise provided by said Communications Act of 1934 as hereby amended. The secretary and seal of the Commission shall be the secretary and seal of each division thereof.

"(g) In the case of a vacancy in the office of the Chairman of the Commission or the absence or inability of the Chairman to serve, the Commission may temporarily designate and appoint one of its members to act as Chairman of the Commission until the cause or circumstance requiring said service shall have been eliminated or corrected. During the temporary service of any such commissioner as Chairman of the Commission, he shall continue to exercise the other duties and responsibilities which are conferred upon him by this Act.

"(h) The term "Commission" as used in this Act shall be taken to mean the whole Commission or a division thereof as required by the context and the subject matter dealt with. The term "cases and controversies", as used herein, shall be taken to include all adversary proceedings whether judicial or quasi-judicial in nature, and whether instituted by the Commission on its own motion or otherwise, and the term "adjudications" means the final disposition of particular cases, controversies, applications, complaints, or proceedings involving named persons or a named res."

SEC. 4. Amend paragraph (a) of section 308 of Title III by striking out all appearing before the first proviso clause in said paragraph and inserting in lieu thereof the following:

"The Commission may grant the instruments of authorization required by this Act entitling the holders thereof to construct or operate apparatus for the transmission of energy, or communications, or signals by radio only upon written application therefor received by it."

SEC. 5. Amend section 309 of said Title III by striking out the whole of said section and inserting in lieu thereof the following:

"(a) If upon examination of any application provided for in Section 308 hereof, the Commission shall determine (1) that public interest, convenience or necessity would be served by the granting thereof, and (2) that such action would not aggrieve or adversely affect the interest of any licensee, applicant or other person, it shall authorize the issuance of the instrument of authorization for which application is made in accordance with said findings.

"(b) If upon examination of any such application the Commission is unable to make either or both of the findings specified in paragraph (a) hereof, it shall designate the application for hearing and forthwith notify the applicant and other parties in interest of such action and the grounds or reasons therefor. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest, whether originally notified by the Commission or subsequently admitted as interveners, shall be permitted to participate. Such hearing shall be preceded by a notice to all such parties in interest specifying with particularity the matters and things in issue and not including issues or requirements phrased generally or in the words of the statute.

"(c) When any instrument of authorization is granted by the Commission without a hearing, as provided in paragraph (a)

hereof, such grant shall remain subject to protest as hereinafter provided, for a period of thirty days. During such thirty-day period, any person, who would be entitled to challenge the legality or propriety of such grant under the provisions of Section 402 of this Act may file a protest directed to such grant, and request a hearing on said application so granted. Any protest so filed shall contain such allegations of fact as will show the protestant to be a proper party in interest and shall specify with particularity the matters and things in issue but shall not include issues or allegations phrased generally or in the words of the statute. Upon the filing of such protest, the application involved shall be set for hearing upon the issues set forth in said protest and heard in the same manner in which applications are heard under paragraph (b) hereof. Pending hearing and decision upon said protest, the effective date of the Commission's action to which said protest is directed shall be postponed to the date of the Commission's decision after hearing unless the authorization involved in such grant is necessary to the maintenance or conduct of an existing service, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing on said protest.

"(d) Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) the station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act; (3) every license issued under this Act shall be subject in terms to the right of use or control conferred by Section 606 hereof."

SEC. 6. Amend paragraph (b) of section 310 of said Title III by striking out the whole of said paragraph and by inserting in lieu thereof the following:

"No instrument of authorization granted by the Commission pursuant to this Act entitling the holder thereof to construct or operate radio apparatus shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such instrument of authorization, to any person except upon application to the Commission and upon a finding by the Commission that the proposed transferee or assignee possesses the qualifications required of an original permittee or licensee and is capable of constructing or operating under such instrument of authorization in the public interest, convenience and necessity. The procedure to be employed in the handling of such applications shall be that provided in Section 309 of this Act, as amended."

SEC. 7. Amend section 315 of said Title III by striking out the whole of said section and by inserting in lieu thereof the following:

"Sec. 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcast station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcast station, and the Commission shall make rules and regulations to carry this provision into effect. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."

SEC. 8. Add to said Title III the following new section:

"Sec. 330. No licensee of any radio broadcast-station shall permit the use of such station for the discussion of any public or political question whether local, State or national in its scope and application, unless the person or persons using such station shall, prior to such use, disclose in writing and deliver to the licensee the name or names of the person or persons or organization upon whose instance or behalf such broadcast is to be made or conducted. Upon the making of any such broadcast the name of the speaker or speakers using the station, together with the other information required by this section, shall be announced both at the beginning and at the end of such broadcast. Public officers, speaking as such, whether local, State, or national, and whether elective or appointive, shall be relieved of compliance with the foregoing provisions, but in all cases the licensee shall cause an announcement to be made both at the beginning and at the end of the broadcast, stating the name of the speaker, the office held by him, whether such office is elective or appointive, and by what political unit or public officer such power of election

or appointment is exercised. Where more than one broadcasting station or a network of such stations is used as herein provided, the requirements of this section will be met by compliance therewith at the station which originates such broadcast."

SEC. 9. Add to said Title III the following new section:

"Sec. 331. In all cases where public officers other than the President of the United States use a radio broadcast station for the discussion of public or political questions, the licensee of any station so used shall afford a right of reply to any person designated by the accredited representatives of the opposition political party or parties. In all cases, the right of reply herein provided shall be afforded upon the same terms and conditions as the initial discussion and the Commission shall make such rules and regulations as are necessary to carry this provision into effect."

SEC. 10. Add to said Title III the following new section:

"Section 332. No license of any radio broadcast station shall have the power to censor, alter, or in any way affect or control the political or partisan trend of any material broadcast under the provisions of Sections 315, 330 and 331 hereof: Provided, however, that no licensee shall be required under the provisions of this section or otherwise to broadcast any material for or upon behalf of any person or organization which advocates the overthrow of government by force or violence and that no licensee shall be required to broadcast any material which is slanderous or libelous or which might subject the licensee or its station to any action for damages or to a penalty or forfeiture under any local, State or Federal law or regulation. In all such cases the licensee shall have the right to demand and receive a complete and accurate copy of the material to be broadcast a sufficient time in advance of its intended use to permit an examination thereof and the deletion therefrom of any material necessary to conform the same to the requirements of this section, and the Commission shall make rules and regulations to carry this provision into effect."

SEC. 11. Amend section 326 of said Title III by inserting before the first sentence thereof a new sentence so that as amended said section shall read as follows:

"Nothing in this Act shall be understood or construed to give the Commission the power to regulate the business of the licensee of any radio broadcast station and no regulation, condition or requirement shall be promulgated, fixed or imposed by the Commission, the effect, or result of which shall be to confer upon the Commission supervisory control of station programs or program material, control of the business management of the station or control of the policies of the station or of the station licensee. Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication."

SEC. 12. Amend section 402 of Title IV by striking out the whole of said section and by inserting in lieu thereof the following:

"SEC. 402. (a) The provisions of the Act of October 22, 1913 (38 Stat. 219), as amended, relating to the enforcing or setting aside of orders of the Interstate Commerce Commission are hereby made applicable to suits to enforce, enjoin, set aside, annul or suspend any order of the Commission under this Act, (except those appealable under the provisions of paragraph (b) hereof), and such suits are hereby authorized to be brought as provided in that Act. In addition to the venues specified in that Act, suits to enjoin, set aside, annul or suspend, but not to enforce, any such order of the Commission may also be brought in the District Court for the District of Columbia.

"(b) Appeals may be taken from decisions and orders of the Commission to the Circuit Court of Appeals of the United States within any circuit wherein the appellant resides or has his principal place of business, or to the United States Court of Appeals for the District of Columbia in any of the following cases:

"(1) By any applicant for any instrument of authorization required by this Act, or by the regulations of the Commission enacted pursuant to this Act, for the construction

or operation of apparatus for the transmission of energy, or communications, or signals by radio whose application is denied by the Commission.

"(2) By any party to an application for authority to assign any such instrument of authorization or to transfer control of any corporation holding such instrument of authorization whose application is denied by the Commission.

"(3) By any applicant for the permit required by Section 325 of this Act or any permittee under said section whose permit has been modified, revoked or suspended by the Commission.

"(4) By any other person who is aggrieved or whose interests are adversely affected by any order of the Commission granting or denying any application described in subparagraphs (1), (2) and (3) hereof.

"(5) By the holder of any instrument of authorization required by this Act, or by the regulations of the Commission enacted pursuant to this Act, for the construction or operation of apparatus for the transmission of energy, or communications, or signals by radio, which instrument has been modified, revoked, or suspended by the Commission.

"(6) By any radio operator whose license has been revoked or suspended by the Commission.

"(c) Such an appeal shall be taken by filing a Notice of Appeal with the appropriate court within thirty days after the entry of the order complained of. Such Notice of Appeal shall contain a concise statement of the nature of the proceedings as to which appeal is taken; a concise statement of the reasons on which the appellant intends to rely, separately stated and numbered; and proof of service of a true copy of said notice and statement upon the Commission. Upon the filing of such notice, the court shall have exclusive jurisdiction of the proceeding and of the questions determined therein and shall have power, by order directed to the Commission or any other party to the appeal, to grant such temporary relief as it may deem just and proper. Orders granting temporary relief may be either affirmative or negative in their scope and application and may be such as to permit either the maintenance of the status quo in the matter in which the appeal is taken or the restitution of a position or status terminated or adversely affected by the order appealed from and shall, unless otherwise ordered by the court, be effective pending hearing and determination of said appeal and compliance by the Commission with the final judgment of the court rendered in said appeal.

"(d) Upon the filing of any such Notice of Appeal, the Commission shall, not later than five days after date of service upon it, notify each person shown by the records of the Commission to be interested in said appeal of the filing and pendency of the same and shall thereafter permit any such person to inspect and make copies of said notice and statement of reasons therefor at the office of the Commission in the City of Washington. Within thirty days after the filing of an appeal, the Commission shall file with the court a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order.

"(e) Within thirty days after the filing of an appeal any interested person may intervene and participate in the proceedings had upon said appeal by filing with the court a Notice of Intention to Intervene and a verified statement showing the nature of the interest of such party, together with proof of service of true copies of said Notice and statement, both upon appellant and upon the Commission. Any person who would be aggrieved or whose interests would be adversely affected by a reversal or modification of the order of the Commission complained of shall be considered an interested party.

"(f) The record upon which any such appeal shall be heard and determined by the court shall contain such information and material and shall be prepared within such time and in such manner as the court may by rule prescribe.

"(g) At the earliest convenient time the court shall hear and determine the appeal upon the record before it and shall have power upon such record to enter judgment affirming or reversing the order of the Commission. As to the findings, conclusions and decisions of the Commission, the court shall consider and decide so far as necessary to its decision and where raised by the parties, all relevant questions of (1) constitutional right, power, privilege, or immunity; (2) the statutory authority or jurisdiction of the Commission; (3) the lawfulness and adequacy of the Commission procedure; (4) findings, inferences, or conclusions of fact unsup-

ported, upon the whole record, by substantial evidence; and (5) administrative action otherwise arbitrary or capricious.

"(h) In the event that the court shall render a decision and enter an order reversing the order of the Commission, it shall remand the case to the Commission to carry out the judgment of the court and it shall be the duty of the Commission, in the absence of proceedings to review such judgment, to forthwith give effect thereto, and unless otherwise ordered by the court, to do so upon the basis of the proceedings already had and the record upon which said appeal was heard and determined. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under Section 240 of the Judicial Code, as amended, by appellant, by the Commission, or by any interested party intervening in the appeal.

"(i) The Court may, in its discretion, enter judgment for costs in favor of or against an appellant, or other interested parties intervening in said appeal, but not against the Commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof."

SEC. 13. Amend section 405 of said Title IV by striking out the whole thereof and by inserting in lieu thereof the following:

"Sec. 405. After a decision, order, or requirement has been made by the Commission or any division thereof in any proceeding, any party thereto or any other person aggrieved or whose interests are adversely affected thereby may petition for rehearing. When the decision, order, or requirement has been made by the whole Commission, the petition for rehearing shall be directed to the whole Commission; when the decision, order, or requirement is made by a division of the Commission, the petition for rehearing shall be directed to that division; petitions directed to the whole Commission requesting a rehearing in any matter determined by a division thereof shall not be permitted or considered. Petitions for rehearing must be filed within thirty days from the entry of any decision, order or requirement complained of and except for those cases in which the decision, order or requirement challenged is necessary for the maintenance or conduct of an existing service, the filing of such a petition shall automatically stay the effective date thereof until after decision on said petition. The filing of a petition for rehearing shall not be a condition precedent to judicial review of any such decision, order or requirement, except where the party seeking such review was not a party to the proceedings before the Commission resulting in such decision, order or requirement, or where the party seeking such review relies on questions of fact or law upon which the Commission has been afforded no opportunity to pass. Rehearings shall be governed by such general rules as the Commission may establish. The time within which an appeal must be taken under Section 402 (b) hereof shall be computed from the date upon which the Commission enters its order disposing of all petitions for rehearing filed in any case, but any decision, order, or requirement made after such rehearing reversing, changing, or modifying the original determination shall be subject to the same provisions as an original order."

SEC. 14. Amend paragraph (a) of section 409 of said Title IV by striking out the whole of said paragraph and by inserting in lieu thereof the following:

"(a) In all cases where a hearing is required by the provisions of this Act, or by other applicable provisions of law, such hearing shall be a full and fair hearing. Hearings may be conducted by the Commission or a division thereof having jurisdiction of the subject matter or by any member or any qualified employee of the Commission when duly designated for such purpose. The person or persons conducting any such hearing may sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Commission. In all cases, whether heard by a quorum of the Commission or a division thereof, or by any member or qualified employee of the Commission, the person or persons conducting such hearing shall prepare and file an intermediate report setting out in detail and with particularity all basic or evidentiary facts developed by the evidence as well as conclusions of fact and of law upon each issue submitted for hearing. In all cases the Commission, or the division having jurisdiction thereof, shall, upon request of any party to the proceeding, hear oral argument on said intermediate report or upon such other and further issues as may be specified by the Commission or the division and such oral argument shall precede the entry of any final decision, order or requirement. Any final decision, order or requirement shall be

accompanied by a full statement in writing of all the relevant facts as well as conclusions of law upon those facts."

SEC. 15. Add to said Title IV the following new section:

"Section 417. Penalties, denials, prohibitions and conditions other than those expressly authorized by statute shall not be exacted, enforced or demanded by the Commission in the exercise of its licensing function or otherwise and no sanctions not authorized by statute shall be imposed by the Commission upon any person. Rights, privileges, benefits or licenses authorized by law shall not be denied or withheld in whole or in part where adequate right or entitlement thereto is shown. The effective date of the imposition of sanctions or withdrawal of benefits or licenses shall, so far as deemed practicable, be deferred for such reasonable time as will permit the persons affected to adjust their affairs to accord with such action or to seek administrative reconsideration or judicial review."

Newspaper Hearings

FCC hearings on Order No. 79, concerning newspaper ownership of radio stations, were resumed Wednesday, when de Quincy V. Sutton of the Commission staff concluded his testimony covering numerous tabulations prepared by the Commission. He was followed on the stand by Dr. L. G. H. Weld, Director of Research for McCann-Erickson, New York, who explained his Radio Advertising Index and other advertising indices, and the sources of his material.

On Thursday, the morning session was taken up by the testimony of State Senator Means of South Carolina, and John M. Rivers, President of WCSC, Charleston, S. C., concerning the effect on WCSC of the ownership of WTMA by the Evening Post Publishing Co., publishers of the *Evening Post* and the *News and Courier* of Charleston. Hall T. McGee and Arthur E. Bradham, of the Evening Post Publishing Co., testified as to the joint operation of the newspapers and the radio station, stating that the newspapers were seeking to publicize the station in the community. On the point of failure to publish the program log of WCSC, Mr. McGee stated that it had been decided to publish the log as news when Senator Means made a speech in Columbia, S. C., that caused deferment of the action decided upon.

John Shepard, III, President of F-M Broadcasters, Inc., read a statement he had prepared, and which had the approval of the FMBI board, urging the Commission to give a prompt decision on pending F-M applications as the development of frequency modulation has without question, he said, been retarded by the issuance of Order No. 79.

John R. Latham, Executive Vice-President of The American Network, Inc., organized to provide F-M network program service, closed the Thursday session. He urged the elimination of F-M stations from Order No. 79, and that the Commission make a definite announcement that it will not attempt to make rules and regulations which would have the effect of preventing newspapers or newspaper interests from owning and operating F-M stations, thereby enabling The American Network to complete its organization and make high quality programs available to the F-M station associated with the network.

The hearings will continue today, when it is expected they will be recessed until mid-September.

Mr. Shepard's statement follows:

My name is John Shepard, 3rd. I reside at Brookline, Massachusetts. I am the President of FM Broadcasters, Inc., at present composed of 51 memberships held by 44 different persons or organizations. At the time the resolution, which has been introduced, was passed there were 42 members of the Association. The objects of the Association are set forth in the Certificate of Incorporation.

Among the 44 members of the Association at present there are 14 that have a newspaper connection or affiliation. Of the approximately 110 applications for commercial operation in the FM field which have been filed and either acted upon or are pending action

by the Commission, 38 are to the best of my knowledge connected or affiliated with newspapers.

Since the Association is devoted to the cause of development in the field of frequency modulation, it was directed that I appear before the Commission and present the views of our Association with respect to the Commission's Order 79 and the effect which we deemed it would have on the development of frequency modulation and the effect which would result from a determination that newspapers could not properly own FM radio stations.

We are all agreed, I believe, that FM should be encouraged. This Association is bending its every effort toward the development of FM. The Commission has expressed its desire that FM develop rapidly and firmly and it is indeed the sense of Congress, as expressed in the Communications Act of 1934, that new uses of radio in the public interest be encouraged.

For any new industry to develop, there are three primarily essential elements: the necessity for it, the method of doing it, and the means to do it with. Necessity has brought about the invention by Major Armstrong of frequency modulation and the efforts and expenditures of money by him and others have developed the method by which the necessity can be met so that now we have entered the time when the means for developing frequency modulation in the public interest is the only remaining essential element to be met.

Every entry into the FM field today contributes to its development and is a pioneer in the sense that immediate profits cannot be looked for and every source of capital is needed to help this development. Every source of nourishment withheld from a new industry is as bad as spending that much capital to halt its growth. In addition the withholding of any capital fails to encourage other capital to enter the field.

Idle frequencies cannot render a service to the public, nor can they help a new industry to develop. There will be fewer idle frequencies if all people who are qualified under the Communications Act and who are willing to develop these frequencies are allowed to do so. By the term, "qualified" we mean American citizens with the technical and financial ability to develop these frequencies and render a real service to the potential listening public. I say, "potential listening public" because it is only in those areas where service is being rendered that people are buying sets to any great extent and many of these sets are being bought on the faith of the purchaser that there will be adequate service. So long as a listener gets good service I do not believe he cares whether the licensee has other industrial or business connections as long as he is legally, financially and technically qualified under the law and is giving a good program service.

We must recognize that with all the encouragement it can get FM still has a "hard row to hoe." Every new station which goes on the air is adding competition and every denial lessens competition.

It should be borne in mind, because of the short license period of one year, it is necessary that this new development be financed by those who have an established business to provide the necessary capital.

May I at this time urge the Commission to give a prompt decision on this matter as the development of frequency modulation has without question been retarded by the issuance of Order Number 79.

BMI FEATURE TUNES

August 4 - August 11

1. I WENT OUT OF MY WAY
2. WASN'T IT YOU
3. ALL ALONE AND LONELY
4. HI, NEIGHBOR
5. YO TE AMO, OH BABY
6. MY SISTER AND I
7. BECAUSE OF YOU
8. THE RELUCTANT DRAGON

In preparation: A rhythm novelty, *Delilah*.

BMI NOTES

Sing America First

Organization during the past week of ACES (American Composers, Entertainers and Songwriters) is in keeping with the growing trend to democratize music. There is no doubt that hillbilly ballads have come into greater favor with the public as a result of BMI's open door to music. They form one of the few classifications of music which our country can claim as its very own, and as such, every effort should be made to popularize them and see that their writers are properly compensated.

Many of these writers are entertainers, but a steady income from the royalties on performances of their music helps to bridge the gap between engagements, and if they produce songs of lasting appeal, a system of performance payments provides lasting income.

Hillbilly tunes are associated with the happiest times in American life—barbecues, scenes around the campfires, maple syrup parties—hayrides. Most of them are sad and cling to themes that are born of loneliness. Now and then a bright one emerges. Of such is *You Are My Sunshine*, which, we predict, will be the first hillbilly tune to make the Hit Parade. It ranks number ten this week in national sheet music best sellers and in the mid-west has climbed to number eight.

Bonds and Music

Phil Kornheiser, now at BMI after twenty years experience as General Manager of Leo Feist, played a prominent part in the recruiting drives and in the sale of Liberty Bonds during the first World War. He was the first to mount pianos on army trucks and persuade songwriters to entertain street crowds with the performance of their new tunes. His most enthusiastic assistant was the late Will Rogers, who could sell more bonds than any ten security salesmen. When there was a lull in the purchases, Will would pick out someone in the crowd and match him to see who bought the next bond. Others who participated in the Kornheiser song parade were Eddy Cantor, Earl Carrol and Arthur Fields. Songs popularized in this way included, *Good Bye, Broadway, Hello, France*, and *Where Do We Go From Here, Boys*.

War Tunes

The war clouds have yet to produce an outstanding song. The best so far is *Til Reveille* by Bobby Worth and Stanley Cowan, and *Good Bye, Dear, I'll Be Back in a Year*, is beginning to show in the leaders. Everyone is trying hard and scarcely a day goes by at BMI when the editors do not examine a score of patriotic tunes.

The "V" campaign has inspired *V—For Victory* by Peter Van Steeden and Art McKay. The lyrics follow:

Verse: "Three dots and a dash spell 'V'
A dash and three dots spell 'B',
The 'B' for the bonds that means defense.
The 'V' is for victory, so let's commence.

Chorus: Sing V FOR VICTORY.
For democracy will win.
So let everyone begin singing
V FOR VICTORY.
Use your dollars and your sense,
Buying for our defense.
In the lowlands, in the highlands,
In the valiant British islands,
In the U. S. A. from day to day
We can see that where love of freedom rings,
V stands for Victory.
In Poland's plains, in ancient Greece,
In Norway's hills, there is no peace.
But they're all showing the hostile horde
That 'V' is mightier than the sword.

—Copyright 1941 by Broadcast Music, Inc.

New BMI Publishers

Signing of contracts with publishers continues to be an almost daily occurrence at BMI as the music of new houses, large and small, is made available to subscribers. Following the completion this week of contracts, performance, broadcasting and television rights to BMI licensees are granted in the music of L. H. Buckley; Jim Cornelius; Hollywood Hit Publishers; Musico; and Charles Rinker Music Publishing Company.

Forty-five new BMI Arrangements of public domain music have been added to the ever-growing BMI catalogue and include Kenn Sisson's arrangement of Charles B. Ward's *The Band Played On*. Also made available is the BMI Choral Edition featuring male quartet arrangements of thirty-nine BMI popular tunes.

Mother Writes—Father Publishes

One of BMI's latest offerings, *A Mother's Lullaby*, with lyrics by Ann Garrett Penn of Danville, Virginia, and music by Arthur Norris, will be featured at the National Tobacco Festival in South Boston, Virginia, and broadcast from there on September 5th. The song has been published by Richard T. Penn, husband of the lyricist, and dedicated to their son, George Rucker Penn, II. It was written during a visit to the Penn home in Danville by Mr. and Mrs. Arthur Norris. Mrs. Norris sings under the name of Lola Galli, and is the sister of Marie Gambarelli.

The words follow:

"An angel's lips from the blue above,
Brushed your blue eyes to sleep with her love;
What tender dreams did God unfold,
In your little head of downy gold.
Rest sweet, my baby, in heavenly peace,
And pray God, my dear, that your dreams shall not cease,
For your tiny eyes reveal from within,
His love for mankind and should ne'er grow dim.
The world should stop where you've begun,
With love and hate the same, dear, as one;
Your dreams are sunshine out of the sky,
So sleep well, my little one, where you lie."

—Copyright, 1941, Richard T. Penn.

Mr. Penn has addressed a card to the Program Directors of 647 radio stations carrying the picture of their little son. On it he writes:

"Just a word about the song that has been acclaimed so lovely—
"A Mother's Lullaby" was written by a mother, the mother of the baby whose picture you see on the card (our baby boy). Its beautiful melody was composed and dedicated to him by Arthur Norris, our friend. And though, neither his mother nor myself are in the music business, it is with pleasure that we cooperate with BMI in sending you a copy of our song and we hope that you and your radio audience will enjoy 'A Mother's Lullaby'."

"I Guess I'll Have to Dream the Rest"

The increasing popularity of *I Guess I'll Have To Dream The Rest* reveals another talent of Martin Block, nationally famous as the producer of *Make Believe Ballroom*. Although the song does not mark Block's first venture into Tin Pan Alley, it is his first hit. It was written by Block in collaboration with Mickey Stoner and Harold Green.

Originally introduced by Glenn Miller, *I Guess I'll Have To Dream The Rest* has been recorded by Miller, by Tommy Dorsey and Bobby Byrne. It is a favorite in the music machines throughout the country.

Block started off in the business world as office boy to Owen D. Young and remained with Mr. Young for almost three years. Thereafter he began a roving career and his jobs, never lasting more than three months, included that of clothing salesman, drug-store clerk, cloak and suiter and magazine solicitor. In the 1920's, Block decided to become a radio announcer. New York stations weren't receptive and he went to California where he worked as announcer for a group of some twenty stations. In 1935, he returned to New York and persuaded WNEW to schedule the

Make Believe Ballroom program. Today his show, broadcast twice a day, is one of the Metropolitan area's most popular attractions.

Intriguing

Delilah, a new bounce tune by Henry Manners and Jimmy Shirl, which has everybody bouncing at BMI, will be introduced next Monday night, August 4th, by Guy Lombardo. Strangely enough, it is the first tune carrying the name of an American girl since the craze set in for Latin-American music. We have had *Maria Elena*, now it's *Delilah*.

Cole Carries On

Maury Cole, head of M. M. Cole Company, is in New York to supervise his company's exhibit at the Annual Convention of the National Association of Music Merchants at the Hotel New Yorker. To satisfy current demand for new music, Mr. Cole has acquired the catalogues of P. C. Brockman, containing many familiar tunes, most of which are on records. He is now engaged in clearing this music for broadcasting.

"Popularity of radio singers with the public", Mr. Cole said, "is creating a demand for albums of their best known numbers".

Two biggest Cole songs remain *Mexicali Rose* and *I Only Want A Buddy Not A Sweetheart*, with the new tune, *Foolish*, winning favor rapidly.

Weddings

Following a long period of inactivity, romance has reared its roguish head at BMI. It may not be necessary to be in love to write love songs and to write about love songs, but apparently it helps. And apparently all of the contact with radio talent has not been left to the Contact Men's Union.

Alex Kramer, composer of *So You're the One*, *It All Comes Back To Me Now*, *High On A Windy Hill* and *My Sister And I*, is about to be married to Sally Jo Nelson. The exact date of the wedding has not been set, but according to Miss Nelson, "it will be sometime this year". A native of McKeesport, Pennsylvania, Sally Jo Nelson has won fame as a contralto singer of rhythm and ballad numbers on major network programs. She plans to continue her career after marriage.

Alan M. Fishburn, Editor of Continuity for BMI since September, 1940, will be married in October, according to present plans, to Geraldine Kay, stage and radio actress, now playing a leading part in "Orphans of Divorce" on the NBC Blue Network, and recently heard in "Second Husband" and "Manhattan at Midnight". Prior to her radio appearances, Miss Kay played with Leslie Howard in "Escape" and with Nazimova in "The Good Earth".

Mr. Fishburn is leaving BMI to become associated with NBC in Chicago as a program director and producer. He directed "Your Family and Mine" for Sealtest, Inc., over NBC and CBS networks in 1938 and 1939. In the legitimate field, he staged the American premier of T. S. Eliot's "Murder in the Cathedral", and Auden & Isherwood's "The Ascent of F-6" in 1936 and 1937 respectively. He wrote "Let's Go To Work" for WOR in 1940.

Alexander the Swoose

Alexander Swoose, that strange little animal of aquatic parentage, is finally available to all BMI subscribers. The song, popularized by Kay Kyser and others, has been licensed directly up to the present time, but now comes to BMI through the Mann Music Company.

Master Swoose is the most likeable comical character invented since Mickey Mouse and there have been reports that his adventures will be recorded in celluloid.

KROC Comments

From Cal Smith, Music Director of KROC, Rochester, Minnesota:

"You might be interested in this reaction to BMI music that I received last week when I attended a stage performance by Paul

Whiteman and his orchestra at the Orpheum Theatre in Minneapolis.

"Naturally, the Whiteman theme, *Rhapsody In Blue*, received some applause, but as the show progressed and current BMI tunes were played, the audience showed their appreciation by applauding loudly. ASCAP favorites received little and sometimes no applause. It was interesting to me to have this audience reaction to BMI, because we're 100% BMI here at KROC. Have noticed, too, that local bands broadcasting over this station more and more are getting requests to play and play again BMI owned or controlled tunes. Out hats are off to BMI and all it stands for!"

Sales

Shapiro & Schoenbrod Explain

The Shapiro & Schoenbrod Agency of Chicago solicited per-inquiry deals on behalf of Monarck Cameras and listed 18 stations as "among the many now successfully merchandising" the product. As previously reported here, investigation showed that these stations received the Monarck business from a different agency, and at full rates. Because of the widespread misunderstanding created, we publish the Shapiro & Schoenbrod reply to the NAB:

"... As to any false impressions I sincerely wish to say that there was no ulterior motive in listing 18 radio stations. . . In doing so we made no representations that Shapiro & Schoenbrod had bought time with all these stations nor had we inferred or wished to infer that these stations were on a per inquiry basis. Persons active in radio know that most of these stations listed would not accept an account under these terms. . . .

"Please believe us when we say that we are in complete accord with the policies of the NAB. However, it was the opinion of our client that there were certain types of stations during the summer whose listening audience did not merit any consistent expenditures and who nevertheless possessed markets worth consideration. It was the desire of our client to test these markets in as conservative a fashion as possible. Consequently we took the action of which you have knowledge, offering a per inquiry deal to several stations expecting that those who were interested would so advise us and the rest would merely ignore our solicitation. Any letters that we sent out were forwarded as of July 14, 1941. No more have been sent out and we do not intend to forward any more.

"It is indeed regrettable that misunderstandings have arisen, and in the future we shall endeavor to avoid any such occurrences. In closing may I say that any cooperation that you desire from Shapiro & Schoenbrod will be gladly extended."

Labor

Cost of Living

The Labor Department reports that the cost of living for wage earners and lower salaried workers increased 3.4 per cent during the three months ended June 15. The cost of living June 15 was 6 per cent higher than it was when the European war broke out.

The department's index on June 15 stood at 104.6. In this index, 100 represents the average cost of living in 1935-39.

New A. F. of M. Agreements

The networks have made new contracts with the American Federation of Musicians, covering musicians employed in New York City. They provide for employment of 130 staff musicians by NBC and half that number by CBS. The regular weekly rate for 25 hours of commercial or sustaining and commercial work is \$150.

Wage and Hour Act

Traveling time. There have been a great many questions about how to calculate *hours worked* in the case of announcers and engineers traveling for remotes. Here is the way it works:

If an employee is sent out for a single day, returning the same day, his working time is calculated from the time he leaves the studio until he returns to the studio, lunch hour excepted.

If an employee is sent out for more than one day, he is each day to be paid for his usual working day, provided he does not actually work longer than his usual time in any of his days out of town.

The Wage and Hour Division now holds that there is nothing in the Act to prevent an employer from paying an employee a lesser hourly rate for traveling time than he pays for regular time. For instance, an announcer who regularly receives \$40 for a 40 hour week (\$1 an hour) could be paid 30 cents an hour for time spent in traveling. His rate for overtime purposes then would be determined by dividing his total compensation by his total hours worked. Whether the institution of such a plan would be good personnel policy, however, is another question.

Any broadcaster having any questions about this matter should address the NAB Labor Relations Director.

New Union

A new union entered the broadcasting picture recently when NBC and CBS signed contracts with the I.A.T.S.E. (stage hands, movie operators, movie cameramen, etc.) covering certain television employees.

National Defense

First Reports Arrive

First two July National Defense Broadcast Reports to be received by NAB came from: George E. Joy, manager, WRAK, Williamsport, Pa., and Gerald J. Morey, manager, WNLC, New London, Conn. They arrived in the same mail Thursday morning. Next mail two hours later brought reports from Lester Spencer, program manager, WHIO, Dayton, Ohio; Simon Goldman, manager, WJTN, Jamestown, N. Y.; WBRK, Pittsfield, Mass., and W. A. Wilson, manager, WOPI, Bristol, Tenn.

As soon as other station executives have had sufficient time to forward reports the industry will have an outstanding story to tell. It is hoped to receive reports from all U. S. stations.

Keep 'em Flying

Seven hundred and fifty (750) stations have signified their longtime cooperation in the "Keep 'em Flying" campaign in behalf of the Army. Previously unreported cooperating stations are:

KDTH—Dubuque, Iowa
KIDW—Lamar, Colo.
KODL—The Dalles, Ore.
KGRM—Greenwood, Miss.
WHAZ—Troy, N. Y.
WILM—Wilmington, Del.

Kay Pyle, general manager, KFBI, Wichita, has a new station break announcement given at least once each hour. It is:

"KFBI, the Air Capital of the United States, Wichita, Kansas. Keep 'em Flying."

Aluminum Campaign

WSUN, St. Petersburg, Fla., did its part in the aluminum recovery drive. Besides carrying a heavy schedule of announce-

ments, the station offered the use of its mobile unit to aid in the house-to-house campaign. WSUN announcers who volunteered their services collected a variety of articles which ranged from permanent waving machines to stoves.

To launch the aluminum campaign in Los Angeles, station KRKD arranged a broadcast from the steps of the Los Angeles City Hall. After Mayor Fletcher Bowron officially declared the aluminum drive open a group of Girl Scouts each deposited a piece of scrap aluminum in a huge bin, thereby making natural sound effects for KRKD's microphone. Other speakers on the show were Lucille Ball, Ann Shirley, Helen Gahagan, Sol Lesser and various civic leaders. George Hjelte, director of the Los Angeles City Playground and Recreation Department, was chairman of the Los Angeles Aluminum Drive.

New ND Sustainers

WRVA, Richmond, is presenting a weekly series of national defense dramatizations from the studio. This, wrote Walter R. Bishop, director of public relations, is in addition to your spot announcements.

KROD, El Paso, Texas, has a new show, "Calling All Men," each Monday, Wednesday and Friday for the exclusive purpose of publicizing various ND releases. Shows are each a quarter hour, wrote William Jolesch, director of publicity, "and we believe that much benefit will result in the El Paso-Southwest listening area."

Muzak License

In connection with Neville Miller's statement (NAB REPORTS, p. 595) about the license granted by the FCC to the Muzak Corporation, Muzak says:

"Muzak will not use radio as a means of transmitting its musical program to restaurants and hotels. This is a special service and will be continued as such over telephone lines. The air will be used solely for transmitting programs to the general public. Such a service is not possible over telephone lines at costs low enough to enable the public to obtain the service.

"It has never been our thought that the program service which we will give the public will serve as a substitute for the fine programs furnished the public by advertising sponsors. Our program will be so to speak a standby service always available to those who are not interested in the sponsored programs available from time to time. In fact we shall probably remind our subscribers from time to time or call their attention to radio programs of special interest. Likewise our news service will be supplemental to other news broadcasts, merely keeping our subscribers informed of the most recent news."

FEDERAL COMMUNICATIONS COMMISSION

Noncommercial FM for Chicago

The Chicago Board of Education was granted a construction permit for a new noncommercial educational broadcast station to serve the elementary, high school, junior college, and adult educational classes in that city's public school system. The station, which will use FM (frequency modulation) emission, is authorized to operate on 42,500 kilocycles with power of 1000 watts.

The Board of Education which now broadcasts approximately 25 programs each week over local standard broadcast stations, proposes to use the noncommercial service to transmit scholastic programs during school hours, and for perhaps one hour in the evening on five days a week. Subjects will embrace music, art, science, literature, news, social studies, safety, national defense, and Pan Americanism. The board has appropriated \$10,750 for this purpose. The transmitter will be at 228 North LaSalle Street.

This is the seventh station of its kind which the Commission has authorized to date.

FM Towers

The FCC made the following statement concerning the location of antennas for high frequency (FM) broadcast stations on tower radiators of standard broadcast stations:

The purpose of the following is to clarify the Commission's requirements regarding the common location of antennas for high frequency (FM) broadcast stations with those of standard broadcast station.¹

The Commission will consider an application for authority to install the high frequency antenna in accordance with the principles set forth in the rules and standards for high frequency broadcast stations independently of the operating and economic advantages which obtain through common location of two stations. If the site and antenna system comply with the Commission's rules certain additional requirements must be met in order to insure that the operation of the standard broadcast station is not adversely affected.

In the instance where the standard broadcast station involved employs a non-directional antenna the licensee will be required to file FCC Form No. 306 giving new resistance measurements after the installation and testing of the high frequency broadcast antenna. During the installation of the antenna and until the new resistance determination is approved, the licensee should apply for authority to operate the station by the indirect method of power determination (informal application). Applications for license for the associated high frequency broadcast station will not be considered until Form 306 is filed for the standard broadcast station.

When it is proposed to install a high frequency antenna on one element of a standard broadcast directional antenna, it will be necessary to file application for modification of construction permit for the standard broadcast station with the application for construction permit for the high frequency broadcast station. The granting of the modification for the standard station will, of course, be contingent upon the granting of the construction permit for the high frequency broadcast station. FCC Form No. 304 should include a complete engineering study setting forth fully the effect of the high frequency antenna upon the operation of the standard broadcast antenna system. Depending on the individual case the Commission may require certain field measurements on the standard broadcast station following the installation of the high frequency (FM) antenna system. The application for license to cover the construction permit for the FM station will not be considered until the licensee has made a satisfactory showing with Form 302 that the installation of the FM antenna has not adversely affected the operation of the standard broadcast station.

The installation of the high frequency antennas on towers of standard broadcast stations may require certain additional lighting. The applicant should supply complete information showing the mechanical details thereof so that the additional hazard to air navigation may be evaluated together with the additional lighting which may be required.

From the FCC Mail Bag

A certain West Coast amateur sent the Federal Communications Commission a routine application for modification of license to permit change of address. Not realizing that the Commission's routine functioning has to be subordinated to more important duties in connection with the national defense, this amateur became impatient that he did not receive instant action and sent a follow-up "letter" transcribed on a phonograph record. After the necessity of playing it to see what it was all about, the Commission attached the disk to the "ham's" application papers.

A certain broadcast station asks whether its customary use of the Morse Code "V" before and after news broadcasts is complicated by the fact that this symbol has become a victory signal by Great Britain in her war efforts. The Commission has no reason to believe that continued use of this symbol by the station in question violates any law or is contrary to the public interest.

"Has a person who has been convicted of a felony and has served the prison sentence imposed the right to make application

¹ See Section 3.45 (e) of the Rules Governing Standard and High Frequency Broadcast Stations and Section 19 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

for a radio operator's license?" a Californian asks. The Commission replies:

"Section 303(1) of the Communications Act of 1934, as amended, provides that the Commission shall 'have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens of the United States as the Commission finds qualified.' The Act does not specifically prohibit the issuance of a radio operator's license to one convicted of a felony, unless, of course, loss of the individual's United States citizenship resulted from such conviction. The duty of determining the qualifications of any applicant for an operator's license is, however, imposed upon the Commission, and in the fulfillment of that duty all of the facts concerning any particular application must be weighed. In any event, there is no statutory bar to the filing of an application for license by such person."

Add radio program suggestions which the Commission itself cannot consider, though advising the parties to write to stations or networks direct:

Suggestion by a Salisbury, Md., resident that newspapers and radio stations be restricted in the publishing of vivid accounts of airplane disasters.

Suggestion by an Atlanta listener than an announcement be made before and after each newscast originating abroad that such broadcast has been censored.

A representative of a certain labor union writes the Commission:

"I wish to congratulate the Federal Communications Commission on the statement made in the last paragraph of your notice dated July 15, 1941, and addressed to Shipowners, Ship Masters, Radiotelegraph Operators, and others concerned, in which you make it clear that the suspension of the Six Months Law for marine Radio Officers does not mean that inexperienced men should be employed when experienced men are available. That is a very fine statement and you deserve credit for making it public, and I thank you for it."

FCC Assignments

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

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

FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be held before the Commission during the week beginning Monday, August 4. They are subject to change.

Tuesday, August 5

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, **920 kc.**, 500 watts night, 1 KW day, S-KUSD.
NEW—Triple-Cities Broadcasting Co., Inc., Binghamton, N. Y.—C. P., **1420 kc.**, 250 watts, unlimited time.

Wednesday, August 6

KGLU—Gila Broadcasting Co., Safford, Ariz.—Renewal of license, **1450 kc.**, 250 watts, unlimited time.

Thursday, August 7

WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—C. P., **1110 kc.**, 50 KW, unlimited time, DA-night. Present assignment: **1110 kc.**, 50 KW, unlimited time.
KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—C. P., **1110 kc.**, 50 KW, unlimited time, DA-night. Present assignment: **780 kc.**, 10 KW, simultaneously day, S-WBBM-N, S.A. synchronized with WBBM-N—Exp.
WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Modification of license, **770 kc.**, 50 KW, unlimited time. Present assignment: **780 kc.**, 50 KW, simultaneously day, S-KFAB-N, S.A. synchronized with KFAB-N—Exp.
WJAG—The Norfolk Daily News, Norfolk, Nebr.—C. P., **770 kc.**, 1 KW, daytime. Present assignment: **1090 kc.**, 1 KW, limited to WBAL and WTIC.

FUTURE HEARINGS

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

August 27

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Renewal of license, **990 kc.**, 1 KW, daytime.
WRDO—WRDO, Incorporated, Augusta, Maine.—Renewal of license, **1400 kc.**, 100 watts, unlimited time.

August 28

NEW—West Allis Broadcasting Co., West Allis, Wis.—C. P., **1480 kc.**, 250 watts, daytime.
KMA—May Broadcasting Co., Shenandoah, Iowa.—Renewal of license, **960 kc.**, 1 KW night, 5 KW day, unlimited time.

September 3

To Be Held in Atlanta, Georgia

WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), **920 kc.**, 1 KW night, 5 KW LS, unlimited time.

September 18

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—C. P., **1060 kc.**, 10 KW, unlimited time, DA-day and night. Present assignment: **1100 kc.**, 250 watts, unlimited time.

September 22

WJPR—John R. Pepper, Greenville, Miss.—C. P., **1600 kc.**, 1 KW, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

WFAM, Inc., LaFayette, Ind.—Granted construction permit for a new station to operate on **1230 kc.**, 100 watts, unlimited time. Exact transmitter site and antenna system to be determined subject to Commission's approval. To use old WFAM call letters (B4-P-3146).

Howard H. Wilson, Oshkosh, Wisc.—Granted construction permit for new station to operate on **1490 kc.**, 250 watts, unlimited time (B4-P-3110).

Trent Broadcast Corp., Trenton, N. J.—Granted construction permit, conditioned upon certain interference precautions, for a new station to operate on **920 kc.**, 1 KW power, unlimited time, using directional antenna day and night (B1-P-2861).

Board of Education, City of Chicago, Chicago, Ill.—Granted construction permit for new noncommercial educational broadcast station to operate on **42500 kc.**; emission: special for frequency modulation, 1 KW power, unlimited time (B4-PED-22).

KUTA—Utah Broadcasting Co., Salt Lake City, Utah—Granted modification of construction permit (B5-P-2342) to increase day power to 5 KW, make changes in equipment, changes in directional antenna and move transmitter to North Lake St. and Midland Ave. (9 miles north of main business district of Salt Lake City), extend commencement date to 60 days after grant and completion date to 180 days thereafter (Station operates on **570 ks.**, 250 watts, unlimited time, with C. P. for 1 KW, unlimited time, DA night and day.) (B5-MP-1248).

WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Granted construction permit to change frequency from **1480 to 590 k.**; increase power from 500 watts night, 1 KW day, to 5 KW day and night; install new equipment and directional antenna for night use, and move transmitter to 4 miles northwest of Atlanta between Gun Club Road and Sweat Drive (B3-P-2938).

KVOD—Colorado Radio Corp., Denver, Colo.—Granted construction permit to install a new transmitter, increase power from 1 to 5 KW, and make changes in directional antenna for day and night use, same pattern day and night; **630 kc.** (B5-P-2663).

KMYR—F. W. Meyer, Denver, Colo.—Granted modification of license to increase night power from 100 to 250 watts; **1340 kc.**, 250 watts day, unlimited time (B5-ML-1074).

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted modification of license to increase time of operation to unlimited; **1390 kc.**, 500 watts night, 1 KW LS (Sundays), C. P. for 5 KW unlimited time, (DA) (B4-ML-1082).

KTEC—Tulare-Kings Counties Radio Associates, Visalia, Calif.—Granted construction permit to change frequency from **920 to 940 kc.**, increase power from 1 to 5 KW day and night, make changes in directional antenna system for day and night use and install new transmitter, upon condition that applicant takes care of all blanketing complaints (B5-P-3159).

KITE—First National Television, Inc., Kansas City, Mo.—Granted renewal of license on a temporary basis for a period of 60 days; **1590 kc.**, 1 KW, unlimited time (B4-R-1019).

KWAL—Chester Howarth and Clarence Berger (Assignors), Silver Broadcasting Company (Assignees), Wallace, Idaho—Granted consent to assignment of license of station KWAL from Chester Howarth and Clarence Berger, to Silver Broadcasting Co.; station operates on **1450 kc.**, 250 watts, unlimited time (B5-AL-308).

WHIP—Hammond-Calumet Broadcasting Co., Hammond, Ind.—Granted renewal of license for station WHIP and construction permit, subject to certain engineering requirements, to change hours of operation from specified to unlimited, and install directional antenna for both daytime and nighttime use; **1520 kc.**, 5 KW power (B4-P-2399—Docket 5863).

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Texas—Granted renewal of license for station KGFI upon a regular basis for the period ending December 1, 1941, in lieu of the temporary license under which station is now operating. Station has now furnished the Commission satisfactory evidence of the fact that James G. Ulmer has been completely eliminated from any connection whatsoever with the station and will not in the future be associated or connected therewith.

WCAB—WCAU Broadcasting Co., Newton Square, Pa.—Granted request to extend effective date of Sec. 4.45 of the Commission's Rules as it applies to WCAB to October 25, 1941 (This section requires all international stations to operate with power of not less than 50 KW; station WCAB now uses 10 KW).

WCBX—Columbia Broadcasting System, Inc., near Wayne, N. J.—Granted request to extend effective date of Sec. 4.45 of the Commission's Rules as it applies to WCBX to October 25, 1941 (This section requires all international stations to

operate with power of not less than 50 KW; station WCBX now uses 10 KW).

RENEWAL OF LICENSES

The following stations were granted renewal of licenses on a regular basis: KALE, Portland, Ore.; KGCX, Wolf Point, Mont.; KGER, Long Beach, Cal.; WBBR, Brooklyn, N. Y.; WHAZ, Troy, N. Y.; WHOM and auxiliary, Jersey City, N. J.; WLWL, Minneapolis, Minn.

WORK—York Broadcasting Co., York, Pa.—Present license extended upon a temporary basis only for the period August 1 to September 1, pending determination upon application for renewal (B2-S-805).

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Present license extended upon a temporary basis only for the period August 1 to September 1, pending determination upon application for renewal (B4-S-494).

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Present license extended upon a temporary basis only for the period August 1 to September 1, pending determination upon application for renewal (B4-S-494).

KELA—Central Broadcasting Corp., Chehalis, Wash.—Present license extended upon a temporary basis only, pending determination upon application for renewal of license, for the period August 1 to October 1, 1941 (B5-S-949).

KCRC—Enid Radiophone Co., Enid, Okla.—Present license extended upon a temporary basis only, pending determination upon application for renewal of license, for the period August 1 to October 1, 1941 (B3-S-465).

KSRO—Ernest L. Finley, Santa Rosa, Cal.—Present license extended upon a temporary basis only, pending determination upon application for renewal of license, for the period August 1 to October 1, 1941 (B5-S-939).

WCNW—Arthur Faske, Brooklyn, N. Y.—Present license extended upon a temporary basis only, for the period August 1 to September 1, 1941, pending receipt and determination upon application for renewal of license (B1-S-216).

WKAT (Aux.)—A. Frank Katzentine, Miami Beach, Fla.—Present license extended upon a temporary basis only, for the period August 1 to September 1, 1941, pending receipt of and determination upon application for renewal of license (B3-S-947).

WWRL—Long Island Broadcasting Corp., Woodside (L. I.), New York—Present license extended upon a temporary basis only, for the period August 1 to September 1, 1941, pending receipt of and determination upon application for renewal of license (B1-S-271).

DESIGNATED FOR HEARING

Cuyahoga Valley Broadcasting Co., Cleveland, Ohio—Application for new station to operate on **1300 kc.**, 1 KW, daytime only (B2-P-1897).

Tidewater Broadcasting Co., Norfolk, Va.—Application for new station to operate on frequency **1490 kc.**, 250 watts power, unlimited time (B2-P-3127).

R. M. Wallace and G. E. Schnibben, d/b as Norfolk County Broadcasting Co., Norfolk, Va.—Application for new station to operate on **1490 kc.**, 250 watts, unlimited time. Exact site to be determined subject to Commission's approval (B2-P-3209).

Portsmouth Radio Corp., Portsmouth, Va.—Application for new station to operate on **1490 kc.**, 250 watts, unlimited time (B2-P-3097). This application will be heard together with applications of Tidewater Broadcasting Co. and Norfolk County Broadcasting Co., listed above.

Seaboard Broadcasting Corp., Tampa, Fla.—Application for construction permit for new station to operate on **1590 kc.**, 1 KW, unlimited time (B3-P-2813).

WTNJ—WOAX, Inc., Trenton, N. J.—Application for modification of license (B1-ML-1084), for unlimited time (facilities of WCAM and WCAP, with which it shares time on **1310 kc.**), to be heard in consolidation with application of WDAS, Philadelphia, to use **1260 kc.** (Docket 6049); WCAM, Camden, N. J., for renewal and modification of license (Dockets 5361 and 6144); WCAP, Asbury Park, N. J., for renewal and modification of license (Dockets 5778 and 6145).

MISCELLANEOUS

- WING—Great Trails Broadcasting Corp., Dayton, Ohio.—Granted special temporary authority to conduct point to point communication service over station WING for five-minute periods on the hour, beginning at 8 a. m. EST, and ending at 2 p. m. EST, July 24, 1941, only, in order to allow Mayor Brennan and his committee to issue instructions to the 1600 women and 1600 girl and boy scouts, each equipped with a portable radio, who are participating in the Dayton National Defense Aluminum Collection Day activities.
- City of New York, Municipal Broadcasting System, N. Y.—Granted special temporary authority to operate regularly licensed relay broadcast station at the Statue of Liberty National Monument, Bedloes Island, for the purpose of transmitting program material to station WNYC in connection with ceremonies at the Ninety-second Anniversary of Emma Lazarus, arranged by the National Park Service and American Committee for the Foreign Born, on July 22, 1941, only, waiving Section 4.21 as it precludes use of relay broadcast station where wire facilities are available.
- WCAM-WCAP—City of Camden, N. J.; Radio Industries Broadcast Co., Asbury Park, N. J.; WTNJ—WOAX, Inc., Trenton, N. J.—Continued hearing in re applications of WCAM and WCAP for renewals and modification of licenses and WTNJ for renewal of license, now scheduled for July 25, 1941, until a date to be hereafter fixed by further order of the Commission.
- Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Granted petition for leave to amend application for FM station to change frequency from 43100 ke. to 46100 ke., and mileage from 20,437 to 10,000 square miles, and application removed from hearing docket.
- WRDO—WRDO, Inc., Augusta, Maine.—Motion for 60-day postponement of hearing on application for renewal of license, now scheduled for July 28, granted for a period of 30 days.
- Symons Broadcasting Co., Ellensburg, Wash.—Petition to dismiss without prejudice application for new station to operate on 1110 ke., 1 KW, unlimited time, granted.
- KMA—May Broadcasting Co., Shenandoah, Iowa.—Motion for 60-day continuance of hearing of application for renewal of license now scheduled for July 28, granted for period of 30 days.
- WGST—Georgia School of Technology, Atlanta, Ga.—Motion to continue the hearing on application for renewal of license now scheduled for August 1, granted for September 3.
- WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted modification of license to increase power of auxiliary transmitter from 1 KW night, 5 KW LS, to 5 KW day and night using DA at night (B4-ML-1078). Also granted authority to determine operating power by direct measurement of antenna input (B4-Z-1149).
- WYNE—Board of Education, City of New York, Brooklyn, N. Y.—Granted modification of construction permit (B1-PED-18, which authorized change in equipment, frequency, emission and power) for change in type of transmitter, and extension of commencement date to 90 days after grant and completion date to 180 days thereafter, respectively (B1-MPED-6).
- WEIM—Ruben E. Aronheim, Fitchburg, Mass.—Granted modification of construction permit (B1-P-3061, authorizing a new station to operate on 1340 ke., 250 watts, unlimited time) for approval of antenna and approval of transmitter site at Summer St., Fitchburg, Mass. (B1-MP-1338).
- WJZM—Wm. D. and Violet Hutton Hudson, Clarksville, Tenn.—Granted modification of construction permit (B3-P-2983 for a new station to operate on 1400 ke., 250 watts, unlimited time) for approval of antenna, transmitter, studio site and transmitter site (B3-MP-1313).
- WSO—Paducah Broadcasting Co., Inc., Henderson, Ky.—Granted modification of construction permit (B2-P-3149 for new station to operate on 860 ke., 250 watts, daytime), for approval of studio and transmitter location on Zion Road, SE of Henderson, and approval of antenna (B2-MP-1357).
- WINC—Richard Field Lewis, Jr., Winchester, Va.—Granted license to cover construction permit for new station to operate on 1400 ke., 250 watts, unlimited time (B2-L-1452). Also granted authority to determine operating power by direct measurement of antenna power (B2-Z-1161).
- WTAL—Fla. Capitol Broadcasters, Inc., Tallahassee, Fla.—Granted license to cover construction permit (B3-P-3175) which authorized changes in transmitting equipment (B3-L-1443).
- KECA (Aux.)—Earle C. Anthony, Inc., Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1162).
- KFI (Aux.)—Earle C. Anthony, Inc., Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1154).
- WERC—Presque Isle Broadcasting Co., Erie, Pa.—Granted license to cover construction permit (B2-P-2251, for new station), 1490 ke., 100 watts night, 250 watts, unlimited time (B2-L-1441). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-1143).
- WDBJ—Times-World Corp., Roanoke, Va.—Granted license to cover construction permit (B2-P-2522), for installation of DA for night use, increased power, approval of transmitter location at present site, 960 ke., 5 KW, unlimited time, DA night (B2-L-1445). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-1148).
- WKST—WKST, Inc., New Castle, Pa.—Granted license to cover construction permit (B2-P-2809, for installation of DA for night use, increase in hours of operation and power, change in frequency under NARBA, 1280 ke., 1 KW, unlimited time, DA (B2-L-1449). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-1157).
- WPEN—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Granted license to cover construction permit (B2-P-2658, for installation of new transmitter, changes in DA system, and increase in power to 5 KW (B2-L-1446). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-1150).
- WHN—Marcus Loew Booking Agency, New York City.—Granted construction permit to make changes in present auxiliary transmitter and move to site of new main transmitter, E. Rutherford, N. J. (B1-P-3232).
- KOB—Albuquerque Broadcasting Co., Albuquerque, New Mexico.—Granted modification of construction permit (B5-P-2785, for new transmitter, increase in power from 10 to 50 KW), for extension of completion date to August 5, 1941 (B5-MP-1346).
- WRC—National Broadcasting Co., Inc., Washington, D. C.—Granted license to cover construction permit (B1-P-243, which authorized increase in power and installation of DA for night use, 980 ke., 5 KW, unlimited time, DA-N) (B1-L-1450). Also granted authority to determine operating power by direct measurement of antenna power (B1-Z-1158).
- W2XBB—Bamberger Broadcasting Service, Inc., New York, N. Y.—Granted modification of construction permit as modified for new television broadcast station, for extension of commencement and completion dates from January 22, 1941, and July 22, 1941, to August 22, 1941, and January 22, 1942, respectively (B1-MPVB-51).
- WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—Granted modification of construction permit (B1-P-2902 for new transmitter, installation of DA for day and night use, increase in power and move of transmitter) for extension of completion date to October 17, 1941 (B1-MP-1342).
- WGN—WGN Broadcasting Co., Inc., Newburgh, N. Y.—Granted modification of construction permit (B1-P-2948, for new transmitter, increase in power, change in frequency) for authority to install modulation monitor and automatic frequency control equipment (B1-MP-1353).
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted modification of construction permit (B2-P-2547, to install new transmitter and DA for night use, increase power, change in hours of operation) for authority to install new transmitter (B2-MP-1348).
- KTBI—Tacoma Broadcasters, Inc., Tacoma, Wash.—Granted modification of construction permit (B5-P-2028, for a new station) for approval of antenna, of transmitter site at 204 S. 11th St., Tacoma; change in type of transmitting equipment to be installed, and for 1490 ke., and 250 watts power (B5-MP-1341).
- KRKO—The Everett Broadcasting Co., Inc., Everett, Wash.—Granted license to cover construction permit (B5-AF-33, for new transmitter, vertical antenna, increase in power, move of transmitter and change in hours of operation), 1400 ke., 100 watts night, 250 watts LS, S-KEVR (B5-L-1444). Also granted authority to determine operating power by direct measurement of antenna input (B5-Z-1147).

- KGMB—Hawaiian Broadcasting System, Ltd., Honolulu, T. H.—Granted license to cover construction permit (B-P-3069, which authorized move of formerly licensed RCA 1-D, 1 KW, transmitter from fronting on Kapiloani Blvd., Honolulu, to Kapiolani Blvd., Honolulu, for use as auxiliary transmitter for emergency purposes only (B-L-1454).
- WMIS—Natchez Broadcasting Co., Natchez, Miss.—Granted license to cover construction permit (B3-P-2999, for new station), 1490 kc., 250 watts, unlimited time (B3-L-1426). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-990).
- Southern California Broadcasting Co., Pasadena, Cal.—Granted petition for leave to amend application for construction permit to change transmitter site, etc., and removed application from hearing docket.
- Edward Tom O'Brien, David Shepard, Howard S. Johnson and John W. Boler, d/b as Brainerd-Bemidji Broadcasting Co., Brainerd, Minn.—Granted petition to amend application for new station to change frequency from 1550 to 1400 kc.; power from 1 KW to 250 watts, unlimited time, on condition that amendment be filed within 10 days from date; the application removed from hearing docket and severed from that of the Gazette Co., Cedar Rapids, Ia., Docket 5330.
- WBNX—WBNX Broadcasting Co., Inc., New York City—Petition for leave to amend application for new FM station to change frequency from 47500 to 48300 kc., granted; request to remove from hearing docket, dismissed.
- KFEQ—KFEQ, Inc., St. Joseph, Mo.—Granted petition to intervene in the hearing on application of KWK, St. Louis, for authority to operate on 680 kc., 50 KW, unlimited time, DA day and night.
- KMO—Carl E. Haymond, Tacoma, Wash.—Granted modification of construction permit (B5-P-2707), for new transmitter, increase in power to 5 KW and changes in antenna) for extension of completion date to Oct. 22/41 (B5-MP-1350).
- KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Granted license to cover construction permit (B5-P-2848, for increase in power, installation of DA for night use) (B5-L-1455). Also granted authority to determine operating power by direct measurement of antenna input (B5-Z-1165).
- WIBC—Indiana Broadcasting Corp., Indianapolis, Ind.—Granted license to cover construction permit (B4-P-2886) for new transmitter and directional antenna for night use, move of transmitter, increase power, and change in hours; 1070 kc., 1 KW night, 5 KW LS, unlimited time (B4-L-1448). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-1152).
- WSPA—Spartanburg Advertising Co., Spartanburg, S. C.—Granted license to cover construction permit (B3-P-2901), which authorized installation of DA for night use; change hours of operation from daytime to unlimited; increase power from 1 KW to 1 KW night, 5 KW LS, installation of new transmitter and move of transmitter (B3-L-1447). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-1151).
- WBNS—WBNS, Inc., Columbus, Ohio—Granted authority to determine operating power of auxiliary transmitter by direct measurement of antenna input (B2-Z-915).
- KGU—Marion A. Mulrony and Advertiser Publishing Co., Ltd., Honolulu, T. H.—Granted authority to determine operating power by direct measurement of antenna input (B-Z-1168).
- WQAM—Miami Broadcasting Co., Miami, Fla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1153).
- KINY—Edwin A. Kraft, Juneau, Alaska.—Granted authority to determine operating power by direct measurement of antenna input (B-Z-1153).
- WKAT—A. Frank Katzentine, Miami Beach, Fla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1027).
- KELA—Central Broadcasting Corp., Centralia-Chehalis, Wash.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1133).
- KFPL—C. C. Baxter, Dublin, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1083).
- WQAN (Aux.)—The Scranton Times (A Corp.), Scranton, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-1064).
- WJBW—Charles C. Carlson, New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1159).
- WEVD—Debs Memorial Radio Fund, Inc., New York City.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-998).
- WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-859).
- KGKB—East Texas Broadcasting Co., Tyler, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-1172).
- KITE—First National Television, Inc., Kansas City, Mo.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-1136).
- KPDN—R. C. Hoiles, Pampa, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1086).
- WMSD—Muscle Shoals Broadcasting Corp., Muscle Shoals City, Ala.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1052).
- KVIC—Radio Enterprises, Inc., Victoria, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1123).
- KEX—Oregonian Publishing Co., North Portland, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1059).
- WWVA—West Virginia Broadcasting Corp., Wheeling, W. Va.—Granted extension of special temporary authority to operate on unlimited time basis for period not to exceed 30 days beginning July 24 and ending no later than Aug. 22 (B2-S-379).
- WOWO—Westinghouse Radio Station, Inc., Ft. Wayne, Ind.—Granted extension of special temporary authority to operate unlimited time for the period July 24 to Aug. 22 (B4-S-492).
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate with composite 100-watt broadcasting transmitter on 1070 kc. during regularly licensed hours of operation for a period not to exceed 30 days, while main transmitter is being moved to new location and proof of performance tests are being conducted in accordance with construction permit (B4-S-924).
- WCKY—L. B. Wilson, Inc., Cincinnati, Ohio.—Granted extension of special temporary authority to operate daytime with a nondirectional antenna until sunset at Sacramento, for a period beginning July 26 and ending no later than August 24.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate from sign-off time (July 7:30 P. M. CST) to 9:30 P. M., CST, July 25 and 26, for the purpose of broadcasting certain portions of Kendall County Centennial Celebration (B4-S-995).
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Denied extension of special temporary authority to operate from local sunrise at Glenside, to local sunrise at Knoxville, Tenn. (Station WNOX), instead of daytime as stipulated in reallocation, for the period July 27 to Aug. 25, pending action on formal application for such authority (B2-S-339).
- KGEK—Elmer G. Beehler, Sterling, Colo.—Denied request for special temporary authority to operate from 8 P. M. to 9:30 P. M., MST, on Thursday nights, August 7, 14, 21, 28, 1941, in order to broadcast band concerts.
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate additional time from 8 P. M., CST, to conclusion of Zivic-Cochrane bout on July 28 and Soose-Abrams bout on July 30, 1941, only, using 500 watts only.
- WHCU—Cornell University, Ithaca, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-1105).
- WTBO—Asso. Broadcasting Corp., Cumberland, Md.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-888).
- WETH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted authority to install automatic frequency control equipment (B2-F-227).
- WCCO—Columbia Broadcasting System, Inc., Minneapolis, Minn.—Granted authority to install automatic frequency control equipment (B4-F-229).

WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Granted authority to install automatic frequency control equipment (B2-F-230).

W7INY—Bamberger Broadcasting Service, Inc., New York City.—Granted special temporary authority to operate FM station commercially on **47100 kc.**, 10 KW, at 444 Madison Ave., New York City, for period of 30 days pending completion of antenna construction in accordance with construction permit (B1-PH-45, B1-MPH-8).

W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate a FM experimental broadcast station on **43200 kc.**, 2500 watts, special emission for FM, with transmitter located at New Scotland, N. Y., for the period July 29 to August 28, 1941.

W47A—The Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted extension of special temporary authority to operate with main studio at the transmitter of high frequency broadcast station W47A for a period of 30 days beginning July 31, 1941, and ending not later than August 29, 1941, pending completion of ST transmitter at main studio specified in construction permit.

WNBW—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate relay broadcast station WNPM on additional frequencies of **4797.5, 6125, 9135, 12862.5 and 17310 kc.** with a 500-watt NBC composite transmitter, Type P-500-A, Serial No. 1, crystal control, high level modulation, with 4 RCA-850 tubes in the last radio stage under the permissive proviso of section 308(a) of the Communications Act of 1934, as amended, aboard the *S. S. Brazil*, while en route from New York City to Buenos Aires, and the *S. S. Argentina*, while en route from Buenos Aires to New York City, only, for a period of 75 days, beginning August 1, 1941, and ending not later than October 14, 1941, in order to relay to station WJZ and the NBC Blue Network program material to be used in the series of programs entitled "News of the Americas" (provided no interference is caused any other radio service).

WKEU—Radio Station WKEU, Griffin, Ga.—Granted special temporary authority to operate from sign-off time (July 6:45 p. m., CST), to 10 p. m., EST, on July 24, in order to broadcast program for Chamber of Commerce in cooperation with National Defense Aluminum Collection Drive, only (B3-S-819).

WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited to a minimum of 8 hours daily, for period August 4 to September 24, in order to observe vacation period between regular University sessions.

Burlington Broadcasting Co., Burlington, N. C.—Placed in pending files pursuant to Order No. 79, application for new station to operate on **1280 kc.**, 500 watts, daytime (B3-P-2490, Docket No. 5781).

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Denied petition to reconsider and grant without hearing the application for construction permit to change transmitter site, install new technical equipment and directional antenna system for nighttime use, and change operating assignment from **1400 kc.** to **1260 kc.**, increase power from 250 watts, unlimited to 5 KW day, 1 KW night (B2-P-3115, Docket No. 6049).

WENY—Elmira Star-Gazette, Inc., Elmira, N. Y.—Denied petition to reconsider and grant application for construction permit to use frequency **590 kc.** with power of 1 KW, unlimited time, in lieu of present operation on **1200 kc.** with power of 250 watts, unlimited (Docket No. 6087).

APPLICATIONS FILED AT FCC

610 Kilocycles

WLAD—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Construction permit to increase power from 250 watts to 1 KW, using directional antenna night, install new transmitter and directional antenna, and change frequency from **1450 kc.** to **610 kc.**

640 Kilocycles

WHKC—United Broadcasting Co., Columbus, Ohio.—Construction permit to install new vertical antenna system and change transmitter site.

670 Kilocycles

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Construction permit to make changes in transmitter.

760 Kilocycles

WJR—WJR, The Goodwill Station, Detroit, Mich.—Authority to determine operating power by direct method for auxiliary transmitter.

930 Kilocycles

WBEN—WBEN, Inc., Buffalo, N. Y.—License to cover construction permit (B1-P-2757) as modified, for increase in power, installation of new transmitter and directional antenna for night use, and move of transmitter.

WBEN—WBEN, Inc., Buffalo, N. Y.—Authority to determine operating power by direct method.

1000 Kilocycles

KJR—Fisher's Blend Station, Inc., Seattle, Wash.—Authority to determine operating power by direct method.

1090 Kilocycles

WBAL—WBAL Broadcasting Co., Baltimore, Md.—Modification of construction permit (B1-P-2200) as modified, for installation of new transmitter and directional antenna for night use, change in hours of operation, increase in power, and move of transmitter, requesting changes in transmitting equipment.

WBAL—WBAL Broadcasting Co., Baltimore, Md.—License to cover construction permit (B1-P-2200) as modified, for installation of new transmitter and directional antenna for night use, change in hours of operation, increase in power, and move of transmitter.

WBAL—WBAL Broadcasting Co., Baltimore, Md.—Authority to determine operating power by direct method.

1260 Kilocycles

WHIO—Miami Valley Broadcasting Corp., Dayton, Ohio.—Construction permit to reinstate construction permit (B2-P-2628) as modified, for equipment changes, changes in directional antenna system, increase in power from 1 KW night, 5 KW day, to 5 KW day and night, and move of transmitter.

1310 Kilocycles

KFBB—Buttrety Broadcast, Inc., Great Falls, Mont.—Modification of construction permit (B5-P-2920) as modified, for extension of completion date from 7-31-41 to 8-31-41.

1330 Kilocycles

WLLO—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Authority to determine operating power by direct method.

1340 Kilocycles

WWPG—Lake Worth Broadcasting Corp., Lake Worth, Fla.—Modification of construction permit (B3-P-3161) for approval of antenna and approval of transmitter and studio sites.

KWLM—Lakeland Broadcasting Co., Willmar, Minn.—License to cover construction permit (B4-P-3155) for increase in power from 100 watts to 250 watts and changes in transmitting equipment.

1390 Kilocycles

KCRC—Enid Radiophone Co., Enid, Okla.—Modification of construction permit (B3-P-2810) for increase in power, installation of directional antenna for day and night use, and installation of new transmitter, requesting to install new type transmitter and make changes in directional antenna.

1400 Kilocycles

KONO—Eugene J. Roth, tr/as Mission Broadcasting Co., San Antonio, Texas.—Modification of license to change hours of operation from shares with KMAC to unlimited, requesting facilities of KMAC when KMAC goes to new frequency.

1450 Kilocycles

WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—License to cover construction permit (B2-P-2700) as modified, for a new transmitter and antenna system, increase in power and move of transmitter.

WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—Authority to determine operating power by direct method.

WLAN—Thomas J. Watson, Endicott, N. Y.—Modification of construction permit (B1-P-1679) for a new broadcast station, requesting installation of new transmitter, approval of antenna, and approval of transmitter location and booster amplifier.

1600 Kilocycles

NEW—Peter Q. Nyce, Alexandria, Va.—Construction permit for a new broadcast station to be operated on **740 kc.**, 1 KW, daytime. Amended: to request **1660 kc.**, 1 KW, unlimited time, 250 watts day and night for booster amplifier.

MISCELLANEOUS APPLICATIONS

WBLR—Columbus Broadcasting Co., Inc., Portable-Mobile, area of Columbus, Ga.—License to cover construction permit (B3-PRY-237) for a new relay broadcast station.

NEW—Telegraph-Herald, Portable-Mobile, area of Dubuque, Iowa.—License for a relay broadcast station (formerly licensed to Mason City, Globe-Gazette Co., under call KQHS), to be operated on **1622, 2058, 2150, and 2790 kc.**, power of 2 watts, A3 emission.

NEW—Telegraph-Herald, Portable-Mobile, area of Dubuque, Iowa.—License for a relay broadcast station (formerly licensed to Mason City Globe-Gazette Co., under call KDJB), to be operated on **1622, 2058, 2150, and 2790 kc.**, power of 125 watts, A3 emission.

KGEI—General Electric Co., near Belmont, Calif.—License to cover construction permit (B5-PIB-24) as modified, for move of transmitter and increase in power.

WHER—Westinghouse Radio Stations, Inc., Mobile, area of Boston, Mass.—License to cover construction permit (B2-PRY-244) for installation of new transmitter and increase in power.

WGEA—General Electric Co., Schenectady, N. Y.—License to cover construction permit (B1-PIB-25) as modified, for increase in power, installation of new transmitter, and change in frequencies.

NEW—James Broadcasting Co., Inc., WJRL, Portable-Mobile, area of Jamestown, N. Y.—License to cover construction permit (B1-PRE-391) for a new relay broadcasting station.

FEDERAL TRADE COMMISSION ACTION

Any NAB member wishing to have the full text of any of the FTC releases, printed in part below, should write to the NAB, referring to the number in parentheses at the end of each item.

COMPLAINTS

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

Battle Creek Drugs, Inc., a corporation, and Consolidated Royal Chemical Corp., doing business as Consolidated Drug Trade Products and as BonKora Co., are charged, in a complaint, with false advertising and misrepresentation. Battle Creek Drugs, Inc., maintains its principal office and place of business in Battle Creek, Mich., and Consolidated Royal Chemical Corp. is located at 544 South Wells St., Chicago. (4541)

Fort Worth Peanut Company—William Parrish Bennett, trading under the names of Fort Worth Peanut Company and Bill's Peanut Company, 1001 Bryan St., Fort Worth, Texas, is charged, in a complaint, with the use of lottery methods in the sale and distribution of his products. The complaint alleges that the respondent sells to dealers certain assortments of peanuts so packed and assembled as to involve a game of chance, gift enterprise or lottery when sold and distributed to ultimate consumers. (4544)

Granite Railway Co., 1245 Hancock St., Quincy, Mass., and J. S. Swingle, Inc., 327 Willard St., Quincy, Mass., are charged in complaints with misrepresentation in the distribution and sale of granite. Both respondents are engaged in the quarrying, distribution and sale of granite blocks to be manufactured into monuments. (4545-4546)

J. T. Jarrell Company—A complaint has been issued charging J. T. Jarrell Co., Little Rock, Ark., broker in the sale of food products, particularly canned fruit and vegetables, with violation of the brokerage provision of the Robinson-Patman Act through receiving and accepting from numerous sellers brokerage fees, or allowances or discounts in lieu thereof, on purchases of food products made for its own account in commerce. (4547)

Sterling Appliance Co.—Complaints have been issued against two Los Angeles firms, charging misrepresentation and false advertising in the sale of short wave diathermy devices for treating diseases. The respondents are Nolan B. Stadley, trading as Sterling Appliance Co., distributor of the "Sterling Short Wave Diathermy," and George S. Mogilner and James Walker, trading as Merit Health Appliance Co., selling the "Merit Short Wave Diathermy." (4542-4543)

CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

American Institute of Business Administration, Inc., and Paul Kline, its president, 126 Liberty St., New York City, have been ordered to cease and desist from the dissemination of misleading representations in the sale of correspondence courses in accountancy and business law. (4195)

Lake Shore Seed Company—David S. Wright, doing business as Lake Shore Seed Company, Dunkirk, N. Y., has been ordered to cease and desist from certain misrepresentations in the sale of seeds. The respondent is engaged in the business of selling and distributing vegetable and garden seeds purchased by him from various growers and packing such seeds for transportation to buyers in various States. (3994)

Lincoln Chair & Novelty Company—A. M. Druckman, doing business as Lincoln Chair & Novelty Co., 142 East 32nd St., New York City, has been ordered to cease and desist from misrepresentation in the sale of furniture. (4445)

Metal Paper Fastener Institute—A cease and desist order has been issued against five companies manufacturing pins, paper clips and fasteners used as office supplies, the order applying to them separately and as members of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute, of the Organization Service Corporation, New York. Prohibiting a combination or agreement which results in price fixing and other practices, the order also is directed against Organization Service Corporation and two of its officers.

Respondents in the case are: Organization Service Corporation, 74 Trinity Place, New York; Herbert S. Blake, its president, and Thomas B. Jordan, its vice president and the secretary of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute, of Organization Service Corporation; Scovill Manufacturing Co., Waterbury, Conn., operating as one of its divisions; The Oakville Co., Oakville, Conn.; Noesting Pin Ticket Co., Inc., New

York; Vail Manufacturing Co., Chicago; F. Kelly Co., Derby, Conn., and William Prym, Inc., New York.

The Commission order directs the respondent manufacturing companies, through Organization Service Corporation or through the respondents Blake or Jordan, and the respondent Organization Service Corporation and these two officers of Organization Service Corporation, to cease and desist, by agreement, combination or understanding, (1) from fixing, establishing, maintaining or adhering to the prices to be charged for any or all of their products; (2) from changing simultaneously the prices to be charged for such products; (3) from sponsoring, calling or holding any formal or informal meeting or conference for fixing, establishing, maintaining or adhering to such prices; (4) from reporting, compiling or exchanging statistical information concerning prices charged on consummated sales where the purpose is to fix, establish, maintain or adhere to prices to be charged for their products; (5) from adopting, contributing to, or participating in, the dissemination of any information relating to prices charged or to be charged for their products when the purpose or effect is to effectuate the fixing and maintenance of prices; and (6) from employing, adopting, contributing to, or participating in, any inquiries pertaining to prices, conditions, or terms of completed sales where the purpose, intent or effect is to cause, or tend to cause, adherence to, or maintenance of, uniform prices to be charged by the respondent members for any or all of their products. (4351)

Nassif Candy Co., Wheeling, W. Va., has been ordered to cease and desist from the use of lottery methods in the sale and distribution of candy. (4025)

D. Wroblewski & Company—A Brooklyn, N. Y., dealer and three corporations selling medicinal and cosmetic preparations have been ordered to cease and desist from misrepresentations in the sale of their products. The respondents are D. Stefan Wroblewski, trading under the names D. Wroblewski & Co., D. S. Wroblewski, Inc., Daferu Drug Co., Inc., Wroblewski Drug Co., Inc., Kalwaryjskie Laboratories, Inc., and D. Wroblewski & Co., Ltd., and the corporations D. S. Wroblewski, Inc., Daferu Drug Co., Inc., and D. Wroblewski & Co., Ltd., all of 55 Keap St., Brooklyn. (4196)

STIPULATIONS

During the past week the Commission has announced the following stipulations:

Amogen Company—J. R. Hodges, trading as Amogen Company, 147 North St., San Antonio, Texas, engaged in selling a laxative designated "Amogen Tablets", has stipulated to discontinue representing that Amogen Tablets get the poison out of the system; cause the bile to flow; are effective in the treatment of biliousness, malaria, common colds and fever, poor digestion, acid or gas on the stomach, the results of eating and drinking too much, headaches, neuralgia, rheumatism and other pains and fever, sallow complexion, pimples, sores, boils, skin irritations, coated tongue, bad breath or taste in the mouth, or that Amogen Tablets will enable one to maintain good health and to avoid sickness. (02831)

Bi-Tone Corporation, Inc., Bluefield, W. Va., seller of medicinal preparations, has entered into a stipulation to cease certain representations in the sale of products designated "Bi-Tone Liver Pills" and "Bi-Tone Wonder Tonic." The respondent agrees to cease using the word "Liver" as a part of the brand name of Bi-Tone Liver Pills or from otherwise representing that the preparation produces a beneficial effect on the liver; to cease advertising that "Bi-Tone Wonder Tonic" increases vitality or resistance to disease, and other similar accomplishments; and that the liver pills, when taken in conjunction with Bi-Tone Wonder Tonic, correct ailments originating in the liver, cause it to become active and healthy, or correct any condition which causes one to feel sluggish, run-down and listless. (02834)

Bristol-Myers Company, Rockefeller Center, New York City, engaged in selling a medicinal cream used as a counter-irritant and

analgesic for certain aches and pains of the body, designated "Minit-Rub," has entered into an amended and substitute stipulation in which it agrees to cease and desist from representing that Minit-Rub affords relief from chest colds other than to relieve the symptoms associated with, or resulting from, chest colds; that it penetrates to any muscle, other than superficial muscles or such muscles as may be reached by reflex action; that it affords long-lasting relief; that it is a special analgesic, or contains drugs other than those commonly used in analgesics; that it contains pain-soothing ingredients that act at once in affording relief; that it stimulates the circulation at the seat of the trouble, in any case other than where the seat of the trouble is superficial or muscular; that it relieves the discomfort of improper breathing due to colds better than any other preparation; that it overcomes insomnia, or is efficacious for this condition other than where the condition is due to excited nerves; that it relieves throbbing or nervous headaches other than those due to temporary fatigue, overstrain, nervous tension or nasal congestion; that it affords relief from muscular aches, pains or discomforts of every kind, or by any other terminology, that it is of benefit in affording relief from any aches, pains or discomforts in muscles other than superficial muscles or such muscles as may be reached by reflex action, or that it affords effective relief from sprains. (01864)

Copeland Products, Inc., 244 Wolf St., Syracuse, N. Y., entered into a stipulation to cease representing in advertisements that the medicinal preparation "Dis-R-Tabs," when used in the treatment of dogs, will prevent or remedy run-down condition, permanent disability, distemper and other ailments, or be of benefit in the treatment of coughs beyond its value as an expectorant. The respondent further stipulates that it will discontinue representing that this product is an antiseptic or destroys germs in a dog's respiratory tract, or protects it against infection, and that the preparation is of benefit when administered to humans for the prevention or treatment of colds, bronchitis, sinusitis, coryza, rhinitis or similar ailments. (02836)

R. B. Davis Company, Hoboken, N. J., engaged in selling a food product designated "Cocomalt", has stipulated in connection with the dissemination of advertising of the product to discontinue representing that Cocomalt substantially aids the digestion of starchy foods or that Cocomalt stimulates the appetite for other foods except to the extent that it may stimulate the appetite where lack of appetite is caused by Vitamin B₁ deficiency. The stipulation is supplemental to a stipulation (Stipulation 0978) previously accepted by the Commission from the respondent. (02830)

Marvel Company—J. Clayton Cridlebaugh, trading as The Marvel Company, Arcadia, Calif., engaged in selling an antipick device designated "Marvel Hen Specs" advertised and sold mainly for the purpose of controlling cannibalism in poultry, has entered into a stipulation in which he agrees to cease and desist from representing that Marvel Hen Specs will materially reduce tapeworm infestations or infestations other than those caused by fly eating; that any function which can be accomplished by a competitive antipick device can be accomplished only by Marvel Hen Specs, or that Marvel Hen Specs are the only antipick device that has no mechanical action. (02832)

Dr. H. A. Pietri Co., Eladio Santini and Sylvia Pietri, of 83 Hamilton Place, New York, entered into a stipulation in which they agree to cease representing that their hair dye preparation "Zenaida" will banish gray hair, restore hair to its original color and that it does not stain the clothing, hands or scalp. The respondents also agree to cease representing, by use of the prefix "Dr." in their trade name, that Zenaida is a preparation manufactured or offered for sale by a doctor of medicine. (02835)

Pilot Full Fashion Mills, Inc., Valdesse, N. C., and from Ira M. Schey and B. A. Jacob, Jr., have entered into a stipulation to cease certain representation in the sale of hosiery. According to the stipulation, the respondent Schey is president of Pilot Full Fashion Mills, Inc., and he and the respondent Jacob have conducted a jobbing and selling agency under the name of Jacob & Schey in New York City.

The respondents agree to cease and desist from the use of the term "Two-Fifty-One" or the figures "2-51" as descriptive of hosiery which is not 51 gauge, 2 thread construction, and from the use of such term or figures or of any other term, words or figures as a mark or stamp upon or otherwise to describe the hosiery, the effect of which causes or may cause purchasers or prospective purchasers to believe that the hosiery referred to is 51 gauge or any designated gauge other than is actually the fact. (3177)

C. Tischhauser, Inc., 66 Worth St., New York City, manufacturer and distributor of handkerchiefs, has stipulated to desist from labeling or otherwise referring to certain handkerchiefs as having been woven or embroidered in whole or in part on a hand loom, or from in any way using the words "hand loom" as descriptive of such handkerchiefs or any part of them, or from the use of the words "hand loom" as referring to any handkerchief or portion thereof which has not in fact been woven on a hand loom. (02833)

Daniel Wiener, textile fabrics distributor, 47 West 57th St., New York, has entered into a stipulation to cease certain representations in the sale of his products.

The respondent agrees to cease employing the words "Taffetas" or "Faille Taffetas" or other words connoting silk to describe a product not composed of silk. The stipulation provides that

if the product is composed in part of silk and in part of other fibers or material, the silk-connoting words, used properly to describe the silk content, shall be accompanied by other words in equally conspicuous type to accurately designate each constituent fiber or material in the order of its predominance by weight. (3178)

FTC CASE CLOSED

The Federal Trade Commission has closed its case against Golding Brothers Co., Inc., 316 Broadway, New York City, engaged in the manufacture and sale of cloth fabrics.

The respondent was charged, in a complaint issued by the Commission, with falsely representing certain dyed fabrics as being perspiration proof. According to the Commission's order closing the case, the fabrics in question were dyed and labeled as perspiration proof by a third party pursuant to a contract with the respondent which called for the use of perspiration proof dyes. In tests made by the respondent one of several colors used by the dyer proved to be unstable and the respondent promptly and voluntarily discontinued the false representations within approximately two months from the date on which the fabrics were first offered for sale and before the issuance of the Commission's complaint in the proceeding.

The Commission ordered that the case growing out of the complaint be closed without prejudice to the Commission's right, should future facts so warrant, to reopen it and resume proceedings.