

## Selective Service

Stations threatened with loss to the draft of first or second class operators whom they will find it difficult, if not impossible, to replace are advised to communicate with the State Occupational Adviser at their State Selective Service Headquarters. (This is additional to procedure outlined in previous bulletins, and is at the suggestion of national headquarters.) Request the Occupational Adviser to bring to the attention of the local board in question the difficulty or impossibility of replacing the registrant and the importance of his position in the operation of the station, and to request that his, the Occupational Adviser's, statement be entered in the registrant's file, so that it will be available to the local board and also to the Board of Appeals if the case is appealed. It is believed that all State Occupational Advisers are familiar with the acute shortage of operators. Such a statement in the registrant's file will presumably carry considerable weight with the local board and the Board of Appeals. Don't wait,—as soon as you learn that induction is imminent get your State Occupational Adviser on the phone. He may ask you to put your request in writing; if so, acquaint him with the tenor of the statement you will have presumably already filed on Form 42-A with the local draft board.

Familiarize yourself again with procedure recommended in previous NAB REPORTS and bulletins. File Form 42-A with local board; contact State Occupational Adviser as above-outlined; if necessary, you should appeal to the Board of Appeals for the area. ONLY THEN, if temporary deferment has not been granted, wire the man's full name and whether first or second class operator, number and location of local draft board, and steps you have taken to secure deferment, to Russell Place, NAB, Washington, D. C. Request for immediate investigation by National Selective Service Headquarters will be made at once.

## ASCAP

### ET CLEARANCE

ASCAP refuses to allow the deduction of 15 per cent sales cost from the gross amount paid for station time when electrical transcriptions are cleared at the source. ASCAP's stand is set forth in a letter from John Paine to Neville Miller dated January 26, which is printed below:

"In connection with the clearance at the source of electrical transcriptions, I would advise you that I am now empowered to clear electrical transcriptions at the source on the 8% and 2% basis, in accordance with my letter to you of September 3, 1941 [see NAB Special Bulletin Sept. 30, 1941], and we will allow from the gross amount paid for the station time, a deduction of the frequency discount and a deduction of a 15% agency commission, if and when paid.

"I might re-state here that we will require clearance at the source only for such stations as may be requested by the advertising

agency or electrical transcription company, as the case may be, and will not require clearance at the source for stations holding ASCAP license agreements, either per program or blanket, to whom the transcriptions may be sent, unless the agency or transcription company for any reason wishes to include such stations."

## Shows From Army Camps

The Radio Branch of the War Department Bureau of Public Relations advises us some radio stations have been discontinuing their broadcasts from army camps and posts since the declaration of War in the belief this was the wish of the War Department. *This is not the case.* There is, on the other hand, even more need for such public service broadcasts from army camps and posts and will continue to be a growing need of them as the army is expanded during the year.

In order to encourage such broadcasting endeavors and facilitate their handling, the Radio Branch has brought to Washington since the beginning of the War, Captain Ed Curtin, lately Public Relations Officer at Camp Wheeler, Ga., and formerly connected with well-known radio establishments.

The Radio Branch encourages all radio stations to continue collaboration with local Public Relations Officers in the promotion of the army by radio from the camps and offers any cooperation possible in your undertaking in this direction. Any inquiries should be addressed to the Radio Branch, Bureau of Public Relations, War Department, Washington.

## RADIO A WAR-TIME ESSENTIAL

The following letter from NAB President Neville Miller to Leland Olds, Chairman, Federal Power Commission, is of interest to all broadcasters:

"We are considerably disturbed by an Associated Press dispatch dated January 22nd, in which you were quoted as having told the House Appropriations Committee that the use of radio in the home was "essentially" a "luxury" and that, as such, it might have to be eliminated.

"I am fully aware that very often single sentences taken from the expression of a complete thought convey a wrong impression, and I hope that you, as the head of the Federal Power Commission, do not look upon the use of electricity for radio in the home as a luxury. Even if home listening were confined to entertainment, we feel that its description as a "luxury" could be challenged in days when maintenance of morale is only one of the many functions that the broadcasting industry is performing to further the country's War effort.

"We are carrying the voice of our country's leaders into the 30,700,000 radio equipped American homes. A recent survey showed that 75,000,000 persons heard President Roosevelt's first Fireside Chat after Pearl Harbor. The printed word can never substitute for the spoken word in this respect.

"Through its news broadcasts, radio is keeping the American people better informed than they ever have been in the past. Radio now constitutes the primary source of news for many people

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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 A WAR-TIME ESSENTIAL

(Continued from page 47)

and we feel that the removal of a primary source of information such as you suggest would be a staggering blow to democracy.

"As you may know, the Army, the Navy and the Marine Corps are using radio extensively for recruiting purposes. The United States Civil Service Commission is using it for the purpose of recruiting skilled workers for War industries. The Treasury Department relies upon radio to assist in the sale of Bonds and Stamps, and radio has accounted for many millions of dollars worth of sales of these securities that would not otherwise have been obtained. The Office of Civilian Defense and other morale agencies have turned to radio for assistance and it has been willingly given.

"The activities mentioned above are but a few of the broadcasting industry's many War time public services, and I would like to call your particular attention to the fact that broadcasters are performing all of the above mentioned services without cost to the Government. All announcements and programs of the various Government departments and agencies are carried on time gladly donated for that purpose without cost to the Government by the stations and the networks. We believe we are playing an essential part in the Government's War activities, and naturally are proud of the record which is being made by the industry.

"In view of these facts, I feel you must agree that it is not proper to classify the use of radio as a 'luxury'. It is most unfortunate that the story got into the press in the form that it did, and I am wondering, in view of the importance of radio's present War activities, if you would give us a statement which would counteract the impression which this recent article conveyed. I am sure it would be very helpful, and would be greatly appreciated."

At press time no reply had been received.

## OFFICE OF CENSORSHIP ADDRESS

For the benefit of those desiring to consult with the Office of Censorship, communications should be addressed as follows:

J. Harold Ryan  
 Assistant Director of Censorship  
 Office of Censorship  
 Federal Trade Building  
 Pennsylvania Avenue between 6th and 7th Streets  
 Washington, D. C.

The telephone number is EXecutive 3800.

## FCC Investigation Proposed

On Wednesday, January 28, Representative Cox (D.-Ga.) announced from the floor of the House his intention of offering a resolution for House investigation of the FCC. According to the Congressional Record, Mr. Cox addressed the House as follows:

"Mr. Speaker, Mr. Fly, of the Communications Commission is using a good law to a bad end. He is guilty of a monstrous abuse

of power and is rapidly becoming the most dangerous man in the Government. He maintains an active and ambitious Gestapo and is putting shackles on the freedom of thought, press, and speech without restraint.

"In the pretended regulation of the broadcasters, which needs regulating, he is breaking down those freedoms which guard all others. He is taking advantage of the stress of the moment to federalize all means of communication.

"I have heretofore opposed the investigation of executive departments of the Government, but the Communications Commission, as now operating under Mr. Fly, must be stopped, and I intend offering a resolution for House investigation."

## FCC POWER TO SUBPOENA UPHELD

The power of the FCC to issue subpoenas in its investigations seeking information applicable to the legislative standards set up in the Communications Act was upheld last Monday by the United States Court of Appeals for the District of Columbia. The court negated the Commission's authority to require witnesses whom it summons to bare their records, relevant or irrelevant, in the hope that something will turn up, or to invade the privacy protected by the Fourth Amendment.

Touching on the powers of the Commission and the qualifications of applicants for a station license the Court said:

"The Communications Act requires no more of an applicant for a radio license than proof of citizenship, character, and financial and technical qualifications to operate in the public interest. Possessing these, the applicant's eligibility is unchallengeable, assuming there is an unused frequency free of interference with an established station. This is the rule announced by the Supreme Court in the *Sanders* case. But the determination of these qualifications is an administrative function which Congress has committed to the Commission, subject only to the requirement that in granting or refusing the license it shall act as the public convenience, interest, or necessity requires. This, however, as the Supreme Court remarked, is not a grant of unlimited power, but only the right to control the range of investigation in ascertaining what, within the compass of the Act, is proper to satisfy the requirements. It does not embrace and should not be extended by implication to embrace a ban on newspapers as such, for in that case it would follow that the power to exclude exists also as to schools and churches; and if to these, the interdict might be applied wherever the Commission chose to apply it. This, we think, would be in total contravention of that equality of right and opportunity which Congress has meticulously written into the Act, and likewise in contravention of that vital principal that whatever fetters a free press fetters ourselves. In this view, we need not consider whether the power exists even in Congress, for Congress has not undertaken, and probably never will undertake, to delegate such power to the Commission. Hence it is that in the present state of the law a newspaper owner who is also the owner of a broadcast station may very well say to whoever challenges this dual right: 'Who art thou that judgest another man's servant. To his own master he standeth or falleth!'

The opinion in full is as follows:

## UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

No. 8039

JAMES G. STAHLMAN, APPELLANT,

v.

FEDERAL COMMUNICATIONS COMMISSION, APPELLEE.

Appeal from the District Court of the United States for the District of Columbia

(Argued December 3, 1941)

Decided January 26, 1942)

*Mr. Elisha Hanson*, with whom *Mr. Harold L. Cross, Jr.*, and *Miss Letitia Armistead* were on the brief, for appellant.

*Mr. Thomas E. Harris*, Assistant General Counsel, Federal Communications Commission, with whom *Mr. Telford Taylor*, General Counsel, Federal Communications Commission, appeared on the brief, for appellee.



Before GRONER, C. J., and VINSON and EDGERTON, JJ.

GRONER, C. J.: On March 20, 1941, the Federal Communications Commission issued its order No. 79, which directed that it

... undertake an immediate investigation to determine what statement of policy or rules, if any, should be issued concerning applications for high frequency broadcast stations (FM) with which are associated persons also associated with the publication of one or more newspapers . . . and that such investigation . . . shall also include consideration of statements of policy or rules, if any, which should be issued concerning future acquisition of standard broadcast stations by newspapers.

In July following, the Commission issued a supplemental order No. 79-A,<sup>1</sup> in which it particularized the subjects to be considered at the hearing. About the same time the Commission forwarded to broadcast station licensees a questionnaire intended to elicit information concerning the relations between licensees and newspapers in their respective communities, and in the latter part of July issued and served on appellant a subpoena requiring his presence in Washington on August 1, "then and there to testify in the above-entitled cause now pending before this Commission". Appellant is the publisher of the Nashville Banner, and in times past has been president of the American Newspaper Publishers Association, president of the Southern Newspaper Publishers Association, vice-chairman of the Publishers National Radio Committee, and a member of the Radio Committee of the American Newspaper Publishers Association. The Commission advised appellant by letter of July 10 that at the hearings to begin July 23 the Commission planned to receive testimony concerning the past and present relations between the radio industry and radio networks on the one hand, and the newspaper industry and press services on the other, with respect to the joint association of newspapers and radio stations. And it was stated further that the Commission would inquire into the arrangements made in the past for broadcasting of news, the part played by radio stations associated with newspapers in that respect, the availability of newspaper reports for broadcasts, the collection of news for radio broadcasting, and other related matters coming within the scope of the topics set forth in the order. Appellant referred the papers served on him, including the letter, to his counsel, who advised him that the subpoena was a nullity, inasmuch as it purported to command him to appear and testify in a proceeding not authorized by the Act. Subsequently in the hearing, the American Newspaper Publishers Association appeared specially and on the grounds just mentioned moved the Commission to terminate the proceeding. The motion was denied. Appellant did not appear as commanded, and on August 2 the Commission filed in the District Court an application to require his appearance. An order to show cause issued, to which appellant filed his return and answer. A hearing was had, and the District Judge entered an order requiring

<sup>1</sup> Now, Therefore, It is Ordered, That, pursuant to the aforesaid order, testimony and other evidence be taken with reference to the following matters, in addition to such other matters as the Commission may from time to time direct:

1. To what extent broadcast stations are at present associated with persons also associated with publication of one or more newspapers, the classification (in terms of power, location, network affiliation, etc.) of broadcast stations so associated, the circumstances surrounding such association, and the tendency toward such association in the future.

2. Whether joint association of newspapers and broadcast stations tends or may tend to prejudice the free and fair presentation of public issues and information over the air, or to cause editorial bias or distortion, or to inject editorial policy or attitude into the public service rendered by broadcast stations as a medium of public communication.

3. Whether joint association of newspapers and broadcast stations tends or may tend to restrict or distort the broadcasting of news, or to limit the sources of news to the public, or to affect adversely the relation between newsgathering services and broadcast stations.

4. Whether the joint association of newspapers and broadcast stations has or may have any effect upon freedom of access to the radio forum, for the discussion of public issues.

5. Whether the joint association of newspapers and broadcast stations tends or may tend to lessen or increase competition among broadcast stations or to result in the monopolization of local broadcast facilities.

6. Whether the joint association of newspapers and broadcast stations tends or may tend to increase or decrease concentration of control over broadcast facilities or the use thereof.

7. Whether the joint association of newspapers and broadcast stations constitutes or may constitute an undue concentration of control over the principal media for public communication.

8. Whether joint association of newspapers and broadcast stations tends or may tend to result in the utilization of improved facilities and skilled, experienced personnel for the procuring and dissemination of information and opinion by broadcast stations.

9. Whether joint association of newspapers and broadcast stations tends or may tend to insure greater economic stability for broadcast stations and to encourage the maximum technological development of radio.

10. What considerations influence newspaper interests to acquire broadcast stations.

appellant to appear before the Commission to testify concerning the matters to be investigated under Commission order No. 79.

On this appeal, appellant insists very earnestly that the sole question is whether the Commission has the power to consider or to adopt and apply a general policy or rule by which persons engaged in the newspaper publishing business or associated therewith may by reason of that fact alone be differentiated as a class apart from all other persons for the purpose either of preference in the assignment of radio facilities or of disqualification from engaging in the radio broadcasting business. The Commission, on the other hand, contends that its inquiry under order 79 is proper in connection with its licensing functions under Section 309(a) of the Act;<sup>2</sup> and would also be proper under Section 4(k), which directs the Commission to make annual reports to Congress as to additional legislation deemed by it to be necessary. But in its order Section 4(k) is not mentioned. Nor is the language or form of the order responsive to that section. We have, therefore, considered the question solely under the Commission's general powers and duties and to the exclusion of that section.

Both sides apparently are in agreement that the validity of the subpoena may be tested in the manner in which the question is presented here.

The rule most frequently invoked in challenging the powers of an administrative body to constitute itself an inquisitorial or visitatorial body as to all matters direct and collateral within its general jurisdiction was stated by Mr. Justice Holmes in *Harriman v. Interstate Commerce Commission*, 211 U. S. 407. In that case the Interstate Commerce Commission had of its own motion undertaken an investigation in relation to carrier community of interests as tending to violate or to defeat the purposes of the Act. Mr. Harriman, an official of the Union Pacific, was called as a witness, and the case went to the Supreme Court as the result of his refusal to answer a question in relation to certain investments in the securities of competing carriers. The Supreme Court sustained his position, holding in effect that, as the Act was drawn, an investigation by the Interstate Commerce Commission of its own motion must be ancillary to a lawful purpose embraced within the powers granted in the statute. Subsequently, Section 13 of the Commerce Act was amended to authorize investigations by the Commission on its own motion concerning any question which might arise under any of the provisions of the Act or relating to the enforcement of any provision of the Act, and in *Smith v. Interstate Commerce Commission*, 245 U. S. 33, the Court sustained the power of the Commission to investigate the expenditure by railroads of money for political purposes. In the Communications Act,<sup>3</sup> as in the amendment to the Interstate Commerce Act, full authority and power is given to the Commission with or without complaint to institute an inquiry concerning questions arising under the provisions of the Act or relating to its enforcement. This, we think, includes authority to obtain the information necessary to discharge its proper functions, which would embrace an investigation aimed at the prevention or disclosure of practices contrary to public interest. Cf. *Federal Trade Commission v. National Biscuit Co.*, 18 F. Supp. 667; *Fleming v. Montgomery Ward & Co.*, 114 F. 2d. 384, cert. den'd., 311 U. S. 690.

If in this case it had been made to appear, as counsel for appellant insist, that the Commission's investigation was solely for the purpose of the consideration or adoption of a hard and fast rule or policy, as the result of which newspaper owners may be placed in a proscribed class and thus made ineligible to apply for or receive broadcast licenses, we should be obliged to declare that such an investigation would be wholly outside of and beyond any of the powers with which Congress has clothed the Commission. For we have previously held that there is nothing in the Act which either prevents or prejudices the right of a newspaper, as such, to apply for and receive a license to operate a radio broadcast station. *Tri-State Broadcasting Co. v. Federal Communications Comm.*, 68 App. D. C. 292, 96 F. 2d. 564. Further consideration confirms that view.

The Communications Act requires no more of an applicant for

<sup>2</sup> Sec. 309(a):

If upon examination of any application for a station license or for the renewal or modification of a station license the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding . . .

<sup>3</sup> Sec. 403:

The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act.

a radio license than proof of citizenship, character, and financial and technical qualifications to operate in the public interest. Possessing these, the applicant's eligibility is unchallengeable, assuming there is an unused frequency free of interference with an established station. This is the rule announced by the Supreme Court in the *Sanders* case.<sup>4</sup> But the determination of these qualifications is an administrative function which Congress has committed to the Commission, subject only to the requirement that in granting or refusing the license it shall act as the public convenience, interest, or necessity requires. This, however, as the Supreme Court remarked, is not a grant of unlimited power, but only the right to control the range of investigation in ascertaining what, within the compass of the Act, is proper to satisfy the requirements.<sup>5</sup> It does not embrace and should not be extended by implication to embrace a ban on newspapers as such, for in that case it would follow that the power to exclude exists also as to schools and churches; and if to these, the interdict might be applied wherever the Commission chose to apply it. This, we think, would be in total contravention of that equality of right and opportunity which Congress has meticulously written into the Act, and likewise in contravention of that vital principal that whatever fetters a free press fetters ourselves. In this view, we need not consider whether the power exists even in Congress, for Congress has not undertaken, and probably never will undertake, to delegate such power to the Commission. Hence it is that in the present state of the law a newspaper owner who is also the owner of a broadcast station may very well say to whoever challenges this dual right: "Who art thou that judgest another man's servant. To his own master he standeth or falleth".

But in the view we take of this controversy, the Commission's independent right to carry on its proposed investigation is not foreclosed by anything we have said as to its lack of power to proscribe newspapers or, conversely, its power to place them in a preferred class. Nor is this right prejudiced by the fact—if it is a fact—that the Commission in inaugurating the investigation has misapprehended the limits of its powers. The Commission's right to grant licenses or to revoke licenses in the public interest, and likewise to make rules and regulations necessary to the carrying out of the provisions of the Act, implies the grant of all means necessary or appropriate to the discharge of the powers expressly granted.

In the case we have, the Commission in its supplementary order has specified the subjects about which it wishes to obtain information. These are: whether the joint association of newspapers and broadcast stations tends to prejudice the free and fair presentation of public issues and information over the air; whether such association tends to restrict or distort the broadcasting of news or to limit the sources of news to the public; whether such association affects freedom of access to the radio forum for the discussion of public issues, or unduly limits access of news-gathering services, to the injury of the public. From the other side of the picture, the Commission proposes to inquire whether association of newspapers and broadcast stations will result in utilization of improved facilities and experienced personnel in the procuring and dissemination of information, and whether such association may tend to insure greater economic stability and encourage maximum technology development, and finally, what considerations influence newspaper interests to acquire broadcast stations. These subjects, except perhaps the last named, are clearly within the inherent powers of the Commission. Based on these considerations, and although the information is not for use in any pending proceeding or pending legislation, it was nevertheless within the administrative powers of the Commission to initiate the proposed investigation for the purpose of ascertaining the facts for its guidance in making reasonable and proper public rules, for application to existing stations, and in the consideration of future requests.

In saying this we do not mean to hold or to suggest that the Commission is authorized to require appellant or other witnesses whom it may summon to bare their records, relevant or irrelevant, in the hope that something will turn up, or to invade the privacy protected by the Fourth Amendment, *cf. Federal Trade Comm. v. American Tobacco Co.*, 264 U. S. 298, but only that the Commission may, without interference, seek through an investigation of its own making information properly applicable to the legislative standards set up in the Act. We should not assume that the investigation will be conducted for any other purpose or in disregard of the constitutional limits which govern such procedure.

*Fed. Radio Com. v. Nelson Bros. Co.*, 289 U. S. 266, 276. *Cf. Guthrie v. Harkness*, 199 U. S. 148.

The order of the court below is accordingly affirmed.

*Affirmed.*

EDGERTON, J.: Since the Commission does not appear to have forbidden common control of newspapers and broadcast stations, or to have found that such control is contrary to the public interest, or to have initiated an investigation with a view to such a finding, we need not determine whether it should or could do those things. I express no opinion on that question. I think we should wait until it arises and the interested parties, including the Commission, are heard upon it. In other respects, I concur in the opinion of the court.

## Meetings

### Wisconsin League of Radio Stations

The Wisconsin League of Radio Stations, one of the oldest of the state organizations, held a business session at Racine, on Monday, January 26. Problems incident to the war were the chief topic of discussion. Handling of news and supervision of those programs of a possibly dangerous nature were thoroughly discussed. Means of cooperating in the NAB program for training of radio technicians was given consideration.

A representative of the Office of Civilian Defense outlined the plan of that agency and appealed to the radio stations for assistance and cooperation. Carl Haverlin of BMI and Leonard Callahan of SESAC discussed the music situation and Harold Konnak, a Racine attorney, presented a paper on the application of the Wisconsin ASCAP law. NAB was represented at the meeting by C. E. Arney, Jr., Assistant to the President.

The election resulted as follows:

James Kyler, WCLO, Janesville, President; Rev. James A. Wagner, WTAQ-Green Bay, WHBY-Appleton, Vice President; Donald Burt, WSAU, Wausau, Treasurer; N. C. Ruddell, WATW, Ashland, Secretary; Harry LePoidevin, WRJN, Racine, and Edward Allen, WIBA, Madison, Directors.

Following is a complete list of the attendance: Donald Burt, WSAU; Joe Killeen, WSAU; John Gallagher, WHBY; Edward Allen and K. F. Schmitt, WIBA; N. C. Ruddell, WATW-WJMS; Haydn Evans, WTAQ; Wayne Cribb, WHBL; William Forrest, WIBU; Hiram Born, WHBL; Harry LePoidevin, WRJN; William Huffman, WFHR; Harold Newcomb, WRJN; James Kyler, WCLO; Sidney Bliss, WCLO; James McGenty, WJMC; Gaston Grignon and Woods Dreyfuss, WISN; Frank Starbuck, WRJN; Howard Wilson, WOSH; Charles LaForce, Ray Host and Charles Lanphier, WEMP.

Burt Squires, SESAC; Frank Chizzini, NBC Thesaurus; C. E. Arney, Jr., NAB; Harold Konnak, Attorney; Sil Aston, Howard Wilson Co.; Leonard Callahan, SESAC; Alex Sherwood, Standard Radio; Carl Haverlin, BMI; Wallace Mitchell, United Press.

### Oregon State Broadcasters Association

The annual meeting of the Oregon State Broadcasters was held in Portland, January 16, 1942. This meeting, one of the best attended in the history of the Association, featured radio's part in the war program with discussions on censorship, schools for technicians, programs, defense bonds and procedure for proper station operation for the duration.

Prof. A. L. Albert of O.S.C. made a report for Dean R. H. Dearborn of the college on training schools for technicians. Dean Dearborn has been appointed, by Governor Sprague, as central authority for the state for the purpose of establishing schools to train technicians for our armed forces.

The following resolution was passed by the Association:

Believing the radio industry of Oregon has a major role to play in the united war effort of the nation in providing vital information, especially that of a defense nature,

<sup>4</sup> *Federal Communications Comm. v. Sanders Radio Station*, 309 U. S. 470.

<sup>5</sup> *Fed. Radio Com. v. Nelson Bros. Co.*, 289 U. S. 266, 285.



## FEDERAL COMMUNICATIONS COMMISSION

### Fly Press Conference

Questioned early this week regarding the activities of the Defense Communications Board, James Lawrence Fly, F.C.C. Chairman, said the Board is making progress. For instance he pointed out that the Board has made much progress in connection with procuring for labor appropriate representation on the various committees and they are going along in good shape. He pointed out that this reflects "a cooperative and constructive attitude."

Mr. Fly said that he did not care particularly to comment on the order of the WPB requiring a forty per cent reduction in the manufacture of radio receiving sets. He expressed the opinion that the country has been pretty realistic about the whole defense situation and "its bearing upon this and other businesses. I don't think that the manufacturing industry could have anticipated going ahead at least at the pace that was set in 1941. I think most of the industry now is pretty busy on defense work anyhow. From a manufacturers point of view I doubt if there will be any serious injuries."

Chairman Fly was asked for comment on the action of the House of Representatives in passing the FCC Appropriations Bill so that no salary could be paid to Dr. Goodwin Watson, Chief Broadcast Analyst of the Foreign Broadcast Monitoring Service of the Commission.

Mr. Fly said that the Commission considers that Mr. Watson "has done a splendid job." He told the newsmen that Commissioner Durr has been designated by the Commission to handle the matter actively on behalf of the Commission and "he will undoubtedly be in touch with some of the Senators and they may have conferences with Dr. Watson. Of course that is up to the Senate Appropriations Committee and individual members of the Senate."

Mr. Fly stated that the Commission didn't know of any plans to restrict the appropriations as far as Dr. Watson is concerned until after the action was taken.

### Chairman's Testimony on Appropriations

In his testimony before the Sub-committee of the Committee on Appropriations of the House on the Independent Offices Appropriation Bill last month, Chairman Fly touched upon applications for new stations, competition in the broadcasting field, renewal of licenses, network contracts with affiliates, taxation on stations and networks, and the monopoly investigation of chain broadcasting. Excerpts from the testimony are printed below:

#### General Routine Work of the Commission

Mr. WOODRUM. Tell us something of the general work of the Commission, Mr. Fly, the routine work that you would have to do if there were no defense program.

Mr. FLY. The general routine work would cover the regular problems of broadcasting and radio communication, of telephone and telegraph, and the like.

The radio field broadly is advancing. That is, we have new problems every day brought up chiefly by the advances in the art.

For example, frequency modulation has developed rapidly through the years, and since we were here last year there have been numerous applications—they are in the hundreds—for frequency modulation broadcast stations. We have made a substantial number of grants and of course that work will be increasing just as a necessary and natural matter.

With reference to the standard broadcasting, the work there, with the vast number of applications and with the greater amount of engineering work to do, has been increasing. The directional antenna which has been developed in past years is becoming an

Be It Resolved by the Oregon State Broadcasters Association that existing regulations for technical operators now in effect by the Federal Communications Commission be relaxed to permit Class III technicians employment provided Class I, experienced technicians are available on 24-hour daily call to supervise their work in cases of necessity, and

Be It Resolved that the present drain on operators' personnel for armed forces employment and related lines is so great, that this relaxation must be immediately employed to permit Oregon stations in many cases to remain on the air, and

Be It Resolved that copies of this resolution be furnished immediately to the Federal Communications Commission, the NAB, the Governor of Oregon and the Oregon defense administrator.

Henry Swartwood, KOIN, KALE, discussed censorship for radio. The importance of strict supervision over newscasts, ad-lib programs, quiz, man-on-the-street and request programs was mentioned as well as other information not to be broadcast for the duration. Swartwood pointed out that the responsibility for material broadcast rests squarely with the station. "You can't check too closely," he said.

A committee of Swartwood, Q. Cox, KGW-KEX, and Jim Wallace, KAST, was appointed to work out a plan that will be available to Oregon stations to check questionable news or programs. Portland stations have signified their willingness to act as a clearing house for out-state stations in securing information from responsible sources regarding questionable news or information.

### PRODUCER'S RIGHTS UPHELD

Use of the words "Lone Ranger" and "Hi, yo, Silver" in an advertisement of a circus performer who had played the role of the Lone Ranger in a licensed motion picture, were held by the U. S. Circuit Court of Appeals for the Fourth Circuit to infringe the rights of the producer of the show (Lone Ranger, Inc. v. Cox, Jan. 5, 1942). Applying the principles of unfair competition, the court said:

"We entertain no doubt as to the power and duty of a court of equity to afford relief under such circumstances. While the case presented is not precisely similar to that kind of unfair competition involving the use of a corporate or business name or to the ordinary case involving the unfair use of trademarks and trade names, the principle involved is the same as that recognized in these cases, viz., that a court of equity should enjoin any form of 'passing off' which involves fraudulent appropriation, through devices calculated to deceive or mislead the public, of the business or good will which another has built up."

## Wage-Hour

Senator Reed (R.-Kansas) on January 28 introduced a bill (S. 2232) that would extend the work week under the Fair Labor Standards Act of 1938 from forty hours to forty-eight hours. Enacted this would mean that time and one-half would be paid only for the hours worked in excess of forty-eight hours a week.

We print the bill below:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no employer shall be deemed to have violated section 7 (a) of the Fair Labor Standards Act of 1938 by employing any employee for a work-week in excess of forty hours during the remainder of the present war and for a period of six months thereafter, if such employee receives compensation for his employment in excess of forty-eight hours during such workweek at a rate not less than one and one-half times the regular rate at which he is employed.

almost habitual phase of transmission. Due to the crowding of the spectrum, instead of putting a man on a wave length where there would be no problem as between him and the other stations, or some slight interference, it is impossible to get him in there unless you rig up a very extensive, refined array of antennas, with the various electrical devices, so as to direct the signal in one direction or in two or three directions, and suppress it in one other direction or in two or three other directions. That simply means that while basically the problem is the same—that is, it is a matter of allocation—still when you come to work out one of those cases, in order to make it function, from an engineering point of view, it is much more complicated in the average application.

Then there is the international treaty which takes care in a sense of the division of the standard broadcasting part of the spectrum; the division of that and the division of the wave-lengths as between this country and the other countries of North America. That involves day to day administration, correspondence, diplomatic and otherwise, conferences, trying to make all of these cases work out internationally. Any number of them have complications from that point of view.

The television industry is advancing and has been placed upon a commercial basis. It is moving forward quite satisfactorily.

Since we were here before, the most important change has been in the development, at least through the rudimentary stages, of a very interesting scheme of color television. It is thought that scenes might be picked up and broadcast, giving them in full color, in a rough sense comparable to your technicolor motion pictures.

Mr. FITZPATRICK. Do you find much opposition to television?

Mr. FLY. I find this, Mr. Fitzpatrick. There is some opposition in limited circles. I should imagine that it is hard to define, but as you know, when a vested interest is in there, and it is not consistent with television, you have to be on the alert for an opposition either open or undisclosed. And that, of course, is one of the problems in any infant industry.

#### Applications for New Stations—Competition in the Broadcasting Field

Mr. WOODRUM. Have you many new applications for new stations?

Mr. FLY. Yes, a large number. There seems to be no limit upon the number of applications. But, of course, the problem becomes more difficult. Take it in the standard band, where the spectrum is crowded.

Mr. WOODRUM. Where there are existing stations and there are applications to establish other stations, there has been some change in policy of the Commission in recent years about the granting of licenses; has there not? I do not suppose there have been many changes of policy, for that matter, but where there are already stations giving service and you have applications for new stations—

Mr. FLY. By different parties?

Mr. WOODRUM. Yes.

Mr. FLY. There has not been any substantial deviation in Commission policy there, Mr. Chairman. On the whole, I think the Commission has recognized that it cannot very well regulate the competition in the broadcast field. That is, in the statute you declared that it is a competitive industry and we cannot limit the income, we cannot regulate their advertising rates or have any control over profits, or anything of that sort. Of course, we would not endeavor to do so. It is supposed to be wholly competitive.

Then there arises a serious question as to whether we can guarantee existing stations' income by refusing to grant a license to an applicant who is qualified, where the existing stations insist that it will not be a profitable operation, and where it may even cause loss to themselves.

The Supreme Court has indicated a pretty definite disinclination to go into that question, leaving the industry pretty nearly as competitive as in retail grocery stores or drug stores, where there is no guaranty of income, and there is no limit on income, and you go in and establish your store and succeed if you can. The mere fact that there are one or two stores across the street is no bar to your going in.

Mr. WOODRUM. This is purely a licensing proposition. In the case of the grocery store, the Government is not interested in the grocery business, is not supposed to be, and it does not care how many people are in the grocery business or what kind of potatoes they sell. But you can hardly draw that parallel in radio

broadcasting, because certainly the Government is interested in seeing to it that there is good service. It has struck me that it ought to be a matter in which the Commission was interested at least to this extent. Suppose in a community there are two stations giving good service to the community; and by giving good service I mean they are not only affording a means of advertising for the merchants who want to advertise, but they are bringing in sponsored programs which cost them money, and they have to have some income. They have to make some money in order to bring in the N. B. C. chain program or the C. B. S. chain program. Suppose—just to make an exaggerated case, in order to make the illustration—there is a fair economic return for two stations who are rendering good service in that community. Certainly the Commission would not want to see three or four other wildcat stations come in there and throw the whole thing out of gear, and all they would get would be Victrola records played all day long by three or four stations instead of getting good programs by two stations.

Mr. FLY. Yes; I think that is a factor that is deserving of some consideration. I do not know how we can do that to the full logical extreme, although, so long as you have said in the statute that it has got to be a competitive industry.

I do think this—and I think this squares with the Supreme Court's view—that where it can be shown in the extreme case that existing service will be destroyed, that in some way the public interest will be substantially affected in terms of destruction of service—

Mr. WOODRUM. Then you may take cognizance of it?

Mr. FLY. Then conceivably we may take cognizance of it. Because there it would have an impact, and a substantial impact, upon the public service.

Mr. HOUSTON. Is it not true that sometimes a third station coming into the community may serve to bring about the improvement in the service of the other two?

Mr. FLY. Competition is generally assumed to spur that on, that is true. And then, too, another thing that competition has done in this industry quite frequently is this. Competition in the facilities for advertising serves to stimulate advertising itself. If one wholesaler starts advertising his products, the other fellow begins to look alive and may determine that he has got to have a comparable means of advertising. So you cannot assume in advance that the income of two or three or four existing stations is going to be cut down, and that there will be then an equal division between them and the new station. It just does not work out that way.

Mr. HOUSTON. Advertising over the radio has not impaired the advertising value or the advertising income of the newspapers to any extent, has it?

Mr. FLY. The newspapers have maintained I think about as extensive a circulation as ever. There has been a long-range tendency in the newspaper field—and before radio came in, for that matter—to decrease the number of small newspapers. That might be traced a little to the radio, but I think you would have to consider there the factor of fast communication, of good roads, fast transportation, so that the big papers get out to the small town early. And when they can get a big and complete newspaper there at a respectable hour, they are not inclined to buy a smaller sheet that does not give them equivalent service. And then, there is a heavier investment in a newspaper plant than there used to be.

#### Renewal of Broadcasting Licenses—Advisability of Charging Fees

Mr. WOODRUM. Do you still have to renew applications periodically every 60 days or every 6 months, or whatever the period is—that is, for broadcasting licenses?

Mr. FLY. They are renewable every 2 years. We have gradually extended that.

Mr. FITZPATRICK. How much of a fee do they pay?

Mr. FLY. None.

Mr. FITZPATRICK. They do not pay any fee?

Mr. FLY. None, sir.

Mr. WOODRUM. You do not collect any fees at all?

Mr. FLY. None, sir. We have considered that problem and it is our feeling that the industry as a whole at least ought to cover the cost of regulation. That is a theory that has been carried into practice in a number of States in the regulatory field—public utilities and the like. We have considered the possibility of that sort of a tax or system of fees.

Mr. CASE. Would that be on a percentage or a flat fee?



Mr. FLY. We have considered different variations of the plan, sir. In the meanwhile, I was just about to say, the Treasury Department has concerned itself with the problem, I think perhaps from a revenue-producing point of view, and that would be something that would be more extensive than we had in mind. We have simply made our facilities and our information and our cooperation by staff available to the Treasury Department to see what may come out of that.

Mr. FITZPATRICK. Do you suppose that the commission would lose any of its independence if part of its salary came from the owners of the stations?

Mr. FLY. No, sir; I think not, if the Congress provided for the tax. I do not think the present Commission would lose its independence.

Mr. FITZPATRICK. I am not saying that it would. But I was wondering if it would have any bearing on it, if a certain percentage of the money came from the big interests; they might feel that you are partially an employee of theirs.

Mr. FLY. Well, they have felt that in years past to a considerable extent, anyway. But they would have no direct dealing with the Commission in the matter. It would be a tax matter and there would be perhaps only a nominal allocation of the funds to the Commission. I do not think that would be an appreciable factor.

Mr. WOODRUM. I suppose that amateur broadcasters are off the air now for the emergency?

Mr. FLY. Yes, sir; we felt obliged to do that because the thing is just too complicated. We could not watch and listen to them all, and we have got more listening and recording to do now than ever before.

### Network Contracts with Affiliates

Mr. WIGGLESWORTH. Now I want to ask you one question about network contracts with affiliates. As I understand it, licensed affiliates frequently surrender control of their time to these networks to the extent, we will say, of over 40 percent.

Mr. FLY. Oh, yes; more than that.

Mr. WIGGLESWORTH. More than that?

Mr. FLY. Yes.

Mr. WIGGLESWORTH. And that they also authorize in those contracts the networks to increase or decrease the rate which they can charge for their time, and that frequently the chain will get as much as 80 percent of the return from the affiliate's charges. Now, is that a fair statement and, if so, what is the attitude of the Commission in respect to that practice?

Mr. FLY. On the first question, as to whether or not the networks control the rates which the station charges on its own time, that is, for its own local programs advertising national products at least one of the networks is N. B. C. I believe that is the only one. I do not want to be sure, but I will correct the record later if that is in error. The N. B. C. had a provision fixing those rates and requiring that the rates be the same, I believe, as were provided on the network programs. But in the rules which grew out of the monopoly investigation, the Commission prohibited such an agreement, such a restraint upon a station's liberty of action, and I think the practice of the network has since been abandoned. You gentlemen may be interested in reading our report on this point. The subject is discussed at pages 60 and 73.

Mr. WIGGLESWORTH. How about the other question?

Mr. FLY. On network programs, as to the amount the stations get out of it, it varies a great deal. By a very complicated system of calculation, the network contracts from station to station depending upon the audience which the station has, that is, the extent of coverage, the quality of the coverage, the number of people, and all that sort of thing and, for that matter, presumably the number of people who actually listen to the station. There may be other factors which enter into it, but the proportion that the station gets out of the fee for the program will vary considerably. It is clear that in many cases the network gets—I do not know whether it is 80 percent, but they do get the bulk of the fees that come in.

Mr. WIGGLESWORTH. Is that a matter that is left purely between networks and affiliates, or do you exercise any control over it?

Mr. FLY. We have no control over that, sir. That is something the statute does not authorize us to control.

Mr. WIGGLESWORTH. You could control it through your licensing power, of course.

Mr. FLY. Well, I am not sure of that.

Mr. WIGGLESWORTH. At any rate, you are not attempting to do so now?

Mr. FLY. That is right.

Mr. WOODRUM. Of course, one justification for that fee that the chain gets from the portion of fees charged is the fact that the chains give them sustaining programs, do they not—a lot of free programs?

Mr. FLY. Well, in effect they charge them for the sustaining programs and they pay them for carrying the commercials. Again, there is a pretty complex scheme of balancing them off.

### Taxation on Stations and Networks

Mr. WIGGLESWORTH. Now, you spoke about the matter of taxation. As you know, a year ago the Treasury made a study and recommended some taxes on these chains which I think ran up to about \$10,000,000 and the House put those taxes in the bill. Subsequently, I think you appear before the Senate Finance Committee in opposition to those taxes, and the Senate threw them out. I wonder if you have completed the study of that question that you have been working on for a good many years, and whether you have any recommendations?

Mr. FLY. I thought, sir, my previous answer had covered that. In view of the fact that the Treasury itself has begun a study of this specific subject—and I assume, of course, they are interested in it from a revenue-producing point of view—we have made our material and our personnel available to the Treasury so that what we have done by way of studies can be utilized in that way. You see, we are in somewhat of an embarrassing position. It is hardly our job, as a Commission, to appear before the Congress and recommend a tax measure, a revenue measure. Of course, we are concerned with it and that sort of thing, but we recognize that that is primarily a function of the Treasury Department.

Mr. WIGGLESWORTH. How do you reconcile that with the fact that, after they had studied the matter and made recommendations and the House had adopted it, you appeared in opposition before the Senate committee?

Mr. FLY. I think you will find there, sir, I did not appear in opposition to a tax. That was a high gross revenue tax and I did appear and I think it is not unfair to say in opposition. I expressed the thought it was dubious and I still think so. I do not think it was studied through. It would have hit rather severely in certain spots and perhaps it would not have touched substantially at all in many other spots. But I doubt if there was a feasible scheme of taxation, and certainly I was not opposed to the idea of taxation under a well-considered scheme of taxation of the industry; I think there ought to be one.

Mr. WIGGLESWORTH. I may be wrong in my figures and, if I am, I would appreciate it if somebody would correct them, but I think after the proposed Treasury tax of \$10,000,000 had been imposed, the Treasury indicated there would still have been a 40-percent net profit to the stations and networks. I think also your own figures, which you have made public in the course of the last year or so, show that if you take the net profits of the net works and the 700 or more stations before Federal-income taxes are paid, there has been a net profit of something like 66 percent. And that if you do the same thing for just the networks and their 23 managed stations, you find a net profit of something like 300 percent.

If those figures are anywhere near right, it seems to me there is every reason in the world, in these times, for imposing a substantial tax on those who are making a killing out of licenses from the Federal Government for which they do not pay a cent.

Mr. FLY. I agree with you, sir, that there is an appropriate field here for taxation and that many of them can pay such a tax without there being any substantial impact. For example, many of them can pay a tax without being driven out of the profit class. Of course, the major return in the industry is to the networks.

### Monopoly Investigation of Chain Broadcasting

Mr. WIGGLESWORTH. Just one other thing. I understand there is an injunction sought by the three big chains against a threatened antitrust investigation.

Mr. FLY. No. The injunction is sought against the antimonopoly regulations which the Commission has issued.

Mr. WIGGLESWORTH. What lawyer is representing the Government in that connection?

Mr. FLY. Our General Counsel and his assistants are doing the most of the work, sir, in cooperation with the Department of Justice.

Mr. WIGGLESWORTH. Where does Mr. Cahill come into the picture?

Mr. FLY. Mr. John Cahill is former United States Attorney in the Southern District of New York and now a member of the law firm of Wright, Gordon, Zachry, Parlin, and Cahill.

Mr. WIGGLESWORTH. Is Mr. Cahill representing the networks?

Mr. FLY. He has represented the National Broadcasting Co. and, Judge John Burns, former General Counsel of the Securities Commission, up to the present time has represented the Columbia Broadcasting System. Recently Charles Evans Hughes, Jr., has been brought into the case by the Columbia Broadcasting System, and I think he and Judge Burns are associated in the case.

Mr. WIGGLESWORTH. Where does Mr. Brodsky come into the picture—Mr. Samuel Brodsky?

Mr. FLY. Well, Mr. Brodsky is a special assistant attorney general attached to the United States district attorney's office at New York and where, as here, the United States is formally a party in the proceedings he, of course, represents the United States. The Commission, however, is the main party defendant and is the active defendant.

Mr. WIGGLESWORTH. Was Mr. Brodsky a former assistant to Mr. Cahill?

Mr. FLY. Yes; he was an assistant in the district attorney's office when Cahill was there. He was not appointed by Cahill. And I ought to say that the United States attorney there who was formerly associated with Cahill's firm excused himself because of the fact he was formerly associated with Mr. Cahill.

Mr. WIGGLESWORTH. There has been no association between Cahill and Brodsky?

Mr. FLY. None other than I have indicated.

Mr. WIGGLESWORTH. Now, I do not know whether you saw this, but I will just read a quotation from one of the recent radio business letters. I do not know whether there is any further comment you may care to make or not. The letter says:

\* \* \* In 1940 the Antitrust Division wearied of the Federal Communications Commission monopoly investigation of chain broadcasting and demanded all of the evidence and testimony given to the Federal Communications Commission in this inquiry. Federal Communications Commission delayed but promised to get out its monopoly report right away and then send over the desired records. Then the Antitrust Division began to prepare its own action against National Broadcasting Co. and Columbia Broadcasting System and any others believed violating the Sherman Act. However, the Federal Communications Commission issued its chain broadcasting rules and Thurman Arnold's office sat back to see if they would have a salutary effect upon the industry. When radio executives resorted to congressional committees and then showed signs of going into court, Thurman Arnold called officers of National Broadcasting Co., Columbia Broadcasting System, and Mutual Broadcasting System into his office to tell them that he had an antitrust case against them in his mind. That was on October 29, and the next day National Broadcasting Co. and Columbia Broadcasting System went into court to ask injunction against the United States (Federal Communications Commission).

Since the Antitrust Division of the Department of Justice is assigned to defend the Federal Communications Commission in the Federal courts, it was understood that Victor O. Waters, of the Department of Justice staff, began to study the National Broadcasting Co. and Columbia Broadcasting System arguments. Then in a surprising move Attorney General Biddle appointed Samuel Brodsky as Special Assistant to the Attorney General, which left the Antitrust Division wondering if its own case against the radio companies had not already received a coup de grâce.

Is there any additional comment you want to make?

Mr. FLY. I think our own case, that is, the Commission's own report, and the regulations resulting from that were brought into issue by this injunction suit, in which the networks are the plaintiffs and, in that, we have had the cooperation of the department generally—the Attorney General and members of the staff, particularly of the Antitrust Division, including Mr. Waters and others. But the question as to whether the department itself would bring an antitrust action against the networks was a different question and would have involved a different case, in which the United States would have appeared as the plaintiff and as the prosecuting agency, and would have been doing it pursuant to the antitrust laws.

Mr. WIGGLESWORTH. Has that been dropped now? What is the status? Has it been dropped, pending a hearing on the injunction?

Mr. FLY. I do not know, sir. I know it has been given substantial attention by the Department of Justice over a long period, and more intensively since we forwarded our record over there

after we completed our own report. I do not know whether they have concluded to proceed or to abandon.

Mr. WIGGLESWORTH. What is the status of the injunction proceeding?

Mr. FLY. There are presently pending motions by the networks for a preliminary injunction and we, in turn, have motions to dismiss and for summary judgment.

Mr. WIGGLESWORTH. When will those be heard?

Mr. FLY. They will be argued next Monday, December 15.

Mr. WIGGLESWORTH. That is all I have, Mr. Chairman.

Mr. WOODRUM. Thank you, gentlemen.

## BUREAU OF STANDARDS FREQUENCY BROADCAST

The standard frequency service of the National Bureau of Standards station WWV has been extended to include another carrier frequency (15 megacycles). Temporary equipment is still in use while a new transmitting station is being built. The broadcast is continuous at all times day and night from 1-kilowatt transmitters, and carries the standard musical pitch and other features. The radio frequencies are:

5 megacycles (= 5000 kilocycles = 5,000,000 cycles) per second  
15 megacycles (= 15,000 kilocycles = 15,000,000 cycles) per second.

The standard musical pitch carried by the broadcasts is the frequency 440 cycles per second, corresponding to A above middle C. In addition there is a pulse every second, heard as a faint tick each second when listening to the 440 cycles. The pulse lasts 0.005 second, and provides an accurate time interval for purposes of physical measurements.

The 440-cycle tone is interrupted every five minutes for one minute in order to give the station announcement and to provide an interval for the checking of radio measurements based on the standard radio frequency. The announcement is the station call letters (WWV) in telegraphic code (dots and dashes).

The accuracy of the 5- and 15-megacycles frequencies, and of the 440-cycle standard pitch as transmitted, is better than a part in 10,000,000. Transmission effects in the medium (Doppler effect, etc.) may result in slight fluctuations in the 440-cycle frequency as received at a particular place; the average frequency received is however as accurate as that transmitted. The time interval marked by the pulse every second is accurate to 0.000 01 second. The 1-minute, 4-minute, and 5-minute intervals, synchronized with the seconds pulses and marked by the beginning and ending of the announcement periods, are accurate to a part in 10,000,000. The beginnings of the announcement periods are so synchronized with the basic time service of the U. S. Naval Observatory that they mark accurately the hour and the successive 5-minute periods; this adjustment does not have the extreme accuracy of the time intervals, but is within a small fraction of a second.

In general, during the *winter day*, the 5-Mc carrier frequency can be used at all distances out to about 1000 miles and the 440-cycle tone out to about 700 miles; the 15-Mc carrier frequency is usable from about 800 to 5500 miles, and the 440-cycle tone from about 800 to 4000 miles. During the *winter night*, i.e. between about 8 p. m. and 6 a. m. EST, the 5-Mc carrier frequency is usable from about 700 to 7000 miles and the 440-cycle tone from about 700 to 5000 miles; the 15-Mc broadcast is not usable during the winter night, except for the short-distance ground wave (see below). During the *summer day*, the 5-Mc carrier frequency is usable at all distances out to about 400 miles and the 440-cycle tone out to about 300 miles; the 15-Mc carrier frequency is usable from about 900 to 3000 miles and the 440-cycle tone from about 900 to 2500 miles. During the *summer night* before midnight EST, the 5-Mc carrier frequency is usable out to about 2500 miles and the 440-cycle tone out to about 1400 miles, except for a period of 2 or 3 hours before sunrise when it is difficult to receive at distances between about 50 and 400 miles; the 15-Mc carrier frequency is usable from about 1000 to 7000 miles and the 440-cycle tone from about 1000 to 5000 miles.

Besides the distances covered by the sky wave as just described, the ground wave provides coverage at short distances as follows. At all times, the 5-Mc carrier frequency is usable out to about 100 miles and the 440-cycle tone out to about 50 miles; and the 15-Mc carrier frequency is usable out to about 70 miles and the 440-cycle tone out to about 35 miles.

The service from the temporary transmitters will continue for



some months. It will be continuous except for such breakdowns as may possibly occur because of the use of temporary apparatus. As rapidly as possible the Bureau is establishing a new station to provide more fully than in the past standard frequencies reliably receivable at all times throughout the country and adjacent areas.

## Radio Training Courses

A dramatized show, backed up by Joey Kerns' orchestra, in behalf of radio technician training courses, has been scheduled by WCAU, Philadelphia, for Sunday, February 8, 11:05-11:30 a. m. It is to be a fast moving show of the "Hurrah America" type. One part will dramatize the use of radio in the Signal Corps and another in the Navy.

This sort of "extra" promotion everywhere will serve to build up a backlog of candidates for these courses. Since State Coordinators have been urged to insert one question covering applicants' draft status this procedure will tend to eliminate those who should not take the course at this time. Emphasis should be placed on men who are ready to serve their country.

While radio technician training courses are being continued and others inaugurated, the good old U. S. Navy continues to reiterate its need for this classification. One of the announcements which the Navy has released for broadcast during the week of February 2 says:

"Attention, *all radiomen* . . . from 17 to 50! The United States Navy needs you . . . and offers you well-paid jobs—to help smash the totalitarian attack on this country! Here are facts about your enlistment . . . if you are qualified: Pay—\$72 a month plus keep! Allowances for dependents—\$1.15 a day! Initial clothing provided! And you'll be given six to eight months' free schooling in operation and care of radio locators, transmitters, receivers, and under-water sound equipment! If you're a high school graduate . . . and *have had experience with radio* . . . your chance to do most for America is to serve as a radio expert in the Naval Reserve! Join today . . . at your nearest Navy Recruiting Station! Knowledge of telegraph code is *not* required!"

## MAILING TO ALL STATIONS

A mailing left Washington January 28 addressed to all stations from A. J. Fletcher, member-in-charge, Radio Technician Training.

All stations are urged to provide the information which Mr. Fletcher requires for the most efficient administration of this job. Enclosed were three suggested spot announcements which carefully detailed the points to stress in the air campaign. One of the announcements prepared by WLS, slightly changed to include an additional fact or two, produced over 2,004 inquiries. He called attention to the fact that men qualified for military service have first preference in this training.

## ST. OLAF COLLEGE

Peter E. Fossum, institutional representative, St. Olaf College, Northfield, Minn., has written that his college intends to participate in the radio technician training program. It is planned to institute the first 16 week program not later than February 15. The training program was called to the attention of St. Olaf by Manager M. C. Jensen, radio station WCAL, Northfield, Minn.

## MISSISSIPPI

During the week details of the radio technician program were forwarded to D. M. Nelson, president and professor of physics, Mississippi College, Clinton, and to G. L. Harrell, professor of physics, Millsaps College, Jackson.

## CHICAGO

Applications running into many thousands have been received by Illinois Coordinator Henry T. Heald, president, Illinois Insti-

tute of Technology, Chicago. From the way the Windy City broadcasting industry and the educators are taking hold of things it is apparent that Chicago will become one of the large training centers of the country. W. E. Hutchinson, station WAAF, Chicago, is the Industry Representative for Illinois.

Carl Meyers, WGN, chief engineer (MBS) is Chairman of the Institution and Instructor Personnel Committee. Other members are Theodore Schreyer, NBC Central Division, and Charles Wariner, president, Associated Broadcasting Technicians' Unit of IBEW, and a staff engineer of WBBM.

Al Hollander, WJJD-WIND, and Frank Baker, WLS, compose the Publicity Committee, while H. B. Lemmon, University of Chicago, A. B. Bronwell, Northwestern University, and R. I. Saracher, Illinois Institute of Technology, make up the Application Processing Committee.

## UNIVERSITY OF SANTA CLARA

George L. Sullivan, institutional representative ESMDT, University of Santa Clara, intends to participate in the radio technician training program. In a letter to C. L. McCarthy, KQW, San Francisco, Mr. Sullivan wrote:

"I believe that we can perform a valuable service for defense and I appreciate very much your willingness to cooperate by designating one of your men to help teach the work and by making some of your facilities in San Jose and Alviso available for use in this instruction work."

## NIAGARA FALLS

Earl C. Hull, general manager, WHLD, Niagara Falls, N. Y., has forwarded his first 100 letters of application for radio technician training courses to the Coordinator for upper New York.

## MILES CITY

Royal E. Nelson, chief engineer, KRJF, Miles City, Mont., wrote that his station had made arrangements for radio technician training classes in Miles City. "We have been given the use of the high school labs for classes and we will donate as much equipment as we can to the cause," Mr. Nelson said. "As our classes advance we will give our students actual experience at control operation on the equipment here at the station . . . this will better prepare students that are going to pass on as full-fledged radio technicians."

## DELIVERED 2004 LETTERS

Station WLS has already delivered 2,004 letters to 32 State Coordinators in the radio technician training program. This was up to January 19. One thousand eighty-seven were delivered to Coordinator Henry T. Heald, president, Illinois Institute of Technology, Chicago, of Illinois. The remainder were divided among 31 states.

WLS' announcement asked listeners to send their inquiry to their nearest radio station if they live outside of Illinois.

## NORTH CAROLINA

Twelve more radio technician training courses are expected to begin in North Carolina approximately February 2. Among the cities in which new courses will be given are: Asheville, Elizabeth City, Gastonia, Greensboro, Goldsboro, Hickory, Kinston and Rocky Mount.

## LYNCHBURG

Word comes from WLVA, Lynchburg, Va., that over 100 applications have been received for radio technician training courses.

## TWIN FALLS

F. M. Gardner, KTFI, Twin Falls, Idaho, writes: "Announcements have been running a couple of days and we have 21 good letter responses, in addition to many inquiries over the telephone."

## CANADA DIRECT

It will be appreciated if broadcasters who receive radio technician inquiries from Canada, in error, will mail such letters directly

to Glen Bannerman, president, Canadian Association of Broadcasters, 1801 Victory Building, Toronto, Ontario. Mr. Bannerman will complete the delivery by turning the letters over to an appropriate agency in Canada.

## KENTUCKY

Nathan Lord, Industry Representative for Kentucky, reports that courses will be definitely established in the following cities: Ashland, Harlan, Lexington, Louisville, Owsnesboro, Bowling Green, Hopkinsville, Paducah and Henderson.

They will vary in number from twenty to one hundred twenty men each, the latter, of course, being divided into several sections. In addition it is planned to start more courses whenever and wherever possible.

"In the main," said Mr. Lord, "classes will be held at radio stations although in one or two instances high schools with physics laboratories have been selected. Also the radio stations will provide most of the necessary equipment."

The organization meeting last week was attended by station owners, managers and chief engineers as well as educators. In addition representatives attended ABTU, NYA and Ken-Rad Radio Company.

The Universities of Louisville and Kentucky are the only schools with engineering departments so all of these courses in Kentucky will be under their supervision.

## DETROIT

Detroit is assured of radio technician training courses in the very near future because of leadership of the University of Detroit and Wayne University. Decision to organize radio classes by Wayne University was transmitted by A. R. Alliason, head, Electrical Engineering Department.

Ralph R. Johnson, Industrial Coordinator, College of Engineering, University of Detroit, indicated the decision of his school to participate in the program on January 23.

## BLOOMINGTON

A. M. McGregor, WJBC, Bloomington, Ill., has mailed his first batch of radio technician training course applications to the State Coordinator. They were 27 "good" prospects, he said.

## LANSING

Harold F. Gross, president, WJIM, Lansing, is preparing to do an outstanding job. His engineers have already offered their services as instructors so as to increase the number of courses that may be given.

## KALAMAZOO

Kalamazoo College and Western Michigan College, are both located in Kalamazoo, home of WKZO. Station President, John E. Fetzer, has had conferences with representatives of both institutions and with Mr. Libby from the office of the State Coordinator, Dean Dirks of Michigan State College. He writes: "I believe before long we can have these courses opened up here and are bending every effort toward that end."

## GASTONIA

Pat McSwain, WGNC, Gastonia, N. C., writes: "A class of 40 or 45 will begin here February 16 with three qualified instructors . . . with the seven additional applications we are sending to the State Coordinator we have a total of 94 applicants."

## ST. NORBERT COLLEGE

As result of the call for the institution of radio technician training courses there is to be much teaching activity in and around Green Bay, Wis. At the request of the station management of WTAQ, Green Bay, and WHBY, Appleton, Rev. L. F. Jacobs, has been designated to direct the training program. There will be courses for the public, high school students and college students.

On the campus of St. Norbert College, West De Pere, five miles from Green Bay, there will be both a day course and a night

course. A night course will also be given in Green Bay. For the benefit of its students St. Norbert College has definitely incorporated a technician training program in its curriculum, which begins February 2. There will be a course in principles of radio, electricity and magnetism.

St. Norbert high school will offer an introductory course in radio to juniors and seniors provided they meet the requirements. This work will be given by Rev. Father A. Le Mieux, who has done graduate work in radio and electronics.

Arrangements are being made to give an introductory course in radio at Central High School in Green Bay.

W. Stengel, chief engineer, WTAQ and WHBY, will assist Father Le Mieux in the high school work. Rev. Jacobs will take over lectures to the public as well as to the college.

Other members of the station operating staff will lend their services to the construction of demonstration and laboratory equipment.

## TWO MORALE SHOWS

"Keep 'em Singing," 10:45 p. m., Saturday nights, preceding the WWVA Jamboree, is taking the place of "Inquiring Mike," in accordance with radio code. "Keep 'em Singing" is a community sing period and the name was given by listeners. Paul J. Miller, production manager, says:

"The more we think of keeping 'em singing the more we feel that this is a job for the broadcasters to keep up the morale of the country by keeping millions in a singing mood, while at the same time utilizing the many defense announcements, which are of course very necessary."

"America Answers" is a Monday, Wednesday and Friday morning show over WSIX, Nashville, Tenn., which has been inaugurated as a morale show.

Early in the series WSIX interviewed youths as they came to enlist in various branches of the service. One of the first young men interviewed was George Hill from Cookeville, Tenn., a nephew of the famous hero of World War No. 1, Alvin York.

The news photo of the Hill youth enlisting was widely used in newspapers throughout the country.

J. T. Bernard, manager, radio programs, RCA Manufacturing Company, has arranged to include manpower announcements for the Army, Navy, Marine Corps and Coast Guard in the "Music You Want" programs.

## A PROGRAM SUGGESTION

An interested radio listener has sent in the following:

"It was my suggestion that every radio station in the United States broadcast the Star Spangled Banner every Sunday afternoon at the exact time of the Pearl Harbor attack in their respective time zones. This would continue until the end of the war.

"While tire rationing and possible ration tickets will make most Americans aware of the fact that we are at war, there are still too many of our people who are too apathetic.

"The Star Spangled Banner played on Sunday afternoons followed by a stirring announcement that at that time on December 7th the integrity of the United States had been challenged might do much to bring home the fact that we were in an all out war."

## RADIO SET PRODUCTION CUT

The War Production Board, through Acting Director of Priorities, J. S. Knowlson, on January 24, issued Limitation Order L-44, which reduces the production of new radio receiving sets. The curtailment order provides for an average monthly reduction in production, during the next 90 days, of more than 40 per cent below the monthly output during the nine months ending September 30, 1941. Similar cuts were ordered in the number of tube sockets in the sets produced, which will result in corresponding curtailment of the number of tubes used in new sets.

One of the reasons for the order was to provide manufacturing facilities for the manufacturing industry to undertake a two billion dollar military production program. Civilian output must be



reduced drastically, it was explained, so that receiver and parts makers and allied branches of the industry can participate in this effort to the fullest possible capacity. The War Production Board estimates that 60,000,000 radios are now distributed among 87 per cent of the American homes. Permitted civilian production during the next 90 days, together with stocks now in manufacturers' and dealers' hands, it was stated, will meet essential replacement requirements.

## STATION EMPLOYEES BUY SAVINGS BONDS

Paul W. Morency, General Manager of WTIC and W53H, advises that all employees of both stations have subscribed to a payroll deduction plan for the purpose of purchase of United States Savings Bonds. We would be pleased to hear from other stations with respect to similar cooperation.

## Sales

### Campbell-Ewald Proposal

Some stations have received a proposal from the Campbell-Ewald Agency, offering transcribed programs for local syndicated sale. The Agency proposes to charge a fixed fee for the programs, and also wants regular agency commission of 15% on the basis that they "will assist in the local sale."

NAB member stations have pointed out that this is entirely at variance with standard advertising procedure, since the agency could hardly give any actual sales help on a local account, would not service it, would not write the commercial copy, and would not be the agency of record on the account. Another station comments that it appears "Campbell-Ewald want us to take over their new business department."

### Vita-Phates, Inc.

Vita-Phates, Inc., 2770 Broadway, New York, a vitamin-mineral product, has queried some stations for availabilities through the Walter W. Wiley Agency. The company is extremely small; Miss E. Buzby, secretary, reports that a small amount of radio time was used but results were disappointing and she is not interested in further radio. The Manufacturers Trust Co., given as a business reference, reports that the company has maintained a "very small balance"—less than \$100.

### Hotels and Restaurants

A "Summary Table" on hotel and restaurant radio advertising, compiled from reports to "The Broadcast Advertising Record," is available to member stations upon request. The table contains a 59-page list of hotels and restaurants using radio, and shows stations used and service purchased during the period of January-April, 1941. If you wish a copy, write the Department of Broadcast Advertising.

### Mail-Pull Stations Wanted

The Peabody Co., Box 3661, Miami, Fla., manufacturers and distributors of razor blades, cameras, hosiery, etc., have written the NAB for data "on stations that sell merchandise direct to the consumer and the quantity of mail that they pull."

Any stations interested are invited to send evidence of their mail-pulling ability to that address. It is understood that regular rates would be paid.

### When NOT to Advertise

A western advertising manager, after reading a report on "The Importance of Advertising Under Present Conditions" sent to his clients the following letter, which uses effective reverse English to

emphasize the importance of making advertising keep pace with war orders:

"Within the last few weeks I have read a number of statements regarding the importance of advertising under present conditions. After digesting the material it seems to me that a manufacturer—or business man—who finds himself in an oversold condition, or who expects shortly to be oversold, can with all logic discontinue his advertising, provided the following conditions prevail:

1. His present competitors stop advertising.
2. No new competitors enter the field.
3. No one discovers a substitute for his product.
4. None of his present dealers goes out of business.
5. No new dealers enter the picture.
6. The public stops forgetting.
7. The public stops being born.
8. The public stops dying.
9. *He expects to go out of business as soon as the parade is over.*"

### Gov. Lehman Asks Advertising

Gov. Herbert H. Lehman of New York has recommended a continuation of state advertising in his annual budget message to the legislature, although asking a \$5,000,000 reduction in the total state budget. Details are given in *Radio Daily* for January 27. Governors and legislators of other states with advertising appropriations should be interested.

### Department Store Scripts Wanted

The Retail Reporting Bureau, 171 Madison Ave., New York, is cooperating with the NAB in its campaign to interpret radio advertising to department stores. The Bureau issues "*Retail Advertising Week*," a service for department store advertising managers, for which the stores pay a substantial subscription fee.

Milton B. Conhaim, head of the Bureau, has agreed to devote space regularly to radio. Previous issues have dealt almost exclusively with newspaper advertising.

Stations are requested to cooperate by sending to Mr. Conhaim complete scripts used by department stores, as well as all other information on the campaigns that they can supply. Active cooperation by NAB member stations will go a long ways towards developing additional department store revenue.

### Progress Among Theatres

That some progress has been made in the industry drive to secure more advertising revenue from amusement enterprises, and especially from motion picture producers and exhibitors, is shown by a response from Robert D. Hussey, Director of Radio Activities for Paramount Pictures, Inc., to the NAB Department of Broadcast Advertising.

Weekly radio scripts, furnished by Hussey's department to radio stations, are designed for sponsorship by local accounts, he said.

"Budgets set up by our advertising representatives throughout the country always contain allotments for radio advertising directly proportionate to billboard and newspaper advertising. Paramount has repeatedly suggested to such (local) exhibitors the wisdom of purchasing radio time as an excellent advertising medium. For several years past we have offered them without cost, recorded spot announcements and 15-minute transcribed programs, through the use of which they buy local radio time. A recent survey discloses that as a result of our efforts, exhibitors releasing Paramount pictures have led the field in the purchase of radio spot announcements and time programs."

Growing paper shortages are expected to work to radio's advantage as a local theatrical advertising medium, as it has already done in Australia. Member stations have pointed out that increased amusement billings can be obtained partly through greater sales effort, and partly through the exercise of greater care in the donation of free time to amusement enterprises.

### Per-Inquiry and Free Time

United Radio-Television Institute, Inc., Newark, N. J., is seeking per-inquiry deals for its correspondence course, purporting to train radio technicians.

**United Advertising Companies, Inc.**, Chicago, previously listed in **REPORTS**, is now offering proposals on behalf of Westminster Insurance Agency, stating that "we are buying this on a straight time basis. However, should the station fail to produce inquiries at (a stated sum) each, we will be forced either to cancel or discontinue payment for time until the number of inquiries reaches the figure of (the stated sum) per inquiry."

**Aviation Arts**, Hollywood, wants per-inquiry deals on its "Wings for Americans" booklet.

**Barbara Gould, Inc.**, New York, is sending scripts to "beauty editors" and conductors of women's programs asking free promotion for its Barbara Gould Blackhead Treatment and Evening in Paris cosmetics.

**The Ferriss Pharmacal Co.**, Chicago, has circularized stations with a P-I proposal on Cahill pipes and tobacco. The letter mentioned such leading stations as WLS, WJR and WLW, although it did not state that they were accepting the business on a contingent basis. *These stations definitely do not accept that kind of business and their orders were placed at regular rates.* E. F. Hinkamp, president of the company and author of the circular, has written NAB that his circular did not say the stations mentioned were on a per-inquiry basis, and that "it certainly was not intended." This case is similar to others where the call letters of leading reputable stations have been used, and other stations have been led to believe that per-inquiry business was being accepted. Stations are advised to be on the alert for such statements, and not to be misled by vague or clever phraseology.

Requests for free time have been sent to stations by **France-Libre-Unie, Inc.** (United Free France), of New York. This organization, while undoubtedly serving a worthy cause, is extremely small and local in its operations. It occupies one office in an old building on Lexington Avenue, has no regular staff, but is served chiefly by volunteers. Its monthly financial report for December showed proceeds of \$1550.45, of which 75% went to a trust account for material aid to the Free French Colonies, and 25% to a general expense account.

## ANNUAL ADVERTISING AWARDS

Speakers for the Annual Advertising Awards Presentation Dinner at the Waldorf-Astoria on February 6 have been announced by F. C. Kendall: W. L. Batt, Chief, Requirements Committee, War Production Board; Thomas E. Dewey, and Sir Gerald Campbell.

## CONFERENCE ON CHILDREN'S RADIO PROGRAMS

Dr. John W. Studebaker, U. S. Commissioner of Education and FREC Chairman, announces that on February 9 a meeting of his Committee will be held to consider the possibility of establishing a special research and service agency devoted to improvement of children's radio programs. This is an important conference to all radio broadcasters and suggestions that might be helpful are cordially solicited. NAB will be glad to clear these through to the Committee.

## LEGISLATION FEDERAL

S. 2232 (Reed, R-Kansas) **WAGES AND HOURS**—To provide that the workweek established by the Fair Labor Standards Act of 1938 shall temporarily be extended from forty hours to forty-eight hours. Referred to Committee on Education and Labor.

## STATE

### NEW YORK:

S. 462 (Williamson) **SMALL LOAN INTEREST—ADVERTISING**—Requires that in advertising for loans and in other statements by licensed lenders of small loans, rate of interest or charge shall be stated as rate per centum per month on unpaid principal balances. Referred to Committee on Banks.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

### HEARINGS

The following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, February 2. They are subject to change.

#### Monday, February 2

WJAX—City of Jacksonville, Jacksonville, Fla.—C. P., 930 kc., 5 KW, DA-night, unlimited.

#### Consolidated Hearing

NEW—Beauford H. Jester, Waco, Texas.—C. P., 1230 kc., 250 watts, unlimited.

NEW—Roy Branham Albaugh, Waco, Texas.—C. P., 1230 kc., 250 watts, unlimited.

#### Further Hearing

WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main & auxiliary), 920 kc., 1 KW night, 5 KW day, unlimited.

#### Friday, February 6

KGNC—Plains Radio Broadcasting Co., Amarillo, Texas.—C. P., 860 kc., 5 KW night, 10 KW day, DA-night, unlimited.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted renewal of license for the period beginning February 1, 1942 (B1-R-138).

WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Granted modification of temporary license (B-ML-1103), pending decision on renewal application, to change frequency from 790 to 990 kc., and increase day power from 2½ to 5 KW.

KTTH—Hot Springs Chamber of Commerce, Hot Springs, Ark.—Granted extension of Special Service Authorization (B3-SSA-24) to operate unlimited hours with 1 KW night, 10 KW LS simultaneously with WBAL for the period ending February 1, 1943.

WJNO—Laura O'Brien, Executrix under the Last Will & Testament of J. J. O'Brien, deceased (transferor); Louis Marshall Heminway and John Hylan Heminway (transferees), West Palm Beach, Fla.—Granted consent (B3-TC-281) to relinquishment of control of WJNO, Inc., Station WJNO, from Laura O'Brien, Executrix under the Last Will and Testament of J. J. O'Brien, deceased, to Louis Marshall Heminway and John Hylan Heminway.

Board of Education, City of Buffalo, Buffalo, N. Y.—Granted construction permit (B1-PED-24) for new station to operate on 42900 kc., 1 KW, special emission for frequency modulation. Applicant proposes to broadcast educational programs, including science, art, music, English, vocational guidance, safety, and national defense, to the school system of Buffalo, embracing 13 high schools and 80 grammar schools with more than 75,000 students, as well as general educational and patriotic programs to the general public. Secondly, will provide training of students in radio operation and transmission. Station will be located at Seneca Vocational High School.

New Jersey Broadcasting Corp., Jersey City, N. J.—Granted construction permit (B1-PH-70) for new station to operate on 49100 kc., with a service area of 6,200 square miles.



Bremer Broadcasting Corp., Jersey City, N. J.—Granted construction permit (B1-PH-72) for new station to operate on 49500 kc., with a service area of 6,200 square miles.

Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted construction permit for new station to operate on 331060 kc., 25 watts and special emission for frequency modulation on an experimental basis only, to be used in connection with applicant's FM broadcast station K47SL; granted subject to condition that no construction be undertaken pending completion of the investigation under Order No. 79 (B5-PST-5).

Westinghouse Radio Stations, Inc., Boston, Mass.—Granted construction permit (B1-PST-9) for new station to operate on 331600 kc., 25 watts, on an experimental basis only, to be used in connection with applicant's international broadcast station WBOS.

WWPG—R. S. Erskine (transferor), Charles E. Davis (transferee), Lake Worth Broadcasting Corp., Lake Worth, Fla.—Granted consent to the acquisition of control of Lake Worth Broadcasting Corp. (Station WWPG), from R. S. Erskine to Charles E. Davis, by transferring 40 shares of stock for a consideration of \$4,000 (B3-TC-286).

KIEM—Redwood Broadcasting Co., Inc., Eureka, Calif.—Granted modification of license (B5-ML-1102) to increase night power from 500 watts to 1 KW, subject to proof of interference protection to Canadian Station CFCT.

WSAI—The Crosley Corp., Cincinnati, Ohio.—Granted construction permit for installation of 100 watt booster amplifier for use during daytime in connection with Station WSAI.

W9XCV—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—Granted application for modification of construction permit for experimental television relay broadcast station for extension of commencement and completion dates to April 27 and October 27, 1942, respectively.

W6XHT-W6XHH—Hughes Tool Co., San Francisco, Calif., Los Angeles, Calif.—Granted application for modification of construction permits for experimental television broadcast stations W6XHT and W6XHH for extension of commencement and completion dates for a period of 6 months from January 15, 1942.

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Granted petition for further extension of temporary license for period of 90 days, from February 1, 1942, pending Commission action on applications requesting WBAX facilities.

## DECISIONS

The Commission announced proposed grant of a construction permit to the Brown Radio Service and Laboratory, Gordon P. Brown, owner, to change the operating assignment of Station WSAY, at Rochester, N. Y., from 1240 to 1370 kc., increase power from 250 watts to 1 KW, move transmitter site locally, make changes in transmitting equipment, and install directional antenna for both day and night use (B-145). A mutually exclusive application by Edward J. Doyle of Rochester for the same facilities, which figured in a joint hearing, was denied, but without prejudice to the right of Doyle to apply for the frequency to be vacated by WSAY or any other available frequency.

The Commission also announced proposed grant of a construction permit to Western Gateway Broadcasting Corporation for a new broadcast station at Schenectady, N. Y., to operate on 1240 kc. with power of 250 watts, unlimited time. In so doing it, of necessity, proposed denial of an application by Van Curler Broadcasting Corporation for the same facilities.

On August 14, 1940, the Van Curler application was granted and the Western Gateway application was designated for hearing. Thereafter, on October 2, 1940, the Commission, upon considering petitions for rehearing, set aside the Van Curler grant and ordered a consolidated hearing, which was held April 3, 4 and 5, 1941.

On the basis of this hearing and other record the Commission in its Proposed Findings (B-143) concludes:

"Western Gateway Broadcasting Corporation is qualified in every respect to construct and operate the station proposed; it proposes to render a balanced program service comparable to that normally provided by local broadcast stations; and its proposed station would provide a satisfactory technical service throughout the City of Schenectady and the rural areas contiguous thereto.

"As already shown, one of the three directors of Van Curler Broadcasting Corporation, while testifying under oath, deliberately misrepresented the facts concerning the payment for his stock in

the company, and it was only after persistent cross-examination that he finally revealed the true facts in connection therewith. This factor is vital in that it would reflect upon the credibility of statements or information which the Commission may require him to supply as a director of the corporation in connection with the operation of the proposed station. In the performance of our duties we must, among other things, determine whether the operation of proposed stations, or the continued operation of existing stations, would serve public interest, and in so doing "we are, of necessity, required to rely to a large extent upon statements made by station licensees, or those connected therewith. Caution must, therefore, be exercised to grant station licenses only to those persons whose statements are trustworthy. Taking cognizance of the attempt of the witness to mislead the Commission, and his connection with Van Curler Broadcasting Corporation, we are of the opinion that this applicant is not qualified to become the licensee of the station proposed by it. Moreover, while this applicant has made a showing of the public service programs \* \* \* it expects to broadcast, it has not adduced evidence as to its other program plans. We are, therefore, unable to find from this record that the applicant, Van Curler Broadcasting Corporation, would provide a well-balanced program service, or a service comparable or superior to that proposed by Western Gateway Broadcasting Corporation.

"After considering the foregoing factors in the light of the entire record, we conclude, and so find, that the granting of the application of Western Gateway Broadcasting Corporation (Docket No. 5900) would, but that of Van Curler Broadcasting Corporation (Docket No. 5196) would not, serve public interest, convenience and necessity. Having reached this conclusion, it follows that the application of Western Gateway Broadcasting Corporation should be granted and that of the Van Curler Broadcasting Corporation denied."

## DESIGNATED FOR HEARING

Fred C. Morgan, Harrison Eiteljorg, Roger A. Beane, d/b as Hoosier Broadcasting Co., Indianapolis, Ind.—Designated for hearing application for construction permit (B4-P-3292) for a new station to operate on 810 kc., 250 watts, daytime.

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Designated for hearing application for modification of construction permit (B4-MP-1210; B4-ML-386) for approval of directional antenna for day and night use on frequency 1380 kes. with power of 5 KW.

## LICENSE RENEWALS

Granted renewal of following broadcast station licenses for the period ending in no event later than October 1, 1942:

KGDE, Fergus Falls, Minn.; KGFV, Kearney, Nebr.; WTOL, Toledo, Ohio; KAND, Corsicana, Tex.; KIUL, Garden City, Kans.; KSUB, Cedar City, Utah; WDSM, Superior, Wisc.; KADA, near Ada, Okla.; KAVE, Carlsbad, New Mexico; KVNU, near Logan, Utah.

Granted renewal of following broadcast station licenses for the period ending in no event later than October 1, 1943:

KEUB, Price, Utah; KDNT, Denton, Tex.; WMSD, Muscle Shoals City, Ala.; WIBM, Jackson, Mich.; WGPC, Albany, Ga.

Granted renewal of following broadcast station licenses for the period ending in no event later than August 1, 1943:

KIUN, Pecos, Tex.; KIUP, Durango, Colo.; KTSW, Emporia, Kans.; KRMC, Jamestown, N. Dak.; WFOR, Hattiesburg, Miss.; WHUB, Cookeville, Tenn.; WGIL, Galesburg, Ill.; WCBY, Columbus, Miss.; KGFL, Roswell, New Mexico; KICA, Clovis, New Mexico; KTEM, Temple, Tex.

Granted renewal of following broadcast station licenses for the period ending in no event later than December 1, 1943:

KOVC, Valley City, N. Dak.; KWBZ, Muskegon, Mich.; KVOE, Santa Ana, Calif.; WGKV, Charleston, W. Va.; WMJM, Cordele, Ga.; WHBB, Selma, Ala.; KWEW, Hobbs, N. Mex.; KTOH, Lihue, Hawaii; WMRN, Marion, Ohio.

Granted renewal of following broadcast station licenses for the period February 1 1942, to not later than February 1, 1944:

KMMJ, Grand Island, Nebr.; WMAZ and auxiliary, Macon, Ga.; WLAW, Lawrence, Mass.; WABC and auxiliary, New York, N. Y.; WHKC, Columbus, Ohio.

Granted renewal of following broadcast station licenses for the period February 1, 1942, to not later than April 1, 1944:

KYW, Philadelphia, Pa.; WHO, Des Moines, Iowa; WMBI, Chicago, Ill.; WNEW and auxiliary, New York, N. Y.; KFBK, Sacramento, Calif.; KSL, Salt Lake City, Utah; KTHS, Hot Springs National Park, Ark.; WCAR, Pontiac, Mich.

Granted renewal of following broadcast station licenses for the period February 1, 1942, to not later than February 1, 1944:

WFAA, Dallas, Tex.; WSM and auxiliary, Nashville, Tenn.; WSB and auxiliary, Atlanta, Ga.; WOR and auxiliary, New York, N. Y.

Granted renewal of licenses for the following stations for the period February 1, 1942, to February 1, 1944:

KGO and auxiliary, San Francisco; WENR, Chicago; WJZ and auxiliary, New York City.

Licenses for the following stations were further extended upon a temporary basis, pending determination upon application for renewal, for the period ending March 1, 1942:

KFJB, Marshalltown, Iowa; WBRB, Red Bank, N. J.; WFTC, Kinston, N. C.; WGCM, Gulfport, Miss.; WGRM, Greenwood, Miss.; WJMA, Covington, Va.; WCBT, Roanoke Rapids, N. C.; KATE, Albert Lea, Minn.; KBST, Big Springs, Texas; KCMC, Texarkana, Texas; KFGQ, Boone, Iowa; KGIW, Alamosa, Colo.; KGKL, San Angelo, Texas; KPLT, Paris, Texas; KRBC, Abilene, Texas; KVAK, Atchison, Kans.; KVGB, Great Bend, Kans.; WMAN, Mansfield, Ohio; KVRB, Rock Springs, Wyo.; KWLK, Longview, Wash.; WBNY, Buffalo, N. Y.; KVWC, Vernon, Texas; WFPG, Atlantic City, N. J.; WGNC, Gastonia, N. C.; WKBV, Richmond, Ind.; WKEU, Griffin, Ga.; WMFJ, Daytona Beach, Fla.; WMIS, Natchez, Miss.; WRJN, Racine, Wisc.; WSPB, Sarasota, Fla.; KFBI, Wichita, Kans.; WMEX, Boston, Mass.; KGGF, Coffeyville, Kans.; WOWO, Fort Wayne, Ind.; WNYC and auxiliary, New York; KOA, Denver; KWJJ, Portland, Ore.; KWKH, Shreveport, La.; WDGY, Minneapolis, Minn.; WDZ, Tuscola, Ill.; WGY, Schenectady, N. Y.; WHB and auxiliary, Kansas City, Mo.; WJSV, Washington, D. C.; WKBW, Buffalo, N. Y.; WLW, Cincinnati, Ohio; WOI, Ames, Iowa; WPTF and auxiliary, Raleigh, N. C.; WQXR and auxiliary, New York City; WRUF, Gainesville, Fla.; KXL, Portland, Ore.; WIBC auxiliary, Indianapolis, Ind.; KITE, Kansas City, Mo.; WORK, York, Pa.; WGY auxiliary, Schenectady, N. Y.

Granted renewal of licenses on a temporary basis only, pending receipt of and determination upon application for renewal, for the period ending April 1, 1942:

KGU, Honolulu, T. H.; KTRB, Modesto, Calif.; WCAZ, Carthage, Ill.; WLB, Minneapolis, Minn.

Granted extension upon a temporary basis only, pending receipt of and/or determination upon applications for renewal of license, in no event later than March 1, 1942, of following licenses:

W2XAB, New York, N. Y.; W2XVT, Passaic, N. J.; W2XWV, New York, N. Y.; W3XE, Philadelphia, Pa.; W3XP, Philadelphia, Pa.; W9XBT, Chicago, Ill.; W9XUI, Iowa City, Iowa; W10XKT, Allen B. DuMont Laboratories, Inc., portable mobile.

WLWO—The Crosley Corp., Cincinnati, Ohio—Granted renewal of license for the period ending November 1, 1942.

Granted renewal of following television station licenses for the period February 1, 1942, to February 1, 1943 (areas shown):

W2XBT, New York, N. Y.; W2XBU, New York, N. Y.; W3XAD, Camden, N. J.; W3XEP, Camden, N. J.; W6XAO, W6XDU, Los Angeles, Calif.; W9XZV, Chicago, Ill.; WNB, New York, N. Y.

W9XLA—KLZ Broadcasting Co., Denver, Colo.—Granted further extension of license upon a temporary basis only, pending determination upon application for renewal of license, in no event later than March 1, 1942.

W2XVP—City of New York, Municipal Broadcasting System, New York City, N. Y.—Granted further extension of license upon a temporary basis only, pending determination upon application for renewal of license, in no event later than March 1, 1942.

W5XAU—WKY Radiophone Co., Oklahoma City, Okla.—Granted further extension of license upon a temporary basis only, pending determination upon application for renewal of license, in no event later than March 1, 1942.

WFIN—Findlay Radio Co., Findlay, Ohio—Granted license (B2-L-1585) to cover construction permit (B2-P-2846) for new station; **1330 kes.**, 1 KW, daytime. Also granted authority to determine operating power by direct measurement (B2-Z-1322).

KSCJ—Perkins Bros. Co. (The Sioux City Journal), Sioux City, Iowa—Granted license (B4-L-1574) to cover construction permit (B4-P-2290) for installation of directional antenna for night use, and increase in power to 5 KWS; also authority to determine operating power by direct measurement (B4-Z-1313).

KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted license (B3-L-1586) to cover construction permit (B3-P-3369) for installation of new transmitter.

WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Granted license (B4-L-1552) to cover construction permit (B4-P-2821) for installation of directional antenna for night use, and increase in power. Also authority to determine operating power by direct measurement of antenna input (B4-Z-1281).

KPRO—Broadcasting Corp. of America, Riverside, Calif.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1323).

WCRC—Columbia Broadcasting System, Inc., Brentwood, N. Y.—Granted license (B1-LIB-21) to cover construction permit (B1-PIB-26) authorizing a new international broadcast station; **6060, 6120** (conditionally), **6170, 9650, 11830, 15270, 17830, 21520, 21570 kc.**; 50 KW; sharing with WCBX on all frequencies; share **6060** with KWID.

WSO—Paducah Broadcasting Co., Inc., Henderson, Ky.—Granted license (B2-L-1584) to cover construction permit (B2-P-3149) for new station; **860 kc.**; 250 watts; daytime. Also authority to determine operating power by direct measurement of antenna power (B2-Z-1321).

WARM—Union Broadcasting Co., Scranton, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-432).

WELE—WBNS, Inc., Portable-Mobile, Area of Columbus, Ohio—Granted license (B2-LRE-372) for reinstatement of license of relay station; **31220, 35620, 37020, 39260 kc.**; 2 watts; to be used with standard broadcast station WBNS.

KCRC—Enid Radiophone Co., Enid, Okla.—Granted license (B3-L-1594) to cover construction permit (B3-P-3400, to reinstate B3-P-2810) for increase in power to 1 KW; new transmitter and direction antenna for day and night use, and authority to determine operating power by direct measurement (B3-Z-1330).

Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to eliminate the usual hour and half-hour station identification on all radio broadcast stations affiliated with the Columbia network during the President's Birthday Ball broadcast between 11:15 p. m., EST, January 30, 1942, and 12:15 a. m., EST, January 31, 1942, only.

Mutual Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to eliminate the pause for station identification on all radio broadcast stations affiliated with the Mutual network during following programs: "March of Dimes" from 11:15 p. m., EST, January 24, 1942, to 12:15 a. m., EST, January 25, 1942; "Birthday Greetings" from 12 midnight, EST, January 29, 1942, to 1 a. m., EST, January 30, 1942; and the President's Birthday program from 11:15 p. m., EST, January 30, 1942, to 12:15 a. m., EST, January 31, 1942, only.

W2XCB—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York City)—Granted modification (B1-MPVB-68) of construction permit (B1-PVB-46) which authorized a new television relay broadcast station, for extension of completion date to July 7, 1942.

W2XEO—Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted special temporary authority to operate ST station W2XEO on **331,000 kc.**, 50 watts, special emission for frequency modulation, using temporary antenna located on roof of building, 408 State St., Schenectady, in order to relay programs to High Frequency Broadcast Station W47A (which operates under special temporary authority) for a period ending not later than February 24, 1942, pending completion of construction in accordance with permit.

W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate a high



- frequency experimental broadcast station on **43200 kc.**, 2500 watts, special emission for frequency modulation, with the transmitter located at New Scotland, N. Y., for period January 28 to not later than February 24, 1942.
- W55M**—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—Granted extension of special temporary authority to operate frequency modulation station commercially on **45500 kc.**, 3000 watts, special emission for frequency modulation, with transmitter located at 606 West Wisconsin Ave., Milwaukee, from January 26 to not later than March 26, 1942, subject to any rules and regulations that may be adopted by the Commission.
- Blue Network Company, Inc.**, New York, N. Y.—Granted special temporary authority to eliminate the pause for station identification on all radio broadcast stations affiliated with the Blue Network during programs broadcast in the interest of the campaign for funds to fight Infantile Paralysis on following dates: 11:15 p. m., EST, January 24, 1942, to 12:15 a. m., EST, January 25, 1942; 12 midnight, EST, January 29, 1942 to 1 a. m., EST, January 30, 1942; and 11:15 p. m. EST, January 30, 1942, to 12:15 a. m., EST, January 31, 1942, only.
- National Broadcasting Co., Inc.**, New York, N. Y.—Granted special temporary authority to eliminate the pause for station identification on all radio broadcast stations affiliated with the NBC Red Network during programs broadcast in the interest of the campaign for funds to fight Infantile Paralysis on following dates: 11:15 p. m., EST, January 24, 1942, to 12:15 a. m., EST, January 25, 1942; 12 midnight, EST, January 29, 1942, to 1 a. m., EST, January 30, 1942; and 11:15 p. m., EST, January 30, 1942, to 12:15 a. m., EST, January 31, 1942, only.
- WTMA**—Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted modification of construction permit as modified for installation of new transmitter, directional antenna for night use, change frequency, increase power and move transmitter, for extension of completion date from January 21 to April 21, 1942 (B3-MP-1481).
- WIBA**—Badger Broadcasting Co., Madison, Wis.—Granted modification of construction permit as modified for new transmitter, increase in power, changes in directional antenna system, move studio and transmitter, for extension of completion date from January 20 to February 20, 1942 (B4-MP-1493).
- WGTM**—WGTM, Inc., Wilson, N. C.—Granted extension of special temporary authority to operate with studio at 115 West Nash St., Wilson, N. C., in lieu of site specified in construction permit, from January 22 to not later than February 20, 1942.
- WSON**—Paducah Broadcasting Co., Inc., Henderson, Ky.—Granted motion for leave to file appearance in re application for modification of construction permit to operate on **860 kc.**, 500 watts daytime; previously due January 15, 1942.
- WHEC**—WHEC, Inc., Rochester, N. Y.—Granted petition for dismissal without prejudice application for construction permit to operate on **790 kc.**, 5 KW, unlimited, directional antenna night and day.
- William J. Bray, James L. Ewing, T. B. Lanford, and John C. McCormack**, d/b as Capitol Broadcasting Co., Port Allen, La.—Granted petition to dismiss without prejudice application for construction permit for new station.
- The Constitution Broadcasting Co.**, Atlanta, Ga.—Granted motion for leave to amend application for new station so as to specify a different directional antenna design or a different site, or both, on condition that the amendment is filed within 14 days; continuance denied.
- WELL**—Federated Publications, Inc., Battle Creek, Mich.—Granted motion for continuance of hearing in re application for renewal of license, now scheduled for March 4, to March 16, 1942.
- WIRE**—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Granted motion for leave to amend application to substitute photographs of proposed site, in re construction permit to operate on **1190 kc.**, 50 KW, unlimited time, directional antenna night; not removed from docket.
- KFRO**—Voice of Longview, Longview, Tex.—Granted motion that hearing on application for modification of construction permit to operate on **1370 kc.**, 5 KW, unlimited, directional antenna night, be continued for 90 days (May 18, 1942); hearing was scheduled for February 16, 1942; denied as to request to place in pending files.
- Bob Jones College, Inc.**, Cleveland, Tenn.—Granted motion for leave to amend application for new station with respect to directional antenna design, on condition that amendment is filed within 14 days; hearing now scheduled for March 16; denied as to continuance of hearing.
- News Syndicate Co., Inc.**, New York, N. Y.—Granted motion for order to take deposition in re hearing on application for construction permit for new station.
- WCAX**—Burlington Daily News, Inc., Burlington, Vt.—Denied petition to intervene and to enlarge issues in re hearing on applications of Yankee Broadcasting Co., Inc., New York, N. Y., and Newark Broadcasting Corp., Newark, N. J., for new stations; exception noted by counsel for WCAX.
- KFQD**—Anchorage Radio Club, Inc., Anchorage, Alaska—Granted extension of special temporary authority to operate unlimited time instead of S. H.—6 p. m. to midnight, LST, from January 21 to not later than March 1, 1942.
- KGA**—Louis Wasmer, Spokane, Wash.—Granted special temporary authority to operate with power of 5000 watts on non-directional antenna, using transmitting equipment specified in construction permit and located at 4102 South Regal St., Spokane, in lieu of site specified in existing license, for a period not to exceed 30 days, pending completion of construction, provided present tower dismantled immediately when operation begins at new site.
- W67NY**—Columbia Broadcasting System, Inc., New York, N. Y.—Granted extension of special temporary authority to operate frequency modulation station W67NY commercially on **46700 kc.**, 3 KW, special emission for frequency modulation, using temporary antenna, with transmitter located at 500 Fifth Ave., New York City, from January 30 to not later than March 30, 1942, pending completion of construction in accordance with construction permit as modified.
- W49PH**—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted extension of special temporary authority to operate frequency modulation station W49PH commercially on **44900 kc.**, 1 KW, special emission for frequency modulation, using temporary coaxial antenna, with transmitter located at 35 South Ninth St., Philadelphia, from February 2 to not later than April 2, 1942, pending completion of construction in accordance with construction permit as modified.
- WAAF**—Drovers Journal Publishing Co., Chicago, Ill.—On Commission's own motion supplemented the notice of issues heretofore released on the application for construction permit (Docket No. 6129).
- W47A**—The Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted extension of special temporary authority to operate high frequency broadcast station W47A on a commercial basis, using temporary antenna system and temporary main studio at the transmitter of the subject station, pending completion of construction and submission of additional data with license application, for the period January 27 to not later than February 25, 1942.
- WCBW**—Columbia Broadcasting System, Inc., New York, N. Y.—Granted extension of special temporary authority to operate television broadcast station WCBW in accordance with construction permit (B1-PCT-2 as modified B1-MPCT-3) except with four KW aural and visual power from January 27 to not later than February 25, 1942.
- W2XYC**—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority to use already licensed Class I experimental Station W2XYC on **161775 kc.**, power of 25 watts, special emission for frequency modulation, in order to relay to high frequency experimental station W2XOY programs originating in the General Electric studios in Schenectady, N. Y., for a period beginning February 2, 1942, and ending in no event later than March 3, 1942, pending action on application for construction permit and installation of ST transmitter.
- W2XQR**—John V. L. Hogan, Long Island City, N. Y.—Granted extension of special temporary authority to operate on **45900 kc.**, with 1000 watts power, special emission for frequency modulation, using temporary antenna, with transmitter located atop the Chanin Building, 122 East 42nd Street, New York City; composite maximum rated carrier output 1000 watts; facsimile modulation may be employed in connection with the program of research and experimentation. (No authority is contained herein to conduct a facsimile broadcast service.) Authority granted from January 27 to not later than March 28, 1942.

WNAC—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to operate auxiliary transmitter of Station WAAB as an auxiliary transmitter for Station WNAC for a period not to exceed 30 days, pending filing of and action on application for same.

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Granted special temporary authority to install and operate composite 1 KW transmitter, using 660-foot tower with non-directional antenna, at Madera and North Avenues, Kerman, Calif., in lieu of site specified in existing license, for a period not to exceed 10 days.

WQXR—Interstate Broadcasting Co., Inc., New York City.—Extended special temporary service authorization from February 1, 1942, to no later than March 1, 1942, to operate with power of 10 KW, non-directional antenna, unlimited time, on 1560 kc., subject to condition that if and when Cuba signifies its intentions of using its facilities on this channel, the licensee herein will take such steps as are necessary to comply with previous authorization (B1-MP-1086) in time to prevent objectionable interference to Cuba.

WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Denied request for special service authorization to operate from sunset Buffalo to local sunrise with power of 1 KW, employing non-directional antenna.

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Denied petition for review by the Commission en banc of the action of the Motions Commissioner on January 16, 1942, denying a petition to intervene in the consolidated hearing of Yankee Broadcasting Co., Inc., and Newark Broadcasting Corp., for a new station in the New York City area to operate on 620 kc., approved action of Motions Commissioner in denying petition to intervene.

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Denied petition to reconsider and grant without hearing application for a construction permit to change operating assignment from 1240 kc., 250 watts power, unlimited time, to 580 kc., 1 KW, unlimited time, with directional antenna night (hearing scheduled for February 27, 1942).

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Denied motion and supplement thereto to return the application of Thomas Patrick, Inc. (KWK), for construction permit (B4-P-2364) to the applicant and cancel hearing thereon (Docket No. 5701).

WPER—Tropical Broadcasting Co., De Land, Fla.—On advice that permittee has decided not to proceed with construction, Commission retired construction permit to closed files and deleted station and call letters.

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

WOPI—Radiophone Broadcasting Station WOPI, Inc., Bristol, Tenn.—Construction permit for changes in transmitting equipment, changes in antenna system, change in frequency from 1490 to 550 kc., using power of 100 watts night, 250 watts day.

### 610 Kilocycles

NEW—The Continental Broadcasting Co., Salt Lake City, Utah.—Construction permit for a new broadcast station to be operated on 610 kc., 1 KW, unlimited time, using directional antenna. Amended: re site and changes in directional antenna.

### 630 Kilocycles

WMAL—M. A. Leese Radio Corp., Washington, D. C.—Modification of license to change name to The Evening Star Broadcasting Co.

### 660 Kilocycles

KFAR—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Construction permit to change frequency from 610 to 660 kc., increase power from 1 to 10 KW, and install new transmitter.

### 680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Authority to determine operating power by direct measurement for main transmitter.

WPTF—WPTF Radio Co., Raleigh, N. C.—Authority to determine operating power by direct measurement for auxiliary transmitter.

### 920 Kilocycles

WJAR—The Outlet Company, Providence, R. I.—Construction permit to make changes in and move old main transmitter to site new transmitter and use as auxiliary transmitter with power of 1 KW.

### 930 Kilocycles

NEW—Paducah Newspapers, Inc., Paducah, Ky.—Construction permit for a new broadcast station to be operated on 930 kc., 1 KW, unlimited time, using directional antenna for day and night use. Amended: to request transmitter site at E. of Brookport, Ill., and make changes in directional antenna.

### 1080 Kilocycles

WINK—Mid-America Broadcasting Corp., Louisville, Ky.—Modification of construction permit (B2-P-2760) for a new station, requesting change in type of transmitter and extension of commencement and completion dates from 1-12-42 and 7-12-42 to 60 days after grant and 180 days thereafter, respectively.

### 1260 Kilocycles

WNAC—The Yankee Network, Inc., Boston, Mass.—Construction permit to reinstate B1-MP-322 as modified for increase in power from 1 KW night, 5 KW day to 5 KW day and night, installation of directional antenna for day and night use and changes in equipment and to request directional antenna for night use only.

### 1280 Kilocycles

WMRO—Martin R. O'Brien, Aurora, Ill.—Modification of license for change in power from 250 watts to 100 watts night, 250 watts day and hours from daytime to unlimited.

### 1340 Kilocycles

WGTM—WGTM, Inc., Wilson, N. C.—Voluntary assignment of license and permit from WGTM, Inc. to Penn T. Watson.

### 1360 Kilocycles

WSAI—The Crosley Corp., Cincinnati, Ohio.—Modification of construction permit (B2-P-2221) as modified for increase in power, installation of directional antenna for night use, move of transmitter, requesting changes in directional antenna, extension of completion date from 7-15-41 to 180 days after grant, and booster station on 100 watts, daytime, to use directional antenna day and night. Amended: to request directional antenna night only.

### 1440 Kilocycles

WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Construction permit to increase power from 500 watts night, 1 KW day to 5 KW, installation of directional antenna for night use, install new transmitter and move transmitter.

### 1450 Kilocycles

WNOE—WNOE, Inc., New Orleans, La.—Authority to determine operating power by direct measurements.

### 1490 Kilocycles

KTBI—Tacoma Broadcasters, Inc., Tacoma, Wash.—License to cover construction permit (B5-P-3351) for move of transmitter. Amended: to correct type number of transmitting equipment.

KPAB—Mervel M. Valentine, Laredo, Texas.—Voluntary assignment of license from Mervel M. Valentine to The Pan American Broadcasting Co., Inc.

WKBZ—Ashbacker Radio Corp., Muskegon, Mich.—Construction permit for installation of new transmitter.

## FM APPLICATION

K37LA—Earle C. Anthony, Inc., Los Angeles, Calif.—Modification of construction permit (B5-PH-45) for a new high



frequency broadcast station, requesting approval of directional antenna system for a coverage of 34,960 square miles and approval of transmitter. Population: 3,597,000.

## TELEVISION APPLICATIONS

**W3XAU**—WCAU Broadcasting Co., Philadelphia, Pa.—Modification construction permit (B2-PVB-47) as modified for a new television broadcast station, requesting extension of commencement and completion dates from 1-28-41 and 1-28-42 to ?. Amended: to request extension of completion date only from 1-28-42 to 3-28-42.

**W9XAK**—Kansas State College of Agriculture and Applied Science, Manhattan, Kansas—Modification of construction permit (B4-PVB-25) as modified for a new television broadcast station, requesting extension of completion date from January 15, 1942, to 7-15-42.

## MISCELLANEOUS APPLICATIONS

**KSDS**—San Diego Unified School District, San Diego, Calif.—Modification of construction permit (B5-PED-20) for a new non-commercial educational broadcast station, requesting extension of completion date from 2-24-42 to 7-1-43.

**NEW**—The Associated Broadcasters, Inc., Portable-Mobile—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 50 watts, Emission A3.

# FEDERAL TRADE COMMISSION DOCKET

## COMPLAINTS

*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.*

The 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.

**Abbot Manufacturing Company**—Alleging misrepresentation in connection with the sale of perfume, a complaint has been issued against Miahati, Inc., and Andrew Apicella and Jean Vivaudou, trading as Oceanic Import Co., 377 Fourth Ave., New York, and Abbot Manufacturing Co., 551 Fifth Ave., New York. (4671)

**Associated Tailors**—A complaint has been issued charging Lea H. Heller, Michael Heller, and Harry Hindlemann, trading as Associated Tailors and Associated Denver Tailors, Denver, Colo., with misrepresentation in the sale of men's clothing. (4672)

**Curtiss Candy Co.**, Chicago, is charged with price and other discrimination in violation of the Robinson-Patman Act and monopolistic practices in violation of the tying or exclusive dealing section of the Clayton Act, in a complaint. (4673)

**Detroit Rex Products Company**—Complaints have been issued charging Detroit Rex Products Co., 13011 Hillview Ave., Detroit, and G. S. Blakeslee & Co., 1844 South 52nd Ave., Cicero, Ill., with misrepresentation and unfair disparagement of a competitor's product in connection with the sale of synthetic solvent degreasing machines and synthetic degreasing solvents consisting of trichloroethylene. The Detroit company's solvents are known as "Triad" and "Perm-A-Clor" and the Blakeslee firm's solvent as "Blacosolv." (4674-4678)

**Walter H. Johnson Candy Co.**, Chicago, is charged with price discrimination in violation of the Robinson-Patman Act, in a complaint. (4677)

**Liquid Tight Paper Container Association**—Eight manufacturers of cylindrical liquid tight paper containers and the trade association of which they are members are charged in a complaint with engaging in practices, including price fixing, for the purpose and with the effect of restraining and suppressing competition and creating a monopoly in the sale of their products. Respondents named in the complaint are:

Liquid Tight Paper Container Association, 1532 Lincoln-Liberty Building, Philadelphia, and its secretary and manager, George J. Lincoln, Jr.; Boothby Fibre Can Co., 84 Linden Park St., Boston; Gordon S. Smith and George T. Hynes, trading as Champion Container Co., Third and Somerset Sts., Philadelphia; Fonda Container Co., Inc., 2150 Erie St., Utica, N. Y.; Mensha Products Co., Menasha, Wis.; Minkoff & Rosenfield Brothers, Inc., trading as Miro Container Co., 557 DeKalb Ave., Brooklyn; Russell Box Co., 200 Boston Ave., Medford, Mass.; Sealright Co., Inc., Fulton, N. Y.; and Sutherland Paper Co., Kalamazoo, Mich. (4675)

## CEASE AND DESIST ORDERS

No cease and resist orders were issued last week by the Commission.

## STIPULATIONS

During the past week the Commission announced the following stipulations:

**Baum Laboratories**, 71 Fresh Pond Road, Brooklyn, stipulated that he will discontinue representing that his "Baum's Ace Brand Corn, Callous and Bunion Salve" is a competent treatment, an effective remedy or a cure for corns, callouses, warts, bunions or ingrown toenails; that it is harmless or entirely safe under conditions of continued or repeated use; that it is either "new" or a "scientific remedy" for disfigured feet due to corns and bunions or that the results to be obtained from its use are guaranteed, unless, whenever the word "guaranteed" is used, clear and unequivocal disclosure is made as to what is offered by way of security. The respondent also agrees to stop disparaging competing products and to discontinue use of the word "Laboratories" as a part of his trade name. (3372)

**Bireley's, Inc.**, 1127 North Mansfield Ave., Hollywood, Calif., distributor of food concentrates used in compounding soft drinks, entered into a stipulation to cease and desist from representing that the drink designated "Bireley's Orange" is made wholly or predominantly of orange juice; that a bottle of the drink contains the juice of a whole orange when, in fact, the orange juice content is less than that of an average sized orange, or that the drink will aid in the prevention of colds, prevent an oversupply of white corpuscles in the blood or build up red corpuscles. The respondent also agrees to discontinue representing that the drink designated "Tomato Cocktail" is composed of tomato juice or that the drink called "Bireley's Grape" is a real fruit beverage. (3365)

**M. Chorost & Co.**, 1013 Broadway, Brooklyn, which used the so-called "Synthetic Rajah Mohair" in the manufacture of certain furniture, entered into a stipulation with the Commission. The copartners in the firm of M. Chorost & Co. are Morris and Gertrude Chorost, Benjamin and Florence Miller, and Julius and Alice Tarr. (3369)

**R. D. Cortina Co., Inc.**, trading as Cortina Academy, 105 West 40th St., New York, made a stipulation to cease representing that the Cortina "learn by listening" method, taught by correspondence course, is the quickest and easiest way ever devised to study a foreign language and will enable a person to speak Spanish or any other foreign language at once.

The respondent further agrees to cease advertising that the Cortina method will enable a person, within any definite time, to master a foreign language or speak it fluently and correctly with perfect understanding and full knowledge of its finer shades of meaning or well enough to qualify the pupil for positions requiring ability to speak the language like a native. (02937)

**Carl Griesbaum**, 325 Mountain Road, Union City, N. J., engaged in the sale of chenille fabrics, stipulated that he will cease and desist from advertising, labeling, invoicing or selling products composed in whole or in part of rayon without clearly disclosing, by use of the word "rayon," that such products are composed of or contain rayon; and, when a product is composed in part of rayon and in part of other fibers or materials, will discontinue failing to disclose each constituent fiber, in the order of its predominance by weight beginning with the largest single constituent, in immediate connection with and in type equally conspicuous as the word "rayon." The respondent also agrees to cease using the word "Persian" or any other words connoting fur as descriptive of fabrics made or composed of fibers other than fur and to discontinue advertising, labeling or selling fabrics composed of fibers other than fur under any representations or conditions of deceptive concealment whereby purchasers may be misled into buying such fabrics in the belief that they are composed of fur. (3371)

**Erwin W. Hasebroock**, 307 South Second St., Norfolk, Nebr., who sells a book called "Permanent Relief from Sinus Trouble and Asthma," stipulated to cease representing that an observance of the advice contained in the book will have any effect in the treatment of asthma or afford permanent relief from sinusitis. (02939)

**Hillshire Down**—Marion E. Baldwin, trading as Hillshire Down, Killingly, Conn., entered into a stipulation to cease and desist from certain representations in the sale of cosmetic preparations designated "Hillshire Down Goat Milk Hand and Arm Cream," "Hillshire Down Goat Milk Massage and Cleansing Cream," and "Hillshire Down Lotion." (02938)

**Max Hollinger**, 134 West 29th St., New York, dealer in fur garments, entered into a stipulation to cease and desist from invoicing or otherwise designating or describing any fur or fur garment in any manner other than by use of the correct name of the fur as the last name of the description thereof, and, when any dye, blend or process is used in simulating another fur, the true name of the fur appearing as the last name of the description shall be immediately preceded, in equally conspicuous type by the word "dyed," "blended" or "processed" compounded with the name of the simulated fur. According to the stipulation, the respondent, in invoices to retail dealers, designated certain fur garments as "Gray Broadtail Ensemble" or as "Gray Broadtail Coat & Hat," when, in fact, the garments so described were not made of broad-tail peltries, that is, peltries of baby lambs of the Karakul breed of sheep, but were manufactured from peltries other than broad-tails. (3370)

**National Radio Institute**, 16th and U Sts., N. W., Washington, D. C., selling a correspondence course of instruction designated "Course in Practical Radio and Television," stipulated that it will cease and desist from representing that it has obtained employment for students with any particular radio concern when such is not a fact and that its course covers all the radio requirements needed to qualify one for a license to serve as a ship radio operator.

The respondent further stipulates that, in advertisements referring to radio positions which require a knowledge of code, and in all of its enrollment blanks, it will reveal conspicuously the fact that there is an extra charge for the course covering code instructions; and agrees to reveal conspicuously in advertising material which sets forth the terms under which a student may pay for the course, the fact that there is a limitation of two and one half years allowed for completing the course and that if a student has not finished the prescribed program within two and one-half years from the date of his enrollment, he may be charged an additional amount before being allowed to continue with the course. (02936)

**Newsstand Publications, Inc.**—A stipulation to discontinue certain representations in connection with the sale of magazines and periodicals has been entered into by Newsstand Publications, Inc., Western Fiction Publishing Co., Inc., and Manvis Publications, Inc., 330 West 42nd St., New York, and Martin Goodman and Abraham Goodman, officers of the three corporations. According to the stipulation, the respondents published, in magazines and periodicals, reprints of fiction articles and stories without designating them as such. They agree to cease disseminating any publication containing any reprints of stories or articles previously published unless the fact that such stories and articles are reprints is truthfully and unambiguously disclosed.

The respondents further stipulate that they will discontinue the following practices: Substituting a new title for the original title of a reprinted story unless such substitute title is immediately accompanied in equally conspicuous type by the title under which the story was originally published; changing the names of characters in reprinted stories or otherwise disguising an original story in any manner which causes readers to believe that the reprinted story is an original; using a pseudonym in lieu of the true name of an author so as to imply that a reprinted story bearing such pseudonym is new or original; representing, by use of the word "copyright," any story, magazine, book or publication which has not been copyrighted as being copyrighted; and reprinting any copyrighted story or book from which the notice of original copyright has been removed or omitted, or which is not supplemented with adequate copyright notice indicating the year or years when copyrighted. (3366)

**Wadsworth Feed Co.**, Warren, Ohio, engaged in the sale of animal and poultry feeds, has made a stipulation to cease and desist from representing that its feeds can be depended upon to produce more milk, lower cost milk, or milk with high health standards, or to keep stock in excellent physical condition; that its dairy rations are higher in digestibility and feeding value than any competing product; that its poultry rations can be depended upon to cause faster chick growth, lower poultry mortality, or increased egg production; and that competitive animal and poultry feeds containing oat hulls or other roughage are, by reason of such content, inferior to the respondent's products. The respondent also agrees to discontinue use of the word "guarantees" unless clear and unequivocal disclosure is made of exactly what is offered by way of security. (3367)

**Wissahickon Plush Mills, Inc.**, 3727 Main St., Philadelphia, agrees to discontinue use of the words "Synthetic Rajah Mohair" as a designation for its rayon and cotton upholstery fabric; and use of the word "mohair," either alone or with other words, to designate a textile fabric not made from the hair of the Angora goat, in any manner so as to imply that such textile fabric is mohair.

The respondent also agrees to stop advertising, labeling or selling products composed in whole or in part of rayon without clearly disclosing that fact by use of the word "rayon"; and, when a product is composed in part of rayon and in part of other fibers or materials, to cease failing to disclose each constituent fiber in the order of its predominance by weight beginning with the largest single constituent, in immediate connection with and in type equally as conspicuous as the word "rayon." (3368)

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