

mission to set the transfer application [B•T, Oct. 4] for hearing on allegations that the parent publishing company, Oklahoma Publishing Co., practiced advertising and editorial discrimination against other radio and tv stations in that city. They also charged that the publishing company conspired to restrain program sources from appearing on stations other than WKY-TV.

WKY denied the allegations. It termed the charges "false and scandalous" and the petition full of "misrepresentations."

In asking that the Commission make a determination on the anti-publicity charges, WKY said:

... we believe that it is essential that the Commission decide at this time whether a newspaper or any other business, controlling a broadcast licensee, is required to publish free promotional publicity, including the publishing of program logs, to competing media in order to escape the stigma of unfair competitive practices insofar as the Commission is concerned. . . .

If newspapers are to be required to give up their prerogative of determining whether information is news or whether it is merely promotional publicity benefiting profit making organizations; surrender their constitutional prerogative of determining what news is of interest to the public and what is not; and be required to actively promote the business of competitors by free promotional publicity, as the price of also engaging in the broadcast business, it is obvious that the price is too high for the newspaper industry to pay.

WKY said that even if the discrimination charges against the newspapers were true that would not be grounds for denying its application to purchase the Montgomery stations. It declared that its practice regarding news was its own right and that it could not be penalized for that.

Answering the specific charges of news and advertising discrimination, WKY detailed instances where it had carried news of KWTW's grant, construction, 1,571-ft. tower, etc. It made no apology for charging for program logs or for the run-of-the-paper positioning of KWTW's advertisements. (KWTW claimed discrimination in that its advertising appeared at no set place in the newspapers, while the newspaper-owned WKY-TV's did.)

Charge that WKY used pressure to restrain performers from appearing on KWTW or other tv stations in Oklahoma City were refuted by WKY. In the instances cited, the desire for exclusive use of a "story" or a program was given as the reason.

Nowhere was it accused of not running its radio and tv properties in the public interest, WKY pointed out. Its radio station has been operating, with regular renewals, since 1928, it said, and its tv station on the same basis since 1948. The many awards for public service received by both stations were cited.

WKY is purchasing the Montgomery radio and tv stations for \$562,600 plus the assumption of obligations totaling more than \$500,000.

## KIFN Bid to Stay FCC 10% Rule Denied

REQUEST of KIFN Phoenix, Ariz., that FCC either withdraw or stay the effectiveness of its revised "10% rule" has been turned down by the Commission and some half-dozen applications for new am stations or changes in facilities for existing outlets were dismissed as not conforming to the new rule.

In the text of its order issued Monday, FCC explained that the purpose of the amendments to its rules and standards, made final in early August and effective Sept. 7 [B•T, Aug. 9], "was to codify as a fixed rule the Commission's past practices relating to permissible deviations from the requisite minimum of interference-free service to be provided within an applicant's normally protected contour."

FCC turned down KIFN's argument that new rules should not apply to pending applications, citing the tv reallocation and other cases. The Commission also refused to consider waiver of daytime interference under the 10% population formula.

FCC earlier this year set for hearing KIFN's bid to change operation on 860 kc from 1 kw daytime only to 1 kw fulltime with directional antennas day and night. Issue involved, FCC said, is whether the proposed installation would comply with its rules with respect to the minimum of interference-free service within the station's normally protected (2.5 mv/m) contour and coverage of Phoenix and its metropolitan district.

In collateral action, FCC denied the petition of WKXY Sarasota, Fla., for waiver of the 10% rule and dismissed the station's application to change from 1 kw daytime on 1540 kc to 1 kw day, 500 w night on 930 kc, directional day and night.

FCC also dismissed these applications for noncompliance with the revised rule:

- WRFC Athens, Ga., to change from 500 w, 1 kw-LS, DA-N, to 1 kw, 5 kw-LS, DA-N, on 960 kc.
- The Saline Bcstg. Co. for a new station in Saline, Mich., to operate on 1290 kc, 500 w, D.
- Pacific Bcstrs. for a new station in Oxnard, Calif., to operate on 1520 kc, 250 w, U.
- Morehead Bcstg. Co. for a new station in Morehead, Ky., to operate on 1310 kc, 1 kw, D.
- E. Weeks McKinney-Smith for a new station in Paducah, Ky., to operate on 1560 kc, 1 kw, U, DA-1.
- KIEM Eureka, Calif., to change from 1480 kc, 5 kw, U, DA-1, to 930 kc, 1 kw, 5 kw-LS, DA-N.

## WROW-AM-TV Transfer Approved by Commission

TRANSFER of control of WROW-AM-TV Albany, N. Y., to a group headed by radio commentator Lowell Thomas was approved by the FCC last week [B•T, Oct. 18]. Purchase price for 83.4% ownership of the two Albany stations was \$298,800.

Associated with Mr. Thomas, who will be 31.2% owner, are Mr. Thomas' business manager, Frank M. Smith, 20.8%; Ellen E. Elliot, wife of New York stock broker Edward Elliot, 20.8%, and attorney Alger B. Chapman, former ABC director, 10.4%.

WROW operates on 590 kc, with 5 kw day, 1 kw night and is affiliated with MBS. Ch. 41 WROW-TV is affiliated with ABC and DuMont.

## WSHA (TV) Show Cause Order Is First Against Tv Station

CHARGING financial misrepresentation in the application for ch. 39 WSHA (TV) Sharon, Pa., FCC last week made public the text of its order directing Leonard J. Shafitz to show cause why his permit for WSHA should not be revoked. This is believed to be the first such

action by FCC in tv. WSHA is not on the air.

The Commission order designated the case for hearing Dec. 7 in Washington and called upon Mr. Shafitz to appear and present his evidence. The permit was granted Jan. 27.

FCC's show cause order contended that a field investigation in April "revealed that the total of unencumbered parcels of real property allegedly owned in fee simple by the permittee . . . was not owned by him at the time of filing his verified statement of financial condition with the Commission."

The order also alleged that as to the personal property shown on his financial statement and relied upon by the Commission when the construction permit was granted, the permittee refused to divulge any information showing to what extent he owned or had available to him the assets described. . . ."

## FIFTH AMENDMENT RIGHT RAISED IN LAMB CASE

Witness in closed session alleged to have refused to answer questions. Also appearing last Thursday was Paul Prosser of Toledo.

FIFTH Amendment privilege in refusing to testify was reportedly claimed last week by a second witness in the FCC's license renewal hearing on Edward Lamb's WICU (TV) Erie, Pa.

The witness, identified as Joe Friedman, appeared in a closed session with Examiner Herbert Sharfman on Thursday morning. Discussion by counsel for both Mr. Lamb and the FCC Broadcast Bureau later that day indicated the witness gave his name but refused to answer any questions.

Request for the closed session was made by the witness' attorney, David Rein of Washington, who told the examiner his client had a heart condition and a personal problem he wished to discuss privately. Transcript of the conference, however, was slated to become public Friday.

Earlier witnesses in the Lamb case testified that a Joe Friedman at one time was an official of the Communist Party of Lucas County (Toledo). A fortnight ago, a witness identified as Max Wall claimed Fifth Amendment rights in refusing to testify in the proceeding [B•T, Nov. 1]. Likewise, previous witnesses had recalled a Mr. Wall as active in Toledo party affairs.

Remainder of Thursday's hearing was devoted to examination of the Broadcast Bureau's 12th witness, Paul Prosser of Toledo, who said he had been in the local Communist Party from about 1937 to 1945 and had served on its executive committee between 1939 and 1942.

Mr. Prosser related the party had "practically continuous" fund drives for various purposes and the executive committee would suggest 50 to 75 names and decide which would be "touched" in a particular case.

The witness testified a number of names would be scratched off the list, but recalled Mr. Lamb's name remained on the list to be solicited for contributions for sending delegates to a state party meeting at Akron in 1939. Mr. Prosser said he never met Mr. Lamb. There was no testimony that Mr. Lamb was solicited.

The WICU renewal hearing issues include whether or not Mr. Lamb misrepresented himself when he said he never had Communist associations. Mr. Lamb, who denies the allegations, waits completion of the Broadcast Bureau's case before presenting his evidence. Hearing has been underway since mid-September [B•T, Sept. 20, et seq.].

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