

severely limited situations." The Commission said that the appellate court's decision "strikes at the heart of this authority to effectuate the efficient administration of the Act through the use of general rules."

The U. S. Court of Appeals in Washington ruled that the Commission could not adopt numerical standards in limiting ownership of tv stations because that conflicted with the requirement that the FCC could not deny an application without a hearing. The case was brought by Storer after the FCC refused to accept its application for ch. 10 in Miami on the ground that Storer already had the limit of five tv stations. This was since raised to seven, of which not more than five may be in the vhf band.

Meanwhile, Storer bought what is now ch. 23 WGBS-TV Miami. Following the circuit court's ruling, it refiled its application for Miami's ch. 10, but the Commission returned it on the ground that it was filed too late. An initial decision already had been issued for Miami ch. 10.

Bar Assn. Protests Commission Procedure

OBJECTION to the FCC's move permitting its Office of Opinions & Reviews to comment on pending cases was voiced last week by the Committee on Communications, Administrative Law Section, American Bar Assn.

In its 1955 report, the legal committee found that this move may exceed the Communications Act, which limits the functions of the Opinions & Reviews office to summaries of evidence at hearings, in preparing a compilation of facts regarding exceptions and replies, and in preparing decisions of the Commission under its direction. This provision, added to the Communications Act by the 1952 McFarland amendments, specifies that these functions shall be performed without recommendations by the review staff.

The Commission, the ABA committee found, instructed the review staff to also include review, analysis and comment on factual, legal and technical matters involved in exceptions and replies to the initial decision (before oral argument). The staff also was authorized to provide review, analysis and comment on interlocutory pleadings in adjudicatory matters.

Not only is this contrary to the law, the committee said, but "parties' rights to oral argument upon exceptions and replies to initial decision can effectively be frustrated by *ex parte* memoranda from the Office of Opinions & Review available only to the Commission. . . ."

"It was precisely to avoid counsels' argument without knowledge of the staff's position and *in vacuo* therewith that the duties of this office was so limited by Sec. 5(c)," the committee declared.

If such documents were made available to counsel for purposes of argument this would "go far" in avoiding this difficulty, the committee recommended.

The committee also questioned the effectiveness of the Commission's present pre-hearing conference system. It said:

"Unresolved then is whether these procedures have achieved *overall* the hoped-for 'economies of time and effort in the disposition of hearing cases' and the question of net gain or loss in so shifting the burdens of the hearing process from the Commission's examiners to the parties, and particularly to their counsel."

The committee held that the new procedures—whereby counsel meet with the examiner and thrash out matters of testimony, cross-examination, exhibits, etc.—contain "certain other dis-

advantages." It mentioned "canning" of written testimony, and loss of the credibility factor.

The committee also urged the greater use of the Commission's authority to issue cease and desist orders.

The Committee on Communications is headed by Washington attorney Arthur W. Scharfield.

Shreveport Tv Losers Appeal Opponents' Grants

THE FCC's decisions in the Shreveport chs. 3 and 12 cases were put into question last week when unsuccessful applicants filed appeals with the U. S. Court of Appeals in Washington.

KWKH Shreveport filed its notice of appeal in attempting to overturn the Commission's grant of ch. 3 there earlier this year to KTBS Shreveport [B•T, Feb. 21].

KRMD Shreveport filed its appeal against the FCC's grant of ch. 12 there to Shreveport Television Co. [B•T, May 23].

Both stations claimed the FCC erred in finding that they were not superior.

The Commission found KTBS superior to KWKH in local ownership, integration of ownership and management and more extensive participation of KTBS owners in community affairs. It found KWKH deficient under the diversification policy. KWKH is owned by the *Shreveport Times*, which also owns the *Monroe* (La.) *World* and *News-Star*. The same principals also own KTBS Little Rock, Ark., and a minority of ch. 11 KTVH (TV) Little Rock. On this basis the FCC granted Shreveport ch. 3 to KTBS.

In the Shreveport ch. 12 case, the FCC found Shreveport Television Co. superior to competitors KRMD and Southland Television Co. on the basis of assurance that program proposals would be carried out and the diversification issue. KRMD owner T. B. Lanford has interests in KPLC-AM-TV Lake Charles, La.; KALB-AM-TV Alexandria; WSLI Jackson, Miss., and KRRV Sherman, Tex. Southland principals own KCIJ Shreveport and WMRY and WCKG (TV) New Orleans. Shreveport Television is owned by local theatreman Don George and associates.

While KRMD was seeking judicial relief, Southland asked the FCC for a rehearing and reconsideration of the Shreveport ch. 12 case.

Carlsbad, N. M., Gets Vhf; KONA (TV) Allowed Shift

CARLSBAD (N. M.) Broadcasting Corp. was granted a construction permit for a new vhf station and KONA (TV) Honolulu was allowed to modify its permit to specify ch. 2 instead of ch. 11, in FCC actions last week.

The Carlsbad station will operate on ch. 6 with an effective radiated power of 1.41 kw visual and .852 kw aural; antenna height above average terrain is 380 ft. The condition was made that no construction commence until antenna site and structure are approved with respect to air navigation safety.

KONA (TV) was authorized 55 kw visual and 33.1 kw aural; antenna minus 160 ft.

Spartanburg Hearing July 11

HEARING on the Spartanburg, S. C., case—involving the move of the ch. 7 transmitter of WSPA-TV Spartanburg from Hogback Mt. to Paris Mt., near Greenville, S. C.—will be reopened July 11, it was announced last week. The date was set following a petition by uhf protestants WGVL (TV) Greenville and WAIM-TV Anderson that they had not had enough time to finish their cross examination of Walter J. Brown, WSPA-TV president.

FCC Alleges Easley Used Alias in Filing

FCC last week in an alleged alias case ordered Wade R. King and D. W. Schieber doing business as Grande Broadcasting Co., Albuquerque, N. M., to show cause why an order should not be issued revoking a construction permit for a new am station granted March 2, 1955 [B•T, March 14], by the Commission since, the FCC said:

"It appearing, that the Commission subsequently obtained information tending to indicate that Wade R. King is, in fact, Robert Lex Easley, whose application for renewal of radio-telephone first class operator license was dismissed with prejudice by the Commission on May 13, 1954, [B•T, May 17, 1954] and it further appearing that pursuant to Sec. 308b of the Communications Act, the grantee was requested by letter dated May 11, 1955, to submit a statement under oath by both parties as to whether Wade R. King or John L. Porter have ever been known as Robert Lex Easley; if not, the relationship, business or otherwise, of said parties; information regarding the consulting firm of 'King & Porter'; and the present location of Wade R. King and John L. Porter."

Letters Unanswered

The Commission said it sent registered letters to four addresses listed in the application and to forwarding addresses requesting replies by May 23. Two were returned unclaimed; another dated May 13 was signed for by D. W. Schieber and another was signed for by an Alton P. Hayes. No replies were received by the Commission.

In its application for the facility on 1430 kc, 500 w daytime, Grande Broadcasting Co. listed in equal partnership D. W. Schieber, employe for manufacturer of house trailers, and W. R. King, farm director-announcer KYMA Yuma, Ariz. The 1955 B•T radio yearbook lists a Ray King as chief engineer and farm director. He is not named in the 1954 issue.

Mr. Easley was cited by a federal grand jury in the District of Columbia in January 1952 on four counts of mail fraud. The indictment charged that he had falsely represented himself as a legally registered radio consulting engineer who allegedly received money from station applicants to help them in their applications before the FCC. An FCC order in March 1954 [B•T, March 22, 1954] said in part ". . . The applicant did not intend to file and did not in fact file such applications."

The FCC notice further alleged, "There is evidence that Robert Lex Easley, while employed by the State Highway Dept. of South Carolina as a radio engineer prior to Oct. 18, 1947, without authority from the State of South Carolina, converted state material to his own use and the use of other persons in the construction of a privately-owned radio station, and wilfully damaged or altered or permitted radio equipment to be damaged or altered."

The federal indictment was subsequently dropped at the request of the government because its chief witness could not come to Washington to testify due to physical disability [B•T, July 14, 1952].

Mr. Easley has been named or involved in law suits filed by WHAR Clarksburg, W. Va.; WLIL Lenoir City, Tenn.; WRNO Orangeburg, S. C., and WNOK Columbia, S. C. [B•T, Nov. 27, 6, 1951; July 17, 1952; May 1, 1950].

In his consulting engineering activities Mr. Easley traded under his own name and as Consulting Radio Engineers and/or Mason & Dixon Engineers, in Washington.