

War News

REQUIREMENTS FOR OPERATORS RELAXED

The FCC, in recognition of the growing shortage of first class radiotelephone operators and upon the recommendation of the Defense Communications Board, relaxed its operator requirements to permit the operation of broadcast stations of any class by holders of radiotelegraph first or second class operator licenses or radiotelephone second class operator licenses. A broadcast station may use operators of such classes, however, only insofar as it is unable to secure a sufficient number of first class radiotelephone licensees.

Lynn Smeby, NAB Engineering Director, had discussed this problem for some months with both FCC and OCB officials.

At least one first class radiotelephone operator must be employed who will be responsible at all times for the technical operation of the station and must make all adjustments of the transmitter equipment other than minor adjustments normally needed in the daily operation of the station. Any adjustment of transmitter equipment other than a minor one must be made by a first class radiotelephone operator and until such operator is available to make the adjustment, the station shall cease operation.

The Commission in relaxing its requirements emphasizes that a station licensee is not relieved of his responsibility of operating the station in exact accordance with the rules and regulations of the Commission. The relaxation is intended solely to meet a critical shortage of technical personnel. It is expected that the relaxation will not impair technical operation of broadcast stations or lower labor standards in the industry. If it is determined that first class operators are available, the Commission will restore the higher standards.

The text of the FCC order is printed elsewhere in this issue.

NEW CONSTRUCTION LIMITED

Donald M. Nelson, chairman of the War Production Board, announced Tuesday a plan for drastic limitations on all new construction of standard broadcast facilities in the United States. The program also limits any changes in broadcast facilities.

J. S. Knowlson, Director of Industry Operations, said that future

priorities assistance to enable builders to obtain critical materials would be in accord with the plan.

The plan was worked out on the basis of recommendations made by the Defense Communications Board. The Board's recommendations, which were approved, were:

1. No critical materials shall be allocated by the War Production Board or further authorizations issued by the Federal Communications Commission for the construction of any new standard broadcast station where all or a substantial part of the proposed primary service area is already provided with primary service from one or more standard broadcast stations.

2. No critical materials shall be allocated by the War Production Board or further authorizations issued by the Federal Communications Commission for construction in order to change the transmitting facilities of any existing standard broadcast station, unless the change will result in a substantial new primary service area no substantial part of which is already provided with primary service from one or more standard broadcast stations.

3. No critical materials shall be allocated by the War Production Board for the construction, under outstanding authorizations of the Federal Communications Commission:

- (a) Of any new standard broadcast station where all or a substantial part of the proposed primary service area is already provided with primary service from one or more standard broadcast stations; or

- (b) In order to change the transmitting facilities of any existing standard broadcast station unless the change will result in a substantial new primary service area no substantial part of which is already provided with primary service from one or more standard broadcast stations.

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D. C.

PUBLIC NOTICE

February 24, 1942.

In the Matter of Policy and Procedure
for Handling Standard Broadcast Applications)

MEMORANDUM OPINION

BY THE COMMISSION:

Because of the present war emergency, the Commission is called upon to formulate a policy and procedures for the future handling

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You Can't Afford to Miss The NAB Convention

May 11, 12, 13, 14

Statler Hotel

Cleveland, Ohio

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*

WAR NEWS

(Continued from page 107)

of standard broadcast station applications. The effective conduct of the war is, of course, a paramount consideration for all of us. The requirements of the armed services have created a shortage of the critical materials and skilled personnel required for the construction, operation, and maintenance of radio broadcast stations. This must inevitably affect plans for the increase or improvement of broadcast facilities.

However, it is not clear at this time that the expansion of broadcasting should be entirely eliminated for the duration of the war. For the best war effort, it is important that there be adequate broadcast facilities throughout the nation. The three governmental agencies concerned with this problem—the Defense Communications Board, the War Production Board, and the Federal Communications Commission—are in agreement that, so far as possible, every part of the country should receive a good radio service. We have not yet reached that goal.

It follows that the scarce materials and limited personnel available to the broadcast services should be carefully conserved to meet this basic need. The public interest clearly requires such conservation and the Commission must apply the test of public interest in exercising its licensing functions. The problem as to materials is of course primarily the concern of the War Production Board. On January 30, 1942, the Commission announced in a press release that at the request of the Defense Communications Board, pending the adoption of a specific policy by that Board and the War Production Board, the Commission would make no further grants for the construction of stations or authorize changes in existing standard broadcast transmitting facilities where all or a substantial part of the proposed new primary service area already receives primary service from one or more other stations. The Defense Communications Board, on February 12, made its further specific recommendations to the Commission and to the War Production Board. Cooperating with both those Boards, the Commission has now worked out a policy and procedures for the handling of new and pending standard broadcast applications.

Under the policy adopted the Commission will grant no standard broadcast station application unless a showing is made that:

- (1) Construction (if any) pursuant to the grant will not involve the use of materials of a type determined by the War Production Board to be critical; or
- (2) Where the application is for a new standard broadcast station, the station will provide primary coverage of an area no substantial part of which already receives primary service¹ from one or more standard broadcast stations; or
- (3) Where the application is for a change in the facilities of an existing standard broadcast station, the change will result in a substantial new primary service area no substantial part of which is already provided with primary service¹ from one or more standard broadcast stations.

The Federal Communications Commission Standards of Good Engineering Practice will be used as a guide in the determination of primary service. For the time being, requests involving essential

¹ As here used, "primary service" includes service to be rendered pursuant to an outstanding broadcast construction authorization.

requirements for repair or maintenance will be treated as heretofore.

Applications not heretofore acted upon which do not fall within one of the three described categories will be designated for hearing upon appropriate issues. In cases heretofore designated for hearing, where notice of issues has already been announced, specific issues appropriate to the new policy will be added. Cases which have already been heard will, when necessary to apply the new policy, be redesignated for hearing upon issues under this policy. Cases in which proposed findings have already been issued will be determined as heretofore.

Applicants who consider that their applications satisfy the new requirements may wish to support their applications by filing a proper petition supported by affidavit setting forth detailed data on this point.

In cases where an application has heretofore been granted subject to approval of a further application to be filed by the applicant, such further application will not be granted unless the proposal meets the requirements set forth above, or the applicant has, pursuant to the grant, actually commenced construction or made substantial expenditures for materials or equipment prior to the date hereof.

The Communications Act contemplates that construction permits should not be issued or allowed to remain outstanding where there is no reasonable prospect of completion of the proposed construction within a reasonable period of time. Hence, requests for extensions of completion dates under standard broadcast authorizations will not be granted by the Commission unless the applicant can by proper petition show that the proposed construction meets the requirements set forth above, or that the applicant has actually commenced construction prior to the date hereof and has available all the critical materials and equipment necessary to the completion thereof. However, requests for extension of completion dates under authorizations issued in cases where proposed findings are now outstanding will be granted if the requirements set forth above are met, or if the applicant has available all critical materials and equipment necessary for completion.

The foregoing requirements may be waived where changes in facilities are required to be made by an agency of the Federal Government.

Special policies are now being developed with respect to experimental operation, frequency modulation and television stations, facsimile, and auxiliary broadcast services, taking into account the technical experimental benefits to be gained especially insofar as they may assist the war effort. Applications involving international broadcast stations will be considered and acted upon in accordance with policies worked out in cooperation with other Governmental agencies concerned with this field.

T. J. SLOWIE,
Secretary,

² Dated: February 23, 1942.

BROADCASTERS' ADVISORY COMMITTEE MEETS OFF OFFICIALS

Plans for radio coordination of all War activities were discussed at a meeting of the OFF Broadcasters' Advisory Committee held on Friday, February 20th. The meeting was attended by William Lewis, Douglas Meservey, Phil Cohen, Frank Stanton and Clyde Vandenburg, of OFF; Bernard Schoenfeld of WPB; and members of the Advisory Committee, consisting of Neville Miller, NAB; John Shepard, III, BVC; Eugene Pulliam, NAI, John Fetzer, NAB; and James Shouse, Clear Channel Group. George Storer of the NIB was not able to be present.

Mr. Lewis discussed the origin and functions of the OFF and stated that the Committee was called to discuss with the OFF how information needs should be met most effectively on the air. Preliminary studies of the material now being received by the stations from Government agencies were discussed and plans for better coordination of all these activities were considered.

The President's recent speech was studied in which he emphasized the six themes which were to receive continuing attention, namely: Aims and Issues of This War; Work and Production; Sacrifice;

Nature of the Enemy; the United Nations and Peoples; and, the Fighting Forces. The Spring production drive was placed as the number one priority and was launched by the President's speech on February 3rd. Plans for following up this campaign were considered.

It was announced that Mr. MacLeish would make a speech to the industry on "closed circuits" of the four networks on Saturday, February 28th.

Meetings of the Committee will be held on Friday of each week.

IDEA POOL

The OFF has plans under way to form an "Idea Pool" of unique programs and ideas used by various stations in handling the War effort story. More details of this plan will be given at a later date. However, let's start the Pool off now by sending all such programs, ideas and suggestions to NAB Headquarters now.

STAR SPANGLED BANNER

The Office of Facts and Figures has suggested that the NAB request member stations to review their scheduling of the Star Spangled Banner.

The OFF feels that over-emphasis can take away from its effectiveness and that the anthem should be reserved for only the most important programs in addition to opening and closing a station.

NEW INDUCTION PROCEDURE

The War Department on Tuesday advised National Headquarters, Selective Service System that all acceptable registrants will be inducted into the military forces at the time of the Army physical examination, thereby eliminating the present Army pre-induction procedure.

National Headquarters said that the War Department has given assurances that in cases where the immediate induction would cause undue hardship to the registrant he will be given an immediate furlough to adjust his civilian affairs.

Although the final physical examination by the Army will continue to be the most thorough one given to registrants, the local boards will continue to give "screening" examinations, rejecting the obviously physically unfit men.

Under the new procedure registrants will have the same rights of appeal and right of personal appearance before their local boards as they do at present.

Instead of receiving the notice to report for physical examination by the armed forces as they do now, the registrants will be given a notice of induction, National Headquarters said.

HOW TO SIGN PD-1A

Stations cannot use form PD-1 after February 28, 1942. Beginning with March 1, 1942, form PD-1A must be used to get emergency items or material for which the industry priority, A-10, is ineffectual.

The Director of Industry Operations has issued a warning on how to sign "PD-1A." He said that applications can not be considered unless they are properly signed at the bottom of the first page of the copy marked "Duplicate" and not in the space marked "Certification" on the back of the sheet.

Some confusion may result because the general instructions which accompany the form instruct applicants to "execute the certification on the duplicate copy."

NEW AUTOS FOR STATIONS

Recent press releases do not clearly indicate that broadcasters are entitled to be considered by local boards as eligible to take delivery of new passenger cars. That they clearly are eligible appears from "New Passenger Car Regulations.—Order No. "—A", issued by the Office of Price Administration, and effective March 2.

In summary, the Regulations provide that executives, engineers and workers needing transportation to and from communication facilities "when the work done at such places is essential, directly or indirectly, to the prosecution of the war" are eligible for consideration. It is the opinion of officials here that broadcasting executives, engineers and workers at transmitter sites and studios and on remotes are working directly or indirectly in the prosecution of the war, and that local boards will interpret the Regulations with some degree of liberality, relative, of course, to the demands of other essential people, such as firemen and policemen, for the available cars. As in the case of recapping and retreading of tires, persons classified as eligible must show that other means of transportation are unavailable, etc.

District Meetings

DISTRICT 4

John Kennedy, WCHS, fourth district director, has called a meeting for 10 a. m., March 7, at the Hotel Roanoke, Roanoke, Va. The schedule for other coming district meetings was included in last week's NAB REPORTS.

DISTRICT 14

Broadcasters of Colorado, Utah, Wyoming, Montana and Idaho, making up the 14th NAB District met at Denver on Wednesday (25).

Ed Yocum, KGHL, was elected district director to succeed Gene O'Fallon, KFEL.

At an open general session which lasted from 10 in the morning to late in the afternoon problems of the industry incident to the war were thoroughly discussed. Bill Bailey, of the Radio Branch, Bureau of Public Relations, War Department; Bob Richards of the Office of Censorship; Lieut. L. L. Lovett, USNR, Assistant Public Relations Officer for the 12th Naval District; and Capt. Roberts, USMC, gave interesting and instructive talks. C. E. Arney, Jr., Assistant to the President of NAB, told of the many activities being carried on to aid the broadcasting industry to better perform its wartime services.

Luncheon guests of the Denver Broadcasters were Colonel Duncan, Commanding Officer of Lowry Field; Colonel Gimperling, Recruiting Officer; Colonel Temple, Fort Logan; Capt. Roberts, USMC; Capt. Thompson, Fort Logan; Capt. Hughes, Fort Warren; Lieut. Cookman, Lowry Field; Lieut. Griffin, Fitzsimmons Field; Mr. Cohen of the American Legion; Lieut. Lovett, USNR; Lieut. Ward, USN Recruiting Service; Bob Richards, Office of Censorship; Bill Bailey, War Department; Mr. Murray, FCC; and Carl Haverlin, BMI.

At the business session of NAB members which followed the General meeting the following resolutions were adopted:

"Broadcasters of the 14th District of the National Association of Broadcasters assembled in Denver, February 25, 1942; do hereby:

1. Express our pride and satisfaction that one of our Board of Directors, J. Harold Ryan, has been given the responsibility of assistant director of Censorship.

2. Express our thorough realization of the need for coordinated effort to achieve military victory and pledge our support not only to all governmental agencies engaged in the war effort but our particular cooperation to the Office of Censorship, the Office of Facts and Figures, Defense Communications Board and the recently formed Broadcasters Victory Council.

3. Congratulate Neville Miller, President of the National Association of Broadcasters, and those associated with him in suggesting policies to be followed by our industry, and pledge our renewed support to these efforts to achieve unity not only in the industry but in the all-out war effort being made by broadcasters everywhere.

4. Renew the pledge to government expressed by Mr. Miller on December 7th in his wire to the President and acknowledge our

obligation to the American people to make it possible for them in turn to maintain a high standard of morale; to receive as quickly and as accurately as is possible and compatible with good military practice all information in connection with the United Nations war effort.

5. Urge all broadcasters to use the greatest discrimination in the preparation of news broadcasts; that the NAB suggestions in this field be read and re-read by all responsible for news broadcasts and that wherever feasible the responsibility for the handling of news broadcasts be centralized in each station; that NAB's news Code and the revisions to it which will likely follow be made a standard of good ethics in each station.

6. We view with concern the danger open under our system of free speech, the possibility that we, as broadcasters, may innocently be the tools of cleverly executed enemy propaganda, therefore we urge all broadcasters to scan closely their news wires and other news sources for enemy propaganda, for example, the claims broadcast by Axis nations; nor would we disseminate the claims made by Axis nations in their short-wave broadcasts except insofar as admission of defeat support the claims of our government and our allies.

7. Take cognizance of the fact that in times of national emergency there will be many who will make capital of it in attempting to achieve private gain and that we urge all broadcasters to again read and re-read the NAB Code and take this occasion to congratulate one of the members from our District, Mr. Earl Glade, who has recently been made Chairman of NAB's Code Committee.

8. Again express our demand and our wish that a free and highly competitive music market be maintained; that we thank the officers and personnel of BMI for the remarkable feat which it achieved in breaking the monopoly of music available to broadcasters; that we thank the officers and personnel of SESAC for the aid and counsel which this group rendered and is continuing to render broadcasters and that to guarantee a continued competitive music market we pledge our unanimous support to Broadcast Music, Incorporated, urging all stations to immediately execute new licenses of the type of their choosing with BMI.

9. Express our appreciation for interest in industry evidenced by members of the military, civilian and private groups participating in our session and thank our Director, Gene O'Fallon and the many other broadcasters of Denver who cooperated in the arrangement and conduct of this meeting.

The Resolutions Committee consisted of Ed Yocum, KGHL, and Glenn Shaw, KSL.

The Elections Committee consisted of Rex Howell, KFXJ, Lloyd Yoder, KOA, and Frank Hurt, KFXD.

Those in attendance:

C. E. Arney, Jr., NAB; Bill Bailey, War Department-Radio Branch; Milton Blink, Standard Radio; Frank Bishop, KFEL; Stan Brown, KOA; T. C. Ekrem, KVOD; Joe Finch, KVOD; Fred D. Fleming, KLZ; Emile J. Gough, SESAC; William C. Grove, KFBC; Ralph W. Hardy, KSL; Carl Haverlin, BMI; Harold Heroux, INS; Clifford Houston, State Chairman of Civilian Morale Committee, Radio Committee, University of Colorado; Charles Howell, KFXJ; Rex Howell, KFXJ; Robert B. Hudson, Rocky Mountain Radio Council; Frank E. Hurt, KFXD; Raymond Keane, Raymond Keane Advertising Agency; Lt. L. L. Lovett, USNR; James R. MacPherson, KOA; Don McCaig, KLZ; J. H. McGill, KGHF; R. H. Owen, KOA; E. G. Pack, KSL; Francis Price, KFKA; William D. Pyle, KVOD; Robert K. Richards, Office of Censorship; Curt Ritchie, KGHF; R. F. Schuetz, NBC Radio Recording Division; Glenn Shaw, KSL; Hugh Terry, KLZ; Bud Thorpe, KLZ; Wesley O. Tomlin, KPOF; Harvey E. Wehrman, KLZ; Ralph Wentworth, Lang-Worth; Ed Yocum, KGHL; Lloyd E. Yoder, KOA; Tracy S. McCracken, KFBC; Gene O'Fallon, KFEL; Holly Moyer, KFEL, and Cecil Seavey, KFEL.

DISTRICT 16 MEETING

Calvin Smith, KFAC, was elected district director, to succeed Harrison Holliway, KECA-KFI, at a District 16 meeting in Los Angeles, February 23. Representatives of 26 stations in Southern California, Arizona and New Mexico, attended. Attendance totaled 60.

John Paine, ASCAP general manager, one of the speakers, asked

the indulgence of those present and made a stirring appeal for the industry's support of BMI.

"If BMI is to remain a strong competitor in the music field and preserve the gains it has accomplished for the broadcasting industry it must have additional financial support," said Mr. Paine.

"I say to you that it cannot do the kind of a job that has to be done unless it receives the backing of the industry on a liberal scale that will make it possible to pay its composers and affiliated publishers."

Mr. Paine stated that ASCAP felt a strong competitor in the music licensing field was not only desirable but was the best assurance of an adequate and competent supply of music for the broadcasting industry.

These observations by Mr. Paine were consistent with remarks made previously by Claude Mills and himself at other NAB district meetings.

Commenting, Carl Haverlin, BMI vice president, said:

"I'm glad that Mr. Paine wants competition. BMI and the broadcasting industry guarantee him he will get it."

C. E. Arney, Jr., Assistant to the President, made a comprehensive report of NAB wartime activity. Carl Haverlin, BMI Vice President, explained the contracts offered by his organization. Leonard Callahan, General Counsel of SESAC, spoke on his service.

Representatives of the various branches of the service were guest speakers. These were, Major John S. Winch, United States Marine Corps; Ensign Tom Frandsen, Public Relation department, USN., and Robert C. Coleson, Administrative Executive, Radio Branch, Bureau of Public Relations of the War Department.

Following the general meeting the NAB member stations held their Biennial meeting. The following Resolutions were unanimously adopted:

Resolved that it is the sense of the broadcasters of the 16th District assembled here that news services should refrain from releasing any information regarding the broadcasting by American prisoners of war in Japan as it is believed that such information serves to emphasize the Japanese broadcasts; tends to create greater listening to them and thus subjects an increasing number of people to the influence of Japanese and Axis propaganda which surrounds the prisoner part of these broadcasts.

Inasmuch as the National Association of Broadcasters has served as a unifying influence within the industry and without it and is at present engaged in active support of the War efforts as well as continuing to serve the industry in other matters through its regular channels—

NOW THEREFORE BE IT RESOLVED: That the broadcasters of the 16th District hereby go on record as unanimously supporting NAB and pledge their continued and loyal cooperation.

Inasmuch as the broadcasting industry recognizes that it has been benefited by sharp reductions in music performance rates as a result of the competition established by BMI.

And Whereas it is agreed that a perpetuation of these benefits must, in a major sense, depend upon the continuation of an aggressive competition by BMI and an active support of that organization by the industry.

NOW, THEREFORE, BE IT RESOLVED: That the stations of the 16th District here assembled that are now licensed by BMI agree to sign the new licenses promptly and hereby urge all stations to do likewise.

The complete attendance was as follows:

C. E. Arney, Jr., NAB; Robert Richards, Office of Censor; R. C. Coleson, Radio Branch, War Department; Ensign Tom Frandsen, U. S. Navy; C. P. MacGregor, C. P. MacGregor; Harry Engel, BMI; E. J. Gough, SESAC; Leonard D. Callahan, SESAC; Milton Harker, International News Service; Hubert Gagos, United Press; Chester G. Matson, Edward Petry & Co.; Major John S. Winch, U.S.M.C.; Carl Haverlin, BMI; Pat Campbell, World Broadcasting; Bernie Milligan, KFI; Jack Hellman, Variety; David Glickman, Broadcasting; Bud Keeler, Broadcasting; Herman Greenberg, ASCAP; Richard J. Powers, ASCAP; John G. Paine, ASCAP; Carleton E. Coveny, John Blair Co.; Ben S. McGlashan, KGFJ; Warren B. Worcester, KFMB; J. A. Reilly, KOY; L. W. McDowell, KFOX; Gerald King, Standard Radio;

Robert Reynolds, KMPC; Harry Maizlish, KFVB; E. C. Hughes, KFVB; Manning Ostroff, KFVB; Fox Case, KNX; Cleve Roberts, Blue Network; Glan Heisch, KFI-KECA; Harrison Holliway, KFI-KECA; Ernest Felix, KFI-KECA; Clyde Scott, KFI-KECA; Curtis W. Mason, KFI-KECA; Homer Griffith, KFMB; Calvin J. Smith, KFAC; Harry Witt, KNX; John Babcock, KFSD; Frank M. Kennedy, KHJ; Ernest L. Spencer, KVOE; H. Duke Hancock, KGFI; Lyman Smith, KMTR; J. C. Lee, KFXM; L. A. Schamblin, KPMC; N. Vincent Parsons, KPPC; Leon Hall, KPPC; Lee Wynne, KGER; John Austin Driscoll, KRKD; R. F. Schuetz, NBC; Jennings Pierce, NBC; Les Hacker, KVEC; Don Gilman, Blue Network; Dick Lewis, KTAR; Bernard H. Linden, FCC, Inspector in Charge; Van NewKirk, KHJ, and Richard F. Connor, So. California Broadcasters Association, Radio Co-ordinator.

Radio Training Courses

By the middle of next week Engineering, Science and Management Defense Training of the U. S. Office of Education, Federal Security Agency, should be out from under the avalanche of proposals for radio technician courses received from colleges and universities.

Dean Seaton's office anticipates that a complete list of schools will be ready for printing in next NAB REPORTS.

NEED FOR MEN MUSHROOMED

1—The United States Marine Corps has indicated its needs for men with fundamental radio training. Facts were made known to Arthur Stringer, secretary, NAB War Committee.

2—U. S. Army recruiting announcement of February 23 says: "the Army Signal Corps sends out an SOS for radio operators. Men with amateur commercial licenses are wanted at once! . . ."

3—Navy recruiting announcement for February 23 appeals to "radio-minded young Americans to build themselves a specialized career in the USN . . . operating high frequency equipment for locating distant ships and planes . . . holders of operating licenses are wanted." The ESMDT-NAB training courses are designed to equip men with equal basic knowledge so that they can take specialized in-service training in order to operate such equipment.

4—In this week's folio of announcements the Civil Service Commission asks for "radio mechanics and technicians for key war jobs . . . minimum requirements of one year of paid technical experience or completion of specific radio training courses".

ADDITIONAL FUNDS

Hearings on the matter of additional funds should be under way on or after March 2. In a bulletin to ESMDT Institutional Representatives, Dean R. A. Seaton, ESMDT Director, said in part:

"Proposals for ESMDT elementary radio courses already submitted to this office involve such large commitments of funds that approval of proposals for such courses must be discontinued until further notice, except to take care of *applications from prospective trainees already received by the institutions*. This limitation is necessary in order to avoid undue restriction of other types of training needed by war industries."

LUTHER COLLEGE

Luther College, Decorah, Iowa, owners and operators of station KWLC, have received approval for one radio technician training course. One radio course is but a small fraction of what could be accomplished at this school and it is hoped that Washington will provide funds at an early date so that schools everywhere may make the maximum contribution to the War effort.

WASHINGTON STATE CLASSES

Robert E. Priebe, industry representative, KRSC, Seattle, Wash., said: "Seattle classes are starting at the University of Washington

tonight (Feb. 17). Classes have already been started in Bellingham, and next week classes will be started in Tacoma, Olympia and Centralia. . . ."

E. A. Loew, state coordinator, and Dean, College of Engineering, University of Washington, wrote Mr. Priebe: "We greatly appreciate your fine cooperation in getting this program under way. Your announcements are obtaining results."

BRADLEY TECH—PEORIA

Edgar L. Bill, president, WMBD, Peoria, wrote on February 18 that Bradley Polytechnic Institute would begin a course for radio technicians early in March. The school plans to teach a minimum of 75 students selected from several times that number applying.

UNIVERSITY OF ILLINOIS ACTIVE

According to a note from William R. Traum, director, news and promotion, WROK, Rockford, Ill., the station is taking the leadership in the establishment of radio training courses in Rockford.

H. C. Roundtree, of the University of Illinois, is setting up courses in Illinois cities outside of Chicago. Inasmuch as Illinois is such a populous state and the University of Illinois is such a progressive and capable school, it is hoped that funds which will enable this work to continue will be provided without extended delay.

SHAWNEE, OKLA.

It is anticipated that radio technician training program will be inaugurated in Shawnee, Okla., according to Joseph W. Lee, general manager, KGFF. He said that response to announcements was much greater than anticipated and that three times as many applicants as could be accommodated were quickly received.

STATISTICS

A station that received 614 inquiries on radio technician training reports that approximately 50 percent or 300 filled out applications, of which only 100 to 125 could be handled by the local university.

UNIVERSITY OF ROCHESTER

The University of Rochester, which handled the responses to radio technician training announcements broadcast by WHAM, found that there were enough people with sufficient electrical knowledge for Part No. 2 of the course to be started simultaneously with Part No. 1. "Thus", said K. J. Gardner, technician supervisor, WHAM-W51R, "it is hoped to get a set of graduates in 16 weeks."

CHEYENNE

William C. Grove, manager, KFBC, Cheyenne, Wyo., with some 18 years of engineering experience in broadcasting, is teaching the class which is to be held in the station's studio in the Plains Hotel. Seventy-four of the 150 inquirers returned the application for enrollment blank. Only 9 of these were found to be not qualified.

Mr. Grove said that the University of Wyoming, which school is sponsoring the course at KFBC, plans to make application for a second section in Cheyenne.

TWO CLASSES IN SHENANDOAH

Two classes with 57 students are taking the radio technician training courses in Shenandoah, Iowa. The classes began February 13 using some of KMA's qualified engineers as instructors. This arrangement was completed by working through the Extension Division of Iowa State College. J. C. Rapp, KMA manager, called at NAB Headquarters earlier in the year with respect to this training program. He wrote that the station was also able to give help in filling out a radio class for Graceland College at Lamoni.

CHARLESTON CLASS STARTED

Charleston, West Virginia's radio class started February 3, according to Odes E. Robinson, technical supervisor, WCHS. The course is held in conjunction with Morris Harvey College. One hundred six students were accepted out of 270 applicants. Mr. Robinson has been pressed into service as an instructor along with members of the college faculty.

ALABAMA GOING STRONG

As of February 23 Howard E. Pill, president, WSFA, Montgomery, and Industry Representative for Alabama, reported that radio technician courses are operative as follows: Montgomery, 5; Birmingham, 5; Mobile, 3; Greenville, 3; Selma, 2, and one each in six smaller Alabama cities.

Processing of other radio courses in Alabama is now in progress.

Sales

Trade Groups Praise "Manual"

Although the NAB "Manual of Radio Advertising" is available only to, or through, member stations, by action of the Sales Managers Executive Committee a few copies were judiciously placed with several of the leading trade associations of the country, representing fields of great promise for radio advertising.

Among these were such as the National Retail Dry Goods Ass'n, The Retail Research Ass'n, the Ass'n of National Advertisers, the Financial Advertisers Ass'n, etc. Permission was given these groups to quote the Manual in releases to their membership regarding the value of radio advertising.

Comment has been uniformly enthusiastic, with evidence of considerable cooperation already given. Typical are the following:

Preston Reed, executive vice president, Financial Advertisers Ass'n: "You have done a perfectly marvelous job on the preparation of this Manual. I have carefully gone over every bit of it, and there is so much of real value to financial advertisers who might want to buy time on the air, that I am putting a paragraph in the March BULLETIN about this manual and will ask our members to contact their local radio stations for a complete copy. If I went further on this, I think the stations would be swamped with orders. . . ."

Irene Bender, Retail Research Ass'n, New York, representing 22 of the largest department stores in the nation: "We've read every page of your Manual and it has been a stimulating treat. . . . We've sent a note to our Publicity Directors urging that they, too, read this useful Manual. . . ."

From numerous other comments like these, NAB members may expect to hear from local prospects in various fields. Many stations have already anticipated this and have reviewed the Manual with local advertisers, adding their own station data. The NAB Sales Managers Committees would like to encourage this practice, because the basic purpose of the Manual is to spread the story of radio and thereby secure more business.

Advertising Pamphlets Enclosed

Two sample pamphlets, on "American Paradox" and "Dressing on Your Salad," which should have been mailed with last week's REPORTS, were not received at press-time, so are enclosed with this issue instead.

As stated last week, these are available in any quantity from William E. Rudge's Sons, 225 Varick St., New York, at \$15 per thousand, with a charge of \$2 (regardless of quantity) for imprinting your name and address if desired.

These are the first in a series "to educate the consumer regarding the social and economic values of advertising," and the plan has the endorsement of the NAB and of other associations, ad-

vertisers and agencies. Stations may order direct, and may also request a free copy of future leaflets.

Consumers' Information Week

March 15 to 21 has been designated as "Consumers' Information Week" throughout the nation, "so that the American consumer may better understand the functioning of our economic machinery and its importance in winning the war."

The plan, originated by the Pacific Advertising Ass'n, has been endorsed by various national associations in business and advertising. A complete outline of the plan, showing how stations may cooperate will be furnished on request by Charles W. Collier, Managing Director, Pacific Advertising Ass'n, 900 Title Guarantee Bldg., Los Angeles, Cal.

Mr. Collier states "We believe this is important because this is a war of materials, of nutrition, of conservation (of the right things) and of keeping a sound economy working so that after a victory is achieved we will return more easily to our program of free competitive enterprise."

"Wartime Radio Advertising"

A study on the immediate business outlook for radio, titled "Wartime Radio Advertising," was released to the NAB membership last week.

A limited quantity of additional copies are available to members without charge.

Per-Inquiry and Free Time

NAB members report that the **J. L. Stewart Agency**, Chicago, is seeking per-inquiry deals for the **American Marietta Co.**; and that **American Service Pin**, Los Angeles, seeks similar deals to sell a war-service pin.

Both have been invited by the NAB to use radio on the basis of established rates.

Miscellaneous

NAB BOARD MEETING

The NAB Board of Directors will meet Thursday and Friday, March 19-20, at the Roosevelt Hotel, New York, to discuss a number of matters, including developments in connection with the war, and the NAB Convention, to be held May 11-15 in Cleveland.

COST OF LIVING

The cost of living continues to mount. The Labor Department reports an increase of 1.3 per cent from December 15 to January 15, bringing the total increase since August 15, 1939 to 13.5 per cent. Figures for individual cities are available at the NAB.

AFA MEETS JUNE 21

The Advertising Federation of America announces that its thirty-eighth annual convention, which will be held at the Hotel Commodore, New York, June 21 to 24 inclusive, will be planned as a "National Round Table on Advertising in War Time."

Ranking officials in the various groups represented in the field of organized advertising will be asked to participate in the making of the plans for the program.

"The convention will set a new pattern in Advertising Federation of America conventions," says President J. A. Welch, Crowell-Collier vice president in releasing announcement of the date and place for the meeting.

"It will be a War-Time convention with oratory 'cut to the bone.'"

"We will have an exhibit, with the latest of War-time advertising here and in our allied countries, Canada and Great Britain.

"Time will be planned for full discussion of today's advertising and sales problems, led by top men and women in the advertising field.

"Certainly, there has never been a time when we had more vitally important problems to consider and every effort will be made to bring them out in the open.

"Committees which are now in process of formation, will be announced shortly."

AULL TO REPRESENT NAB

James Aull, KYW, Philadelphia, will represent the NAB at the annual meeting of the American Academy of Political and Social Science, to be held April 10-11 in Philadelphia.

STENGER'S 20 YEARS IN RADIO

One of the old timers in the broadcast business is John H. Stenger, Jr., owner of WBAX, Wilkes-Barre, Pa. May 1, 1942, marks his 20th anniversary in broadcasting. February 3 of this year was his 31st anniversary "in this wireless business." Mr. Stenger is continually impressed at the way stations have gradually evolved into vital centers of information, and also at radio's ability to gratify most of the requests for information.

As to the "reaching" ability of radio he mentions this gem:

"The Navy recruiting station requested us to announce 24 names at 11:00 o'clock in the morning—names of young men who were waiting further orders. To the surprise of the Navy men all recruits reported within 20 minutes and 24 hours later were enroute to training stations."

But most of all Mr. Stenger says that he is proud to look at the wonderful spirit of cooperation offered by all the stations everywhere.

KIRO EDUCATIONAL AWARDS

Through radio station KIRO, Seattle, Mr. Saul Haas, the station's vice-president, has established a fund of \$500.00 to be awarded to those individuals who in the judgment of the KIRO Educational Awards Committee best complete (in not more than one hundred words) the statement . . .

"If I had a radio station *one* of the things I would do . . ."

The awards are open to members of the School Broadcast Conference, the Institute for Education by Radio, the Association for Education by Radio, and all persons interested in educational and public service radio programs.

Members of the staff of KIRO, the Executive Committee of the School Broadcast Conference, the Evaluation of School Broadcasts staff, and the Publications Committee of the Association for Education by Radio are eligible only for honorable mention citations.

The awards will be announced at the Association for Education by Radio luncheon to be held in connection with the 13th Annual Institute for Education by Radio, Columbus, Ohio, May 3-6, 1942.

KFRU 100 PER CENT

C. L. Thomas, of KFRU, Columbia, Mo., reports that the payroll defense saving plan for the purchase of stamps and bonds is operative at KFRU—100 per cent.

WJTN'S ANTI-HOARDING CAMPAIGN

In an effort to make civilian buyers conscious of the danger of hoarding, WJTN, Jamestown, N. Y., has launched a new type of educational campaign. The news came from A. E. Spokes, WJTN service director. He said that local reaction has been excellent. The announcements are terse, bold and patriotic. Here are a few which have been used:

"This is war! Don't be a hoarder and overstock on goods to the extent that your neighbor cannot be supplied. Do your part—don't waste—buy intelligently—and don't be a hoarder!"

"Government rationing is the result of an 'emergency'. Hoarding and 'scare buying' creates an emergency. Avoid rationing—do your part—don't waste—buy intelligently—and don't be a hoarder!"

"Hoarding brings on scarcity—which we are all trying to avoid! Millions of people cannot afford to build up reserves of supplies during wartimes. Let us all cooperate, endure mild deprivations, and do our part in winning this war. Don't hoard—be a real American!"

"Don't have the Axis pin a distinguished service medal on you! Be a real American citizen and don't try to get an edge on your neighbor by hoarding. We're all in this war together. Cooperate, don't hoard, and be a real American!"

NETWORKS TO APPEAL

On February 20, the United States District Court for the Southern District of New York ruled against the networks in their suit against the Government. The decision was not on the merits of the case—the powers of the FCC—but on the question of the court's jurisdiction. CBS and NBC wired affiliates that they will appeal immediately to the United States Supreme Court.

A divided court, sitting as a special statutory three-judge court, dismissed the complaints of CBS, NBC, Woodmen of the World and Stromberg-Carlson for lack of jurisdiction either as a court of three judges or of one. In deciding that the "network regulations" in question are not an "order" within the meaning of Section 402(a) of the Communications Act, the majority opinion, written by Learned Hand, C. J., and in which Judge Goddard concurred, indicated that the plaintiffs' remedy should be sought on renewal of station licenses by appeal to the Court of Appeals for the District of Columbia under Section 402(b)(2) of the Act.

The majority, in holding that the network regulations have no present effect but are merely a declaration of Commission policy to be applied in the future, said in part:

"We have seen, however, that the regulations are nothing more than a declaration—or if one chooses, a threat—by the Commission that it will impose those conditions upon any renewal of a license in the future. No change is made in the status of 'affiliates' meanwhile; their existing contracts with the 'networks' remain enforceable; nor has the Commission given any evidence of an intention to use them as the basis for a revocation of existing licenses under §312 (a). On the contrary, the 'minute' we have mentioned commits it to a contrary course. Hence, if these actions well lie, the plaintiffs have succeeded in substituting a different court and a different procedure from that which Congress has prescribed for the trial of precisely the same issues. This is inexorably true because here the only question is whether the Commission has power to impose the conditions mentioned in the regulations when a 'station' applies for renewal; exactly the question which will determine the actual renewal of a license. The prescribed procedure will therefore be disregarded only because the punitive wrong is merely threatened, instead of being in the very act of commission. Whatever may ordinarily be the proper scope of the word 'order' in the Act of October 22, 1913 (38 St. L. 219), it seems to us clear that Congress could not have intended such an anomalous result as will follow upon treating these particular regulations as such 'order'."

In a strongly worded dissent, Judge Bright voiced his opinion that the regulations are a final "order", within the meaning of Section 402(a), which the court has jurisdiction to enjoin. In this connection he said:

"It is suggested that the plaintiffs must wait until the Commission has ruled upon the application of a broadcasting station for a renewal of its license. Can it be said that the Commission will change its rules, in view of the positive statement it has already made with reference thereto and above quoted? Must these networks await the idle ceremony of a denial of a license before any relief can be sought when it is perfectly obvious that no relief will be given? And what relief could they get if they did wait? The networks are not to be licensed, only the individual stations who make application. But it is said the networks could intervene and be heard. All that might be said or urged in their

behalf has doubtless been communicated to the Commission in the three years between March 18, 1938, and May 2, 1941, when the investigation was going on. Must they march up the hill and down again, with the probability of being met with the statement that the Commission has given the matter due consideration and has done what it intends to abide by, as it has definitely said in its report? It is said, however, that by a minute adopted after these actions were brought, the Commission has manifested its intention to permit the networks to intervene and be heard upon the subject of the granting or denial of the license. That minute refers obviously only to a station, and insofar as it attempts to change the nature of the order sought to be reviewed or to obviate a review would be abortive."

We print the opinion in full:

L. HAND, C.J.: These actions were brought to declare invalid and set aside certain regulations originally promulgated by the Federal Communications Commission on May 2, 1941, and amended on October 11, 1941; in their final form they appear at the end of this opinion. After the actions were filed the Commission, on October 31, 1941, promulgated a further regulation in the form of a "minute", also appearing at the end of the opinion. Preparatory to the issuance of the regulations the Commission had held hearings at which nearly 9,000 pages of testimony were taken; among others whom it had invited to attend, were the two plaintiff "networks", which accepted and took part by introducing extensive evidence. When the regulations appeared, the "networks" brought the two actions at bar under §402 (a) of Title 47, U. S. Code, to set them aside as beyond the powers of the Commission and as arbitrary, unreasonable and without basis in the evidence. Upon the complaints so filed and voluminous affidavits they then moved for a preliminary injunction against their enforcement pendente lite. In the action brought by the National Broadcasting Company, two "affiliated stations" have joined as parties plaintiff and the United States and the Commission were originally joined as defendants; in the action brought by the Columbia Broadcasting System it alone is plaintiff and the United States is the only defendant, but the Commission later intervened. A third "network", the Mutual Broadcasting System, intervened as a defendant in both actions. The United States and the Commission have countered the plaintiffs' motions by motions, made before answer, to dismiss the complaints for lack of jurisdiction over the subject-matter under Rule 12 (b)(1), and for summary judgment under Rule 56 (b). The Mutual Broadcasting System has answered and joined in the motions of the other defendants. All these motions having come on before Judge Goddard, he assembled a court composed of three judges, to whom the hearing was transferred in accordance with the Act of October 22, 1913 (38 St. L. 219).

Since we are deciding that the District Court for the Southern District of New York has no jurisdiction over the subject-matter of the actions either as a court of three judges or of one, it will not be necessary to consider the merits; nevertheless we must say something about the background of the regulations in order to make our discussion intelligible. The business of broadcasting depends for its support principally, if not altogether, upon advertising. The broadcasting is done by "stations", each "station" selecting programs which it thinks will be popular, either spoken, sung or instrumentally performed in its own studio, or relayed to it by a "network" as will appear. Interjected among these programs, occur those fervid importunities of advertisers, upon the results of which the "station" must depend for its revenue. A single "station" dependent upon its own programs alone would be very expensive to operate, and its income would be small; especially if, as has become customary, it were to add to its advertising programs what are called "sustaining programs", which are not paid for, but which are thought to give a general popularity to the "station". These circumstances have long since resulted in the creation of "networks" of the kind with which the actions at bar are concerned; that is to say, in a widespread system of contracts of a single company with separate "stations" scattered all over the Union and known as "affiliates". The plaintiffs, National Broadcasting Company and the Columbia Broadcasting System, are two such "networks"; they own and operate broadcasting "stations" of their own, but, although they depend in part upon these as outlets, their principal reliance is upon their "affiliates". They originate a great variety of programs—usually in a studio of one of their owned "stations"—which they transmit by telephone to the "affiliates" for broadcasting. The audience of such a "network" in this way becomes the aggregate of the audiences of its "affiliated stations", and this enables it to charge so much higher prices for advertising than the "affiliates" could charge alone, that

both they and the "network" can divide the returns to their common advantage. There are four such national "networks", two owned by the National Broadcasting Company (one of which we are told it has disposed of since these actions were begun), another by the Columbia Broadcasting System, and the fourth by the Mutual Broadcasting System, which has intervened because it feels itself aggrieved by the practices against which the regulations in suit were directed.

Every broadcasting "station" must have a license and the Federal Communications Commission alone has power to grant, refuse, revoke, renew or modify licenses. The Commission also has "authority to make special regulations applicable to radio stations engaged in chain broadcasting." §303 (i). By virtue of these powers it assumed to promulgate the regulations now challenged, all of which, it will be observed, are no more than declarations of the conditions upon which the Commission will in the future issue licenses to "stations". The defendants' motions to dismiss the complaints are based upon the theory that these regulations are not "orders" within the meaning of §402 (a), and that therefore this court has no jurisdiction over them; indeed, that they are not "orders" of any sort, but merely announcements of the course which it will pursue in the future, whenever an "affiliated station" applies for a new license, or for the renewal of an existing one. To this the "networks" reply that the regulations had an immediate effect; that they not only announced what would be the future practice of the Commission, but presently adjudicated the invalidity of the contracts between themselves and their "affiliates"; and that they have in fact already caused serious losses, because a number of "affiliates" have declared that they will be obliged to break their contracts when their licenses are renewed, and have thus made it impossible for the "networks" to accept large and valuable advertising contracts.

We do not think that we need commit ourselves generally as to what "orders" are reviewable under the Act of October 22, 1913 (38 St. L. 219), which §402 (a) of Title 47, U. S. Code, incorporated by reference as the measure of our jurisdiction. So far as we have found, the Supreme Court has never declared that that statute authorizes review of any decision of an administrative tribunal which neither directs anyone to do anything, nor finally adjudicates a fact to exist upon which some right or duty immediately depends. We agree that it is no answer that the decision challenged is "legislative" in character (The Chicago Junction Case, 264 U. S. 258, 263), and, as we have just implied, it is enough if it authoritatively determines the existence of a fact that at once sets in execution some sanction, though the decision itself be not in form a command. United States v. Baltimore & Ohio Railroad, 293 U. S. 454; Powell v. United States, 300 U. S. 276; Rochester Telephone Corporation v. United States, 307 U. S. 125; American Federation of Labor v. National Labor Relations Board, 308 U. S. 401, 408. (Colorado v. United States, 271 U. S. 153; Claiborne-Annapolis Ferry Co. v. United States, 285 U. S. 383; and United States v. Idaho, 298 U. S. 105, though they are of the same kind, are scarcely controlling, because they turned upon §1(20) of the Interstate Commerce Act.) But decisions which are no more than announcements of future administrative action have never, so far as we can find, been treated as within this statute. That does not necessarily imply that a person presently injured is without any remedy when the threatened action would be unlawful; the situation then may present all the elements upon which equity will intervene in ordinary course. Shields v. Utah Idaho Central Railroad Company, 305 U. S. 177. It may be that the plaintiffs at bar could bring such actions in equity; at least it does not appear that recourse to them is positively forbidden, as was for example the case in Venner v. Michigan Central, 271 U. S. 127. But even so they would not be the actions at bar, which can be brought only under the statute, since otherwise the United States cannot be sued, or the Commission sued in this district, assuming that it was in any event possible to join it at all. Such actions would have to depend jurisdictionally upon the same facts as any other action against a public officer who threatens to do an unlawful act.

We should therefore have a great deal of doubt whether the regulations could in any view be regarded as "orders" which we could review under the Act of October 22, 1913 (38 St. L. 219), if the case came to us under the statute in vacuo. It does not, because, although, as we have said, §402 (a) incorporates it by reference, those orders are excepted which are mentioned in the parentheses: to wit, all orders "granting or refusing an application for a construction permit for a radio station, or for a radio station license, or for renewal of an existing radio station license, or

for modification of an existing radio station license." Relief from such orders is provided in §402 (b), (c), (d), (e) and (f); it is by appeal to the Court of Appeals of the District of Columbia, and it is to be heard upon the record made at the hearing of an application by the Commission. The procedure upon such appeals is in substance the same as that which has now become standard for the review of the decisions of administrative tribunals in adversary proceedings. Consequently, if any of the "affiliates" of the plaintiff "networks" should hereafter apply for a renewal of their licenses; and if, as we assume it will, the Commission adheres to its regulations, the resulting modification of the license will be reviewable only in the Court of Appeals of the District and upon the record made at that hearing. We have seen, however, that the regulations are nothing more than a declaration—or if one chooses, a threat—by the Commission that it will impose those conditions upon any renewal of a license in the future. No change is made in the status of "affiliates" meanwhile; their existing contracts with the "networks" remain enforceable; nor has the Commission given any evidence of an intention to use them as the basis for a revocation of existing licenses under §312 (a). On the contrary, the "minute" we have mentioned commits it to a contrary course. Hence, if these actions well lie, the plaintiffs have succeeded in substituting a different court and a different procedure from that which Congress has prescribed for the trial of precisely the same issues. This is inexorably true because here the only question is whether the Commission has power to impose the conditions mentioned in the regulations when a "station" applies for renewal; exactly the question which will determine the actual renewal of a license. The prescribed procedure will therefore be disregarded only because the punitive wrong is merely threatened, instead of being in the very act of commission. Whatever may ordinarily be the proper scope of the word "order" in the Act of October 22, 1913 (38 St. L. 219), it seems to us clear that Congress could not have intended such an anomalous result as will follow upon treating these particular regulations as such "orders".

To this the plaintiffs make two answers. First, they say that the threat itself has already caused them loss, as we have said. Possibly that might support an action to compel the Commission to raise the issues immediately, as by a revocation proceeding under §312 (a); even so, it should not substitute another court for the Commission and the Court of Appeals, certainly not this court in an action against the United States and the Commission. We need not decide the point, however, because the "minute" we have quoted offers equivalent relief without risk to any "station" which may challenge the regulations. Next, the plaintiffs say that they may not be able to raise the issue in a proceeding for the renewal of a license, because the "affiliated stations" may fear to incur the Commission's displeasure. As to the National Broadcasting Company this is plainly untrue because two of its "affiliates" have joined it as plaintiffs. As to the Columbia Broadcasting System, its complaint, read most favorably, does perhaps allege that none of its "affiliates" will challenge the regulations when their licenses expire; at any rate, to avoid any doubts, we shall so assume, little as that seems likely to be the case. We may do so, because the issue is irrelevant anyway, for the plaintiff "networks" have an adequate remedy under §402 itself. They allege—and there seems to be no question about it—that their interest will be adversely affected by the enforcement of the regulations; if so, they can appeal to the Court of Appeals of the District from any order imposing unlawful conditions upon an "affiliate's" license. §402 (b) (2). It is true that the section does not in terms provide that they shall also be heard in the proceeding before the Commission under §309 (a) for the "renewal or modification of a station license;" but the Commission has itself answered that objection by §1.102 of its regulations which permits intervention. An unreasonable refusal of the privilege so offered would appear to be a good objection on appeal under §402 (b) (2); for it is not likely that the statute which grants an appeal to all interested parties, meant not to give them the opportunity to make a record on which they can succeed upon that appeal. At any rate until the Commission shows some disposition to deny them a fair hearing in a proceeding for renewal of an "affiliate's" license, we are not to assume that it will do so. And even if that should appear, the resulting right of action, if any, would not, as we have said, be in this court or against the United States. For the foregoing reasons the complaints will be dismissed for lack of jurisdiction over the subject-matter.

We do not understand that any findings of fact are proper under Rule 52(a), which provides for such findings only in

"actions tried upon the facts without a jury." It is true that the plaintiffs have moved for a preliminary injunction, and that the rule also requires findings "in granting or refusing interlocutory injunctions;" but we are not "refusing" any injunction. Once the complaints are dismissed for lack of jurisdiction, the motions become moot and we shall not pass upon them at all. We are therefore entering judgment in each action without findings.

Complaints dismissed for lack of jurisdiction.

Learned Hand
Henry W. Goddard

BRIGHT, D.J.: As I read the opinion of my brothers, they would dismiss for want of jurisdiction because nothing reviewable has been done, and that even after a license is denied, the only review thereof would be by appeal to the Court of Appeals in the District of Columbia.

By Section 402-a of the Communications Act of 1934, we have jurisdiction to enjoin, set aside, annul or suspend an order of the Commission, except where it grants or refuses an application for a construction permit, for the granting, renewal or modification of a station license, or suspending a radio operator's license. These excepted matters can be reviewed only by appeal to the Court of Appeals aforesaid. This order, in my opinion, does not come within any of the excepted provisions. No application has been or is here made by any such relief, and the order sought to be reviewed does not arise out of any such application.

There is no question in my mind that the order sought to be reviewed is one which, under the terms of Section 402-a, we have jurisdiction to enjoin. It is designated by the defendants as a "commission order". It has the usual mandatory clauses found in orders. It was by its terms obviously entered after an investigation made upon the Commission's own motion to determine what special regulations applicable to radio stations engaged in chain or other broadcasting are required in the public interest, convenience or necessity. It promulgates certain regulations, an obvious and attempted exercise of the Commission's rule-making power. It is clearly an attempt to make rules because at the time there was nothing else before the Commission upon which it could or did act. All of these rules, or regulations as they are called in the order, relate only to standard broadcasting stations having contracts with a net work organization, except rule 3.106, which relates to a license to be granted to a net work organization having more than one station in a service area, and rule 3.107 which proscribes a broadcasting station affiliated with a net work maintaining more than one net work. These rules do not apply to stations not affiliated with any net work. They apply only to contractual relations with net works, and in addition, prohibit the ownership by a net work of more than one station in a specified service area and the ownership by any organization of more than one net work. The order fixes as immediately the time when it shall become effective. In other respects it has all the earmarks of a final order.

That it was intended to be final is further evidenced by the Commission's report. It finds that the public interest "requires" the application of the regulations to stations affiliated with regional as well as with national net works. It affirms its powers to do so under Section 303-(i) of the Communications Act, and clearly reveals that it is exercising its rule-making power when it queries whether the Commission can formulate into "general rules and regulations" the principles which it *intends* to apply in passing on individual applications. That its action is final is further emphasized by the statement, "We believe that the announcement of the principles we intend to apply in exercising our licensing power will expedite business and further the ends of justice. * * * The regulations we are now adopting are nothing more than the expression of the general policy *we will apply* in exercising our licensing power. The formulation of a regulation in general terms is an important aid to *consistency and predictability* and does not prejudice any rights of the applicant."

That it is exercising this rule-making power is further emphasized by another statement in its report, that Section 303-(i) gives the Commission specific power to make special regulations applying to radio stations engaged in chain broadcasting and that "no language could more clearly cover *what we are doing here.*"

What it has done emphasizes more the finality of its order, which is an affirmative direction that thereafter no standard broadcasting station shall contract in terms prohibited, and ultimately puts an end to service by net works under contracts now existing. In fact, I think that the regulations are intended to effect existing contracts for the effective date of the order is deferred until November 15th, 1941, "with respect to existing

contracts, arrangements or understandings". This certainly is not a statement that the regulations shall not apply to existing contracts; it is merely a postponement as to when the axe will fall.

The particular agreements prohibited are presently contained in most of the affiliation contracts of the two complaining net works. They state those provisions are essential to the proper and successful conduct of their business, and in deciding the question of jurisdiction, I believe we must assume this to be true. It is also shown by them, without contradiction, that between the time the regulations were promulgated and the commencement of these actions, not less than twenty-four broadcasting stations having affiliation contracts with N.B.C. have cancelled their contracts as a result of the order in question, and not less than twenty-four others having such contracts, have served notice that they do not intend to abide by the terms of such contracts unless they are conformed to the Commission's order. Similarly, it is shown by the affidavits submitted by C.B.S. that some of the stations affiliated with it are refusing to renew their affiliation contracts, some are threatening to cancel or repudiate them, and some have already cancelled on the ground that the rules in question prohibit them. There is thus a present injury.

It is suggested that the plaintiffs must wait until the Commission has ruled upon the application of a broadcasting station for a renewal of its license. Can it be said that the Commission will change its rules, in view of the positive statement it has already made with reference thereto and above quoted? Must these net works await the idle ceremony of a denial of a license before any relief can be sought when it is perfectly obvious that no relief will be given? And what relief could they get if they did wait? The net works are not to be licensed, only the individual stations who make application. But it is said the net works could intervene and be heard. All that might be said or urged in their behalf has doubtless been communicated to the Commission in the three years between March 18, 1938, and May 2, 1941, when the investigation was going on. Must they march up the hill and down again, with the probability of being met with the statement that the Commission has given the matter due consideration and has done what it intends to abide by, as it has definitely said in its report? It is said, however, that by a minute adopted after these actions were brought, the Commission has manifested its intention to permit the net works to intervene and be heard upon the subject of the granting or denial of the license. That minute refers obviously only to a station, and insofar as it attempts to change the nature of the order sought to be reviewed or to obviate a review would be abortive. *Southern Pacific Co. v. Interstate Commerce Commission*, 219 U. S. 433-452. *Southern Pacific Terminal Co. v. Interstate Commerce Commission*, 219 U. S. 498-515.

This court has reviewed the rule-making power of this very Commission without being troubled by the question of jurisdiction. *A. T. & T. Co. v. U. S.*, 14 F. Supp. 121, affirmed 299 U. S. 232. That there can be a review of an order exercising the delegated legislative function of rate-making and rule-making is admitted in *U. S. v. Los Angeles R. R.*, 273 U. S. 299, 309. In *Interstate Commerce Commission v. Goodrich Transit Co.*, 224 U. S. 194, where bills were filed to enjoin orders prescribing methods of account, bookkeeping and reports, jurisdiction was not questioned in a court always jealous of its jurisdiction. In *Kansas City Southern Railway v. U. S.*, 231 U. S. 423, jurisdiction was again assumed of a petition to declare invalid and to enjoin regulations relative to accounting. In *Skinner & Eddy Corp. v. U. S.*, 249 U. S., 557-562, which involved a refusal of a suspension of a tariff, jurisdiction was assailed, at least until after a further remedy was sought; and it was there stated that where contention was made that the Commission had exceeded its statutory powers, courts have jurisdiction of suits to enjoin even if the plaintiff had not attempted to secure redress before the Commission. In the *Assigned Car Cases*, 274 U. S. 564, suits were brought to enjoin and annul an order which prescribed a rule governing the distribution of cars among coal mines after an investigation by the Interstate Commerce Commission of its own motion, and no question of right of review was raised. And in *A. F. of L. v. Labor Board*, 308 U. S. 401, 408, it was admitted that administrative determinations which are not commands may for all practical purposes, determine rights as effectively as the judgment of a court and may be re-examined by courts under particular statutes providing for the review of orders. In *Pierce v. Society of Sisters*, 268 U. S. 510, suit was brought by a private school to restrain the enforcement of an Oregon statute which required primary education in public schools, and jurisdiction was sustained, Mr. Justice McReynolds writing that the suits were not premature, that the injury to the plain-

tiffs was present and very real and not a mere possibility in the remote future.

Dated: February 20, 1942.

(S.) John Bright,
U. S. D. J.

STATE LEGISLATION

NEW YORK:

A. 984 (Ehrlich) CHILD LABOR—Prohibits employment of children under 16 years in theatrical performances, circuses, motion pictures, radio broadcast performances, except on amateur programs, without written consent of education board or officials. Referred to Committee on Education.

A. 1224 (Sullivan) KOSHER FOOD—FRAUDULENT ADVERTISING—Prohibits fraudulent advertising or sale of Kosher food and food products at retail stores or hotels and restaurants. Referred to Agricultural Committee.

S. 1034 (Mahoney) KOSHER FOOD—FRAUDULENT ADVERTISING—Prohibits fraudulent advertising or sale of Kosher food and food products at retail stores or hotels and restaurants. Referred to Committee on Agriculture.

FEDERAL COMMUNICATIONS COMMISSION

AMATEUR OPERATOR LICENSING

The Federal Communications Commission, at the request of the War and Navy Departments, has resumed the issuance of new amateur radio operator licenses.

The Commission is advised that the classification of men for Navy and Army radio duty is facilitated greatly if such persons who are qualified to hold a radio operator license are in a position to verify this fact by exhibiting their license.

When cessation of amateur station operators was ordered following the outbreak of the war, the Commission followed a policy of not issuing any new amateur operator licenses or amateur station licenses, although examinations for the former have continued to be conducted. As a result, there are approximately 1500 applicants who have successfully completed the examination for operator's license and have complied with the provisions of Commission Order No. 75 (proof of U. S. citizenship) and are now qualified to receive new operator licenses.

FCC ORDER NO. 91 (Operators)

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C. on the 17th day of February, 1942;

The Commission having under consideration the request of the Defense Communications Board that the Commission consider relaxation of its rules and regulations governing the requirements for operators of broadcast stations; and

IT APPEARING that the demand of the military services for operators holding radiotelephone first class licenses has increased as a result of the war, and that such demand has decreased the number of operators qualified for operation of broadcast stations, resulting in a shortage of such operators;

IT IS ORDERED that until further order of the Commission a broadcast station of any class, which by reason of actual inability to secure the services of an operator or operators of the proper class could not otherwise be operated, may be operated by holders of radiotelegraph first or second class operator licenses, or radiotelephone second class operator licenses, notwithstanding the provisions of Section 13.61, paragraphs a, c(1) and d(1) of the Commission's Rules and Regulations Governing Commercial Radio Operators:

PROVIDED, HOWEVER, that these classes of operator licenses shall be valid for the operation of broadcast stations upon the

condition that one or more first class radiotelephone operators are employed who shall be responsible at all times for the technical operation of the station and shall make all adjustments of the transmitting equipment other than minor adjustments which normally are needed in the daily operation of the station;

PROVIDED FURTHER, that nothing contained herein shall be construed to relieve a station licensee of responsibility for operation of the station in exact accordance with the Rules and Regulations of the Commission; and

PROVIDED FURTHER, that Section 13.61 of the Commission's Rules and Regulations Governing Commercial Radio Operators shall remain in full force and effect except as modified by this Order.

BY THE COMMISSION,
T. J. Slowie, Secretary.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

HEARINGS

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

Monday, March 2

WAPI—Voice of Alabama, Inc., Birmingham, Ala.—C. P., 1070 kc., 50 KW, unlimited, DA-night.

Thursday, March 5

Consolidated Hearing

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Modification of license, 1230 kc., 250 watts, unlimited.
NEW—Paul Forman Godley, Newark, N. J.—C. P., 1230 kc., 250 watts, unlimited.

Friday, March 6

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.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Granted petition to reconsider and grant application for modification of construction permit to increase power to 5 KW, move transmitter site, install new transmitter, and make changes in directional antenna. WSJS now operates on 600 kc., with 1 KW power.

KGKO—KGKO Broadcasting Co., Fort Worth, Texas.—Granted modification (B3-MP-1484) of construction permit (B3-P-2571) as modified, for changes in directional antenna for night use.

WLOL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Granted consent to transfer of control of station WLOL from John P. Devaney to Charles J. Winton, Jr., and David J. Winton, for a consideration of \$21,500 (B4-TC-283).

H. Ross Perkins and J. Eric Williams, d/b as The New Haven Broadcasters, New Haven, Conn.—Granted motion to dismiss petition for reconsideration directed against the Commission's action of December 23, 1941, granting the application of Arthur Faske, WCNW, Brooklyn, N. Y. (B1-P-3151), to change frequency to 1190 kc., increase power to 1 KW, and change hours of operation to limited, subject to proof of performance, and dismissed said petition.

KPMC—Pioneer Mercantile Co., Bakersfield, Calif.—Granted petition for reconsideration and grant without hearing application for construction permit insofar as authority is requested to change frequency from 1600 kc. to 1560 kc.

Amarillo Broadcasting Corp., Amarillo, Texas.—Granted construction permit (B3-PH-49) for new station to operate on 45100 kc., with a service area of 5600 square miles, on a temporary basis in accordance with Section 3.223(b).

DESIGNATED FOR HEARING

The McKeesport Broadcasting Co., Inc., McKeesport, Pa.—Designated for hearing application (B2-P-3324) for new station to operate on 730 kc., 1 KW, daytime.

Albert S. & Robert A. Drohlich, d/b as Drohlich Bros., Jefferson City, Mo.—Designated for hearing application for construction permit (B4-P-3315) for new station to operate on 800 kc., 1 KW, daytime. Exact site to be determined, subject to Commission's approval.

W47NY—Muzak Corp. (assignor), Muzak Radio Broadcasting Stations, Inc. (assignee), New York, N. Y.—Designated for hearing application for consent of assignment of construction permit (B1-APH-2) for high frequency broadcast station W47NY, from Muzak Corp. to Muzak Radio Broadcasting Stations, Inc.

WHFC, Inc., Chicago, Ill.—Designated for hearing application for construction permit (B4-PH-36) for new station.

The American Network, Inc., New York, N. Y.—Designated for consolidated hearing (to be heard with 7 New York area applicants for new stations), application for construction permit for new station (B1-PH-124).

ACTION ON DOCKET CASE

The Commission announced adoption of final order (B-143) granting a construction permit to Western Gateway Broadcasting Corporation for a new broadcast station at Schenectady, N. Y., to operate on 1240 kilocycles with power of 250 watts, unlimited time, and denying an application by Van Curler Broadcasting Corporation for the same facilities.

LICENSE RENEWALS

Licenses for the following stations were renewed for the period ending April 1, 1944:

KFVD, Los Angeles, Calif.; WIBC (auxiliary), Indianapolis, Ind.; WJSV, Washington, D. C.

Licenses for the following were renewed for the period ending October 1, 1943:

KATE, Albert Lea, Minn., and WKEU, Griffin, Ga.

KVWC—Northwestern Broadcasting Co., Vernon, Texas.—Granted renewal of license for the period ending December 1, 1943.

WFTC—Jonas Weiland, Kinston, N. C.—Granted renewal of license for the period ending October 1, 1942.

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Granted renewal for main and auxiliary transmitter for the period ending February 1, 1944.

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

KFJB, Marshalltown, Iowa; WBRB, Red Bank, N. J.; WCBT, Roanoke Rapids, N. C.; WJMA, Covington, Va.; KXL, Portland, Ore.; KFBI, Wichita, Kans.; WHCU, Ithaca, N. Y.; WMEX, Boston, Mass.; WKBW, Buffalo; WLW, Cincinnati; WOWO, Ft. Wayne, Ind.; KBST, Big Springs, Texas; KCMC, Texarkana, Texas; KGIW, Alamosa, Colo.; KGKL, San Angelo, Texas; KPLT, Paris, Texas; KRBC, Abilene, Texas; KVAK, Atchison, Kans.; KVGB, Great Bend, Kans.; KQRS, Rock Springs, Wyo.; KWLK, Longview, Wash.; WBNY, Buffalo, N. Y.; WMFJ, Day-

tona Beach, Fla.; WRJN, Racine, Wisc.; WSPB, Sarasota, Fla.; KFGQ, Boone, Iowa; KITE, Kansas City, Mo.; WFPG, Atlantic City; WGCM, Gulfport, Miss.; WGNC, Gastonia, N. C.; WGRM, Greenwood, Miss.; WKBV, Richmond, Ind.; WMAN, Mansfield, Ohio; WMIS, Natchez, Miss.; WORK, York, Pa.; KGGF, Coffeyville, Kans.; KMPC and auxiliary, Beverly Hills, Calif.; KWKH, Shreveport, La., and WCAL, Northfield, Minn.

Licenses for the following experimental television broadcast stations were renewed for the period ending February 1, 1943:

W2XAB, New York City; W2XVT, Passaic, N. J.; W2XWV, New York City; W3XE, Philadelphia, Pa.; W9XBT, Portable-Mobile, area of Chicago; W10XKT, Portable-Mobile, area of New York City.

W3XP—Philco Radio & Television Corp., Portable-Mobile, area of Philadelphia, Pa.—Further extended upon a temporary basis only, pending determination upon application for renewal the license for experimental television broadcast station for the period ending April 1, 1942.

W9XUI—State University of Iowa, Iowa City, Iowa.—Further extended upon a temporary basis only, pending determination upon application for renewal the license for experimental television broadcast station for the period ending April 1, 1942.

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

W2XWE, Albany, N. Y.; W9XUM, Columbus, Ohio; W9XZY, St. Louis, Mo.

W9XWT—Courier-Journal and Louisville Times Co., Louisville, Ky.—Granted renewal of facsimile broadcast station license for the period March 1, 1942, to March 1, 1943.

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 April 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 April 1, 1942.

MISCELLANEOUS

Charleston Broadcasting Co., area of Charleston, W. Va.—Granted construction permit for new relay station; **1622, 2058, 2150, 2790 ke.**, 250 watts (B2-PRY-270).

WAOB—National Broadcasting Co., Inc., Port Washington, N. Y.—Granted license to cover construction permit which authorized changes in equipment and move of transmitter of relay broadcast station (B1-LRY-252).

WLBC—Donald A. Burton, Muncie, Ind.—Granted modification of license for move of studio from 125 South Walnut St., Muncie, Ind., to new transmitter site, south of City of Muncie (B4-ML-1110).

The Associated Broadcasters, Inc., Portable-Mobile, area of San Francisco, Calif.—Granted construction permit for new relay broadcast station; **1622, 2058, 2150, 2790 ke.**, 50 watts (B5-PRY-267).

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted license to cover construction permit which authorized installation of directional antenna for night use, change in hours of operation, change in frequency and move of transmitter (B4-L-1544); granted authority to determine operating power by direct measurement of antenna input (B4-Z-1270).

KFUN—Southwest Broadcasters, Inc., Las Vegas, N. Mex.—Granted license to cover construction permit for new station (B5-L-1598); granted authority to determine operating power by direct measurement (B5-Z-1331).

W2XMT—Metropolitan Television, Inc., New York, N. Y.—Granted modification of construction permit, as modified and which authorized new television station, for extension of commencement and completion dates only, from June 1, 1941, and January 1, 1942, to January 1, 1942, and July 1, 1942, respectively (B1-MPVB-65).

W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit as modified and which authorized new television station, for expansion of completion date from January 28 to March 28, 1942 (B2-MPVB-67).

WKRO—Oscar C. Hirsch, Cairo, Ill.—Granted license to cover construction permit as modified for new station (B4-L-1592); granted authority to determine operating power by direct measurement of antenna input (B4-Z-1329).

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted license to cover construction permit for changes in equipment (B5-L-1615).

WPRP—Julio M. Conesa, Ponce, P. R.—Upon consideration of motion for continuance filed by the applicant, continued hearings until April 22, 1942, in re applications for construction permit, modification of construction permit, and renewal of license (Docket Nos. 5678, 6107 and 6105).

WOLS—Florence Broadcasting Co., Inc., Florence, S. C.—Granted construction permit to install new transmitting equipment (B3-P-3461).

WEEU—Berks Broadcasting Co., Reading, Pa.—Granted motion for leave to amend application so as to specify a new directional antenna array and to continue hearing now set for March 3, 1942, for 90 days (Docket No. 6026).

WMIN—WMIN Broadcasting Co., St. Paul, Minn.—Granted motion to take depositions in re application for construction permit to operate on **630 ke.**, 1 KW night, 5 KW day, directional antenna night and day, unlimited time (Docket 6197).

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Granted request for leave to amend application for construction permit to specify a new site and a different transmitter.

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Granted motion for 60 day continuance of hearing now scheduled for February 27, on application for construction permit to operate on **580 ke.**, 1 KW; DA-night, unlimited. Herman Radner, Dearborn, Mich.—Granted extension to April 6, 1942, of motion to continue for 90 days the hearing now set for March 10, 1942, in re application for construction permit for new broadcast station to operate on **680 ke.**, 250 watts day, daytime (Docket No. 6220).

W2XVP—Municipal Broadcasting System, City of New York, N. Y.—At request of licensee, who has dismantled station, Commission cancelled license and deleted call signal.

Hawlay Broadcasting Co., Reading, Pa.—Placed in pending files pursuant to Order No. 79 application for construction permit for new station (B2-PH-121).

Meadville Tribune Broadcasting Co., Meadville, Pa.—Placed in pending files pursuant to Order No. 79, application for new station (B2-P-3366) to operate on **1340 ke.**, 250 watts; specified hours; all hours not used by WSAJ. Exact site and antenna system to be determined subject to Commission's approval.

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Denied petition for reconsideration and grant of application for modification of license (Docket 6216) to change operating assignment from **1240 to 1230 ke.**, using present power of 250 watts, unlimited time.

Paul F. Godley, Newark, N. J.—Denied petition for reconsideration and grant of application for a new station to operate on **1230 ke.** with 250 watts power, unlimited time (Docket 6217). (Applications of WFAS and Paul F. Godley now set for consolidated hearing March 5.)

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Denied petition to grant application for construction permit (B4-P-2364) to change frequency from **1380 to 680 ke.**, and increase power from 1 KW night and 5 KW day to 25 KW night and 50 KW day, and to require KFEQ, St. Joseph, Mo., to change frequency from **680 to 1380 ke.**, or some other suitable frequency.

KWK—Thomas Patrick, Inc., St. Louis, Mo.—Denied request for special permission to eliminate transcription identification, as required by Sec. 3.407(c) of the Rules and Regulations, in connection with a particular daily broadcast.

APPLICATIONS FILED AT FCC

570 Kilocycles

KGKO—KGKO Broadcasting Co., Fort Worth, Tex.—License to cover construction permit (B3-P-2571) as modified, for changes in directional antenna for night use and increase in power.

KGKO—KGKO Broadcasting Co., Fort Worth, Tex.—Authority to determine operating power by direct method.

580 Kilocycles

- WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Construction permit to install a new transmitter, make changes in directional antenna system for nighttime use only, change frequency from 580 to 640 kc., increase power from 5 KW to 50 KW and move transmitter to 6 miles north of St. Albans, W. Va. Amended: re antenna.
- WIAC—Enrique Abarca Sanfeliz, San Juan, P. R.—License to cover construction permit (B-P-2136) as modified, for a new broadcast station.
- WIAC—Enrique Abarca Sanfeliz, San Juan, P. R.—Authority to determine operating power by direct measurement.

610 Kilocycles

- WIOD—Isle of Dreams Broadcasting Corp., Miami, Fla.—Construction permit to increase power from 5 KW to 5 KW night, 10 KW day, and make changes in directional antenna system and transmitter.

620 Kilocycles

- NEW—Donald Flamm, New York, N. Y.—Construction permit for a new broadcast station to be operated on 620 kc., 5 KW, unlimited time, using directional antenna day and night. Amended: to request move of transmitter site to near Moonachie, N. J.

630 Kilocycles

- WLAP—American Broadcasting Corporation of Kentucky, Lexington, Ky.—Construction permit to increase power from 250 watts to 1 KW, using directional antenna night; install new transmitter and directional antenna and change frequency from 1450 to 610 kc. Amended: to request 630 kc. and use directional antenna day and night.

710 Kilocycles

- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Modification of construction permit (B5-P-2804 as modified, which authorized increase in power, move of transmitter site, install new transmitter and directional antenna system for day and night use) for change in type of proposed transmitter, change towers of proposed directional antenna from self-supporting to guyed, and extend commencement and completion dates from 11-3-41 and 5-3-42 to 60 days after grant and 180 days thereafter.

920 Kilocycles

- KFXJ—R. G. Howell and Charles J. Howell, d/b as Western Slope Broadcasting Co., Grand Junction, Colo.—License to cover construction permit (B5-P-3236) for increase in power, change frequency and changes in antenna and equipment.
- KFXJ—R. G. Howell and Charles J. Howell, d/b as Western Slope Broadcasting Co., Grand Junction, Colo.—Authority to determine operating power by direct method.

940 Kilocycles

- NEW—Jayhawker Broadcasting Co., Inc., Topeka, Kans.—Construction permit for a new broadcast station to be operated on 940 kc., 1 KW, unlimited time, using directional antenna.

960 Kilocycles

- KMA—May Broadcasting Co., Shenandoah, Iowa.—Construction permit to install directional antenna for night use, increase power from 1 KW night and 5 KW day to 5 KW day and night. Amended: to make changes in proposed directional antenna system.

980 Kilocycles

- WGBG—Greensboro Broadcasting Co., Inc., Greensboro, N. C.—License to cover construction permit (B3-P-2472) as modified, for a new broadcast station and for approval of studio site.
- WGBG—Greensboro Broadcasting Co., Inc., Greensboro, N. C.—Authority to determine operating power by direct method.

1030 Kilocycles

- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Extension of Special Service Authorization to operate on 770 kc., with power of 25 KW night and 50 KW day, unlimited time, using transmitter authorized under construction permit (B5-P-2783); for period 3-10-42 to 9-10-42.

1110 Kilocycles

- KFAB—KFAB Broadcasting Co., Omaha, Nebr.—Construction permit to install new transmitter and directional antenna for night use, change frequency from 780 to 1110 kc., power from 10 to 50 KW, hours from simultaneous day, share WBBM night to unlimited time and move transmitter. Amended: to move studio to Omaha Natl. Bank Bldg., Omaha, move transmitter to RFD near Papillion, Nebr., changes in directional antenna and change type of transmitter proposed.
- KPAS—Pacific Coast Broadcasting Co., Pasadena, Calif.—License to cover construction permit (B5-SSA-14) which authorized a new station using 5 KW.

1170 Kilocycles

- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Extension of Special Service Authorization to operate unlimited time, with power of 25 KW night, 50 KW day, using directional antenna at night, for period ending 4-1-44.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Modification of construction permit (B3-P-2539) which authorized increase in power, change in hours of operation, install new transmitter and directional antenna for night use, requesting extension of completion date from 4-5-42 to 10-5-42.

1200 Kilocycles

- NEW—H. Ross Perkins and J. Eric Williams, d/b as New Haven Broadcasters, New Haven, Conn.—Construction permit for a new broadcast station to be operated on 1200 kc., 1 KW, daytime hours. Amended: to request 1170 kc. and change type of antenna.

1230 Kilocycles

- WJNO—WJNO, Inc., West Palm Beach, Fla.—Construction permit to change frequency from 1230 to 1430 kc., increase power from 250 watts to 1 KW, install new transmitter and make changes in antenna. Amended: to omit request for changes in antenna.
- KXO—Valradio, Inc., El Centro, Calif.—Construction permit to change frequency from 1490 to 1230 kc., increase power from 100 to 250 watts, install new transmitter and antenna system and move transmitter and studio.
- NEW—Raymond C. Hammett, Talladega, Ala.—Construction permit for a new broadcast station to be operated on 1230 kc., 250 watts, unlimited time. Amended: re engineering data.

1260 Kilocycles

- KGGM—New Mexico Broadcasting Co., Inc., Albuquerque, N. Mex.—Construction permit to install new transmitter, move transmitter, change frequency from 1260 to 590 kc., increase power from 1 KW to 5 KW and install directional antenna system for night use. Amended: to reduce requested power from 5 KW to 1 KW night, 5 KW day and make changes in directional antenna system for night use.

1290 Kilocycles

- KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Modification of construction permit (B5-P-3100, which authorized increase in night power and installation of directional antenna system for day and night use) for extension of completion date from 3-16-42 to 5-16-42.

1300 Kilocycles

- KOL—Seattle Broadcasting Co., Seattle, Wash.—Modification of construction permit (B5-P-3030) as modified and which authorized installation of directional antenna system for day and night use and increase in power, for extension of completion date from 3-1-42 to 6-1-42.

1400 Kilocycles

WCOS—Carolina Advertising Corp., Columbia, S. C.—Voluntary assignment of license from Carolina Advertising Corporation to Carolina Broadcasting Corporation.

WMSL—Tennessee Valley Broadcasting Co., Inc., Decatur, Ala.—Construction permit to install a new transmitter.

1410 Kilocycles

WEGO—Wayne M. Nelson, Concord, N. C.—Modification of construction permit (B3-P-3007) for a new station, requesting approval of antenna system, authority to install different type of frequency monitor and approval of transmitter and studio sites.

1430 Kilocycles

WBYN—WBYN-Brooklyn, Inc., Brooklyn, N. Y.—License to use old main transmitter as auxiliary transmitter with 500 watts power, emergency use only.

1490 Kilocycles

KBON—MSB Broadcast Co., Omaha, Nebr.—Modification of construction permit (B4-P-2697) as modified for a new station, requesting change in corporate name to Inland Broadcasting Company.

WWSW—Walker & Downing Radio, Pittsburgh, Pa.—Authority to determine operating power by direct measurement.

FM APPLICATIONS

K61LA—Metro-Goldwyn-Mayer Studios, Inc., Los Angeles, Calif.—Modification of construction permit (B5-PH-90, which authorized new high frequency broadcast station) for extension of commencement and completion dates from 9-16-41 and 3-16-42 to 3-16-42 and 9-16-42.

NEW—Mercer Broadcasting Co., Trenton, N. J.—Construction permit for a new high frequency broadcast station to be operated on ~~44700~~ ke.; population: 544,000; coverage: 3,200 square miles. Amended: to request change in requested frequency from ~~44700~~ ke. to ~~49900~~ ke.

TELEVISION APPLICATION

WCBW—Columbia Broadcasting System, Inc., New York, N. Y.—Modification of construction permit (B1-PCT-2) as modified, for a new commercial television broadcast station, requesting extension of completion date from 2-27-42 to 5-27-42.

MISCELLANEOUS APPLICATIONS

WIUC—University of Illinois, S. of Champaign, Ill.—Modification of construction permit (B4-PED-21) for a new non-commercial educational broadcast station, requesting extension of completion date from 3-16-42 to 7-16-42.

NEW—The Radio Voice of New Hampshire, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on ~~1646~~, ~~2090~~, ~~2190~~, ~~2830~~ ke., 15 watts. Emission A3.

WQER—Georgia School of Technology, Mobile.—License to reinstate relay broadcast station license which expired 10-1-41.

FEDERAL TRADE COMMISSION DOCKET

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

COMPLAINTS

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.

J. D. Fine Candy Company—A complaint has been issued charging J. D. Fine, trading as J. D. Fine Candy Co., 222 Northwest Fourth St., Oklahoma City, Okla., with selling to dealers assortments of candy so packed and assembled as to involve the use of lottery schemes when sold and distributed to consumers. Alleging that the respondent's practice is contrary to Federal Government policy and the Federal Trade Commission Act, the complaint grants the respondent 20 days for filing answer. (4709)

E. G. Hughes, Inc.—A complaint has been issued charging E. Griffiths Hughes, Inc., 26 Forbes St., Rochester, N. Y., with misrepresentation in connection with the sale of a drug known as "Kruschen Salts." (4711)

Nickeloid Company—A complaint has been issued charging American Nickeloid Co., Peru, Ill., with misrepresentation in the sale of prefinished plated metals which it manufactures. The respondent's products are described in the complaint as being suitable for decorative purposes and for use by metal fabricators in the manufacture of innumerable articles. (4713)

CEASE AND DESIST ORDERS

The Commission issued the following cease and desist orders last week:

Battle Creek Drugs, Inc., Battle Creek, Mich., and Consolidated Royal Chemical Corp., 544 South Wells St., Chicago, have been ordered to cease and desist from the use of deceptive and misleading representations and advertisements in connection with the sale of "BonKora," a drug preparation advertised as a weight-reducing agent. Consolidated Royal Chemical Corp., trades as Consolidated Drug Trade Products and as BonKora Co. (4541)

Consumers Mercantile Service, 64 West Randolph St., Chicago, dealer in miscellaneous merchandise such as cameras, silverware, clocks, and pens, has been ordered to cease and desist from selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme. (4242)

Hardwood Institute—Twenty-one corporations manufacturing and producing hardwood lumber in northern Michigan and northern Wisconsin, and The Hardwood Institute of which they are members, have been ordered to cease and desist from entering into or carrying out any agreement or understanding that restricts or eliminates price competition in the sale of their products.

The order prohibits the Institute and the following respondent manufacturers from maintaining by concerted action a system of delivered prices which are made uniform through the use by the respondents of a common basing point at Wausau, Wis.:

The Antrim Iron Co., Grand Rapids, Mich.; The Bay de Noquet Co., Nahma, Mich.; The Bonifas Gorman Co., Chicago; The Brownlee Co., Detroit; The Edward Hines Lumber Co., Chicago; William Bonifas Lumber Co., Neenah, Wis.; Holt Lumber Co., Oconto, Wis.; Marathon Paper Mills Co., Wausau, Wis.; The Oconto Co., Oconto, Wis.; The Rib Lake Lumber Co., Rib Lake, Wis.; The Underwood Veneer Co., Wausau, Wis.; The Von Platen and Fox Co., Iron Mountain, Mich.; The M. J. Wallrich Land and Lumber So., Shawano, Wis.; Weidman Lumber Co., Trout Creek, Mich.; Roddis Lumber and Veneer Co., Marshfield, Wis.; Sawyer-Goodman Co., Marinette, Wis.; I. Stephenson Co., Wells, Mich.; Thunder Lake Lumber Co., Rhinelander, Wisc.; The Wisconsin Land and Lumber Co., Hermansville, Mich.; The Yawkey-Bissel Co., White Lake, Wis.; and The Yawkey-Alexander Lumber Co., Schofield, Wis.

The Commission dismissed the proceeding as to three corporations which have been dissolved, Kinzel Lumber Co., Merrill, Wis.; Menominee and Bay Shore Lumber Co., Soperton, Wis.,

and Northwestern Cooperage and Lumber Co., Gladstone, Mich., and as to A. L. Osborn, who was secretary-manager of The Hardwood Institute at Oshkosh, Wis., prior to his death in 1940. (3418)

Pacific Fruit & Produce Company.—Five Walla Walla, Wash., shippers of broad leaf spinach, a Minneapolis food brokerage company and its Chicago representative, and four Chicago jobbing concerns, have been ordered to cease and desist from carrying out a combination or conspiracy to eliminate competition or monopolize trade in the sale of the Walla Walla variety of broad leaf spinach, particularly that sold in the Chicago area.

The respondents are Pacific Fruit & Produce Co., Walla Walla Gardeners' Association, Mojonner & Sons, Inc., Walla Walla Produce Co., and Ewing M. Stephens and Eugene Tausich, trading as Valley Fruit Co., all of Walla Walla, shippers; C. H. Robinson Co., Minneapolis, food broker, and Robert M. Steinberg, manager of its Chicago branch; LaMantia Brothers Arrigo Co., Owen T. Hill and Robert S. Hill, trading as Mark Owen & Co., John Plennert and John Mahoney, trading as P. & M. Distributing Co., and Arthur Applebaum, trading as Applebaum-Missner Co., all of Chicago, jobbers. (4487)

Pink Ointment Company.—An order to cease and desist from misrepresenting the therapeutic properties of a medicinal preparation designated "Pink Ointment" has been issued against John B. Armstrong, M.D., trading as Pink Ointment Co., 521 Kansas Ave., Topeka, Kans. (4612)

Waldburger, Grant & Co., Inc., 20 West 37th St., New York, engaged in the sale of textile fabrics, stipulated that it will stop representing, through use of the word "Swiss" or any other term or symbol indicative of Swiss or other foreign origin, that its organdies or any other domestic products were made in or imported from Switzerland or any other foreign country. (3403)

STIPULATIONS

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

American Civil Service Institute.—Rose L. Eberle, 1957 Eighth Ave., West, Seattle, Wash., formerly engaged in the sale of correspondence courses of instruction under the name American Civil Service Institute, has entered into a stipulation to cease using the words "Civil Service" and "Institute" as part of her trade name when actually she has had no connection with the United States Civil Service Commission and has not conducted an institute. (3396)

American Quilt Cover Manufacturers, Inc., 385 Broadway, New York, stipulated that in the sale of quilt covers it will cease and desist from the use on labels of the term "80 Square" as descriptive of the fabric of which the products are made, and from the use of such term or any similar expression in any manner, the effect of which tends or may tend to convey the belief that the fabric is composed of a designated number of threads or picks to the square inch, when actually the square inch thread count is other than indicated. The respondent company also stipulated that it will discontinue use of the term "Full Size" in any way so as to imply that the quilt covers so described are of a 72 by 84 inch size, as the term "Full Size" is understood in the trade. (3401)

Collins Durax Company.—Engaged in the sale of granite blocks or slabs used in making monuments or memorials, Collins Durax Co., Inc., Salisbury, N. C., stipulated that it will cease and desist from representing, through use in advertising matter of the word "imperishable" or other words of similar meaning, that its products or the monuments or memorials made therefrom are everlasting or will endure forever. (3398)

Consolidated Staple Co., Inc., and Champion Fastener Corp., both located at 1810 Wilson Ave., Chicago, and operated by the

same officers and directors, entered into a stipulation to discontinue certain representations in connection with the sale of staples of a design suitable for use in their stapling machines. According to the stipulation, the respondent corporations are in competition with sellers of such products as the so-called "Bostitch H2 Hammer Tacker" and "Bostitch Spring Crown Staples" for use in the Bostitch machine and known to the trade and consuming public by the identifying letters and numerals "SHCR-5019." (3406)

Dalmo Manufacturing Co., 511 Harrison St., San Francisco, and Tomlinson I. Moseley, president of the corporation, have entered into a stipulation to cease representing that the "Motodent Electric Tooth Brush" device sold by them is unexcelled for cleaning plates and dentures, removes or checks tartar, whitens the teeth, and removes irritants which cause trauma. (02947)

Farm Electric Manufacturing Co., R. R. 4, North Kansas City, Mo. (02950), and Guaranteed Products Corp., Wellington, Ohio (02951), engaged in the sale of electric fence controllers for confining livestock, entered into stipulations to discontinue certain representations in advertising their products. Farm Electric Manufacturing Company sells "Big Six Electric Fence Chargers" and Guaranteed Products Corporation sells electric fence controllers designated by such names as "Shox Stok," "Ever Best," "Felco" and "Tru Test." (02950-02951)

Fur Outlet Co., 1012 Chestnut St., Philadelphia, entered into a stipulation to cease and desist from designating 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. The respondent company also agreed to cease representing as the customary prices or values of its fur garments prices or values in excess of the prices at which such merchandise is regularly offered for sale in the normal course of business and to discontinue advertising or selling any used, worn or second-hand fur garment unless in each advertisement pertaining thereto and also by means of a label securely attached thereto, the fact be clearly indicated that such garment is used, worn or second-hand. (3402)

Gottesmen Bros. Company.—A manufacturer of quilt covers, Samuel Gottesman, trading as Gottesman Bros. Co., 22 West 26th St., New York, stipulated to cease using the term "Eighty Square" on labels or other printed matter as descriptive of the fabric of which his quilt covers are made, and to discontinue employing that or any similar term in a manner implying that the fabric is composed of a designated number of threads or picks to the square inch, when actually the square inch thread count is other than that indicated. (3397)

Harlie Bag Co., Inc., South Norwalk, Conn., manufacturer of ladies' handbags, has agreed to discontinue using the term "Nuhyd" as a trade name, brand or label for handbags not made from hide or leather and to desist from use of the letters "hyd" or other simulation of the word "hide" and of the word "leather," either alone or with other words, to imply that a product so referred to is manufactured from leather or hide, when such is not a fact. (3404)

R. M. Hollingshead Corporation, Camden, N. J., distributor of household products, stipulated to cease advertising that its "Whiz Self-Polishing Floor Wax" is used by the Bell Telephone System, when such is not a fact; that its "Whiz Bed Bug Destroyer" is the most effective product of its kind ever developed; and that "Whiz No. 500 Pine Oil Disinfectant," when used as a spray, will revitalize or purify the air in a room. (02948)

J. Mackey & Son, Wallace B. Mackey, 26 Exchange Place, Jersey City, N. J., manufacturer of sports footwear, stipulated that, in the sale of shoes designated "Espadrille," he will discontinue use of the words "Ribbed Rope" as descriptive of the soles

of the shoes, and use of the word "Rope" either alone or with the word "Ribbed" or with any other words to imply that the shoes have soles of rope or ribbed rope, when actually they are composed of other materials. (3407)

Penn Tobacco Co., Wilkes-Barre, Pa., manufacturer of tobacco products, has entered into a stipulation under which it agrees to discontinue representing that its "Kentucky Club" pipe tobacco smokes 25 percent cooler than other pipe tobaccos and never bites the tongue or stings. In advertising its cigarettes sold under the brand name "Juleps," it agrees to cease using the words "forget your cough" in any manner implying that the smoking of such cigarettes is a treatment or remedy for coughs.

Slade Gorton Co., 735 West Lake St., Chicago, wholesaler of frozen and smoked fish, stipulated that it will cease and desist from use of the word "perch," either alone or with the word "silversides" or "silver" in referring to fish, the effect of which tends or may tend to convey the belief that the fish so designated is perch or yellow perch. According to the stipulation, the fish advertised by the respondent as "perch" is known to the trade and consuming public as whiting. (3405)

E. R. Squibb & Sons, distributor of dentifrices, and Geyer, Cornell & Newell, Inc., an agency which prepares and disseminates

advertisements for Squibb products, entered into a stipulation to discontinue certain representations in connection with the sale of "Squibb Dental Cream" and "Squibb Tooth Powder." The respondent corporations, both with offices at 745 Fifth Ave., New York, agree to cease representing that use alone of the dentifrices named contributes to a material degree to the prevention of tooth decay or that the milk of magnesia in such dentifrices is concentrated. (02949)

Whiteside Company—A. J. Whiteside, trading as Whiteside Co., Wilmington, Ohio, dealer in medicines, has entered into a stipulation to cease representing that any of his preparations known as "Jolo," "Liverine," "Bee Bee's," and "Ru-Ma-Sol" is a new, scientific, natural, or advanced medicine; that Jolo ends many forms of health troubles, has tonic action on the liver, quiets quivering nerves and relieves the system of colds; that Liverine enables the liver to function properly, cleanses the bloodstream or overcomes skin eruptions; that Bee Bee's is a genuine or proven medicine or a new or remarkable discovery for weakened kidneys or irritated bladder; and that Ru-Ma-Sol eliminates uric acid in the system, goes to the very source of rheumatism or is a competent treatment or effective remedy for underlying conditions indicated by such symptoms as rheumatic pains; swollen and stiffened fingers, hands, arms, feet, legs or joints; neuritis, sciatica, lumbago, and stomach pains. (3400)