



Reports

The NATIONAL ASSOCIATION OF BROADCASTERS

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48-Hour Week

A full account of the 48-hour week situation, together with the WMC's rules, regulations, etc., will be found on page 108 of this issue.

NAB Board Meets

The Board of Directors held a two-day meeting in New York, Thursday and Friday (February 25-26). All members, except Edwin Craig who was prevented by illness, attended.

Petrillo

The developments in the Petrillo situation were fully discussed. The communication sent by the transcription companies in response to Petrillo's demands was read. (See AFM Bulletin No. 17). The Board decided to assist and cooperate with the transcription companies in any course of action which they determined to take. The majority of the transcription companies being NAB associate members, it was felt that such aid as could be rendered should be offered.

48-Hour Week

Joseph L. Miller, NAB Labor Relations Director, reported upon the joint meeting of the Labor Executive Committee and the Wage and Hour Committee to discuss the 48-hour week. The status of radio stations in the 32 critical areas thus far designated by WMC is uncertain. Mr. Miller reported the results of a conference with representatives of WMC which indicates that ultimately 190 areas will be affected. Any employer in any of these areas who does not go on the 48-hour week will, according to the committee, have to justify his action and show that by so doing he would not release men or obviate the employment of more men.

To determine the application of the rules to various situations a spot check is being made by the Labor and Wage and Hour Committees in certain critical areas and the results of this check will be discussed with WMC. Mr. Miller reported further that it is probable that regional offices of the WMC will be established to administer the regulations.

Batteries and Tubes

The question of batteries and tubes for home sets was discussed. In both of these matters NAB has been working for some time with WPB officials to bring about a solution. Considerable progress in the matter of tubes

was reported in the inauguration of the Victory Line. It was further revealed that the battery situation was progressing satisfactorily and action was expected soon.

Legislation

The legislative situation, including the hearing on the Cox Resolution, and the Holmes Bill, was outlined. With respect to the Cox Resolution it was felt that the industry should preserve a neutral attitude, since the subject matter of the inquiry is one between Congress and the FCC, one of its creatures. The Holmes Bill, being identical to the Sanders Bill in the 77th Congress, has been the subject of a full hearing and NAB has presented its testimony and views. Therefore, unless called upon by some committee of Congress to submit further testimony, no action will be taken.

Retail Promotion Plan

Paul Morency, Chairman of the Retail Promotion Committee, reported that the response to the financial campaign while quite satisfactory and having resulted in the pledge of \$80,000, needed encouragement from the members of the Board. A resolution commending the committee upon the splendid work thus far done, reaffirming the confidence of the Board in the plan and pledging individual cooperation of each of the Directors to the successful consummation of the project was unanimously adopted.

Radio-War Conference

The Board determined to hold an annual membership meeting in the form of a radio war conference instead of a convention, the conference to be held sometime between April 15 and May 15 in either Chicago or New York. The conference is to be devoid of any entertainment features. Breakfast roundtables, mass meetings and forum discussions are to be arranged.

Membership

The following new members were elected to membership in NAB:

KBUR—Burlington, Iowa; KFUN—Las Vegas, New Mexico; KLBK—La Grande, Oregon; KOL—Seattle, Washington; KSLM—Salem, Oregon; KTKN—Ketchikan, Alaska; KTRB—Modesto, California; KWG—Stockton, California; WABY—Albany, New York; WHLS—Port Huron, Michigan; WJPR—Greenville, Mississippi; WPDQ—Jacksonville, Florida; WTTM—Trenton, New Jersey.

A membership campaign was suggested and the Secretary-Treasurer was instructed to proceed immediately in the formulation of such a campaign.

1943 Budget

Frank King, Chairman of the Board Finance Committee, submitted the 1943 budget with the Committee's recom-

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Neville Miller, *President* C. E. Arney, Jr., *Secretary-Treasurer*

Lewis H. Avery, *Director of Broadcast Advertising*; Walter L. Dennis, *Chief, News Bureau*; Willard D. Egolf, *Assistant to the President*; Howard S. Frazier, *Director of Engineering*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Arthur C. Stringer, *Director of Promotion*.

NAB BOARD MEETS

(Continued from page 97)

mentations. The budget as finally approved by the Board calls for a normal operations outlay of \$258,000 for 1943. This figure is some \$3,000 below the normal expenditures of the Association for the past year.

C. E. Arney, Jr., who for the past three years has served as Assistant to the President, was elected to the office of Secretary-Treasurer.

By-Law Amendments

The Board voted to submit three amendments for the consideration of the membership. The first relates to the method of election of Directors-at-Large; the second transfers the State of Maryland from the Fourth into the Third District along with Pennsylvania and Delaware. The third amendment corrects the By-Laws and eliminates all references to the Executive Committee. The full text of these suggested amendments will be printed in a subsequent issue of the REPORTS.

New Radio Bill

Senator Wheeler (D-Mont.), Chairman of the Senate Interstate Commerce Committee joined with Senator White (R-Maine) in introducing this week a bill (S. 814) to amend the Communications Act of 1934. The bill was referred to the Interstate Commerce Committee.

Drafted along the lines previously introduced by its sponsors, the bill provides for changes in the organization of the FCC, in its procedure, in judicial review, and authorizes declaratory judgments. It seeks to assure equality of right and opportunity among those who utilize radio for public discussion, and to further provide against censorship. It writes into the statute the language of the Supreme Court in the *Sanders Brothers* case, designed to spell out in "black and white" the Congressional intent that the Commission shall not concern itself with the business phases of broadcasting and the source of program material. These changes "make the bill of supreme importance," Senator White declared, "and justify its study and approval in substantially its present form by the present Congress."

Senator White explained the purposes of the bill to the Senate as follows:

"The radio bill today introduced by Senator WHEELER and Senator WHITE has its source in S. 1268, a bill introduced by Senator WHEELER in a previous Congress; in S. 1806 and S. 1520, introduced in previous sessions by Senator WHITE; in recommendations made to the Federal Com-

munications Bar Association by a committee thereof; in court decision; and in recommendations found in the Report of the Attorney General's Committee on Administrative Procedure.

"This measure should not be regarded as a general revision of our Communications Act of 1934, but the changes in the organization of the Federal Communications Commission, in its procedure, in the sections of present law with respect to appeals to the courts, in the efforts made to assure equality of right and opportunity among those who utilize radio for public discussion, in the attempt to further provide against censorship and in the authorization of declaratory judgments, make this bill of supreme importance and justify its study and approval in substantially its present form by the present Congress.

"There follows an explanation of the sections of the bill.

SECTION 1

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

SECTIONS 2 AND 3

"Sections 2 and 3 basically change the administrative set-up and functions of the Commission. They can be summarized as the separation of the Commission of seven members into two statutory divisions of three members each and a clarification of the status and functions of the Chairman of the Commission.

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

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

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

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

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

"The last paragraph of section 3 gives definite authority to the Commission or to either division to assign or refer to an individual commissioner or to a board composed of an employee or employees, any portion of its work, business, or functions but with an assured right of review by the Commission or the appropriate division. This obviates the necessity for full Commission or division action in cases where this is not believed necessary. It should result in speedier consideration and decision.

SECTIONS 4 AND 5

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

"The first amendment to section 308 will make it clear that all instruments of authorization granted by the Commission entitling the holders to construct or operate radio apparatus should in general be the subject of a written application. The next amendment adding new language to paragraph (a) of section 308 authorizes in emergencies or in time of war the issuance of construction permits of stations or the operation of radio apparatus during the emergency or war without the filing of a formal application.

"The amendments to section 309 make it clear that any person filing an application described in section 309 is entitled as a matter of right to have his application handled in a definite procedural way. This is not assured under present practice of the Commission.

"The procedure to be followed in the handling of applications is that which was successfully followed by the Commission for a considerable period of time pursuant to rules and regulations enacted by it, but which method

was recently abandoned apparently upon the theory that the Commission was according to applicants and others in interest greater rights than those which the act guaranteed to them. Since the right to notice and hearing is the very essence of orderly procedure, amendments to the act which leave no doubt that such right is secured are absolutely imperative. The amendments proposed would assure this result.

SECTION 6

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

"Aside from these questions of procedure, the decisions of the Commission relating to transfer applications have given rise to the theory that the proposed transferee of a station license may be subjected to conditions not required of an applicant for an original license. This is believed to be unsound and has been due, at least in part, to the fact that the statutory standard employed in the present transfer section differs slightly in phraseology from that used elsewhere in the act. By providing for the use of the same statutory standard in the proposed amendment and by the use of other clarifying language, it is believed that this cause for controversy will be eliminated. Language is included to make the paragraph apply not only to the instrument which may be the subject of assignment, but to any rights the holder of the license may have by virtue of his license.

SECTION 7

"This section proposes amendments to section 315 of the present act relating to the use of broadcast facilities by candidates for public office. The amendments proposed are the deletion of the proviso clause now appearing in that section which provides that the licensee shall have no power of censorship over the material broadcast under the provisions of this section and the substitution thereof of clearer language to the same purpose found in a proposed new section 330. This present proviso has been the source of much uncertainty and controversy. We believe the change urged clarifies and enforces the congressional intent.

SECTION 8

"Section 8 of the bill proposes a new sentence as an amendment to section 326 of the present act, which codifies an interpretation placed upon the act by the Supreme Court of the United States in the case of the *Federal Communications Commission v. Sanders Brothers Radio Station*, decided March 25, 1940. In this case the Supreme Court said:

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

"Notwithstanding this pronouncement of the Supreme Court, notwithstanding the fact that no language can be found in the act which confers any right upon the Commission to concern itself with the business phases of the operation of radio broadcast stations and notwithstanding the further fact that section 3 (h) of the act provides that a person engaged in radio broadcasting should not be regarded as a common carrier, the Commission has nevertheless concerned itself more and more with such matters. The charge is made that the Commission is attempting to control both the character and source of program material and

the contractual or other arrangements made by the licensee for the acquisition of such material.

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

SECTION 9

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

SECTION 10

"Section 10 of the bill proposes the inclusion of a new section (sec. 331) the effect of which would be to require the licensee of any station to afford a right of reply where public officers, other than the President of the United States, use his station for the discussion of public or political questions. This right of reply is to be exercised by the accredited representatives of the opposition political party or parties, and is to be afforded upon the same terms and conditions as the initial discussion. This substantially enlarges the scope of section 315 of the 1934 act. The subject matter of this proposed section merits immediate consideration.

SECTION 11

"Section 11 of the bill proposes the addition of another new section (sec. 332), the effect of which would be to clarify the duties and responsibilities of a licensee where his station was used by a candidate for public office or by public officers or others for the discussion of public or political questions. The no-censorship clause of section 315 of the present act does not adequately define the duties of a licensee under such circumstances. The proposed new section (sec. 332) affords the licensee an opportunity to examine the material to be broadcast before its intended use and to delete therefrom any material which is slanderous or libelous or which the licensee may have reason to believe would subject him or his station to any action for damages or to a penalty or forfeiture under any local, State, or Federal law or regulation. This section specifically provides that no licensee of any broadcast station shall have the power to censor, alter, or in any way affect or control the political or partisan trend of any material submitted by a candidate for public office or by public officers or others discussing public and political questions. With the exception of material which might subject the licensee to damages or penalties or material which is submitted for broadcast by or upon behalf of any person or organization which advocates the overthrow of government by force or violence, the licensee has no control over the subject matter of any broadcast.

SECTION 12

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

"Paragraph (a) of section 402 of the pending bill deals

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

"The principal changes proposed in paragraph (b) of section 402 can be summarized as follows: (1) Persons desiring to appeal from orders of the Commission entered in all cases where the Commission exercises its licensing functions, must appeal to the United States Court of Appeals for the District of Columbia; (2) language is adopted which will remove doubt as to which cases are appealable and which will extend the right of appeal to persons which should have such right but which have been excluded due to imperfections in the present act; (3) the time in which an appeal must be taken is made 30 rather than 20 days, as at present, and the contents of the notice of appeal are specified with particularity along the lines now provided by the rules of the United States Court of Appeals for the District of Columbia; (4) jurisdiction is expressly conferred upon the court to which an appeal is taken to grant temporary relief either affirmative or negative in character; (5) the court is given authority to specify by rule what the record upon appeal shall contain; (6) the questions which can be raised upon appeal and which the court must consider in determining an appeal are specifically enumerated; and (7) the Commission will be required to comply with the mandate or decision of the court upon the basis of the record upon which an appeal is taken unless the court upon petition shall otherwise determine. Other provisions of the present act relating to the right of persons to intervene in an appeal are retained.

"All of these changes are, in our opinion, not only desirable but necessary if adequate judicial review of the Commission's exercise of its licensing function is to be made effective. Present language of section 402, and particularly paragraph (b) thereof, is so vague as to result in great doubt concerning the proper court in which to seek judicial review in many cases. Moreover, recent decisions of the United States Court of Appeals for the District of Columbia and of the Supreme Court of the United States are such as to cast further doubt upon the meaning and application of these provisions.

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

"An important instance of an adaptation peculiar to the subject matter has to do with judicial review of actions instituted by the Commission against the holder of a license.

"It is unfortunately the fact that since the organization of the Federal Radio Commission in 1927 certiorari has not been granted by the Supreme Court in any case upon the application of an individual litigant, while on the other hand only one such request for review has been denied when made by the Commission. From 1927 to 1942 the Supreme Court granted a review in seven cases upon petition by this governmental agency and denied only one; it granted no review in behalf of a private litigant, although many were requested. Obviously the road to the Supreme Court for persons unsuccessful before the Court of Appeals is a one-way street.

"We have attempted to deal with this situation and subject in such a way as to insure review by the Supreme Court in a limited but most important class of cases, namely those cases in which the Commission on its own motion proceeds against the holder of an existing license. This is by a provision which would make Supreme Court review in this class of cases obligatory upon the Court rather than optional with it. Such a provision is not unique or without precedent. In other important classes of cases it has been in effect and it should be adopted here if judicial review of Commission action is to be a meaningful rather than an empty term.

SECTION 13

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

SECTION 14

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

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

SECTION 15

"Section 15 authorizes the issuance of declaratory rulings respecting the rights and the legal relations of any person who is the holder of or applicant for a license or a construction permit.

"It is proposed that whenever necessary to end a controversy or to remove substantial doubt and uncertainty as to the application of this act or of any regulation of the Commission to any such person, the Commission upon petition therefor, may hear and determine the matters and things in issue and may enter a judgment ruling, which shall have, in the absence of reversal after judicial proceeding, the same force and effect as a final order of the Commission and in the case of proceedings by the Commission having as their purpose the revocation, modification, or failure to renew or extend an existing permit or license, the Commission shall be required to entertain such petition for declaratory relief.

"Provision is made for notice and hearing upon any

such petition and for appeal to the Court of Appeals of the District.

"This proposal provides a means by which applicants and licensees may have a judicial determination as to questions of vital importance to their business without putting in jeopardy their very business existence.

SECTION 16

"Section 16 of the bill proposes the addition of an entirely new section. This section is designed to curb an alleged tendency upon the part of the Commission to discriminate in a manner not authorized by the statute between applicants for broadcast and other radio facilities and to require as a condition to grants made, the doing of acts which the Commission has no authority under the statute to require.

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

We print the bill below:

THE WHITE-WHEELER BILL

S. 814

A BILL

To amend the Communications Act of 1934, and for other purposes.

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

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

SEC. 2. Amend paragraph (b) of section 4 of said title I by striking out the last sentence of said paragraph and by inserting in lieu thereof the following: "Not more than four members of the Commission and not more than two members of either division thereof shall be members of the same political party."

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

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

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

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

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

"(e) The Chairman of the Commission shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the whole Commission, to represent the Commission in all matters relating to legislation and legislative reports, to represent the Commission or any Division thereof in all matters requiring conferences or communications with representatives of the public or other governmental officers, departments, or agencies, and generally to coordinate and organize the work of the Commission and each Division thereof in such manner as to promote prompt and efficient handling of all matters within the jurisdiction of the Commission. The Chairman of the Commission shall not be a member of or serve upon either of said Divisions, except that in the case of a vacancy or the absence or inability of any Commissioner appointed to serve thereon, the Chairman may temporarily serve on either of said Divisions with full power as a member thereof until the cause or circumstances requiring said service shall have been eliminated or corrected.

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

"(g) In the case of a vacancy in the office of the Chairman of the Commission or the absence or inability of the Chairman to serve, the Commission may temporarily designate and appoint one of its members to act as Chairman of

the Commission until the cause or circumstance requiring said service shall have been eliminated or corrected. During the temporary service of any such Commissioner as Chairman of the Commission, he shall continue to exercise the other duties and responsibilities which are conferred upon him by this Act.

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

"(i) The Commission or either Division thereof is hereby authorized by its order to assign or refer any portion of its work, business, or functions to an individual Commissioner, or to a board composed of an employee or employees of the Commission, to be designated by such order for action thereon, and by its further order at any time to amend, modify, or rescind any such order or reference: *Provided, however*, That this authority shall not extend to duties specifically and exclusively imposed upon the Commission, either Division thereof, or the Chairman of the Commission, by this or any other Act of Congress. Any order, decision, or report made or other action taken by any such individual Commissioner or board in respect of any matter so assigned or referred shall have the same force and effect and may be made, evidenced, and enforced as if made by the Commission or the appropriate Division thereof: *Provided, however*, That any person affected by any such order, decision, or report may file a petition for review by the Commission or the appropriate Division thereof, and every such petition shall be passed upon by the Commission or that Division."

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

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

Further amend paragraph (a) of said section 308 by adding at the end of said paragraph the following: "*And provided further*, That (1) in cases of emergency found by the Commission involving danger to life or property, or (2) during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, the Commission or either Division thereof may grant and issue authority to construct or operate apparatus for the transmission of energy or communications or signals by radio during the emergency so found by the Commission or either Division thereof or during the continuance of any such war in such manner and upon such terms and conditions as it shall by regulation prescribe, and without the filing of a formal application."

SEC. 5. Amend section 309 of said title III by striking out paragraph (a) thereof; by relettering present paragraph (b) as paragraph (d); and by inserting in lieu of paragraph (a) as deleted the following:

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

"(b) If upon examination of any such application the Commission is unable to make the findings specified in paragraph (a) hereof, it shall designate the application

for hearing and forthwith notify the applicant and other parties in interest of such action and the grounds or reasons therefor. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest, whether originally notified by the Commission or subsequently admitted as interveners, shall be permitted to participate. Such hearings shall be preceded by a notice to all such parties in interest specifying with particularity the matters and things in issue and not including issues or requirements phrased generally or in the words of the statute.

"(c) When any instrument of authorization is granted by the Commission without a hearing, as provided in paragraph (a) hereof, such grant shall remain subject to protest as hereinafter provided for a period of thirty days. During such thirty-day period, any person who would be entitled to challenge the legality or propriety of such grant under the provisions of section 402 of this Act may file a protest directed to such grant, and request a hearing on said application so granted. Any protest so filed shall contain such allegations of fact as will show the protestant to be a proper party in interest and shall specify with particularity the matters and things in issue but shall not include issues or allegations phrased generally or in the words of the statute. Upon the filing of such protest, the application involved shall be set for hearing upon the issues set forth in said protest and heard in the same manner in which applications are heard under paragraph (b) hereof. Pending hearing and decision upon said protest, the effective date of the Commission's action to which said protest is directed shall be postponed to the date of the Commission's decision after hearing unless the authorization involved in such grant is necessary to the maintenance or conduct of an existing service, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing on said protest.

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

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

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

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

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

SEC. 8. Amend section 326 of said title III by inserting before the first sentence thereof a new sentence so that as amended said section shall read as follows:

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

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

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

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

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

SEC. 11. Add to said title III the following new section:

"SEC. 332. No licensee of any radio-broadcast station nor the Commission shall have the power to censor, alter, or in any way affect or control the political or partisan trend of any material broadcast under the provisions of sections 315, 330, and 331 hereof: *Provided, however*, That no licensee shall be required under the provisions of this section or otherwise to broadcast any material for or upon behalf of any person or organization which advocates the overthrow of government by force or violence, and that no licensee shall be required to broadcast any material which is slanderous or libelous or which might subject the licensee or its station to any action for damages or to a penalty or forfeiture under any local, State, or Federal law or regulation. In all such cases the licensee shall have the right to demand and receive a complete and accurate copy of the material to be broadcast a sufficient time in advance of its intended use to permit an examination thereof and the deletion therefrom of any material necessary to conform the same to the requirements of this section, and

the Commission shall make rules and regulations to carry this provision into effect."

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

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

"(b) Appeals may be taken from decisions and orders of the Commission to the United States Court of Appeals for the District of Columbia in any of the following cases:

"(1) By an applicant for any instrument of authorization required by this Act, or the regulations of the Commission enacted pursuant to this Act, for the construction or operation of apparatus for the transmission of energy, or communications, or signals by radio whose application is denied by the Commission.

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

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

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

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

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

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

"(d) Upon the filing of any such notice of appeal, the Commission shall, not later than five days after date of service upon it, notify each person shown by the records of the Commission to be interested in said appeal of the filing and pendency of the same and shall thereafter permit any such person to inspect and make copies of said notice and statement of reasons therefor at the office of the Commission in the city of Washington. Within thirty

days after the filing of an appeal, the Commission shall file with the court a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order.

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

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

"(g) At the earliest convenient time the court shall hear and determine the appeal upon the record before it and shall have power upon such record to enter judgment affirming or reversing the order of the Commission. As to the findings, conclusions, and decisions of the Commission, the court shall consider and decide, so far as necessary to its decision and where raised by the parties, all relevant questions of (1) constitutional right, power, privilege, or immunity; (2) the statutory authority or jurisdiction of the Commission; (3) the lawfulness and adequacy of Commission procedure; (4) findings, inference, or conclusions of fact unsupported, upon the whole record, by substantial evidence; and (5) administrative action otherwise arbitrary or capricious.

"(h) In the event that the court shall render a decision and enter an order reversing the order of the Commission, it shall remand the case to the Commission to carry out the judgment of the court and it shall be the duty of the Commission, in the absence of proceedings to review such judgment, to forthwith give effect thereto, and unless otherwise ordered by the court, to do so upon the basis of the proceedings already had and the record upon which said appeal was heard and determined.

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

"(j) The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States as hereinafter provided:

"(1) An appeal may be taken direct to the Supreme Court of the United States in any case wherein the jurisdiction of the court is invoked, or sought to be invoked, for the purpose of reviewing any decision and order entered by the Commission in proceedings instituted by the Commission which have as their object and purpose the revocation, modification, or failure to renew or extend an existing license. Such appeal shall be taken by the filing of an application therefor or notice thereof within thirty days after the entry of the judgment sought to be reviewed, and in the event such an appeal is taken the record shall be made up and the case docketed in the Supreme Court of the United States within sixty days from the time such an appeal is allowed under such rules as may be prescribed. Appeals under this section shall be heard by the Supreme Court at the earliest possible time and shall take precedence over all other matters not of a like character.

"(2) In all other cases, review by the Supreme Court of the United States shall be upon writ of certiorari on petition therefor under section 240 of the Judicial Code, as amended, by the appellant, by the Commission, or by any interested party intervening in the appeal or by certification by the court pursuant to the provisions of section 239 of the Judicial Code, as amended."

SEC. 13. Amend section 405 of said title IV by striking

out the whole thereof and by inserting in lieu thereof the following:

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

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

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

SEC. 15. Amend the Act by adding thereto as a new section 417 the following:

"SEC. 417. (a) The Commission shall have the power to issue declaratory rulings concerning the rights, status, and other legal relations of any person who is the holder of or an applicant for a construction permit or license provided for in this Act or by the rules and regulations of the Commission enacted pursuant to this Act.

"(b) Upon the petition of any such person and when necessary to terminate a controversy or to remove a sub-

stantial uncertainty as to the application of the terms of this Act or of Commission regulations enacted pursuant to this Act to such person, the Commission may hear and determine the matters and things in issue and may enter a declaratory ruling which shall, in the absence of reversal after appropriate judicial proceedings, have the same force and effect and be binding in the same manner as a final order of the Commission. When a petition for declaratory ruling is entertained by the Commission, all persons shown by the records of the Commission to have or claim any interest in the subject matter shall be ordered by the Commission to be made parties to the proceeding and no such ruling shall bind or affect the rights of persons who are not parties to such proceeding.

"(c) In all proceedings instituted by the Commission and which have as their object and purpose the revocation, modification, or failure to renew or extend an existing construction permit or license, the Commission shall be required to entertain any petition for declaratory relief which is filed within a period of ten days after the institution of any such proceedings, and such proceedings so instituted by the Commission shall be held in abeyance until all petitions for declaratory rulings involving the same parties and the same subject matter have been heard and determined and the results thereof made subject to judicial review as herein provided.

"(d) Any party to a proceeding in which the Commission has entered a declaratory ruling may appeal from such ruling and any party to a proceeding arising under paragraph (c) hereof in which the Commission is requested to issue a declaratory ruling may appeal from such ruling or from the Commission's failure to issue such ruling to the United States Court of Appeals for the District of Columbia, and that court shall have jurisdiction to hear and determine any such appeal in the same manner and to the same extent as in the case of final orders of the Commission appealable under section 402 (b) of this Act, as amended."

SEC. 16. Add to said title IV the following new section:

"SEC. 418. Penalties, denials, prohibitions, and conditions other than those expressly authorized by statute shall not be exacted, enforced, or demanded by the Commission in the exercise of its licensing function or otherwise and no sanctions not authorized by statute shall be imposed by the Commission upon any person. Rights, privileges, benefits, or licenses authorized by law shall not be denied or withheld in whole or in part where adequate right or entitlement thereto is shown. The effective date of the imposition of sanctions or withdrawal of benefits or licenses shall, so far as deemed practicable, be deferred for such reasonable time as will permit the persons affected to adjust their affairs to accord with such action or to seek administrative reconsideration or judicial review.

BATTERY MEETING TODAY

Representatives of the Department of Agriculture, the Office of War Information, War Production Board and the National Association of Broadcasters are meeting Friday. The battery situation is receiving the complete and serious consideration of NAB and the government.

Dry cell battery manufacturers are to meet with WPB on March 10.

NEW LIBEL LAW

An amendment to the North Carolina Libel Law was ratified February 25. It requires that radio and television stations be given five days notice before the commencement of either civil or criminal action for libel or slander. By broadcasting a retraction within ten days of such notice, provided the utterance was broadcast in good faith and its falsity due to an honest mistake of the facts, or without prior knowledge of the station or with reasonable grounds for believing the utterance was true, only actual damages can be recovered in a civil action and a fine of only a penny and costs can be imposed upon verdict of guilty in a criminal proceeding.

We print the Act in full below:

"AN ACT TO AMEND SECTIONS TWO THOUSAND FOUR HUNDRED TWENTY-NINE AND TWO THOUSAND FOUR HUNDRED THIRTY OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO LIBEL AND SLANDER BY RADIO OR TELEVISION STATIONS."

SECTION 1. That Section two thousand four hundred twenty-nine of the Consolidated Statutes of 1939 be amended by adding thereto subsection (b) reading as follows: "(b) Before any action, either civil or criminal, is brought for the publishing, speaking, uttering, or conveying by words, acts or in any other manner of a libel or slander by or through any radio or television station or company, the plaintiff or prosecutor shall at least five days before instituting such action serve notice in writing on the defendant, specifying the time of and the words or acts which he or they allege to be false and defamatory."

SECTION 2. That Section two thousand four hundred thirty of the Consolidated Statutes of 1939 be amended by adding thereto subsection (b) reading as follows: "(b) If it appears upon the trial that such words or acts were conveyed and broadcast in good faith, that their falsity was due to an honest mistake of the facts, or without prior knowledge or approval of such station or company, and if with prior knowledge or approval that there were reasonable grounds for believing that the words or acts were true, and that within ten days after the service of said notice a full and fair correction, apology and retraction was conveyed or broadcast by or over such radio or television station or company at approximately the same time of day and by the same sending power so as to be as visible and audible as the original acts or words complained of, then the plaintiff in such case, if a civil action, shall recover only actual damages, and if, in a criminal proceeding, a verdict of "guilty" is rendered on such state of facts, the defendant shall be fined a penny and costs, and no more."

SECTION 3. This act shall not affect any pending litigation relative to libel and slander by any radio or television station.

SECTION 4. This act shall be in full force and effect from and after its ratification.

Ratified February 25, 1943.

PERSONNEL OWI OVERSEAS STUDIOS

Some progress has been made in the cooperative effort undertaken by NAB with the International Division of the Office of War Information to secure the necessary personnel to staff its New York studios. The appeal made in the REPORTS (February 12) to stations to make known to NAB any personnel available, has brought some response. Two of the large stations have offered the services of employees who can be spared and another station has offered to place notices on its bulletin board to see if any of its employees are interested.

Meantime the International Division is perfecting plans to institute an intensive program to train studio operators, but the immediate need is for a limited number of experienced supervisors and technical men. Since but a few of these are needed, NAB joins with the International Division in again appealing to any station having employees who may be released for this purpose, to provide that information to the International Division through NAB. Stations having applications from semi-trained men or women are urged to send in that information.

The effort to secure personnel on a voluntary basis and the training program is instituted as a means of avoiding the necessity for soliciting employees in areas and from stations where great harm might be done domestic broadcasting. In other words an attempt is being made to solve this problem through cooperation and voluntary action. Stations having personnel which can be released are urged to get in touch with NAB immediately.

TECHNICIANS AVAILABLE

The American Radio Relay League is cooperating with the NAB Engineering Department in a registration of amateur radio operators who are willing to assist in the war effort by taking technical positions in broadcast stations. Applications will not be accepted from persons now employed within the broadcast industry, as the purpose of the campaign is to recruit persons outside the industry who are not now utilizing their radio training. The March issue of QST, the official magazine of the ARRL, carried an appeal to the amateurs.

NAB is now receiving a limited number of letters from amateurs listing their radio background, age, sex, draft classification, availability for full or part time work and information as to localities in which they are willing to work. A substantial portion of the applications are from persons already holding commercial operator licenses. Those that are not licensed, in many instances, have an acceptable technical background and have some knowledge of transmitting equipment.

Stations in need of replacement technicians should first make every effort to fill vacancies locally. If it is found impossible to secure the required replacements, stations are invited to write to the NAB Engineering Department for the names of several available persons. NAB has no knowledge of the applicants other than the statements contained in the registration letter and is therefore not in a position to make employment recommendations. The usual employment references should be secured by direct correspondence with the applicants.

THANKS TO RADIO

Basil O'Conner, president of the National Foundation for Infantile Paralysis, has asked the NAB to express the institution's gratitude for the cooperation of radio during the President's Birthday Ball season.

DISTRICT 3 MEETING

Isaac D. Levy, District 3 Director, has called a District meeting at the Benjamin Franklin Hotel in Philadelphia on March 22 to elect a Director for the term starting with the next NAB Convention.

LABOR ARBITRATION

John Lapp, noted labor arbiter, has written an excellent book covering the whole subject of arbitration. It should be of interest to every employer who deals with labor unions, especially now when so many labor negotiations wind up in arbitration.

The NAB has made arrangements with the National Foremen's Institute, Inc., to supply members of the NAB with copies of the book at \$2.50 each when ordered through the NAB. The regular price is \$3.50.

Do not send any money with your order. The publisher will bill you when the book is sent.

COST OF LIVING

The United States Department of Labor reports that the cost of living increased 0.2% between December 15, 1942, and January 15, 1943, bringing the increase since January 15, 1942, to 7.7%.

EGOLF, DENNIS AT NAB

Willard D. Egolf, NAB assistant to the president, and Walter L. Dennis, NAB news bureau chief, both new staff members, swung into action officially at the recent NAB directors' meeting in New York City. They released

stories of the meeting to trade, wire service and network news outlets. Dennis, former sales promotion manager of KVOO, Tulsa, is a veteran of 10 years' newspaper and radio experience and, on going to work in Washington, he discovered a host of former newsmen with whom he had worked in the past stationed in various government agencies, including two former "bosses."

EDUCATIONAL SERVICE

Declaring radio to be a "solemn responsibility" of the people to see that it is kept to the highest standards, Mrs. Leo A. Viano, state radio chairman of Northern California, paid tribute to the NAB educational activities recently in a talk entitled "Radio—A Public Service" before the California Federation state convention. Mrs. Viano termed radio to be "the greatest medium of communication the world has ever known and . . . (is) the basis of national unity."

DAYLIGHT TIME

In New York City last week, while attending the NAB board meeting, Neville Miller, president, released the following statement to press and radio:

"The action of some states, in abolishing national Daylight Saving Time, constitutes a threat to America's civilian communications system, now vital in wartime.

"If this confusion grows, the people will find themselves more and more isolated from the Office of War Information, whose effective use of radio depends on a uniform national time schedule."

Stations remaining on War Time, despite local action, and wishing to maintain public identification of their effort to preserve a national unified radio time pattern, may do so by announcing their time as "Eastern RADIO War Time," or "Central RADIO War Time," etc., Willard Egolf suggests. Such action may gain favor with OWL, for the correct pre-announcement of special broadcasts, it is thought.

DEAN LAMPE REPORTS ON RADIO COURSES

A report of the activities of the NAB-ESMWT radio training program in Connecticut from March to January, 1943, has been prepared by J. H. Lampe, Dean of Engineering, University of Connecticut, who is the State Coordinator.

Franklin M. Doolittle, president, WDRC, Hartford, is Industry Representative in this enterprise and works in close harmony with Dean Lampe.

Said the Dean: "While this report deals with the University of Connecticut's radio course at Hartford, it should be emphasized that very successful radio training courses have also been given or are in progress at New Haven, Waterbury, Bridgeport, Stamford and New London." All these courses have had the support of the broadcasting stations in Connecticut. This support was organized through the efforts of the National Association of Broadcasters, with Mr. Doolittle as Industry Representative. All courses were given under the ESMWT program of U. S. Office of Education.

At New Haven and Waterbury, Yale University with the New Haven Junior College, cooperating, operated the courses. At Bridgeport and Stamford, Yale University with the Bridgeport Engineering Institute, cooperating, sponsored the training work; and at New London, the University of Connecticut with the New London Junior College, cooperating, operated the radio course. In Hartford, the University of Connecticut gave the radio training courses at its Extension Center (Walter Camp School).

Section 5 of the report covers "conclusion." The opinion is that "these courses have been able successfully to train students for active participation in the field of radio, either in the armed forces, war industry, or other critical

activities. A sincere effort has been made to furnish the maximum of instructional value in the class and laboratory work to make those who finish the course most useful wherever they may be assigned. The experience gained by the staff in this effort should enable them to do an even better training job in the future."

GOOD PGM IDEA FROM WROK

The format for maintaining a fine state of worker morale in Rockford, Ill., undoubtedly has application in other parts of the country. Radio is the medium, "Soldiers of Industry" the vehicle.

The 30 minute program is broadcast at 2 p. m. Sundays; 9:15 p. m. Mondays and 6:15 a. m. Tuesdays. This insures a large audience of workers on the various shifts. The program is transcribed each Friday night. Transcriptions are also available for play-back in plants each week.

Sponsors are 12 major war plants in Rockford as follows:

American Cabinet Hardware Corp.; Cotta Transmission Corp.; George D. Roper Corp.; Greenlee Bros. & Co.; Ingersoll Milling Machine Co.; National Lock Co.; Rockford Drilling Machine Co.; Rockford Machine Tool Co.; Sundstrand Machine Tool Co.; and the Woodward Governor Co.

The program was developed by John J. Dixon, commercial manager, WROK. It combines news and drama. The first quarter-hour is devoted to flash news of personnel activities in each of the plants. There are reviews of bowling and other sports activities shared by employees as well as "personal" items about individual workers. The news portion also includes letters from former employees now in service. Factory personnel managers supply the news from each plant.

The last fifteen minutes of each program is in the nature of a dramatic tribute to the workers of one of the participating factories. The story traces the use of the plant's principal product from the time it is shipped from Rockford until it is doing its duty on land, on the sea or in the air. Based on actual happenings, the drama provides a vivid answer to the factory worker's question of how his seemingly insignificant task at a machine applies to the winning of the war.

Concerning the purpose of the show Mr. Dixon said: "The average factory worker—the fellow on the machine or the girl in the office—can't realize the importance of his job. He's doing the same work today that he did in peace time and he can't see the connection between his job and the men on the battlefronts. Through the dramatic episodes on 'Soldiers of Industry' we picture the production of certain items from the machine to the finished product as it is used by our fighting men. This brings home to the worker that he is responsible for making the goods that will win the war."

The main object of the program is to impress upon each worker the importance of his job, thus building his morale.

THANK YOU, CY!

Neville Miller has received the following heart-warming letter:

DEAR NEVILLE:

I am in receipt of a bill for 1943 associate membership dues and I wish to call your attention to the fact that the damn bill is *wrong*.

You're charging me \$250.00 for associate membership and I say it should be \$500.00!

Yes, Neville, and I am delighted to hand you our check in the amount of \$500.00 in payment of our membership in the swell association it's ever been my privilege to be a member of.

Cordially yours,

LANG-WORTH FEATURE PROGRAMS INC.,
(s) "Cy"
C. O. LANGLOIS, *President*.

mp/enc.

WKIP BOND AUCTIONS SELL

According to Ned Lynch, WKIP, Poughkeepsie, N. Y., bond sales continue good. He says: "Our greatest plug for war bonds is on three weekly War Bond Auctions . . . we promote them several times daily."

EGOLF TALKS TO BOARD

In his maiden speech before the NAB board of directors, Thursday, February 25, in New York City, Willard D. Egolf, newly appointed assistant to the president, discussed the definition of public relations:

"When I told my family that one of my duties was to handle public relations for the National Association of Broadcasters, my twelve year old son said, 'Daddy, what are public relations for broadcasters?'"

"Kids can ask the damndest questions!"

"I said, son, that's what the broadcasters and I are going to find out!"

Egolf then stated his conception of public relations, as follows:

"The conduct of public relations, for any industry, is the science of being known favorably by the greatest number of people. I shall leave no avenue untouched to reach that goal. The affairs of this office shall be conducted with dignity and pride in the belief that the American system of broadcasting is the greatest medium the world has ever known."

DONALD STAUFFER TO OWI

Elmer Davis, Director of the Office of War Information, announced the appointment of Donald D. Stauffer as Chief of the Domestic Radio Bureau, OWI, to fill the vacancy created when William B. Lewis was appointed to the post of Assistant Director of the Domestic Branch. Mr. Stauffer, now Vice President in charge of Radio for Ruthrauff & Ryan, has been granted a leave of absence and will take office on March 15. His headquarters will be in Washington.

CHILDREN'S PROGRAMS

The prize-winning letter to the Radio Council of Greater Cleveland on the subject: "What I Consider Good Radio Listening for Children" made the following points as procedure in educating children to better radio listening: strict censorship over the child's listening when he is small to provide the proper start for later discrimination; a "bargain" agreement as the child grows older whereby for every adventure type program listened to the child would also listen to musical programs of a quality nature and to portions of important talks or lectures, and, finally, programs where good grammar and ordinary or pleasant voice tones were used in preference to programs of wide voice ranges and slang. Calm, unflurried presentation of programs were preferred to loud, emotional types.

PERSONNEL DATA

To simplify the gathering of important information desired by the Armed Forces, NAB has agreed to contact all radio stations in the country with a request for personnel data which each station should have readily accessible. By the time you read this, you should have received or shortly will receive a letter and questionnaire form on this matter and also a questionnaire form concerning news editors and commentators on your stations. Expeditious filling out and returning of these forms will be of utmost benefit.

LISTENING GUIDE

The Springfield, Mass., radio stations, WBZA, WSPR and WMAS, have issued a "Radio Guide to Good Listening" for their listeners. In pamphlet form, the guide was prepared by the Pioneer Radio Council of Springfield.

ADVERTISING DEFENDED

A sturdy defense of radio advertising, as well as advertising in other media, has been received at NAB New York headquarters by Mrs. Dorothy Lewis from Mrs. John D. Robinson, of Wallace, N. C., of the North Carolina Federation of Women's Clubs.

Mrs. Robinson, in a letter, declares that advertising has contributed directly to the nation being "better fed, better clothed, better housed" and in this advancement of living standards "radio has played a magnificent part."

48-Hour Week

Relief for radio stations which find a 48-hour week impractical must be obtained locally, although the NAB is preparing to ask for a "directive" on the subject from the War Manpower Commission to its local enforcement agents.

Administration of the 48-hour week order (see NAB REPORTS, p. 55) is being totally decentralized. The best advice the NAB can give stations in the 32 critical areas at the moment is to *get together* and talk over the situation with their local WMC directors.

The monkey is on the employer's back. In case all his employees or the employees in any department are not going to a 48-hour week before April 1, he must be prepared to justify his schedule. On the other hand, if the employer does go to a 48-hour week so that he can release one or more employees for other war work, he must get WMC approval before the employees are released.

To hire a new employee after April 1, the employer must get a WMC permit. At that time, the WMC undoubtedly will ask whether the employer's employees are on a 48-hour week. If not, the employer will have to justify his schedule before he can get the permit. Local draft boards probably will take this into consideration, too, in acting on employers' requests for employee deferments.

In instances where employees are now working less than 48 hours and the employer feels that an advance to a 48-hour schedule would work a hardship, we feel that the employer should encounter no great difficulty in justifying his present schedules. For instance, take the six-man engineering department. Theoretically, five men at 48 hours can turn out the same number of hours work as six at 40. If one of the six is released on that basis, however, and another gets sick, is drafted, or goes on vacation, the remaining four have to work a 60-hour week to get the same amount of work done. "Peak loads" for both technicians and announcers make another problem. Radio is not like a factory where vast numbers of employees are doing the same work throughout an unbroken work-day. Certain union restrictions pose other problems.

All these complexities should be considered when the station applies the two tests:

(1) If the entire station or any department goes to a 48-hour week, can manpower be released for other war work?

(2) If the entire station or any department goes to a 48-hour week, will this obviate the necessity for hiring more men?

If the answer to either of these questions is "yes," fundamentally, the answer to the 48-hour week is "yes"—unless the complexities of the situation, such as those above, stand in the way.

In preparing radio's case to present to the WMC, the NAB held conferences in Washington, D. C., Springfield, Mass., and Baltimore, three of the "critical areas."

Joseph L. Miller, director of labor relations, met with the broadcasters in Baltimore and Springfield, while Paul Peter, director of research, held the Washington meeting. Those present at the three meetings:

Springfield—C. S. Young, WBZ; Harold Randol, WBZA; Albert Marlin, WMAS; Patrick Montague, WHYN; and Thomas Humphrey, WHYN.

Baltimore—George Roeder, WCBM; H. W. Batchelder, WFBR; L. Waters Milbourne, WCAO; Thomas Tinsley, WITH, and William Good, WBAL.

Washington—Earl Gammons, WJSV; Ken Yourd, WJSV; Carleton Smith, WRC; Mr. Margraf, WRC; Ken Berkeley, WMAL; Henry Lyon, WOL; G. Bennett Larson, WWDC; and Miss Davis, WINX.

STATEMENT BY WMC

Regulations issued February 28 by Chairman Paul V. McNutt of the War Manpower Commission to govern the applications of the 48-hour week called for by the President will, with some exceptions, affect all employers of eight or more persons in 32 designated areas whose production can be increased by a longer week or who can maintain their production with fewer men.

The exact boundaries of these areas, for the purpose of applying the 48-hour week, will be fixed by the regional directors of the WMC in the various localities.

In addition to applying in these areas, the 48-hour week also will be in effect in the lumbering and nonferrous mining industries on a nation-wide scale, Mr. McNutt said.

Inquiries concerning application of the regulations should be directed to the proper regional or area manpower director. Administration of the order is delegated by the Chairman to the commission's regional directors and area directors.

It is made clear that the lengthened week order will not apply to farms or to persons employed by any state or any of its political subdivisions or instrumentalities, or to youth under the age of 16, or to persons who, because of other employment, household duties, or physical disabilities, are not available for full-time work, or for business houses in which fewer than eight persons are employed regularly.

The exclusion of establishments with fewer than eight persons, it is explained in an interpretative statement issued with the regulations, is based chiefly on assumption that in smaller establishments the extension of the workweek would not result in the release of workers.

The regulations have been sent to regional and area directors and to U. S. Employment Service Offices, together with instructions for carrying out terms of the President's order.

In the regulations, it is stated that from time to time regional manpower directors may designate additional areas and activities if they find such action will reduce labor shortages which are holding back the war effort.

Regional and area directors are authorized to consider a minimum workweek of less than 48 hours when a full 48-hour week would neither increase production, release workers for other employment, nor otherwise further the war effort.

Mr. McNutt explains in the regulations that the President's Order "shall be so construed and applied as best to effectuate its fundamental purpose, which is to aid in meeting the manpower requirements of our armed forces

and our expanding production program by fuller utilization of our available manpower."

Continuing, the regulations state:

"Effectuation of this purpose requires that, in situations of labor shortages, employers do not hire new workers when their manpower needs can be effectively met by a fuller utilization of their current labor force and that workers who can be released by an extension of the workweek are released under circumstances which will permit and facilitate their effective utilization elsewhere in the war effort."

The regulations provide that, if the labor requirements of an employer are such that the extension of the workweek will not permit the release of any workers but would result rather in their continued full utilization in their present employment or their transfer to other employment under his direction, the 48-hour week should be put into effect at once.

Whenever the regional or area manpower director or the designated representative of either determines that released workers can be placed promptly in suitable employment, their employer will be notified. The employer should then proceed promptly to shift to the longer week. If the representative of the War Manpower Commission has not determined and notified the employer, however, that his released workers can be placed without delay, the workweek will not be extended before April 1, 1943.

Before that the date the employer will be expected to submit to the representative of the Commission a statement as to how many workers would be released and their occupational classification, together with a proposed schedule for the timing of their release. In such cases, the regional or area manpower director or designated representative will authorize the schedule for the extension of the workweek to the 48-hour workweek and for the release of the workers in accordance with the needs of the labor market. The employer then will extend his workweek in accordance with such schedule.

An employer in any designated area or activity who is not in compliance with the regulations shall not hire any workers.

Following are the text of the regulations and two orders, one listing the areas in which the 48-hour regulations are to be effected and another extending the regulations to the lumbering and non-ferrous mining industries.

REGULATIONS NO. 3

By virtue of authority vested in me as Chairman of the War Manpower Commission by Executive Order No. 9301 establishing a minimum wartime workweek of 48 hours, and by Executive Orders Nos. 9139 and 9279, I hereby prescribe the following Regulations:

903.1 General Policy for Interpretation and Application of Executive Order

Executive Order No. 9301 shall be so construed and applied as best to effectuate its fundamental purpose, which is to aid in meeting the manpower requirements of our armed forces and our expanding war production program by a fuller utilization of our available manpower. Effectuation of this purpose requires that in situations of labor shortage employers do not hire new workers when their manpower needs can effectively be met by a fuller utilization of their current labor force and that workers who can be released by an extension of the workweek are released under circumstances which will permit and facilitate their effective utilization elsewhere in the war effort.

903.2 Application to Areas and Activities

The Chairman of the War Manpower Commission will from time to time by order designate areas and activities

as subject to the provisions of Executive Order No. 9301. Regional manpower directors may designate additional areas and activities within their respective regions as subject to the provisions of Executive Order No. 9301 if they find, and by appropriate public notice so declare, that such action will aid in alleviating labor shortages which are impeding the war effort. Unless and until an area or activity has been so designated, employers therein will not be required to extend their workweek.

903.3 Delegation of Authority

Regional and area manpower directors are authorized and directed to determine all questions arising within their respective regions and areas with respect to the interpretation and application of these Regulations, in conformity with such procedures and instructions as the Executive Director of the War Manpower Commission may issue in implementation thereof.

903.4 Minimum Wartime Workweek

"Minimum Wartime Workweek" as used in these Regulations means a workweek of 48 hours, except in cases where a workweek of 48 hours (a) would be impracticable in view of the nature of the operations, (b) would not contribute to the reduction of labor requirements, or (c) would conflict with any federal, state, or local law or regulation limiting hours of work. In such cases "Minimum Wartime Workweek" means the greatest number of hours (less than 48) feasible in the light of the nature of the operations, the reduction of labor requirements, or the applicable federal, state, and local law or regulation, as the case may be.

903.5 Extension of Workweek in Designated Areas and Activities

If the workweek applicable to any worker employed in any plant, factory, or other place of employment in an area or any activity designated as subject to the provisions of Executive Order No. 9301 is less than the Minimum Wartime Workweek, such workweek shall be extended to the Minimum Wartime Workweek as follows:

(a) Whenever extension of such workweek to the Minimum Wartime Workweek would not involve the release of any workers, the affected employer shall proceed promptly to extend the workweek to the Minimum Wartime Workweek.

(b) Whenever the regional or area manpower director or a designated representative of either determines that extension of such workweek to the Minimum Wartime Workweek would involve the release only of workers who can be promptly placed in suitable employment with other employers, the affected employer will be notified of such determination and thereupon shall proceed promptly to extend the workweek to the Minimum Wartime Workweek.

(c) If extension of such workweek to the Minimum Wartime Workweek would involve the release of some workers and the regional or area manpower director or designated representative has not determined and notified the employer be placed in suitable employment with other employers, the workweek shall not be extended except as authorized below. On or before April 1, 1943, the affected employer shall submit to the regional or area manpower director or the designated representative of either director a statement as to the number of workers whose release would be involved and their occupational classification, together with a proposed schedule for the timing of such releases. The regional or area manpower director or designated representative will authorize a schedule for the extension of the workweek to the Minimum Wartime Workweek and for the release of workers in terms of labor market needs, and the employer shall thereupon proceed to extend the workweek in accordance with such schedule.

903.6 Restriction Upon Hiring of Workers

No employer shall hire any worker in an area or activity designated as subject to the provisions of Executive Order No. 9301 if the employer has failed in any manner to comply with the provisions of Section 903.5 of these Regulations in the plant, factory, or other place of employment in which the worker would be employed.

903.7 Exclusions

No provision of these Regulations shall be construed or applied so as to require the extension of a workweek:

(a) in any establishment or other place of employment in which less than eight workers are regularly employed;

(b) in any establishment or place of employment principally engaged in agriculture;

(c) of persons in the employ of any State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing;

(d) of youth under the age of sixteen years; or

(e) of individual who, on account of other employment, household responsibilities, or physical limitations, are not available for full-time work.

903.8 Definitions

As used in these Regulations:

(a) "Workweek" means the number of hours within a period of seven successive days, beginning with the same calendar day each week, during which workers are normally required to be on duty.

(b) "Agriculture" means those farm activities carried on by farm owners or tenants on farms in connection with the cultivation of the soil, the harvesting of crops, or the raising, feeding, or management of livestock, bees, and poultry and shall not include any packing, canning, processing, transportation, or marketing of articles produced on farms unless performed or carried on as an incident to ordinary farming operations as distinguished from manufacturing or commercial operations.

Effective date, February 22, 1943.

GENERAL ORDER NO. 5

Designation of Certain Areas as Subject to the Provisions of Executive Order No. 9301

By virtue of the authority vested in me as Chairman of the War Manpower Commission by Executive Order No. 9301, establishing a minimum wartime workweek of 48 hours, and in accordance with the provision of Section 903.2 of the Regulations prescribed by me on February 22, 1943, I hereby designate the following areas as subject to the provisions of Executive Order No. 9301:

Akron, Ohio; Baltimore, Md.; Bath, Me.; Beaumont, Tex.; Bridgeport, Conn.; Brunswick, Ga.; Buffalo, N. Y.; Charleston, S. C.; Cheyenne, Wyo.; Dayton, Ohio; Detroit, Mich.; Elkton, Md.; Hampton Roads, Va.; Hartford, Conn.; Las Vegas, Nev.; Macon, Ga.; Manitowoc, Wisc.; Mobile, Ala.; New Britain, Conn.; Ogden, Utah; Panama City, Fla.; Pascagoula, Miss.; Portland, Oreg.; Portsmouth, N. H.; San Diego, Calif.; Seattle, Wash.; Somerville, N. J.; Springfield, Mass.; Sterling, Ill.; Washington, D. C.; Waterbury, Conn.; Wichita, Kan.

Effective date: February 22, 1943.

WMC Manual of Operations

OPERATING INSTRUCTION—FIELD NO. 14

1. Purpose

.01 The purpose of this instruction is to establish the procedures to be followed in the field offices of the War

Manpower Commission in carrying out the provisions of Executive Order No. 9301, and the Regulations prescribed under the terms of that Order by the Chairman of the War Manpower Commission.

2. Policy

.01 The effectuation of the purposes of Executive Order No. 9301, hereinafter referred to as the Executive Order, shall be the responsibility of the several Regional Manpower Directors in their respective jurisdictions. The responsibilities and authorities set forth in this instruction, with the exception of the authority to designate areas and activities subject to the provisions of the Executive Order, may be delegated by Regional Manpower Directors to Area Manpower Directors, or to any other persons administratively responsible to them.

.02 Regulations No. 3 prescribed by the Chairman on February 22, 1943, for the application of the Executive Order, hereinafter referred to as the *Regulations*, which together with the *Interpretations* thereof, establishes the policies under which Regional Manpower Directors and their designated representatives will proceed to carry out their responsibilities.

3. Procedure

.01 General Order No. 5, approved by the Chairman on February 22, 1943, designated 32 areas as areas in which the Executive Order must be made operative. It is the responsibility of the Regional Manpower Directors to define the geographical limits of these areas. These designated areas should generally be defined so as to be identical with respect to the surrounding communities to be included, with the so-called Group I areas in the February list. However, for purposes of the Executive Order and the Regulations, the Regional Manpower Director may exclude certain of these surrounding communities if he finds that such exclusions are necessary for the purpose of properly effectuating the Executive Order. The Regional Manpower Director shall give notice as to the communities which are to be included in each of the designated areas.

.02 Regional Manpower Directors are authorized to designate additional areas or activities in the respective regions as subject to the provisions of the Executive Order. Prior to any such designation they shall make a finding that the designation of such area or activity will aid in alleviating labor shortages which are impeding the war program.

.03 The findings to be made by the Regional Manpower Director with regard to the area or activity shall be based upon such labor market information as he can obtain.

.04 The Regional Manpower Director's findings shall clearly describe the areas or activity to be designated as subject to the provisions of the Executive Order. The boundaries of designated areas shall conform as closely as is practicable to the boundaries of the "labor market areas" used in analyzing the adequacy of available manpower. The findings shall designate a date, subsequent to the time of their announcement, which date shall, for the purpose of the newly designated area or activity, serve the same purpose as the date *April 1, 1943*, in Section 903.5 (c) of the Regulations.

.05 The Regional Manpower Director or his representative shall then give public notice of these findings through newspapers, trade journals, radio, and other channels. (Because of Office of War Information regulations regarding release of public information, all public informational materials should have advance clearance by the Regional Informational Service Representative.)

.06 Regional Manpower Directors shall inform the Executive Director of all designations and definitions of areas made in accordance with provisions of subsections

3.01, 3.02, 3.03, and 3.04 of this instruction. This information shall be forwarded as far as is practicable in advance of the date referred to in subsection 3.04.

.07 In carrying out their responsibilities, Regional Manpower Directors or their authorized representatives shall review complaints from individuals or organizations regarding non-compliance. They shall make such investigations as may be necessary to determine whether the employer is complying with the Regulations.

.08 In making investigations as to the non-compliance of an employer, the Regional Manpower Director or his representative shall utilize to the extent necessary the reports, records, and personnel of the War Manpower Commission and of other Government agencies.

.09 If a Regional Manpower Director, or his authorized representative has reason to believe that in a particular plant, factory or other place of employment the Minimum Wartime Workweek could be adopted as provided in subsection (b) of Section 903.5 of the Regulations, he may require the employer to submit information as to the number of workers, classified according to occupation, who would be released as a result of the extension of the workweek.

.091 If the Regional Manpower Director or his representative determines that it should be possible to place the workers promptly in suitable employment with other employers, he shall:

(a) instruct the employer to proceed promptly to extend the workweek to the Minimum Wartime Workweek; and

(b) inform the appropriate local offices of the United States Employment Service of the number and occupational classification of workers to be released.

.092 If the demand for such workers in the locality does not make it possible for them to be placed promptly in suitable employment with other employers, the Regional Manpower Director or his representative shall notify the employer that the workweek shall be extended to the Minimum Wartime Workweek only in conformity with the provisions of subsection (c) of Section 903.5 of the Regulations.

.10 All schedules for the release of workers approved in accordance with subsection (c) of Section 903.5 of the Regulations shall be forwarded by Regional Manpower Directors or their representatives to appropriate Local Offices of the United States Employment Service.

.11 If the Regional Manpower Director or his representative determines that, with respect to any plant, factory, or other place of employment, an employer is not complying with the Regulations, he shall:

(a) notify such employer that he is not permitted to hire workers for work in such plant, factory, or other place of employment; and

(b) so inform appropriate local offices of the United States Employment Service.

.12 Regional Manpower Directors shall instruct all review units established under approved employment stabilization programs in areas and for activities designated as subject to the provisions of the Executive Order to consider the Minimum Wartime Workweek as defined in Section 903.4 of the Regulations as full time employment for the purpose of determining eligibility of a worker for a Statement of Availability.

.13 When the designated representative of a Regional Manpower Director cannot secure compliance with the Regulations through resources available to him, he shall submit a full report of the nature and extent of the violation to the Regional Manpower Director who shall take action through the appropriate Government agency.

.14 Any worker or employer, or group of workers or employers, dissatisfied with any act or failure to act

pursuant to the terms of the Regulations and this instruction shall be given a fair opportunity to present his or their case through the War Manpower Commission appeals procedure.

FEDERAL LEGISLATION SENATE

S. 814 (White, R-Maine) (For himself and Mr. Wheeler, D-Mont.) **COMMUNICATIONS**—To amend the Communications Act of 1934 and for other purposes. Referred to the Committee on Interstate Commerce.

STATE LEGISLATION

MISSOURI:

H. 295 (Tucker) **DENTISTRY—ADVERTISING**—Provides for new section 10088A relating to advertising by a person not licensed to practice dentistry or to construct dentures, etc.

WASHINGTON:

H. 325 (Anderson) **DENTISTRY PRACTICE**—Relating to the practice of dentistry, providing for penalties and repealing conflicting laws. Referred to Committee on Medicine, Dentistry, and Pure Foods.

H. 374 (Cramer) **BROADCASTING—FINANCIAL RESPONSIBILITY**—Provides that the sponsor or person broadcasting shall be held financially responsible for matter broadcast. Referred to Committee on Judiciary.

S. 275 (Rosellini) **BROADCASTING—SPONSOR ANNOUNCED**—Provides that news reporters, analysts, and commentators, when broadcasting, must disclose the name of their sponsor. Referred to Committee on Judiciary.

WEST VIRGINIA:

H. 304 (Flint) **LIQUOR—ADVERTISEMENT**—Prohibiting the advertisement in any form or medium of alcoholic liquor or beer. Fixes penalties. Referred to Committee on Temperance.

FEDERAL COMMUNICATIONS COMMISSION

NEW FREQUENCY CLASSIFICATION

The FCC has announced a new classification of radio frequencies into seven major bands, effective immediately.

As a result of the Commission action, Section 2.5 of the General Rules and Regulations will read as follows:

Sec. 2.5 *Useful radio spectrum*—"Useful radio spectrum" means the total number of frequencies or wavelengths which may be used for the transmission of energy, communications or signals by radio."

* At the present development of the art the useful radio spectrum is considered to extend from 10 kilocycles to 30000000 kilocycles or 30000 meters to 0.01 meters. These frequencies are classified into bands with designations and abbreviations as follows:

Frequency in Kilocycles		inclusive	Designations	Abbreviations
Above				
10 to	30		Very Low	VLF
30 to	300	"	Low	LF
300 to	3000	"	Medium	MF
3000 to	30000	"	High	HF
30000 to	300000	"	Very High	VHF
300000 to	3000000	"	Ultra High	UHF
3000000 to	30000000	"	Super High	SHF

FEDERAL COMMUNICATIONS COMMISSION DOCKET

HEARING

The following broadcast hearing is scheduled to be heard before the Commission during the week beginning Monday, March 8th. It is subject to change.

Tuesday, March 9

WLW—The Crosley Corporation, Cincinnati, Ohio.—Modification of license, **700 kc.**, 50 KW night, 500 KW day, unlimited, using W8XO transmitter.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

W67B—Westinghouse Radio Stations, Inc., Boston, Mass.—Granted modification (B1-MPH-83) of construction permit (B1-PH-62) for change in transmitter and extension of commencement and completion dates. Also granted license (B1-LH-32) to cover construction permit in part, pursuant to August 4 policy. Conditions.

W49PH—Penna. Broadcasting Co., Philadelphia, Pa.—Granted modification (B2-MPH-103) of construction permit (B2-LH-69) to extend completion date to July 22, 1943. Also granted license (B2-LH-26) to cover construction permit in part, subject to condition that the licensee will take steps to comply fully with the Rules, Regulations and Standards of the Commission when materials and personnel become available or when required by the Commission to do so. **44900 kc.**, 9,300 square miles.

WEMP—Milwaukee Broadcasting Co. (a Corp.), (Assignor), and Glenn D. Roberts, et al., d/b as the Milwaukee Broadcasting Co. (Assignee), Milwaukee, Wis.—Granted voluntary assignment of license from Milwaukee Broadcasting Co. (a corporation), to Glenn D. Roberts, Melva F. Roberts, Wellwood Nesbit, Robert M. LaFollette, Jr., Evalyn H. Dolph, Hope D. Pettey, Leo T. Crowley and James T. Markham, co-partners, d/b as Milwaukee Broadcasting Co. (B4-AL-363).

KFQD—Anchorage Radio Club, Inc. (Assignor), and William J. Wagner, d/b as Alaska Broadcasting Co. (Assignee), Anchorage, Alaska.—Granted voluntary assignment of license station KFQD, from Anchorage Radio Club, Inc., to William J. Wagner, d/b as Alaska Broadcasting Co. (B-AL-347).

WKEU—Radio Station WKEU, Griffin, Ga.—Granted modification of license to use 100 watts, unlimited time on **1450 kc.**, subject to installation of a radiating system which complies with the Commission's Standards of Good Engineering Practice, and power determined by direct method in accordance with Rule 3.51. Action on application to increase power to 250 watts night, 100 watts day, and increase in hours to unlimited, held in abeyance.

WCBI—Birney Imes, Columbus, Miss.—Granted modification of license to change frequency from **1400 to 1340 kc.** (B3-ML-1150).

W73PH—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Granted license (B2-LH-19) to cover construction permit in part, on condition that licensee will take steps to comply fully with the Rules, Regulations, and Standards of the Commission when materials and personnel become available or when required by the Commission to do so. **47300 kc.**, 9,300 square miles.

W57PH—Westinghouse Radio Stations, Inc., Philadelphia, Pa.—Granted license (B2-LH-36) to cover construction permit in part. Conditions.

W75P—Westinghouse Radio Stations, Inc., Pittsburgh, Pa.—Granted license (B2-LH-33) to cover construction permit in part. Conditions.

MISCELLANEOUS

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Granted modification of construction permit as modified, which authorized installation of new equipment and directional antenna for day and night use, change frequency, increase in power, and move of transmitter, for extension of completion date from March 22 to June 22, 1943 (B3-MP-1696).

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted modification of construction permit, as modified, which authorized increase in power, installation of new

APPLICATIONS FILED AT FCC

790 Kilocycles

transmitter and directional antenna for night use, and change hours of operation, for extension of completion date from March 1 to April 1, 1943 (B2-MP-1694).

KPAS—Pacific Coast Broadcasting Co., Pasadena, Calif.—Granted license to cover construction permit as modified, for new broadcast station (B5-L-1752); granted authority to determine operating power by direct measurement of antenna power (B5-Z-1497).

WAPI—Voice of Alabama, Inc., Birmingham, Ala.—Granted license to cover construction permit as modified, which authorized change in frequency, increase power, change hours of operation and install directional antenna for night use (B3-L-1753); granted authority to determine operating power by direct measurement of antenna power (B3-Z-1498).

KAQY—Don Lee Broadcasting System, Portable-Mobile, area of Los Angeles, Calif.—Granted license to cover construction permit as modified, for new relay broadcast station (B5-LRE-426).

WFTL—Ralph A. Horton, Fort Lauderdale, Fla.—Granted modification of construction permit as modified, which authorized change in frequency, increase in power, install new transmitter and directional antenna for night use, and move transmitter, for extension of completion date from March 5 to May 5, 1943 (B3-MP-1695).

WALB—Herald Publishing Co., Albany, Ga. (Docket Nos. 6398 and 6399); and Albany Herald Broadcasting Co., Albany, Ga. (Docket 6400).—Granted request for a continuance of the further hearing now set for February 25, 1943, on applications of WALB for renewal of license and for construction permit, and for voluntary assignment of license of Station WALB; hearing continued until March 16, 1943.

W6XDU—Don Lee Broadcasting System, Portable-Mobile, area of Los Angeles, Calif.—Granted license to cover construction permit as modified, which authorized addition of aural equipment using special emission; granted on an experimental basis only, conditionally (B5-LVB-39).

WBEZ—Board of Education, City of Chicago, Ill.—Granted modification of construction permit as modified, which authorized new non-commercial educational broadcast station, for extension of completion date from March 7 to April 7, 1943 (B4-MPED-17).

KEGW—Salt River Valley Broadcasting Co., area of Phoenix, Ariz.—Cancelled relay broadcast station license in accordance with written request of licensee (B5-RRE-76).

KGBK—Helen Townsley, area of Great Bend, Kans.—Granted further extension upon a temporary basis, of relay broadcast station license, pending determination upon application for renewal of license, not later than April 1, 1943 (B4-SRY-240).

WAEA—W. A. Patterson, area of Chattanooga, Tenn.—Granted further extension upon a temporary basis, of relay broadcast station license, pending determination upon application for renewal of license, not later than April 1, 1943 (B3-SRY-132).

WLAN—Thomas J. Watson, Endicott, N. Y.—Adopted order granting the motion of Thomas J. Watson for a continuance of the hearing set for March 2, 1943, on application for modification of construction permit; hearing continued until April 1, 1943 (Docket No. 6453).

National Broadcasting Co., Inc.—Granted in part petition for indefinite continuance of hearing on petition for rehearing filed by National Broadcasting Co., Inc. (KOA), re application of WJW, Inc. (WJW), Akron, Ohio, for modification of construction permit (Docket 6485); hearing continued until a date subsequent to Supreme Court decision in KOA case; balance of petition dismissed without prejudice.

WLW—The Crosley Corp., Cincinnati, Ohio.—Granted petition for postponement of hearing scheduled for March 9 re application for modification of license to operate on 700 kc., 50 KW night, 500 watts day, unlimited time, using W8XO transmitter; continued to April 9, 1943 (Docket 6341).

Chattahoochee Broadcasting Co., Columbus, Ga.—Granted withdrawal of motion for continuance of hearing set for March 4 re application for construction permit for new station; granted substitute motion to dismiss application without prejudice; hearing set for March 4, 1943 cancelled (Docket 6456).

South Florida Broadcasting, Inc., Miami, Fla.—Granted petition to dismiss without prejudice application for construction permit for new station (Docket 6153).

KVOS—KVOS, Inc., Bellingham, Wash.—Modification of construction permit (B5-P-3237 as modified, which authorized new transmitter, installation of directional antenna for day and night use, change in frequency, increase in power and move) for extension of completion date from 4-30-43 to 7-30-43.

990 Kilocycles

WIBG—Seaboard Radio Broadcasting Corp., Philadelphia, Pa.—Modification of construction permit (B2-P-3207 as modified, which authorized new transmitter and directional antenna for day and night use, change hours, increase power and move transmitter and studio) for extension of completion date from 3-8-43 to 6-9-43.

1140 Kilocycles

KGDM—E. F. Pepper, Stockton, Calif.—Modification of construction permit (B5-P-3199 as modified, which authorized change in frequency, hours, increase power, directional antenna for night use, new transmitter) for extension of completion date from 3-20-43 to 5-20-43.

1230 Kilocycles

KVOS—KVOS, Inc., Bellingham, Wash.—Special Service Authorization to operate on 790 kc. with 250 watts power, for period ending 2-1-45.

1250 Kilocycles

KWSC—State College of Washington, Pullman, Wash.—Construction permit to change frequency from 1250 kc. to 1030 kc., change power from 5 KW to 1 KW night, 5 KW day, hours of operation from share with KTW to unlimited time and make changes in antenna and ground systems. Request facilities of KOB. Amended: to request modification of license and omit request for changes in antenna and ground systems.

1380 Kilocycles

KPQ—Thomas Patrick, Inc., St. Louis, Mo.—Authority to determine operating power by direct measurement of antenna power.

1410 Kilocycles

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Authority to determine operating power by direct measurement of antenna power.

1490 Kilocycles

KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—Extension of Special Service Authorization to operate on 560 kc., 500 watts night, 1 KW day, unlimited time, using transmitter authorized by B5-P-3150 as modified, for period ending 8-25-43.

TELEVISION APPLICATIONS

W3XPA—Philco Radio & Television Corp., Portable-Mobile, area of Philadelphia, Pa.—License to cover construction permit (B2-PVB-89) for new television relay broadcast station to be used with WPTZ.

W3XPC—Philco Radio & Television Corp., Philadelphia, Pa.—License to cover construction permit (B2-PVB-90) for new television relay broadcast station to be used with WPTZ.

MISCELLANEOUS APPLICATION

WPTZ—Philco Radio & Television Corp., Philadelphia, Pa.—License to cover construction permit (B2-PCT-4 as modified, which authorized new commercial television broadcast station) *in part*.

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.

Hawkeye Sales, Inc., and Tim Lake, 615 Tenth St., Des Moines, Iowa, manufacturing and distributing a preparation for spraying poultry, designated "Blu-V-Spray", and a medicinal feed supplement for poultry, designated "Jermite," are charged in a complaint with misrepresentation. (4919)

P. Lorillard Company, Inc.—A complaint has been issued alleging misrepresentation in the advertising claims made for Old Gold cigarettes and certain other tobacco products manufactured by P. Lorillard Co., Inc., which has its principal office in Jersey City and operates plants in that city and in Louisville, Ky., Richmond and Danville, Va., Middletown, Ohio, and Lancaster, Pa. (4922)

Minneapolis-Honeywell Regulator Company—A complaint has been issued charging Minneapolis Honeywell Regulator Co., Minneapolis, with engaging in unlawful practices which tend to create a monopoly and restrain trade in the sale of automatic temperature controls used in the operation of domestic heating plants. The respondent has manufacturing plants in Minnesota, Indiana and Pennsylvania and distributing points in other States. (4920)

CEASE AND DESIST ORDERS

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

American Industrial Rubber Co., 4405 South LaSalle St., Chicago, and its officers and agents have been ordered to cease

and desist from falsely representing low-grade recapped automobile tires as being of superior quality and guaranteed as to durability and service. (4819)

Harlem Co., 30 Church St., New York, has been ordered to cease and desist from certain misrepresentations concerning the jewelry he sells. (4843)

STIPULATIONS

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

Dr. V. P. English, R.R. 3, San Diego, Calif., has stipulated that she will discontinue certain misrepresentations in connection with the advertising and sale of medicinal preparations designated "Cerate," "Tissue Food Tablets A" and "Tissue Food Tablets B," a device called "Head-Hold Spine-Stretch Harness" and a booklet that purportedly contains information for use in the relief of spinal ailments. (03091)

Min-O-Ral Products Co., 1535 West Willis St., Detroit, entered into a stipulation to discontinue representing that the mineralized water they sell under the name "Min-O-Ral," when taken internally as directed, is of any therapeutic value other than in the treatment of iron deficiency or, when administered externally, has any value other than that of an inhibitory antiseptic or an astringent or styptic. (3616)

Thaxly Co., 450 Randolph St., N. W., Washington, has entered into a stipulation to cease and desist from certain misrepresentations concerning a wide variety of preparations compounded from formulas he sells. (03090)

FTC CASE CLOSED

The Federal Trade Commission has closed without prejudice the case growing out of the complaint it issued against D. K. Tuey, Los Angeles, dealer in Chinese herbs.

The complaint had charged the respondent with misrepresenting the therapeutic value of his products.