

The National Association of Broadcasters

1760 N STREET, N. W. * * * * * WASHINGTON 6, D. C.

July 7, 1943

SPECIAL LEGISLATIVE BULLETIN

No. 6

STATEMENT OF JAMES LAWRENCE FLY, CHAIRMAN OF THE FEDERAL COMMUNICATIONS COMMISSION

In its first open session on Friday the Cox Committee "to investigate" the Communications Commission was finally unveiled to the public in its true character. There it stands in its stark reality announcing to the public through its Wall Street mouthpiece the 50 vicious conclusions it is going to arrive at come hell or high water, after purporting to go through some of the forms of a "judicial" inquiry and "due process of law."

Three years ago Congressman Cox had defended the Commission and condemned the radio monopoly on the floor of the House. He said, "Mr. Speaker, an attack is being made upon the Federal Communications Commission. . . . What we probably need more than anything else is an investigation of the broadcasters' trust. It is time they were stopped from monopolizing the air." Three months later he came to the defense of the Commission and made the observation "that we have about reached the point where we should investigate the broadcasting business." Some time thereafter it became the unfortunate duty of the Commission to report to the Attorney General that Representative Cox had procured a \$2,500 fee for representing a successful applicant for a broadcast station license. Congressman Cox, now calling for an investigation of the Commission, stated on the floor of the House, "Mr. Speaker. I am this morning bringing to you a matter in which I have the deepest possible personal interest." And again he stated:

"Mr. Fly of the Communications Commission is guilty of a monstrous abuse of power and is rapidly becoming the most dangerous man in the Government. He maintains an active and ambitious Gestapo and is putting shackles on the freedom of thought, press and speech without restraint. . . . The Communications Commission, as now operating under Mr. Fly, must be stopped."

The House of Representative then voted Cox's Resolution to "investigate" the Commission, particularly its

Chairman. Cox immediately joined forces with the radio monopoly and Wall Street interests on the one hand and the Military on the other, all moving in for the kill. The aim has obviously been to wreck the Commission, the only agency representing the public in this important field, to set up monopolistic control by commercial interests and to establish actual and coercive surveillance of the nation's most significant mechanism of free speech.

Already Cox's Wall Street mouthpiece has declared the intention of destroying the highly valuable war work of the Commission—particularly that part which has made it literally impossible for a single enemy transmitter in this country to communicate with our enemies abroad. That is the inexorable fact—and it is the simple result of the expertness, loyalty and devotion of the men who for twenty-four hours every day are patrolling the radio ether. These are the men who have taken the lead in improving and developing the very mechanisms employed by the armed forces. These are the same men who have rendered invaluable aid in closing out the espionage stations of Central and South America. These are the men who have operated the schools to instruct men of the armed forces and of our neighbor countries in the art of radio direction-finding. These are the activities so frequently commended by the Army, Navy and other Government Departments for the valuable results achieved and for the efficiency and security of the methods employed and the complete cooperation of its personnel.

In addition, the Federal Communications Commission has a highly effective organization charged with collecting, translating, analyzing and reporting to 200 Government offices the radio propaganda of the world at war. Adequate information on the world's psychological warfare is utterly essential to a nation at war. It is this important agency—the Commission's Foreign Broadcast Intelligence Service—which comes in for a vicious attack from the Committee, all without the form of a hearing.

Cox and his Wall Street mouthpiece have been slow in disclosing to the public their long existing tie-in with the radio monopoly. But the cat was out of the bag when the Committee's counsel referred on Friday to Mr. Fly's successful efforts in delaying television, which all too obviously is directed at the Commission's earlier stand against the radio monopoly in its efforts to lock down the great future of the television industry to the inadequate systems then controlled by that monopoly. This is the same stand of the Commission which Congressman Cox had so vigorously defended on the floor of the House in happier days.

Again Committee Counsel emphasized "Mr. Fly's insistence on reopening the consent decree and refusing to renew RCAC licenses." This, it may be observed, was the Commission's insistence that RCA strike out of its traffic agreements with its foreign correspondents, clauses which prevented other companies from establishing competing circuits.

The Committee further revealed its marriage to the broadcast trust by announcing that it plans to attack the anti-monopoly regulations in chain broadcasting which the Commission under attack from the radio trust has successfully defended before both Houses of Congress and in the Supreme Court of the United States.

The time has come for the public to know not merely what the Cox Committee has concluded to conclude but also some of the vicious processes employed which further reveal what the Cox Committee is up to. To take but a few of the many examples:

- (a) The long continued conduct of star-chamber proceedings where witnesses were required to appear privately before the Committee's lawyers. On certain important occasions these "hearings" were conducted in hotel

rooms. The failure to give the Commission notice of any hearing whatsoever, or to permit its representatives to attend any of these hearings or to permit the Commission to purchase a copy of the transcript or even to inspect a copy thereof. The Commission on different occasions formally requested permission to purchase these transcripts and on each occasion this request was denied.

- (b) The illegal issuance of subpoenas requiring appearances before staff members—and on certain occasions in the Wall Street offices of a lawyer who is contributing his services to "the cause" at \$1.00 a year.
- (c) Constant efforts, by badgering Commission employees and other witnesses and by circularizing radio stations for complaints, to stir up destructive criticism of the Commission.
- (d) Seizure of a truckload of irreplaceable Commission files without opportunity for property listing or copying them to insure against loss or interference with the essential functions of the Commission.
- (e) Widespread efforts by stirring up vicious rumors and gossip to destroy the reputation and standing of the Commission, its individual Commissioners and staff members.

The foregoing are but a few of the examples which demonstrate the character and the activation of the Cox Committee. I cannot but feel that this sort of harassing and unfair tactics ought to stop. If we must be slandered \$2,500 worth is enough, and we have been visited with that much long ago. We have a war on other fronts and those of us who are devoting ourselves to that war might well be permitted to get on with the job.

The National Association of Broadcasters

1760 N STREET, N. W. * * * * * WASHINGTON 6, D. C.

July 9, 1943

SPECIAL LEGISLATIVE BULLETIN

No. 7

78th CONGRESS
1ST SESSION

H. R. 3109

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 1943

MR. HOLMES of Massachusetts introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Communications Act of 1934, as amended.

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

“(bb) The term ‘construction permit’ or ‘permit for construction’ means that instrument of authorization required by this Act for the construction of apparatus for the transmission of energy, or communications, or signals by radio, by whatever name designated by the Commission.

“(cc) 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 designated by the Commission.”

SEC. 2. Subsection (b) of section 4 of such Act, as amended, is amended by striking out the last sentence thereof 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. Section 5 of such Act, as amended, is amended to read as follows:

“DIVISIONS OF THE COMMISSION

“SEC. 5. (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 adoption and promulgation of all rules and regulations of general application authorized by this Act, including procedural rules and regulations for the Commission and the Divisions thereof; over the assignment of bands of frequencies to the various radio services; over the qualification and licensing of all radio operators; over the selection and appointment of all officers and other employees of the Commission and the Divisions thereof; and generally over all other matters with respect to which authority is not otherwise conferred by the 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 circumstance 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 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 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. (a) So much of subsection (a) of section 308 of such Act, as amended, as precedes the first proviso is amended to read as follows: “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:”.

(b) Such subsection (a) is further amended by striking out the period at the end thereof and inserting a colon and 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 may grant and issue authority to construct or operate apparatus for the transmission of energy or communications or signals by radio 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. Section 309 of such Act, as amended, is amended to read as follows:

“HEARINGS ON APPLICATIONS FOR LICENSES; FORM OF LICENSES; CONDITIONS ATTACHED TO LICENSES

“SEC. 309. (a) If upon examination of any application provided for in section 308 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 either or both of the findings specified in subsection (a), 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 hearing 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 subsection (a), 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 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 subsection (b). 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 or use or control conferred by section 606.”

SEC. 6. Subsection (b) of section 310 of such Act, as amended, is amended to read as follows:

“(b) 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 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, as amended.”

SEC. 7. Section 326 of such Act, as amended, is amended to read as follows:

“SCOPE OF COMMISSION'S POWERS OVER LICENSEES; CENSORSHIP; OBSCENE, INDECENT, OR PROFANE LANGUAGE

“SEC. 326. (a) 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.

“(b) 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 communications. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication.”

SEC. 8. Section 402 of such Act, as amended, is amended to read as follows:

“PROCEEDINGS TO ENFORCE OR SET ASIDE THE COMMISSION'S ORDERS—APPEAL IN CERTAIN CASES

“SEC. 402. (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 subsection (b) of this section), 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 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 paragraphs (1), (2), and (3) of this subsection.

“(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, inferences, 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 follows:

“(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. 9. Section 405 of such Act as amended, is amended to read as follows:

“REHEARING BEFORE COMMISSION

“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 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. 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.”

SEC. 10. Subsection (a) of section 409 of such Act, as amended, is amended to read as follows:

“(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 proceeding 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 hearing. In all cases the Com-

mission, 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. 11. Title IV of such Act, as amended, is amended by adding at the end thereof the following sections:

"DECLARATORY RULINGS

"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 substantial 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.

"SCOPE OF COMMISSION'S POWER WITH RESPECT TO
PENALTIES, PROHIBITIONS, CONDITIONS, AND SO
FORTH

"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."