To say that these stations and dealers or operators in their operations are not under the control of the company would be to ignore the fact that contracts and agency agreements have been entered into, doubtless for the same reasons which impelled their adoption and the plain fact is that the dealer or operator must obey the every dictate of the company or lose their contract and station.

Therefore, it is my opinion that the relationship between the company and the dealer or operator of the stations in question is that of employer and employee.

The contracts in question have the following provision:

> "To have and to hold the above demised and leased premises, and all rights, privileges, and appurtenances thereunto belonging, unto lessee for and during the following term:
>
> "Six (6) months beginning on the 16th day of October, 1936, and thereafter for successive terms of six months each, provided, however, that either party may terminate and cancel this lease at the end of the first six-month term or any successive six-month term, on thirty (30) days' written notice given prior to the end of any such term."

Under the above provision these contracts run for an indefinite period of time unless cancelled under the terms of said contract.

However, if evidence is furnished your commissioner to the effect that these contracts have been cancelled in accordance with their own terms, thereby terminating the relationship of employer and employee, your board would not have jurisdiction.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Banks and banking, officers acting as notaries.

June 11, 1937.

Hon. Richard A. McKinley, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your request for an opinion as to whether or not a director of a bank may

acknowledge as a notary public any mortgage or other instrument in which the bank is interested.

In reply to this question your attention is directed to section 10-3601, Burns Indiana Statutes, 1933 revision, which reads as follows:

> "Whoever, while holding any lucrative office, acts as a notary public, or whoever, being an officer in any bank, corporation or association possessed of banking powers, or of any trust company or building and loan association, acts as a notary public in the business of such bank, corporation, association, trust company or building and loan association, shall, on conviction, be fined not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000), to which may be added imprisonment in the county jail for not less than ten (10) days nor more than six (6) months."

The Appellate Court in the case of Kothe v. Krag-Reynolds Company, 20 App. 293, has held that acknowledgments taken in violation of this section are void and the record of an instrument so acknowledged is not constructive notice.

It is evident, therefore, from the above that a director of a state bank cannot act as a notary public in the acknowledgment of an instrument in which the bank is interested. However, your attention is directed to chapter 139, Acts of the Indiana General Assembly, 1937, which provides as follows:

> "Section 1. *Be it enacted by the General Assembly of the State of Indiana,* That all acts of notaries public in this state who have acknowledged the execution of deeds of conveyance, mortgages and any and all other papers entitled by law to be recorded in the office of the recorder or any other public office of any county in this state, or who have acknowledged the execution of any instrument or paper entitled to be acknowledged before any notary public, whether entitled to record or not, and which acts of such notary public would be valid except for the fact that such notaries public may have been officers, stockholders or employees in corporation(s) which were parties to the instrument, the signatures of which are so acknowledged by such notary public, or except for the fact that any such

> notary public shall have been elected to the house of representatives or to the senate of the General Assembly of the State of Indiana, be and the same are hereby legalized and declared valid."

It is my opinion that the above statute operated to legalize instruments executed prior to the date of passage of this Act.

GOVERNOR'S OFFICE: Power to remit fines and forfeitures.

June 12, 1937.

Hon. M. Clifford Townsend,
Governor of State of Indiana,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your request for an opinion as to your powers with respect to the remission of fines and costs.

In reply to this inquiry your attention is directed to article 5, section 17 of the Constitution of the State of Indiana, which provides that the Governor

> "shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted:"

Your attention is further directed to section 9-2501, Burns Indiana Statutes, 1933 revision, which reads as follows:

> "All applicants to the Governor for the remission of fines and forfeitures shall forward to him, with their application, the opinion of the propriety of so doing of a majority of the following officers in the county where the fine was assessed or forfeiture incurred, viz: The clerk of the circuit court, auditor, sheriff, county treasurer and such officers as shall, from time to time, have the care and custody of the common school fund within the county."