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{ No. 1588

ALLOCATION OF RADIO FACILITIES

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MR. WHEELER, from the Committee on Interstate Commerce, submitted the following

REPORT

[To accompany S. 2243]

The Committee on Interstate Commerce, to whom was referred the bill (S. 2243), to amend the Communications Act of 1934, relating to the allocation of radio facilities, having considered the same, report the bill back favorably to the Senate with the recommendation that it be passed as amended.

This bill seeks to restore to the Communications Act of 1934 similar language to that contained in the second paragraph of section 9 of the Radio Act of 1927. The language of the latter act reads:

In considering applications for licenses and renewals of licenses, when and insofar as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency of wave lengths, periods of time for operation, and of station power, to each of said zones when and insofar as there are applications therefor; and shall make a fair and equitable allocation of licenses, wave lengths, time for operation, and station power to each of the States, the District of Columbia, the Territories and possessions of the United States within each zone, according to population. The licensing authority shall carry into effect the equality of broadcasting service hereinbefore directed, whenever necessary or proper, by granting or refusing licenses or renewals of licenses, by changing periods of time for operation, and by increasing or decreasing station power, when applications are made for licenses or renewals of licenses: *Provided*, That if and when there is a lack of applications from any zone for the proportionate share of licenses, wave lengths, time of operation, or station power to which such zone is entitled, the licensing authority may issue licenses for the

Under the act of March 28, 1928, the above paragraph of section 9 of the Radio Act of 1927 was amended to read as follows:

It is hereby declared that the people of all the zones established by section 2 of this Act are entitled to equality of radio broadcasting service, both of transmission and of reception, and in order to provide said equality the licensing authority shall, as nearly as possible, make and maintain an equal allocation of broadcasting licenses, of bands of frequency or wave lengths, of periods of time for operation, and of station power, to each of said zones when and insofar as there are applications therefor; and shall make a fair and equitable allocation of licenses, wave lengths, time for operation, and station power to each of the States, the District of Columbia, the Territories and possessions of the United States within each zone, according to population. The licensing authority shall carry into effect the equality of broadcasting service hereinbefore directed, whenever necessary or proper, by granting or refusing licenses or renewals of licenses, by changing periods of time for operation, and by increasing or decreasing station power, when applications are made for licenses or renewals of licenses: *Provided*, That if and when there is a lack of applications from any zone for the proportionate share of licenses, wave lengths, time of operation, or station power to which such zone is entitled, the licensing authority may issue licenses for the

balance of the proportion not applied for from any zone, to applicants from other zones for a temporary period of ninety days each, and shall specifically designate that said apportionment is only for said temporary period. Allocations shall be charged to the State, District, Territory, or possession wherein the studio of the station is located and not where the transmitter is located.

The above language, known as the "Davis amendment" was substantially carried over into the Communications Act of 1934. The bill repeals section 302 of the Communications Act, which reads as follows:

SEC. 302. (a) For the purposes of this title the United States is divided into five zones, as follows: The first zone shall embrace the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, and the District of Columbia; the second zone shall embrace the States of Pennsylvania, Virginia, West Virginia, Ohio, Michigan, and Kentucky; the third zone shall embrace the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma; the fourth zone shall embrace the States of Indiana, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri; and the fifth zone shall embrace the States of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California.

(b) The Virgin Islands, Puerto Rico, Alaska, Guam, American Samoa, and the Territory of Hawaii are expressly excluded from the zones herein established.

Subsection (6) of section 307 of the Communications Act, which would be replaced by the language of this bill, reads as follows:

(b) It is hereby declared that the people of all the zones established by this title are entitled to equality of radio broadcasting service, both of transmission and of reception, and in order to provide said equality the Commission shall as nearly as possible make and maintain an equal allocation of broadcasting licenses, of bands of frequency, of periods of time for operation, and of station power to each of said zones when and insofar as there are applications therefor; and shall make a fair and equitable allocation of licenses, frequencies, time for operation, and station power to each of the States and the District of Columbia, within each zone, according to population. The Commission shall carry into effect the equality of broadcasting service hereinbefore directed, whenever necessary or proper, by granting or refusing licenses or renewals of licenses, by changing periods of time for operation, and by increasing or decreasing station power, when applications are made for licenses or renewals of licenses: *Provided*, That if and when there is a lack of applications from any zone for the proportionate share of licenses, frequencies, time of operation, or station power to which such zone is entitled, the Commission may issue licenses for the balance of the proportion not applied for from any zone, to applicants from other zones for a temporary period of ninety days each, and shall specifically designate that said apportionment is only for said temporary period. Allocations shall be charged to the State or District wherein the studio of the station is located and not where the transmitter is located: *Provided further*, That the Commission may also grant applications for additional licenses for stations not exceeding one hundred watts of power if the Commission finds that such stations will serve the public convenience, interest, or necessity, and that their operation will not interfere with the fair and efficient radio service of stations licensed under the provisions of this section.

The legislation is recommended for practical reasons of administration by the Communications Commission, which has found that the drawing of artificial zone lines for guides in allocating radio facilities cannot satisfactorily be applied because of the physical laws governing radio transmission. As a consequence, the policy of Congress, to so distribute radio facilities that every section of the country will be adequately supplied, has been very difficult of effectuating.

On May 23, 1935, the Chairman of the Communications Commission wrote the chairman of your committee as follows:

With further reference to S. 2243, which was introduced by you March 13, 1935, I beg to advise that this Commission favors its adoption for the following reasons:

The existing law, which S. 2243 seeks to repeal, is contrary to natural laws and has resulted in the concentration of the use of frequencies in centers of population, and the restriction of facilities in sparsely populated States, even though interference consideration would permit the operation of one or more additional stations. Because of the size of the zones provided for by existing law, the distribution required by the Davis Amendment has resulted in providing ample broadcast service in small zones and lack of service in large zones. The experience of the Federal Radio Commission and this Commission has proved that the Davis Amendment is very difficult of administration and cannot result in an equality of radio broadcasting service.

This Commission is, therefore, in hearty accord with and favors the passage of S. 2243.

One amendment, the insertion of the words "a fair, efficient and" immediately before the word "equitable" in line 12 and the deletion of the word "an" in the same line, is recommended to make the language more nearly conform with the original wording in the Radio Act of 1927.

