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82^D CONGRESS
1ST SESSION

S. 658

[Report No. 44]

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 8), 1951

Mr. MCFARLAND introduced the following bill; which was read twice and referred to the Committee on Interstate and Foreign Commerce

JANUARY 25 (legislative day, JANUARY 8), 1951

Reported by Mr. MCFARLAND, without amendment

A BILL

To further amend the Communications Act of 1934.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as "Communications Act
4 Amendments, 1951".

5 SEC. 2. Subsection (o) of section 3 of the Communica-
6 tions Act of 1934, as amended, is amended to read as
7 follows:

8 “(o) ‘Broadcasting’ means the dissemination of radio
9 communications intended to be received directly by the
10 general public.”

1 SEC. 3. Section 3 of such Act is further amended by
2 adding after subsection (aa) the following:

3 “(bb) The term ‘license’, ‘station license’, or ‘radio
4 station license’ means that instrument of authorization re-
5 quired by this Act or the rules and regulations of the Com-
6 mission made pursuant to this Act, for the use or operation
7 of apparatus for transmission of energy, or communications,
8 or signals by radio, by whatever name the instrument
9 may be designated by the Commission.

10 “(cc) The term ‘broadcast station’, ‘broadcasting sta-
11 tion’, or ‘radio broadcast station’ means a radio station
12 equipped to engage in broadcasting as herein defined.

13 “(dd) The term ‘construction permit’ or ‘permit for
14 construction’ means that instrument of authorization re-
15 quired by this Act or the rules and regulations of the
16 Commission made pursuant to this Act for the installa-
17 tion of apparatus for the transmission of energy, or com-
18 munications, or signals by radio, by whatever name the
19 instrument may be designated by the Commission.

20 SEC. 4. (a) Subsection (b) of section 4 of such Act,
21 as amended, is amended by striking out the last two sen-
22 tences thereof and inserting in lieu thereof the following:
23 “Such Commissioners shall not engage in any other busi-
24 ness, vocation, profession, or employment but this shall not
25 apply to the preparation of technical or professional pub-

1 lications for which reasonable honorarium or compensation
2 may be paid. Any such Commissioner serving as such
3 after one year from the date of enactment of the Commu-
4 nications Act Amendments, 1951, shall not for a period
5 of one year following the termination of his services as
6 a Commissioner represent before the Commission in a pro-
7 fessional capacity any person, including all persons under
8 common control, subject to the provisions of this Act,
9 except that this restriction shall not apply to any Commis-
10 sioner who has served the full term for which he was
11 appointed. Not more than four members of the Commis-
12 sion shall be members of the same political party.”

13 (b) Subsection (f) (1) of section 4 of such Act is
14 amended to read as follows:

15 “(f) (1) Without regard to the civil-service laws or
16 the Classification Act of 1949, as amended, (1) the Com-
17 mission may appoint and prescribe the duties and fix the
18 salaries of a secretary, a chief engineer and not more than
19 two assistants, a chief accountant and not more than two
20 assistants, a general counsel and not more than two assistants,
21 and counsel temporarily employed and designated by the
22 Commission for the performance of specific special services;
23 and (2) each Commissioner may appoint and prescribe the
24 duties of a legal assistant at an annual salary not to exceed
25 \$10,000 and a secretary at an annual salary not to exceed

1 \$5,600. The chief engineer, the chief accountant, and the
2 general counsel shall each receive an annual salary of not
3 to exceed \$11,200; the secretary shall receive an annual
4 salary of not to exceed \$10,000, and no assistant shall
5 receive an annual salary in excess of \$10,000: *Provided,*
6 That on and after one year from the date of enactment of
7 Communications Act Amendments, 1951, the secretary of
8 the Commission, the chief engineer and his assistants, the
9 chief accountant and his assistants, the general counsel and
10 his assistants, and the legal assistants to each Commissioner
11 shall not, for the period of one year next following the
12 cessation of their employment with the Commission, represent
13 before the Commission in a professional capacity any person,
14 including all persons under common control, subject to the
15 provisions of this Act. The Commission shall have authority,
16 subject to the provisions of the civil-service laws and the
17 Classification Act of 1949, as amended, to appoint such other
18 officers, engineers, accountants, attorneys, inspectors, ex-
19 aminers, and other employees as are necessary in the execu-
20 tion of its functions.”

21 (c) The first sentence of subsection (g) of section 4
22 of such Act, as amended, is amended to read as follows:

23 “(g) The Commission may make such expenditures
24 (including expenditures for rent and personal services at
25 the seat of government and elsewhere, for office supplies,

1 law books, periodicals, and books of reference, for printing
2 and binding, for land for use as sites for radio monitoring
3 stations and related facilities, including living quarters where
4 necessary in remote areas, for the construction of such sta-
5 tions and facilities, and for the improvement, furnishing,
6 equipping, and repairing of such stations and facilities and
7 of laboratories and other related facilities (including con-
8 struction of minor subsidiary buildings and structures not
9 exceeding \$25,000 in any one instance) used in connection
10 with technical research activities), as may be necessary for
11 the execution of the functions vested in the Commission and
12 as from time to time may be appropriated for by Congress.”

13 (d) Subsection (k) of section 4 of such Act is amended
14 to read as follows:

15 “(k) The Commission shall make an annual report to
16 Congress, copies of which shall be distributed as are other
17 reports transmitted to Congress. Such reports shall
18 contain—

19 “(1) such information and data collected by the
20 Commission as may be considered of value in the deter-
21 mination of questions connected with the regulation of
22 interstate and foreign wire and radio communication
23 and radio transmission of energy.

24 “(2) such information and data concerning the
25 functioning of the Commission as will be of value to

1 Congress in appraising the amount and character of the
2 work and accomplishments of the Commission and the
3 adequacy of its staff and equipment: *Provided*, That the
4 first and second annual reports following the date of en-
5 actment of Communications Act Amendment, 1951,
6 shall set forth in detail the number and caption of pend-
7 ing applications requesting approval of transfer of control
8 or assignment of a station license, or construction per-
9 mits for new stations, or for increases in power, or for
10 changes of frequency of existing stations at the begin-
11 ning and end of the period covered by such reports;

12 “(3) information with respect to all persons taken
13 into the employment of the Commission during the year
14 covered by the report, including names, pertinent bio-
15 graphical data and experience, Commission positions
16 held and compensation paid, together with the names of
17 those persons who have left the employ of the Commis-
18 sion during such year: *Provided*, That the first annual
19 report following the date of enactment of Communica-
20 tions Act Amendments, 1951, shall contain such infor-
21 mation with respect to all persons in the employ of the
22 Commission at the close of the year for which the report
23 is made;

24 “(4) an itemized statement of all funds expended
25 during the preceding year by the Commission, of the

1 sources of such funds, and of the authority in this Act
2 or elsewhere under which such expenditures were made;
3 and

4 “(5) specific recommendations to Congress as to
5 additional legislation which the Commission deems
6 necessary or desirable, including all legislative proposals
7 submitted for approval to the Director of the Budget.”

8 SEC. 5. Section 5 of such Act, as amended, is amended
9 to read as follows:

10 “ORGANIZATION OF THE COMMISSION

11 “SEC. 5. (a) The member of the Commission designated
12 by the President as Chairman shall be the chief executive
13 officer of the Commission. It shall be his duty to preside
14 at all meetings and sessions of the Commission, to represent
15 the Commission in all matters relating to legislation and
16 legislative reports, to represent the Commission in all matters
17 requiring conferences or communications with other govern-
18 mental officers, departments or agencies, and generally to
19 coordinate and organize the work of the Commission in such
20 manner as to promote prompt and efficient disposition of
21 all matters within the jurisdiction of the Commission. In
22 the case of a vacancy in the office of the Chairman of the
23 Commission, or the absence or inability of the Chairman
24 to serve, the Commission may temporarily designate and
25 appoint one of its members to act as Chairman until the

1 cause or circumstance requiring such service shall have been
2 eliminated or corrected.

3 “(b) Within sixty days after the enactment of the
4 Communications Act Amendments, 1951, and from time
5 to time thereafter as the Commission may find necessary,
6 the Commission shall organize its legal, engineering, and
7 accounting staff into (1) integrated divisions, to func-
8 tion on the basis of the Commission’s principal workload
9 operations; and (2) into such other divisional organizations
10 as the Commission may deem necessary to handle that part
11 of its workload which cuts across more than one integrated
12 division or which does not lend itself to the integrated
13 division set-up. Each such integrated division and divisional
14 organization shall include such legal, engineering, accounting,
15 administrative, and clerical personnel as the Commission may
16 determine to be necessary to perform its functions. The
17 general counsel, the chief engineer, and the chief accountant
18 and their respective assistants shall carry out their respective
19 duties under such rules and regulations as the Commission
20 may prescribe. The Commission shall establish a staff,
21 directly responsible to it, which shall include such legal,
22 engineering, and accounting personnel as the Commission
23 deems necessary, whose duty shall be to prepare such drafts
24 of Commission decisions, orders, and other memoranda as

1 the Commission, in the exercise of its quasi-judicial duties,
2 may from time to time direct: *Provided*, That no member
3 of such staff shall participate in a hearing or represent the
4 Commission, directly or indirectly, in any prosecutory or
5 investigatory function or proceeding.

6 “(c) Except as provided in section 409 hereof, the Com-
7 mission, when necessary to the proper functioning of the
8 Commission and the prompt and orderly conduct of its busi-
9 ness, is hereby authorized and directed to assign or refer any
10 portion of its work, business, or functions to an individual
11 Commissioner or Commissioners or to a board composed of
12 one or more employees of the Commission, to be designated
13 by such order for action thereon, and by its further order at
14 any time to amend, modify, or rescind any such order or
15 reference: *Provided*, That this authority shall not extend to
16 duties otherwise specifically imposed by this or any other
17 Act of Congress. Any order, decision, or report made or
18 other action taken pursuant to any such order or reference
19 shall have the same force and effect and may be made,
20 evidenced, and enforced as is made by the Commission:
21 *Provided, however*, That any person aggrieved by any such
22 order, decision, or report may file a petition for review by the
23 Commission, and every such petition shall be passed upon

1 by the Commission. The secretary and seal of the Com-
2 mission shall be the secretary and seal of such individual
3 Commissioner or board.

4 “(d) Meetings of the Commission shall be held at regu-
5 lar intervals, not less frequently than once each calendar
6 month, at which times the functioning of the Commission
7 and the handling of its work load shall be reviewed and such
8 orders shall be entered and other action taken as may be
9 necessary or appropriate to expedite the prompt and orderly
10 conduct of the business of the Commission with the objective
11 of rendering a final decision (1) within three months from
12 the date of filing in all original application, renewal, and
13 transfer cases and (2) within six months from the final date
14 of the hearing in all hearing cases; and the Commission
15 shall promptly report to the Congress each such case which
16 has been pending before it more than such three- or six-
17 month period, respectively, stating the reasons therefor.”

18 SEC. 6. Subsection (d) of section 307 of such Act is
19 amended to read as follows:

20 “(d) No license granted for the operation of a broad-
21 casting station shall be for a longer term than three years
22 and no license so granted for any other class of station shall
23 be for a longer term than five years, and any license granted
24 may be revoked as hereinafter provided. Upon the expira-
25 tion of any license, upon application therefor, a renewal of

1 such license may be granted from time to time for a term
2 of not to exceed three years in the case of broadcasting
3 licenses and not to exceed five years in the case of other
4 licenses if the Commission finds that public interest, con-
5 venience and necessity would be served thereby.”

6 SEC. 7. So much of subsection (a) of section 308 of
7 such Act as precedes the second proviso is amended to read
8 as follows: “The Commission may grant instruments of
9 authorization entitling the holders thereof to construct or
10 operate apparatus for the transmission of energy, or com-
11 munications, or signals by radio or modifications or renewals
12 thereof, only upon written application therefor received by
13 it: *Provided*, That (1) in cases of emergency found by
14 the Commission involving danger to life or property or
15 due to damage to equipment, or (2) during the continu-
16 ance of any war in which the United States is engaged
17 and when such action is necessary for the national defense
18 or security or otherwise in furtherance of the war effort,
19 the Commission may grant and issue authority to construct
20 or operate apparatus for the transmission of energy or com-
21 munications or signals by radio during the emergency so
22 found by the Commission or during the continuance of any
23 such war, in such manner and upon such terms and condi-
24 tions as the Commission shall by regulation prescribe, and
25 without the filing of a formal application, but no such author-

1 ity shall be granted for a period beyond the period of
2 the emergency requiring it nor remain effective beyond
3 such period:".

4 SEC. 8. Section 309 of such Act, as amended, is amended
5 to read as follows:

6 "HEARINGS ON APPLICATIONS FOR LICENSES; FORM OF
7 LICENSES; CONDITIONS ATTACHED TO LICENSES

8 "SEC. 309. (a) If upon examination of any application
9 provided for in section 308 the Commission shall determine
10 that public interest, convenience, and necessity would be
11 served by the granting thereof, it shall authorize the issuance
12 of the instrument of authorization for which application is
13 made in accordance with said finding.

14 "(b) If upon examination of any such application the
15 Commission is unable to make the finding specified in sub-
16 section (a) of this section, it shall forthwith notify the ap-
17 plicant and other known parties in interest of the grounds
18 and reasons for its inability to make such finding. Such
19 notice, which shall precede formal designation for a hearing,
20 shall advise the applicant and all other known parties in
21 interest of all objections made to the application as well as
22 the source and nature of such objections. Following such
23 notice, the applicant shall be given an opportunity to reply.
24 If the Commission, after considering such reply, shall be
25 unable to make the finding specified in subsection (a) of

1 this section, it shall formally designate the application
2 for hearing on the grounds or reasons then obtaining and
3 shall notify the applicant and all other known parties in
4 interest of such action and the grounds and reasons therefor,
5 specifying with particularity the matters and things in issue
6 but not including issues or requirements phrased generally.
7 The parties in interest, if any, who are not notified by the
8 Commission of its action with respect to a particular applica-
9 tion may acquire the status of a party to the proceeding
10 thereon by filing a petition for intervention showing the basis
11 for their interest at any time not less than ten days prior to
12 the date of hearing. Any hearing subsequently held upon
13 such application shall be a full hearing in which the appli-
14 cant and all other parties in interest shall be permitted to
15 participate but in which both the burden of proceeding with
16 the introduction of evidence upon any issue specified by the
17 Commission, as well as the burden of proof upon all such
18 issues, shall be upon the applicant.

19 “(c) When any instrument of authorization is granted
20 by the Commission without a hearing as provided in subsec-
21 tion (a) hereof, such grant shall remain subject to protest as
22 hereinafter provided for a period of thirty days. During
23 such thirty-day period any party in interest may file a pro-
24 test under oath directed to such grant and request a hearing
25 on said application so granted. Any protest so filed shall

1 contain such allegations of fact as will show the protestant
2 to be a party in interest and shall specify with particularity
3 the facts, matters, and things relied upon, but shall not in-
4 clude issues or allegations phrased generally. The Commis-
5 sion shall, within fifteen days from the date of the filing of
6 such protest, enter findings as to whether such protest meets
7 the foregoing requirements and if it so finds the application
8 involved shall be set for hearing upon the issues set forth
9 in said protest, together with such further specific issues, if
10 any, as may be prescribed by the Commission. In any hear-
11 ing subsequently held upon such application all issues speci-
12 fied by the Commission shall be tried in the same manner
13 provided in subsection (b) hereof but with respect of all
14 issues set forth in the protest and not specifically adopted by
15 the Commission, both the burden of proceeding with the
16 introduction of evidence and the burden of proof shall be
17 upon the protestant. The hearing and determination of
18 cases arising under this subsection shall be expedited by the
19 Commission and pending hearing and decision the effective
20 date of the Commission's action to which protest is made
21 shall be postponed to the effective date of the Commission's
22 decision after hearing, unless the authorization involved is
23 necessary to the maintenance or conduct of an existing
24 service, in which event the Commission shall authorize the

1 applicant to utilize the facilities or authorization in question
2 pending the Commission's decision after hearing.

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

16 SEC. 9. Subsection (b) of section 310 of said Act is
17 amended to read as follows:

18 “(b) No instrument of authorization granted by the
19 Commission entitling the holder thereof to construct or to
20 operate radio apparatus and no rights granted thereunder
21 shall be transferred, assigned, or disposed of in any manner,
22 voluntarily or involuntarily, directly or indirectly, or by
23 transfer of control of any corporation holding such instru-
24 ment of authorization, to any person except upon application

1 to the Commission and upon finding by the Commission that
2 the proposed transferee or assignee possesses the qualifica-
3 tions required of an original permittee or licensee. The
4 procedure for handling such application shall be that pro-
5 vided in section 309.”

6 SEC. 10. Section 311 of such Act, as amended, is
7 amended to read as follows:

8 “SEC. 311. The Commission is hereby directed to refuse
9 a station license and/or the permit hereinafter required for
10 the construction of a station to any person (or to any per-
11 son directly or indirectly controlled by such person) whose
12 license has been revoked by a court under section 313.”

13 SEC. 11. Section 312 of such Act, as amended, is
14 amended to read as follows:

15 “REVOCATION OF LICENSES; CEASE-AND-DESIST ORDERS

16 “SEC. 312. (a) Any station license may be revoked
17 (1) because of conditions coming to the attention of the
18 Commission since the granting of such license which would
19 have warranted the Commission in refusing to grant such
20 license, or (2) for violation or failure to observe any of
21 the restrictions or provisions of a treaty ratified by the
22 United States, or (3) for violation of or failure to observe
23 the terms and conditions of any cease-and-desist order issued
24 by the Commission pursuant to subsection (b) hereof. The
25 Commission may institute a revocation proceeding by serv-

1 ing upon the licensee an order to show cause why its license
2 should not be revoked. Said orders shall contain a statement
3 of the particulars and matters with respect to which the
4 Commission is inquiring and shall call upon the licensee to
5 appear before the Commission at a time and place therein
6 stated, but in no event less than thirty days after receipt
7 of such notice, and give evidence upon the matter specified
8 in said order: *Provided*, That where safety of life or prop-
9 erty is involved, the Commission may by order provide for
10 a shorter period of notice. If, after hearing, or a waiver
11 thereof by the licensee, the Commission determines that a
12 revocation order should issue, it shall make a report in
13 writing stating the findings of the Commission and the
14 grounds and reasons therefor and shall cause the same to
15 be served on said licensee, together with such order.

16 “(b) Where any person (1) has failed to operate sub-
17 stantially as set forth in an instrument of authorization, or
18 (2) has failed to observe any of the restrictions and con-
19 ditions of this Act or of a treaty ratified by the United
20 States, or (3) has violated or failed to observe any rule
21 or regulation of the Commission authorized by this Act,
22 the Commission may institute a proceeding by serving upon
23 such person an order to show cause why it should not cease
24 and desist from such action. Said order shall contain a

1 statement of the particulars and matters with respect to
2 which the Commission is inquiring and shall call upon
3 such person to appear before the Commission at a time
4 and place therein stated, but in no event less than thirty days
5 after receipt of such notice, and give evidence upon the
6 matter specified in said order. If, after hearing, or a waiver
7 thereof by such person, the Commission determines that a
8 cease-and-desist order should issue, it shall make a report in
9 writing stating the findings of the Commission and the
10 grounds and reasons therefor and shall cause the same to be
11 served on said person, together with such order.

12 SEC. 12. Part I of title III of such Act is amended by
13 adding the following new section:

14 "MODIFICATION BY COMMISSION OF CONSTRUCTION

15 PERMITS OR LICENSES

16 "SEC. 330. (a) Any station license granted under the
17 provisions of this Act or the construction permit required
18 thereby may be modified by the Commission either for a
19 limited time or for the duration of the term thereof, if in
20 the judgment of the Commission such action will promote
21 the public interest, convenience, and necessity, or the pro-
22 visions of this Act or of any treaty ratified by the United
23 States will be more fully complied with: *Provided*, That no
24 such order of modification shall become final until the holder
25 of such outstanding license or permit shall have been notified

1 in writing of the proposed action and the grounds and
2 reasons therefor, and shall have been given reasonable
3 opportunity, in no event less than thirty days, to show cause
4 by public hearing, if requested, why such order of modifica-
5 tion should not issue: *Provided*, That where safety of life
6 or property is involved, the Commission may by order pro-
7 vide for a shorter period of notice.

8 “(b) In any case where a hearing is conducted pur-
9 suant to the provisions of this section or section 312, both
10 the burden of proceeding with the introduction of evidence
11 and the burden of proof shall be upon the Commission.”

12 SEC. 13. Part I of title III of such Act is amended by
13 adding the following new section:

14 “LIMITATIONS ON QUASI-JUDICIAL POWERS

15 “SEC. 331. No license granted and issued under the
16 authority of this Act for the operation of any radio station
17 shall be modified by the Commission, except in the manner
18 provided in section 330 (a) hereof, and no such license
19 may be revoked, terminated, or otherwise invalidated by the
20 Commission, except in the manner and for the reasons pro-
21 vided in section 312 (a) hereof. When application is
22 made for renewal of an existing license, which cannot
23 be disposed of by the Commission under the provisions of
24 section 309 (a) hereof, the Commission shall employ the
25 procedure specified in section 309 (b) hereof, except that in

1 any hearing subsequently held upon such application the
2 burden of proceeding with the evidence and of substantiat-
3 ing the grounds and reasons specified by the Commission
4 in the formal notice of hearing issued pursuant to section
5 309 (b) hereof shall be upon the appropriate division
6 established by the Commission under the provisions of
7 section 5 (b) hereof or upon any party or parties who
8 may oppose such renewal; but as a condition precedent
9 to the renewal the Commission shall affirmatively find
10 that the public interest, convenience and necessity will be
11 served by such renewal. Pending such hearing and final
12 decision pursuant thereto the Commission shall continue
13 such license in effect."

14 SEC. 14. The heading of section 401 of such Act is
15 amended to read:

16 "JURISDICTION TO ENFORCE ACT AND ORDERS OF
17 COMMISSION; DECLARATORY ORDERS"

18 and such section is amended by adding at the end thereof
19 a new subsection (e) as follows:

20 "(e) The Commission is authorized, in its sound dis-
21 cretion and with like effect as in the case of other orders,
22 to issue a declaratory order to terminate a controversy
23 or remove uncertainty. Notwithstanding the provisions
24 of section 5 (d) of the Act of June 11, 1946 (60 Stat.
25 239) declaratory orders shall be issued only upon the

1 petition of, and after notice to and opportunity for hear-
2 ing by, persons who are bona fide applicants for, or the
3 holders of, construction permits or licenses, or otherwise
4 subject to the jurisdiction of the Commission, and shall
5 not bind or affect the rights of persons who are not parties
6 to such proceedings. Such orders shall be available to
7 declare rights and other legal relations arising under the
8 provisions of any treaty ratified by the United States,
9 under any provision of this Act, or under any order, rule,
10 regulation, term, condition, limitation, or requirement issued,
11 promulgated, or adopted by the Commission, whether or
12 not involving failure to comply therewith.”

13 SEC. 15. Section 402 of such Act is amended to read
14 as follows:

15 “SEC. 402. (a) The provisions of the Act of June
16 25, 1948 (62 Stat. 992), as amended, relating to the
17 enforcing or setting aside of orders of the Interstate Com-
18 merce Commission are hereby made applicable to suits
19 to enforce, enjoin, set aside, annul, or suspend any order
20 of the Commission under this Act (except those appeal-
21 able under the provisions of subsection (b) hereof), and
22 such suits are hereby authorized to be brought as pro-
23 vided in that Act. In addition to the venues specified
24 in that Act, suits to enjoin, set aside, annul, or suspend,
25 but not to enforce, any such order of the Commission may

1 also be brought in the United States District Court for
2 the District of Columbia.

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

6 “(1) By any applicant for any instrument of
7 authorization required by this Act, or the regulations of
8 the Commission made pursuant to this Act, for the con-
9 struction or operation of apparatus for the transmission
10 of energy, or communications, or signals by radio, whose
11 application is denied by the Commission.

12 “(2) By any applicant for the renewal or modi-
13 fication of any such instrument of authorization whose
14 application is denied by the Commission.

15 “(3) By any party to an application for authority
16 to assign any such instrument of authorization or to
17 transfer control of any corporation holding such instru-
18 ment of authorization whose application is denied by
19 the Commission.

20 “(4) By any applicant for the permit required by
21 section 325 of this Act whose application has been denied
22 by the Commission or any permittee under said section
23 whose permit has been revoked by the Commission.

24 “(5) By the holder of any instrument of authori-
25 zation required by this Act, or the regulations of the

1 Commission made pursuant to this Act, for the con-
2 struction or operation of apparatus for the transmission
3 of energy, or communications or signals by radio, which
4 instrument has been modified or revoked by the
5 Commission.

6 “(6) By any other person who is aggrieved or
7 whose interests are adversely affected by any order of
8 the Commission granting or denying any application
9 described in paragraphs (1), (2), (3), and (4)
10 hereof.

11 “(7) By any person upon whom an order to cease
12 and desist has been served under section 312 (b) of
13 this Act.

14 “(8) By any party to a proceeding under section
15 401 who is aggrieved or whose interests are adversely
16 affected by a declaratory order entered by the
17 Commission.

18 “(9) By any radio operator whose license has been
19 suspended by the Commission.

20 “(c) Such appeal shall be taken by filing a notice of
21 appeal with the court within thirty days after the entry
22 of the order complained of. Such notice of appeal shall
23 contain a concise statement of the nature of the proceedings
24 as to which the appeal is taken; a concise statement of the
25 reasons on which the appellant intends to rely, separately

1 stated and numbered; and proof of service of a true copy
2 of said notice and statement upon the Commission. Upon
3 filing of such notice, the court shall have exclusive juris-
4 diction of the proceedings and of the questions determined
5 therein and shall have power, by order, directed to the Com-
6 mission or any other party to the appeal, to grant such
7 temporary relief as it may deem just and proper. Orders
8 granting temporary relief may be either affirmative or nega-
9 tive in their scope and application so as to permit either the
10 maintenance of the status quo in the matter in which the
11 appeal is taken or the restoration of a position or status
12 terminated or adversely affected by the order appealed from
13 and shall, unless otherwise ordered by the court, be effective
14 pending hearing and determination of said appeal and com-
15 pliance by the Commission with the final judgment of the
16 court rendered in said appeal.

17 “(d) Upon the filing of any such notice of appeal the
18 Commission shall, not later than five days after the date
19 of service upon it, notify each person shown by the records
20 of the Commission to be interested in said appeal of the
21 filing and pendency of the same and shall thereafter permit
22 any such person to inspect and make copies of said notice
23 and statement of reasons therefor at the office of the Com-
24 mission in the city of Washington. Within thirty days after
25 the filing of an appeal, the Commission shall file with the

1 court a copy of the order complained of, a full statement in
2 writing of the facts and grounds relied upon by it in support
3 of the order involved upon said appeal, and the originals or
4 certified copies of all papers and evidence presented to and
5 considered by it in entering said order.

6 “(e) Within thirty days after the filing of an appeal
7 any interested person may intervene and participate in the
8 proceedings had upon said appeal by filing with the court
9 a notice of intention to intervene and a verified statement
10 showing the nature of the interest of such party, together
11 with proof of service of true copies of said notice and state-
12 ment, both upon appellant and upon the Commission. Any
13 person who would be aggrieved or whose interest would be
14 adversely affected by a reversal or modification of the order
15 of the Commission complained of shall be considered an
16 interested party.

17 “(f) The record and briefs upon which any such appeal
18 shall be heard and determined by the court shall contain
19 such information and material, and shall be prepared within
20 such time and in such manner as the court may by rule
21 prescribe.

22 “(g) At the earliest convenient time the court shall hear
23 and determine the appeal upon the record before it in the
24 manner prescribed by section 10 (e) of the Act of June 11,
25 1946 (60 Stat. 243).

1 “(h) In the event that the court shall render a decision
2 and enter an order reversing the order of the Commission,
3 it shall remand the case to the Commission to carry out the
4 judgment of the court and it shall be the duty of the Com-
5 mission, in the absence of the proceedings to review such
6 judgment, to forthwith give effect thereto, and unless other-
7 wise ordered by the court, to do so upon the basis of the
8 proceedings already had and the record upon which said
9 appeal was heard and determined.

10 “(i) The court may, in its discretion, enter judgment
11 for costs in favor of or against an appellant, or other inter-
12 ested parties intervening in said appeal, but not against the
13 Commission, depending upon the nature of the issues in-
14 volved upon said appeal and the outcome thereof.

15 “(j) The court’s judgment shall be final, subject, how-
16 ever, to review by the Supreme Court of the United States
17 as hereinafter provided—

18 “(1) an appeal may be taken direct to the Supreme
19 Court of the United States in any case wherein the juris-
20 diction of the court is invoked, or sought to be invoked,
21 for the purpose of reviewing any decision or order
22 entered by the Commission in proceedings instituted by
23 the Commission which have as their object and purpose
24 the revocation of an existing license or any decision or
25 order entered by the Commission in proceedings which

1 involve the failure or refusal of the Commission to renew
2 an existing license. Such appeal shall be taken by the
3 filing of an application therefor or notice thereof within
4 thirty days after the entry of the judgment sought to be
5 reviewed, and in the event such an appeal is taken the
6 record shall be made up and the case docketed in the
7 Supreme Court of the United States within sixty days
8 from the time such an appeal is allowed under such rules
9 as may be prescribed;

10 “(2) in all other cases, review by the Supreme
11 Court of the United States shall be upon writ of certi-
12 orari on petition therefor under section 240 of the
13 Judicial Code, as amended, by the appellant, by the
14 Commission, or by any interested party intervening in
15 the appeal, or by certification by the court pursuant to
16 the provision of section 239 of the Judicial Code, as
17 amended.”

18 SEC. 16. The heading of section 405 of such Act is
19 amended to read:

20 “REHEARINGS BEFORE COMMISSION”

21 and such section is amended to read as follows:

22 “SEC. 405. (a) After a decision, order, or requirement
23 has been made by the Commission in any proceeding, any
24 party thereto, or any other person aggrieved or whose inter-
25 ests are adversely affected thereby, may petition for rehear-

1 ing. Petitions for rehearing must be filed within thirty days
2 from the entry of any decision, order, or requirement com-
3 plained of and except for those cases in which the decision,
4 order, or requirement challenged is necessary for the mainte-
5 nance or conduct of an existing service, the filing of such a
6 petition shall automatically stay the effective date thereof until
7 after decision on said petition. The filing of a petition for re-
8 hearing shall not be a condition precedent to judicial review
9 of any such decision, order, or requirement, except where
10 the party seeking such review was not a party to the proceed-
11 ings resulting in such decision, order, or requirement, or
12 where the party seeking such review relies on questions of fact
13 or law upon which the Commission has been afforded no
14 opportunity to pass. Rehearings shall be governed by such
15 general rules as the Commission may establish: *Provided,*
16 That, except for newly discovered evidence or evidence other-
17 wise available only since the original taking of evidence, no
18 evidence shall be taken on any rehearing. The time within
19 which an appeal must be taken under section 402 (b) hereof
20 shall be computed from the date upon which orders are
21 entered disposing of all petitions for rehearing filed in any
22 case, but any decision, order, or requirement made after such
23 rehearing reversing, changing, or modifying the original
24 determination shall be subject to the same provisions with
25 respect to rehearing as an original order.”

1 SEC. 17. Section 409 (a) of such Act is amended to
2 read as follows:

3 “SEC. 409. (a) Notwithstanding the provisions of sec-
4 tion 7 (a) of the Act of June 11, 1946 (60 Stat. 241),
5 all cases in which a hearing is required by the provisions
6 of this Act or by other applicable provisions of law shall
7 be conducted by the Commission or by one or more examiners
8 provided for in section 11 of the Act of June 11, 1946
9 (60 Stat. 244), designated by the Commission. The officer
10 or officers presiding at any such hearing shall have the same
11 authority and duties exercised in the same manner and sub-
12 ject to the same conditions specified in section 7 of that Act.

13 “(b) Notwithstanding the provisions of section 8 of the
14 Act of June 11, 1946 (60 Stat. 242), the officer or officers
15 conducting a hearing shall prepare and file an intermediate
16 report. In all such cases the Commission shall permit the
17 filing of exceptions to such intermediate report by any party
18 to the proceeding and shall, upon request, hear oral argument
19 on such exceptions before the entry of any final decision,
20 order, or requirement. All decisions, including the inter-
21 mediate report, shall become a part of the record and shall
22 include a statement of (1) findings and conclusions, as well
23 as the basis therefor, upon all material issues of fact, law,
24 or discretion, presented on the record; and (2) the appro-
25 priate decision, order, or requirement.

1 “(c) Notwithstanding the provisions of section 5 (c) of
2 the Act of June 11, 1946 (60 Stat. 239), no officer conduct-
3 ing a hearing pursuant to (a) and (b) hereof shall, except
4 to the extent required for the disposition of ex parte matters
5 as authorized by law, consult any person or party on any
6 fact or question of law in issue, unless upon notice and
7 opportunity for all parties to participate; nor shall such
8 officer be responsible to or subject to the supervision or direc-
9 tion of any other person engaged in the performance of
10 investigative, prosecuting, or other functions for the Com-
11 mission or any other agency of the Government. No person
12 or persons engaged in the performance of investigative or
13 prosecuting functions for the Commission or for any other
14 agency of the Government shall participate or advise in the
15 proceedings described in (a) and (b) hereof, except as a
16 witness or counsel in public proceedings. The Commission
17 shall not employ attorneys or other persons for the purpose
18 of reviewing transcripts or preparing intermediate reports
19 of final decisions, except that this shall not apply to the
20 review staff provided by subsection 5 (b) and to legal
21 assistants assigned separately to a Commission member who
22 may, for such Commission member, review such transcripts
23 and prepare such drafts. No intermediate report shall be
24 reviewed either before or after its publication by any person
25 other than a member of the Commission or his legal assist-

1 ant, as above provided, and no examiner, who conducts a
2 hearing, shall advise or consult with the Commission with
3 respect to his intermediate report or with respect to excep-
4 tions taken to his findings, rulings, or recommendations.”

5 (b) Subsections (b), (c), (d), (e), (f), (g), (h),
6 (i), and (j) of section 409 are amended to read subsec-
7 tions (d), (e), (f), (g), (h), (i), (j), (k), and (l),
8 respectively.

9 SEC. 18. Section 414 of such Act is amended by adding
10 at the end thereof the following: “Except as specifically
11 provided in this Act the provisions of the Act of June 11,
12 1946 (60 Stat. 237) shall apply in all proceedings under
13 this Act.”

14 SEC. 19. Chapter 63 of the Criminal Code, title 18, is
15 amended by inserting a new section as follows:

16 “FRAUD BY RADIO

17 “SEC. 1343. Whoever, having devised or intending to
18 devise any scheme or artifice to defraud, or for obtaining
19 money or property by means of false or fraudulent pre-
20 tenses, representations, or promises, shall transmit or cause
21 to be transmitted by means of radio communication or inter-
22 state wire communication, any writings, signs, signals, pic-
23 tures, or sounds for the purpose of executing such scheme
24 or artifice, or whoever operating any radio station for which
25 a license is required by any law of the United States, know-

1 ingly permits the transmission of any such communication,
2 shall be fined not more than \$10,000 or imprisoned not more
3 than five years, or both.”

4 SEC. 20. If any provision of this Act or the application
5 thereof to any person or circumstance is held invalid, the
6 remainder of the Act and the application of such pro-
7 vision to other persons or circumstances shall not be affected
8 thereby.

Calendar No. 42

82^d CONGRESS
1st SESSION

S. 658

[Report No. 44]

A BILL

To further amend the Communications Act
of 1934.

By Mr. McFARLAND

JANUARY 23 (legislative day, JANUARY 8), 1951
Read twice and referred to the Committee on
Interstate and Foreign Commerce

JANUARY 25 (legislative day, JANUARY 8), 1951
Reported without amendment

82D CONGRESS
1ST SESSION

S. 658

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 8), 1951

Mr. MCFARLAND introduced the following bill; which was read twice and referred to the Committee on Interstate and Foreign Commerce

A BILL

To further amend the Communications Act of 1934.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as "Communications Act
4 Amendments, 1951".

5 SEC. 2. Subsection (o) of section 3 of the Communica-
6 tions Act of 1934, as amended, is amended to read as
7 follows:

8 “(o) ‘Broadcasting’ means the dissemination of radio
9 communications intended to be received directly by the
10 general public.”

1 SEC. 3. Section 3 of such Act is further amended by
2 adding after subsection (aa) the following:

3 “(bb) The term ‘license’, ‘station license’, or ‘radio
4 station license’ means that instrument of authorization re-
5 quired by this Act or the rules and regulations of the Com-
6 mission made pursuant to this Act, for the use or operation
7 of apparatus for transmission of energy, or communications,
8 or signals by radio, by whatever name the instrument
9 may be designated by the Commission.

10 “(cc) The term ‘broadcast station’, ‘broadcasting sta-
11 tion’, or ‘radio broadcast station’ means a radio station
12 equipped to engage in broadcasting as herein defined.

13 “(dd) The term ‘construction permit’ or ‘permit for
14 construction’ means that instrument of authorization re-
15 quired by this Act or the rules and regulations of the
16 Commission made pursuant to this Act for the installa-
17 tion of apparatus for the transmission of energy, or com-
18 munications, or signals by radio, by whatever name the
19 instrument may be designated by the Commission.

20 SEC. 4. (a) Subsection (b) of section 4 of such Act,
21 as amended, is amended by striking out the last two sen-
22 tences thereof and inserting in lieu thereof the following:
23 “Such Commissioners shall not engage in any other busi-
24 ness, vocation, profession, or employment but this shall not
25 apply to the preparation of technical or professional pub-

1 lications for which reasonable honorarium or compensation
2 may be paid. Any such Commissioner serving as such
3 after one year from the date of enactment of the Commu-
4 nications Act Amendments, 1951, shall not for a period
5 of one year following the termination of his services as
6 a Commissioner represent before the Commission in a pro-
7 fessional capacity any person, including all persons under
8 common control, subject to the provisions of this Act,
9 except that this restriction shall not apply to any Commis-
10 sioner who has served the full term for which he was
11 appointed. Not more than four members of the Commis-
12 sion shall be members of the same political party.”

13 (b) Subsection (f) (1) of section 4 of such Act is
14 amended to read as follows:

15 “(f) (1) Without regard to the civil-service laws or
16 the Classification Act of 1949, as amended, (1) the Com-
17 mission may appoint and prescribe the duties and fix the
18 salaries of a secretary, a chief engineer and not more than
19 two assistants, a chief accountant and not more than two
20 assistants, a general counsel and not more than two assistants,
21 and counsel temporarily employed and designated by the
22 Commission for the performance of specific special services;
23 and (2) each Commissioner may appoint and prescribe the
24 duties of a legal assistant at an annual salary not to exceed
25 \$10,000 and a secretary at an annual salary not to exceed

1 \$5,600. The chief engineer, the chief accountant, and the
2 general counsel shall each receive an annual salary of not
3 to exceed \$11,200; the secretary shall receive an annual
4 salary of not to exceed \$10,000, and no assistant shall
5 receive an annual salary in excess of \$10,000: *Provided,*
6 That on and after one year from the date of enactment of
7 Communications Act Amendments, 1951, the secretary of
8 the Commission, the chief engineer and his assistants, the
9 chief accountant and his assistants, the general counsel and
10 his assistants, and the legal assistants to each Commissioner
11 shall not, for the period of one year next following the
12 cessation of their employment with the Commission, represent
13 before the Commission in a professional capacity any person,
14 including all persons under common control, subject to the
15 provisions of this Act. The Commission shall have authority,
16 subject to the provisions of the civil-service laws and the
17 Classification Act of 1949, as amended, to appoint such other
18 officers, engineers, accountants, attorneys, inspectors, ex-
19 aminers, and other employees as are necessary in the execu-
20 tion of its functions.”

21 (c) The first sentence of subsection (g) of section 4
22 of such Act, as amended, is amended to read as follows:

23 “(g) The Commission may make such expenditures
24 (including expenditures for rent and personal services at
25 the seat of government and elsewhere, for office supplies,

1 law books, periodicals, and books of reference, for printing
2 and binding, for land for use as sites for radio monitoring
3 stations and related facilities, including living quarters where
4 necessary in remote areas, for the construction of such sta-
5 tions and facilities, and for the improvement, furnishing,
6 equipping, and repairing of such stations and facilities and
7 of laboratories and other related facilities (including con-
8 struction of minor subsidiary buildings and structures not
9 exceeding \$25,000 in any one instance) used in connection
10 with technical research activities), as may be necessary for
11 the execution of the functions vested in the Commission and
12 as from time to time may be appropriated for by Congress.”

13 (d) Subsection (k) of section 4 of such Act is amended
14 to read as follows:

15 “(k) The Commission shall make an annual report to
16 Congress, copies of which shall be distributed as are other
17 reports transmitted to Congress. Such reports shall
18 contain—

19 “(1) such information and data collected by the
20 Commission as may be considered of value in the deter-
21 mination of questions connected with the regulation of
22 interstate and foreign wire and radio communication
23 and radio transmission of energy.

24 “(2) such information and data concerning the
25 functioning of the Commission as will be of value to

1 Congress in appraising the amount and character of the
2 work and accomplishments of the Commission and the
3 adequacy of its staff and equipment: *Provided*, That the
4 first and second annual reports following the date of en-
5 actment of Communications Act Amendment, 1951,
6 shall set forth in detail the number and caption of pend-
7 ing applications requesting approval of transfer of control
8 or assignment of a station license, or construction per-
9 mits for new stations, or for increases in power, or for
10 changes of frequency of existing stations at the begin-
11 ning and end of the period covered by such reports;

12 “(3) information with respect to all persons taken
13 into the employment of the Commission during the year
14 covered by the report, including names, pertinent bio-
15 graphical data and experience, Commission positions
16 held and compensation paid, together with the names of
17 those persons who have left the employ of the Commis-
18 sion during such year: *Provided*, That the first annual
19 report following the date of enactment of Communica-
20 tions Act Amendments, 1951, shall contain such infor-
21 mation with respect to all persons in the employ of the
22 Commission at the close of the year for which the report
23 is made;

24 “(4) an itemized statement of all funds expended
25 during the preceding year by the Commission, of the

1 sources of such funds, and of the authority in this Act
2 or elsewhere under which such expenditures were made;
3 and

4 “(5) specific recommendations to Congress as to
5 additional legislation which the Commission deems
6 necessary or desirable, including all legislative proposals
7 submitted for approval to the Director of the Budget.”

8 SEC. 5. Section 5 of such Act, as amended, is amended
9 to read as follows:

10 “ORGANIZATION OF THE COMMISSION

11 “SEC. 5. (a) The member of the Commission designated
12 by the President as Chairman shall be the chief executive
13 officer of the Commission. It shall be his duty to preside
14 at all meetings and sessions of the Commission, to represent
15 the Commission in all matters relating to legislation and
16 legislative reports, to represent the Commission in all matters
17 requiring conferences or communications with other govern-
18 mental officers, departments or agencies, and generally to
19 coordinate and organize the work of the Commission in such
20 manner as to promote prompt and efficient disposition of
21 all matters within the jurisdiction of the Commission. In
22 the case of a vacancy in the office of the Chairman of the
23 Commission, or the absence or inability of the Chairman
24 to serve, the Commission may temporarily designate and
25 appoint one of its members to act as Chairman until the

1 cause or circumstance requiring such service shall have been
2 eliminated or corrected.

3 “(b) Within sixty days after the enactment of the
4 Communications Act Amendments, 1951, and from time
5 to time thereafter as the Commission may find necessary,
6 the Commission shall organize its legal, engineering, and
7 accounting staff into (1) integrated divisions, to func-
8 tion on the basis of the Commission’s principal workload
9 operations; and (2) into such other divisional organizations
10 as the Commission may deem necessary to handle that part
11 of its workload which cuts across more than one integrated
12 division or which does not lend itself to the integrated
13 division set-up. Each such integrated division and divisional
14 organization shall include such legal, engineering, accounting,
15 administrative, and clerical personnel as the Commission may
16 determine to be necessary to perform its functions. The
17 general counsel, the chief engineer, and the chief accountant
18 and their respective assistants shall carry out their respective
19 duties under such rules and regulations as the Commission
20 may prescribe. The Commission shall establish a staff,
21 directly responsible to it, which shall include such legal,
22 engineering, and accounting personnel as the Commission
23 deems necessary, whose duty shall be to prepare such drafts
24 of Commission decisions, orders, and other memoranda as

1 the Commission, in the exercise of its quasi-judicial duties,
2 may from time to time direct: *Provided*, That no member
3 of such staff shall participate in a hearing or represent the
4 Commission, directly or indirectly, in any prosecutory or
5 investigatory function or proceeding.

6 “(c) Except as provided in section 409 hereof, the Com-
7 mission, when necessary to the proper functioning of the
8 Commission and the prompt and orderly conduct of its busi-
9 ness, is hereby authorized and directed to assign or refer any
10 portion of its work, business, or functions to an individual
11 Commissioner or Commissioners or to a board composed of
12 one or more employees of the Commission, to be designated
13 by such order for action thereon, and by its further order at
14 any time to amend, modify, or rescind any such order or
15 reference: *Provided*, That this authority shall not extend to
16 duties otherwise specifically imposed by this or any other
17 Act of Congress. Any order, decision, or report made or
18 other action taken pursuant to any such order or reference
19 shall have the same force and effect and may be made,
20 evidenced, and enforced as is made by the Commission:
21 *Provided, however*, That any person aggrieved by any such
22 order, decision, or report may file a petition for review by the
23 Commission, and every such petition shall be passed upon

1 by the Commission. The secretary and seal of the Com-
2 mission shall be the secretary and seal of such individual
3 Commissioner or board.

4 “(d) Meetings of the Commission shall be held at regu-
5 lar intervals, not less frequently than once each calendar
6 month, at which times the functioning of the Commission
7 and the handling of its work load shall be reviewed and such
8 orders shall be entered and other action taken as may be
9 necessary or appropriate to expedite the prompt and orderly
10 conduct of the business of the Commission with the objective
11 of rendering a final decision (1) within three months from
12 the date of filing in all original application, renewal, and
13 transfer cases and (2) within six months from the final date
14 of the hearing in all hearing cases; and the Commission
15 shall promptly report to the Congress each such case which
16 has been pending before it more than such three- or six-
17 month period, respectively, stating the reasons therefor.”

18 SEC. 6. Subsection (d) of section 307 of such Act is
19 amended to read as follows:

20 “(d) No license granted for the operation of a broad-
21 casting station shall be for a longer term than three years
22 and no license so granted for any other class of station shall
23 be for a longer term than five years, and any license granted
24 may be revoked as hereinafter provided. Upon the expira-
25 tion of any license, upon application therefor, a renewal of

1 such license may be granted from time to time for a term
2 of not to exceed three years in the case of broadcasting
3 licenses and not to exceed five years in the case of other
4 licenses if the Commission finds that public interest, con-
5 venience and necessity would be served thereby.”

6 SEC. 7. So much of subsection (a) of section 308 of
7 such Act as precedes the second proviso is amended to read
8 as follows: “The Commission may grant instruments of
9 authorization entitling the holders thereof to construct or
10 operate apparatus for the transmission of energy, or com-
11 munications, or signals by radio or modifications or renewals
12 thereof, only upon written application therefor received by
13 it: *Provided*, That (1) in cases of emergency found by
14 the Commission involving danger to life or property or
15 due to damage to equipment, or (2) during the continu-
16 ance of any war in which the United States is engaged
17 and when such action is necessary for the national defense
18 or security or otherwise in furtherance of the war effort,
19 the Commission may grant and issue authority to construct
20 or operate apparatus for the transmission of energy or com-
21 munications or signals by radio during the emergency so
22 found by the Commission or during the continuance of any
23 such war, in such manner and upon such terms and condi-
24 tions as the Commission shall by regulation prescribe, and
25 without the filing of a formal application, but no such author-

1 ity shall be granted for a period beyond the period of
2 the emergency requiring it nor remain effective beyond
3 such period:".

4 SEC. 8. Section 309 of such Act, as amended, is amended
5 to read as follows:

6 "HEARINGS ON APPLICATIONS FOR LICENSES; FORM OF
7 LICENSES; CONDITIONS ATTACHED TO LICENSES

8 "SEC. 309. (a) If upon examination of any application
9 provided for in section 308 the Commission shall determine
10 that public interest, convenience, and necessity would be
11 served by the granting thereof, it shall authorize the issuance
12 of the instrument of authorization for which application is
13 made in accordance with said finding.

14 "(b) If upon examination of any such application the
15 Commission is unable to make the finding specified in sub-
16 section (a) of this section, it shall forthwith notify the ap-
17 plicant and other known parties in interest of the grounds
18 and reasons for its inability to make such finding. Such
19 notice, which shall precede formal designation for a hearing,
20 shall advise the applicant and all other known parties in
21 interest of all objections made to the application as well as
22 the source and nature of such objections. Following such
23 notice, the applicant shall be given an opportunity to reply.
24 If the Commission, after considering such reply, shall be
25 unable to make the finding specified in subsection (a) of

1 this section, it shall formally designate the application
2 for hearing on the grounds or reasons then obtaining and
3 shall notify the applicant and all other known parties in
4 interest of such action and the grounds and reasons therefor,
5 specifying with particularity the matters and things in issue
6 but not including issues or requirements phrased generally.
7 The parties in interest, if any, who are not notified by the
8 Commission of its action with respect to a particular applica-
9 tion may acquire the status of a party to the proceeding
10 thereon by filing a petition for intervention showing the basis
11 for their interest at any time not less than ten days prior to
12 the date of hearing. Any hearing subsequently held upon
13 such application shall be a full hearing in which the appli-
14 cant and all other parties in interest shall be permitted to
15 participate but in which both the burden of proceeding with
16 the introduction of evidence upon any issue specified by the
17 Commission, as well as the burden of proof upon all such
18 issues, shall be upon the applicant.

19 “(c) When any instrument of authorization is granted
20 by the Commission without a hearing as provided in subsec-
21 tion (a) hereof, such grant shall remain subject to protest as
22 hereinafter provided for a period of thirty days. During
23 such thirty-day period any party in interest may file a pro-
24 test under oath directed to such grant and request a hearing
25 on said application so granted. Any protest so filed shall

1 contain such allegations of fact as will show the protestant
2 to be a party in interest and shall specify with particularity
3 the facts, matters, and things relied upon, but shall not in-
4 clude issues or allegations phrased generally. The Commis-
5 sion shall, within fifteen days from the date of the filing of
6 such protest, enter findings as to whether such protest meets
7 the foregoing requirements and if it so finds the application
8 involved shall be set for hearing upon the issues set forth
9 in said protest, together with such further specific issues, if
10 any, as may be prescribed by the Commission. In any hear-
11 ing subsequently held upon such application all issues speci-
12 fied by the Commission shall be tried in the same manner
13 provided in subsection (b) hereof but with respect of all
14 issues set forth in the protest and not specifically adopted by
15 the Commission, both the burden of proceeding with the
16 introduction of evidence and the burden of proof shall be
17 upon the protestant. The hearing and determination of
18 cases arising under this subsection shall be expedited by the
19 Commission and pending hearing and decision the effective
20 date of the Commission's action to which protest is made
21 shall be postponed to the effective date of the Commission's
22 decision after hearing, unless the authorization involved is
23 necessary to the maintenance or conduct of an existing
24 service, in which event the Commission shall authorize the

1 applicant to utilize the facilities or authorization in question
2 pending the Commission's decision after hearing.

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

16 SEC. 9. Subsection (b) of section 310 of said Act is
17 amended to read as follows:

18 “(b) No instrument of authorization granted by the
19 Commission entitling the holder thereof to construct or to
20 operate radio apparatus and no rights granted thereunder
21 shall be transferred, assigned, or disposed of in any manner,
22 voluntarily or involuntarily, directly or indirectly, or by
23 transfer of control of any corporation holding such instru-
24 ment of authorization, to any person except upon application

1 to the Commission and upon finding by the Commission that
2 the proposed transferee or assignee possesses the qualifica-
3 tions required of an original permittee or licensee. The
4 procedure for handling such application shall be that pro-
5 vided in section 309.”

6 SEC. 10. Section 311 of such Act, as amended, is
7 amended to read as follows:

8 “SEC. 311. The Commission is hereby directed to refuse
9 a station license and/or the permit hereinafter required for
10 the construction of a station to any person (or to any per-
11 son directly or indirectly controlled by such person) whose
12 license has been revoked by a court under section 313.”

13 SEC. 11. Section 312 of such Act, as amended, is
14 amended to read as follows:

15 “REVOCATION OF LICENSES; CEASE-AND-DESIST ORDERS

16 “SEC. 312. (a) Any station license may be revoked
17 (1) because of conditions coming to the attention of the
18 Commission since the granting of such license which would
19 have warranted the Commission in refusing to grant such
20 license, or (2) for violation or failure to observe any of
21 the restrictions or provisions of a treaty ratified by the
22 United States, or (3) for violation of or failure to observe
23 the terms and conditions of any cease-and-desist order issued
24 by the Commission pursuant to subsection (b) hereof. The
25 Commission may institute a revocation proceeding by serv-

1 ing upon the licensee an order to show cause why its license
2 should not be revoked. Said orders shall contain a statement
3 of the particulars and matters with respect to which the
4 Commission is inquiring and shall call upon the licensee to
5 appear before the Commission at a time and place therein
6 stated, but in no event less than thirty days after receipt
7 of such notice, and give evidence upon the matter specified
8 in said order: *Provided*, That where safety of life or prop-
9 erty is involved, the Commission may by order provide for
10 a shorter period of notice. If, after hearing, or a waiver
11 thereof by the licensee, the Commission determines that a
12 revocation order should issue, it shall make a report in
13 writing stating the findings of the Commission and the
14 grounds and reasons therefor and shall cause the same to
15 be served on said licensee, together with such order.

16 “(b) Where any person (1) has failed to operate sub-
17 stantially as set forth in an instrument of authorization, or
18 (2) has failed to observe any of the restrictions and con-
19 ditions of this Act or of a treaty ratified by the United
20 States, or (3) has violated or failed to observe any rule
21 or regulation of the Commission authorized by this Act,
22 the Commission may institute a proceeding by serving upon
23 such person an order to show cause why it should not cease
24 and desist from such action. Said order shall contain a

1 statement of the particulars and matters with respect to
2 which the Commission is inquiring and shall call upon
3 such person to appear before the Commission at a time
4 and place therein stated, but in no event less than thirty days
5 after receipt of such notice, and give evidence upon the
6 matter specified in said order. If, after hearing, or a waiver
7 thereof by such person, the Commission determines that a
8 cease-and-desist order should issue, it shall make a report in
9 writing stating the findings of the Commission and the
10 grounds and reasons therefor and shall cause the same to be
11 served on said person, together with such order.

12 SEC. 12. Part I of title III of such Act is amended by
13 adding the following new section:

14 "MODIFICATION BY COMMISSION OF CONSTRUCTION

15 PERMITS OR LICENSES

16 "SEC. 330. (a) Any station license granted under the
17 provisions of this Act or the construction permit required
18 thereby may be modified by the Commission either for a
19 limited time or for the duration of the term thereof, if in
20 the judgment of the Commission such action will promote
21 the public interest, convenience, and necessity, or the pro-
22 visions of this Act or of any treaty ratified by the United
23 States will be more fully complied with: *Provided*, That no
24 such order of modification shall become final until the holder
25 of such outstanding license or permit shall have been notified

1 in writing of the proposed action and the grounds and
2 reasons therefor, and shall have been given reasonable
3 opportunity, in no event less than thirty days, to show cause
4 by public hearing, if requested, why such order of modifica-
5 tion should not issue: *Provided*, That where safety of life
6 or property is involved, the Commission may by order pro-
7 vide for a shorter period of notice.

8 “(b) In any case where a hearing is conducted pur-
9 suant to the provisions of this section or section 312, both
10 the burden of proceeding with the introduction of evidence
11 and the burden of proof shall be upon the Commission.”

12 SEC. 13. Part I of title III of such Act is amended by
13 adding the following new section:

14 “LIMITATIONS ON QUASI-JUDICIAL POWERS

15 “SEC. 331. No license granted and issued under the
16 authority of this Act for the operation of any radio station
17 shall be modified by the Commission, except in the manner
18 provided in section 330 (a) hereof, and no such license
19 may be revoked, terminated, or otherwise invalidated by the
20 Commission, except in the manner and for the reasons pro-
21 vided in section 312 (a) hereof. When application is
22 made for renewal of an existing license, which cannot
23 be disposed of by the Commission under the provisions of
24 section 309 (a) hereof, the Commission shall employ the
25 procedure specified in section 309 (b) hereof, except that in

1 any hearing subsequently held upon such application the
2 burden of proceeding with the evidence and of substantiat-
3 ing the grounds and reasons specified by the Commission
4 in the formal notice of hearing issued pursuant to section
5 309 (b) hereof shall be upon the appropriate division
6 established by the Commission under the provisions of
7 section 5 (b) hereof or upon any party or parties who
8 may oppose such renewal; but as a condition precedent
9 to the renewal the Commission shall affirmatively find
10 that the public interest, convenience and necessity will be
11 served by such renewal. Pending such hearing and final
12 decision pursuant thereto the Commission shall continue
13 such license in effect.”

14 SEC. 14. The heading of section 401 of such Act is
15 amended to read:

16 “JURISDICTION TO ENFORCE ACT AND ORDERS OF
17 COMMISSION; DECLARATORY ORDERS”

18 and such section is amended by adding at the end thereof
19 a new subsection (e) as follows:

20 “(e) The Commission is authorized, in its sound dis-
21 cretion and with like effect as in the case of other orders,
22 to issue a declaratory order to terminate a controversy
23 or remove uncertainty. Notwithstanding the provisions
24 of section 5 (d) of the Act of June 11, 1946 (60 Stat.
25 239) declaratory orders shall be issued only upon the

1 petition of, and after notice to and opportunity for hear-
2 ing by, persons who are bona fide applicants for, or the
3 holders of, construction permits or licenses, or otherwise
4 subject to the jurisdiction of the Commission, and shall
5 not bind or affect the rights of persons who are not parties
6 to such proceedings. Such orders shall be available to
7 declare rights and other legal relations arising under the
8 provisions of any treaty ratified by the United States,
9 under any provision of this Act, or under any order, rule,
10 regulation, term, condition, limitation, or requirement issued,
11 promulgated, or adopted by the Commission, whether or
12 not involving failure to comply therewith."

13 SEC. 15. Section 402 of such Act is amended to read
14 as follows:

15 "SEC. 402. (a) The provisions of the Act of June
16 25, 1948 (62 Stat. 992), as amended, relating to the
17 enforcing or setting aside of orders of the Interstate Com-
18 merce Commission are hereby made applicable to suits
19 to enforce, enjoin, set aside, annul, or suspend any order
20 of the Commission under this Act (except those appeal-
21 able under the provisions of subsection (b) hereof), and
22 such suits are hereby authorized to be brought as pro-
23 vided in that Act. In addition to the venues specified
24 in that Act, suits to enjoin, set aside, annul, or suspend,
25 but not to enforce, any such order of the Commission may

1 also be brought in the United States District Court for
2 the District of Columbia.

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

6 “(1) By any applicant for any instrument of
7 authorization required by this Act, or the regulations of
8 the Commission made pursuant to this Act, for the con-
9 struction or operation of apparatus for the transmission
10 of energy, or communications, or signals by radio, whose
11 application is denied by the Commission.

12 “(2) By any applicant for the renewal or modi-
13 fication of any such instrument of authorization whose
14 application is denied by the Commission.

15 “(3) By any party to an application for authority
16 to assign any such instrument of authorization or to
17 transfer control of any corporation holding such instru-
18 ment of authorization whose application is denied by
19 the Commission.

20 “(4) By any applicant for the permit required by
21 section 325 of this Act whose application has been denied
22 by the Commission or any permittee under said section
23 whose permit has been revoked by the Commission.

24 “(5) By the holder of any instrument of authori-
25 zation required by this Act, or the regulations of the

1 Commission made pursuant to this Act, for the con-
2 struction or operation of apparatus for the transmission
3 of energy, or communications or signals by radio, which
4 instrument has been modified or revoked by the
5 Commission.

6 “(6) By any other person who is aggrieved or
7 whose interests are adversely affected by any order of
8 the Commission granting or denying any application
9 described in paragraphs (1), (2), (3), and (4)
10 hereof.

11 “(7) By any person upon whom an order to cease
12 and desist has been served under section 312 (b) of
13 this Act.

14 “(8) By any party to a proceeding under section
15 401 who is aggrieved or whose interests are adversely
16 affected by a declaratory order entered by the
17 Commission.

18 “(9) By any radio operator whose license has been
19 suspended by the Commission.

20 “(c) Such appeal shall be taken by filing a notice of
21 appeal with the court within thirty days after the entry
22 of the order complained of. Such notice of appeal shall
23 contain a concise statement of the nature of the proceedings
24 as to which the appeal is taken; a concise statement of the
25 reasons on which the appellant intends to rely, separately

1 stated and numbered; and proof of service of a true copy
2 of said notice and statement upon the Commission. Upon
3 filing of such notice, the court shall have exclusive juris-
4 diction of the proceedings and of the questions determined
5 therein and shall have power, by order, directed to the Com-
6 mission or any other party to the appeal, to grant such
7 temporary relief as it may deem just and proper. Orders
8 granting temporary relief may be either affirmative or nega-
9 tive in their scope and application so as to permit either the
10 maintenance of the status quo in the matter in which the
11 appeal is taken or the restoration of a position or status
12 terminated or adversely affected by the order appealed from
13 and shall, unless otherwise ordered by the court, be effective
14 pending hearing and determination of said appeal and com-
15 pliance by the Commission with the final judgment of the
16 court rendered in said appeal.

17 “(d) Upon the filing of any such notice of appeal the
18 Commission shall, not later than five days after the date
19 of service upon it, notify each person shown by the records
20 of the Commission to be interested in said appeal of the
21 filing and pendency of the same and shall thereafter permit
22 any such person to inspect and make copies of said notice
23 and statement of reasons therefor at the office of the Com-
24 mission in the city of Washington. Within thirty days after
25 the filing of an appeal, the Commission shall file with the

1 court a copy of the order complained of, a full statement in
2 writing of the facts and grounds relied upon by it in support
3 of the order involved upon said appeal, and the originals or
4 certified copies of all papers and evidence presented to and
5 considered by it in entering said order.

6 “(e) Within thirty days after the filing of an appeal
7 any interested person may intervene and participate in the
8 proceedings had upon said appeal by filing with the court
9 a notice of intention to intervene and a verified statement
10 showing the nature of the interest of such party, together
11 with proof of service of true copies of said notice and state-
12 ment, both upon appellant and upon the Commission. Any
13 person who would be aggrieved or whose interest would be
14 adversely affected by a reversal or modification of the order
15 of the Commission complained of shall be considered an
16 interested party.

17 “(f) The record and briefs upon which any such appeal
18 shall be heard and determined by the court shall contain
19 such information and material, and shall be prepared within
20 such time and in such manner as the court may by rule
21 prescribe.

22 “(g) At the earliest convenient time the court shall hear
23 and determine the appeal upon the record before it in the
24 manner prescribed by section 10 (e) of the Act of June 11,
25 1946 (60 Stat. 243).

1 “(h) In the event that the court shall render a decision
2 and enter an order reversing the order of the Commission,
3 it shall remand the case to the Commission to carry out the
4 judgment of the court and it shall be the duty of the Com-
5 mission, in the absence of the proceedings to review such
6 judgment, to forthwith give effect thereto, and unless other-
7 wise ordered by the court, to do so upon the basis of the
8 proceedings already had and the record upon which said
9 appeal was heard and determined.

10 “(i) The court may, in its discretion, enter judgment
11 for costs in favor of or against an appellant, or other inter-
12 ested parties intervening in said appeal, but not against the
13 Commission, depending upon the nature of the issues in-
14 volved upon said appeal and the outcome thereof.

15 “(j) The court’s judgment shall be final, subject, how-
16 ever, to review by the Supreme Court of the United States
17 as hereinafter provided—

18 “(1) an appeal may be taken direct to the Supreme
19 Court of the United States in any case wherein the juris-
20 diction of the court is invoked, or sought to be invoked.
21 for the purpose of reviewing any decision or order
22 entered by the Commission in proceedings instituted by
23 the Commission which have as their object and purpose
24 the revocation of an existing license or any decision or
25 order entered by the Commission in proceedings which

1 involve the failure or refusal of the Commission to renew
2 an existing license. Such appeal shall be taken by the
3 filing of an application therefor or notice thereof within
4 thirty days after the entry of the judgment sought to be
5 reviewed, and in the event such an appeal is taken the
6 record shall be made up and the case docketed in the
7 Supreme Court of the United States within sixty days
8 from the time such an appeal is allowed under such rules
9 as may be prescribed;

10 “(2) in all other cases, review by the Supreme
11 Court of the United States shall be upon writ of certi-
12 orari on petition therefor under section 240 of the
13 Judicial Code, as amended, by the appellant, by the
14 Commission, or by any interested party intervening in
15 the appeal, or by certification by the court pursuant to
16 the provision of section 239 of the Judicial Code, as
17 amended.”

18 SEC. 16. The heading of section 405 of such Act is
19 amended to read:

20 “REHEARINGS BEFORE COMMISSION”

21 and such section is amended to read as follows:

22 “SEC. 405. (a) After a decision, order, or requirement
23 has been made by the Commission in any proceeding, any
24 party thereto, or any other person aggrieved or whose inter-
25 ests are adversely affected thereby, may petition for rehear-

1 ing. Petitions for rehearing must be filed within thirty days
2 from the entry of any decision, order, or requirement com-
3 plained of and except for those cases in which the decision,
4 order, or requirement challenged is necessary for the mainte-
5 nance or conduct of an existing service, the filing of such a
6 petition shall automatically stay the effective date thereof until
7 after decision on said petition. The filing of a petition for re-
8 hearing shall not be a condition precedent to judicial review
9 of any such decision, order, or requirement, except where
10 the party seeking such review was not a party to the proceed-
11 ings resulting in such decision, order, or requirement, or
12 where the party seeking such review relies on questions of fact
13 or law upon which the Commission has been afforded no
14 opportunity to pass. Rehearings shall be governed by such
15 general rules as the Commission may establish: *Provided,*
16 That, except for newly discovered evidence or evidence other-
17 wise available only since the original taking of evidence, no
18 evidence shall be taken on any rehearing. The time within
19 which an appeal must be taken under section 402 (b) hereof
20 shall be computed from the date upon which orders are
21 entered disposing of all petitions for rehearing filed in any
22 case, but any decision, order, or requirement made after such
23 rehearing reversing, changing, or modifying the original
24 determination shall be subject to the same provisions with
25 respect to rehearing as an original order.”

1 SEC. 17. Section 409 (a) of such Act is amended to
2 read as follows:

3 “SEC. 409. (a) Notwithstanding the provisions of sec-
4 tion 7 (a) of the Act of June 11, 1946 (60 Stat. 241),
5 all cases in which a hearing is required by the provisions
6 of this Act or by other applicable provisions of law shall
7 be conducted by the Commission or by one or more examiners
8 provided for in section 11 of the Act of June 11, 1946
9 (60 Stat. 244), designated by the Commission. The officer
10 or officers presiding at any such hearing shall have the same
11 authority and duties exercised in the same manner and sub-
12 ject to the same conditions specified in section 7 of that Act.

13 “(b) Notwithstanding the provisions of section 8 of the
14 Act of June 11, 1946 (60 Stat. 242), the officer or officers
15 conducting a hearing shall prepare and file an intermediate
16 report. In all such cases the Commission shall permit the
17 filing of exceptions to such intermediate report by any party
18 to the proceeding and shall, upon request, hear oral argument
19 on such exceptions before the entry of any final decision,
20 order, or requirement. All decisions, including the inter-
21 mediate report, shall become a part of the record and shall
22 include a statement of (1) findings and conclusions, as well
23 as the basis therefor, upon all material issues of fact, law,
24 or discretion, presented on the record; and (2) the appro-
25 priate decision, order, or requirement.

1 “(c) Notwithstanding the provisions of section 5 (c) of
2 the Act of June 11, 1946 (60 Stat. 239), no officer conduct-
3 ing a hearing pursuant to (a) and (b) hereof shall, except
4 to the extent required for the disposition of ex parte matters
5 as authorized by law, consult any person or party on any
6 fact or question of law in issue, unless upon notice and
7 opportunity for all parties to participate; nor shall such
8 officer be responsible to or subject to the supervision or direc-
9 tion of any other person engaged in the performance of
10 investigative, prosecuting, or other functions for the Com-
11 mission or any other agency of the Government. No person
12 or persons engaged in the performance of investigative or
13 prosecuting functions for the Commission or for any other
14 agency of the Government shall participate or advise in the
15 proceedings described in (a) and (b) hereof, except as a
16 witness or counsel in public proceedings. The Commission
17 shall not employ attorneys or other persons for the purpose
18 of reviewing transcripts or preparing intermediate reports
19 of final decisions, except that this shall not apply to the
20 review staff provided by subsection 5 (b) and to legal
21 assistants assigned separately to a Commission member who
22 may, for such Commission member, review such transcripts
23 and prepare such drafts. No intermediate report shall be
24 reviewed either before or after its publication by any person
25 other than a member of the Commission or his legal assist-

1 ant, as above provided, and no examiner, who conducts a
2 hearing, shall advise or consult with the Commission with
3 respect to his intermediate report or with respect to excep-
4 tions taken to his findings, rulings, or recommendations.”

5 (b) Subsections (b), (c), (d), (e), (f), (g), (h),
6 (i), and (j) of section 409 are amended to read subsec-
7 tions (d), (e), (f), (g), (h), (i), (j), (k), and (l),
8 respectively.

9 SEC. 18. Section 414 of such Act is amended by adding
10 at the end thereof the following: “Except as specifically
11 provided in this Act the provisions of the Act of June 11,
12 1946 (60 Stat. 237) shall apply in all proceedings under
13 this Act.”

14 SEC. 19. Chapter 63 of the Criminal Code, title 18, is
15 amended by inserting a new section as follows:

16 “FRAUD BY RADIO

17 “SEC. 1343. Whoever, having devised or intending to
18 devise any scheme or artifice to defraud, or for obtaining
19 money or property by means of false or fraudulent pre-
20 tenses, representations, or promises, shall transmit or cause
21 to be transmitted by means of radio communication or inter-
22 state wire communication, any writings, signs, signals, pic-
23 tures, or sounds for the purpose of executing such scheme
24 or artifice, or whoever operating any radio station for which
25 a license is required by any law of the United States, know-

1 ingly permits the transmission of any such communication,
2 shall be fined not more than \$10,000 or imprisoned not more
3 than five years, or both.”

4 SEC. 20. If any provision of this Act or the application
5 thereof to any person or circumstance is held invalid, the
6 remainder of the Act and the application of such pro-
7 vision to other persons or circumstances shall not be affected
8 thereby.

82^d CONGRESS
1st SESSION

S. 658

A BILL

To further amend the Communications Act
of 1934.

By Mr. McFARLAND

JANUARY 23 (legislative day, JANUARY 8), 1951
Read twice and referred to the Committee on
Interstate and Foreign Commerce