

THE ROLE OF SECRETARY OF COMMERCE
HERBERT HOOVER IN THE DEVELOPMENT
OF EARLY RADIO REGULATION

Thesis for the Degree of M. A.
MICHIGAN STATE UNIVERSITY

Duane Gene Straub
1964



MICHIGAN STATE UNIVERSITY LIBRARIES
3 1293 00797 4862

L

~~1011-1010-307~~
~~1011-1010-109~~

MAY 17 1994

~~1K-5819216~~

132

OCT 06 1994

~~2921818~~

DEC 27 1994

~~483-5273~~

APR 14 1998

~~6875258~~

MAY 04 1993

1

~~MAY 28 1995~~

~~IL 9909254~~

ABSTRACT

THE ROLE OF SECRETARY OF COMMERCE HERBERT HOOVER IN THE DEVELOPMENT OF EARLY RADIO REGULATION

by Duane Gene Straub

This thesis involves a historical study of the role that Herbert Hoover exercised, as Secretary of Commerce, in early radio regulation from 1921 to 1928.

The five chapters of the study examine Hoover's life and philosophy, trace the history of radio prior to 1921, follow the development of radio regulation from 1921 to 1928, and analyze Hoover's role in such regulations.

Considerable reference material for this study was obtained from publications of the period. The New York Times, the periodical, Radio Broadcast, and official reports such as the minutes of the four National Radio Conferences were particularly useful.

The early period of radio broadcasting coincided with Hoover's term of service as Secretary of Commerce. Under an obsolete law enacted in 1912, Hoover had responsibility for governmental regulation of radio.

Confronted with complex regulatory problems in early 1922, Hoover called a conference of government and industry radio experts to counsel him on possible methods of regulation. This first National Radio Conference led to the development of the "Hoover radio policies," the

Duane Gene Straub

basic elements upon which the American system of free broadcasting is based. The record shows that out of the conference evolved certain concepts: public ownership of the airwaves, a minimum of governmental regulation, opposition to radio receiver taxation, and opposition to government ownership and operation of broadcast stations.

The following year, a Court decision compelled Hoover to issue a radio license to all who applied. Almost immediately, he called a second National Radio Conference to advise him on the increased interference between stations. Hoover, through the Department of Commerce, put into force some of the recommendations which improved the interference problem temporarily. In 1924, new developments in the industry caused Hoover to call a Third Conference. As a result, a revised bill was introduced in Congress with Hoover's support. Two months later, continued developments and the hope that the problems might be solved without legislation, caused Hoover to withdraw his support of the bill. A year later, however, the situation not having improved, Hoover again called a conference of radio interests. Proposed legislation was consequently introduced in Congress which eventually resulted in the Radio Act of 1927. In 1926, a Court decision and a subsequent Attorney General's ruling, requested by Hoover, had declared that Hoover was without discretionary power to regulate radio; this forced Congress to enact the new legislation. In February, 1927, regulation

of radio broadcasting was vested in the Federal Radio Commission.

Most observers felt that Hoover did an outstanding job of supervising the control of radio during a difficult period in its growth. Hoover maintained this control by assuming regulatory powers not granted him by law. There was little adverse reaction to this because he acted with the advice of industrial and governmental leaders, and achieved support for his policies through discussions at the National Radio Conference.

The thesis concluded that the Honorable Herbert Hoover, more than any other man, guided radio broadcasting during its early days, paving the way for the American system of free broadcasting.

THE ROLE OF SECRETARY OF COMMERCE
HERBERT HOOVER IN THE DEVELOPMENT
OF EARLY RADIO REGULATION

By

Duane Gene Straub

A THESIS

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

MASTER OF ARTS

Department of Television, Radio, and Film

1964

Thesis Advisor: Martin B. Gandy

G29926
9/2/64

PREFACE

The purpose of this study has been to investigate the role that Herbert Hoover played, as Secretary of Commerce, in alleviating the chaos that existed in the early days of radio broadcasting.

This period was one of crisis for the broadcasting industry. Certainly no name is more prominent during this period than that of Herbert Hoover; however, it appears that no detailed study of Hoover's role in broadcasting at that time has been made. There is need for such a study. This thesis attempts to meet this need.

The intention of this writer was to use the resources of the newly dedicated Herbert Hoover Memorial Library in West Branch, Iowa, but inquiry brought the reply that "the papers of President Hoover are undergoing reorganization and arrangement and are therefore not available for research." Unfortunately, some eighteen months later these papers are apparently still unavailable.

The writer wishes to express his gratitude to Dr. Walter E. Emery for his counsel and guidance in the preparation of this study. The writer also wishes to express gratitude to the Honorable Herbert Hoover and to Mr. H. V. Kaltenborn for their prompt and courteous replies to letters of inquiry.

TABLE OF CONTENTS

	Page
PREFACE	ii
INTRODUCTION	1
Chapter	
I. HOOVER, THE MAN AND HIS PHILOSOPHY	3
Personal Background	
Philosophy	
II. THE BACKGROUND OF RADIO PRIOR TO 1921	28
Radiotelephone Development	
Wireless Ship Act of 1910	
Radio Act of 1912	
World War I	
Development of KDKA	
III. RADIO BROADCASTING --1921 to 1928--AND HOOVER'S ROLE THEREIN	39
First National Radio Conference	
Inter-City Radio Decision	
Second National Radio Conference	
Hearings on H. R. 7357	
Third National Radio Conference	
Hoover's Letter to Representative White	
Fourth National Radio Conference	
Fifth Radio Corporation Decision	
Congressional Problems	
Attorney General's Ruling	
Radio Act of 1927	
Federal Radio Commission	
IV. A STUDY OF HOOVER'S ROLE IN RADIO REGULATION	78
First National Radio Conference	
Second National Radio Conference	
Hearings on H. R. 7357	
Third National Radio Conference	
Letter to Representative White	
Fourth National Radio Conference	
Fifth Radio Corporation Decision	
Attorney General's Ruling	

	Page
V. A SURVEY OF OPINION OF HOOVER'S ROLE IN RADIO REGULATION	101
BIBLIOGRAPHY	107

INTRODUCTION

It is the purpose of this thesis to trace the role of former Secretary of Commerce Herbert Clark Hoover in his efforts to establish adequate radio regulation, during the period from 1921 to 1928.

In the early days of wireless telegraph (around 1900), radio's value was envisioned almost entirely as a shipboard adjunct to safety on the high seas. If wireless was to serve this purpose successfully, its users realized that there would have to be certain regulations regarding codes, hours of operation, and distress signals. In 1912 Congress adopted an Act dealing with wireless telegraph operation aboard ships. Because the Bureau of Navigation of the Department of Commerce and Labor (as it was then known) was responsible for navigational aids, ship registration, and safety inspections, the licensing and regulation of the wireless telegraph aboard ships fell within the province of this bureau and remained so until 1927.

The 1912 Act was entirely adequate for radio telegraphy conditions at the time it was enacted, but proved hopelessly inadequate with the development of radio telephony and broadcasting. Prior to this development, the term "broadcast" meant to cast in all directions, as to throw seeds from the hands in sowing a crop. However, during the early 1920's, "broadcast" took on an entirely new meaning: to reach by wireless telephony transmission

a large number of receiving stations. Just beginning to come into its own when Herbert Hoover became Secretary of Commerce in 1921, broadcasting quickly achieved popularity with the American public and transmitting stations multiplied rapidly. The 1912 law was an inflexible statute and had no provision which would allow adjustment for effective regulation of broadcasting.

Soon after he took office, Hoover acted to develop adequate regulation to cover radio broadcasting. And the purpose of this thesis is to study Hoover's role in this formative period.

Chapter I will study Hoover's life and personal philosophy with the purpose of identifying influences, training, and experiences which affected his role in radio regulation. Chapter II will briefly trace the history of radio, especially radio telephony broadcasting, prior to the time when Hoover became Secretary of Commerce. Chapter III will then trace the development of radio regulation--with emphasis on Hoover's role--from 1921 to 1929. Chapter IV will attempt to analyze and clarify Hoover's role in radio regulation. In conclusion, Chapter V will present a brief survey of opinion concerning Hoover's role in radio regulation and will summarize Hoover's contributions to radio broadcasting regulation during his term of service as Secretary of Commerce.

CHAPTER I

HOOVER, THE MAN AND HIS PHILOSOPHY

Herbert Clark Hoover was born in the frontier village of West Branch, Iowa, on August 10, 1874.

Hoover's forebears for many generations had been ardent Quakers. His great-great-great-grandfather, Andrew Hoover, was born in Germany of Swiss parents and had settled in Pennsylvania in 1738. Successive generations of Hoovers moved from Pennsylvania to Maryland, North Carolina, Ohio, and finally in 1853 to Cedar County, Iowa, where they, together with other Quakers, joined in founding West Branch. "Before they began clearing land they had broken ground for their meeting-house; and for at least thirty years [i.e., until about the time Hoover left] the majority of that small but soberly prosperous town were the

Information used throughout the section dealing with Hoover's life was compiled from a number of sources of which the following were most useful:

Herbert Hoover, Memoirs (New York: Macmillan Company, 1951, 1952). Vol. I and II.

Will Irwin, Herbert Hoover: A Reminiscent Biography (New York: The Century Company, 1928).

Harold Wolfe, Herbert Hoover: Public Servant and Leader of the Loyal Opposition (New York: Exposition Press, 1956).

Eugene Lyons, The Herbert Hoover Story (Washington, D. C.: Human Events, 1959).

Clair E. Nelson, "The Image of Herbert Hoover as Reflected in the American Press" (unpublished Ph.D. dissertation, Stanford University, 1956).

broad hat or the poke bonnet and spoke the 'plain speech.'² On the Minthorn side of the family (his mother's maiden name was Minthorn) Hoover was descended from a group of Quakers who had migrated from England to New England around 1630.

His mother, Huldah Minthorn Hoover, was born in Burgersville, Norwich Township, Ontario, Canada, in 1849. Her father was a firm believer in the importance of education and did his best for his children. Huldah had attended a young ladies' seminary and had even, according to relatives, attended one term at the embryo Iowa University in nearby Iowa City--an exceptional education for a woman of her time.

Hoover's father, Jesse Clark Hoover, was born near Miami, Ohio, in 1846 and moved to West Branch when he was seven years old.

Jesse Clark Hoover and Huldah Minthorn were married in a simple Quaker ceremony when Jesse was in his early twenties. Their first son, Theodore, was born in 1871, and Herbert's younger sister, May, was born in 1876.

For a time Jesse farmed near West Branch and then moved into town to take over the blacksmith shop and machinery agency. The family lived in a three-room cottage across the alley from the blacksmith shop.

Herbert was not to know his father well, for Jesse died of typhoid fever when Herbert was only six years old.

²Will Irwin, Herbert Hoover: A Reminiscent Biography (New York: The Century Company, 1928), p. 4.

Beside a small life insurance policy and the house. Jesse Hoover left little estate for the family.

The summer following his father's death, Herbert went to visit his Uncle Laban, an Indian agent among the Crows of the Indian Territory (now Oklahoma). From this summer of friendship with the Indian boys grew much of Hoover's love for the out-of-doors.

Eliza worked hard for the next few years. Urged on by a strong desire to keep the insurance money intact for the children's education, she provided for her family by sewing. As time passed she also took on an active role as a speaker-missionary in the Quaker faith. Well educated and serious minded, she became widely known in the region for her religious zeal. In February of 1884 she came back from a speaking trip with a cold and shortly thereafter died of pneumonia. Thus at the age of nine, Herbert Hoover became an orphan.

After their mother's death, the three Hoover children were separated and Herbert went to live on a nearby farm owned by his Uncle Allan Hoover. This period was one of pleasant memories for Hoover. Many years later he made a speech reminiscing about rabbit hunting, the old swimming hole, and all of the other features of the life of a farm boy before the turn of the century.

In 1885, another uncle, Dr. John Minthorn, offered Herbert a home and an opportunity to start his education. Soon Herbert was on his way to the last frontier--Oregon--

where Dr. Minthorn founded and practiced medicine in a Quaker colony near Newburg. As a part of his dream for the colony, Dr. Minthorn had started an academy (later called Pacific College, now George Fox College). While doing family chores to earn his keep, Herbert became a student at the Academy.

A few years later the Minthorn family moved to Salem and Herbert Hoover took his first paying job as an office boy in the land-settlement office that Dr. Minthorn had opened. This job gave Hoover an opportunity to widen his acquaintances in the adult world. One man, Robert Brown, a mining engineer, was particularly influential. He started Hoover thinking about an engineering career and later told the eager boy about the new Leland Stanford University that soon would be opening in California. Fortunately for Herbert, Dr. Joseph Swain, a prominent Quaker, was giving the entrance exams in Portland, so Hoover was able to use this to overcome family opposition to the secular school. Although not successful on the entrance exams, Hoover was encouraged by Professor Swain to come to Palo Alto several months prior to the opening of the school term, undergo intensive tutoring and repeat the exams. This Hoover did, and he was subsequently admitted to the University. Two weeks before classes started he became the first student to live on Stanford's campus.

Although admitted to Stanford, Hoover was hard pressed to stay. He faced the threefold task of keeping

up with his studies, clearing admittance "conditionals," and earning a living. In order to save his slight financial reserve, he became a newspaper and laundry agent. He also worked as an office clerk in the Department of Geology and Mining.

At the end of his first year, Hoover secured a position as summer assistant to Dr. John C. Branner, Head of the Department of Geology and Mining, who was making a topographical survey of Arkansas.

In the fall he returned to campus with an objective. During the summer he had developed a thorough plan for the operation of student government. Together with some close friends, he organized a campus party and swept to victory on his platform--the student government constitution which, with minor modifications, served Stanford for more than thirty-five years.

During the summers following his sophomore and junior years, he again served as assistant to Dr. Branner on a U.S. Geological Survey team working in California and Nevada.

In the spring of 1895, Herbert Hoover was among the members of the first four-year class to graduate from Stanford University.

Hoover again spent the summer on a geological survey team and in the fall looked for technical work at the mines around Nevada City, California. Since there was little demand for college training in the mines, he took a job

pushing an ore cart for \$2 a day. However, Hoover quickly made friends with the aloof Cornish miners and learned all he could about the mine operation. This practical experience was of great value to him later.

In December he quit his job and went to visit his brother Theodore, who was now working in Berkeley, California. Hoping to find a position in his chosen profession, Herbert went to see Mr. Louis Janin, one of the foremost mining engineers in the West. Janin informed Hoover that he had no engineering positions open in his office; in fact, the only opening he had was for a clerk-copyist. Janin was startled when Hoover quickly accepted. A few months later, Janin unexpectedly called upon his new clerk to serve as an assistant on an engineering project in Northern Colorado at a salary of \$150 a month. From that time on Hoover never had to seek another engineering job.

For the next two years Hoover was employed under Janin's guidance. First, he worked as assistant manager of a New Mexico mine and then as a staff engineer in Janin's San Francisco office.

In 1897, a well-known British mining firm asked Janin to recommend an engineer to introduce American methods into their Australian mining enterprises. Janin informed Hoover that he regretted losing his services but that he should accept this position. The \$7000 salary enabled Hoover to provide support for his sister May and his brother Theodore, who returned to school and later became Dean of Engineering

at Stanford.

The assignment in Australia proved to be a great challenge. He had the task of reorganizing and streamlining the operations of ten large mines. While on an inspection trip into the interior, he visited a prospect being operated by some Welsh miners. The 14-year-old Hoover was so impressed with the mine that he persuaded his employers to buy the property for \$500,000; he was made its general manager at a salary of \$10,000 a year. Hoover developed an efficient and valuable mine that operated for over fifty years. During this period the mine produced \$55,000,000 in gold and paid its owners \$10,000,000 in dividends.

But even greater opportunities were around the corner for the young Herbert Hoover. The Chinese government was looking for an engineer to serve as Chief Engineer of its new Department of Mines and Railroads. The Chinese were advised to contact Hoover who accepted the position with its salary of \$20,000.

While waiting to leave Australia, he cabled Miss Lou Henry, whom he had met at Stanford, asking her if she would marry him and accompany him to China. The hoped-for response arrived and Hoover journeyed to Monterey, California, where Miss Henry became Mrs. Hoover. The same day the couple left for the assignment in China. The first few months were full of many interesting experiences in the new land. On one of his inspection trips Hoover found that he

was responsible for one of the largest coal deposits in the world.

Just as they were about to start on an inspection trip through the interior (after their first winter in China), Mrs. Hoover became ill and had to be taken to Tientsin where a European doctor was available. This enforced detour and delay probably saved their lives for while they were in Tientsin, the Society of the Mailed Fist (the Boxers) began their bloody campaign to drive all foreigners from China.

Tientsin itself came under siege and Hoover's engineering talents were put to good use in defending and provisioning the inhabitants and the thousands of refugees who sought shelter within the city. Eventually an international army came to their rescue, but until it arrived the Hoovers were given their first taste of relief work.

As the result of the Boxer Rebellion, Hoover's job with the Chinese government ended. However, a European-Chinese company with Chinese mining interests asked Hoover to become its general manager and put its Chinese mines back into operation.

In late 1901, Hoover traveled to London where at the age of twenty-seven he became a junior partner in the international mining firm (Bewick, Moreing and Company) for which, he had gone to Australia just four years earlier.

As a junior partner, Hoover took on the role of "trouble-shooter" for the firm's many and varied interests.

Both engineering and financial skills came into play in this role and Hoover proved himself equally adept at both. As "trouble-shooter" he traveled constantly, never spending more than a few months in any one place.

During his seven years' association with the firm, its business nearly tripled and its reputation likewise grew. However, although his family usually traveled with him, Hoover did not feel the constant traveling was what he wanted, so in 1908 Hoover quit the firm and set up offices as a consulting engineer. Gathering a number of young American engineers around him, Hoover soon became famous as a "doctor" for "sick" mines. Hoover carried on rather successfully in this role until the outbreak of World War I in 1914.

In August of 1914 Hoover happened to be in London, where thousands of American tourists and residents from all over Europe were converging. Without transportation and funds (most European banks had closed temporarily), they swamped the American Embassy. Hoover came to the assistance of the Ambassador and organized a committee of permanent American residents to provide temporary food and shelter, currency exchange, and emergency loans. During a period of about two months, the committee gave assistance to 120,000 Americans and handled \$1,500,000 in funds with a loss of less than \$300 in unrepaid loans.

Late in September, while he was aiding Americans caught in Europe, Hoover was called upon to assist a whole

nation. Normally Belgium imported about eighty percent of its food supply. As a result of the German conquest, the Allies placed a tight naval blockade on Belgium, allowing no imports. Germany refused to feed Belgium because it would mean weakening and possible starvation for its own people. As a result, some seven or eight million Belgians faced starvation in a matter of months.

Accepting the challenge, Hoover overcame almost insurmountable obstacles. Through his Commission for Relief of Belgium (C.R.B.), he succeeded in getting private contributions, contributions from the Germans themselves, guarantees of safe and open passage through all war zones for C.R.B. personnel, protection from submarine attack on C.R.B.'s ships, and complete freedom from seizure for all C.R.B. commodities. Before the war was over, the C.R.B. had dispensed more than \$927,000,000 worth of food, clothes, and shelter and had operated a fleet of 200 ships under its own flag. As a result, millions of Belgians and probably two and one-half million Frenchmen living in occupied France were saved from starvation.

On April 6, 1917, the day the U.S. entered the War, President Wilson cabled Hoover asking him to return to the U.S. to organize the food resources of the country. Hoover accepted the position as Food Administrator on the condition that he could continue his Belgian Relief activities and that he would receive no remuneration for his service.

The prevailing system of food mobilization in Europe

was the use of dictatorial powers enforced by police methods. Hoover refused to employ this method. He believed that the American people could be led but not driven.

In applying his theory of voluntarism to the Food Administration Hoover looked on the saving of money as the least of its benefits. He believed . . . that a paid bureaucracy, tending to expand itself, is a blight on any such national undertaking.³

The very nature of Hoover's activities in Belgian Relief and Food Administration catapulted him into the lime-light: "The efficiency with which Hoover accomplished the duties of a powerful Food Administrator evoked some whispers concerning his potentiality as a presidential candidate."⁴

The Armistice in November of 1918 brought a new call for the services of Herbert Hoover. Many countries of Europe, especially the Central Powers, were near political, economic and social collapse. While the victors quibbled around the peace table, Hoover (using his authority as U.S. Food Administrator and Director of Belgian Relief) stepped in and fed a starving Europe. In addition, he and his organization promoted political stability and economic recovery by rebuilding railroads to transport food and operating coal mines to provide fuel for the railroads.

For the larger part of a year, Hoover probably had

³Eugene Lyons, The Herbert Hoover Story (Washington D.C.: Human Events, 1959), p. 166.

⁴Clair Everett Nelson, "The Image of Herbert Hoover as Reflected in the American Press." (unpublished Ph.D. dissertation, Stanford University, 1956), p. 21.

more power and influence than any other person in Europe. Yet he emerged from an almost chaotic situation unscathed. "As an English delegate [to the Paris Peace Conference]. John Maynard Keynes. wrote in retrospect: 'Mr. Hoover was the only man who emerged from the ordeal of Paris with an enhanced reputation.'"⁵

In September of 1919, Hoover left Europe for a much needed rest in the U.S. In his Memoirs, Hoover says: "I was sure of two things: I wanted relief from European duty. I understood fully why our ancestors had moved away from it."⁶

At the age of forty-four, Hoover intended to resume his engineering profession which he had left in 1914. He opened offices in New York and San Francisco, but left for an extended rest before returning to work. However, the country would not let Hoover retire so easily from the public life and spotlight. Nor is it entirely clear that Hoover wanted to retire from it.

Following his vacation, he began winding up his postwar and wartime activities. He wrote reports and accounts for the various government and private agencies he had been connected with; he organized a European Children's Relief agency because he felt Europe's future rested with

⁵ Lyons, op. cit... p. 176.

⁶ Herbert Hoover, Memoirs (New York: The Macmillan Company, 1952), II. p. 2.

these children; and he actively campaigned for Wilson's League of Nations and the Versailles Peace Treaty because he felt it was the best chance for a lasting peace. As a public figure, he was in demand and spent much of his time making speeches, appearing before Congressional committees, and presiding over meetings (he served as president of the American Engineering Council, helped to organize the American Child Health Association, and was vice-chairman of the national conference on management and labor problems).

In the presidential election of 1920, Harding represented normalcy, and was elected by a record majority. Harding, an admirer of Hoover from Food Administration days, asked him to be in his cabinet and suggested either the Interior or Commerce Departments. Hoover indicated some interest in the Commerce department in his reply. Due to some Senatorial opposition, Harding's official request to Hoover was delayed. At this same time, Hoover received an offer to become a full partner in an important American metallurgical firm--an offer that probably would have given him the highest income ever earned by an engineer. However, after careful consideration, Hoover chose to remain in public service and informed Harding that he would serve as Secretary of Commerce on the condition that he could participate in all important economic and politico-economic decisions in business, labor, finance and foreign affairs affecting national reconstruction and development. Harding and the other members of his cabinet accepted him.

on this condition, and on March 4, 1921, Herbert Clark Hoover became Secretary of Commerce.

Hoover believed that the Enabling Act gave the Department of Commerce the most important job in the government at that time. To quote his Memoirs:

The Enabling Act founding the Department contained one sentence of major importance to me: "It shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping and fisheries industries, the labor interests, and the transportation facilities of the United States."⁷

As Secretary of Commerce, Hoover set out immediately to reorganize his department and to establish a vigorous program of operation. At this point Hoover first became involved in radio regulations--a matter that will be developed later. He set as one of his fundamental goals the promotion of greater industrial and commercial efficiency. He established a campaign for "the elimination of waste" and took steps toward greater efficiency through promotion of standardization within industries: the number of automobile tire sizes was reduced from eight to three by industry cooperation; for the first time standardized threads were adopted for bolts, nuts, pipes, and nipples.

The Department of Commerce provided businessmen with domestic and foreign economic information that could only be gathered through the resources of the Federal government. It also actively fought foreign cartels and monopolies in

⁷ Id... p.40.

an effort to aid American business.

Hoover promoted safety and scientific research in many fields. He encouraged the development of better housing and crusaded for the improvement of child and rural health facilities. He tried to improve labor-management relations in the American industrial complex. The Department of Commerce actively supported the conservation of natural resources and led in Federal relief to victims of natural disasters. Hoover, for example, personally spent three months directing the relief efforts in the disastrous Mississippi flood of 1927.

The following quotation illustrates Hoover's reputation:

During Hoover's secretaryship his reputation for efficiency and broad experience grew even stronger. He continued to be a trusted public servant, an efficient organizer and, above all, a business man. In 1929 the public still regarded him in glowing terms as a representative American.⁸

It is now appropriate to turn to an investigation of Hoover's personal philosophy--an important element in understanding his role in radio regulation.

As shall be shown, Herbert Hoover was an American individualist: he believed that America and its society would progress as it provided the opportunity for individual creativeness and expression. It was Hoover's view that competition among individuals given equal opportunity would lead to national progress. Hoover was, furthermore,

⁸Nelson, op. cit... pp. 40-41.

a liberal conservative, a man who believed that progress or change is natural, but that this change must be based on the values that are the result of past experience.⁹

In order to truly understand the philosophy of Herbert Hoover, one must be aware that he was greatly influenced by his Quaker background and early training. For the first sixteen years of his life (until he entered Stanford) Hoover was always under the Quaker influence. Eugene Lyons discusses this influence as follows:

Quaker individualism . . . rests not on self-interest but on usefulness to others. It is individualism suffused by compassion, and consequently at the antipodes from survival-of-the-fittest ruggedness. The Quaker ideal aims at the utmost development of the person not only as an end in itself but as contribution to the greatest good of the community.¹⁰

This then may have been the starting place for Hoover's individualism, but he has carried it much farther. In 1922, Hoover set his philosophical point of view down in a small book entitled American Individualism. It is here that one can find his most emphatic statement on individualism.

Progress of the nation is the sum of progress in its individuals. Acts and ideas that lead to progress are born out of the womb of the individual mind, not out of the mind of the crowd.¹¹

Hoover goes on to point out the distinctiveness of

⁹Lyons, op. cit., pp. 204-210.

¹⁰Ibid., p. 18.

¹¹Herbert Hoover, American Individualism, (Garden City, N.Y.: Doubleday, Doran and Company, 1922), p. 24.

American individualism:

Our individualism differs from all others because it embraces these great ideals: that while we build our society upon the attainment of the individual, we shall safeguard to every individual an equality of opportunity to take that position in the community to which his intelligence, character, ability, and ambition entitle him; that we keep the social solution free from frozen strata of classes; that we shall stimulate effort of each individual to achievement; that through an enlarging sense of responsibility and understanding we shall assist him to his attainment; while he in turn must stand up to the every wheel of competition.¹²

Eugene Lyons (one of Hoover's biographers) says in his book, The Herbert Hoover Story, that

. . . in the spectrum of social ideas this [Hoover's] view is at the remotest removed from totalitarianism in any of its guises. It accepts the human being--not state or race or class--as the unit of social value. Virtue, it assumes, resides in the person and not in any impersonal entity like society. Its final test for the good, the true, the beautiful is in the effects on individual men, women, and children.¹³

What then is the duty of society under this philosophy? Hoover stated that "the primary duty of organized society is to enlarge the lives and increase the standards of all people."¹⁴ Furthermore, he wrote

. . . that high and increasing standards of living and comfort should be the first of considerations in public mind and in government needs no apology. We have long since realized that the basis of an advancing civilization must be a high and growing standard of living for all the people, not for a single class; that education, housing, food, and the spreading use of what we so often term non-essentials, are the real fertilizers of the soil from which spring the finer flowers of life.¹⁵

¹²Ibid... pp. 9-10. ¹³Lyons. op. cit... p. 206.

¹⁴Ibid. ¹⁵Hoover. American Individualism, p. 32.

Hoover's reasoning for this point of view was set forth in a speech made in New York City in October of 1926 when he said:

. . . intellectual, moral and spiritual progress is not the product of poverty Of all human ideals, one of the most important is the achievement for men and women of freedom from anxiety about tomorrow's food. Only in peace of mind can man's spirit flower and his humanity expand toward others.¹⁶

Continuing the same speech, he also said:

Another ideal [not the product of poverty] is that every parent should have confidence that he can give his children the highest education.¹⁷

For, according to Hoover,

the spirit of democracy can survive only through universal education What democracy requires is a basic training of mind which will permit an understanding of . . . problems and the formation of reasonable opinion upon them.¹⁸

To Hoover universal education is important because

. . . our schools do more than merely transmit knowledge and training; they are America itself in miniature, where, in a purer air and under wise guidance, a whole life of citizenship is levied experimentally with its social contacts, its recreation, its ethical problems, its political practice, its duties and its rewards I would be one of the last people in the world to belittle the importance of exact knowledge that teachers impart to their pupils--as an engineer I set a high value upon precise information--but knowledge, however exact, is secondary to a trained mind and serves no useful purpose unless it is the servant of an

¹⁶Ray Lyman Wilbur and Arthur Mastick Hyde, The Hoover Policies (New York: Charles Scribner's Sons, 1937), p. 1, quoting Hoover in New York, October 16, 1926.

¹⁷Ibid... pp. 1-2, quoting Hoover speaking in New York, October 16, 1926.

¹⁸Ibid... p. 75 quoting Hoover in an address before the National Education Association, February 25, 1927.

ambitious mind, a sound character, and an idealistic spirit.

. . . if we were to suppress our educational system for a single generation the equipment would decay, the most of our people would die of starvation, and intellectually and spiritually we should slip back four thousand years in human progress.¹⁹

Hoover gives even more importance to the universities within our educational system. He feels that:

The job of our universities [within the educational system] extends even deeper . . . in our national life. They have a vital duty in fostering new recruits for leadership in our States and our nation.

Indeed one of the greatest problems of democracy--and civilization for that matter--is to provide sustained leadership in all avenues of life. . . .

The great American experiment in democracy is based upon a new conception in selection of leadership. . . . This conception is, first, that in the great mass of our people there are plenty of individuals of intelligence from among whom leadership can be recruited; and second, that if we maintain for every individual an equality of opportunity to attain that position in the community to which his intelligence, character, ability and ambition entitle him, and if we stimulate him to endeavor, then our supply of leadership will stream forward of its own initiative.

Now the only door to equal opportunity is education. All other factors that make for equality of opportunity are insignificant compared to an equal chance to obtain the highest physical, moral, and intellectual equipment which our colleges and universities afford.

By building this open stair we set up a fundamental protection to our democracy itself, for it is the maintenance of leadership by the rise of the individual out of the mass which assures us against the crystallization of classes or special groups.²⁰

Hoover was an ardent foe of mass conformity. Equality of opportunity was not to be used to create a society of

¹⁹Ibid... pp. 75-76. quoting Hoover in an address before the National Education Association, February 25, 1926.

²⁰Ibid... pp. 76-77. quoting Hoover in an address, Georgia University, June 16, 1926.

the masses. As Eugene Lyons states, Hoover

. . . abhors the equality that averages human endowments; it is for him at the opposite pole from the equality which provides unlimited room for each individual to develop to the utmost the best that is in him. He argues for variety as against uniformity, for individual creativeness as against adherence to a prescribed pattern.²¹

Progress to Hoover was the result of individual--not cooperative--action. In American Individualism, Hoover expressed his feelings as follows:

If we examine the impulses that carry us forward, none is so potent for progress as the yearning for individual self-expression, the desire for creation of something. Perhaps the greatest human happiness flows from personal achievement. Here lies the great urge of the constructive instinct of mankind. But it can only thrive in a society where the individual has liberty and stimulation to achievement. Nor does the community progress except through its participation in these multitudes of achievements.²²

And Hoover was not without a personal foundation for this statement. For example, he had created a new student government program that had served Stanford for over thirty-five years and he had made many memorable personal achievements during his mine engineering career.

So much for Hoover's early life and his educational philosophy. The following is a discussion of Hoover's views as they relate to politics, government, and business.

According to Hoover,

. . . there must be a method by which we find organized expression of the will of the people as a substitute for the violence of revolution
Democracy can have no such expression without

²¹Lyons, op. cit... p. 207.

²²Hoover, American Individualism, p. 22.

organized political parties All successful democracies must in the practical consummation of government be based on parties. And it is just as fundamental that parties must maintain organization, discipline, and cohesion as it is that they carry out their policies and promises upon which they were elected.²³

Commenting still further upon the same subject,

Hoover wrote the following:

Practical democracy requires two-party government; otherwise there is unlikely to be any stable majority

I doubt whether any two thinking men will entirely agree precisely on all items of a legislative or administration program . . . but the whole survival of our form of democracy will depend upon a willingness to adopt team play and fight out the secondary contentions within the main ranks. Our political parties change their objectives with changing times and changing problems A crystallization of new objectives in old parties is the safest course for democracy²⁴

Hoover felt that the government had the responsibility of protecting the necessary prerequisites for individualism. This view is set forth in American Individualism as follows:

We have grown to understand that all we can hope to assure to the individual through government is liberty, justice, intellectual welfare, equality of opportunity, and stimulation to service.²⁵

One of these governmental responsibilities seems to be of more importance to Hoover than the others. In dis-

²³Wilbur and Hyde, op. cit., p. 39, quoting Hoover in an address at Los Angeles on September 7, 1920.

²⁴Ibid., p. 39, quoting Hoover writing in The Emporia Gazette, January 4, 1924.

²⁵Hoover, American Individualism, p. 19.

crossing this. Walter Dexter states:

The fourth privilege which the government assures to the individual according to Mr. Hoover is that of equality of opportunity. No subject is mentioned more frequently nor with greater emphasis in his writings than this. It is the central theme of his system of political economy.²⁶

This statement by Hoover exemplifies his beliefs:

Amid the scene of growing complexity of our economic life, we must preserve the independence of the individual from the deadening restraints of government, yet equally protect his individual freedom, assure his fair chance, his equality of opportunity from the encroachments of special privileges, and greed for domination of any group or class.²⁷

Hoover also recognized specific areas in which government could work for the combined good of all individuals:

There are three potential fields in which the principles and impulses of our American system require that Government take constructive action. They comprise those activities which no local community can itself assume and which the individual initiative and enterprise of our people cannot wholly compose The first of these fields includes the great undertakings in public works such as inland waterways, flood control, reclamation, highways, and public buildings.

The second of these is the necessary interest and activity of the Federal Government in fostering education, public health, scientific research, public parks, conservation of national resources, agriculture, industry, and foreign commerce.

The third great field lies in broadening the assistance of the government to the growing efforts of our own people to cooperation among themselves to useful and economic ends.²⁸

²⁶Walter Friar Dexter, Herbert Hoover and American Individualism: A Modern Interpretation of a National Ideal, (New York: The Macmillan Company, 1932), p. 140.

²⁷Lyons, op. cit., p. 207.

²⁸Dexter, op. cit., p. 118.

According to Lyons, in American Individualism.

Hoover indentified two schools of thought:

. . . those who believed "that all human ills can be cured by government regulation" and those who believed "that all regulation is sin." He denied both schools. To him government was "the umpire in our social system."²⁹

As an example of the umpire role Hoover sets forth the following:

Our mass of regulation of public utilities and our legislation against restraint of trade is the monument to our intent to preserve an equality of opportunity. This regulation is itself proof that we have gone a long way toward the abandonment of the "capitalism" of Adam Smith.³⁰

However, according to Hoover, there are dangers even in the umpire role. In a 1928 speech, Hoover discussed this matter when he said:

. . . every expansion of government in business means that government in order to protect itself from the political consequences of its errors and wrongs is driven irresistibly without peace to greater and greater control of the nation's press and platform. Free speech does not live many hours after free industry and free commerce die.³¹

In discussing Hoover's economic policies, Ray Wilbur and Arthur Hyde express Hoover's stand as follows:

His economic policies were therefore absolute fidelity to American tradition of free initiative, free enterprise, open opportunity, and freedom from any attempt by either private or

²⁹Lyons, op. cit... p. 214.

³⁰Hoover, American Individualism, p. 53.

³¹Wilbur and Hyde, op. cit... p. 19, quoting Hoover speaking in the Presidential Campaign of 1928 (October 22) in New York

governmental interference with these freedoms. He supported a free economy not from any belief that property rights overrode other rights, but from a deeper philosophical foundation that the spiritual freedom of the race--free speech, free press, free worship, self-government, and all the other essentials of a free people--cannot exist without a free economic system.³²

Again Hoover's belief in equal opportunity is expressed, this time in the economic field. Mr. Joseph Brandes discusses Hoover's definition of opportunity as it was applied to economics, as follows:

... in the economic sphere, he defined "opportunity" in terms of self-help. "Aided by the guiding hand of public officials, private enterprise was to be fostered and added opportunity offered to more and more persons in the field of competition."³³

Hoover recognized that "business organization is moving strongly toward cooperation."³⁴ Perhaps surprisingly, Hoover did not disapprove of this increasing business cooperation.

Whenever these associations undertake high public purpose I wish to see active co-operation by the government with them. Without intrusion the government can secure co-operation between different industries and groups. It gives great hope of a new basis of solution for many of our problems and [for] progressive action. . . . It is consonant with the American system. It is a method that reinforces our individualism by reducing, not increasing, government interference in business. . . .

This co-operation takes two directions. It can assist in the promotion of constructive projects of

³²Wilbur and Hyde. op. cit. p. 5.

³³Joseph Brandes. "Herbert Hoover as Secretary of Commerce: Economic Foreign Policy, 1921-1928" (unpublished Ph. D. dissertation, New York University, 1958), p. 39.

³⁴Hoover. American Individualism, p. 44.

public interest on the one hand and it can assist in the cure of abuses by the voluntary establishment of a higher code of ethics and a stricter standard in the conduct of business.³⁵

Brandes sums up Hoover's views of the role of business in the American economy as follows:

Hoover had his own somewhat idealized views of the importance of business in the American economy. He saw it as a manifestation of the traditional "American Individualism," which meant not only efficient production, but also "a constant militant check upon capital becoming a thing to be feared" [American Individualism, p. 38.] Secretary Hoover saw in business . . . the practical explanation for the highest standard of living in the world. . . .³⁶

Brandes not only recognized Hoover's views concerning business in the American economy, but he also expresses Hoover's extension of the role of American business in international economy:

Throughout Hoover's policies there ran a thread of economic nationalism which envisioned the world's welfare in terms of the long range prosperity of the United States. Not only did this involve acquisition of strategic raw materials and constantly rising exports of American goods and capital, but the export of American principles as well.³⁷

This economic nationalism is indicative of Hoover's belief in America and its principles.

This has been a selective look at the Hoover philosophy. This background in Hoover's points of view should aid in the understanding of some of the actions that Hoover took in the field of radio regulation.

³⁵Wilbur and Hyde, op. cit., p. 46, quoting Hoover speaking at St. Louis, on November 2, 1928.

³⁶Brandes, op. cit., p. 17. ³⁷Ibid., p. iv.

CHAPTER II

THE BACKGROUND OF RADIO PRIOR TO 1921

Radio's early background is somewhat open to speculation. We do know, however, that as early as 1842, Professor Samuel Morse, the inventor of the telegraph, had successfully transmitted wireless signals for short distances.¹

Fifty years later, in 1892, a Kentuckian, Nathan Stubblefield, is reputed to have sent a spoken radio message across a swampy woods near his home. In 1902, while applying for a patent on his apparatus, he sent a message to shore while aboard a steamship on the Potomac River off Georgetown, D.C.² This appears to be the first recorded use of wireless voice (radiotelephone) transmission.

About the same time, a young Irish-Italian, Guglielmo Marconi, became interested in this experimental novelty-- wireless communications. Since he took advantage of exploratory work on the principles of electromagnetic wave communications performed during the latter half of the nineteenth century, Marconi cannot be considered a pioneer

¹Laurence F. Schmeckebier, The Federal Radio Commission: Its History, Activities, and Organization (Institute for Government Research, Service Monographs, Vol. 65; Washington, D.C.: The Brookings Institution, 1932), p. 1.

²"1922--Year Radio's Population Soared," Broadcasting, May 14, 1962, p. 82.

in the strictest sense of the word. However, making use of these principles, Marconi made certain refinements and added devices of his own invention, and succeeded in making radio a feasible method of message transmission. In 1896 Marconi successfully demonstrated his "wireless" and applied for the first British wireless telegraph patent.³

The following year the Italian Navy adopted the wireless for shipboard use and led the way to one of the most important uses of radio--communication at sea.⁴

In the fall of 1900, Reginald Fessenden and his associates succeeded in transmitting speech by radio for a distance of one mile.⁵ In disregard or ignorance of Stubblefield's earlier reported success, many books credit this as being the first successful radiotelephone transmission. However, this matter is not as important as the fact that a new and revolutionary means of communication was being developed.

The use of radiotelegraph for communications by ships at sea was giving new momentum to radio's development. In this country the first of many wireless companies was being formed. Perhaps the earliest was The Marconi Wireless and Telegraph Company of America, which was founded

³Paul R. Olson. "Regulation of Radio Broadcasting in the U.S." (unpublished Ph.D. dissertation, State University of Iowa, 1931), pp. 4-6.

⁴Ibid., p. 6.

⁵Thomas H. McCandless. "Federal Control of Radio to 1933" (unpublished Master's thesis, University of Southern California, 1945), p. 4.

in 1901 as the American branch of Marconi's original British company.⁷

Also in 1901, Marconi succeeded in bridging the Atlantic by wireless when, in a windswept shack in Newfoundland, he heard three distinct clicks--the letter S--which were being sent from England some 1800 miles away.⁷ By 1902 an improved model of Fessenden's early transmitter had been developed and speech was sent for a distance of eleven miles near Plymouth, Massachusetts.⁸

On Christmas eve, 1906, Fessenden, then with the three-year-old-American DeForest Wireless Company, broadcast a program of music and speech to the city of New York.⁹ During the following year, the DeForest Company continued its broadcasts of music.

In 1907, the U.S. Navy equipped about twenty of its ships with radiotelephone sets for inter-fleet communications.¹⁰

Early in 1909, Charles Herrold, a classmate of Herbert Hoover at Stanford, began radiotelephone experiments using call letters FN (later it would become KQW, San Jose).

⁷ Imogene Williford, "The Development of Radio Legislation; Its Historical, Economic and Legal Phases" (unpublished Master's thesis, American University, 1933), p. 2.

⁸ McCandless, op. cit., p. 5.

⁸ Ibid.

⁹ James M. Herring and Gerald C. Gross, Telecommunication: Economics and Regulation (New York: McGraw-Hill Book Company, 1936), p. 98.

¹⁰ McCandless, op. cit., p. 5.

and still later KCBS, San Francisco). His first audiences were in nearby homes where Herrold had installed crystal sets so they could hear the music. A daily schedule of broadcasts was begun in 1910. This station can probably lay claim to being the first "official" "broadcast" station in the U.S.¹¹

The first legislation which dealt with radio became law on June 24, 1910. The Wireless Ship Act (36 Stat. 629) was directed solely at the safety of life on the high seas, requiring the installation of radio equipment on certain passenger-carrying vessels. As of July 1, 1911, every vessel carrying fifty or more passengers had to employ a skilled radio operator and install and maintain in good working order radio equipment capable of transmitting at least one hundred miles.¹²

On July 11, 1911, the Secretary of Commerce and Labor organized a Radio Service under the Bureau of Navigation.¹³ Because the Bureau was concerned with safety on the high seas, Congress put this Act--and the control of radio for

¹¹"1922--Year Radio's Population Soared," Broadcasting, May 14, 1942, pp. 83-84.

¹²Murray Edelman, The Licensing of Radio Services in the United States, 1927 to 1947: A Study in Administrative Formulation of Policy (Urbana: University of Illinois Press, 1950), p. 1.

¹³Dwight K. Tripp, "Guiding the Good Ship Radio: An Interview with W. D. Terrell, Chief Inspector of Radio, Department of Commerce," Radio Broadcast, October, 1925, pp. 743-744.

sixteen years under the Department of Commerce and Labor.¹⁴

The sinking of the Titanic in April, 1912, dramatically demonstrated the use of radio in saving lives at sea. Probably as the result of public sentiment aroused by the tragedy, an Amendment (37 Stat. 199) to the Wireless Act of 1910 was adopted July 23, 1912, extending the original act to the Great Lakes and covering ships carrying fifty or more persons, including both passengers and crew.¹⁵ In addition, the law required two qualified radio operators and a constant radio watch on board ship.¹⁶ This amendment put into law the provisions of a Presidential Proclamation (3 Stat. 1525) concerning ratification of an international radiotelegraphic agreement reached in Berlin almost six years earlier.

Later in the same year, Congress passed an Act to Regulate Radio Communications (37 Stat. 302), the first general regulatory law dealing with radio.

The main provisions of the Act of August, 1912, were as follows:

1. Every radio station must be licensed.
2. Every radio station must be manned by a licensed operator.
3. The frequency must be more than 500 kilocycles and less than 187.5 kilocycles.
4. Private stations (amateurs, "those private or com-

¹⁴Olson, op. cit.... p. 40.

¹⁵Tripp, loc. cit.

¹⁶Stephen Davis, The Law of Radio Communication (New York: McGraw-Hill Book Company, 1929), p. 32.

mercial stations not engaged in the transaction of bona fide commercial business by radio communication") must not use a frequency of less than 1500 kilocycles.¹⁷

Government stations were exempted from the licensing provisions of the law. The Act also contained a number of regulations concerning distress procedures and technical matters, many of which were obsolete long before the Act was repealed, but which were necessary to meet the requirements set by the Berlin Convention of 1906.¹⁸ Another aspect of the Act, as Laurence Schmeckebier points out, " . . . was the fact that all regulations were embodied in the Act, no power to make regulations being conferred on the Secretary [of Commerce and Labor]."¹⁹

As the above indicates, the administration of the Act was vested in the Secretary of Commerce and Labor. Murray Edelman explains why in the following quotation:

The administration of the Act was doubtless vested in the Department of Commerce and Labor [Commerce after March 4, 1913] because that Department regulated other marine matters; the House Committee on the Merchant Marine and Fisheries, in reporting the bill [House Report # 582, 62nd Congress, 2nd Session, p. 9] compared the licensing system it proposed to those provisions of the navigation laws that required the licensing of merchant vessels.²⁰

It was not long before the defects in the Radio Act of 1912 began to manifest themselves:

¹⁷Schmeckebier, op. cit... p. 3.

¹⁸Edelman, op. cit... p. 2.

¹⁹Schmeckebier, op. cit... p. 3.

²⁰Edelman, op. cit... p. 1.

Even before the outbreak of the World War, a situation arose which disclosed a defect in the Act of 1912 and foreshadowed the ultimate breakdown of the law. The Atlantic Communication Company applied for a license to operate a station at Sayville, Long Island. The applicant was organized under the laws of the State of New York, but the Secretary of Commerce had reason to believe that it was really controlled by German capital. Since Germany did not permit similar American-owned corporations to operate in that country, the Secretary objected to German ownership of an American station and submitted to the Attorney General the question whether, under the 1912 Act, he had the authority to refuse the license on this ground. The Attorney General replied that he did not, the Act reposing in him no discretionary power in the matter of issuing licenses if the applicant came within the class to which licenses were authorized to be issued.²¹

In 1915, the American Telephone and Telegraph Company, operating an experiment for the U. S. Navy, transmitted speech from the Naval Station at Arlington, Virginia, to Panama, California, Hawaii, and France.²²

The World War brought a temporary end to the independent development and operation of radio. All efforts were concentrated on the use of radio as an aid to the military operations. By 1918 the French were using radiotelephone equipment having a range of thirty miles in their military aircraft.²³

Undoubtedly the work accomplished as a result of the necessities of war contributed in considerable measure to the scientific development of radio, but even yet no real work had been attempted of a character resembling what is known as radio broadcasting.²⁴

²¹Herring and Gross. op. cit... pp. 241-242.

²²McCandless. op. cit... p. 6.

²³Ibid.

²⁴Olson. op. cit... pp. 6-7.

In 1919, the Navy Department, in order to prevent British Marconi from gaining control over valuable American patents, encouraged a group of large radio manufacturing firms to form the Radio Corporation of America, which was intended to be purely a patent-holding corporation. Shortly thereafter, R. C. A. began to take on monopolistic aspects and Congress became concerned--so concerned that it could not untangle the monopoly question from the problem of control of the "ether." For many years new radio legislation was the signal for vigorous battles on anti-monopoly provisions--stalling all of the regulatory bills that were introduced from 1922 to 1927.²⁵

Also in 1919, as President Wilson was returning from France upon the George Washington, his Memorial Day speech to the crew was transmitted and successfully received (although garbled and distorted) in the United States.²⁶ This was probably the first radiotelephone coverage of a speech by a head of state.

The end of the war brought a fresh start to radio, and in particular to radiotelephone experimentation. Great numbers of the returning veterans had been introduced to radio during their military training and now these men were becoming active in civilian radio as operators, experimenters, or amateurs. This reserve of trained or partially trained personnel was to prove invaluable to the radio

²⁵McCardless, op. cit., pp. 13-14.

²⁶Herring and Gross, op. cit., p. 98.

industry in a few short years.

There seems to be a great deal of debate, or perhaps confusion, over who can claim to be "the first broadcast station." Among the leading claimants are WWJ, Detroit; KQW, San Jose; and KDKA, Pittsburgh. KDKA is the leading candidate according to most of the material written on the subject. KDKA's development will serve as a "typical" example of the pattern of development of early broadcast stations.

During the War, Dr. Frank Conrad, Chief Electrical Engineer for Westinghouse, had been a Signal Corps member assigned to research activities at the Westinghouse laboratories in Pittsburgh.²⁷ He had developed an experimental radiotelephone station under the call letters W2WE. After the war, he remained with Westinghouse and continued his research activities using equipment licensed as amateur station W8XK and located in a garage behind his home.

²⁷Information used throughout the section dealing with KDKA was gathered from the following sources:

H. P. Davis, "The Early History of Broadcasting in the U.S.." The Radio Industry: The Story of Its Development (New York: A. W. Shaw Company, 1928), pp. 192-195.

George W. Gray, "Signing Off On the First Ten Years: Broadcasting Takes Stock--And A Look Ahead." World's Work, December, 1930, pp. 4-48.

McCandless, op. cit., p. 8.

Olson, op. cit., pp. 7-8.

"1932--Year Radio's Population Soared." Broadcasting, May 14, 1932, p. 8+.

During his experiments he would often transmit piano music, baseball scores, and phonograph records. The experiments caught the attention of a local department store which on September 29, 1920, ran an advertisement in a Pittsburgh paper calling attention to the "air concerts" and noting that it had wireless receivers on sale for ten dollars and up.

This advertisement attracted the notice of Harry P. Davis, a Westinghouse vice-president, who had been seeking a way in which his company could obtain a return on its investment in radio. Davis decided that "the real industry lay in the manufacture of home receivers and in supplying radio programs which would make people want to own such receivers."²⁸

Davis encouraged Dr. Conrad to close down his station W8KK in favor of a Westinghouse station. They applied for a "broadcast" license on October 10th and were issued a Commercial Land license, KDKA, on October 21th. At 6:00 P.M. on November 2, 1920, the station went on the air with what was called "the world's first scheduled broadcast." The station remained on the air reporting the returns of the Harding-Cox election until noon of the next day. It is estimated that no more than one hundred people had receivers that could receive this memorable broadcast. Thereafter the station stayed on the air, maintaining a regular broadcast schedule.

²⁸ "1922--Year Radio's Population Soared." Broadcasting, May 14, 1922, p. 84.

Four months later the U. S. Senate confirmed the appointment of Herbert Clark Hoover to the post of Secretary of Commerce in the cabinet of President Harding.²⁹

²⁹Herbert Hoover, Memoirs (New York: The Macmillan Company, 1952), II, p. 40.

CHAPTER III

RADIO BROADCASTING--1921 TO 1928--

AND HOOVER'S ROLE THEREIN

March 4, 1921, was the date on which Herbert Hoover began a period of service as Secretary of Commerce that was to last over seven years. Hoover was to guide the infant--radio broadcasting--from its early gasping breaths to young adulthood as an important, amazingly popular industry.

KDKA had continued its scheduled broadcasting nightly ever since it began operation with the election returns November 2. Encouraged by the increasing demand for receiving equipment, nine months after KDKA went on the air, Westinghouse opened its second station, WBZ at Springfield, Massachusetts.¹ In the following two months--October and November--Westinghouse opened two more stations: WJZ at Newark, New Jersey, and KYW at Chicago, Illinois.²

In December, Westinghouse encountered its first official competition when twenty-three other stations

¹H. P. Davis. "The Early History of Broadcasting in the U.S.." The Radio Industry: The Story of Its Development. (New York: A. W. Shaw Company, 1928). p. 198.

²U.S., Congress. House. Committee on Merchant Marine and Fisheries. Hearings on H.R. 11944. To Amend the Radio Act of 1912. 64th Congress. 4th Session, 1923. p. 29.

received licenses to broadcast to the general public.³ Thus began the first ripples on the sea of radio broadcasting-- a sea that would all too soon reach flood tide.⁴

The first specific official recognition of the licensing of broadcasting stations is found in the Department of Commerce Radio Service Bulletin of January 3, 1922; on page 10 a report is made regarding a departmental ruling of December 1, 1921, which "further defined the class of stations known as 'limited commercial.'" A frequency of 833.3 kc. was authorized for broadcasting news, concerts, lectures, and such matter, and of 618.6 kc. for crop reports and weather forecasts, "provided the use of such wavelengths does not interfere with ship to shore or ship to ship service."

At a cabinet meeting on February 7, 1922, Secretary of Commerce Hoover reported on the sudden growth in radio-telephone broadcasting. Stating that broadcasting's rapid, almost chaotic, growth could endanger the use of the wireless for national defense and commercial purposes, Hoover requested authorization for a Conference of experts to

³George W. Gray, "Signing Off On The First Ten Years: Broadcasting Takes Stock--And A Look Ahead," World's Work, December, 1930, p. 48.

⁴It should be remembered that a majority of the stations applying for broadcasting licenses during this early period had already been broadcasting unofficially while being licensed as Special Land (experimental and or amateur) or Commercial Land Stations.

investigate the radiotelephone situation.⁵

On February 28, fifteen men--nine governmental representatives and six nongovernmental representatives--gathered in Washington to hear Hoover's opening address to the National Radio Conference. Selected excerpts from his speech are as follows:

It is the purpose of this conference to inquire into the critical situation that has now arisen through the astonishing development of the wireless telephone, to advise the Department of Commerce as to the application of its present powers of regulation and, further, to formulate such recommendations for the legislation necessary. This is one of the few instances where the country is unanimous in its desire for more regulation.

We have witnessed in the last four or five months one of the most astounding things that has come under my observation of American life. This Department estimates that today over 600,000 persons possess wireless telephone receiving sets, whereas there were less than fifty thousand such sets a year ago.

Congress some few years ago authorized the Secretary of Commerce to license radio sending stations, and to impose certain conditions in the licenses designed to prevent interference between stations and to serve the public good. This legislation was drawn before the development of the [radio-] telephone was of consequential importance.

During the last five months, while this extraordinarily rapid installation had been in progress, I and my colleagues in this department have felt that we should take a very conservative attitude in the issuance of licenses, and I am able to inform you today, outside of government broadcasting stations and the field authorized to the American boy, [there are] but few licenses outstanding--and these are limited to a small proportion of the numbers of the available wavelengths. We have therefore kept the field clear for constructive development.

The experience gained indicated that the time has arrived not only when this large mass of subscribers need protection as to the noises

⁵The New York Times, February 8, 1912, p. 1.

which fill their instruments, but also when there must be measures to stop the interferences which have grown up between even the limited number of sending stations, which threaten to destroy all.

It is a problem of regulation if we are to get the maximum use. Regulation will need to be policed Fortunately the art permits such a policeman by listening in to detect those ether hogs that are endangering the traffic. There is involved, however, in all of this regulation the necessity to so establish public right over the ether roads that there may be no national regret that we have parted with a great national asset into uncontrolled hands.

It is therefore primarily a question of broadcasting, and it becomes of primary interest to say who is to do the broadcasting and under what circumstances, and with what type of material.

One of the problems that enter into this whole question is that of who is to support the sending stations. In certain countries, the government has prohibited the use of receiving instruments except upon payment of a fee, out of which are supported government sending stations. I believe that such a plan would seriously limit the development of the art and its social possibilities and that it is almost impossible to control. I believe that we ought to allow anyone to put in receiving stations who wishes to do so. But the immediate problem arises of who will do the broadcasting and what will be his purposes.

There would appear to be little doubt that the foregoing, in toto, was one of the most important policy statements in early radio regulation and its implications will be treated more fully in the following chapter. Among its findings and recommendations, the Conference held that radio telephone transmission was a public utility, and that Federal regulation and control were the only possible solution to the chaos of interference. "Unless there is definite

U.S., Department of Commerce. Minutes of Open Meetings of Department of Commerce Conference on Radio Telephony. February 27 & 28, 1922. pp. 1-6.

regulation of all radiotelephone transmitting stations, the whole system will be destroyed by interference."⁷ "But," said the New York Times, "how to formulate regulations that will suit all classes is a poser."⁸ And quite a puzzle it would be. There was considerable debate and the radiotelephone situation would get much worse before Congress would reach any agreement on the regulation of radio.

On March 10, 1922, the Commerce Department's Radio Service Bulletin listed a total of 47 stations licensed to broadcast. (On December 1, 1921, there had only been four stations licensed.) On April 15, a total of 182 broadcasting stations had been licensed--an increase of almost 3½ stations per day during the intervening period.⁹ By June 1, this number had risen to 301 stations.¹⁰ It is well to remember that these stations were still operating on only two frequencies.

In the meantime, public reaction to the interference was beginning to rise, as indicated by the following editorial quotations from the New York Times:

. . . there are 15,000 stations [of all types] licensed by the U.S. Government under a statute

⁷The New York Times, March 11, 1922, p. 9.

⁸"To Calm The Jarring Radio Waves." Literary Digest, March 18, 1922, p. 12.

⁹"Is Radio Only A Passing Fad?" Literary Digest, June 3, 1922, p. 31.

¹⁰W. D. Terrill, "A Few Ideas on Radio." Radio Broadcast, August, 1922, p. 330.

that was enacted to regulate radio telegraphy before radiotelephone [became known].¹¹

. . . within the last three or four months the atmosphere has become so cluttered up with hundreds of voices crossing and criss-crossing each other that Government action has been made absolutely necessary.

In order to meet the demands of the enthusiastic listeners so much is sent out to entertain them that the air is a regular pandemonium.

There is only one solution to it all, and that is for the Government to unravel the snarl by assigning separate wave bands, hours of transmission, and geographical areas to all concerned, and that is precisely what the Government expects to do. In the future, discretionary licenses will be issued under the Department of Commerce, which controls radio, and if you don't live up to your license, Secretary Hoover, as Judge of the Traffic Court, will take it away from you.

Legislation will be necessary to give control over radio telephone work to the Secretary of Commerce, and amendments to the existing wireless laws are now being drafted.¹²

On April 27, the Radio Conference submitted its final report to Secretary Hoover. According to the New York Times.

. . . as the conference was designed primarily to recommend [methods of] Government control, the report suggests that Secretary Hoover be authorized to govern the establishment of all radio transmission stations except amateur, experimental and Government, and also the operation of non-Government stations. These recommendations will be carried out in a bill now being drafted by Representative White of Maine, which is nearly ready to be introduced.¹³

Later the same year, Hoover and the Department took the first action to improve the quality of broadcast transmission. Hoover acted upon one of the recommendations of

¹¹The New York Times, March 2, 1922, p. 20.

¹²The New York Times, April 2, 1922, VII, p. 2.

¹³The New York Times, April 28, 1922, p. 22.

the Conference and attempted to classify broadcast stations.

According to Laurence Schmeckebier:

The first attempt at the classification of broadcasting stations was made in an amendment, of August 8, 1912. [By now, there were over 500 broadcasting stations], to the departmental rules. Previously all broadcasting had been on frequencies of 418.4 and 833.3 kilocycles. The amendment established a new group known as Class B, to operate on a frequency of 750 kilocycles. The requirements specified included a minimum power of 500 watts, a maximum power of 1,000 watts, careful supervision of programs, the use of mechanically operated musical instruments only in an emergency, and the division of time if there were two or more stations in the same locality. The amendment specifically provided that any failure to maintain standards would result in the cancellation of the license and the transfer to the group using the 833.3 kilocycles frequency.¹⁴

Testifying at the House Merchant Marine and Fisheries Committee Hearings on the Kellogg-White Radio Control bill (on H.R. 11964, 47th Congress, January 2 and 3, 1923), Secretary Hoover stated that

... from the viewpoint of public interest, the interference today largely lies in the broadcasting stations, broadcasting entertainment, news, and other matters of public interest. While there are altogether 569 of such stations, there are, variously estimated, from 1,500,000 to 2,500,000 receiving stations. So that the matter has become one of profound public interest.¹⁵

Commenting still further on the problems of radio regulation, Hoover, writing in a leading radio magazine of

¹⁴Laurence F. Schmeckebier, The Federal Radio Commission: Its History, Activities, and Organization ("Institute for Government Research, Service Monographs," Vol. 65; Washington, D.C.: The Brookings Institution, 1921), p. 5.

¹⁵U.S., Congress, House, Committee on Merchant Marine and Fisheries, Hearings on H.R. 11964, To Amend the Radio Act of 1912, 47th Congress, 4th Session, 1923, p. 29.

the day, made the following statements:

The present radio telephone situation in the United States is simply intolerable to those who have at heart the full value of radio broadcasting. Yet there is absolutely no adequate solution of the problem open to the Department of Commerce until pending legislation makes available to the public the use of the wave-band 1600 to 660 meters, which is reserved for governmental purposes.

The reservation of this band was made by law in 1912, eight years before the radio telephone came into its amazing popularity. In February [of 1922], the Radio Conference . . . urged the necessity of making this band of waves available to the public since it comprehends the logical range of extension of available waves practicable, in the present stage of the development of the art, for public use. Accordingly, bills were formulated and introduced into both the Senate and House looking to the amending of the law and the enlargement of the authority of the Secretary of Commerce to meet current emergencies without the delays more or less inevitable in legislative action.

In the meantime the Radio Division of the Bureau of Navigation has utilized its ingenuity and resourcefulness to the full to make the most of the allocation of such wavelengths outside . . . the government band.

The passing of the bills now before Congress will not of course constitute a panacea that will entirely do away with the necessity, for instance, of improving the selective power of receiving sets in general use. But until the existing law is amended certainly no considerable improvement in the situation can be looked for.¹⁶

But Hoover and his Department were to face even greater problems with regard to radio regulation. During February, the Court of Appeals of the District of Columbia reached a decision on a case (Hoover vs. Inter-City Radio Co., 286 Fed. 1003) that was to have a profound effect upon Hoover's regulatory powers.

In discussing the case, the New York Times reported

¹⁶Herbert Hoover, "The Urgent Need for Radio Legislation," Radio Broadcast, January, 1923, p. 211.

the following:

The license of the Inter-City Radio Company [a common-carrier company; not a broadcaster] expired on September 22, 1921, and Mr. Hoover refused to renew it, acting on the theory that the law vested him with discretionary power in that respect. Complaints had been made by the radio communication service of the Government and others that it was impossible for their stations to send or receive messages while the Inter-City plant was working.¹⁷

The Appellate Court held that the lower court did not err in issuing a writ of mandamus (requiring Hoover to issue a new license to Inter-City Radio). Judge Stephen E. Davis reports that: "The Court, however, distinctly stated that the assignment of wave-length was entirely under the control of the Secretary."¹⁸ The case was appealed to the U. S. Supreme Court which denied the writ of certiorari, i.e., a petition for review (266 U.S. 636).

Judge Stephen E. Davis reported Hoover's reaction to this decision:

Following this decision, Secretary Hoover called a general conference of all radio interests in an attempt to bring some order out of the confusion which already existed and which was threatening to continue until broadcast communication would be rendered impossible.¹⁹

The announcement of the conference read in part:

The legislation [recommended by the 1922 Conference] having failed to pass Congress, it is felt desirable to investigate what administrative measures may

¹⁷The New York Times, December 11, 1922, p. 23.

¹⁸Schneekebier, op. cit., p. 6.

¹⁹Judge Stephen E. Davis, "The Law of the Air," The Radio Industry: The Story of Its Development (New York: A. W. Shaw Company, 1928), p. 167.

properly be taken temporarily to lessen the amount of interference in broadcasting.²⁰

On March 20, 1923, Hoover addressed the opening session of the Second National Radio Conference. In his opening speech to the Conference, he made the following remarks:

When this committee met a year ago there were sixty stations in the U.S., today there are 588.

Public broadcasting has practically been limited to two [sic] wave-lengths, and I need not dilate to you on the amount of interference there is and the jeopardy in which the whole development of the art stands.²¹

Among its other findings the Conference found that "a new field extending from 22 to 545 meters [550.9 to 1351.4 kilocycles] can be created for the purpose [of broadcasting]. Within this field, stations can be assigned."²²

The Conference reached the unanimous opinion that the Secretary of Commerce had authority under the 1912 Radio Act to regulate wavelength and hour of station operation and to revoke or withhold station licenses when such action is necessary to prevent interference detrimental to the public good.²³

In concluding its report, the Second National Radio Conference made this statement:

The conference desires to emphasize the limited

²⁰The New York Times, March 7, 1923, p. 18.

²¹The New York Times, March 21, 1923, p. 18.

²²Schneekobier, op. cit., p. 6.

²³The New York Times, March 25, 1923, II, p. 5.

facilities available for radio broadcasting, and the un-economic and tentative basis of present-day broadcasting, and the conference urges the consolidation in each locality of those desiring the establishment or maintenance of broadcasting and those interested in broadcasting in that locality, to the end that broadcasting conducted in each neighborhood by such a local association will receive public support and be handled in an economic and permanent fashion.²⁴

Commenting upon the Conference, the New York Times reports that:

Although the recommendations of the Second National Radio Conference have been accepted in full by Secretary of Commerce Hoover, he said in a statement that some difficulties stood in the way of putting the plan into effect at once. To do so would cause hardships by requiring broadcasting stations to move into new wave lengths immediately. Another difficulty was that ship-to-shore communications was being carried on inside the bands . . . which the conference suggested should be given over to broadcasting.

Secretary Hoover, however, apparently is pleased with the general plan submitted, for he calls it "a step in ideal development" of measures designed to stop the existing air interference and confusion.²⁵

On April 19, 1923, the Department of Commerce announced a new classification system for broadcast stations which would be effective on May 15 of that year. The main features of this classification were as follows:

1. Three classes of stations were established.

Class A: Stations with a power of less than 500 watts were assigned to wavelengths between 1000 and 1351.4 kilocycles.

Class B: Stations with a power of more than 500 watts and less than 1000 watts were assigned to wavelengths between 550.9 and 800 kilocycles and

²⁴The New York Times, April 2, 1923, p. 9. ²⁵Ibid.

between 869.5 and 1000 kilocycles. They had to meet all of the quality standards of the previous Class B classifications.

Class C: Stations which had been previously licensed to operate on 833.3 kilocycles would continue to do so unless they could qualify for Class A or B.

2. The United States was divided into five zones, with separate wave-lengths designated for certain localities in each zone.
3. Stations would have to adhere to assigned classification, standards, and wave-lengths or else suffer the penalty of loss or suspension of license.²⁶

For a time after these regulations were put into effect, most parties concerned were reasonably happy and content. The new frequencies provided increased station separation and the interference problem seemed to be solved. Moreover, when all frequency allocations had been assigned, the Department of Commerce refused to issue any new licenses and consequently the broadcasting "population explosion" was brought under control for the first time. However, competition for audiences proved to be too much. Audience size was increased by the simple method of increasing the

²⁶Thomas Harris McCandless, "Federal Control of Radio to 1922" (unpublished Master's thesis, University of Southern California, 1945), pp. 10-11.

power output of the transmitter. The Radio Conference recommendations on zoning and kilocycle spacing had been based upon the relatively low power used in most instances (generally 500 watts or less), and widespread power increases soon led to renewed and increased interference.²⁷

In February of 1924, Representative Wallace White Jr., of Maine, introduced a bill (H.R. 7357) which would confer broad powers on the Secretary of Commerce. This bill was a substitute for White's earlier bill (H.R. 11964), which had failed to pass in the previous Congress.

On March 11, Hoover testified before the House Committee on Merchant Marine and Fisheries concerning the White bill and radio regulation in general. The following are selected portions of his testimony before the Committee:

It is urgent that we have an early and vigorous reorganization of the law in Federal regulation of radio.

Great as the development of radio distribution has been, we are probably only at the threshold of the development of one of the most important of human discoveries bearing on education, amusement, culture, and business communication. It can not be thought that any single person or group shall ever have the right to determine what communication may be made to the American people. I am not making this statement in criticism of the great agencies who have contributed and are contributing so much to the development of the art and who themselves have been well seized with the necessities of its development and proper use, but I am stating it as a general principle which must be dealt with as an assurance of public interest for all time.

We can not allow any single person or group to

²⁷ Imogene Williford, "The Development of Radio Legislation: Its Historical, Economic and Legal Phases" (unpublished Master's thesis, American University, 1933), p. 34.

place themselves in position where they can censor the material which shall be broadcasted to the public. nor do I believe that the Government should ever be placed in the position of censorship of this material.

The problems involved in Government regulations of radio are the most complex and technical that have yet confronted Congress. We must preserve this gradually expanding art in full and free development; but for this very purpose of protecting and enabling this development and its successful use, further legislation is absolutely necessary.

The further legislation needed should, in my view, regulate only to the extent that it is necessary in public interest for the development of the science itself; for the service of those who make use of it. It seems to me, therefore, that the fundamental thought of any radio legislation should be to retain possession of the ether in the public and to provide rules for orderly conduct of this great system of public communication

Radio communication is not to be considered as merely a business carried on for private gain, for private advertising, or for entertainment of the curious. It is a public concern impressed with the public trust and to be considered primarily from the standpoint of public interest to the same extent and upon the basis of the same general principles as our other public utilities.

The act of 1912 would naturally aim at the regulation of the art as it was then known. It has become entirely obsolete and unworkable applied to radio communication as we know it today. We are managing to preserve some order in the ether under the old legislation, but to do this we are depending to a large degree upon the voluntary cooperation of those interested in the development of the art.

It is of course impossible to provide on the face of any general law rules which will meet the innumerable specific cases which will arise, or [which] will anticipate the development of the art. In my view the situation can only be met by regulation which may be altered from time to time to meet changing conditions and may be varied in accordance with the necessities of different localities and modified as the art progresses--all in accordance with some broad general principle to be laid down in public interest. I do not advocate any large personal authority, but I do advocate the resting of such authority in administrative hands checked by advising bodies.

Among other problems is one as yet totally unsolved. That is, how we can secure perpetually full and complete broadcasting service in such fashion that it will support itself otherwise than in dependence upon

the sale of manufactured articles or upon advertising. It seems to me we must leave this question to further experience and [I] do not favor a solution by any licence and charge upon receiving sets as is imposed in other countries.

It is now obligatory to grant a license to every applicant irrespective of the interference which may be anticipated from the operation of the station. The present bill grants a discretionary power to be exercised in accordance with the public interest. I believe this is necessary in order that there shall be no question of vested rights in the use of the ether.

. . . the bill provides that the Secretary of Commerce shall refuse a license to any concern which is monopolizing or attempting to monopolize radio communication through control of the manufacture of apparatus or otherwise. I am in sympathy with the purpose shown in the paragraph to which I am referring; but I do not believe that the method there adopted is the proper one.

I much prefer the principle . . . under which the law and facts applicable are determined judicially, and I would suggest that the bill be so amended that the refusal of a license to a monopoly be placed upon the same basis²⁸

Early in May, the White bill was reported out of Committee and presented to the House for its consideration.

In August, Secretary Hoover sounded the call for a third National Radio Conference to be held in September. The Conference was later postponed until October.

During this time paid broadcast advertising first made its appearance. During the same time, extended "hook-up" service and "super-power" (anything from 1000 to 5000 watts) first became feasible.²⁹

²⁸U.S., Congress. House. Committee on the Merchant Marine and Fisheries. Hearings on H.R. 2357. To Regulate Radio Communications, 68th Congress, 1st Session, 1924. pp. 8-10.

²⁹Williford. op. cit. p. 34.

On October 1, Hoover spoke to the opening meeting of some ninety delegates assembled for the Third National Radio Conference.³⁰ This was more than four times the number of delegates that had attended any of the previous Conferences. The following are selected portions of his speech:

I have called the conference of each of the last three years in the confidence that it was only by your co-operation that the requirements of this great service could be met. There are certain minimum regulatory powers in the Department of Commerce. They are inadequate to meet the shifting situation that this developing art constantly presents. Nor could any legislation keep pace with the changes imposed by scientific discovery and invention now going on in radio. I have been convinced however, that we could meet these problems by organized cooperation of the industry itself.

It is in a large sense the purpose of this conference to enable listeners, broadcasters, manufacturers, marine, and other services to agree among themselves as to the manner in which radio traffic rules may be determined. Like the two previous occasions, this may be called an experiment in industrial self-government. Through the policies we have established the Government, and therefore the people, have today the control of the channels through the ether just as we have control of our channels of navigation; but outside of this fundamental reservation radio activities are largely free.

The industry's future conduct with a single view to public interest, a voluntary imposition of its own rules and a high sense of service, would go far to make further new legislation or administrative intervention unnecessary.

We may well be proud of this wonderful development, but in our self-congratulation let us not forget that the value of this great system does not lie primarily in its extent or even in its efficiency. Its worth depends upon the use that is made of it. It is not the ability to transmit but the character of what is transmitted that really counts. Our [radio]

³⁰C. M. Jansky, Jr., "The Contribution of Herbert Hoover to Broadcasting," Journal of Broadcasting, I (Summer, 1957), 243.

telephone and telegraph systems are valuable only in so far as the messages sent from them contribute to the business and social intercourse of our people. For the first time in history we have available to us the ability to communicate simultaneously with millions of our fellow men, to furnish entertainment, instruction, widening vision of national problems, and national events. An obligation rests upon us to see that it is devoted to real service and to develop the material that is transmitted into that which is really worth while. For it is only by this that the mission of this latest blessing of science to humanity may be rightfully fulfilled.

There seems at present some tendency toward a decrease in the total number of broadcast stations. September 1, 1923, there were 563 licensed stations. On the same date this year the number had fallen to 533, a loss of 30. This decrease, however, has occurred entirely among the smaller stations

I believe that the quickest way to kill broadcasting would be to use it for direct advertising. The reader of a newspaper has an option whether he will read an ad or not, but if a speech by the President is to be used as the meat in a sandwich of two patent medicine advertisements there will be no more radio left. To what extent it may be employed for what we now call indirect advertising I do not know, and only experience with the reactions of the listeners can tell. The listeners will finally decide in any event.³

As in the previous conference, the chief subject of discussion at the Third Conference was the problem of interference. Again, there had developed a considerable amount of interference (due largely to power increases), particularly among local stations. The Conference recommended an increase in the broadcast band--raising the upper limit from 1351 to 1500 kilocycles, thus providing ninety-six frequencies with ten kilocycles separation in the band from 550 to 1500 kilocycles. The Department of Commerce quickly

³U.S.. Department of Commerce. Recommendations for the Regulation of Radio Adopted by the Third National Radio Conference. October 6-10, 1924. pp. 1- .

adopted this recommendation and thus established what is for all practical purposes the present broadcast band.³²

Two other important issues were under discussion at the Third Conference. First there was the issue of "super-power." Some few station operators were ready to try this increased power range, but many other persons thought that such high power might result in monopolistic coverage for these stations. The second issue was the question of how to proceed with a system for nation-wide radio coverage. Three systems were under serious consideration. These were interconnection by wire, interconnection by short-wave radio, and national coverage by a single "super-power" station. No specific decisions were made on these issues but a valuable groundwork was laid for future action.³³

A few months after the Third Conference, on December 5, Hoover sent a letter to Representative White--a letter that was to have a very important effect. Selected portions of this letter follow:

We have long agreed that this industry will ultimately require exhaustive legislation

If there were enough wavelengths for all the matter would be much simpler. Any attempt to gain preference among stations in the allotment of wavelengths on the basis of quality of programs raises the question of censorship, the implications of which I cannot at present accept.

³²James M. Herring and Gerald C. Gross, Telecommunications: Economics and Regulation (New York: McGraw-Hill Book Company, 1936), pp. 242-243.

³³Jansky, op. cit., p. 244.

Beyond this, three major things have developed during the last twelve months. The first is the interconnection of stations by which a single voice may be broadcast from all parts of the country. . . . It is difficult to see as yet what the public implications of interconnection will be.

During the past year there have been discoveries in the use of high power, and therefore larger areas of broadcasting, which may result in a single station being able to cover a large portion, if not all, of the country. This raises questions of the rights of local stations and the rights of local listeners.

Still another development has been the fact that it has been found possible by indirect advertising to turn broadcasting to highly profitable use. If this were misused we would be confronted with the fact that service more advantageous to the listeners would be crowded out for advertising purposes.

From all of this it seems to me that there is a tendency which may require an entirely different basis in character, theory, and extent of legislation than we have contemplated in the past. The basis of regulation and the fundamental policies to be followed must be finally declared by Congress, not left to an administrative officer.

Hitherto, we have conceived the problem to be one of interference, but there is now opening before us a whole vista of difficult problems. The development of the art is such that the whole situation is changing rapidly, and the opinion of today on the solution for a given difficulty is worthless tomorrow.

I hope that another year's experience will show what direction of legislative course must be pursued. Meanwhile I feel that we would be the actual gainers by allowing the industry to progress naturally and unhampered, except by the maintenance of a firm principle of government control of the ether and the elimination of interference so far as it is possible.

The suggestion which I enclose is necessary under whatever regulatory theory may develop. It merely affirms the authority now exercised by the department over wave lengths, power, apparatus, and time of operation. It is in the nature of emergency legislation urgently needed to preserve the situation in the public interest until a final and complete legislative policy can be adopted. It contains the provision reserving Federal control over the ether. Its other provisions are merely condensed statements of powers conferred in the bill which you introduced as reported by the House Committee.³

³ The New York Times, December 6, 1924, p. 1.

Commenting on Mr. Hoover's letter, the New York Times reported that "as a result of the position taken by Secretary Hoover, it is considered doubtful that there will be any important legislation dealing with the radio industry at the short session of Congress."³⁵

Writing in a leading radio industry magazine, Radio Broadcast, J. H. Morecraft, President of The Institute of Radio Engineers, made the following comments on Hoover's actions:

Apparently feeling that the power at present vested in him is not as well defined or as inclusive as he would like to have it, Herbert Hoover, Secretary of Commerce, has suggested to Representative White that he prepare a short bill [the wording of which was in Hoover's letter to Rep. White] instead of attempting any broad regulation of radio at this time. The bill Mr. Hoover suggests asserts that the people of the U.S. are entitled to the inalienable possession of the ether within the confines of their country, and then amends the Radio Act of 1912 to read: "The wavelength of every radio transmitting station for which a license is now required by law, its power, emitted wave, the character of its apparatus, and the time of transmission, shall be fixed by the Secretary of Commerce as in his judgment and discretion he shall deem expedient, and may be changed or modified from time to time in his discretion."

Such wording certainly relegates plenty of power to the Secretary of Commerce--far too much, in the opinion of E. F. McDonald, Jr., President of the National Association of Broadcasters. Says Mr. McDonald: "I have unbounded confidence in him [Mr. Hoover] and would be in favor of putting this tremendous power into the hands of the Secretary of Commerce on one condition, and that is, that Mr. Hoover give to the radio broadcasting industry a guarantee that he will live for one hundred years and that he will serve as Secretary of Commerce for that hundred years. In other words, Mr. Hoover, we don't know who your successor is going to be."

Mr. McDonald's point is well taken. The actions

³⁵ Ibid.

and policies of Mr. Hoover during the last few years have given the broadcasters every confidence in his judgment, and all of them would cheerfully abide by his decision in any matter he deemed it wise to regulate, but to confer on any Secretary of Commerce such Napoleonic power as this brief paragraph would do, seems certainly unwise. His word would be final. There would be no recourse or appeal from any decision he might make, as the bill is now worded.

Such powers are too sweeping and should not be granted.³⁶

Apparently others felt the same way as did Mr. Morecraft and Mr. McDonald. For no short bill modeled after Secretary Hoover's suggestion came up for consideration before the Houses of Congress.

During the period following the Third National Radio Conference, the problems and the methods of radio regulation remained relatively static. Radio regulation continued through 1924 and 1925 much as it had in the past; Hoover controlled radio largely through industry self-regulation based, to a limited degree, upon the obsolete Radio Act of 1912.

In September of 1925, Secretary Hoover requested a Fourth Radio Conference to convene in November to consider the problems of and to make recommendations for radio regulation. In calling for this conference he made the following statement:

We have been hopeful at all times during the last three years that the situation might work itself out, but the problems are now intensifying at even a more

³⁶"The March of Radio: Hoover's Suggestions for New Radio Legislation." Radio Broadcast, March 1925. pp. 890-892.

rapid rate than before. We have now close to six hundred broadcasting stations operating and we know that there are about one hundred additional building or in prospect.

It will be up to the [4th] National Radio Conference to consider what restrictions can be laid on broadcasting to maintain and better the service to the public.³⁷

On November 9, approximately 500 persons gathered in Washington for the Fourth Radio Conference. This was over five times the number of persons present for the Third Conference, an indication of the growing interest in radio during this period.

Again Secretary Hoover opened the session with an address to the persons assembled for the Conference. Parts of his opening address follow:

We have great reasons to be proud of the results of these conferences. From them have been established principles upon which our country has led the world in the development of this service. We have accomplished this by a large measure of self-government in an art and industry of unheard of complexity, not only in its technical phases but in its relations both to the Government and the public. Four years ago we were dealing with a scientific toy; today we are dealing with a vital force in American life.

Some of our major decisions of policy have been of far-reaching importance and have justified themselves a thousandfold. The decision that the public, through the Government, must retain the ownership of the channels through the air with just as zealous a care for open competition as we retain public ownership of our navigation channels has given freedom and development in service that would have otherwise been lost in private monopolies. The decision that we should not imitate some of our foreign colleagues with the governmentally controlled broadcasting supported by a tax upon the listeners has secured for us a far greater variety of programs and excellence in service free of cost to the listeners. This decision has avoided the pitfalls of political, religious, and social conflicts in the use of speech

³⁷The New York Times, September 16, 1925, p. 8.

over the radio which no Government could solve--it has preserved free speech to this medium.

The problems in broadcasting are, as ever before . . . of two categories--those, on one hand, which the industry can and should solve for itself in order to safeguard the public service and its own interest and, on the other hand, those which can only be solved in cooperation with the Government; and again, as before, we should find the solution of as many of our problems as we can in the first category. I have no hesitancy in discussing these questions, because, as I have said, the more the industry can solve for itself the less will be the burden on the Government and the greater will be the freedom of the industry in its own development.

We hear a great deal about the freedom of the air; but there are two parties to freedom of the air, and to freedom of speech, for that matter. There is the speechmaker and the listener. Freedom can not mean a license to every person or corporation who wishes to monopolize the listener's set.

. . . we can surely agree that no one can raise a cry of deprivation of free speech if he is compelled to prove that there is something more than naked commercial selfishness in his purpose.

The ether is a public medium, and its use must be for public benefit. The dominant element for consideration in the radio field is, and always will be, the great body of the listening public, millions in number, country-wide in distribution. There is no proper line of conflict between the broadcaster and the listener. . . . Their interests are mutual, for without the one the other could not exist.

The greatest public interest must be the deciding factor.

It seems to me we have in this development of governmental relations two distinct questions. First is a question of traffic control. This must be a Federal responsibility. From an interference point of view every word broadcasted is an interstate word. Therefore, radio is a 100 per cent interstate question, and there is not an individual who has the most rudimentary knowledge of the art who does not realize that there must be a traffic policeman in the ether, or all service will be lost in complete chaos of interference. This is an administrative job, and for good administration must lie in a single responsibility.

The second question is the determination of who shall use the traffic channels and under what conditions. This is a very large discretionary or a semijudicial function which should not devolve entirely upon any single official and is, I believe, a matter in which each local community should have a large

voice. . . .³⁸

A few days later the Fourth National Conference began to place its decisions on the record.

On November 11, the New York Times had this to say:

Following a resolution today by the Fourth National Radio Conference recommending that 'no new stations be licensed until through discontinuance the number of stations is reduced and until it shall be in the interest of the public service to add new stations.' Secretary Hoover announced that no new stations be licensed by the Department of Commerce pending further legislation by Congress.³⁹

The Conference also reported a comprehensive program for legislation which should be enacted by Congress. Included in its sixteen-point program were such things as a declaration against development of a monopoly in radio, a pronouncement that free radio speech be inviolate, and recommendations regarding the powers that should be given to the Secretary of Commerce.⁴⁰

In early December, the 69th Congress convened and Representative Wallace White Jr. of Maine, a delegate to the Fourth Conference, introduced legislation based upon the recommendations of the Conference. With the provision that there be a method of appeal of the Secretary's decision, Mr. Hoover supported this proposed legislation.

³⁸U.S., Department of Commerce, Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio, November 9-11, 1925, pp. 1-9.

³⁹The New York Times, November 11, 1925, p. 25.

⁴⁰The New York Times, November 12, 1925, p. 27. Also Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio, pp. 35-36.

There seemed to be little doubt that everyone concerned was now ready for new radio legislation. For example, in commenting on the White bill, the New York Times stated that "the 69th Congress . . . will unquestionably pass a radio bill."⁴¹

On January 6, 1926, Secretary Hoover testified before the House Merchant Marine Committee during hearings on the White bill (H.R. 5589). By this time the bill had been rewritten, giving the Secretary of Commerce administrative charge of radio and providing for a commission of nine members to advise the Secretary on approval of license applications and similar matters.⁴² Testifying that the bill was the result of two years' study, Hoover stated that

We have had the matter before us a long time. Many of us have been hesitant as to what the real solution might be in the face of constant shifting scientific development; but we have now reached a situation where we can no longer delay action.⁴³

Mr. Hoover particularly endorsed the provision of the bill which would provide for an advisory commission.⁴⁴

On January 9, the Senate Interstate Commerce

⁴¹The New York Times, December 6, 1925, IX, p. 11.

⁴²The New York Times, January 7, 1926, p. 41.

⁴³U.S.. Congress, House, Committee on the Merchant Marine and Fisheries, Hearings on H.R. 5589, To Regulate Radio Communications, 69th Congress, 1st Session, January 6-7 and 14-15, 1926, p. 9.

⁴⁴The New York Times, January 17, 1926, IX, p. 15.

Committee began hearings on two radio bills, one by Senator Dill (S. 1 54) and one by Senator Howell (S. 1).

On January 17, the Attorney General's office, at the request of the Commerce Department, began action against the Zenith Radio Corporation, owner-operators of WJAZ, Chicago. The Government charged that WJAZ had "pirated" a wavelength, which is to say that WJAZ found an unoccupied wavelength, reserved for Canadian operation by international agreement, and began operating on it without approval of the Commerce Department.⁴⁵

In mid-February the House Mercant Marine Committee approved a revised White bill (now H.R. 9971) which called for a Radio Commission having a membership of five instead of nine.⁴⁶

The first indication of congressional footdragging during this session was reported in the New York Times:

If the poor attendance of Senators in their committee hearings on the Dill and Howell Radio Control bills is indicative of the general interest of Senators, radio legislation will not break any speed records passing in the Senate

Out of a committee composed of seventeen members, only five attended more than one session for any length of time.

It is believed by radio men in Washington that if Secretary Hoover felt it of sufficient importance to personally urge President Coolidge to advocate the passage of radio legislation at this session . . . the matter would unquestionably be expedited.⁴⁷

⁴⁵The New York Times, January 17, 1926, p. 3.

⁴⁶The New York Times, February 12, 1926, p. 4.

⁴⁷The New York Times, March 14, 1926, IX, p. 17.

On March 16, the House passed the White radio bill (H.R. 9941) and sent it to the Senate.⁴⁸

On April 16, Judge James H. Wilkerson, of the U. S. Court for the Northern District of Illinois, rendered a decision in the case U. S. vs. Zenith Radio Corporation [12 F (2nd) 614]. In holding that operation upon a wavelength other than the one assigned by the license did not subject the Company to penalties, the decision pointed out that there was "no express grant of power in the Act [of 1912] whereby the Secretary of Commerce could establish regulations."⁴⁹

According to the New York Times:

The license was to be issued subject to regulations in the Act. The Congress has withheld from him [the Secretary of Commerce] the power to prescribe additional regulations. If there is a conflict between a provision in the license and the regulations established by Congress the latter must control.⁵⁰

Commenting further on the effect of this decision, Schmuckebier stated that:

The regulations contained in the Act of 1912 provided that the wavelength of a station of this character should be between certain limits. The effect of the decision in the Zenith case was, therefore, to allow a station to use any wavelength within the limits specified in the Act. As the Court of Appeals of the District of Columbia had previously held [in Hoover vs. Inter-City Radio] that the Secretary had no power to refuse to issue a license, the granting

⁴⁸The New York Times, March 16, 1926. p. 29.

⁴⁹Schmuckebier, op. cit., p. 12.

⁵⁰The New York Times, April 17, 1926. p. 1.

of licenses by the Secretary became a prefatory matter.⁵¹

Secretary Hoover made the following statement on the Zenith decision on April 20:

The court has refused to impose a penalty upon a concern which admittedly was operating at a time and upon a wavelength not authorized by its license. . . . it is apparent that under the present law of 1912, as now construed, no one has authority to protect the listening public against utter chaos in the service upon which it has come to rely.

If stations proceed to select their own wavelength and choose their own time, considering only their own selfish advantage, effective public service will be at an end.⁵²

Many persons, including Hoover, now felt that the only way to prevent chaos in the ether was for Congress to immediately pass one of the bills it had under consideration.

On April 24, Senator Borah introduced a bill--considered by most observers to be an anti-administration measure--which would take radio control from the Department of Commerce and give it entirely to an independent regulatory commission.⁵³

In May, the Senate Interstate Commerce Committee reported a second bill (S. 4057) prepared by Senator Dill. This new bill incorporated the independent regulatory commission form of control proposed by Senator Borah.

⁵¹Schmeckebier, op. cit., p. 12.

⁵²The New York Times, April 21, 1926, p. 5.

⁵³The New York Times, April 25, 1926, IX, p. 17.

According to the New York Times: ". . . it is asserted that this is an indirect voicing by the committee of opposition to vesting such control in Secretary Hoover."⁵⁴

The May 22 issue of The Literary Digest asserted in an article that radio became a political issue on April 28 "when Senator Robinson, the Democratic floor leader, charged President Coolidge with attempting to retain control of radio broadcasting through Secretary of Commerce Hoover [in order] to further his own political interests." In the same article it was reported that Mr. Jay G. Hayden, Washington correspondent for the Detroit News, felt that "the worried Senate fears that Mr. Hoover will derive certain political advantages from [retaining] control of radio . . ."⁵⁵

In reporting on the Senate Interstate Commerce Committee's disapproval of the House version of the White bill, Mr. Ashmun Brown of the Providence Journal made the following comments:

There is small room to doubt that the action of the Senate Committee is tinged with politics. Senator Watson, of Indiana, chairman of the Committee, is a prospective candidate for the Republican nomination for President, and must look upon Secretary Hoover as a possible rival. Senator Borah, of Idaho, whose bill to create an independent radio commission is now before the Committee, like Senator Watson, has no love for Secretary Hoover. Senator Couzens, of Michigan, a member of the Committee, who was active in securing the Committee vote, is regarded as an

⁵⁴The New York Times, May 7, 1926, p. 21.

⁵⁵"Politics in Radio Control," Literary Digest, May 22, 1926, p. 12.

anti-Administration and anti-Hoover Senator. The same is to be said of Senator Howell, of Nebraska, another member of the Committee.

Briefly stated, the anti-Administration forces in the Committee have taken this method of striking at the President and Secretary Hoover.⁵⁶

With regard to Secretary Hoover's Presidential ambitions.

Mr. W. W. Jerkane, of the Seattle Times, is reported to have made the following statements:

Mr. Hoover is not thinking seriously of the Presidency. Not nearly as seriously as several Republican members of the Senate. If Mr. Coolidge holds his own up to national convention time, and prosperity continues, his renomination will come by acclamation. Republican Senators do not believe he will hold his own, and are uncertain about the continuation of prosperity. They, therefore, are making plans for an opening that may possibly come, and do not want Mr. Hoover, with his genius for straightening out difficult situations, to have a chance, by settling all radio troubles, to win the applause of the 20,000,000 people who are understood to be "listening in" every night.⁵⁷

As a result of the Zenith decision, there appeared to be a conflict between two court rulings. In the Inter-City Radio ruling, the Court held that the Secretary of Commerce was compelled to issue a license but had discretionary powers in assigning an operating wavelength. In the Zenith Radio ruling, the Court held that assignment of wavelengths rested in the Radio Act of 1912 and that wavelength assignment by the Secretary of Commerce was not binding upon the stations. In order to clarify this conflict, Secretary Hoover on June 4 asked the Attorney General to rule on the matter.

About the same time, one of the leading radio

⁵⁶Ibid. ⁵⁷Ibid... pp. 12-13.

magazines of the day. Radio Broadcast, commented upon the legislative situation in Congress:

Surely Congress can see that the regulations of 1912 are inefficient to deal with the present situation and that there is a real and insistent demand for some regulation which can take care of today's difficulty. The Secretary of Commerce, capable as may be the present incumbent of that office, is practically helpless when confronted by an important radio question. Congress is not performing its required function if it leaves Secretary Hoover with his present severely limited power in radio matters.⁵⁸

On July 2, the day before adjournment, the Senate passed the Dill bill and immediately sent it to a conference committee.⁵⁹

Because they only had a few hours to work, the conference committee agreed that they did not have time to reach an agreement on the full bill and the members made an attempt to rush an emergency measure through both houses. This emergency measure (Senate Joint Resolution #125) would limit the life of all broadcast licenses to ninety days until further legislation was adopted. This emergency measure failed because Vice-President Charles Dawes lacked the time to sign the measure.⁶⁰

On July 8, the Acting Attorney General complied with Hoover's request of June 4 and issued an opinion (35 Op. Att. Gen. 126-132) which Schmeckebier summarizes as follows:

⁵⁸"The March of Radio: Pending Radio Legislation," Radio Broadcast, June 1926. p. 117.

⁵⁹The New York Times, July 3, 1926. p. 2.

⁶⁰"Who Is To Control Broadcasting?" Radio Broadcast, October 1926. p. 574.

1. A license is required to operate a broadcast station.
2. The Secretary is required to issue a license on request.
3. The operation of a broadcast station without a license is an offense under the Act of 1912.
4. There is no doubt that radio communication is a proper subject for Federal regulation under the Commerce clause of the Constitution.
5. The Secretary of Commerce has no power to specify wave-lengths.
6. The Secretary of Commerce has no power to assign hours of operation, except that he may designate stations which must refrain from operating during the first fifteen minutes of each hour - a period specified in the Act of 1912 to be reserved if necessary in designated localities for Government stations.
7. The Secretary has no authority to limit the powers to be used.
8. The Secretary has no power to issue licenses of limited duration. [On account of the rapid development the Secretary had been issuing licenses for ninety days only.]
9. A licensed station may use wave-lengths at will, provided it does not trespass upon the band from 600 to 1600 meters [187.5 to 500 kilocycles] specified in the Act.⁶¹

Schmeckebier indicated the effect of the opinion and then quoted the solution proposed by the Acting Attorney General:

This opinion effectually removed all vestiges of power remaining in the hands of the Secretary, and the issuance of licenses became a prefatory matter.

The situation was summed up by the Acting Attorney General in the final paragraph of his opinion as follows:

"It is apparent from the answers contained in this opinion that the present legislation is inadequate to cover the art of broadcasting which has been almost entirely developed since the passage of the 1912 Act. If the present situation requires control, I can only suggest that it be sought in new legislation, carefully adapted to meet the needs of both the present and the future."⁶²

On July 9, Hoover officially admitted that the

⁶¹Schmeckebier, op. cit., pp. 12-14. ⁶²Ibid.

Attorney General's Opinion effectively deprived him of all power and that radio regulation had broken down. Henceforth, he would issue broadcasting licenses to all applicants and would not attempt to enforce any restrictions as to wave-length, or time of operation.

At the same time, he warned that those who contemplated new stations or changing the operation of existing stations would do so at their own risk and that Congress would undoubtedly pass new legislation at the December session which would enable the Government to clear away confusion and interference caused by new stations or "pirating" stations. He also appealed to the broadcasters not to operate in such a manner as to discredit the fine cooperation that had existed between U.S. and Canadian broadcasting.⁶³

Late in July, Secretary Hoover expressed his belief that the voluntary organizations of broadcasters and listeners might be the deciding factor in preventing chaos in broadcasting. If voluntary cooperation could be maintained for six months, Hoover felt that the broadcasting problem would be solved.⁶⁴

By the middle of August the general opinion of radio and government circles was that conditions would probably remain about the same until Congress had an opportunity to

⁶³The New York Times, July 10, 1926. p. 1.

⁶⁴The New York Times, July 30, 1926. p. 14.

consider radio legislation in December.⁶⁵

In September, Radio Broadcast, expressing its stand on the radio situation, made the following statements:

The dictatorial powers . . . assumed by the Department [of Commerce] are the outcome of the failure of Congress to enact a radio law and do not, in themselves, constitute an argument against further regulation by the Department.

With radio neglected by Congress and the Department of Commerce defeated in the courts, Secretary Hoover would be justified in surrendering the control of radio to the tender mercies of anarchy.

While it is possible that some of the 650 applicants [sic; other figures indicate that between July, 1926, and March, 1927, approximately 380 persons applied for or indicated that they would apply for broadcast licenses] for broadcast station licenses, emboldened by these court decisions, may begin operating on wavelengths already in use, we feel certain that common sense will rule the situation.

But the failure of the legislative branch of our government to pass radio legislation, however imperfect, is not to be condoned. If a period of confusion arises, it will rightly be laid at the door of our legislators who willfully mingled this nonpartisan problem with political wrangles.⁶⁶

On December 5th, the day before Congress reconvened, the New York Times reported on the situation:

Since then [the Attorney General's ruling] many stations have shifted their wavelengths and increased power outputs, with little or no regard to the warnings of the Federal radio supervisors that interference would result.

More than seventy-five new stations have gone on the air despite the fact that the Government experts said that there was no more room in the ether.

During the past five months the entire broadcast-system has been seriously disturbed, so that on many

⁶⁵ The New York Times, August 15, 1926, VII, p. 17.

⁶⁶ "The March of Radio: Fourteen Years Without a Change in Radio Legislation," Radio Broadcast, September 1926, pp. 372-373. Also "The Month in Radio," Radio Broadcast, March 1927, p. 466.

wavelengths it is useless and no pleasure to listen in.⁶⁷

On December 6, the Second Session of the 69th Congress convened. On January 22, 1927, the House and Senate conferees reached an agreement on the radio bills that had been sent to the Conference Committee in the last days of the First Session. The conferees' agreement was a compromise in which virtually all control and regulation would remain with the Department of Commerce; however, a five-man commission, appointed by the President, would set policy on such matters as the allocation of licenses and wavelength assignments.⁶⁸ The Conference Committee's report was a revision of H.R. 9971 and S. 4057, and was reported to the House as H.R. Report 1886 and to the Senate as Senate Document 200.

On January 29, the House passed the Conference Committee report⁶⁹ and on February 13, after two weeks of intensive debate, the Senate also passed the compromise bill.⁷⁰ Five days later, President Coolidge signed into law the Radio Act of 1927.⁷¹

Commenting on the new radio law, Radio Broadcast said:

⁶⁷The New York Times, December 5, 1926, IX, p. 10.

⁶⁸The New York Times, January 23, 1927, p. 20.

⁶⁹The New York Times, January 30, 1927, p. 21.

⁷⁰The New York Times, February 19, 1927, p. 1.

⁷¹The New York Times, February 24, 1927, p. 1.

The Radio Commission will have full power for one year, during which time it is supposed to undo the present broadcasting knot and to formulate rules and regulations to guide the Department of Commerce administration of radio matters. At the end of the year, the Commission becomes an appellate body, reviewing the decisions of the Department of Commerce and hearing the appeals of irate broadcasters. The law is, as we predicted, a political compromise between the administration and the opposition radio bills.⁷²

On February 25, Secretary Hoover pointed out the magnitude of the task that would confront the Federal Radio Commission:

The new Commission which is to determine who shall have licenses to broadcast, at what times and with what power will no doubt require some months to make the rearrangements of broadcasting stations which will be necessary. It will require some patience on the part of listeners while the commission works out the problem.⁷³

Hoover also stated that the Department would recognize existing licenses and would issue no new licenses until the Commission had an opportunity to consider these matters.⁷⁴

On March 3, the Congress adjourned without acting on a finance bill which was to have provided \$155,000 in operating funds for the Federal Radio Commission.⁷⁵

Disappointed, Hoover remarked:

⁷²"The March of Radio: Welcome to the Radio Commission," Radio Broadcast, April, 1917, p. 555.

⁷³The New York Times, February 25, 1927, p. 2.

⁷⁴Davis, op. cit., p. 169. A total of 205 new stations had been licensed by the Department of Commerce between July of 1926 (when the Acting Attorney General's ruling was handed down) and this date, only eight months later.

⁷⁵The New York Times, March 5, 1927, p. 2.

The failure of the . . . bill in the Senate deprives the commission of funds with which to either pay its salaries or other expenses of the commission. It has been suggested that, as the law provides that the Secretary of Commerce shall exercise the powers of the Commission in its absence, the Commission should, owing to this lack of funds, merely assemble and adjourn. As this would defeat the purpose we have all sought, I am inviting the members of the Commission to assemble in Washington, and, if the Commission desires, the Department of Commerce will cooperate to the best of its ability in finding some way of enabling it to function through the loan of clerical staff and otherwise.⁷⁶

On March 15, the Federal Radio Commission held its first formal meeting and immediately set into motion activities that would eventually lead to a pure form of Commission control for broadcasting.⁷⁷

Under the Radio Act of 1927, the Secretary of Commerce had the following powers:

To prescribe the qualifications of station operators and to issue licenses to operators.

To suspend licenses of operators for violation of any law or treaty or of any regulation of the Commission or the Secretary.

To inspect all transmitting apparatus to determine whether it conforms to the law, the regulations, and the license.

To report to the Commission violations of the law, the regulations, or the provisions of the license.

To designate call letters.

To publish lists of call letters and other desirable information.⁷⁸

Furthermore the Secretary could at any time refer any matter he felt necessary to the Commission for its consideration.

⁷⁶The New York Times, March 6, 1927, p. 2.

⁷⁷The New York Times, March 16, 1927, p. 27.

⁷⁸See Meckebier, op. cit., p. 20.

In addition, the Act "provided that one year after the first meeting of the Commission all of the powers and authority vested in the Commission (except as to revocation of licenses) should be vested in and exercised by the Secretary of Commerce."⁷⁹ As the powers of the Commission were twice extended for periods of one year and then extended indefinitely, they were never acquired by the Secretary of Commerce.

At this point, Secretary Hoover, for all practical purposes, turned the control of radio over to the Commission. Hoover continued to exercise his powers under the Act and the Department of Commerce cooperated fully with the Radio Commission but the Commission now had effective control of radio regulation.

In August, President Coolidge suddenly announced that he would not run for re-election,⁸⁰ and in the early part of 1928. Hoover entered his name in the Ohio primary elections.⁸¹

In March, Hoover once again entered (if only briefly) the radio regulation picture. On March 15, the one-year term of the Federal Radio Commission came to an end and its

⁷⁹Paul R. Olson, "Regulation of Radio Broadcasting in the U. S." (unpublished Ph. D. dissertation, State University of Iowa, 1931), p. 51.

⁸⁰Herbert Hoover, Memoirs (New York: The Macmillan Company, 1952), II, p. 190.

⁸¹The New York Times, February 26, 1928. IX, p. 16.

powers officially reverted to Hoover, "but instead of taking over control of the matters pending before the Commission, Mr. Hoover, in view of the fact that legislation was pending to extend the Commission's existence as a control body . . . asked the Commission to continue to function as before."⁸² On March 28, the Radio Commission was officially extended for one year.

⁸²The New York Times, March 16, 1928, p. 16.

CHAPTER IV

A STUDY OF HOOVER'S ROLE IN RADIO REGULATION

The previous chapters have studied Hoover's early life, traced the background of radiotelephone leading to the first broadcasting stations, and taken a detailed look at Hoover's actions as Secretary of Commerce as related to radio regulation. This chapter will attempt to analyze the meanings and influences of these actions in their effect upon radio regulation.

In 1921, the infant "broadcasting" was dropped upon Secretary Hoover's doorstep. Hoover was to be its official godfather because the Radio Act of 1912 made it his duty to give radio governmental sanction. There was little law to guide him in its upbringing. No one knew in what direction broadcasting would grow.

As was pointed out in Chapter I, Hoover believed in "free initiative, free enterprise, open opportunity, and freedom from any attempt by either private or governmental interference with these freedoms." In radio broadcasting, Hoover saw an outstanding opportunity to put this philosophy into practice. Here was an opportunity for a new industry to determine its own destiny. Hoover personally envisioned the possibility of all radio interests--government and non-government--uniting around a conference table to discuss

the problems and future of radio.¹ With this purpose in mind, Hoover brought the radio situation to the attention of the Presidential Cabinet in February of 1922 and requested authorization for a National Radio Conference.

On February 27, Hoover opened the first National Radio Conference with a speech which was probably the first pronouncement expressed by a government official on the subject of radio broadcasting and the regulatory problems it presented.

First of all, Hoover pointed out that the purpose of the Conference was to study the "problem" and then to advise the Department of Commerce concerning the Department's regulatory function. Since both government and nongovernment radio interests were represented, Hoover was able to set the stage for the cooperative self-regulation which developed out of this conference and which was to prevail throughout Hoover's administration in the Department of Commerce. Cooperative self-regulation was, of course, quite consistent with Hoover's philosophical views. As was pointed out in Chapter I, Hoover believed that business or industrial cooperation with government assistance and guidance gave "great hope of a new basis of solution for many of our problems and [for] progressive action."

In further defining the "problem," Hoover expressed his belief that the major field of consideration was how to

¹Personal letters from the Honorable Herbert Hoover, December 20, 1962, and Mr. H. V. Kaltenborn, January 7, 1963.

develop a policed regulation whose purpose would be to control interference created by transmitting stations-- particularly those which desire to broadcast to the general public.

Hoover also indicated that he and his colleagues in the Department of Commerce had been quite unwilling to permit extensive licensing of broadcast facilities until adequate legislation or other constructive guidelines could guide the Department in some form of systematic, purposeful licensing procedure.

Asserting that the ether is a great national asset, Hoover cautioned the conferees that steps should be taken to establish unmistakable public control, i.e., governmental administration, over the ether. Even at this very early stage, it would appear that Hoover was aware of broadcasting's potential as a powerful public medium.

Hoover also discussed the question of how financial support might be forthcoming for those stations transmitting to the general public. Although he did not propose a solution, he did express his belief that the commonly accepted method of using receiver licensing fees to operate governmental stations was not the answer under the American free enterprise system. It is well to remember that in these early days, radio broadcasting was following an uncharted path. If Hoover had advocated a license fee, and government-owned and -operated radio plan, the American system of free broadcasting might never have come to exist.

As it was, after its meetings, the first National Radio Conference felt inclined to agree with Hoover; its recommendations showed remarkable compatibility with his views and recommendations.

This first Conference, called by Hoover for the purpose of advising him, started a tradition of government (public) administration of the airwaves, a minimum of government regulation, a maximum of industry self-regulation, opposition to radio receiver taxation, and opposition to government ownership and operation of broadcast stations.² All of these policies are important elements in the American system of free broadcasting.

Not all of the credit for these actions can go directly to Hoover, but he exerted a great influence upon the Conference. A majority of the conferees, and a large section of the radio-minded public, seemed to have the utmost confidence in and a willingness to follow Hoover's lead. A typical example is found in the following editorial--a reaction to the first Conference--from the Providence Bulletin:

Radio devotees are taking comfort from their confidence in the good judgment of Mr. Hoover, his ability to recognize the cultural and educational possibilities of the radio-telephone, and his disposition toward human kindness. The matter of needed regulation is in the hands of the Department of Commerce, the Department of Commerce is in the

²C. M. Jansky, Jr., "The Contributions of Herbert Hoover to Broadcasting," Journal of Broadcasting, I (Summer, 1957), 242-249.

words of Mr. Hoover, and Mr. Hoover is controlled by sound sense and good will.³

The conferees, acting as representatives of the radio interests, expressed a more concrete example of this confidence. To quote Mr. Hoover: "The Conference agreed, irrespective of the legal authority of the Department, to abide by my decision as umpire until we could devise needed legislation."⁴

Some years later, Ray L. Wilbur and Arthur M. Hyde, speaking of Hoover's actions with regard to the first Conference, stated that "at the time the Department was without real authority but his intervention in mobilizing the broadcasters to voluntary action and [to] acknowledgment of public ownership of the channels of communication was a great and enduring public service."⁵

Early in 1922 applications for broadcasting licenses began to pour into the Department of Commerce. Apparently Hoover and his associates felt compelled to issue licenses to most, if not all, of the applicants, for during the year over 550 licenses were issued to broadcast stations. Exactly why the Department issued so many licenses is a mystery, in light of Hoover's February, 1922, statement regarding his conservative approach to license issuance.

³"To Calm the Jarring Radio Waves," Literary Digest, March 18, 1922, pp. 21-31.

⁴Hoover, Memoirs, II, p. 141.

⁵Wilbur and Hyde, op. cit., p. 207.

Perhaps the Department itself tended to interpret the Radio Act of 1912 in much the same manner as the courts did in the 1923 Inter-City Radio decision, which required the issuing of licenses to all applicants.

By August over 500 broadcasting stations, most of them small operations, were on the air. Many of these stations were notorious for their poor operation, characterized by such faults as excessive use of mechanically reproduced musical recordings. To raise programming standards, the Department attempted to create a new class of stations granting them certain special privileges in return for improved standards. Some good was effected, but not the wholesale improvement hoped for. The fact was that many stations could or would not meet the new standards.

Writing for a radio magazine in January of 1923, Hoover made one of the first of many statements calling upon Congress to pass legislation to replace the obsolete Radio Act of 1912. Congress, however, for reasons of its own, was not to be too receptive to these appeals by Hoover and by others who voiced the same opinion.

In February, Hoover met the first major setback in his regulatory efforts. The District of Columbia Court of Appeals reached a decision which, in effect, removed any discretionary power Hoover might have had in the question of whether or not to issue a license to an applicant. Henceforth, he was required to issue a license regardless of any potential problems--such as increased interference--

that might result.

Faced with this setback, Hoover again turned to the broadcasters themselves as he called for a Second National Radio Conference. His apparent aim was to decrease interference by unofficial regulation, based upon the voluntary cooperation of the broadcasters with the Department of Commerce. As previously mentioned, the proposed legislation to alleviate interference which had developed out of the First Conference had failed to receive action from Congress. In his opening speech to the Second Conference, Hoover stressed the fact that the interference problem was endangering the very existence of an effective radio broadcasting system.

In response to these pleas by Hoover, the conferees reached two decisions. First, they unanimously agreed that Hoover had, under the 1912 Act, the power to regulate wavelength, time of operation, and license issuance. Thus, the broadcasters indicated that they were willing to give Hoover the powers he could not get from Congress or the Courts. Secondly, they recommended the establishment of a new frequency allocation for broadcasting purposes.

Less than a month later, the Department of Commerce announced a new system of frequency allocation based upon the recommendations of the Conference. This new allocation system greatly increased the number of available frequencies and was the first step toward today's broadcast band. The increased number of available frequencies seemed

to solve the interference problem, at least temporarily. However, power increases by many stations were later to create similar interference problems.

In March, Hoover testified at length on a radio bill that was being considered before the House Committee on Merchant Marine and Fisheries. During his testimony Hoover was quite insistent concerning the urgent need for revision of the radio law. He pointed out that current regulation was very largely based upon voluntary self-regulation by those within the radio field, because the 1912 law was completely obsolete in the light of broadcasting. At the same time, he reiterated his belief that any law should give the public control over the ether and that no attempt should be made to finance broadcasting through the licensing of receivers.

In testifying before Congress, Hoover voiced his belief that no one person or group, including the Government, should have the right or power to control or censor what may or may not be broadcast to the American public. Certainly these words of Hoover's testimony are an excellent expression of his philosophic stand on freedom of speech as indicated in Chapter I.

Since the loss of his discretionary licensing power in the Inter-City Radio decision, Hoover felt keenly the need for such a power. In the bill under consideration Hoover found, much to his liking, broad general language which would permit some discretion in the issuance of

licenses and give the Department of Commerce the ability to react to future situations "in the development of the art [of broadcasting]." Here for the first time was a radio bill which used a phrase that was to become so well known in later years--"in the public interest."

However, one section of this bill encountered Hoover's disapproval. The White bill provided that no license could be issued by the Secretary of Commerce to anyone monopolizing or attempting to monopolize any area within the radio communication field. Hoover felt that the determination of violators in this area was a judicial decision and that such power should not be placed in administrative hands. This bill, like others before it and others to follow, did not receive final consideration in Congress.

Some five months later, Hoover again called for a "conference table" meeting of all parties interested in the radio field.

In October, these interested persons gathered in Washington where they heard Hoover again express his confidence in the voluntary cooperative regulation that had developed out of two previous conferences. At the same time (and for the first time), Hoover stated that regulatory legislation would not be able to adjust itself to the technical innovations that were characterizing radio broadcasting at that time. Furthermore, he indicated that perhaps industry self-regulation could take the place

of any further governmental intervention.

In this same speech, Hoover showed his insight into the broadcasting situation when he pointed out that the value of radiotelephone rested not upon the ability to transmit but upon the content of the material transmitted.

Most emphatically, Hoover expressed his belief in the evils of "direct advertising," which is broadcast advertising as it is commonly known today. Obviously Hoover felt that such advertising would be the ruin of radio, but he felt even more strongly that only the listening public had the right to decide whether or not direct advertising would find a place in radio broadcasting.

In an effort to alleviate the interference problem, still the major concern as it had been in the previous Conferences, the conferees recommended an expansion of the upper limit of the broadcast band and a new frequency allocation zoning system--both of which were promptly adopted by the Department of Commerce.

Less than two months after the close of the Conference, Hoover wrote his surprising letter to Representative White in which he unexpectedly withdrew his long-established support from White's radio bill (H. R. 7357). Only eight months earlier, while testifying at hearings on this same bill, Hoover indicated his support for this bill in the following words:

. It is urgent that we have an early and vigorous reorganization of the law in Federal regulation of radio.

The need for radio legislation is imperative
 The bill which you are now considering is a
 valuable step in the proper direction and . . . I
 heartily commend it to your favorable consideration.⁶

These hardly seem to be the words of one who would so completely withdraw his support a few months later.

Why did Hoover suddenly withdraw his support from the White bill? A study of the content of the letter and subsequent statements indicate that Hoover felt that there was a distinct possibility that the principles and provisions of the White bill might become inadequate or obsolete before the bill ever became law. Because of his experience with regulation under the obsolete Radio Act of 1912, Hoover obviously did not want his future efforts based upon a new, but similarly outdated law.

Hoover's support was of critical importance to the passage of radio legislation. This is pointed out in a New York Times editorial which stated that "as a result of the position taken by Secretary Hoover [withdrawing his support], it is doubtful that there will be any important legislation dealing with the radio industry at the short session of Congress."⁷

In the letter to Representative White, he stated that he did not care to face the question of censorship that

⁶U. S.. Congress, House, Committee on the Merchant Marine and Fisheries, Hearings on H. R. 5589, To Regulate Radio Communications, 68th Congress, 1st Session, 1924, pp. 8 & 11.

⁷The New York Times, December 6, 1924, p. 4.

would undoubtedly develop if he were given the authority or directive to assign licenses on the basis of programming quality.

Hoover also indicated three recent developments which raised questions regarding the adequacy of the White bill to handle the problems which might be fostered by these developments. They were the development of feasible means of network interconnection of stations, the development of high power transmission and the development of commercial advertising as a practical method of station finance.

In the letter Hoover expressed his belief that, due to possible legislative implications, it would be best to withhold legislation until there was an opportunity to assess the import and influence of these developments.

The following is a later expression of Hoover's feelings in this matter:

The whole art both from the point of view of its expansion, the number of stations, character of programs, purposes of broadcasters, the scientific development going on in increased use of power and in improved instruments and, therefore, better and wider radius of reception to the listeners, together with the complex social and legal problems involved, is in a complete state of flux, and it is my feeling that our ideas as to the character of legislative regulation should be clarified within another year.

Hoover then proceeded in the letter to White, to recommend adoption of a brief amendment to the Radio Act of 1912. The amendment was in Hoover's words "emergency legislation urgently needed to preserve the situation in

⁸ The New York Times, February 7, 1925. II. p. 1.

the public interest until a final and complete legislative policy can be adopted."⁹ This brief amendment asserts the control of the Government over the ether and also gives the Secretary of Commerce discretionary control over such matters as frequency, power, and time of operation for all licensed stations.

As it developed, there was considerable opposition to Hoover's short "emergency" amendment upon the grounds that it gave strong, unappealable powers to the Secretary of Commerce. As a result of Hoover's withdrawal of support from the White bill and opposition to his "emergency" measure, no radio legislation was acted upon during the then current session of Congress.

Approximately nine months after he wrote his letter to Representative White, Hoover issued a call for the fourth meeting of the National Radio Conference. In calling for this meeting, he indicated that, contrary to hopes, the radio situation was not working itself out but was becoming even more aggravated. Hoover was convinced that definitive action, including enactment of legislation, had to be taken.

In November, following his previous practice, Hoover gave the keynote address at the opening meeting of the fourth Radio Conference. In the early paragraphs of this speech, he reviewed, not without some deserved pride, the

⁹The New York Times, December 6, 1924, p. 4.

accomplishments of the previous Conferences.

Hoover reiterated his belief that many of the problems that faced radio could be best solved by the industry itself, through critical self-analysis and self-regulation, without the aid or interference of the Government. He indicated that the Government was ready to help the radio industry where needed. Elsewhere in his speech, he pointed out that, because radio is an interstate concern, it is necessary that the Federal Government take some responsibility, through an administrator such as the Secretary of Commerce, to provide traffic and interference control. At the same time, he noted that there were areas of Governmental responsibility--such as licensing determination--that should not, in his opinion, be placed into the hands of a single administrator.

Hoover continued by making a unique declaration concerning freedom of speech via the airwaves. He pointed out that freedom of speech in radio also encompassed the freedom of the listener to enjoy the use of his receiving set. Such freedom cannot exist, according to Hoover, if all who desire to broadcast for their own interests--commercial or noncommercial--are allowed to monopolize the listener's receiver. As Hoover put it, "the ether is a public medium, and its use must be for public benefit." He expressed his belief that the "greatest public interest must be the deciding factor" in broadcasting to the listening public. This pronouncement has been, by and large,

the policy of American radio licensing control ever since.

In its meetings, the Fourth National Radio Conference covered a wide range of topics, such as frequency allocation, advertising, interference, legislation, and broadcast copyrights. Probably the most important result of the Conference was the recommendation for immediate enactment of radio legislation which would include eighteen recommendations specified by the conferees.

After careful consideration, Hoover gave his full support to these recommendations as incorporated in the bill (H. R. 5589) which Representative White introduced in the 69th Congress. In January, he testified before the House Merchant Marine Committee during hearings on H. R. 5589. During his testimony, Hoover stated:

Many of us have been hesitant as to what the real solution might be in the face of constant shifting scientific development; but we have now reached a situation where we can no longer delay action.¹⁰

This stand, taken just one year later, was a complete reversal of the one which Hoover made in his December 1924 letter to Representative White.

In mid-March, the House passed the Hoover-backed White Radio Control bill and sent it to the Senate, a step that was not advantageous to Hoover and his efforts to obtain new radio legislation.

¹⁰ U. S. Congress, House, Committee on the Merchant Marine and Fisheries, Hearings on H. R. 5589, To Regulate Radio Communication, 69th Congress, 1st Session, January 6-7 and 14-15, 1926, p. 9.

One month later, a U. S. District Court decision (in the U. S. vs. Zenith Radio Case) was handed down which was to prove the worst setback that Hoover suffered in his regulatory efforts. Hoover, through the Department of Commerce, had established certain regulations which were imposed upon the broadcast licensees. Among these was one requiring operation upon the frequency assigned by the Department. WJAZ, operated by the Zenith Radio Company, had transmitted on an unauthorized frequency. In his decision, Judge Wilkerson held that the Act of 1912 granted the Secretary of Commerce no power to make any regulations supplemental to those contained in the Act.

Shouldered with the responsibility for regulatory control of radio under the obsolescent Act of 1912, Hoover had drawn upon supplemental regulations, based upon the recommendations of the National Radio Conferences. The decision removed a very large portion of the control that Hoover had been exercising over radio broadcasters.

As a result, Hoover predicted difficult days ahead for the "radio public." Four days after the decision, he made the following statement: ". . . it is apparent that under the present law of 1912, as now construed, no one has authority to protect the listening public against utter chaos in the service upon which it has come to rely."¹¹ Hoover undoubtedly felt that the only real answer to this predicament was in the enactment of new legislation to

¹¹The New York Times, April 21, 1924, p. 5.

replace the Act of 1912.

During the remainder of April and throughout May, radio legislation was a subject of controversy in the Senate. Involved in this debate, among other things, was the question of how to control radio monopolies, the question of the commission versus the cabinet form of control, and the usual conflict between the Democrats and the Republicans.

In early June, with Congressional adjournment only a month away, Hoover was faced with the possibility that Congress might adjourn without enacting any radio legislation. Without it, Hoover would find himself confronted with an apparent conflict between two Court rulings regarding his power to make wavelength assignments. Therefore on June 4, Hoover requested the Attorney General to rule on his powers under the Act of 1912.

The literature of the day reveals that some observers felt Hoover had ulterior motives in taking this action. Detailed discussion of this possibility will follow shortly. Hoover's ulterior motives, if he had any, may have been to induce Congress into enacting radio legislation before it adjourned. In any event, the Senate delayed so long that no legislation became law. Even an emergency measure was lost in the rush.

In July, the Acting Attorney General set forth an opinion which, in effect, removed any vestige of regulatory power which Hoover still possessed. Hoover felt compelled

to issue licenses free of restriction to all who requested that they be allowed to broadcast.

More than a few people were unhappy with Hoover's actions in this respect. An example of this displeasure is found in the following statement by Senator C. C. Dill, generally known as a supporter of new radio legislation:

When Congress adjourned without legislation Mr. Hoover refused to try to maintain his control of the radio situation until December, although the broadcasters were almost unanimous in supporting such control. Instead, he secured an opinion from the Attorney General declaring he had practically no power and announced he would no longer attempt to restrain broadcasters as previously.

This seemed almost an invitation to broadcasters to do their worst.¹²

The New York Times reported the reaction as follows:

The question is being asked why Secretary Hoover, who has worried along with the hoary old 1912 radio control law since coming into the Cabinet five years ago and who still maintained his authority for three months following the Chicago Zenit decision, should have so suddenly called for a showdown from the Attorney General now instead of bluffing it through a little while longer?

It is doubtful if the Government ever so completely reversed its policy or at a critical time more quickly removed its stabilizing influence from a great and growing industry as it did in so precipitately divesting itself of radio control. And this in view of the fact that Congressional relief is assuredly only five or six months away, and that such decisive action as the Government has taken may jeopardize the whole industry.

According to radio men in Washington no one has advanced a plausible reason why the Government should have forced the issue at this particular time or who could point to any good which might come out of it.¹³

Mr. Thomas Stevenson, writing in Radio Broadcast, presented

¹² The New York Times, September 12, 1926. XI, p. 2.

¹³ The New York Times, July 18, 1926. VII, p. 10.

the following explanation of Hoover's actions:

There is no doubt in the minds of a number of people in a position to know, that the Department of Commerce might have been able to "carry over" during the summer despite the decision of the Chicago court.

But, smarting from the criticisms of Congress and a number of broadcasters, Mr. Hoover did not feel justified in attempting to shoulder the burden any longer. Therefore, he asked the Department of Justice for a ruling on the matter, realizing as he must have, what the decision would be.

.....
There was another factor--one that cannot be found in the record, and which is received with a fine display of scorn by Mr. Hoover and his staff assistants. It is the keen disappointment of Herbert Hoover over the failure of Congress to extend to him a vote of confidence in appreciation of his efforts in bringing broadcasting through the swaddling clothes and teething periods.

Equally disappointing to Mr. Hoover was the failure of broadcasters to rally to the defense of the principles to which they unanimously committed themselves at the Fourth National Radio Conference.¹⁴

After Hoover renounced or was forced to relinquish active control over radio broadcasting by the Attorney General's opinion, he issued a warning to those who might take advantage of this lapse of control. Later the same month, Hoover characteristically expressed his philosophical belief in voluntary action, when he indicated that the cooperative efforts underway might serve to control broadcasting and to prevent chaos until legislation could be enacted.

During the period prior to the reconvening of Congress, there was apparently some deterioration of the

¹⁴"Who Is to Control Broadcasting?" Radio Broadcasting, October, 1926, pp. 572-574.

broadcasting situation. Although it was not as bad as had been expected in some circles, it did put considerable pressure upon Congress to enact radio legislation. On December 7, President Coolidge presented his Annual Message to Congress, which included the following comments on radio:

Due to the decisions of the courts, the authority of the Department under the law of 1912 has broken down; many more stations have been operating than can be accommodated within the limited number of wave lengths available; further stations have departed from the scheme of allocation set down by the department, and the whole service of this most important public function has drifted into such chaos as seems likely, if not remedied, to destroy its great value. I most urgently recommend that this legislation be enacted.¹⁵

During its Second Session, the 69th Congress continued the disunion over radio legislation which it had initiated during the first session. More and more debate resolved itself into a political controversy centering around Mr. Hoover.

The previous April the New York Times had reported on the "rebellion against Secretary Hoover's alleged 'czar-like' powers in the radio field. . . ."¹⁶ Nowhere was it contended that Hoover had abused his authority, but many persons were opposed to giving a Cabinet officer broad powers in such an influential field as radio broadcasting. This reaction was most prominent in the Senate where the New York Times found the following political

¹⁵ Williford, op. cit., p. 49, quoting from 48th Congressional Record, 32, December 7, 1924.

¹⁶ The New York Times, April 29, 1926, p. 9.

reasons for this reaction:

This brings into the picture critics of Secretary Hoover who declare the passage of the proposed legislation [the White bill] would make him czar of radio. Their apprehension takes in the possibility of Mr. Hoover becoming a Presidential candidate and being able to use radio to his advantage. Others leaving Mr. Hoover's personal fortunes out, say he might use radio to benefit the Republican Presidential campaign to the disadvantage of the Democrats. Another version is that Senator James E. Watson, of Indiana, Republican Chairman of the Interstate Commerce Committee, again feels the Presidential urge and is not desirous of seeing Hoover or any other potential candidate too strongly entangled with such a powerful campaign adjunct as radio.¹⁷

In retrospect, the New York Times summed up the situation and its eventual outcome as follows:

. . . Congressman White of Maine put forward his radio measure in the House. It provided for Secretary Hoover's remaining in direct charge of radio, with an advisory commission under him. The Senate was not impressed. Republican members whose aspirations included ambitions to sit in the Chief Executive's chair saw their hopes being blasted. When Senator Dill, Democrat, of Washington, presented his measure to the Senate, they [the Republican Senators] kicked it in the face of the Administration measure, introduced by White. The result was a compromise out of which the Federal Radio Commission was born. Senatorial aspirants breathed easier in the belief that Secretary Hoover was shorn of his power.

But they overlooked an important issue. Had Secretary Hoover been in direct charge of radio and broadcasting during the past year there is no assurance that he could have improved on the work done by the [Federal Radio] Commission.

. . . As it is, Secretary Hoover's hands were tied, with the result that he was kept out of hot water that might have scalded his ambitions. Senatorial foresight resulted in advancing his prospects when it attempted to thwart his ambitions.¹⁸

¹⁷The New York Times, January 10, 1926, VIII, p. 8.

¹⁸The New York Times, February 26, 1928, IX, p. 16.

As the preceding quote indicated, a compromise agreement was eventually reached and in February the Radio Act of 1927 was signed into law. With the enactment of the new Radio Act, a large share of the responsibility for the control of radio passed from Hoover's shoulders--a weight which he had borne for almost six years.

After such a period of service and after the personal disappointment he must have felt in the Senate's reaction to his service, Hoover might well have been justified in washing his hands of radio control. However, Hoover was not this type of individual.

Instead he went out of his way to effect a smooth transition to Commission control. On February 25, he issued a statement which emphasized the magnitude of the tasks assigned to the Commission and that it would need time to work on them.

In March, Congress adjourned without providing funds for the Commission. Hoover went out of his way to do what he could to help the Commission through this crisis. Through the Department of Commerce, he provided office space, clerical staff, and limited funds (originally appropriated for Department of Commerce radio activities) with which the Commission was enabled to begin its tasks.

During the remaining sixteen months that Hoover continued to serve as Secretary of Commerce, he cooperated fully with the Federal Radio Commission.

Furthermore, Hoover continued his active interest

and participation in the field of radio. For example, in October and November of 1927, Hoover again served as the chairman of the International Radiotelegraphic Conference meeting in Washington. The first such Conference since 1912, it greatly facilitated the international use of radio communication.

In July, 1928, Hoover submitted his resignation as Secretary of Commerce and thus ended his direct, active participation in radio regulation.

CHAPTER V

A SURVEY OF OPINION OF HOOVER'S ROLE IN RADIO REGULATION

This final chapter will concentrate on a broad survey of Hoover's role in radio regulation.

Very early in the history of broadcasting, Hoover realized the importance of radio broadcasting and the difficulties that it would present:

I was early impressed with three things: first, the immense importance of the spoken radio; second, the urgency of placing the new channels of communication under public control; and third, the difficulty of devising such control in a new art.¹

Less than a year after he became Secretary of Commerce, radio broadcasting began to loom large on the horizon. Very quickly Hoover had to formulate a policy toward radio for himself and for the Department of Commerce. This he did and at the first National Radio Conference, he promulgated the "Hoover radio policies" which Wilbur and Hyde have detailed as follows:

- a) the channels through the air were public property;
- b) broadcasters and others were tenants at the will of the Government;
- c) they had to be regulated both for the public interest and to prevent their destroying each other by interference.²

As Mr. C. M. Jansky stated during a 1957 speech:

There has been much speculation throughout

¹Herbert Hoover, Memoirs, II, p. 139.

²Wilbur and Hyde, op. cit., p. 207.

the years as to the origin of our American system of free broadcasting. The record shows that this system was born at the First Hoover Radio Conference in 1922.³

The "Hoover radio policies" are, of course, the basic tenets of the American system of broadcasting and Hoover, according to Ray Wilbur and Arthur Hyde, was "chiefly instrumental in their adoption."⁴

As was pointed out in earlier chapters, the advent of broadcasting as a major use of radio made the Radio Act of 1912 obsolete. After the Inter-City Radio decision, it became mandatory that the Secretary of Commerce issue a license to any applicant. Mr. Jansky points out that

Hoover was quick to see that unless some governmental agency had authority not only to grant but also to refuse licenses to applicants for radio stations, unregulated construction and operation of broadcast stations would result in complete chaos.⁵

This quotation reflects Hoover's foresight regarding the difficulties confronting radio broadcasting. Hoover then made vigorous efforts to have Congress enact suitable legislation. As others have pointed out, "Mr. Hoover deserves great credit for his attempts to bring about proper legislation."⁶ However, as previous chapters have indicated,

³C. M. Jansky, "The Contribution of Herbert Hoover to Broadcasting," Journal of Broadcasting, I (Summer, 1957), 248.

⁴Wilbur and Hyde, op. cit., p. 20.

⁵C. M. Jansky, loc. cit., p. 242.

⁶Thomas H. McCandless, op. cit., p. 11.

Congress was not to act. As a result, Hoover felt justified in taking matters into his own hands. McCandless indicates that

By usurping powers not covered by the Radio Act of 1912, Secretary of Commerce Hoover managed to "maintain some semblance of order until 1926 when legal decisions left the Department of Commerce stripped of all power to deal with the situation."

Mr. H. V. Kaltenborn has stated that it is his belief that "Mr. Hoover was justified in assuming all necessary power to regulate radio."⁸ Having assumed regulatory powers well beyond those actually granted him by legislation, it could be concluded that the broadcasters would feel oppressed and react violently against Hoover. However, the New York Times reported that "Secretary Hoover has not offended the broadcasters." The Times goes on to say that ". . . there is no disputing the fact that Secretary Hoover has endeared himself to many persons influential in the radio industry."⁹

Perhaps the reason that the broadcasters did not oppose the usurpation of regulatory powers was that Hoover acted with their advice and consent, which he gained at the National Radio Conferences. Originated by Hoover, these Conferences enabled radio personnel to discuss their problems and recommend to the Government, through Hoover and

⁷Ibid., p. 1.

⁸Personal letter from H. V. Kaltenborn, January 7, 1963. Also see quote from Radio Broadcast on page 32, Chapter III.

⁹The New York Times, February 26, 1928, IX, p. 16.

the Department of Commerce, possible solutions to these problems.

It was at these Conferences that

. . . Herbert Hoover defined, explained, and advocated certain fundamental principles of public policy which are today the accepted foundation upon which our American system of free broadcasting has been built.

.
At the radio conferences he sponsored and guided, Herbert Hoover emphasized the importance of nation-wide network broadcasting. He consistently insisted upon a minimum of government control and in its place advocated industry self-regulation. He opposed the taxing and licensing of radio receiving sets. He opposed the government ownership of broadcast stations. Also he opposed government censorship of broadcast program material.¹⁰

Jansky also states that

By November, 1925, when the Fourth of these conferences was held, our American free system [of broadcasting] had become so accepted that to date, it has easily survived all attacks upon it.¹¹

Hoover's usurpation of regulatory power in radio matters was a unique occurrence in American government. It would be appropriate to look at Hoover's motives in effecting this usurpation. The Chicago Evening Post commented upon this matter as follows:

Secretary Hoover has managed with admirable wisdom and fairness to maintain some measure of order and discipline in the air. He has held the confidence and cooperation of broadcasters and the radio public generally. He is not jealous of power. His whole career in the Cabinet has proved him to be a man who values

¹⁰C. M. Jansky, loc. cit. pp. 244, 249.

¹¹Ibid. p. 248.

power only as a means of service.¹²

Mr. Hoover expressed his lack of desire for personal power in radio matters in the following words:

So far as the Department of Commerce is concerned, the extraordinary difficulties and conflicts in the situation are such that we will be well satisfied to see radio administered by any other department which can properly undertake its regulation.¹³

There seems to have been surprisingly little criticism of Hoover's actions in effecting control of radio.

"The March of Radio," a monthly column appearing in Radio Broadcast, reported on criticism of Hoover as follows:

Those who like to criticize Cabinet officers in the present Republican administration seem to have avoided Herbert Hoover, the able Secretary of Commerce. Almost everyone feels that Secretary Hoover has done an excellent job. And few groups feel that more strongly than the radio folk.¹⁴

There is also much direct praise in the literature of the day for Hoover and his actions in radio regulation.

Radio Broadcast had the following to say about Hoover:

The best tribute it is possible to pay Mr. Hoover and his subordinates in office is that they have managed radio affairs with the least possible friction and a great deal of tact.¹⁵

¹²"Politics in Radio Control," Literary Digest, May 22, 1926, p. 13.

¹³J. H. Morecraft, "The March of Time: Coolidge and Hoover Oppose a Radio Commission." Radio Broadcast, July, 1926, p. 213.

¹⁴J. H. Morecraft, "The March of Time: What the Hoover Conference Did," Radio Broadcast, December, 1924, p. 251.

¹⁵Ibid., pp. 251-252.

The Chicago Tribune reported:

Under his administration the radio industry in this country has flourished as it has nowhere else in the world.¹⁶

Hoover's unusual, positive reputation followed him after he resigned as Secretary of Commerce to run for the Presidency. Clair Nelson, who has made a detailed study of the image of Hoover reported in the press, has stated

The image presented [in the news media] during his candidacy for the Presidency in 1928 was compounded of a mixture of his progressive, intelligent business leadership; of his aggressive Americanism; of his great reputation from the war years as a warm-hearted humanitarian; and, perhaps most important of all, of his position as heir apparent of the popular Coolidge Administration.¹⁷

There seems to be no better way to conclude than by using the words of Mr. C. M. Jansky who said:

If any man should be called the Father of the American System of Free Broadcasting it is the Honorable Herbert Hoover.¹⁸

¹⁶ "Politics in Radio Control," Literary Digest, May 22, 1928, p. 13.

¹⁷ Clair E. Nelson, loc. cit., p. 199.

¹⁸ C. M. Jansky, loc. cit. p. 249.

SELECTED BIBLIOGRAPHY

Public Documents

- U. S. Department of Commerce. Minutes of Open Meetings of the Department of Commerce Conference on Radio Telephony (1st National Radio Conference). February 27 and 28, 1922.
- U. S. Department of Commerce. Recommendations of Regulation of Radio Adopted by the Third National Radio Conference. October 6-10, 1924.
- U. S. Department of Commerce. Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio. November 9-11, 1925.
- U. S. House of Representatives. Special Sub-Committee on Legislative Oversight of the Committee on Interstate and Foreign Commerce. Regulation of Broadcasting: Half a Century of Government Regulation of Broadcasting and the Need for Further Legislative Action. 85th Congress, 2nd. Session, 1958.
- U. S. House of Representatives. Committee on the Merchant and Fisheries. Hearings on H.R. 11964: To Amend the Radio Act of 1912. 67th Congress, 4th Session, January 2 and 3, 1923.
- U. S. House of Representatives. Committee on the Merchant Marine and Fisheries. Hearings on H.R. 7357: To Regulate Radio Communications. 68th Congress, 1st Session, March 11-13, 1924.
- U. S. House of Representatives. Committee on the Merchant Marine and Fisheries. Hearings on H.R. 5589: To Regulate Radio Communications. 69th Congress, 1st Session, January 6, 7, 14, and 15, 1926.

BOOKS

- Archer, Gleason L. History of Radio to 1926. New York: American Historical Society, Inc., 1926.
- Davis, Stephen. The Law of Radio Communication. New York: McGraw-Hill Book Company, Inc., 1927.

- Dexter, Walter Frair. Herbert Hoover and American Individualism: A Modern Interpretation of a National Ideal. New York: Macmillan Company, 1932.
- Elelman, Murray. The Licensing of Radio Services in the United States, 1927 to 1947: A Study in Administrative Formulation of Policy. Urbana: University of Illinois Press, 1950.
- Herring, James M. and Gross, Gerald C. Telecommunications: Economics and Regulation. New York: McGraw-Hill Book Company, Inc., 1936.
- Hoover, Herbert C. American Individualism. Garden City. New York: Doubleday, Doran and Company, Inc., 1922.
- _____. The Memoirs of Herbert Hoover.
 Volume I: Years of Adventure 1917-1920
 Volume II: The Cabinet and the Presidency 1920-1933
 New York: Macmillan Company, 1951 and 1952.
- Irwin, Will. Herbert Hoover: A Reminiscent Biography. New York: Century Company, 1928.
- Lyons, Eugene. The Herbert Hoover Story. Washington, D. C.: Human Events, 1959.
- The Radio Industry: The Story of Its Development (as told by leaders of the industry to the students of the Graduate School of Business Administration, George F. Baker Foundation, Harvard University). New York: A. W. Shaw Company, 1928.
- Reek, Franklin M. Radio from Start to Finish. New York: Thomas Y. Crowell Company, 1942.
- Wilbur, Ray Lyman and Hyde, Arthur Mastick. The Hoover Policies. New York: Charles Scribner's Sons, 1917.
- Wolfe, Harold. Herbert Hoover: Public Servant and Leader of the Loyal Opposition. New York: Exposition Press, 1956.

Articles and Periodicals

- Bent, Silas. "Hoover--The Man for Difficult Jobs." Scribner's, September, 1927. pp. 38-a-18-12.
- "Crosley's Forty Years of Service." Broadcasting, April 1, 1962, pp. 3-5.

Gray, George W. "Signing Off on the First Ten Years: Broadcasting Takes Stock--and a Look Ahead." World's Work, December, 1920, pp. 86-8 and 86.

Hoover, Herbert. "American Individualism." World's Work. April, 1922, pp. 584-588.

_____. "The Government's Duty is to Keep the Ether Open and Free to All," The New York World, March 16, 1921, Editorial Section, p. 1.

_____. "The Urgent Need for Radio Legislation." Radio Broadcast, January, 1923, p. 211.

"Is Radio Only a Passing Fad," Literary Digest, June 3, 1922, p. 31.

Jansky, C. M. Jr. "The Contribution of Herbert Hoover to Broadcasting," Journal of Broadcasting, 1 (Summer 1957), 241-249.

Morecraft, J. H. "The March of Radio: What the Hoover Conference Did," Radio Broadcast, December, 1924, pp. 451-453.

_____. "The March of Radio: Hoover's Suggestions for New Radio Regulations." Radio Broadcast, March, 1925, pp. 890-892.

_____. "The March of Radio: Pending Radio Legislation." Radio Broadcast, June, 1926, p. 117.

_____. "The March of Radio: Coolidge and Hoover Oppose A Radio Commission," Radio Broadcast, July, 1926, pp. 212-213.

_____. "The March of Radio: Fourteen Years Without A Change in Radio Legislation," Radio Broadcast, September, 1926, pp. 372-373.

_____. "The March of Radio: Radio Regulation in the Great Game of Politics," Radio Broadcast, March, 1927, pp. 463-464.

_____. "The March of Radio: Welcome to the Radio Commission," Radio Broadcast, April, 1927, p. 555.

"The Need for Laws to Soft-Pedal Radio Chaos," Literary Digest, January 13, 1923, pp. 25-26.

New York Times. 1921-1929.

- "1922--Year Radio's Population Soared." Broadcasting, May 14, 1922, pp. 82-122.
- "Politics in Radio Control." Literary Digest, May 22, 1926, pp. 12-13.
- Terrill, W. D. "A Few Ideas on Radio," Radio Broadcast, August, 1922, pp. 330-331.
- "This Month in Radio," Radio Broadcast, September, 1926, p. 376.
- "This Month in Radio." Radio Broadcast, March, 1927, p. 446.
- "To Calm the Jarring Radio Waves," Literary Digest, March 18, 1922, pp. 12-13.
- Tripp, Dwight K. "Guiding the Goof Ship Radio: An Interview with W. D. Terrill, Chief Supervisor of Radio, Department of Commerce." Radio Broadcast, October, 1925, pp. 743-744.
- "Who is to Control Broadcasting." Radio Broadcast, October, 1926, pp. 572-574.
- Wilhelm, Donald. "Wanted: An American Radio Policy," Radio Broadcast, May, 1922, pp. 29-33.

REPORTS

- Rosenbloom, Joel. Authority of the Federal Communications Commission with respect to the programming of Radio and Television Broadcasting Stations. A Federal Communications Commission memorandum. Also published as Appendix I of Freedom and Responsibility in Broadcasting. Edited by John E. Coons. Evanston, Ill.: Northwestern University Press, 1961.
- Schmeckebier, Laurence F. The Federal Radio Commission: Its History, Activities, and Organization. Service Monograph #65, The Institute for Government Research. Washington, D.C.: The Brookings Institution, 1932.

UNPUBLISHED MATERIALS

- Brandes, Joseph. "Herbert Hoover as Secretary of Commerce: Economic Foreign Policy, 1921-1928." Unpublished. Ph.D. dissertation. New York University, 1958.

- McCauley, Thomas Harris. "Federal Control of Radio to 1933." Unpublished Master's thesis, University of Southern California, 1945.
- Nelson, Clair Everett. "The Image of Herbert Hoover as Reflected in the American Press." Unpublished Ph.D. dissertation, Stanford University, 1956.
- Olson, Paul R. "Regulation of Radio Broadcasting in the U. S." Unpublished Ph.D. dissertation, State University of Iowa, 1937.
- Williford, Imogene. "The Development of Radio Legislation; Its Historical, Economic and Legal Phases." Unpublished Master's thesis, American University, 1933.

OTHER SOURCES

- Hoover, Herbert. Personal letter dated December 20, 1962.
- Kaltenborn, H. V. Personal letter dated January 7, 1963.

ROOM USE ONLY

~~APR 22 '66~~

~~MAR 28 1966~~

~~SEP 25 1965~~

ROOM USE ONLY