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From: Wendell Bartnick
Date: June 11, 2007
Re: Effects on Stations after Davis Amendment and General Order 40 reallocation

Question

Did the Federal Radio Commission/Federal Communications Commission respond to the Davis Amendment by adding more stations in the South and West while removing stations outside the South and West?

Answer

Partially, yes, many stations in the North and Midwest were terminated, but most of these were smaller non-profit stations. The Davis Amendment, passed in 1928, ordered the FRC to allocate a roughly equal number of broadcast licenses to each of the nation's five zones on the claim that the South and West were being cheated out of their fair share of radio stations.¹ More specifically, the FRC was forced to equalize the number of assignments and broadcast stations' total power levels in each of the five zones covering the country.² Within the five zones, the Davis Amendment also required the FRC to consider an area's population to make their determinations, using the official census data.³ Prior to the amendment, the FRC did not want to terminate any of the existing assignments,⁴ but the FRC was forced to terminate some to implement the equalization requirements.⁵

¹ MCCHESNEY, *supra* note 1, at 21; Hazlett, *supra* note 1, at 161, 168.

² ROBERT W. MCCHESNEY, TELECOMMUNICATIONS, MASS MEDIA, AND DEMOCRACY: THE BATTLE FOR THE CONTROL OF U.S. BROADCASTING, 1928-1935, at 21 (1993); Thomas W. Hazlett, *The Rationality of U.S. Regulation of the Broadcast System*, 33 J.L. & ECON. 133, 161, 168 (1990).

³ 1928 Fed. Radio Comm'n 2d Ann. Rep. 11, [hereinafter "1928 REPORT"], available at http://www.fcc.gov/mb/audio/decdoc/annual_reports.html; 1930 Fed. Radio Comm'n 4th Ann. Rep. 57, [hereinafter "1930 REPORT"], available at http://www.fcc.gov/mb/audio/decdoc/annual_reports.html.

⁴ 1928 Report, *supra* note 3, at 218.

⁵ Fritz Messere, *The Davis Amendment and the Federal Radio Act of 1927: Evaluating External Pressures in Policymaking* 10, <http://www.oswego.edu/~messere/DavisAmend.pdf>.

When the FRC was created in 1927, 732 licensed broadcast stations existed.⁶ On July 1, 1928, after the Davis Amendment was passed, there were 677 and on November 1, 1929, there were 584 stations.⁷ In 1929, twenty-eight had been added, but 121 had been terminated.⁸ Most of the terminated stations were located in the highly populated East and Midwest.⁹ No stations in the South were deleted.¹⁰ However, the FRC did not terminate any stations pursuant to General Order 40, as that order simply reallocated stations to different frequencies and changed power levels to equalize the power levels in each region.¹¹ Most of the changes affected only educational and other non-commercial stations, so the commercial broadcasting industry was largely unaffected by the Davis Amendment and General Order 40.¹² In the years after General Order 40 in 1928, the FRC made only minor adjustments to the reallocation completed pursuant to General Order 40.¹³ For example, in 1931, only 11 new stations were licensed and 20 were terminated.¹⁴ In 1932, only 8 new stations were licensed and 12 were terminated.¹⁵ The location of the stations was varied, with no clear trend of new stations in the South and terminated stations in the North.¹⁶ The FRC did reassign some stations, but that was due

⁶ 1929 Fed. Radio Comm'n 3d Ann. Rep. 15, [hereinafter "1929 REPORT"], *available at* http://www.fcc.gov/mb/audio/decdoc/annual_reports.html.

⁷ *Id.* at 15-16.

⁸ *Id.* at 16.

⁹ Messere, *supra* note 5, at 10.

¹⁰ *Id.* at 10.

¹¹ 1929 Report, *supra* note 6, at 16; *Id.* at 12.

¹² Messere, *supra* note 5, at 18.

¹³ 1930 Report, *supra* note 3, at 56; 1931 Fed. Radio Comm'n 5th Ann. Rep. 19, [hereinafter "1931 REPORT"], *available at* http://www.fcc.gov/mb/audio/decdoc/annual_reports.html; 1932 Fed. Radio Comm'n 6th Ann. Rep. 25, [hereinafter "1932 REPORT"], *available at* http://www.fcc.gov/mb/audio/decdoc/annual_reports.html.

¹⁴ 1931 Report, *supra* note 13, at 7.

¹⁵ 1932 Report, *supra* note 13, at 7-8.

¹⁶ *See* 1931 Report, *supra* note 13, at 13; *Id.*

to interference issues, not an effort to equalize power and station numbers in regions.¹⁷

The FRC stopped applying the Davis Amendment's dictates in 1932.¹⁸

¹⁷ 1930 Report, *supra* note 3, at 56.

¹⁸ Messere, *supra* note 5, at 21.