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COMMISSIONERS HIT FCC RULES AT SENATE HEARING

Two members of the Federal Communications Commission told the Senate Committee on Interstate Commerce today they believe that the Commission has usurped power not vested in it by Congress in issuing its new rules affecting radio broadcasting.

The FCC proposals, they said, are more likely in their effects to be "destructive rather than constructively remedial."

These views were expressed in a joint statement by Commissioners Norman S. Case and T. A. M. Craven, which the latter presented at hearings on the resolution introduced by Senator White, of Maine, proposing that the Senate conduct a study of the Commission's action and a general investigation of radio broadcasting.

Among other developments at today's hearing were:

Refusal by Fred Weber, general manager of the Mutual Broadcasting System, which is supporting the FCC's position, to answer yes or no when asked by Senator White if it is not true that "the great majority of broadcasting stations in the United States are today fearful of these regulations and are substantially opposed to them."

Senator White's statement that the "Commission has put the cart before the horse in this matter by first determining whether a fellow is guilty of monopoly or not and then going on to determine whether what he is doing is in the public interest or not."

Craven States Issues

In opening his testimony today, Commissioner Craven said that the real issues between the Commission majority and minority are first, whether the majority has usurped power, and second, whether the majority would

not in fact create a monopoly in broadcasting "more devastating in its effect upon the public than that which is alleged to exist today."

Mr. Craven said the Commission minority believes, that by its action in promulgating the new rules the Commission "asserted power not vested in this agency by Congress."

Senator Tobey, of New Hampshire, asked Commissioner Craven, "As among the three large concerns now, is there comity or unity or a gentlemen's agreement that sets up a monopoly between any two of them?"

"Not in my opinion," Mr. Craven replied.

"Then," continued Senator Tobey, "there are three free individual networks, all operating separately?"

"That is my understanding, sir," responded Commissioner Craven.

Unfortunate Consequences Feared

He and Commissioner Case believe, Mr. Craven stated, that "the solution of the problem now confronting the Commission requires a balanced and dispassionate consideration of the many factors which contribute to broadcast service in the public interest.

"We feel that a limited approach or conclusions based on overemphasis of one phase of the problem will result in unsound administration and unfortunate consequences to the radio service to which the public is entitled. It is with extreme regret that we conclude the majority has taken this limited approach."

Speaking of the licensing power which the FCC already has over broadcasting, Commissioner Craven said, "In itself, the power to punish licensees by refusing to renew licenses constitutes a vast control," adding that "if this

licensing power is augmented with jurisdiction to determine guilt of violation of any law of the land under the guise that such violations constitute acts against public interest, there is concentrated in the Commission undue power."

Commissioner Craven said he believes that the FCC should have made its recommendations to Congress instead of putting the new rules into effect.

Pointing out that by its new regulations the Commission proposes to interfere with the "business practices"

of the broadcasting stations, Commissioner Craven said that the Supreme Court recently held in the Sanders case that the Commission is prohibited from doing that.

As at yesterday's hearing, Senator White again today came out strongly for enactment of new legislation governing radio broadcasting.

"I should like to see," Senator White asserted, "legislation declaring in specific terms the powers of the Commission with respect to what they may do in the regulation of chain broadcasting."