



April 15, 1912

- Alignment of
 - Military interests
 - Commercial interests
- Huge public catalyzing event
- Result is ...

Congress acts

Radio Act of 1912

- no one could broadcast without a license from the Secretary of Commerce
- permissible frequencies were assigned
- Military
 - got excellent frequencies, especially the navy
- Commercial shipping
 - got frequencies, especially for distress calls
- Other commercial use
 - limited amount set aside for commercial use
- Amateurs
 - got banned altogether from useful frequencies
 - relegated to what were called the "short wavelengths" which at that time technologically unusable



Herbert Hoover
1874-1964

Broadcasting uses a “**a great national asset,**” *i.e.* the spectrum,

So it is “**of primary public interest to say who is to do the broadcasting, under what circumstances, and with what type of material.**”

Herbert Hoover, *Speech to the First National Radio Conference, February 27, 1922,*

United States v. Zenith Radio Corp. et al.
12 F.2d 614; 1926

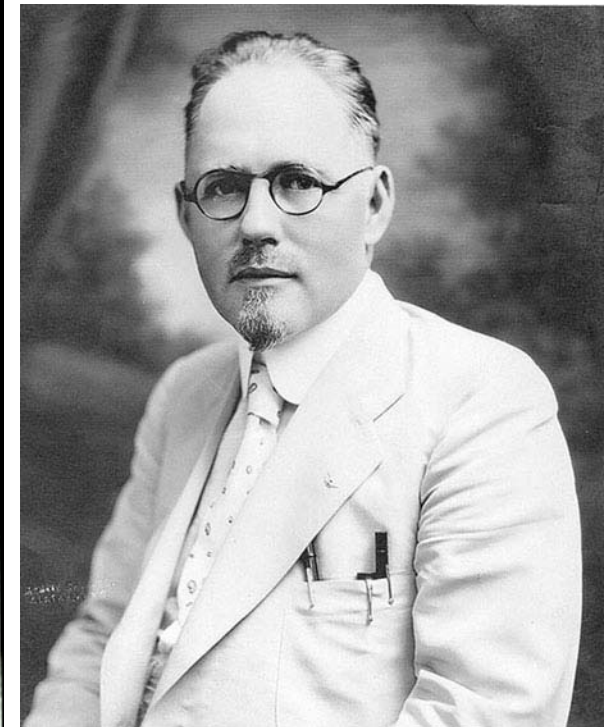
The Secretary of Commerce is required to issue the license subject to the regulations in the [Radio Act of 1912]. The Congress has withheld from him the power to prescribe additional regulations.

and quoting the Supreme Court:

“When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room **for the play and action of purely personal and arbitrary power.**”

Radio Act of 1927

- There would be no private ownership in the spectrum
 - So from 1927 on, the spectrum was *public property*
- spectrum licensed by Federal Radio Commission: FRC
- standard for licensing was *public interest standard*
- Successor was the Communications Act of 1934. Combined regulation for wired and wireless. FRC became the FCC (Federal Communications Commission)



John Romulus Brinkley (1885-1941)
The Goat Gland Surgeon
Radio Station KFKB (Kansas First, Kansas Best)

KFKB Broadcasting Ass'n, Inc.,

v.

Federal Radio Commission

60 App. D.C. 79; 47 F.2d 670; 1931

- It is apparent, we think, that the [broadcasting] business is impressed with a public interest and that, because the number of available broadcasting frequencies is limited, the commission is necessarily called upon to consider the character and quality of the service to be rendered.

National Broadcasting Co. v. U. S.,
319 U.S. 190 (1943)

... the radio spectrum simply is not large enough to accommodate everybody. There is a fixed natural limitation upon the number of stations that can operate without interfering with one another.

Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation. ...

- Justice Felix Frankfurter

Red Lion Broadcasting Co. v. FCC,
395 U.S. 367 (1969)

[quoting congressional committee:]

“If the number of radio and television stations were *not* limited by available frequencies, the committee would have no hesitation in removing completely the present provision regarding equal time and urge the right of each broadcaster to follow his own conscience However, broadcast frequencies are *limited* and, therefore, they have been necessarily considered a public trust.”

Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969)

- In view of the *scarcity of broadcast frequencies*, the Government's role in allocating those frequencies, and the legitimate claims of those unable without governmental assistance to gain access to those frequencies for expression of their views, we hold the regulations and ruling at issue here are both authorized by statute and constitutional.

National Broadcasting Co. v. U. S., 319 U.S. 190 (1943)

... the radio spectrum simply is not large enough to accommodate everybody.

There is a fixed number of stations that can operate without interfering with one another.



George Antheil
(1900-1959)

and

Hedy Lamar
(1914-2000)