Radio Act of 1912
[Public No. 364 - 62d Congress] [5412] Aug 14, 1912
An Act to Regulate Radio Communication

1. "President of the United States in time of war, or public peril, or disaster,
may cause the closing of any station for radio communication... or
may authorize the use or control of any such station to apparatus
by any department of the Government, upon prior compensation
in the course."

2. "No person or persons, engaged in or having knowledge of the operation
of any station or stations shall divulge or publish the contents of any
message transmitted or received by such station, except to the
person or persons to whom the same may be directed, or to their
authorized agent, or to another station employed to forward
such message to the destination, unless legally required to do so
by the court of competent jurisdiction or other competent authority.

Penalty not more than 250.00 or 3 months or both.

Approved for Release by NSA on 09-26-2013 pursuant to E.O. 13526
If a person, company, or corporation within the jurisdiction of the United States shall make knowingly, utter or transmit, or cause to be uttered or transmitted, any false or fraudulent distress signal, or call, or false or fraudulently set, signal, call, or other radiogram of any kind, "2500.00 or 5 years or both."

No radio objection.
Resolved...in Congress assembled, that the President, during the continuance of the present war, is authorized and empowered, whenever he shall deem it necessary for the national security or defense, to suspend or take possession of and assume control of any telegraph, telephone, wireless cable, or radio system or systems, or any part thereof, and to operate the same in such manner as may be useful or desirable for the duration of the war, which...shall extend beyond the date of the proclamation by the President of the exchange of ratifications of the treaty of peace...
Section 3. That all stations owned and operated by the Government, except as herein provided, shall be used and operated in accordance with the provisions of the Act of Congress entitled "An Act to Regulate railroad commerce" expiring August 1, 1912.

An Act for the regulation of radio communications, and for other purposes.


2. Sec. 6. Radio stations belonging to or operated by the U.S. are exempt from sections 1, 3, 4 of this act (marking too weak).

3. Sec. 6. Delegation of war peril powers to the President, also in order to preserve the neutrality of the United States.

4. Sec. 27. No person receiving or assisting in receiving any radio communication shall deliver or publish the contents, substance, purpose, effect or meaning thereof except through authorized channels of transmission or reception to any person other than the addressee, his agent, attorney, or by telephone, telegraph, cable, or radio station employed or authorized to forward such radio communication to the destination, or to proper accounting or disbursement officers of the war time communications centers over which the communication may be passed, to the master of a ship under way to receive, or in response to a subpoena issued.
by a court of competent jurisdiction, or on demand of other lawful authority; and no person not being authorized by the sender shall intercept any message and divulge or publish the contents, substance, purpose, effect, or meaning of such intercepted message to any person; and no person must be entitled thereto shall receive or assist in receiving any radio communication and use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto; and no person having received such intercepted radio communication or having become acquainted with [p 58] the contents, substance, purpose, effect, or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the contents for his own benefit or for the benefit of another not entitled thereto.
30 Sec 28. Same provision about false, fraudulent calls.

31 Sec 32. Violating restrictions of FRC or verbal treaty are $500.00 fine.

33 Sec 33. Violating the provisions of the Act shall be passed.

35 Sec 35. The Act shall not apply to Philippines or Canal Zone, for international radio matters they may be represented.

81 Sec 39. Repeals

1 Radio Act of 1912.

2 Joint Resolution July 5, 1920.
An Act to authorize the purchase by the Secretary of Commerce of a site, and the construction and equipment of a building thereon for use as a constant frequency secondary standard station, and for other purposes.

An Act to provide for the regulation of interstate and foreign communication by wire or radio, and for other purposes.

1. Established the Federal Communications Commission.

p. 49 2. Section 2 (a) Provision of the Act apply to all communications originating or received in US if to all persons engaged therein in such communications; but does not apply to any persons in the Philippines or Canal Zone.

p. 50 Foreign communication = communication or transmission from or to any place in the US to or from a foreign country, or between a station in the US and a marine station located outside the US.

p. US = States & territories & District of Columbia & possessions of US - but does not include Philippines or Canal Zone.

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p.69 Sec. 305. Radio stations belonging to persons or

and subject to Sections 301 and 305-3 of this act. Same as 1937

p.78 Sec. 325

false signals are limited to false or fraudulent

distress signals or communication relating thereto.

p. 89 Violation of provisions of this act 10,000.00 or 2 yrs or both.

" FCC rules 300.00 plus.

p. 90 Radio Act 1927 repealed Sec. 602

(as amended)
1939

Section 606 - Unauthorised publication of communication

Exactly the same as 1927 Radio Act

Section 606 p. 93 - War emergency - Powers of the President

Same provisions as previously enacted
An Act To amend the Communications Act of 1934, approved June 19, 1934, for the purpose of promoting safety of life and property by
lives, through the use of wire and radio communications, to make
more effective the International Convention for the Safety of Life at
Sea, 1929, and for other purposes.

Sec 5. Paragraph (3) of Sec 303 amended to read:
(D) "and a false or deceptive signals or communications, or

(e)(f)"
An Act to amend section 210 of the Communication Act of 1934 so as to permit communication utilities to contribute free services to the national defense.

Sec. 210 (b) Nothing in this Act or any other provision of law shall be construed to prohibit common carriers from rendering to any agency of the Government free service in connection with the preparation for the national defense: Provided, That such free service may be rendered only in accordance with such rules and regulations as the Commission may prescribe therefor.
An Act to amend Section 606 of the Communications Act of 1934 for the purpose of granting to the President, in time of war or threatened war, certain powers with respect to communications by wire.

President, in time of war or threatened war, may during a period ending not later than six months after the termination of such state of war or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or cancel all the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing, if any, facility or station for wire communication of the removal therefrom of its apparatus or equipment, or (3) authorize the use or control of any such facility or station or its apparatus or equipment by any department of the Government under such regulations as he may prescribe, upon such compensation...
Nothing in subsection (c) shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make, if nothing in subsection (d) shall be construed to authorize the President to take any action the force of which shall continue beyond the date after which taking of such action would not have been authorized.
Supreme Court of the U.S. No. 190 - October Term, 1937

Frank Carmine Nardone, et al., Petitioners vs. The United States of America
[Dec. 20, 1937] Mr. Justice Roberts delivered the opinion of the court

p.1 "The importance of the question involved - whether, in view of the provisions of Section 605 of the Communications Act of 1934, evidence procured by a federal officer tapping telephone wires and intercepting messages is admissible at a criminal trial in a United States District Court - caused us to grant the writ of certiorari.

p.2 Webster gained evidence by intercepting messages by tapping telephone wires. Such court admitted the evidence and defendants convicted.

p.2 5. Court then reversed Section 605 of C.A. 1934

p.2 "Taken at face value, the phrase 'no person' comprehends federal agents, and the ban on communicating to 'any person' bars testifying to the content of an intercepted message. Such an application of the section is supported
By comparison the clause concerning intercepted messages with that relating to those known to employes of the carrier. The former may not be divulged to any person, the latter may be divulged in answer to a lawful subpoena.

P 2.

The S.C. reviews your T Case - 1) Congress did not intend to prohibit tapping wires to procure evidence, 2) S.C. in Olmstead v U.S., 277 U.S. 438, held such evidence admissible at common law despite the fact that a state law made wire-tapping a crime, 3) that since the Olmstead case, the federal govt. w/ knowledge Congress have permitted agents to tap wires & end of detection & conviction of criminals. 4) It is shown that in spite of its knowledge of the practice, Congress refrained from legislation outlawing it. As the facts, so providing, have been introduced 5) the C.A. 1934, as so claimed, was passed only for the purpose of reenacting the provisions of the Radio Act of 1927 so as to
make it applicable to wire messages or to transfer jurisdiction over radio wire communications to F.C.C.; psychology ought not to be construed as changing the practically identical provision on the subject which was part of the 1927 RA when almond case decided.

p.2. "We nevertheless face the fact that the plain words of Section 105 forbid anyone, unless authorized by the sender, to intercept a telephone message, and other in equally clear language that "no person shall divulge or publish the message or its substance to any person." To invite the contents of the message in testimony before a court is to divulge the message. The conclusion that the Act forbids such testifying seems to us in conflict with the government's arguments.

p.3. S.C. agreed to go to argument 934.56: "But these circumstances are in our opinion, insufficient to overbear the plain mandate of the statute."
The answer to that question comes of policy. Congress may have thought it less important that some Members go free than that Morris should resort to methods deemed inconsistent with ethical standards of restructure personal activity. Some considerations may well have prompted Congress to adopt certain 605 as evoking the guarantee against practices or procedures violative of privacy, embodied in the Amendments to the Constitution.

The reason that the general words of a statute do not exclude the goes or affect its rights unless the construction be clear and undisputable upon the face of the act does not and the respondent in cases in which it has been applied fall into two classes. The first is where an act, if not so treated, would deprive the sovereign of a recognized or established prerogative, title or interest. A classical example evidence is the exception of the state from the operation of § 143 general statutes of limitations. The rule
S.C. Decision 1937

A principle of the sovereign is less stringently applied when the operation of the law is upon the agents or servants of the government rather than on the sovereign itself.

The second class - that where public offices are impliedly excluded from any process, concerning all persons, is where a reading which could instate what would clearly work obvious absurdity . . . . (Read law to cop or perform)

For years controversy has raged as to the validity of the practice of having stopping & seizing to obtain evidence. It has been the view of many that the practice involves a grave wrong. In legal & other circumstances we think another well-recognized principle leads to the application of the statute as it is written & not as to include within its scope federal officers as well as others. The principle is that the sovereign is embraced by general words & a statute limited to prevent injury to sovereign.

The judgment shall be reversed & the case remanded to the district court for further proceedings in conformity with this opinion.

So ordered.
MEMO

To: The Chief, Army Security Agency

From: W.F.E.

Subj: Legislation needed to secure 2 fields of concern to armed forces

1. Legislation needed to secure 2 fields of concern to armed forces:
   1. Obtaining greater security protection for classified cryptography info
   2. Legalizing the obtaining, interception, utilization of international telephone
      traffic in connection with ensuring national security

2. Several attempts have been made in recent years to obtain both types
   of legislation—none was successful.

3. 5277 identical to predecessor 5267 of 7/5/65, 2 reasons. Avoid of protecting
   classified cryptography, cryptologic information, single or cryptography
   cryptanalytic activities for special treatment.
A bill presented as offering S 2533 was then sprung on fact the latter (2533) may receive even stricter treatment since it deals "solely with the extremely controversial matter of tampering with Section 605."

The Communication Act of 1934 it would therefore be subject to the "heaviest scrutiny on that account alone."

However amendment of Section 605 to eliminate a restriction which operates in practice to impede the collection of intelligence required in the interest of national security, was definitely recommended by the Joint Congressional Committee on the Investigation of the Pearl Harbor Attack.
Principal reasons why previous attempts to amend Section 605 have failed is that they have been regarded purely as attempts to legalize: 1) wire-tapping 2) use of other means of wire-tapping as evidence in prosecution, both of which are deemed to the public, the long as constituting attempts at abridgement of 1st Amendment (freedom of speech).

3. "The Armed Services are not interested in wire-tapping or pecussioning. On the use of the results thereof in prosecution. They are interested in cases where they are concerned in obtaining or pecussion from the communications companies of certain classes of international communication, and they are also concerned in legalizing pecussion rates outside of the use of the results thereof in connection with the prevention of signal intelligence of vital importance to the national security.

5277 uncritically 19/4/49 referred to Committee on Judiciary Act and when WEF wrote this
New bill to replace S 2833 has not yet cleared Bureau of Budget.

Conclusions: (among others)

2a. Any bills sponsored by the Armed Forces should specifically eliminate any wording which may imply that they wish to engage in torture or methods unwise training in order to obtain copies of purely domestic communications or to use them in any way whatsoever in practice.

5. Let DOD and/or Justice have ones of formulating such bills.

3. Avoid using words: cryptographic or cryptologic in any proposed bill.
Friedenau proposed a bill

provided for protection of secret information

Amends Section 605- D.A.J.1934

See also International Telecommunication

Subsequent to Nardone, the S.C. held that electronically collected evidence was inadmissible when involved, but not otherwise.
