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**Y 4 FILING OF INFORMATION BY PUBLICATIONS HAVING
SECOND-CLASS MAIL PRIVILEGES**

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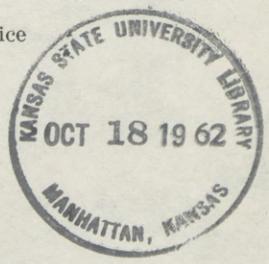
HEARING
BEFORE THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
SECOND SESSION

H.R. 10696 and H.R. 10689

BILLS TO AMEND SECTION 4369 OF TITLE 39, UNITED STATES
CODE, WITH RESPECT TO THE FILING OF INFORMATION
RELATING TO PUBLICATIONS HAVING SECOND-CLASS
MAIL PRIVILEGES, AND FOR OTHER PURPOSES

SEPTEMBER 11, 1962

Printed for the use of the
Committee on Post Office and Civil Service



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31	Associate General Counsel
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34	Association
35	Published: First At Cincinnati from Kentucky

FILING OF INFORMATION BY PUBLICATIONS HAVING SECOND-CLASS MAIL PRIVILEGES

TUESDAY, SEPTEMBER 11, 1962

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 215, House Office Building, Hon. Kathryn E. Granahan (chairman of the subcommittee) presiding.

Mrs. GRANAHAN. The subcommittee will please come to order.

This subcommittee was appointed to consider H.R. 10696 and H.R. 10689, identical bills to amend section 4369 of title 39, United States Code, with respect to the filing of information relating to publications having second-class mail privileges.

The members of the subcommittee are: Mr. Olsen, Mr. Udall, Mr. Barry, Mr. Roussetot, and I was designated chairman.

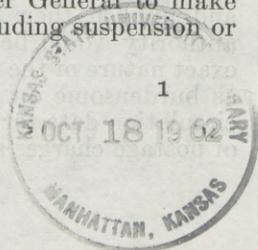
H.R. 10696 and H.R. 10689, identical bills, were introduced by Mr. Henderson and Mr. Corbett, respectively, based on an official request of the Postmaster General submitted to the Congress on September 18, 1961. The legislation will amend section 4369 of title 39, United States Code, to require owners of publications with second-class mail privileges qualifying under the general provision (39 U.S.C. 4354) to furnish information to the Postmaster General, at times and in such form as he determines necessary, for purposes of identifying—

- (1) The editor, managing editor, publishers and owners;
- (2) Corporation (if any) and stockholders;
- (3) Security holders, including bond holders and mortgagees (when known); and
- (4) Nature and extent of circulation.

The October date for the filing and publishing of the annual statements that is now required would be eliminated.

The legislation also authorizes the Postmaster General to obtain information from publishers whose publications qualify under the special provisions of 39 U.S.C. 4355 and 4356 and who would be exempted from the general requirement of furnishing a statement each year.

The proposal gives authority to the Postmaster General to make whatever rules and regulations are necessary, including suspension or revocation of mail privileges for noncompliance.



2 PUBLICATIONS HAVING SECOND-CLASS MAILING PRIVILEGES

(The bill, H.R. 10696, follows:)

[H.R. 10696, 87th Cong., 2d sess.]

A BILL To amend section 4369 of title 39, United States Code, with respect to the filing of information relating to publications having second-class mail privileges, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4369 of title 39, United States Code, is amended to read as follows:

“§ 4369. Filing of information relating to publications of the second class

“(a) Each owner of a publication having second-class mail privileges under section 4354 of this title shall furnish at least once a year to the Postmaster General information in such form and detail and at such time as he may require respecting—

“(1) the identity of the editor, managing editor, publishers, and owners;

“(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;

“(3) the identity of known bondholders, mortgagees, and other security holders;

“(4) the extent and nature of the circulation of the publication, whether through the mails or otherwise; and

“(5) such other information as he may deem necessary to determine whether the publication meets the standards for second-class mail privileges.

“(b) The Postmaster General may require publications which have second-class mail privileges under sections 4355 or 4356 of this title to furnish information in such form and detail as he may require to the extent it is necessary to determine whether the publication continues to qualify thereunder

“(c) The Postmaster General shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of second-class mail privileges for failure to furnish the required information.”

(b) The table of contents of chapter 63 of such title is amended by striking out

“ 4369. Affidavits relating to publications of the second class.”

and inserting in lieu thereof

“4369. Filing of information relating to publications of the second class.”

SEC. 2. The second paragraph of section 2 of the Act of August 24, 1912, as amended by the Act of June 11, 1960 (74 Stat. 208; Public Law 86-513), and by paragraph 34 of the first section of the Act of June 11, 1960 (74 Stat. 202; Public Law 86-507), is hereby repealed.

Mrs. GRANAHAN. Our first witness this morning is Mr. Edwin A. Riley, Director of the Classification and Special Services Division, Bureau of Operations, Post Office Department. He is accompanied by Mr. Adam G. Wenchel, Associate General Counsel.

STATEMENT OF EDWIN A. RILEY, DIRECTOR, CLASSIFICATION AND SPECIAL SERVICES DIVISION, POST OFFICE DEPARTMENT, ACCOMPANIED BY ADAM G. WENCHEL, ASSOCIATE GENERAL COUNSEL

Mr. WENCHEL. Madam Chairman, we do not have a prepared statement. The Post Office views were attached to the Department's letter of September 18, 1961, transmitting the legislation proposed. Briefly the bill would eliminate the requirement that publications file and publish their annual statements in October. In lieu thereof, authority would be given to the Department to fix the date and the exact nature of the information. The October requirement we regard as burdensome on many publishers because they must also compile circulation data for other purposes, such as auditing and computation of postage charges at other times of the year.

If they are allowed to make the statement required here at the time figures are compiled for other purposes savings will result.

October has no special significance to the Post Office Department and the present law exempts certain classes of publications from the requirement of filing a statement. These classes are generally the same but not identical with those specified in section 4355. Those publications for which subscription requirements are relaxed by sections 4355 and 4356, title 39, United States Code, would be exempted from the general requirement of furnishing a statement each year under this bill. However, it makes it explicit that the Postmaster General may obtain necessary information to test whether a publication is entitled to continued second-class mail privileges under those sections.

The present law does not require the publisher to furnish proof of the accuracy of the information furnished in the affidavit. The publisher may comply with the law by filing the affidavit even though he does not maintain adequate records to support the statement in the affidavit. It is difficult to establish misrepresentation by the publisher under these circumstances.

These, briefly, are the considerations for this bill. We will be glad, of course, to answer any questions.

Mrs. GRANAHAN. Do you have any questions, Mr. Olsen?

Mr. OLSEN. I have no questions.

Mrs. GRANAHAN. Mr. Udall?

Mr. UDALL. I wondered about a couple of things in this legislation.

Is it correct that the Department, in proposing this legislation, would delete the requirement of an affidavit; that is, a sworn statement as to these facts set forth annually so that the publisher would simply file an unsworn statement?

Mr. WENCHEL. The law would not require the statement to be in the form of an affidavit. It would provide the Postmaster General may determine the form which could include requiring it to be sworn. The modern trend is away from requiring statements filed with the Government to be sworn because prosecution can be had under 18 United States Code, 1001.

Mr. UDALL. Is it your view that this general law would apply?

Mr. WENCHEL. Yes, sir.

Mr. UDALL. Even though the affidavit is not required, the penalties for perjury or false swearing would be applicable under general law?

Mr. WENCHEL. That is correct. The section of law I mentioned makes unsworn statements subject to the same penalties as apply in the case of perjury.

Mr. UDALL. In things of this sort?

Mr. WENCHEL. Your income tax return used to be under oath but it is no longer.

Mr. UDALL. A false statement on your income tax return has the same effect as though it were under oath because of the Internal Revenue Service law?

Mr. OLSEN. It is a general law.

Mr. WENCHEL. Yes.

Mr. UDALL. The other thing that bothers me a little bit about this bill is that no longer would we have in the paper itself a statement printed but simply there would be a statement filed with the Post Office Department. Is that correct?

Mr. WENCHEL. That is correct.

Mr. UDALL. Would these statements be open to inspection? Could I go down and look at these statements filed by the newspapers in which I might have some interest as to the ownership?

Mr. WENCHEL. I would assume we would have to make these available to properly interested parties.

Mr. UDALL. Is it provided in the law?

Mr. WENCHEL. It is not.

Mr. UDALL. Would you contemplate the Post Office Department would determine whether I were a properly interested party? Suppose I am a plain old citizen who subscribes to this publication and I am curious about the owners and publishers and the people in charge of this newspaper or magazine? Would I have to assure the Post Office Department of this and produce some proof I were, as you said, "properly interested"?

Mr. WENCHEL. Possibly. I do not believe we have had any great problem along that line in other areas.

Mr. OLSEN. Would the gentleman yield?

Mr. UDALL. Yes.

Mr. OLSEN. It seems to me it would be a good idea to publish it, or for a newspaper or magazine to require publication of it anyway. Then the citizen does not have to ask.

Mr. UDALL. I would say to the gentleman that this legislation bothers me. I have not done my homework but off the top of my head I make the suggestion we do not do away with this traditional practice of letting the reader of a publication see once a year at least, if he wants to strain his eyes on the small print, who it is that is putting out this publication. This bothers me. I would think that of all of the groups in the United States who scream about secrecy and insist upon laying the facts and background out on the table, that the newspaper people would be the very last ones to be complaining.

I am bothered why the Post Office Department wants this.

What is the rationale of it and the reason and justification for it?

Mr. RILEY. Our position is that the statement as filed in the newspaper is simply a number.

Mr. UDALL. Simply a what?

Mr. RILEY. A number. It is unsupported by anything.

The publisher complies with the statutes simply by filing it and putting a number on it. The number purports to be the paid circulation. As you know, the tendency in part of the publishing industry at this time is toward free circulation. These statements as now published do not disclose the free circulation at all. In administering the second-class statutes, the big problem is how much free circulation does the publisher have?

Mr. UDALL. I recognize this but I question the solution. I would be very much in favor of requiring some statement, not only of paid circulation but free circulation as well, and to encompass this in a bill which does away with what is a time-honored traditional practice in the printing and newspaper business seems one step forward and two steps backward.

Mr. OLSEN. Why would you eliminate that requirement?

Mr. RILEY. To publish it?

Mr. OLSEN. Yes.

Mr. RILEY. To publish a statement is of little value to the Post Office Department. As a matter of public policy, the figure may be of value to individuals. The Department cannot determine from the statement filed whether the publisher is entitled to a second-class permit.

Mr. UDALL. I recognize that there are two problems.

The first is the problem of the ordinary, average citizen and reader and member of the public who wants to know what the circulation of this publication is. More importantly, he wants to know who is putting it out. This, I think, is adequately, or perhaps not adequately covered by present law.

The second problem is the problem of the Post Office administration in which you need to know the true facts about paid and free circulation so that the postal laws can be properly administered. It seems to me, and I mention these two different problems here in the bill as I read it so that perhaps you solve your Post Office administration problem but it seems to me you wreck what is a very beneficial and necessary general provision we now have dealing with the average citizen, reader, and member of the public.

Mr. RILEY. There undoubtedly are the two features that you mentioned. The law that requires the filing of the statement was enacted first in 1912. I think it was a law that was to further a public policy. There is a section 2 to this law which requires the marking of editorial matter as "advertisement"—I mean marking it advertising if it is paid for—which is of no value to the Post Office Department. It is strictly a public policy matter.

The present bill under consideration is designed to give the Department some strength in administering the second-class statutes.

Mr. UDALL. I do not quibble with that desire. I would certainly support any proper legislation to give the Department the information it needs to administer the second-class laws and regulations, but it seems to me we are taking a very serious step if we repeal the time-honored practice of requiring publications, at least once a year, in the smallest possible type, to tell the public who it is that owns and operates this newspaper and at least gives the advertisers the solace of having the publishers show under penalties of perjury approximately what is its paid circulation.

Mr. RILEY. As I said a while ago, it simply purports to show the paid circulation. Under present practices of circulation, that frequently is not the whole story.

Mr. UDALL. I understand. We are agreed on this objective but I think the Post Office Department should know what the free circulation is as well. As I have said, I will support legislation of this kind but I am very disturbed about the effect of this bill.

I will try to keep a "window" propped open in my mind until I have heard the rest of the testimony. Frankly, the legislation as written bothers me.

Mr. RILEY. I would like to add one thought. The statements as published now are very frequently misleading to the public.

Mr. UDALL. Perhaps we can improve on that when we get through with this bill. I may draft some amendments here after I have heard the testimony.

That is all I have, Madam Chairman.

Mrs. GRANAHAN. I have a letter here from Mr. Stanford Smith and I think it might be a good time to read it.

He is the general manager of the American Newspaper Publishers Association located at 750 Third Avenue, New York, in which he raises certain questions regarding the intent of this legislation.

Mr. Smith is unable to appear here this morning and requests the subcommittee to obtain complete clarification of the Post Office Department on the questions he raises.

Without objection, I will include this letter at an appropriate place in the hearings. So that the record may be made abundantly clear, I will ask Mr. Riley the five specific questions contained in this letter.

No. 1 has been answered. This first question was: Does a change in title, to delete the word "affidavit" mean that the statement to be filed will not be notarized? If not, why not?

That has been answered.

A second question: Does the omission of the language with respect to the listing of stockholders or bondholders owning less than 1 percent of the stock or bonds, mortgages, et cetera, of a corporation mean that all stockholders and bondholders without exception must be listed? If so, what purpose does such a burdensome requirement serve?

Mr. WENCHEL. There is no minimum standard set in the bill. One detail which would be supplied by regulation is the point at which you would cut off the listing as being of no great significance.

Presently, one of the problems is where you have corporate entities. You may know the name of a corporate entity but you do not know who is really behind it. I think that was one reason why no specific standard percentage was set.

Mr. UDALL. Will the chairman yield?

Mrs. GRANAHAN. Yes.

Mr. UDALL. The purpose of the Department in omitting this language—let me in an aside ask, the language now requires you list every stockholder who owns 1 percent or more. If the stockholder owns less than 1 percent of the newspaper he need not be listed?

Mr. WENCHEL. That is correct.

Mr. UDALL. The purpose of the language then is to give the Department some flexibility in preparing and designating the form of this report so that if they thought it was more meaningful to have all of those who own less or not less than 5 percent or 3 percent, or some other figure, this could be used by the Department to get the information?

Mr. WENCHEL. That is correct.

Mr. UDALL. It is to give a little more flexibility to the Department?

Mr. WENCHEL. That is right.

Mr. UDALL. Would we be safe in saying generally that certainly the two of you here would not be inclined to recommend any reporting of stockholders who own less than 1 percent?

Mr. WENCHEL. It would be highly unlikely.

Mr. UDALL. It seems to me very obvious the likelihood would be you would go in any other direction?

Mr. WENCHEL. That is correct.

Mr. UDALL. Thank you.

Mrs. GRANAHAN. Mr. Olsen?

Mr. OLSEN. No questions, thank you.

Mrs. GRANAHAN. His third question was, What does the bill mean by the term "extent and nature of the circulation of the publication"?

If it means the number of copies distributed to paid subscribers or otherwise sold, and the number of copies given away free, why not amend the language to say that specifically?

Mr. RILEY. As I said a while ago, the present statement simply requires paid circulation. The language here "extent and nature of the circulation of the publication" is intended to be much more broad so that we could obtain the entire circulation regardless of whether it is paid or not.

The suggestion that it be spelled out here is perhaps well taken, but we did not consider it necessary in the broad language.

Mrs. GRANAHAN. Mr. Udall?

Mr. UDALL. I think Mr. Smith's suggestion is probably well taken.

What you want to know and what you would require the publisher to produce if this legislation passes is the extent and nature of circulation and the nature of the circulation can be only of two classes; either it is free or it is paid.

Mr. WENCHEL. You can get in some arguments as to under what conditions it ought to go in one or the other. I think this would allow us to set our rules on that, for instance.

Mr. UDALL. Perhaps better language could give you the flexibility I know you seek and want, but also clear up some of the vagueness I think Mr. Smith properly criticizes.

Mr. OLSEN. If I could interrupt you there, how would you have an argument over which was paid or free?

Mr. WENCHEL. Well, you have tie-in sales, for instance.

Mr. OLSEN. What is that?

Mr. WENCHEL. If you subscribe to one publication, you get another one free, or you get a premium which may or may not be worth the price you pay. There are various other types of things.

You have your problem of gift subscriptions, some of which are bona fide and some of which are not. You have a number of different types of situations which do come up.

Mr. RILEY. There is the circulation you have with societies like the American Legion. You pay dues and by some means become a subscriber to the publication.

Then there is a class of publication that is distributed entirely by newsstands or nearly entirely. It is very difficult to determine when the paid circulation begins and simply the consignment of copies for sale leaves off.

Mr. UDALL. I think we are all agreed you have to categorize to some extent then. I can see that it might be an oversimplification to say that you have to classify every copy as "paid" or "free". I can see that there are some in-between situations and certainly another two or three classifications would encompass all possible means of disposal of copies. This is what I think the Department is entitled to know and what I would like to see legislation provide for.

Mr. RILEY. The intent of this language is to obtain the same information we obtain when a publication applies for second-class entry in the first place. There are something like 10 categories of circulation we have identified that we look into.

Mr. UDALL. That is all I have, Madam Chairman.

Mrs. GRANAHAN. Mr. Olsen?

Mr. OLSEN. No questions.

Mrs. GRANAHAN. The fourth question was, Is the total circulation to be reported in this manner to be calculated in the same manner as at present? That is, an average of the previous 12 months, and if so why not say so in the statute as at present to avoid confusion and misunderstanding?

Mr. WENCHEL. In view of the other language in the bill we felt this, as we drafted it, was appropriate. It, again, allows us the flexibility of determining which are the meaningful figures as far as the Post Office Department is concerned. Would it be on an average basis or not?

I do not know what Mr. Riley may have in mind in administering it.

Mr. RILEY. The average basis has some defects in it.

A publisher can shift circulation practices entirely in the course of 12 months. What we had in mind here was to find out what the circulation is now, at the time we obtain this statement. The average circulation can actually be manipulated.

Mr. UDALL. As an example, perhaps to help the gentleman, I know we have any number of political and quasi-political publications in my State which in even-numbered years during the months of August, September, and October have about 20 times the circulation they have in other months. You want some tools to get at this sort of thing, I suppose?

Mr. RILEY. We want to know what he actually has on the books, what he is circulating and not what he might have been circulating the 12 months before, and so on.

Mrs. GRANAHAN. The fifth question I will mention but you have answered it.

Why has the requirement been eliminated that this statement be published for the information of the readers?

I believe you explained this very clearly.

Thank you very much, Mr. Riley and Mr. Wenchel.

Mr. RILEY. Thank you.

Mr. WENCHEL. Thank you.

Mrs. GRANAHAN. The next gentleman to testify is Mr. Walter Potter, cochairman of the Legislative Committee of the National Editorial Association.

STATEMENT OF WALTER POTTER, COCHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL EDITORIAL ASSOCIATION, ACCOMPANIED BY THEODORE A. SERRILL, EXECUTIVE VICE PRESIDENT, NATIONAL EDITORIAL ASSOCIATION, AND MAX THOMAS, VICE PRESIDENT AND PUBLISHER OF THE KERRVILLE, TEX., DAILY TIMES

Mr. POTTER. Madam Chairman and members of the subcommittee, my name is Walter Potter and I am publisher of the weekly Culpeper, Va., Star-Exponent, and other newspapers in Virginia. I am appearing before you this morning as vice chairman of the National Editorial Association's Legislative Committee, and as a member of that association's board of directors, to present to you the views of our membership with respect to H.R. 10696 which is designed to amend section 4369 of title 39, United States Code, with respect to filing of information relating to publications having second-class mail privileges.

I am accompanied this morning by Mr. Theodore A. Serrill, executive vice president of the National Editorial Association, and the general manager of our Washington headquarters office.

Also Mr. Max Thomas, vice president of our association and publisher of the Kerrville, Tex., Daily Times.

The National Editorial Association is a 77-year-old trade association. It is the oldest national newspaper organization in the United States and is made up of approximately 6,000 weekly and semiweekly newspapers and about 575 daily newspapers in smaller communities. Our offices also serve the State newspaper associations such as the Pennsylvania Newspaper Publishers' Association, in your State, and the Virginia Press Association, in my home State. Our membership is in all 50 States.

Our statement with respect to H.R. 10696 will develop these points:

1. That we endorse the purpose for which this legislation is intended;
2. That we oppose the repealer section which would eliminate the public notice requirements in the present requirements of the act; and
3. That we suggest shifting the publication date from the traditional month of October to some earlier time, preferably within the second quarter of the calendar year.

During the last 50 years, since the enactment of the so-called Newspaper Publicity Act of August 24, 1912, daily newspapers have been required to file with the Post Office Department a statement of the ownership of the publication and to provide, with a sworn, notarized statement, the average number of copies of each issue sold or distributed to paid subscribers.

In addition to providing the Post Office with this statement, the act required that this information be published within the columns of the newspaper so that readers, advertisers, and the business community generally could have full knowledge of the ownership and the circulation that the publication asserted it had.

Because of objection to this mandatory act, daily newspapers carried a legal fight to the Supreme Court of the United States. The Court sustained the provisions of the Newspaper Publicity Law on June 10, 1913.

The provisions of this law became so acceptable to the printing and publishing business that it was extended to weekly newspapers as a result of the efforts of the National Editorial Association and its supporting State newspaper associations in 1946.

We append to this statement the text of an article in the NEA's National Publisher magazine, issue of July 1946, describing the values of extending this law to the weekly, semiweekly and triweekly press.

In 1960, this act was amended to include all publications enjoying the second-class entry.

It is our firm conviction that the newspaper publicity law, during the half century it has been in effect, and as a result of its more encompassing amendments has served a most useful purpose. However, during this 50-year period the U.S. Post Office Department has, in its experience, found need for further amendment.

As long as these amendments strengthen the act, and make certain that the very small minority of those who comply reluctantly to the provisions do conform with the letter and spirit of the law, the NEA heartily endorses such amendment.

Minimum provisions for accurate and readily understandable recordkeeping procedures on the part of the publications enjoying second-class entry; extension of the provisions to include the portion of the circulation not using the mails; and, more accurate determination of that portion of a publication's distribution not paid are all justifiable reasons for the Post Office to strengthen the act.

We should like a restudy of H.R. 10696 in that light.

Further, section 2 of the proposed legislation would repeal the requirement of calling for the once-a-year presentation to the public of the ownership and circulation information provided the Post Office Department.

If this "repealer" would be enacted, the newspaper printing and publishing business would be obliged to evolve and formulate some substitute method of telling the general public and members of the advertising and business community of these necessary facts.

Tradition, during a full half century, has placed that responsibility with the Federal postal authorities, and we see no reason why any change in that long-established procedure shall be made at this late date.

We hope that H.R. 10696 will be worded as to continue the public notice requirements of the act, otherwise it no longer serves a vital function as a Newspaper Publicity Act.

It will be observed that this public notice provision does not involve the Post Office in any additional costs, charges, or filing expenses.

With respect to NEA's third point, we feel that long years of experience with the Newspaper Publicity Act, does warrant shifting the date for reporting the necessary information to the Post Office Department. When originally selected, the October reporting date was admittedly an arbitrary one.

To be of fullest benefit to the Post Office Department another date, more in conformity with other Federal reporting practices, would be desirable.

To this, NEA has no objection. The State newspaper trade organizations which constitute the framework of NEA would find it of more value to have the reporting date for the ownership-circulation statements to be made within the second quarter of the calendar year—April 1—June 30. As long as a single date, nationwide, is chosen for all newspapers, we are certain that there could be no objection to this procedure. (Experience is found in this practice in the U.S. Treasury Department in its issuance of a call for a report from national banks annually.)

It has been a privilege to have had this opportunity to appear before you and present the views of the National Editorial Association on behalf of its member newspapers and the participating State newspaper organizations. We stand ready to answer any questions and to supply supplemental information which you and other Members of Congress may desire on this proposed legislation.

SWORN CIRCULATION BILL LAW; WEEKLIES REQUIRED TO FILE STATEMENTS
IN OCTOBER

President Truman's signature on H.R. 2543 brought to a successful conclusion a long legislative campaign by the National Editorial Association and the State press associations for a law requiring weekly newspapers enjoying mailing privileges to make sworn statements with respect to circulation. Beginning October

1, all weekly, semiweekly, and triweekly newspaper publishers will be obliged to show the average paid circulation in the statements of ownership, management, etc. The bill passed the Senate and House by unanimous vote.

The economic advantages expected to flow from this proof of circulation will not be felt until the law has been in operation. An official of the American Association of Advertising Agencies, testifying in favor of H.R. 2543, pointed out: "One of the factors which has tended to retard the use of weekly, semiweekly, and triweekly newspapers as advertising mediums is the general lack of adequate and reliable circulation figures for a sizable area of the country press." The AAAA spokesman added: "In the opinion of the American Association of Advertising Agencies and its Committee on Weekly Newspapers, it would be a constructive step and would be a contributing factor in helping the country press to get more advertising if annual sworn circulation statements were required by law."

The new law places no extra burdens on weekly publishers. The statements of ownership (and heretofore only daily newspaper circulation) are due not later than October 1 of each year. The reports are submitted on form 3526, furnished by the Post Office Department. In accordance with official instructions all postmasters are required to carefully examine these reports to see that they are fully completed. The original copies are sent to the Office of the Third Assistant Postmaster General, Division of Newspaper and Periodical Mail. The local postmaster is obliged to notify the Department in cases where these annual statements are not filed by October 10 of each year and to retain in the local office files copies of the publication printing the report.

The amendment authorized by H.R. 2543 simply places weeklies on a par with dailies which have been required to file circulation statements each year. Under Postal Laws and Regulations the term "paid circulation," as administered in connection with this law, means copies of publications circulated in fulfillment of subscriptions that have not expired and those that are not more than 1 year in arrears. In other words, publishers are allowed 1 year to obtain a renewal. The subscriptions are counted as part of the legitimate subscriptions during that period. That definition is uniform for all publications entered as second-class matter. The Post Office Department has operated over the years on opinions of various Attorneys General as to circulation. In general, the Department has taken the position that the newspapers must be actually sold whether in single copy, at newsstands, etc., or in term subscriptions.

The fifth question in form 3523, which dailies have answered (and hereafter required of weeklies), is defined in section 534 of the Postal Laws and Regulations as: "There shall be included in such statement the average of the number of copies of each issue of such publication sold or distributed to paid subscribers during the preceding 12 months."

The Postal Laws and Regulations are clear as to exclusions. Subscriptions paid for by an advertiser are not included in the legitimate list of subscribers which the law requires. A publisher is not allowed to mail such additional copies at the regular newspaper pound rates. In instances where an advertiser buys so much space in a newspaper, because he has been promised by the publisher that he will print so many thousand additional copies of an issue free and mail them throughout an area, those additional copies are not included in a legitimate subscription list. They are subject to a different postal rate than the publishers' pound rates. They are not properly includible in the paid circulation to be shown in the annual statement of ownership and circulation.

Mrs. GRANAHAN. Thank you, Mr. Potter.

Are there any questions?

Mr. UDALL. Yes, a question and a comment.

I wanted to commend you, Mr. Potter, for your statement. To me, it makes a lot of good sense and I say this because the views you express agree with my own primarily, but it seems to me that your group is to be complimented on taking a commonsense attitude toward this proposed legislation.

I am certainly wholeheartedly in agreement with the points that you have made. It seems to me, on a couple of points perhaps we can improve the bill and still give the Department a little flexibility.

What would be your attitude about the reporting date giving the Post Office Department some flexibility there?

In other words, instead of a rigid October date, give the Postmaster General power to prescribe a convenient date for these reports?

I know that the Department has good relations with your people and the newspaper publishers associations and there is a meeting of the forces from time to time and they can work it out so that the publishing date could be fixed by administrative regulation rather than putting it into law where it is always difficult to change.

What would be your response to a suggestion of that kind?

Mr. POTTER. We would have no objection to that. We suggest a change to the second quarter of the year which would be a normal time we think the Post Office Department would probably set as a time which would be convenient. October is not a very good time.

Mr. UDALL. I know. It seems to me rather than have some of us who are not publishers sit down and try to pick a date out of the year and insert that in the statute book, it might be better to give the Postmaster General this power and have a delegation of publishers call on the Department and work out a date. If that appeared to be unfavorable or unworkable, it could be changed simply by regulation. I foresee you might, with certain classes of publications the Department administers, not only weekly and daily newspapers but all different types of publications, it might well be a date which is good for weeklies might be very bad for another class of second-class mail.

The Department could work out a schedule of reporting dates that would be better perhaps than one blanket date.

Mr. POTTER. Yes, sir; that would be quite agreeable to us.

Mr. SERRILL. May I comment?

Mrs. GRANAHAN. Yes.

Mr. SERRILL. I met with 27 managers of State press associations 2 weeks ago on this bill when it was first called to our attention. They are in full agreement with an orderly determination by the Post Office Department as to when a date will be selected. We are in agreement on that.

Mr. UDALL. I appreciate that and I certainly think that your association deserves a lot of credit for opposing the repeal of this published statement. I can see some reasons why some newspaper people might want to avoid a public statement and the fact that you in this industry insist on keeping the provision that might work to the detriment of some, you people doing this speaks well for the public spirit and good sense of the organization.

That is all I have.

Mr. OLSEN. Madam Chairman?

Mrs. GRANAHAN. Mr. Olsen.

Mr. OLSEN. What is the matter with the October date?

Mr. POTTER. The way it works out currently, sir, is that we are asked for 12-month averages on it and most of our records are kept on a calendar year. We have to recompute everything to come up with an October circulation statement.

It is only the circulation portion of it that poses any difficulty.

Mr. OLSEN. If I may, Madam Chairman. Did not the people from the Post Office Department say they wanted to know the circulation as of the date that they requested it; is that correct?

Mr. POTTER. If they wished to do that, if that change is made, then the October date would not make too much difference. That is why we are not taking any firm position on this date, sir.

Mr. OLSEN. The date for required reporting; you want all weekly newspapers to report on the same date and the dailies to report on the same date, so you have some comparison of circulation figures for the industry; is that right?

Mr. SERRILL. That is right.

May I answer that?

Mr. OLSEN. Please.

Mr. SERRILL. Most of our State press association and national directories list circulation by category of newspapers; "daily," "weekly," and "semiweekly."

We accept the Post Office statements for compiling those directories. Normally, the October date is quite late to do an effective job on that. We do work with it but we can work better in publicizing the circulation figures if we have an earlier date and that is another reason.

We also have the problem of using these figures in the sale of advertising and we need a compilation comparison. The time of the year is not particularly material for that. We are flexible as to when it would be.

There is also another provision. Many of our newspapers belong to the Audit Bureau of Circulation, which is an independent auditing organization. Their dates are different than the October date so if we compile these figures for the Audit Bureau Circulation and the Post Office Department and for advertising purposes all at the same time, it would be more efficient than the present practice.

Mr. UDALL. Would the gentleman yield?

Mr. OLSEN. Just one minute.

In the light of that testimony, I ask unanimous consent to revert to Mr. Riley of the Post Office Department and ask, Is it the Post Office Department intention they would require reporting by all weeklies on the same date of the year?

Mr. WENCHEL. Unless we have not gotten into that, you would assume that would be the case, unless there were some very good reasons why some particular group should have a different date. As far as I know, we have not considered having different dates for different publications of the same class.

Mr. OLSEN. That is, publications of the same class would be reporting on the same date so that there would be comparisons made of the circulation of the publications?

Mr. WENCHEL. I would expect that would be.

Mr. OLSEN. I would think that would be very important.

It would certainly be very important for the industry if you are going to give them any service at all in this requirement that you give them an opportunity to make comparisons of circulation within a given class.

Mrs. GRANAHAN. Mr. Potter, in other words, the only specific changes you would suggest in the wording of the bill have to do with retaining the present provision of the law requiring the publishing of the notice; is that correct?

Mr. POTTER. Yes, ma'am.

Mr. UDALL. I have another question.

Mrs. GRANAHAN. Mr. Udall.

Mr. UDALL. Tell me a little bit about the Audit Bureau of Circulation.

How often, for example, will they check your little newspaper out in Culpeper?

Mr. POTTER. We are required to submit a statement to them every 6 months.

Mr. UDALL. Does this cover paid and unpaid circulation?

Mr. POTTER. Yes, it covers total distribution.

Mr. UDALL. What means do they use to verify this? Do they come in and count?

Mr. POTTER. Yes, they come in every 2 years in the case of weeklies which I have, and every year in the case of the daily publications.

Mr. UDALL. Are these unannounced visits?

Mr. POTTER. Unannounced.

Mr. UDALL. Are their figures published generally so that the ordinary citizen can get the information from the Audit Bureau?

Mr. POTTER. Yes, sir. They are published in various standard rate and data services which carry these figures.

Anyone may subscribe to this service and get the full details and for that matter we will supply them upon request.

Mr. UDALL. Advertising rates are based upon the Audit Bureau figures?

Mr. POTTER. Yes, sir.

Mr. SERRILL. I have here from Mr. Saltzstein, who is going to testify, a business paper section of the Standard Rate and Data Service which lists the publications and there is a little six-cornered insignia—ABC—which indicates that this particular publication is audited by the ABC. These are available for newspapers, magazines, and business papers. These are published and sold to advertising agencies, advertisers, and publications. They are public information.

Mr. UDALL. Does ABC show the ownership in any of this information that now appears in your annual printed reports?

Mr. POTTER. Not necessarily. The publisher and the circulation manager are required to certify or—

Mr. UDALL. Not the stockownership or any of these details?

Mr. POTTER. No, sir.

Mr. UDALL. The name of the corporation?

Mr. POTTER. No, sir. In small papers like mine they are all the same people.

Mr. UDALL. One other thing, Mr. Potter.

I know you may not be prepared on this and maybe have not thought it through, but I would be interested in your offhand reaction to the suggestion made by Department representatives earlier that if they are given the power to provide for this in this bill, not to go back to the old previous average of 12 months' circulation figures, but ask you to certify simply what your paid and unpaid circulation was for the last week or the last month, what would be your reaction to this? Is this good or bad?

Mr. POTTER. Generally, I would favor that since we are in an expanding period in our economy, especially in the people line, so circulation normally is on a rise.

Mr. UDALL. It would be more accurate and meaningful?

Mr. POTTER. It would be more accurate and meaningful at that particular point.

Mr. UDALL. That is all I have.

Mr. OLSEN. Madam Chairman?

Mrs. GRANAHAN. Mr. Olsen.

Mr. OLSEN. In this regard, the Post Office Department should properly have the opportunity for inspection of reports on dates other than that designated, let us say for the weeklies, for the purpose of checking out some particular weekly, and they should certainly be empowered to examine that weekly on some other date than the one they designate for the Nation as a whole? Do I make myself clear?

Mr. POTTER. Yes, sir.

Mr. OLSEN. If April 1 of every year is the designated date for weeklies of certain class, the Post Office Department should not be necessarily bound by that date but should be able to test out any given publication on another date of the year to determine whether or not they had been told the truth?

Mr. POTTER. Quite so, sir.

Mr. OLSEN. Just as this commercial organization checks out periodically?

Mr. POTTER. Yes, sir.

Mrs. GRANAHAN. Thank you, Mr. Potter.

Mr. SERRILL. Madam Chairman, I have here a letter from Ainsley Hickerson, president of the Philadelphia Suburban Newspapers, with whom I worked for the last 15 years, even during the time I was manager of the Pennsylvania Publishers Association. He had some particularly difficult problems and we called on Mr. Riley and I want to read from that letter. He said:

I want to go on record most strongly in favor of a bill that has "teeth" in it. No publisher worthy of his position will hesitate in giving the Post Office Department detailed information, backed by paid receipts, newsprint used, which will truly be a net paid circulation figure.

I think that expresses the viewpoint of our member publishers.

Mrs. GRANAHAN. Would you like to leave the entire letter with us?

Mr. SERRILL. I will turn this over to the committee.

Mr. UDALL. If it is in order, Madam Chairman, I would ask unanimous consent that this letter appear in the record.

Mr. GRANAHAN. Without objection, it will be placed in the record. (The letter follows:)

AUGUST 30, 1962.

HON. KATHRYN E. GRANAHAN,
House Office Building, Washington, D.C.

DEAR MRS. GRANAHAN: A few years ago I called on a large advertising agency in New York concerning advertising in our newspapers, all of them at that time being a member of the Audit Bureau of Circulations. He said, as I recall rather distinctly, "Mr. Hickerson, if we use weekly newspapers we always take ABC newspapers without question. If we use others, we figure their circulation one-half what they claim, and then, if the rate isn't too high, we use them." To me, that hurts us, as well as the majority of other weekly newspapers.

I am, therefore, vitally interested in the passage of bill H.R. 10696. As chairman of the subcommittee of the House Post Office and Civil Service Committee which is to consider this bill shortly, I want to go on record most strongly in favor of a bill that has "teeth" in it. No publisher, worthy of his position, will hesitate in giving the Post Office Department detailed information, backed by paid receipts, newsprint used, which will truly be a net paid circulation figure.

Sincerely yours,

PHILADELPHIA-SUBURBAN NEWSPAPERS, INC.,
A. E. HICKERSON, *President*.

Mrs. GRANAHAN. Thank you, Mr. Potter, Mr. Serrill, and Mr. Thomas.

The next witness will be Mr. Robert A. Saltzstein, attorney for the Associated Business Publications.

**STATEMENT OF ROBERT A. SALTZSTEIN, ATTORNEY, ASSOCIATED
BUSINESS PUBLICATIONS**

Mr. SALTZSTEIN. Thank you, Madam Chairman and members of the committee.

As discussed with the counsel for the committee, we did not prepare a written statement because we wished to observe what might be said and perhaps summarize our views, which certainly have been expressed by Mr. Smith and very eloquently by the National Editorial Association.

The Associated Business Publications is a nationwide association of paid circulation business publications.

We could not agree more with the statement made in the Philadelphia letter that any publisher who stands up and wants to be counted is willing to say publicly and openly what his circulation is. That is really what is involved in this bill, and I think it is highly significant and is a testimonial to all phases of the paid circulation publication press that we have not said, "Change this." Do not be easy on us. If anything, be a little tougher. That seems to be the purport of the prior testimony.

There are a few points we would like to have some clarification of. We do not know what the phrase "extent and nature" of the circulation means. If you mean paid circulation, say that. If you mean free circulation, say that. There are ways of determining what is paid and what is free. The Post Office Department can determine that.

Mr. OLSEN. Can I interrupt you there?

Mr. SALTZSTEIN. Yes.

Mr. OLSEN. You heard the testimony of the Post Office Department?

Mr. SALTZSTEIN. Yes.

Mr. OLSEN. Where they said there might be many different classes. I ask for your viewpoint. If I obtain a magazine for a subscription price and thrown into that is a subscription or the circulation of another magazine, how would I class the second magazine? Is that paid or free?

Mr. SALTZSTEIN. I do not know that it is done in that manner, Congressman. Personally I know of no such situation. I think if you buy a magazine you would pay an additional consideration for the second one. I am not thoroughly familiar with the situation you discuss.

Mr. OLSEN. I do not know if there is such a situation. It just came up in conversation in this hearing and I would like to clarify if there are just two classes or if there might be ten different classes.

Mr. SALTZSTEIN. I am not an expert on that but I think it is either paid or it is free. The second-class statute says you will have a legitimate list of subscribers and it cannot be free. It is difficult by legislative fiat to say what constitutes consideration, but clearly many publications are distributed free. If somebody pays one dollar, that is one hundred cents more than nothing. So that is not free. There must be some relationship to value.

Mr. OLSEN. May I interrupt you again?

Mr. SALTZSTEIN. Yes.

Mr. OLSEN. I have in mind this: There are magazines at the newsstands sold, say, for \$1 an issue, and if there is some kind of subscrip-

tion drive on for that magazine the subscription price might be as little as 25 cents a copy. You would still list that subscription at that lower price as being paid circulation?

Mr. SALTZSTEIN. Yes, I would.

Mr. UDALL. On this point—we are proceeding rather informally and I think this is better sometimes than a prepared statement—it seems to me we have a problem to determine that can be worked out and I propose, before we are through with this bill, to get together with the staff and see if we cannot get our language along the lines of the comments you have made. It seems to me perhaps there could be an arbitrary definition for the regular ordinary fully paid subscription on the one hand and then a classification of “other” which would include the free, the trading stamps, the giving away at election time sort of thing, and so on. You could lump them in “fully paid” or “other” or perhaps you will need “paid,” “totally free,” and “partly paid” categories. I do not know but I think we can work this out. I am always reluctant to pass legislation that is too rigid; I would rather give the Department some flexibility so they can work out the details with the industry. But I think in actual operation we will have to recognize categories either by lumping them in other categories or by giving the Department some power to designate some partially paid categories.

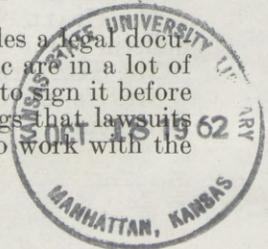
Mr. SALTZSTEIN. Congressman Udall, in this connection, the Audit Bureau of Circulations will not audit a publication permanently until it has 70 percent paid circulation according to its definition. That is what advertisers pay for. The Audit Bureau of Circulations will audit a publication when it has 50 percent paid circulation for the first year. This is very important in new publications that should be encouraged. Fifty percent will be the requirement for the first year, 60 percent for the second year of audit, and 70 percent for the third year.

If this be the case, presumably we should have some indication of this in the Post Office Department regulations also. Obviously it would appear we might have some difficulty concluding this matter this late in the session. If the committee wants to come out with a bill now, we would do everything we could to urge its passage, but maybe the thing to do is for all of us to work together and come in with a bill we can all support. If the Department thinks it wants something stronger, we would like to work with them to get that.

Mr. UDALL. I was going to make the same suggestion. I think when we are within 2 or 3 weeks of adjournment—I say that hopefully—from my standpoint I would be reluctant to bring out a bill at this late date unless I could spend a lot of time in modification and improvement of it.

Mr. SALTZSTEIN. There are things like this in the bill: The language in the bills under discussion is permissive. It contains words like “may”. It says the Postmaster General “may” require this information.

And it is not too burdensome for everybody who files a legal document to do it before a notary public. Notaries public are in a lot of places and to me it would have more force and effect to sign it before a notary public. Words such as “may” are the things that lawsuits spring from. If we can avoid them, we would like to work with the committee to bring that about.



Mr. OLSEN. Do you have some suggested language concerning this "extent and nature of the circulation"?

Mr. SALTZSTEIN. Paid and free. That is really all it means. It cannot mean anything else other than the variations which would have to be thoroughly analyzed and involve people who are not presently testifying as to what they are.

Mr. UDALL. Why can we not have "paid," "free," and "other"? These are the things I would like to explore before we report out a bill.

Mr. SALTZSTEIN. I agree.

Mrs. GRANAHAN. Counsel has some questions.

Mr. JOHNSON. The question was raised with respect to permissive language. I would like you to look at subsection (b) on page 2 of the bill and note that it refers to special authorization subsections 4355 or 4356 of title 39. Section 4355 covers publications of certain organizations which are enumerated, and section 4356 covers another group of publications.

As to subsection (a), which relates to section 4354, section 4354 is a general requirement for second-class entry. And at the bottom of page 1 it says: "Each owner of a publication having second-class mail privileges under section 4354 of this title shall furnish at least once a year to the Postmaster General information" and goes on to describe the matter which is to be in this information, and the word "may" is used only once at the top of page 2, "in such form and detail and at such time as he (the Postmaster General) may require". The filing is a requirement but the form and detail is such as "may" be required by the Postmaster General.

Subsection (b) gives the Postmaster General the option of requiring or not requiring the information. He may not need the information. I think this is justifiable in subsection (b) referring to special authorization sections 4355 or 4356.

I would call that distinction specifically to your attention hoping you might take another look at the requirement of the Post Office Department and also the convenience and necessity of these types of publications.

Mr. SALTZSTEIN. I am indebted to you, Mr. Johnson, for bringing this point up. What earthly reason should there be for any publication not to state what its paid circulation is? I see no reason for the exception.

Mr. UDALL. May I inquire at this point, under present law do publications of charitable, civic, and educational groups have to file this information?

Mr. SALTZSTEIN. Apparently not under this statute but we do not see why this should be the case. Many nonprofit publications are in the business of selling advertising and they tell in standard rate and data to the people who are buying the advertising what their circulation is. Why should not the Post Office Department have that information?

Mr. UDALL. I agree with that. I do not see why the semiquarterly bulletin of the Baptist Church, which sells advertising—

Mr. SALTZSTEIN. Or the American Bar Association.

Mr. UDALL (continuing). Should not be required to make the same statement. I did not realize present law exempts them.

Mr. OLSEN. Subsection (c) on page 2 is a directive that—

The Postmaster General shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of second-class mail privileges for failure to furnish the required information.

In the light of that directive, your only objection is that the requirement in subsection (b) should be a directive with the word "shall" rather than "may"?

Mr. SALTZSTEIN. In the present law here is the language:

The Postmaster General shall deny the privilege of the mail to a publication which fails to comply with the provisions of this section within 10 days after notice by registered mail of the failure.

What is wrong with that? This other language is weakening language. It puts it in a gray area. This is firm. If you do not file you do not mail.

Mr. OLSEN. You think the Postmaster General should require the filing of the information?

Mr. SALTZSTEIN. The present Postmaster General is an excellent man. The industry is represented by at least the three associations that are here, and they did not request this legislation.

Mr. OLSEN. As I understand, you are asking for a change so that the Post Office Department will have flexibility in requiring reports at other times than in October and so that they may require reports and even inspections that will check on whether or not they have been told the truth?

Mr. SALTZSTEIN. We would support that. I think there is a good reason for tying the date to a calendar year.

Mr. OLSEN. The Post Office Department wants something more than that. They want to be able to check on a publication at other times than annually to determine if they have been told the truth.

Mr. SALTZSTEIN. Mr. Riley, previously these had to be filed twice a year, is that right?

Mr. WENCHEL. At one time they had to be filed in April and in October.

Mr. SALTZSTEIN. How many years ago was that eliminated?

Mr. WENCHEL. I believe that was March 3, 1933.

Mr. SALTZSTEIN. It might be burdensome to the Post Office Department and to the industry to do this. That may have been the reason for the change at that time. Certainly a satisfactory date could be taken care of.

Mr. OLSEN. A satisfactory date could be taken care of but I can see the necessity for checking on some publications at another date.

Mr. SALTZSTEIN. They have that right now. The man in the street or an advertiser or another publisher who wants to know who is publishing what can advise the Post Office Department they do not believe the information furnished is true and the Post Office Department can go in and look.

Mr. OLSEN. They have investigators.

Mr. SALTZSTEIN. Yes. Of course sometimes a publication will have 50 or 60 percent in 1 month and it goes down and another month it goes up and to that extent there is value in the word "average" and the committee may want to take that into consideration.

Mrs. GRANAHAN. Any further questions?

Mr. UDALL. No further questions, but I want to observe this has been a most fruitful hearing for me. I think the witnesses have been

candid with us and I think we will get a good bill out of this hearing. I appreciate the manner in which this matter has been approached.

Mr. OLSEN. I join in that.

Mr. JOHNSON. I want the record to be clear that there is a very great distinction between the major publications, major number of publications, covered by subsection (a) of the first section of the bill, that is, those required to comply with section 4354, and the publications covered by subsection (b), those required to comply with sections 4355 and 4356. Section 4354 goes directly to the point at issue. One of the prime requirements is that the publication must have a legitimate list of subscribers.

In the case of sections 4355 and 4356, section 4355(a) deals with publications entered and mailed as second-class mail when they meet the first three conditions of section 4354(a). That leaves out condition (5), which requires that the publication have a legitimate list of subscribers. A publisher under section 4355 could not have a legitimate list of subscribers as I read it. There is no advertising other than that of the publisher.

And paragraph (4) of section 4356 provides that a condition for entry of publications under this section is that the publication does not contain advertising matter.

So I would say there is a sharp distinction between these publications and the publications qualifying under the general provision, section 4354. Section 4355(b) does provide a special kind of allowance for a publication containing advertising of persons other than the publisher but otherwise qualifying under the preceding items if the publication is not designed or published primarily for advertising purposes.

So I believe the language of subsection (b) of the first section of the bill is directed primarily to a special kind of publication and it may be that further consideration should be given by the subcommittee to this distinction.

Mr. SALTZSTEIN. Mr. Johnson, the publications under subsection (b) of section 4355, are they exempted from filing under the present statute?

Mr. JOHNSON. Under section 4354 all publications would have to file if they have a legitimate list of subscribers, and if they do not have one they do not have to file.

Mr. SALTZSTEIN. In the reconsideration of this bill perhaps we should provide that any publication which accepts advertising would have to supply this information.

Mr. JOHNSON. I feel the needs of the Post Office Department are primarily at issue here and if the Post Office Department feels it would lead to better administration of the law, their point of permissive language might be well taken.

Mr. SALTZSTEIN. You have raised a good point. Is or is not a publication designed for advertising purposes when professional publications carry a high percentage of advertising and they send it at 1½ cents a pound? And that rate has been in effect since 1925. I reserve the right to correct that if I am in error, but maybe you ought to take a good look at this subject. Those publications should not have any different application, in our opinion; than publications which are published for profit and they ought to report everything about themselves.

Mr. JOHNSON. Off the record.

(Discussion off the record.)

Mr. OLSEN. What is the reason for not requiring the nonprofit benevolent organizations to file a report with the Post Office Department?

Mr. UDALL. That was the point I had in mind, such publications as the American Bar Journal, the Medical Journal, and so on.

Mr. SALTZSTEIN. And the Journal of the medical association which did approximately \$4 million of business the first 6 months of this year.

Mr. OLSEN. Why do they not make a report?

Mr. RILEY. They were exempted in the original statute.

Mr. WENCHEL. We have made some slight readjustment but actually these have a different type of subscription than those under section 4354. These are magazines which are primarily subscribed to in connection with membership in the organization and from our standpoint there is considerable difference.

Mr. UDALL. The gentleman's comments have started wheels. I feel an amendment coming on.

Mr. OLSEN. Off the record.

(Discussion off the record.)

Mr. OLSEN. Sometimes where magazines are sold for due the dues is the purchase price and that is called paid circulation?

Mr. SALTZSTEIN. It is my understanding that that is the situation.

Mrs. GRANAHAN. Thank you.

Mr. SALTZSTEIN. Thank you very much for your courtesy.

Mrs. GRANAHAN. I have several letters I would like to put in the record, without objection.

There is a letter from Congressman Frank A. Stubblefield, of Kentucky; one from the News and the Daily Advance, of Lynchburg, Va.; and one from the American Newspaper Publishers Association, New York City.

(The letters referred to follow:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 23, 1962.

HON. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to take this means of expressing my support of H.R. 10696 to revise the requirements pertaining to information which publications having second-class mail privileges must furnish the Postmaster General annually.

In my judgment, this is a most desirable proposal, and I very much hope your committee will see fit to report it soon so that the House will have an opportunity to consider it this session.

Kindest personal regards.

Sincerely yours,

FRANK A. STUBBLEFIELD,
Member of Congress.

THE NEWS-THE DAILY ADVANCE,
Lynchburg, Va., September 7, 1962.

Mrs. KATHRYN E. GRANAHAN,
House Post Office Committee,
Washington, D.C.

DEAR MRS. GRANAHAN: I am writing to you as chairman of the postal committee of the Southern Newspaper Publishers Association and I am directing this letter to you as chairman of a subcommittee of the House Post Office Committee.

I understand your subcommittee is considering a bill, H.R. 10696, which would amend the law dealing with the filing of information with the Post Office Department by publications entitled to second-class mail privilege.

According to information which I have received, the proposed amendments would make vague and uncertain various provisions of the present law and might impose some rather burdensome requirements upon second-class mail publications or open the door for the Post Office Department to impose such requirements.

We understand that Stanford Smith, general manager of the American Newspaper Publishers Association, has already brought the details of this problem to your attention. We would like to concur in the action taken by Mr. Smith and request that your committee give careful consideration to this matter and not impose unnecessary requirements upon second-class mail publications.

We do not desire to testify before your committee as we understand the American Newspaper Publishers Association has already requested permission to present testimony.

Very truly yours,

CARTER GLASS III,
Chairman, Postal Committee, Southern Newspaper Publishers Association.

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION,
New York, N.Y., September 5, 1962.

Mrs. KATHRYN E. GRANAHAN,
House Post Office Committee,
Washington, D.C.

DEAR MRS. GRANAHAN: On behalf of our association of daily newspapers, I am addressing you as chairman of a subcommittee of the House Post Office Committee which we understand will hold hearings September 11 on bill H.R. 10696.

The ANPA has more than 850 members with more than 90 percent of total U.S. daily newspaper circulation. This explains our interest in a proposal which would substantially amend the law with respect to filing of information with the Post Office Department by publications holding second-class entry.

This law was the subject of intense controversy at the time it was enacted in 1912 and in the years immediately following. It was tested in the U.S. Supreme Court. Subsequently, the principle has been generally accepted that publications holding second-class entry should file sworn statements with the Post Office Department substantiating that the publications meet the criteria for second-class entry and should publish the statement for the information of readers.

We are confident that your subcommittee will not recommend substantial amendment to a law which is 50 years old without assuring complete understanding of the proposed changes by all who would be affected. As an association of daily newspapers, all of whom would be affected by the proposal, we want to inform you that we do not understand the language of bill H.R. 10696, and we would like further information and clarification so that we can accurately inform our members about what has been proposed and why. Only at that time would we be in position to express our views as an association on the merits of the bill.

Specifically, our questions are these:

1. Does the change in title of this section to delete the word "affidavits" mean that the statement to be filed need not be notarized? If not, why not?

2. Does omission of the language with respect to the listing of stockholders (or bondholders) owning less than 1 percent of the stock (or bonds, mortgages, etc.) of a corporation mean that all stockholders and bondholders, without exception, must be listed? If so, what purpose does such a burdensome requirement serve?

3. What does the bill mean by the term "extent and nature of the circulation of the publication?" If it means the number of copies distributed to paid subscribers or otherwise sold and the number of copies given away free, why not amend the language to say that specifically?

4. Is the total circulation to be reported in this manner to be calculated in the same manner as at present; that is, an average of the previous 12 months? If so, why not say so in the statute as at present to avoid confusion and misunderstanding?

5. Why has the requirement been eliminated that the statement be published for the information of readers?

We have received from the House Post Office Committee staff two undated mimeographed sheets, one headed "Summary of Purpose of H.R. 10696" and another headed "Statement of Purpose and Scope of H.R. 10696" but these explanations do not answer the above questions.

We are in complete sympathy with any effort to insure that only those publications entitled to second-class entry shall be granted such entry and/or continue to hold such entry. We would not oppose amendment of the law to insure such fair and equal treatment of all publications, provided the language of the new law is clearly understood by all affected and provided it does not give so much leeway to the Post Office Department that publishers can be needlessly burdened by requests for documentation of information not required to ascertain whether or not a publication meets the requirements for second-class entry.

We hope that you will secure answers to the above questions for us before the record of hearings is closed on H.R. 10696 so that we may have an opportunity to express the views of our association in clear and specific terms. We would like to testify at an appropriate time.

With esteem.

Yours very truly,

STANFORD SMITH, *General Manager.*

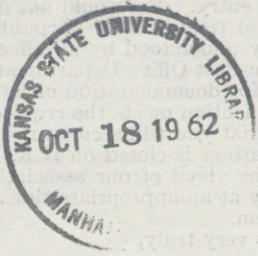
Mrs. GRANAHAN. The subcommittee will stand adjourned.
(Thereupon, Tuesday, September 11, 1962, the subcommittee adjourned.)



4. Is the total circulation to be reported in this column to be estimated in the same manner as at present, that is an average of the previous 12 months? If not, why not say so in the statute as at present, to avoid confusion and misunderstanding?

5. Why has the requirement been eliminated that the statements be published before the introduction of evidence? We have received from the House Post Office Committee and two related committees several suggestions, one headed "Report of Bureau of U.S. Census and another headed "Statement of Purpose and Scope of U.S. Census", but these explanations do not answer the above questions.

6. We are in complete agreement with any effort to insure that only those publications entitled to second-class entry shall be granted such entry and to contain no kind of matter which would not oppose amendment of the law to insure such fair and equal treatment. The Commission provided the language of the new law is clearly stated and provided it does not give so much authority to the publishers and be readily changed by the Commission not required to maintain whether amendments for second-class entry. We hope that the above questions for us below the record of hearings is clear and that we may have an opportunity to express the views of our association in clear and specific terms. We would like to testify as an appropriate witness.



Your very truly,
The Commission will send adjourned.
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The Commission will send adjourned.
(adjourned)