

SENATE GETS BILL TO CURB THE SEC

New Proxy Regulations Bring Protests From Corporations and Gurney Acts

MEASURE TO REACH HOUSE

Boren of Oklahoma Preparing It—Wadsworth and Taft Favor Revised Laws

By **SIDNEY M. SHALETT**

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WASHINGTON, Jan. 23—A Congressional movement to curb the regulatory powers of the Securities and Exchange Commission is developing in both the Senate and the House as a result of what several members regard as the SEC's tendency to exceed the powers that Congress intended to grant it in imposing rules upon corporations.

Already Senator Gurney of South Dakota, incensed by a complaint sent in to him by a constituent concerning the SEC's controversial "proxy rule," has introduced a bill to revoke the commission's power to regulate proxies during wartime. He announced that today he was perfectly willing to accept a suggestion, advanced by Senator Danaher of Connecticut, that his bill be amended to provide that all regulations by the SEC prescribed after Nov. 1, 1942, be wiped out.

Movement in the House

In the House, Representative Boren of Oklahoma, a member of the Interstate and Foreign Commerce Committee, is preparing an act to curb the SEC's power to pass regulations concerning certain exempt securities. He said he was willing to consider a clarification of all SEC powers.

Representative Wadsworth of New York, a member of this committee for ten years until his recent transfer to the Foreign Affairs group, also declared that he strongly favored a review of all SEC powers, with the elimination of any authority that permits the commission to pass "nuisance" rules.

Senators and Representatives who have studied the subject are irked particularly by the fact that the SEC on Dec. 18, three days after the last session of Congress had adjourned, issued a set of new regulations which incorporated the so-called "proxy rule" and other provisions about which there had been some controversial discussion. They were inclined to view with suspicion the fact that the SEC waited for adjournment of Congress before announcing these rules.

"The general sentiment around here," Senator Taft, another member of the Banking and Currency Committee, said, "is why, for heaven's sake, worry about things like this proxy business in wartime? Why annoy a lot of people who are busy with the war effort?"

Interpretation of Regulations

The proxy rules, issued by the SEC on Dec. 18, were covered in some twenty and one-half typewritten pages of regulations. None of the Senators has yet obtained a legal opinion on just what all phases of the regulations mean, but the essence of one of the principal objections, as they understand it, seems to be that a stockholder wishing to advance a proposal of any sort to which the management may object must have 100 words in the proxy form to state his position, and that the management thereupon is required to circulate the proposal to all its stockholders. This regulation is set forth in Rule X14-A-7, titled, "Duty of Management to Set Forth Stockholders' Proposals." This, in part, states:

"In the event that a qualified security holder * * * has given the management reasonable notice that such security holder intends to present for action at a meeting of security holders * * * a proposal which is a proper subject for action by the security holders, the management shall set forth the proposal and provide means by which security holders can make a specification as provided in Rule X-14-A-2.

"Further, if the management opposes such proposal, it shall, upon the request of such security holder, include in its soliciting material the name and address of such security holder and a statement * * * setting forth the reasons advanced by him in support of such proposal; provided, however, that a statement of reasons in support of a proposal shall not be longer than 100 words and provided further that such security holder and not the management shall be responsible for such statement."

Rules for Annual Reports

In its same set of rules the SEC also issued regulations concerning the form in which annual reports to stockholders, accompanying or preceding proxy statements, must be worded. Some of the members of Congress are inclined to feel that these place additional "red-tape" burdens upon managements already harassed in wartime.

"Quite a number of Senators are protesting these proxy regulations," Senator Taft said. "The chief complaint made to me is that it requires the company to circularize any stockholders' complaint

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or fight. I don't think they ought to be compelled to do that."

Senator Gurney, who is not a member of the Banking and Currency Committee, said he had stepped in with his Senate Bill No. 36 after a "little corporation" in his home State had complained to him about the proxy order.

"Rats!" the Senator from South Dakota exclaimed. "This little corporation is engaged in war work. It would have to hire a dozen high-priced lawyers and an office staff to do everything the regulations order."

He said he had conferred with Senator Wagner, chairman of the Banking and Currency Committee, and had suggested that Senator Wagner's committee study the entire situation and amend his bill to provide it with a much greater scope.

Senator Danaher said he regarded a revision of the SEC's powers, with regulations up to adjournment of the last Congress, as a certainty.

"Senator Gurney's bill can be easily adapted for this purpose," he said. "It is at least the vehicle on which the entire freight can be piled."

Senator Danaher added that he strongly opposed over-burdening corporations engaged in war work with extra paper work, and he felt sure that the SEC subcommittee of the Banking and Currency group would take "proper steps" to make Senator Gurney's bill more sweeping.

Senator McClellan of Arkansas, a new member of the subcommittee, said he had not studied the issue thoroughly yet, but was inclined to think that he would favor simplifying regulations as much as possible.

"There have been many things done of which I disapprove," he said.

Senator Murdock of Utah, another subcommittee member, said he has received one "emphatic protest" from a Utah man concerning the proxy rules and that he was studying the situation further before making up his mind.

On the House side Representative Boren said he could not predict what course the SEC subcommittee would take, but that it was his own attitude that the SEC had "exceeded on a number of things the powers Congress intended for it to have."

"I believe there is a strong disposition in Congress in favor of cutting out all red tape and regu-

latory actions of the SEC, and to restrict its tendency to extend and misuse its powers," he said.

He revealed he had had an exchange of correspondence with Ganson Purcell, chairman of the SEC, over a regulation by that body which, in Mr. Boren's opinion, attempted to extend its regulatory powers over municipal securities. As a consequence, Mr. Boren said, he intended to introduce an act next week to "clarify the application of the SEC Act of 1934 to exempted securities, and for other purposes.

"I don't think we ought to tolerate the SEC's assumption of powers," he declared. "If regulating needs to be done, let Congress study the matter and take the necessary steps. Let's not just let some appointed official do it."

Representative Wadsworth viewed the proxy rules as "exceedingly burdensome and severe," and said they had evoked an "outburst of criticism." He said he regretted leaving the SEC subcommittee because he would have liked to have had a close hand in revision of the entire situation.

"The thing needed," he said, "is a sound clarification of the intent of Congress toward the SEC."

Officials of the SEC, reached tonight here, said they had no wish to become involved in a public controversy whether the SEC had exceeded the powers granted to it by Congress. They said they would be glad to appear before any committees of Congress and explain the reasons behind their latest rules.

As to the proxy rule, a member of the SEC's legal staff said a regulation had been in effect for several years requiring a corporate management to list stockholders' proposals in its calls for proxies. The new regulation, he said, simply required addition of the 100-word explanatory statement which, the SEC thought, was a "democratic process."

The SEC's intent, a spokesman said, was "just to give the small fellow an opportunity to express his mind" and experience had convinced the commission that stockholders used this privilege "wisely" instead of advancing "crackpot" ideas.

The spokesman also insisted that the only additional requirement governing annual reports and financial statements was one that these reports be sent out prior to or concurrently with proxy solicitations. Companies still may publish financial reports in any manner they wish, he said.

As for adding clerical burdens to corporations, the SEC took the position that it had published various forms which might be used for filing certain information which actually "simplify" rather than add to clerical work.