

AUTHORIZATION FOR DIPLOMATIC RADIO STATIONS

OCTOBER 1, 1962.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce, submitted the following

R E P O R T

[To accompany H.R. 11732]

The Committee on Commerce, to whom was referred the bill (H.R. 11732) to amend section 305 of the Communications Act of 1934, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of this legislation is to amend the Communications Act of 1934 so as to authorize the President to license a foreign government to operate low-power point-to-point radio stations (as distinguished from broadcasting stations) in the District of Columbia for transmission of messages to points outside the United States whenever the President deems it to be consistent with and in the interest of national security. This legislation is needed in order to enable the U.S. Government to offer reciprocity when attempting to secure permission from foreign governments for the establishment by the United States of radio stations in foreign countries. At present the Communications Act prohibits the granting of such authority to noncitizens.

LEGISLATIVE HISTORY

S. 3252 and H.R. 11732 were identical bills introduced in the Senate by Senator J. William Fulbright and in the House of Representatives by Congressman Oren Harris at the request of the Department of State.

S. 3252 was referred to the Senate Foreign Relations Committee where an executive hearing was held on June 21, 1962. On July 9, 1962, it was reported favorably from that committee and ordered referred to your committee which has general jurisdiction in the field of communications. An open hearing was held on August 29, 1962,

at which time favorable testimony was presented by Under Secretary of State George W. Ball, Adm. M. E. Curtis, U.S. Navy (retired), Director of Telecommunications Policy, Office of the Secretary of Defense, and Max D. Paglin, General Counsel, Federal Communications Commission. The House Interstate and Foreign Commerce Committee held open hearings on August 2, 1962, and on August 20, 1962, favorably reported H.R. 11732. The House of Representatives passed H.R. 11732 on September 21, 1962, and the bill was referred to your committee. By letter dated September 24, 1962, the acting chairman, John Sparkman, indicated that the Senate Foreign Relations Committee did not have any objections to H.R. 11732 as it passed the House.

GENERAL STATEMENT

When Under Secretary Ball testified before your committee he stated that this legislation was necessary to make possible more rapid, secure, and dependable communications between Washington, D.C., and our representatives in certain areas abroad. The problem to which this legislation is directed is not communications with major capitals of Western Europe and other areas possessing established up-to-date communications systems. Rather the problem is the development of improved communications with many of the newer posts throughout the world, particularly in Africa, Asia, and Latin America.

Improvement of communications to these posts is considered to be of great importance by the Department of State. It is in these areas that communications facilities are inadequate to meet U.S. needs. He stressed the significance of being able to communicate promptly with these areas as an essential element in the conducting of international relations. It has been found time and time again that our ability to cope effectively with crises in less developed areas has been impeded by the lack of adequate communications facilities. As an example, it was indicated a message sent over commercial facilities to the Congo, to Vientiane in Laos, or to Algiers may take as long as 20 hours, whereas today in all these areas hourly developments can have an important bearing on our interests.

According to the State Department the only practical way of providing communications with remote areas where adequate facilities are not available is the installation of radio facilities in our diplomatic mission. The program being developed contemplates the installation over a period of years of facilities in as many as 92 posts abroad at the cost of \$5,000 to \$200,000 for each station. To do this, however, the United States must obtain permission of the government to which our missions are accredited. In most instances those nations are willing to grant such permission only on the condition that reciprocal privileges be afforded their diplomatic mission in Washington.

Because of the provisions of the Communications Act herein amended, the United States has been unable to grant such permission. This legislation has been examined by and has the support of the Bureau of the Budget, the Department of Defense, the Department of Justice, the Federal Communications Commission, and other interested agencies. There have been no objections.

The establishment of low-power point-to-point radio stations by foreign governments in Washington, D.C., will not create any security problems since the use of these facilities by foreign governments will not materially enhance the opportunity for transmitting intelligence

as compared to currently available commercial facilities and pouch service. This legislation has been discussed with the leading American commercial communication carriers who have indicated that if this legislation is deemed to be in the national interest, they do not interpose any objection. The State Department contends that the proposal would not result in any significant reduction in traffic carried by such companies.

Finally, assurances have been given that operations can be controlled adequately so that they will not cause any significant interference with licensed radio operations in the United States. In line with this position, the Federal Communications Commission submitted for your committee's record its understanding of the practices and procedures that would be followed in implementing the legislation when it is enacted. In order to avoid any misunderstanding, such practices and procedures are as follows:

(a) Foreign government stations will be authorized only where the President determines that such authorization will be consistent with the national interest.

(b) No foreign government will be authorized to operate more than one station.

(c) All of the stations authorized will be in Washington, D.C., and each one will be at or near the embassy or legation of the country in question.

(d) The total number of foreign stations authorized is expected to be relatively small compared to the number of embassies and legations in Washington.

(e) It is not contemplated that stations will be authorized to those foreign governments which generate the greatest volume of communications traffic, since existing commercial facilities to and from such countries generally are adequate.

(f) The stations will be limited in power, hours of operation, and types of authorized transmission. Thus, they will not have facilities comparable to those of U.S. communications common carriers, and the danger of interference to U.S. radio stations also will be reduced.

(g) The stations will not be authorized to transmit messages to points inside the United States.

(h) There will be full coordination with all interested U.S. Government agencies before frequencies are assigned for use by any foreign government station.

(i) Use of any frequency would be conditional on no harmful interference being caused to U.S. radio stations.

(j) The stations would be required to use transmitting equipment which conforms to the technical standards established by the Federal Communications Commission.

(k) The President (or his designee) after consultation with the Federal Communications Commission would impose such other conditions and restrictions as were considered to be necessary.

(l) The Commission would extend its normal technical monitoring coverage to encompass the foreign government stations.

CONCLUSIONS

Your committee feels that the national interest would be served in the enactment of H.R. 11732. This legislation is necessary in order

to make available to the U.S. Government much needed up-to-date modern communication facilities where such facilities are unavailable at the present time. If the United States is to establish such facilities in foreign countries it must be in the position to offer reciprocity to other countries. H.R. 11732 will permit this and at the same time, as herein reported, the bill seeks to assure that the authority granted will be used only in those interests where the President has determined that the granting of such authorities to a foreign country will be consistent with and in the interest of national security.

Your committee recommends the enactment of this bill.

AGENCY COMMENTS

Letter from Senator John Sparkman, acting chairman of the Committee on Foreign Relations, dated September 24, 1962.

Comments of the Federal Communications Commission on H.R. 11732 and S. 3252, June 13, 1962.

Letter from Mr. Edward Gudeman, Under Secretary of Commerce, dated August 16, 1962.

Letter from the General Counsel of the Department of Defense, signed by Mr. John T. McNaughton, dated July 23, 1962.

Letter from the Comptroller General of the United States dated July 26, 1962.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
September 24, 1962.

HON. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR: As you know, H.R. 11732, amending section 305 of the Federal Communications Act of 1934, passed the House with an amendment on September 21, 1962, and is now pending before your committee. It is a companion measure to S. 3252, which was favorably reported by the Committee on Foreign Relations on July 9, and referred to the Commerce Committee.

This letter is to let you know that the Committee on Foreign Relations has no objection to the amendment adopted by the House nor any objection to the consideration of H.R. 11732 in lieu of S. 3252, if this should expedite final passage.

Sincerely yours,

JOHN SPARKMAN,
Acting Chairman.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON H.R. 11732 AND S. 3252, 87TH CONGRESS, BILLS TO AMEND SECTION 305 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

These proposals (which are identical) would authorize the President, under such terms and conditions as he may prescribe, to authorize a foreign government to construct and operate a low-power radio station in the fixed service at or near the site of such government's embassy or legation in Washington, D.C., for the transmission of its messages to points outside the United States. Such an authorization would be made only where the President found that it would be

consistent with our national interest and only where the foreign government in question has granted substantial reciprocal privileges to the United States to construct and operate radio stations within territories subject to its jurisdiction. Such foreign government stations would be required to conform to such rules as the President may prescribe. The procedures for granting, renewing, suspending, revoking, or otherwise terminating the authority for such stations would be established by the President and would not be subject to the other provisions of the Communications Act or of the Administrative Procedure Act.

This legislation has been proposed by the Department of State, and has been the subject of extensive coordination among interested departments and agencies of the Government. At the outset, we wish to make clear that the Commission is not in a position to evaluate the needs of the Department of State for this legislation. Nor are we in a position to assess fully the extent of the security problem which may result from the operation of foreign government stations in Washington, D.C.

Aside from the above points, the Commission has had several areas of concern with respect to this proposal.

1. There is a scarcity of frequencies in the 4 to 27.5 megacycle frequency range used for most long-distance communications and in which the proposed stations would be expected to operate.

2. The possible loss of revenue by U.S. communications common carriers, a result of traffic being diverted from such carriers to the stations authorized pursuant to this proposal.

3. The enforcement and surveillance problems resulting from the operation of foreign government stations in this country.

4. The interference potential from the foreign government stations to U.S. radio stations.

The Commission believes that the matters set forth above must be considered in weighing the desirability of the legislation. However, in our opinion, the seriousness of the problems which might result from this legislation has been sharply reduced because of the careful manner in which the proposal is drafted, as well as the practices and procedures which we understand will be followed in its implementation. Some of the more important of these, as we understand them, are as follows:

(a) Foreign government stations will be authorized only where the President determines that such authorization will be consistent with the national interest.

(b) No foreign government will be authorized to operate more than one station.

(c) All of the stations authorized will be in Washington, D.C., and each one will be at or near the embassy or legation of the country in question.

(d) The total number of foreign stations authorized is expected to be relatively small compared to the number of embassies and legations in Washington.

(e) It is not contemplated that stations will be authorized to those foreign governments which generate the greatest volume of communications traffic, since existing commercial facilities to and from such countries generally are adequate.

(f) The stations will be limited in power, hours of operation, and types of authorized transmission. Thus, they will not have

facilities comparable to those of U.S. communications common carriers, and the danger of interference to U.S. radio stations also will be reduced.

(g) The stations will not be authorized to transmit messages to points inside the United States.

(h) There will be full coordination with all interested U.S. Government agencies before frequencies are assigned for use by any foreign government station.

(i) Use of any frequency would be conditional on no harmful interference being caused to U.S. radio stations.

(j) The stations would be required to use transmitting equipment which conforms to the technical standards established by the Federal Communications Commission.

(k) The President (or his designee) after consultation with the Federal Communications Commission would impose such other conditions and restrictions as were considered to be necessary.

(l) This Commission would extend its normal technical monitoring coverage to encompass the foreign government stations.

In our opinion, the above-planned criteria and practices will minimize any problems which might result from the legislation. Accordingly, if it is determined that there is a need for the legislation, the Commission would have no objection to its enactment. Moreover, if such legislation is enacted, we are strongly of the opinion that the authority to authorize foreign government radio stations and to prescribe rules and conditions for their operation should be conferred upon the President as is provided in H.R. 11732 and S. 3252.

Adopted: June 13, 1962.

THE SECRETARY OF COMMERCE,
Washington, D.C., August 16, 1962.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in reply to your request for the views of this Department with respect to S. 3252, a bill to amend the Communications Act of 1934, as amended. This bill, introduced at the specific request of the Department of State, would add new language to section 305 of the act, to authorize the President to permit foreign governments to operate low-power radio stations at their embassies in Washington, D.C., in return for substantially reciprocal privileges for the United States to operate similar radio stations at its missions within the territories of such reciprocating countries. At the present time, our Government is handicapped in asking for permission to construct and operate radio stations abroad because of the Communications Act which prohibits similar licensing of foreign governments in the United States.

The Department of Commerce recommends enactment of this legislation. Its purpose is to enable the Department of State to maintain more effective communication with U.S. missions in foreign countries, especially in Africa, Asia, and Latin America, where commercial facilities often are inadequate or subject to interruption. The Department of Commerce also has an important interest in dependable communications with U.S. missions overseas, especially in connection with

carrying out the commercial programs for which it has primary responsibility and particularly the export drive. Establishment of radio stations of the kind contemplated under this bill could be helpful in the conduct of these programs at times when other communication facilities are not available.

This Department does not have any comments to offer on the technical features of the bill, such as possible interference with other radio services, which lie within the field of responsibility of other agencies. In supporting enactment of the bill, it assumes, of course, that any technical difficulties that may be encountered will be such as to permit acceptable solutions.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., July 23, 1962.

HON. WARREN G. MANGUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 3252, 87th Congress, a bill to amend the Communications Act of 1934, as amended.

The bill would authorize the President, when he determines it to be in the national interest, to permit foreign governments, on a reciprocal basis, to operate radio transmitters in their missions in the United States.

The Department of Defense is in accord with the purposes of the bill and recommends its approval by the committee.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

JOHN T. McNAUGHTON.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 26, 1962.

B-113531.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: Further reference is made to your letter of July 17, 1962, requesting our comments on S. 3252 which proposes to add a new section (d) to section 305 of the Communications Act of 1934, as amended. The proposed legislation would permit the President to authorize foreign governments to construct and operate low-power radio stations at or near their embassies or legations if they

afforded us the same opportunity in territories subject to their jurisdiction.

The bill is the subject of Senate Report No. 1680, 87th Congress, and other than the explanation contained in that report we have no particular information concerning the desirability of the proposed legislation. Consequently, and since the bill would not affect the functions of the General Accounting Office, we have no comments to offer regarding S. 3252.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter printed in italic; existing law in which no change is proposed is shown in roman):

[PUBLIC—No. 410—73D CONGRESS]

[S. 3285]

AN ACT To provide for the regulation of interstate and foreign communication by wire or radio, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

LICENSE FOR RADIO COMMUNICATION OR TRANSMISSION OF ENERGY

SECTION 301. It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license. No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District; or (b) from any State, Territory, or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel; or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its borders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or

(e) upon any vessel or aircraft of the United States; or (f) upon any other mobile stations within the jurisdiction of the United States, except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.

* * * * *

GENERAL POWERS OF COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

- (a) Classify radio stations;
- (b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;
- (c) Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;
- (d) Determine the location of classes of stations or individual stations;
- (e) Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein;
- (f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this Act: *Provided, however,* That changes in the frequencies, authorized power, or in the times of operation of any station, shall not be made without the consent of the station licensee unless, after a public hearing, the Commission shall determine that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this Act will be more fully complied with;
- (g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;
- (h) Have authority to establish areas or zones to be served by any station;
- (i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;
- (j) Have authority to make general rules and regulations requiring stations to keep such records of programs, transmissions of energy, communications, or signals as it may deem desirable;
- (k) Have authority to exclude from the requirement of any regulations in whole or in part any radio station upon railroad rolling stock, or to modify such regulations in its discretion;
- (l) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens of the United States as the Commission finds qualified;
- (m) Have authority to suspend the license of any operator for a period not exceeding two years upon proof sufficient to satisfy the Commission that the licensee (1) has violated any provision of any Act or treaty binding on the United States which the Commission is authorized by this Act to administer or any regulation made by the Commission under any such Act or treaty; or (2) has failed to carry

out the lawful orders of the master of the vessel on which he is employed; or (3) has willfully damaged or permitted radio apparatus to be damaged; or (4) has transmitted superfluous radio communications or signals or radio communications containing profane or obscene words or language; or (5) has willfully or maliciously interfered with any other radio communications or signals;

(n) Have authority to inspect all transmitting apparatus to ascertain whether in construction and operation it conforms to the requirements of this Act, the rules and regulations of the Commission, and the license under which it is constructed or operated;

(o) Have authority to designate call letters of all stations;

(p) Have authority to cause to be published such call letters and such other announcements and data as in the judgment of the Commission may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this Act;

(q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation.

* * * * *

GOVERNMENT-OWNED STATIONS

SEC. 305. (a) Radio stations belonging to and operated by the United States shall not be subject to the provisions of sections 301 and 303 of this Act. All such Government stations shall use such frequencies as shall be assigned to each or to each class by the President. All such stations, except stations on board naval and other Government vessels while at sea or beyond the limits of the continental United States, when transmitting any radio communication or signal other than a communication or signal relating to Government business, shall conform to such rules and regulations designed to prevent interference with other radio stations and the rights of others as the Commission may prescribe.

(b) Radio stations on board vessels of the United States Shipping Board Bureau or the United States Shipping Board Merchant Fleet Corporation or the Inland and Coastwise Waterways Service shall be subject to the provisions of this title.

(c) All stations owned and operated by the United States, except mobile stations of the Army of the United States, and all other stations on land and sea, shall have special call letters designated by the Commission.

(d) *The provisions of sections 301 and 303 of this Act notwithstanding, the President may, provided he determines it to be consistent with and in the interest of national security, authorize a foreign government, under such terms and conditions as he may prescribe, to construct and operate at the seat of government of the United States a low-power radio station in the fixed service at or near the site of the embassy or legation of such foreign government for transmission of its messages to points outside the United States, but only (1) where he determines that the authorization would be consistent with the national interest of the United States and (2) where such foreign government has provided reciprocal privileges to the United States to construct and operate radio stations within territories*

subject to its jurisdiction. Foreign government stations authorized pursuant to the provisions of this subsection shall conform to such rules and regulations as the President may prescribe. The authorization of such stations, and the renewal, modification, suspension, revocation, or other termination of such authority shall be in accordance with such procedures as may be established by the President and shall not be subject to the other provisions of this Act or of the Administrative Procedure Act.

* * * * *

LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310. (a) The station license required hereby shall not be granted to or held by—

- (1) Any alien or the representative of any alien;
- (2) Any foreign government or the representative thereof;
- (3) Any corporation organized under the laws of any foreign government;
- (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;
- (5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted, after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

(b) The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such license, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest, and shall give its consent in writing.

