

INSPECTION OF VESSEL COMMUNICATIONS EQUIPMENT

Mr. GORE. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 153, S. 1288.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1288) to amend section 362(f) of the Communications Act of 1934.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. GORE. Mr. President, I ask unanimous consent to have a statement in explanation of the bill printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

Section 362(b) of the Communications Act of 1934, as amended (title III, pt. II), requires that every U.S.-flag vessel subject to its provisions must have its prescribed communications equipment and apparatus (i.e., radio installation, radiotelegraph, etc.) inspected at least once each year by the Commission. This bill would take cognizance of the possibility of undue delay and inconvenience to a vessel arriving from abroad at a U.S. port more than 12 months after its last annual inspection, by adding the following language to section 362(b):

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

Enactment of the bill would provide needed flexibility in the vessel inspection requirements to take care of situations such as have occurred where vessel operators have suffered costly delays due to the late hour of arrival at the port, or to unavailability of inspection personnel for one reason or another, or to a tight vessel schedule requiring prompt departure for another port.

The language of the bill is in accord with the suggestion of the Federal Communications Commission, as expressed to this committee during the 86th Congress when a bill of similar intent (S. 3496) was under consideration. In its comments on S. 1288, as submitted to your committee, the Communications Commission favors enactment of the bill, but makes it clear that it would expect the waiver provision to be exercised only "In those instances where it is impracticable to make the required inspection because of unavailability of inspection personnel, where the distance from the Commission's office to the vessel would not permit the completion of an inspection, including traveltime, during office hours, or where the duration of the vessel's stay in port is too short to permit inspection."

The Convention for the Safety of Life at Sea, as the Commission points out in its comments, is somewhat less rigid in its requirements for inspection of radio equipment installed in accordance with that convention.

The report of the Secretary of Commerce on the bill states that "from a commercial viewpoint, it would appear desirable to authorize the Federal Communications Com-

mission in appropriate cases to permit the shipowner this additional period to have his vessel inspected at an economically and operationally convenient port."

The American Merchant Marine Institute, Inc., at whose instance the original bill to provide an extension of time for vessel radio inspection was introduced, cites in its letter urging enactment of S. 1288:

"The ship radio station must be inspected at the first port of call rather than at a port selected by the shipowner for reasons of economic and operational convenience. For the foregoing reason, this proposed amendment is considered a matter of some import to the ocean steamship industry."

RCA Communications, Inc., a licensee of radio stations aboard several hundred vessels of the United States which are subject to the requirements of section 362(b) of the Communications Act, endorsing the bill states:

"It has been our experience that the proposed amendment would materially benefit and assist both the Federal Communications Commission and ship operators by permitting the needed flexibility in arranging for annual inspection."

There is no recorded opposition to the bill.

Comments of the Federal Communications Commission, the Secretary of Commerce, the Department of State, and the Comptroller General of the United States are appended, together with letters from the American Merchant Marine Institute, Inc., and the RCA Communications, Inc., favoring enactment.

There is no change in existing law.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 1288 AND H.R. 4743, 87TH CONGRESS, 1ST SESSION, IDENTICAL BILLS TO AMEND SECTION 362(b) OF THE COMMUNICATIONS ACT OF 1934

S. 1288 and H.R. 4743 would amend title III, part II of the Communications Act of 1934, as amended, by adding to section 362(b) the following:

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

Equipment and apparatus required to be installed by title III, part II, of the act is required by section 362(b) to be inspected at least once every 12 months. S. 1288 and H.R. 4743 would authorize the maximum permissible time lapse between inspections to be more than 12 months.

The Commission supports the introduction of an element of flexibility into the provisions of section 362(b). In the past, there have been instances of difficulty arising because of the inflexibility of section 362(b) and the lack of inspection facilities in certain ports. The parallel requirements of the Convention for the Safety of Life at Sea permit some inspectional leeway to administrations in connection with radio equipment to be installed by the convention. The Commission contemplates that the waiver provision would generally be exercised only in those instances where it is impracticable to make the required inspection because of unavailability of inspection personnel, where the distance from the Commission's office to the vessel would not permit the completion of an inspection, including traveltime, during office hours, or where the duration of the vessel's stay in port is too short to permit inspection.

The language of S. 1288 and H.R. 4743 is as was suggested by the Commission in

our comments on S. 3496, 86th Congress, 2d session.

The Commission favors enactment of this legislation.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1288) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following language be added to section 362(b) of the Communications Act of 1934 (47 U.S.C.A. 360):

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

AMENDMENT OF FAIR LABOR STANDARDS ACT

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives, announcing its disagreement to the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, and asked a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GORE. Mr. President, I move that the Senate insist on its amendment, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McNAMARA, Mr. MORSE, Mr. RANDOLPH, Mr. SMITH of Massachusetts, Mr. PELL, Mr. BURDICK, Mr. GOLDWATER, Mr. DIRKSEN, and Mr. PROUTY conferees on the part of the Senate.

RESTRICTED STOCK OPTIONS

Mr. GORE. Mr. President, on April 14 I introduced a bill, S. 1625, to put a stop to the granting of restricted stock options. In the brief remarks I made upon the introduction of this measure, I pointed out some of the fallacies in the reasoning of those who have supported this type of low-tax compensation. I also pointed out certain abuses in connection with these options, and offered some illustrations of the way in which this tax avoidance device has been used by highly compensated corporate executives to enrich themselves at the expense of the taxpaying public, and particularly at the expense of their own stockholders.

The response from the public has been most heartening. Many stockholders

have sent me proxy statements they have received from their companies detailing the stock option plans which have been in effect, or which have been proposed. After reading some of these proxy statements, I am afraid I was altogether too conservative in my estimates of the profits which corporate insiders are making from these options. One statement showed profits of more than 500 percent from this manipulation—at a tax rate of 25 percent, if at all.

One proxy statement in particular causes me great concern. I refer to the statement which was sent to IBM stockholders on March 21 of this year in preparation for the annual meeting of stockholders at noon tomorrow. What particularly disturbs me is that the IBM management now proposes to grant themselves a second round of options.

Those who have defended the principle of the restricted stock option have leaned heavily on the argument that very limited numbers of shares have been placed under option, and that the harm done to the company and the stockholders by virtue of this type of stock watering will be small. Now, this argument might hold up fairly well were companies to set aside one small block of stock, and when this was exhausted allow no more options.

But, this is not being done. Decent restraint is not being exercised. Company insiders are finding that the shares of stock set aside for the first round of options have all been allotted, and they are, therefore, setting aside additional shares for a second, or perhaps a third, round.

IBM adopted a stock option plan in 1956. Under that plan, some 130,000 shares were granted under option to 61 executives through calendar year 1959. No more options may be granted under the 1956 plan after tomorrow. So, it is now proposed that the stockholders, at this annual meeting, approve a new plan whereby 100,000 additional shares will be set aside for the benefit of officers and key employees.

Mr. President, there is apparently no end to this sort of rigging. Corporate directors and managers can continue, year after year, to set aside large blocks of stock for their own benefit, and to the detriment of legitimate purchasers of their company's stock who must go into the open market and purchase at the going rate.

These figures for IBM may not sound staggering, but bear in mind that IBM stock is a high priced stock—it is selling now for around \$720 per share.

Let me illustrate this point by showing what the president of the company, Mr. Thomas J. Watson, Jr., has gained. Under the 1956 plan, Mr. Watson was granted an option to purchase 7,643 shares of stock at a price of \$137.70. At current prices, this represents compensation, in addition to his regular annual compensation of more than \$300,000, of almost \$4.5 million.

And this added compensation is not taxable at the time the option is exercised, at which time a real, tangible, and measurable profit is realized.

I am happy that the chairman of the Senate Committee on Finance, the distinguished Senator from Virginia [Mr. BYRD] is doing me the honor of giving me his attention.

The tax accrues only at such time as the stock is sold, and then at a rate of only 25 percent. Should Mr. Watson choose to retain the optioned stock in his estate, then no income tax will ever be paid by anyone on this tremendous fortune. Meanwhile, taxes are withheld from the pay checks of every hourly paid worker employed by IBM.

Can it be argued by any reasonable man that Mr. Watson needs this extra \$4.5 million as an incentive to look after the company's affairs? Can it be successfully argued that Mr. Watson would, without this gimmick, leave the company so closely identified with his family and in which he, his brother, and their mother already own more than 175,000 shares worth some \$125 million? Do he and the other highly compensated executives need even more cut-rate bargain purchases?

I hope the stockholders of IBM will rise up tomorrow and vote down this new scheme. But I hold little hope of this. As I have previously pointed out, the managers have taken control away from the stockholders, and it is difficult for interested and knowledgeable stockholders to get together enough proxies to defeat a proposal sponsored by the management, and even for the benefit of the management.

It is, therefore, up to the Congress to act to protect all stockholders.

ELIMINATION OF ADDITIONAL FEES FOR CONTRACTOR FINANCING EXPENSES UNDER DEPARTMENT OF DEFENSE CONTRACTS

Mr. BYRD of Virginia. Mr. President, on May 13, 1960 The Senate adopted an amendment to the military construction bill of 1960 to stop Federal payment of additional fees for contractor financing expenses under Department of Defense contracts.

This amendment was later eliminated in the House-Senate conference on the bill, but I am pleased to advise the Senate at this time that the practice has been stopped by an administrative order. Substantial savings will result.

These fees were being paid in connection with many military contracts under Department of Defense Directive 7800.6, "Cost-Reimbursement Contracts—Payments for Work in Progress," dated November 1, 1957.

Audits by the Comptroller General found that under this directive the Government was paying millions of dollars in additional fees to cost-plus-fee contractors for which it received no significant benefit.

The Department of Defense on March 14 of this year canceled the 1957 directive in the interests of reducing costs and simplifying procurement administration.

There is reason to believe that this action resulted from the findings revealed by the Comptroller General's audits and the attention given to them

by Congress. Comptroller General's work in this matter is appreciated.

I ask unanimous consent that correspondence on the subject and a statement of explanation be printed in the RECORD as part of these remarks.

There being no objection, the correspondence and statement of explanation was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, March 28, 1961.

HON. HARRY F. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: Reference is made to our letter of February 23, 1961, in regard to payment of additional fees to contractors for agreeing to deferred reimbursement of costs under cost-type contracts. At that time, we stated our opinion that there was a present and continuing need for legislation on this subject.

On March 14, 1961, the Department of Defense rescinded its Directive 7800.6 dated November 1, 1957, which established the policy for payment of additional fees for contractor financing expenses. The Deputy Secretary of Defense issued the following statement to the military departments:

"In the interests of reducing costs and simplifying procurement administration, I have today directed the cancellation of the subject directive which provides for the withholding from contractors performing certain categories of cost-reimbursement type contracts twenty percent of costs incurred until deliveries of end items or performance of specified increments of work.

"Please take such actions as are necessary to provide for the omission of the withholding requirements from all new contracts. In addition it is desired that existing contracts containing the withholding provision be amended by supplemental agreement to provide for payment of withheld amounts whenever adequate consideration can be negotiated with the contractor in the form of an adjustment in the fixed fee."

Your aggressive interest and action in this matter, including introduction of legislation in the 86th Congress to nullify the policy, had a significant bearing on the action of the Department of Defense in rescinding this policy and will result in substantial savings to the Government.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., March 16, 1961.

HON. HARRY F. BYRD,
U.S. Senate

DEAR SENATOR: On May 16 last year, you wrote me concerning an amendment to H.R. 10777, the military construction bill, which you introduced on May 12, 1960, the purpose of which was to nullify the effect of Department of Defense Directive 7800.6, which ordered withheld 20 percent of incurred reimbursable costs on cost-reimbursable contracts.

In our hearings on contracting procedures and in House Report No. 1959, 86th Congress, pages 22 and 23, the effect and cost of this directive was considered and brought forcefully to the attention of the Department of Defense, and the subject has been under active study.

I am happy to bring to your attention today, a cancellation issued March 14, 1961.

With warmest personal regards and very best wishes,

Faithfully yours,

CARL VINSON,
Chairman.