

STATEMENT OF E. WILLIAM HENRY, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION, BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS OF THE SENATE COMMERCE COMMITTEE, ON SIX BILLS INTRODUCED IN THE 89TH CONGRESS AT FEDERAL COMMUNICATIONS COMMISSION REQUEST (S. 903, S. 1015, S. 1284, S. 1554, S. 1948 AND S. 1949)

June 23, 1965

My name is E. William Henry and I am Chairman of the Federal Communications Commission.

I appreciate the Committee's interest in scheduling hearings on these various bills requested in the Commission's legislative program for the 89th Congress, and the opportunity to appear in support of them. I shall discuss them in the order listed by the Committee in announcing the hearings.

S. 903 -- to amend the Communications Act of 1934, as amended, with respect to painting, illumination and dismantlement of radio towers

S. 903 would amend section 303(q) of the Communications Act of 1934 to require that abandoned or unused radio towers continue to meet the same painting and lighting requirements that would be applicable if such towers were being used in connection with the transmission of radio energy pursuant to a license issued by the Federal Communications Commission. It further empowers the Commission to direct dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that they may constitute a menace to air navigation.

Under section 303(q) of the Communications Act, the Federal Communications Commission has 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. Pursuant to this statutory authority, the Commission has adopted criteria to gauge the aeronautical hazard in particular cases and has prescribed rules specifying the painting and lighting requirements for these towers.

However, when a radio station license expires, is cancelled, or is revoked, these towers are no longer used in connection with authorized radio station operation. They are then "abandoned towers," and as such,

would not appear to fall within the Commission's jurisdiction so as to compel continued marking or lighting. Radio towers, which are of latticed construction, are inherently less visible than solid structures such as buildings, water towers, smokestacks, and the like. The potential menace to air navigation of such a tower left standing unlighted and unpainted is obvious.

The Joint Industry Government Tall Structures Committee (JIGTSC) established by the Air Coordinating Committee to investigate the problems raised by the joint use of airspace by the aviation and broadcast industries, and to recommend appropriate action establishing the position of the Federal Government, recommended in 1957 that "the Federal Communications Commission require the removal or appropriate lighting and marking of unused or abandoned towers if it has such authority, and if such authority does not exist * * * that the Federal Communications Commission seek appropriate legislation to attain this objective."

After study and consideration of the JIGTSC and other parallel recommendations, the Commission, convinced that the public interest would be served by implementation of such recommendations, submitted a legislative proposal which was introduced in the 85th Congress. That proposal would have amended section 303(q) of the Communications Act to authorize the Commission to require the continued lighting and

marking of radio towers although the tower has since ceased to be used for radio transmitting purposes. The same proposal was introduced in both the 86th and 87th Congresses. In the 87th Congress, the Senate Commerce Committee added an amendment authorizing the Commission to require the owner to dismantle and remove the tower when there is a reasonable possibility that it may constitute a menace to air navigation (S. Rept. 214, 87th Cong.). The Senate approved the bill, S. 684, 87th Congress, with the Committee amendment. The House failed to act on S. 684 in that Congress.

The language of our present proposal is essentially the same as that approved by the Senate in the 87th Congress in S. 684. The sole difference is that the Federal Communications Commission's authority to require that a tower be dismantled would be based upon a finding by the Administrator of the Federal Aviation Agency that there is a reasonable possibility that the tower may constitute a menace to air navigation.

We believe that the proposal constitutes an effective and desirable solution to a problem raised by the joint use of airspace by the broadcast and aviation industries.

S. 1015 -- to authorize FCC to prescribe regulations for the manufacture, import, sale, shipment or use of devices which may cause harmful interference to radio reception

S. 1015 would amend the Communications Act of 1934 by adding a new section 302. Under it the Commission would obtain authority to prescribe regulations for the manufacture, sale, offer for sale, shipment, and import of devices which cause harmful interference to radio communications or are capable of causing harmful interference to radio reception.

The chief purpose of this legislation is to give the Commission adequate authority to deal with increasingly acute interference problems arising from the expanding usage of electrical and electronic devices which cause, or are capable of causing, harmful interference to radio reception. This would be accomplished by empowering the Commission to deal with the interference problem at its root source -- the sale by some manufacturers of equipment and apparatus which do not comply with the Commission's rules. It would require that equipment be properly designed to reduce radiation to specified and acceptable limits and, where necessary, permit the Commission to specify to the manufacturer operating frequencies before the equipment is sold to the consumer.

In recent years there has been a marked increase in the number and type of devices capable of causing harmful interference to radio reception. In many instances, radiating devices lie outside the area conventionally associated with radio transmission and reception. They include such devices as high powered electronic heaters, diathermy machines, and welders which radiate energy either purposely or incidentally to carrying out their primary functions. They also include low power devices such as electronic

garage door openers which, because of poor design or otherwise, emit radio frequency energy beyond that needed for their functions. Even radio and television receivers may also emit some radio energy.

The cumulative effect of all this undesired radiation is most apparent in large metropolitan areas. Especially in peak periods of operation of radiating devices, such areas are blanketed by a "radiation smog" which makes it increasingly difficult for many users of radio communications to obtain interference-free reception.

This radiation problem is most serious in vital areas where radio is used for safety purposes, such as in air navigation control. In a number of instances, the Federal Aviation Agency has issued notices informing pilots that certain radio navigation devices are not usable in particular quadrants because the interference cause by industrial equipment makes these "navaids" unreliable. Problems in this area pose a genuine threat to safety of life, and as the volume of air traffic increases, this threat will become more acute.

To police and fire departments and others using radio for public safety purposes, interference could cause errors or delays affecting the preservation of life and property.

To radio listeners and television viewers, such excessive radiation also means the reception of distorted and garbled signals, or fluttering images, or pictures of a technical quality less than that possible when interference is under effective control.

To those who use radio for industrial communications services, the cumulative effect of undesired radiation means increased disruption of communications services.

And, finally, to those users of radio whose operations must be conducted under conditions of relatively low background interference (i.e., for the Commission's monitoring activities, the operation of military communications systems, or radio astronomy observations), high levels of undesired radiation force the abandonment of geographic areas of high interference, or require special efforts to detect radiating devices which are causing harmful interference. Both of these alternatives impose additional costs of operation on the Government itself.

We received approximately 38,000 interference complaints during fiscal 1964. Several thousand of these complaints were attributable to the types of radiation devices we have been discussing (i.e., high powered electronic heaters, diathermy machines, welders, electronic garage door openers and low powered walkie talkies). Investigation, detection and suppression of these devices has been accomplished at the expense of other important enforcement duties and, if the trend indicated in the last two months continues, the cost of detection and enforcement is expected to exceed that of last year. Passage of the bill will tend to minimize what would otherwise be an urgent need for increased manpower for these purposes.

Although the Commission presently has authority under section 301 of the Communications Act to prohibit the use of equipment or apparatus which causes interference to radio communications and, under section 303(f), to prescribe regulations to prevent interference between stations,

it has no specific rulemaking authority under the Act to require that before equipment or apparatus having an interference potential be put on the market, it meet the Commission's required technical standards which are designed to assure that the electromagnetic energy emitted by these devices does not cause harmful interference to radio reception.

This gap in the Commission's authority has undesirable results. Since the prohibition presently falls only on the use of offending equipment, the Commission, in trying to eliminate interference, is confined largely to measures applying to the use of equipment which interferes with radio communications. In most instances the users have purchased the equipment on the assumption that its operation would be legal. Thus, the Commission is frequently confronted by the question: "If I can't use this equipment, why was he permitted to sell it to me?" The Commission is also reduced to an "after-the-fact" approach to controlling interference. There is no basis for proceeding against an offender until the Commission has discovered the interference, either through its Field Engineering Bureau or on the complaint of some user of radio equipment.

Many manufacturers have cooperated generously in assuming the responsibility to minimize interference problems. This cooperation is purely voluntary and has been most helpful. However, the responsible manufacturer who cooperates in holding down excessive radiation is at a competitive disadvantage vis-a-vis the marginal manufacturer who prefers to ignore our rules. Legislation such as S. 1015 appears necessary to solve the problem effectively.

We recognize, of course, that equipment designed to prevent radiation costs more than improperly designed equipment. But in most instances, we believe that the additional costs to manufacturers stemming from this legislation would be small in view of mass production techniques. Moreover, the proposed legislation would avoid subsequent additional expense to users.

Let me turn now to a brief analysis of the details of S. 1015. It consists of three subsections in a new section 302. Subsection 302(a) describes the radiating devices which would be subject to our authority as those "...which in their operation are capable of emitting radio frequency energy by radiation, conduction or other means in sufficient degree to produce harmful interference to radio communications." The Commission would have authority under this subsection to prescribe rules for such devices applicable to their "manufacture, import, sale, offer for sale, shipment or use." Subsection 302(b) prohibits the use, import, shipment, manufacture, sale, or offering for sale of devices which fail to comply with the regulations duly promulgated by the Commission under the authority of section 302.

Subsection 302(c) provides for three exceptions. The first is for carriers which merely transport interfering devices without trading in them. The second exception relates to the manufacture, sale, etc., of devices which are intended solely for export.

The final exception involves the use of devices by agencies of the Government. Under section 305 of the Communications Act, the Commission has no regulatory jurisdiction over stations owned and operated by the United States. The proposed subsection 302(c) recognizes this exemption from the Commission's jurisdiction. It provides, however, that such devices shall be developed or procured by the Government under standards or specifications designed to achieve the common objective of reducing interference to radio reception, taking into account the unique needs of national defense and security. The various Government agencies are fully aware of the need for suppressing objectionable interference and, in many cases, the standards adopted by individual agencies are more stringent than those which the Commission would impose. In light of these considerations, it was considered appropriate to except from the operation of this legislation devices used by the United States Government or its agencies, leaving it to the agencies to cooperate in achieving acceptable levels of radiation. The Director of Telecommunications Management has assured us of his cooperation in this respect.

The Commission has established technical standards applicable to the use of various radiation devices. This legislation is not designed to result in the promulgation of stricter technical standards. We have adequate authority at present to adopt stricter technical standards whenever we find that the public interest requires such action with respect to the use of radiation devices. In many cases, our existing technical standards would simply be made applicable at the manufacturing level. In those few cases where we would implement this authority with new or additional technical standards, the Commission would be dealing with a kind of device recognized to be a serious source of interference; and the standards to be specified would be developed with the same close cooperation that we have heretofore received from industry. The most recent example was the generous and full cooperation given by the television receiver industry in connection with implementing the all-channel TV receiver law (Public Law 87-259, 87th Cong., 76 Stat. 150).

The latter example is pertinent to any new authority given the Commission under S. 1015. As in that case, we would contemplate holding a series of industry meetings, in order to discuss informally such matters as appropriate new standards and changeover periods. As in the case of the all-channel receiver regulations, our effort would be to achieve a satisfactory consensus.

Further, before promulgating any new standards, the Commission would give public notice of rulemaking proceedings, and interested persons, including all segments of the industry affected by a particular set of

regulations, would have ample opportunity to comment on the proposed regulations. In short, if the Commission obtains this authority, it would proceed to implement it only after a thorough study of all the problems involved, and in such a gradual way as to minimize the effect of new standards on the industry.

Moreover, we do not envision prescribing technical standards for all radiation devices. Rather, we contemplate prescribing standards for those devices which in fact cause harmful interference to radio reception. We would begin with those presenting the most serious problems. Thus, it is expected that equipment, the use of which is now regulated by the Commission, such as industrial heaters, low power walkie-talkies, wireless microphones, and the receivers for garage door opener controls would be the first to receive our attention.

In summary, we expect that if S. 1015 is enacted, the technical quality of radio and television reception will improve, especially in those metropolitan areas where there is now excessive radiation. The efficiency of communications service in the industrial radio band will be enhanced. And, most important, some potentially serious threats to safe air navigation and control will be alleviated. Finally, the Commission's efforts in detecting and eliminating harmful interference will be made more efficient. All this will benefit the public, the users of devices which radiate electromagnetic energy, the great majority of manufacturers who presently attempt to avoid harmful interference problems, and the users of radio communications in general.

S. 1284 -- To amend Section 203(a) of the Communications Act with respect to the filing of schedules of charges by connecting carriers

S. 1284 would amend section 203(a) of the Communications Act of 1934 to provide that a connecting carrier must file a tariff covering communications subject to the Commission's jurisdiction where there is no other carrier obligated by the statute to file a tariff covering such service. Presently, under section 203(a) of the Act, connecting carriers are not required to file tariffs. A connecting carrier under the Act is one which furnishes interstate or foreign service solely through connection with another non-affiliated carrier. The vast majority of some 2500 independent telephone companies are connecting carriers, since, for the most part, they render interstate service only through connection with a Bell System Company.

Under section 203, the Bell System or any other interstate carrier with which such carriers connect is obligated to file tariffs covering the joint service, and connecting carriers are specifically relieved of any tariff filing requirements. However, there are certain instances where interstate and foreign communication service is being furnished solely by connecting carriers, none of which is obligated to file tariffs covering the service, and consequently no tariff is filed. There are three principal examples of this.

1. The first is where a connecting carrier located in a State bordering Mexico or Canada interconnects by wire or radio with a foreign carrier.

The foreign carrier, not being subject to our jurisdiction, does not file a tariff, and the connecting carrier, because of section 203(a), is not required to file one.

2. A second example is where a connecting carrier in one State interconnects with a connecting carrier in an adjoining State by wire or radio. Both may retain their exempt status as connecting carriers notwithstanding the fact that the communication service they are rendering is interstate in character and subject to the Commission's jurisdiction as to whether the rates charged and the conditions of service are just and reasonable and otherwise lawful.

3. A third example where no tariff is required to be filed, despite the interstate character of the communication service involved, is in those instances where a connecting carrier provides services in connection with chain broadcasting or incidental to radio communication. A carrier supplying the link between the studio and the transmitter is a prime example of this. Another example would be a connecting carrier providing a local pick-up for a baseball

game which the local station broadcasts to the public and also supplies to a network. In such cases, the Commission has held that, although the provision of such service is subject to its jurisdiction, a carrier does not lose its connecting carrier status by providing the service. Capital City Telephone Company, 3 F.C.C. 189 (1936).

This proposal is the same as that introduced in the 88th Congress as part of the Commission's legislative program (S. 1503 and H.R. 6018). The House bill was the subject of hearings before the Subcommittee on Communications and Power of the Committee on Interstate and Foreign Commerce, House of Representatives, April 9 and 10, 1964. At those hearings, the United States Independent Telephone Association opposed the bill unless it was modified to exempt "connecting carriers" from filing tariffs with the Federal Communications Commission for all services for which tariffs are filed with a State Commission or other regulatory authority. The Association contended that the independent telephone companies would, without justification, be burdened with the cost of duplicate tariff filings with State and Federal regulatory bodies.

But the charges which the proposed amendment would cause to be filed with the Federal Communications Commission are those applicable

to interstate or foreign common carrier communications subject only to the jurisdiction of the Federal Communications Commission. State Commissions do not have authority to regulate such charges. Filing them with State Commissions would not inform or otherwise assist the FCC in discharging its regulatory responsibilities with respect to the charges. Effective rate regulation requires publication of rates in tariff schedules so that the users may be advised of the legally applicable charges for services or facilities, and the regulatory commission which has jurisdiction regarding such charges may have the opportunity to review them and, if necessary, to investigate their lawfulness.

Thus, all rates for interstate or foreign common carrier communications should be set forth in tariffs required to be filed with the FCC so that we may fully exercise our statutory responsibility.

S. 1554 -- To designate the Secretary of Defense, instead of the Secretaries of the Army and Navy as at present, as the person to receive official notice of the filing of certain applications in the common carrier service

S. 1554 would amend sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, to substitute the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications.

When a common carrier wishes to extend its lines or to discontinue or curtail existing services, it must file an application for permission to do so. Section 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official service is contained in section 222(c)(1), in cases of consolidations and mergers.

By amending sections 214(b) and 222(c)(1) of the Communications Act to provide for official notice to the Secretary of Defense and to delete "Secretary of the Army" and "Secretary of the Navy" where those titles appear in such sections, S. 1554 would eliminate unnecessary paperwork. Experience has proved that while copies of applications have been sent to the Departments of the Army, Navy, and Air Force, as well as the Secretary of Defense, the Department of Defense is the agency that makes the required reply in the vast majority of cases.

Limiting official notice to the Department of Defense in such cases should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

S. 1948 -- To amend the provisions of the Communications Act with respect to the financial interests of commissioners, employees, and executive reservists of the Commission

S. 1948 would amend subsection 4(b) of the Communications Act (47 U.S.C. 154(b)) to bring the provisions dealing with the financial interests of Commissioners and Commission employees more closely into line with current national policy on conflicts of interest. It would also exempt from the provisions of subsection 4(b) "special Government employees," i.e., the short-term consultant, and persons serving in the Commission's executive reserve program.

Conflict-of-interest provisions in the law have the highly salutary purpose of ensuring that Government officials act in the public interest and maintain their affairs so that no actual or apparent personal financial motivations cloud their official decisions. We are in full accord with this objective.

Congress has also recognized, however, that Government employees should be free to engage in lawful financial transactions to the same extent as private citizens where no real conflict of interest exists. This approach has been followed in both the general revision of the conflict-of-interest laws enacted by the Congress in 1962 (Public Law 87-849, approved October 23, 1962) and in President Johnson's Executive Order No. 11222 of May 8, 1965, prescribing standards of ethical conduct

for Government officers and employees. 1/

Section 4(b) of the Communications Act as it presently stands contains a wide prohibition against any financial interest by any Commissioner or Commission employee in any company connected with radio. It covers not only communication common carriers, and broadcast and other radio licensees, but also any company manufacturing radio apparatus, and every company furnishing services or radio apparatus to companies which are licensees or manufacturers. It prohibits the ownership of "stocks, bonds or other securities of any corporation subject to any of the provisions of the Act."

When it was enacted in 1934, the relevant background was the use of radio by broadcast companies and the regulation of communications common carriers. Since that time, however, the Commission has licensed over a million companies and individuals in the safety and special radio services.

Thus, today many corporations having nothing to do with broadcasting or communications common carriers subject to the Commission's regulatory authority are Commission licensees, and our employees are prohibited from buying their stock, solely because their corporate airplace is equipped with radio, or because in some other incidental way they use radio communications in their business. States and municipalities are also usually licensees of police and fire radio systems.

1/ See e.g., H.Rept. No. 748, 87th Cong., 1st Sess., p.6, and section 203 of Executive Order No. 11222, May 8, 1965, 30 F.R. 6469.

In fact, practically every facet of modern industry and commerce, whether it be farming, mining, manufacturing, transportation, or public utilities, uses radio communication and is therefore subject to the licensing provisions of the Communications Act. The growth of mutual funds containing a wide diversity of stocks, some of which are almost certain to be in the communications field, raises further problems under the broad language of subsection 4(b).

While FCC Commissioners and employees should be prohibited from investing in broadcast companies and communications common carriers, we strongly believe that the broad language of subsection 4(b) should be changed to remove the shadow land involving those thousands of companies which use radio merely as an incident of their business, and situations such as investment in an ordinary mutual fund.

S. 1948 would go a long way both in clarifying and making realistic the law in this field, without sacrificing the necessary and meaningful restrictions on substantial outside interests which might affect a Commissioner's or an employee's performance of his duties. It would continue to prevent the same types of activities now prohibited by subsection 4(b) -- that is, investment, employment by, or holding

"official relation to" certain types of companies. It would continue to apply these prohibitions both to Commissioners and Commission employees. It would continue to preclude direct investment by Commissioners and Commission employees in broadcasting or communications common carriers, the primary fields of Commission regulatory activity.

Moreover, it would continue to apply to relationships with, and investments in, companies a substantial part of whose activities consists of the manufacture or sale of radio apparatus or of apparatus for wire or radio communication or the providing of services to radio broadcasters or to common carriers offering communication services by wire or radio. The language also adds a specific reference to prohibit official relationships with, or investment in, companies a substantial part of whose activities is the installation, servicing, or maintenance of apparatus used for the transmission of communications by wire or radio. These provisions would, for example, preclude investment in networks, manufacturers of telephones, radio and television sets, etc. However, a furniture store which happens to include a broadcast licensee among its customers would not ordinarily be a prohibited investment, nor would a department store which handles television sets among countless thousands of other items. Such operations clearly have no bearing upon any conflicts of interest, real or apparent, which the section is designed to prevent.

S. 1948 would also prohibit investment in a holding company, mutual fund, or other investment company whose activities are concentrated substantially in broadcasting, communications by wire, or the other mentioned activities. In such circumstances, the non-participation test of Public Law 87-849 would apply, that is whether the investment is so substantial as likely to affect the integrity of the services which the Government may expect, or whether it is too remote or inconsequential to affect the integrity of such services.

Finally, we have been continuing to consider these conflict of interest provisions, and would like to bring to the Subcommittee's attention one important matter not presently included in S. 1948.

Even under S. 1948, situations of injustice and hardship may arise in exceptional circumstances. Thus, for example, if a Commission employee were to be named beneficiary of a trust containing, among other things, a few shares of stock of an interstate communications common carrier, he would be in violation of the Act if he continued in the Commission's employ. Yet he might have no control over the trust and not be able to get the trustees to sell the offending shares. Other factual situations, each one unique, could arise.

We believe that there should be some provision for flexibility so that such cases will not be violations of the law where no substantial actual or apparent conflict of interest exists. We suggest, therefore, that a provision similar to that in the general conflict of interest

law (18 U.S.C. 208) be included, so that the proscription of the Act would not apply where, after full disclosure, a written determination is made by the appointing official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the commissioner or employee.

This could be accomplished by adding a new paragraph (4) to subsection (b) of section 1 of S. 1948 as follows:

"(4) Paragraph (2) of subsection (b) of this section shall not apply if the Commissioner or employee advises the Government official responsible for appointment to his position of all pertinent circumstances and receives a written determination made by such official that the financial interest, employment, or official relation to a person described in paragraph (2) is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such Commissioner or employee."

S. 1948 also exempts from the financial interest provisions of subsection 4(b) "special Government employees" as that term is defined in Public Law 87-849, 76 Stat. 1119, approved October 23, 1962, 18 U.S.C. 201. The broad scope of existing section 4(b) stands as an obstacle to the use of part-time consultants contemplated by Public Law 87-849, which has liberalized the conflict-of-interest standards as they apply to special Government employees. That Act is designed to ". . . help the Government obtain the temporary or intermittent

services of persons with special knowledge and skills whose principal employment is outside the Government." (Attorney General's "Memorandum Regarding Conflict-of-Interest Provisions of Public Law 87-849," dated January 28, 1963 (28 F.R. 985).

Such an employee would continue to remain fully subject to all the conflict-of-interest standards now contained in Public Law 87-849. And, in the event a "special Government employee" should become a regular employee of the Commission, or a member thereof, he would then become subject to section 4(b)(2) of the Communications Act. In short, it is not intended to confer on "special Government employees" any rights beyond those now set out in Public Law 87-849.

Also exempt from the financial interest provisions of subsection 4(b) would be persons acting as executive reservists pursuant to subsection (e) of section 710 of the Defense Production Act of 1950, as amended (69 Stat. 583, 50 U.S.C. App. 2160(e)), and not otherwise employed by the Government in a full-time capacity, and those executive reservists employed full-time in time of war or during periods of national emergency declared by the President.

The Executive Reserve program, approved in Congress in 1955, authorized the President to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. It further authorized the

President to provide by regulation for the exemption of members of such Reserve from the operation of the conflict-of-interest provisions in sections 281, 283, 284, 434, and 1914 of Title 18 of the United States Code and section 190 of the Revised Statutes (section 99 of Title 5). This he did in his Executive Order establishing the National Defense Executive Reserve. (E.O. 10660, February 15, 1956, 21 F.R. 1117.)

The financial interest provisions of section 4(b) of the Communications Act have been found to be unduly restrictive in the recruitment for the executive reserve training program of the Commission. This has been one of the difficulties encountered in the search for well-qualified appointees. And it is those people who, by reason of their past employment in the Commission or employment in executive positions in the communications industry, are the best qualified and most valuable to serve the Government as full-time Commission employees in periods of national emergency or time of war.

In view of the foregoing, the Commission supports S. 1948 as a bill of important practical significance to its employees and one whose purpose is consistent with the recent expressions of Congressional and Administration intent, while maintaining full protection to the public interest in leaving administrative proceedings free from actual or potential conflicts of interest.

S. 1949 -- To conform certain provisions of the Communications Act with the International Convention for the Safety of Life at Sea

S. 1949 would amend the Communications Act to conform to the Convention for the Safety of Life at Sea (SOLAS), a conference held in London in May and June of 1960, upon the invitation of the Inter-Governmental Maritime Consultative Organization. A companion bill, H.R. 7954, was passed by the House of Representatives on June 7, 1965.

A major purpose of the conference was the drafting of a Convention to replace the International Convention for the Safety of Life at Sea, signed in London in 1948. Commissioner Bartley served as Chairman of the U.S. Delegation on Chapter IV of the Convention and several members of the Commission's staff participated in the Conference.

As a result of its deliberations, the conference prepared and opened for signature and acceptance, The International Convention for the Safety of Life at Sea, 1960, to replace the International Convention for the Safety of Life at Sea, 1948.

This convention was submitted to the Senate on April 27, 1961, as Executive K of the 87th Congress with a view to receiving the advice and consent of the Senate. After a hearing in 1962 before the Committee on Foreign Relations and a favorable report (Ex. Rep. No. 5, 87th Cong., 2d Sess.), the Senate on April 12, 1962 gave its advice and consent to the ratification of such Convention.

Pursuant to Article XI of SOLAS, the Inter-Governmental Maritime Consultative Organization informed all Governments which have signed or accepted the present Convention (including the United States) that it would come into force on May 26, 1965.

The amendments contained in S. 1949 have as their objective the modernization of compulsory ship radio safety requirements. The provisions proposed to be amended, other than a few definition changes in Section 3, are contained in Sections 351 through 361, Part II of Title III of the Communications Act, which apply to vessels navigated in the open sea on both domestic and international voyages. The present provisions are designed to apply radio safety standards in each respect equal to or higher than those in the 1948 Safety Convention. In respect to those provisions of the 1960 Safety Convention which provide for higher standards than those now contained in the Communications Act, and in the 1948 SOLAS Convention, S. 1949 would amend the Act to raise the standards of the Act to those of the new Safety Convention.

For example, by lowering from 500 to 300 gross tons the gross tonnage of cargo ships to which compulsory radio installation requirements would be applicable, the proposed amendment would impose the same radio safety requirements on United States vessels plying coastal waters in domestic voyages as SOLAS imposes on ships engaged in international voyages.

The Commission has been advised by other interested Government agencies such as the Bureau of the Budget, the Coast Guard and the Department of the Navy that they have no objection to the enactment of this bill.

Since the United States has already agreed to the provisions in the SOLAS Convention, the amendments made by S. 1949 are conforming in nature and, in our opinion, non-controversial.

The major substantive changes the bill would make are:

(i) to extend application of the compulsory radio installation requirements of Section 351 of the Communications Act to cargo ships as low as 300 gross tons. Section 351 contains radio requirements for ships of the United States navigating in the open sea and all ships leaving a United States port for the open sea. Presently, cargo ships under 500 gross tons are excepted from the requirements of this section of the Communications Act;

(ii) to make clear that Section 352(b) of the Communications Act, which provides for exempting certain categories of ships from the ship radio requirements of Part II of the Communications Act, shall not apply to nuclear ships. SOLAS provides that nuclear ships shall not be exempt from any Regulations of the Convention; and

(iii) to eliminate the compulsory radio requirements of the Communications Act for vessels which are navigated both in the open sea and on the Great Lakes during the time that such vessels are on the Great Lakes. SOLAS 1960 eliminated

the compulsory radio requirements of the Safety Convention for vessels under similar circumstances. The proposed amendment to the Communications Act would effect similar relief for vessels subject to the Communications Act.

The purpose in both cases is to eliminate dual radio safety requirements, since vessels on the Great Lakes are subject also to the safety radio requirements of the Great Lakes Agreement between the United States and Canada.

The other amendments are generally non-substantive -- involving changes in terminology of the Act to conform to that adopted by the Convention and other changes for purposes of clarification.

When hearings were held on the House side on a companion bill, H.R. 7954, the American Merchant Marine Institute raised a minor objection to the language of the last sentence of section 355(i). The House Committee inserted satisfactory language to meet AMMI's point and the Commission recommends including that language in S. 1949. This language is the same as that adopted by the House of Representatives on June 7, and makes it clear that no new equipment will be required for existing installations. Thus, we recommend that at page 13, line 2, after the word "and", there be inserted a comma and the following language "in installations made after May 26, 1965".

These changes brought about by the Convention are designed to promote the safety of life and property on the high seas. We urge that S. 1949 be enacted so that the Communications Act may reflect them.

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