

The record of public utterances on this subject by interested Senators and Representatives does not reflect a unanimously held view that under the pending legislation which subsequently became the Radio Act of 1927 the Commission would have the power to authorize subscription radio. The record does however, indicate that most of the legislators who commented on the question believed that it would. Senator Dill, sponsor of the Senate Bill and Chairman of the Conference Committee which reported the legislation, made several statements which clearly indicated that he understood the legislation as not prohibiting the authorizing of subscription broadcasting. During a debate on the Bill on the Senate Floor in response to a question by Senator Walsh of Massachusetts as to whether anything in the Bill would permit "the charging of a fee to listeners-in when messages are broadcast," Senator Dill stated:

"Mr. President, in the first place, this bill provides that the Commission shall have authority to regulate the type of transmitting apparatus as to its external effect, so that *the Commission would have the power to permit or prohibit the use of such apparatus if it so desired*, but I want to say to the Senator that, in my judgment, *Congress should not pass a law that would prevent a broadcasting station from so equipping itself that people could not listen to its programs unless they had a certain kind of receiving set*. In other words, if a broadcasting station wants to select its clients by selling a certain kind of receiving set or attachments for sets, I do not know any reason why the Congress of the United States should prevent it from engaging a telephone company or movie house from preparing something and not allowing anybody to enjoy it or hear it except by their paying a fee." (Italic supplied.) (68 Cong. R. 2880-2881).

In reply to another question by Senator Walsh, Senator Dill stated:

"Why, if no one presents a program should he not be paid for it?"
 "Let me say to the Senator that in most countries people are not permitted to have radio free . . . But here in the United States we have built up a free system of broadcasting and reception and it has thrived . . . I do not believe with the condition existing that any broadcasting station can hope to prosper if it attempts to set up a method by which it would charge the listener-in; *but I know of no reason why Congress should interfere with that kind of private business any more than it should interfere with any other kind of private business.*"

Senator Dill made a similar statement in reply to queries by Senator Copeland of New York.

Senator Pittman of Nevada criticized the bill because: "It admits that, under the bill, broadcasters have the authority and power to charge for listening in" (68 Cong. R. 4109). The bill was similarly interpreted by Representatives Davis of Tennessee and Representative Nelson.

The Record indicates, on the other hand, that at least one legislator did not understand the pending legislation as conferring authority upon the Commission to authorize subscription broadcasting. In a reply to a question by Representative Nelson of Wisconsin, then Representative White of Maine stated "The legislation gives no such authority . . ." (68 Cong. R. 2580).

A Bill (H.R. 1687, 69th Cong., 2nd Sess.) introduced by Representative Bloom of New York, which would have prohibited a charge to radio listeners, appears to reflect an assumption on Congressman Bloom's part that the legislation as it stood did not bar Commission authorization of subscription broadcasting. This Bill, however, died in Committee.

During the pendency of the Senate Bill which was subsequently enacted as the Radio Act of 1927, an amendment was introduced which would have authorized the Commission to control charges to listeners. This amendment was stricken in conference. It would seem quite clear that the amendment was predicated on an assumption that the legislation permitted the authorization of broadcast operations involving a charge to listeners. The fact that the amendment was stricken in conference evidently reflected an intention to leave to the discretion of licensees the amount of any charge to listeners for the reception of radio programs.

In examining the legislative history of the Radio Act of 1927 it is relevant to note that the attention of Congress was directed primarily to the problem of regulating the radio industry in terms of its customary mode of operation, and that at that time, as now, advertising revenues constituted the established source of financial support for the industry. This is not to say, however, that Congress intended to make the current financial practice of the industry mandatory. Such an interpretation receives no support in the express language of the statute, and seems hardly tenable in view of the fact that some attention, although limited, was given the question of possible charges for the reception of radio programs.