

The Commission's authority under the act to authorize this service would be based upon a finding that the operation of such a service would be in the public interest.

What I should have said is that we are confident of both our authority and our responsibility in the matter conditioned on a finding that the operation would serve the public interest, convenience, and necessity.

Mr. MACDONALD. Then what you are talking to me about, this memorandum of law—

Mr. HYDE. With your permission we will bring this memorandum of law down to date. (See p. 149.)

Mr. MACDONALD. Fine. Thank you.

Mr. Brotzman.

Mr. BROTZMAN. I would like to recap, Mr. Hyde.

It seems to me that we can only talk to you at this particular point relative to something we call a legal conclusion without going into the substance of this particular matter.

What we are talking about now is jurisdiction.

I would understand and I understand clearly, and I think the subcommittee does, that you have arrived at a legal conclusion that you do have jurisdiction over this particular matter predicated by a case which I don't think is exactly in point, and I think you will admit that, because it relates to experimental TV, bolstered by the basic power in the Federal Communications Act of 1934.

Now there is a conflict in conclusions, obviously, that although Congress, according to your testimony, has not spoken in its entirety on the question, yet the only expression you find of record comes from this particular committee at the time Mr. Harris was chairman when they said in essence they were reserving jurisdiction or that they withheld jurisdiction.

As of this particular moment, I think the chairman of the subcommittee stated correctly, that if we do not act, the law is quite clear that we have by inaction assented to the legal proposition that you are correct.

I think the law is rather clear in this regard, at least from what I have read and from what I understand. These are just a few conclusions I have drawn from listening to the testimony as of this moment.

Getting down to the last official pronouncement of the Commission on March 24, 1966—that is the last pronouncement, is it not, that relates to the Zenith-Teco petition?

Mr. HYDE. Right.

Mr. BROTZMAN. You restate your proposition there.

First of all that you do have jurisdiction. I understand that. Now the second paragraph is one that kind of points up what I have been talking about.

First of all, was this passed unanimously by the full Commission?

Mr. HYDE. Yes, it was.

Mr. BROTZMAN. You do recognize the interest of Congress in this subject and in providing time for Congress to act if it so desires before the proceeding is terminated?

Mr. HYDE. That is correct.

Mr. BROTZMAN. What do you mean by that? The words are clear but I want to be sure I understand.