construction of a statute. In the case of the Fairness Doctrine, this must be weighed against the equally established principle that the rejection by a legislature of a specific provision contained in a reported bill militates against an interpretation of the resulting statute which, in effect, includes that provision.[6] Certain events in the legislative histories of both the Radio Act of 1927 and the Communications Act of 1934 suggest the applicability of the latter principle (see below).

The underlying principle of the Fairness Doctrine is that broadcasters, because of the unique circumstances which distinguish them from those who communicate through other media, have a legal obligation to communicate in such a way as to achieve a proper, or reasonable, balance of conflicting ideas on issues which are (1) controversial, and (2) of public importance. Despite the obvious first amendment issues raised by the assertion of this principle, and the length of time it has been asserted, it is only recently that the question has moved into the courts.[7]

(2) *Illustrative cases*

The basic FCC position paper on the Fairness Doctrine is the 1949 *Editorializing Report.*[8] This was supplemented in 1964 with a policy statement on the applicability of the doctrine and summaries of a selected number of previous FCC rulings. These were presented as illustrative of the scope and applicability of the doctrine.[9] This document is usually referred to as the Fairness Primer. The following cases have been selected from the Fairness Primer and other cases to illustrate the FCC's holdings in this area.

In *New Broadcasting Co. (WLIB)* [10] the FCC stated that the proposed establishment of a National Fair Employment Practices Commission was a controversial question of public importance. A licensee who broadcast editorial programs in support of this measure, and took no affirmative steps to encourage and implement the presentation of differing points of view was held to have violated the Fairness Doctrine.

Pay TV was the subject of a number of programs broadcast by another station. These included expressions of opinion by various persons either favoring or opposing pay TV. The anti-pay TV side was accorded the greater representation although it could not be said that the station had choked off debate. The licensee stated that pay TV, though a subject of national controversy, was not a "controversial issue" within its own service area. The FCC held that the licensee had violated the doctrine: "a licensee cannot excuse a one-sided presentation on the basis that the subject was not controversial in its service area * * * ." In re *The Spartan Radiobroadcasting Co.*[11]

A number of stations broadcast a discussion program featuring a nutritionist giving comment and advice on diet and health. His discussions of such subjects as water fluoridation, the value of Krebiozen in the treatment of cancer, the nutritive qualities of white bread, and the use of high potency vitamins without medical advice were held to

[6] See Carey v. Donohue, 240 U.S. 430 (1916) (Bankruptcy Act).
[7] Red Lion v. FCC, 381 F.2d 908 (D.C. Cir. 1967).
[8] 25 R.R. 1901 (1949).
[9] *Fairness Doctrine*, 2 R.R. 2d 1901 (1964).
[10] 6 R.R. 258 (1950).
[11] 33 FCC 765, 771, 794–95, 802–03 (1962).