

the only thing they listen to, and that you have to have special rules to protect these people living in this isolated world.

Dean BARROW. Are there additional comments?

Dr. GOLDIN. I was interested, Mr. Jaffe, in your comment that you thought that political broadcasting was different, and that it probably was constitutional. Did I understand that correctly?

Mr. JAFFE. Yes.

Dr. Goldin, I wasn't attempting very much, either here or tomorrow, to deal with constitutional issues. I think they have been very, very thoroughly dealt with in many different places. I think they are going to be dealt with by the Supreme Court shortly in a very authoritative way. I don't mean that keeps us from talking about them. But I would prefer in the thinking I have done about the matter to examine the initial premise that you are in a field here that is rather special, where you need a special set of rules for communicating that you don't have in the other fields of communication.

I think if you need a doctrine of this sort, the greatest need is in the field of political discussion. I don't know that you even need a rule there, because it may be that self-interest would keep the broadcasters in line. I don't know.

Assuming that you might need it there, whether that would demonstrate whether it is constitutional or not, I don't know. I would be prepared to make an argument for its constitutionality.

In a sense, one might say the Supreme Court has never, I think, faced very squarely the constitutionality of controls of this sort. They have, however, as we know in the case coming from Minnesota dealing with the libel law, proceeded as if section 315 were constitutional and have gone on to make decisions as to what consequences of 315 were on the law of defamation. I suppose it never occurred to anyone at the time to question the constitutionality of 315.

Dr. GOLDIN. In that connection, may I read one sentence from that decision?

"The thrust of section 315 is to facilitate public debate over radio and television," said Justice Black, and they went on to uphold the section.

Mr. JAFFE. I am sure they assumed it was constitutional, and I wouldn't be at all surprised if they hold all the other things constitutional.

Dr. GOLDIN. If they held it to be constitutional on radio and television, what about the print media? Is it constitutional in print media?

Mr. JAFFE. My feeling as to section 315 functions is based on the tremendous importance of the impact of the personality of the candidate as a distinctive characteristic of the medium, a characteristic which I don't think is at all so significant with respect to the personal attack or the so-called Fairness Doctrine in discussion of ideas.

Dr. GOLDIN. Are you bringing back, then, the unique characteristic of radio and television?

Mr. JAFFE. I think that with respect to political campaigns it is unique as a medium. Whether the uniqueness of the medium allows you to get by the problems of the first amendment, I don't know.

Dr. GOLDIN. I think for the record also, this might be helpful. There was a question raised by Professor Robinson about congressional intent in respect to fairness. I think the record ought to be complete by having