

Concern also was expressed by some members over the possibility of private, as opposed to Government, censorship, and discrimination.³⁵ An amendment was offered to provide that "equal facilities and rates, without discrimination shall be accorded to all political parties and all candidates for office, and to both the proponents and opponents of all political questions or issues."³⁶ This amendment, insofar as it would have prohibited unequal treatment of partisans of political questions, was similar in effect to the present Fairness Doctrine. This amendment was not put to a vote as it was ruled not germane to the section to which it was offered³⁷ and was not subsequently reoffered.

Another amendment was offered which would have made it a criminal offense to broadcast any personal attack into a State wherein such language would constitute libel or slander under the law of that State. This amendment was ultimately rejected by the House 287 to 57.³⁸

The radio bill, H.R. 9971, was passed by the House 218 to 123, and sent to the Senate.³⁹

Summary of House action

Any conclusions drawn from the House debates on the original Radio Act with respect to the Fairness Doctrine must be drawn by negative inference. H.R. 9971 did not attempt to impose any requirement of "fairness" on broadcasters. This omission was pointed out both in the minority views contained in the committee report on the bill, and during the floor debates. The amendment which would have prohibited discrimination among the proponents and opponents of "political questions or issues" was not adopted. Nor was an amendment making it a crime to broadcast personal attacks which constituted libel or slander.

The significance of the failure of the House to adopt either of these two amendments is debatable. The personal attack amendment aroused objections because of its provision for criminal penalties. The amendment prohibiting discrimination among proponents and opponents on political questions did not come to a vote since it was ruled not germane when offered, and was not subsequently reoffered.

B. COMMITTEE REPORT AND DEBATES—SENATE

In the Senate the bill was referred to the Committee on Interstate Commerce where it was enlarged considerably. HR 9971, as passed by the House, did not contain any "fairness" requirements, either as to political candidates or public issues. A substitute was reported by the Senate committee,⁴⁰ section 4 of which provided in pertinent part:

If any licensee shall permit a broadcasting station to be used as aforesaid, or by a candidate or candidates for public office, or for the discussion of any question affecting the public, he shall make no discrimination as to the use of such broadcasting station, and with respect to said matters the licensee shall be deemed a common carrier in Interstate commerce: *Provided*, that such licensee shall have no power to censor the material broadcast. [Italics supplied.]

This provision was the subject of extensive debate on the Senate floor, and was subsequently amended to eliminate the references to common

³⁵ 67 Cong. Rec. 5483, 5489, 5491, 5501 (1926).

³⁶ 67 Cong. Rec. 5560 (1926).

³⁷ *Id.*, p. 5561.

³⁸ *Id.*, p. 5646.

³⁹ *Ibid.*

⁴⁰ S. Rept. No. 772, 69th Cong., 1st sess. (1926).