

V. THE COMMUNICATIONS ACT OF 1934

Section 18 of the Radio Act was carried forward as section 315 of the Communications Act of 1934. The bill passed by the Senate, S. 3285, sought to enlarge the requirements of section 18, imposing a fairness standard on the discussion of public questions to be voted upon at an election:

SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such station; and if any licensee shall permit any person to use a broadcasting station in support of or in opposition to any candidate for public office, or in the presentation of views on a public question to be voted upon at an election, he shall afford equal opportunity to an equal number of other persons to use such station in support of an opposing candidate for such public office, or to reply to a person who has used such broadcasting station in support of or in opposition to a candidate, or for the presentation of opposite views on such public questions. Furthermore, it shall be considered in the public interest for a licensee, so far as possible, to permit equal opportunity for the presentation of both sides of public questions.

(b) The Commission shall make rules and regulations to carry this provision into effect. No such licensee shall exercise censorship over any material broadcast in accordance with the provisions of this section. No obligation is imposed upon any licensee to allow the use of his station by any candidate, or in support of or in opposition to any candidate, or for the presentation of views on any side of a public question.

(c) The rates charged for the use of any station for any of the purposes set forth in this section shall not exceed the regular rates charged for the use of said station to advertisers furnishing regular programs, and shall not be discriminatory as between persons using the station for such purposes.

This section was described as follows in the report of the Senate Committee on Interstate Commerce:⁵²

Section 315 on facilities for candidates for public office is a considerable enlargement of section 18 of the Radio Act. It is identical with a provision in H.R. 7716, 72d Congress, which was passed by both Houses.

This section extends the requirement of equality of treatment of political candidates to supporters and opponents of candidates, and public questions before the people for a vote. It also prohibits any increased charge for political speeches. No station owner is required to permit the use of his station for any of these purposes but if a station permits one candidate or the supporters or opponents of a candidate, or of a public question upon which the people are to vote, to use its facilities, then there is the requirement of equality of treatment and that no higher rates than ordinary advertising rates shall be charged.

The House Committee on Interstate and Foreign Commerce reported a substitute bill which omitted the above provisions concerning fairness in the discussion of public questions.⁵³

The Conference Committee incorporated section 18 verbatim as section 315 of the Communications Act of 1934.⁵⁴ The enactment of the Communications Act in the 73d Congress provided another instance wherein language similar to the present Fairness Doctrine was unsuccessfully proposed for incorporation into the law.

It might appropriately be noted at this point that the Fairness Doctrine as presently enunciated by the Federal Communications Commission applies to all "controversial issues of public importance." The Communications Act of 1934 as originally enacted contained no such provision. The 73d Congress, which voted the Communications

⁵² S. Rept. No. 781, 73d Cong., 2d sess. (1934), at p. 8.

⁵³ H. Rept. No. 1850, 73d Cong. (1934).

⁵⁴ H. Rept. No. 1918, 73d Cong. (1934), p. 49.