

The conference report makes no mention of other than political applications of the amendment to section 315(a).

Congress suspended the equal time provision of section 315(a) with respect to nominees for President and Vice President of the United States for the period of the 1960 campaign, with the stipulation that its action should not be construed as relieving broadcasters from the obligation to operate in the public interest.⁹⁹

IX. FCC INTERPRETATION OF COMMUNICATIONS ACT AMENDMENTS OF 1959

The interpretation of the FCC is that the 1959 amendments had the effect of incorporating the Fairness Doctrine into the Act. In its letter to Chairman Harris¹⁰⁰ the Commission stated:

* * * [S]ince 1959 the Communications Act imposes the specific obligation of fairness upon the broadcast licensee who permits use of his facilities for the presentation of programming dealing with controversial issues of public importance.

* * * In short, just as there is a specific statutory obligation upon the licensee to afford "equal opportunities" to legally qualified candidates, so also there is one "to afford reasonable opportunity for the discussion of conflicting views on issues of public importance"—to be fair in treating controversial issues.

This determination that the 1959 amendments constituted a statutory enactment of the previously enunciated Fairness Doctrine would seem to make Section 315(c) of the Act applicable to the Fairness Doctrine. That section reads as follows:

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

The Commission promulgated no rules or regulations concerning the Fairness Doctrine until 1967. The rules promulgated in 1967 deal only with personal attacks and political editorials, both considered subdivisions of the Fairness Doctrine. No overall rules have been adopted and the Commission's application of the Fairness Doctrine has been in the form of *ad hoc* decisions related to the specific complaint before it.

X. CONCLUSIONS

A review of the legislative history of the Communications Act with respect to the Fairness Doctrine does not establish whether the doctrine should properly be considered a part of the statute.¹⁰¹ It does not appear, however, that any legal obligation on the part of broadcast licensees to present conflicting sides on controversial issues of public importance was contained in section 18 of the Radio Act of 1927, the forerunner of the present section 315. This fact was noted by critics of the original Section 18, such as Senator Howell and Representative Davis.¹⁰² Despite several attempts to broaden the original wording of the statute, it remained substantially intact until the amendments of 1959.

⁹⁹ P.L. 86-677; 74 Stat. 554.

¹⁰⁰ 3 R.R. 2d 163 (1963).

¹⁰¹ But see, Coons, *Freedom and Responsibility in Broadcasting*, 61-18455 (1961) (Appendix 1. Rosenbloom, "Authority of the Federal Communications Commission"); Barron, *The Federal Communications Commission's Fairness Doctrine: An Evaluation*, 30 Geo. Wash. L.R. 1 (1961).

¹⁰² See pp. 9 and 11, this memorandum.