

In the view of the FCC, the 1959 amendments codified the Fairness Doctrine in all its ramifications into the Communications Act. This conclusion can easily be supported from certain general statements in the committee reports and the floor debates, but not from any specific statement of legislative intent. The circumstances under which the Communications Amendments of 1959 became necessary, however, were not such as to raise the issue of the entire Fairness Doctrine before the Congress. At issue was only the question of exempting news programs from the "equal time" provisions of section 315. The addition of the Proxmire amendment, which in modified form is now considered to be the enactment of the Fairness Doctrine, seems to have been motivated by a desire to insure that the lifting of the "equal time" requirements would not be used as a means of favoring particular candidates by means of slanted news presentations. The repeatedly stated purpose of the 1959 amendments was to overrule the FCC's *Lar Daly* decision. This decision was released by the Commission on June 15, 1959; the 1959 amendments became law 90 days later.

It has been suggested that Congress, in its enactment of the 1959 amendments, intended neither approval nor disapproval of the Fairness Doctrine, but intended to insure that section 315 would not interfere with it.¹⁰³ This appears to be a more accurate reading of the legislative history than the alternative one that Congress intended a complete codification of the doctrine. As demonstrated by the FCC's "cigarette" decision, subjects far removed from political questions, and not specifically contemplated by the Congress in the 1959 amendments, can fall within the doctrine.

On the other hand, Senator Scott's statement, quoted above, does not appear to be reconcilable with such a limited interpretation. This, however, must be weighed against the absence in the House, Senate, or conference reports of any specific discussion of nonpolitical applications.

Again, while much of the language in the debates and reports on the 1959 Amendments seems to indicate that the Fairness Doctrine was assumed to already be a part of the Communications Act, the Commission seems to date the inclusion of the Fairness Doctrine into the Act as having been accomplished with the 1959 Amendments.

The recent case of *Red Lion Broadcasting Co., Inc. v. FCC*,¹⁰⁴ concludes that Congress adopted the Commission's Fairness Doctrine in the 1959 amendments. This conclusion is reached, however, without any specific discussion of the legislative history. Moreover, the factual situation in the *Red Lion* case is a limited one involving the right of an individual to reply time in which to answer a personal attack carried over a radio station. *Certiorari* has been granted by the Supreme Court. The decision by the Court on this case may well conclusively define the extent to which the Fairness Doctrine is the implementation of a statutory requirement.

¹⁰³ Robinson, *The FCC and the First Amendment: Observations on 40 Years of Radio and Television Regulation*, 52 Minn. L. Rev. 67, 134 (1967); Cf. Dean, *Political Broadcasting: The Communications Act of 1934 Reviewed*, 20 Fed. Comm. B.J. 16, 29-31 (1966); Sullivan, *Editorials and Controversy: The Broadcaster's Dilemma* 32 Geo. Wash. Law Rev. 719 (1964).

¹⁰⁴ 381 F. 2d 908 (D.C. Cir. 1967).