

EQUAL-TIME AMENDMENT TO COMMUNICATIONS
ACT OF 1934

AUGUST 27, 1959.—Ordered to be printed

Mr. HARRIS, from the committee of conference, submitted the
following

CONFERENCE REPORT

[To accompany S. 2424]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2424) to amend the Communications Act of 1934 in order to provide that the equal-time provisions with respect to candidates for public office shall not apply to news and other similar programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That section 315(a) of the Communications Act of 1934 is amended by inserting at the end thereof the following sentences: "Appearance by a legally qualified candidate on any—*

"(1) bona fide newscast,

"(2) bona fide news interview,

"(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

"(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto), shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

2 EQUAL-TIME AMENDMENT TO COMMUNICATIONS ACT OF 1934

SEC. 2. (a) *The Congress declares its intention to reexamine from time to time the amendment to section 315(a) of the Communications Act of 1934 made by the first section of this Act, to ascertain whether such amendment has proved to be effective and practicable.*

(b) *To assist the Congress in making its reexaminations of such amendment, the Federal Communications Commission shall include in each annual report it makes to Congress a statement setting forth (1) the information and data used by it in determining questions arising from or connected with such amendment, and (2) such recommendations as it deems necessary in the public interest.*

And the House agree to the same.

OREN HARRIS,
WALTER ROGERS,
JOHN J. FLYNT, JR.,
JOHN B. BENNETT,
By J. Arthur Younger,
J. ARTHUR YOUNGER,
WM. H. AVERY,

Managers on the Part of the House.

JOHN O. PASTORE,
A. S. MIKE MONRONEY,
STROM THURMOND,
CLIFFORD P. CASE,
HUGH SCOTT,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2424) to amend the Communications Act of 1934 in order to provide that the equal-time provisions with respect to candidates for public office shall not apply to news and other similar programs, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Section 315(a) of the Communications Act of 1934 now provides that if any radio or television licensee permits any person who is a legally qualified candidate for any public office to use a broadcasting station, such licensee must afford equal opportunities to all other candidates for that office in the use of such broadcasting station.

The bill (S. 2424) as passed by the Senate would have added to section 315(a) a sentence as follows:

Appearance by a legally qualified candidate on any newscast, new interview, news documentary, on-the-spot coverage of news events, shall not be deemed to be use of a broadcasting station within the meaning of this subsection, but nothing in this sentence shall be construed as changing the basic intent of Congress with respect to the provisions of this Act, which recognizes that television and radio frequencies are in the public domain, that the license to operate in such frequencies requires operation in the public interest, and that in newscasts, news interviews, news documentaries, on-the-spot coverage of news events, all sides of public controversies shall be given as fair an opportunity to be heard as is practically possible.

In addition, the bill as it passed the Senate contained a section 2, declaring the intent of Congress to reexamine the amendment above referred to at or before the end of the 3-year period immediately following the enactment of this proposed legislation, to ascertain whether the amendment was effective and practicable. It also included a section 3 to require the Federal Communications Commission to report to Congress annually, during such 3-year period, certain information to aid the Congress in its reexamination of the effectiveness and practicability of the amendment being made to section 315(a).

The House struck out all after the enacting clause of the Senate bill and inserted a substitute which merely amended section 315(a) by adding at the end thereof a new sentence as follows:

Appearance by a legally qualified candidate on any bona fide newscast (including news interviews) or on any on-the-spot coverage of news events (including but not limited to political conventions and activities incidental thereto), where the appearance of the candidate on such newscast, interview,

or in connection with such coverage is incidental to the presentation of news, shall not be deemed to be use of broadcasting station within the meaning of this subsection.

The differences between the substitute passed by the House and the substitute agreed to in conference are as follows:

The amendment to section 315(a)

The first section of the conference substitute adds to section 315(a) a new sentence having the same general purpose as the new sentence proposed by the House substitute. However, there are differences which represent compromises between the Senate and House positions on certain points.

Under the House provision an appearance would have been exempted from the equal-time requirement only—

where the appearance of the candidate on such newscast, interview, or in connection with such coverage is incidental to the presentation of news.

The Senate provision contained no language comparable to this, and it is omitted from the conference substitute, except as explained below.

The Senate bill exempted an appearance on a "news interview," while the House amendment exempted such an appearance only when it was included as part of a bona fide newscast. In the conference substitute an appearance on a "bona fide news interview" is exempted without regard to whether it is included as a part of a newscast.

The intention of the committee of conference is that in order to be considered "bona fide" a news interview must be a regularly scheduled program.

It is intended that ~~in order for a news interview to be considered "bona fide" the content and format thereof, and the participants, must be determined by the licensee in the case of a news interview originating with the licensee of a station and by the network in the case of a news interview originating with a network; and the determination must have been made by the station or network, as the case may be, in the exercise of its "bona fide" news judgment and not for the political advantage of the candidate for public office.~~

The Senate bill exempted appearances of candidates on news documentaries. The House amendment made no such exemption. Under the conference substitute, the appearance of a candidate on a news documentary is exempted only if such appearance is incidental to the presentation of the subject or subjects covered by the news documentary. Thus, a program which deals predominantly with a candidate would not be a news documentary exempted under provisions of the substitute.

In the conference substitute, in referring to on-the-spot coverage of news events, the expression "bona fide news events" instead of "news events" is used to emphasize the intention to limit the exemptions from the equal time requirement to cases where the appearance of a candidate is not designed to serve the political advantage of that candidate.

The Senate bill, in the sentence being added to section 315(a), contained the following language:

* * * but nothing in this sentence shall be construed as changing the basic intent of Congress with respect to the provisions of this Act, which recognizes that television and radio frequencies are in the public domain, that the license to operate in such frequencies requires operation in the public interest, and that in newscasts, news interviews, news documentaries, on-the-spot coverage of news events, all sides of public controversies shall be given as fair an opportunity to be heard as is practically possible.

With certain modifications this language has been included in the conference substitute as a sentence reading as follows:

Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

The conferees feel that there is nothing in this language which is inconsistent with the House substitute. It is a restatement of the basic policy of the "standard of fairness" which is imposed on broadcasters under the Communications Act of 1934.

Section 2

Section 2(a) of the Senate bill declared the intention of Congress to reexamine, on or before the expiration of a 3-year period, the amendment made by the bill to section 315(a) of the Communications Act of 1934, to ascertain whether the amendment had proved to be effective and practicable. Subsection (b) of section 2 required the Federal Communications Commission to report to Congress annually during such 3-year period on the administration of the amendment, together with recommendations. The House amendment contained no similar provisions.

Section 2 of the substitute agreed to in conference is similar to these Senate provisions, except that the 3-year limitation has been removed.

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