

Van Zandt  
Vinson  
Wainwright  
Wallhauser  
Walter  
Wampler  
Watts  
Weis

Whitener  
Whitten  
Widnall  
Wier  
Williams  
Willis  
Wilson  
Winstead

Wright  
Yates  
Young  
Younger  
Zablocki  
Zelenko

## NAYS—31

Anderson,  
Mont.  
Baring  
Barrett  
Bennett, Fla.  
Burdick  
Byrne, Pa.  
Coad  
Dent  
Dingell  
Granahan

Green, Pa.  
Hagen  
Harmon  
Hollfield  
Holland  
Johnson, Calif.  
Johnson, Colo.  
King, Calif.  
McGovern  
Mack, Ill.  
Metcalf

Montoya  
Morris, N. Mex.  
Nix  
Patman  
Prost  
Frokok  
Roosevelt  
Sisk  
Toll  
Wolf

## NOT VOTING—45

Albert  
Andrews  
Anfuso  
Ayres  
Barden  
Baumhart  
Belcher  
Bolton  
Bonner  
Canfield  
Carter  
Cooley  
Dague  
Davis, Tenn.  
Derwinski

Ford  
Frazier  
Griffin  
Hall  
Jackson  
Jones, Mo.  
Kearns  
Landrum  
Lesinski  
McDonough  
Machrowicz  
Magnuson  
Minshall  
O'Brien, N.Y.  
Poage

Powell  
St. George  
Sikes  
Simpson, Pa.  
Slack  
Staggers  
Taylor  
Teague, Tex.  
Thompson, La.  
Thompson, N.J.  
Van Felt  
Weaver  
Westland  
Wharton  
Withdraw

So the conference report was agreed to.  
The Clerk announced the following pairs:

Mr. Anfuso with Mr. Baumhart.  
Mr. Lesinski with Mr. Taylor.  
Mr. O'Brien of New York with Mr. Ford.  
Mr. Thompson of Louisiana with Mr. Van Pelt.  
Mr. Carter with Mr. Withrow.  
Mr. Albert with Mr. Simpson of Pennsylvania.  
Mr. Frazier with Mr. Kearns.  
Mr. Machrowicz with Mr. Griffin.  
Mr. Staggers with Mr. Derwinski.  
Mr. Slack with Mr. Ayres.  
Mr. Magnuson with Mr. Belcher.  
Mr. Thompson of New Jersey with Mr. Weaver.  
Mr. Cooley with Mr. Westland.  
Mr. Andrews with Mr. Wharton.  
Mr. Hall with Mrs. St. George.  
Mr. Powell with Mr. Minshall.  
Mr. Sikes with Mr. McDonough.  
Mr. Teague of Texas with Mrs. Bolton.  
Mr. Bonner with Mr. Jackson.  
Mr. Landrum with Mr. Dague.  
Mr. Davis of Tennessee with Mr. Canfield.

Mr. MORRIS of New Mexico and Mr. DINGELL changed their votes from "yea" to "nay."

Mr. BASS of Tennessee and Mr. KNOX changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

## GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MILLER of New York. Mr. Speaker, pursuant to permission granted I would further like to clarify a point

with respect to the bill S. 2524, as passed by the House and Senate. It is not the intention of this legislation, in my opinion, that goods shipped into a State and temporarily at rest in a public warehouse should be singled out as a basis for the levying of a State tax against the shipper or manufacturer.

Mrs. WEIS. Mr. Speaker, I am extremely pleased that the conference report on S. 2524 is being called up for consideration today, and I think the members of the Judiciary Committee are to be especially commended for the dispatch with which they have moved in seeking a solution to this vexatious problem of State taxation of interstate commerce.

In the past, interstate commerce has been at least relatively free from the burdens of multiple State taxation. As a result of the court decisions in the Stockham Valve case and in the Northwestern States Cement case, however, the door may now be open for any State to step in and impose crushing taxes on firms located outside, but doing business within, the boundaries of that State.

The burden of such taxation would be especially severe for the small-business man, whose volume of business in any one State would probably not even warrant continuing to do business in States imposing such taxes.

In fact, several firms in my own 38th District of New York have indicated to me that their volume of business in some States would be such that they probably could not even afford the administrative costs connected with keeping the voluminous records necessary to pay the taxes, let alone the taxes themselves.

Just this week, I have received word that 70 percent of the gross sales, both wholesale and retail, of the companies in Newark, N.Y., are made in interstate commerce throughout the entire country. Newark is the largest city in Wayne County, N.Y., which I am privileged to represent in the Congress, and it would be a fearful blow to the community's economy if crushing income taxes were suddenly imposed by a number of States in which Newark's business firms are operating.

S. 2524 deals with a portion of the problem by prohibiting States from taxing income derived solely from the solicitation of orders within a given State by out-of-State companies. The language of the bill itself makes it clear that this is not the final answer to the entire problem by providing for continued study by two separate committees of the Congress. But it definitely represents a step in the right direction, a step which is of vital importance to every businessman operating in interstate commerce.

Mr. Speaker, the absence of artificial trade barriers between the States has been responsible for much of the dynamic growth of this Nation, and the Congress has a grave responsibility to see that these channels of trade remain free and open. S. 2524 will serve the best interests of thousands of small-business men throughout the country, and I urge adoption of this conference report.

## MILITARY CONSTRUCTION APPROPRIATIONS FOR 1960, H.R. 8575

Mr. THOMAS. Mr. Speaker, on behalf of the gentleman from California [Mr. SHEPPARD], I ask unanimous consent that the managers on the part of the House have until midnight to file a conference report on the military construction appropriation bill for 1960, namely, H.R. 8575.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## AMENDING COMMUNICATIONS ACT OF 1934 WITH RESPECT TO EQUAL-TIME PROVISIONS

Mr. HARRIS. Mr. Speaker, I call up the conference report on 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, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

## CONFERENCE REPORT (H. REPT. No. 1069)

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.'

"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

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, news 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.

OREN HARRIS,  
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(By J. ARTHUR YOUNGER),  
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WM. H. AVERY,

*Managers on the Part of the House.*

Mr. HARRIS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, we bring to the House a conference report on legislation which is commonly referred to as the equal-time amendment to the Communications Act of 1934.

It will be remembered that this is the problem we had in the House a few days ago in which all of us are interested and have some concern about.

You will recall that this problem developed out of a decision of the Federal Communications Commission—which we thought was a rather arbitrary decision—in the Lar Daly case involving the appearance of political candidates on newscasts.

We made an effort to clarify section 315 by exempting from the equal-time provision political candidates' appearance on such programs as newscasts, news interviews, and on-the-spot coverage of news events.

Your conferees met and there was considerable discussion. It would be correct to say that at times it got a little heated. But we have done the best we could to resolve this issue and bring it back and present it to you in an effort to clarify this very important provision of law.

We tried to limit carefully the exemptions from section 315 in the bill which we brought to the House. We exempted bona fide newscasts which had been the pattern over the years. We included in connection therewith news interviews and we extended the exemption to on-the-spot coverage of news events using the language of the gentleman from California [Mr. Moss], as he offered it at that time requiring that the appearance of the candidate must be "incidental to the presentation of news."

We described what was intended. We explained that it was difficult to write specific language to meet the problem, but we were making legislative history in the report and on the floor which the industry and the Federal Communications Commission could follow in trying to administer this very knotty problem.

We had little trouble in agreeing on what was intended during the course of the debate except in one instance, and that had to do with certain so-called panel discussions. It will be recalled that the committee struck the words "panel discussion" and "news documentary," but we were careful to explain in the report and in our debates here on the floor of the House that we struck those words because the committee felt these undefined categories might take in too much, and that the exemption thus would possibly go too far; but we also explained that by doing so we did not intend to eliminate those panel discussions and news documentaries which may fall in the category of a "bona fide newscast" or of an "on-the-spot coverage of news events."

As I say, during the course of the debate a question was asked by one member of the committee, Mr. YOUNGER, of another member of the committee, Mr. Moss, as to his intention with respect to certain panel shows. The gentleman from California [Mr. Moss] gave him his reply, which in my opinion, was contrary to what we had included in the report, and which certainly was contrary to what I had said in answer to a question by the gentleman from Texas [Mr. IKARD]. Now that, as well as some other things, had to be resolved, so in our conference we agreed that the language would be changed.

And, I might say, in my opinion, we have got a better bill in this conference report than we had in the bill which was reported by our committee and passed in the House and a better bill than was passed by the other body.

So, what we did was to exempt the appearance of a legally qualified candidate on, first, a bona fide newscast—it has to be a bona fide newscast; second, a bona fide news interview; third, a 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. In other words, if you go back and pick up documentary material out of the past and make it a part of a so-called news documentary, the appearance of the candidate must be incidental to the subject presented on such news documentary. That is what we did, and our conference report explains that intention.

There is no question about the on-the-spot coverage of bona fide news events, which refers to matters such as a national political convention and so forth. We have tried here in the statement of managers to spell that out just as clearly as we possibly can what is intended.

Now, just in case anybody in the broadcasting industry or in the Federal Communications Commission, or even a candidate himself, should get the idea that "The reins are off; you can do what you want to," we have accepted in the conference substitute a provision similar to what was referred to as the Proxmire amendment in the other body. This provision says that nothing in the foregoing sentence shall be construed as relieving the broadcasters in connection with the presentation of news, news interviews, 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.

Furthermore, in the statement of managers on page 4 you will find that it is the intention of the conferees that in order to be considered bona fide, a news interview must be a regular scheduled program. Now, there has been already some discussion that on these national panel programs or interview programs there has been no particular problem. The great problem is that on the local level a broadcaster might set up panel discussions or news interviews that are not regularly scheduled programs but which constitute an effort to take advantage of such a program to further the candidacy of some political candidate. That is, not intended to be exempted and it is not permitted under this report—either the spirit of it or the language of it. Such program has to be, No. 1, bona fide, and No. 2, it has got to be a regularly scheduled program before it would come under the exemption provisions. Then we went further than that to be sure that there was no advantage taken by the broadcasting industry or anyone else and reaffirmed the "standard of fairness" established under the Communications Act. Anyone trying to take advantage, will be held accountable to the Federal Communications Commission for his action.

Mr. Speaker, I think the conferees have done a very good job under the circumstances and I urge the adoption of this conference report.

Mr. BENNETT of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the ranking minority member and a member of the conference committee.

Mr. BENNETT of Michigan. Mr. Speaker, I wish to associate myself with the gentleman in the remarks he has just made in explanation of this bill. We are legislating here in perhaps one of the most difficult areas concerning the Communications Act. I do not think it is possible to arrive at a completely satisfactory solution or one that will deal effectively with every single problem that arises in this area. But I think we have come up with a reasonably good solu-

tion, an entirely practical solution, recognizing the rights of candidates on the one hand and giving broadcasters the right to exercise their bona fide news judgment.

I feel very strongly that the conference substitute is superior to the legislation passed by the House.

As I stated in the discussion of this legislation on the floor of the House, I felt that the bill as reported to the full committee by our Subcommittee on Communications and Power was a very satisfactory bill. As a matter of fact the provisions of the conference substitute are very close to the provisions contained in the subcommittee bill. In the full committee, however, a new clause was added providing that the appearance of the candidate on a newscast, interview, or in connection with the coverage of a news event must be—and I quote—"incidental to the presentation of news."

I feel that this language would make the task of broadcasters and the FCC an impossible one and that even with the best intentions in the world neither broadcasters nor the Commission can meet the task of distinguishing between appearances which are incidental and appearances which are not incidental.

I am glad to see that the conference substitute omits this language because the majority of the conferees felt as I do, that this requirement would lead to even greater confusion than we have at present under the Lar Daly decision.

Mr. Speaker, I hope the conference report will be agreed to.

Mr. HARRIS. Mr. Speaker, I might say that the conferees on both sides agreed to this conference report with the exception of one Member of the House, the gentleman from California [Mr. Moss], who did not agree with the conference report as presented. All other members of the Conference Committee, both House and Senate, agreed to and signed the report.

Mr. YOUNGER. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman.

Mr. YOUNGER. Mr. Speaker, I associate myself with the conference report and should like to ask this question. Does not the gentleman believe that the conference report and the explanation made in it, actually make for a better bill than we went to conference with?

Mr. HARRIS. I just stated that a moment ago; I feel that way.

Mr. YOUNGER. I thank the gentleman.

Mr. AVERY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Kansas.

Mr. AVERY. Mr. Speaker, I certainly want to be associated with the gentleman from Arkansas who is now addressing the House in his remarks. Certainly the fact that the conferees were able to agree was a direct result of the leadership of the gentleman and his positive assertion of the position of the House while we were in conference.

I wondered, while the gentleman was in the well—I know this item is going to

come up a little later—if he would not address himself to the proposition that the test of the standard of fairness still prevails in the basic act irrespective of any changes that we have made in section 315; and it applies not only to political candidates, but issues and editorializing by licensees as well.

Mr. HARRIS. The gentleman is eminently correct. He will remember as he was one of the conferees, that we discussed this particular item and everyone agreed that the standard of fairness must prevail, and applies to the programs which will be exempted from the equal-time requirement of section 315.

Mr. HEMPHILL. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from South Carolina.

Mr. HEMPHILL. Mr. Speaker, I take this time to ask this question. The term "bona fide news documentary" as contained in the report does not under any circumstances mean a panel discussion, is that correct?

Mr. HARRIS. No; a panel discussion might come under the heading "news interviews."

Mr. HEMPHILL. As I recollect, the Senate debate on this particular legislation removed "panel discussions."

Mr. HARRIS. Yes, but as I explained a moment ago in our conference report that is explained on page 4. The kind of interview the gentleman is talking about has got to be a regularly scheduled program, has got to be bona fide, and if such a panel discussion comes within that category, it is permitted.

Mr. HEMPHILL. That was the intention in the committee when we discussed panel discussions?

Mr. HARRIS. Yes; the gentleman is correct.

Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. Moss].

Mr. MOSS. Mr. Speaker, I hope you will look at the report, the statement of the managers on the part of the House, on page 4, because you have just heard about all of the safeguards built into this legislation. I want to show you that you have no safeguards. The restatement of the so-called Proxmire amendment is virtually meaningless, the statement that says that a rule of fairness must apply, a rule of fairness which can only be tested at the time the station's license comes up for renewal, and renewals which are handled routinely and where there have been no refusals to renew. It gives an opportunity to seek a remedy when the case is cold and forgotten. And if you are a defeated candidate it is of little comfort to know that you may have had a remedy.

Going halfway down on page 4 of the conference report, let us find out what we are doing because it is my considered judgment we are making a back door repeal of section 315, as it applies to the standard of fairness of equal times for candidates. If we open up first by removing the criteria of incidental appearance, incidental to the proper presentation of the news, the conferees were clearly inconsistent because they said this criteria was of no value, and yet

they applied it to the matter of news documentaries. They say that the appearance on the documentary broadcast must clearly be incidental to the reporting of the documentary material. But that test of fairness is removed. Any newscast is exempted if it is regularly scheduled. What is a regular schedule? There is no definition. "I intend to schedule it, if I can continue to secure sponsorship for it" might be the attitude of a station. "We will give it a trial run of 3 weeks." Then, it is a regularly scheduled program and is exempt. With reference to bona fide newscasts or news interviews—stop thinking of "Face the Nation" and "Meet the Press." This becomes an issue in your local district over your local radio or TV station.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield.

Mr. HOLIFIELD. I just noticed in one of the national magazines that a former Governor of the State of California is going to have a political, a regular political broadcast program beginning in the next few weeks in which he attempts to comment and interview people in politics. Would there be any protection against this former Governor interviewing the candidates of his own faith?

Mr. MOSS. As to the test of good faith, and I am not a lawyer, but I say to any of my colleagues who are—you try to prove that that broadcast was undertaken in bad faith—and you cannot do it.

Mr. HOLIFIELD. Then the answer is—

Mr. MOSS. The answer is that he would be clearly exempt under the provisions of this language. This is wide open to abuse. Let us see where else we have a remedy. If we apply this general rule of fairness in a news presentation of broadcast material. It says, if a program is a regular program under the control of the licensee—if it is a case of a local station or a network—if it is network originated, networks are not regulated. The argument will be offered that networks are licensees because they own radio or television stations. That is not true at all. Mutual Broadcasting owns no stations and yesterday three former officials were indicted for what? For taking \$750,000 to set up a special news service to feed slanted news. In my view, you cannot leave to these unregulated organizations, the responsibility of determining whether or not the treatment you receive is fair, or for that matter whether the treatment received by your opponent is fair because he, at election time, has the same right to enter the homes of the American people and present his platform and his views as any of us sitting here as incumbents have. I am concerned that the rights of each of us be preserved. Those rights are not preserved if we repeal this, and that is what you are doing here, and we are not doing it in the language of the statute—we are doing it in the language of the report of the managers from the conference. If it had been included in the language amending the statute, it would have been clearly subject to a point of order, and I assure you I would have

made that point of order. But we have expanded this by definition. A newscast now is any program regularly scheduled where you might interview. Yes, it might be a case of the regularly scheduled "This is Your Life." It might be any type of regularly scheduled program thought up by someone in your community. I am not saying that abuses would occur in a great many instances, but I say they could occur and it is our responsibility here to see that they do not. All that is necessary to overcome the very unwise Lar Daly decision is to make clear in the presentation of the news where the candidates' appearance is incidental to the presentation of that news that it is clearly exempted.

That takes us back to where we were before the Labor Day decision; so if we adopt this conference report we go back a very great way, because for 32 years this doctrine of equal time has existed. It was in the first Radio Act.

I say there has been no showing to justify this type of action. It is far too broad; it is opening up the way to abuse, and I think the record shows that some who enjoy privileges in this field have certainly failed to live up to their responsibilities. Again I cite the matter of the indictment yesterday of the three former Mutual Broadcasting officials.

I urge most sincerely that this House not approve this conference report.

Mr. AVERY. Mr. Speaker, will the gentleman yield?

Mr. MOSS. Of course, I yield to the gentleman.

Mr. AVERY. I know the gentleman has very sincere convictions about this matter, because he and I have personally debated them in committee and otherwise over a period of months; but in the course of his remarks made this afternoon, I hope the gentleman will clarify his remarks when he says we have extended this to the point that we have repealed section 315. The gentleman should say "in his opinion" we may have done that. Here we have a conference report coming up signed by four Members of the other body and by five Members of this body, and that certainly was not the position that we took in the conference.

Mr. MOSS. I yielded to the gentleman for a question. Let me say I do not think any Member of the House felt that I was expressing other than my own opinion and my own conviction. I was the sole Member out of 10 who did not sign this conference report, and I have no apology for that whatsoever. I recognize the gentleman's sincerity and the gentleman from Kansas knows I am sincere when I say that the language in this report opens the door all the way.

Mr. AVERY. Mr. Speaker, will the gentleman yield further at that point?

Mr. MOSS. I yield further.

Mr. AVERY. Since the gentleman mentioned the events of yesterday involving former officials of the Mutual Broadcasting Co., he would not want to leave the impression with the House that the action taken on section 315 in any way affected the action by the Department of Justice yesterday involving those officials that were just mentioned.

Mr. MOSS. That is such a far-fetched idea that I would not even propose it to the House.

Mr. AVERY. The gentleman brought it up in the course of his remarks.

Mr. MOSS. I think it is evidence of the fact that we do not control licenses or regulate in any way these networks.

Mr. HARRIS. Mr. Speaker, I yield such time as he may desire to the gentleman from North Carolina [Mr. BARDEN].

Mr. BARDEN. Mr. Speaker, I take this moment to inform the House, believe it or not, that we have agreed on a labor bill; and, may I add, all of the conferees survived.

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. I shall take only one minute. I would like to call the attention of the Members to the conference report. In my recollection, out of the 11 conferees 8 are very prominent attorneys. I am not a lawyer, but I want to assure the Members here that in the opinion of those eight very well-qualified attorneys we did not repeal section 315, but we did make it possible for the broadcasting companies to properly report political meetings, political conventions, and parts of the campaign coming up in the next year.

Mr. Speaker, I yield back the balance of my time.

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I would like to start out by thanking the chairman of the House Committee on Interstate and Foreign Commerce for so graciously making available to me this 5 minutes. I know how dear time is on these conference reports, and I appreciate it.

Mr. Speaker, I would like to subscribe wholeheartedly to the remarks made by the gentleman from California [Mr. Moss].

The gentleman from California said this conference substitute constitutes a repeal of the equal time provisions of section 315(a) of the Interstate Commerce Act. I want to subscribe to that and to repeat it, and to add to it that I think it not only repeals it but virtually completely repeals it and that it just about eliminates the requirement for fair play in those subtle instances of discrimination which are possible between candidates on a radio or television program. The equal time provisions of section 315 of the act would otherwise cover these interviews. The conference substitute gives a virtual exemption of the equal time provisions to panel shows and to programs of that sort. For further proof of that I refer you to the language which appears on page 1 of the conference report where the exemptions are given to bona fide newscasts, bona fide news interviews, and bona fide documentaries. This offers something which has never been in section 315 of the Federal Communications Act before.

I want to recall to the House the fact the amendment that was adopted by this House, and it was adopted by the

Committee on Interstate and Foreign Commerce, reflected the work and thought which was given to the bill by the gentleman from California [Mr. Moss]. He is the author and he is entitled to give the best and the most complete construction of that amendment which is before the House.

For the benefit of my colleagues, I want them to remember the House bill required the test that the appearance of the candidate be incidental to the presentation of news. The conference substitute merely requires that the broadcast be bona fide, with one exception, and that one exception is interesting—the question of bona fide news documentaries. In that sole instance the language incidental to the presentation of news is retained. Why should incidental to the presentation of news be important in documentaries if it is not important in the case of newscasts, interviews and other news presentations? The answer is that it is equally possible to utilize preferential treatment for a candidate in the instance where you have a newscast and a news interview as it is in the case of a documentary and the damage to a candidate must be fully as great.

Let me point out that bona fide is defined on page 4 to mean this: "A regularly scheduled program." A program may be regularly scheduled for 3 or 4 weeks or a week or for 7 successive days and immediately after the election it may vanish from the airways. Why? For want of a sponsor, or something of that sort.

In the interim there has been great damage to a candidate.

Then, again, "bona fide" is almost impossible of proof. The only way you can prove the absence of bona fideness and the only way an injured candidate can prevail under this section, and show absence of bona fideness by the producer or by the sponsor or by the show is by showing one of two things: a long pattern of preferential action.

Let me say it may be that this is an incumbent's bill. Possibly it is and it may not be.

I do not speak to the House today on the grounds of partisanship. I say that the right of a candidate to be heard and make his views known over the property of the American people, the radio and television spectrum, is too sacred a thing to be lost by the careless use of words or to be lost because this House failed to take the time to consider the semantics of the thing involved.

If we are to preserve democracy, if we are to preserve free elections in this country, if we are to preserve the rights of each and every candidate, ourselves and those who run against us, and those who run for other offices, we must reject this conference report and start anew.

Mr. HARRIS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Speaker, in the work that was done on this bill in committee, I know of no bill where more thought and care were given to a piece of legislation than this. May I say there was a great deal of differences which

were ironed out in the committee, and there were also some disagreements that were carried over to the conference. But, I do believe that the conference committee did as good a job as it could. Any of you who have ever sat in on a conference between the House and the Senate know that you never get complete agreement between all of the parties to that conference. It just does not happen that way. It seems to me that the conference committee did about as good a job as could be done when you consider the differences that there were between what has been presented here by the distinguished gentleman from California, Mr. Moss, and the distinguished gentleman from Michigan, Mr. DINGELL, and what has been presented by the chairman of this committee. There were things, may I say, done in the committee which I did not agree with myself. But, I voted for the bill as it finally came to the floor because I felt that it was the best that we could do at that time. And, I believe that the conference report, may I say to my colleagues, is the best that could be gotten for you to vote on. In any piece of legislation such as this, where there are so many controversies and objections, you are finally going to have to resolve on a compromise, and this is the best that can be had. Overall I believe that the bill as it was originally brought to the House was the best bill. On the other hand, I find no particular disagreement with the bill as it has been expanded, and I believe that I certainly, being placed in that position, recommend it to my colleague as a compromise which can be voted on today, and I think you can do it in good conscience.

Mr. HARRIS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. BROWN].

Mr. BROWN of Missouri. Mr. Speaker, I take this time to ask the chairman a question or two if I may. Just exactly what did the conference committee mean by "a regularly scheduled program"?

Mr. HARRIS. It means a program that is regularly scheduled. Say every day at a certain time or every week at a certain time. The same connotation that is used on anything that would be considered regular in its operation.

Mr. BROWN of Missouri. I am sure the chairman is aware of this, that in television programs more and more they are having spectaculars that are programmed only infrequently, rather sporadic scheduling. Let us say, for example, that a station or a network had a program called "Hear It Now," on which normally they carry documentaries. But, suppose 3 or 4 months prior to an election, instead of carrying a documentary, they carry "Hear It Now" with news interviews of a particular candidate. Now, does that come under the exemption?

Mr. HARRIS. The gentleman knows, as we all know, that there are human elements involved with anything that we have in our lives, and we know when someone on a program as important as this tries to go beyond the spirit and the letter of the law and begins to abuse it, it is going to be detected immediately.

Then is when you have the response from the general public. This language is so clear as to what is intended here that whenever an abuse occurs, then that abuse should be reported to the Federal Communications Commission with a request for immediate action.

Mr. BROWN of Missouri. Mr. Speaker, I respect the chairman's answer, and I know this is a very difficult field. I was in the radio business for many years myself. Actually, we got into trouble when the Federal Communications Commission tried to interpret a very vague general law, and I fear that we are asking for a continuation of this trouble. I like the theory of that which is incidental to news. That puts the burden right on the station manager, the licensee.

Mr. HARRIS. And so does this.

Mr. BROWN of Missouri. Well, I wonder if it does it as well as the incidental theory, because clearly under that which is incidental to news, we spell it out to the FCC and to the licensee that the burden is upon the licensee and the broadcaster to determine that which is incidental to news. Now, if we get into regularly scheduled programs, that is in to a great variety of interpretations, I respectfully suggest, because things can be regularly scheduled for a few months this year, and then for 2 years they may not be scheduled, and then may be revived again. Then, too, it lets you run all over the map on these news interview shows, which, personally, when I was in the broadcasting business, I always looked at very carefully, because almost every one of them had some political insinuation of some kind.

Mr. HARRIS. I will say to the gentleman that I respect his views because of the experience he has had with this industry, and I have a lot of admiration for him. I would say even though he has a great deal of familiarity with the actual operation of the program, I respectfully suggest that he is not familiar with the law and with the administration of it. As a matter of fact, heretofore when the Commission issued its rule the famous Blondy decision, everything apparently moved along all right including news interviews, panel discussions, news documentaries, and so forth; but when the Commission arbitrarily reversed its own position in the Blondy case, that is when the matter got out of hand.

I will say to the gentleman that it is now the intention, and this report does give the Commission clear language as to how to proceed and a very clear guide as to how to carry out the program. And I would say that this is much better from the standpoint of operation in the public interest than what we have had heretofore.

Mr. BROWN of Missouri. Mr. Speaker, I will agree with the chairman that I am not a lawyer or a jurist, but I have had a lot of experience because a licensee actually has to watch his p's and q's or have his license revoked.

Mr. HARRIS. Mr. Speaker, I would refer the gentleman to page 4 of the report which I think should relieve him of any fear that he has regarding the responsibility. I think because of the

intense interest in this it would be helpful for everyone to understand just what is intended here, not what I myself tell you from my own convictions or views or what the gentleman from California [Mr. Moss] might say as to his own convictions, but the composite views of the conferees as set out in this conference report and the explanation that goes with it, which is a part of the entire history of the program. I quote from page 4 of the report:

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—

I repeat—

and not for the political advantage of the candidate for public office.

We could not make it any clearer, in my judgment.

Mr. BROWN of Missouri. Mr. Speaker, I tremendously respect the conferees and the chairman of this committee.

Mr. HARRIS. I thank the gentleman.

Mr. BROWN. I just wanted to add this. I think we had a better bill in the original version in the House.

Mr. HARRIS. I still feel that this clarifies it.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. MOSS. Mr. Speaker, I hope it was not the intent of the gentleman to leave the impression that under the Blondy decision panel-type shows were exempt from the requirements of section 315.

Mr. HARRIS. Not at all. But I want to say to the gentleman that if the decision in the Lar Daly case was carried to its conclusion, which would be expected, it would reach panel shows, it would reach documentary news programs, it would reach news interviews, it would reach political conventions which have heretofore been carried on TV ever since we have had TV. And, in order to overcome those problems and difficulties, something had to be done about it. We present this as the method of doing it with the restrictions and the limitations attached to it.

Mr. MOSS. Mr. Speaker, will the gentleman yield further?

Mr. HARRIS. I yield.

Mr. MOSS. I believe that I have tried to overcome the effect of the Lar Daly decision. As I understand it, and I believe I am right, it changed the Blondy decision in applying to the reporting of the news. That was the mischief wrought by that decision. We here now go to an exemption of the panel shows which were not included in the Blondy decision.

Mr. HARRIS. Mr. Speaker, actually the one major difference between what we have here and what we presented on the floor of the House with our explana-

tion is that one question. The gentleman from California interpreted the language so that it would not permit panel interviews. I, along with other members of the committee, interpreted it so that it would. This conference makes it clear; if it is a regularly scheduled interview, it is permitted.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, it has come to my attention that several broadcasters have commenced endorsing candidates or slates of candidates for public office. It seems to me that an endorsement is in effect a violation of the spirit of the section because it gives the preferred or recommended candidate free time to the disadvantage of the candidates who are not considered for endorsement.

Now my question is this: Will this amendment in any way authorize a broadcaster to endorse a candidate or a slate of candidates for public office, thereby violating the spirit of this section by giving the preferred or recommended candidates the advantage of the endorsement and the free time that is involved in that endorsement?

Mr. HARRIS. I will say to the gentleman that this matter of endorsing candidates over broadcasting facilities has just been brought to our attention. We have made some inquiry regarding it. I have only found two stations in the Nation. There may be others that have endorsed candidates over their facilities. One is in Connecticut, I believe, and there has been no problem there because I understand they let all other candidates have equal time in connection with their endorsement. The gentleman has one in his own district, I believe, that has engaged in this practice and has endorsed certain candidates. It is our thinking that this seems to be a clear abuse of the standard of fairness which is applied under the Communications Act itself unless fair opportunities are offered to the other candidates. I think that question ought to be presented to the Commission, and I think also our committee ought to study this problem of stations endorsing candidates.

Mr. VANIK. I thank the gentleman.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. FORAND. Let me add to what the gentleman from Arkansas has just said—he knows of two cases—may I say I know of a third case because they endorsed my opponent in the last election and I beat him by 40,000 votes.

Mr. HARRIS. Well, there is some experience for you. If we could have that kind of luck, I am for more of it.

Mr. Speaker, I yield myself 3 minutes to answer any questions.

Mr. BROWN of Ohio. Mr. Speaker, I congratulate the committee on the report that it has brought in. It does not go quite as far as I would like toward giving freedom of information over the radio and television such as is enjoyed by the press of the Nation, but I think

all of us who do believe in the right of information and freedom of the press could also endorse and approve this bill which will at least permit the news to be presented to us over another media other than the newspapers of the country themselves. I again congratulate the committee.

Mr. HARRIS. Mr. Speaker, Mr. Moss, who is a member of our committee and who was a member of the conference committee on this legislation, and Mr. DINGELL, who is a member of our committee, have prepared and circulated among the Members of the House a letter criticizing the substitute agreed to by the committee of conference, and they urge that the House reject the conference report.

As I read the letter—and I have read it carefully—the principal criticism it makes is based on the omission from the conference substitute of language which was in the House amendment and which, in effect, provided that the exemption from section 315(a) proposed by this legislation in the case of appearance of a candidate on a newscast, news interview, or on-the-spot coverage of news events, would apply only if such appearance was "incidental to the presentation of news," and the substitution therefor of a requirement that a newscast or news interview, or a program presenting news events through on-the-spot coverage, must be a bona fide program of that type or character in order for the exemption to apply.

The letter alleges that this change replaces "the objective requirement of the Houses bill that the appearance be incidental to the reporting of the news with the subjective text that the newscast or news interview be bona fide." It states that the conference substitute provides for "a purely subjective text almost impossible of proof without either the showing of the grossest kind of favoritism or of a long pattern of preferential treatment by the broadcaster."

The letter then states that "by the time the injured candidate had borne the burden of proof required by the substitute the campaign would be long over."

The sum and substance of the contention seems to be that the political candidate who, under the provision as passed by the House, would have been able to complain to the Commission with some hope of success in obtaining equal time would not have such a remedy under the language of the conference substitute.

I do not agree with this. It is my view that the complaining candidate will be able to take the matter before the Commission for a prompt determination of the matter. The test to be applied under the conference substitute is by no means too subjective to permit this. Under the substitute agreed to in conference, the appearance of a candidate on a newscast or news interview will not be exempt from the equal time requirement unless the newscast or news interview is bona fide, and appearance of a candidate in on-the-spot coverage of news events is not to be exempt from the equal time requirement, unless the program covers bona fide news events. This requirement regarding the bona fide nature

of the newscast, news interview, or news events was not included without careful thought by the conference committee. It sets up a test which appropriately leaves reasonable latitude for the exercise of good faith news judgment on the part of broadcasters and networks.

However, it is not intended that the exemption shall apply where such judgment is not exercised in good faith. For example, to state a rather extreme case, the exemption from section 315(a) would not apply where the program, although it may be contrived to have the appearance or give the impression of being a newscast, news interview, or on-the-spot coverage of news events, is not presented as such by the broadcaster or network in good faith, but in reality has for its purpose the promotion of the political fortunes of the candidate making an appearance thereon.

There is another point on which I would like to comment. The letter states that the language of the conference report "reveals its weakness" in that the test of "incidental to the presentation of news" is retained with respect to news documentaries but not to other forms of newscasting. On the contrary, there is ample justification for this special treatment of news documentaries. News documentaries were not exempt as a separate category under the House amendment, but they were under the Senate bill. The report of the House committee explained that the committee did not exempt news documentaries because some such programs might, to quote the language of the report, "go far beyond what is normally considered to be news." I feel that the limiting language in the conference substitute as to news documentaries, since such programs are named as a separate category, is appropriate to meet the point expressed in the report of the House committee. I do not think that there is a similar problem in the case of the other categories included in the conference substitute.

I note that the letter makes reference to "panel shows" in a number of places, apparently on the assumption that this is a category in the case of which appearances of candidates would be exempt from the equal time requirement.

This term is nowhere used in the conference substitute. I can only assume that the writers of the letter had reference to certain programs that would be in the category designated in the conference substitute as "news interviews." Certainly I do not agree that the term "news interview" as used in the conference report is broad enough to include all the types of panel shows or panel discussions that one's imagination might conjure up—and I hardly think that the writers of the letter had this in mind. It might be appropriate to refer at this point to a statement in the House committee report with respect to panel discussions. This statement explained that the House committee amendment did not include them because some programs in that category might go far beyond that is normally considered to be news. Panel discussions were not treated as a separate category in the Senate bill. I wish to make it clear, however, that

there certainly is no intention in this legislation to deny exemption from section 315(a) in the case of an appearance on a panel discussion if, by reason of the nature and characteristics of the program, it falls within any of the four categories specified in the first sentence of the amendment agreed to in conference.

The letter at another place charges the conference substitute is a back door repeal of section 315(a) and an "invitation to the grossest kind of political favoritism" and that it gives "an unprecedented opportunity to political kingmaking." This is, in my opinion, a wholly unwarranted statement, with which I heartily disagree.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered. The SPEAKER pro tempore: The question is on the adoption of the conference report.

The question was taken; and on a division (demanded by Mr. Moss), there were—ayes 142, noes 70.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE TO EXTEND

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their own remarks in the RECORD just prior to the vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

#### CENTURY 21 EXPOSITION

Mr. BROOKS of Louisiana. Mr. Speaker, I call up the conference report on the bill (H.R. 8374) to amend Public Law 85-880, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

#### CONFERENCE REPORT (H. REPT. NO. 1104)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8374) to amend Public Law 85-880, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "That the first sentence of section 1 of the Act of September 2, 1958 (Public Law 85-880: 72 Stat. 1703), is hereby amended as follows:

"(a) After the phrase, 'World Science-Pan Pacific Exposition', insert 'now known as Century 21 Exposition'.