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WAIVER OF EQUAL TIME LAW AND THE 1976 PRESIDENTIAL DEBATES

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HEARING

BEFORE THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

WAIVER OF EQUAL TIME LAW AND THE 1976 PRESIDENTIAL DEBATES

AUGUST 24, 1976

Serial No. 94-107

Printed for the use of the Committee on Commerce

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WAVES OF EQUAL TIME LAW AND THE 1958
PRESIDENTIAL DEBATES

DOCUMENTS

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1. The first thing to do is to choose a color scheme. This should be done in consultation with the client and should take into account the overall look and feel of the project. The color scheme should be consistent throughout the entire project and should be easy on the eyes.

WAIVER OF EQUAL TIME LAW AND THE 1976 PRESIDENTIAL DEBATES

TUESDAY, AUGUST 24, 1976

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 10 a.m. in room 5110, Dirksen Senate Office Building, Hon. John O. Pastore presiding.

OPENING STATEMENT BY SENATOR PASTORE

Senator PASTORE. This morning we are meeting with reference to the nominations of Joseph Fogarty and Margareta White to be members of the FCC.¹ There is, however, another unrelated matter that I would like to discuss first.

Last Friday, I received a telegram from Frank Stanton, former president of CBS, and the telegram read:

Now that President Ford and Governor Carter have both agreed to debate, why not reintroduce the 1960 Temporary Resolution, S.J. Res. 207, so that networks can be freed to originate nation-wide debates?

As things stand now broadcasters may report only on debates arranged by a third party at bonafide news events. This awkward circumvention of Section 315 can be avoided by prompt action.

Time is short to be sure, but hearings can be dispensed with in view of legislative history and support of both leading candidates.

The public will be better served by direct broadcast debates arrangements along the lines of the Kennedy-Nixon televised debates, which would be more flexible for the candidates' travel plans, and more efficient for all concerned.

But most of all, they will result in superior broadcasting for the American people. ABC, CBS and NBC have each indicated willingness to broadcast Presidential debates in 1976, as they did so effectively in 1960.

There is not time to deal with total revision of outmoded Section 315, but there is time to give the people the best broadcast Presidential debates, as in 1960. You and I know the public's response to the debates in 1960.

Gallop's latest figures indicate that 70 percent of the American people want debates. Everyone will be better served if the Congress will lift 315 temporarily once again.

Now, this was received by my office last Friday after the President made his announcement on Thursday night that he would be perfectly willing to debate Jimmy Carter.

¹ See "Nominations"—July-September, hearing Serial No. 94-103.

Now, on Monday, I received a similar telegram—I am not going to read it, but the content is more or less the same—from Arthur Taylor who is the present president of CBS.

And, this morning I received a telegram from Herbert S. Schlosser, who is the president of the National Broadcasting Co., and the tenor of that telegram is about the same.

Yesterday, I was asked by the press how I felt about this matter. I talked with a Mr. Graham, who, I think, is a reporter for CBS. I told him very, very clearly that I have always been sympathetic. I was the father of the resolution in 1960, that led to the Kennedy-Nixon debates.

And for the longest time I have been striving to get an exemption for Presidential and Vice-Presidential candidates enacted into law. But, there has always been more or less a hesitancy to pass such a law because there was never the willingness on the part of the incumbent President—not that he said so categorically—but it was always my impression that he was not in favor of such an exemption being passed again.

Now, I would suppose that in view of the fact that President Ford has not take the position that he is willing to debate, that more or less changes the picture. And, therefore would suppose that a move to amend the law in such a way as to exempt the offices of President and Vice President from the provisions of section 315 would find great support. After all, the debates would be very, very desirable and we are all for them.

And I am perfectly willing to take any necessary legislative action.

But, this is what we are up against. Not too long ago the FCC gave a new interpretation of what constitutes on-the-spot coverage of a bonafide news event exempt from equal time obligations under section 315(a)(4). In that interpretation, the FCC broadened this exemption to include live, on-the-spot coverage of candidate debates and candidate press conferences.

Now, that ruling has been challenged by the National Democratic Party and others. As a matter of fact, I held a hearing with FCC Chairman Wiley and told him that I thought the Commission had gone a little bit too far in stretching the meaning and intent of the law. But, at any rate, the ruling was appealed to the courts, and it has been sustained by the Court of Appeals for the District of Columbia Circuit. It is now before the Supreme Court, although briefs on certiorari have not yet been filed. Of course, the Court will have the final decision on the FCC's interpretation if certiorari is ever granted. But, at this moment it looks like there is going to be considerable delay in that regard, and surely if a decision is made after November, it becomes a moot question for purposes of the election.

Now, yesterday, I received a call from two individuals from the League of Women Voters, a Mrs. Peggy Lampl and a Mr. Jim Karayn. They wanted to see me so they came to my office and explained to me all the work they had been doing over a long period of time in order to establish a forum for the debates, and how they have even talked to some of the party participants.

Now, I felt that in view of what was said to me that they should come here to a public hearing so we can clear the air on this.

Now, I am not opposed to reinstating the exemption that we passed in 1960. But, at this juncture I do not believe it would be fair so take the ball out of the hands of the League of Women Voters since they have already taken the initiative and made substantial efforts in this regard. That is why I have called these two individuals before the committee so we can air this matter. And, I would hope that after they testify here today, the heads of the networks will come and state their case and give their reasons.

Now, I call on Mr. Jim Karayn and Ms. Peggy Lampl of the League of Women Voters to tell us what the situation is and to give us the chronology of this whole matter.

**STATEMENT OF PEGGY LAMPL; ACCOMPANIED BY JIM KARAYN,
LEAGUE OF WOMEN VOTERS**

Ms. LAMPL. I think I would like to start by saying—

Senator PASTORE. Please speak up.

Ms. LAMPL. As you know, the league has a long list in the area presenting voter information, and certainly, the State and local—holding candidates meetings and getting out nonpartisan voter information to the public.

With the modification of 315 last September, we embarked on project during the primaries of staging candidate debates between the primary candidates and, indeed, we found that they were successful.

As the primary season progressed, it seems absolutely logical or necessary for us to do or attempt to do the same kind of meetings, in terms of the Presidential nominees, after the conventions.

And, indeed, we made up our mind that this is what we are going to try to do, about April of this year.

We made a formal announcement at the league's national convention, the first week of May, that the league was going to plan to put on debates between the two candidates, and as part of that campaign we announced a major or national petition drive to indicate the degree of public support that we knew existed for the whole concept of debates.

Prior to making this formal announcement, we did meet quite informally with the three networks to inform them of our plans—

Senator PASTORE. You met with whom?

Ms. LAMPL. The three networks, NBC, CBS, and ABC. We met with them all on the same day, told them in general terms what we hoped to accomplish. From there we proceeded to both put together a campaign that we thought would bring debates about, and I would like to have Jim Karayn, who was the individual on our staff responsible for most of this go over the chronology.

Mr. KARAYN. It was our feeling that there was great sentiment throughout the country for debates this year. We felt what we should do is to try to bring this to the surface, so the candidates would be aware of that. We instituted a number of projects. The league took on the role in May to have a petition drive throughout this country to try to get 4 million signatures by September 15, which would indicate to the candidates the wishes of the American people, The Gallup poll took a poll several week ago, 7 out of 10 people in the country polled want debates.

The interesting thing of that poll also, it was across-the-board, evenly split. It was also evenly split between Ford, Reagan, and Carter supporters.

There have been letterwriting—a long campaign going on by the league throughout this country, its 1,350 chapters throughout this country, to bring this to the surface to energize the feeling of the American people that there should be debates. There have been editorials in every major newspaper in this country which has recognized the need for debates and also said that the League of Women Voters is the proper organization or agency in this country to do it, that it's been a voter education service for 56 years. It's unique in this country for doing that.

When we met informally with the network presidents in April to announce that we were going to make the announcement of our proposal to have these debates, we asked one thing, did they think 319 would ever be waived. At that time they said no.

Senator PASTORE. Now, who said this to you?

Mr. KARAYN. This was the representatives of the networks who we met with on April 26.

Subsequently the presidents of two networks, not at our doing or knowledge, announced that they would be willing to carry the debates envisioned by the League of Women Voters. On May 26 at the ABC affiliates meeting in Los Angeles, Elton Rule, the president of ABC, made his keynote address about the need for debates this year. He said they could not be produced by the networks, but could be covered by them and his statement, which is in a release of his, said that ABC would be proud to carry those debates, as envisioned the League of Women Voters.

Subsequently, on June 21, at an NBC affiliates meeting in New York, Herbert Schlosser, the president of NBC, said NBC would be willing to carry the debates envisioned by the League of Women Voters.

On August 3, we had another major press conference here in Washington, at which we announced our national chairmen, Rita Hauser, Charles Walker, and Newton Minow. At that time Sander Vanocur, the television critic of the Washington Post asked what commitment we had. We had no commitment from the networks, but these were statements of two of the four networks. He subsequently made calls to the presidents of those networks. ABC stuck by what Mr. Rule said previously. NBC said they stuck by what Mr. Schlosser said previously. CBS's Arthur Taylor was on vacation at the time.

Mr. Vanocur quoted William Small, senior vice president for news of CBS, who said, obviously, CBS would be willing to carry debates with the candidates. They would have to wait and find out what our format was.

Senator PASTORE. Now, all of these assertions were made for the reason that section 315 had not been amended to allow the networks to do it themselves. That is correct; isn't it?

Mr. KARAYN. That is correct.

Senator PASTORE. Now, the question I am asking you, how would you feel about a resolution being introduced at this time to enable the networks to do it without obligations under section 315?

Ms. LAMPL. Well, the league's position on 315 has always been that if it is waived, it should be waived for all candidates and not exclusively presidential candidates.

We would favor waiving for all candidates. That's been our position for a number of years.

Senator PASTORE. But what would this do to your plans, if we initiated a resolution. That is the important thing that I would like to bring out. Would it defeat all of the negotiations that you have made heretofore? Would it disrupt what you have already done? Might it jeopardize the debates being held at all? That is what I would like to know.

Mr. KARAYN. Yes; to all three.

Ms. LAMPL. Yes.

Senator PASTORE. Yes; to all three. Could you elaborate a little bit? You see if the newspapers just said yes to all three, it wouldn't mean a thing.

Mr. KARAYN. Well, we are already in the process, Senator. This is the proposal on which both candidates are working. This is the proposal which both candidates have said they favor. This is the proposal which all four networks have said they would carry and cover at bona fide events.

Senator PASTORE. Now, has President Ford said this is the arrangement he favors?

Mr. KARAYN. Ron Nessen said the other day, I think on Saturday, that the President favored four debates. They talked to both candidates—Dole and Mondale, the Vice-Presidential candidates, said they wanted debates. The only proposal ever made about the Vice-Presidential candidates debating was the one proposed by the League of Women Voters. The league's invitation to the two nominees was made at 8 o'clock last Thursday morning. We had always agreed that we would not give a formal invitation to the Democrat until the Republican nominee was selected.

The process used in 1960, they invited Kennedy and Nixon the day after Nixon had been nominated. That telegram went out last Thursday morning. That is the one they reacted to.

Governor Carter accepted the President's challenge—he said—his release at about midnight last Thursday night said that the League of Women Voters—he was aware of their proposal. He knew of it, and he was appointing Jody Powell, his press secretary, to meet with us, because we had asked to meet with a representative.

The White House has said they will have a representative at a meeting with us Thursday.

Senator PASTORE. The White House has already assured you that their representative will meet with you Thursday?

Ms. LAMPL. At the same time, Governor Carter, also. We plan to meet with both of them Thursday afternoon.

From point of fact, all the discussions on debate prior to the President's announcement last Thursday that he would debate have been couched in terms of the league proposal.

Senator PASTORE. Well, I want to repeat again what I said before.

I am absolutely in favor of reinstating the same kind of resolution we had in 1960. As a matter of fact, I have tried it time and time again. It passed the Senate and then it ran into a snag in the con-

ference with the House because there was some feeling that we should include Governors and other offices in the exception. And for that reason, for one excuse or another, of course, it never went through. And, I repeat again I am for this exception being granted on a permanent basis, for both the office of President and Vice President so that we won't be up against the same kind of obstruction that we have had in the past. And, I feel that this is about the only way that we can get the two candidates to participate in debate.

But, now we are confronted with this fact that the League of Women Voters has taken the initiative and they have proceeded; they have talked to the representatives of the President, they are meeting with representatives of both candidates. The one thing that disturbs me at this time is—if we introduce the resolution at this moment—what might this do to the whole situation.

And that is the reason why my position is the one I have taken. You tell me that it is your opinion that if this resolution is passed, it will disrupt all the arrangements that you have heretofore made and might jeopardize any debates being held at all.

Ms. LAMPL. It would certainly disrupt the arrangements for the last 2 months that we have done, yes. Whether it would mean no debates at all I couldn't say.

Senator PASTORE. How many members are in the National League of Women Voters? This is good for the politicians and the Congress.

Ms. LAMPL. 136,000.

Senator PASTORE. How many?

Ms. LAMPL. 136,000.

Senator PASTORE. 136,000. Nothing is more serious than the fury of a woman scorned.

Ms. LAMPL. That is very true.

Mr. KARAYN. There are also male members.

As I say, it is now a public thing, Senator. As I say, there hasn't been one major publication in this country which has not acknowledged that the proposal before the candidates is one. Obviously nobody is going to negotiate if they think there are going to be other proposals come forward. The point is that it seems late in the game now to change the thing. If there is delay with hearings of anything like that with the resolution, as you know there is a week shorter campaign time than there has ever been before.

The first debate we have proposed to the candidates is Tuesday, September 28. That is a very short time away. The point is that these can be technically done as remotes. I think Dr. Stanton said they could be done better in studios. We question that.

In the last 16 years the technical proficiency of the networks has come far up. They just got done doing two conventions as remotes and they did them with great technical proficiency. We would do these before a live audience of voters and they would not be done in sterile studios.

And again, there is the legal right for the networks to cover this. They have all said they would cover these debates. We feel we might have more flexibility in proposing format. As you know, if you cover these at bona fide news events they have to cover them live. We would propose that ours would be held in what they call network prime time so they would get the best time.

Senator PASTORE. No. Let me ask you this final question and then turn over to Mr. Moss.

Did either Dr. Stanton or Mr. Taylor or Mr. Schlosser speak to you with reference to the telegrams that they were sending to the committee and the Members of Congress?

Mr. KARAYN. No.

Senator PASTORE. Mr. Moss?

Senator MOSS. Thank you, Mr. Chairman, and first let me say I commend the League of Women Voters for their initiative in moving into this area and doing it in the primaries.

The chairman commented on the league's number of members. I am very pleased to have a great many members in my State and we seem to see eye to eye so I certainly don't want to alienate any of these people.

I like the prospect of these debates. But, have you checked into the possibility that there might be some conflict with the new election law in terms of making a contribution to the candidates; has that been checked out with legal counsel and are you satisfied that it can be done without running afoul of the law?

Ms. LAMPL. We received clearance from the FEC on the primary forums. The league—they have designated us as not a political committee, and they cleared us to receive funds for the primary forums. I understand the FEC is currently researching the question for the Presidential debates and is preparing a memo for the beginning of next week. At the moment we feel confident that it is a perfectly legitimate operation and that funds could be contributed for it.

Senator MOSS. That was the one thing that seemed to be a little bit worrisome.

Ms. LAMPL. Yes.

Senator MOSS. And I imagine we have been on dead center up here on section 315 for a long time and I have always been on the side of suspending it. I believe we got ourselves caught in the very awkward place by shutting off the opportunity for candidates to debate one another. And, the fact that the league may have found a way around this is a good thing as far as I am concerned. And, I certainly don't want to interfere with that in any way, but I am very anxious to know that we have this cleared. When both candidates say, and indeed the Vice-Presidential candidates I understand publicly say, that they would like to have a confrontation debate, I think this is the best kind of discussion that the electorate is entitled to have when it is trying to make the momentous decision of choosing the Chief Executive of this country.

Ms. LAMPL. In terms of the FEC, Senator, if for some reason they decided we could not accept corporate or individual contributions we would be perfectly willing to fund it ourselves, and not seek contribution. I don't think—

Senator MOSS. That is the question I wanted to raise, Mr. Chairman. Thank you, very much.

Senator PASTORE. Mr. Ford, anything to say?

Senator FORD. Thank you, very much. No.

Mr. KARAYN. One more point.

The other thing apparent to the papers today, the networks are divided on this. American Broadcasting Co. said at this time they see no reason to join in this petition for the suspension of 315.

Senator PASTORE. I am all for the suspension, but I wouldn't want the Congress to be in the awkward position of confusing the issues, muddying the waters, and possibly delaying or jeopardizing the debates from ever taking place. As the matter now stands, the debates are possible and apparently on track. It may not be the perfect or the better way, but it seems to me to be the only way for the time being. If all of us had the assurance, I think the league would get together with the networks and see if they couldn't work something out in cooperation.

But the last thing we need is a situation of uncertainty. These debates require the most delicate arrangements. And I know how sensitive politicians are, especially when they are up for election.

Thank you, very much.

Ms. LAMPL. Thank you.

Mr. KARAYN. Thank you.

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