should be expressed on this unique medium. But the people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." [1115] The broadcasters had argued that, if they were required to provide equal time at their expense to persons attacked and to points of view different from those expressed on the air, expression would be curbed through self-censorship, for fear of controversy and economic loss. Justice White thought this possibility "at best speculative," but if it should materialize "the Commission is not powerless to insist that they give adequate and fair attention to public issues." [1116]

In *Columbia Broadcasting System v. Democratic National Committee*,[1117] the Court rejected claims of political groups that the broadcast networks were constitutionally required to sell them broadcasting time for the presentation of views on controversial issues. The ruling terminated a broad drive to obtain that result, but the fragmented nature of the Court's multiple opinions precluded a satisfactory evaluation of the constitutional implications of the case. However, in *CBS v. FCC*,[1118] the Court held that Congress had conferred on candidates seeking federal elective office an affirmative, promptly enforceable right of reasonable access to the use of broadcast stations, to be administered through FCC control over license revocations, and held such right of access to be within Congress's power to grant, the First Amendment notwithstanding. The constitutional analysis was brief and merely restated the spectrum scarcity rationale and the role of the broadcasters as fiduciaries for the public interest.

In *FCC v. League of Women Voters*,[1119] the Court took the same general approach to governmental regulation of broadcasting, but struck down a total ban on editorializing by stations receiving public funding. In summarizing the principles guiding analysis in this

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[1115] 395 U.S. at 390.

[1116] 395 U.S. at 392–93.

[1117] 412 U.S. 94 (1973).

[1118] 453 U.S. 367 (1981). The dissent argued that the FCC had assumed, and the Court had confirmed it in assuming, too much authority under the congressional enactment. In its view, Congress had not meant to do away with the traditional deference to the editorial judgments of the broadcasters. Id. at 397 (Justices White, Rehnquist, and Stevens).

[1119] 468 U.S. 364 (1984), holding unconstitutional § 399 of the Public Broadcasting Act of 1967, as amended. The decision was 5–4, with Justice Brennan's opinion for the Court being joined by Justices Marshall, Blackmun, Powell, and O'Connor, and with Justices White, Rehnquist (joined by Chief Justice Burger and by Justice White), and Stevens filing dissenting opinions.