

have the public know of it. That plus the intense competition among three networks, I think is as good a safeguard as the fairness doctrine.

Dean BARROW. Dr. Goldin.

Dr. GOLDIN. I am somewhat of a unique position on this panel because I have neither a paper nor a formal position to discuss. So I will take this opportunity to try to discuss each of the major questions which Mr. Lower has raised in his paper and which seem to me go to the heart of this whole panel discussion.

Obviously, these are only opening comments because these will come back over and over again in the course of our discussion.

The first question that you raised is whether the doctrine violates the first amendment to the Constitution because it imposes on broadcast journalists a limitation that does not apply to their colleagues in the print media.

My own view, and I am not speaking as a lawyer but as someone who has worked in the Commission, it seems to me that the fundamental point which has already been raised by Dean Barrow is the fact that you are dealing with a medium, broadcasting, which has been judged by the Congress as a licensed medium to operate in the public interest. Frequencies may be used for different purposes and a determination as to the amount of frequency space allocated for broadcasting flows from a determination that a broadcast service is important in the public interest. From this flows a requirement as to regulating the type of service provided.

This is a fundamental difference from the print media. I think it is quite as simple as that.

This is a public national policy decision which the Congress made, and which has been confirmed by the courts in their discussion of the differences.

Dean Barrow read from one court decision. There are many other court decisions on the same point. It seems to me that the choice that is faced here as a national policy is do you want to convert, is it practicable at this stage to convert, the broadcast medium into a private medium?

Professor Coase at the University of Chicago has suggested that there are means of doing so in terms of converting public rights into private rights. He suggests that it is perhaps too late in terms of the history of broadcasting, and I quite agree with it. But this is a conscious policy decision that the Congress has made, that broadcasting is endowed with the public interest.

From this fact, it seems to me, there are many consequences which flow, and that there are, therefore, differences in the treatment of broadcasting as compared with the print medium.

This does not suggest that there are no limitations on the degree of control or restraint exercised on the broadcast medium. There are certainly very severe ones.

However, it also means that there may not be identity in terms of the rights exercised by these two media. I think the one that comes obviously to mind, which has been subscribed to by most of the broadcasters, is that broadcasting cannot be used for the private views of the broadcaster exclusively.

This is a fundamental difference from the newspaper, where the newspaper has no legal obligation to use his medium for other than his private purposes, if he so chooses.