

by quoting from an opinion of Justice Brennan in the *New York Times v. Sullivan* case, where he said,

This Country has a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open and that it may well include relevant caustic and sometimes unpleasant sharp attack.

Dean BARROW. Is there further discussion on this series of papers?

Mr. JAFFE. I agree almost entirely with Mr. Robinson. I find Mr. Siepmann's position very strange and almost inexplicable. He seems to set aside—because of the mechanics involved in getting into the industry, the fact that there are problems, technical problems, of making broadcasting effective—he seems to set aside the whole area of broadcasting as a communications device as something highly special, highly distinct, a sort of virgin in the lists of public communication, which is to have a very special rules, which rules he is prepared to provide. That is, no editorials, no religion but if you have religion then you have to have something else, and so on, a whole series of special rules which argue for broadcasting as a completely distinct medium, apart from all the other mediums of communication.

The position I am going to take tomorrow is not necessarily the position that the broadcasters take. I am going to take the position that it has never been demonstrated that broadcasting is that different, that distinct, and that autonomous. On the contrary, it is part of the whole complex of communicating devices.

The position of broadcasting as a distinct medium has been, if not exaggerated, at least never proven. It has never been proved by the FCC which always starts out with how distinct it is, and how glorious it is. The broadcasters think it is that distinct and that it is entirely different from everything else. And so, you need very special rules about what goes on in order to protect the public from getting one-sided positions.

I think there are certain fields where broadcasting is distinctive, particularly in the field of political candidates and speeches. But I think in the field of the right to reply and the fairness doctrine, they are just part of the whole totality of communications devices.

What I am going to try to do tomorrow is simply raise the question whether these doctrines serve any particular function. They may not be so bad as made out, they may not be so inhibiting.

It seems to me the first question, quite apart from the constitutional question, is whether they really serve any appropriate function and whether you need them, and just where we stand on this complex of doctrines, of which I identify four; namely, the political doctrine, the right of reply doctrine, the fairness doctrine, and the local service doctrine, whether each of these doctrines serve any particular, special need.

I have more or less come out with the conclusion that the political candidate doctrine and the local service doctrine have a greater validity than the other two.

But my whole quarrel with the kind of argument that Mr. Siepmann makes, and with the assumptions on which other arguments are based, is that broadcasting is a world all unto itself, and the people who communicate and listen in this world are really isolated from the rest of the world; that it is the only thing they ever hear, that is