

Yet despite this scarcity, an absolute constitutional prohibition was adopted against abridging the freedom of the press.

In the early stages of broadcasting, facilities were indeed limited. Since that time, however, the number of stations has multiplied enormously. By 1965, there were over 5,000 radio stations and more than 500 television stations, while the number of daily newspapers had declined to 1,751.⁴⁰

Moreover, within any given locality, there are generally fewer daily newspapers than broadcasting stations. So far as new entry is concerned, economic realities greatly restrict new entries into the newspaper business, and newspaper terminations and mergers have progressively shrunk the total.

Some of the statistics on these points are assembled in an appendix to my statement and I will not detail them here. They show a large and increasing number of competing "voices" in broadcasting, and a smaller and declining number in the newspaper field.

If an argument can be made from these trends, it is not that scarcity of facilities justifies singling out broadcast news for regulation.

Rather it suggests the importance of free expression in broadcasting as an offset to the decline in the diversity of print journalism. The Supreme Court has said:

A free press stands as one of the great interpreters between the Government and the people. To allow it to be fettered is to fetter ourselves.⁴¹

I cannot accept that this applies less to news as broadcast than to news as printed.

Nor is there any reason to assume that Federal regulation is needed to prevent broadcasters from misleading the public through bias and distortion in dealing with controversial issues.

That danger is precluded by the very diversity of outlets and the intense competition in the field. It is precluded even more by the control a vocal, responsive, and reacting audience exerts on broadcast expression, especially when it deals with controversial issues.

By definition, a controversial issue involves strongly opposing public views, and these opposing views are reflected in each station's audience.

Viewers and listeners who have strong convictions on one side of a controversial issue will resent a biased treatment favoring the other side. If a broadcaster keeps up such biased treatment, the resentment will mount, and the offended viewers or listeners will turn away to another station.

This is only one example of the interaction between broadcasting and its audience—which goes on all the time—and which is a more effective, more democratic, and less hazardous influence on responsibility in dealing with controversial issues than the processes of Federal regulation which are necessarily so clumsy.

Before closing, I should like to spend a few moments on section 315. This section, designed to provide equality between the candidates, actually works to prevent broadcasters from providing the public

⁴⁰ U.S. Bureau of the Census, Statistical Abstract of the United States, 1966; pp. 519, 523 (87th edition).

⁴¹ *Grosjean v. American Press Co.*, 297 U.S. 233, at 250 (1936).