

Fairness Doctrine, what you are saying is that to be fair in presenting both sides does not present an open question.

Mr. WASILEWSKI. I really didn't understand your point, sir.

Mr. ROGERS. I thought the point of the Fairness Doctrine was to see that both sides of a question are presented. Your argument says that this is restrictive of that. I don't understand why.

Mr. WASILEWSKI. My argument is this: that a broadcaster is going to be fair, and that audiences are going to be exposed to all degrees of viewpoint in this society of ours from the 5,000 stations and the television stations. It is the audience and the broad public interest that we are concerned about.

My point is that they are going to get a fair presentation of viewpoints in the overall and, furthermore, that a broadcaster himself will try to be fair. But the burden is imposed by the FCC looking over his shoulder each and every time.

Mr. ROGERS. That is all the law wants you to do.

Mr. WASILEWSKI. The law is triggered by anyone who thinks the station is unfair.

Mr. ROGERS. They have a right to have their point considered, do they not, under the law?

Mr. WASILEWSKI. They have a right to do what?

Mr. ROGERS. An individual would have the right to be considered under the law, at least to have the station consider it. You may object to it, but the law is designed to do what you claim you want the broadcaster to do.

Mr. WASILEWSKI. I am saying the broadcaster would do this and the public would benefit more if you didn't have a law, because with the law I am personally convinced that many, many local stations, and we will not talk about networks—there is no question about the fact that the networks have the wherewithal and people to engage in all the research necessary—many, many local stations refrain from getting into controversy because of being entwined in the law. They don't do it out of malice. They do it because it is easier to avoid it.

Mr. SIEPMANN. Mr. Chairman, it would seem to me that this argument is equivalent to saying that we would all be more virtuous if we had no policemen.

Dean BARROW. While we are on this aspect of it, and in light of Mr. Wasilewski's treatment of freedom of speech in his paper, I would like to make a brief comment on that aspect.

I think it ought to be clear in the record that there is a freedom of speech for the public which is to be protected. As free speech for all is not possible through broadcasting, the facilities being limited, it is appropriate for free speech for the public to be protected to hear all sides of public controversy, which must be achieved by operation of the channels in the public interest under some such doctrine as a fairness doctrine.

There is a kind of trusteeship here of the right of free speech of the people. This has to be recognized as well as the free speech of the broadcaster. These interests have to be accommodated to each other.

This was never better recognized than in the *National Broadcasting Co.* case when it was in the lower court, and Judge Hand wrote the