

Dean BARROW. Mr. Porter has a comment.

Mr. PORTER. In response to Congressman Adams' question, I am reluctant to inject a note of controversy into these proceedings, but perhaps one answer, if the Fairness Doctrine is based upon the limitation of spectrum space, if the Commission and the Congress will take the handcuffs off of CATV, you could get 20 channels at least into every consumer's home in the major markets. That diversity might be a partial answer to the scarcity and the limitation of frequencies.

Dean BARROW. Professor Jaffe?

Mr. JAFFE. Apropos of Congressman Adams' questions, I don't think, in the first place, that the first amendment gives one a right to speak at any particular time or place. It says that the Government shouldn't keep people from expressing themselves. In fact, nobody really has a right, and not even the FCC has said that anyone has a right to speak over a station.

The Fairness Doctrine doesn't assure someone the right to speak over a station. The excluded person who didn't get the station has no rights and the Fairness Doctrine doesn't give him any right.

The Fairness Doctrine simply says that—

We think it is necessary in order to promote general discussion, in order to have all sides represented, that over the course of a period of time a broadcaster air different views.

For example, a particular person who may have a view to air, the FCC and the courts have held, has no particular right to express himself.

The question comes down, in my mind, to the practical question whether the Fairness Doctrine is necessary. I don't say it isn't necessary. I think it is arguable both ways. But is it necessary to assure that there will be general discussion of public issues and the formation of public policy?

It is a fake assumption that if a particular point of view, or a particular person isn't heard over broadcasting, or heard over TV, he won't be heard.

Broadcasting isn't a world of itself. It is part of the whole world of communications. To isolate it and say, "If somebody is kept off the radio or if he doesn't have a station, he is kept from speaking or broadcasting and it is an interference with his rights of free speech," I think that is the same thing as saying if the New York Times won't let me appear in their columns I am prohibited from appearing on the New York Times and this is a violation of my right of free speech.

I don't think the thing is set up that way as a matter of law or that the first amendment means that every individual has a right to speak every place. As a matter of practical fact, I don't think the world of communications works in terms of simply speaking over one particular place.

Mr. ADAMS. I defer to the professor on a lot of subjects, but he has said that someone can talk over the air waves and somebody else cannot when we make the original determination that "You go on and you don't."

In the practical sense that you referred to, of an overall picture, you have the moving up of various corporations into greater and greater ownership of greater and greater outlets in the major markets, which means, then, that a television station can represent a particular point of