

Mr. CROUSE. I don't think I put it that way. We are talking about the inhibitory effect of the Fairness Doctrine. Every public issue of controversy involves people. This is where it inhibits, because if somebody goes down the street and says you have impugned my honesty or my integrity, under the present setup he is going to get on, you have to put him on, or you go through a long series of processes to satisfy the regulatory agency.

Mr. ROGERS. This hasn't been the history of it. As I have seen, there are very few complaints, even, that have been processed by the FCC.

Mr. CROUSE. We have been assured throughout this hearing, Mr. Chairman, that the FCC is acting fairly and honestly, and almost kindly. We are looking down the road to, "Is this always going to be the case?"

Somebody this morning said: "What about the future devils?" This is also a problem.

Mr. ROGERS. It is also a problem to not have a Fairness Doctrine. Then what happens when you don't have the different views presented? Perhaps you would. But you would leave it to the broadcaster's opinion and his determination alone to make the determination of what is in the public interest completely.

Mr. WASILEWSKI. Mr. Chairman.

Dean BARROW. Mr. Wasilewski.

Mr. WASILEWSKI. Pursuing your logic, you presume that there will be unfairness absent the Fairness Doctrine.

Mr. ROGERS. I presume there will be.

Mr. WASILEWSKI. Therefore, we will have the Fairness Doctrine.

Mr. ROGERS. What I am saying is that there may be and there should be some possibilities of a remedy for this existing at all times.

Mr. WASILEWSKI. My point is that there may be. I don't think you should have a law on the books because there may be a potential possibility without any indication for such a factual conclusion.

Mr. ROGERS. We have demonstrated cases of this.

Mr. WASILEWSKI. A few.

Mr. ROGERS. In January, 288.

Mr. WASILEWSKI. Complaints, but those were not indicated as being unfair, as the chairman pointed out.

Mr. ROGERS. Maybe not.

Mr. WASILEWSKI. My point, getting back to Mr. Adams' point, was this: that by accepting a license from the Federal Government, you do not waive constitutional rights that you may have.

Mr. ROGERS. Nor the constitutional rights of the public are not waived, as pointed out by the dean in an opinion by Judge Hand.

Mr. WASILEWSKI. But just as in the New York Times case, which you mentioned, sir, even though there is a false, nonmalicious, defamatory statement, you, as a public official, have no right, under the Supreme Court, New York Times case to recoup damages therefore, correct?

Mr. ADAMS. Correct.

Mr. WASILEWSKI. That is the constitutional application to the newspapers.

Mr. ADAMS. If you are in the public domain as a public official, you take your chances.