

Mr. HYDE. In the rules relating to personal attacks situations, the right is limited to that case where an individual's personal qualities, such as his integrity, were attacked in connection with a statement on a matter of significant public concern.

It is in that connection that the Commission would require that the person attacked have an opportunity to state his side.

Mr. PORTER. Whether true or false?

Mr. HYDE. The test would not be whether it was true or false, but, rather, whether his personal character was subjected to attack.

Mr. PORTER. Mr. Chairman, I would say that as I read the Fairness Doctrine, even in the *New York Times v. Sullivan* case, if that had been a broadcast facility, Sullivan, and those who claimed their personal integrity, character or like qualities were impugned, would have had an automatic right of reply.

But in the printed media this was constitutionally protected speech.

Mr. ADAMS. Nobody stopped them for saying it, did they? There is no prevention other than your psychological prior restraint.

Mr. PORTER. Then you would get back as to whether this is a deterrent, I think the weight of most of the argument falls.

Mr. ROGERS. This same argument that some have applied is we will let the public judge, decided whether the station is doing right or not. Is it all right to let the public decide on the two charges, the one charge made and the one who denies it? Do they mistrust the public here?

Mr. PORTER. Suppose it is true?

Mr. ROGERS. Can't the public judge that? This is exactly what we are saying. How do we know that everything the broadcaster always puts out is true. Does he determine whether it is true or not or does the public decide?

Professor Robinson said he wanted the public to decide all this, but he wouldn't want the public given the right of the two viewpoints here, as I understand it.

Dean BARROW. Mr. Hyde has a comment on this.

Mr. HYDE. The comment I would offer is relevant to the question raised by Congressman Rogers. I endeavored to explain before that the personal attack right to be heard arises when someone's character is attacked in connection with a presentation of public significance.

This right isn't given just as a matter for the defense of the individual or as a personal thing to him. It arises out of the interest of the public in hearing both sides and having the opportunity to choose.

In other words, when there is an attack on an individual's character in connection with the discussion of an issue of public importance, then the public should have a right to hear the other side as expressed by the person whose character is attacked.

Mr. ROGERS. Dean, may we suspend a minute. This is the second call to the floor of the House. We will hear the next paper as soon as we come back.

Mr. KEITH. Isn't Congressman Adams one of your former students?

Mr. JAFFE. If he says so. I don't doubt the word of a Congressman.

Mr. ROGERS. We will recess at this time.

(A brief recess was taken.)