

Howard
Huntgate
Hutchinson
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
Kastenmeier
Kasen
Keating
Kee
Klucynski
Koch
Kuykendall
Kyl
Kyros
Latta
Leggett
Lennon
Lent
Link
Lloyd
Lujan
McClary
McCluskey
McClure
McCollister
McComack
McDade
McDonald,
Mich.
McFall
McKay
McKevitt
McKinney
Macdonald,
Mass.
Mahon
Mallard
Martin
Mathias, Calif.
Matsunaga
Mayne
Meads
Melcher
Metcalfe
Mikva

NAYS—139

Abbitt
Abernethy
Anderson,
Calif.
Andrews, Ala.
Andrews,
N. Dak.
Barratt
Bennett
Bevill
Biaggi
Blanton
Bow
Brasco
Brinkley
Broomefield
Buchanan
Burke, Fla.
Burlison, Tex.
Burlison, Mo.
Byrne, Pa.
Cederberg
Chappell
Clark
Clausen,
Don H.
Clawson, Del.
Collins, Tex.
Colmer
Conable
Daniel, Va.
Davis, S.C.
de la Garza
Delaney
Dent
Devine
Dickinson
Dingell
Dowdy
Downing
Dulski
Duncan
Evins, Tenn.
Fisher
Flowers
Flynt
Fulton, Tenn.
Fuqua

NOT VOTING—31

Baring
Chisholm
Clay

Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Morgan
Moorhead
Morgan
Mosher
Moses
Neftci
Obey
O'Hara
O'Neill
Pattman
Patten
Pelly
Parkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Thompson, N.J.
Thone
Thorn
Ulman
Vander Jagt
Vank
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Roe
Roncalio
Rosenthal
Rosenkowsky
Roush
Roy
Roybal
Ryan
St Germain
Sandman
Sarbanes

So the bill was passed.
The Clerk announced the following pairs:
Mr. Daniels of New Jersey with Mr. Widnall.
Mr. Murphy of New York with Mr. Halpern.
Mr. Nichols with Mr. Landgrebe.
Mr. Eckhardt with Mr. Morse.
Mr. Stratton with Mr. Hogan of Maryland.
Mr. Puroell with Mr. Zwach.
Mr. Van Dearlin with Mr. Chisholm.
Mr. Hanna with Mr. Conyers.
Mr. Danielson with Mr. Long of Louisiana.
Mr. Donohue with Mr. Pepper.
Mr. Edwards of Louisiana with Mr. Udall.
Mr. Ellberg with Mr. Hawkins.
Mr. Gray with Mr. Clay.
Mrs. Green of Oregon with Mr. Baring.
Mr. William D. Ford with Mrs. Hansen of Washington.

Messrs. BYRNE of Pennsylvania and DEVINE changed their votes from "yes" to "nay."
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND
Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?
There was no objection.

PROCEEDING AGAINST FRANK STANTON AND COLUMBIA BROADCASTING SYSTEM, INC.
Mr. STAGGERS. Mr. Speaker, I rise to a question of the privilege of the House, and I submit a privileged report (Report No. 92-349).
The Clerk proceeded to read the report.

POINT OF ORDER
Mr. GIBBONS. Mr. Speaker, I want to raise a point of order against the consideration of this matter at this time.
The SPEAKER. The gentleman will state his point of order.
Mr. GIBBONS. Mr. Speaker, I rise to object to the consideration of this matter at this time in that I believe that it violates clause 27, subparagraph (d) (4) of rule XI of the Rules of the House of Representatives.
Mr. Speaker, I refer to the language contained on page 381 of the House Rules and Manual, 92d Congress. I would call your attention to the fact that the rule, subparagraph (d) (4), clause 27 of rule XI was adopted last year in the Legislative Reorganization Act, and was re-adopted earlier this year.
Mr. Speaker, I think it would be best

Conyers
Danielson
Donohue
Eckhardt
Edwards, La.

If I read just a portion of the rule, and this rule reads as follows:

A measure or matter reported by any committee (except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct) shall not be considered in the House unless the report of that committee upon that measure or matter has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter in the House.

Now, there is some more to that rule. The next sentence goes on to deal with the hearings of the committee, but then there is an exception to that rule, and it is:

This subparagraph shall not apply to—
(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; and
(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

Mr. Speaker, that rule was adopted last year. I have examined the committee report. It is obvious the reasoning for its adoption was to prevent the premature or rapid or precipitous consideration of matters such as this kind, even though they dealt with a matter of privilege. The matter of privileged matters is specifically not excepted from this rule because I think many Members helping to frame these rule changes last year felt that the Congress had not acted wisely on some of these things that have come up pretty fast.

The committee report, which is still classified as a committee print, without any number, was not available until 10:30 this morning. It is 272 pages long. I presume it is well written, I have not had a chance to read it, and I doubt that very many other Members have had a chance to read it in full.

I would hope that the Chair would sustain this point of order. I do not believe there is any grave emergency. I do not believe that the person sought to be cited, or the organization sought to be cited are about to leave the country. I would hope that the House could consider this matter in a more rational manner and after it has had the opportunity to read and examine the report.

Mr. Speaker, I realize that some may say a matter of this sort is a matter of privilege and, therefore, is excepted from the rule. It is my contention, Mr. Speaker, that the matter of privilege was specifically not excluded from the requirement of a 3-day layover for the printing of the report but that the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct—those being the committees that generally deal with matters of privilege—were set down under specific exception and that it was never intended that citations such as this could be considered in such a preemptive type of procedure as is now about to take place.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?
Mr. GIBBONS. I yield to the gentleman.

Mr. REID of New York. Mr. Speaker, in furtherance of the point that the gentleman is making, if the Chair will look at rule IX, it states in the rule:

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings;

I would say, Mr. Speaker, that the 3-day rule is an important principle, uniquely relevant to the Constitutional question. This is the very idea of the 3-day rule and I believe that today to rush through an important question does not comport with an enlightened discharge of our responsibility.

Mr. Speaker, I hope the point of order is upheld.

The SPEAKER. Does the gentleman from West Virginia (Mr. STAGGERS) desire to be heard on the point of order?

Mr. STAGGERS. I do, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. STAGGERS. Mr. Speaker, rule IX provides that "Question of privilege shall be, first, those affecting the rights of the House collectively"—as the gentleman from New York has just read—"its safety, dignity and the integrity of its proceedings."

Privileges of the House includes questions relating to those powers to punish for contempt witnesses who are summoned to give information.

House Rule 27(d) of rule XI, the so-called 3-day rule, clearly does not apply to questions relating to privileges of the House. The rule applies only to simple measures or matters reported by any committee. It excludes matters arising from the Committee on Appropriations, House Administration, Rules, and Standards of Official Conduct.

It is clear that the terms "measure" or "matter" as used in rule 27(d) do not apply to questions of privilege.

To apply it in such a way would utterly defeat the whole concept of the question of privilege.

Too, a privileged motion takes precedence over all other questions except the motion to adjourn.

The fact that the 3-day rule excludes routine matters from the Appropriations, Administration, Rules, and Standards of Official Conduct Committees clearly shows that the 3-day rule does not apply to privileged questions.

If the rule were meant to apply to questions of privilege, it surely would not make exceptions for routine business coming from regular standing committees.

The SPEAKER. The Chair is ready to rule.

The Chair appreciates the fact that the gentleman from Florida has furnished him with a copy of the point of order which he has raised and has given the Chair an opportunity to consider it.

The gentleman from Florida (Mr. GIBBONS) makes a point of order against the consideration of the report from the Committee on Interstate and Foreign Commerce on the grounds that it has not been available to Members for at least

3 days as required by clause 27(d) (4) of rule XI. The Chair had been advised that such a point of order might be raised and has examined the problems involved.

The Chair has studied clause 27(d) (4) of rule XI and the legislative history in connection with its inclusion in the Legislative Reorganization Act of 1970. That clause provides that "a matter shall not be considered in the House unless the report has been available for at least 3 calendar days."

The Chair has also examined rule IX, which provides that:

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings . . . ; and shall have precedence of all other questions, except motions to adjourn.

Under the precedents, a resolution raising a question of the privileges of the House does not necessarily require a report from a committee. Immediate consideration of a question of privilege of the House is inherent in the whole concept of privilege. When a resolution is presented, the House may then make a determination regarding its disposition.

When a question is raised that a witness before a House committee has been contemptuous, it has always been recognized that the House has the implied power under the Constitution to deal directly with such conduct so far as is necessary to preserve and exercise its legislative authority. However, punishment for contemptuous conduct involving the refusal of a witness to testify or produce documents is now generally governed by law—Title II, United States Code, sections 192-194—which provides that whenever a witness fails or refuses to appear in response to a committee subpoena, or fails or refuses to testify or produce documents in response thereto, such fact may be reported to the House. Those reports are of high privilege.

When a resolution raising a question of privilege of the House is submitted by a Member and called up as privileged, that resolution is also subject to immediate disposition as the House shall determine.

The implied power under the Constitution for the House to deal directly with matters necessary to preserve and exercise its legislative authority; the provision in rule IX that questions of privilege of the House shall have precedence of all other questions; and the fact that the report of the committee has been filed by the gentleman from West Virginia as privileged—all refute the argument that the 3-day layover requirement of clause 27(d) (4) applies in this situation.

The Chair holds that the report is of such high privilege under the inherent constitutional powers of the House and under rule IX that the provisions of clause 27(d) (4) of rule XI are not applicable.

Therefore, the Chair overrules the point of order.

The Clerk will continue to read the report.

The Clerk read as follows:

At the conclusion of this statement, Dr. Stanton was asked the following questions and gave the indicated responses:

The CHAIRMAN. Dr. Stanton, did you hear my opening statement in which I summarized our jurisdiction and legislative concerns in this matter?

Dr. STANTON. Yes, I did.

The CHAIRMAN. At the subcommittee meeting held on April 30, 1971, I provided a more detailed statement of our jurisdiction and legislative concerns and the relevancy of the material subpoenaed to those concerns. This statement was read and delivered to Mr. John Appel whom you designated to appear before the subcommittee in your behalf. That statement had references to the sub-

PROCEEDING AGAINST FRANK STANTON AND COLUMBIA BROADCASTING SYSTEM, INC.

REPORT OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES TOGETHER WITH SEPARATE VIEWS (PURSUANT TO HOUSE RESOLUTION 170, 92D CONGRESS)

1. Statement of facts

The Special Subcommittee on Investigations of the Committee on Interstate and Foreign Commerce, authorized by House Resolution 170 of the 92nd Congress, caused to be issued a subpoena to Frank Stanton, President, CBS, Inc., to be and appear before the said Subcommittee on Investigations, of which the Honorable Harley O. Staggers is Chairman, on June 9, 1971, at 10:00 AM in Room 2323, Rayburn House Office Building, Washington, D.C., to testify and to deliver to the Subcommittee various materials set forth and described in the said subpoena. This subpoena was duly served on May 27, 1971. (See Appendix A.) This subpoena was subsequently modified to provide for appearance on June 24, 1971 at 10:00 AM in Room 3125 Rayburn House Office Building.

Pursuant to the above subpoena, Frank Stanton together with Lloyd Cutler, counsel for CBS, appeared before members of the Subcommittee on June 24, 1971; said appearance being for the purpose of testifying and providing the material specified in the Subcommittee's subpoena.

The Chairman of the Subcommittee read a statement to Dr. Stanton fully setting forth the authority and legislative purpose behind the Subcommittee's subpoena. (See Appendix B.)

Dr. Stanton, after being duly sworn, then delivered a statement to the Subcommittee which included the following:

"My appearance is in response to the Subcommittee's subpoena dated May 28, 1971.

"Based on the advice of our counsel and our own conviction that a fundamental principle of a free society is at stake, I must respectfully decline, as President of CBS, to produce the materials covered by the subpoena of May 28. For the same reasons, I must respectfully decline, as a witness summoned here by compulsory process, to answer any questions that may be addressed to me relating to the preparation of "The Selling of the Pentagon" or any other particular CBS news or documentary broadcast."

Mr. DINGELL. Mr. Speaker, I make the point of order that the Clerk has just skipped some portions of the document.

The SPEAKER. The Clerk will read the report.

Mr. DINGELL. Mr. Speaker, I will appreciate it if the Clerk will read the entire report, including that portion which he omitted.

The SPEAKER. The Clerk will read the report.

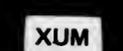
The Clerk read as follows:

At the conclusion of this statement, Dr. Stanton was asked the following questions and gave the indicated responses:

The CHAIRMAN. Dr. Stanton, did you hear my opening statement in which I summarized our jurisdiction and legislative concerns in this matter?

Dr. STANTON. Yes, I did.

The CHAIRMAN. At the subcommittee meeting held on April 30, 1971, I provided a more detailed statement of our jurisdiction and legislative concerns and the relevancy of the material subpoenaed to those concerns. This statement was read and delivered to Mr. John Appel whom you designated to appear before the subcommittee in your behalf. That statement had references to the sub-



committee's original subpoena of April 7 but it applies to the present subpoena as well. Are you familiar with that statement?

Dr. STANTON. Yes, I am.

The CHAIRMAN. Have you carefully considered both of these statements?

Dr. STANTON. Yes, I have.

The CHAIRMAN. On May 27, 1971, you were served with a duly authorized subpoena of this subcommittee. Without objection I direct that the full text of the subpoena be inserted into the record at this point together with proof of service.

The CHAIRMAN. Have you brought the materials with you which were called for by the subpoena served on May 27?

Dr. STANTON. No, sir, Mr. Chairman, I have not.

The CHAIRMAN. Since you are the President of CBS, are the materials requested in the subpoena subject to your control so that if you wished you could have brought them here today?

Dr. STANTON. Yes, they are.

The CHAIRMAN. Is there any physical or practical reason why these materials have not been provided?

Dr. STANTON. No, there is not.

The CHAIRMAN. Is your decision not to bring with you these materials made with full knowledge of the possible action that may be taken against you for your refusal?

Dr. STANTON. Yes, they are.

The CHAIRMAN. Do you realize that as a result of your refusal to comply with the subpoena you may be found to be in contempt of the House of Representatives with all the consequences that flow from such contempt?

Dr. STANTON. Yes, I do.

The CHAIRMAN. Knowing this, do you persist in your refusal to provide the subpoenaed materials?

Dr. STANTON. Yes, I do.

The CHAIRMAN. Does the decision not to provide the subpoenaed materials reflect a decision of the management of CBS?

Dr. STANTON. Yes, it does.

The CHAIRMAN. So that the record may be clear on this point, speaking as the Chairman of this subcommittee I hereby order and direct you to comply with the subcommittee subpoena and to provide forthwith the materials therein described. What is your response?

Dr. STANTON. I respectfully decline.

The CHAIRMAN. At this point, Dr. Stanton, it is my duty to advise you that we are going to take under serious consideration your willful refusal today to honor our subpoena. In my opinion you are now in contempt.

Subsequently, at the conclusion of the hearing, Dr. Stanton was again ordered by the Chairman of the Subcommittee to comply with the Subcommittee's subpoena and he again declined.

The material subpoenaed by the Subcommittee was pertinent to the legislative oversight responsibility of the Special Subcommittee on Investigations, of the House Commerce Committee, and the Congress as a whole. As a result of the refusal of Dr. Stanton, acting as President of CBS, Inc., to provide the subpoenaed evidence, the Subcommittee was prevented from obtaining information relevant to the discharge of its responsibilities and duties. The record of the proceedings before the Subcommittee in this matter is published under separate cover.

On June 29, the Subcommittee with all members present, met in executive session at 10:30 A.M. in Room 2136, Rayburn House Office Building and voted unanimously to refer the matter to the full Committee with the recommendation that CBS and Dr. Stanton be cited for contempt of Congress for failing to comply with a lawful subpoena.

Accordingly, the matter was presented to the full Committee on Interstate and Foreign Commerce in a meeting of that committee held pursuant to notice on Thursday, July 1, 1971, at 10:30 A.M. in Room 2136, Rayburn House Office Building. A quorum being present, Chairman Staggers delivered a statement setting forth the purpose of the meeting (Appendix C.) The Committee then voted, 25 to 13, in favor of the following motion:

"That the Committee report and refer the refusal of the Columbia Broadcasting System, and its President, Dr. Frank Stanton, to comply with the subpoena dated May 26, 1971, issued by the Special Subcommittee on Investigations, together with all the facts in connection therewith, to the House of Representatives with the recommendation that they be cited for contempt of the House of Representatives to the end that they may be proceeded against in the manner and form provided by law."

II. Sequence of events

On February 23 and again on March 23, 1971, the CBS Network broadcast the news documentary program, "The Selling of the Pentagon." Almost immediately, allegations were received from a number of sources charging that deceptive editing and production techniques were used in making various segments of the documentary. Two of these allegations were supported, in part, by information supplied by individuals in the Department of Defense.

(1) The interview of Assistant Secretary of Defense, Daniel Z. Henkin, was rearranged; answers given by him to questions during a filmed interview were mismatched with completely different questions when broadcast. (See Appendix D.) In sworn testimony, Secretary Henkin has stated that the "doctoring" of his words distorted his views. The technique employed in the manipulation of the question and answer sequence was such that it was impossible for the viewing public to know that Secretary Henkin did not in fact reply to the questions in the manner depicted in the documentary.

(2) The Peoria speech of Lt. Col. John MacNeill was cut up and rearranged so that six widely disconnected and insequential sentences were made to appear as if they had been delivered successively without interruption. The actual speech took two hours to deliver but was compressed into two minutes of air time. The sentences in this particular segment broadcast were taken from pages 55, 56, 48 (sentences 3 and 4), 73 and 88, respectively, of the speech. (See Appendix E.) Through this technique, Col. MacNeill was made to deliver a statement he in fact did not deliver. Here, too, the electronic manipulation was accomplished in a manner impossible for the viewing public to detect.

The Special Subcommittee on Investigations has in the past conducted investigations into deceptive broadcast practices, going all the way back to the "quiz show" scandals. For example, it found staging in its "Pot Party" and "Project Nassau" investigations, and it found deceptive manipulation of sound track recordings in "Project Nassau." Never before had it encountered the insidious practice of intentional altering of the words and thoughts of anyone who appeared on a news documentary broadcast.

On the basis of these partially substantiated allegations and other allegations charging that deceptive practices were employed in the making of the documentary, the Subcommittee initiated its investigation. In so doing, the Subcommittee was meeting its responsibility imposed upon it by the House of Representatives under Clause 13 and 26 of Rule XI, and under House Resolution 170 of the 92nd Congress. (See Appendix F.)

Mr. STAGGERS. Mr. Speaker, I ask

unanimous consent that the rest of the report be considered as read and printed in the RECORD.

The SPEAKER. Does that include the minority views?

Mr. STAGGERS. It includes the rest of the report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. WOLFF. Mr. Speaker, I object.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

On April 7 the Subcommittee met in executive session and voted unanimously to issue a subpoena to Dr. Stanton and CBS calling for the production of materials necessary for the Subcommittee to determine the nature and extent of any deceptive practices that might have been used in the documentary. On April 8, the subpoena was served. (See Appendix G.) By letter dated that same day, Dr. Stanton advised Chairman Staggers that he would not comply with the subpoena as issued. (See Appendix H.) He did say, however:

"[W]e sincerely hope that your Subcommittee will reconsider this matter and modify the subpoena so that it calls for only such materials as were actually broadcast and other information directly related thereto— which we do not object to furnishing and which we will furnish on the date specified."

On April 20, a representative designated by Dr. Stanton appeared in behalf of CBS and Dr. Stanton before the Subcommittee. He was provided with a statement of Subcommittee jurisdiction, legislative concerns and the relevancy of the materials subpoenaed. (See Appendix I.) The CBS representative informed the Subcommittee, through a letter of Robert V. Evans, Esq., CBS Vice President and General Counsel (see Appendix J) that Dr. Stanton and CBS declined to furnish the materials called for in the subpoena, but did consent to voluntarily supplying a filmed copy and a written transcript of the broadcast. The CBS representative requested an additional ten days for further consideration of the matter and for preparation of a legal memorandum.

On April 20, the Subcommittee received a letter from CBS and Mr. Evans transmitting certain additional information relating to the subpoena together with a copy of a legal opinion of its attorneys. (See Appendix K.) The legal arguments advanced by CBS in opposition to the subpoena were carefully reviewed. On the basis of that review, it was concluded that the Subcommittee was entirely within its legal rights in asking for the material. (See Part III, *iv*, "Legal Considerations.")

Mr. STAGGERS. Mr. Speaker, again I renew my request that the report be considered as read and printed in the RECORD, with all of the minority views and the staff report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should think that the gentleman would want to end the report on page 11. This will be a record and text akin to the Sears, Roebuck catalog if you put in all of the minority and majority views reported here.

Mr. STAGGERS. The gentleman from Iowa is correct.

Mr. GROSS. What purpose would be served by that?

Mr. STAGGERS. The gentleman from

Iowa is correct. I thought in order to save time we would do that, but I will be glad that the Clerk continue to read.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

On May 12, the Subcommittee met to receive the testimony of Mr. Henkin (see above.) He testified that his filmed interview had been rearranged and edited for broadcast so as to distort and change his original answers to the questions asked. Mr. Henkin stated he had no objection to having the outtakes of his interview made available to the Subcommittee and the public. The Subcommittee also received for the record a deposition from Col. MacNeill in which he declared he had no objection to having the outtakes relating to his speech made available to the Subcommittee.

Mr. GROSS. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman from Iowa rise?

Mr. GROSS. Mr. Speaker, I have no objection if we are considering it as read if it will end on page 11, the end of the report.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I think in all fairness, Mr. GROSS, that all of the report should be included in the RECORD, but I think that under the legal procedures only up until page 11 is really the necessary part.

Mr. GROSS. That is right. We could consider that as being read.

Mr. STAGGERS. Mr. Speaker, I renew my unanimous-consent request that the report be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The remainder of the report is as follows:

On May 26, the Subcommittee met and determined that the information and material supplied by CBS was satisfactory to meet some of the requirements of the original subpoena. The subpoena of April 7 was accordingly withdrawn and a new subpoena was issued calling upon Dr. Stanton and CBS to produce only that material not yet supplied, that is, the outtakes. (See Appendix A.) It has been determined that this material would not reveal sensitive or confidential sources. The Subcommittee made clear that the outtakes desired were only those pertaining to the actual broadcast. The Subcommittee's action was in direct accord with the hope expressed by Dr. Stanton in his letter of April 8, that the subpoena would be modified to call only for such materials as were actually broadcast "and other information directly related thereto."

On May 27, the Subcommittee served the new subpoena calling for the personal appearance of Dr. Stanton and the production of only those outtakes which were directly related to the actual broadcast.

On June 24, Dr. Stanton personally appeared before the Subcommittee. He was again advised of the Subcommittee's jurisdiction, legislative purpose and the relevancy of the material subpoenaed. (See Appendix B.) Dr. Stanton refused to produce the outtake film called for by the subpoena. Moreover, as set forth fully in Part I of this re-

port, he refused to testify concerning the editing techniques used in the "Pentagon" documentary, or any other particular broadcast.

On June 29, the Subcommittee met in executive session (see Part I, above) and voted unanimously to forward to the full Committee its recommendation that CBS and Dr. Stanton be cited for contempt of Congress for failing to comply with a lawful subpoena.

On July 1, the House Interstate and Foreign Commerce Committee met in executive session and voted 25-23 to recommend to the House of Representatives that Dr. Stanton and CBS be cited for contempt.

Mr. STAGGERS. Mr. Speaker, I offer a privileged resolution, by direction of the Committee on Interstate and Foreign Commerce, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 534

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Interstate and Foreign Commerce of the House of Representatives to the contumacious conduct of the Columbia Broadcasting System, Incorporated, and of Dr. Frank Stanton, its President, in failing and refusing to produce certain pertinent materials in compliance with a subpoena *duces tecum* of a duly constituted subcommittee of said committee served upon Dr. Stanton and the Columbia Broadcasting System, Incorporated, and as ordered by the subcommittee, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that Dr. Frank Stanton and the Columbia Broadcasting System, Incorporated, may be proceeded against in the manner and form provided by law.

The SPEAKER. The gentleman from West Virginia (Mr. STAGGERS) is recognized for 1 hour.

Mr. STAGGERS. Mr. Speaker, I yield 10 minutes to the gentleman from Washington (Mr. ADAMS), a member of the committee, and I yield 10 minutes to the gentleman from North Carolina (Mr. BROVILL), a member of the committee and I yield 14 minutes to the gentleman from Illinois, the ranking minority member on our committee. In doing this, I believe I have the names of those to whom he wants me to yield, and so I would be very happy to do so, unless he wants control of the 14 minutes.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. SPRINGER. It is perfectly agreeable with me, in connection with the papers which I handed the gentleman from West Virginia, to handle the time.

Mr. STAGGERS. I thank the gentleman.

Mr. Speaker, I yield myself 5 minutes.

(Mr. STAGGERS asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. STAGGERS. Mr. Speaker, I would like to make my explanation of this very brief.

Mr. Speaker, to me the question is a

very simple one. This subcommittee issued a subpoena, a duly authorized subpoena, and it was duly served. The question is whether it was complied with. However, as you have heard and read, it was not complied with. In view of the fact that it was not complied with, those who were cited in the subpoena were in contempt of the Congress of the United States. That means all of this Congress, not just one person, one committee, but the whole Congress of the United States was defied when they said, "We will not deliver the materials that were requested."

So, that is the simple question today. I think that the vote ought to be right now as to whether they were in contempt. However, I do not think that would be fair to the House. I would like to present what brought it about.

There has been an awful lot of talk about the first amendment. I do not believe the first amendment is involved in this question in any way whatsoever.

This has been the principal issue of those on the other side, that this is an invasion of the first amendment.

Let me say to you that if it involved any man's thoughts, any man's notes or concepts, or anything that he had in his mind, I would say yes. But it does not. This involves only the actual shooting of scenes in public. Most of them, seen by more than the person; the cameraman and all the prop boys who were around. If anybody wanted to say that we were taking their notes, it would have to be the cameraman who took down the voices and the pictures, and not somebody who was asking the questions. But the cameraman, he is the man who actually did the work, acted in good faith. That is the reason I cannot see that the first amendment is involved.

So many say that we are trying to get the reporter's notes. There were no notes. They took a picture. They took the recordings. And they took 11 months to take this into some darkroom somewhere and to say, "All right, this man said something that we did not want him to say. So we are going to take an answer from another question over here, and make him say something he did not say." And he did not say it. We know this because we have the testimony, the sworn testimony, of the Assistant Secretary of Defense that he did not make them in this sequence; he did not say these things. We have the deposition of a colonel who said he did not make the statement that was attributed to him; that it was made by a foreign minister of another nation, Laos. And yet they present it and put it as his concept, as though he said it at a certain time.

Now, I think that America is done with this deception. We have had enough of it. And you women and gentlemen of this House of Representatives are the guardians of the public's interest. Every license that is given to any station says "for the public interest, convenience, and necessity." And it can be taken away from them at any time.

The airwaves have been held by law and by the courts to belong to all the

people of this Nation. The Chief Justice whom we have now has been quoted extensively as saying that these are the people's airwaves, and that they ought to be interested in them, and when things are wrong that they ought to do something about them.

We represent the people of America. The gentleman from Michigan (Mr. Gerald R. Ford), represents all of his people who cannot get to New York to complain. The gentleman from New York (Mr. Ocasio Ruiz) does the same thing. He has an obligation to represent his people to the best of his ability, and to see that it is truth and not fabrication that is offered to the American people—and that goes for every other Representative in this House of Representatives.

There are those who would like to say that we have all the information that we need. We do not have that information. We have the sworn testimony of one man. We do not have the outtakes of any portion of the program. There might be 20 or 30 or 40 different places where they misquoted or misplaced these things, we do not know.

The SPEAKER. The time of the gentleman from West Virginia has expired. Mr. STAGGERS. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, the situation is that we need these facts before we can legislate.

There are those who say we have enough, but we cannot legislate in a vacuum. No Member wants to legislate without knowing all the facts. I know the Members would not want to do so; no Member of this House would want to do so, and if he did do so he would be doing wrong if he did not have all the facts.

We want the facts. That is all we want. All we want them to do is supply us with the outtakes. They have refused to do so. When Dr. Stanton appeared before our committee and we asked him certain questions; he refused to answer those questions. If this House ever makes the decision that that is not in contempt of this Congress, then God save and help America.

This is a letter that was written to me that we talked of in the hearings:

DEAR REPRESENTATIVE STAGGERS: Your subpoena of data on the "Selling of the Pentagon" has stimulated CBS to do some selling on its own.

He includes a letter addressed to professors. This is a letter which was sent to us which we found was not supposed to be sent to us. It was sent out by CBS and addressed to a professor at a school in Texas. It states:

Some of the demands contained in the subpoena served on CBS in connection with the "Selling of the Pentagon" I am sure you agree, are deeply disturbing.

If you share our view that they are entirely improper, we would urge you to telegraph the Special Subcommittee on Investigations, House Interstate and Foreign Commerce Committee, deploring the subpoena and asking its withdrawal.

This is the letter that was sent out. We do not know how many were sent out.

I asked Dr. Stanton when he was be-

fore our committee and I said—a thousand—3 thousand—how many?

He did not answer—and I do not know—he said he would supply them for the Racoon.

This went to journalism schools and to universities in America and to the broadcasting stations.

Let me tell you how many came to us from these different sources.

We got nine from press organizations deploring it, and using the same words used in this letter. Ten came from journalism schools.

Sixteen from individuals associated with the universities.

Twenty-three came from broadcasting stations and associations.

Sending out thousands of these across America—this in fact was it. Everyone of them who replied used the paragraphs that were sent out. I say they were wrong, completely, in sending this out.

When we first wrote the subpoena served on Dr. Stanton, he wrote me a letter expressing the hope that it would be modified so as to call for only such materials as were actually broadcast and information directly related to that.

I want you to understand this: And all other material directly related thereto. He said that he wanted us to change it.

Our subcommittee had the rest of the information that we needed by that time, and we changed it to do that: The subpoena called for only those outtakes related to the broadcast.

He came before our committee again and refused to do what he said in the letter that he would do.

The SPEAKER. The gentleman from West Virginia has consumed 8 minutes.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Washington (Mr. Adams).

Mr. ADAMS. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Celler), the chairman of the Committee on the Judiciary.

Mr. CELLER. Mr. Speaker and Members of the House, I counter my fellow chairman, the affable gentleman from West Virginia, and that counter leaves an achen taste in my mouth. But there are overriding considerations in my opposition, reluctant as I am to utter them.

The first amendment towers over these proceedings like a colossus and no esprit de corps and no tenderness of one Member for another should force us to topple over this monument to our liberties; that is, the first amendment.

Does the first amendment apply to broadcasting and broadcasting journalism?

The answer is, "Yes." In the case of American Broadcasting Co. against United States, 110 Federal Supplement 374 (1963) the court said:

... no rational distinction can be made between radio and television on the one hand and the press on the other in affording the Constitutional protection contemplated by the First Amendment. (Affirmed by the United States Supreme Court in 1964.)

See also Rosenbloom against Metro-

media which was a decision of the Supreme Court passed down only last month.

Does the administration say that the first amendment applies equally to the press as well as to broadcasting? The answer is, "Yes." See the address of Attorney General Mitchell before the American Bar Association on August 19, 1970.

President Nixon at a San Clemente press conference recently said that he did not support the subpoena. He said:

—as far as bringing any pressure on the networks, as a Government is concerned, I do not support that.

Are the notes, unused memoranda, unused film and written interviews of a press reporter immune from governmental scrutiny? The answer is, "Yes."

It was so held in the Caldwell case decided in the Court of Appeals for the Ninth Circuit, 494 Fed. 2d, at page 1081 (1970). The case is now pending in the Supreme Court. In that case the Court of Appeals said that—

It is not unreasonable to expect journalists everywhere to temper their reporting so as to reduce the probability that they will be required to submit to interrogation. The First Amendment guards against governmental action that induces such self-censorship.

The court protected the source material—namely, interviews with Black Panthers—from grand jury scrutiny.

Are the clips, outtakes, and other source materials of the broadcaster also impervious to governmental subpoena? The answer is, "Yes."

There may be no distinction between the right of a press reporter and a broadcaster. Otherwise, the stream of news may be dried up. Those who offer the TV reporter information might refuse cooperation if their names were divulged. I cite the recent case of New York against Dillon, decided June 23, 1971, New York Supreme Court, on a motion to quash a subpoena for outtakes.

Do I share the grave and well-motivated concern of the Committee on Interstate and Foreign Commerce with the real danger of deceptive practices and abuse of the media in the exercise of their rights? Yes, but these are hardly new concerns. James Madison addressed himself to these evils of the press. He said:

Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true than in that of the press.

The press and TV often are guilty of misrepresentation and error. Some of this is inevitable in free debate. But "the media, even if guilty of misrepresentation, must be protected if freedom of expression are to have the breathing space that they need to survive." See New York Times against Sullivan.

The importance of the issue before us warrants amplification of the questions I have raised and the applicable law: Question: Does the First Amendment apply to broadcasting and broadcast journalism? Answer: As reflected in the following cases, it is clear that the First Amendment applies to broadcasting and broadcast journalism just as it does to the written press.

1. "Broadcasting and television are entitled to the protection of the First Amendment of the Constitution, guaranteeing freedom of speech and of the press."

American Broadcasting Company v. U.S., 110 F. Supp. 374 (1963), affirmed 347 U.S. 264 (1954), a case rejecting an FCC interpretation of a criminal statute concerning broadcast lotteries.

2. "Primarily, we note that the fact that the news medium here is a radio station rather than a newspaper does not make the First Amendment discussion, in particular with regard to freedom of the press, any less germane. Radio and television were, of course, unknown media when freedom of the press was written into the Bill of Rights, but no rational distinction can be made between radio and television on the one hand and the press on the other in affording the constitutional protection contemplated by the First Amendment."

Rosenbloom v. Metro-media, Inc., 415 F. 2d 892 (1969), affirmed June 7 by the United States Supreme Court, 39 U.S. Law Week 4694, a case extending standard of actual malice in libel actions to cover issues of public importance as well as public officials and public figures.

3. "Each method [of expression; e.g. books, movies, etc.] tends to present its own peculiar problems. But the basic principles of freedom of speech and the press, like the First Amendment's command, do not vary."

Joseph E. Swartz, Inc. v. Wilson, 343 U.S. 495 (1952), a case rejecting First Amendment protection to motion pictures and voiding a New York State law that required movies to be licensed by a censor.

4. "The First Amendment draws no distinctions between the various methods of communicating ideas."

Superior Films v. Department of Education, 346 U.S. 887 (1954); Douglas, J. concurring in a *per curiam* opinion.

Question: Are there serious dangers inherent in interfering with the media in the exercise of its functions?

Answer: Definitely. Interference with the media has a chilling effect on free speech which militates against the public interest.

1. [We must consider this case against] "the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

"Whether or not a newspaper can survive a succession of such judgments [awarding recovery for libel of public officials] the pall of fear and timidity imposed upon those who would give voice to public criticism is an atmosphere in which First Amendment freedoms cannot survive."

New York Times v. Sullivan, 376 U.S. 254 (1964), a case denying recovery for libel of a public official in the absence of actual malice, reckless disregard of the truth.

2. "The First Amendment exists to preserve an 'untrammelled' press as a vital source of public information."

Grosjean v. American Press Co., 297 U.S. 233.

3. "The very concept of a free press requires that the news media be accorded a measure of autonomy; that they should be free to pursue their own investigations to their own ends without fear of governmental interference."

"[I]t is not unreasonable to expect journalists everywhere to temper their reporting so as to reduce the possibility that they will be required to submit to interrogation. The First Amendment guards against governmental action that induces such self-censorship."

Caldwell v. U.S., 494 F. 2d 1081 (1970), a case quashing a subpoena by a Grand Jury summoning a N.Y. Times reporter to testify regarding his interviews with Black Panthers. (To be argued next term in the United States Supreme Court.)

4. First Amendment freedoms need "breathing space" to survive.

NAACP v. Butler, 371 U.S. 415 (1963).

Question: Even if legally supportable, should the House force this constitutional confrontation?

Answer: It should not.

1. [The First Amendment] "is much more than an order to Congress not to cross the boundary which marks the extreme limits of lawful suppression. It is also an exhortation and a guide for the action of Congress inside that boundary. It is a declaration of national policy in favor of public discussion of all public questions. Such a declaration should make Congress reluctant and careful in the enactment of all restrictions upon utterance, even though the courts will not refuse to enforce them as unconstitutional."

Eschschbach Charles, "Free Speech in the U.S.", 1941.

2. "Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true than in that of the press."—James Madison, 4 Elliot's Debates on the Federal Constitution, p. 571.

3. "Authoritative interpretations of the First Amendment guarantees have consistently refused to recognize an exception for any test of truth—whether administered by judges, juries or administrative officials—and especially one that puts the burden of proving truth upon the speaker." *New York Times v. Sullivan*, above.

4. In opening the Special Subcommittee meeting of June 24, the Chairman of the House Interstate and Foreign Commerce Committee stated the Subcommittee already had in its possession sworn testimony and other evidence indicating CBS engaged in questionable manipulative techniques in producing "The Selling of the Pentagon".

5. Additional materials that may be required are obtainable from sources other than the broadcast journalists themselves; e.g. from persons interviewed and electronic specialists.

Question: Are broadcast "outtakes" equivalent to the written notes of newspaper reporters?

Answer: Yes. They are part of the inherently judgmental process through which the broadcast journalist gathers and organizes his materials.

Question: Have these "outtakes" been afforded judicial protection?

Answer: Yes, on the basis of both state statutes expressly protecting them and on First Amendment grounds.

Section 79b of the New York Civil Rights Law (1970) "specifically protects a broadcast journalist from contempt citations for refusing or failing to disclose any news or the source of any such news coming into his possession in the course of gathering or obtaining news... for broadcast by a radio or television transmission station or network, by which he is professionally employed, or otherwise associated in a news gathering capacity."

In *New York v. Dillon*, on June 23, 1971, the New York Supreme Court quashed a subpoena commanding CBS to provide the court with outtakes pertaining to a documentary on drug usage.

Section 1070 of the California Evidence Code similarly precludes use of compulsory court process to compel production of outtakes.

An order of the Superior Court in California, on 7/30/70, quashed on First Amend-

ment as well as the statutory grounds a subpoena calling for "outs" of Westinghouse Broadcasting.

We must keep in mind that in this instance CBS has afforded the Vice President, the Secretary of Defense, and the Chairman of the Armed Services Committee an opportunity to criticize on the air the documentary in question.

That this is not a party matter is quite clear. The White House Communications Director has been quoted as saying the subpoena "is wrong and an infringement on freedom of the press." The Republican United States Senate Policy Committee, in December of 1969, took the position that

Whether news is fair or unfair, objective or biased, accurate or careless, is left to the conscience of the commentators, producers and network officials themselves. Government does not and cannot play any role in its presentation.

In his May 1 news conference in California, the President stated his agreement with the above policy statement and, when questioned specifically with respect to the CBS controversy, said:

As far as the subpoenaing of notes is concerned, of reporters, as far as bringing any pressure on the networks, as a government is concerned, I do not support that.

In summary, I am convinced that as a matter of law if the Congress votes this contempt citation and the matter is brought to the courts by the Department of Justice, the position of the House will not be sustained. Further, as a matter of policy, I believe we are embarking on a dangerous path and, what is more, we are doing it without any evidence of compelling need. There is no need to attempt to impose this legal question on the courts since all of the information necessary for the Committee's legislative purpose is either presently in its possession or available through other sources.

I urge the House to reject the pending resolution.

Mr. ADAMS. Mr. Speaker, I asked the chairman of the committee if I might reserve the balance of my time so that other points of view may be expressed at this time, and that I may be yielded to at a later point in the debate.

Mr. STAGGERS. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. Brannaman).

Mr. SPRINGER. Mr. Speaker, and my colleagues, neither I, nor any Member of this Congress asked for this controversy. CBS did. I call your attention to a statement made by Mr. Richard Salant, the president of CBS News, reported in the April 5, 1971, issue of Newsweek magazine, a date that precedes an inquiry made by the special Subcommittee on Investigations into the "Selling of the Pentagon" program.

Mr. Salant said:

I think the real confrontation will come when the Senate or House hauls us down for an investigation. And then perhaps we will have to say: "Now look, this is none of your business."

Mr. Speaker, if we have today arrived

at a point where we are being investigated, we will have to say: "Now look, this is none of your business."

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Mr. Speaker, if we have today arrived

July 13, 1971

at a point in time when a television network can determine what is, and what is not, the legitimate business of the Congress of the United States, then we have indeed come upon dark days.

It might be well for my colleagues to know something more about the Subcommittee on Investigations of the full Committee on Interstate and Foreign Commerce. The subcommittee originated in the mind of Speaker Sam Rayburn in 1966 and it was largely due to his efforts that this special Subcommittee on Oversight was created, which is now the Subcommittee on Investigations. As a result of the creation of this subcommittee, we did investigate the Sherman Adams and the Goldfine cases. As a result, thereof, Goldfine was prosecuted, Sherman Adams resigned from the staff of the President and in addition, the Chairman of the Federal Communications Commission resigned as well as one member of the Federal Trade Commission. Again, in the early 1960's, it came to our committee that the quiz shows which were so popular in that era were fraudulent. Our investigation of the quiz shows did indicate that there was fraud. Contestants were being given answers to the questions before appearing on the quiz show. We exposed this and there was no necessity of legislation. The Federal Communications Commission came forward with regulations to prevent any future frauds of this nature.

Three years ago, CBS was involved in what was known as Project Nassau but better known as the Haitian invasion. CBS supplied a substantial sum of money either to the "invasion" or for the purposes of filming the "invasion" and the preparation of the "invasion."

We demanded all the film with reference to this matter, although it was not shown as a part of any program because the "invasion" did not take place. The amount of film which CBS did take filled some 25 boxes, roughly 18 inches square and 12 inches high. The subcommittee reviewed this film. There was a serious question as to whether or not CBS had been guilty of violation of the Logan Act and also of the Conspiracy Act. We forwarded the results of the investigation to the Department of Justice but without any recommendation.

Through the years, the committee has acted with unusual restraint. It has been only in the most flagrant cases where we believe that congressional scrutiny was necessary had we acted.

It came to us after many complaints on the "Selling of the Pentagon" that answers to certain questions were shifted to other questions. In other instances, answers were combined and inserted in answer to a different question. The subcommittee staff made an investigation and reported that CBS was "guilty of deceit bordering on fraud."

After a careful review of the situation, the subcommittee came to the conclusion that there was deceit and fraud.

I think I should point out to my colleagues that we are talking about a very narrow range of television—commonly known as "the documentary." A docu-

mentary may be related in the second person or it may be related in the first person. In this case, "Selling of the Pentagon" was done in the first person—by exact questions and exact answers. There was no indication of any kind on the program that answers had been transferred to other questions and that answers had been consolidated and transferred to other questions.

If, I, as a lawyer, were to do what CBS did in this instance in taking a record of appeal from a lower court to a higher court and this was pointed out to the judge, I am sure he would hold me in contempt and probably put me in jail. He would be clearly justified in doing so because I would have committed a fraud on the court.

In this case, CBS has not violated any criminal statute. However, may I ask you, is the fraud any less on the part of CBS by doing what it has done than what I could be accused of in altering a record that has been made in a court of appeal.

In short, CBS did not show what it purported to show, but, in fact, showed fraudulent answers to certain questions. In the case of *Rosenbloom v. Metromedia, Inc.*, 39 U.S. Law Week, 4694, of June 1971, Justice Brennan points out: "Calculated falsehood, of course, falls outside 'the fruitful exercise of the right of free speech.'"

This matter has nothing to do with news. We have never questioned the right of a reporter to consolidate news and to give the news that he believes to be the news of that particular moment. Any news reporter doing that has not purported to putting anything on the screen other than what he believed the news to be.

In the case of the "Selling of the Pentagon" CBS did not show what it purported to show because they stated these were the questions and the answers as given when, in fact, they were not the questions and the answers that were given at all.

The committee believes that it is defending the right of the people to know when a deceit or fraud occurs. Second, the committee is defending the right of the people to know how the deceit or fraud was created and how it came to be shown on television. It is impossible for the committee to know how the fraud was committed unless the outtakes are supplied. As a result, the subcommittee is prevented from obtaining information relative to the discharge of its responsibilities and duties. I think I should point out to my colleagues that we are pursuing this investigation in an attempt to determine whether or not legislation is needed or whether or not we ought to make recommendations to the Federal Communications Commission to take any necessary action—such as was taken by the Federal Communications Commission in the creation of the fraud in the quiz show investigation.

The entire system of broadcast regulation is grounded on the twin legal propositions that the airways belong to the people and a broadcaster is a trustee for

the public. In the present case, CBS is a trustee who is determined that he will not be answerable to the public's representatives as to how he has dealt with the public's property which is the public airwaves.

If this challenge is successful, the broadcaster will be in the position of being a "trustee" who is responsible to no one. Legislation requires information. The information sought in the present matter is essential if the Congress is to obtain a clear picture of this serious abuse which CBS has committed and how this may be remedied through the legislative process.

The results of our previous inquiries which I have pointed out above were fully reported and made available to the public. This has served a useful service in making available to the people more information on a question of vital importance to them. That is, how television news is designed, produced, and presented.

These reports which we have previously filed have had another result as well. They have resulted in serious criticisms being leveled against CBS in the forum of public opinion. Apparently, CBS has determined there shall be no more of this. It is, indeed, curious that in attempting to cloak in secrecy its electronic manipulations from the public, CBS invokes the first amendment, the great guarantor of the people's right to know.

The American viewing public bases its decision at the ballot box upon the information it obtains from its most prominent news source—the TV set. The raw naked power to manipulate by gross fabrication the input data is the power to manipulate, however well intentioned, the decisionmaking process of the American electorate. The House Committee on Interstate and Foreign Commerce has the responsibility to answer this direct attack upon its right to investigate for the purpose of legislation. By its contempt resolution of July 1, the committee has made clear its intention to meet this calculated affront.

Mr. STAGGERS. Mr. Speaker, I yield 10 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, no Member of this House of Representatives has been more critical of the methods of the broadcast media than I have, but I say that today you should vote "no" on this issue or send it back to committee.

Why should we be called upon to take this drastic action today—and I say to you it is drastic action—after only very short debate and after very limited opportunity for Members to study the full record?

I urge you to vote "no" for two very basic reasons.

The committee is urging you to vote "yes," saying they need this information in order to carry out their constitutional legislative function. Well, the committee held hearings and gathered vast amounts of material and vast amounts of informa-

July 13, 1971

24727

tion which have been published and are in the Record.

The necessary material to evaluate this documentary is available to the committee and it is available to the House of Representatives, and if the committee intends to legislate on broadcast policy, I say let them go ahead and legislate. It does not need this material in order to do so.

Advocates of this action have stood in the well of this House and quoted chapter and verse on how this documentary was put together. Why should we have to go further? That is the real issue.

Secondarily but just as important are these underlying constitutional issues which are important. These are questions that you and I know exist on this particular issue. The Federal Communications Commission has stated that violations of the fairness doctrine are not involved here. Advocates of this resolution have admitted that illegality is not an issue here. But because of the committee's vigor and wide questioning, I am concerned that news content is, regardless of statements of the committee to the contrary.

I am also concerned, as are many legal scholars, that should this matter be referred to the Supreme Court, there would be little doubt that the Supreme Court will overturn affirmative action the House may take. Thus CBS would be strengthened. It would be far better to refer this resolution back to committee or vote it down. There is no need for the House of Representatives to take this drastic action.

The SPEAKER. The gentleman from North Carolina has consumed 2 minutes. Mr. BROYHILL of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Speaker, I will vote no. The question is close. The answer is in doubt.

So it must always be whenever two great constitutional privileges collide. One must prevail. One must yield. That the collision can exist is proof that neither privilege is an absolute license.

The collision here is between the privilege of the press to edit for journalistic purposes and the privilege of the Congress to investigate for legislative purposes. The collision is between the Government and the governed. The collision is between press freedom and press restraint.

Under the congressional oath to "uphold and defend the constitution," I will not abdicate to the courts my responsibility to make this constitutional judgment. I will resolve the doubt in favor of the press. I will prefer the governed. I will choose freedom.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, I am voting against the citation for contempt. My vote should not be construed as approval of the tactics used in the CBS documentary pro-

gram. Its misrepresentations do a disservice to the television industry, and they invite regulation in the interest of fairness. However, such efforts at regulation are steps down a dead end alley for an American government.

Mr. Speaker, I do not argue the issue of constitutionality, because I am uncertain what the courts might do in extending the protections of the first amendment to federally licensed outlets. Policy is another issue. I do not consider it a desirable policy for the Government or the Congress to issue the kind of sweeping subpoenas we are considering here. The impact of such a policy on news reporting at the local level, particularly could be most unfortunate for the free flow of information. CBS may not have acted responsibly, but as the representatives of the people, the Congress must.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, CBS apparently used extremely poor judgment in its production of "The Selling of the Pentagon." For that, we as individuals, can condemn them and we should. We can hope the American people will join in that condemnation. That is their right. We can insist that CBS give fairer treatment in its coverage of the important issues facing this Nation. Many of us have been doing that for some time. In fact, I am one of their most vocal critics.

But however strongly we feel about CBS or NBC or ABC or any of the newspapers or other media, we must not trespass as a legislative body, as a branch of the Federal Government, on their constitutional right to use their own editorial judgment.

If a newspaper reporter interviews me, there is no assurance that he will write every word I say. And while I may not like the way he handles his story, surely I would not suggest that the Congress has a right to inject its judgment in place of the reporter's or that Congress has a right to review his notes to see what he left out of his story. I suggest the same is true of the broadcast media.

It would be ever so easy to vote "yes" today. CBS has mangled the South, colored the news, handled the coverage of the war in a biased manner, played up the bad and played down the good—all of this and more. But I would not exchange all this, as bad as it may be, for the evil that would infect this Nation from a controlled press. Oh, there are times when I get so exasperated with them I would like to ban all TV, but that exasperation is nothing compared to what it would be if we had a press that had to answer for its editorial judgment, however bad, to a committee of the Congress.

I have great respect for the Committee on Interstate and Foreign Commerce and its chairman. The Washington Post suggested this morning that the very able chairman had his reputation on the line on this issue. I doubt that. But more importantly, the Congress has got its reputation on the line, and we must not let

emotion, or anger with the news media, or concern for the reputation of a Member cause us to make a grave constitutional blunder.

Mr. Speaker, the chairman and a majority of the committee are, in my humble judgment, dead wrong. Sure they are offended by the fact that Dr. Stanton ignored their subpoena in part. But if I were in Dr. Stanton's position, I would ignore the committee, too, because the subpoena goes too far and flies in the face of the constitutional protection of a free press. In any case, what the committee is asking the House to do is to make extremely bad law. In my opinion, the courts of this land will not hesitate to throw out the contempt citation as violation of the first amendment right of freedom of the press.

I would not run CBS as Dr. Stanton does, not by a long shot. But Mr. Speaker, that is not the issue here today. You know, Dr. Stanton's problem is that he is right this time, but he has cried wolf so long that nobody believes him, or wants to believe him.

When Vice President Agnew and others have taken the press to task, Stanton has cried like a stuck pig. He and his counterparts in the media world have cited "Government censorship." He does not understand that we have as much right and duty to criticize the press as it has to criticize us. And so, he has cried wolf too often. And frankly, I would sort of like to stick it to him now. But my friends, we overstep our bounds, and exceed our prerogatives, and offend the Constitution, when we attempt by subpoena to go behind a news story or television broadcast.

If a reporter does me wrong, I can refuse further interviews, or publicly condemn him and his paper or television station. If he does my country wrong, or one of its institutions, I have a right to set the record straight, to call his errors to the attention of the people. But I do not have the right to have the legislative branch call his editorial judgment into question. That is where I believe the Constitution draws the line on interference with freedom of the press.

And so, whether we like Stanton or not, whether he has cried wolf too often or not, whether we like CBS or not, whether we approve of "The Selling of the Pentagon" or not, the Congress of the United States has no right to hold Dr. Stanton and CBS in contempt. It can be no other way, else we will have taken the first big step down the road toward Government control of the press. If that day ever comes, then this Republic as we know it shall not long endure.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, the debate this afternoon, brief as it has been, has laid bare the essential controversy that divides the committee and this House.

It is not whether "The Selling of the Pentagon" was wholly fair and responsible. No one, least of all I, would defend

July 13, 1971

the improper juxtaposition of questions and answers.

The question is whether or not the first amendment is involved; is it relevant or is it merely, as someone has said, a case of fraud and deceit?

I would submit that in legislative surveillance of a news documentary, in asking for the notes of the broadcast journalists—the electronic journalists, and that is what you do when you ask for the out-takes and the sound tapes, we are involving Government in the process of news gathering and news presentation.

Mr. Speaker, I would concede that the motives of the committee may be of the very highest order in their effort to show the public how alleged fraud and deceit has been perpetrated. But therein lies the very danger that is inherent in the role which Congress seeks to assume by issuance of this subpoena, to judge the very content of the news and the exposition of controversial issues to the American people.

There is, as the chairman of the Judiciary Committee pointed out, a long line of cases, beginning with the New York Times against Sullivan which have ruled that in the absence of proof of malice—actual malice—a libel judgment even for a false statement will not stand where issues of public importance are being discussed by the press.

Mr. Speaker, we would ignore at our peril the clear relevance of the first amendment to the facts in the instant case.

This, I submit, is the issue. It is not the chairman. We hold him in the very highest esteem.

It is not the committee. We respect their right to legislate and the broad mandate of their jurisdiction.

But I plead with this House, do not by authorizing the sweeping compulsory process of a subpoena duces tecum launch us on a collision course with that great cornerstone of our liberties as free men, the first amendment to the Constitution of the United States.

Yes, I agree with the chairman of the Interstate and Foreign Commerce Committee that the airwaves belong to all the people.

Even we in Congress cannot deprive people of the right to hear the broadcast of controversial material. We cannot exorcise the ghost of the first amendment that would surely come back to haunt us if we ratified this contempt citation merely by saying that the first amendment is not involved. For it clearly is the gist of the issue that confronts us.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. I thank the gentleman from North Carolina for yielding.

Mr. Speaker, my vote will be against the motion to censure. In my opinion the Columbia Broadcasting System has issued at least two documentaries which are distorted. One is the "Selling of the Pentagon" and the other is one issued some months ago with regard to agri-

cultural workers. I hold no brief for any part of the free press which apparently begins the preparation of a documentary with an idea of proving a certain point. It is too easy to proceed to that point by taking statements which tend to prove it, and ignoring evidence which may be of a contrary nature. I think the broadcast industry, as well as the rest of the press, must police itself to make sure that insofar as humanly possible its portrayal of facts is accurate and that they really "tell it like it is" instead of telling it the way they wish it were.

Even with certain imperfections, the free press has served this country well. If instances of distortion become too flagrant, it may be necessary to deal with them by legislation. I think the Congress has enough facts and enough wisdom to prepare such legislation should it become necessary.

However, I do not believe that we have the capacity to set ourselves up as the arbiter of truth in every instance. The temptation to bring politics into broadcasting is too great to allow a politically chosen body such as this one to be the sole arbiter of the quality of truth.

In my opinion, this is what the first amendment is all about. Our Founding Fathers must have recognized that there would be instances of abuse and lack of truth telling on the part of the free press. Even so, they felt, as I do, that a free people is better served even by an imperfect press than it would be by spoon-feeding of news from politicians or bureaucrats.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Speaker, I intend to support the committee, and vote for the contempt citation.

I had a conversation last Thursday by telephone with Dr. Stanton, whom I have known for many years. He is a graduate of Ohio Wesleyan University in my State. I said, "Frank, I am told that you people in this documentary did something like this: You had your announcer ask a man a question, 'What time is it?', and he looked at his watch and he said, 'Twenty-five minutes to four.' And then you took your announcer off somewhere else, and he said, 'When did you beat your wife last?' And you spliced in the answer: 'Twenty-five minutes to four.'"

Do you know what his answer was? He said, "It wasn't that bad." He said, "We didn't do that deliberately. We didn't make a deliberate lie to an answer, but we did combine some answers and tape parts of answers and use them with a question to which they were not the answer."

Now, I think it is pretty fundamental as to whether we are going to allow the news media to contrive whatever they want by splicing, by cutting, by putting things together, by faking. And if we allow them to get away with it, then my advice, ladies and gentlemen, is do not ever go on a pre-taped show, for you will never know what is going to come out on the television tube.

You know, Mr. Speaker, Dr. Stanton's answer reminded me a little bit of the story about the college girl, a senior girl, who went to the doctor for a physical examination, and she said, "Tell me, doctor, am I pregnant?" And he said, "Honey, it isn't that bad. You are just a little bit pregnant."

There is no degree—and I repeat—there is no degree in fakery. You either fake or you do not. There is no degree to splicing. You either splice or you do not. And you either lie or you do not lie.

We are going to make a decision here this afternoon about whether we put these people under notice that "You stick fairly close to the truth when you tape a show for broadcast later."

As for me, from now on if they want me on television it will be live television or nothing.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. O'HARA).

Mr. O'HARA. Mr. Speaker, CBS certainly can broadcast news and opinions as it sees fit, but I do not believe that it can deny the U.S. Congress its right to inquire into the techniques employed or to examine the television tape recordings used in the broadcast. That is all that has been asked for—not the reporter's private notes, but television tape recordings.

But in any event, Mr. Speaker, the resolution before us does not try to decide the constitutional question. All the resolution does is to refer a prima facie case of contempt to the U.S. attorney for appropriate action—and that is the only way that a judicial determination of the constitutional question can be obtained.

Mr. Speaker, the right of the Congress to obtain information for use in discharging its legislative duties ought not to be abandoned lightly on the basis of self-serving claims of an embarrassed TV executive without even seeking a judicial determination. I hope for that reason the resolution will be agreed to.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. HERR), chairman of the Committee on Armed Services.

Mr. HERR. Mr. Speaker and Members of the House, I agree completely with the Columbia Broadcasting System's stand—and that is the reason I am going to vote to cite them for contempt.

They cry—"first amendment." I believe in the first amendment and there is nobody in this room who can challenge my standing on that. They have had their first amendment. They have had their chance to lie under the first amendment. If it were not for the first amendment, they could not have practiced the deceit that they have practiced. I am one of the victims of that deceit because I was shown in the "Selling of the Pentagon." The film that was shown was obtained from my office under false pretenses.

July 13, 1971

24729

I agree that the public has a right to know. How is the public going to know if we do not make them show what they have under the table and up their sleeves? That is the only way we will make the public know.

More than 30 years ago I participated in perhaps one of the biggest stories that ever broke in the political history in Louisiana. I broke the Louisiana scandals. I was the city editor who broke the Long machine in Louisiana and that is the reason I stand here today. Not once during that time did I deny to anybody the right to look at my notes or examine the evidence on which I based the stories I wrote, which resulted in the overthrow of that political dynasty.

A reporter's source? I will defy to the end any challenge to ask a reporter to give up his source. The same as I would protect the sanctity of the confessional.

But the source is not involved here today. Nobody is asking for the source. I would not vote to ask for the source, but I do vote to ask them to come clean—if you can come clean.

As a postscript in this remaining 1 minute, let me say this—by the truth you shall be known, and the truth will make you whole.

I do not know whether I have much hope or not for CBS, the Columbia Broadcasting System—that is, will benefit from what I just said. But I put this to you, particularly you who are going to vote to cite them for contempt—just imagine how your future is going to be handled by that television system. I wonder how many of you who have been invited to appear on their talk shows will be invited back? There will be a great ominous silence. But if you want the truth to be known and if you want to protect the first amendment and if you agree that the people have a right to know, then vote for this citation.

Mr. ADAMS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in a moment I am going to yield briefly to Members to give them an opportunity so they can say what their position is on this.

Regrettably we do not have enough time to debate it really.

Mr. Speaker, I want to say with regard to this issue, from the beginning many of us have said to members of the committee, this is the wrong case at the wrong place and at the wrong time. You have the Government criticized. Now you have the Government reviewing the press and the Government saying to the press—if you do not subject yourselves to review, we will place you in jail.

This is the worst possible type of first amendment case that you can bring.

There are other cases that we might, there are other times when we might. But what do we get for this? We get only the transcript or pictures of a transcript that we already have in the files, word-for-word. We get Colonel McNeil's speech, which we have in the files word-for-word. We get clips from Government films, which we have word-for-word.

The SPEAKER. The time of the gentleman has expired.

Mr. ADAMS. Mr. Speaker, I yield at

CXVII—1556—Part 19

this time for statements of position. I first yield to the gentleman from Illinois (Mr. MIRVA).

Mr. MIRVA. Mr. Speaker, there is a careless haste with which this House is being asked to decide whether to cite CBS and Dr. Frank Stanton for contempt, a move which many of us believe to be a grave violation of fundamental constitutional liberties.

The opponents of this resolution have been allowed only 20 minutes to state their case to their colleagues and to the Nation. There is no doubt in my mind that when the House considers later this week a bill to amend the Egg Inspection Act, the opponents of that bill will have substantially more than 20 minutes to argue their case.

It is sadly ironic that we are asked to vote for contempt in the name of vindicating the people's right to know the truth, while in the process we are being denied the opportunity to engage in the kind of free and robust debate which the Constitution envisions as the surest road to the truth.

Surely if this resolution is allowed to pass, history will properly judge this House in contempt of the Constitution.

When Congress employs its contempt power, it acts more like a king than like a Congress. We have the power to affect people's lives indirectly, by enacting legislation. We also have the power, in limited circumstances, to act against people directly by ordering them to do certain things and by punishing them for failing to comply.

This kingly power is only to be used in rare and grave instances. The founders of our Nation bore fresh the wounds of misuse of kingly power, and they insisted that their Constitution contain clear limitations on the power, even of Congress.

Mr. Speaker, I expect that the Supreme Court would be firm in striking down any attempt by the legislative branch of the Government to assert its "inherent powers" at the expense of the first amendment. We should not willingly be party to such an unseemly assault on the Constitution. We should not require a coequal branch of Government to remind us of the constitutional restraints on our power.

The right of a free press is not conditioned on its being a fair press. The right of the Government to regulate the traffic on the airwaves does not grant the Government the right to impose an official standard of truth.

There are people who worship cows. Others worship their ancestors. Some worship many gods, others worship one, and some worship none. And what is truth? Some want to sell the Pentagon, and some want to give it away. And what is truth?

It was precisely the difficulty in recognizing truth that occasioned our founders to say that Congress shall make no law abridging the freedom of the press. The Constitution does not condition this freedom on truth. One man's fables continue to be another man's dogma, and not even Congress, exercising the awesome power of contempt, is going to tip the scales one whit in the people's des-

perate search for the truth. What we can end up doing instead is to blow out the candle.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, I rise today on a matter of great importance and with potentially far-reaching consequence: The motion to cite the Columbia Broadcasting System and its president, Dr. Frank Stanton, for contempt of Congress for failing to comply with a subpoena issued by Subcommittee on Investigation of the Committee on Interstate and Foreign Commerce. Dr. Stanton refused to produce the "outtakes" on unused portions of filmed interviews of materials which appeared in the well-publicized and highly controversial CBS documentary, "The Selling of the Pentagon," and refused to testify about editing practices used in the preparation of any specific CBS news or documentary broadcast.

I have carefully examined all sides of this question and have studied all the materials that the various parties have circulated to Members of this body. I must vote against this motion and I urge my colleagues to do so. I find that the contemplated action is unnecessary; the action is illegitimate and the action is dangerous to basic American freedoms. To support the motion, I feel, is little more than an unwise gesture of congressional courtesy. Allow me to elaborate on my position.

I believe the action is unnecessary because the subcommittee has virtually all the information that it would acquire if the terms of the subpoena were completely fulfilled. The Congress and the public at large have available film copies of the original documentary, texts of all the disputed interviews or speeches, and copies of editing regulations issued by CBS. Given the availability of these data for the subcommittee's investigation, to view the outtakes, it seems to me, would be a superfluous exercise.

I believe that the action we contemplate is illegitimate because the subcommittee has no right to subpoena the outtakes and perhaps has no right even to consider legislation about editing procedures and the content and presentation of news broadcasts. I find compelling the analogy between a reporter's notes or the first drafts of his news stories and the unused portions of filmed interviews. All these fall under the protection of the first amendment and thus may not be tampered with by the Congress.

Even if we were to grant the legitimacy of the subcommittee's effort to obtain the outtakes for "The Selling of the Pentagon," I would still oppose the issuance of a contempt citation because such action poses dangers to basic American freedoms. If we approve this motion we shall be establishing a precedent that may lead us into greater and greater control and supervision of news broadcasts and documentaries. Any degree of control or supervision makes a mockery of our constitutional guarantee of freedom of the press, and of the public's right to know.

Mr. Speaker, I believe we are caught up in a wave of anxiety over the content of the print and broadcast media. The

July 13, 1971

motion we are debating today is the product of the assumption that the CBS network and, by extension, all news gathering agencies, are engaged in the intentional deception of the public. I think it is far more likely that a different assumption is the more correct one from which to begin any discussion—that the media are presenting an accurate and truthful picture of American society today.

Finally, Mr. Speaker, I think that to support this motion merely because it is unprecedented to reject a committee's recommendation that a contempt citation be issued is an unwise gesture of congressional courtesy. Merely because we respect the rights and privileges of a committee and its chairman is not sufficient reason to race headlong into a confrontation with the courts over basic constitutional issues when our case is weak and we have all the information we need.

I hope this motion will be rejected overwhelmingly.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OAST).

Mr. OBEY. Mr. Speaker, I urge defeat of this resolution.

The proper disposition of this question is not so clear as either side would make it. That is probably the strongest single reason why this resolution should be voted down. I am persuaded by the committee minority that since the committee and the House have available from other sources much of the information which they are seeking in other forms from CBS, that the court will sherd the committee case and, in the process, quite probably do unnecessary damage to the investigative powers of the Congress itself.

If for no other reason—and there certainly are others—the House should defeat this motion. I am nevertheless not persuaded by the alarmist attitude by some that the committee is out to trample the protections of the first amendment. What we have here in my judgment is a sense of outrage on the part of the committee majority at misleading editorial practices—especially in the editing of the responses of Mr. Henkin—and an accompanying determination to require the temporary users of the public airwaves to conduct themselves in a responsible and sensitive manner. That determination is understandable and I share it.

The basic question, however, is just how you accomplish that. Members of Congress, by virtue of their temperament and position have an almost irresistible impulse to be "Mr. Fixit"—to see a problem and attempt to correct it in the most direct possible way. But Mr. Speaker, in this instance the most direct way is not the best way for the Congress and it most certainly is not the safest way for the country.

The committee minority in its discussion of how best to preserve a press that is both honest and free observed that—

The French historian de Tocqueville, who traveled this nation in the early 1800's, con-

cluded that the freedom of the American press probably struck the best balance. The characteristic that impressed him most was the fact that American periodicals were diverse in opinion, owned by many men who competed in giving access to the average citizen to a wide range of opinions and interpretations.

That, Mr. Speaker, is the key. If this House supports this citation, I am confident the court will negate it. That being the case Congress will still be faced with the question of how best to guarantee fair treatment by and open access to the electronic media. That can only be guaranteed by a public policy which demands and insures diversity of ownership within the television-radio industry.

As the committee minority stated: Our broadcasting industry is a powerful and in many ways more concentrated industry than magazines and newspapers. A single newscast often reaches more citizens than the largest circulating newspaper.

Given that fact the FCC and probably the Congress will have to determine whether it is really in the public interest to allow this concentration to continue and even to grow.

Is it really healthy for instance, to allow a single economic group, through collective ownership of newspaper, television and radio outlets, to dominate access to an entire community?

What license renewal procedure should be followed to insure that a television or radio license once granted is not held almost in perpetuity regardless of the abuses of the licensee?

Would the public interest best be served by limiting the time that one group effectively hold a broadcasters license?

What policies would best guarantee that adequate public service time is made available to all groups within our society, popular or not?

These are just some of the questions which we must face whether or not we adopt this resolution today. I think the very questions I have raised indicate that I do not have an abundance of confidence that those who control our broadcast media will always be able to guarantee fair and impartial use of the airwaves.

The trouble I have with this resolution today is that I have even less confidence in our ability as politicians to guarantee that same impartial use and so I urge you to vote the resolution down.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to the pending resolution to cite the Columbia Broadcasting System and its president for contempt.

I am sure that most, if not all, of the Members have done a great deal of soul-searching on this issue. We have all received a great volume of mail, legal briefs, and arguments concerning this matter. We have listened to our colleagues cogently advocate their positions.

I personally feel that the subpoena in question is legally objectionable. I set forth my reasons in a letter to the es-

teemed chairman of the Interstate and Foreign Commerce Committee on May 6, 1971. Those reasons have been reiterated here in various forms by those who join me in this opposition, so I will not repeat them.

We can argue as to how the Supreme Court would rule on this question for days and weeks. But I believe we can and should decide this question ourselves—and we should decide it in favor of the network and its president.

This is our affair and it should be decided by us as elected representatives of the people, not necessarily in an assumed role as a Supreme Court justice.

I think we can all agree that the freedom of the press, including the broadcasting media, must be maintained. I believe we can also agree that approval of the contempt citation in this case would result in an encroachment on this freedom. Whether we label it a "letting," a "chilling effect," or "censorship," we all must agree that an endorsement of the subpoena, especially an endorsement through punitive sanction, will result in a restraint that otherwise would not exist.

We would also agree that Congress has legitimate investigative powers, including the power to subpoena. But Congress should use these powers only when needed, and with discretion.

Even if we were all in agreement that the subpoena in question would survive the test of a Supreme Court decision, we should not let the matter rest there. We should discipline ourselves. We should not be content to look at the decisions of the Supreme Court and work within the broadest possible limits of those decisions. Our concern with freedom of the press should be as great or greater than that of the judicial branch. We can and should do more to protect the freedom of the press because we are not bound, in affording such protection, by the legal niceties of constitutional law.

We have the obligation to decide, using our own judgment, whether the subpoena and subsequent citation were appropriate in this case. In the recognized light of the fact that they will result in an undesirable restraint, we should find them appropriate only if we find them necessary. We should find them necessary only if we find that they would serve some legitimate purpose.

The record in this case indicates that Dr. Stanton testified freely concerning the general editing practices of CBS. The subcommittee evidenced concern over the editing of the interview with Assistant Secretary of Defense Henkin and an address by Colonel MacNeil of the Marine Corps. The full transcript of the Henkin interview was available to the subcommittee as was the address of Colonel MacNeil's speech. Would the outtakes in question, then, serve the committee or the House in reaching a conclusion or in recommending legislation? I do not believe so and I have received no indication that they would do so.

With all due respect for the distinguished committee and its chairman, I believe that we must demand such a

July 13, 1971

24731

showing in this case. We must not adopt an unprecedented restraint on the news media while failing to exercise restraint ourselves.

For these reasons, I will vote against the resolution and I sincerely urge all of my colleagues to do likewise.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from New York (Mr. RAN).

Mr. REID of New York. Mr. Speaker, freedom of the press is indivisible. The right to publish and the right to edit are both covered by the first amendment, and this covers both radio and TV and the print media, and I hope the contempt citation is voted against and voted down.

No branch of the Government has the right to oversee editing by the press, either broadcast or printed. I hope that the contempt citation is defeated.

Mr. ADAMS. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island (Mr. TIERNAN).

Mr. TIERNAN. I thank the gentleman for yielding.

Mr. Speaker, and Members of the House, on June 29 of this year this subcommittee released to the press the following statement:

The Subcommittee issued its subpoena because of evidence that CBS, in its news documentary, "The Selling of the Pentagon," had engaged in highly deceptive practices. That evidence, since verified by sworn testimony, showed that by cutting and splicing filmed materials, the words of speakers were rearranged—

Members of the House, the evidence is already before the committee.

The SPEAKER. The time of the gentleman has expired.

Mr. ADAMS. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks somewhat in the manner of Roger Mudd.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Speaker, if the winds of controversy that blow here today were not the winds of the first amendment and the winds of congressional power, which incidentally are blowing rather strong today, this would be a tempest in a teapot. In truth, we have the material which constitutes the applicable outtakes though we persist in asking for them, and that is precisely why we stand on our weakest point if we seek contempt in this case.

Mr. ADAMS. Mr. Speaker, may I inquire how much time I have remaining? The SPEAKER. The gentleman has 30 seconds remaining.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Maryland for a unanimous-consent request.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Speaker, I intend to vote against this resolution. A contempt citation

would almost certainly be reverted by the Supreme Court and such a reversal would almost certainly be reversed by the House of Representatives.

Mr. ADAMS. Mr. Speaker, I shall close by stating I regret we cannot present all of the materials that we have. This is an awesome thing we do today. The most important thing that a House of Representatives can do is to decide whether or not a man is to be placed in jail, and that is what we are deciding today.

I ask that Members balance carefully what the contempt citation says can happen. The penalty is 1 year. I hope Members of this House will consider carefully the balancing of what we have as opposed to what we will get.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Washington (Mr. PELLY) for a unanimous-consent request.

Mr. PELLY. Mr. Speaker, the evidence brought forward by the House Committee on Interstate and Foreign Commerce certainly indicates that the practices used by the Columbia Broadcasting System in the production of "The Selling of the Pentagon," were deceptive at best. Defrauding the American people through dishonest film editing practices is reprehensible.

But, it does not seem to me that delivering these "outtakes" will make any difference to the committee. This raw material does not seem to me to be necessary to determine if the network deliberately distorted the facts. CBS president Frank Stanton now admits that editing policies have been changed.

Yet, the charges by the committee are well taken. We can look back to other CBS endeavors, such as "Hunger in America" which was proved to be, in part, staged.

Much as I deplore what I consider to be a lapse of editorial responsibility by CBS, it does not seem to me that it is necessary to bring about charges of contempt. CBS has shown the American people its practices, and the committee has well publicized CBS' lack of credibility.

It brings to my mind, Mr. Speaker, the advice given some time back by Vice President Spiro Agnew, when he warned the TV industry that it should discipline itself. Maybe now they will take that advice without the Congress having to bring about that discipline itself.

In a way I would like the question of the first amendment to go to the Supreme Court. However, Mr. Speaker, I do not feel it is proper in this case to cite Mr. Stanton for contempt. I shall vote to recommit the bill to committee, or I will vote no, whichever is the case.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Maryland (Mr. GUMS).

Mr. GUMS. Mr. Speaker, I rise in opposition to the resolution of the House Interstate and Foreign Commerce Committee to cite CBS and its president, Dr. Frank Stanton, for contempt for failing to comply with a subpoena issued by the Subcommittee on Investigations.

The issue at stake in this vote is not whether Congress approves of the CBS documentary "The Selling of the Pentagon," or even whether Congress condones the editing techniques employed by CBS in the production of this program. Instead, what we are being asked to decide is whether Congress should sit in judgment on a network's decisions in this area.

I feel strongly that this contempt citation, if approved by the House would have a chilling effect on the freedom of the press, and would substantially discourage the presentation of controversial, and unpopular points of view by the news media.

The Federal Communications Commission studied the issues surrounding this controversy and concluded that the CBS editing decisions were a matter of journalistic judgment into which governmental inquiry would not be proper. The FCC also concluded that CBS has provided significant opportunities for contrasting viewpoints to be heard, and, therefore, complied with the fairness doctrine.

Mr. Speaker, I have only the highest regard for the distinguished Chairman of the Committee on Interstate and Foreign Commerce, and I understand his concern over this matter. I feel a personal obligation to preserve the integrity and scope of the first amendment's guarantee of press freedom. This obligation transcends any present concern I might feel over the alleged indiscretions of the CBS officials, and I, therefore, urge that the resolution be defeated.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in opposition to the resolution.

(Mr. BROWN of Ohio asked and was given permission to extend his remarks at this point in the Record.)

Mr. BROWN of Ohio. Mr. Speaker, the protection of the press springs from the right of the individual citizen to speak his views even though he may be the only one to hold those views. His version of the truth is sacred to him and his right to hold those views should be sacred to the government of a free society—even though the majority may hold that truth is the opposite of those views.

The pursuit of truth is the historic search of mankind and, according to the Judeo-Christian culture, will make man free. But it follows that the search for truth is much easier in an environment of freedom because freedom permits the multiplicity of views where all shades of truth can be found.

It is this search for truth through multiplicity of voices which has been at base of several Federal laws throughout our Nation's history. Second class postal rates to encourage newspapers and legislation to require UHF tuning capacity to expand the range of use of the broadcast spectrum by television are but two examples. The concept of a free press finding the truth works best where there

July 13, 1971

are many presses in the hands of many different people of divergent view.

We should face frankly what is the greatest danger in the freedom of the networks to broadcast their version of the news—and that is that the three major networks night after night command an audience of most of our population to the same view of truth as they see. But the question remains as to whether even that concentration of power over the dissemination of a version of truth should be subjected to a single power; namely the power of government. Three voices seeking truth may be a thousand times worse than three thousand; but one voice determining truth is infinitely worse than three.

In an effort to make this power of concentrated ownership available to more viewpoints—rather than limit its use or judge its discernment of truth—the "fairness doctrine" has been enunciated by the Federal Communications Commission and the "equal time" provision in political campaigns have been written into the basic communications law of our land. But to an extent both such requirements are artificial efforts to further proliferate those viewpoints and therefore, they are not as effective as if they were the result of the harsh reality of economic competition or technological capability.

The potential for further proliferation of voices exists in the technology of cable television and satellites which will further expand the choices of methods by which viewpoints are transmitted. In considering the concentration of audience of the present broadcast networks, the Congress would be much better advised to consider how it can hasten the day when there are more methods of transmission of views and more individual ownership of those methods. This is a much sounder and altogether more constitutional approach in line with our tradition of freedom and private enterprise than any steps to regulate the networks in the quality of truth they choose to disseminate.

The networks may, indeed, be at the height of their power today in influencing Americans and persuading them to the positions held by a small group of executives in a narrow geographical and philosophical fringe of our Nation. But the power of that challenge to our national diversity should not be responded to with an exercise of power by this House which would deny this or any other minority of its right to exercise its biased views simply because of what those views are.

I shall vote against the citation for contempt or to refer this issue back to the Committee on Interstate and Foreign Commerce in the firm belief that my committee can serve truth and the freedom of speech better by attempting to proliferate the voices which seek truth in our land than by trying to identify truth by some official Government agency and then limit the voices that do exist to the espousal of that government inspected version of truth.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRENKEL).

Mr. FRENKEL. Mr. Speaker, today we are to vote on a motion to cite CBS and its chief executive, Frank Stanton, for contempt of Congress. According to sworn, unchallenged testimony, CBS was guilty of deceitful editing and transposition in its documentary, "The Selling of the Pentagon."

The CBS cut-and-paste job was unprofessional and it was unnecessary. CBS, incidentally, is a several-time loser in this department, having been cited at least twice previously for "staging" documentaries.

By its unprofessional conduct, CBS has proved itself no better than its whipping boy, the Pentagon. It has richly earned its current miseries. Its sole defense is the first amendment; that is, free speech gives absolute license to journalists no matter how bad they are.

Despite my distaste for the CBS actions and attitude, I will vote against the contempt citation. I will do so because I believe congressional control of the media would be far worse than whatever CBS has done or can do.

While there may be ways to regulate phony television editing, this motion is not the appropriate congressional action. It carries us too far down the road toward congressional evaluation and control of what is proper reporting.

The first amendment is, after all, a license to be unreasonable, or at worst, a license to cheat. The theory holds that eventually the people will be able to tell a good network from CBS, and not be fooled "all of the time."

That theory places no higher burden on the perspicacity of the citizenry than the theory of representative government itself. If the American public can pick a reasonably decent Congressman, it can pick a reasonably decent network.

I urge the defeat of this motion. Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, the indispensability of first amendment guarantees of free speech and a free press is unquestioned in our society. The Supreme Court has consistently declared that the first amendment is to be given broad and sweeping coverage. And the rationale most frequently cited by the Court for a broad interpretation of first amendment freedoms is that the investigation and criticism of governmental bodies is a requisite for a free and democratic society. The Court has stated:

The free press has been a mighty catalyst in awakening public interest in governmental affairs, exposing corruption among public officers and employees, and generally informing the citizenry of public events and occurrences...

Although the first amendment literally reads "Congress shall make no law," the Court has broadened its interpretation of the amendment to mean that no agency of Government, or court, shall abridge the freedom of speech and the press. The Court has ruled that commercial gain is irrelevant in determining the scope of first amendment freedoms. In 1967, the Court ruled:

Books, newspapers, and magazines are published and sold for profit does not prevent

them from being a form of expression whose liberty is safeguarded by the first amendment.

Certainly, therefore, there is no justification for denying first amendment freedoms to television newscasters.

As the New York Times has editorially observed, if the press is to fulfill the role of independence guaranteed by the first amendment "the line of separation between it and the Government must be kept unmistakable. That line is jeopardized by the subpoenas various news magazines, television networks, and newspapers" have received from Federal authorities for "notes, files, film, and other material."

Today, the House is being asked to take an unprecedented step across that "line of separation" by citing CBS for contempt for refusing to turn over unused outtakes from the television documentary, "The Selling of the Pentagon."

The program itself was courageous journalism, informing the public of questionable uses of the military's public information budget. As the Supreme Court has emphasized, that type of newscasting—scrutiny of public bodies—can only be welcomed in a free society.

Some have argued, however, that the program was flawed by distortions and inaccuracies. Certainly no one would contend that the press is—or could be—perfect. But as Life magazine pointed out—

People who criticize the CBS documentary are having plenty of chance to be heard, which is one way to get distortions righted.

Another recourse is for those individuals who claim to have been quoted out of context to seek redress in the courts.

Regardless of the merits or defects of the program, what constructive purpose can be served by congressional interference in the news judgments of CBS?

Newsman in the print and electronic media must daily make thousands of news judgments, including only a minute portion of all the material they receive in the "finished product." Newsman will make mistakes, of course. But, as the Boston Globe has noted—

Freedom of the press includes the freedom to make those mistakes, and as long as the press is truly free and competitive, there is a built-up assurance that mistakes will be corrected.

The alternative to a free and independent news media, and the disadvantages that inevitably accompany it, is far more ominous than any newsman's error. Government control over news judgments in the preparation of the news would render first amendment freedoms impotent.

Those who seek to subpoena unused materials claim that there is something less than abridgement of the first amendment involved in such an act. But history has indicated that each encroachment on the freedom of the press leads to further erosion of first amendment freedoms.

First, the "chilling effect" of the subpoena issued by the Congress has probably manifested itself already. Broadcast journalism has never been vigorous in its scrutiny of Government. As CBS News President Richard Salant said, a common tendency for some in the broadcast industry is to say, "Let's skip this one, let's not make waves, let's stay out of trouble."

July 13, 1971

That tendency has undoubtedly been reinforced by the Government's intervention into the creation of one of the few TV programs that has examined Government with a critical eye.

Second, the Government is attempting to exercise unwarranted authority in demanding unused materials from a news agency. It is the equivalent of asking a reporter to produce all the notes he took in gathering information for a particular story. If this action is sanctioned, journalists will be put on notice that their unused thoughts, notes, files, and film can be examined on demand by the Government. At least one consequence is clear: Free, independent journalism will be stifled by the Government.

Third, assuming that CBS did make errors in the disputed program, and that all CBS materials were seized by the Government, what legislation can emerge other than proposals for some type of Government interference in the journalist's preparation of the news?

Would Government seek to control the content of news programs and documentaries before they are broadcast? Or would the Government threaten to intervene after a program has been broadcast, searching through files and notes with some intent to prosecute if the Government's "interests" are believed to be at stake? It appears obvious that any legislation intended to police the Nation's news agencies would at best amount to harassment; at worst, to censorship.

President Nixon recognized the necessity for the untrammelled flow of news when he spoke out against the Government bringing any pressure on the networks. The Chairman of the Federal Communications Commission, Dean Burch, has noted the similarity between a reporter's notes and broadcast outtakes, and has voiced his opposition to Government subpoenas. FCC Commissioner Nicholas Johnson has argued that the Nation's news media have an "absolute right" to refuse the demands of Government prosecutors for reporters' notes and unused television film.

Perhaps former FCC Chairman Newton Minnow put it best, however. In recommending that the media refuse to honor Government subpoenas of news film, he said that the media's reply to such requests should be: "Judge me on what we broadcast; the rest is none of the Government's business."

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in opposition to this resolution to cite the Columbia Broadcasting System and its president for contempt of Congress. It is my hope that the House of Representatives will reject this proposal and in doing so uphold both the spirit and the letter of the Constitution. A favorable decision on this contempt citation would set a very dangerous precedent, and serve to encourage unnecessary and negative governmental interference with and control over the broadcast media.

While there is no question but that the congressional power to investigate is a valid part of the legislative function, its operation has been traditionally limited

in the courts by the principles contained in the first amendment. Furthermore, the Committee on Interstate and Foreign Commerce is unable to demonstrate that a justifiable legislative purpose exists for the materials which they seek through this subpoena. The record does not show a compelling need. In fact, we are told the subpoena covers what the committee either already has or can obtain.

Finally, there is no question but that to force CBS to comply with the committee's wishes on this matter would have a detrimental, "chilling effect" upon the freedom and discretion of broadcast journalists—men who owe a responsibility to the public, not to the Congress.

For these reasons I intend to vote against this resolution and strongly urge my colleagues to do the same.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, I rise in opposition to the resolution.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Indiana (Mr. HILLS).

Mr. HILLS. Mr. Speaker, I rise in opposition to the resolution.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Utah (Mr. LLOYD).

Mr. LLOYD. Mr. Speaker, in opposing this resolution to charge the president of the Columbia Broadcasting Co. with contempt, I do so because I believe the spirit of the first amendment is being violated.

I believe there was distortion, possibly malicious distortion, by the television network in its production of "The Selling of the Pentagon." There will undoubtedly be distortion in the future. It is difficult for me to vote against a committee honestly dedicated to the protection of the public interest, and I realize this committee is overwhelmed by the giant lobby now arrayed against it. I have been on the receiving end of a doctored television tape which did damage to me, and this may happen again. In the public interest, the television networks and local television stations, in their preparation and distribution of the news and other material, should establish fair and reliable guidelines and enforce policies which adhere to these guidelines guaranteeing fairness.

The alternative, however, should not be to open the door even slightly, to the possible threat of Government censorship and control of the material distributed by a free press, including television. We lose much when television does not maturely and responsibly discharge its proper duty to a free society. We will lose much more if we here overreact. There are competitive ways in which the damage done by one network or one station can be disclosed and corrected by a competitor, provided there is a responsible competitor around with an interest in fairplay. There are far fewer ways in which the people can be protected against the irresponsible act of a Government censor. We will be making a mistake if we allow Government to push its nose in the tent of a free press.

The SPEAKER. The gentleman from West Virginia has 15 minutes remaining.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, I rise in support of the position of the gentleman from West Virginia (Mr. STAGGERS).

My review of this matter convinces me that the action recommended to this House by the Committee on Interstate and Foreign Commerce best serves the purposes of the first amendment.

We are not dealing here with a case of prior restraint of the press. For it appears that the press may publish anything it desires, whether the material is stolen or honestly gathered; whether it is true or false; or whether it is libelous or slanderous. I cite the case of Rosenbloom against Metro-Media, Inc.

Neither are we dealing with the confidentiality of news sources about which the law appears to be well settled.

What is involved here is the right of the people to know—and to know the truth, with particular reference to a federally licensed TV channel monopoly.

As Mr. Justice Black pointed out in his recent opinion in the New York Times case, the first amendment belongs to the people. It is not the property of those who publish for profit nor is it the property of the Federal Government.

The enlightenment of people on the great issues of our time cannot be achieved by a media which warps and distorts facts, and which cannot be called to question in any forum.

It is the people's right under the first amendment to know when the "news" or other events, presented to them by a Government-licensed monopoly, are biased.

Mr. Speaker, I have had two unfortunate personal experiences involving what appears to be television network bias within the past 10 months.

The first involved a documentary for the CBS Morning Report prepared by Mr. Joseph Benti. Before giving Mr. Benti over an hour of interview time, I was assured that his program on "The Dangers of Radiation" would be balanced.

To my amazement, when the program was aired during the week of August 10 to 14, 1970, I found that only 2½ minutes of my filmed answers were used in the so-called 1-hour documentary. The balance of the hour was used for arguments against my position.

On the other hand, the producers of this film took great pains to comb the countryside for persons to interview on the other side of the issue. Most of this material was purely conjecture and all of it misrepresentative of the consensus of responsible scientific opinion. The entire program was generously laced with the biased editorial comment of the interviewer.

Ironically, CBS, in order to prove its own preconceived notions that the Atomic Energy Commission has misrepresented the facts, resorted to considerable "fact-twisting" of its own.

Under permission heretofore granted, I will append a letter which I wrote to Dr. Frank Stanton of CBS, on September 11, 1970, protesting this action, and Dr. Stanton's reply dated October 5, 1970. The other instance, Mr. Speaker, also

July 13, 1971

involved the position of nuclear power in the existing energy crisis. In this instance, I gave a 1 hour interview of my time to NBC for use on a program entitled "The Powers That Be," which was shown on May 18, 1971. Five and one-half minutes of my statement was used and approximately 50 minutes was used by the movie star commentator and other persons to present comment and arguments which were critical of my position. I do not consider 50 minutes' time on a 1 hour program to criticize a 5½-minute statement of a controversial matter a fair division of time.

On this program, a well-known comedian was the narrator; music with overtones of genocide was added; and all questions asked of me were omitted. Once again, the commentator inserted biased editorial matter, and the majority of the interviewees were scientists whose theories have been thoroughly discredited. The theme, again, was that our Federal Government is guilty of misleading the public. The so-called documentary film ended with a music background of the old religious song "Nearer My God to Thee."

Mr. Speaker, these two cases have been sufficient to convince me that I should not grant future pretaped interviews on any important national problem to the television media. I would have no objection to a formula of fair debate on a live program where time would be divided equally between proponents and opponents of a given issue.

Mr. Speaker, I contend that our failure to support the Committee on Interstate and Foreign Commerce today will have its own "chilling effects." This phrase is frequently used by Mr. Stanton of CBS in his defensive arguments.

Continued irresponsible use of the powerful broadcast monopoly to interpret great issues only in accordance with its own particular bias "chills" the right of the public to hear and see the truth. Further, an unaccountable broadcast industry will have a "chilling" effect upon the willingness of public servants to speak out on important issues.

Perhaps the greatest "chilling" effect of all, Mr. Speaker, would be upon the ability of this House to make the laws under the mandate of article I of the Constitution.

If this House, through its committees, is unable to compel evidence upon which to base its legislation, where will we look for guidance? How can we assure that the public interest is being served by a federally licensed monopoly?

In summary, Mr. Speaker, these are the reasons why I will vote in favor of the resolution which is before us:

The first amendment did not create a select group of persons who are immune from all accountability, as some would have us believe. The amendment simply established the right of the people of an unrestrained press.

The press is accountable to the people and to the people's representatives who must make the laws. The people have a right to know when they are reading, hearing, or seeing a biased account of events based upon the political or philosophical views of some editor, producer, or reporter.

It is also very interesting to note that a TV corporation protects its media position by requiring an interviewee to sign a legal form which protects the TV corporation from any type of legal liability which might arise from an interviewee's remarks. At the same time they sign no legal form protecting the interviewee from misrepresenting his remarks or subordinating his position by massive use of time in relation to the time allowed to the interviewee's arguments.

If the "chilling" effect of a contempt citation results in a greater degree of truth in broadcasting, the purposes of the first amendment will be served in the highest degree possible.

The letter follows:

JOINT COMMITTEE ON ATOMIC ENERGY,
JOINT COMMITTEE ON
ATOMIC ENERGY,

Washington, D.C., September 11, 1970.

Dr. FRANK STANTON,
President, Columbia Broadcasting Station,
Inc., New York, N.Y.

DEAR DR. STANTON: I am writing to inform you of my keen disappointment in the Joseph Benti television show, "The Dangers of Radiation," which appeared as a portion of the CBS Morning News in a five-day series during the week of August 10-14. Prior to the show, and in response to Mr. Benti's request, I gave approximately one hour of my time to Mr. Benti and his recording crew during which I answered many questions concerning atomic energy matters, and in particular, concerning Federal radiation standards.

In response to my request, your Washington office was kind enough to furnish me on August 28 with a transcript of the "Dangers of Radiation" show.

On Thursday, August 13, a very small portion of the tape, which I made at Mr. Benti's request, was shown. The lead-in warned the public that persons representing the Atomic Energy Commission or the Joint Committee on Atomic Energy were frequently guilty of not telling the full story. Next, there was a portion of the comments which I made concerning the outstanding work of Dr. Russell on the genetic effects of radiation exposure to mice. I pointed out that doses significantly higher than those to which people living in the vicinity of nuclear reactors are exposed would be required in order to produce deleterious genetic effect. I was cut off at this point in the T.V. program; and the comment was made that I failed to tell the full story in that male mice showed no protection due to a protracted dose whereas in the case of the female, as I had stated, a protective mechanism had been demonstrated. These remarks included quotes from testimony presented to the Joint Committee during hearings held in January 1970. The commentary by Mr. Benti simply failed to cover a previous statement in the testimony which would have placed the male and female genetic effect conclusions arrived at by Dr. Russell in a proper perspective.

The inference, of course, is that I was telling only the results of the Dr. Russell's experiment which favored atomic energy and keeping from the public the results which were unfavorable. This was certainly not the case, and it is my belief that the manner in which the tape was cut and comments of others fed in represents a conscious attempt to suggest that I am biased in my views and that I do not fairly report the information that has been made available to me. The Dr. Russell have been experimenting for over twenty years with large numbers of mice and under varying conditions of radiation exposure with a great variety of interests in the special relationships which may exist. They have arrived at a number of conclu-

sions. I did not state them all. Mr. Benti did not state them all. Time forbade a complete analysis of their work. It should not be assumed that I was attempting to hide any of their conclusions nor was I attempting to report on all of the work that they have done.

Attached are some page proofs (pp. 1428-30) from Part 2 of the soon-to-be-published Joint Committee print, "Environmental Effects of Producing Electric Power." I shall send you the complete record when it becomes available. This hearing record was developed in January and February of this year. Dr. Russell appeared on January 29 and presented as his prepared testimony the "report" referred to by Mr. Benti during his assertion that "Mr. Hollfeld left something out."

Dr. Russell appeared in response to my personally written invitation. I believe he and his wife have made a tremendous contribution towards increasing our knowledge of the genetic effects of radiation. I wanted to develop in the public record his complete views of what has been learned and what needs to be learned in this field. Repeatedly during his testimony, I requested that he expand upon his comments in order to assure that lay people would understand the point he was making. I did not attempt to shape his remarks in any fashion; and in subsequent public discussion of his findings, I have tried very hard to fairly state his conclusions.

It is indeed incredible that I, who brought Dr. Russell's research findings to the attention of the Congress and the public at large through the mechanism of my hearing process, should be accused by Mr. Benti of hiding that same information from the public view. As I said at the beginning, I am keenly disappointed in the manner in which my remarks were presented to the American people. I feel that the fashion in which the story was pieced together did not coincidentally misrepresent my position. I am forced to conclude from the reports that have been made to me concerning, not only Thursday's program, but the entire five-day series as well indicates the reporting was heavily biased to show that radiation in small amounts is dangerous to the public health and safety and that the Atomic Energy Commission, the Joint Committee on Atomic Energy, and other elements of our Federal Governments are behaving irresponsibly in order to reinforce particular points of view in which they have special interest. This, I can assure you, is not the case. I fully recognize the statutory responsibility of this Committee to "oversee" on behalf of the full Congress the activities of the Commission. Where the discharge of these responsibilities dictate we do, and have in the past never failed to exercise our authority to investigate, appraise, and report upon the Congress and the American people any failure upon the part of the Executive Department to carry out its assigned responsibilities in a fair and just manner.

Since...
CHRIST HOLZFELD,
Chairman.

THRESHOLD DOSE RATE

This surprising result, that there is, for all practical purposes, a threshold dose rate in the female, but not in the male, was not anticipated by anybody. Having found this difference in effect between the two sexes, however, it is not too difficult to see that it may have a fairly simple explanation, for example, possibly the one I have suggested in one of the papers already printed in part 1 of the hearings.

I shall be glad to elaborate on that later, Mr. Chairman, if you wish me to.

Chairman HOLZFELD. All right.

Dr. RUSSELL. Whatever the explanation is, the important conclusion, so far as genetic hazards of radiation to man are concerned, is that when we are dealing with radiation

July 13, 1971

24735

exposure of the population, or any group including males, we have to take this weaker sex into account, and we have to conclude that there is a definite risk of some genetic damage regardless of how low the dose rate is.

I am often asked whether a dose rate lower than the lowest we have been able to try in our experiments might reveal the existence of a threshold dose rate in the male also. This is conceivable, but since the lowest dose rate used is already quite low—10 roentgens per week—and since there was no reduction in mutation frequency at that dose rate compared with the frequency at a dose rate approximately 1,000-fold higher, we certainly have no evidence for such an optimistic view. We must stick with the cautious conclusion that any level of radiation exposure of the male involves some risk of mutation.

We can, however, feel some relief over the fact that, although the genetic damage at low dose rates in the male is not zero, it is considerably less than that at the high dose rates on which calculations of the permissible doses of radiation were based. We also have evidence which was mentioned in part 1 of the hearings, that low total doses of radiation, even when delivered at a high dose rate, cause disproportionately less genetic damage than would be expected from the effect at the high doses that had been used in calculations of the risk.

Chairman HOLZFELD. I think we should always keep in mind that when you are talking about low dose rates, you are talking about the rates in the multiple-roentgen level.

Dr. RUSSELL. Yes.

Chairman HOLZFELD. When you are talking about high dose rates, you are talking about rates that might be up to as much as 90 to 100 roentgens?

Dr. RUSSELL. Per minute.

Chair HOLZFELD. Per minute?

Dr. RUSSELL. Yes.

Chairman HOLZFELD. Of course, that in no way approximates the lowness of the 170 milliroentgens, which is 170-thousandths of a roentgen, which is in the guideline (per year). (1)

Chairman HOLZFELD. Why I am citing this is, because frequently we talk about the 170 milliroentgens as a low dose, we should recognize that it really is low.

Dr. RUSSELL. Yes.

Chairman HOLZFELD. But the low dose rates you speak of as low in the work you are doing are much higher, in fact by a factor of several thousand than that contemplated in setting the standards.

Dr. RUSSELL. Yes.

Chairman HOLZFELD. Go ahead, please.

GENETIC RISK AND THE FORMER
ESTIMATE

Dr. RUSSELL. Putting these and other pieces of information together, we conclude that our present best estimate of the average genetic risk from exposure of both sexes at low dose rates or low doses is only about one-sixth of what it was estimated to be when the currently used figure for maximum permissible dose was chosen. (2)

Chairman HOLZFELD. Now let us analyze that. What you are really saying there is, that your conclusion is "our present best estimate of the average genetic risk from exposure of both sexes at low dose rates or low doses is only about one-sixth of what it was estimated to be when the currently used figure for maximum permissible dose was chosen."

Dr. RUSSELL. What this argues is, that the 170 milliroentgens would cause about one-sixth of the damage that was originally estimated.

Chairman HOLZFELD. That is how it should be stated, I agree. I am not suggesting that it be lowered, but I am trying to accent the prudence of the level of 170 milliroentgens.

In fact it is more conservative today, according to your experiments, than it was at the time it was set with the data that we had at that time.

Dr. RUSSELL. That is exactly correct.

Representative HOARIN. Dr. Russell, you stated that the lowest rate used was around 10 "r" per week. That was a continuous exposure week after week for 52 weeks of the year?

Dr. RUSSELL. Yes.

Representative HOARIN. What would that be in terms of "mr," the same type that we use for background? Could you translate that?

Dr. RUSSELL. The background is of the order of 0.1 to 0.15 "r" per year.

Representative HOARIN. This would be how many "r" per week?

Dr. RUSSELL. Divided by 52 weeks; that is, about 0.002 "r" per week.

Representative HOARIN. I am trying to get a cumulative dose for 52 weeks, exposure 10 roentgens per week.

Dr. RUSSELL. It would be 500 "r" per year. (3)

Representative HOARIN. Then that would be 500,000 "mr"?

Dr. RUSSELL. Yes.

Representative HOARIN. 500,000 "mr." Then you say that an exposure at that rate produces the same effect genetically a thousandfold higher?

Dr. RUSSELL. Yes. That is about one "r" per minute.

Representative HOARIN. That would be 500 million "mr" per year. What, then, does this do to this linearity theory? If we have exposure at 500 million "mr" and one at 500,000 "mr" producing exactly the same results, that does not make any kind of straight line relationship, does it?

Dr. RUSSELL. This does argue for a straight line at low dose rates. Let me clarify. We are talking about dose rates here, not total doses. If we try to draw a straight line at the high dose rates, we will find that there is a drop from the straight line as we get down to low doses. But when as now, we are talking about what I call the lower dose rates here—1 r per minute to 10 r per week—seen so far as linearity related to dose.

Representative HOARIN. You are talking about the same total dose.

Dr. RUSSELL. Yes.

Representative HOARIN. Of course, we are not talking about a whole year, because with 500 million "mr" you would blast your mice out of existence.

Dr. RUSSELL. If we give a total dose of 500 "r" at 1 "r" per minute, or the same total dose of 500 "r" at 10 "r" per week, which is about a thousandfold drop in the dose rate, we get the same mutation rate in the male. This is why we argue that there is no evidence for a threshold dose rate.

Representative HOARIN. Thank you.

Chairman HOLZFELD. You may proceed.

Dr. RUSSELL. Now I should like to turn to my second topic and present the results of some of our current experiments.

GENETIC DAMAGE

(a) There are two main kinds of genetic damage, namely, gene mutations and chromosome aberrations. The dose-rate effect and other findings that I have been discussing, so far, were obtained with a method designed to detect gene mutations. It does also detect a certain class of minor chromosome aberrations, namely, small deletions of part of a chromosome. Our investigation we have been pursuing recently is an attempt to find out whether an entirely different, and major, type of chromosomal aberration would also show dose-rate and dose effects similar to those we had found for gene mutations and small deletions.

The new method detects the loss of a whole sex chromosome, the so-called X-chromosomes. A little over 10 years ago, we found out from genetic and cytological ex-

periments in our laboratory that certain female mice that appeared almost normal were, in fact, lacking a whole X-chromosome. Their cells contained only one X instead of the normal complement of two. Shortly thereafter, it was discovered in England that women exhibiting a certain set of abnormalities that had been called Turner's syndrome suffered from the same lack of one X-chromosome.

Using a special strain of mice carrying an X-chromosome marked with a mutant gene originally discovered by one of the research assistants in our laboratory, we are able to measure the frequency with which X-chromosome loss occurs in irradiated and control populations. We are finding in females, that the radiation-induced of this type of abnormality at a low dose rate is much less than that found at a high dose rate. The difference has already been shown to be highly statistically significant. Also, for high dose rates, the induction of X-chromosome loss by a low total dose is below that expected on a proportional basis from the frequency at a high dose.

Thus, in female at least, the effects of our doses and low dose rates on this kind of major chromosome aberration parallel the effects on gene mutations and small deletions. The hazard is less under these conditions of radiation exposure.

(Ref. note (1) this page and note (3) and (3) on page 1439—the failure of Benti to contrast the large cumulative doses delivered to experimental animals (500 roentgens, or 500,000 milliroentgens) with the annual cumulative dose to populations defined in the radiation guidelines (170 milliroentgens) as I mentioned—note (1)—completely destroys the validity of his presentation to informed persons. Of course uninformed persons are deceived by such presentations. Note (3) points out that Dr. Russell's on-going research has shown that subsequent to the establishment of the population guidelines they have been proven to be six times more conservative (safer) than initially estimated.)

COLUMBIA BROADCASTING SYSTEM, Inc.,
New York, N.Y., October 5, 1970.

HON. CHRIST HOLZFELD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HOLZFELD: Although I am deeply sorry that you were disappointed in the five-part series on the dangers of radiation which appeared as part of the CBS Morning News, I am glad that you took the time to give me your detailed and thoughtful comments regarding that series.

Whatever Mr. Benti's series would not have been nearly as informative as it was had you not taken time out of your busy schedule to talk to Joe Benti. The interview that was filmed lasted about thirty minutes, and the part that was broadcast ran for two minutes and thirty-eight seconds. That is not at all unusual, and in this particular case, where a large number of people were interviewed, CBS News obviously must edit the film to avoid redundancies and to expose as many viewpoints as possible. The journalistic process applies to all media.

I understand that Mr. Benti was not aware of the Russell study at the time of the interview. Indeed, you state in your letter that Dr. Russell's testimony before your committee last January has not yet been published. When you introduced the Russell study into the interview, it naturally piqued Benti's interest, and I am advised it was only after the interview was completed that he had an opportunity to secure a copy of Dr. Russell's statement to your committee.

The point of Mr. Benti's remarks was that confusion and contradiction seem to go hand-in-hand with any discussion of atomic radiation. In discussing the studies of low level radiation, Mr. Benti said "But as we

mittee case and, in the process, quite probably do unnecessary damage to the investigative powers of the Congress itself.

If for no other reason—and there certainly are others—the House should defeat this motion. I am nevertheless not persuaded by the alarmist attitude by some that the committee is out to trample the protections of the first amendment. What we have here in my judgment is a sense of outrage on the part of the committee majority at misleading editorial practices—especially in the editing of the responses of Mr. Henkin—and an accompanying determination to require the temporary users of the public airwaves to conduct themselves in a responsible and sensitive manner. That determination is understandable and I share it.

The basic question, however, is just how you accomplish that. Members of Congress, by virtue of their temperament and position have an almost irresistible impulse to be "Mr. Fixit"—to see a problem and attempt to correct it in the most direct possible way. But Mr. Speaker, in this instance the most direct way is not the best way for the Congress and it most certainly is not the safest way for the country.

The committee minority in its discussion of how best to preserve a press that is both honest and free observed that—

The French historian de Tocqueville, who traveled this nation in the early 1800's, con-

group structure—how a broadcast license?

What policies would best guarantee that adequate public service time is made available to all groups within our society, popular or not?

These are just some of the questions which we must face whether or not we adopt this resolution today. I think the very questions I have raised indicate that I do not have an abundance of confidence that those who control our broadcast media will always be able to guarantee fair and impartial use of the airwaves.

The trouble I have with this resolution today is that I have even less confidence in our ability as politicians to guarantee that same impartial use and so I urge you to vote the resolution down.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to the pending resolution to cite the Columbia Broadcasting System and its president for contempt.

I am sure that most, if not all, of the Members have done a great deal of soul-searching on this issue. We have all received a great volume of mail, legal briefs, and arguments concerning this matter. We have listened to our colleagues cogently advocate their positions.

I personally feel that the subpoena in question is legally objectionable. I set forth my reasons in a letter to the es-

broadest possible limits of those decisions. Our concern with freedom of the press should be as great or greater than that of the judicial branch. We can and should do more to protect the freedom of the press because we are not bound, in affording such protection, by the legal niceties of constitutional law.

We have the obligation to decide, using our own judgment, whether the subpoena and subsequent citation were appropriate in this case. In the recognized light of the fact that they will result in an undesirable restraint, we should find them appropriate only if we find them necessary. We should find them necessary only if we find that they would serve some legitimate purpose.

The record in this case indicates that Dr. Stanton testified freely concerning the general editing practices of CBS. The subcommittee evidenced concern over the editing of the interview with Assistant Secretary of Defense Henkin and an address by Colonel MacNeil of the Marine Corps. The full transcript of the Henkin interview was available to the subcommittee as was the address of Colonel MacNeil's speech. Would the outtakes in question, then, serve the committee or the House in reaching a conclusion or in recommending legislation? I do not believe so and I have received no indication that they would do so.

With all due respect for the distinguished committee and its chairman, I believe that we must demand such a

Mr. ADAMS. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks somewhat in the manner of Roger Mudd.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Speaker, if the winds of controversy that blow here today were not the winds of the first amendment and the winds of congressional power, which incidentally are blowing rather strong today, this would be a tempest in a teapot. In truth, we have the material which constitutes the applicable outtakes though we persist in asking for them, and that is precisely why we stand on our weakest point if we seek contempt in this case.

Mr. ADAMS. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The gentleman has 30 seconds remaining.

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Maryland for a unanimous-consent request.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Speaker, I intend to vote against this resolution. A contempt citation

CBS' endeavors, such as "Hunger in America" which was proved to be, in part staged.

Much as I deplore what I consider to be a lapse of editorial responsibility by CBS, it does not seem to me that it is necessary to bring about charges of contempt. CBS has shown the American people its practices, and the committee has well publicized CBS' lack of credibility.

It brings to my mind, Mr. Speaker, the advice given some time back by Vice President Spiro Agnew, when he warned the TV industry that it should discipline itself. Maybe now they will take that advice without the Congress having to bring about that discipline itself.

In a way I would like the question of the first amendment to go to the Supreme Court. However, Mr. Speaker, I do not feel it is proper in this case to cite Mr. Stanton for contempt. I shall vote to recommit the bill to committee, or I will vote no, whichever is the case.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Speaker, I rise in opposition to the resolution of the House Interstate and Foreign Commerce Committee to cite CBS and its president, Dr. Frank Stanton, for contempt for failing to comply with a subpoena issued by the Subcommittee on Investigations.

Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in opposition to the resolution.

(Mr. BROWN of Ohio asked and was given permission to extend his remarks at this point in the Record).

Mr. BROWN of Ohio. Mr. Speaker, the protection of the press springs from the right of the individual citizen to speak his views even though he may be the only one to hold those views. His version of the truth is sacred to him and his right to hold those views should be sacred to the government of a free society—even though the majority may hold that truth is the opposite of those views.

The pursuit of truth is the historic search of mankind and, according to the Judeo-Christian culture, will make man free. But it follows that the search for truth is much easier in an environment of freedom because freedom permits the multiplicity of views where all shades of truth can be found.

It is this search for truth through multiplicity of voices which has been at base of several Federal laws throughout our Nation's history. Second class postal rates to encourage newspapers and legislation to require UHF tuning capacity to expand the range of use of the broadcast spectrum by television are but two examples. The concept of a free press finding the truth works best where there

are many presses in the hands of many different people of divergent view.

We should face frankly what is the greatest danger in the freedom of the networks to broadcast their version of the news—and that is that the three major networks night after night command an audience of most of our population to the same view of truth as they see. But the question remains as to whether even that concentration of power over the dissemination of a version of truth should be subjected to a single power; namely the power of government. Three voices seeking truth may be a thousand times worse than three thousand; but one voice determining truth is infinitely worse than three.

In an effort to make this power of concentrated ownership available to more viewpoints—rather than limit its use or judge its discernment of truth—the "fairness doctrine" has been enunciated by the Federal Communications Commission and the "equal time" provision in political campaigns have been written into the basic communications law of our land. But to an extent both such requirements are artificial efforts to further proliferate those viewpoints and therefore, they are not as effective as if they were the result of the harsh reality of economic competition or technological capability.

The potential for further proliferation of voices exists in the technology of cable television and satellites which will further expand the choices of methods by which viewpoints are transmitted. In considering the concentration of audience of the present broadcast networks, the Congress would be much better advised to consider how it can hasten the day when there are more methods of transmission of views and more individual ownership of those methods. This is a much sounder and altogether more constitutional approach in line with our tradition of freedom and private enterprise than any steps to regulate the networks in the quality of truth they choose to disseminate.

The networks may, indeed, be at the height of their power today in influencing Americans and persuading them to the positions held by a small group of executives in a narrow geographical and philosophical fringe of our Nation. But the power of that challenge to our national diversity should not be responded to with an exercise of power by this House which would deny this or any other minority of its right to exercise its biased views simply because of what those views are.

I shall vote against the citation for contempt or to refer this issue back to the Committee on Interstate and Foreign Commerce in the firm belief that my committee can serve truth and the freedom of speech better by attempting to proliferate the voices which seek truth in our land than by trying to identify truth by some official Government agency and then limit the voices that do exist to the espousal of that government inspected version of truth.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, today we are to vote on a motion to cite CBS and its chief executive, Frank Stanton, for contempt of Congress. According to sworn, unchallenged testimony, CBS was guilty of deceitful editing and transposition in its documentary, "The Selling of the Pentagon."

The CBS cut-and-paste job was unprofessional and it was unnecessary. CBS, incidentally, is a several-time loser in this department, having been cited at least twice previously for "staging" documentaries.

By its unprofessional conduct, CBS has proved itself no better than its whipping boy, the Pentagon. It has richly earned its current miseries. Its sole defense is the first amendment; that is, free speech gives absolute license to journalists no matter how bad they are.

Despite my distaste for the CBS actions and attitude, I will vote against the contempt citation. I will do so because I believe congressional control of the media would be far worse than whatever CBS has done or can do.

While there may be ways to regulate phony television editing, this motion is not the appropriate congressional action. It carries us too far down the road toward congressional evaluation and control of what is proper reporting.

The first amendment is, after all, a license to be unreasonable, or at worst, a license to cheat. The theory holds that eventually the people will be able to tell a good network from CBS, and not be fooled "all of the time."

That theory places no higher burden on the perspicacity of the citizenry than the theory of representative government itself. If the American public can pick a reasonably decent Congressman, it can pick a reasonably decent network.

I urge the defeat of this motion. Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, the indispensibility of first amendment guarantees of free speech and a free press is unquestioned in our society. The Supreme Court has consistently declared that the first amendment is to be given broad and sweeping coverage. And the rationale most frequently cited by the Court for a broad interpretation of first amendment freedoms is that the investigation and criticism of governmental bodies is a requisite for a free and democratic society. The Court has stated:

The free press has been a mighty catalyst in awakening public interest in governmental affairs, exposing corruption among public officers and employees, and generally informing the citizenry of public events and occurrences...

Although the first amendment literally reads "Congress shall make no law," the Court has broadened its interpretation of the amendment to mean that no agency of Government, or court, shall abridge the freedom of speech and the press. The Court has ruled that commercial gain is irrelevant in determining the scope of first amendment freedoms. In 1967, the Court ruled:

Books, newspapers, and magazines are published and sold for profit does not prevent

them from being a form of expression whose liberty is safeguarded by the first amendment.

Certainly, therefore, there is no justification for denying first amendment freedoms to television newscasters.

As the New York Times has editorially observed, if the press is to fulfill the role of independence guaranteed by the first amendment "the line of separation between it and the Government must be kept unmistakable. That line is jeopardized by the subpoenas various news magazines, television networks, and newspapers" have received from Federal authorities for "notes, files, film, and other material."

Today, the House is being asked to take an unprecedented step across that "line of separation" by citing CBS for contempt for refusing to turn over unused outtakes from the television documentary, "The Selling of the Pentagon."

The program itself was courageous journalism, informing the public of questionable uses of the military's public information budget. As the Supreme Court has emphasized, that type of newscasting—scrutiny of public bodies—can only be welcomed in a free society.

Some have argued, however, that the program was flawed by distortions and inaccuracies. Certainly no one would contend that the press is—or could be—perfect. But as Life magazine pointed out—

People who criticize the CBS documentary are having plenty of chance to be heard, which is one way to get distortions righted.

Another recourse is for those individuals who claim to have been quoted out of context to seek redress in the courts.

Regardless of the merits or defects of the program, what constructive purpose can be served by congressional interference in the news judgments of CBS?

Newsmen in the print and electronic media must daily make thousands of news judgments, including only a minute portion of all the material they receive in the "finished product." Newsmen will make mistakes, of course. But, as the Boston Globe has noted—

Freedom of the press includes the freedom to make those mistakes, and as long as the press is truly free and competitive, there is a built-up assurance that mistakes will be corrected.

The alternative to a free and independent news media, and the disadvantages that inevitably accompany it, is far more ominous than any newsman's error. Government control over news judgments in the preparation of the news would render first amendment freedoms impotent.

Those who seek to subpoena unused materials claim that there is something less than abridgement of the first amendment involved in such an act. But history has indicated that each encroachment on the freedom of the press leads to further erosion of first amendment freedoms.

First, the "chilling effect" of the subpoena issued by the Congress has probably manifested itself already. Broadcast journalism has never been vigorous in its scrutiny of Government. As CBS News President Richard Salant said, a common tendency for some in the broadcast industry is to say, "Let's skip this one, let's not make waves, let's stay out of trouble."

That tendency has undoubtedly been reinforced by the Government's intervention into the creation of one of the few TV programs that has examined Government with a critical eye.

Second, the Government is attempting to exercise unwarranted authority in demanding unused materials from a news agency. It is the equivalent of asking a reporter to produce all the notes he took in gathering information for a particular story. If this action is sanctioned, journalists will be put on notice that their unused thoughts, notes, files, and film can be examined on demand by the Government. At least one consequence is clear: Free, independent journalism will be stifled by the Government.

Third, assuming that CBS did make errors in the disputed program, and that all CBS materials were seized by the Government, what legislation can emerge other than proposals for some type of Government interference in the journalist's preparation of the news? Would Government seek to control the content of news programs and documentaries before they are broadcast? Or would the Government threaten to intervene after a program has been broadcast, searching through files and notes with some intent to prosecute if the Government's "interests" are believed to be at stake? It appears obvious that any legislation intended to police the Nation's news agencies would at best amount to harassment; at worst, to censorship.

President Nixon recognized the necessity for the untrammelled flow of news when he spoke out against the Government bringing any pressure on the networks. The Chairman of the Federal Communications Commission, Dean Burch, has noted the similarity between a reporter's notes and broadcast outtakes, and has voiced his opposition to Government subpoenas. FCC Commissioner Nicholas Johnson has argued that the Nation's news media have an "absolute right" to refuse the demands of Government prosecutors for reporters' notes and unused television film.

Perhaps former FCC Chairman Newton Minnow put it best, however. In recommending that the media refuse to honor Government subpoenas of news film, he said that the media's reply to such requests should be: "Judge me on what we broadcast; the rest is none of the Government's business."

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in opposition to this resolution to cite the Columbia Broadcasting System and its president for contempt of Congress. It is my hope that the House of Representatives will reject this proposal and in doing so uphold both the spirit and the letter of the Constitution. A favorable decision on this contempt citation would set a very dangerous precedent, and serve to encourage unnecessary and negative governmental interference with and control over the broadcast media.

While there is no question but that the congressional power to investigate is a valid part of the legislative function, its operation has been traditionally limited

in the courts by the principles contained in the first amendment. Furthermore, the Committee on Interstate and Foreign Commerce is unable to demonstrate that a justifiable legislative purpose exists for the materials which they seek through this subpoena. The record does not show a compelling need. In fact, we are told the subpoena covers what the committee either already has or can obtain.

Finally, there is no question but that to force CBS to comply with the committee's wishes on this matter would have a detrimental, "chilling effect" upon the freedom and discretion of broadcast journalists—men who owe a responsibility to the public, not to the Congress.

For these reasons I intend to vote against this resolution and strongly urge my colleagues to do the same.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, I rise in opposition to the resolution.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Indiana (Mr. HILLS).

Mr. HILLS. Mr. Speaker, I rise in opposition to the resolution.

Mr. BROYHILL of North Carolina. Mr. Speaker, I yield to the gentleman from Utah (Mr. LLOYD).

Mr. LLOYD. Mr. Speaker, in opposing this resolution to charge the president of the Columbia Broadcasting Co. with contempt, I do so because I believe the spirit of the first amendment is being violated.

I believe there was distortion, possibly malicious distortion, by the television network in its production of "The Selling of the Pentagon." There will undoubtedly be distortion in the future. It is difficult for me to vote against a committee honestly dedicated to the protection of the public interest, and I realize this committee is overwhelmed by the giant lobby now arrayed against it. I have been on the receiving end of a doctored television tape which did damage to me, and this may happen again. In the public interest, the television networks and local television stations, in their preparation and distribution of the news and other material, should establish fair and reliable guidelines and enforce policies which adhere to these guidelines guaranteeing fairness.

The alternative, however, should not be to open the door even slightly, to the possible threat of Government censorship and control of the material distributed by a free press, including television. We lose much when television does not maturely and responsibly discharge its proper duty to a free society. We will lose much more if we here overreact. There are competitive ways in which the damage done by one network or one station can be disclosed and corrected by a competitor, provided there is a responsible competitor around with an interest in fairplay. There are far fewer ways in which the people can be protected against the irresponsible act of a Government censor. We will be making a mistake if we allow Government to push its nose in the tent of a free press.

The SPEAKER. The gentleman from West Virginia has 15 minutes remaining.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, I rise in support of the position of the gentleman from West Virginia (Mr. STAGGERS).

My review of this matter convinces me that the action recommended to this House by the Committee on Interstate and Foreign Commerce best serves the purposes of the first amendment.

We are not dealing here with a case of prior restraint of the press. For it appears that the press may publish anything it desires, whether the material is stolen or honestly gathered; whether it is true or false; or whether it is libelous or slanderous. I cite the case of Rosenbloom against Metro-Media, Inc.

Neither are we dealing with the confidentiality of news sources about which the law appears to be well settled.

What is involved here is the right of the people to know—and to know the truth, with particular reference to a federally licensed TV channel monopoly.

As Mr. Justice Black pointed out in his recent opinion in the New York Times case, the first amendment belongs to the people. It is not the property of those who publish for profit nor is it the property of the Federal Government.

The enlightenment of people on the great issues of our time cannot be achieved by a media which warps and distorts facts, and which cannot be called to question in any forum.

It is the people's right under the first amendment to know when the "news" or other events, presented to them by a Government-licensed monopoly, are biased.

Mr. Speaker, I have had two unfortunate personal experiences involving what appears to be television network bias within the past 10 months.

The first involved a documentary for the CBS Morning Report prepared by Mr. Joseph Benti. Before giving Mr. Benti over an hour of interview time, I was assured that his program on "The Dangers of Radiation" would be balanced.

To my amazement, when the program was aired during the week of August 10 to 14, 1970, I found that only 2½ minutes of my filmed answers were used in the so-called 1-hour documentary. The balance of the hour was used for arguments against my position.

On the other hand, the producers of this film took great pains to comb the countryside for persons to interview on the other side of the issue. Most of this material was purely conjecture and all of it misrepresentative of the consensus of responsible scientific opinion. The entire program was generously laced with the biased editorial comment of the interviewer.

Ironically, CBS, in order to prove its own preconceived notions that the Atomic Energy Commission has misrepresented the facts, resorted to considerable "fact-twisting" of its own.

Under permission heretofore granted, I will append a letter which I wrote to Dr. Frank Stanton of CBS, on September 11, 1970, protesting this action, and Dr. Stanton's reply dated October 5, 1970. The other instance, Mr. Speaker, also

July 13, 1971

involved the position of nuclear power in the existing energy crisis. In this instance, I gave a 1 hour interview of my time to NBC for use on a program entitled "The Powers That Be," which was shown on May 18, 1971. Five and one-half minutes of my statement was used and approximately 50 minutes was used by the movie star commentator and other persons to present comment and arguments which were critical of my position. I do not consider 50 minutes' time on a 1 hour program to criticize a 5½-minute statement of a controversial matter a fair division of time.

On this program, a well-known comedian was the narrator; music with overtones of genocide was added; and all questions asked of me were omitted. Once again, the commentator inserted biased editorial matter, and the majority of the interviewees were scientists whose theories have been thoroughly discredited. The theme, again, was that our Federal Government is guilty of misleading the public. The so-called documentary film ended with a music background of the old religious song "Nearer My God to Thee."

Mr. Speaker, these two cases have been sufficient to convince me that I should not grant future pretaped interviews on any important national problem to the television media. I would have no objection to a formula of fair debate on a live program where time would be divided equally between proponents and opponents of a given issue.

Mr. Speaker, I contend that our failure to support the Committee on Interstate and Foreign Commerce today will have its own "chilling effects." This phrase is frequently used by Mr. Stanton of CBS in his defensive arguments.

Continued irresponsible use of the powerful broadcast monopoly to interpret great issues only in accordance with its own particular bias "chills" the right of the public to hear and see the truth.

Further, an unaccountable broadcast industry will have a "chilling" effect upon the willingness of public servants to speak out on important issues.

Perhaps the greatest "chilling" effect of all, Mr. Speaker, would be upon the ability of this House to make the laws under the mandate of article I of the Constitution.

If this House, through its committees, is unable to compel evidence upon which to base its legislation, where will we look for guidance? How can we assure that the public interest is being served by a federally licensed monopoly?

In summary, Mr. Speaker, these are the reasons why I will vote in favor of the resolution which is before us:

The first amendment did not create a select group of persons who are immune from all accountability, as some would have us believe. The amendment simply established the right of the people of an unrestrained press.

The press is accountable to the people and to the people's representatives who must make the laws. The people have a right to know when they are reading, hearing, or seeing a biased account of events based upon the political or philosophical views of some editor, producer, or reporter.

It is also very interesting to note that a TV corporation protects its media position by requiring an interviewee to sign a legal form which protects the TV corporation from any type of legal liability which might arise from an interviewee's remarks. At the same time they sign no legal form protecting the interviewee from misrepresenting his remarks or subordinating his position by massive use of time in relation to the time allowed to the interviewee's arguments.

If the "chilling" effect of a contempt citation results in a greater degree of truth in broadcasting, the purposes of the first amendment will be served in the highest degree possible.

The letter follows:

JOINT COMMITTEE ON ATOMIC ENERGY,
JOINT COMMITTEE ON
ATOMIC ENERGY,
Washington, D.C., September 11, 1970.

DR. FRANK STANTON,
President, Columbia Broadcasting Station,
Inc., New York, N.Y.

DEAR DR. STANTON: I am writing to inform you of my keen disappointment in the Joseph Benti television show, "The Dangers of Radiation," which appeared as a portion of the CBS Morning News in a five-day series during the week of August 10-14. Prior to the show, and in response to Mr. Benti's request, I gave approximately one hour of my time to Mr. Benti and his recording crew during which I answered many questions concerning atomic energy matters, and in particular, concerning Federal radiation standards.

In response to my request, your Washington office was kind enough to furnish me on August 28 with a transcript of the "Dangers of Radiation" show.

On Thursday, August 13, a very small portion of the tape, which I made at Mr. Benti's request, was shown. The lead-in warned the public that persons representing the Atomic Energy Commission or the Joint Committee on Atomic Energy were frequently guilty of not telling the full story. Next, there was a portion of the comments which I made concerning the outstanding work of Dr. Russell on the genetic effects of radiation exposure to mice. I pointed out that doses significantly higher than those to which people living in the vicinity of nuclear reactors are exposed would be required in order to produce deleterious genetic effect. I was cut off at this point in the T.V. program; and the comment was made that I failed to tell the full story in that male mice showed no protection due to a protracted dose whereas in the case of the female, as I had stated, a protective mechanism had been demonstrated. These remarks included quotes from testimony presented to the Joint Committee during hearings held in January 1970. The commentary by Mr. Benti simply failed to cover a previous statement in the testimony which would have placed the male and female genetic effect conclusions arrived at by Dr. Russell in a proper perspective.

The inference, of course, is that I was telling only the results of the Drs. Russell's experiment which favored atomic energy and keeping from the public the results which were unfavorable. This was certainly not the case, and it is my belief that the manner in which the tape was cut and comments of others fed in represents a conscious attempt to suggest that I am biased in my views and that I do not fairly report the information that has been made available to me. The Drs. Russell have been experimenting for over twenty years with large numbers of mice and under varying conditions of radiation exposure with a great variety of interests in the special relationships which may exist. They have arrived at a number of conclu-

sions. I did not state them all. Mr. Benti did not state them all. Time forbade a complete analysis of their work. It should not be assumed that I was attempting to hide any of their conclusions nor was I attempting to report on all of the work that they have done.

Attached are some page proofs (pp. 1428-30) from Part 2 of the soon-to-be-published Joint Committee print, "Environmental Effects of Producing Electric Power." I shall send you the complete record when it becomes available. This hearing record was developed in January and February of this year. Dr. Russell appeared on January 29 and presented as his prepared testimony the "report" referred to by Mr. Benti during his assertion that "Mr. Holifield left something out."

Dr. Russell appeared in response to my personally written invitation. I believe he and his wife have made a tremendous contribution towards increasing our knowledge of the genetic effects of radiation. I wanted to develop in the public record his complete views of what has been learned and what needs to be learned in this field. Repeatedly during his testimony, I requested that he expand upon his comments in order to assure that lay people would understand the point he was making. I did not attempt to shape his remarks in any fashion; and in subsequent public discussion of his findings, I have tried very hard to fairly state his conclusions.

It is indeed incredible that I, who brought Dr. Russell's research findings to the attention of the Congress and the public at large through the mechanism of our hearing process, should be accused by Mr. Benti of hiding that same information from the public view. As I said at the beginning, I am keenly disappointed in the manner in which my remarks were presented to the American people. I feel that the fashion in which the story was pieced together did not coincidentally misrepresent my position. I am forced to conclude from the reports that have been made to me concerning, not only Thursday's program, but the entire five-day series as well indicates the reporting was heavily biased to show that radiation in small amounts is dangerous to the public health and safety and that the Atomic Energy Commission, the Joint Committee on Atomic Energy, and other elements of our Federal Governments are behaving irresponsibly in order to reinforce particular points of view in which they have special interest. This, I can assure you, is not the case. I fully recognize the statutory responsibility of this Committee to "oversee" on behalf of the full Congress the activities of the Commission. Where the discharge of these responsibilities dictate we do, and have in the past never failed to exercise our authority to investigate, appraise, and report upon the Congress and the American people any failure upon the part of the Executive Department to carry out its assigned responsibilities in a fair and just manner.

Sincerely yours,
CHET HOLIFIELD,
Chairman.

THRESHOLD DOSE RATE

This surprising result, that there is, for all practical purposes, a threshold dose rate in the female, but not in the male, was not anticipated by anybody. Having found this difference in effect between the two sexes, however, it is not too difficult to see that it may have a fairly simple explanation, for example, possibly the one I have suggested in one of the papers already printed in part 1 of the hearings.

I shall be glad to elaborate on that later, Mr. Chairman, if you wish me to.

Chairman HOLIFIELD. All right.

Dr. RUSSELL. Whatever the explanation is, the important conclusion, so far as genetic hazards of radiation to man are concerned, is that when we are dealing with radiation

July 13, 1971

24735

exposure of the population, or any group including males, we have to take this weaker sex into account, and we have to conclude that there is a definite risk of some genetic damage regardless of how low the dose rate is.

I am often asked whether a dose rate lower than the lowest we have been able to try in our experiments might reveal the existence of a threshold dose rate in the male also. This is conceivable, but since the lowest dose rate used is already quite low—10 roentgens per week—and since there was no reduction in mutation frequency at that dose rate compared with the frequency at a dose rate approximately 1,000-fold higher, we certainly have no evidence for such an optimistic view. We must stick with the cautious conclusion that any level of radiation exposure of the male involves some risk of mutation.

We can, however, feel some relief over the fact that, although the genetic damage at low dose rates in the male is not zero, it is considerably less than that at the high dose rates on which calculations of the permissible doses of radiation were based. We also have evidence which was mentioned in part 1 of the hearings, that low total doses of radiation, even when delivered at a high dose rate, cause disproportionately less genetic damage than would be expected from the effect at the high doses that had been used in calculations of the risk.

Chairman HOLIFIELD. I think we should always keep in mind that when you are talking about low dose rates, you are talking about the rates in the multiple-roentgen level.

Dr. RUSSELL. Yes.

Chairman HOLIFIELD. When you are talking about high dose rates, you are talking about rates that might be up to as much as 90 to 100 roentgens?

Dr. RUSSELL. Per minute.

Chair HOLIFIELD. Per minute?

Dr. RUSSELL. Yes.

Chairman HOLIFIELD. Of course, that in no way approximates the lowness of the 170 milliroentgens, which is 170-thousandths of a roentgen, which is in the guideline (per year). (1)

Chairman HOLIFIELD. Why I am citing this is, because frequently we talk about the 170 milliroentgens as a low dose, we should recognize that it really is low.

Dr. RUSSELL. Yes.

Chairman HOLIFIELD. But the low dose rates you speak of as low in the work you are doing are much higher, in fact by a factor of several thousand than that contemplated in setting the standards.

Dr. RUSSELL. Yes.

Chairman HOLIFIELD. Go ahead, please.

GENETIC RISK ONE-SIXTH THE FORMER ESTIMATE

Dr. RUSSELL. Putting these and other pieces of information together, we conclude that our present best estimate of the average genetic risk from exposure of both sexes at low dose rates or low doses is only about one-sixth of what it was estimated to be when the currently used figure for maximum permissible dose was chosen. (2)

Chairman HOLIFIELD. Now let us analyze that. What you are really saying there is, that your conclusion is "our present best estimate of the average genetic risk from exposure of both sexes at low dose rates or low doses is only about one-sixth of what it was estimated to be when the currently used figure for maximum permissible dose was chosen."

Dr. RUSSELL. What this argues is, that the 170 milliroentgens would cause about one-sixth of the damage that was originally estimated.

Chairman HOLIFIELD. That is how it should be stated. I agree. I am not suggesting that it be lowered, but I am trying to accent the prudence of the level of 170 milliroentgens.

In fact it is more conservative today, according to your experiments, than it was at the time it was set with the data that we had at that time.

Dr. RUSSELL. That is exactly correct.

Representative HOSMER. Dr. Russell, you stated that the lowest rate used was around 10 "r" per week. That was a continuous exposure week after week for 52 weeks of the year?

Dr. RUSSELL. Yes.

Representative HOSMER. What would that be in terms of "mr," the same type that we use for background? Could you translate that?

Dr. RUSSELL. The background is of the order of 0.1 to 0.15 "r" per year.

Representative HOSMER. This would be how many "r" per week?

Dr. RUSSELL. Divided by 52 weeks; that is, about 0.002 "r" per week.

Representative HOSMER. I am trying to get a cumulative dose for 52 weeks, exposure 10 roentgens per week.

Dr. RUSSELL. It would be 500 "r" per year. (3)

Representative HOSMER. Then that would be 500,000 "mr"?

Dr. RUSSELL. Yes.

Representative HOSMER. 500,000 "mr". Then you say that an exposure at that rate produces the same effect genetically a thousandfold higher?

Dr. RUSSELL. Yes. That is about one "r" per minute.

Representative HOSMER. That would be 500 million "mr" per year. What, then, does this do to this linearity theory? If we have exposure at 500 million "mr" and one at 500,000 "mr" producing exactly the same results, that does not make any kind of straight line relationship, does it?

Dr. RUSSELL. This does argue for a straight line at low dose rates. Let me clarify. We are talking about dose rates here, not total doses. If we try to draw a straight line at the high dose rates, we will find that there is a drop from the straight line as we get down to low doses. But when as now, we are talking about what I call the lower dose rates here—1 r per minute to 10 r per week—seen so far as linearly related to dose.

Representative HOSMER. You are talking about the same total dose.

Dr. RUSSELL. Yes.

Representative HOSMER. Of course, we are not talking about a whole year, because with 500 million "mr" you would blast your mice out of existence.

Dr. RUSSELL. If we give a total dose of 600 "r" at 1 "r" per minute, or the same total dose of 600 "r" at 10 "r" per week, which is about a thousandfold drop in the dose rate, we get the same mutation rate in the male. This is why we argue that there is no evidence for a threshold dose rate.

Representative HOSMER. Thank you.

Chairman HOLIFIELD. You may proceed.

Dr. RUSSELL. Now I should like to turn to my second topic and present the results of some of our current experiments.

GENETIC DAMAGE

(a) There are two main kinds of genetic damage, namely, gene mutations and chromosome aberrations. The dose-rate effect and other findings that I have been discussing, so far, were obtained with a method designed to detect gene mutations. It does also detect a certain class of minor chromosome aberrations, namely, small deletions of part of a chromosome. Our investigation we have been pursuing recently is an attempt to find out whether an entirely different, and major, type of chromosomal aberration would also show dose-rate and dose effects similar to those we had found for gene mutations and small deletions.

The new method detects the loss of a whole sex chromosome, the so-called X-chromosome. A little over 10 years ago, we found out from genetic and cytological ex-

periments in our laboratory that certain female mice that appeared almost normal were, in fact, lacking a whole X-chromosome. Their cells contained only one X instead of the normal complement of two. Shortly thereafter, it was discovered in England that women exhibiting a certain set of abnormalities that had been called Turner's syndrome suffered from the same lack of one X-chromosome.

Using a special strain of mice carrying an X-chromosome marked with a mutant gene originally discovered by one of the research assistants in our laboratory, we are able to measure the frequency with which X-chromosome loss occurs in irradiated and control populations. We are finding in females, that the radiation-induction of this type of abnormality at a low dose rate is much less than that found at a high dose rate. The difference has already been shown to be highly statistically significant. Also, for high dose rates, the induction of X-chromosome loss by a low total dose is below that expected on a proportional basis from the frequency at a high dose.

Thus, in female at least, the effects of our doses and low dose rates on this kind of major chromosome aberration parallel the effects on gene mutations and small deletions. The hazard is less under these conditions of radiation exposure.

(Ref. note (1) this page and note (2) and (3) on page 1429—the failure of Benti to contrast the large cumulative doses delivered to experimental animals (500 roentgens, or 500,000 milliroentgens) with the annual cumulative dose to populations defined in the radiation guidelines (170 milliroentgens) as I mentioned—note (1)—completely destroys the validity of his presentation to informed persons. Of course uniformed persons are deceived by such presentations. Note (2) points out that Dr. Russell's on-going research has shown that subsequent to the establishment of the population guidelines they have been proven to be six times more conservative (safer) than initially estimated.)

COLUMBIA BROADCASTING SYSTEM, INC.,
New York, N.Y., October 5, 1970.

HON. CHET HOLIFIELD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HOLIFIELD: Although I am deeply sorry that you were disappointed in the five-part series on the dangers of radiation which appeared as part of the CBS Morning News, I am glad that you took the time to give me your detailed and thoughtful comments regarding that series.

Whatever its faults the series would not have been nearly as informative as it was had you not taken time out of your busy schedule to talk to Joe Benti. The interview that was filmed lasted about thirty minutes, and the part that was broadcast ran for two minutes and thirty-eight seconds. That is not at all unusual, and in this particular case, where a large number of people were interviewed, CBS News obviously must edit the film to avoid redundancies and to expose as many viewpoints as possible. The journalistic process applies to all media.

I understand that Mr. Benti was not aware of the Russell study at the time of the interview. Indeed, you state in your letter that Dr. Russell's testimony before your committee last January has not yet been published. When you introduced the Russell study into the interview, it naturally piqued Benti's interest, and I am advised it was only after the interview was completed that he had an opportunity to secure a copy of Dr. Russell's statement to your committee.

The point of Mr. Benti's remarks was that confusion and contradiction seem to go hand-in-hand with any discussion of atomic radiation. In discussing the studies of low level radiation, Mr. Benti said "But as we

July 13, 1971

have noticed in this series, there are ways that such studies can be interpreted to create only a partial answer, and often to reveal some of the confusion inherent in this controversy."

Mr. Benti's remarks following your statement reinforced this view. There is considerable confusion and many contradictions relating to the dangers of radiation, and much of it is created by the AEC itself. Drs. Morgan, Russell, Gofman and Tamplin are all funded by the AEC, and to one degree or another, have raised questions about the permissible levels of radiation.

The Morning News report did not attempt to resolve these differences—obviously, CBS News does not have that kind of expertise—but to expose them to the general public. I regret that you feel we somehow misconstrued your position, but I think you, or your staff, will find, upon re-reading the transcript of the broadcasts, that it was a fair and balanced portrayal of a potentially serious problem.

With all good wishes.

Sincerely,

FRANK STANTON.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in opposition to the resolution.

The reporting function must stand outside the dictates of partisan politics. The first amendment spells out very delicate freedoms, which if violated, threaten what we think of as a free society.

That function, those freedoms are seriously assailed by this pending contempt citation.

The media has a responsibility to inform the public, and if the media finds itself limited by legislative action—or by the overriding threat of continual harassment of further citations—whenever some politically unpopular or controversial issue is at stake, then I see a critical question arising: What is the definition—the limit—of freedom?

Once we begin to chip away at one kind of freedom, all others are in serious jeopardy. I stand firmly in support of the media who will continue to report what must be known, not what might be accepted.

No one ever said that democracy was an easy system in which to live and function. But I feel that democracy cannot be fully realized unless the overwhelming majority of the public have the information upon which to make intelligent, serious and sophisticated decisions regarding foreign and domestic policies. The role of the media in providing necessary information to the American people is both critical and vital to continuation of a democratic society.

I feel assured that if members of the media are guilty of criminal acts that they are punished. But the issue before us today is not one of criminality. It is not one of national security. It is not one of life and death.

It is a political issue first and foremost. The overwhelming majority of politicians—unfortunately—just are not willing to tell people what they must know so that appropriate decisions can be made. Instead, the politician expediently confines himself to telling people what he thinks the people want to hear or what he feels is best for them to hear.

I think it foolish to believe that practice will suddenly halt, that all the truth will flow at once from the mouths of politicians. But I just do not want to give politicians further control over the freedom of the media to report on any subject.

The only real protection the American people have within the framework of a democratic society is for the media to bring the light to the dark places in the Government.

The issue here, then, is not CBS, not "The Selling of the Pentagon," not that of Frank Stanton's role. The issue is political, and it goes to the very heart of our governmental system. By coming even this far with this motion, I believe that the credibility of the House as a reasoning, tradition-minded body is shaken.

We have the chance to put this issue to rest. I urge my colleagues to vote against the citation.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I do not want unanimous consent to revise and extend my remarks.

There is only one question to be decided here today, and the question, simply put, is whether or not CBS is guilty of contempt of Congress. You have to ask yourselves three questions to arrive at an answer.

First, does this committee which we created have the legal authority to issue a subpoena? The answer is "Yes."

The second question is: Was the subpoena they issued in legal and lawful form? And the answer is "Yes."

And the third question is: Did CBS comply? And the answer is "No."

So they are in contempt of the Congress of the United States, period, and it is up to the judicial process, through due process of law, from there on, to decide whether we are right or wrong, because they are in contempt of the Congress. They are as well by their own admission manipulators and deceivers.

If the citation involved anybody except a segment of the communication media the vote would be overwhelming to cite them for contempt, because they are in contempt, and it is time for Congress to not be intimidated, to stand up and represent the people and assure the people that all the protections of the first amendment provided the press are due them as well. Freedom of speech is not for the media alone and even when it is it does not give them the right to lie.

In closing, however, let me say I do not expect this body to vote to cite CBS for contempt or should they be cited there is no reason, the courts being what they are, to believe the citation would be upheld.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Thank you kindly.

Talking about experiences, during the fight in this House on reciprocal trade, I spent 2 days in a glass factory, doing everything, gathering the glass and cutting it and everything. I attended a meeting of the whole organization, and I spoke to them. I spent about 2 days before the cameras. Later at home I got

all my friends and neighbors in. I spent a little money to see my starring performance, and I put together a buffet and refreshments.

I made a little mistake. I started to light a cigar, and before the match went out I was off the air. Before the documentary was over, if the people did not see any more of me than what I had seen of myself, I am sure they did not know who was being starred because they certainly used the rest of that time to tear my position apart.

The thing you must understand is always to listen to radio and view television with a sense of humor; just remember, they do not mean half the things they say.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. FODELL).

Mr. FODELL. Mr. Speaker, the notion that anyone has the right to blatantly refuse to comply with legitimate congressional inquiry is a frightening one. The question as to whether or not the items subpoenaed are entitled to the protection of a free press as set forth in the first amendment is not, I repeat is not, before this Congress. This is a question for our courts to decide.

I shall defend most vigorously the constitutional rights of the American people, including those rights they are guaranteed under the first amendment.

Our Constitution in its wisdom provides for a separation of powers. There are matters for the courts to decide and there are matters for legislative determination.

The sole question before the House is simple—was a subpoena duly served on a matter pertinent to congressional inquiry and was that subpoena complied with. Any question as to the constitutionality of those matters requested in the subpoena are obviously a matter for a court of law.

Mr. Speaker, the question of freedom of the press is one of the most significant issues of our time. I am in complete agreement with the recent Supreme Court decision vindicating the right of the New York Times and the Washington Post to publish the secret Pentagon papers. By the same criteria, neither the Pentagon nor the broadcast media have the right to insist that its affairs be held sacrosanct and immune from congressional scrutiny and criticism.

While I applaud CBS for bringing to the public "The Selling of the Pentagon," I cannot condone its refusal to supply the "outtakes," which are the basis of its film. These "outtakes" are not privileged—they are not personal thoughts as are found in a reporter's notes. Rather, they are the original films of an actual event prior to editing. I see nothing privileged in them. I wonder why CBS does.

The news media has no more right to clothe itself with self-appointed immunity to deprive the public of the truth than the Government had a right to attempt to hide the "Pentagon Papers."

The public through its Congress has a right to know.

While it is true that this Congress should not pass unconstitutional legisla-

July 13, 1971

tion, it is also true that this Congress is not required to pass on the constitutionality of legislation. Just last week I supported a privileged resolution introduced by the gentleman from California (Mr. McCloskey) which called upon the Secretary of State to reveal to the Congress those instructions given to our U.S. Ambassador in Laos with regard to U.S. operations in Laos. The basis of my support was that the Congress has a right to know. Many of the same Members who now oppose this citation supported that very same privileged resolution.

Can anyone here say that CBS is entitled to more?

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. SHOUP).

Mr. SHOUP. Mr. Speaker, I rise today to speak in favor of the citation and at the same time in behalf of the freedom of the press. I consider the rights outlined in the first amendment to be paramount to the freedom of the citizens of this country. I would do nothing as a Congressman or a member of this committee to place those freedoms in jeopardy.

In a country where the freedom of the press and the freedom of speech are given paramount importance, an accusation of deception and fraud in program editing is extremely serious. If these allegations are true, irreparable harm may be done, not only to those misquoted and maligned, but to the integrity of all journalism, and indeed, to the freedom and right of the people of this country to receive accurate and unfettered information.

CBS has been asked to come forward and defend itself against such serious accusations. This committee of which I am a member has asked and has proposed nothing more—nothing less—just a honest straightforward request to know both sides of the question—no confidential information. I ask for an affirmative vote to uphold this right of the people to know all the truth.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Speaker, I am going to offer a motion to recommit.

As the ranking minority member of the Subcommittee on Communications and Power and as an interested and concerned Congressman and citizen, I have listened closely to the developments in this debate. I am not a lawyer, and the legal niceties of the rights and obligations of the contending parties to this dispute escape me, but I do not believe that Dr. Stanton and CBS should be cited for contempt and dragged through court proceedings.

Probably the legal position of the committee is sound and CBS should have delivered the outtakes as demanded. Nevertheless, after listening to the debate here today I do not believe the passage of this resolution is a wise move.

I believe our legislative intent should be to move forward with legislation now. The need is apparent, and we have the necessary information. I believe that if we recommit this resolution and report to the floor legislation which would more adequately express the intent of Congress

and give authority to the Federal Communications Commission to move in a constitutional way that would require the networks to be as responsible for the fairness and honesty of their documentaries as they are for quiz shows and other broadcasts, we will have accomplished our legislative purpose.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, we need not be here today. It is a tragedy when two great institutions—the Government and the press—get deadlocked.

We need not be here and we would not be here had CBS lived up to its own past history of cooperation. In the past, the network has given up outtakes, as requested. This time, they refuse. This time they refuse to even answer the only question the committee asks. Did the network mismatch questions and answers in a filmed interview to make the subject appear to be saying something he did not.

Mr. Speaker, the public has a right to know whether CBS willfully transposed questions and answers. We are not concerned with the content of the program. We are not concerned with censorship. We are not concerned with Government standards of truth. We are not concerned with bias.

We are concerned with discovering whether there is adequate legislation designed to protect the public.

There is no newspaper which compares to the networks—there is no national newspaper in the United States.

There are three networks which are all powerful in reaching the length and breadth of America. These networks are using a public commodity—there are only so many airwaves available. These airwaves belong to the people. The courts have said this many times. These people have a right to protection from deceitful practices. Perhaps legislation is the only answer.

Mr. Speaker, the first amendment—the free speech amendment—cuts both ways. I believe nothing should be done to curtail the first amendment protections for the press. Further, I believe nothing should be done by the press—particularly the networks—to curtail the rights of a man being interviewed to access to free speech. By jumbling questions and answers, the networks abridge an individual's right to free speech. Certainly, the public needs protection from this abuse.

This is an extremely tough decision before the Congress today. It will take courage. It will take courage because our decision today will have far-reaching, long-range effects on the rights of the public.

Therefore, Mr. Speaker, I think certain observations must be set forth in a logical fashion:

First. It is strange that no one—not the broadcast industry and not any Member of Congress—has defended this act of mismatching questions and answers. Apparently, everyone admits that what CBS has allegedly done was wrong.

Second. In effect, CBS admits what they did was wrong. On the very day before the subcommittee was to consider

the contempt resolution, CBS issued a new set of operation guidelines governing interviews. In effect, CBS was saying "We're not guilty—and we promise not to do it again."

Many times CBS has come forth with new rules to police themselves, which is good. I believe I can remember the network issued similar rulings shortly after the rigged quiz show scandals in 1959.

Third. If CBS did commit a wrongdoing by mismatching questions and answers, what recourse, what protection does the public have from these practices? That precisely is what the committee is asking: Is new legislation needed?

Fourth. On previous occasions, our committee has subpoenaed outtakes when there was strong evidence that deceptive practices were committed. Today, some of the strongest proponents supporting CBS—proponents from my side of the aisle—are the same people who previously voted with the committee to acquire the outtakes on other cases.

Admittedly, personal opinion comes into play on each instance. In the past, I have voted against my own committee in refusing to demand outtakes when I thought it was a fishing expedition. What falls on the cutting room floor should remain there—unless there is strong, clear evidence that deception or fraud was practiced. And, it makes no difference whether the questions involves a civil or a criminal charge. Deception is still deception.

Fifth. Congress is not attempting to pass judgment on all the facts of this particular program. Congress is not attempting to sit in censorship. Congress is not attempting to offer a critique on whether the documentary was positively biased or slanted.

Congress is asking but one question: Is there adequate protection for the public? I repeat again, these airwaves belong to the public. They are invaluable.

Sixth. CBS keeps dropping back to the first amendment. Yet, by its refusal to discuss whether the editing process mismatched questions and answers—the network is, in effect, taking the fifth amendment.

Mr. Speaker, the first amendment cuts both ways. A man being interviewed has the right to know that what he says in a filmed interview will not be jumbled by a technician wearing white gloves in the editing room.

Seventh. Many Members challenge the case before us on the basis that "the case is not strong enough." Perhaps they are right. But, must we wait for massive deception before we act? The basic principle is a question of right and wrong. The public has a right to know the truth. Our case may not be the strongest possible—I have so expressed this opinion in committee—but the principle of right and wrong is at stake, regardless of whether the deception was big or little. Clearly, we must proceed with courage.

Mr. Speaker, I urge the House to pass this resolution. It is obviously in the public interest. If need be, I think we should pursue this question all the way to the Supreme Court. I readily agree that the networks should be free to speak on any

July 13, 1971

issue. I will insist that the public, too, shall have that right.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. THOMPSON), a member of the committee.

Mr. THOMPSON of Georgia. Mr. Speaker, the first amendment to the Constitution guarantees to each and every individual the right of freedom of the press. Any of you can go out and publish a newspaper at any place and any time you so desire. But, broadcasting is a privilege granted by the Government and not a right. It is a privilege granted by the Government to only a few.

I defy any of you to go out and try to broadcast or televise without the consent of the Government. Broadcasting is a privilege granted by your Government to a exclusive part of the people's airways, and the Government has a right to insist that the broadcasters abide by reasonable regulations and retains the right to investigate deceit and fraud.

Mr. Speaker, that is what this committee is doing. Broadcasting is a privilege granted by the Government. The freedom of the press is a right, a constitutional right, guaranteed under the first amendment and can be exercised by anyone. But I defy you to try to exercise the same right by televising or broadcasting without Government authority. The House should support its committee.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. METCALFE), a member of the committee.

Mr. METCALFE. Mr. Speaker, the vote we will cast is of great importance at this time because it is without precedent: We are called upon to vote in the public interest and our vote is to determine whether the public in the matter of our present concern is to be influenced by deceptive telecasting.

My vote will be cast not only for the substance of this incident, but with regard for the future and the dangers of the public being influenced wrongfully.

Dr. Frank Stanton and CBS are the principals before us today, but neither is important as is the right of the people to know the truth.

My vote is impersonal, for I enjoy a fine relationship with all of the media which I cherish. Whether I shall continue to have the support of the media in the future is questionable.

I will take my chances. I shall let the courts determine whether the subpoena issued is in violation of the Constitution.

The question is simply one to ascertain material, in this case, the submission of outtakes in the documentary "The Selling of the Pentagon," to enable the subcommittee and the House of Representatives to determine whether legislation controlling deceptive broadcast practices is necessary to protect the public ownership of the airwaves.

For my distinguished colleagues that argue that all the material used in the production of the documentary "The Selling of the Pentagon" except the outtake and editing practices of CBS is sufficient in and of itself not to cite Dr. Stanton and CBS for contempt—then it

follows logically, without sufficient control, that if in the future, charges are made that any TV program has shown films that were intentionally deceptive, all they would have to do is answer those charges by submitting what they wanted and withholding other material, and thus satisfy the Congress, and the practice will continue. Continue to what? To the era of Hitler's propagandizing of the world that brought so much devastation?

I think we must act now to prevent this.

I shall vote to support the subcommittee report. I shall vote for truth in telecasting—for the right of the people to know. I shall accept my responsibility to vote in the public interest.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, the House should give overwhelming support to the recommendation of the Committee on Interstate and Foreign Commerce for a contempt citation for CBS. The works of the committee should not be consigned to a burial detail by being recommitted or sent to another committee. Here today the prerogatives of Congress will be preserved or destroyed. Unless the committee is upheld, I doubt that it will be possible henceforth for any committee of the Congress to conduct meaningful investigations.

This distinguished committee has not embarked on a witch hunt. It has gone very carefully into problems of a most serious nature and it has shown considerable courage and conviction in bringing to the House this contempt citation. Particularly is this true when the Nation's highest court appears to have placed its approval on the very worst and most irresponsible policies of the Nation's news media.

The distinguished chairman of the committee is not a man who takes his responsibilities lightly. Nor is he one who willfully and arbitrarily seeks to cross swords with giants of the news media. He is acting on conviction; the conviction that what he is doing is right and necessary.

In his own words, Mr. Staggers has said:

Deception in broadcast news is like a cancer in today's society. The spread of calculated deception paraded as truth can devastate the earnest efforts of anyone of us seeking to represent our constituents.

He states that his committee has clear evidence of deceit in which men's words were electronically altered to change their very meaning. This is a frightening thing. His committee has directed questions which the broadcaster has scorned. The public is entitled to protection from willful disregard of the truth and the committee is right in making legislative inquiries to see if existing laws in this field are adequate and if the Federal agencies are doing their jobs properly to protect the interest of the public.

Stated very simply, CBS has refused to cooperate with a committee of the House. Of course, CBS is in contempt of Congress. CBS places itself above the right of Congress to know and the right of the public to be protected. CBS must

not be permitted to exercise its own judgment regardless of all other considerations in delineating its broadcast policies.

The Supreme Court has also said that calculated falsehood falls outside the fruitful exercise of the rights guaranteed by the first amendment.

Neither CBS nor any other element of the news media has the right to alter spoken words. The viewing public has a right to learn the views of other people without manipulation or deceit. This is what is at stake today. This is the reason a vote of support of the committee is so very important. We have heard much about the danger from false advertising, stock market manipulation, or rigged quiz shows. Perhaps we have become calloused about the existence of these practices. We cannot become calloused or indifferent to the danger to the public from manipulation of public actions or political decisions. We are not being asked to vote to uphold freedom of the press, responsible freedom.

Mr. CULVER. Mr. Speaker, the imminent vote on a contempt citation of CBS and Dr. Frank Stanton raises serious questions of first amendment rights and of the proper relationship between press and government. It should be defeated. Its adoption would pretend Government monitoring, editorial surveillance, and possible harassment which would imperil wider first amendment rights. Moreover, the sanction to be imposed here would be totally disproportionate to the evil cited.

One need not rise to the full defense of the editorial judgment and wisdom of CBS in "The Selling of the Pentagon" to oppose the contempt citation. There is some appearance of sloppiness and misleading extraction in two segments of the program. However, this is not a case where truth has been the helpless victim. Replies were broadcast over CBS, the matter has received much public ventilation, and all of the basic facts and texts have been reprinted many times over in the CONGRESSIONAL RECORD and elsewhere. Few among the public who saw the program are not now aware that the testimony of Mr. Hemkin and Colonel McNeill as presented is now contested. Avenues for reply and debate in the Congress, in the executive, and in the press have been kept open. This is the traditional and proper way for truth to emerge.

The Pentagon program is not the first to display possible errors of editorial judgment and latitude. Nor does it represent a unique case in which the views of public officials and personalities have been miscast. Except in the most extraordinary circumstances, however, no formal legal confrontation is justified. They do not exist here. Were this case to be taken to court, it could only have all kinds of spillover effects which would diminish freedom of press and place radio-television under threat of special disabilities in news and documentary broadcasting. Surely investigative enterprise would be discouraged and organizations weaker than CBS would be hesitant to take on subjects of deep controversy. A fear at least of intimidation and cen-

July 13, 1971

24739

sorship among all press media would be aroused.

The House committee is justified if it chooses to examine the charges made against CBS. It can certainly issue a report and make recommendations how unfairness on the airways can be reduced. To achieve this purpose, however, does not require the subpoena of outtakes or the citation for contempt of CBS executives. The public purpose is adequately served by the present record. To press beyond that point is to exceed the bounds of both good judgment and sound constitutional practice.

Mr. BOLAND. Mr. Speaker, I oppose this resolution. The first contempt citation that the Congress has ever sought against news broadcasting, House Resolution 170 threatens to set a precedent that would strike at the very heart of American journalism: the first amendment right shielding news against government meddling and bullying. Several Supreme Court and Appeals Court rulings make clear that the first amendment covers all news media—broadcasting as well as print. It applies with evenhanded uniformity. Even Attorney General John Mitchell, a man hardly enraptured with news broadcasting, has pointed out that the heedless use of subpoenas may sap "the vigor of our press institutions."

The subpoena issued to CBS news, and the contempt citation stemming from it, pose the very same threat.

It is especially ironic, Mr. Speaker, that both measures are wholly unnecessary. The information sought by the House Commerce Committee is amply available—full transcripts of the controversial interviews presented on the CBS documentary, for example, and the testimony of all DOD officials cited there. Even the background film, largely footage shot by DOD itself, is readily accessible. In short, Mr. Speaker, the committee can gather all the data it needs without extracting from CBS the outtakes directly akin to reporters' notes.

The accuracy of "The Selling of the Pentagon" is not at stake here.

That remains an eminently debatable matter.

What is not debatable—indeed, what is plain beyond dispute—is House Resolution 170's threat to the freedom of the press.

If the Congress can censure CBS for one program, it can censure any news medium for any presentation it considers unpalatable.

In a democracy, the people make up their own minds: they do not need the Government to hand down, "a la Pravda," the official "truth."

The very issue we are discussing today is an exemplary case in point. The controversy over "The Selling of the Pentagon," still alive everywhere throughout this country's political spectrum, has generated more than enough information for the people to make a judgment. It is not up to us in the Congress to tell them how to think.

Should we jeopardize our most cherished tradition, freedom of the press, just to slap the wrist of CBS? Should we establish a precedent that might inhibit every news medium, however responsible,

from dealing in controversy or looking into Government activities?

I do not think so, Mr. Speaker. It is not worth it.

A free marketplace in ideas—a forum that encourages everyone to speak his mind—will yield the "truth" far more readily than a meek and intimidated press under Government yoke.

The press has made mistakes in the past, and it will make mistakes in the future.

Let the people make their own judgment.

The Constitution grants them that trust. The Congress must not presume to take it away.

Mr. HOWARD. Mr. Speaker, the Members of the House of Representatives are today being asked to either approve or reject the contempt of Congress charges against Columbia Broadcasting System President Frank Stanton and the network.

Mr. Speaker, we might not always agree with what newspapers, television, and the rest of the news media have to say, but we must zealously guard their right to say it as provided under the first amendment.

In my opinion, there is absolutely no difference whatsoever between attempting to force a newspaper reporter to reveal his written notes and attempting to force a television network to provide its unused film from a news documentary.

This is not a matter of deciding if television is doing an adequate job or not, because I feel that in many ways it has failed to give the American viewer good programming.

The question the Congress faces is one of freedom of the press and for that reason, I must respectfully oppose the distinguished chairman of the House Committee on Interstate and Foreign Commerce and the majority of its members who voted out the contempt citation.

We are not here today to decide if the disputed program, "The Selling of the Pentagon" was a good program or even if it was a fair program, but we are here today to decide if we are going to continue to respect freedom of the press as provided under the first amendment or not.

The first amendment makes it abundantly clear that neither the Congress nor anyone else has the right to decide for the people of the United States what they should or should not be told by a free press.

Once we begin to make inroads against a free press there will be further suggestions that other areas should be controlled and the result will be that we have violated the first amendment and at the same time, done a disservice to the people of the United States.

I do not always agree with the things I see in the newspapers or on television; I have had the personal experience—as I am sure almost everyone here in the House has—of seeing inaccurate statements printed in the press.

The members of the press are human beings and have faults much the same way as we do and this naturally results in mistakes. But on balance, the press has served this Nation very well and I am not about to be one of the persons

who would begin putting restrictions on a free press.

What this House is being asked today is to vote again on the John Peter Zenger trial which occurred in New York City in 1775 and which resulted in Mr. Zenger being found not guilty of seditious libel.

The Bill of Rights was not added to the Constitution as mere afterthought but it was a result of the concern on the part of many of the delegates to the Constitutional Convention and of several of the State legislatures that the Federal Government was endowed with too much power and could exercise the same amount of control that the British had.

Today, we are faced with a new threat to freedom of the press. It is a subtle threat and if it is approved by the House, its value as a precedent-setting measure would lend enormous weight to the argument of those who would further limit freedom of the press.

Thank you. Mr. HOSMER. Mr. Speaker, as well pointed out by the gentleman from Virginia (Mr. POFF), there are two constitutional privileges in collision here, freedom of the media and freedom of the Congress to conduct legislative investigations. The gentleman from Virginia (Mr. POFF), has concluded that the circumstances warrant yielding the right-of-way to the press. I have come to the opposite conclusion. I will vote the contempt citation.

If this is, indeed, such a heavy constitutional issue, I do not believe it should be dodged by yielding. I think the citation should issue so that the courts can render an authoritative decision that will settle the question once and for all. CBS has plenty of resources to carry forward such litigation; no hardship will fall upon it for doing so.

The people will be served by settling the issue, not by dodging it.

Mr. FUQUA. Mr. Speaker, after lengthy consideration of the issues involved in the motion to cite CBS and Dr. Frank Stanton for contempt of Congress, I have concluded that there is no acceptable alternative but to oppose the contempt citation.

In reaching this decision several difficult and seemingly conflicting points of view required reconciliation.

I firmly support the right of Congress to regulate the broadcast media "in the public interest." Congress long ago recognized its obligation to act in this area which is in several respects uniquely different from the printed press.

Over the years the FCC has developed a set of effective guidelines, notably the "fairness doctrine," to deal with the special problems generated when the broadcast media is used as a forum for controversial issues. This regulation has, however, always been accomplished without infringing on the rights to freedom of the press and speech guaranteed by the first amendment to the Constitution.

It is this delicate balance between the first amendment and the congressional right to regulate which is threatened by the CBS contempt motion. In a conflict between these two interests the former must prevail.

This decision should not, however, be mistaken as an approval of the CBS program "The Selling of the Pentagon." Quite to the contrary, I have serious reservations about the veracity of certain segments of the program which appear to have been deceptively edited. Likewise, I feel that the overall impression which the program was calculated to create did a disservice to our military establishment.

It may be that after further congressional consideration, in light of the CBS incident, additional legislation will be necessary to insure the fair and forthright broadcasting which the American people deserve. If this is the case, I will give such remedial legislation my closest attention, being ever mindful of the constitutional mandates I have been sworn to uphold.

Mr. THONE. Mr. Speaker, my position on this resolution is very negative. These subpenas cannot, in my opinion, be viewed as anything other than ominous infringement upon basic freedom of the press. I shall vote to recommend.

Mr. ROSTENKOWSKI. Mr. Speaker, at the appropriate time, I shall vote against the motion to cite CBS and its president Dr. Frank Stanton for contempt. Because of the complexity of the issue and the long-range implications of this vote, I feel it is necessary that I explain my position on this matter.

Mr. Speaker, in my opinion the citation for contempt is, at this time, both unnecessary and unwise. It is unnecessary because the committee has at its disposal all the information concerning this matter that it needs to draw conclusions on the issues in question. In addition to the broadcast tape of the documentary, the committee has the complete transcript of the interview with Mr. Daniel Z. Henkin, Assistant Secretary of Defense for Public Affairs and the complete text of the speech given by Colonel McNeil. These are the two specific segments that have been singled out as having been "doctored" to distort the views of these two men. It is not my intention to, nor am I prepared to make a judgment on the merits of that question, but I do contend that the committee does have ample material to conduct a thorough investigation and draw conclusions concerning that controversy.

I am sure that most of us recognize the authority of the committee to investigate the electronic media in pursuit of legitimate legislative ends; and it is in the public interest that they do so. In this particular case, however, the committee has adequate information to pursue its objective and need not venture at this time into so sensitive an area.

I feel further, Mr. Speaker, that it would be unwise for the Congress to take action at this time that would most assuredly be presented to the courts for final determination.

As it is well argued in the minority views submitted by Congressman Bos ECKHARDT and several other Members, there is little chance that this citation would withstand a court test. There is a real danger that an adverse decision would jeopardize the legitimate authority of this body to investigate and explore the substantial difficulties presented by

the power of the electronic media. There is no doubt that the instantaneous transmission of images and words can have a great effect on the American people.

Because of their complete monopoly of the federally regulated airwaves, it is indeed in the public interest that the networks receive special attention from this body. But I do not feel that this is the time nor do I think that this is the case upon which we should try to establish a precedent.

Mr. Speaker, I would like to emphatically state to my colleagues that my vote today does not indicate a complete endorsement of the past conduct of the broadcast industry nor does it mean that I would never vote to cite a member of the broadcast media at some future date—if the facts of the situation warranted such a vote.

At this time, Mr. Speaker, I would also like to suggest the difficulties brought to light by the present situation might prompt this body in general, and the Commerce Committee in particular, to look into the entire realm of problems that are relevant to the regulation of the television industry. The establishment of a firm set of guidelines with regard to the relationship between Congress and the industry is obviously necessary if we are to avoid similar problems with first amendment rights at some future date.

Mr. EDWARDS of California. Mr. Speaker, I am voting against the contempt of Congress citation as recommended by the Committee on Interstate and Foreign Commerce.

The first amendment to the Constitution of the United States, states:

Congress shall make no law . . . abridging the freedom of speech, or of the press . . .

Here I am a strict constructionist, and I hope and believe that the majority of my colleagues are too.

I trust the basic facts behind this particular controversy are not unknown. But, as it is never good practice for lawyer or layman to decide without a firm grasp of the facts in each situation, let us review them for a moment.

On February 23 of this year, the CBS TV network broadcast a documentary entitled "CBS Reports: The Selling of the Pentagon." This documentary described the public information activities of the Department of Defense.

The program was rebroadcast on March 23, including a 22-minute postscript, which included critical comments by Vice President AONW, Secretary of Defense Laird, and Chairman HENRER of the House Armed Services Committee as well as a response by Richard Salant, president of CBS News. On April 18, there was a CBS special news report entitled "Perspective: The Selling of the Pentagon." On April 7, the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee issued a subpoena to CBS demanding a delivery of "all film, workprints, outtakes, sound tape recordings, written scripts, and/or transcripts," relating to the preparation of the documentary.

CBS furnished the subcommittee a film copy of the original broadcast and rebroadcast. On April 30, CBS voluntarily, without waiving its objections sup-

plied the subcommittee with some general information unrelated to the editing process. On May 26, the subcommittee withdrew its original subpoena and issued a new one, which narrowed the request to cover only those materials relating to interviews or events which actually appeared in the broadcast.

I must agree with Mr. Frank Stanton who in his response to the subcommittee stated:

Clearly, the compulsory production of evidence for a Congressional investigation of this nature abridges the freedom of the press. The chilling effect of both the subpoena and the inquiry itself is plain beyond all question. If newsmen are told that their notes, films and tapes will be subject to compulsory process so that the government can determine whether the news has been satisfactorily edited, the scope, nature and vigor of their news gathering and reporting activities will inevitably be curtailed.

We are told, however, that there is a distinction between the "press" and broadcasting which comes under Federal regulation. But, the June 7, 1971, decision of the U.S. Supreme Court in *Rosenbloom v. Metromedia, Inc.* (39 U.S. L.W. 4694) reinforces the view that in all relevant respects the first amendment is applicable to broadcast journalism, as well it should be. It seems strained to me, to read the Constitution so as to deprive broadcasters of its protection simply because they are regulated. You cannot deprive broadcasters of the freedom of the press with respect to what they broadcast, or even be allowed to regulate them in such a manner that chills this freedom. In our society, lawyers are regulated; doctors are regulated; huge and varying segments of our society are regulated, but this does not deprive them of any of the basic protections of our Constitution or its Bill of Rights which are paramount.

I do not by this stand, mean to approve of any deceptive practices which have been alleged, but neither do I approve of constitutionally defective methods to investigate the allegations.

There are it appears, adequate safeguards presently to deal with those broadcasters who are guilty of deliberate false reporting. There is the Federal Communications Commission and the courts themselves.

Nowhere, could it be envisaged that Congress itself should sit in judgment on news reporting or broadcasting, the first amendment guards against such interference.

While it is true that the first amendments protections may also be abused, the Supreme Court has said in the past that which has such force and meaning here in the present—

But the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and abuses, these liberties are, in the long view essential to enlightened opinion and right conduct on the part of the citizens of a Democracy.

Mr. SEBELIUS. Mr. Speaker, I appreciate the opportunity to make these remarks regarding this most important resolution.

In discussing this issue with many members of the Kansas press community,

I have become convinced of two things. First, that news standards should result from self-improvement by the news media and public, not from Government regulation and, second, local station affiliates need to provide a better check and balance system on the parent networks.

This issue, it seems to me, really boils down to how we can best protect the public interest. It is rare when public officials and citizens feel their public interest has not been served in our Nation's community or hometown press. Local editors and news directors not only report and comment upon what happens in their communities, but they are part of the community as well. It is time the national networks and our national press follow this example and become part of America, as well as serving as a constant critic.

In studying the material presented by my colleagues, there is no doubt in my mind this documentary contained altered film and sound and that there was public deception. Nevertheless, I have decided to vote not to cite CBS for contempt for refusing to provide Congress with film clippings used in "The Selling of the Pentagon." My decision to oppose this contempt citation is certainly not an endorsement of this conduct; however, I feel a contempt citation would set Congress on a very dangerous course without precedent or justification.

I would like to take this opportunity to urge CBS to put its own house in order. It is obvious Congress has no business deciding what is truth, for we ourselves are the subject of a good portion of the news and that would be an unresolvable conflict of interest. However, I am convinced it is in the public's best interest for our networks to employ self-criticism and improvement, and the time is now.

Mr. JACOBS. Mr. Speaker, my arrival at the decision to vote against citing Dr. Frank Stanton and CBS for contempt of Congress has not been casual.

I vote against the citation on the ground that with respect to the question of mismatched questions and answers on the television program, "Selling of the Pentagon," our committee already possesses sufficient information on which to base a legislative judgment.

Let the RECORD show that this Member of Congress is still plagued by whether the public's right to know includes the right to know if the person on the screen is answering the question purported to have been put to him.

Moreover, I find secrecy odious in any but the strictly private sector of our society.

One laments the tragic trend toward making strictly public business private and strictly private business public.

Mr. MINSHALL. Mr. Speaker, during the June 24 hearing by the Subcommittee on Investigations on CBS' controversial editing of "The Selling of the Pentagon," Dr. Stanton bewailed the lack of a broadcaster's equivalent to the printer's ellipses, which are used to indicate omission of words or phrases from a quote.

Let me read briefly from the printed copy of those hearings:

Dr. STANTON. We have been searching for a long time in broadcast news, both for radio

and for television, to find the equivalent, for example, of the three dots that the printer has. We have not found that particular device.

Mr. MANELLI. Would that not simply be to let the jump cut take place without—maybe you can define these terms. If you do not put in the reverse, which was in the Henkin interview, when you cut the tape it will be quite obvious to the person watching the screen, isn't that true?

Dr. STANTON. That is a very good question. We have experimented with jump cuts and I am not sure all the members of the committee are familiar with this.

Mr. MANELLI. Would you define it for the record?

Dr. STANTON. Sir?

Mr. MANELLI. Would you define what you mean by jump cuts?

Dr. STANTON. A jump cut is a cut in the film where you take out some material for editing purposes and you don't do any bridging at that particular point so that a man might have his head over here in one scene and you cut and his head suddenly goes over here.

Mr. MANELLI. Does that not take the place of the three dots?

Dr. STANTON. That could take the place of the three dots but I think we would be before you for a different reason.

Mr. MANELLI. Why?

Dr. STANTON. Ridicule of the person interviewed because at one moment he may have a pipe or cigarette in his mouth and the next minute it is gone. It creates all types of problems.

Mr. MANELLI. Don't the people being interviewed object, not for that, but because their appearance is that they are saying things which they didn't say and that appearance is enhanced by interjecting cutaways to the interviewer so that you cannot see that the splice has been made? That is really the more basic complaint, isn't it?

Dr. STANTON. That is a matter of editing judgment and that is what we are talking about here, it seems to me. As far back as I think a year ago we made up a special film to see how these things would work, various techniques, to try to find the three dots because that is something that we don't have.

As author of the truth in news broadcasting bill, H.R. 6935, I believe I have found Dr. Stanton's elusive ellipses for him. Much of the controversy which provoked today's debate centers around this lack. Certainly had CBS clearly identified the portions of its documentary that were edited out of context at the time of broadcast, there could have been few recriminations afterward. It may never be known if CBS was merely victim of television's rigid time requirements and condensed the interviews not wisely or too well, or if CBS editors cut-and-pasted interviews out of context with deliberate intent to defraud.

I strongly suggest that enactment of my legislation would help prevent such unhappy controversies from occurring in the future. Very simply, H.R. 6935 would supply Dr. Stanton's "three dots" by requiring the clear and explicit labeling of broadcast news and news documentaries that have been staged, edited or altered out of context. This would alert the viewing public just as plainly as does the label a food manufacturer must place on his product if artificial coloring or flavoring have been added.

On radio, my bill calls for a disclaimer by the announcer before and after such sequences, in much the same way we now hear the familiar announce-

ment, "The preceding was recorded." For television, broadcasters would superimpose a disclaimer on the screen during transmission of the sequence, precisely the same way they now label some portions of moon shots as "simulated." It would work no greater hardship on broadcasters than that.

As I have stated on this floor before, it seems remarkable to me that the networks have not voluntarily adopted my proposal. As honest reporters, who are constantly proclaiming that "the people have a right to know," it is a solemn obligation they owe their audiences. The right to know includes the right to know whether the news being broadcast into American homes is the whole story, only a part of the story, or the broadcaster's version of the story.

Last spring, I sent a copy of my remarks on my truth in news broadcasting bill to Dr. Stanton, among many others in the news media. I received no acknowledgment from him, but in view of the attention H.R. 6935 has received in radio-television trade journals, I find it difficult to believe he is unaware of its existence. Yet in his June testimony before the Subcommittee on Investigations he states that he and his colleagues are at a loss in finding a substitute for the printed ellipses. Either they are not looking very hard, or there is a lack of sincerity in their search.

Whatever action is taken by the House today, I sincerely hope that truth in news broadcasting will soon be accorded hearings by the committee chaired by my good friend and very able colleague, the gentleman from West Virginia (Mr. STAGGERS). Enactment of H.R. 6935, which I include at this point in the RECORD, contains no threat of first-amendment infringement and some very solid guarantees that the American public will be able to more accurately evaluate the validity of news programs broadcast into their homes.

The bill follows:

H. R. 6935

A bill to amend the Communications Act of 1934 to provide for more responsible news and public affairs programming

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part 1 of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"NEWS AND PUBLIC AFFAIRS PROGRAMMING

"Sec. 331. (a) No licensee may broadcast any program which contains a filmed or video-taped sequence purporting to be factual reporting if the event shown has been staged, edited, or altered in any way, or if interviews have been arranged, edited, or altered so that questions and answers are no longer in their original context, unless such sequence is explicitly labeled throughout its entire showing as having been staged, edited, rearranged, or altered, as the case may be.

"(b) No licensee may broadcast by radio any recorded, audio-taped or otherwise audio-transcribed sequence purporting to be factual reporting if the event has been staged, edited, or altered in any way, or if interviews have been rearranged, edited, or altered so that questions and answers are no longer in their original context, unless such sequence is explicitly described by any announcer both before and following the broad-

July 13, 1971

cast of the sequence as having been staged, edited, rearranged, or altered.

"(c) Any live sequence, whether for television or radio broadcast, that is staged or is a dramatization purporting to be factual reporting must be clearly identified as a staged or dramatized sequence in accordance with the methods described in paragraphs (a) and (b).

"(d) Complete transcripts of unedited interviews must be available for distribution on request and at a nominal fee immediately after broadcast of any interviews that have been edited, altered, or rearranged.

"(e) Whenever a broadcast station presents one side of a controversial issue of public importance, such station shall afford reasonable opportunity for the presentation of contrasting views."

Mr. WRIGHT. Mr. Speaker, many centuries ago, a Greek named Heraclitus of Ephesus described the task of organized society as follows:

To combine that degree of liberty without which law would be tyranny with that degree of law without which liberty would be license.

Governments, in the tradition of Western civilization, are engaged in the continuous search to find and preserve that delicate balance—the balance between tyranny and license, between autocracy and anarchy.

Government exists to protect minorities against oppression by the majority and also to protect the majority against the enthronement of any minority.

It is the duty of Government to curb the excesses by which any one element of our society would aggrandize itself at the expense of society as a whole and assert its own rights in a way that inhibits the rights of the public at large.

It is a concomitant of freedom that no single entity of society may become too powerful or set itself above the people and their elected representatives.

In the time of Thomas Jefferson it was the specter of a state church whose power over government was feared, and that power was curbed.

In the day of Andrew Jackson, it was the Bank of the United States which had assumed economic power over the Government itself, and exercised a stranglehold upon the economic windpipe of the Nation. That power was curbed, and greater economic freedom resulted.

In the era of Theodore Roosevelt and Woodrow Wilson, the monopolistic trusts and the private utilities had grown too powerful and their power was restricted by Congress.

In the 1930's it was the employer, big business, whose power was curbed to create greater freedom for employees, and in the 1940's and 1950's, the power of organized labor was restricted to redress the balance.

Today television has assumed great power over the American people. Congress enacts laws to require "truth in advertising." Hardly anyone suggests it is an invasion of free expression to protect the consumer from being purposely misinformed.

Hardly anyone contends that Congress impaired that freedom guaranteed by the first amendment when it inquired a few years ago into rigged television contests and dishonest network quiz shows. Everyone accepted the right of Congress

to protect the public from deliberate deception. Nobody called that exposure of dishonesty a threat to freedom of the press.

Today the three television networks contain the most powerful group of men in the United States. They are not elected by the public. Yet they increasingly control the gates through which the public may get its information.

The networks are not licensed as local stations are licensed and required to live up to certain standards in the public interest. Yet local TV stations throughout the Nation are dependent upon the networks for 90 percent of their prime time program material.

By their coverage, or lack of coverage, the networks can make or break a public cause, an individual reputation, a political candidate, an administration, perhaps even a form of government hallowed by centuries.

By their selection and treatment of news, the three networks are in a historically unrivaled position to mold the minds and control the impressions of many millions of Americans.

If the networks determine to emphasize only one side of a public issue and feature primarily those whose opinion conforms, then that is the side to which most Americans will be most favorably exposed.

If the network commentaries lie or distort the truth, a large segment of the American public is without defense to know the truth.

"Ye shall know the truth" promise the Scriptures, "and the truth shall make you free." Yet how shall we be free if we are told untruth, and none is given equal voice in the same public forum to dispute it?

Freedom of the press is quite distinct from monopoly of the press. One is the antithesis of the other. Monopoly itself implies censorship. Freedom of the press was written into the Constitution to protect against a monopoly of information by government. Is it somehow less dangerous, or less insidious, if that monopoly and censorship be exercised by private individuals not answerable to the public?

Thomas Jefferson said:
Error of opinion may be tolerated so long as truth is free to combat it.

Yet how can truth be free if a powerful television network refuses to tell the public through its Congress what that truth may be?

Our whole system of self-government is predicated upon the assumption that the public, given ample opportunity to hear all sides, will choose wisely.

Today a mighty television network stands accused of having manufactured news, of having fraudulently staged events, of having purposely distorted an important interview by cropping answers and juxtaposing them to other questions and thus deliberately misleading the public as to what actually was said.

This is a serious charge.
If it be true, is it any more defensible than the discredited political practice of cropping and doctoring photographs so as to give a false impression?

And if the charge be untrue, then does not this powerful network owe to

its own honor, and to the American public from which it earns its profits, the responsibility to produce the unedited film and demonstrate that the charge is untrue?

Does freedom of the press imply a freedom to lie, or a freedom to malign, or a freedom to engage deliberately in factual misrepresentation? I think not. Courts have held that it does not.

Freedom of speech and of the press would surely seem to imply the right of the public, through its duly elected Representatives, to know and hear the truth.

What Congress is asking CBS to answer for today is not its opinions, whether they be right or wrong, but whether they have told truth or falsehood to the American public.

Given the unprecedented power of network television in our contemporary society, it would seem that Congress has not only the right but the clear duty to do so.

Mr. DANIEL of Virginia. Mr. Speaker, this vote today will decide whether the national news media is free to censor the news and resort to distortion with impunity—or whether this same media of the Nation has an obligation and duty to report the news fairly and impartially.

Freedom of the press and freedom of speech is the issue—and the question is whether the American people will be protected from distortion and become the victims of controlled news.

Mr. BOW. Mr. Speaker, I would like to discuss very briefly what I believe is the heart of this very difficult matter. My point is that the very nature of the controversy before us illustrates the wisdom of the Founding Fathers in setting forth freedom of speech and freedom of the press as extremely important foundations upon which our system of government would rest.

None of us would question the sincerity and dedication of the chairman of the committee bringing this citation to us but in all fairness we must also note that these are matters of opinion and judgment which are at least debatable. I believe we also have a duty particularly to recognize that the Federal Communications Commission—the agency established by the Congress to oversee broadcasting—has also thoroughly examined the same allegations considered by the investigating committee. And the Communications Commission has arrived at a very different conclusion.

In its letter to the gentleman from West Virginia, dated April 28, 1971, the Communications Commission reiterated its policy that it will intervene in news or documentary programs where there is extrinsic evidence of deliberate distortion. But the Commission unanimously found that such was not the case in the program in question here. And the Commission added that, lacking evidence of deliberate distortion, for the Commission to assume the role of arbiter over journalistic judgment would be, and I quote, "inconsistent with the first amendment and with the profound national commitment to the principle that debate on public issues should be 'uninhibited, robust, and wide open.'"

Now these widely different conclusions

July 13, 1971

by two investigating groups, both unquestionably sincere and dedicated, clearly demonstrate that we are dealing here with difficult matters of judgment about which reasonable men will have many different shades of opinion. In the classic phrase of the Communications Commission, and I quote again:

To review this editing process would be to enter an impenetrable thicket.

My point is that this is a thicket which the Congress need not and should not enter. The Founding Fathers, in writing the first amendment, had precisely such a situation in mind. Certainly the press in those days was far more violently partisan and opinionated than is generally true today. Most journals in those days were published specifically to advance a cause or party, and slander and diatribes against opponents were the order of the day in the press. Yet in circumstances far worse than any that have been suggested or alleged here, the authors of the first amendment established once and for all that the people should be the ultimate judge, and the Congress should not and must not exercise surveillance over the press.

So the crucial question here is not whether this program was right or wrong in every detail, or even in its broad sweep. I have my personal doubts about the program, but that is not the issue.

The first amendment dictates that this is where the matter should rest. The first amendment dictates that the Congress, neither by legislation nor by investigation, should enter the "impenetrable thicket" of sitting in judgment upon the press and thereby inevitably exercising influence over the press.

For these reasons, I must respectfully conclude that the subpoena issued by the investigating subcommittee was an unfortunate overstepping of the principles of the first amendment, which are vital to our democracy. Whether Members of this body fully share in this view or not, certainly this is not a situation so clear that we would be justified in taking the unprecedented step of holding the network in contempt of Congress.

My vote should by no means be considered as an endorsement of CBS News or its policy. I do not approve the slanting of news or the one-sided presentation.

I wish I might support the very fine and able chairman, the gentleman from West Virginia (Mr. STAGGERS), he is a fine American and patriot. I have reached my conclusion on this matter with reluctance but I think it is right and I can do no less.

Mr. LEGGETT. Mr. Speaker, I oppose the contempt motion primarily on the grounds that the Congress has no business setting itself up as the arbiter of truth in the news media. We can require that the media provide equal time for opposing views. This has already been provided by CBS in this case. But to say that we can judge whether CBS was or was not truthful—this is nonsense. Such action would be incompatible with a democratic society. It would be incompatible with the first amendment. Moreover, it would be just plain ludicrous, considering the dismal record of untruthfulness the Government has accu-

mulated over the past few years. The people must judge for themselves. If a network loses its credibility, it will also lose its position in the marketplace.

This is my main objection to the resolution. I believe there are also three secondary reasons why the resolution should be voted down.

First, the outtakes are not the public's business, any more than is a rough draft of the speech I am giving right now. What counts is the final product that is offered for public consumption.

Second, the outtakes in question are simply filmed versions of a speech and an interview which are already available to us in transcript form. The committee report maintains there is some mystical difference between the film and the written transcript of Mr. Hankin's interview and Colonel MacNeil's speech. For my part, I must say I am unconvinced.

Third, none of the evidence I have seen demonstrates that the program committed significant distortion in the first place. It is true that Colonel MacNeil was depicted as advancing a rather primitive and extreme form of the domino theory, when in fact he was merely quoting Prince Souvanna Phouma. This was undesirable and regrettable. But at a later point in his speech, the colonel advanced a similar statement as his own view. So I do not see how we can say he was misrepresented. I understand the colonel feels otherwise, and is suing CBS. Fine. Perhaps the courts will agree with him. This is a matter for the courts, not for Congress.

Finally, Mr. Speaker, I must say I fear today's vote may be decided, not on the issue, but on the basis of congressional courtesy. We have a tradition of supporting the committee chairman in matters such as these.

If such is the case today, it would be most regrettable. It would confirm the popular feeling that the Congress exists not to serve the people of the United States, but as a gentlemen's club run for the benefit of its members. Moreover, the citation will almost certainly be overturned by the courts, making us look foolish as well.

So I hope we will serve ourselves, the people and our national tradition of freedom of speech and the press by voting down this contempt motion.

Mr. BROTZMAN. Mr. Speaker, I oppose issuance of the contempt citation and accordingly vote to recommit the resolution, for these reasons:

First, the issuance of the citation would be an unconstitutional act barred by the freedom-of-the-press clause of the U.S. Constitution. Supreme Court cases have extended this provision to television and radio on virtually the same basis as newspapers.

Two, the issuance of the subpoena by the subcommittee was unnecessary in the first place, because the subcommittee already has the full text of the principal items that were edited for preparation of "The Selling of the Pentagon." These transcripts provide the Commerce Committee with what it needs to know if it chooses to draft new legislation to prevent network deception in the future.

Mrs. SULLIVAN. Mr. Speaker, I think

we are caught in a tangle here between the committee's broad powers to oversee the operations of the airwaves, on the one hand, and its prestige or "face" when confronted with a refusal of a witness to provide information the witness sincerely believes is protected by the first amendment. As I read the committee report and the various dissents, I believe it has been clearly established in "The Selling of the Pentagon" investigation that answers to a specific question, or statements made in a speech somewhere, were edited into the film to appear to be answers to a completely different question, and out of sequence. I think most of us would regard that as an abuse of news freedom.

But is there any law this Congress could pass which would require every news program and every news documentary to be scrupulously honest and scrupulously fair and objective? If we were to attempt to write such a law, and it went into effect, it would, I am sure, be quickly struck down by the courts.

The refusal of CBS to supply certain material not used on the air in the broadcast in question has in no way prevented the committee from determining that the program was, in some respects, probably deceptive. The alleged deceptions have been fully exposed. CBS has announced it is changing its policy on news presentation to avoid deceptions charged in this instance. Any other network or television station would now hesitate, I am sure, to risk exposure for using similar techniques.

The committee, then, by this investigation, has accomplished a primary goal of warning the broadcast news media that the public has a right to know when it is in danger of being manipulated by deceptive film editing in news broadcasts' so-called doctored news.

CASE DOES NOT AFFECT COMMITTEE'S POWERS TO LEGISLATE

But each news editor or producer and their employers must make their own determinations as to what is truth or fact, and how to present it. And they are subject to as much criticism as any Member of Congress or committee of Congress, or the Vice President, or competing media, may wish to make of their judgment, fairness, and objectivity. The television stations themselves exercise independent judgment as to what network presentations they will air, knowing that if a program is designed deliberately to mislead or defraud the public as to the facts, the station which uses it is subject to discipline at license-renewal time or under the fairness doctrine. CBS is being sued for damages as a result of "The Selling of the Pentagon" and this case will give the courts the opportunity to decide questions a majority of the House Committee on Interstate and Foreign Commerce has raised about the truthfulness of the broadcast.

I realize that the committee's main purpose in seeking a contempt citation is to have the courts also decide the limits of congressional power in compelling testimony or the presentation of subpoenaed documents in matters relating to the use of the airwaves. But the committee would have to show the need for this material for a clear legislative purpose, and

as I said, I do not see how any law could be written, based on the record in this case, which could limit a broadcaster's right to decide what is news and how it should be presented.

Exposure of abuses is one thing—and any abuses in this instance have been exposed. Future abuses similar to those charged in this case can also always be exposed—and undoubtedly will be. I shall vote against the resolution for a contempt-of-Congress citation in this case because I do not think this case could make an iota of difference one way or another in the committee's actual powers to deal with news broadcast abuses by law.

Mr. MOORHEAD. Mr. Speaker, I would like to introduce at this time a letter sent to me by Sigma Delta Chi, the national journalism fraternity, which strongly opposes the action of the Interstate and Foreign Commerce Committee in citing CBS in contempt of Congress.

I expect to vote against the committee and hope that a majority of my colleagues also vote against this dangerous precedent-setting effort to deny CBS its first-amendment rights.

I am particularly concerned about the issues involved here because the Foreign Operations and Government Information Subcommittee, which I have the honor of chairing, just completed a series of hearings in which freedom of the press was the paramount issue.

If the Members of this body are truly concerned about the free flow of information and attempts to distort reality, there are far more fertile fields to explore than the "Selling of the Pentagon" show.

Although I do not believe that the media should have no restraints whatsoever in publishing, recording, and televising, I believe that this Nation will fare far worse from overregulation of our press than from an occasional abuse carried out by our press.

It is better to have too much freedom than too little.

The letter follows:

SIGMA DELTA CHI,
PROFESSIONAL JOURNALISTIC SOCIETY,
Chicago, Ill., July 8, 1971.
Open Letter to the Members of the House of Representatives:

Sigma Delta Chi, with a membership of more than 21,000 journalists throughout the country, urges you to kill the contempt citation recommended by your Commerce Committee against CBS and its president, Dr. Frank Stanton.

Approval of the citation would be a severe blow to our cherished, constitutionally guaranteed freedom of the press, of which broadcast journalism is an integral part. Such action, endorsing efforts of governmental officials to snoop into non-broadcast material, would serve to intimidate and harass all newsmen in the future.

Sigma Delta Chi takes this occasion to reaffirm its stand against any interference with the crucial role of the news media in freely presenting information to the American people. Fishing expeditions such as the one undertaken by the Commerce Committee must be stopped if constitutional liberties are to be preserved.

Mrs. MINK. Mr. Speaker, I rise to join my distinguished colleagues who have registered their opposition to the motion by the Committee on Interstate and For-

eign Commerce to cite CBS and Dr. Frank Stanton for contempt of Congress. I regard a vote for the contempt citation as a grave infringement upon the fundamental right of freedom of the press, as guaranteed by the first amendment of the Constitution.

Freedom of the press is essential for democracy, and therefore we cannot allow a controversy over editing ethics to justify governmental surveillance of the news media. The question before us today does not concern the propriety of the CBS documentary. It is, rather, a question concerning the propriety of Congress to engage in acts constituting surveillance of the press. It is not the function of the Congress to use its omniscient powers to seek to determine the truth or falsity of a documentary. To engage our powers in this search is an unwarranted intrusion which clearly violates the basic tenets of the Constitution.

The argument that freedom of the press under the first amendment does not automatically extend to television and radio because use of the airwaves is a Government-regulated franchise is a tenuous one. The authority of Congress and the Federal Communications Commission is purely organizational, designed to spare us from chaos on our television screens. There can be no distinction between the printed and nonprinted news media insofar as the constitutional guarantee of freedom of the press is concerned.

The first amendment expressly provides that Congress shall not act to restrain freedom of the press. We do not solve the problem of distortion in the press by abrogating the rights guaranteed in the Constitution. The only way to provide for a responsible media is through encouraging the free exchange of ideas in a free press.

I respectfully urge a vote against the committee's motion.

Mrs. ABZUG. Mr. Speaker, I rise in opposition to the resolution. The principle of freedom of the press, which won a signal victory in the recent Supreme Court decision, today faces another major test.

I think that it is imperative that we all take a good, close look at exactly what it is that this resolution proposes. What it boils down to is that the committee wishes to review the way CBS put together and edited this specific documentary—in other words, the committee wishes to judge the documentary by its own standard of truth.

No account of events is ever made without an editing procedure. Judge Learned Hand spoke to this point when he said:

News is history; recent history, it is true, but veritable history, nevertheless; and history is not total recall, but a deliberate pruning of, and calling from, the flux of events . . . a personal impress is inevitable at every stage; it gives its value to the dispatch, without which it would be unreadable.

For Congress to attempt to look over the shoulder of a newspaper, a television network, or anyone else exercising the freedom of the press, constitutes a giant step toward control over the content of the message, for one cannot simply sep-

arate the manner in which a program is edited from the content of that program.

The outtakes which the committee demands are the equivalent of the news reporter's notes which were protected from subpoena in the *Caldwell* case. The Court of Appeals decision in the case of *Metromedia* against Rosenbloom, recently upheld by the Supreme Court, says:

No rational distinction can be made between radio and television on the one hand and the press on the other in affording the constitutional protection contemplated by the First Amendment.

Regardless of the way it is being presented, this resolution is in fact an attempt at intimidation of the press. It would exert a chilling effect on the networks. That is precisely its intent. All the evidence at hand indicates that the subpoena was not issued as part of a legitimate investigation for the purpose of framing constitutional legislation, but in a misguided attempt to put the networks in their place.

By its control over the sources of information, the Government has great power to decide what we shall know or not know. Only years after their making—and even then over the vehement protests of the administration—are we finding out some of the basic facts and circumstances about Vietnam policy decisions. Propaganda practices like those discussed in "The Selling of the Pentagon" add to this power.

In these critical times, the role of the press as a counterbalance to governmental power is especially vital. Even if we had the power to regulate in this area—and I do not believe that we do—the danger of governmental distortion of the truth and governmental intimidation of those who would report it is far greater than any danger posed by possible distortions of truth in reporting the news.

Mr. TERRY. Mr. Speaker, a vote will soon be taken by this House on the contempt citation against CBS. It is a vote of historic importance; one which I personally regret is necessary.

An attitude is developing in this country that the Government cannot withstand the glare of publicity. In the past months, several major issues have arisen which have prompted either Executive or legislative action to restrict the flow of legitimate information to the general public.

We are creating an atmosphere of censorship which can only work to the disadvantage of the Congress, and the American people.

The core issue is the independence of the editing processes used by CBS personnel. The charge against the network is that they did not present all of the material in an objective fashion.

The mere process of editing is a subjective matter, for the determination must be made of what is newsworthy, interesting, and stimulating for the viewers.

Through the vehicle of a contempt citation an attempt is being made to restrict the freedom of editing. Any individual in public life would prefer to have a veto over what 30-second clip of

a 15-minute speech is used for quotation. But, we cannot do so, nor should we be permitted to do so.

This Nation has at times been indebted to courageous journalists who have withstood tremendous public pressures in order to report events in a different light than our Government at times would have preferred.

This is the job of any journalist whatever his medium of communication.

Considering the legal ramifications of the contempt citation, additional reason is given for the defeat of the contempt citation.

The first amendment is clear that Congress shall make no law which will infringe upon the freedom of the press.

The contempt citation is in effect infringing for its attempts to compel a major network to justify the manner in which it edited its film and videotapes.

Broadcast and printed media were recently placed on the same footing through the Supreme Court decision of *Rosenbloom v. Metromedia, Inc.*, 39 U.S.L.W. 4694 (June 7, 1971).

Mr. Justice White stated in a concurring opinion in support of the decision:

The first amendment gives the press and the broadcast media a privilege to report and comment upon the official actions of public servants in full detail.

Reporting that full detail includes the shortcomings as well as the strong points; the failures as well as the triumphs. We cannot afford to limit the information to the people or we shall surely limit our capacity as elected representatives of the people.

If a judgment is necessary on the objectivity of the networks, let the people be the judge.

We place our future in their hands every 2 years. Surely, the quality and scope of the broadcast media will not suffer if it is put to the same test.

Mr. HARRINGTON. Mr. Speaker, today we are considering a resolution which never should have reached this floor. If the House votes to cite the Columbia Broadcasting System and its president, Dr. Frank Stanton, for contempt, we will be perverting the legislative process and setting a precedent which can only lead to further erosion of the first amendment.

In opposing this resolution, we are not just protecting the rights of CBS and Dr. Stanton—although they are the issues before us—rather, we are protecting the rights of a nation to benefit from unfettered journalism. The Court said in *Grosjean* against American Press Co. in 1936:

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.

The news and the men who report it must have the greatest leeway if the Nation is to be informed. The Congress must never become an editor. This is simply not our business.

The Court has often spoken of "the chilling effect" which would result from governmental interference in the news. If a newsmen had to ponder each time he sat at a typewriter whether he was risking his right to publish, how safe

would the first amendment be? That is the issue before us today. A major network broadcast a documentary, "The Selling of the Pentagon," which criticized the Department of Defense. Now, the network and its president face a contempt citation. And for what purpose? Because Dr. Stanton refused to furnish the Subcommittee on Investigations with outtakes—unused film from the broadcast—one would think that the texts of the interviews in question were otherwise unavailable. Yet, anyone who wishes to can read the entire interview with Assistant Secretary of Defense Daniel Henkin in the March 8 CONGRESSIONAL RECORD; so what is the reason for demanding the outtakes?

The quotes CBS chose to use in its broadcast were not the quotes Secretary Henkin might have preferred or individual Congressmen might have preferred, but editing has always been within the jurisdiction of the media. The specter of Government stepping into news judgments is all too apparent. The subcommittee's legislative purpose was to determine whether "distortions" or "editing practices," as Chairman HARLEY STAGGERS described it, gave false impressions to the American public. That purpose is merely another way of saying legislative surveillance.

Where news is concerned, the print and broadcast media must be on an equal footing, a position recently affirmed by the Supreme Court in *Rosenbloom* against *Metromedia* when the libel laws established by New York Times against Sullivan were applied to a radio station. Why then is a network president facing a citation for contempt when the same charge would never be considered against a newspaper editor? There is no longer any legal reason to perpetuate this double standard.

The subcommittee contended that since stations must apply to the Federal Communications Commission for a license, they are in a special category. But where news is concerned, there can be no special category. FCC licensing procedures promote efficient use of the airwaves—not editorial policy. The FCC has, however, determined that CBS complied with the fairness doctrine when it later broadcast a program allowing the documentary's critics to express their opinions.

What, in fact, did Dr. Stanton do to invoke the ire of Chairman STAGGERS' subcommittee? Did he fail to attend the hearing to testify? No; he appeared June 24 for 4 hours and answered questions on editing practices, but Dr. Stanton correctly drew the line by refusing to submit unused film just as any conscientious publisher would refuse to supply his reporters' notebooks. Nor has CBS taken legitimate criticism lightly. After a year's research, the network issued new guidelines designed to improve its documentaries. Good journalists are their own severest critics. I suggest CBS is following that tradition by reforming from within. The network needs no help from us amateurs.

I disagree with my colleagues who say "The Selling of the Pentagon" was a deceptive documentary. No one has come

forth with legitimate examples of inaccuracies in substance. The documentary raised very serious issues, issues which deserve far more debate before this body than the editing procedures. Why has no one asked if the Pentagon budget can justify so much money for public relations? That is the question this Congress should be considering.

I urge my colleagues to vote against this resolution because it is inherently wrong for Congress to interfere with the news. It is true that CBS will lose if this resolution passes, but Congress will be the bigger loser for passing this folly because it will, I believe, be correctly dismissed in the courts. Congress has no business in this matter. The only action we can take in good conscience is to vote against this bill. That is our only choice.

Mr. McKAY. Mr. Speaker, it is my intent to vote against citing Frank Stanton and CBS for contempt of Congress. I will do this because I hold the freedom of the press to be so essential to the health of the American system that I could not do otherwise. I am mindful of the words of Thomas Jefferson in 1787:

The basis of our government being the opinion of the people. The very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter.

In deciding to vote against the citation, I do not mean to imply that I approve of the documentary, "The Selling of the Pentagon." I believe one's views about the merits of that program are irrelevant to the issue before the House in the Stanton case. As John Stuart Mill pointed out in his famous essay "Liberty":

We can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still.

Having expressed my deep commitment to the principle of freedom of the press, I should like to state that there remain a number of questions troublesome to me. The issues involved here are by no means as simple as the partisans on either side have tried to draw them, and I should like to state my concern about these unresolved problems.

Many are concerned about upholding the authority and prerogatives of the House, and in particular, about protecting its subpoena power so vital to the process of legislative oversight. This concern is valid and would be, to me, highly persuasive were constitutional issues not involved. Circumscribing governmental prerogatives, after all, is one of the most basic purposes of the Bill of Rights.

What concerns me far more is the corollary to the previous argument, namely that Congress needs to be informed in order to carry out its responsibilities. Mr. Stanton recognized, apparently, that it was legitimate for Congress to inquire into the processes and articulated standards which CBS has adopted in general, and he provided information on these points willingly. His objection was to any discussion of the editorial decisions made in any particular case. His statement was:

I shall, however, do my best to answer questions of the Subcommittee which do not seek to probe so deeply into the news process as to reach specific journalistic practices or the editing of particular broadcasts. The line is a difficult one to draw.

I suggest that the line is not just difficult to draw but may be entirely artificial. Courts have long since learned that you must look beyond articulated propositions to their effects on particular people, beyond the words of the laws to the application of the law in specific cases. Courts recognize that what is appropriate in form may not be allowable in application.

If the practices of the broadcast media are a legitimate concern of the Congress, then the examination of those practices as applied in specific circumstances is inescapable. In making my decision, I have demonstrated my belief that the House should not call upon a journalist to justify his position. But I do not believe that the Congress must acquiesce whenever the press speaks. I believe it entirely appropriate for committees of this House to conduct investigations and, from its own sources, refute whatever criticism it considers invalid and reveal whatever bias and unfair practices it may find on the part of the media.

Most troublesome to me is a fear about the condition of the broadcast media in the country. I have previously quoted John Stuart Mill. Certainly his statement in "Liberty" is among the most eloquent and well reasoned of all the arguments in behalf of freedom of expression. Central to his thesis is the concept of "Free Market of Ideas" in which, eventually, the truth will prevail against competing statements.

The argument for freedom of the press is the same. Such an argument, however, presupposes competition among those in the same media and among the media themselves. The "Free Market of Ideas," like the economic free market, ceases to function efficiently when competition is limited by oligopoly or monopoly. Traditionally, the Government has been considered the gravest threat to freedom of the press. But it is not the only threat. It is not inconceivable that the control of mass media would fall into so few hands that a small group, outside of Government, might be able to control the vast majority of the information disseminated in this country.

There are those who say we have reached that point today, who argue that the members of the broadcast media cannot make each other accountable to the truth because they are so few, and their interests so parallel. If that is the case, it is argued, only the Government can call networks to account.

I think it important that networks listen to that argument, not out of fear of Government control, but out of a proper respect for what we mean by a free press. I believe that they must continue to probe, to examine, to speculate, to report, and to refute not only the statements of the Government, but also the information purveyed by their fellow journalists. Only then can freedom of the press mean what Jefferson and Mill understood it to mean.

I do not believe the press has yet

reached this state of irresponsibility, and if it had, the kind of demand made upon Mr. Stanton would not be the appropriate way to correct the problem. But the press must be accountable, not to the Government, not even to the people, but to the truth as it is revealed through free exchange of diverse ideas.

Finally, I should like to point out that freedom of the press is not only an essential element of free society, but a free society is essential to a free press. The government which protects a free society protects also the free press and the system which makes that government function deserves the allegiance of those who benefit from it.

The Government relies upon the press to disseminate its decisions and to maintain lines of communication between the people and their representatives. I would hope the press understands this reliance and the responsibility which it imposes upon our media. I have every reason to be proud of the work which has been done by American journalism, but it is not remiss to remind the press of its continuing responsibility to provide ethical standards for itself and to protect the system of freedom without which the free press would be unprotected.

Mr. ANDERSON of California. I rise in opposition to the motion to cite CBS President Frank Stanton for contempt of Congress.

My able friend, the gentleman from West Virginia (Mr. STAGGERS) has acted in good faith and I do not argue that the editing methods of broadcasters are always in the best interests of the people of this country.

Obviously, all of us want what is best for all of the people. But, to me, the threat of Government intimidation or censorship works counter to our objectives—an educated and vigilant citizenry. A free, inquiring press guarantees the people's right to know what its government is doing—why, where, and how the government operates. To censor, to control the views of the news media is to deny the people the facts that they must have to formulate opinions, and to choose their representatives.

I strongly believe that the people's right to choose—to select—the news they wish to read, see, or hear, is, by far, the best method of controlling the media. For if the public is appalled, or incensed by the media, then it will turn to other sources for its news.

I feel far safer getting my news and views direct from the wide choice of independent voices available to us than I could under a system of censorship from any level of government, however well intended.

Mr. Speaker, the threat of public disbelief, the threat of a lapse in credibility, should be the restraining force over the media and its commercial sponsors—not legal action that might tend to bridle the media in its attempt to cover the news.

Mr. WOLFF. Mr. Speaker, I rise in opposition to House Resolution 534, citing CBS and its president, Dr. Frank Stanton, for contempt of Congress. As my colleagues know, this contempt citation arises from CBS' and Dr. Stanton's refusal to turn over film materials and other information regarding prepara-

tion of a CBS documentary, "The Selling of the Pentagon."

I must oppose this resolution for a number of reasons. In the first place, I feel that the power of subpoena should be used by congressional committees only when there is no other way to acquire specific information needed for a committee investigation. In this case, it seems clear from the record and from the minority views in the report on this resolution that all of the information which the Interstate and Foreign Commerce Committee needs to legislate in this area is available.

Even assuming that the program on "The Selling of the Pentagon" was deliberately edited to achieve deceptive results—in which case the committee's inquiry into the editing might be justified—there would still be a question about whether it is necessary to subpoena the outtakes in order to determine the extent of such editing and complete the committee's inquiry. I might suggest at this point that, should the networks decide to broadcast outtakes including remarks by Members of this body, many of my colleagues might take exception to this decision.

Use of the subpoena was not necessary in this case, and its use can only be construed, as the minority views point out, as "arising from a concern for establishing 'what is truth' by a governmental action." This kind of governmental inquiry into journalistic judgment—which was clearly rejected by the FCC—is unwise.

In short, it seems to me that the subpoena issued by the committee, in the absence of any clear legislative purpose and without reason to believe needed new information could be gained by the subpoena, is in obvious conflict with the first amendment. The committee investigation was clearly being carried out in an attempt to exercise a highly questionable congressional power to judge whether TV news is factually true—a judgment which cannot be rendered without interference with the constitutionally protected rights of journalists.

The first amendment protection of freedom of the press was intended, at the time it was written, to provide full protection for the print media—for radio and television had not yet been devised. However, we must treat broadcast journalism as having the same first amendment rights and protections as newspapers. Although there has been licensing of broadcasting to assure fair use of the public airways, it has not extended to Government oversight of editorial and news judgments, but has been to make sure that all sides of an issue were fairly presented. Extension of Government oversight beyond enforcement of the fairness doctrine would be a clear infringement of CBS' first amendment rights.

With regard to "fairness," I would like to point out that the committee report on this resolution was unavailable until after the session began today—and then only in limited quantity. This is not a fair or reasonable approach to the legislative process, in my judgment.

I urge my colleagues to oppose this contempt citation, for I believe that

the first amendment rights of broadcast journalism—now the primary source of news for millions of Americans—must be protected. Any infringement on those rights, such as that now proposed by the committee, would be unconscionable and, indeed, dangerous, in that it might lead to subsequent censorship of this and other media. This is a risk this Nation cannot possibly afford.

I would like to bring to the attention of my colleagues a recent editorial broadcast by WMCA, New York:

(Radio editorial)
FR TO PRINT
(By R. Peter Straus)

JULY 3-4, 1971.

The Supreme Court's decision that the Pentagon papers are fit to print is a solid enough victory for law and for common sense. The Court confirmed that the Bill of Rights means what it says—that Congress shall make no law abridging the freedom of the press.

But the Court's decision has not ended the state of undeclared war between the press and the politicians in this country. In fact, the day after the decision was handed down, a congressional committee voted contempt charges against CBS TV network and its president in another battle over freedom of the press.

The committee's chairman, Congressman Harley Staggers, wants to see the material CBS didn't broadcast in a documentary called "The Selling of the Pentagon." He says radio and TV newsmen don't have the same freedom that reporters have in print.

If that's true, we've taken the first step toward full-time government censorship. Your right to know shouldn't depend on whether you read the news—or hear it.

Mr. ROYBAL. Mr. Speaker, I rise in opposition to the House Commerce Committee resolution citing CBS and its president, Dr. Frank Stanton, in contempt of Congress. I regard the adoption of this resolution as the first step in repressing and muzzling the news media.

This move contains the seeds of McCarthyism and would lead us into an era of intimidation and congressional arrogance. A revival of McCarthyism would result in a serious collapse of the American system of checks and balances and damage our rights to free speech and free press.

When the House Commerce Committee subpoenaed materials unused or edited out of the news documentary "The Selling of the Pentagon," I wrote to the committee chairman on April 29, the following:

I am concerned that the House Interstate and Foreign Commerce Committee may unknowingly be contributing to the growing hysteria surrounding alleged threats to free speech and protection from unreasonable search . . .

If permitted to continue, these activities of certain governmental agencies could induce a state of fear in this country only to be matched by the awesome year of the McCarthy era.

It is my hope that your Committee will reconsider this action in the light of the great threat it poses to the continued reputation of your Committee and the House as defenders of our basic individual freedoms.

I do not regard the original and the current subpoena as serving any valid legislative purpose. Congress has no place

setting editing standards for broadcast news in violation of the first amendment.

In the recent Rosenbloom decision against Metromedia decision, the Supreme Court ruled that the first amendment covers broadcast journalism as well as newspapers. Like newspapers, the broadcast media is only liable where actual malice or reckless disregard for truth is proven. The broadcast media is also subject to the fairness doctrine requiring that all sides be presented. CBS fulfilled this obligation on two follow-up programs; aired on March 23 and April 18.

Congress should not attempt to set standards of truth in the production of news programs. This is a very hazardous undertaking, since it would impose one man's perspective of truth over another's.

As Dr. Stanton testified before the House Commerce Committee on June 24:

What we do object to is being subjected to compulsory questioning in the governmental inquiry, expressly intended to determine whether this or any other CBS news report meets Government standards of truth.

The committee argues that the TV outtakes under subpoena are not the same as reporter's notes, and therefore not protected by the first amendment. I disagree with this distinction. Broadcast like print journalists have their own manner of taking notes—film, videotapes, and sound recordings. Whether in print or broadcast, the journalists or reporters first gather their news materials, then edit and present their stories or news programs in compressed form. Personal judgment and choice enters at every step of the news process, and confidentiality of material as well as sources needs to be protected.

There has been a few court rulings on TV outtakes. For instance, the reporter's privilege laws in New York and other States protect both print and broadcast journalism. State courts in New York, Illinois, and California have invalidated subpoenas for TV outtakes on statutory and, in a California case, on first amendment grounds.

The meaning of the first amendment is to encourage a free flow of ideas and views, and to prohibit Government from setting standards of truth for free speech and free press. In the *Caldwell* case of 1970 the Supreme Court recognized that:

The very concept of a free press requires that the news media be accorded a measure of autonomy; that they should be free to pursue their own investigations to their ends without fear of governmental interference.

The press, the news media, serves as a critic and analyst of our society and governmental process. To muzzle it by rules governing news content is to make it a subservient press. This can only lead to a general weakening or decay of our basic freedoms, particularly free speech.

There is a risk in having a free press; it may act irresponsibly. But we should take that risk if we are to remain a free society. James Madison understood well the dangers of a free press but warned against attempts to correct the excesses.

He wrote:

That this liberty is often carried to excess; that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered.

Perhaps it is an evil inseparable from the good with which it is allied . . .

However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America.

I believe we should adopt Madison's pragmatism and not attempt to remake the Constitution.

Mr. DULSKI. Mr. President, I support the privileged resolution offered by the gentleman from West Virginia (Mr. STAGGERS), the distinguished chairman of the Interstate and Foreign Commerce Committee.

I feel that the network had a responsibility to respond to the committee subpoena. I believe the committee was justified, in its oversight responsibility, in insisting that the network comply.

Having received a flat refusal to comply, the committee voted a contempt citation. I support the action of the committee majority.

Mr. Speaker, as part of my remarks I include a column from the Buffalo, N.Y., Courier Express by William F. Buckley, Jr.:

STANTON VERSUS CONGRESS
(By William F. Buckley, Jr.)

Here is the background. CBS produced a brilliantly effective documentary called "The Selling of the Pentagon." Its thesis is that the Pentagon does a lot of PR work, which I found about as surprising as Mr. Agnew's revelation that the networks tend to show a leftward bias. The issue was then raised, and intelligently discussed, whether the documentary had engaged in rather unusual distortions. Any polemical account of anything engages in what one might call distortions, i.e., the stressing of one set of points, and the understressing of another. But it was charged that CBS did more: That the producer took words uttered by a Pentagon official in answer to one set of questions, and appended them to a different set of questions, so as to give the viewer the impression that said Pentagon official was being very perverse and very unresponsive.

At this point a congressional committee began to take an interest in the case, and notified CBS President Dr. Frank Stanton that it desired to see all the film that had been taken, from which the final had been put together. To this indelicacy, Dr. Stanton replied no, citing the freedom of the press. And, indeed, no journalist gladly permits others to see his notes, no artist his early drafts. But Rep. Harley Staggers of the House Commerce Committee turns out to be a tough hombre, and he promptly subpoenaed the CBS rushes. Dr. Stanton refused to produce them, whereupon the subcommittee voted to find him in contempt, and now the senior committee, by a two-to-one vote, concurs and the House of Representatives will be asked to say yes or no.

Dr. Stanton, who is the soul of honor, insists on reducing the conflict to generic terms. "All this boils down to," he said, "is one central and vital question: Is this country going to continue to have a free press, or is indirect censorship to be imposed upon it? The issue is as simple as that."

But surely the issue is not as simple as that. It is more complicated than that. Rep. Staggers, who by the way is a Democrat, put it this way, in answering Dr. Stanton: "This is the most powerful media we have in America today and you talk about 'chilling effect' . . . Where there is untruth put over these networks, they can control this land, and you know they can." Rep. Clarence J. Brown came to the defense of CBS, if not exactly in just the way Dr. Stanton would have liked. "CBS has a right to lie," said Mr.

Brown, "and does so frequently." But then Mr. Brown suggested that CBS should devise its own safeguards against a repetition of such distortions as the Pentagon commentary was guilty of. "It is not up to me to decide what's untruthful, biased and slanted, but if Frank Stanton doesn't wake up to the fact that he has a responsibility to the American people, the people will take care of him—or we will take care of him some other way."

Surely Congress is making its own simple point, which is that broadcast licensees, unlike newspaper publishers, are already regulated as it stands, via such articles as the Fairness Doctrine, and that Congress has a continuing responsibility to oversee the broad rules by which the broadcasters are governed.

As recently as in 1959, when the Communications Act was amended, Congress, in granting certain immunities to the television industry, wrote that "nothing in the foregoing . . . shall be construed as relieving broadcasters in connection with the presentation of . . . news, documentaries . . . from the obligation imposed upon them under this Act, to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

Meanwhile, deep down in the news story, one learns that CBS has just now issued a directive governing future news documentaries. "One (directive)"—to quote a summary of it—"requires that, if the answer to one question asked of an interviewed person is taken from a reply to another question, the viewer must be so advised." Those who know Frank Stanton will know that his reforms were instituted because of his own commitment to fairness. But those who don't know Frank Stanton will quite understandably believe that his reforms were instituted because of congressional pressure. And that, children, is what congressional pressure is all about.

Mr. RARICK. Mr. Speaker, I rise to support the committee and will vote to hold CBS in contempt of Congress because I believe in the right of our people to know the truth.

I cannot see where in the action today any first amendment violation is involved inasmuch as the constitutional amendment reads:

Congress shall make no law . . . abridging the freedom of speech or of the press.

Congress, in this instance, is not making any laws but rather attempting to investigate the threats to free speech which have been brazenly manipulated by the CBS network people using licenses extended by a Federal agency.

If by the widest stretch of the imagination there has been a first amendment violation, it has been the censorship—even more than that, the willful distortion, by the CBS network operating through its affiliates, using the licenses granted by congressional authority being exploited to misinform our people.

There is a decided difference between freedom of speech and freedom of the press and the right to use the ether waves which are classified as being vested with a public interest and owned by all of the people and therefore supervised by Congress and the FCC.

In recent months we in Congress have beheld judicial approval of action taken by the FCC in denying licenses to TV stations and radio stations in the common interest of the American people. One such incident was the revocation of the TV license in Jackson, Miss., on grounds that it did not program its TV coverage to

conform with the racial proportions of the community. None of the champions of free speech, including the right to distort TV signals here today, were ever heard to utter one word on the theory of denial of free speech to the owners of the Jackson, Miss. TV station.

And Americans have learned that the pettiness of banning the playing of Dixie and displaying the Confederate flag on TV has been as a result of guidelines from the FCC bureaucracy, without any first amendment violation cry.

Certainly, since the FCC was created by and operates under the laws of Congress and has demonstrated quasi-dictatorial powers over the speech matter and programing on TV and radio stations, it is absurd to think that Congress—charged with the responsibility of protecting the first amendment rights of the people to free speech and free press so they can be fully informed—cannot insist that CBS network, as the beneficiary of its affiliates' licenses to operate an opinionmaking monopoly, not willfully lie in what is told the people.

Many people today experience the feeling of the world as upside down. What is reported to them as being good, they find to be bad and what they are told is bad, they end up finding is good. As one constituent told me:

I have to stand on my head to understand the new vocabulary and what is going on in America.

Those who the people are told are for war, are found to be for peace; while those who act and talk of peace are those who prolong the war and keep it from ending. Likewise, in the matter at hand, it is CBS, cloaking itself with the first amendment, who is the censor of free speech and free press and who would deny the American people the right to know.

Jesus said:

And ye shall know the truth and the truth shall make you free.—John 8: 32

If this body does not adopt the resolution before us today, truth will continue to be a stranger in our land and the freedom of our people will continue in jeopardy.

I urge adoption of the resolution.

Mr. KOCH. Mr. Speaker, I shall vote no on this motion to cite for contempt the Columbia Broadcasting System and Dr. Frank Stanton. We have had 1 hour of debate on this issue, all that is permissible under the rules of the House—and the lines are clearly drawn.

Those who seek the citation for contempt so as to compel Dr. Stanton to provide the outtakes take the position that the Congress is entitled to see them to ascertain whether or not CBS in its documentary "The Selling of the Pentagon" told the truth. Those of us who oppose the citation for contempt take the position that it is irrelevant what those outtakes would show if they were produced.

It is remarkable how the first amendment is praised by all in the abstract but is too often denigrated in the particular. The Supreme Court has already ruled in prior cases that news broadcasts on radio and television are entitled to the same first amendment protection as is afforded newspapers. No Member of this

House at this point in time would suggest that a newspaper reporter produce his notes to a congressional committee. And the fact is the courts have already decided that such a demand would violate the Constitution. The outtakes of television, which are as we know the unused film or tape, are in fact the television reporters' notes and are entitled to the same first amendment protection.

Fundamental here is the question of whether the Government shall have the right to establish a standard of truth for the press, and the press includes radio and television news broadcasts. I believe that the Government does not have the right to establish the standard—a sentiment shared by the founders of our Republic who in their wisdom established the protection of the first amendment. The recent revelations of the standard of truth used by the Government, as reflected in the Pentagon papers, demonstrate how right the Founding Fathers were.

We can all agree that errors and misstatements, and indeed on occasion false statements, have been published in newspapers and spoken on the radio and television programs of this country. But on balance the free press has kept this country free and democratic and I would not reduce its protections by one iota.

Mr. GONZALEZ. Mr. Speaker, we are here under the baleful eye of the CBS logo, talking about contempt of Congress. But the issue is really the right to know. The issue is whether someone except CBS is to be the arbiter of truth.

When a newspaper prints an error, its competition is generally glad to correct the story. When a magazine prints an opinion there are dozens, even hundreds, to print other opinions. But when a television network errs or lies there is no competition around that seems willing to broadcast a correction; and networks do not like to state opinions, at least out in the open. Yet no individual in the country has enough access to television networks to call an error an error; and CBS assuredly is unwilling to confess it is wrong, or has been wrong, or even that it has an editorial point of view.

So who is to protect the truth?

Ideally it should be the competition from other networks. But we know that this has not assured fair reporting, because there is no competition between the networks, except for ratings and prestige.

Maybe some day in the far distant future we will have as many television outlets as we have magazines and newspapers, and there will be sufficient competition to assure that the networks report with accuracy and care. But today the fact is that we do not live in such a perfect world as that. We live in the world where the baleful eye of CBS reigns with a mighty hand.

The might of that hand was made clear to me when CBS broadcast its famous "Hunger in America" show, which featured many scenes in my district. I demonstrated, and repeated investigations subsequently demonstrated that the show contained outright errors—or lies—about San Antonio, and greatly distorted the actual situation in the city. Yet CBS

has never felt that it had to so much as admit it could have been wrong, much less correct the record. The show is still being used all around the country, unchanged from its original form, though I know all too well its inaccuracies, and though others including Orville Freeman have said it was "bluntly and simply a travesty on objective reporting."

I said many months before "The Selling of the Pentagon" was ever broadcast:

The facts and opinions carried over the network outlets have powerful ability to create public opinion or influence it. The combination of film and sound has always been a powerful one; it produces great drama, elicits strong emotions, sets loose fervid thoughts. Television networks have great power, and therefore, they bear great responsibility in their use of it. But the fact is that the networks are responsible only to themselves, not to the public. How, then, is misinformation to be corrected when it comes from the networks? How are false statements to be corrected? Wherein lies the redress when the networks fail in their responsibility?

We have before us a grave problem. It is more than a matter of a contempt citation. It is a problem of arriving at some means of giving the public some protection against the abuse of network power. If a contempt citation is a poor tool, it is the only one we have available, at least right now. And besides, I would ask, what does CBS have to hide? Certainly they would not want to hide the truth.

Mr. RANDALL. Mr. Speaker, I cannot vote to sustain the citation for contempt by the Committee on Interstate and Foreign Commerce pursuant to the provisions of House Resolution 170, as contained in the report of the proceedings against Frank Stanton and the Columbia Broadcasting System.

An hour's debate on this privileged resolution is altogether inadequate on such an important matter. However in the limited time afforded I have listened carefully to the members of the committee.

As I listen to the proponents of this citation, the reason for the issuance of the contempt proceeding was in order that the committee might have adequate knowledge of the editing of the CBS documentary, in order to proceed to legislate to avoid similar instances in the future where there were presentations by the electronic media which perpetrate fraud and deceit against their viewers.

If one who is not a member of the committee can rely on the 10 members of the committee who filed dissenting views contained in the report, then the committee already had all of the information that it needed. In other words, the subcommittee already had everything that it needed in order to draw its conclusions about the propriety of the fraudulent type of editing used by CBS in "The Selling of the Pentagon." No one denied during the debate, that most of the substance of the "outtakes" sought by the subcommittee was already known to the committee and available in its files.

After reading that portion of the report which contained the dissenting views, I note these members set out portions of the interviews with Daniel Henkin, Assistant Secretary of Defense for

Public Affairs, and also portions of the speech of Colonel MacNeil. Any layman can make reference to the report and clearly determine both the distortions of the Henkin interview and also the changed or altered text of the Colonel MacNeil speech. There it is for anyone to read in the report. It is clear that the comments of both of these men were changed and twisted in order to make it appear that they made statements which in fact they did not make. The words which appeared in the documentary, "The Selling of the Pentagon" were not the words actually spoken by Mr. Henkin or by Colonel MacNeil.

All of these foregoing distortions, changes, and alterations constitute deceit. However, it is not the objective of the committee or the Congress simply to make a finding of deceit and fraud. Our purpose is to legislate to avoid repetition of a bad situation.

Unless I want to believe that 10 members of the committee are not telling the truth, I am drawn to the result that the subcommittee had everything it needed in order to reach its own conclusions about the propriety of editing by CBS, and thus draft legislation to prevent this in the future. The committee had the total script of the speech as written and approved by the Pentagon which was given by Secretary Henkin. It had the tape of Colonel MacNeil's utterances as well as his preliminary notes which the committee could compare with his utterances as portrayed by the documentary. The fact that these were all available to the committee made this subpoena unnecessary, and the citation for contempt was thus without any foundation.

If the materials asked to be subpoenaed were in fact already available, then this means we are not embarking on a good test case. Congress stands to lose if it presents a test of its authority to the courts under a fact situation which is not strong. The dignity of Congress is at stake. If we present a case which is not appealing to the courts because it can be shown there is little practical need for the subpoena or for its enforcement by this contempt citation, then we may well be in trouble. This matter will undoubtedly go to the courts. At this point the damage to the public has been slight, but much, much more damage could result to the Congress if our rights are diminished and our power of oversight of television is crippled by an adverse decision growing out of such a weak case. Our powers in the future could be severely limited by an adverse judicial decision.

On the other hand if our power to demand information is raised in a strong way or to use the words of prevailing court decisions, only in cases where there was a "compelling need" and a "lack of an alternative means" to get the information that Congress needs, then the courts would undoubtedly sustain the power of Congress under such circumstances.

It is my judgment, and in this I join with those who have provided in the report their minority or dissenting views, that Congress must not fail to put its best foot forward when we go into a test

case of our legitimate authority to establish a policy respecting the use of the airways. That is another reason, Mr. Speaker, that I cannot vote to support this citation for contempt.

Having stated that I shall not support the committee on this citation, I do not want to leave the impression that I am opposed to the procedure of citing unresponsive witnesses before a congressional committee for contempt. Over the past 13 years I have supported in repeated instances citations for contempt brought by the House Un-American Activities Committee and also the Internal Security Committee. But in those instances we were talking about subversive activities or infiltration of our government by Communists or fellow travelers. There is nothing of this sort of thing involved in this citation for contempt. No questions of national security are involved here. There is no question of subversive activities, but only the fact that CBS was misleading and deceptive and also the question of whether or not the committee has in its files enough information to legislate to avoid such network practices in the future.

After a fair consideration of the need for this subpoena and after a careful exploration of the strength of the facts to face a judicial review, the conclusion is almost inescapable that this citation should not be approved.

But not for one instant does it follow that the CBS documentary, "The Selling of the Pentagon," was what it purported to be. There is no possible doubt but that there was a mismatch of questions and answers. There was even an admission by CBS of a juxtaposition of answers to questions, which were not intended as an answer to that particular question. Just about everyone knows that CBS in this documentary played up the bad and played down the good.

In the documentary we are considering CBS cut some corners and skirted the truth, with the result of a deceptive and misleading presentation. In "The Selling of the Pentagon" the network did not seem concerned about false impressions. CBS did not seem concerned that their showing would misrepresent the true situation. The fact that this presentation was a dishonest fabrication and a hoax upon the viewers all adds up to the fact that CBS acted most irresponsibly. But that fact does not give Congress the license to also act irresponsibly. We are the representative of the people. We have been called "the people's body" and we have a duty and obligation to act responsibly. That means that this citation for contempt under a weak set of facts should not be issued.

Mr. Speaker, I have the highest respect for the first amendment. I firmly believe that we cannot tamper with freedom of the press. Actually I suppose even if it is admitted that this CBS documentary was an untruthful, deceptive, dishonest fabrication, that we must recognize that under the first amendment truth is not a prerequisite for publication. Of course, one remedy is a suit for libel. I understand that Colonel MacNeil has already filed a lawsuit against CBS for several million dollars.

If then there is no remedy against CBS through the enforcement of this citation, and if truth is not a prerequisite for publication either in the printed media or the electronic media, then just what remedy remains for the viewing public?

The answer is that I have confidence that the American public as a television audience will show so such resentment against these deceptions and fraud and will become so aroused that similar practices may not be repeated in the future. I understand CBS has already issued new guidelines for its editing. Adverse public opinion will do more to prevent the repetition in the future of dishonest fabrications by CBS than any congressional subpoena. After all, it is an educated, informed and alert citizenry that is the best weapon against the broadcast of deceitful, deceptive, misleading and dishonest broadcasts.

Mr. BELL. Mr. Speaker, I rise in opposition to another misguided and dangerous attempt to trample on the first amendment guarantee of a free press.

It is unfortunate, though perhaps to be expected, that attempts by Government officials to infringe upon freedom of the press occur more often at times when the press is most vigorously fulfilling its role of informing the public vigorously and critically of the activities of the Government and its officials.

It is highly significant that the principal rationale argued by both the committee majority and the CBS network is the concern for the "people's right to know." This is as it should be, for a major function of a free press in a free society must, of course, be to enable the people to discover the truth about their Nation and their government and its policies.

Although the case before us today does not directly involve the need to protect confidential sources, the issue is much the same. The need for protection of a reporter's personal notes—his private scribbles, words and phrases not used in a final draft, and the names of his sources—is essential if we are to uphold the value of vigorous investigative reporting. This kind of reporting in both the print media and the broadcast media is one of the greatest strengths in a free society with a free press. We need more of it.

For this reason, earlier this year I joined a number of my colleagues in cosponsoring the "Newsman's Privilege Act" which would protect reporters in their investigative reporting efforts. This is one way we utilize a free press to expose mistake, mismanagement, and corruption inside and outside our Government. Thus, reporters should not become the investigative arm of the Government.

At the same time, neither the print nor the electronic media should become the propaganda arm of the Government. A free nation loses a valuable resource if the media become mere endorsers of Government policy or conveyors of statements by Government officials.

This is the issue in the delicate case before us today. We are living in a time of lively public debate over major and minor issues of public importance. There have been repeated calls for "truth in government" and for expanded "freedom

of information" so that the public can make participatory democracy a reality on the basis of complete information. One of the major issues which has come fully to the fore recently in the debate over the Indochina war has been the public right to know the events, policies, and rationale behind our involvement in that war.

The ironic fact in this whole controversy is that many of us have hoped that we could encourage documentaries and other forms of investigative reporting in the broadcast medium as well as the press. The electronic media are particularly suited to informing the public along these lines because of the visual impact of their medium. For 30 or 60 minutes the television can knock down the walls and the distances in our society and bring the ghetto, the war, the refugee camp, hungry people, and similar isolated people and events in our society into every living room.

Following the recommendation of the committee today would discourage such informative presentations and encourage the broadcasting media to present nothing but dull "pabulum" to the public. For the dubious purpose of protecting the sensitivities of some Government officials, some would have the Government assume the role of arbiter of truth in the presentation of news, documentaries, and investigative reports concerning Government policies and the conditions of our people at war and at home.

As both the committee majority and the CBS network have correctly stated, the "people's right to know" is of paramount importance in the issue of a free press. But the committee would have us take misguided and unconstitutional means to attempt to protect and expand the freedom of information for the public.

As I understand it, the committee's majority opinion relies on the rationale that first amendment protection for the electronic media is something less than the protection afforded the print medium. The point has been made that Congress regulates the broadcast media, unlike the print media, through the Federal Communications Commission and its licensing procedure.

I would hasten to point out, however, that the means for regulating the current controversy have been adequately provided by existing legislation. The "fairness doctrine" in the Federal Communications Act provides for the presentation of all sides of a public controversy rather than limiting debate and limiting the "people's right to know" all sides of the controversy. Accordingly, the Federal Communications Commission has ruled on this very case that CBS complied with the provisions of the "fairness doctrine." A month after presenting its news documentary, the program was rebroadcast on March 23 with a 22-minute postscript containing critical comments by Vice President AGNEW, Secretary of Defense LAIRD, and Chairman HENRICH of the House Armed Services Committee, and a response by the president of CBS News.

Then on April 18 CBS broadcast an hour-long panel discussion presenting opposing views on the Defense Depart-

ment's public information program, which was the subject of the documentary. In this way, the public was not shielded from controversy and was enabled to hear many sides of a controversial public issue and make judgments based upon a variety of opinions.

The disturbing thing about the committee's recommendation is that the subpoena would require the network to divulge not only the materials presented on the program but also unused films and tapes which constitute electronic journalism's "newsman's notebooks." To subpoena these materials would be comparable to demanding the interviews, notes, and correspondence which constitute the rough drafts of an author's book.

To permit Congress to so invade the newsman's privilege in this fashion is to invite the chilling effects on a free press, to encourage Government surveillance of the news, and to inhibit the press from advancing the cause of the "people's right to know."

I would agree enthusiastically with those who contend that a limited access medium such as the broadcast medium has a very high responsibility to the public. There is always the danger that the highly concentrated media will misuse their responsibility and powers as they may have on some occasions. If this is done, the result would be an unfortunate impairment of the "people's right to know," and good government would suffer.

But the way to increase the flow of information to the public is not to follow the committee's recommendation which is before us today. The committee would have Congress harass broadcast journalism, submit broadcast journalists to interrogation, and induce self-censorship in broadcast journalism. The committee would have the Congress institute inquiries into the news judgments of broadcasters and encourage the establishment of a Government standard of "truth" in evaluating editorial decisions. This would cripple the right of the electronic press to report freely on the conduct of those in authority. And those in authority do not often like criticism of their conduct.

I would suggest that the "people's right to know" be encouraged in other ways. Rather than discouraging the proliferation of controversial views on issues of public importance, I would hope that we could encourage the media to provide even more access to public opinion on all sides of issues of public concern. I would hope that we could encourage more documentaries, more access to those with controversial minority opinions so that we could bring agitation into the marketplace of ideas where opinions will stand or fall in the ensuing clash of debate. I would also hope, further, that the media would make a special effort to see that controversial opinions are equally aired so that viewpoints be treated fairly regardless of the networks opinion.

In conclusion, I would hold that it is highly improper for the Congress to judge the propriety of views presented in television documentaries. Even in the Federal Communications Act—cited by the committee majority as indicating a lesser

first amendment protection for the broadcasting media—the Government is expressly forbidden to regulate the content of broadcast programming. Government can, of course, regulate libel, obscenity, extortion, and so on, under carefully drawn restrictions. And individual Congressmen, other Government officials and public figures have access to the press and other forums not always available to the public to express their views and respond to criticism. But there is no general role afforded to Government under the Constitution to police the gathering or presentation of news.

I encourage my colleagues today to demonstrate the full respect of the Congress for the precious freedom of the first amendment to our Constitution by voting against the contempt citation. It is of the utmost importance for us, as Government officials, to indicate our vigorous support for the constitutional protection of the right of a free press in a free country to criticize, to cajole, and to expose, in an open marketplace of ideas, the conditions in our society and the results of the policies of our Government. By doing so, I hope we will encourage the news media to view the first amendment as a protection ultimately of the public's right of access to the media as the forum for the free debate of ideas on issues of public importance.

Mr. GIAMMO. Mr. Speaker, I intend to vote to cite the Columbia Broadcasting Co. for contempt of Congress. I think that if the House fails to uphold the contempt citation of CBS it will be a mistake and that it will work to the detriment of the American people.

The controversy with CBS arose out of the filming of a television documentary called "The Selling of the Pentagon." This documentary was shown on television some months ago. An investigation by a congressional committee into the filming of that controversial show clearly indicates that certain questionable practices were engaged in by CBS. In the taping of the program, and the subsequent editing, manipulative techniques included the rearrangement of the words of an individual who was attempting to present a point of view at variance with that espoused by the producers of the program. The result of this manipulation was to make this individual appear to be answering questions in a different way than he did, in fact, answer them during the filmed interview. It seems clear that by cutting and splicing the TV tape, CBS was able to rearrange the speaker's words out of their original order so as to make him appear to be delivering a statement which, in fact, he did not deliver, and even to make him appear to be answering a question other than the question which he was asked on the taped interview.

This action of CBS calls to mind many other questionable actions in the past in which CBS or other broadcasters have been involved, each involving the distortion of that which appears to be real when one looks at the television set. It calls to mind the documentary on hunger done some time ago in which a baby was portrayed as starving to death, when, in fact, that was not the case. An investi-

gation later showed that the baby had been born prematurely and had died from causes other than starvation. It brings to mind the other questionable practice of staging an invasion for the benefit of television cameras in the country of Haiti some time ago. It calls to mind questionable activities of broadcasting companies during recent riots in American cities, where there was considerable evidence to the fact that some riot activities were staged for the benefit of TV cameras.

These apparent distortions by broadcasters raise serious questions in the minds of citizens and their representatives in Congress. The question is whether events portrayed on television are done without distortion, without artificial or slanted "doctoring," and whether what the TV cameras show is what was actually filmed and took place. Television portrayals clearly should not be distortions of events or interviews; they clearly should not be cut and spliced to present a particular inaccurate point of view, and they should not be allowed purposely to deceive the American public. To demand such honesty is not to censor, since the guarantee of free expression is not the same as a guarantee of the right to deceive.

Congress is charged by law with seeing to it that adequate laws and regulations exist to govern the use of airwaves. The airwaves belong to the American people, not to the broadcasters, and it is the function of Congress, the representatives of the people, to regulate the licensing of broadcasters who use the peoples' airwaves. This does not mean that Congress may censor materials which are transmitted over those airwaves. But it does mean that broadcasters have a responsibility to serve the public interest, convenience and necessity. In determining who should obtain such licenses, Congress must make laws to guide the Federal Communications Commission as to which among competing applications for a limited number of channels is, in fact, serving the public interest. In the process of guiding such regulation, it seems quite clear that Congress has both the right and the duty to look into the operations of a broadcasting company when it, in fact, does distort the portrayal of events or interviews on the screen. Only in this fashion can Congress make fair laws in the public interest for the licensing of broadcasters.

The first amendment to the Constitution, which broadcasters have invoked as a defense against such a congressional inquiry, states that Congress shall make no laws abridging the right to free speech. It is quite clear from this amendment that Congress can make no law abridging the freedom of the press—that is, newspapers. A newspaper can print nearly anything it wants, subject only to the threat of criminal law liability or libel suits for distortions of incorrect facts printed. Anyone can start a newspaper without applying for a license, since newsprint is not restricted to the limited number of channels on the air, and can print whatever point of view he wishes. The broadcasting industry is a licensed industry, however, and those

wishing to obtain the right to broadcast on the peoples' airwaves must apply to the FCC and prove that they are acting in the public interest, convenience and necessity.

It is this distinction which makes Congressional inquiry into broadcasting practices appropriate. How is Congress to make laws instructing the FCC to grant licenses and to regulate the use of airwaves if Congress itself is not able to look into the facts and determine the adequacy of laws which will, in turn, determine which of several applicant broadcasting companies is truly serving those public purposes? Clearly, Congress does have a right to look into the practices of broadcasting companies, and—on the basis of evidence found in such inquiries—to make laws in communications which protect the public interest. This is exactly what the House Interstate and Foreign Commerce Committee and many members of the Congress were attempting to do with CBS.

Congress asked CBS to provide the outtakes or unused film strips taken in the preparation of the documentary "The Selling of the Pentagon." Many thousands of feet of film were taken, many were cut out, and the evidence already available shows that selective cutting and splicing of the remaining tape was done in a fashion distorting the original filmed interviews. In order to fully document this practice, and possibly establish laws to prevent such distortion in the future, Congress asked CBS for the outtake filmstrips and CBS refused to comply.

I have had to remind several broadcasters who contacted me about this inquiry that Congressmen are elected representatives of the people, that broadcast companies are privately owned corporations, and that because broadcast companies are licensed and regulated by the representatives of the people Congress has a clear right to examine broadcast activities. In contrast to the unlicensed and unregulated newspaper industry, the broadcast industry does not enjoy the same constitutional protections of the first amendment, as do newspapers and to the extent that newspapers do, and therefore must demonstrate that its activities and practices serve the public interest.

The Supreme Court, in fact, made this distinction quite clear in *Red Lion Broadcasting Company v. F.C.C.*, 395, U.S. 267—1969—in which case that

Court upheld a regulation recognizing that the FCC was more than a traffic policeman of the airwaves, concerned only with the technical aspects of broadcasting, and that FCC neither exceeds its statutory power nor transgressed the first amendment in examining the general program format and kinds of programs broadcast by licensees. In the *Red Lion* case the broadcasters challenged the FCC, saying that no person can be prevented from saying or publishing what he thinks, or from refusing his speech or other utterances to give equal weight to the views of his opponents. They said that this right applies equally to broadcasters. The Supreme Court, however, laid this analogy to rest in the following words:

July 13, 1971

Although broadcasting is clearly a medium affected by a First Amendment interest . . . differences in the characteristics of new media justify differences in the First Amendment standards applied to them (pg. 388).

This meant that where there are more individuals who want to broadcast than there are frequencies to allocate, it is idle to say that the unbridgeable right to broadcast is comparable to the right of every individual to write, speak or publish what he pleases. A license permits broadcasting, but the licensee has no constitutional right to be the one who holds that license, or to monopolize radio or television frequencies to the exclusion of fellow applicants for such a license. There is nothing in the first amendment which prevents the Government from requiring a licensee to share his frequency with others or to conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community and which would otherwise be barred from the airwaves. This is not to say that the first amendment is irrelevant to public broadcasting. On the contrary, Congress recognized in writing section 326 of the Federal Communications Act that the right to free speech cannot be abridged in broadcasting. As the Supreme Court said, however,

The people as a whole retain their interest in free speech by radio and their collective rights to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount. (*Red Lion, Supra*, pg. 389-90).

And it is these rights—those of the viewers and listeners—which the Congress is attempting to protect by examination of broadcast practices, to insure that broadcasters do not engage in deception, distortion and fakery. The first amendment was never intended to bar public inquiry of broadcasters. Since the conduct of the broadcast industry directly affects the future of this Nation, the lives of its citizens and the welfare of its children, Congress would be remiss if it did not make such inquiries.

It should be emphasized that Congress is not on a punitive expedition in the matter of CBS, seeking to punish Mr. Stanton, President of CBS, for his failure and the failure of his company to provide the outtakes that would have facilitated public inquiry. The rights of Mr. Stanton and of CBS are fully protected under our system of government. A subpoena issued by Congress requested those materials, Mr. Stanton refused to comply, and the entire House should, in my opinion, uphold his citation for contempt. If the House upholds that citation, the entire matter will be referred automatically to the United States Federal courts to examine and to determine if Mr. Stanton's or CBS' rights had been infringed.

If the House fails to cite Mr. Stanton in contempt, however, there will be little possibility that representatives of the people will be able to call CBS or any other broadcasting company to account for questionable practices. This would be a dangerous precedent which could well encourage some broadcasters to take even greater liberties with the representation

of truth in their production of television shows.

This is not in any way a controversy about the source of news. I fully support the position, as do most members of Congress, that the Government should not be able to force any reporter to divulge the sources of his information. This controversy involves the technical production of a television presentation, and the techniques used to manipulate and distort reality.

At the very time when the people and the news media are demanding rights to access of governmental information, broadcasting companies are at the same time saying that the people do not have the right to obtain information from them as to the manner and fairness with which they produce television news documentaries. All in all, the failure of the House to uphold this citation would be a sad blow for the people of this country and for their rights to know what really happens in the filming and preparation of broadcast news documentaries.

Mr. STAGGERS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I would say that this issue has produced the greatest lobbying effort that has ever been made on the Congress of the United States. I would like to quote from the TV Digest:

NAB marshalled its 50-man Future of Broadcasting Committee for personal contacts with all Members of the House.

Mr. Speaker, one Member has told me that he has been contacted 12 times in 1 week. Another Member who was out walking, and saw me, told me that he had been contacted 15 different times.

If this Congress is going to be intimidated by one of the giant corporations of America, and give up to them, then our Nation will never be able to exist as a free nation, a nation of free men. It will have to answer at all times to the big corporations, and it will have to do what they want us to do. They must not be permitted to intimidate this Congress on this issue.

All we are asking is to have the Supreme Court of the United States settle the question, not this Congress.

Mr. Speaker, the slogan up there says, "In God We Trust." Are we going to change it to "In the Networks We Trust?"

This Nation was built on the principles of honesty, integrity, goodness and love. We can draw a lesson from that, and no giant corporation has the right to tell us what we should do and what we should say. All we are saying is that the Supreme Court should settle the case under the law.

I say to every Member of the House that I want you, before you vote, to search your consciences and to strike out from your consciences everything except the essential truth about this matter, and then say, "I am going to vote the right way, and I am going to vote the way my people would want me to vote, and not the way a great corporation wants me to vote, with all its tremendous wealth and awesome power, and its millions if not billions of dollars." If you do not vote your consciences then your people will be telling you that you are wrong.

And I can guarantee you that because, by every indication we have received, by 6 to 1 the people have said that the contempt citation is right.

The SPEAKER. The time of the gentleman from West Virginia has expired.

GENERAL LEAVE

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the pending resolution, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.
Mr. STAGGERS. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered.

MOTION TO RECOMMEND OFFERED BY MR. KEITH
Mr. KEITH. Mr. Speaker, I offer a motion to recommend.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. KEITH. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommend.

The Clerk read as follows:

Mr. KEITH moves to recommend House Resolution 534 to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommend.

There was no objection.
The SPEAKER. The question is on the motion to recommend.

The question was taken; and on a division (demanded by Mr. KEITH), there were—ayes 151, noes 147.

Mr. STAGGERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

PARLIAMENTARY INQUIRY

Mr. SPRINGER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. SPRINGER. Mr. Speaker, would the Speaker state what is being voted on?

The SPEAKER. The question is on the motion to recommend.

Mr. SPRINGER. Mr. Speaker, a further parliamentary inquiry. May I inquire, is the motion to recommend the bill to the Committee on Interstate and Foreign Commerce?

The SPEAKER. The gentleman is correct. It is a motion to recommend to the Committee on Interstate and Foreign Commerce.

The question was taken; and there were—yeas 226, nays 181, answered "present" 2, not voting 24, as follows:

[Roll No. 188]

YEAS—226

Abourezk	Barrett	Broomfield
Abzug	Begich	Brozman
Adams	Bell	Brown, Mich.
Addabbo	Bergland	Brown, Ohio
Alexander	Bevill	Broyhill, N.C.
Anderson	Blester	Buchanan
Anderson, Calif.	Bingham	Burke, Fla.
Anderson, Ill.	Blackburn	Burison, Mo.
Anderson, Tenn.	Blatnik	Burton
Andrews, N. Dak.	Boggs	Byrne, Pa.
Ashley	Boland	Carey, N.Y.
Aspin	Bolling	Carney
Badillo	Bow	Cederberg
	Brademas	Celler
	Brooks	Chamberlain

July 13, 1971

Chisholm	Jacobs	Rangel
Clay	Johnson, Pa.	Rees
Collins, Ill.	Jones, Tenn.	Reid, N.Y.
Conable	Karth	Reuss
Conte	Kastenmeier	Rhodes
Corman	Keating	Riegle
Cotler	Keith	Robinson, Va.
Coughlin	Kemp	Robison, N.Y.
Crane	Kluczynski	Rodino
Culver	Koch	Roe
Dellums	Kyros	Roncallo
Denholm	Landrum	Rosenthal
Dennis	Leggett	Rostenkowski
Diggs	Lent	Roush
Dow	Link	Roy
Drinan	Lloyd	Roybal
Duncan	Long, Md.	Ryan
du Pont	Lujan	St Germain
Dwyer	McClory	Sarbanes
Eckhardt	McCloskey	Schauer
Edwards, Ala.	McCollister	Schwengel
Edwards, Calif.	McCormack	Sebelius
Erlenborn	McCade	Seiberling
Esch	McKay	Shriver
Evans, Colo.	McKinney	Smith, Iowa
Fascell	Malillard	Smith, N.Y.
Findley	Martin	Stafford
Fish	Mathias, Calif.	Stanton
Flowers	Matsunaga	J. William
Foley	Mazoni	Stanton
Ford, Gerald R.	Meese	James V.
Forsythe	Meeker	Steele
Fraser	Melcher	Steiger, Ariz.
Frelinghuysen	Mikva	Steiger, Wis.
Frenzel	Mills, Ark.	Stephens
Fulton, Pa.	Mills, Md.	Stokes
Fulton, Tenn.	Minish	Sullivan
Fuqua	Mink	Symington
Gallifanakis	Mitchell	Talcott
Gaydos	Monagan	Taylor
Gibbons	Moorhead	Teague, Calif.
Goldwater	Morse	Terry
Grasso	Moher	Thompson, N.J.
Green, Pa.	Moss	Thone
Grover	Natcher	Tieman
Gude	Nedzi	Ullman
Halpern	Nix	Vander Jagt
Hamilton	Obeys	Vank
Hammer-	O'Neill	Waldie
Schmidt	Patsman	Wampier
Hansen, Idaho	Patten	Whann
Harrington	Pelly	Whitehurst
Hathaway	Perkins	Widnall
Hawkins	Peyster	Wiggins
Heckler, W. Va.	Poff	Wilson
Heckler, Mass.	Powell	Charles H.
Helstoski	Preyer, N.C.	Winn
Hicks, Mass.	Price, Ill.	Wolf
Hillis	Pryor, Ark.	Wyatt
Horton	Pucinski	Wyman
Howard	Quile	Yates
Hungate	Ralleback	Yatron
Hutchinson	Randall	

NAYS—181

Abbutt	Davis, Wis.	Henderson
Abernethy	de la Garza	Hicks, Wash.
Andrews, Ala.	Delaney	Hollifield
Annunzio	Dent	Hooper
Archer	Derrinaki	Hull
Arend	Devine	Hunt
Ashbrook	Dickinson	Ichord
Aspinall	Dingell	Jarman
Baker	Dorn	Johnson, Calif.
Belcher	Dowdy	Jonas
Bennett	Downing	Jones, Ala.
Betta	Dulski	Jones, N.C.
Biaggi	Edmondson	Kazen
Blanton	Eahleman	Kee
Brasco	Evins, Tenn.	King
Bray	Fisher	Kuykendall
Brinkley	Flood	Kyl
Broyhill, Va.	Flynt	Latta
Burke, Mass.	Fountain	Lennon
Burleson, Tex.	Frey	McClure
Byrnes, Wis.	Gallagher	McEwen
Byron	Garmatz	McFall
Cabell	Gettys	McKewitt
Caffery	Glavin	McMillan
Camp	Gonzalez	Macdonald,
Carter	Goodling	Mass.
Casey, Tex.	Gray	Madden
Chappell	Griffin	Mahon
Ciancy	Griffiths	Mann
Clark	Gross	Mathis, Ga.
Clausen,	Gubser	Metcalfe
Don H.	Hagan	Michel
Clawson, Del.	Burison, Mo.	Miller, Calif.
Cleveland	Burton	Miller, Ohio
Collier	Byrne, Pa.	Minshall
Collins, Tex.	Carey, N.Y.	Mizell
Colmer	Carney	Mollohan
Conrad	Cederberg	Montgomery
Daniel, Va.	Celler	Morgan
Davis, Ga.	Chamberlain	Murphy, Ill.
Davis, S.C.	Hébert	

CXVII—1567—Part 19

Murphy, N.Y.	Ruth	Stuckey
Myers	Sandman	Teague, Tex.
Nelsen	Satterfield	Thompson, Ga.
O'Hara	Saylor	Thompson, Wis.
Pasman	Scherle	Vessey
Pettis	Schmitz	Vigorito
Pickle	Schneebeil	Waggoner
Pike	Scott	Ware
Pirnie	Shipley	Watts
Poage	Shoup	Whalley
Podell	Sikes	White
Price, Tex.	Slak	Whitten
Quillen	Stabits	Williams
Roush	Stark	Wilson, Bob
Roberts	Smith, Calif.	Wright
Rogers	Snyder	Wyler
Rooney, N.Y.	Spence	Wylie
Rooney, Pa.	Springer	Young, Fla.
Rousselot	Stagers	Young, Tex.
Runnels	Steed	Zablocki
Ruppe	Stubblefield	Zion

ANSWERED "PRESENT"—2

O'Konaki

Reid, Ill.

NOT VOTING—24

Baring	Green, Oreg.	Pepper
Conyers	Hanna	Purcell
Daniels, N.J.	Hansen, Wash.	Stratton
Danielson	Hogan	Udall
Dellenback	Landgrebe	Van Deerlin
Donohue	Long, La.	Zwach
Edwards, La.	McCulloch	
Elberg	McDonald,	
Ford,	Mich.	
William D.	Nichols	

So the motion to recommend was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Van Deerlin for, with Mr. Nichols against.

Until further notice:

Mr. Daniels of New Jersey with Mr. Landgrebe.

Mr. Ellberg with Mr. McDonald of Michigan.

Mr. Stratton with Mr. Hogan.

Mr. Hanna with Mr. Zwach.

Mrs. Green of Oregon with Mr. Dellenback.

Mr. Pepper with Mrs. Hansen of Washington.

Mr. Purcell with Mr. Baring.

Mr. William D. Ford with Mr. Edwards of Louisiana.

Mr. Conyers with Mr. Udall.

Mr. Danielson with Mr. Long of Louisiana.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The report is referred to the House Calendar, and ordered printed.

CBS CITATION

Mr. BURKE of Massachusetts. Mr. Speaker, in casting my vote against the recommittal motion of my distinguished colleague, the gentleman from Massachusetts (Mr. KEITH), I do so not because I favor the contempt citation under House Resolution 534 but because I feel this important resolution should be committed to the House Committee on the Judiciary where the grave questions of the Constitution could be decided by the top legal minds of this Congress.

PERSONAL ANNOUNCEMENT

Mr. GRAY. Mr. Speaker, I was inadvertently detained in committee and on the last vote just taken, I voted "no." I intended to vote "aye" and I ask that

my remarks appear at this point in the Record.

The SPEAKER. The gentleman's statement will appear in the Record.

THE SELLING OF CBS

(Mr. WAGGONER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WAGGONER. Mr. Speaker, I could not help but take exception to the editorial in the Washington Post for July 7 entitled "The Responsibility of Broadcasters," which I am inserting at the close of my remarks.

The Post feels that the chairman of the House Committee on Interstate and Foreign Commerce, Mr. STAGGERS, has no business "to see that fairness prevails on the airwaves," and the president of CBS, Dr. Frank Stanton, was correct in refusing to provide the committee with portions of unused scripts and filmed material from the program, "The Selling of the Pentagon" inasmuch as it would be a violation of the first amendment.

Mr. Speaker, although the first amendment does say that Congress shall make no law abridging the freedom of speech or freedom of the press, nowhere in the Constitution can I find that this freedom of the press guarantees to anyone in the exercise of this freedom the privilege or right to deceive, abuse, or violate other persons' freedoms in that respect. And as everyone who saw the program and who is familiar with the other side of this controversy knows, the program was a gross violation of the freedom of speech and blatant intentionally deceptive distortion of the views of our distinguished chairman of the Armed Services Committee and others.

The Post maintains that although their program is the "public's business, it is none of the committee's business." What I would like to know, Mr. Speaker, is what recourse does the American public have if not through their elected representatives in the Congress, and more specifically, their representatives who have a degree of expertise in these matters as the members of the Interstate and Foreign Commerce Committee most assuredly do. It is because of Federal legislation that the broadcast media exists in its present form.

The Post says that there "is no evidence at all that its 'Selling of the Pentagon' was intentionally distorted." They know better and they have editorialized some distortions. In this connection the Post is about as objective as CBS. There has been sworn testimony by Assistant Secretary of Defense Henkin and others that their views were misrepresented. The extent to which manipulations were used to achieve a different meaning from that which the speakers had intended or attempted to convey is prima facie evidence that the distortions were in fact intended. Although, Mr. Speaker, we are not supposed to accept the sworn testimony of responsible public officials, we are to accept the editorial comments of the Washington Post as the last word on this subject.