The original documents are located in Box 11, folder “Defense - Proceedings Against CBS News Over Broadcast of "The Selling of the Pentagon"” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative days in which to examine the report attached to this resolution.

There was no objection.

The resolution was read and agreed to.

PROCEEDING AGAINST FRANK STAMPTON AND COLOMBIA BROADCASTING SYSTEM, INC.

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, which has a title.

POINTE DE COEUR

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. 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) (6) of rule X 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 want your attention to the fact that the rule, subparagraph (d) (6), clause 27 of rule X, was adopted last year in the Legislative Reorganization Act, and was re-adopted earlier this year.

Mr. Speaker, I think it would be best if I read just a portion of the rule, and then 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 Unemployment Trust Funds) shall not be considered in the House unless the report of that committee states that such measure or matter has been available to the Members of the House for at least three calendar days preceding Saturdays, Sundays, and legal holidays prior to the consideration of this measure or matter in the House.

Now, there is some scope to that rule.

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

This subparagraph shall not apply—

(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 deal 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 House had not acted wisely on some of those 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 had no 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 question sought to be raised, or the organization sought to be cited are matters of privilege, but I do think that the request sought to be raised should be postponed until about 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 in a matter of privilege and, therefore, is excepted from the rule. It is in my contention, Mr. Speaker, that the matter of privilege was specifically not excepted from the requirement of a 5-day delay 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 this citation such as this could be considered in such a preemptive type of procedure that is now about to take place.

Mr. Speaker, will the gentleman yield?

Mr. Speaker. I yield to the gentleman.
Mr. REED of New York. Mr. Speaker, in furtherance of the point of order which he has raised and has given the Chair an opportunity to consider it, I would like to present to the Chair a copy of the report from the Committee on Interstate and Foreign Commerce on this matter.

Mr. Speaker, the gentleman from Florida has raised the question of the privileges of the House collectively as the gentleman from New York has already pointed out.

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

House Rule 27(d) of rule XI, so-called 3-day rule, does not apply to questions related to privileges of the House, nor shall it apply to documents or matters reported by any committee, nor shall it apply to documents from the Committee on Appropriations, House Administration, Rules, and Standards of Official Conduct.

Mr. Speaker, the gentleman is correct. The 3-day rule does not apply to questions of privilege.

Mr. REED of New York. Mr. Speaker, I will continue to read the report.
committee's original subpoena of April 1 but it applies to the present subpoena as well. Are you familiar with that statement?

Mr. STAGGERS. Yes, I have.

The CHAIRMAN. On May 27, 1971, you were served with a duly authorized subpoena of this subcommittee. Without objection you directed that the full text of the subpoena be inserted into the record at this point together with any responses you may wish to make to these questions. Yes, 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 were to sit down right here today you could have brought them here?

Mr. STAGGERS. Yes, they are.

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

Mr. STAGGERS. No, there is not.

The CHAIRMAN. In 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?

Mr. STAGGERS. Yes, I do.

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

Mr. STAGGERS. Yes, I do.

The CHAIRMAN. Knowing this, do you perceive any constitutional or legal advantage to the production of the material?

Mr. STAGGERS. Yes, I do.

The CHAIRMAN. Does the decision not to provide these materials now before the House reflect a decision of management of the CBS company?

Mr. STAGGERS. Yes, I do.

The CHAIRMAN. So that the record may be made clear, are these materials subject to the subpoena which is before the House Committee which are the materials therein described. What is your response?

Mr. STAGGERS. Respectfully, I decline.

The CHAIRMAN. Dr. Frank Stanton, it is my duty to advise you that we are going to rule against your plea to be considered your written refusal today to honor our subpoena.

In my opinion you are now in contempt. Subsequently, at the conclusion of the hearing, you will be given an opportunity to consider your written refusal to honor our subpoena. In my opinion you are now in contempt. Subsequently, at the conclusion of the hearing, you will be given an opportunity to consider your written refusal to honor our subpoena.

The material subpoenaed by the subcommittee was pertinent to the investigative over­ sight responsibilities of the Special Subcommittee on Investigations of the House Commerce Committee, and the Congress as a whole. On March 23, 1971, Dr. Frank Stanton, acting as President of CBS, Inc., to provide copies of the transcript to the Subcommittee, and to deny the requested cooperation. The White House was prevented from obtaining information through the discovery of releases, so to the discharge of the subpoena, and the proceedings before the Subcommittee in the matter are published under cover of

On June 27, with the Subcommit ­ee and its staff present, met in executive session at 10:00 A.M. in Room 2125, Rayburn House Office Building, and unanimously to refer the matter to the full Committee with the recommendation that CBS and Dr. Chal­

Mr. STAGGERS. Mr. Speaker, again I renew your 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, the right to object, I should think that the gentleman would want to end the debate on page 11. This will be a record and text akin to the Scaife, Rebovich cadence if you put it all in the minority and majority views reported here.

Mr. STAGGERS. The gentleman from Iowa is correct.

Mr. GROSS. What purpose would be served by that?
July 13, 1971

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

Mr. GROSS. Mr. Speaker, there was no objection.

The Clerk. The report of the subcommittee is as follows:

On May 12, the subcommittee met and determined that the information and material supplied, as required by the subcommittee's action, was not sufficient to meet some of the requirements of the original subpoena. On April 7 a new subpoena was accordingly withdrawn and a new subpoena calling for the personal appearance of Dr. Stanton was accordingly served. On May 21, Dr. Stanton was served with a new subpoena calling for the production of all materials as were actually broadcast and direct from the interview and control of Dr. Stanton and the Committee. The subcommittee again met on May 31 and June 1 and determined that the material was not relevant to the hearing and that the subpoena should be accordingly withdrawn. The subcommittee, however, later reconsidered the issue and determined that the material was relevant and necessary and that Dr. Stanton be ordered to produce.

Mr. GROSS. Mr. Speaker, would the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Virginia.

Mr. GROSS. Mr. Speaker, I yield myself 5 minutes.

Mr. STAGGERS. Mr. Speaker, I would like to make my explanation of this 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, in that simple question today, I think that the vote ought to be right now on 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 is the issue of the first amendment.

Let me say to you that if it involved any man, a newspaper, 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 props who were around. If anybody wanted to say that they were taking their notes, it would have to be the cameraman who look down the voices and the pictures, and not somebody who was asking the questions. As to the cameraman, 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 15 minutes. They took 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 raise 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 this statement 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 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

CONGRESSIONAL RECORD — HOUSE

24723
CONGRESSIONAL RECORD — HOUSE

July 13, 1971

people of this Nation. The Chief Justice whereupon made some quite ex-
tensively as saying that these are the people their 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. Cretaz H. Powel) represents all of his
people who cannot get to New York to complete. The gentleman from New York (Mr. Oscar Hart) does the same thing.
He has an obligation to represent his people to the best of his ability, and so
see that it is truth and not fabrication that is offered to the American people—
and that process is different from any 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 misprinted these things, we do not know.

The SPEAKER. The time of the gentle-
man from West Virginia has expired.

Mr. REID. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, the situation is that we need these facts before we can legislature. There are those who say we have enough, but we cannot legislate in a vac-
uum. No Member wants to legislate without
knowing all the facts. I know the Member would not want you to do so. Member of this House would want to do so.

We want the facts. That is all we want. Any Member will not do to supply us with the outtakes. They have refused to do so. We got nine from press organizations reviewing it, and using the same words
used in this letter. Ten came from journ-
Alism schools.

Sixteen from individuals associated with the universities. Twenty-three came from broadcast-
ing stations and associations.

We have the sworn testimony of one
member of this House of Representatives.

The importance of the issue before us
is clear that the First Amendment applies
to the press as well as to broadcasting? The
answer is, "Yes." See the address of At-
torney General Mitchell before the American Bar Association on August 20, 1970.

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

"As far as being any pressure on the net-
works, as a Government is concerned, I do not support that.

Are the notes, unused memoranda, un-
used film and written interviews of a press reporter immune from governmen-
tal scrutiny? The answer is, "Yes." It was so held in the Caldwell case de-
cided in the Court of Appeals for the Ninth Circuit, 434 Fed. 2d, at page 1091
(1970). The case is now pending in the Supreme Court. In that case the Court of Appeals said that—

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

As to whether the grave and well-moti-
vated concern of the Committee on Inter-
state 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 exercise of every liberty. And as to
in the interests of that more true than in that of

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 misrepresenta-
tion, must be protected if freedom of ex-
pression 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: Do 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.
July 13, 1971

CONGRESSIONAL RECORD — HOUSE

24725

Caldwell v. U.S., 434 F. 2d 1051 (1970), a 9-0 decision upholding a subpoena by a Grand Jury summoning a N.Y. Times reporter to testify regarding his interviews with Black Panthers, which takes its starting point in the United States Supreme Court.

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 interfere in the air the questionnaire is to be used.

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." That is, the United States Senate Policy Committee, in December of 1970, took the position that

Whether news is fair or unfair, objective or biased, accurate or unfair, is left to the news media 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 is not to be sustained. Further, as a matter of policy, I believe we are embarking upon 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 constraint upon the courts since all of the information necessary for the Constitution's protective 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 am the chairman of the committee that I might reserve the balance of my time so that other points of view may be presented 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. Geery). Mr. SPRINGER, Mr. Speaker, and my colleagues, neither nor any member of this Congress asked for this controversy. CBS did all I can to avoid a statement by Mr. Richard Daley, President of CBS News, currently is in evidence, is the date that precedes an inquiry made by the special Subcommittee on Investigations into the "Selling of the Pentagon" program.

Mr. Balliet said:

I think the real confrontation will come when the Senate or the House will unveil us for an investigation. And then perhaps we will have to say: "Now look, this is none of your business."
at a point in time when a television network can determine what it is, and what CBS supplied a substantial sum of money, and CBS wanted to know the purpose of filming the "invaders" and the preparation of the "invasion." We demanded all the film with reference to Project Nassau but because I would have committed fraud on the court.

In the case of the Pentagram-CBS did not show what it presented. In the present case, CBS has determined there shall be no invasion and the right of the people to know. The American viewing public bases its 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 of 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 consent resolution of July 1, the committee has made clear its intention to meet this calculated affront.

Mr. STAGGGER, 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 upholding you to vote "yes," saying they need this information in order to carry out their constitutional executive function. Well, the committee held hearings and gathered vast amounts of material and vast amounts of information—

....
The Speaker. The gentleman from North Carolina has consumed 2 minutes.

Mr. CONRAD. I yield 1 minute to the gentleman from Virginia (Mr. Poindexter).

Mr. POINDEXTER. Mr. Speaker, I will vote no. The question is closed. The answer is in doubt.

Mr. Speaker. It must always be whenever two great constitutional privileges collide. One cannot yield to the other.

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

Under the congressional oath to "uphold and defend the Constitution," Mr. Speaker, I will not abdicate to the courts my responsibility to make this constitutional judgment. I will resolve the doubt in favor of the Congress and the governed. I will vote no. I will choose freedom.

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

Mr. CONOWAY. I thank the gentleman for yielding.

Mr. Speaker. I am voting against the committee. Mr. Speaker, I do not construe the vote of the committee as approval of the tactics used in the CBS documentary program. Its representations do a disservice to the television industry, and they invite regulation in the interests 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 as to what the courts might do in extending its 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 subpoena 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 representatives of the people, the Congress must.

Mr. BRODERICK 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 us 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 vociferous critics.

But however strongly we feel about this, as I do, we must not be construed as approval of the tactics used in the CBS documentary program. Its representations do a disservice to the television industry, and they invite regulation in the interests of fairness. However, such efforts at regulation are steps down a dead-end alley for an American government.

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Mr. Speaker, I would not wish 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 said "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 fraudulently, I would sort of like to stick it to him now. But my Executive, we overlay our bounds and expose our preoccupations, and offend the American people.

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

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Mr. EDWARDS of Alabama. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. Poindexter).
congressional record - house

july 13, 1971

you know, Mr. Speaker, Mr. Blanton'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 exam, 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 fakers. 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 just this afternoon about whether we put these people under notice that "you shall not speak falsely and you shall not speak falsely nor will you ever speak falsely on the television tube."

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'HALLORAN).

Mr. O'HALLORAN. 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 do a 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 could not be abandoned lightly, even 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. HAYS),

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

had a conversation last Thursday by telephone with Dr. Blanton, whom i have known for many years. He is a graduate of Ohio Wesleyan University in my state, i am a 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." then you took the answer and you put it on the television tube, you put it on, somewhere else, and he said, "when did you beat your wife this?" and you put it in the answer: "twenty-five minutes to four."

if you know what his answer was: he said, "it wasn't that bad." he said, "i 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.

no, i think it is pretty fundamental as to whether we are going to allow the news media to continue whatever they want by splicing, by cutting, by putting things together, by taking. if we allow them to get away with it, then my respect for ladies and gentlemen, is not going ever go on a pretense, for you will never know what is going on" to come out on the television tube.

the impropriety of a juxtaposition of questions and answers.

the question is whether or not the first amendment is involved; it is involved, i believe.

Mr. Speaker, we would submit that in investigative surveillance of a news media, in asking for the notes of the broadcast journalists, in electronic surveillance, in asking for the notes of the broadcast journalists, and that is what you do when you ask for the out-takes and the sound tapes.

we are involved in Government in the process of news gathering and news presentation.

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 submit that the motives of the committee may be of the very highest order in their effort to bring 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.

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Mr. Speaker, we would submit that the motives of the committee may be of the very highest order in their effort to bring 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.

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I agree that the public has a right to know how we get our news, why we select the stories we give, and what we do if we do not make them show what they are. But let's look at this in context. Is this the only way we will make the point?

More than 30 years ago I participated in perhaps one of the most important debates on the evolution of the political process in the United States. I was the city editor who broke the Watergate stories and I have been part of that process all my life. Nobody is asking for the source. I am not making a compelling argument for the sanctity of the confessional. The opposition of this resolution has 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 this bill to amend the First Amendment Act, the opponents of that bill will have substantially more than 20 minutes to argue their case.

It is a sad truth that we are asked to vote for contempt in the name of vindicate the people's right to know the truth, while in the process we are being denied the opportunity to ensure in the kind of free and robust debate which the Constitution envisages 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 empowers its contempt power, it acts like a king less than like a Congress. We have the power to affect people lives indirectly, by enacting legislation. We also have the power, in limited circumstances, to act against people directly by compelling them to do certain things and by punishing them first violators of that power, even of the subcommittee's investigation.

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

Mr. Speaker, in a moment I am going to yield briefly to Members to give them an opportunity to say with regard to this issue, from the beginning many of us have said to members of the press—that we believe the press is not involved here to-day. 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 reporter in this remaining 1 minute, I let me say this: by the truth you shall be known, and the truth will make you free.

I do not know whether I have much hope or not for CBS, the Columbia Broadcasting System—that, it 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, if the future is going to be decided by, that television station, I wonder how many of you who have been involved in our society who take part in these, will be trusted back? There will be a great deal of tension. But if you want the truth to be known and if you want to preserve the first amendment case, then agree that the people have a right to know, then vote for the resolution.

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There are other cases that we might, there are other times when we might. But what do we do for this? We get only the transcript or pictures of a transcript of what we have in the files, forward. We get Colonel McNeil's speech, which is important, and supervision of news broadcasts and the content and presentation of news broadcasts. I feel confident that the analogy between a reporter's notes or the first drafts of his news stories and the unsold and the unedited and of the Pentagonal, the unsold and the unedited footage of specific cases that we might.

I yield at this time to the gentleman from Illinois (Mr. Masse).

Mr. Masse. Mr. Speaker, there is a cancerous knot 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 this bill to amend the First Amendment Act, the opponents of that bill will have substantially more than 20 minutes to argue their cause.

It is a sad truth that we are asked to vote for contempt in the name of vindicate the people's right to know the truth, while in the process we are being denied the opportunity to ensure in the kind of free and robust debate which the Constitution envisages as the surest road to the truth.

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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 contempt power" at the expense of the first amendment. We should not will the party to such an inauspicious position, which is constitutional. We should not will a coup d'etat, a coup 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 in the papers—of the public's right to know. Congress employs its contempt power, it acts like a king less than like a Congress. We have the power to affect people lives indirectly, by enacting legislation. We also have the power, in limited circumstances, to act against people directly by compelling them to do certain things and by punishing them first violators of that power, even of the subcommittee's investigation.

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Mr. OBRY. 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 CRS, the House should go along with the committee minority at this time.

If for no other reason—and there certainly are others—the House should defeat this motion. I am nevertheless persuaded by the almost unceasing attitude by some of this committee to fix and to control the procedures of the American press. I believe that we must demand such restraint, we should find them undesirable, and we should discipline ourselves. 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 inappropriate 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. Blanton testified freely concerning the general editing practices of CBS. The subcommittee evidenced concern over the editing of the interview with Assistant Secretary of Defense Hitchcock and an address by Colonel Marshall of the Marine Corps. The full transcript of the Henkin interview was available to the subcommittee as was the address of Colonel Marshall's speech. Would the outtake 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
House: 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. HUDDLESTON). Mr. HUDDLESTON 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 defeated.

No branch of the Government has the right to override 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. TRENAR). Mr. TRENAR of Rhode Island. 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, verified by sworn testimony, showed that by cutting and splicing film, CBS was able to create the impression that the words of speakers were rearranged.

Members of the House, the evidence is overwhelming.

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

Mr. Speaker, is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. Speaker, if the winds of controversy that blow here today were the winds of the First Amendment and the winds of controversy that I am arguing against now, blowing rather strong today, this would be a much different debate. 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. 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 an unanimous-consent request.

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

Mr. Speaker, I urge you to vote against this resolution. A contempt citation would almost certainly be revered 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 is 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. BROPHY of North Carolina. Mr. Speaker, I yield to the gentleman from Washington (Mr. PAUL) for a unanimous-consent request.

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

But, it does not seem to me that de­liberating 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.

The charges by the committee are well taken. We can look back to other endeavors, such as ‘Ranger in America’ which was proved to be, in fact, staged.

Much as I believe 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 public its practices, and the committee has well published CBS’ lack of credi­bility.

It brings to my mind, Mr. Speaker, the adage given some time back by Vice President Nixon Agee, 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 that 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. BROPHY of North Carolina. Mr. Speaker, I yield to the gentleman from Maryland (Mr. GUR. Mr. GUR of Maryland. Mr. Speaker, in opposition to the resolution of the House Interstate and Foreign Commerce Committee to cite CBS and its president, Mr. 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 approves 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 dis­courase 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 indications of the CBS offense, and I therefore, urge to vote no to defeat the resolution.

Mr. BROPHY 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. Speaker, from Washington (Mr. PAUL) 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 stems 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 people of this country—everyone, not just the majority. The press is the last hope of the individual citizen to speak the truth. If the press is allowed, the government in the 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 a multiplicity of views where all shades of truth can be found.

It is a search for truth through mul­tiplicity of voices which has been the theme of several Federal laws throughout our Nation’s history. Second class postal rates to encourage newspapers and the tele­vision stations to require UHF tuning capacity to expand the range of use of the broad­cast spectrum for television are but two examples. The concept of a free press finding the truth works best where there are
Mr. FREEMAN. 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 transportation 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 readily carried its current missteps. 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 action 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 serious 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 citizen than the theory of representative government. If the American public can pick a reasonably decent Congress, it can pick a reasonably decent network.

I urge the defeat of this motion.

Mr. BROUSSARD of North Carolina. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Speaker, the indisputability 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 its broadest and widest coverage. And the rationale most frequently cited by the court for a broad interpretation of first amendment freedom is that the investment and criticality of governmental bodies is a requisite for a free and democratic society.

The first free press has been a mighty staple of preserving 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 observed in the Columbia Broadcasting System v. United States, "We hold that the constitutional protection... must be given absolute license to journalists no matter how bad they are."

As the networks may, indeed, be at the height of their power today in influencing public opinion, I believe it is time to respond to this challenge to our first amendment freedoms.

Mr. WHALEN. Mr. Speaker, for a long time, the networks have 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 freedom of speech and expression.

I shall vote against the citation for contempt and ask my colleagues to join me 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 attempting to limit the voices which seek truth other than the voices which claim to seek truth.

Mr. WHALEN. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FREEMAN).
JULY 13, 1971

CONESSIONAL RECORD—HOUSE

24733

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

Mr. LOVE. Mr. Speaker, I rise in opposition to this resolution to protect the Columbia Broadcasting System with contempt, so that I believe the spirit of the amendment is being threatened.

I believe there was distortion, possibly even perjury, 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 public interest, and I realize this committee is overwhelmed by the giant networks, in their preparation of records which they seek through Government subpenas. It is the people's right under 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 subpena. The record does not show a compelling need. In fact, we are told the subpoena covers what the committee already has or can obtain.

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 Utah (Mr. Love).

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

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

Mr. LOVE. Mr. Speaker, I rise in opposition to this resolution to charge the president of the Columbia Broadcasting Co. with contempt, so that I believe the spirit of the amendment is being threatened.

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For these reasons I intend to vote against this resolution and strongly urge my colleagues to do the same.
involved the position of nuclear power in the existing energy crisis. In this instance, I give a 1-hour interview of my time to NHIC on a program entitled "The Powers That Be," which was shown on May 18, 1971. Five or 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 create a 5-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 nicotine was added; and all questions asked of me were omitted. Once again, the commentator inserted a personal editorial matter, and the majority of the interviewees were scientists whose theories have been thoroughly discredited. The theme, throughout, 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 "Near My God to Thee."

Mr. Speaker, these two cases have been sufficient to convince me that I should not grant future pre-taped interviews on any important national problems to the television media. I would have no obligation 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 would have its own "chilling effects." This phrase was borrowed from a Supreme Court decision in Stantin v. CIBO in his defensive argument. The effective use of the powerful broadcast medium means that any public body must have its opponents and adherents in order to be heard and to see the truth. Further, those opponents of any industry will have a "chilling effect" upon the industry's attempts to speak out on important issues.

Perhaps the "chilling effect" of all, Mr. Speaker, would be upon the ability of the public to speak out on important matters.

In summary, Mr. Speaker, these were the reasons which I vote in favor of the resolution which is before us: I oppose the idea that we should not create a select group of persons who are immune from an audience of a public which would have us believe. The amendment simply entitles the right of the people to have their interest unimpeded.

I oppose the idea that the people and to the people's representatives who must answer for their actions and for their 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 massive use of time in relation to the time allowed to the interviewee's comments.

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

WASHINGTON, D.C., September 11, 1970.

Dr. Frank Staniford,

President, Columbia Broadcasting System,

Inc., New York, N.Y.

Dear Dr. Staniford: I am writing to inform you that my statement was not included in the broadcast of "The Powers That Be," which appeared as a portion of the CBS Morning News in a five-day series during the week of August 16-19. Prior to the show, and in response to Mr. Bent's request, I gave approximately one hour of my time to Mr. Bent and his recording crew during which I answered many questions concerning atomic energy matters, and in substance, concerning Federal radiation standards.

In response to your 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 15, a very small portion of the tape, which I made at Mr. Bent's request, was shown. The lead-in warned the public that persons representing the Joint Committee on Interstate and Foreign Commerce or the Joint Committee on Atomic Energy had not approved the broadcast of the portion of the comments which appeared at this point in the TV program; and the remark was made that I failed to tell the full story in that male more no exposure due to a prospective dose whereas in the case of the female, as I had stated, a protective mechanism had been demonstrated. These remarks included only the results of the Drs. Russell's experiments which were concerned atomic energy and kept from the public the results which were unknown to me. This was certainly not the case that the tape was cut and comments were inserted in it without my knowledge. I wish to suggest that I am biased in my views and that I do not 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 in order to render conditions of radiation exposure with a great variety of interests in the special relationships which may exist. They have arrived at a number of conclusions, I did not state them all. Mr. Bent did not quote from all. This formula a complete analysis of their work. It should not be assumed that I was attempting to hide or these conclusions nor was I attempting to report on all of the work that they have done. It is true that some page proofs (pp. 16, 19) from Part 2 of the semi-weekly published Joint Committee print, "Environmental Effects of Producing Electric Power," I did not read you the complete report when it becomes available. This hearing record was available on a weekly basis.

On January 29, and presented as an investment form of the "port" referred to by Mr. Bent during his statement that "Mr. Bent and left something out."

Dr. Russell appeared in response to my personally written invitation. I believe that he and his wife have made a tremendous contribution to increasing our knowledge of the potential effects of radiation. I wanted the record to reflect to what extent a subject is under the mandate of article I of the Constitution. They have raised questions which suggest new areas of what has been learned and what needs to be learned in this field. Hopefully during his testimony, I requested that he explain 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 indicated the importance of not misrepresenting my position. I am not sure that the report from the FDA which was made has 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 such amounts is dangerous to the public health and safety and that the Atomic Energy Comprehensive, the Environmental Protection Agency and the National Academy of Sciences, Energy and other elements of our Federal government are not working cooperatively in order to reinforce particular points of view in which they have special interest. Thus, I can assure you, in the case of the Joint Committee to "oversee" on behalf of the Congress the activities of the Commission. Where the discharge of these responsibilities will be done, and have in the past never been done. If you will look at Mr. Bureau of the Atomic Energy, and report upon the Congress and the American people any failure to carry out the assigned responsibilities in a fair and just manner.

Sincerely yours,

Chairman.

CEREAL DOG BAYE

This surprising result, that there is for all practical purposes, a chronodose rate in which the light is that which is most anticipated by the body. Having found this difference in effect between the two areas, however, it is not too difficult to see that we may have a fairly close explanation, for example, possibly the one lugs up associated with the papers already printed in this report.

I wish to be glad to elaborate on that later, Mr. Chairman.

Chairman Hooffman, All rights.

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

CONGRESSIONAL RECORD—HOUSE

July 13, 1971
Chairman Holifield. I estimated doses that year. (1) Is, because we recognize way roentgen, which is in milliroentgens, which is in the rate.

Dr. Russell. The background is of the order of 1 to 10 milliroentgens per week and involves some risk of radiation damage, which is in milliroentgens. Per week.

Chairman Holifield. I am glad that you took time to give me your detailed and thoughtfully considered remarks on this series.

Chairman Holifield. We are finding results, as I mentioned before, which is the same statement.

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Representative Hosmer. Yes. That is about one "r" per minute.

Chairman Holifield. Of course, we are not asking about a whole year, but with that "mr" you would burst your nail out of existence.

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have noticed in this session, there are ways that such an act can be interpreted to indicate some of the confusion inherent in this concept.

Mr. Bell's remarks regarding your statement, reinduced this view. There is a considerable confusion and many contradictions relating to the dangers of radiation, and much of it is created by the AECL itself. Dr. Morgan, Mr. Scott, Dr. Tricker and others who have made speeches like those I quoted or similar, have raised questions about the capability levels of radiation.

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

Frank Stanton.

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

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

The function of the media must stand outside the dictates of partisan politics. The first amendment spells out very deliberate freedom, which violated, threatens 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—by the overriding threat of continual harassment, the media will bring such innovation to the public.

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 known, to the American people.

No one ever said that democracy was an easy way of life, but the overwhelming majority of the public have the information upon which to make intelligent, serious and sophisticated decisions.

The role of the media in providing necessary information to the American people is both critical and vital to continued opportunities for the media to report on any subject, to the only real protection the American people have within the framework of a democratic society is for the media to bring the truth to the dark places in the Government.

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. Poulson).

Mr. POUlson. Mr. Speaker, the notion that anyone has the right to instantly refuse to comply with legitimate congressional inquiry is a frightening one. The question is 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. It 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 decision.

The sole question before the House is simple—was a subpoena duly served on a member pertaining 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 broadcasters have the right to insist that its affairs be held secret and immune from constitutional scrutiny and criticism.

While I applaud CBS for bringing to the public "The Selling of the Penton­gan." I cannot condone its refusal to supply the "outakes," which are the basis of its film. These "outakes" 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 the right to know.

While it is true that this Congress should not pass unconstitutional legisla­
Mr. SHOUP. Mr. Speaker, I rise today in favor of the citation and at the same time in behalf of the freedom of the press. I could not have 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 damage may be done, not only to those misjudged and maligned, but to the integrity of all journalists, and indeed, to the freedom and right of the people of this country to receive accurate and unfiltered information.

CBS has been asked to come forward and account for their excursions. This committee of which I am a member in the same way that Congressman and citizen, I have listened closely to the developments in the Subcommittee on Communications and as an interested and concerned Congressman I have a right to know. Many of the same Members who now oppose this citation supported that very same privileged resolution.

CBS is not before the gentleman from Massachusetts (Mr. Keating) who is advocating a new set of operating 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 grant a wrongdoing by misjudging questions and answers, what recourse, what protection does the public have from these practices? That precisely is what the committee is asking: Is any 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 simply an expedition. When 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 of 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 cooperate, to consider the rights of the networks—there is no question of whether or not the networks were responsible. CBS-proponents from my side of the aisle do not appear to be saying something if they did not.

Mr. Speaker, the public has a right to know whether CBS willfully transposed answers to 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 comes 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 a few many airwaves available. These airwaves belong to the people. The courts have defined this many times. These people have a right to protection from deceitful interviews. Perhaps legislation is the only answer.

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

First. It is strange that no one—not even the broadcast industry and not any Member of Congress—has defended this abuse of misjudging questions and answers. Apparently, everyone admits that what CBS has alleged 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 operating 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.
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 tolerate 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 broadcaster abide by reasonable regulations and retain 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. METCALF), a member of the committee.

Mr. METCALF. Mr. Speaker, the vote which we have just made is not at this time because it is without precedent. We have been called upon to vote in the public interest and our vote is to determine whether the public in the matter of our public affairs is to be better served by the broadcasting industry through the deceptive televising.

My vote will be cast not only for the substance of this bill, but with regard to the future of the industry, and the public being influenced wrongly.

It is in the interest of the nation's highest court appears to have said that the testimony of the committee is not a test case. This is a frightening consideration.

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

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. HINES),

Mr. HINES. 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 enjoyed to a hushful detail by being recommended or acted on in 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 embodied on a witch hunt. It has gone carefully into problems of a most sensitive and it has shown considerable courage and conviction in the fight for the public interest. The House has contempt—then it can have its own words.

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

Mr. RENNIVICK. Mr. Speaker, the Pentagon program is not the first to the Supreme Court for contempt of Congress. It has been a matter of contention for the last 2 years. It is in the interest of the House to know that there is an adequate, necessary need for the protection of the public.

He states that his committee has clear evidence of deceit in which words are electronically altered to change their very meaning. This is a frightening threat to the public.

His committee has directed questions which the broadcaster has scorned. There is a real necessity to protect the public and the public's interest.

I will take my chances. I will let the courts determine whether the subpoena issued is in violation of the first amendment and can be exercised by anyone. But I will let the courts determine whether the subpena issued is in violation of the first amendment and can be exercised by anyone.

I will take my chances.

I shall let the courts determine whether the subpoena issued is in violation of the first amendment and can be exercised by anyone. But, I shall let the courts determine whether the subpena issued is in violation of the first amendment and can be exercised by anyone.
Mr. Speaker, I oppose the motion. The first contempt citation that the Congress has ever sought against a news network broadcasting, House Resolution 170 threatens to set a precedent which would strike at the heart of American journalism: the first amendment right shielding news against governmental meddling and building several centuries of tradition, freedom of the press, just because the members of the press are human beings and have faults much the same as those of the rest of the American public.

That remains an eminently debatable point. The accuracy of the statements made there is not a matter of deciding what was a fair program or even a good program, but we are here to judge the contempt citation stemming from the CBS motion to cite the network for refusing to hand over its written notes in the CBS-Pentagon controversy over the outtakes directly akin to the contempt citation stemming from the House of Representatives against the CBS for refusing to hand over its written notes and attempting to force a television network to provide itsunaltered, unedited, and unreviewed written notes. Even Attorney General Mitchell, a man hardly enraptured with news broadcasting, has pointed out that the needless use of subpoenas may call the very vigor of our press institutions into question.

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 controversy are contained in the record presented then on the CBS document. The interview of the former Secretary of Defense, Mr. Rumsfeld, is directly pertinent to the point. Even Attorney General Mitchell had written in his letter that this suit was not a matter of deciding what was a fair program or even a good program, but to judge the contempt citation.

Mr. Speaker, I must respectfully oppose the contempt citation stemming from the CBS motion to cite the network for refusing to hand over its written notes in the CBS-Pentagon controversy over the outtakes directly akin to the contempt citation stemming from the House of Representatives against the CBS for refusing to hand over its written notes.
This decision should not, however, be seen as critically delimited. This program "The Selling of the Pentagon," clearly is a vast and isubstantial investigation of the United States government's prosecution of the war in Southeast Asia. It is the product of an extensive and unpreerted inquiry by the subcommittee that has been focusing on this issue for several years.

As a matter of public interest, this program raises serious questions about the conduct of the United States government in its prosecution of the war in Southeast Asia. It is the product of an extensive and unpreerted inquiry by the subcommittee that has been focusing on this issue for several years.

I do not believe that the instantaneeness of transmission of images and words can ever be a substitute for the fundamental questions of the issue. The program "The Selling of the Pentagon," clearly is a vast and isubstantial investigation of the United States government's prosecution of the war in Southeast Asia. It is the product of an extensive and unpreerted inquiry by the subcommittee that has been focusing on this issue for several years.

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July 13, 1971

I have become convinced of two things. First, that news standards should result from self-improvement by the news media and not from Government regulation and, second, that station affiliates need to provide a better check and balance system on the parent network.

This issue seems to me, really both 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 the national networks and our national press that report this example and become part of American life 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 coverage, and must have the right to control the quality and character of that coverage. CBS has a new research program and we should have our own. It would be a great step forward in the battle against the censorship of the public.

Mr. MANELLI. Would you define what you mean by jump cuts?

Mr. JACOBS. A jump cut is 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 out here in one scene and you put his head suddenly over here. Mr. MANELLI. Does not that take the place of the three dots?

Mr. JACOBS. That could take the place of the three dots, but I think we would be better off for a different reason.

Dr. Staggers. Dr. Stanton, you have been added.

Mr. JACOBS. That is in a matter of editing.

Mr. JACOBS. Mr. Speaker, during the June 31 hearing by the Subcommittee on Investigations of CBS' controversy, I was particularly impressed by Dr. Stanton's erudite ellipses, which are used to indicate the fact that an entire tape sequence has been cut out of context.

Dr. STANTON. That is very good.

Mr. JACOBS. We have experimented with jump cuts and I am sure not all the members of the committee are familiar with that.

Mr. MANELLI. Would you define it for the record?

Dr. STANTON. I shall, Mr. Manelli.

Mr. MANELLI. Would you define what you mean by...
Mr. Speaker: Many centuries ago, a Greek named Herodicetus 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 entrenchment 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, whether for television itself, or whether for television stations or networks, or for network stations, or for local TV stations.

It is a constitutional freedom that no single entity of society may become powerful or set itself above the people and their representatives.

In the time of Thomas Jefferson it was the task of a state church whose power over government was feared, and that power was curbed.

In the day of Andrew Jackson, it was the task of a monopoly of business whose power over government was feared, and that power was curbed.

And in the day of Theodore Roosevelt and Woodrow Wilson, the monopolistic trusts and a power over government was feared, and that power was curbed.

In the 1940’s it was the employer-big business, whose power was curbed to create greater freedom for employees, and the 1950’s—although the number of organized labor was restricted to reduce power.

Today television has assumed great power over the American people. Congress enacts laws to require “truth in advertising.” Has anyone ever supposed it is an invasion of free expression to protect the consumer from being purposely misinformed?

Has anyone ever considered that Congress impaired that freedom guaranteed by the first amendment when it impinged a few years ago into rigid television interview tests and dishonest network quiz shows?

Everyone accepted the right of Congress to protect the public from deliberate deception. Nobody raised 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 gateways 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 50 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 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 in 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.

"We shall know the truth" promise the networks; and the truth shall make you free.

Yet how shall we be free if we are denied truth, and none is given equal vote in the same public forum to dispute the issue?

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 prevent a monopoly of information by government. Is it somehow less dangerous, or less important, that monopoly and censorship be exercised by private hands not accessible to the public?

Thomas Jefferson said all governments are interposed so long as truth is free to combat it. Yet how can truth be free if a power 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_stride across the manufactured news, of having fraudulently staged events, of having purposely distorted an important interview by cropping answers and insinuating 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 uncropped 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 daily 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 truths 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 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 beholding this citation so as to 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 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, April 23, 1971, the Communications Commission reiterated its policy that it will intervene in news or documentary programs where there is 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 preceived national commitment to the principle that debate on public issues should be unbullied, robust, and wide-open.

Now these widely different conclusions.
considering the dismal record of over, democratic society. compatible with the action. 

Quire that the media provide equal time. Was not truthful—this is nonsense. fine reached my conclusion on this matter ing. West Virginia (Mr. certainly this is not exercising influence over the press.

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cabin of the day in the press. Yet in circumstances far worse than any that have been despised 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 does this is where the matter should rest. The first amendment does this. Neither by legislation nor by investigation, should 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 argument and slanted and biased against opponents were the order of the day. Yet in circumstances far worse than any that have been despised 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.

If I were to write such a law, and it went into effect, I would, am sure, be quickly struck down by the courts. The refusal of CBS to supply certain material not used in the air in this 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.

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as I said, I do not see how any law could be written based on the recent 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 power to deal with news broadcast abuses by law.

Mr. MOOREHEAD. Mr. Spesker, 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 for contempt of Congress. I expect to vote against the committee and hope that a majority of my colleagues also vote against this dangerous present-setting efforts to deny CBS in 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, has 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, as I am, there is no more fertile soil for exploring the political and social implications of this freedom than the press. Although I do not believe that the media should be free to restrain what's going on in the world, I believe that this Nation will fare better in the long run if we avoid 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 freedom.

The letter follows.

THE LETTER

PROFESSIONAL JOURNALISTIC SOCIETY

Open Letter to Members of the House of Representatives

Washington, D.C. July 6, 1971

To: All Members of Congress

Sigma Delta Chi, with a membership of more than $1,000 journalists throughout the U.S., strongly opposes the action recommended by your Commerce Committee of my colleague the Frank Stan ton.

American journalists may be a severe blow to our cherished, constitutionally guaranteed freedom of the press, of which broad- casters are an integral part. The mere process of editing is a standard of truth. The mere process of editing is a constitutional right under which the press must work to inform the public and to expose abuses of governmental office.

Sigma Delta Chi takes this occasion to reaffirm its stand against any interference with the crucial role of the news media in informing the American people. Filling such spaces as the one used today by the Commerce Committee, the First Amendment guarantees of freedom of speech and of the press are to be preserved.

Mrs. MINN, Mr. Speaker, I rise to join my colleagues in expressing the tremendous opposition to the motion by the Committee on Interstate and Foreign Commerce to cite CBS and Dr. Frank Stanton for contempt 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 al low 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 make a public inquiry into the truth or falsity 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 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 sub stantially extend to television and radio because use of the airwaves is a Government-regulated franchise is a tenuous one. The authority of Congress to exercise control over the content 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 the press is being protected by the first amendment does not substantially extend to television and radio because use of the airwaves is a Government-regulated franchise is a tenuous one. The authority of Congress to exercise control over the content of a documentary. To engage our powers in this search is an unwarranted intrusion which clearly violates the basic tenets of the Constitution.

The first amendment expressly pre vides that Congress shall not abridge freedom of the press. We do not see how the problem of distortion in the press by elaborate means of ensuring the rights safeguarded by the Constitution. The only way to provide for a responsible media is through constant exposure of the free exchange of ideas in a free press.

Mr. Speaker, I respectfully urge a vote against the committee's motion.

Mrs. ABUOZ, 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, may face 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 is trying to redesign 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 verifiable history; Nevertheless, and history is not total recall, but a deliberate process of, and coming from, the flux of events, a personal impression is inevitable every time you pass it to the public, 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 separate the manner in which a program is edited from the content of that program. The outtake 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 FCC, 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 effecting the constitutional protection contemplated by the First Amendment.

Regardless of the way in which it is being presented, this resolution is in fact an attempt at intimidation of the press. It would erect a chilling effect on the news media. That is precisely its intent. All the evidence at hand indicates that the subpoena was not issued as part of an legitimate investigation for the purpose of framing constitutional legislation, but in a muddled 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 countervailing power 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. Spesker, 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 process 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 presence of editing is a subjective matter, for the determination must be made of what is necessarily, interesting, and stimulating for the viewer.

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
Mr. HARRINGTON. Mr. Speaker, in the Columbia Broadcasting System and its president face the Subcommittee on Investigations with contempt citation. And for President, Dr. Frank Stanton, for contempt citation when the same network to justify the manner in which he sat at a typewriter whether he was governmental interference in the news. and its president face a contempt citation. Why then is a network president facing its documentation. What concerns me far more is the broadcasting media must be on an equal footing with the press and the men who report it. It has often spoken of the first amendment is clear that the press is one of the most legitimate criticism lightly. After a year's length of the broadcast media will not be so avowed. CBS was a revision of its documentary for contempt of Congress. I will do so otherwise. I am mindful of the words of Thomas Jefferson in 1817. The news and the men who report it gives the government without newspapers, or newspapers without government. I should not hesitate a moment to prefer the latter. The contempt citation is in effect in the news, and its president faces the Subcommittee on Investigations with contempt citation. And for President, Dr. Frank Stanton, for contempt citation. As chairman 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. I am a strong supporter of the First Amendment in the sense that it was legitimate for Congress to consider a resolution because it is inherently wrong for Congress to interfere with the press. 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 1817.

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 one, 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 these remarks are not an attempt to alter Mr. Stanton's conviction of the House in the Stanton case.

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I think it important that networks listen to that argument, not out of fear of Government control, but only to make each other accountable to the truth because they are the voice of the free world and their interests are so parallel. If that is the case, it is absurd, only the Government can call networks to account.

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Mr. Speaker, the threat of public disbel-...
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 am particularly averse to the attention of my colleagues to a recent editorial broadcast by WAMC, New York:

By To Power

(21) 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. But the danger of the Court's decision is to be matched by the awesome year-long intensification surrounding alleged threats to the freedom of the press. But the Court's decision has not ended the state of unconditional 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 Henry Ray Wagner, wanted to see the external CBS didn't broadcast in a documentary called "The Selling of the Pentagon." He says radio and TV stations don't have the same freedom that reporters have to 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 the network you watch is in favor of a certain position. We've reached the stage where the government is taking control of the news. That's why I am concerned that the House Interstate and Foreign Commerce Committee is taking that direction.

Mr. ROYBAL. Mr. Speaker, I rise in opposition to the House Commerce Committee resolution citing CBS and its President. I am not attempting to bring the resolution to a vote. I regard the adoption of the resolution as a step in the right direction in representing and restraining the media in this country.

This is not the time to use the media, of McCarthyism and would lead us into an era of inquisitorialism and governmental interference. 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 was considering the resolution, I was one of the committee members voting against it. I voted against it because I believe the committee is in the wrong.

I am concerned that the House Interstate and Foreign Commerce Committee is bringing to bear on the media, and it is doing so in a transparent manner. It is doing so in a way that is not transparent and is not in the public interest.

The House Commerce Committee is not the only committee that is trying to control the press. The Senate is also considering a resolution that would give the Senate the power to subpoena TV outtakes on statutory law. The Senate is also considering a resolution that would give the Senate the power to subpoena TV outtakes on statutory law.

The committee argues that the TV out-takes are not the same as the operators' notes, and therefore it is not protected by the first amendment. I agree with this conclusion. Broadcast journalism has its own way of making its own standards of truth for free speech.

But there is a risk that this liberty is often confused with the dangers of a free press. Where there is a threat to the freedom of the press, there is also a threat to the freedom of the press. And I believe that the committee is taking that risk if we are to remain a free society.

Congress has no place setting editing standards for broadcast news in violation of the first amendment. In the recent Rosenblum against McQuilken decision, the Supreme Court has set the dangers of a free press but warned against attempts to correct the excesses.

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Brown, "and so does frequency." But then Mr. Brown suggested that CBS should defend its own safeguards against a repetition of such distortions. The Senate com­ mentary 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 because of the common "investigation" which we take care of him and his colleagues, we will take care of him.

Surely Congress is making its own simple point. News is that broadcaster licensed, un­ like newspaper publishers, are already regu­ lated as it stands, yet such reports are rejected. The Fairness Doctrine, and that Congress has a continuing responsibility to oversee the broad rules by which the broadcasters are governed. That is the reason why in 1953, when the Com­ munication Act was amended, Congress, in grant­ ing certain liberties to the television in­ dustry, wrote that "nothing in the agree­ ment... shall be construed as relieving broad­ casters in connection with the presentation of... news, documentaries... from the duty of affording reasonable opportunity for the dis­ cussion of competing points of view, in the public interest and owned by all of the American people as a common heritage."

Meanwhile, deep down in the news story one learns that CBS has just issued a directive governing future news documentar­ ies. "One (directives)--"to quote a summary of it--"requires that, if the answer to one question of significance is not known from an interview to another question, the answer must be "unknown."" Frank Stanton will say that his reforms were instituted because of his own commit­ ment to fairness. But those who don't know Frank Stanton will quite undoubtedly be­ lieve that his reforms were instituted because of the pressure of public opinion. And that, in the light of what congressional pressure is all about.

Mr. BURCH. Mr. Speaker, I rise to support the committee and will vote to his amendment in support of it. I think the people of the United States--that is, the people I represent--are quite concerned, because I believe in the right of our peo­ ple to know the truth.

I cannot see where in the action to­ day's first amendment violation is involved inasmuch as the constitutional amendment reads:

Congress shall make no law... abridg­ ing the freedoms of speech and press.

Congress, it is this instance, is not mak­ ing any laws but rather attempting to im­ plement the threat to freedom of speech--freedom of the press. What we are facing are what is called "forced television," which are acquired by the Supreme Court, and that is not 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 tele­ vision network makes a mistake or lies there is no competition around that seems willing to broadcast a correction; and networks do not like to state opinions, at least not in the open. Yet no individual in this country has enough access to television networks to call an error an error; and CBS sausages is unwilling to confess it is wrong, or has been wrong, or even if 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 been fair reporting, be­ cause 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 networks as we have magazines and news­ papers, and there will be sufficient com­ petition 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 fearful eye of CBS peers with a mighty hand.

The might of that hand was made clear to me when CBS broadcast its fero­ nous "Hungry in America" show, which featured many scenes in my district. I demonstrated, and repeated investiga­ tions subsequently demonstrated that the show contained outright errors--i.e., lies--about San Antonio, and greatly distorted the actual situation in the city. Yet CBS

The House at this point in time would suggest that a newspaper reporter produce its notes to a congressional commission.

And the fact in the courts have already decided that such a demand would violate First Amendment, the freedom of information, the freedom of television, which are as we know the un­ limited freedom of the press, and are in fact the television reporter's notes and are entitled to the same first amendment protection.

The Fairness Doctrine is weakened--I believe--by the Supreme Court's decision and the resulting legislation, the Fairness Doctrine, which is weakened by the Supreme Court's decision and the resulting legislation.

In the typical case of, for example, the case of the Tallahassee, Miss., on grounds that the networks, except for ratings and prestige.

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July 13, 1971

CONGRESSIONAL RECORD — HOUSE 24749

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.

I have before us a grave problem. It is more of 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 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, the Committee on Interstate and Foreign Commerce, against Frank Stanton and the Columbia Broadcasting System.

An hour's debate on this privileged record demonstrates the importance of the matter. However in the past, if I recall, we have listened carefully to the members of the committee.

As I listen to the proponents of this citation, the public is for the issuance of the contempt proceeding was to give the committee might have advocate knowledge of the filing of the contemptuous, in order to proceed to legislate to avoid similar instances in the future.

The fact that this presentation was an untruthful, deceptive, and leading 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 is purported to be. There is no 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 out some corners and sketched in 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.

That fact does not give Congress the power to act irresponsibly. We are the representatives 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.

As a matter of fact, the networks are responsible only to Congress. Congress stands to lose if it does not want to leave the impression that I am opposed to the procedure of citing irresponsible 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.

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CONGRESSIONAL RECORD — HOUSE  
July 13, 1971

If there is no remedy against CBS through the enforcement of this act, 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 victimized public?

The answer is that if you believe that the American public as a television audience will know to such an extent against these deceptions and fraud and will become so aware that similar practices may not be repeated in the future, I understand CBS has already issued some new guidelines for its editing. Adverse public opinion will do more to prevent the repetition in the future of dishonest broadcasting than any congressional subpena. 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. BIEFELD, Mr. Speaker, I rise in opposition to another misguided and dangerous attempt to tamper with the amendment guarantee of a free press.

It is in this vein perhaps that we are 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". It would be, for a major function of a free press in a free society that the citizens have a right to discover the truth about their Nation and their Government.

Although the case before us today does not directly involve the need to protect confidential sources, the issue is much the same. It concerns the protection of a reporter's personal notes—his private writing, which he may keep in a final draft, and the names of his sources, in order to preserve the value of vigorous investigative reporting. These are the tools of the press and the broadcast media in carrying the protection afforded the print medium. I would hope that we could encourage the media to provide access to those with the elevated strengths in a free society with a free press. We need more of it.

For this reason, earlier this year I joined in a resolution in incorporating the "Newman's Privilege Act" which would protect reporters in their investigative reporting efforts. This is one way we offer a free press, a free press without mistakes, maanagement, and corruption inside and outside our Government. Thus, reporters should not become the investigative arm of the Government.

At the same time, neither the press nor the electronic media should become the propaganda arm of the Government. It is a fact that a valuable resource of the media becomes more encompassing of pertinent Government policy or conveyors of statements by Government officials.

This is the issue in the case today. We are calling for a liberal free press debate over major and minor matters 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 20 or 60 minutes the television can knock down the walls and bring the ghettos, the war, the refugee camp, hungry people, and similar isolated people and events in 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 "parlour" in the public. For the purpose of protecting the sensitivities of some Government officials, some would have us be subject to the kind of reporting that the war is about to another misguided and unreasonable attempt to tamper with 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 broadcast media is something less than the protection afforded the print medium. The point has been made that Congress does not regulate the broadcast media, unlike the print media, through the Federal Communications Commission and its licensees.

I would hasten to point out, however, that the same means for regulating the current controversy have been adequately provided by existing legislation. The "firmness 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 could contend with the provisions of the "firmness doctrine." A month after presentation of their documentary, the program was rebroadcast on March 23 with a 30-minute insert consisting of critical comments by Vice President Agnew, Secretary of Defense Laird and Chairman Rasker of the House Armed Services Committee, and a response by the President of CBS News.

The committee on April 18 CBS broadcast an hour-long panel discussion presenting opposing views on the Defense Department'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 sub­ pensa would require the network to de­ vulge not only the materials presented on the program but also unused film and tapes which constitute electronic journalist's "newsmen's notebooks." To subpoena these materials would be comparable to demanding the interview, notes, and correspondences which constitute the rough draft of an author's book.

To permit Congress to so invade the journalist'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 assume 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 bar a broadcast journalist himself from broadcasting, develop and issue censorship in broadcast journalism. The committee would have the Congress institute inquiries into the news treatments of the 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 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 mainstream 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 opinions.

In conclusion, I would hold that it is highly improper for the Congress to intrude into the property 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 explicitly forbidden to do the editing 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 local 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 rule afforded to Government under the Constitution to police the gathering or presentation of news.

I encourage my colleagues today to demonstrate the full respect for the Congress for the precious freedom of the first amendment to our Constitution by voting against the content 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 testify, to express, in an open marketplace of ideas, the conditions in our policy and the results of our policies of Government. By doing so, I hope we will encourage the news media to view the first amendment as a protection ultimately of the public right of access to the media as the forum for the free debate of ideas on issues of public importance.

Mr. GIAIMO. Mr. Speaker, I intend to vote to strike the Columbia Broadcasting Co. for contempt of Congress. I think that if the House [TV] to unblock the content 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 "Pentagon." This documentary was shown on television in March. It portrays clearly, as starving to death, when, in fact, that was not the case. The instant facts, the documentary on hunger other questionable actions in the past in when one looks at the television set. He was asked on the taped interview. Which makes him appear to be delivering a statement a TV camera.

The result of this manipulation indicates the rearrangement of the words of that which appears to be real and true. The instant facts, the [TV] camera. The instant facts, the instant was shown as what 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 should freeze the manner which are transmitted through airwaves. But it does mean that broadcasters have a responsibility to serve the public interest, considering the fact that some vital interest, considering the fact that some vital interest, considering the fact that some vital interest, considering the fact that some vital interest, considering the fact that some vital interest.

It is this distinction which makes the first amendment to the Constitution which guarantees the broadcasting companies are privileged corporations, and that because broadcast companies are licensed and regulated by the representatives of the people Congress can, of course, regulate libel, obscenity, extortion, and so on, under carefully drawn restrictions. And individual Congressmen, other Government officials and local 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 rule afforded to Government under the Constitution to police the gathering or presentation of news.

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 insuring 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 outcome of any 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 outcome of the filmstrip 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 privileged 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 broadcasting industry cannot 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 Co. v. FCC, 395 U.S. 267—1969. In which case that the FCC took 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 exerts its statutory power nor transgresses 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 reforming 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:
Although broadcasting is clearly a medium affected by the First Amendment interest in free speech, there are significant differences in the characteristics of new media joint for the First Amendment standards applied to them (pp. 258).

This meant that where there are more individuals who want to broadcast than there are frequencies to allocate, it is fair to say that the unorganized 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 license 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 license to share his frequency with others or to conduct himself in broadcasting. As the Supreme Court recognized in writing section 326 of the Federal Communications Act that the right to free speech cannot be curtailed in broadcasting. As the Supreme Court said, however:

"The people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners—which the Congress is recognizing in writing section 326 of the Federal Communications Act—that the right to free speech cannot be curtailed in broadcasting. As the Supreme Court said, however:"

And it is these rights—those of the viewers and listeners—which the Congress is recognizing in writing section 326 of the Federal Communications Act, which is paramount. (Red Line, Page 259, col. 3.)

It is true, as the courts have held, that Congress can regulate the use of radio and television frequencies to the exclusion of fellow applicants. A license to broadcast is not the same as a license to speak. The license is a monopoly of the airwaves. This is not to say that the conduct of the broadcast industry directly with the ends and purposes of the First Amendment is irrelevant to public inquiry. The rights of Mr. Stanton, the House upholds that citation, the entire matter will be referred automatically to the Committee on Interstate and Foreign Commerce. The Speaker, Without objection, the previous question is ordered on the motion to recommit.

There was no objection. The Speaker. The question is on the motion to recommit. The question was taken; and on a division demanded by Mr. KEITH, there were—yeas 238, nays 181. The Speaker, Mr. Stagg's, on that demand the yeas and nays. The yeas and nays were ordered. PARLIAMENTARY ANSWER Mr. SPRINGER. Mr. Speaker, a parliamentary inquiry.

Mr. SPRINGER. Mr. Speaker, would the Speaker state what is being voted on? The Speaker. The question is on the motion to recommit.

Mr. SPRINGER. Mr. Speaker, a further parliamentary inquiry. May I inquire, is the motion to recommit the bill to the Committee on Interstate and Foreign Commerce? The Speaker. The gentleman is correct. It is a motion to recommit the bill to the Committee on Interstate and Foreign Commerce. The question was taken; and there were—yeas 226, nays 181, answered present 2, not voting 34, as follows:

**YEAS—226**

Mr. WILSON. Mr. Speaker, I ask unanimous consent that all Members may have 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.

The Speaker. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KEITH moves to recommit House Resolution 326 to the Committee on Interstate and Foreign Commerce.

**NAYS—181**

Mr. FLANAGAN. Mr. Speaker, I ask unanimous consent that all Members may have legislative days in which to revise and extend their remarks on the subject of the pending resolution, and to include extraneous matter.

**YEAS—226**

Mr. WILSON. Mr. Speaker, I ask unanimous consent that all Members may have legislative days in which to revise and extend their remarks on the subject of the pending resolution, and to include extraneous matter.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered.

The Speaker. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KEITH moves to recommit House Resolution 326 to the Committee on Interstate and Foreign Commerce.

**NAYS—181**

Mr. SPENCER. Mr. Speaker, a parliamentary inquiry.
Mr. WAGGONNER. Mr. Speaker, I asked and was given permission to address the House for 1 minute, to review and extend his remarks and include extraneous matter.

Mr. WAGGONNER. Mr. Speaker, I could not help but take exception to the editorial in the Washington Post for July 13 titled "The Responsibility of Broadcasters," which is an insert at page 24753.

The Post feels that the chairman of the House Committee on Interstate and Foreign Commerce, Mr. Stebenes, has no business "to see that fairness prevails on the airwaves," and the president of CBS, Mr. 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 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 must assume.

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The President and the Attorney General Moreover, Mr. Hoover must appear before committees of Congress to explain the FBI's activities and justify its appropriations. In addition, when FBI cases come to trial they must meet the scrutiny of our judicial process.

Actually, the FBI, as a Federal investigative agency, has limited powers and is no more a national police force than are broadcasting networks. Mr. Hoover would not have the power to engage in the type of law enforcement activities that are associated with federal police agencies.

Still another accomplishment of Mr. Hoover's FBI is the extension to local law enforcement of what are called cooperative services, such as the services of the FBI Laboratory and the FBI Uniform Crime Reports. There is, then, the FBI's role in law enforcement, but Mr. Hoover in 1935 established the FBI National Academy. To date, over 3,400 law enforcement officers have graduated. Another cooperative service is the FBI's National Crime Information Center, a nationwide computerized information and communications network aiding in the solution of crimes, the arrest of fugitives, and the recovery of stolen property.

These cooperative services give validity to Mr. Hoover's concept that we need strong, effective, and well-trained local and state law enforcement. In addition to the FBI, to fight crime in America.

Here is still another argument against the fallacy that the FBI is a national police force. Never must we forget the unending battle, day and night, of the FBI against organized crime and subversion. The FBI, despite claims to the contrary, has been the most effective agent against organized crime. Convictions of gambling, vice, and racket figures in FBI cases have risen in startling manner—from 64 in fiscal year 1954 to 461 in 1959.

Most important today is the battle being waged by the FBI against extremist elements both from the right and the left which would destroy our constitutional form of government. Extremists, such as the Weathermen and Black Panthers, have emerged in acts of violence. Weatherman advocates, for example, have bombing military and police installations. They operate bomb factories. They circulate manuals telling how to assemble homemade bombs. They defy the law and seek to use force to achieve their ends.

We can be very thankful that the FBI is engaged in this fight against extremism. It is easy to forget the unending debt of gratitude which all people In whose lives and work the FBI has been unexcelled. Mr. Hoover has consistently said that the FBI is engaged in this fight against crime. Convictions of gambling, vice, and racket figures in FBI cases have risen in startling manner—from 64 in fiscal year 1954 to 461 in 1959.

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Mr. GUBSER. May I ask the gentleman if that is correct.

Mr. MCCLOSKEY. I am correct.

Mr. GUBSER. May I ask the gentleman to finish his sentence? I ask the gentleman if that is correct.

Mr. MCCLOSKEY. It is not correct.

Mr. GUBSER. May I take the gentleman's statement?

Mr. MCCLOSKEY. No.

Mr. GUBSER. That is correct.

Mr. MCCLOSKEY. I spent 6 days in Vietnam and 2 days in Laos. You did not intend to exclude the 6 days in Vietnam from that agreement, did you?

Mr. GUBSER. Mr. Speaker, I would like to quote from yesterday's speech.

Mr. MCCLOSKEY. Speaker, I would like to quote from yesterday's speech.

Mr. Speaker, the statements I have previously outlined are not the only issues involved in this agreement. I am writing that it would be the only issues.

But contrary to the gentleman's assertion, Mr. GUBSER, I have outlined the issues involved in this agreement. The gentleman was clearly mislead and incorrect. For him to have asserted that I violated the agreement he suggested in his letter of July 8, 1971, is a deliberate misstatement of that agreement.

Second, in his remarks yesterday the gentleman described an alleged "great document error." He stated as follows:

The significant point is that Mr. McCloskey was kind of the report he left. When informed of its existence, he requested copies and was told that the survey could not be furnished him, but copies could be made available which had already been presented for statewide consideration. The survey was delivered before his departure.

(Please note again, he asked for the survey, knew of its existence, and received the survey before he departed.)

Those were the gentleman's words, if I understood him correctly.

In his speech on June 26, the gentleman from Santa Clara County asked this question:

How does this square with his request of the state Department before he left Washington for copies of both the survey and the summary?

The gentleman's inference is clear; I was not telling the truth when I said I came across the reference to the survey for the first time on April 14. Mr. Mark Pratt said he believed me, but that I"forget" the truth.

The gentleman misrepresents. His key point is that I must have been untruthful since I had asked for the surveys and been given a copy of the summary of one of them before leaving Washington.

The gentleman knows those allegations were untrue. After his speech on June 26, 1971, he apparently had second thoughts and wrote Ambassador Sullivan to ask if I had indeed requested a copy of the survey.

Ambassador Sullivan replied:

The Congressman did not at this time formally request a copy of either of the two surveys or the summary.

May I ask the gentleman if that is correct.

Mr. GUBSER. Mr. Speaker, I am not going to respond to the gentleman's allegation as to what I have said. I am going to respond to the issues.

This afternoon, at 2:35 p.m., I had a telephone conversation with the head of the-somebody in the State Department before he left Washington for copies of both the survey and the summary.

Mr. MCCLOSKEY. Mr. Speaker, I am not going to respond to the gentleman's allegations as to what I have said. I am going to respond to the issues.

This afternoon, at 2:35 p.m., I had a telephone conversation with the head of the State Department before he left Washington for copies of both the survey and the summary.

Mr. MCCLOSKEY. It was in reading the refugee book over at 6:00 o'clock that morning in the Ambassador's house that I came across the reference to this survey for the first time. (Please note the words "for the first time").

Those were the gentleman's words, if I understood him correctly.

In his speech on June 26, the gentleman from Santa Clara County asked this question:

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