

**PRESS UNDER FIRE: JEFFERSON REVISITED**

REMARKS BY  
COMMISSIONER JAMES H. QUELLO  
FEDERAL COMMUNICATIONS COMMISSION

**The Business of TV News Conference**  
March 11, 1985  
Vista Hotel  
Washington, DC

When I agreed to do this speech I didn't know it was going to be carried on C-Span. C-Span is the only TV network I know that hasn't been the subject of speculation about a Ted Turner takeover. I've been getting calls all week about hostile takeovers, and after consulting with my lawyer I want to take this opportunity to set the record straight. None of the following people were in my office last week exploring a possible takeover of CBS: **Jesse Helms; Jesse Jackson; Jerry Falwell; Grant Tinker; T. Boone Pickens; Slim Pickens; Marlin Perkins; Ike Turner; Tina Turner; Nat Turner; or Lana Turner.**

This disclaimer does not include exploratory phone calls I may have received or inquiries about a tender offer for ABC. I hope this statement puts all the rumors to rest so that I can again concentrate on floating my own rumor concerning an unleveraged takeover of CNN.

Seriously, television news is very much in the public mind these days. There are those who are becoming more and more distrustful of an adversarial press that has been accused of discrediting the government of its own country and undermining national will. While I have no plans to participate in any takeover attempts, I reluctantly have concluded that the adversary mentality of the press is reaching serious proportions and that this may have serious adverse consequences for the press -- particularly the broadcast press. As the Washington Post recently noted: "[W]ithin the government, and here and there in the courts, faith in the free market of news and ideas seems to be declining. The hunger to regulate that market is on the rise."

I want to emphasize at the start that I speak not as a would-be censor. I am a former broadcaster and newscaster. I register my comments from the vantage point of one who has not only been on the "other side" -- but would still like to be on the "journalist's side." While I am a government official charged with the licensing of broadcast stations, my record opposing the discriminatory fairness doctrine and supporting full First Amendment rights for broadcasters is second to none. Accordingly, I see no bar to the exercise of some First Amendment rights of my own.

369

If Jesus Christ had a second coming to earth to become president of the United States, he would no doubt be manufactured into a stumble-bum, or an inept "nonleader" by that segment of the press establishment that views its role in society as that of an "adversary" to any incumbent. I certainly think that Presidents Ford, Carter and Reagan would appreciate my point.

In this "adversary" posture, were George Washington and his Continental Army preparing to cross the Delaware, the press would be concentrating on the inhumane suffering of underclothed and even barefoot American soldiers in the bitter cold of Valley Forge. I can also imagine the line of questioning to the soldiers: Did you know your leader is a member of the wealthy landed gentry? . . . That he is warmly-clothed, riding a horse, relatively comfortable, and that he will reap all the glory while you have a good chance of being maimed or killed? . . . Did you know General Washington doesn't actually know the number of enemy, and has to resort to distorted estimates of their strength? . . . Do you know that Cornwallis accused Washington on a network interview of being a "war-monger" and a "self-serving glory seeker" at your expense? . . . Do you realize Paul Revere didn't even notify the press whether the British were coming by land or by sea? . . . Aren't you in grave danger here at Valley Forge? . . . Wouldn't you rather be back in your warm home making love to your wife or sweetheart? . . . Do you realize the British would reduce their forces to a token police force of only 50,000 mercenaries if you agreed to disarm and disband?

A few might even editorialize: "Isn't British red better than dead?"

In my view, several recent events have tended to erode public trust in media, particularly the electronic media.

An honorable field general selected to lead our troops in an unpopular, undeclared war certainly not of his making, was unjustly maligned in CBS' "The Uncounted Enemy, a Vietnam Deception." It is now apparent that the battle to clear the general's name would have been better fought in the court of public opinion rather than in a libel court which required clear and convincing evidence of malice. As I see it, General Westmoreland made a command decision regarding enemy strength which he had the right and obligation to make, right or wrong. The one-sided documentary charging conspiracy represented shoddy journalism. To CBS's credit, their own in-house investigation revealed violations of guidelines and poor journalistic practice. CBS, usually well-known for its news and public affairs excellence, won the law suit, but suffered a journalistic embarrassment and, I think, a public relations defeat.

In another example of journalistic malfeasance, an Israeli general won critical battles for his beleaguered country, a strong ally of the United States, but was maligned by inaccurate reporting by Time, a prestigious national magazine that usually knows better.

Still another recent example is ABC's unbelievable accusation that the CIA -- the U.S. government -- actually employed a murder squad to kill a Honolulu financial figure. The CIA vehemently denied the charge, and ABC, without an apology and after a long delay, merely admitted it could not substantiate the charge.

Finally, I think the insolent approach to the President by some nationally known reporters at press conferences has helped to produce the so-called "teflon President" because the President has been seen reacting graciously to undignified assaults. A discerning and sophisticated public seems more capable than ever of reaching independent judgments on candidates and issues.

The two networks mentioned above are subject to fairness doctrine complaints. It is fortunate that the present FCC doesn't believe in substituting its editorial judgment for that of a broadcaster. Our staff properly stated in the Westmoreland case that absent extrinsic evidence of an intent to deliberately distort, we cannot and will not interfere. Also, the staff dismissed the CIA's complaint as insufficient to state a claim. If these come before the full Commission, I will, of course, examine the entire record, but it is no secret that proponents of a fairness doctrine complaint -- like libel plaintiffs -- face a very high hurdle.

Freedom of the press confers upon reporters the freedom to be wrong so long as it is not done with "malice" -- a very subjective, difficult standard -- and, in the case of broadcasters, so long as there is no evidence of deliberate news distortion. However, editors, publishers and broadcast executives have the responsibility to make sure reporters are not wrong too often or to such an egregious degree that they are an embarrassment to their organization or profession. In my view, broadcast owners, executives and managers should more and more assume the role of publisher or even editor-in-chief.

The major impact of television and radio today on the American way of life is in news and news analysis, not in entertainment programs. I have said it before, and now more than ever, broadcasting is most respected and remembered for its hours of exceptional journalism.

The greatest benefit most Americans derive from broadcasting is information. This potential for molding public opinion poses

an enormous responsibility and challenge. It calls for more top management training and involvement in that most vitally important aspect of broadcast business -- news. Top management must emphasize truth and responsibility in news and public affairs reporting over the individual quest for ratings, money and power.

Of course, criticism of the press is not a new phenomenon. A good friend and former news director suggested that I could gain perspective by reviewing the history of the press in America.

Thomas Jefferson, of course, was a great champion of press freedom at a critical time in our nation's history. He wrote in 1787 the following:

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.

Nevertheless, Jefferson, himself, was an ardent critic of the press. In 1807, he wrote:

Perhaps an editor might begin a reformation in some such way as this. Divide his paper into four chapters, heading the 1st, Truths. 2d, Probabilities. 3d, Possibilities. 4th, Lies. The first chapter would be very short.

Some years later, Mr. Jefferson had apparently abandoned any hope that the press could be salvaged. He told a friend:

I do not take a single newspaper, nor read one a month, and I feel myself infinitely the happier for it.

The press in Jefferson's day took great delight in doing what the press has always done: biting the hand that feeds it. The press so values its independence that it happily denounces friend and enemy alike and then seeks refuge in Mr. Jefferson's First Amendment. Jefferson believed that abuse of a free press was self-correcting as he wrote to friends in Hartford:

Conscious that there was not a truth on earth which I feared should be known, I have lent myself willingly on the subject of a

great experiment, which was to prove that an administration, conducting itself with integrity and common understanding, cannot be battered down, even by the falsehoods of a licentious press. . . .

I have never therefore even contradicted the thousands of calumnies so industriously propagated against myself. But the fact being once established, that the press is impotent when it abandons itself to falsehood, I leave to others to restore it to its strength, by recalling it within the pale of truth.

Jefferson spoke of press freedom as an experiment; and that experiment has lasted for nearly two hundred years. That might raise the inference that it is no longer an experiment and that its permanence is assured. I would like to caution otherwise.

Freedom of the press, like all freedoms under our form of government, is conferred by the people. That carries with it the obvious notion that it can be taken away by the people. To the extent that the American people perceive that the press, especially the electronic press, is pursuing its self interest to the detriment of the public interest, the press has reason for concern.

It is clear that television is the most pervasive form of the press. In recent years, surveys have consistently shown that more Americans turn to television for news than to any other medium. This must be regarded as a "two-edged sword" by those who have careers in television news. It is obviously flattering to be the press of choice and to exercise the greatest impact on a majority of Americans. That popularity, however, carries with it a public awareness of your role that requires the highest standards of professionalism. That public awareness may also contribute to the unique government regulations that apply to electronic journalism. Television has chosen to focus a spotlight on some of the nation's most prominent figures and institutions, and often the glare from that spotlight has been harsh and decidedly unflattering. To the extent that television has exposed real flaws in those individuals and institutions, it has performed a function for which journalism is uniquely suited. To the extent, however, that television has trivialized officials and institutions which are important to the fabric of our society, it has performed a public disservice and it caters to those who would retain and even tighten the straightjacket on electronic journalism.

Jefferson believed that abuse of the First Amendment by the press is self-correcting and that there will always be those who



will call the press to account for its excesses. I can hardly disagree with Jefferson on this topic, but I wonder about the manner in which any needed corrections might come about. Is it possible that the press in general, and the electronic press in particular, might become so powerful and so arrogant that the public would approve, or acquiesce in, a remedy that goes far beyond merely correcting the problem? I hope not.

It has been suggested that the proper role of the press is to be an adversary of government. I believe that this is a simplistic and dangerous philosophy. The proper role of the press is to seek the truth and to inform. The press must present facts in a timely manner and in a context that is calculated to educate the populace in the most truthful, complete manner possible.

I urge -- just as recent self-criticism by the press suggests -- that the media re-examine its attitudes, its manners and -- most importantly -- its recent tendency to act solely as an "adversary."

It ought to be clear that "adversarial" excesses by the media will destroy its most valuable asset -- its credibility. Without that credibility, the will have also lost its most fundamental value to society. I further suggest that the media seriously reconsider the time honored journalistic concepts of "fairness," "objectivity," and yes, a little "humility." As Jack Webb was fond of saying on his TV show, "Just give us the facts." I think the public echoes that view. It is a presumptuous notion to believe that the media was annointed on high as the nation's resident "adversary."

A free press is vital to a democratic form of government because the policies of such a government are formed ultimately by the people. An uninformed or a misinformed electorate can result in dangerous policies and ill-advised actions. A press that cannot or will not perform its informational role under the highest standards of public trust does not not deserve public support. That, I believe, is what Jefferson was telling us nearly two centuries ago and I believe it applies today. Perhaps there is a message we should all heed when Congress, the elected representatives of the people, so adamantly refuses to repeal the restrictive fairness doctrine and Section 315. The First Amendment notwithstanding, Congress may be insisting that the electronic press gain full freedom the old-fashioned way -- they may have to earn it.

###