Representative Comment on Subpoena of Materials
Related to Preparation of Broadcast,
THE SELLING OF THE PENTAGON

Editorials and Comments in Newspapers and Magazines

Cleveland Plain Dealer
New York Times
Buffalo Evening News (4/10/71)
Watertown (New York) Daily Times
White Plains (New York) Reporter Dispatch
New York Post (4/10/71)
Washington Post
Philadelphia Inquirer
Bergen (New Jersey) Sunday Record
Chicago Today
St. Louis Post-Dispatch (4/12/71)
(Long Island) Newsday
Omaha World-Herald
Riverside (California) Press
Los Angeles Times
Minneapolis Star
Long Island Press
Boston Globe
New York Times (James Reston)
Los Angeles Herald Examiner
Washington Evening Star
West Hartford (Connecticut) News
Charleston (West Virginia) Gazette
Buffalo Evening News (4/16/71)
San Diego Evening Tribune
Baltimore Sun
Anchorage Daily News
Cleveland Press
Louisville Courier-Journal
Editor & Publisher
Christian Science Monitor
Los Angeles Times (syndicated Milwaukee Journal cartoon)
St. Louis Post-Dispatch (4/22/71)
New York Post (4/22/71)
NEA Syndicate (Don Oakley)
Minneapolis Tribune

Television Digest (excerpts)
Daily Variety (Dave Kaufman)
Newsweek

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Government Officials

Representative Herman Badillo (New York)
Representative John C. Culver (Iowa), reported in the Cedar Rapids Gazette
Representative Hale Boggs (Louisiana), House Majority Leader, on FACE THE NATION
Jerry W. Friedheim, Defense Department Spokesman, UPI Dispatch in The New York Times
Herbert G. Klein, Director of Communications for the Executive Branch, on KNX
Dean Burch, Chairman, Federal Communications Commission, in the Arizona Republic

Broadcast Editorials

KSL Salt Lake City
WTOP Washington, D. C. (4/17/71 and 4/18/71)
WTVT Tampa-St. Petersburg
WTVJ Miami
WCBS-TV New York

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The Cleveland Plain Dealer
April 10, 1971

TV Under Congressional Fire

One of the most serious challenges to constitutional rights of a free press is now being waged in the U.S. Congress. At issue is the question of whether television networks, operating under federal licenses, can fully discharge their reporting duties under the threat of a possible loss of franchise.

The battlelines are sharply drawn. Members of the House and Senate who support America's present policies in Southeast Asia have been calling to ask major networks for their reporting of military operations, particularly the recent invasion of Laos.

The investigations have all the appearances of a witch-hunt, aimed at stifling any unpleasant facts or disclosures involving the U.S. military.

U.S. Sen. Clifford P. Hansen, R-Wyo., last month, through a compilation of television newsclips, sought to show the U.S. Senate that coverage of the Laotian invasion was so negative as to be biased and distorted.

This week the House Interstate and Foreign Commerce Committee launched its own investigation of television news reporting, centered primarily around the CBS-TV documentary "The Selling of the Pentagon."

In an unprecedented, and we believe dangerous, move the committee subpoenaed not only the televised material, but all film, recordings and transcripts in connection with the program even though not used on television. The committee also subpoenaed the names and addresses of all persons who appeared on the program, other than members of Congress, the military or CBS.

Such tactics are not new. In the early 1950s southern members of the U.S. Senate began an investigation into the patriotism of employes of the New York Times, which at the time was strongly supporting the then recently decreed desegregation order of the U.S. Supreme Court.

Television, unlike the printed media, is under the burden of federal licensing and must comply with the fairness doctrine of the Federal Communications Commission. The FCC, not Congress, is the body that should conduct any investigations into television reporting.

We believe CBS President Dr Frank Stanton correct in refusing to supply Congress with the subpoenaed material, choosing instead to test congressional authority in court.

We also agree with his assertion that constitutional protection of a free press "does not depend on whether the government believes we are right or wrong in our news judgments."

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The New York Times
April 10, 1971

A Diversionary Program

The effort by a Congressional committee to subpoena the film and records of C.B.S. News has the effect of turning "The Selling of the Pentagon" into a new show that could be called "The Unmaking of a Documentary." This counterattack, which continues the pressure brought against the network by the Vice President and Secretary of Defense, is a diversionary move that overlooks the substance of the program and instead investigates the bearer of bad news.

The program, which certainly had a point of view but did not materially distort the facts, was presented mainly in the words and pictures of the Defense Department itself. Public relations colonels were photographed touring the country and telling civilians what policies they should support in Indochina and elsewhere—a direct violation of the laws and traditions prohibiting the military from engaging in political propaganda.

The dragnet subpoena against C.B.S. is properly being resisted by the network, which is willing to cooperate to the extent of supplying information about what has been seen by the public. Forcing a broadcaster or filmmaker to supply his "outtakes"—the discarded matter that winds up on the cutting-room floor—is the equivalent of searching the unfinished notes of a reporter.

Most of the facts brought out in the program can be found in Government records and in Senator J. W Fulbright's book, "The Pentagon Propaganda Machine." Instead of attacking the documentary, Congress would be better advised to study the Pentagon's practice of selling the Vietnam war to the civilian populace by men in uniform.

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Buffalo Evening News
April 10, 1971

Subpoena Threat to Free Press

The House Commerce Committee's efforts to use its subpoena power to compel two TV networks to produce all the raw materials from which they prepared two recent news documentaries may be intended as a relatively harmless fishing expedition. But it comes through to us as a particularly obnoxious form of censorial-minded intimidation that no news medium could possibly reconcile with traditional American freedom of press or speech.

The documentaries in question are CBS' controversial "The Selling of the Pentagon" and an NBC balance-of-nature film, "Say When" — said to have been included to avoid making the committee appear to be picking only on CBS. What is obnoxious about the committee's action is that it demands to see not only what was shown to the public, but all the material that was gathered and then edited out in putting together the final version of each documentary CBS, as the main target, promptly agreed to submit all the material that had actually been broadcast, but it flatly — and we think properly — refused to submit any of its unused films, textual matter or notes on the grounds that to do so would be subjecting its news judgment to legislative surveillance.

The News, in defending freedom of the press, has been very much aware of the difficulties and limitations in applying First Amendment standards to the government-licensed electronic media. But in this instance, the subpoena threat goes so clearly to the heart of the news-gathering and editing process that we must emphatically agree with CBS President Frank Stanton when he says.

"The subpoena raises an unprecedented issue in the history of the relationship between the Federal Government and the press in this nation. No newspaper, magazine or other part of the press could be required constitutionally to comply with such a subpoena with respect to material gathered by reporters in the course of a journalistic investigation but not published."

The fact that TV is licensed does not minimize the threat to journalistic independence in this instance. If anything, the fact that the committee issuing the subpoena has jurisdiction over communications legislation which sets TV licensing standards makes the threat all the more sinister.

The material demanded under this subpoena apparently contains no evidence or other material of any conceivable interest to the government for any other purpose than to second-guess the editing done by the networks in preparing the documentaries in question. And that is a purpose which would be forbidden to any congressional committee as a flagrant violation of the First Amendment if applied to the press — and one which has no more legitimacy as applied to the electronic media.

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HAROLD B. JOHNSON
1919-1949 Editor

JOHN B. JOHNSON
1932-1949 Publisher
Editor and Publisher

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Hypersensitivity to Newscasts

The hypersensitivity of the military, particularly as reflected in any exposure which might cast it in an unsatisfactory light, is apparent over action which, in effect, would have muzzled a network television correspondent in Vietnam.

Although the two may have no relationship, it is interesting that the Defense Department was unhappy with the CBS presentation of the documentary, "The Selling of the Pentagon," and somebody in Vietnam was unhappy with the fact that CBS Correspondent Morley Safer was in Indochina on special assignment. Safer was given the freeze after a memorandum, circulated to information officers, stated the correspondent might have "ulterior motives." As in almost every instance when such foolishness is exposed, due apologies were made and clearance given for the man to do his job.

However, the fact that the disclosure of the memorandum came at almost the same time that a House committee subpoenaed CBS to produce all documents and transcripts, used and unused, about "The Selling of the Pentagon," leads one to wonder if the pervasive hypersensitivity has not reached hypochondriacal proportions.

CBS, through its president, Frank Stanton, will obviously not comply with the House committee request. Mr. Stanton is on firm grounds. Should the committee persist in its demands, the atmosphere will be ripe for a full blown court test.

Although broadcasting and telecasting entities need federal licensing to operate, it would be a clear violation of the First Amendment of the Constitution were there to be interference in any network's operation of news programs. None of the media which uses print to present the news would ever entertain the thought of succumbing to a congressional inquiry. The right to publish the news, no matter how it may be accepted by any individual or party, has been inviolate. As far as stations and networks are concerned, the same applies to them.

Unless the House committee can accept that fact, its inquiry may result in a witch hunt, something which has been experienced before in other cases, but certainly uncalled for in this one.

Assuming that the study would be conducted in the most rational sense and that the outcome would exonerate CBS, if indeed it does need exonerating, those who were displeased with the documentary would remain so, and the critics would only be less vocal.

Almost every community today has access to two or more television channels. There is still the dial which enables the viewer to exercise all the censorship necessary.

Reproduced at the Richard Nixon Presidential Library

(White Plains) Reporter Dispatch
April 10, 1971

Editorial Comment

Congress' Fishing Jaunt

THE COLUMBIA BROADCASTING System undoubtedly was well aware that its controversial documentary about the public-relations and promotional arts of the Defense Department would invite all sorts of damnation and retaliation from Washington.

And, of course, it did. The latest repercussion is a subpoena from the House Interstate and Foreign Commerce Committee demanding all televised and untelevised materials pertaining to the documentary, "The Selling of the Pentagon."

This would include film and recordings, transcripts, contracts, financial records and more.

CBS PRESIDENT STANTON says the committee is entitled to no more than the material that was actually broadcast. In demanding the other materials, he says, the committee infringes on the constitutional guarantee of press freedom which, Dr Stanton insists, is not vitiated by the fact that radio and television stations are federally licensed.

This collision may well result in a contempt citation that will send the issue along the full route of the federal court system.

But Dr Stanton's resistance is understandable. Congressional investigations are supposed to have legislative purpose. This one has the look of a fishing expedition.

THERE IS NO QUESTION that news media bear a heavy responsibility for what they publish or broadcast If a committee of Congress wants to challenge the fairness or accuracy of a television documentary, and to thus implicitly challenge the standards of federally licensed stations carrying that program, this is a legitimate concern.

But it should be sufficient to subpoena a print of the program as it actually was shown to the public and to call in for questioning any or all persons engaged in its production, editing and final approval. The germane issues should be accuracy and fairness.

But the name of the game in this instance appears to be less a quest for facts than an attempt to stifle criticism and intimidate judgment, thereby rendering television programming even more sterile than it usually has been.

Dr Stanton has taken a difficult but responsible course in resisting this assault. Whether they realize it or not, all informational media and all the readers, listeners and viewers they serve have an important stake in the issue and the outcome.

Reproduced at the Richard Nixon Presidential Library

New York Post
April 10, 1971

The Re-Selling of the Pentagon

The CBS documentary called "The Selling of the Pentagon" plainly warranted a full-scale Congressional investigation — an investigation of the far-flung propaganda and self-promotion exercises of the military establishment.

But the Pentagon's lobbyists and volunteer press agents on Capitol Hill, with the noisy aid of Vice President Agnew, are engaged in an increasingly crude attempt to create a diversionary storm. Thus the country now faces the prospect of a Congressional inquiry designed to discredit the media—rather than to confront the message.

Despite disclaimers, that is the impetus behind the House Interstate and Foreign Commerce Committee's decision to subpena all the unused film, textual matter and reportorial notes related to the CBS exposure of the Pentagon's high-pressure domestic operations, including flagrant defiance of the principle of civilian rule in foreign policy

None of the labored critiques of the program has offered any serious rebuttal to its basic theme—the military's active sponsorship of a hard-line U. S. policy, its glorification of war games, and its generally extravagant use of public funds to brainwash the nation.

Some of these matters had been described before. But the cumulative impact of the televised CBS production obviously shook up many Americans.

While a counterattack was predictable, the turn it has now taken assumes a specifically ominous dimension.

What is involved is a raw, intimidatory assault reminiscent of the darkest hours of the Joe McCarthy era. If Congress, encouraged by the Administration in power, can begin to censor or even retroactively edit TV documentaries—and there can be no other purpose in this inquisition—the chilling effect of such activity will quickly spread. No spoken or printed word will be ultimately safe from the hysteria.

An immediate issue in the CBS case is whether the Pentagon is even more powerful and arrogant than the documentary indicated, and whether its Congressional agents can bully its critics into submission. The larger issue is the clear and present danger to the First Amendment represented by this invasion (or must we say "incursion?")

It is time responsible Congressional voices fought back—and turned the spotlight anew on the Pentagon and its henchmen. That is what the argument should have been about from the start. The belated announcement that the Pentagon has begun to review some of the practices unveiled in the CBS inquiry is the most devastating evidence that Congress has been aiming its fire in the wrong direction. CBS has already won a moral victory.

Reproduced at the Richard Nixon Presidential Library

The Washington Post
April 11, 1971

F.Y.I.

We had not planned on carrying much further the discussion triggered by that CBS television program, "The Selling of the Pentagon"—almost everybody having had their say, and then some, including ourselves, the networks and a good many congressmen who seem to have enjoyed this aspect of the whole affair as much as they disliked the original program. But the action of Rep. Harley O. Staggers in summoning CBS officials to appear before his committee is so unwarranted and so substantial a threat to the news media of this country that we are obliged to come back to the subject once again.

Mr. Staggers, in his role as chairman of the investigating arm of the House Commerce Committee, has ordered CBS to turn over to that committee not only a film and a transcript of the program itself but also just about everything CBS collected in the process of preparing the program. He wants all the preliminary film, recordings and transcripts used by CBS in getting ready for the program, as well as the names, addresses and fees paid to anyone, other than government officials and regular CBS staff members, who appeared on the program. Apparently in an attempt to demonstrate that his committee is doing more than just reflecting the anger of the Pentagon and Congress over this one program, Mr Staggers has had a similar order served on NBC in connection with a documentary on the balance of nature.

Frank Stanton, president of CBS, has said that he will provide the committee with a film copy and a written transcript of the program as it appeared on the air and nothing else. We applaud his decision and trust he will stick by it, come what may CBS deserves to be judged by what it put on the air, not on what it collected and discarded along the way. (Like many others, we have made a judgment about "The Selling of the Pentagon" on that basis. To refresh your memory, we think the program made a substantial contribution in airing an aspect of the Pentagon that sorely needs airing but we thought some of the editing techniques used were open to serious question, mostly because they exposed the show to needless attack. It is remarkable how both defenders and critics of the program have seized on that second point and ignored the first.)

In essence, what Mr Staggers now wants to do is to sit in judgment, not of the program, but of how CBS operates as a collector and disseminator of information. That, to put it bluntly, is none of his or Congress's business. It is, if we may use an analogy, like demanding that the author of a book produce all his rough drafts, his interview notes, and his correspondence. Or, it is like demanding that the President turn over to Congress all the memos he receives from various government agencies concerning a proposed speech and all the early drafts of that speech. No congressman, we submit, would be so reckless as to propose either. And any congressman who did would be recognized immediately as one who had no respect for and no understanding of the First Amendment or the internal operations of a large organization.

The demand of Mr Staggers, of course, is founded on the idea that television is somehow so different from the rest of the information media that the Constitution no longer applies. Since the granting of television licenses is a legitimate function of government, the argument goes, the policing of what appears on television is similarly legitimate. No doubt the government can place restricting limits on certain aspects of television; it does on other news media in terms of the laws concerning such matters as libel, obscenity, theft, extortion or business regulations. But government has no general role to play in policing the gathering and presentation of news material, as such, except to guarantee access for competing points of view on a medium, like television, where physical limitations exist.

It is not difficult to imagine the chilling effects on public affairs programing if the course which Mr. Staggers has suggested is followed. It would mean that any television newsman who said anything critical about any governmental official could be called on the carpet to explain how he reached that conclusion. The freedom that has marked the television appearances of such diverse figures as William Buckley and the late Edward R. Murrow would be seriously curtailed. Indeed, the final stop on the road down which Mr. Staggers has embarked is complete governmental control of the content of television news and public affairs programs. While that may be the ideal situation for those who think the government always knows best, it is entirely incompatible with a society in which the government is responsive to the people of the country. Perhaps it would be timely to remind Mr. Staggers and any of his colleagues of like mind and inclination of the words of James Madison on the meaning of freedom for the news media in our system:

> Some degree of abuse is inseparable from the proper use of everything, and in no instance is this more true than in that of the press. It has accordingly been decided by the practice of the States, that it is better to leave a few of its noxious branches to their luxuriant growth, than, by pruning them away, to injure the vigour of those yielding the proper fruits. And can the wisdom of this policy be doubted by any who reflect that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression

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The Philadelphia Inquirer
April 11, 1971

Why Not Go to the Pentagon?

It is bad enough that Vice President Spiro T Agnew has set himself up as official gadfly to the news media, but now the House Interstate and Foreign Commerce Committee wants to get into the act.

The committee has served a subpena on the Columbia Broadcasting System to obtain all materials films, recordings, transcripts and statements, used and unused, along with contracts and agreements and the like pertaining to that particular target of the Vice President's recent wrath, the CBS documentary on "The Selling of the Pentagon."

To review the bidding briefly you will recall that the documentary charged the Pentagon with misinformation, distortion and subjecting the American people to a "propaganda barrage." The Vice President counter-attacked by charging CBS with a "vicious broadside against the nation's defense establishment," and threw in a miscellany of other charges against CBS in particular and the media in general.

In view of the controvery Chairman Harley O. Staggers of the House Commerce Committee says the only sensible thing to do is "to get the facts" and, after the committee inquiry "we hope to issue a statement that will be factual."

Several questions arise.

Just what facts do the West Virginia Democrat and his committee seek to obtain?

In view of the target and wide scope of the committee's subpena, it may be assumed that the committee wants to look into the way the producers and reporters of CBS News go about their business and make their news judgments, which leads to the next logical question.

Just where in the letter or spirit of the Constitution does Mr Staggers find authority for probing into the practices of the press?

The First Amendment is very clear in the matter Congress shall make "no law" abridging the freedom of the press. The Congressional Committee is encroaching into forbidden territory As CBS president Frank Stantion pointed out in reply to the subpena, the courts have upheld First Amendment protection for television and radio notwithstanding the fact that they unlike newspapers, must be licensed by the government.

Does the committee want facts? Why doesn't it go where CBS went, to the Pentagon?

It might find all kinds of facts there, if only it would look — facts about a maze of public relations operations upon which the Defense Department admits to spending around $37 million a year which, according to some estimates, is about half the actual amount spent.

The committee could, for example, look into the Air Force's Distinguished Visitor Program, whereby the Air Force acquaints prominent citizens with its "mission and capabilities" by airlifting them to bases around the country Or the similar "at-sea orientation cruises" which the Navy sponsors for distinguished civilians. Or the propaganda content of those "informational" speeches which Army officers give to civilian audiences. Instead of asking CBS for its films, the committee could get the Pentagon's films from the Pentagon—those heavy-handed exercises designed to persuade the citizenry into supporting an ever-increasing military budget.

The committee might even ask whatever happened to that law which Congress passed in 1969 to forbid the use of defense appropriations for "propaganda" purposes.

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(Bergen, N.J.) Sunday Record
April 11, 1971

Fishing In The Wastebasket

If the Columbia Broadcasting System doctored the tape of its show "The Selling of the Pentagon" in such a way as to distort or misrepresent the realities it purported to document, the tape itself is the record for which it should be called to account.

Two responsible agencies, The Washington Post and the Dow Jones weekly Barron's, have managed to challenge CBS News's accuracy and good faith, not to mention its integrity, without going outside or beyond that published record. It is disturbing now when the House Interstate and Foreign Affairs Committee serves on CBS a subpoena demanding it produce all film, work prints, transcripts, outtakes (discarded film), and sound recordings whether or not they were used in the show that went on the air

CBS has decided it will not comply with the order. It remains to be seen whether the House will hold the network in contempt. That would precipitate a test in the Supreme Court.

The issues would be the extent to which government can go in regulating an industry whose existence depends on the regulated use of the air that belongs to all the people and the question whether the immunities of the First Amendment the guarantee that the Congress shall make no law abridging the freedom of the press — extends to the licensed broadcaster

The test should be welcomed. And any resistance to government encroachment on private lives and private enterprise should be encouraged. As witness Sen. Ervin's investigation of the Army's heavy-handed surveillance of civilians and Rep. Boggs's inception of congressional inquiry into the question whether the Federal Bureau of Investigation is tapping wires without warrant, the resistance is shaping up. The United States Court of Appeals in the Sixth District has lately rejected the Attorney-General's bland argument that the executive branch enjoys an inherent constitutional right to sick its eavesdroppers on anybody Mr. Mitchell considers subversive.

CBS is correct in its insistence that the material discarded in the process of editing "The Selling of the Pentagon" is none of anybody else's business. The probity of the editing process, the finished product that emerges from the editing into the living room as documentary evidence, is very much the public's business. The House committee can conduct its inquiry without wandering outside the record CBS has now put on the air twice at least. It can summon willing witnesses. It can ask whether distortion or falsification took place and if so where on the tape. The test of the First Amendment's applicability to licensed media is not at all necessary. But we'll have to come to it sooner or later.

Reproduced at the Richard Nixon Presidential Library

Chicago Today
April 12, 1971

A test of independence

A CLASH between a congressional committee and the Columbia Broadcasting System shows signs of becoming a real test of journalistic independence with Congress on one side and the broadcast media on the other If such a test does develop, it is one the industry must not lose, because losing it would further strengthen the lethal idea that "truth" is what federal power says it is.

The fight heated up Thursday, when the House Interstate and Foreign Commerce Committee served a subpena on CBS ordering it to show the committee all materials, televised and untelevised, pertaining to the network's controversial show "The Selling of the Pentagon." CBS president Frank Stanton said the committee was welcome to all the material that had been broadcast, but the network would not turn over any film, textual matter or notes that had not appeared on home screens.

The point of the documentary was that the defense department has been spending millions of tax dollars each year to influence public opinion in its favor This central point can hardly be denied. But critics have charged—evidently with truth—that some misleading techniques were used on the show, such as stringing together unrelated quotes from Pentagon spokesmen to give an inaccurate impression of what they said.

Rep. Harley O. Staggers [D., W Va.], chairman of the House committee, says his group merely wants to "get the facts" about the controversy No one can object to a congressional body getting the facts. The trouble is it doesn't just "get" them, it goes on to base judgments and actions on them, and in this case that carries some scary connotations.

It means, in essence, subjecting the editorial judgment of an independent network to that of a government body. It means federal officials telling newsmen, "Now instead of this, you should have shown the public this"—and backing up their views with the implied threat of license revocation. It means setting up a federal standard of truth as being superior to independent judgments of truth. And even if the standards of truth displayed by the federal government were a lot more impressive than they are, that would be a deadly road to follow.

CBS should not budge in its refusal to let congressmen start second-guessing the news media.

Reproduced at the Richard Nixon Presidential Library

St. Louis Post-Dispatch
April 12, 1971

The CBS Subpena

The Columbia Broadcasting System quite properly has refused to comply with a subpena from a House subcommittee which wants all material relating to the network's recent documentary on Pentagon propaganda. There is some question as to whether a subpena is ever an appropriate instrument to be used by the Government against the press; but if it is ever justified it can only be in extreme cases and then as a last resort. It must not be used for "fishing expedition" investigations.

Representative Staggers, chairman of the subcommittee, says the subpena was necessary to "get the facts" on the CBS documentary, "The Selling of the Pentagon," while it was still a public issue. The subcommittee, he says, intends to investigate the accuracy and preparation of television documentaries. It is entitled to study all the documentaries it wants to, but when it subpenas not only the program as broadcast but all unpublished materials, notes and film clips that went into the production, it is decidedly out of line.

For any news gathering organization—a television station, a network, a newspaper or wire service—a subpena is a particularly chilling device that threatens to undermine the First Amendment guarantees. On one level, it may destroy a reporter's confidential relationship with his sources and thus destroy the usefulness of the reporter himself. On another, it may easily intimidate both individuals and organizations from aggressively pursuing their duties. In either case, the ultimate victims are the people, who will have that much less information to make up their minds on important social and political issues.

Reproduced at the Richard Nixon Presidential Library

Newsday
April 12, 1971

Editorials

Odds Making

It can be expected that the government and the press are going to be consistently at odds. The government keeps secrets and the press wants to find them out. That arrangement does not make for amicable relations and, in fact, there is nothing to be desired in the kind of buddy-system journalism that some politicians would like to see replace the adversary set-up now in use. When the government and the press are happy with each other, the people find out very little. Izvestia is not famous for publishing exposes of the Kremlin's military spending program.

So the current gnashing of teeth in administration offices over such as CBS-TV's documentary "The Selling of the Pentagon" and media reports on the U.S.-backed invasion of Laos is no surprise and represents little more than a bureaucratic version of the rites of spring. A demand by the House Interstate and Foreign Commerce Committee for all unused portions of the CBS Pentagon report is absurd and unconstitutional and, if carried to its logical extreme, would hasten the day when reporters keep carbon copies of their notes and submit them to Washington for clearance.

This is not to suggest that the press is beyond criticism or that meaningful questions about the media are not being asked. At the moment, there is a great deal of controversy within the industry concerning goals, priorities and ethics. For instance, reporters are asking if "objectivity" is really possible or if, perhaps, "fairness" is not a more appropriate standard by which to be judged. Also, many journalists have challenged their own bosses by questioning the willingness of the newspaper, magazine, TV or radio station to tangle with the power structure on a continuing basis. There are calls for the press to stop resorting to stereotypes by, for example, casting the drunk as a tranquil, loose-jawed comedian, the Indian as an illiterate cartoon character, the poverty-stricken black as simply another welfare case, the working-class white as a bigot. And there have always been demands that publishers and station managers refuse special privileges to advertisers and grant no one the status of "sacred cow."

So far, government spokesmen have been suspiciously reluctant to become involved in this sort of press criticism, which should be encouraged in and out of the business. Rather, the politicians are anxious to accuse the press primarily of showing only "what's wrong with America." Although the charge is largely irrelevant (an exposition of what's wrong is an endorsement of what's right), it does raise the question of who is going to monitor the country's failures if not the press? Can we really count on the White House to announce its own slipups or crooked public officials to call the city editor with a story about their misdoings?

Unlikely. But, if those stories—unpleasant as they may be—go unreported, the public will be dangerously uninformed and the press scandalously unfaithful to an ideal well-expressed in these words: "I hope that . . . television, radio and the press first recognize the great responsibility they have to report all the news . . ." That advice, more relevant than ever, was offered almost a decade ago by Richard M. Nixon.

Reproduced at the Richard Nixon Presidential Library

Omaha World-Herald
April 12, 1971

Leaning on CBS

In a dangerous and unjustified move against CBS, a subcommittee of Congress has subpoenaed the material the network used to put together the controversial "documentary," "The Selling of the Pentagon."

Rep. Harley O. Staggers, D-W Va., chairman of the House Interstate and Foreign Commerce Committee, has assured the network that the committee's interest is "purely informational."

The assurance is empty As far as we are concerned, the subpoena represents formal government interest in the network's news operation, and is little short of direct intervention in news programming.

As we have said, "The Selling of the Pentagon" was more opinion than news, and CBS was deceptive in trying to label it as a "documentary." Although the program raised important questions, it did so in a manner inconsistent with standards of journalistic objectivity.

The program has been roundly criticized. But criticism is one thing, and congressional meddling is another. The subcommittee's initiative could open a can of worms that would never be closed until government had imposed a form of official censorship on the broadcast media.

There is a distinction to be made, a line to be drawn, between the criticism of an Agnew and the formal inquiry of a congressional subcommittee. Agnew has said repeatedly that he is not interested in any governmental intervention in news reporting; all he wants to do is encourage public opinion—the ultimate determinate in a democracy — to be heard.

The networks have professed to be afraid of the administration. Now their fears should be redirected. It is Congress, not the White House, that seems to want to lean on the networks.

Reproduced at the Richard Nixon Presidential Library

(Riverside, California) Press
April 12, 1971

An indirect threat

The House Commerce Committee last week served a subpoena on the CBS television network demanding that CBS give the committee all the material gathered for the now controversial documentary "The Selling of the Pentagon."

Perhaps to prove that it's not guilty of the Nixon Administration's current anti-CBS bias, the committee also issued a subpoena to NBC for similar material on "Say When," an emotionally powerful documentary on vanishing wildlife species.

CBS president Frank Stanton commendably says his network will release only what appeared on the program itself, resisting in the courts if necessary

Attempts at fishing expeditions of this kind are nothing new and that's the best that can be said for what the committee is trying to do.

Chairman Harley Staggers says the committee's aim is "to get the facts." What would also appear are the names of sources, including some within the Pentagon.

One similar subpoena against a *New York Times* reporter was thrown out by a Federal Circuit Court in San Francisco last November Although that court s action has no binding force in other circuits, there seems to be no reason that CBS reporters should receive less protection than those of the *Times*.

The Commerce Committee has more than a casual interest in television reporting, for it oversees the Federal Communications Commission which licenses the five stations owned by CBS, as distinct from CBS affiliates. The threat may be indirect but it is not obscure.

The use of subpoenas is obviously a threat to the news operations of CBS and other news media. If the networks were to comply with the orders, confidential news sources would dry up out of the legitimate fear that their names would also become known.

The subpoenas are a threat most of all to the individual citizen who must rely on the media for an honest account of matters in which the government has its own interest to protect.

If the Staggers committee has legitimate interest in "The Selling of the Pentagon," let it be concerned with what everyone saw and only that. But as yet the committee has not established legitimate interest. It is merely setting itself up as a government review board of one aspect of television journalism.

Reproduced at the Richard Nixon Presidential Library

Los Angeles Times
April 13, 1971

The Government as Censor

The media and the government are natural adversaries. The one, if it lives up to its obligation, will try to spread before the public all the relevant facts about the operations of government. Government officials want to see their activities reflected in the best possible light.

The conflict has taken on new dimensions recently in the surge of criticism of television news by Nixon Administration officials and some members of Congress. The House Interstate and Foreign Commerce Committee has initiated the latest move in this struggle by serving a subpoena on the Columbia Broadcasting System in connection with the CBS documentary, "The Selling of the Pentagon." The committee wants the following material.

—All film and sound tape records whether they were used on the air or not

—The names and addresses of all persons appearing on the documentary except members of Congress, military personnel and persons who were regular CBS employes as of Jan. 1, 1970.

—A record of disbursement of money to persons who participated.

—Copies or descriptions of contracts or agreements that may have been negotiated with these persons.

The network will supply to the committee a copy of the televised film and a transcript but has refused to yield to the demands listed above. If the dispute reaches the courts and the subpoena is upheld, that would mean, in effect, that the government could bring all television news under surveillance. The end result would be government censorship.

Because the number of broadcasting channels is limited, the government had to become the licensing authority The government also, under the Federal Communications Act, is responsible for enforcing the "fairness doctrine," which means that broadcasters, having a monopoly, must allow "reasonable opportunity for the discussion of conflicting views of public importance."

Broadcasters are not exempt from criticism from any source, nor is the press, but it is a long jump indeed from this premise to the conclusion that the licensing power of the government gives it the authority to supervise broadcast journalism. Yet the assertion of that power is exactly what is implied by the subpoena served on CBS. The subpoena should not be allowed to stand.

Reproduced at the Richard Nixon Presidential Library

Minneapolis Star
April 13, 1971

Incursion on a basic liberty

THE First (free speech-free press) Amendment was drafted by the Founding Fathers precisely to prevent what a House committee is trying to do now. The amendment's words by themselves, together with the historical background, can be read no other way:

"Congress shall make no law ... abridging the freedom of speech, or of the press ..."

Rep. Staggers, D-W Va., chairman of the House Commerce Committee and of its investigations subcommittee, served a subpoena on CBS demanding all televised and untelevised details on the documentary "The Selling of the Pentagon."

CBS President Frank Stanton, rightly we believe, refused to offer up any material other than the actual film copy and the written script, objecting that the demand was an unprecedented effort to impose legislative surveillance. The guarantee of a free press—which includes all media—is not conditioned on a governmental inquisition designed to determine whether any part of the media meets a governmental interpretation of the truth.

We believe Stanton is on firm legal grounds should this be pressed to a point of a trial. And yet this is more than a legalistic issue. It is one so broad and obvious in its implications that Staggers would do well to drop his inquiry. This would be a responsible act, in tune not only with the letter of the law but with the spirit of one of the great liberties. That TV is a licensed medium in no way lessens its constitutional guarantee; the added fact that the Commerce committee has jurisdiction over TV regulation makes the incursion that much more outrageous.

Reproduced at the Richard Nixon Presidential Library

Long Island Press
April 13, 1971

Freedom of Press Covers All Media

The Columbia Broadcasting System has given the right answer to a House subcommittee's demand for its notes and film on the controversial TV documentary, "The Selling of the Pentagon."

CBS said, "No."

The expose of the Pentagon's flair for spending millions to sell the Vietnam war was a professional report and analysis. Those who didn't like it were given an opportunity to say why they disagree and will get another chance next Sunday night. The final judgment, as it should be, is left to the viewer

Congressional probers have no right to notes or to film used to prepare the broadcast any more than they have a right to see a newspaper reporter's notes or to require him to divulge confidential news sources. Freedom of the press is a broad-gauged constitutional guarantee — broad enough to cover the broadcast media despite the licensing power the government holds over radio and television stations.

When journalism, written or broadcast, is no longer free of government interference, the American people will no longer be free either.

Reproduced at the Richard Nixon Presidential Library

The Boston Globe
April 14, 1971

The Boston Globe

CBS's wonderful hot potato

The coveted Peabody Prize, and a special one at that, has been awarded the Columbia Broadcasting System for its superlative documentary, "The Selling of the Pentagon," originally televised Feb. 23 and then rebroadcast by popular demand. The telecast has been called "electronic journalism at its finest," and this it surely is.

The funny thing about it is the way it thrives as a consequence of the hullabaloo kicked up by Vice President Agnew. Mr Agnew provoked so much controversy that CBS now plans an hour-long discussion of the documentary's substantive issues next Sunday at 10, believing that "a continued discussion is in the nation's interest," which it so clearly is. Since the time will be evenly divided between critics and supporters of the Pentagon's selling efforts, Mr Agnew presumably will be welcome if he chooses to appear

His appearance would lend the proceedings an extra fillip, inasmuch as the Pentagon itself, by revising its techniques, tacitly has acknowledged that some of the practices CBS exposed were indeed objectionable. Film episodes preaching hate and fear, for example, and showing children how to commit mayhem have been ordered deleted from future sales pitches. Where this leaves Mr Agnew is not clear.

Meanwhile, as they say on radio and TV, a House investigating subcommittee, neatly side-stepping such trivial matters as the people's right to be informed and the news media's constitutional right, if not duty, to inform them, continue in hot pursuit of all CBS personnel involved in the documentary. CBS president Frank Stanton has said he willingly will comply with the investigators' demand for the original film and a written transcript of the material broadcast. His refusal to submit material used in preparation for the telecast but not put on the air could provoke a bit of a rowdydow, if the investigators want to play fast and loose with constitutional bars to government intimidation of free press, as in our earliest colonial days. This might be a good idea, at that. Another court test would be just fine, since some way must be found for putting government back in its place. Government has as much right to a newsman's private notes as it has, say, to the money, if any, in his wallet.

There is an interesting addendum to the controversy which we do not have the strength to overlook. Two young naval officers, including Lt. (j. g.) Norcross Geary, a Harvard graduate, this week were downgraded in their fitness files because they are members of an officers' group opposed to the war in Indochina and hence are said to be engaged in political activity

Question: What kind of activity are the Pentagon's colonels engaged in who regularly tour the banquet circuit preaching the glories of that adventuring? What was Gen. Westmoreland engaged in when he came back from Indochina to address a joint session of Congress? Or does it all depend on whose ox is gored?

Reproduced at the Richard Nixon Presidential Library

The New York Times
April 14, 1971

The Unfairness Doctrine

> *'Never has the subpoena been used as viciously, as irresponsibly and as often against freedom of the press as it has this year.'*
>
> —Freedom of Information Committee, American Society of Newspaper Editors.

By JAMES RESTON

WASHINGTON, April 13—The American Society of Newspaper Editors is in Washington again for its annual skull practice, and this year it has some serious questions to discuss, for all news reporters and editors—radio and television even more than newspaper—are under mounting pressure from all branches of the Government and from the public as well.

In the last year the Defense Department has gone beyond the normal regulations on battlefield reporting to censor the news on the war in Laos and limit access to the primary areas of combat. Also, as the editors' Freedom of Information Committee charged in its annual report: "Never has the subpoena been used as viciously, as irresponsibly and as often against freedom of the press as it has this [past] year."

Reporters and editors in radio and television have had even more difficult problems, for while the newspapers usually have the protection of the freedom of the press amendment to the Constitution in the courts, the networks and their affiliated stations are licensed by a Government which has the power to impose its notion of "fair reporting" by threatening to withdraw a station's license.

The threats, of course, are always oblique. Thus, in recent weeks, Vice President Agnew has not only been running a campaign against the Columbia Broadcasting System's program on the Defense Department's propaganda apparatus ("The Selling of the Pentagon") and demanding the right to edit his own copy on the subject over the C.B.S. network, but the Investigations subcommittee of the House Interstate and Foreign Commerce Committee has subpoenaed C.B.S. to produce all its notes and unused film and disbursements of money on the Pentagon program.

These are issues—the radio and television as well as the newspaper subpoenas—that deserve more attention from the newspaper editors than they have been getting. Newspaper editors howl like a scalded dog whenever any Government official asks to see their reporters' notes or questions their news judgment—and quite right, too—but they are comparatively quiet when the Vice President or committees of the Congress demand the same thing of the radio and television reporters.

This double standard could use a little more examination from the newspaper editors here this week. The basic assumption of the First Amendment was that the people in a democratic society had a better chance to get a fair presentation of the news from a multitude of free reporters than from reporters regulated by the Government.

The Founding Fathers had no illusions about the infallibility of the press. Their comments about our stupidity, inaccuracy and bias make Spiro Agnew's sound almost genial. But they were persuaded that the risks of freedom were less than the risks of legal strictures or Government control, and it is hard to argue that this protection for the newspaper reporters should not now be guaranteed to the radio and television stations, which now supply a majority of the American people with their first reports of the news.

There is, of course, nothing wrong with the Vice President complaining publicly about bias in the press and the radio and television. As he is constantly pointing out, he has his freedom of speech too, and since major newspapers select about 100,000 words a day out of almost two million, it would be remarkable if there was not an argument about whether the selection and front-page presentation were "fair."

The difference is that newspaper editors can tell the complaining Vice President or the members of the House Investigations subcommittee to go climb the Washington Monument and the radio and TV editors are not quite so free. They are under Government license. They use "the people's airwaves" (as if the newspapers didn't use the people's streets and interstate highways), and they operate under different rules.

They must submit to an official "fairness doctrine," which is a Government and not a professional journalist's standard. It is enforced, or is at least under threat of being enforced, by a Government licensing agency. The radio and TV people must answer when the F.C.C. inquiries are made, and truth is not necessarily a defense.

It is ironic that the F.C.C.'s "fairness doctrine" was intended to assure precisely that, but everything depends on who is deciding what is "fair," and the guess here is that the Founding Fathers would still bet on Walter Cronkite rather than on Mr. Agnew.

Nevertheless, the public reaction to all this is clearly divided. The people have heard all the arguments between Government and press, and it is fairly obvious that their confidence is not unbounded in either institution.

Part of this is due to the fact that the newspaper radio and television editors have not been very good at self-criticism, or in establishing an effective "fairness doctrine" of their own, which is why there is so much public criticism of reporting, and why there is now so much talk of establishing some kind of local and national news council machinery to review the record of the papers and stations.

No doubt there will be much discussion of these issues in Washington this week, particularly the newspaper side of the question, but the immediate threat of Government pressure and influence is on radio and television, and if their freedom is impaired, even the freedom of the printed press is not likely to be unaffected.

Reproduced at the Richard Nixon Presidential Library

Wednesday, April 14, 1971

LOS ANGELES EVENING AND SUNDAY

HERALD EXAMINER

EXPRESS

George R. Hearst Jr., Publisher Donald Goodenow, Managing Editor

CBS Showdown

Dr. Frank Stanton, President of the Columbia Broadcasting System, has taken a difficult but highly responsible position in defying portions of a congressional subpoena relating to the network's controversial television documentary, "The Selling of the Pentagon."

This is the program, first broadcast in February and again last month, which has drawn strong criticism from Vice President Agnew, Defense Secretary Laird and other Administration spokesmen. They have lambasted the telecast as a biased attack on the military

We agree with their assessment. On the other hand we agree wholeheartedly with the reaction of Dr. Stanton to the subpoena served subsequently on his network by the House Interstate and Foreign Commerce Committee. It is important to keep the two issues separate.

The subpoena, returnable on April 20, demanded that CBS proffer the committee not only a copy of the film and text as broadcast but also all the untelevised film and textual materials involved in the undertaking, including contracts and financial records.

Dr. Stanton agreed to produce only the film and text which actually went on the air. Even though radio and TV are federally licensed, he contended, it is an infringement of press freedom for the government to demand confidential material pertaining to editorial judgment.

By his refusal, and the contempt citation it invites, Dr. Stanton has set the stage for a judicial showdown which may wind up in the Supreme Court. Meanwhile he is saying, in effect, that the free press he represents is always subject to criticism and correction, but never to intimidation or influence by licensing authority or any other club the government may lift in threat.

His position, as stated, is sound. The House committee clearly needs only the finished editorial product and the testimony of responsible witnesses to shape its judgment and possible corrective legislation.

Poking through the private files and wastebaskets of TV editors —or of any others in the communications media— is not a proper function of democratic government. Not only television, but all our press —and public— have an important vested interest in the CBS showdown and its result.

Reproduced at the Richard Nixon Presidential Library

(Washington) Evening Star
April 15, 1971

Freedom of the Air

The Columbia Broadcasting System deserves unqualified support in resisting the attempt by a House subcommittee to subpoena film and other materials that were *not* used in the finished version of the documentary, "The Selling of the Pentagon." The action of Representative Staggers' Commerce subcommittee on investigations can only be regarded as a blunt assault on the constitutional freedom of a news organization — a threat to impose chilling government surveillance over the preparation of television news.

The CBS decision to fight — up to the Supreme Court if necessary — is in the face of the broadcasters' uncertain legal position. The medium's newsmen claim the First Amendment's protection of press freedom, and they should have it. But the stations that serve as their vehicle operate under federal license and a maze of regulations. Newspapers can battle for their rights (and for the public's interest in honest and unintimidated journalism) without looking over their shoulders at a frowning and politically conscious Federal Communications Commission.

In the "Pentagon" case, the basic constitutional issue surmounts the ambiguities of the broadcasters' legal status. The FCC's fairness doctrine is intact; critics of the controversial documentary, which pictured the military establishment using the taxpayers' money lavishly to propagandize the taxpayers, were given air time to reply

As for the congressmen's right to second-guess all the editorial decisions that went into the documentary — that's one we'll bet the Founding Fathers would have laughed out of Independence Hall, as it would be laughed out of any city room. This is an out-and-out case of a journalistic effort causing howls of pain — most audibly from the vice president — and dark thoughts of retaliation in high government circles. The TV documentary had both merits and failings, but in our view that is not the issue.

CBS News in the current dispute must be regarded not as the beneficiary of government licenses but as a journalistic enterprise covered by the First Amendment guarantee. Not that that necessarily would settle all the legal issues without debate. In the case of newspapers — without the licensing complication — the right of governmental bodies to subpoena confidential and otherwise unpublished news materials has been a matter of hot contention for years. Newsmen have gone to jail rather than betray confidences.

The controversy was defused somewhat last year by two wise decisions. Attorney General Mitchell set guidelines to limit the subpoenaing of news materials by federal prosecutors. And a federal appeals court in California, with eloquent concern for the people's "right to be informed," threw out a contempt charge against a reporter who had refused a crippling compromise of his confidential relationship with news sources (in this case the Black Panthers). A national law establishing the rights of newsmen in such circumstances, as urged here this week by the American Society of Newspaper Editors' Freedom of Information Committee, has our endorsement.

Representative Staggers and his allies perhaps are unaware of the delicate constitutional balances their assault on CBS would tend to upset. It is probable, though, that leveler heads in the Congress—and ultimately, if necessary, in the Judiciary—will prevail.

Reproduced at the Richard Nixon Presidential Library

West Hartford News, April 15, 1971

Editorials

Hurray, CBS

God bless the Columbia Broadcasting Company for refusing to accede to a federal order to provide all its source material for the broadcast documentary "The Selling of the Pentagon." The network has offered to provide copies of the documentary itself for federal inspection, but claims that it is an infringement on the First Amendment to the Constitution to have the government examining the medium's editing policies. Which means its selection of what to use and what not to use.

The documentary was devasting. It showed how the government spends more money on propagandizing the military than the commercial networks together spend in covering all the news. Clearly the military has gotten out of hand in its public self-aggrandizement, the slick effort to romanticize the role of battle and its sophisticated weaponry CBS did a public service by swinging its kleig lights in that direction.

The quintessence often overlooked is that the freedom from government intervention is not something bestowed on the media by the Constitution, but rather upon the people themselves. It is the right to read and to see, the individual's right of self-selection. That selection means nothing if the only messages on the air and in the press are those which please the government.

The news media are not arms of the army, nor of the police. To provide freedom of information for the public, the media must have the widest possible latitude to investigate without the constant threat that the government is looking over their shoulder.

Obviously that freedom extended to the people through the commercial channels of the press and air carries its responsibility to edit with as much objectivity as individuals can summon. That is not to foreclose a point-of-view without which the media provide no critique, but rather to provide an equal forum for the two or more sides of an issue. If, in possession of facts laboriously and expensively collected, the media failed to organize it and evaluate it, they would be neglecting what the public has a right to expect.

That is a process, however, in which the government has no rightful part.

Reproduced at the Richard Nixon Presidential Library

The Charleston Gazette (West Virginia)
April 15, 1971

page of OPINION
The Charleston Gazette
Page 4 4-15-71
Vol. 99 No. 89

Editorials

Press Must Resist Official Repression

A House subcommittee has subpoenaed Columbia Broadcasting System material dealing with the network's documentary, "The Selling of the Pentagon."

Rep. Harley Staggers, the subcommittee chairman, explains the subpoena was necessary to get the facts while the documentary was still a public issue.

We believe CBS acted properly in refusing to comply with the subpoena. We doubt seriously that the government should be permitted to use the subpoena against the press, especially in cases such as this one.

This subpoena obviously is an instrument for obtaining a mass of material through which congressmen may sift at leisure. Issuance of the subpoena carried with it no accompanying accusation and the subcommittee gave no explanation other than Staggers' rather vague one, to "get the facts."

The First Amendment protects the press from this kind of catchall investigation which, viewed in another light, could be sheer intimidation.

"The Selling of the Pentagon" didn't set well with some of Congress' devotees of the military establishment, and we can well understand the human desire to retaliate.

In our opinion, the production of the documentary was one of the finest public services the network is likely to perform. It explained with great clarity the dangers of an ever-increasing military force and its ominous inroads upon the area of foreign policy.

Today, more than ever before in history, the people are overwhelmed by massive government. Responsible congressmen have voiced serious fears of dictatorship filling the vacuum of congressional inaction in behalf of the people.

Much of the press has succumbed to the pressures and propaganda of Washington authority. It is heartening to know that some of the press, whatever its faults, still stands between the people and official oppression.

We hope CBS holds out against the subcommittee's outrageous demand. If freedom of the press is to survive, its defenders must be willing to challenge its enemies in the government.

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EDITORIAL PAGE

BUFFALO EVENING NEWS

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Friday, April 16, 1971 Page 38

Enact Federal News Shield

The welcome support given a federal shield law for newsmen at this week's meeting of the American Society of Newspaper Editors well attests to the stake shared by all news media in protecting a free flow of news vital to the public in a self-governing society

A bill now in the House would generally shield all newsmen—electronic as well as print — from having to disclose under subpoena confidential sources of information, or from having to submit to official investigative bodies material gathered but not actually published or used on the air

Several recent court decisions have breached the newsman's code respecting confidentiality of news sources. Such forced disclosures pose an immensely disturbing threat not merely to news-gatherers, but to the public interest in bringing forth vital news tips from sources that would clam up in fear of personal exposure. The editors' Freedom of Information Committee warns that "never has the subpoena been used as viciously, as irresponsibly and as often against freedom of the press as it has this year "

While there is thus a clear need for a statutory bulwarking of First Amendment guarantees at the federal level — quite as much as that afforded by the confidentiality laws already enacted in 17 states — no less compelling is the need for safeguarding news media from the growing threat of intimidation by censorial-minded bodies.

The most recent example is the exercise of a House committee's subpoena power to compel the submission of raw notes and film prepared but not used for two TV documentaries, including the CBS Network's controversial "The Selling of the Pentagon." The shield bill would put a stop to such obnoxious government snooping.

In upholding the free flow of news, the shield bill is appropriately broad in extending protection against improper pressures by the federal courts, grand juries, the Congress and federal agencies. The measure makes exceptions in cases where disclosures of sources or information may be deemed necessary to protect human life or to prevent espionage or foreign aggression. While these exceptions have caused misgivings among some editors, including ourselves, about the possibility of abuse, we are satisfied that the provisions requiring a court showing of necessity for such rare exclusions insures reasonable safeguards.

Reproduced at the Richard Nixon Presidential Library

San Diego, Saturday, April 17, 1971
EVENING TRIBUNE OPINION

Editorial privilege at stake in resistance to CBS probe

THE CONTROVERSIAL documentary, "The Selling of the Pentagon," aired earlier this year by Columbia Broadcasting System, has been called "misleading and damaging," "subtle but vicious" and indicative of "pervasive malice and editorial bias" on the part of the network.

The charges may or may not be true.

But CBS President Frank Stanton should have the support of the printed media as well as the broadcast industry in his rejection of demands that he present next Tuesday unused film, text or notes tied to preparation of the program to a congressional subcommittee investigation.

Dissimilar in their approach as they may be, broadcast news and printed news share a claim to protection from government harassment under the freedom of expression guarantees of the Bill of Rights.

THE EXERCISE of judgment as to what is news, what is to be presented to the public and the manner in which it is presented is a privilege that must be limited to those qualified by training and experience to make such decisions.

Defense Secretary Melvin Laird had a word for the decisions made in the CBS show, which implied that the Pentagon was using public relations funds not only to inform, but to persuade the public on vital national policies.

The documentary, Laird said, was "unprofessional."

Vice President Agnew said that CBS had used questionable editing techniques, resulting in omissions and distortions of statements made in taped interviews.

THERE HAS been some authoritative agreement that CBS may be "vulnerable" on the subject of editing.

But the issues of professionalism and responsibility must remain the concern of the news media and the reading, listening or viewing public.

Television and radio broadcasters are more susceptible to the fear of government controls than magazines or newspapers. They are licensed by a politically-oriented agency, the Federal Communications Commission.

That fact must not be allowed to deprive the broadcast press from First Amendment protection.

IF THE NEWS judgments of CBS are made subject to second-guessing by the United States Congress, there can be no guarantee that the surveillance will not be extended to the other media.

As former publisher Bill Moyers has warned. "Here the domino theory becomes suddenly valid — let one man's jot fall from the First Amendment and your own tittle may not be far behind."

A public jealous of its right to complain and criticize must be equally protective of its freedom of access to information.

Each newspaper, each magazine, each radio or television station has a common obligation — to be fair and honorable to its audience.

AND IN THE long run, the public will sit in judgment on how well each meets its obligation — without legislative interference.

Reproduced at the Richard Nixon Presidential Library

THE SUN

BALTIMORE, SATURDAY, APRIL 17, 1971

House Subpoena

During its annual meeting in Washington the American Society of Newspaper Editors went on record as protesting a subpoena issued to the Columbia Broadcasting System by a special subcommittee of the House Interstate and Foreign Commerce Committee. The subpoena demanded all background material collected by CBS in the process of putting together the documentary program called "The Selling of the Pentagon."

Frank Stanton, the CBS president, has said that a film copy and written transcript of the material actually broadcast will be delivered to the subcommittee, but that the request for material used in preparing the program but not actually broadcast will be refused on substantially the same ground—that is, the First Amendment guarantee of freedom of the press—that newspapers and magazines have cited in refusing similar requests from governmental agencies.

The telegram sent to the subcommittee by the newspaper editors states the case succinctly: "The society (of editors) agrees that every news report can be judged for accuracy and fairness. It disagrees totally with any attempt to pry into newspapers', broadcasters' or any other journalists' private files to seek to judge editing. The society views the subcommittee's order as an open attack on the First Amendment guaranteeing the nation a free press and stands unwaveringly beside its journalistic colleagues in broadcasting in viewing the subcommittee action as a dangerous and unwarranted intrusion into journalistic freedoms. The society urges immediate reconsideration."

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Alaska's Only Morning and Sunday Newspaper

4—Saturday, April 17, 1971

Editorial

The Shelling of CBS

Rep. F. Edward Hebert, chairman of the House Armed Services Committee, thought it was "one of the most un-American things I've ever seen on the screen," full of "vicious and devious things."

Defense Secretary Laird said there "probably could have been a little more professionalism shown in putting the show together" and contended that one colonel was quoted "out of context completely."

VICE PRESIDENT AGNEW COMPLAINED that there was "quite a bit of cut and paste" in the show and said he wanted to show the American people "through uncontroverted evidence based on substantial and complete investigation that they cannot rely on CBS documentaries for facts."

The target of these criticisms — and of countless other outbursts from lesser minions of the military establishment — was, of course, the revealing and controversial CBS documentary, "The Selling of the Pentagon."

It appears that CBS may, indeed, have been guilty of some questionable editing in one instance (Laird's out-of-context colonel; Agnew's "cut-and-paste"). If so, it is to be deplored; liberties with the truth are something no conscientious news gathering organization can condone, much less engage in, if it is to retain its credibility. But available evidence indicates that the bulk of the charges against "The Selling of the Pentagon" are rubbish.

CBS HAS ANSWERED VIRTUALLY all the complaints. Most of them, in any case, were vague (Hebert's "un-American" charge), trivial in the context of the entire program, or simply not true. As Richard S. Salant, president of CBS News, pointed out recently after a rebroadcast of the program, "No one has refuted the essential accuracy of 'The Selling of the Pentagon.' You have seen and you have heard Pentagon activities for yourselves; the manipulation of news, the staging of events and the selling to the public of the Pentagon's points of view. None of our critics has said that these things didn't happen or weren't done — and so the validity of the broadcast stands unscathed." That is still so.

What is clear is that the program, which documented the ways in which the military spends millions of taxpayers' dollars to promote its various activities with the public, has touched a raw nerve in Washington and that the Pentagon and its many friends feel compelled to discredit CBS as a consequence.

Many of the Pentagon's public relations programs are, of course, essential — not only for the military but for the public as well. Without them, the public would be largely in the dark about many military activities on which it should be informed. And no doubt news organizations like CBS News (and, most likely, this newspaper) would be complaining about military secrecy.

BUT WHAT APPEARS TO HAVE raised the ire of the Pentagon was CBS documentation of blatant news management by the military and overt political activity. Both of these are, to put it mildly, a questionable use of public funds. The Pentagon knows it and is irked because it got caught with its fingers in the cookie jar.

So what we are now witnessing is a concerted effort by the Pentagon, the Nixon Administration and their supporters to discredit the best of the network television news departments — and, perhaps, intimidate it as well.

This campaign was capped last week by an outrageous and unprecedented demand from the House Interstate and Foreign Commerce Committee that CBS submit all televised and untelevised material gathered in preparation of the program, plus the names and addresses of all non-military and non-network employes appearing in the documentary or filmed or recorded during its preparation (the electronic equivalent of asking a reporter for his notebooks). CBS President Frank Stanton has flatly refused to provide anything but the material which actually was broadcast.

THAT IS MUCH TO HIS CREDIT becuse a vital issue of government interference with the press is at stake here. Television as a whole is subject to government regulations because it uses the public airways. But a strong, and we believe valid, case can be made for extending to television newsmen the same freedom from government censorship that the printed word enjoys.

When this country was established a couple of centuries ago, the founding fathers wisely decided that the press should be free — not fair and not accurate, though long tradition and professional ethics have established both as constantly sought goals — but free.

Repeated surveys have indicated that most people in the United States today rely on television or radio for much of their news and it is difficult to see why the guarantees which have traditionally been extended reporters of the written word should not be extended to those who report electronically.

As recent events clearly demonstrate, it is a protection they certainly need.

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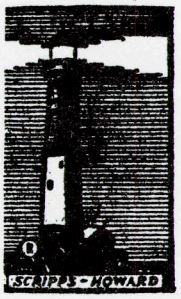

The Cleveland Press

A Scripps-Howard Newspaper

THOMAS L. BOARDMAN, Editor ARTHUR W. ARDIZONE, Business Manager

OHIO'S LARGEST EVENING NEWSPAPER

Saturday, April 17, 1971 PAGE A 4

A freedom under attack

The attempt by a committee of the House of Representatives to subpena material not actually used in a CBS television documentary represents a serious infringement on freedom of the press.

The committee sought to get tapes, unused film clips and other material which was discarded in the fashioning of the controversial documentary, "The Selling of the Pentagon."

This show, incidentally, has just won a special Peabody Prize for "electronic journalism at its finest." On the other hand, it has been the target of an attack by some Congressmen and Nixon Administration figures for "distortions" and for allegedly taking remarks by military personnel out of context.

Frank Stanton, president of CBS, has refused to comply with the subpena. The American Society of Newspaper Editors, meeting in Washington this week, backed up Stanton's position, calling the attempted House action "a dangerous and unwarranted intrusion into journalistic freedoms." That it is.

The House committee apparently wants to get its hands on CBS materials hoping to prove that the documentary distorted the facts or at least slanted its point of view.

This is a perilous business for the Government to be in, and the threat ought to be recognized by all segments of the communications industry.

If this became typical operating procedure for the Government, it would be a step down the road to George Orwell's vision of an all-pervasive Big Brother governmet. This congressional committee is trying to say it will be the final judge of what the truth is. This is a frightening step to take.

As most people know, the truth is seldom black and white. A reporter fashions a story from his notes, leaving out certain facts he judges to be trivial, and shaping the whole into what he believes is a truthful and interesting account. No two persons would write the same story exactly the same way.

Those whose job it is to report the news know that mistakes sometimes are made. This newspaper believes part of its responsibility is to police itself and inform readers when an error has been made. And the public, which buys newspapers and magazines, and switches from channel to channel on television, makes the final judgment on what journal, or program, it can believe in.

To give government the power to poke around in a journalist's notes and second-guess him on his interpretations — and in the end to intimidate a reporter in this fashion — is to relinquish one of the basic freedoms in a democracy.

Reproduced at the Richard Nixon Presidential Library

Louisville, Kentucky

The Courier-Journal

BARRY BINGHAM SR.
Editor and Publisher

BARRY BINGHAM JR.
Associate Publisher

SATURDAY, APRIL 17, 1971. FOUNDED 1826.

ROBERT T. BARNARD, *Editorial Page Editor*

JOHN ED PEARCE WILLIAM PEEPLES

ROBERT DEITZ BRYAN WOOLLEY

HUGH HAYNIE, *Cartoonist*

Chapter 2: 'The Silencing of a Network'

ANY SCHOOLBOY, one trusts, recognizes what a different country America would be today if our founding fathers had left its newspapers subject to the licensing whims of government. The first rule of totalitarianism, in fact, is that those editors who will not suppress criticism of the regime must be silenced.

Even Vice President Agnew, for all of his complaints about press fairness and credibility, has not suggested that the First Amendment be repealed. Yet he and some of those who share his views seem bent on doing by indirection, through the back door as it were, what they cannot accomplish by direct assault.

The target now is CBS, which has been commanded by a House subcommittee to hand over all untelevised materials connected with its recent documentary on military public relations, "The Selling of the Pentagon." The subcommittee then proposes to determine for itself whether the editors at CBS were "fair and accurate" in their selection and editing of the film that finally went on the air.

As James Reston commented Thursday on this page, any newspaper served a subpoena demanding its reporters' notes and unused drafts of stories on anything other than a matter of national security could tell the Vice President or the House subcommittee to go climb the Washington Monument. But the journalists in television are still victims of an unresolved double-standard, because their stations and networks are licensed by the government to use "the people's airwaves."

No profiles in courage

During last fall's political campaign, all of us could witness Mr. Agnew's thinly-veiled threats of license-revocation for those stations or networks whose news programs he didn't like. Now we're at the next step on this dangerous ladder: an official governmental demand that a network justify its news judgments to a group of congressmen.

One can be certain of the outcome if this incredible procedure were upheld by the courts. All television editors would work with Congress leaning over their shoulders, and every American could say goodby to any more broadcast criticism of the Pentagon, the FBI, the oil industry or any other sacred cow—and that includes most politicians as well.

In fact, one might as well kiss TV news goodby altogether, since any report on anything except motherhood—and perhaps even on that—will start a controversy somewhere. And if controversy means the risk of no license renewal, so long to controversy and courage.

This is not to argue that television news is always as good or fairly presented as it should be. Like their counterparts on newspapers, many TV journalists have been giving a lot of thought in recent years to the responsibilities that go with their rights, and the better men in both industries are pushing hard for more accuracy, balance and accountability in the news reports they compile.

That's encouraging, and so is a continuing flow of public and official criticism of the job the journalists are doing. But if there comes a time when newsmen must measure what they write or broadcast on the basis of its popularity rather than its truth, don't bother to ask a schoolboy about liberty. If he remembers what it was like, he'll know the danger of babbling about such a dangerous doctrine.

Reproduced at the Richard Nixon Presidential Library

April 17, 1971

Editor & Publisher

Robert U. Brown
Publisher and Editor

® THE FOURTH ESTATE
James Wright Brown
Publisher, Chairman of the Board, 1912-1959

Investigating television

The worst fears of those who have constantly reminded others that federal licensing of broadcasting stations might some day be used against them by government threaten to become a reality

For the first time since broadcasting of radio and television began in this country a network is threatened with punishment—at the least, investigation—either for being painfully right, or painfully wrong, in something it has aired.

The Columbia Broadcasting System has had its supporters and its detractors after televising "The Selling of the Pentagon." Most of the critics have been from the government side but in spite of the charges of gross inaccuracy in the program they have not been proven.

The subpoena from the House Commerce Committee and its Special Subcommittee on Investigation to obtain from CBS all televised and untelevised materials pertaining to that program constitutes more than a fishing expedition into areas of news coverage. It is an attempt at intimidation of a news medium.

Let the Pentagon prove error, if it can, but what this country does not need is legislative surveillance of the news judgments of any news medium.

Reproduced at the Richard Nixon Presidential Library

THE CHRISTIAN SCIENCE MONITOR

"First the blade, then the ear, then the full grain in the ear"

The Monitor's view

The right to be informed

April 20, 1971

The defense of news freedom is vital to all freedom. It is not a right which belongs to the press but to the people, who have the right — and need — to be informed. The right is constitutionally protected in the United States by the First Amendment in the Bill of Rights.

In the task of informing the public, the newspaper reporter or editor, the reporter or broadcaster for radio or television, often must dig hard for news, protecting the sources some of which he must keep private or they will close up. He has to edit the news, choosing from his notes or sources what he believes is most important to present to the public.

His editorial task involves human judgment. It may well reflect personal or collective opinion. But his right to edit is also protected by the Constitution. He has a right, so to speak, to be wrong. The defense of his freedom often has to be made not on behalf of the most responsible, but of the least.

There has existed legal doubt as to the right of the reporter or news enterprise to protect sources. Some 17 states have passed "shield" laws to affirm the right, and federal legislation is now being sought. Attorney General John Mitchell last summer issued guidelines greatly curbing the federal practice of seeking to subpoena news reporters' notes and source materials.

Now, in the aftermath of controversy over Columbia Broadcasting Company's "The Selling of the Pentagon," the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee has subpoenaed CBS's "outtakes" and other background material used in preparation of the telecast. CBS refuses to present any material except that which was actually broadcast. It is prepared to take the case to the Supreme Court.

Chairman Harley O. Staggers (D) of West Virginia of the subcommittee insists there is 'a fundamental difference' between the print and the electronic media. He says he does not have the power to subpoena a print reporter's notes but does have the right with radio or TV Evidently he bases his position on the fact that the electronic media are licensed under law and subject to various rules of the Federal Communications Commission.

It is true that radio and television stations exist by governmental permission and that they are heavily regulated. This is because there are a finite number of radio or television frequencies or channels. Without license the situation would be utterly chaotic. But once licensed, how much these stations should be regulated is a matter of wide and deep controversy The FCC has held greatly varying views on the subject down through the years.

Radio and especially television have a tremendous influence on public thinking in the news area. Many citizens get their chief information from the electronic media. Their editors and commentators bear a very heavy responsibility. They should be fair and honest and fearless.

Yet, despite the licensing fact, the freedom of news reporting and presentation should be basically the same in radio and television as it is in newspapers. This applies as well to the attempt to seize notes and background materials, and thus to interfere in the editorial process.

Representative Staggers was perfectly frank in what he seeks to do. Responding to a reporter's question, he said: "We can determine if what was aired was fair and accurate."

If the news and editorial (commentary or documentary) material to be presented to viewers is thus to be subjected to the control of the majority of a congressional committee, then news freedom in the United States has been breached.

Television and radio are terribly vulnerable to governmental pressures. The power of the FCC to grant or to withhold licenses is awesome. The ownership of a property valued at tens of millions of dollars is dependent on the piece of paper issued by the FCC. If this power were to be abused through political control of the FCC, whose members are all appointed by the President and confirmed by the Senate, then a great area of news freedom would be subverted and destroyed. That is why even so seemingly minor a matter as the attempt to seize "outtakes" and other materials becomes very serious.

The newspapers have joined radio and television in defending the basic right to inform the public without being subjected to governmental controls. The right must be fought for endlessly for it is fundamental to the protection of all other rights.

Reproduced at the Richard Nixon Presidential Library

Los Angeles Times
April 22, 1971

"I just want to cut a little hole big enough to stick this subpoena through."

Reproduced at the Richard Nixon Presidential Library

ST. LOUIS POST-DISPATCH

Founded by JOSEPH PULITZER
December 12, 1878

Thursday, April 22, 1971

Who Defines Truth?

If news media ever become accountable to a congressional committee or any other branch of Government for the way in which they edit and present news, the day of a free press will be ended. That is why Columbia Broadcasting System is to be praised for fighting a House subcommittee subpena to produce background materials used in preparing a TV documentary, and that is why the American Society of Newspaper Editors deserves equal praise for backing the CBS resistance.

When Representative Staggers of West Virginia says all he wants to do is find out whether CBS filming and editing practices gave an accurate portrayal in "The Selling Of The Pentagon," he sounds plausible enough. Everybody favors truthful reporting, and the obligation of news media to serve truth is undeniable. But the real question is who gave Harley Staggers of West Virginia the authority to decide what is truth. Nobody did, and if he usurps the authority under the guise of conducting a congressional investigation, he is abridging the First Amendment whether CBS told the truth or not.

The Staggers committee and other branches of government, as well as unofficial critics of the press, are entitled to judge any TV program or any newspaper for fairness and accuracy, and to condemn, praise, criticize and denounce to their heart's content. It is quite a different matter for a committee of Congress to threaten CBS with a contempt citation unless it produces not only the film it broadcast, but all the material it rejected, including reporters' notes and unused film. In that case Congress is injecting itself into the editorial process, where it has no right to be. If this can legally be done, then the responsibility for press performance has shifted from the press to the Government, and there can be no stopping short of a Propaganda Ministry which decides for everybody what is truth and takes over the effective control of communications which, in a free democracy, must remain independent.

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April 22, 1971

New York Post

FOUNDED BY ALEXANDER HAMILTON IN 1801

DOROTHY SCHIFF Editor-in-Chief and Publisher *PAUL SANN .. ..Executive Editor*
JAMES A. WECHSLER. .Editorial Page Editor *STAN OPOTOWSKY... .Managing Editor*

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Behind Closed Doors

A novel information policy for the nation's news media seems to have been informally adopted by certain Congressional investigators. the public's right to know must be protected but reporters must keep out.

Thus, Rep. Staggers (D-W Va.), chairman of a House Commerce subcommittee investigating the production of CBS-TV's prize-winning documentary, "The Selling of the Pentagon," refused to admit the press to a hearing for network officials this week. The subject was the committee's attempt to subpena all data related to the production, whether it was screened or not.

CBS has supplied transcripts of the program as presented. It has also correctly and courageously refused to produce the other material demanded because no legitimate legislative purpose has been demonstrated by the committee. The circumstances of this Congressional meddling would be dubious in any event. When they involve Rep. Staggers—whose aides produced a staff study in 1969 accusing television networks of deliberately discrediting Democrats by allegedly "slanted" coverage of the 1968 Presidential convention—it is apparent that the inquiry is no more dispassionate than it is justified.

No responsible journalist, print or broadcast, can ignore the implications.

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NEA Syndicate
April 23, 1971

viewpoint

EDITORIALS

How Free the Electronic Press?

By DON OAKLEY

"Congress shall make no law abridging the freedom of speech, or of the press "

This First Amendment clause is one of the bedrock rights of the Republic. But there are ways other than by making laws that those Freedoms may be abridged.

Newspapers are familiar with numerous attempts by authorities to force reporters, under threat of contempt citations, to reveal the sources of their stories, particularly those that may involve criminal activities or be embarrassing to officials.

Congress now seems to be trying to do the same thing with the electronic media.

In the aftermath of the controversial Columbia Broadcasting System program, "The Selling of the Pentagon," the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee has subpoenaed not only a film copy and written transcript of the program but all notes, unused film and other materials used in connection with preparing it.

The network has provided the first two items but refuses to go further

"No newspaper magazine or other part of the press could be required constitutionally to comply with such a subpoena with respect to material gathered by reporters in the course of a journalistic investigation but not published," CBS president Frank Stanton has stated.

"The fact that television and radio stations are licensed by the government does not deprive the broadcast press of First Amendment protection, and the courts have so held. That protection does not depend upon whether the government believes we are right or wrong in our news judgments."

The Federal Communications Commission, which licenses broadcasters, has wisely taken the stance, in this case and in others, that in the absence of overwhelming proofs of deliberate distortion, it will not meddle in journalistic judgments or pose as the arbiter of truth.

Congress might wisely adopt the same stance.

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Saturday, April 24, 1971

Minneapolis Tribune

Established 1867

Bower Hawthorne Editor
Wallace Allen Managing Editor
Leonard Inskip Editorial Editor

Volume CIV Number 335

Another challenge to free speech

The subpoena served on the Columbia Broadcasting System by a House subcommittee, demanding that CBS turn over all the material used in the preparation of its news program "The Selling of the Pentagon," represents a flagrant disregard for the First Amendment to the Constitution, which provides, "Congress shall make no law . . . abridging the freedom of speech, or of the press . . "

Rep. Harley Staggers, the West Virginia Democrat who heads both the subcommittee and its parent body, the House Interstate and Foreign Commerce Committee, has a strange view of the extent of the amendment's protection. A reporter's notes, used to prepare an article, but not published themselves, are different from material used to prepare a program, but not broadcast itself, he told an interviewer

"Do you have the power to subpoena my notes from this interview?" he was asked by Television Digest. "No," he replied. "What if I were a reporter for TV talking to you on the phone?" he was then asked. "Well, then, that would be different," he answered. "The committee could subpoena your notes."

The distinction Staggers makes between radio and television and the print media escapes us—and we suspect that it would have escaped those who drafted the Constitution as well. Their view was that in a free nation, there must be a free flow of information so that the public would hear all sides of an issue and make up its own mind as to who is telling the truth.

The House subcommittee's subpoena amounts to an attempt to harass a network for presenting controversial and unpopular views and to intimidate it into hewing to the approved government line in the future. It is all the more offensive because television, unlike the print media, is licensed and regulated by the government. But that power to regulate was never intended to extend to the point of having the government decide what is fair and accurate news coverage and editorial expression—as Staggers has said his committee is ready to decide. If the attempted incursion by the government succeeds with television, will other news media be next? And if the right of free speech is abridged, will other basic liberties then be limited as well?

CBS has refused to give the subcommittee anything but a film copy and a transcript of what was actually broadcast. It is prepared to go to court to defend its right to do nothing more. If it is unsuccessful, the ultimate loser will be the American public.

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E X C E R P T S

TELEVISION DIGEST

April 12, 1971

STAGGERS-CBS CONFRONTATION ON NEWS: Potentially critical conflict on fundamental Constitutional freedom-of-press issue escalated suddenly last week over CBS's "Selling of the Pentagon" case—when network declined to give Rep. Staggers (D-W. Va.) mass of background non-broadcast material sought in subpoena from his Investigations Subcommittee. And it looks as if FCC will decline to serve as tool of Subcommittee, White House or others eager to muzzle network news critical of Administration, congressmen or govt. generally.

CBS stands ready to risk contempt citation, go full route to U.S. Supreme Court, if necessary. Pres. Frank Stanton said CBS is ready to give Subcommittee film & tape of material actually telecast, but: "The subpoena also demands all outtakes & other materials used in connection with preparing the broadcasts, but not actually broadcast. It therefore raises an unprecedented issue in the history of the relationship between the federal government & the press in this nation. No newspaper, magazine or other part of the press could be required constitutionally to comply with such a subpoena with respect to material gathered by reporters in the course of a journalistic investigation but not published.

"Unlike other instances in which a committee of the Congress has subpoenaed broadcasters' materials, this subpoena appears to involve no question of alleged violation of criminal law on the part of the broadcaster and no question of any governmental interest in whether the broadcaster has evidence pertinent to the criminal prosecution of third persons. Rather, the sole purpose of this subpoena, so far as we can ascertain it, is to obtain materials which will aid the committee in subjecting to legislative surveillance the news judgments of CBS in preparing 'The Selling of the Pentagon'."

It was difficult to determine just where Staggers stood. UPI reported that Staggers spoke with Stanton after subpoena was issued then said: "I think we'll work this thing out all right," adding that Subcommittee was just trying to get to the truth and "we're not out to prosecute anybody." However, here's Television Digests' interview with Staggers:

"Q—What will you do about CBS's refusal? A—I imagine the Committee will force the issue [on outtakes & other non-broadcast material]. The Committee has the right to know. Q—Are a print reporter's notes different from TV's outtakes? A—I've always believed they were different. You know that. Q—Do you have power to subpoena my notes from this interview? A—No. Q—What if I were a reporter for TV talking to you on the phone? A—Well, then, that would be different. The Committee could subpoena your notes. Q—Why? A—TV is different. It's very important that the networks be accurate. Q—Is a congressional committee qualified to determine what's accurate? A—Yes. By using the outtakes, then we can determine if what was aired was fair & accurate... There's such a furor in the country that the Committee thinks it ought to be settled... Of course, there will be public hearings."

* * *

Some members of Subcommittee—particularly Springer, longtime bitter critic of networks—are pressing for hearings into whole range of network news practices.

* * *

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ON ALL CHANNELS

Congressional Subpoena Of CBS Unwarranted

By Dave Kaufman

ONCE again, a branch of the government has gone for tv's jugular vein —its existence by virtue of federal licensing of stations. In the controversy over CBS-TV's superb report, "The Selling of the Pentagon," a House committee has subpoenaed CBS president Frank Stanton to appear next Tuesday with all records of the news spec, whether used on the air or not. Since even the most hostile of CBS critics have not accused it of any criminal violation, as Stanton pointed out in refusing to turn over outtakes and other data not used on the air, it is obvious that the committee really seeks to intimidate the network. How? By causing consternation among its affiliates, subject to the threat of license revocation.

Rep. Harley O. Staggers (D, W Va.) knows very well the government's power to license stations is a regulatory one, that it does not give Washington the right to censor. But in Staggers' unwarranted intrusion is that implicit threat of censorship designed to make all the networks and stations follow the line espoused by Big Brother.

Rates Medal, Not Probe

That Staggers' intervention is without any genuine basis was pinpointed in a news story from Washington past weekend. It quoted Pentagon brass as saying that establishment was instituting certain reforms, attributing the action directly to the CBS special. CBS rates a medal, not an investigation.

Stanton correctly refused that part of the subpoena demanding the info not on tv, and if the House snoopers persist, this is apt to wind up in courts, which have previously held tv has the same First Amendment protection as does the print medium.

Whether from the executive or legislative branch, the pattern of denunciation from Washington is always the same. Not a word about investigating certain abuses of regulations documented in the spec (such as Pentagon interference in politics, and defiance of a Presidential order curbing p.r. activities). Instead, the angry cries are directed at investigating the network which brought all this out in the open. Same thing a couple of years ago anent CBS' "Hunger in America." They didn't investigate hunger in America; they investigated CBS. Disillusionment with such nonsense in Washington is no longer confined to the young.

Van Deerlin's Views

In a letter to this paper discussing government intervention in tv news some time ago, Rep. Lionel Van Deerlin (D, Calif.) wrote: " Whether or not the First Amendment protection applies to broadcasting as well as the print media, I want no interference with the freedom of reporters to report, and editors to edit." The San Diego solon's stand is not shared by some of his publicity-hunting colleagues, unfortunately.

A criticism of the Peabody award-winning spec is volunteered by exec producer Walter J. Marshall, who relates he has produced pix for the Pentagon sans interference or propaganda. He writes he has attacked the Pentagon himself but never without offering constructive suggestions, adds that this is where he found the CBS spec remiss. He also says taxpayers are entitled to know what goes on in the military, that the news media "gives us only what it wants us to know, or what will help sell soap and cars and toothpaste" He deplores divisions he maintains the CBSpec caused.

'Draw Own Conclusions'

Marshall knows the spec would have been pretentious had it taken on dimensions of trying to tell the Pentagon how to operate, and this would come under the heading of "constructive criticism." It was the intent of the show to reveal the scope of p.r. activities, how deeply involved in politicking the military brass have become. You could draw your own conclusions. Some see nothing wrong in this. Others are uneasy when they realize the extensive penetration of civilian areas such as politics by the Pentagon. Marshall refers to the news media seeking to sell soap, etc., yet knows that tv news plunges deeply into red ink every year. He said the spec presented a "much needed idea," but fell short of its goal. That is a matter of opinion. CBS informed the people, but its critics are saying in essence tv has a right to inform "but only about the good things we do." Which translates into censorship. Critics have yet to come up with a single reason as to why the taxpayer isn't entitled to know the scope of the Pentagon's high-powered p.r. operations. They call it "un-American" — a smear, not a refutation.

While Walter J. Marshall is entitled to his opinion, so are others, such as the Peabody committee that gave the show a special prize.

What the Pentagon-defenders have not refuted or denied is the accuracy of the CBS program: how faked battle footage was passed onto networks as the real stuff; how the traveling colonels keep the cold war hot, and so on. We have a right to know about all this. And we also have a right to know why it is that Congress is invariably investigating the medium which reveals such situations, rather than the situations themselves. True, the politicians live in a fantasyland which outdoes Hollywood in terms of illusion. But there is always that next election. The electorate may decide to elect men who will work at resolving the problems of America rather than those seeking to cover them up.

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Getting CBS (Contd.)

The rapidly escalating conflict between the government and the media entered a new—and potentially ominous—phase last week. In a move that had far-reaching implications, a House subcommittee ordered CBS to produce all of the film, sound tapes and scripts used in making its controversial documentary "The Selling of the Pentagon." The subpoena, which was served by Congressman Harley O. Staggers's House Commerce investigations subcommittee, specifically demanded the material "whether or not [it] was incorporated into the actual broadcast." This injected the Congress into a battle that previously had been waged primarily between spokesmen for the Nixon Administration and network officials.

It also raised a host of complex legal issues stemming from the First Amendment declaration that "Congress shall make no law abridging freedom of the press." This would seem to cast some doubt on the legitimacy of the Staggers investigation since the investigatory powers of the Congress are, in theory, intended to assist it in passing legislation. Moreover, since unused film and tapes constitute electronic journalism's counterpart of a newsman's notebooks, CBS would almost surely seek to fend off Staggers's subpoena by citing a recent appellate court decision which held that, under the First Amendment, New York Times reporter Earl Caldwell was justified in refusing to surrender his notes to Federal attorneys.

Beyond its legal implications, the Staggers investigation could have significant practical implications for both electronic and print journalism. If CBS is ultimately forced to comply with last week's subpoena, further such Congressional investigations would seem foreordained. "And if there begins a whole series of investigations, it saps your strength," says CBS president Frank Stanton. "There's precious little time left to get on with the job of reporting. That's the kind of harassment that would drive us up the wall."

Reject: Understandably, Stanton is inclined to think that Staggers's action is related to recent attacks on "The Selling of the Pentagon" by the Administration, the Pentagon, and House Armed Services Committee chairman F Edward Hébert. Unsurprisingly, too, the CBS president has categorically rejected the subcommittee's demand. "We will respectfully decline to furnish to the committee the outtakes [excess footage] and other materials used in connection with preparing the broadcasts, but not actually broadcast," he said. "The sole purpose of this subpoena is to obtain materials which will aid the committee in subjecting to legislative surveillance the news judgments of CBS in preparing 'The Selling of the Pentagon' "

Stanton's unqualified refusal sets the stage for a legal battle that could eventually end up in the Supreme Court. Initially there may be skirmishes in the Federal Communications Commission, which could, if it chose, force CBS to defend its procedures in producing "The Selling of the Pentagon." Some CBS executives expect an FCC move in this direction, since the agency is highly sensitive to the wishes of the Congressional Commerce Committee. Ultimately, CBS could conceivably be cited for contempt of Congress—although this would require a vote of the full House membership.

Whatever the eventual consequences, Stanton and CBS News chief Richard Salant have decided to go all the way with the issue, even if it lands them in a prison cell for contempt of Congress. "I can't order any of my associates to go to jail for our principles," Stanton says, "But I can speak for myself, and I'll see it through." Salant gamely agrees. "I would go to jail," he says. "Frankly, I could use the rest."

Newsweek, April 19, 1971

Reproduced at the Richard Nixon Presidential Library

April 9, 1971

STATEMENT BY RICHARD P. KLEEMAN
CHAIRMAN, FREEDOM OF INFORMATION COMMITTEE
SIGMA DELTA CHI

A House Subcommittee has rejected First Amendment principles in ordering the Columbia Broadcasting System to submit film and other material that was not broadcast in the television program, THE SELLING OF THE PENTAGON.

The Subcommittee appears to be demanding information in order to determine whether CBS exercised its news judgment in a manner the Subcommittee would consider appropriate.

Such a demand is repugnant to all who support the American heritage of free speech and free press. It can amount to harassment in an instance where there has been wide public discussion of all points of view.

Sigma Delta Chi, as the professional journalistic society, deplores the Subcommittee action and, under these circumstances, urges the Subcommittee to withdraw the portions of its subpoena to CBS involving material not actually shown on the air.

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The Authors League of America, Inc.

234 WEST 44TH STREET • NEW YORK, N.Y 10036 • TELEPHONE (212) 736-4811

April 9, 1971

The Honorable Harley O. Staggers
Chairman, Special Subcommittee on Investigations
Committee on Interstate and Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Chairman Staggers:

The Authors League of America, a national society of professional writers, is deeply concerned with preserving First Amendment freedoms for all media of communication, including television. We were, therefore, shocked to learn that your Subcommittee had subpoenaed the Columbia Broadcasting System to produce untelevised film footage and other material concerning its documentary THE SELLING OF THE PENTAGON; and also had subpoenaed the National Broadcasting Company and David Wolper to produce untelevised material relating to a documentary they had produced.

These subpoenas violate the First Amendment rights of CBS and NBC and the reporters, writers and producers of the two documentaries. Moreover, allowed to stand as a precedent, they pose an ominous threat to First Amendment freedoms in the broadcast industry.

As the Supreme Court has frequently explained, various actions by the government, other than statutes flatly prohibiting certain types of speech, may have a chilling effect on freedom of expression, and are banned by the First Amendment. One of the most serious of these restraints is a subpoena compelling a newspaper or broadcaster to produce notes, tapes, films or other material not actually included in the report that was broadcast or published. This compulsory disclosure of such material can destroy the confidential relationship between newspaper and television reporters and the many sources on which they rely to collect information. Moreover, as the Court of Appeals in the 9th Circuit recently noted, it is repugnant to the First Amendment to use the subpoena power to "convert" a reporter "into an investigative agent of the government."

> As the Court said, "the very concept of a free press" requires that newspapers and television broadcasters "should be free to pursue their own investigations to their own ends without fear of governmental interference, and that they should be able to protect their investigative processes." Moreover, as the Court emphasized, if such subpoenas can compel news media to

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Executive Secretary

Cable Address:
AUTHOLEAG, NEW YORK

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disclose unpublished material "it is not unreasonable to expect journalists everywhere to temper their reporting so as to reduce the probability that they will be required to submit to interrogation. The First Amendment guards against governmental action that induces such self-censorship. (N.Y.Times v. Sullivan, Smith v. California)"

Your Subcommittee's subpoenas pose these very threats. Here, a CBS documentary on a matter of grave public interest has offended some Members of Congress and powerful public officials. As a consequence, CBS is now being compelled to make a disclosure which is repugnant to any self-respecting newsman, publisher or broadcaster. If this precedent is established it is obvious that, in the future, other television reporters and broadcasters will be wary of treading on dangerous ground, wary of reporting on controversial issues that may offend prominent officials for fear of being compelled to submit to a similar Congressional interrogation.

Moreover, it is completely improper for a Committee of Congress to sit as judges on the accuracy or propriety of television or newspaper reports, articles or documentaries. Because opponents of this CBS documentary have attacked it, the Special Subcommittee on Investigations has assumed that role. Will the Subcommittee, or other Committees, now perform that same function of judge - therefore censor - of the press and television on other important controversial reports?

The merits and accuracy of newspaper and television reports or articles or documentaries should be argued in the "marketplace of ideas." Those who disagree with THE SELLING OF THE PENTAGON can discuss and debate its alleged inaccuracies or omissions in that marketplace. Some of them are powerful, and have full access to it. There is a great deal of material available to them from many sources including the Pentagon Public Relations Office. Any possible advantage of obtaining some information from CBS by the subpoena is heavily outweighed by the tremendous damage that the subpoena will do to First Amendment freedoms of all broadcasters, television reporters, writers and film producers.

We believe the Supreme Court will hold these subpoenas unconstitutional, to the extent that they demand any more than the copies of the documentaries which were broadcast. But it is more important that Congress itself show full and complete respect for the First Amendment. Congress should not leave the issue to the courts but should itself assume full responsibility for protecting freedom of expression in television. It should, of its own volition, refrain from any encroachment on the First Amendment - or even the appearance of such an encroachment. It should not act as a judge - i.e. censor - of the television medium or any medium of news or information.

We respectfully and urgently request that the Special Subcommittee on Investigations withdraw the subpoenas issued to CBS and NBC.

Respectfully yours,

Jerome Weidman

Jerome Weidman
President

JW/eap

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The Authors League of America, Inc.

234 WEST 44TH STREET • NEW YORK, N.Y 10036 • TELEPHONE (212) 736-4811

April 9, 1971

The Honorable Jonathan B. Bingham
The Honorable Phillip Burton
The Honorable Shirley Chisholm
The Honorable John J. Conyers, Jr.
The Honorable Robert C. Eckhardt
The Honorable Don Edwards
The Honorable Donald MacKay Fraser
The Honorable Robert W. Kastenmeier
The Honorable Abner J. Mikva
The Honorable Ogden R. Reid
The Honorable William F. Ryan
The Honorable James H. Scheuer
The Honorable Louis Stokes
House of Representatives
Washington, D. C. 20515

Gentlemen:

We apologize for not writing to each of you individually. However, we were anxious to place in your hands a copy of a letter which we sent today to the Honorable Harley O. Staggers, Chairman of the Interstate and Foreign Commerce Committee and its Special Subcommittee on Investigations protesting the issuance of subpoenas to the Columbia Broadcasting System in connection with its documentary, "The Selling of the Pentagon," and the National Broadcasting Company and David Wolper in connection with the documentary which they produced.

For the reasons indicated in our letter to Chairman Staggers, we believe these subpoenas represent a grave threat to freedom of expression, and we urge that the Special Subcommittee on Investigations withdraw the subpoenas forthwith.

We earnestly urge each of you to take whatever action is appropriate to effect the withdrawal of the subpoenas; or if they are not withdrawn to oppose any effort to punish the networks or their employees for refusing to produce any material in connection with the documentaries which was not incorporated in the films which were broadcast.

Respectfully yours,

Jerome Weidman
President

JW:kk
Enc.

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MILLS TEN EYCK, JR., Executive Secretary

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April 9, 1971

STATEMENT BY VINCENT T. WASILEWSKI
PRESIDENT, NATIONAL ASSOCIATION OF BROADCASTERS

Under Constitutional guarantees of free speech and free press, we believe the notes and background material used by a reporter -- regardless of the media: print, broadcast or other -- are not subject to subpoena. If our freedom as a nation is to continue, then the guarantees of journalistic freedom must be maintained.

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THE ASSOCIATED PRESS BROADCASTERS ASSOCIATION

50 ROCKEFELLER PLAZA NEW YORK, N Y 10020

President, THOMAS POWELL
News Director
STATION WDAU-TV
SCRANTON,
PENNSYLVANIA

April 12,1971

Honorable Harley O. Staggers
House of Representatives
Washington, D.C.

Dear Mr. Staggers:

The demand of your subcommittee that C-B-S furnish to it materials that were gathered in the course of preparing a documentary but not actually broadcast collides violently with the concept of a free press.

Inspection of such materials as part of a congressional investigation can only lead to a futile but dangerous exercise in comparative editorial judgements. Such governmental review admits the specter of censorship to thousands of broadcast newsrooms across the country.

Editing is the very essence of journalism but none of the thousands who practice it professionally has claimed infallability. Indeed, it would be difficult to find two editors who would arrive at identical judgements in the selection and synthesis of news items for a daily program or a documentary.

It is in the splendid diversity of America's professional news sources that we should look for correction of any abuses of the editorial function and not to members of a governmental agency attempting to set itself up as arbiter. It is absurd to suppose that such a group or any group could devise definitive standards against which to subject editorial judgements for a determination as to their correctness or incorrectness.

Freedom of the press would become a mockery if the broadcast news editors of the country were required by government to account for their decisions to include or exclude materials from the great volume of copy with which they are confronted daily.

In short, we fail to see what public purpose can be served by rummaging in journalistic trash cans.

Sincerely,

Thomas Powell

TP/ed

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April 12, 1971

STATEMENT BY JULIAN GOODMAN
PRESIDENT, NATIONAL BROADCASTING COMPANY

We agree completely with the position CBS has taken. THE SELLING OF THE PENTAGON was a legitimate journalistic inquiry. If the furor that has resulted from it should cause even one reporter to be less diligent in pursuing the truth, the whole nation will suffer. Freedom of the press surely should mean that a reporter's background materials cannot be subject to scrutiny or review by a government agency. CBS is absolutely correct in resisting this invasion of a basic, journalistic right.

* * *

STATEMENT BY REUVEN FRANK
PRESIDENT, NBC NEWS

CBS's fight against producing outtakes under subpoena is the concern of everybody in news, and I wish that not only broadcast newsmen but those in other media recognized this better than they have. If the people we film or interview believe their words and actions will be a happy hunting ground for even the highest minded investigators, the flow of news will dry up, and the public itself will be the ultimate victim.

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ABC NEWS
abc
PRESS RELATIONS
1330 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019

April 13, 1971

In response to the current controversy over Congressional subpoenas of untelevised documentary materials, ABC News President Elmer W Lower today made the following policy statement:

"ABC News opposes the principle of the Congress or any other legislative body subpoenaing untelevised material. The same would be true with respect to reporters' notes and sources of information.

"To adopt any other position would drastically handicap the effectiveness and integrity of any news organization."

* * * * * * *

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T E L E G R A M

April 14, 1971

THE HON. HARLEY O. STAGGERS
MEMBER OF CONGRESS
HOUSE OFFICE BUILDING
WASHINGTON, D. C.

WE BELIEVE YOUR SUBCOMMITTEE'S SUBPOENA OF OUTTAKES AND OTHER MATERIALS NOT TELECAST BY THE CBS TELEVISION NETWORK IN "THE SELLING OF THE PENTAGON" IS INCONSISTENT WITH THE BASIC PRINCIPLES OF FREEDOM OF THE PRESS, ELECTRONIC AND PRINT, TO USE ITS OWN BEST NEWS JUDGEMENT. I HOPE YOU WILL RECONSIDER THAT COURSE OF ACTION.

YOURS VERY TRULY,

JAMES F. CHAMBERS, JR.
PUBLISHER
DALLAS TIMES HERALD

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EDITORS-CBS

WASHINGTON AP - THE AMERICAN SOCIETY OF NEWSPAPER EDITORS SENT TO THE HOUSE OF REPRESENTATIVES TODAY A TELEGRAM DENOUNCING THE ACTION OF THE HOUSE COMMERCE SUBCOMMITTEE IN SUBPOENAING ALL BACKGROUND MATERIAL AMASSED BY THE COLUMBIA BROADCASTING SYSTEM FOR ITS CONTROVERSIAL DOCUMENTARY PROGRAM "THE SELLING OF THE PENTAGON "

THE TELEGRAM SIGNED BY ASNE PRESIDENT NEWBOLD NOYES JR. SAID THAT ASNE CAST AN ALMOST UNANIMOUS VOTE IN ITS ANNUAL CONVENTION WEDNESDAY PROTESTING THE ACTION BY THE SUBCOMMITTEE HEADED BY REP. HARLEY STAGGERS, D-W.VA.

THE TELEGRAM ALSO WAS SENT TO HOUSE SPEAKER CARL ALBERT, D-OKLA., MINORITY LEADER GERALD FORD, R-MICH., AND OTHER MEMBERS OF CONGRESS.

LT1210PES APRIL 15, 1971

* * *

The complete text of the telegram follows

"It is my duty as President of the American Society of Newspaper Editors to inform you that the Society, now assembled in Washington in annual meeting, has cast an almost unanimous vote condemning the action of the House's Commerce subcommittee in demanding from the Columbia Broadcasting System all preliminary material collected by the network's news department in the preparation of its documentary program on the Pentagon.

"The Society agrees that every news report can be judged for accuracy and fairness. It disagrees totally with any attempts to pry into newspapers', broadcasters', or any other journalist's private files to seek to judge editing.

"The Society views the subcommittee's order an open attack on the First Amendment guaranteeing the nation a free press, and stand unwaveringly beside its journalistic colleagues in broadcasting in viewing the subcommittee action as a dangerous and unwarranted intrusion into journalistic freedoms. The Society urges immediate reconsideration."

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T E L E G R A M

APRIL 15, 1971

SPECIAL SUBCOMMITTEE ON INVESTIGATIONS
HOUSE INTERSTATE & FOREIGN COMMERCE COMMITTEE
WASHINGTON, D. C.

ATTENTION HON. HARLEY O. STAGGERS, CHAIRMAN

GENTLEMEN:

APROPOS OF COLUMBIA BROADCASTING COMPANY'S FURNISHING YOU UNUSED COPY REGARDING THEIR BROADCAST. WE ARE DEFINITELY OF THE OPINION THAT YOU SHOULD NOT BE GIVEN UNUSED COPY.

IF SUCH A PROCEDURE WERE ADOPTED, IT WOULD MATERIALLY INTERFERE WITH THE GATHERING OF NEWS. WHAT IS PRINTED IN NEWSPAPERS, SPOKEN ON RADIO OR TELEVISION, IS ALWAYS SUBJECT TO LEGAL ACTION. IN SHORT, NO DAMAGE IS DONE BY A LETTER ONE DID NOT WRITE.

RICHARD E. BERLIN
PRESIDENT & CHIEF EXECUTIVE
THE HEARST CORPORATION

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American Federation of Television and Radio Artists

NATIONAL OFFICE
724 FIFTH AVENUE • NEW YORK, N. Y. 10019 • 212-265-8062

BRANCH OF THE ASSOCIATED ACTORS AND ARTISTES OF AMERICA
AFL CIO

SANFORD I. WOLFF
National
Executive Secretary

Copy to Mr. Richard S. Salant, CBS

April 15, 1971

Hon. Harley O. Staggers
Chairman
House Interstate and Foreign Commerce Committee
Room 2366 Rayburn House Office Building
Washington, D. C. 20515

Dear Representative Staggers

The American Federation of Television and Radio Artists, AFL-CIO represents the news reporters, announcers and commentators in radio and television. We are shocked at the possibility that the committee headed by you will pursue the subpoena directed to the Columbia Broadcasting System for the production of news reporters' work notes and film footage not used on a program concerning the Department of Defense.

The illegality of the subpoena appears obvious. That it dangerously interferes with freedom of the press cannot be questioned. That the Constitution protects the public and its most vigilant and time-tested guardian must be accepted by even the Congress of the United States. The First Amendment prohibits any abridgement of press freedom, and therefore the consideration of any legislation in that regard becomes meaningless if not specifically prohibited.

All that is written here, Sir, I know you will agree to and so will a majority of your committee. You will agree because you believe in that democratic process promulgated and protected by the Constitution. We ask, then, that you manifest your faith in that process. The laws of libel and slander and the Communications Act are sufficient to protect against falsehood and deceit, and against a misuse of the broadcast media and franchise. Manifest your faith in the American Way by recalling the subpoenas.

Respectfully,

Sanford I. Wolff
National Executive Secretary

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Association of American Publishers, Inc.

aap

One Park Avenue
New York, N.Y 10016
Telephone 212 689-8920

Contact: W. L Smith
Association of American Publishers
One Park Avenue
New York, N Y. 10016
Tel. 212 = 689-8920

FOR IMMEDIATE RELEASE

New York - New York, April 16, 1971 In a telegram sent today the Association of American Publishers has urged the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee to withdraw its subpoena to the Columbia Broadcasting System in connection with their documentary THE SELLING OF THE PENTAGON. The complete text of the telegram -- which was sent by Sanford Cobb, the Association's President, to Harley O Staggers, the Sub-Committee's Chairman -- follows

Dear Chairman Staggers

The Association of American Publishers is deeply disturbed by Subcommittee's subpoena to the Columbia Broadcasting System in connection with their documentary THE SELLING OF THE PENTAGON

The Association is the national trade and professional association of general and educational publishers Our 262 members account for more than 85% of the sales of the 30,000 titles published in the United States annually and include publishers of textbooks and other educational materials, adult trade books, childrens books, technical, scientific and medical books, paperbound books, and religious books

As publishers, our members are committed to the proposition that it is in the public interest to make available the widest diversity of views and expressions, including those which are unorthodox, unpopular or critical of our government and its institutions We therefore regard as contrary to the public interest any attempt by the government to suppress the free dissemination of ideas in any media.

We believe that the Subcommittee's subpoena to CBS for material not actually used in the broadcast, casts the long shadow of government suppression over all the media and will, if allowed to stand, result in an even greater voluntary curtailment of expression by those who seek to avoid controversy.

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We trust Americans to recognize propaganda and reject it. We do not believe they need the help of the government in this task Nor do we believe that Americans are prepared to sacrifice their heritage of a free press in order to be protected against what the government may think to be had for them.

We believe suppression of ideas is never more dangerous than in a time of social tension We affirm that freedom has given the United States the elasticity to endure strain and that the freedom of ideas keeps open the path of novel and creative solutions, and enables change to come by choice.

We believe that every silencing of a critical idea, every enforcement of an orthodoxy diminishes that freedom and our country

We therefore urge in the public interest that you withdraw this subpoena.

# # # #

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ILLINOIS BROADCASTERS ASSOCIATION 726 SOUTH COLLEGE STREET/SPRINGFIELD, ILLINOIS 62704/AC 217 544-0401

RESOLUTION

WHEREAS the members of Illinois Broadcasters Association are always seriously concerned with action by any party or agency including the Federal Government which deprives broadcasters of this country the protection afforded all citizens by the First Amendment of the Constitution of the United States, and

WHEREAS the House Interstate and Foreign Commerce Committee, through their special sub-committee on investigations, has seen fit to serve a subpoena on the Columbia Broadcasting System demanding that they turn over all televised and untelevised film, out-takes, and written material gathered by CBS in the preparation of a documentary known as "The Selling of the Pentagon," and

WHEREAS the Officers and Directors of the Illinois Broadcasting Association consider the action by the House Commerce Committee a serious threat to the right of the broadcast press to exercise editorial judgment on the contents of its broadcasts, and an unwarranted intrusion into journalistic freedom, and

WHEREAS the members of the Illinois Broadcasters Association take this position to defend the Constitutional principle of guaranteed free speech and free press; this objection to the committees demands should not be construed to indicate approval or disapproval of the contents of the specific program which led to the committee action,

THEREFORE BE IT RESOLVED that the Officers and Board of the Illinois Broadcasters Association record their strong objection to this action on the part of the House Commerce Committee, and assert their conviction that licensing of Radio and Television stations by the Federal Government does not deprive the broadcast press from First Amendment protection , and

BE IT RESOLVED that the Illinois Broadcasters Association commends and supports the management of CBS for declining to furnish the out-takes and other materials used in connection with the preparation of the aforementioned broadcast on the basis that a broadcaster's News files are the sole property of the broadcaster, and as such should be held inviolable in a free and democratic country, and

BE IT FURTHER RESOLVED that the contents of this Resolution be transmitted by telegraph to the Honorable Congressman Harley O. Staggers, Chairman, House Commerce Committee forthwith, and further that a copy be mailed to all broadcasters in the State of Illinois.

Unanimously adopted April 16, 1971, by the Officers and Board of the Illinois Broadcasters Association at Springfield, Illinois.

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T E L E G R A M

APRIL 16, 1971

REPRESENTATIVE HARLEY O. STAGGERS
CHAIRMAN, SPECIAL SUBCOMMITTEE ON INVESTIGATIONS
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

SPEAKING FOR MORE THAN 6,000 PROFESSIONALS WHO FORM THE NATIONAL ACADEMY OF TELEVISION ARTS AND SCIENCES, WE VIEW WITH GRAVE CONCERN AS A CLEAR INVASION OF TRADITIONAL JOURNALISTIC FREEDOM YOUR SUBPOENA OF BACKGROUND MATERIAL NEVER BROADCAST ON "THE SELLING OF THE PENTAGON." EVERY MEDIUM OF MASS COMMUNICATION IN OUR DEMOCRACY IS THREATENED BY THIS ATTEMPT TO HAVE GOVERNMENT SIT IN JUDGMENT OF THE SUBSTANTIVE DECISIONS OF A BROADCASTER OR EDITOR.

IRWIN SONNY FOX, CHAIRMAN OF THE BOARD
ROBERT F. LEWINE, PRESIDENT
THE NATIONAL ACADEMY OF TELEVISION ARTS AND SCIENCES

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T E L E G R A M

APRIL 18, 1971

THE HONORABLE
HARLEY O. STAGGERS, CHAIRMAN
SPECIAL SUBCOMMITTEE ON INVESTIGATIONS
INTERSTATE AND FOREIGN COMMERCE COMMITTEE
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

WE SUPPORT CBS IN DECLINING TO FURNISH YOUR COMMITTEE WITH TAKES AND OTHER MATERIALS USED IN PREPARING BROADCASTS BUT NOT ACTUALLY BROADCAST. THESE ELECTRONIC MATERIALS ARE TO US THE SAME AS A REPORTER'S NOTES. WE BELIEVE YOUR REQUEST IS AN INVASION OF THE FUNDAMENTAL CONCEPT OF FREEDOM OF THE PRESS IN THIS NATION.

STAUFFER PUBLICATIONS, INC.
STANLEY H. STAUFFER, PRESIDENT
THAD M. SANDSTROM, V.P.-BROADCASTING

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April 19, 1971

The Honorable Harley O. Staggers
The U. S. House of Representatives
2366 Rayburn House Office Building
Washington, D.C.

Dear Mr. Chairman:

The Board of Directors of the Radio Television News Directors Association has instructed me to express to the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee, and to the full committee, the grave concern of RTNDA over a subpoena issued by you as chairman of the subcommittee on April 7, 1971. That subpoena orders the Columbia Broadcasting System to furnish certain information and materials used in connection with its production of the news documentary program, "The Selling of the Pentagon".

RTNDA is an association of some 1,000 members active in the supervision and production of radio and television news and public affairs programs on radio and TV stations and networks throughout the United States and Canada.

RTNDA does not believe that a congressional investigation of the CBS program can serve any legitimate legislative purpose. From our knowledge of certain public events subsequent to the broadcasts in question, and from an examination of the subpoena RTNDA cannot but conclude that the subcommittee intends to sit in judgment upon the program's journalistic integrity, objectivity, and accuracy. We find such an undertaking by any governmental body to be repugnant to basic national values developed out of experience under the common law and the Constitution.

These values have been so often and recently reaffirmed that the subcommittee's subpoena is truly shocking. The freedoms of speech and press rest upon "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." As John Stuart Mill understood, such debate may lead honest men and women " to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion."

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And James Madison stated, "Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true than in that of the press." Madison also said: "If we advert to the nature of Republican Government, we shall find that the censorial power is in the people over the Government, and not in the Government over the people." These similar statements appear in the Supreme Court's opinion in the case of New York Times Co. v. Sullivan, 376 U.S. 254 (1964).

Mr. Justice Douglas has written elsewhere:

> "* * *The theory of our Free Society is that government must be neutral when it comes to the press--whether it be rightist or leftist, orthodox or unorthodox. The theory is that in a community where men's minds are free, all shades of opinion must be immune from governmental inquiry lest we end with regimentation. Congress has no more authority in the field of the press than it does where the pulpit is involved. Since the editorials written and the news printed and the policies advocated by the press are none of the Government's business, I see no justification for the Governments investigating the capacities, leanings, ideology, qualifications, prejudices or politics of those who collect or write the news." Russell v. United States, 369 U.S. 749, 776-77 (1962) (concurring opinion)

RTNDA does not believe that the subcommittee can "convincingly show", as "an essential prerequisite" to the validity of this investigation which intrudes into the area of constitutionally protected rights, that there is a "substantial relation between the information sought" by the subpoena to CBS and "a subject of overriding and compelling state interest" over which Congress has power to legislate. Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539, 546 (1963). The role of the subcommittee in exercising oversight of the Federal Communications Commission and the regulation of broadcast station licensees does not include the investigation of matters which are constitutionally protected from the scrutiny and judgment of government. Even if it were not well settled that Congress may not exercise this censorial power over the press, such a question would surely be of such moment and doubt that the most explicit authorization to undertake an inquiry of the kind here indicated would have to be shown by the subcommittee.

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United States v. Rumely, 345 U.S. 41 (1953).

In addition to being subject to the grounds of objection already stated, the demands of the subpoena also raise a constitutional question concerning any confidentially-obtained information which may be in the possession of CBS. See Caldwell v. United States, 9th Cir. No. 26025, November 16, 1970, pet. for cert. pending, Supreme Court No. 1114.

There is nothing about the nature of broadcasting which deprives the broadcast media of the above-mentioned constitutional protections. While it is true that overall fairness must be obtained in broadcast programming, this need not--and in many instances could not consistently with robust, cruading journalism--be accomplished on each individual program. In Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 396 (1969), the Supreme Court, in upholding certain requirements of the FCC's fairness doctrine, stated: "There is no question here of the Commission's refusal to permit the broadcaster to carry a particular program or to publish his own views; /or_7 of governmemt censorship of a particular program contrary to sec. 326. . . ." Such questions are raised by the subcommittee's attempt to sit in judgment upon "The Selling of the Pentagon."

It is one thing for an individual member of Congress or any other member of the public to criticize a journalistic program. It is quite another for the committee, sitting as an arm of Congress, to involve itself in questioning news judgments and editorial decisions in a manner that encourages newsmen to engage in the "self-censorship" condemned by the Court in New York Times Co. v. Sullivan. We cannot believe that the committee has so little respect for the role of the broadcast news media in keeping the public informed that it would substitute political judgment for professional news judgments, no matter how much it may disagree with the latter judgments. We cannot believe that you and your colleagues want to destroy the independence of broadcast newsmen. Yet we do believe that you are starting down that path.

Therefore, RTNDA respectfully requests that the subcommittee withdraw the subpoena.

Sincerely,

James McCulla

James McCulla
President, RTNDA

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T E L E G R A M

APRIL 19, 1971

HONORABLE HARLEY O. STAGGERS
CHAIRMAN
SPECIAL SUBCOMMITTEE ON INVESTIGATIONS OF THE
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
HOUSE OFFICE BUILDING
WASHINGTON, D. C.

THE PITTSBURGH POST-GAZETTE WISHES TO EXPRESS ITS DEEP CONCERN OVER THE ACTION OF YOUR COMMITTEE IN THE SUBPOENA OF OUTTAKES AND OTHER MATERIALS UTILIZED IN THE PREPARATION OF THE CBS DOCUMENTARY "THE SELLING OF THE PENTAGON." WE BELIEVE THAT THE INFORMATION CBS COLLECTS BUT DOES NOT BROADCAST IS ENTITLED TO THE SAME DEGREE OF CONFIDENTIALITY AS THE NOTES OF A REPORTER OR THE UNPUBLISHED DRAFTS OF AN INVESTIGATORY ARTICLE. WE CAN SEE NO USEFUL PUBLIC PURPOSE FOR THE SUBMISSION OF SUCH RAW MATERIALS UNDER THE CIRCUMSTANCES AND WE ENDORSE CBS'S POSITION IN REFUSING TO DO SO.

RESPECTFULLY YOURS,

WILLIAM BLOCK, PUBLISHER
PITTSBURGH POST-GAZETTE

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April 20, 1971

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FISHING 4-20 NX
WITH ANPA
NEW YORK (UPI)--H. ROGER TATARIAN, VICE PRESIDENT AND EDITOR OF UNITED PRESS INTERNATIONAL, SAID MONDAY THAT UPI WILL NOT COMPLY WITH SUBPOENAS FROM EITHER DEFENSE OR PROSECUTION "WHOSE PURPOSE IS TO FISH FOR INFORMATION" THAT HAS BEEN LEFT OUT OF NEWS STORIES.

ADDRESSING U.S. AND CANADIAN PUBLISHERS ATTENDING THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION CONVENTION, TATARIAN DISCLOSED THAT UPI RECENTLY WAS SERVED WITH A SUBPOENA DEMANDING COPIES OF DISPATCHES TRANSMITTED ABOUT A NEW YORK BLACK PANTHER CASE.

"WE TOOK THIS POSITION," TATARIAN SAID. "WE WILL WILLINGLY COMPLY WITH REQUESTS HAVING TO DO WITH MATERIAL ACTUALLY PUT INTO THE SERVICE, AND WE WILL NOT OBJECT TO THE SUMMONING OF OUR REPORTERS IF THEY ARE WANTED SOLELY TO AUTHENTICATE WHAT HAS GONE OUT ON THE WIRES.

"BUT OUR POSITION IS THAT WE WILL RESIST ANY SUBPOENA WHOSE PURPOSE IS TO FISH FOR INFORMATION THAT HAS NOT BEEN PUT INTO THE SERVICE. OUR STAND THUS IS IN TOTAL SUPPORT OF THE COLUMBIA BROADCASTING SYSTEM'S POSITION WITH REGARD TO THE STAGGERS COMMITTEE (A HOUSE INVESTIGATORY SUBCOMMITTEE) AND THE RESOLUTION ADOPTED BY THE AMERICAN SOCIETY OF NEWSPAPER EDITORS IN WASHINGTON LAST WEEK."

HM545PES

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AMERICAN NEWSPAPER GUILD

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS AND THE CANADIAN LABOUR CONGRESS

PHILIP MURRAY BUILDING, 1126 16TH STREET, N. W., WASHINGTON, D. C. 20036 (202) 296-2990

NEWS RELEASE

Contact: Donald W. Rosselet, 296-2990

AMERICAN NEWSPAPER GUILD PROTESTS
CONGRESSIONAL SUBPENA TO CBS

Washington, D. C., April 20, 1971 -- American Newspaper Guild President Charles A. Perlik, Jr., yesterday (Monday) urged House Interstate and Foreign Commerce Committee Chairman Harley O. Staggers (D-W. Va.) to vacate the comprehensive subpena for material which went into the production of the Columbia Broadcasting System program, "The Selling of the Pentagon."

Terming the subpena "an ominous infringement upon basic Freedom of the Press," Perlik called upon the Special Subcommittee on Investigations, which Staggers also heads, to "withdraw totally from an avenue of inquiry upon which, under our system of government, it never should have embarked in the first place."

The subpena was returnable today.

Perlik said the subpena could "only be construed as a Congressional effort to try to substitute its news judgment for that of CBS, since the Congress has no Constitutional authority to enact legislation 'abridging the freedom of speech, or of the press...'."

In a letter to Staggers, Perlik recalled that from its early years, Guild policy has steadfastly supported the position that a reporter's notes, sources, films and tapes "are privileged and confidential." He noted that this position had been reaffirmed twice since first adopted in 1934, most recently at last year's Guild convention.

Perlik emphasized that unlike newspapers, broadcasters are subject to government regulation "and inevitably any government intrusion, however well-intentioned, into broadcast news operations raises the threat, however remote, of possible revocation of the broadcaster's license unless he mends his ways."

"We believe, as have generations of newspapermen before us," Perlik declared, "that Freedom of the Press, if it is to fulfill its function as an indispensible basis for a democratic society such as ours, must be indivisible, and free from infringement by courts and legislatures alike."

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ABC NEWS
abc
PRESS RELATIONS
1330 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019

April 21, 1971

"ONLY ONE PROPER PLACE FOR JOURNALISM IN RELATION TO GOVERNMENT ARM'S LENGTH", SAYS REASONER IN COMMENTARY ON "ABC EVENING NEWS"

In answer to allegations that "there is some kind of scheme in White House circles to make ABC News sort of a teacher's pet while putting a hard squeeze on CBS News and, apparently, sort of ignoring NBC," ABC News correspondent Harry Reasoner said last night (4/20) "There is only one proper place for journalism in relation to government, or for that matter, to any special group. That is arm's length, or maybe a few inches longer "

The full text of Mr Reasoner's commentary on the "ABC Evening News with Howard K. Smith and Harry Reasoner" and on the American Information Radio Network, follows:

"I keep reading in the New York Times that there is some kind of scheme in White House circles to make ABC News sort of a teacher's pet while putting a hard squeeze on CBS News and, apparently, sort of ignoring NBC.

"If there is a White House scheme which I doubt it puts us in the position of the Mark Twain hero whom I have quoted before, the man who was being tarred and feathered and said if it were't for the honor of the thing he would just as soon have missed it.

"There is only one proper place for journalism in relation to government, or, for that matter, to any special group. That is arm's length or maybe a few inches longer And there is only one professional position for one journalistic organization in relation to others, and that is unremitting competition in finding out the news and unassailable unity in defending our right to get it.

"Whenever Congressman Staggers proposes to do to the least of our brothers, not to imply that CBS is exactly the least, he does to us, and every journalist, and every radio and television affiliate and newspaper management in the country should have that engraved in some handy place.

"All of this silly business about who likes whom best is particularly irritating because I had it in mind to say something about the Vice President today and now it may sound self-serving. ! think he has the germ of an idea in worrying about our new China policy He's wrong if what he's objecting to is the visit of the athletes and the reporting that indicates that China is not living hell

"But, if he means that it is unwise after 20 years of simplistic detestation of everything Chinese to switch abruptly and uncritically to an equally simplistic lyricism about everything Chinese, he's right – for a change."

* * * * * * *

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NEWS!

INTERNATIONAL RADIO AND TELEVISION SOCIETY INC.
420 Lexington Avenue, New York, N.Y 10017 532-4546

Contact: Bob Boulware
(212) 532-4546

FOR IMMEDIATE RELEASE
April 23, 1971

The following telegram was sent today to Chairman Harley O. Staggers of the House Interstate and Foreign Commerce Committee by Richard A. R. Pinkham, President of the International Radio and Television Society, Inc. upon direction by the IRTS Board of Governors.

THE HONORABLE HARLEY O. STAGGERS, CHAIRMAN
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

THE INTERNATIONAL RADIO AND TELEVISION SOCIETY, INC. WHOSE THOUSAND MEMBERS COME FROM MANY CONSTITUENCIES DEPLORES THE SUBPEONAS DIRECTING THE COLUMBIA BROADCASTING SYSTEM AND THE NATIONAL BROADCASTING COMPANY TO PRODUCE BACKGROUND MATERIAL WHICH HAS NOT BEEN BROADCAST AND WHICH HAS NOT ENTERED THE PUBLIC DOMAIN. INHERENT IN THESE SUBPEONAS IS A CHILLING THREAT TO FREEDOM OF SPEECH AND PRESS WHICH ARE ESSENTIAL TO OUR DEMOCRACY AND GUARANTEED BY THE FIRST AMENDMENT TO OUR CONSTITUTION.

THIS THREAT IN THESE DEMANDS WHOSE LEGISLATIVE PURPOSE IS UNCLEAR BECOMES DOUBLY INTIMIDATING WHEN IT IS APPLIED TO BROADCASTERS WHOSE LICENSE RENEWALS MAY BE PREJUDICED BY INNUENDO. WE BELIEVE THESE SUBPEONAS ERODE THE PEOPLES' RIGHT TO KNOW BY HAMPERING JOURNALISTS WHO SERVE THEM, WE THEREFORE RESPECTFULLY URGE THEIR WITHDRAWL.

RICHARD A. R. PINKHAM
PRESIDENT, INTERNATIONAL RADIO AND
TELEVISION SOCIETY, INC.

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UNIVERSITY OF NOTRE DAME
Notre Dame Indiana

April 19, 1971

Honorable Harley O. Staggers
House of Representatives
Washington, D.C.

Dear Congressman Staggers·

As a citizen who has devoted most of his life to praising and protecting the virtues of our democratic society and the sanctity of the human rights on which our society depends, I am deeply concerned about the subpoena which you have served on CBS in connection with the broadcast, THE SELLING OF THE PENTAGON. However honorable your motives in seeking the mass of internal, unbroadcast film, and memorabilia demanded by the subpoena, the consequence of compliance would, I fear, be the subjugation of the free press to official government surveillance. I believe that this is entirely inconsistent with the precept of the First Amendment, the cornerstone of our Bill of Rights. Granted that there are instances where greater restrictions can be placed on the use of the airways than the printed media, this does not appear to me to be such an instance.

This action would also threaten the concept that the people have a right to know as much about the operations of their government as they can ascertain, for it is a free, inquiring, and unafraid press, accountable to no agency of government and beholden to none, that gives the public much of this information. In our democratic society, the press is an auditor of government, not the other way around.

Everyone is free to criticize the documentary, as it appeared, but this action goes far beyond that. At issue here is a most important principle, one that should not be compromised in any way.

I would hope that you would withdraw the subpoena.

With all best wishes, I am

Very sincerely yours,

(Rev.) Theodore M. Hesburgh, C.S.C.
President

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T E L E G R A M

APRIL 19, 1971

HON. HARLEY O. STAGGERS, CHAIRMAN
SPECIAL SUBCOMMITTEE ON INVESTIGATIONS
HOUSE INTERSTATE & FOREIGN COMMERCE COMMITTEE
WASHINGTON, D. C.

THE SUBPOENA OF CBS NOTES AND UNUSED FILM IN PRODUCTION OF SELLING OF THE PENTAGON IS AN ACTION WHICH THREATENS BASIC AMERICAN FREEDOMS. KNOWING YOUR LONG STANDING COMMITMENT TO FAIRNESS AND INDEPENDENCE OF THOUGHT AND ACTION I CANNOT BELIEVE YOU PERSONALLY SUPPORT THIS INTRUSION AND URGE YOUR OUTSPOKEN OPPOSITION TO THIS DANGEROUS PRECEDENT.

JOHN F. WHITE
PRESIDENT
THE COOPER UNION

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T E L E G R A M

APRIL 16, 1971

SPECIAL SUBCOMMITTEE ON INVESTIGATIONS
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
U.S. HOUSE BUILDING
WASHINGTON, D. C.

I URGE YOU TO WITHDRAW YOUR SUBPOENA TO CBS FOR MATERIALS NOT USED IN "SELLING OF THE PENTAGON." YOUR INVESTIGATIVE GOAL MAY BE ADMIRABLE, BUT THE IMPLICATIONS FOR FREEDOM OF EDITORIAL JUDGMENT COULD BE FATAL TO OUR FREE SOCIETY.

VERNE E. EDWARDS, JR.
CHAIRMAN, JOURNALISM DEPARTMENT
OHIO WESLEYAN UNIVERSITY
DELAWARE, OHIO

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Seton Hall University
South Orange New Jersey 07079

DEPT of COMMUNICATION

TELEVISION FILM RADIO
JOURNALISM
THEATRE SPEECH

April 19, 1971

The Honorable Harley O. Staggers
U.S. House of Representatives
Washington, D.C.

Dear Congressman Staggers:

While not always a defender of the practices of the three major television networks, I am appalled by the apparent intent and the extent of the subpoena issued by the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee, of which you are the Chairman.

By extension of the philosophy implied in the issuance of the Subcommittee's subpoena you could also subject to investigation the intelligence gathered in the preparation of every newscast aired by the three networks daily. Of what value to the citizens of this nation is a press so circumscribed by governmental interdiction.

Even John Peter Zenger stood accused only of what he published. Since Thomas Jefferson, no one of any consequence who has written or spoken on the subject has disagreed with the fundamental right, in fact obligation, of the press to criticize government.

I respectfully urge that you severely limit, or even withdraw completely, the subpoena served on the Columbia Broadcasting System.

Very truly yours,

Al Paul Klose, Ph.D.
Chairman

APK/dn

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C O P Y

April 20, 1971

The Honorable Harley O. Staggers
House of Representatives
Washington, D. C. 20515

Dear Mr. Staggers:

I am moved to write you in connection with the current controversy about the subpoena served by your Committee on the Columbia Broadcasting System in connection with its program, The Selling of the Pentagon. For the past 25 years I have been Professor of Law at the University of Chicago and have specialized in constitutional law problems of freedom of speech. In the past few years I have occasionally done some consulting work for CBS on various problems that arise from time to time with the Federal Communications Commission. I am the recipient this year of a Guggenheim Fellowship and am working on a book on the First Amendment. I might add that as a private citizen, I saw the TV program and liked it very much.

I am writing to urge you to withdraw the subpoena to CBS, both on grounds of constitutional law and on grounds of policy.

Viewed as a matter of technical law, I believe the subpoena exceeds the power of the Committee for various reasons:

a) It is elementary that Congressional committees have no power to compel testimony other than for legislative purposes. In this instance it is most doubtful that the subpoena could serve any legislative purpose, since it is most difficult to perceive how any valid legislation could be passed in the area of the inquiry.

b) I am not clear what the authorization of your subcommittee is, but it would seem to me a safe guess that the subpoena exceeds your authorization from the House and is independently bad for that reason.

c) I would urge that it is bad also under the First Amendment because inquiries of this sort, under the circumstances of the present controversy, are likely to have a "chilling effect" on broadcasting journalism.

d) The difficulties with your inquiry and its inhibiting impact on free speech are aggravated by the circumstances that it is the government proceeding against critics of the government. It is thus in effect a modern version of seditious libel prosecutions,

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and, therefore, violates on my view the most fundamental First Amendment principle.

I would not, however, wish to argue the matter primarily on technical constitutional grounds. It is, I think, more relevant and I hope more persuasive to urge you to reconsider it simply as a matter of policy. It represents an historic break in tradition. Were a great newspaper like The New York Times or The Chicago Tribune involved, the break with tradition would be all too obvious. And for this purpose, the broadcaster should stand in the same position as the newspaper press. Moreover, the matter itself concerns a public issue of importance and it is already in the proper arena of public debate. If there are any difficulties or flaws in the program they can in keeping with the American tradition be remedied in that arena. Surely the Pentagon is not lacking in friends and supporters to speak out on its behalf and surely time is available to it for that purpose. Indeed on the night I saw the broadcast formal rebuttal time was accorded immediately after to Mr. Agnew and Mr. Hebert.

Certainly whatever stimulus the public received from the broadcast is available to you on the face of the broadcast and there can be no reason for wishing to go behind it.

I am taking the liberty of enclosing an editorial from The Chicago Tribune on Saturday, April 17, 1971, which, as you can readily see, did not like the program but which says: "The subpoena is silly."

I urge you to intervene to keep an unnecessary controversy from arising.

Sincerely,

Harry Kalven, Jr.

HKjr/mns
Enclosure

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College of Communications University of Illinois
Office of the Dean
119 Gregory Hall, Urbana, Illinois 61801
Telephone (217) 333-2350

April 21, 1971

Hon. Harley O. Staggers, Chairman
Special Subcommittee on Investigations
House Interstate and Foreign Commerce Committee
Washington, D. C.

Dear Mr. Staggers:

Although I cannot speak for the University and although I would not presume to speak for the faculty, I do know that many faculty members of this College share my deep concern over your subcommittee's action in serving a subpoena on CBS in connection with "The Selling of the Pentagon."

That action establishes a terrifying precedent. Even in criminal cases, the use of the subpoena to gain access to a broadcaster's outtakes or a reporter's notes involves a delicate balance of constitutional protections. In this case, so far as I can determine, no criminal charges are involved. Evidently then your subcommittee's only purpose is to gain material to help it second-guess the news judgment of CBS.

As it happens, I was unable to view either showing of the documentary, and I have no opinions about its balance. The fairness of unfairness of the documentary is not the issue.

The issue is whether or not a governmental body may rightly use its powers to investigate, possibly harass, a communications medium that was using its constitutional protection to fulfil its obligations in a democratic society.

I think that a governmental body may not, and I wish to register my personal outrage.

Sincerely,

Theodore Peterson
Dean

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T E L E G R A M

APRIL 12, 1971

HONORABLE HARLEY O. STAGGERS
CHAIRMAN
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
UNITED STATES CONGRESS
WASHINGTON, D. C.

THE RADIO-TELEVISION DIVISION, ASSOCIATION FOR EDUCATION IN JOURNALISM, AND ITS COMMITTEE ON BROADCASTING FREEDOM AND RESPONSIBILITY MOST STRONGLY, AND RESPECTFULLY, URGE YOUR COMMITTEE TO DROP ITS SUBPOENA ACTION AGAINST THE COLUMBIA BROADCASTING SYSTEM FOR THE PURPOSE OF OBTAINING FOR REVIEW UNTELEVISED MATERIALS, INCLUDING FILM, USED IN THE PRODUCTION OF "THE SELLING OF THE PENTAGON." THE COMMITTEE ACTION, WE BELIEVE, CONSTITUTES NOT ONLY AN UNWARRANTED INTERFERENCE IN THE EDITORIAL PROCESS BUT A VIOLATION OF THE FIRST AMENDMENT RIGHTS OF A FREE PRESS.

BEN YABLONKY, UNIVERSITY OF MICHIGAN,
HEAD OF THE RADIO-TV DIVISION, AEJ

EDWARD BLISS, JR., AMERICAN UNIVERSITY,
CHAIRMAN
DAVID DARY, UNIVERSITY OF KANSAS
JOHN RIDER, SOUTHERN ILLINOIS UNIVERSITY AT EDWARDSVILLE
MEMBERS, COMMITTEE ON BROADCASTING FREEDOM AND RESPONSIBILITY, AEJ

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AASDJ AMERICAN ASSOCIATION OF SCHOOLS AND DEPARTMENTS OF JOURNALISM

21 April 1971

During the April 19, 1971 meeting of AASDJ, the members voted unanimously in support of the following statement and instructed Gerhart D. Wiebe, President of the Association, to convey it to Representative Staggers:

> "The Members of the American Association of Schools and Departments of Journalism have noted with increasing concern the proliferation of subpoenas to the news media which seek access to notes, recordings and films not broadcast or published. The recent subpoena to CBS by the Staggers Special Subcommittee on Investigations, for materials not used in the broadcast of 'The Selling of the Pentagon' brings the issue to a crisis.
>
> "AASDJ, representing all professional schools and departments of Journalism with accredited programs, strongly protests the action of the subcommittee and expresses its support of President Frank Stanton and CBS in their refusal to comply with the subpoena."

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ACLU News

American Civil Liberties Union

156 Fifth Avenue / New York, N.Y 10010 / 212-675-5990 / After hours: 212-989-7702, 212-982-2066

For Press Information Contact Claire Cooper

Edward J. Ennis, Chairman, Board of Directors / Ramsey Clark, Chairman, National Advisory Council / Aryeh Neier, Executive Director

FOR IMMEDIATE RELEASE P/R #12-71

NEW YORK CITY, April 9, 1971 ..... The American Civil Liberties Union today blasted the House Interstate and Foreign Commerce Committee for subpoenaing all televised and untelevised materials pertaining to "The Selling of the Pentagon," a Columbia Broadcasting System documentary.

The ACLU called upon CBS to remain firm in resisting the subpoena and offered its assistance in any court action to quash the subpoena.

"The clear purpose of the subpoena is to warn the press not to get too close to an issue about which the government rightfully has become highly sensitive--the role of the military in our society," said ACLU Executive Director Aryeh Neier.

"In a democratic society the press is the counter-balance to the power of government authorities. The press acts as the people's overseer of the government and serves as the agent of the public's right to know.

"A broadcaster should not have to edit with one eye on the film and the other over his shoulder, in fear that the government censor will second-guess his professional judgment."

Neier cited the November, 1970 opinion of the U.S. Court of Appeals for the Ninth Circuit in the case of New York Times reporter Earl Caldwell, the highest court opinion on the issue of government subpoenas of news materials Explaining the dangers of these subpoenas, the Court said, "It is not

-more-

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unreasonable to expect journalists everywhere to temper their reporting so as to reduce the probability that they will be required to submit to interrogation. The First Amendment guards against governmental action that induces such self-censorship."

The Court in the Caldwell case stated also, "The very concept of a free press requires that the news media be accorded a measure of autonomy that they should be free to pursue their own investigations to their own ends without fear of governmental interference, and that they should be able to protect their investigative processes."

The ACLU noted that the confrontation between CBS and the government is like the historic battle between "the Crown and the press" recalled by the U.S. Supreme Court in the 1965 case of Stanford v. Texas. Because of this battle the First Amendment was designed as a shield for the press against government intrusion.

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April 19, 1971

STATEMENT BY
AMERICAN FRIENDS SERVICE COMMITTEE

The board of directors of the American Friends Service Committee minutes its appreciation to CBS News for the airing of the television documentary, "The Selling of the Pentagon," written and produced by Peter Davis. As an organization long concerned with seeking and publicizing the truth, we appreciate CBS' careful and objective exposure of the facts in an extremely controversial area. Furthermore, we commend the executives of CBS for their courageous defense of the integrity of "The Selling of the Pentagon" in the face of attacks by members of the administration and others, and for their stalwart defense of freedom of the press. We hope that both the documentary and its presentation will serve as an example to other commercial networks.

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Thirty-First Annual Presentation

The George Foster Peabody Radio and Television Awards

The Broadcast Pioneers

in cooperation with

THE HENRY W GRADY SCHOOL OF JOURNALISM
UNIVERSITY OF GEORGIA

Hotel Pierre New York City April 21, 1971

Television Special Award: CBS-TV, NEW YORK, "THE SELLING OF THE PENTAGON" --"The Selling of the Pentagon" is another historic documentary by CBS-TV. This program, eleven months in preparation by a skilled and experienced team, was a close and detailed examination of the Pentagon public relations operations. It resulted in widespread acclaim and stirred great controversy. It will doubtless produce a reexamination by the Department of Defense and by the Congress of the Pentagon's present public relations policies and procedures. This great documentary was produced and written by Peter Davis. CBS correspondent Roger Mudd was the narrator and Perry Wolff the executive producer. A special salute to Richard S. Salant, president of CBS News, for his indispensable support of the project. After the program was severely criticized by dedicated Pentagon supporters, Mr. Salant's response was to rebroadcast it and let the listener decide. The text of the script has been included in the Congressional Record together with reviews by critics and comments by others both praising and denouncing its content. This program is indeed electronic journalism at its best. It has produced a great and needed debate.

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April 16, 1971

Hon. Harley O. Staggers, Chairman
Committee on Interstate and Foreign Commerce
2125 Rayburn House Office Building
Washington, D. C.

Dear Mr. Chairman

I want you to know of my very deep concern over the action taken by the investigations subcommittee to subpoena all background material collected by the Columbia Broadcasting Company for its documentary program, "The Selling of the Pentagon".

In my view, this step represents an unwarranted intrusion into journalistic freedoms and should it be carried through, I fear it would start a new wave of intimidation and harassment of our free press.

If the Congress should attempt to set itself up as the chief censor of broadcast journalism -- or any other form of journalism, for that matter -- it will have brought our nation a major step closer to the type of totalitarianism we have found so abhorrent in the past. Congress is neither technically nor constitutionally equipped for such a role and neither is the Executive.

I strongly urge you and your colleagues to have the subpoena against CBS withdrawn.

Sincerely,

Herman Badillo
Member of Congress

HB/psr

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Cedar Rapids (Iowa) Gazette
April 16, 1971

Culver Protests Probe of CBS Pentagon Film

Congressman John Culver has urged a house committee to reconsider its demand that CBS hand over all materials used in preparing the controversial telecast, "The Selling of the Pentagon"

In a letter to Harley Staggers, chairman of the house commerce subcommittee on investigations, Culver said a more valid public issue is the limited access journalists have to important information both in and out of government.

Culver said he thought every news report should be judged for its accuracy and fairness, and that he agreed with many criticisms raised against the documentary

Culver pointed out, however, that looking into notes compiled for the show and viewing material never shown on television poses the danger that the government will be able to mandate what is "proper" coverage of events.

Concluded. "The basic assumption of the First Amendment was that citizens in a democracy had a better chance to get a fair presentation of the news from a multitude of free reporters than from reporters regulated by government.

"The nation's founders had no illusion about the infallibility of the press, but they recognized that the risks of freedom were far less than the risks of . . . government control."

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E X T R A C T

from

FACE THE NATION

as broadcast over the

CBS Television Network

and the

CBS Radio Network

Sunday, April 25, 1971 -- 11:30 AM - 12:00 Noon EDT

Origination: Washington, D.C.

GUEST: REP. HALE BOGGS (D., Louisiana)
House Majority Leader

CBS News Correspondent David Schoumacher: ...what about members of Congress who subpoena the records of news-gathering organizations? One of your House committees just subpoenaed the documents of CBS News for its documentary, The Selling of the Pentagon. Do you approve of that, or do you think Mr. Staggers has gone too far?

REP. BOGGS: Well again, I consider Mr. Staggers a very able and hard-working chairman, but I'm not chairman of that committee. Had I been chairman, I would not have done that.

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The New York Times
April 10, 1971

Pentagon Says C.B.S. Program Led to Public Relations Reforms

WASHINGTON, April 9 (UPI) —The Defense Department acknowledged today that the Columbia Broadcasting System's documentary "The Selling of the Pentagon," which the department has criticized as distorted and unfair, has resulted in some beneficial reforms in the military's public information program.

"Times do change and we try to learn from them," the Pentagon spokesman, Jerry W Friedheim, told reporters, "and from time to time we learn something from suggestions that you make."

He said that the television program had led Daniel Z. Henkin, Assistant Defense Secretary for Public Affairs, to order commanders to stop glamorizing judo and other types of hand-to-hand combat in open house demonstrations on military bases.

Mr Friedheim said that Mr Henkin had also ordered a review of films that the Pentagon makes available to the public to weed out those reflecting outdated foreign policy concepts.

The C.B.S. documentary, first broadcast in February and again televised last month, has drawn sharp criticism from Vice President Agnew, Defense Secretary Melvin R. Laird and Representative F. Edward Hébert, Democrat of Louisiana, who is chairman of the House Armed Services Committee. They termed the program a biased assault on the military.

Mr. Friedheim said that both the reforms grew out of scenes in the documentary, including one showing Army Green Berets demonstrating judo before children at a New Jersey base.

Mr Friedheim said that the services "should take another look and be sure those events presented — and those narrations involved, and the activities shown — where children will be present, will be appropriate for youngsters to view."

He said that all base commanders had been advised to use "good judgment" but that no type of demonstration was specifically banned.

The review of films grew out of another segment of the document, which showed part of a 1952 movie, "Red Nightmare," about a man who dreams the Russians have taken over his town.

"That particular film was produced during the cold war period at a time when the nation's foreign policy was differnt, at a time when we regarded the Communist bloc as a monolith," Mr. Friedheim said.

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T R A N S C R I P T

Interview with Herbert G. Klein,
Director of Communications for the Executive Branch,
Executive Office of the President,
by KNX Newsradio

April 22, 1971

QUESTION: Mr. Klein, could you give us your views on the Staggers committee subpoena to CBS for the non-broadcast materials of "The Selling of the Pentagon"?

MR. KLEIN: I think the subpoena is representative of a danger to a free press. It is my feeling that while there's been a healthy debate between some of the executive branch and the media, that too often the media has overlooked where its real danger point is, and that is with the Congress which has the opportunity to subpoena, such as in this case, or it has the opportunity also of passing legislation which could be highly restrictive. There are several bills which fit that category which have been submitted to the Congress already. I would be opposed to the action of the Staggers committee. I believe that in going beyond what was broadcast and asking to get in effect notes of the program, that they infringe on the ability of broadcasters or print media to develop a story. Therefore I look upon it as highly restrictive and dangerous to a free press.

QUESTION: Have you had any indication from Mr. Nixon as to how he may feel about this?

MR. KLEIN: I haven't discussed the Staggers committee report with him although I have discussed the problems of maintaining a free press. There's no question that he shares my views that the danger of over-restrictive legislation and over-restrictive actions, and he has always been strong in recognition of the need for a successful republic such as ours to have a free and unrestricted press to the greatest degree possible.

QUESTION: In your discussion with Mr. Nixon, did you differentiate between broadcast journalism and the print media?

MR. KLEIN: We talked about both, and there are a greater number of actions which pertain to broadcast journalism. It ought to be looked at, though, when you get things like were proposed last year, that licensed journalists, which sound like a fair and fancy thing to many of the public, but what you are really saying is that you are restricted journalists, and there is no way to make a better journalist because he is licensed or unlicensed.

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The Arizona Republic (Phoenix)
April 22, 1971

Burch opposed to writs on television film, notes

Southern Arizona Bureau

TUCSON—The government should not subpoena unscreened television film clips or TV reporters' notes, Dean Burch, chairman of the Federal Communications Commission, said yesterday during a speech at the University of Arizona Law School.

Dean Burch

Burch also said he he is against the "equal time" policy imposed upon television broadcasters and said it does nothing for the splinter political parties. It only keeps the Republicans and Democrats "off each other," he said.

He expressed amazement at the uproar over the free TV blackout of the Ali-Frazier heavyweight championship bout and said he does not think Americans 'have a constitutional right to watch a prizefight."

Burch said the FCC should not enter the controversy over free TV vs. closed circuit pay TV filming of sporting events.

Regarding the refusal of CBS to surrender film clips and notes of its documentary, The Selling of the Pentagon, to a government subpoena, Burch said the case was similar to the government subpoenaing the notes of newspaper reporters.

"We are not national arbitrators," he said. 'Television should toss it (news and documentaries) out and let the public decide."

To law students' questions about protection of TV under the First Amendment, Burch said TV and radio are licensed by the government because they use the public airways.

On the other hand, he said, newspapers do not compete for limited air space.

'The theory is that if you don't like the New York Times then you can always go out and start your own newspaper," he said. "We can't do that in broadcasting."

Both TV and newspapers are protected under the First Amendment in gathering news, he said.

"I think the government should be very, very chary of getting involved in this," he added.

Burch said that giving opposing political views equal prime time (8 p.m. to 11 p.m.) is "a terrible imposition on broadcasters. As far as I'm concerned we should get rid of the equal time policy."

He said the FCC was misunderstood by broadcasters on a recent letter concerning rock music and dope messages. Burch said the FCC merely wanted the broadcasters to be aware of the music they were using and have knowledge that some music advocates the use of drugs.

"We have a drug problem," Burch, a UofA Law School graduate, said, 'and it is not out of line to stress it."

Burch said Americans are placing too much reliance on TV news.

In his prepared text Burch said TV is a victim of its own success.

"Precisely because of its impact, because increasingly it is the medium for communicating events and ideas, it can't possibly avoid facing up to the 'responsibility' factor," he said.

The responsibilities are unwritten for the most part and are meant to be a matter of stations exercising self-restraint and salf-policing, he added.

"We're asking broadcast licensees to make difficult judgments, balanced and responsible, he said. "But that, it seems to me, is what running a free and open society is all about: Responsible individual judgment is the driving force and there's no way of evading it."

The real problem, he said, is "an escalating demand for access (to the air waves) that threatens to turn broadcasting into a common carrier — available to anyone with cash in hand, or to any self-styled ombudsman of the public interest.

"The scarce commodity of air time should not be used arbitrarily, and it should not be denied arbitrarily." he continued. "But I do think that before commercial broadcasting is sacrificed on the altar of access, however beguiling, we face up to the possible and even probable consequences — which could mean the end of broadcasting as we now know it."

Following the talk Burch was presented the UofA Alumni Association distinguished citizen award by Jack B. O'Dowd, alumni president.

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KSL
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BROADCAST INTEGRITY

EDITORIAL

SUBPOENAS OF BROADCAST OUTTAKES AIRED: April 14, 1971

A few days ago the Special Subcommittee on Investigations, House Interstate and Foreign Commerce Committee, served a subpoena on CBS demanding materials relating to the CBS News broadcast, "The Selling of the Pentagon." CBS President Frank Stanton has replied that CBS will provide a film copy and written transcript of the material actually broadcast. However CBS will respectfully decline to furnish to the committee the outtakes and other materials used in connection with the preparing of the broadcasts, but not actually broadcast.

KSL believes this is a courageous and correct decision.

President Stanton noted that there appeared to be no question of alleged violation of criminal law. Nor was there any question of whether CBS had evidence pertaining to the criminal prosecution of third persons. Rather, in Dr. Stanton's words, "the sole purpose of this subpoena, so far as we can ascertain it, is to obtain materials which will aid the committee in subjecting to legislative surveillance the news judgments of CBS in preparing "The Selling of the Pentagon."

Dr. Stanton continued "The fact that television and radio stations are licensed by the government does not deprive the broadcast press of First Amendment protection, and the courts have so held. That protection does not depend upon whether the government believes we are right or wrong in our news judgments."

KSL takes no position on the merit or accuracy of the broadcast in question. That is entirely beside the point. If the freedom of the press is to be ignored, the rest of our freedoms may not be worth very much.

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KSL, Inc.
BROADCAST HOUSE
SALT LAKE CITY UTAH 84111

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a WTOP editorial

FIRST AMENDMENT ALSO PROTECTS BROADCASTERS

Broadcast April 17 and 18, 1971

BROADCAST HOUSE WASHINGTON, D.C. 20016 (202) 244-5678 WTOP-TV-9 AND WTOP RADIO 150

The hallowed American tradition of a free press must be broad enough to include news on television and radio.

Congress has triggered that issue by demanding formally that CBS explain how it assembled the controversial television documentary called "The Selling of the Pentagon."

Congress wouldn't dream of such action had a major newspaper published an exactly identical report on the Pentagon, and the reason is the First Amendment to the U. S. Constitution. That amendment, which guarantees a free press, marks the key distinction between this nation and the dictatorial governments which dot the globe today.

Alert, vigorous, and unfettered news media are the best insurance against a tyranny in the United States. In current times, TV and radio have become the prime sources of news for most Americans. Broadcast journalism, therefore, must have the protection of the First Amendment.

The fact that the airwaves easily become overcrowded makes some regulation necessary. But it's a long and perilous jump from government allocation of available frequencies to government involvement with broadcast news.

Broadcast journalists--like all journalists--have heavy responsibilities. But the practice of journalism doesn't take place in a vacuum. Any news organization pays for sloppiness in reporting with a loss of its most precious asset--credibility.

The same non-governmental checks which have restrained irresponsible newspapers over almost two centuries operate today to restrain irresponsible electronic news organizations.

An intensive national debate is now taking place over the CBS documentary. Whether the program was fair or unfair will be decided ultimately by the public.

The First Amendment guarantees which protect newspapers from government must protect broadcast news with equal strength. The way the news is gathered by broadcasters is no proper business of Congress.

This was a WTOP Editorial...Norman Davis speaking for WTOP.

Our Editorial policy is to assist our audience in better understanding public issues. We welcome comments on our editorials and recognize our obligation to present contrasting points of view from responsible spokesmen. We reserve the right to designate spokesmen and to deny such requests if we believe that the viewpoint has been fairly represented or the issue is not a controversial subject of public importance. This editorial, or any part thereof, may be reproduced only with proper credit for WTOP radio and WTOP-TV.

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WTVT EDITORIAL
April 19, 1971

CONGRESS THREATENS FIRST AMENDMENT

Congress is the branch of government which writes our laws. The First Amendment to our Constitution says, in part, "Congress shall make no law...abridging the freedom of speech, or of the press."

It makes one wonder what reason and what right a Congressional subcommittee has sending this subpoena to CBS, ordering the network to produce all the unused film and written material for the controversial documentary, "The Selling of the Pentagon." CBS promptly agreed to bring what actually went on the air, but not the other material, which it rightfully considers its own private business, since it was not published.

The issue is not whether the documentary was correct or fair. The First Amendment doesn't say "Congress shall make no law abridging freedom of the press, unless the press says something Congress thinks is wrong." The whole idea of freedom of speech and of the press is the right to be wrong. There are governments which allow only what they call truth to be told, but fortunately they aren't in control in this nation. At least, not yet.

We presume Subcommittee Chairman Harley Staggers bases his action on the fact that the airwaves are public property, and that broadcasting stations using them have an obligation to let other viewpoints than their own to be heard. Again, that's not the point here. CBS has certainly carried the statements and opinions of many people on the operation of the Pentagon, from the president on down.

To illustrate this point, let's imagine a public meeting at which various citizens are expressing opinions. If the official conducting the meeting lets only the spokesman for one viewpoint be heard, that's wrong. But it's just as wrong for that official to try to tell any citizen on either side what he can or can't say, or to subpoena the material he used to prepare his statements. We are sure that any viewer confronted with such a subpoena would be indignant, and would consider it a violation of his right to free expression.

We all are responsible for what we say or print or telecast. But no one has the right to censor us, whether we're ordinary citizens or newsmen.

If the First Amendment doesn't protect us from actions like the one being tried by the subcommittee, it doesn't mean what most of us thought it meant all these years. And we doubt very much that we're all out of step but the subcommittee members.

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TONIGHT'S EDITORIAL

A WTVJ daily presentation

BROADCAST OVER

WTVJ CHANNEL 4 MIAMI

by Ralph Renick, WTVJ Vice President in Charge of News

No. 2903
Monday - April 19/71

"THE GOVERNMENT AND INTIMIDATION OF THE PRESS"

In pursuing a news story, a reporter worthy of the name, digs into many and varied places; he pursues leads that often result in naught but often point him to valuable information.

A newsman is like a bird dog, trying to scent proper directions to take in order to reach the quarry. A journalist doesn't just take somebody's word for something nor rely on a handout. He is constantly asking questions in an effort to find the truth.

Needless to say, a person who might be considered a nosy, busybody isn't always the most popular guy in town. A reporter personally may be a nice fellow, but his inherent quest for facts makes him a person who could conceivably involve anybody in his pursuit of a news story.

Whatever the reporter writes or films is a matter of public record. It is there for close inspection by all. If the facts are wrong, let objectors prove them so. If the story has been slanted or is prejudicial, it is there in black and white or on the airwaves for detractors to pick apart like vultures over a carrion.

This brings us to the flap over the CBS Television documentary "The Selling of the Pentagon". The network in airing the controversial program automatically opens itself up to critics. But the program should live or die by criticism of its content. The content is there for inspection by all.

We think it is cause for alarm that the Chairman of the House Investigations Subcommittee, Rep. Harley O. Staggers, has pulled out all the stops and is asking CBS to supply, in essence, every bit of information it gathered in the preparation of the documentary, including all the film outtakes, those portions of the film not shown on the air.

This Congressional dragnet subpoena against the network goes beyond documentary content to the entire practice of news gathering. We think such a broad and pervasive search is not within the authority of Congress or anybody else.

A free press, whether print or broadcast, is only effective if it is free. The attempt now to intimidate and question more than the truth or falsity of a journalistic endeavor is dangerous and must be resisted.

We are pleased to report CBS backed by NBC is doing just that.

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WCBS-TV Editorial

CHANNEL 2, 51 WEST 52 STREET
NEW YORK, N.Y. 10019

WCBS-TV Editorials express the views of the station's management on important community issues. Because opinions on these issues may differ, WCBS-TV will consider requests for time on the station from those representing differing views.

Robert L. Hosking, Vice President
General Manager, WCBS-TV

Subject YOUR RIGHT TO KNOW

Spokesman Peter Kohler

Broadcast. April 23, 1971
6:55 P.M.

In February and again in March, this station broadcast "The Selling of the Pentagon," a CBS News documentary that has been sharply criticized by Vice President Agnew and others. Much of the criticism focused upon editing techniques. CBS News has answered these charges, broadcasting both the charges and its answers to them.

Our purpose tonight is not to add further to that ample discussion, but to express our deep concern about a threat to your right to know that has grown out of the controversy.

The threat is posed by a special subcommittee of the House Interstate and Foreign Commerce Committee which has subpoenaed materials used in making the documentary, including untelevised materials. CBS has refused to respond to portions of that subpoena, explaining its willingness to supply the documentary as it was televised, but not the other untelevised materials used in its preparation.

Well, as we at WCBS-TV see it, this subpoena constitutes a threat to the freedom of the press--a grave threat to your right to know. We say that because if one Congressional committee can force a broadcaster to submit such research materials for government scrutiny, then no broadcast journalist can be free of such government intimidation. And if broadcast journalists can be so intimidated, so can their news sources be threatened.

For any news source who might otherwise tip broadcast reporters about misdoing in public offices, for example, might now fear that whatever he tells a newsman in confidence could be revealed in a later Congressional investigation that subpoenaed the reporter's research materials. Thus, the confidence between broadcast newsmen and their sources of information would be jeopardized, and with it, your right to know.

Now, of course, you may question whether WCBS-TV, a station owned by CBS, can be completely disinterested in stating an editorial point of view on an issue that directly involves CBS. Well, we don't ask you to take our word alone. But we do ask you to consider the rising tide of protest from leaders in American journalism--from The New York Times, The Washington Post, Sigma Delta Chi (the news fraternity), The American Society of Newspaper Editors, the dean of Columbia's Graduate School of Journalism--all of whom have warned about the grave threat to press freedom posed by this incredible subpoena.

Your right to know; our right to find out; the people's right to a free press; all are jeopardized by this abuse of subpoena power. It's that simple; and it's that serious.

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NEWS
DEPARTMENT OF INFORMATION
NATIONAL COUNCIL OF CHURCHES
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FLETCHER COATES Executive Director BRUNO KROKER Associate Executive Director

21BFC4/21/71

FOR IMMEDIATE RELEASE

NEW YORK, N. Y., Apr. 22 -- The Broadcasting and Film Commission of the National Council of Churches today went on record in support of the Columbia Broadcasting System Inc. in its refusal to supply untelevised film footage to a House of Representatives committee investigating the controversial CBS documentary "The Selling of the Pentagon."

Pointing out that critics of the telecast have already been given a fair hearing on the network's prime time, the religious broadcasters said in a statement, "It is through robust debate, not through investigating the journalist's notebook, that the public will be served best."

The text follows:

"The Broadcasting and Film Commission of the National Council of Churches support the Columbia Broadcasting System Inc. in its refusal to supply the House Inter-State and Foreign Commerce Committee untelevised materials relating to its public affairs documentary, "The Selling of the Pentagon." Congress subverts its obligation to insure broadcasting in the public interest when it uses investigatory powers to curb the press freedom of individual journalists. The democratic process itself is threatened when

- more -

THE 33 CONSTITUENT COMMUNIONS OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA

African Methodist Episcopal Church
African Methodist Episcopal Zion Church
American Baptist Convention
The Antiochian Orthodox Archdiocese of Toledo, Ohio and Dependencies in North America
The Antiochian Orthodox Christian Archdiocese of New York and All North America
Armenian Church of America, Diocese of the (including Diocese of California)
Christian Church (Disciples of Christ)
Christian Methodist Episcopal Church
Church of the Brethren
The Episcopal Church
The Exarchate of the Russian Orthodox Church in North and South America
Friends United Meeting
General Convention The Swedenborgian Church
Greek Orthodox Archdiocese of North and South America
Hungarian Reformed Church in America
Lutheran Church in America
Moravian Church in America
National Baptist Convention of America
National Baptist Convention, U.S.A., Inc.
Philadelphia Yearly Meeting of the Religious Society of Friends
Polish National Catholic Church of America
The Presbyterian Church in the United States
Progressive National Baptist Convention, Inc.
The Reformed Church in America
The Romanian Orthodox Episcopate of America
Russian Orthodox Greek Catholic Church of America
Serbian Eastern Orthodox Diocese for the U.S. of America and Canada
Seventh Day Baptist General Conference
Syrian (Orthodox) Church of Antioch
Ukrainian Orthodox Church in America
United Church of Christ
The United Methodist Church
The United Presbyterian Church in the United States of America

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investigations are directed at particular programs which foster public scrutiny of governmental activity.

"Congress and the Federal Communications Commission have devised safeguards to insure that the public is informed about controversial issues. Under the FCC's Fairness Doctrine, broadcasters are required to provide fair and balanced discussions of controversial issues of public importance. Indeed, the Supreme Court has said: "To condition the granting or renewal of licenses on a willingness to present representative community views on controversial issues is consistent with the ends and purposes of those constitutional provisions forbidding the abridgement of freedom of speech and the press." Said the Court: "It is the right of the viewers and listeners not the right of the broadcasters which is paramount."

"The Fairness Doctrine provides ample relief for Congressional and governmental critics of broadcast journalism. CBS has provided critics of "The Selling of the Pentagon" with an opportunity to inform the public of their views and has met continued public concern with an hour-long discussion of the documentary during prime time. It is through robust debate, not through investigating the journalist's notebook, that the public will be served best."

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