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fairness final.mp3

DATE

December 29, 2025

DURATION

22m 42s

5 SPEAKERS

Archival
Nick Capodice
Hannah McCarthy
Larry Irving
Speaker10

START OF TRANSCRIPT

[00:00:05] Archival
And tender pieces of chicken meat, too. That's what makes this such a grand soup. The lavish emphasis on chicken.

[00:00:19] Nick Capodice
Hannah. Our show may be transmitted through podcast apps on the Internet, but we do work for a radio station that we do NPR.

[00:00:31] Hannah McCarthy
That we do, NHPR. Our tagline is News from New Hampshire and NPR. Do we have a slogan, though?

[00:00:36] Nick Capodice
You know, I don't think we do. We are a proud public radio station. We've got news and programing all day long. We've got lots of bird themed gifts during pledge drives, and we make a lot of podcasts. But I don't think we have a slogan as far as I know. But you listen to the radio a lot. Right.

[00:00:52] Hannah McCarthy
I do, pretty much whenever I'm in the car and it's mostly public radio when I do.

[00:00:57] Nick Capodice
Okay. Do you ever hear anything like this?

[00:01:01] Archival
Jack I spent the holidays flying back and forth across this country, and I'm worried the place seems all out of focus. Sea to shining sea.

[00:01:10] Archival
We've both flown many times, Shayna. Coast to coast. But we see a different land below. You see the bad aspects of American society. They're there. As a critic, I write about these aspects all the time, and I don't mean to minimize them, but there's so much more.

[00:01:23] Hannah McCarthy
Uh, no, I do not ever hear anything like this. What is this? Is it a debate of some kind?

[00:01:32] Nick Capodice
Sort of. It's a clip from CBS's 60 Minutes in 1978. It's a recurring segment that they used to do called Point Counterpoint. One person, usually James Kilpatrick, would state an opinion and then the other person would state an opposing view.

[00:01:48] Archival
And Nick, until we have something more than hot air. Suppose we keep our feet on the ground.

[00:01:53] Archival
I'm surprised that such a strong law and order capital punishment guy like you, Jack, would draw back at the prospect of a good old fashioned public hanging.

[00:02:03] Hannah McCarthy
I got to be honest. It is kind of endearing to me. I mean, two people having a civil argument on the air.

[00:02:10] Nick Capodice
Yeah, I find it that way, too. Everybody waiting their turn. Nobody interrupting each other, nobody shouting. And I'm glad you said civil there, Hannah, because this episode is tied to something I have heard time and time again working on this show. What we need more of in America is civil discourse. And regardless of whether you agree or disagree with that statement, I think we can all agree that civil discourse is quite lacking in the United States. But in the media, it used to be the law. You're listening to Civics 101. I'm Nick Capodice.

[00:02:49] Hannah McCarthy
I'm Hannah McCarthy.

[00:02:50] Nick Capodice
And today we are talking about a law that was and continues to be extremely controversial, the Fairness Doctrine, federally mandated civil discourse in the media. What it was, why we had it, why we lost it, and the arguments for and against bringing it back. But before we talk about what it was, Hannah, first, we need to get just a little bit technical. Okay. Not like Rockwell Retro Encabulator technical, but this story indeed does start with invisible magnetic waves in the air.

[00:03:23] Larry Irving
So there's this beautiful thing, this beautifully color coordinated map that lays out spectrum used in the United States.

[00:03:31] Nick Capodice
This is Larry Irving.

[00:03:32] Larry Irving
My name is Larry Irving and I was a senior staff counsel for the House Telecommunications Subcommittee when Congress was considering the Fairness Doctrine back in the late 80s.

[00:03:41] Hannah McCarthy
Have you seen the map he was talking about?

[00:03:43] Nick Capodice
Yeah, actually, I got it right here. Take a look.

[00:03:46] Hannah McCarthy
Oh, my gosh, This is beautiful.

[00:03:48] Nick Capodice
Could you sort of describe it a little bit for our listeners?

[00:03:50] Hannah McCarthy
Yeah, it looks kind of like a giant bookcase full of different colored rectangles, all different sizes, you know, So you've got like your coffee table books and then you've got your Norton's anthology, and then there's your pocket constitution. And in each of these little squares, it says things like maritime radionavigation or aeronautical mobile. There's a massive block here that says Broadcast AM.

[00:04:17] Nick Capodice
And I'll put a link to this image on the episode page of our website, civics101podcast.org. If anybody out there wants to take a peek at it. So, Hannah, these hundreds and hundreds of rectangles represent what can be done with the broadcast spectrum at different frequencies from zero kilohertz all the way up to 300GHz. So if I wanted to use these magical waves in the air to start my own radio station or non-cable TV station or to just send beeps into space, I need to apply for a license from the FCC, the Federal Communications Commission.

[00:04:54] Larry Irving
The license was for what in the 40s 50s. And I would say even today is a scarce public commodity, which is the electromagnetic spectrum. We as American citizens own that spectrum. So when you look at, you know, whether you're talking about a television station or a broadcast station or a cell phone, the spectrum that those entities run on are all owned by or licensed by the federal government.

[00:05:17] Hannah McCarthy
Do you have to pay for a license? Is it like renting a little bit of the spectrum?

[00:05:24] Nick Capodice
Sometimes, and the cost varies depending on what kind of license you're applying for. A CB radio license is 25 bucks. A ship's radio signal is free. Commercial radio can be thousands of dollars. One person actually wrote the question of how much a license costs from the FCC is like asking how long is a piece of string?

[00:05:45] Hannah McCarthy
Love That.

[00:05:45] Nick Capodice
But it all used to be free. The government would just give it to you. But it came with a caveat outlined in the 1934 Communications Act, the act that created the FCC.

[00:05:59] Larry Irving
If you go back to the original 1934 Communications Act, broadcasters have a public interest responsibility. The way broadcasters got the original broadcast license, they didn't pay for those licenses. They thought they were granted a license by the government and in exchange, they were going to quote unquote, serve the public interest, that public interest service included these kinds of responsibilities. So here's the spectrum now. You serve the public with that spectrum.

[00:06:27] Hannah McCarthy
Wait, what does serve the public interest mean here?

[00:06:32] Nick Capodice
That is the question that radio stations asked. Is it our job to present news only? Could you just rant and rave on the air? And after a long legal battle that I'm not going to get into too much here, it involved a man accusing a radio station of airing one sided editorials. The FCC in response passed a new law in 1941 getting more specific. It was called the Mayflower Doctrine. And it said that radio stations had to be neutral in how they talk about politics, they couldn't say good stuff or bad stuff about political issues or candidates.

[00:07:09] Hannah McCarthy
In other words, no editorializing allowed, right?

[00:07:13] Nick Capodice
None at all. Just the news and programs. And a few years later, that Mayflower Doctrine was repealed to make way for a new doctrine from the FCC. The subject of this show. The Fairness Doctrine.

[00:07:26] Larry Irving
Fairness Doctrine was a policy that the FCC had from late 1940s until 1987 and required broadcasters to do two things. One, it had to cover interests of of public interest. And the second was it had to give a balanced presentation so that both sides had to be presented. Topical issues, political issues, issues of civic import, public policy issues were the kinds of things that we were really looking at; sewer abatements or mosquito districts or taxes or police funding or school funding or school closings or anything that the that that kind of was community oriented. That was an issue of topical concern. Those are the issues that they wanted broadcasters to cover.

[00:08:06] Hannah McCarthy
So you could editorialize on the radio, but you had to have someone else doing the counterargument.

[00:08:13] Nick Capodice
Yeah. And if you were a radio host and you said bad things about a politician, for example, you could lose your license unless you allowed that politician to come on the air and defend themselves for an equal amount of time. And later, as the warm glow of the television entered, American living rooms also transmitted on the same spectrum, it too became subject to the same restrictions.

[00:08:35] Hannah McCarthy
And how did the TV people feel about it?

[00:08:37] Nick Capodice
They hated it. Hannah. Because at this time, if you ran a newspaper, you could put whatever the heck you wanted in it, but not TV or radio. You had to be fair in those media and stations even made fun of it together.

[00:08:54] Archival
That is the subject of tonight's Point Counterpoint. Jane will take the pro. Michele Marvin point while I take the and tie Michelle Triola. The counterpoint...Dan Times change and so does the nature of relationships.

[00:09:08] Larry Irving
But then I remember Jane Curtin and Dan Aykroyd. They did a riff. .

[00:09:13] Archival
You wouldn't know about that, Dan, because there's no old saying about what's behind a miserable failure.

[00:09:20] Larry Irving
A lot of broadcasters wanted the freedom to be newspapers. They would, you know, if you if you think about 1940s and 1950s America, you lived in a country where most people got their news from one of two sources, their local newspaper. And the two or 3 or 4 network affiliates actually was 2 or 3 network affiliates in most towns in those days in the 50s and 60s during the heyday of the Fairness Doctrine. So if you're the guy that owns a broadcasting station, you're wondering why does this guy who has a newspaper where both in the in the business of communicating to our community, he's got a newspaper, he can say whatever the heck he wants to and nobody gives him grief. I've got a broadcast license. I'm just as big a shot. I have just as much influence. But I've got this these constraints on me. I've got to go back and forth. I've got to let both sides air. I can't just say what I want to say.

[00:10:07] Hannah McCarthy
Okay, so why does someone who runs a newspaper have free reign to say what they want but not someone on radio or TV?

[00:10:15] Larry Irving
Because that guy, he built his newspaper by going out and buying print and ink, you are using a scarce public resource. As long as there are trees, as long as there's a forest, and as long as people can build printing presses, new newspapers can continue to exist. There can only be two or 3 or 4 people with these licenses in these local communities, and you got one of them. And the federal government did not get dollars from you for that. They got a promise to serve the public interest.

[00:10:44] Nick Capodice
And it wasn't just the big TV stations like NBC and CBS who disliked it.

[00:10:49] Larry Irving
Among the biggest antagonists for the Fairness Doctrine were Southern stations because they were forced to cover the civil rights movement or they were forced to cover arguments about desegregation that they didn't want to cover. And they didn't believe that the people in their community wanted to or needed to hear. You know, when you think about the fact that there was zero virtually zero broadcast licensees in the southern United States at a time we were having a robust discussion of desegregation and civil rights. How do those minority voices get heard?

[00:11:23] Nick Capodice
One thing that is fascinating to me, Hannah, about this is that some people on both sides, conservative and liberal, despised it and some people on both sides loved it. For example, Phyllis Schlafly, who fought to destroy the Equal Rights Amendment, she used the Fairness Doctrine to demand airtime, as did the NRA, but also so the Fairness Doctrine was used to force a pro-segregationist broadcaster in Mississippi off the air.

[00:11:50] Hannah McCarthy
Okay, so what happened? How and why did the Fairness Doctrine end?

[00:11:55] Nick Capodice
Well, I'll tell you about that. And Larry was there when it happened. But first, we've got to take a quick break.

[00:12:00] Hannah McCarthy
But before the break, here's our reminder that Nick and I share things like magnetic spectrum maps, political board games and trivia about the films of Frank Capra in our newsletter, Extra Credit. It is fun. It is free. It comes out every two weeks. Sign up at our website, civics101podcast.org.

[00:12:23] Hannah McCarthy
We're back. We're talking about the Fairness Doctrine. And Nick, at the beginning of the episode, we heard it lasted until the late 80s. So what happened?

[00:12:34] Nick Capodice
Well, Hannah, Ronald Reagan happened.

[00:12:39] Archival
The Federal Communications Commission struck another blow for Ronald Reagan style decontrol today by voting to scrap the Fairness Doctrine that has governed the nation's television and radio stations for 38 years.

[00:12:50] Larry Irving
And, you know, and you got to remember that the 80s was a fraught time.

[00:12:53] Nick Capodice
Again, this is Larry Irving, currently a media consultant, but back then, counsel to the House Telecommunications Committee, as.

[00:13:00] Larry Irving
Fraught as the 60s were going from whatever we whatever government was prior to Reagan. You know, when you go from the New Deal and then you go to the fair deal, then you go to the Great Society, then you go to Reagan shrinking government to the size of that, you could drown it in a tub kind of a philosophy. That's pretty wrenching.

[00:13:19] Nick Capodice
President Ronald Reagan had appointed a new head of the FCC, Ron Fowler, who had worked on Reagan's presidential campaign. And Fowler released a report from the FCC in 1985 saying the Fairness Doctrine violated the First Amendment. And then we get to 1987.

[00:13:39] Larry Irving
Two things happened in 1987. One, Congress actually passed legislation codifying the Fairness Doctrine. It had been an FCC regulation, and we codified it. Second thing happened Ronald Reagan vetoed it. So first Congress codified it, then Reagan vetoed it and the votes weren't there to override his veto.

[00:13:57] Hannah McCarthy
So this was the law of the land. Everyone was obliged to follow the rules of the Fairness Doctrine from 1949 on, but it wasn't codified through a piece of federal legislation until 1987.

[00:14:10] Nick Capodice
Absolutely. And it was Larry's first bill.

[00:14:13] Larry Irving
That's an auspicious way to start your job as a new media counsel for the new chairman of the Subcommittee on Telecommunications. And the very first bill that I'm kind of involved in gets vetoed.

[00:14:23] Archival
There will be court challenges to today's FCC ruling, and Congress will almost certainly try to pass the Fairness Doctrine into the law of the land, despite Ronald Reagan's threat to veto such a move as he did before. In Manhattan, I'm Neal Rosenow, Channel two News.

[00:14:37] Hannah McCarthy
So Congress codified it. The president vetoed that codification. Does that mean the Fairness Doctrine was just over?

[00:14:45] Nick Capodice
Completely over.

[00:14:47] Hannah McCarthy
Did anything change right after that happened?

[00:14:49] Nick Capodice
Yeah, pretty much immediately Hannah.

[00:14:50] Larry Irving
in 1988, Rush Limbaugh happened. Political organizing?

[00:14:54] Archival
No political organizing .No badmouthing our president or his policies. You're a foreigner. Shut your mouth or get out. And if you come here illegally, you're going to jail.

[00:15:06] Larry Irving
And Rush really was the first of, you know, what a lot of people predicted would happen was that you'd get one side and that side would be the side that was, you know, corporatist and conservative. And, you know, the voices of the less politically powerful, the voices of those who were in favor of environmental standards or in favor of regulation, who had less economic standing or political standing in the marketplace would be stifled. I will I will say almost there's almost a direct line from elimination of the Fairness Doctrine and kind of having this hard core political philosophy on the airwaves to where we are today, where you have the kind of just outrageously provocative sometimes and often factually inaccurate. Is that too much of a euphemism? Content on the Internet and airwaves.

[00:16:04] Nick Capodice
And just to clarify here, while Rush Limbaugh was indeed on the broadcast spectrum and would have been bound to respect the Fairness Doctrine if it hadn't been killed, cable TV, satellite radio, Internet radio, those were not under the umbrella of the doctrine. But had the doctrine survived, that umbrella would almost certainly have been expanded.

[00:16:26] Hannah McCarthy
Now, Nick, you have told me on several occasions that you listen to a lot of talk radio.

[00:16:33] Nick Capodice
I do, Hannah. And that's because I want to know on any given day what people of all political leanings are talking about. And honestly, Hannah, there is not a balance when it comes to editorializing on the air. Conservatives can argue that public radio is left leaning, but it's just news. It's people covering stories. You can critique what kind of news and what kind of stories get covered. But no public radio host just sits there and says what's on their mind for three hours, which is precisely what I hear on talk radio. And that talk radio is almost entirely conservative. Left leaning talk radio is an absolute outlier. I grew up hearing Rush Limbaugh in the backseat of my car as a kid, though in full disclosure, I have to share that my dad had a complete political realignment late in life and denounced conservative talk radio. But while Rush Limbaugh may no longer be with us, his legacy remains.

[00:17:27] Archival
So of course. It's important that we have to pretend now that the COVID panic is starting to wind down much to much to the regret of all Democrats everywhere. We have to gin up the the climate crisis again.

[00:17:43] Archival
If the mainstream media, big social media and the Democrat Party say that what you say is misinformation or disinformation, it means they know you know the truth. And I was right.

[00:17:54] Hannah McCarthy
Okay. So here's my question. Is there an argument that we should return to the Fairness Doctrine?

[00:18:01] Nick Capodice
There are arguments we should there are arguments we shouldn't. And it comes up in the news more often than I had imagined.

[00:18:09] Archival
There are renewed calls for a resurrection of what's called the Fairness Doctrine, a regulation requiring balance in the treatment of political issues. But opponents say it is anything but fair.

[00:18:20] Nick Capodice
One argument for returning to the Fairness Doctrine is that it forces us to have substantive discourse.

[00:18:28] Larry Irving
But for most things, you know, you can have a give and take back and forth. You can have a really good argument on the Fairness Doctrine. You can have a really good argument on nuclear power. You can have a really good argument on many things in society without going to extremes. And part of that is, as a reporter, as a journalist, you're always seeking objective truth, or at least historically, we're seeking objective truth. How do you do that? You know, so if you were doing a story on climate, who would you talk to? That's what the Fairness Doctrine is really trying to get to. Letting the consumer get the same benefit that the reporter or the journalist might get as they were trying to dig through a story. But also making sure that minority voices are heard.

[00:19:10] Nick Capodice
And on the other hand, now here I am, Hannah, trying to give equal time to the argument. You could consider the Fairness Doctrine as an affront to the First Amendment, because if we were to redo the doctrine, it would have to be reframed to include cable, to include satellite, internet speech, all that stuff. And anyone could accuse anyone else of presenting biased, one sided reporting. So think about us for a second. For example, we did an episode on the words of the Second Amendment where three scholars shared a similar interpretation that the words were all about a well-regulated militia and had nothing to do with gun ownership until the 1970s. And to comply, we would have to make an equally long episode with other scholars saying the opposite.

[00:19:57] Hannah McCarthy
Okay, this is what I have been thinking about too, that there's this potential for bothsidesism where if you're going to do a show about how climate change is destroying our planet, you have to get one person saying that it is and another person saying that climate change is not destroying the planet or is not real, which in my opinion would not be good journalism. Does every statement deserve a counterargument? And who makes that determination?

[00:20:26] Larry Irving
What is the role of government in our lives? You know, to a by law, segregated society, economically segregated, politically segregated, personally segregated. And it was the federal government that was forcing that segregation. You know, about the same time that was happening maybe ten, 20 years before the Fairness Doctrine. You literally had stations that would not air Petula Clark touching Harry Belafonte's arm on TV because it offended the sensibilities of folks in the South. That was only 20 years before the end of the of the Fairness Doctrine. I think it is good to hear smart people who are giving the argument that you don't agree with on a regular basis so that you don't just have you're not just in an echo chamber. That's the argument for it. The arguments against it are with for 35 years past it. I don't know if you can put the genie back in the bottle anymore. I think if we'd kept the Fairness Doctrine on broadcasters, that would have been a good, consistent thing. I believe that objective truth is has has has a value.

[00:21:38] Archival
Any day you look on the lunch or dinner menu of the most popular restaurant in town, you will likely find that one dish featured is chicken.

[00:21:45] Speaker10
The retro encabulator has now reached a High level of development and it's being successfully used in the operation of Milford, Trunnions. It's available soon wherever Rockwell Automation products are sold.

[00:21:58] Nick Capodice
That's it for the Fairness Doctrine. This episode was made by me Nick Capodice with You Hannah McCarthy. Thank you. Christina Phillips is our senior producer. Jacqui Fulton our producer Rebecca Lavoie our executive producer. Music in this episode by the The New Fools, Blue DOt Sessions, SPeedy the Spider, Autohacker, Shiruky, Peerless, Howard Harper Barnes, Lee Rosevere, Lobo Loco, Lundstroem and the man whose music is fair, balanced, and in key, Chris Zabriskie. Civics 101 is a production of a radio station, NHPR New Hampshire Public Radio.

END OF TRANSCRIPT