

"respectable" versus "unrespectable" media. "We should not have to draw lines between [*Washington Post* political cartoonist] Herblock portraying Richard Nixon crawling out of a sewer... and the awful things, and they are sometimes awful, that Larry Flynt sometimes does," Abrams said. "The First Amendment can't just protect the respectable and legitimate media unless the courts are prepared to define what respectable media is. We don't live in that sort of country. We pay a price... having people who are irresponsible speak and not respectable speech."

On the other hand, Roy Grutman, Falwell's attorney, told BROADCASTING that "a line could have been drawn between legitimate and fringe media." Describing himself as "astounded it was a unanimous decision, and equally astounded that the court overlooked the clear establishment of malice," Grutman said Flynt had admitted in a videotaped deposition knowledge that the content of the ad parody was false and "published it

anyway with the intent of assassinating Falwell." Grutman said the decision "strips public figures of any protection against those who attack them." The court, he said, is "discouraging capable people from entering public life."

As for Falwell himself, he issued a statement saying: "No sleaze merchant like Larry Flynt should be able to use the First Amendment as an excuse for maliciously and dishonestly attacking public figures." The ruling gives a "green light" to Flynt and his ilk, he said. "However, I am sure the justices... were holding their noses while making the ruling."

The court said it understands the outlawing of conduct that intentionally inflicts emotional distress. "But in the world of debate about public affairs, many things done with motives that are less than admirable are protected by the First Amendment," it said. "Thus, while... a bad motive may be deemed controlling for purposes of tort liability in other areas of the law, we think

the First Amendment prohibits such a result in the area of public debate about public figures.

"Were we to hold otherwise, there can be little doubt that political cartoonists and satirists would be subjected to damages awards without any showing that their work falsely defamed its subject," the court said.

The court said it was unpersuaded by Falwell's assertion that the *Hustler* parody was different from traditional political cartoons because it was so "outrageous." "There is no doubt that the caricature of [Falwell] and his mother published in *Hustler* is at best a distant cousin of the political cartoons [of Thomas Nast and others], and a poor relation at that," the court said. "If it were possible by laying down a principled standard to separate the one from the other, public discourse would probably suffer little or no harm. But we doubt that there is any such standard, and we are quite sure that the pejorative description 'outrageous' does not supply one. □

Turner talking TNT

His plan for new basic cable service with sports, movies, original productions, documentaries given big boost by number-one MSO; support needed from other MSO's before idea becomes reality

Ted Turner was in Washington last Wednesday night to accept the Sol Taishoff Award from the National Press Foundation for his creation nearly eight years ago of one of the true innovations in television news—the 24-hour-a-day Cable News Network. The morning after, he talked to BROADCASTING editors about what he hopes will be his next

creation: Turner Network Television or, as it has already come to be known, TNT.

"The power is shifting all over the place in this business," said the chairman of Turner Broadcasting System during an interview in his spacious suite in the Sheraton Washington hotel. "The future is up for grabs and it depends on who makes the right moves. Cable is poised to storm the citadel, and we hope to be part of making the charge. That's what we want to do, and we need TNT to do it, and they need TNT to do it—I think."

As Turner envisions it, TNT will be an advertiser-supported basic cable service featuring films from TBS's vast and costly film

libraries, documentaries, live sports and original films and dramatic series. Turner's not sure TNT will become reality, but, if it does, he knows what the network's first presentation will be: MGM's classic "Gone with the Wind."

Turner is committed to make TNT happen. But, unlike 1979, when he dominated TBS and could bring CNN into being by simply ordering that it be done, he said, he must now convince the cable operators that joined the TBS board last summer to support the venture before TBS can move ahead with it. "We want to do it and we know there is support for it among the cable industry,

Ted Turner: putting his financial house in order

As much as he would probably like to, Ted Turner has not been able to devote all his time to planning the launch of Turner Network Television. Of late, the chairman and chief executive officer of Turner Broadcasting System has had to struggle with reestablishing the corporation's financial footing and stabilizing his own position in the company.

But the effort seems to be paying off. Turner said last week that he has reached a preliminary agreement that allows TBS to give the cable MSOs, which now hold a 37% interest in TBS, Class B stock in lieu of around \$140 million in cash dividends due on their preferred stock over the next three years. The first of the cash dividends—\$38 million—was due April 30 (with a six-month grace period). "I believe we have a compromise on the dividend that is a satisfactory solution to both parties," Turner told BROADCASTING last week.

Although the dividend will be paid in stock this year, the deal gives TBS the option to pay it in cash the next two. "If we refinance next year, we can pay it in cash. We'd rather pay it in cash. I don't think anybody—the cable operators or myself—want to see any dilution we don't have to because we are going to have a rapid increase in the value of our equity.... Overall, in the first quarter, our advertising sales will be up 40%. That's pretty spectacular."

Because the dividend is being paid in Class B stock, which has one-fifth the voting rights of Class A stock, the payment of

this year's dividend will have little impact on Turner's position in the company—two-thirds of the voting stock.

TBS's is currently prevented from paying any cash dividends under terms of some senior notes. Plans were made last year to issue new equity and refinance the debt so that the cash dividends could be paid, he said. "But when the market crashed [last Oct. 19], that option went away."

If the operators had refused to accept the stock dividend, they would have been able to place two more directors on the TBS board. But, Turner said, the two seats would not have meant much. Although Turner controls eight of the board's 15 seats, Turner needs 12 votes—a supermajority—"to do anything more than \$2 million." "We have shared control now," he said. The "supermajority" provision "effectively gives them de facto control over the company, at least blocking rights. I can't operate the company without their support and they can't operate it without mine."

TBS financial problems stem from the company's purchase of MGM/UA Entertainment in March 1986 for \$1.7 billion. The debt and dividend load was far more than TBS could handle. So last year it invited cable operators, including Tele-Communications Inc. and American Television & Communications, to take a 37% stake in the company for \$560 million. TBS also sold the studios, lot and film processing labs acquired in the MGM deal for \$450 million.