

columnist Jeffrey Simpson summarized the episode in a column in *The Globe and Mail* under the headline: "Thanks to RCMP, the Gustafsen Lake standoff ended quietly." The column made no mention of CBC's participation.¹³⁷

Across the border, however, the decision by the *Post* and *Times* to publish the Unibomber's manifesto drew strong criticism from some media professionals as being a serious violation of the canons of American journalism. William Serrin, in a special to *The Post*, complained that the newspapers had violated those canons by giving in to the government and by turning their news columns over to a killer.¹³⁸ Others, however, like commentator Daniel Schorr, agreed with the publishers that "This centers on the role of a newspaper as part of a community" and argued that the public increasingly views the press as shielding itself behind the First Amendment to exempt itself from its responsibilities to the broader community.¹³⁹

Covering Court Trials. During the months of exhaustive coverage and commentary related to the O.J. Simpson trial in the United States, a trial court judge in Ontario issued a restraining order on the media in the Paul Bernardo murder trial that included, as well, a ban on publication of most information from his wife's trial several months earlier.¹⁴⁰ Canadian journalists complained but complied with the court order while American journalists in neighboring border cities did not, continuing what one U.S. newspaper editor had earlier referred to as a "border battle with Canadian law."¹⁴¹

These examples help illustrate the differences between Canada and the United States in terms of their legal systems, judicial traditions and accepted journalistic practice

Discussion

Important differences in the traditions of law and journalism in the United States and Canada result in different approaches to how the rights of the news media are appropriately balanced against the needs of the community and the broader interests of society.

To begin with, while the two legal systems share a similar tradition in English Common Law, their judicial and political traditions are different in important ways. Even their founding documents reflect important differences in values and priorities. The American Declaration of Independence with its commitment to "Life, Liberty and the pursuit of Happiness" is contrasted to the British North America Act and its emphasis on the "Peace, Order and Good Government" of Canada. The former reflects an individualistic, anti-government theme while the latter expresses a trust in government and ambivalence toward personal freedom.¹⁴² It also reflects an important difference in views of the appropriate role of government in a democratic society. As one writer explains: "in Canada the state has been viewed, by and large, as a beneficent agency, protecting the citizen and promoting the general welfare; in the United States, the state has been regarded with

¹³⁷ Jeffrey Simpson, *The Globe and Mail*, September 20, 1995, A14.

¹³⁸ William Serrin, "The Papers Submitted to Blackmail by a Killer," *The Washington Post*, September 24, 1995, C3.

¹³⁹ Daniel Schorr, "Printing Was a Tough But Conscionable Choice," *The Washington Post*, September 24, 1995, C3.

¹⁴⁰ For a review of these issues and the original ban in 1993 on publication of information from the trial of Karla Teale, Bernardo's former wife, see Tammy Joe Evans, "Fair Trial vs. Free Speech: Canadian Publication Bans Versus the United States Media," in *Southwestern Journal of Law & Trade in the Americas*, Vol. 2, 1995, at 203-225.

¹⁴¹ Murray B. Light, "A dispatch from the border battle with Canadian Law," in *Backtalk*, a column published in *Presstime*, Vol. 16, No. 1, January 1994, at 47. At the time, Light was editor and senior vice president of *The Buffalo (N.Y.) News*. The newspaper's coverage of the murder trial conflicted with Canadian law.

¹⁴² Pritchard, *supra* note 10, at 11.