

and now with the advent of Pay-TV, she will be deprived of the opportunity to view "free" television. Reference has been made to the misleading campaign of the California theatre owners against Pay-TV. These are but a few examples of the methods to which the Pay-TV opponents stooped in order to "blackent" Pay-TV. All methods were considered fair in the opponents' efforts to kill the Pay-TV embryo.

*Pay-TV opponents are fighting progress*

Mr. Chairman, the opponents are trying to stifle competition—the very essence of the American free enterprise system. Like King Canute, they are trying to stem the tide of progress. It may be appropriate to mention here the decision of California Superior Judge Irving H. Perluss, who declared that the outlawing of Pay-TV by the California referendum of November 4, 1964 was unconstitutional. Judge Perluss said that he found the success of the initiative was based on a "speculative and illusory evil"—that Pay-TV might destroy free television. "Publicity statements issued by the Citizens Committee during last fall's (1964) campaign hammered at this theme, warning the public that Pay-TV would ultimately corner all the most popular television offerings and leave commercial or 'free' television with less popular programs." "In the final analysis," Judge Perluss said in his ruling, "it would appear that the charges here made could have been made by the radio industry when television was made available for the home, and by the producers of silent pictures on that memorable day when Al Jolson appeared on the motion picture screen and sang in the Jazz Singer. Invention and progress may not and should not be so restricted, at least when they are cloaked with the immunity of that fundamental 'freedom of speech.'"

The opponents are now screaming their heads off that it is up to Congress to settle the issue of Pay-TV. They are hoping for delay and perhaps for a ban of Pay-TV.

The opponents of Pay-TV desire to move the clock back to the year 1683 when the manufacturers of metal buttons for men's clothing succeeded in getting the Virginia legislature to institute a law to prohibit the manufacture of cloth buttons; the law declared the making of cloth buttons a penal offense; it remained on the statutes of Virginia from 1683 to 1721.

We are sure that Congress will have no desire to move the clock back to 1683. We are certainly against further delay, and we pray and hope that the deliberations of this Sub-Committee will enable the FCC to proceed constructively and give—after 14 years of delay and frustration—the green light to Pay-TV. Pay-TV is entitled to its opportunity in the American market place.

Of course there are still many unknowns, many uncharted areas. There were, however, many unknowns when conventional TV started to emerge. No amount of further experimentation on a test basis will bring about additional useful information. Only actual STV operations—on a basis of permanency—is a gradually growing number of markets—can provide the conclusive proof of the ability of Pay-TV to make a constructive contribution to American TV.

Mr. Chairman, may I say in conclusion:

The mere fact of FCC authorization will not bring about overnight nationwide Pay-TV. We are realistic enough to visualize the difficulties in the path of Pay-TV. It will be an uphill fight. Vision alone is not sufficient. Good intentions are not enough. Dedication on the part of Pay-TV proponents to achieving a new breakthrough will be required. Tremendous capital resources will be required. Readiness on the part of the Pay-TV entrepreneurs to risk money and to shoulder losses for possibly years to come will be required. For many it will prove merely "a license to lose money".

If Pay-TV succeeds it will be to the benefit of—

- (a) the American public at large,
- (b) the millions of viewers,
- (c) the UHF broadcasters,
- (d) producers of entertainment,
- (e) a new generation of writers, directors, actors,
- (f) manufacturers of equipment, and
- (g) many others who will share in the development and operation of this

new industry.

If it fails, nobody will be hurt except its courageous backers.

Mr. Chairman, STV—we claim—is a new, progressive, beneficial force. Its future is in your hands; it fully merits your support.

I thank you.