

public interest as the paramount consideration, with profitmaking subordinate thereto.

Unspecified in the act is the extent of supervisory regulation of such service by the FCC. It is my judgment that any such regulation has been hampered, if not negated, by the consistent refusal of the Congress, since passage of the act in 1934, to provide (through adequate appropriations) the wherewithal of manpower to the Commission to monitor and scrutinize programs broadcast.

An aggravating factor has been the reluctance, other than on rare occasions of the Commission itself to articulate the broad programming requirements of the licensee and to enforce their observance.

I differ again with Mr. Robinson in his citing of the revised *Mayflower* decision in 1949 as the fons et origo of the principles articulated in the fairness doctrine. They were implicit in the act and its interpretation, as far back as the days of the Federal Radio Commission. They were in large measure made explicit in the FCC's report on Public Service Responsibilities of Broadcast Licensees, in 1946. Whatever, the report said, service in the public interest, convenience or necessity might be held to mean, it included as paramount components, regular provision for the reflection of local life and talent, regular many sided discussion of controversial questions, and regular provision for the varied interests of cultural minorities.

If the FCC had stuck to its guns, and enforced honest observance of the spirit of these broad provisions, I doubt if we should be in conference here today. For to attempt much more than this by way of regulation is, as I believe, both impracticable and improper. I have always believed that, in any realistic sense, the function of the FCC, in an imperfect world is to conduct a rearguard action against flagrant and irresponsible abuse of the public interest.

Both as a former broadcasting executive, knowing the excitement and perplexities attaching to decisionmaking, and as a theorist, I favor maximum scope for the exercise by licensees of imagination, leadership and initiative. Given the lure of the fantastic profits that broadcasters have earned, one can't be sanguine that many of them will subordinate their avarice to the pride and satisfaction of true public service rewarded with modest profits. But no power on earth, and perhaps least of all an agency of Government, can force men to virtue. Flagrant abuse or nonobservance of broad principles of public service is preventable. I regard this, however sadly, as the practicable limit of the FCC's function as guardian of the public interest.

It is the FCC's failure, in this sense, to stick to its guns and honor its obligation to the public that finds us where we are—discussing a problem not soluble by specific regulations. In this whole matter of the fairness doctrine, it would seem to me that the FCC has got itself up to the armpits in waters that it should never have attempted to breast. For to prescribe "fairness" in broadcasting is analogous to the dispute of medieval theologians over how many angels can stand on the head of a pin.

In this matter, as in specific interpretation of the provisions of the Blue Book, I prefer the risk and uncertainty (and no honest broadcaster need, in fact, fear either) of Mr. Robinson's regulation by lifted eyebrow to rigid and specific rules and regulations.