

Let the licensee assume the burden of determining what fairness is. Let the FCC act as judge of the propriety of complaints brought against licensees. Their judgment, after all, is subject to review and the redress of grievances by the courts.

As regards certain aspects of the fairness doctrine and related issues touched on by Mr. Robinson, I would suggest that we can avoid much of the contentious trouble we are in if the following principles were observed. (In self-defense let me say that shortage of time precludes elaboration or—though I hope not—clarification of my views.)

1. RELIGIOUS BROADCASTING

The Supreme Court has ruled (*Everson v. Board of Education* 1947) that "the establishment of religion clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions (emphasis supplied), or prefer one religion to another." From this I draw three conclusions:

- (a) The FCC may not prescribe religion (as this favors all religions) as a required component of program services.
- (b) Religious groups stand on an equal footing with others as applicants for a license.
- (c) A religious group which is granted a license may choose to exclude all religious programs, but if it includes any one, like provision must be made for other religious groups in the community on an equitable basis.

2. EDITORIALIZING

I stand by my testimony before the Commission at the revised Mayflower hearings. I think the *Mayflower* decision should have been left standing. I see no reason why the recipient of a license (often at the expense of competing applicants) should enjoy the unique privilege of foisting his personal views and/or prejudices on listeners over publicly owned frequencies. Entailed in his doing so are all the derivative complications of decision in which we have become involved as related to who and/or how many others (there are rarely just two sides to a question) shall be conceded equal time on request or sought out mandatorily to reply. As related to the public interest the matter of editorials, as such, is immaterial. Imperative, as the Blue Book insists, is regular, many sided discussion of controversial questions. The method of airing such discussion (whether by commentators of varying outlook, by roundtable discussion, interviews or what not) should be at the discretion of the licensee.

3. EQUAL TIME

The right of reply to personal attacks has the superficial air of fair play. It does not bear scrutiny. Certainly "equal" time is not the answer. One sentence of irresponsible abuse may require a hundred sentences to set the record straight.

More basic is the question whether personal abuse contributes in any way to the benefits we derive from the free marketplace of thought. The free circulation of ideas and opinions is paramount to the democratic way of life. Argumentum ad hominem contributes