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NOMINATION OF NEWTON N. MINOW  
TO BE A MEMBER OF THE  
FEDERAL COMMUNICATIONS COMMISSION

GOVERNMENT

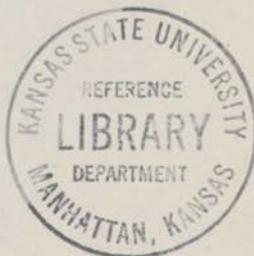
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HEARING  
BEFORE THE  
COMMITTEE ON  
INTERSTATE AND FOREIGN COMMERCE  
UNITED STATES SENATE  
EIGHTY-SEVENTH CONGRESS  
FIRST SESSION  
ON

THE NOMINATION OF NEWTON N. MINOW TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE UNEXPIRED TERM FROM JULY 1, 1954, AND FOR A 7-YEAR TERM COMMENCING JULY 1, 1961

FEBRUARY 8, 1961

Printed for the use of the Committee on Interstate and Foreign Commerce



U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1961

188/82  
28/82  
44

FEDERAL COMMUNICATIONS COMMISSION  
TO BE A MEMBER OF THE  
NOMINATION OF KEWTON N. NIXON

# HEARING

BEFORE THE

COMMITTEE OF

## COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island  
A. S. MIKE MONRONEY, Oklahoma  
GEORGE A. SMATHERS, Florida  
STROM THURMOND, South Carolina  
FRANK J. LAUSCHE, Ohio  
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JOHN M. McELROY, *Assistant Chief Clerk*  
HAROLD I. BAYNTON, *Chief Counsel*  
NICHOLAS ZAPPE, *Staff Counsel*

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FEBRUARY 8, 1961

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## NOMINATION OF NEWTON N. MINOW TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

WEDNESDAY, FEBRUARY 8, 1961

U.S. SENATE,  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,  
Washington, D.C.

The committee was called to order, pursuant to notice, at 10 a.m., in room 5110, New Senate Office Building, Hon. Warren G. Magnuson (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order.

The Chair regrets we are a little late, but we had travel trouble this morning, as I believe everybody did.

We have before us today the nomination of Newton N. Minow to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1961, and the second nomination of Minow to be a member of the Federal Communications Commission for the unexpired term from July 1, 1954. This is caused by a vacancy in the Commission. So actually there is a short term before us and the full 7-year-long term.

The short term will amount to only a few months. I understand in the conversation with Mr. Minow yesterday that he will not be taking office until some time around the 1st of March.

Is that correct?

### STATEMENT OF NEWTON N. MINOW, NOMINEE AS MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. MINOW. That is correct, sir.

The CHAIRMAN. Therefore that will shorten the time. So we will consider both nominations at this time unless there is some objection from members of the committee.

We will consider both the short term and the long term. The short term will amount to about 3 months.

Mr. Minow, we have your biographical data here which we will place in the record in full. It is before every member of the committee.

(Biographical data follow:)

#### BIOGRAPHY OF NEWTON N. MINOW

(Designated by President Kennedy to be Chairman of the Federal Communications Commission)

Newton N. Minow was born January 17, 1926, in Milwaukee, Wis. He attended the local public schools of Milwaukee, and enlisted in the U.S. Army shortly prior to his graduation from Washington High School in January 1944. He took an engineering course at the University of Michigan under the Army

specialized training program, and then served at various Army stations in the United States and the China-Burma-India theater, his last station being as a sergeant in Company A, 835th Signal Service Battalion, New Delhi, India. One of the missions of his unit was the installation of a telephone line linking India and China for military communication.

Upon release from active duty, Mr. Minow resumed his education by attending Northwestern University in Evanston, Ill. He received a B.S. degree in 1949, and an LL.B. from Northwestern University School of Law in 1950. In law school, he was editor in chief of the Law Review and was named outstanding graduate, receiving the Wigmore Award.

Upon graduation, he joined the law firm of Mayer, Friedlich, Spiess, Tierney, Brown & Platt in Chicago. In early 1951, he was honored by the appointment as law clerk to the Chief Justice of the U.S. Supreme Court, Fred M. Vinson, and served in that capacity until the end of the 1951-52 term of the Court. He was then appointed, in 1952, as administrative assistant to the then Governor, Adlai E. Stevenson, in Springfield, Ill. After the end of Governor Stevenson's term, he returned to his law firm for 2 years until Governor Stevenson asked Mr. Minow to join him in establishing a new law firm in Chicago in 1955. In 1957, Governor Stevenson's law firm joined the firm of Paul, Weiss, Rifkind, Wharton & Garrison of New York and Washington in law practice. Mr. Minow has been a partner in this firm since that time.

Mr. Minow's activities include the junior board of the National Conference of Christians and Jews, and the board of the Northwestern University Alumni Association. He has been an active member of Chicago Bar Association committees and wrote several of the publications put out by the association regarding the local court system. He has been on the board of directors of the American Jewish Committee and the Jewish Community Centers of Chicago. He has lectured at colleges, League of Women Voters' groups, and schools from time to time on various public issues, and he has led discussion groups sponsored by the Fund for Adult Education. He is also affiliated with the Economic Club, the City Club, the Legal Club, and the Council on Foreign Relations and many legal and city clubs. He is a Democrat.

In October of 1960, Mr. Minow was selected as 1 of the 10 "Outstanding Young Men of Chicago for 1960" by the Chicago Junior Chamber of Commerce and Industry. The 10 were chosen by a committee of six prominent Chicago civic and business leaders for contributions to their work or profession and to the general welfare of the public.

Mr. Minow married the former Josephine Baskin of Chicago in 1949, and they live with their three daughters, Susan Nell (8), Martha Louise (6), and Mary Rose (2), in Glencoe, Ill. Mr. Minow's parents, Mr. and Mrs. Jay A. Minow, live in Milwaukee, Wis.

## FEDERAL COMMUNICATIONS COMMISSION

| Name                   | Term expires  | Politics        | Residence             |
|------------------------|---------------|-----------------|-----------------------|
| (1).....               | June 30, 1961 | .....           | .....                 |
| John Cross.....        | June 30, 1962 | Democrat.....   | Arkansas.             |
| T. A. M. Craven.....   | June 30, 1963 | do.....         | Virginia.             |
| Frederick W. Ford..... | June 30, 1964 | Republican..... | West Virginia.        |
| Robert T. Bartley..... | June 30, 1965 | Democrat.....   | Texas.                |
| Rosel H. Hyde.....     | June 30, 1966 | Republican..... | Idaho.                |
| Robert E. Lee.....     | June 30, 1967 | do.....         | District of Columbia. |

<sup>1</sup> Charles H. King, Republican, Michigan, now serving under recess appointment succeeding Mr. Doerfer, resigned.

NOTE.—The Communications Act of 1934 provides that the Federal Communications Commission shall be composed of 7 members, appointed for terms of 7 years, of whom the President shall designate as chairman, and that no more than 4 commissioners shall be members of the same political party.

The CHAIRMAN. We find that Mr. Minow for his age has a very impressive and distinguished career in many fields—in the field of law and in community activities in the Chicago area. We have both Senators from Illinois here. We will be glad to hear from them.

Senator Douglas?

**STATEMENT OF HON. PAUL H. DOUGLAS, A U.S. SENATOR FROM  
THE STATE OF ILLINOIS**

Senator DOUGLAS. Mr. Chairman and members of the committee, it gives me a great deal of pleasure to introduce Mr. Minow to this committee and most heartily to endorse his nomination.

As the chairman has said, you have a very full and accurate biographical statement of his record. Amongst the many features of his experience, which I think are perhaps the most noticeable, is the fact that he served for a year as law clerk to the former Chief Justice of the United States, Mr. Vinson, and served as an administrative assistant to Governor Stevenson.

He has since practiced law in the city of Chicago with great distinction. He is recognized as one of the ablest lawyers in the city, even though still in his 30's. He has a very good reputation as a citizen, and he is highly esteemed by everyone. I think the President is to be congratulated upon his nomination, and the country will be the better for his service. So it gives me a great deal of pleasure to present him and to endorse him.

The CHAIRMAN. Are there any questions of Senator Douglas from members of the committee?

If not, we will be glad to hear from the distinguished minority leader, Senator Dirksen.

**STATEMENT OF HON. EVERETT MCKINLEY DIRKSEN, A U.S.  
SENATOR FROM THE STATE OF ILLINOIS**

Senator DIRKSEN. Mr. Chairman, it has been my pleasure to know Mr. Minow for a number of years. He showed rare good judgment when he got that coveted law school sheepskin by associating himself with one of the outstanding law firms in Chicago. One of my administrative assistants was associated with the same firm. So I learned a good deal about Mr. Minow in a firsthand way, in addition to my own observations over a period of years.

I know many of his friends, and everyone speaks very highly of him.

He brings to this job, I think, two attributes that will stand him in the best of stead as he goes along. The first one is a delightful candor. He has disclaimed knowing everything there is to know about the communications industry, which in itself is refreshing. But more than that, he has a delightful sense of humor, and how he will need it in his job. [Laughter.]

The CHAIRMAN. He really will need it now.

Senator DIRKSEN. Mr. Chairman, I reservedly concur in my colleague's endorsement, and I unequivocally endorse him myself.

The CHAIRMAN. I see by his biography, Senator Dirksen, that he joined the law firm of Mayer, Friedlich, Spiess, Tierney, Brown & Platt.

Senator DIRKSEN. It used to be Mayer, Meyer, Austrian & Platt.

The CHAIRMAN. Is that Adlai Stevenson's law firm?

Senator DIRKSEN. No.

The CHAIRMAN. That is another law firm?

Senator DIRKSEN. That is correct.



Mr. MINOW. That is another law firm.

The CHAIRMAN. You went to that firm later?

Mr. MINOW. No; I started out there, at Mayer-Meyer.

The CHAIRMAN. That is a very impressive list of names.

But as a lawyer I know that on the stationery you were probably at the bottom.

Mr. MINOW. At the very bottom.

The CHAIRMAN. I see you won the Wigmore Award. As our lawyers know, is that our friend Wigmore on Evidence?

Mr. MINOW. Yes, sir.

The CHAIRMAN. The one we labored over so many years in law school?

Mr. MINOW. That is right, Mr. Chairman.

The CHAIRMAN. Both Senators have verified your activities in the Midwest area in law and in civic activities. I did note that you had also been active in a group in the area that was promoting educational TV; is that correct?

Mr. MINOW. That is right, Mr. Chairman. I have been involved in this professionally, representing clients who have been involved in the field.

The CHAIRMAN. Is that in the whole Midwest area?

Mr. MINOW. Our firm has been the legal counsel for a group which is headquartered at Purdue University, called the Midwest Council for Television Instruction. This involves an experiment to bring classroom instruction through television to six Midwestern States, which will commence later this year.

The CHAIRMAN. From an airplane?

Mr. MINOW. From two airplanes.

The CHAIRMAN. Did they not get a grant from the Ford Foundation?

Mr. MINOW. Yes. It really is an offshoot of the fund for the advancement of education, which is part of the Ford Foundation.

The CHAIRMAN. There have been some experiments in that field. They haven't been put to complete practical use yet.

Mr. MINOW. That is right. It is too early to tell but we think it offers great promise.

The CHAIRMAN. And if it is successful, according to the plans, it would reach some, as I understand, 5 million schoolchildren from the projected height of the two airplanes in that particular area.

Mr. MINOW. That is right, Mr. Chairman.

The CHAIRMAN. To supplement the education even in the rural areas.

Mr. MINOW. Yes. What we are trying to do is to get the best teachers we can to make tapes or films, so that we can bring a high quality instruction to even the most remote classroom.

The CHAIRMAN. The committee will be looking forward with great interest to this project—and the Senator from Rhode Island, who is the chairman of communications—to see how it comes out. We had the Senate pass an educational TV bill on two occasions. It was unanimous, both Senators from Illinois, and all the members of the committee have agreed with the objectives. There was some discussion as to the amount of money or how you got at it, but that will be one of the matters that will confront you in the FCC, what to do with

some 257 channels that were allocated, with only about 52 being used. So there are about 200 fine allocations of channels set aside for educational television in the country, valuable channels, that have not been used. The problem is for the FCC, the Congress, and those of us who believe in this, to get the project off the ground.

Mr. MINOW. I will dedicate myself to that task, Mr. Chairman, because this is one of the subjects close to my heart.

Senator DIRKSEN. Mr. Chairman, if the committee will permit, I have some other business to pursue.

The CHAIRMAN. Thank you very much.

Senator DOUGLAS. Might I be permitted also to leave?

The CHAIRMAN. Surely.

I see our colleague, Senator Proxmire. We will be glad to hear from you.

#### STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. I am very proud and happy to have a chance to come before your committee to appear for this nominee. As you will note in the first line of his biography, he was born in Milwaukee, Wis. We are very proud of that. Milwaukee and the Wisconsin papers generally have noted this nomination with very enthusiastic approval. I might say we have extremely critical newspapers in our State, which are very careful about people whom they support.

I have known the nominee personally for several years. Of course I know of his fine reputation in Wisconsin, as well as Illinois. As is indicated he was one of the outstanding scholars to attend the Northwestern Law School in a number of years. As the chairman may know, and members of the committee, I have been critical of the Federal Communications Commission. I felt that they have not, by and large, been as concerned with the public interest as, in my judgment, they should have been.

This is the reason, the principal reason, why I am delighted with this nomination. I think that the nominee has exactly the kind of qualities necessary.

In the first place, he is extremely intelligent. I think this is a mandatory qualification for this particular job. He grasps new fields and new problems very readily. He expresses himself clearly and simply. And I have seen him demonstrate a number of times substantial imagination.

In the second place, he has a very fine, easy personality, which I think is very important in this position, too. He gets along extremely well with people, very ingratiating and pleasant. And as the distinguished junior Senator from Illinois said, he has a sense of humor, which will be very useful to him in this position.

But I think the fundamental reason why I am appearing here this morning is because the nominee is a man who is dedicated to principle; and has shown that both in his association with Adlai Stevenson, very, very close association over a number of years, and also in his own splendid record as a lawyer and as a person who has made, in my own experience, a number of very useful and thoughtful suggestions

for improving our Government with regard to a number of governmental policies.

Senator PASTORE. Will the chairman yield to me at this moment for an observation or two?

The CHAIRMAN. Yes.

Senator PASTORE. I should like to make a suggestion at this moment, if I may. At the time that we considered the legislation that had to do with equal time and payola I know that the distinguished Senator from Wisconsin was very much disturbed at that time as to the caliber and the quality of programs that were going out over the air, and the influence such programs were having on our very young minds, our teenagers, the adolescent population of our United States, and the older folk as well. Also, whether or not something couldn't be done to boost the quality of the programs. Of course it gets into this very sensitive area of censorship, and we are all very conscious of that and we have to be very careful of it. But rather than do this by legislation, inasmuch as the distinguished Senator from Wisconsin is here now and is very much interested in this, and so am I, and I promised him that we would look into it as a committee, it seems to me that much of this falls within the purview and the province of the administrative body itself. I don't think we can legislate in this field. I think myself, with aggressive leadership—and certainly you have engaged yourself in many of these community affairs and devoted much of your life to much of this community activity which leads to a more top quality programing in this media of communication—Mr. Minow, that you would make it your business to sit down with our distinguished friend from Wisconsin for an hour or two someday and see if we can't allay much of his fears and apprehensions from an administrative point of view, because I know from a legislative point of view it would be a terrible, terrible headache.

Senator PROXMIRE. If the chairman would yield for just a minute at this point?

The CHAIRMAN. Yes.

Senator PROXMIRE. I would like to say that much of my fears and apprehensions have been allayed by this appointment. I think this appointment as Chairman of this Commission will make a very great difference, not only in the conduct of the FCC but in the operations of the television and radio industry.

The distinguished chairman of the Subcommittee on Communications may be aware of the fact that in recent weeks I have put into the Congressional Record a series of very splendid programs which the television industry is engaged in. I have done this to indicate how extremely good television can be, and what a magnificent influence it has had.

Senator PASTORE. Last night was a very bad night and most of us stayed home. I looked at television for 3 or 4 hours. I don't know how many people were horsewhipped, I don't know how many were shot, I don't know how many were killed. Just sitting there, I wondered just what kind of an influence this has on people. With the exception of one very excellent program, I think it was sponsored by Hallmark Cards, which was an exceptionally fine performance, most of them of course were gunshootings, killings, horsewhippings. I think the American public deserves something better than that.

Mr. MINOW. Senator, I will do my best. As you say, it is one of the most sensitive areas for the Government to become involved in. But I certainly hope that we can have, if I may say, more wide open spaces between the westerns and more public affairs instead of private eyes. It is hard for a government to undertake to tell people what to put on the air. But I do think that the Commission has a role in elevating and encouraging better programs, and I am determined to do something about it.

Senator PASTORE. Thank you.

The CHAIRMAN. Off the record.

(Discussion off the record.)

The CHAIRMAN. On the record.

Senator YARBOROUGH. May I make a comment along this line while Senator Proxmire is here?

The CHAIRMAN. Certainly.

Senator YARBOROUGH. In connection with the question raised by Senator Proxmire and by the chairman of the Subcommittee on Communications, I will add to Mr. Minow's headaches by telling him that groups that I have met with in the past months, those from foreign countries, say that the worst export America has, doing us more harm in our foreign relations than anything else, are American films and television programs.

I was with a group of foreign students this past week. Many of us met with some of them. One of them was from Australia. He traveled around the world with these student groups and worked here with Greyhound buses for a few months in the summer carrying tourists. He states that the worst picture the Australian people get of America is through the motion pictures and through the television films. The television films are mostly shoot-them-up and gangster-type pictures. He said he was amazed to come here and find the fine news commentaries; that no place in the world that he had been had the news films on television been as they are here in America. He said they were fine and objective. He said he never saw the television films which were exported but the shoot-them-up and gangster-type films.

Senator MCGEE. May I add a note on that?

The CHAIRMAN. May I leave this problem?

In this whole discussion yesterday we got down to one thing that the Commission must look at: That when a thing is fiction, it should be so labeled. And when it attempts to present a historical fact, it should be as accurate as possible. That hasn't been done in television shows.

Mr. MINOW. Exactly.

The CHAIRMAN. That is something that the Commission does have the authority to handle, and it is a sensitive thing. That was the question that was posed. When it is fiction, it should be labeled as fiction; when it is historical fact, it should be so labeled.

All these Wyatt Earps, and Bat Mastersons, if you read their history you wouldn't believe the two are the same people.

Mr. MINOW. I am going to try my best to do something about that, Mr. Chairman.

The CHAIRMAN. The Senator from Oklahoma?

Senator MONRONEY. This is beyond the regulation of the Federal Communications Commission, I am sure, but since it has assumed a dominating position in the great television industry, to where the networks, Madison Avenue, local stations, all have become equal victims of the television rating services, would you consider it proper that the Federal Communications Commission devote some time to ascertaining and to, if possible, force at least the identification of the base on which these television ratings are produced?

I am informed, unless it has been recently changed, that Nielsen, a leading rating service in the television industry, takes less than 1,050 samples of the listening audience, for which the television diet of some 70 million Americans is dictated.

I don't think it is the fault of the networks. I think they are the victims of it. I don't think it is the fault of Madison Avenue; I think they are the victims of it. And certainly the individual stations have to take whatever is piped out as the result of this vicious cycle of very scattered samples that are almost meaningless as to the desires of the people to get what they wish to see on television.

If we have our 2 percent population sample, we probably have two sets wired for the whole State of Oklahoma. It is too meager a sample on which to forecast television programing. Yet if the rating goes down 10 points in this very small sample—and there are others likewise that are small, indefinite, or vague, or almost meaningless samples of other television rating services—then the whole industry panics and rushes to the new glamour program, and consequently we get a steady diet of more of the same, which becomes, in the course of an evening, not a broadcasting but a boring system of how to debase one of the greatest media that the country has ever had for the elevation of its taste and for its programs that would truly be beneficial to children and to the adults as well.

Certainly it seems to me that since we require in the Pure Food and Drug Act some indication of the quality and quantity of things that are added, these rating services, because of their tremendous influence, should not be completely without the scope of some degree of supervision, or some identification.

Senator THURMOND. Would the Senator yield?

Senator MONRONEY. Yes, sir.

Senator THURMOND. Mr. Chairman, there is only one question that I intended to ask this witness, and it is right on that point.

I would like to associate myself with the remarks made by the able Senator from Oklahoma. I was going to ask Mr. Minow what his conception is of the FCC's role with regard to the rating services utilized by the networks and sponsors.

Mr. MINOW. I am familiar with the hearings that Senator Monroney—I think it was a subcommittee—held several years ago on this problem, Senator Thurmond.

I understand the House also is going to investigate this, this session. I think it is a proper area of concern for the FCC. My own feeling is that the fact that the competitive ratings differ so widely among themselves indicates that they cannot all be right.

My own feeling is that they underestimate the taste level of the American public, which wants something better and something from which they can learn as well as enjoy just an entertainment program.

It is a subject which I think the FCC has a legitimate and proper concern about and I intend to look into that, sir.

Senator MONRONEY. I appreciate that. I don't think networks like it.

Mr. MINOW. I don't think they do.

Senator MONRONEY. I don't think the stations like it, and I don't think the advertisers like it, but there is nothing else in its place, so they are all victims of producing the lowest common denominator to get the brass ring every Monday morning on whoever happened to have a few points higher.

And so good artists or good programs like "Voice of Firestone"—you can go through the list of the dead that tried to produce something new and something novel in the entertainment or cultural field—and the bones representing such efforts lie from here to Los Angeles, and at great expense many times to the networks who tried to produce something new.

But they were strangled in infancy by this vicious system. I think it is a vicious system where the control of television passes from those in it to a separate set of statistics which I think are highly questionable.

Mr. MINOW. This is certainly an area of proper concern for the FCC in my opinion.

Senator MONRONEY. Thank you very much.

The CHAIRMAN. This committee, Mr. Minow, had brief hearings on this matter. The Senator from Oklahoma handled some I believe in New York, and the Senator from Rhode Island. We turned our files on the letters and the transcripts of the hearings and testimony over to the Federal Trade Commission, which was going to investigate and make a report and I hope to have the results turned over to the FCC.

I will suggest here now, if there is no objection by the committee, that we contact the Federal Trade Commission to get that report here, so that you would have the benefit of it.

Mr. MINOW. I would be very grateful for it.

The CHAIRMAN. For the purpose of the record: What are your politics, Democrat or Republican?

Mr. MINOW. I am a Democrat.

The CHAIRMAN. That would leave the Commission then, following the spirit of the act, if you are confirmed, with four Democrats and three Republicans?

Mr. MINOW. That is right, Mr. Chairman.

The CHAIRMAN. Do you have any stocks, bonds, or investments that you would consider would be in conflict with your duties as Chairman of the FCC if confirmed?

Mr. MINOW. Unfortunately, no. I had 30 shares of one stock, which I sold last week, which I thought was related. Other than that, I have none. I will be glad to supply the committee with a list of my holdings.

The CHAIRMAN. We ask all nominees to supply the committee, for the files, with a list of their investments.

Mr. MINOW. I will do that. I also want to go on record: I will withdraw from my law firm prior to assuming this office, if I am confirmed.

The CHAIRMAN. Now we will proceed with the questions.

Does the Senator from South Carolina have any further questions?

Senator THURMOND. That is all, thank you.

The CHAIRMAN. The Senator from New Hampshire?

Senator COTTON. You have mentioned representing as attorney the educational television people. Have you practiced before the FCC as an attorney?

Mr. MINOW. I personally have never been there, Senator. I believe our firm, which is a large firm, has been there from time to time. I have not.

Senator COTTON. The purpose of my question was not as to prejudice you because of any interest you had. I wondered if in your practice you had become somewhat familiar with the Commission and the way it operates.

Mr. MINOW. I have not, Senator Cotton. I have practiced a good deal before other administrative agencies and am familiar with the administrative process, but I have not appeared before the FCC.

Senator COTTON. Are you aware that in the opinion of many people—I think including some members of this committee; I know a few myself—that the Commission at the present time seems to be very much divided on many questions, not divided two ways or three ways, but in New Hampshire we used to say seven ways to Sunday, and I never knew the meaning of that until I observed the FCC.

Are you aware of that situation?

Mr. MINOW. I am. I know that there are a number of controversial questions that are evenly divided three to three at the present time.

I think this is regrettable, but understandable because the problems are so often so complex and complicated.

When I was a law clerk at the Supreme Court I used to see several decisions come down five-four, six-three, with one concurring, and everything else.

Sometimes these things get so complex you cannot achieve unanimity. But I will do my best, particularly since the President has designated me as Chairman, to try to achieve a consensus if I can, on most of the complicated ones.

Senator COTTON. Are you familiar with the apparent long-standing controversy, or at least long-standing perplexity of the Commission in regard to UHF, and VHF, the allocation of the spectrum?

Mr. MINOW. I am, Senator, and this is one of the very high priority items that has got to be moved ahead to a decision, because if we are going to have a truly nationwide competitive system we are going to have to somehow find a way to use all the channels that are available.

Senator COTTON. I am not asking you—and I would not expect you to commit yourself—but do you have—you don't even need to indicate what they are—do you have some notion in your own mind of how you feel that particular problem should be attacked?

Mr. MINOW. I have some notion about what objective I want to achieve. However, I am afraid I would have to await some study so that I could give it an intelligent opinion.

Senator COTTON. By "objective" can you say what you mean?

Mr. MINOW. By "objectives" I should like to try to achieve making as many channels available, economically, so that we can have a truly competitive nationwide system. In many places of the country we

just do not have enough channels to provide a competitive atmosphere.

Senator COTTON. Are you somewhat familiar, from your own observation and experience, with the general problem we have been struggling with here this summer, about CATV, and boosters, and various means of getting wider transmission?

Mr. MINOW. Yes. I am by no means an expert. In the last month or so I have been doing a great, great deal of reading and I am familiar with the proposals to license CATV systems and so on. I think the problem there is to protect local programing if you can, and at the same time give the people a chance to have a variety of service.

It is a delicate one of balancing interests.

Senator COTTON. You have indicated a very real realization—in answer to the questions of the members of this committee—about the quality of radio programing and its effect on public morals and morale and all the other results.

As a lawyer, and an able lawyer, in your judgment does the FCC have power to require its radio and television licensees to improve the quality of programing?

Mr. MINOW. I think it is one of the most delicate and sensitive areas of government. You cannot and must never engage in censorship or any interference with free speech.

This of course is more important than anything else in the country. At the same time I think if a licensee, who after all is using public property, is not operating responsibly in the public interest, than I think it is the FCC's job to find somebody who will.

I say, this is about as sensitive an area as you can get into.

Senator COTTON. I wouldn't even give the impression that I was trying to cross-examine you on that statement, but if the FCC becomes convinced as to a certain program, where the quality of that program is at least not elevating, what can you do about it, actually?

Mr. MINOW. I don't know that you can do anything about a specific program as much as you can when the license comes up for renewal.

I think the real job of the Commission is to examine the licensee's performance and to see whether the promises that it has made in obtaining that license have been lived up to. If they have promised to devote some time to public service programing and it turns out that they haven't, then I think it is the FCC's function to see to it that they do.

Senator COTTON. I wouldn't pursue that further if I didn't think it was awfully important, and it is not in any attempt to embarrass you. If a licensee comes up for renewal of a license, and the Commission should say to that licensee, "We refuse to renew your license because of the quality of your programing," then immediately you get yourself into the position of the licensee seeking some kind of an appeal because of an improper exercise of censorship by the FCC.

If, on the other hand, you simply decline to renew the license or allege some other reason, you are putting yourself in a position, which I know you as an honorable man would not, of using subterfuge to refuse a license and not give a reason for that.

Would you comment on that dilemma?

Mr. MINOW. I would draw a distinction between the quality of a program and the full range of programing activity. For example, if they would put on what I would think is a poor western, that is

none of my business, or none of the Government's business, it seems to me.

Senator COTTON. By a poor western you mean one that is not interesting or one that is not true to life?

Mr. MINOW. Well, let's say either. But that would be none of the Government's business. But if all they put on all day long, let's say, were westerns, for 3 years, then I think that the Commission should be properly concerned about the failure to use that license in the public interest.

Senator COTTON. I think that is an excellent answer and it interests me. In other words, to be sure I understand this, do you, as a lawyer, and from your study of the functioning of the FCC, feel that while the FCC couldn't legally and legitimately, say to a licensee, "We are going to deny you a renewal of your license because you put on shootings and crime plays," you could analyze the proportion of time they put into that and say, "You are putting in a disproportionate amount of time to that sort of thing, and it should offer better balanced programs?"

Mr. MINOW. That is my view, Senator.

Senator COTTON. Do you feel that you would have legal ground to stand on there to really deny a licensee and have some force and some power in enforcing that sort of ruling?

Mr. MINOW. I do, Senator. I feel that after all the airways belong to the people. When the Government assigns the right to use the people's property, I think that it has a legitimate concern and a legal right to see to it that it is used in the public interest.

Senator COTTON. I appreciate those answers. To me that is an excellent approach. It makes me all the more happy and I will vote for your confirmation.

Senator PASTORE. Would the Senator yield?

Senator COTTON. Yes.

Senator PASTORE. I agree it is a very sensitive area, and the one thing we must not do in America, of course, is get into any frame of mind that we can censor television any more than we can censor newspapers. We don't want to do that at all, because above all the freedom of speech should be preserved and protected. But let me give you an example. I think there is such a thing as a function on the part of the FCC to watch this very closely and to admonish the networks and the broadcasters against a drift toward carelessness. That happened with relation to the quiz programs. It is true that the networks were completely absolved because they pleaded ignorance as to what the producers were doing. But it is still my firm conviction that had they been doing their job and watching this very closely those producers would have never gotten off with the things that they did on the quiz shows.

This idea that we know nothing about it and we will turn a deaf ear to it because it is bringing in a lot of dollars must not prevail, I think there the FCC has a function to perform. If the FCC watched the networks and had the networks watched the producers, we wouldn't have had the scandals that we had in payola and the quiz shows.

Senator COTTON. May I ask one more question, Mr. Chairman?

The CHAIRMAN. Go right ahead.

Senator COTTON. I would like to pursue that line of questions with just one more question. Again, I don't want to appear to be pushing you too far.

Following out of what you have just stated as a possible or a probable approach, suppose a licensee put on just one show that is so offensive to good taste that it is offensive to everyone's sense of priority and good taste, and is even vulgar in its connotations. If one show is put on of that nature, would, in your opinion, the FCC have the power under the law to revoke the license of that licensee, regardless of whether it was a small fraction of the time involved?

Mr. MINOW. I think as a legal question, I think it probably would have the power to revoke. I don't think as a commonsense approach, though, that a revocation would fit the crime. In other words, I think that there are lesser devices which the Commission could properly employ.

Senator COTTON. I can understand that. Suppose, however, that a licensee put on three shows a week, and the shows were only 20 minutes in duration, which would be a small portion of their time, and you couldn't approach it on the balance of time theory. And yet that one show that was programed, one program put on three times a week, was an extremely revolting and degrading sort of thing, what would you feel would be the proper action and legal basis for action by the FCC in that case?

Mr. MINOW. There have been some precedents in this field. There have been several revocations in analogous situations back about 15 or 20 years. The power of the Commission to step in has been confirmed by the courts. It gets down then really to a question of judgment as to whether you think that those particular flagrant violations were serious enough to warrant a full revocation. On that it is hard to answer without really getting into a specific case. But I think the power of the Commission is there.

Senator COTTON. Just one more question, if you care to answer it, and I will understand if you wouldn't, not having assumed the duties.

Is it your feeling that the FCC has an obligation to observe and to—I don't like the word "censor"—to observe and to monitor the programs, the type of programs, more than they have been doing up to now?

Mr. MINOW. I do; I do, Senator.

Senator COTTON. Thank you.

The CHAIRMAN. I might say that the chairman of the committee handles the appropriations for the FCC.

Mr. MINOW. For which I am very grateful.

The CHAIRMAN. They have in the past two budgets asked for more for monitoring purposes, for a Complaints and Compliance Division. I think the record ought to show, too, that in this case any Chairman of the FCC—and what you are speaking about, Senator Cotton—must also place great reliance upon the industry itself which does have a very good code of ethics, and which does attempt, insofar as they can, to influence their members to live up to that code.

In the television field maybe 95 or more percent of those who have television licenses now belong to the association and subscribe to the code. It is not true in radio. There are several radio stations that do not belong, I understand. But even that list is growing.

Mr. MINOW. The approach that I bring to this, Mr. Chairman, is to try to have the industry do this job. I think the industry is blessed with a man like Governor Collins, who has assumed its leadership. I would hope that the industry would carry most of that.

The CHAIRMAN. I just can't see that the type of men who are in the industry would deliberately want to hurt themselves or the industry by not doing the things that we are discussing here today. I think they have made good progress in the past 2 years in getting the members of the Broadcasting Association into the code. They have had many meetings and they have worked out, I think, a fairly good code of ethics. The FCC must rely upon them to be helpful in this matter.

Mr. MINOW. Right.

The CHAIRMAN. I have to ask one more question for the record.

The Senate passed a resolution last year relating to members of the so-called independent agencies, those who are arms of Congress, hoping that it would be the sense of the Senate that when men are appointed to these positions of responsibility that they fully intended to serve their term.

May I ask you, is that your intention?

Mr. MINOW. It is, Mr. Chairman. I think I would be happy to serve as long as President Kennedy wants me.

The CHAIRMAN. We understand that there are some rare, special circumstances, maybe of health or something like that; but not to go down to the agency and serve awhile, get the experience and then go out into the industry. That has been abused in the past.

Mr. MINOW. That is not my intention.

The CHAIRMAN. The Senator from Indiana?

Mr. HARTKE. Mr. Minow, I suppose you are aware that this educational television experiment is being conducted by one of the most outstanding universities in the United States?

Mr. MINOW. Purdue; that is right.

Senator PASTORE. What happened to Notre Dame?

Senator HARTKE. There are three of them in Indiana. [Laughter.]

The CHAIRMAN. If they are not in it now they will get in it.

Senator HARTKE. I wanted to show that there is some place besides Harvard.

In the field of telecommunications on a national level, have you had an opportunity to examine the record and to make a determination as to whether or not you feel there is an adequate national unified policy in this field?

Mr. MINOW. I have, Senator. As a matter of fact, I read your speech the other day, Senator Hartke, which I think is a most needed effort to take the lead in this, because I think it has just suffered. Back in 1951 the President of the United States appointed a commission to study this, but nothing has happened since.

There is a problem of most urgent concern in connection with the new space exploration and satellite possibilities. There are problems involved in interagency disputes within our own Government. This is one of the chief areas in terms of national defense and national

concern, and I would hope very much that the U.S. Government move along and start making some decisions.

Senator HARTKE. You are aware of the fact that there is an international conference coming up in 1963; that if we are to be prepared to meet this conference and have a unified program, we have to be underway very soon.

Mr. MINOW. It is my hope that the FCC, the Congress, and the other interested agencies can advance the plans so that by 1963 we will have a formulation of policy. It is essential.

Senator HARTKE. I gather from what you say that you are willing to more or less take the lead in trying to bring such a policy and such a study to a quick and early conclusion?

Mr. MINOW. I will do whatever I can to that end, sir.

Senator HARTKE. I wonder, also, in the field of educational television, whether you feel that there is opportunity for the present commercial stations to expand their operations in this field?

Mr. MINOW. I do. Actually, my own impression is in the last year or two there has been an effort toward that trend. I know that there are some commercial stations that do devote part of their time to educational purposes, which should be encouraged. I am very familiar, and I have been identified professionally, with these courses in physics and chemistry that are shown over television very early in the morning. I think that there can be much more, a much wider use of the medium for educational purposes.

Senator HARTKE. In other words, you have a feeling that this wonderful natural resource of the air and use of the airwaves can be utilized for entertainment and for education as well?

Mr. MINOW. Absolutely.

Senator HARTKE. As well as in the national interest?

Mr. MINOW. That is right.

Senator HARTKE. Those are all the questions that I have.

I am glad to see you here. I was delighted to visit with you yesterday. I am certain that you will be a proud addition to the industry.

Mr. MINOW. Thank you, sir. And I am particularly grateful for your interest in the telecommunications problems.

Senator PASTORE (presiding). Mr. McGee?

Senator MCGEE. Thank you, Mr. Chairman.

It seems to me that one of the most significant things that you have contributed here in testimony today has been your response to the distinguished Senator from Rhode Island, that our real concern is less in trying to legislate more behavior patterns for our people, or the industry, or anyone else, than it is to have an aggressive type of leadership down there.

We found it necessary a year or so ago to go into intensive hearings concerning legislation when we had a difficulty arise peculiar and particular to the West involving television booster stations, necessitated by the mountains, and that sort of thing. In our judgment it required no new legislation, but the FCC, or those in command, sat on their hands, and we had to legislate backbone for this.

Under your immediate predecessor, Mr. Ford, there was a marked improvement in this approach. I think it is significant that you are willing to reflect what I think is perhaps your most important quality, even more important than your brilliance which has been aluded to, and your personality, and your good humor, and that is the

existence of a strong backbone. I think this is a real contribution.

If you can now acquire the hide of a rhinoceros, you will be well fortified in this role.

I would like to likewise suggest that I sometimes felt that we had gone at the question of television ratings a little in reverse; that is, whether there are enough samples or whether they are fair ratings. That still ducks the main point, in my judgment, and that is quality. That is why I want to associate myself with the Senator from Oklahoma in his general remarks on that.

Conceivably all of us came from the jungle in the beginning—that is a controversial theory—and if we had our way we would probably go back there, if we really let animal instincts prevail. So there is some way along the line to use our great resource to improve the human race, rather than let the human race, by whatever way it will, run its way back into the trees. I would hope that we can bring this around in proper focus and concern ourselves with the power that is available to us in this media, rather than the other.

I think it would be in order that I put in one petition for westerns. I would hope that the disgruntled statements expressed here really were focused on crime, the sort that you associate with the 1920's, and less with the folklore of cowboys.

Tourism is our second largest industry in Wyoming. We have reason to think that this does contribute to the curiosity of the people who come across the Hudson River and from the Potomac to get out there and see what all this cowboy stuff is about. If we can perpetuate that folklore, it is to our interest to do so.

The CHAIRMAN. Don't you think you ought to perpetuate it historically correctly?

Senator McGEE. Then that would spoil it. [Laughter.]

It is the folklore that keeps it going. I mean the fact that there are no board sidewalks or sixshooters in Laramie, Wyo., would discourage them. We have to keep this going.

The CHAIRMAN. We will refer your case to the Federal Trade Commission as false advertising.

Senator McGEE. That is why we called it folklore. We want to label it as folklore. It creates a real atmosphere. We all own cowboy outfits out there and put them on every July and August in order to satisfy the easterners who think they have to see that.

But in a serious vein, I would like to mention one more point, Mr. Chairman. In doing some checking I noticed that the A.T. & T. and the telephone rate structure apparently has not had a serious restudy in a good many years. I notice also in a recent issue of the Washington paper—maybe it would be in order to put the notation in the record, Mr. Chairman—A.T. & T. profits set records in 3 months.

That is from the Evening Star of January 10 of this year. It might be appropriate in the record at this point:

[From the Washington Evening Star, Jan. 10, 1961]

A.T. & T. PROFIT SETS RECORD IN THREE MONTHS

NEW YORK, January 10 (AP).—The American Telephone & Telegraph Co. reported today that Bell System earnings for the fourth quarter were the best of fiscal year 1960.

Profit for the 3 months ended November 30 rose to a record \$321,841,000, equal to \$1.40 a share on the parent company stock. In the third quarter profit amounted to \$318 million. For the second quarter it was \$312 million and in the first quarter it was \$292 million.

The quarterly report was mailed to more than 1.9 million stockholders—largest of all shareholder families—with a dividend check at the current quarterly rate of 82½ cents a share. Last month directors said they would raise the rate to 90 cents a quarter starting with the July dividend.

President Frederick R. Kappel told stockholders that the 1961 annual meeting on April 19 will be held in Chicago. The 75 previous meetings have been in New York.

Earnings for the latest period were 10 percent above the \$293,837,000 or \$1.33 a share cleared in the same period of 1959.

For the year ended November 30 A.T. & T. and principal subsidiaries earned \$1,243,945,000, equal to \$5.52 a share, compared with \$1,135,841,000 or \$5.16 a share the previous year.

Senator McGEE. So far as I can tell, the only study of rate structures has been on a piecemeal basis, also sometimes within individual States; sometimes after there have been petitions of a local sort, and it has kind of hung together by fragments.

Inasmuch as we have here a private monopoly in the public interest—and understandably so, and its demonstrated public interest quality is beyond question—I wonder if it might not be in order to have, instead of a headline hunt, a serious study of the rate structure and earnings of the A.T. & T. and related groups concerned with that. What would be your opinion?

Mr. MINOW. My understanding, Senator McGee, is that there has been a reduction in interstate telephone rates which was arrived at by the FCC last year, of about \$50 million a year, and that there are continuing studies underway to do this. There is a feeling I know among many State people that interstate telephone rates by and large are cheaper for equivalent distances than intrastate rates.

The matter is of great concern to me and to the Commission and is one which I will devote a good deal of attention to. But I do think that there is something underway right now which is already started, to review the whole problem.

Senator McGEE. It is my understanding that the absence, the conspicuous absence, was anything in the way of a public record of this sort.

I do know that your observation just made is very true. Anywhere you want to apply it, it costs much more to talk between two Wyoming towns than to call an equivalent or much greater distance across the State line.

I have no quarrel with the A.T. & T. prospering. I think it epitomizes pretty much the spreading out of our corporate basis in this country, perhaps the largest corporate holding in the land, with more individual small stockholders than any other.

I think it is a good symbol of what we stand for. But I do think because it is of a public interest nature that it might be useful to have a constructive look at the whole earning operation so a full public record is available.

Mr. MINOW. With the trend toward more and more automation in the telephone industry, it may be possible to review and bring some of those rates further down.

Senator MCGEE. I would hope also that there might be some encouragement, perhaps, of the men in the Commission, to somehow and some way get underway a real basic look at the whole communications industry.

I am thinking now particularly of radio and television. Again with the idea of trying to make it the best possible, rather than trying to find something wrong. I don't suppose any single question has come up more to me in traveling around the country than those I get from members in the radio or television industry who will discuss with me privately—don't let my boss know—privately the importance of having a fresh look at this.

Not another report that we would nail on to a report previously made. You know perhaps better than most that this has all just "grewed like Topsy." We started out with a problem which involved something decidedly new—radio. Out of sheer experience we piled what we learned on top of earlier mistakes, perhaps, and not any great change in the past, but merely patchwork all the way up.

On top of this we have built a television industry, some of it dependent upon some of the things that have gone before. I would think it would be in the best interest of all the industry if they would be willing to have intelligent and expert minds perhaps take it all apart and try to put it back together again with the benefit of the many, many valuable lessons that we have learned in the meantime.

It is not quite as easy to do as a simple statement like that suggests. There has been a strong reluctance in many places to tackle it. It means a great deal of work and it should mean no headlines, or very few, and thus no rewards in terms of public acclaim. But I do think it would be a sound way now, in the light of what has gone on in the last quarter or half a century, to try to make the most that we can out of constructive force here in the interests of the industry and the public interest.

Mr. MINOW. I think that is very well put, Senator.

Mr. MCGEE. That is all that I have to say, Senator.

The CHAIRMAN. The Senator from Oklahoma?

Senator MONRONEY. I have three questions but I will yield to the other members who have not had a chance yet.

The CHAIRMAN. The Senator from Texas?

Senator YARBOROUGH. Mr. Chairman, having been acquainted with the nominee for more than 5 years, I think the Government people of the United States are extremely fortunate to have an opportunity to obtain his services.

I have a question or two that I want to ask, but I assure you, Mr. Minow, they will not be so difficult as some requests that have been voiced that you distinguish between history and folklore, and fact and fiction.

If somebody threw you the "Life of Billy the Kid" and asked you what is history and what is folklore, what is fact and what is fiction, where it is all merged into one mass, I would not envy you that task.

On educational television some years ago the Commission reserved a number of channels in television for educational television stations.

Most of them have not been constructed. Efforts have been made to change those to commercial licenses on the basis that they had not been constructed.

People wanting those channels have gone before the Legislature of Texas and lobbied provisions into our State laws prohibiting the State educational institutions from spending money on educational television.

I think it is to the credit of the Commission that they have steadfastly maintained those channels open for the time when people in Texas can get control of their government to the extent that they can utilize those television educational channels that are in reserve.

I want to express the hope that you on the Commission will continue that policy to keep those reserved educational television channels in Texas free and open until they can be utilized by the people of Texas.

MR. MINOW. I will certainly do that. I also am concerned about somehow liberalizing the rules under which educational channels operate, so that they can somehow achieve some income. The biggest problem is that they just do not have the funds to program properly. If there is anything I can do along that end, I would certainly try.

Senator YARBOROUGH. In another field, I want to direct your attention at a recent decision of the Commission which I feel raises grave questions in the mind of the public. In fact, I know it has—some of the public—by statements made to me.

I refer to docket 12493. These were applications of Veterans Broadcasting Co., Inc., of Vail Mills, N.Y., and Capital City Television Corp., of Vail Mills, N.Y.

They were two rival applications for the grant of a license of broadcasting from Vail Mills.

In the opinion of the examiner, since the five-man stockholder committee of one of these rivals numbered among its five members two Congressmen, the examiner found that being a Congressman gave one of the stockholders such peculiar knowledge of the people in the area as to entitle that application to more weight than the other.

The decision of the Commission, handed down on July 18, 1960, the decision said that:

Each of the applicants has previously been determined to be legally, financially, technically, and otherwise qualified to construct and operate the facilities proposed. The only issue designated for hearing is the standard comparative issue.

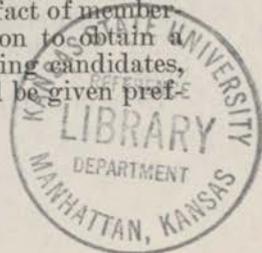
That is, of the comparative knowledge and capabilities of the people who were seeking the respective franchises.

These two Congressmen were not shown there to have any previous broadcasting or television experience. The Commission in its opinion said:

The examiner stated that it cannot be ignored that some of these individuals have achieved civic and political prominence which denotes in them an ability to discern and be responsive to the interests of the people of their community. To be elected and reelected as a Member of the House of Representatives is such a manifestation.

That is the examiner's opinion.

The effect of this opinion of the majority of the Commission is to confirm the examiner's opinion and hold that the mere fact of membership in Congress gives people a peculiar qualification to obtain a license, because of a knowledge of the people and being candidates, and that their application for broadcast license should be given preference over the others.



The Commission's opinion states this:

Of interest to the Commission is the fact that the officers and directors who will be active in the affairs of the competing applicant have engaged in such activities—

that is politically—

since they provide a basis for insight into an understanding of the community's needs. Political activities are in this regard of no less significance than other activities which project the principals into contact with various elements of the community proposed to be served.

I point out, Mr. Minow, without asking you for any opinion now, that a continuation of this policy of giving a preference to applications from Members of Congress, who have no previous radio or television experience, would in my opinion destroy the confidence of the people, the industry, and the Commission, and shake their confidence in the Congress itself.

I want to state that for your serious concern when you go on the Commission, this opinion of last July.

Mr. MINOW. I am glad you called that to my attention, Senator. I had been unaware of that decision. My own feeling—I am perfectly happy to say it—I don't think that that should have a thing to do with who gets a license, myself.

Senator YARBOROUGH. I agree with you thoroughly.

The CHAIRMAN. Are there any further questions?

The Senator from Alaska?

Senator BARTLET. Mr. Minow, I should not have had a single, solitary question to put to you had it not been for the fact that there has been so much discussion of westerns here.

My questions stem from a personal experience. I am not a faithful television viewer. But during the so-called bobtail session of Congress last fall—and those were truly dog days—I found myself watching a western. It opened in typical fashion. The hero naturally was tall, lean, and very handsome. The villain was otherwise. The girl was a beautiful girl.

The film projected itself in the usual manner of westerns and it became abundantly clear to the viewer that the villain and the hero weren't getting along well. This reached a climax right at the end of the show and the hero got at one end of the saloon—the final scene had to be in a saloon, of course—and the villain at the other. The hero knew that the villain was one of the fastest guns in the West. They both drew, the guns roared, and Lord save the mark, the hero fell dead on the floor, shot by the villain and the girl walked into the sunset all alone.

Now my questions are these [laughter]: Was this good or bad? Was this hurtful to the American way of life? Was this destructive of the American creed?

I am not going to ask you to answer now. I have been asking myself these questions since August, or whenever it was, and found no answers.

On February 8, 1962, I hope to project those questions to you again for an answer.

Mr. MINOW. Thank you. I will have to have a rerun of this most unusual western.

Senator MONRONEY. It must have been burlesque.

The CHAIRMAN. Are there further questions?

Senator PASTORE. I have a matter here that I should like to bring up. I think, apart from the policing responsibility of the FCC, it does have a responsibility to assist in the growth of America. Among the things we are talking about now, of course, is communications in space.

Unfortunately every time we talk about communications in space we tie it up with our military posture and our military ambitions. It is more than that, because we, as a matter of policy, want to dedicate space to peaceful uses. When we applied for the money which is necessary to run the activities of this committee, the report of the Rules Committee has this to say, in effect:

The whole field of communications will be tremendously changed by the use of satellites so dramatically demonstrated in the past few months. The policy for space communications probably via the use of satellites must be established, and this, of course, will lead to a review of the use of the entire spectrum by both the military and civilian users.

That responsibility, of course, falls upon this particular committee, and partially, of course, by delegation on the Communications Subcommittee.

I merely call it to your attention, Mr. Minow, because I am thinking to myself that much thought has to be given by the FCC as to what the A.T. & T. is doing, what can be done, and how they can be assisted, of course, in these experiments to shoot up into space some of the satellites that will have some of the apparatus that they are interested in in promoting for the peaceful uses of better communications.

I think that is a new field that we are getting into and I think that is a new responsibility that falls upon the FCC. I would hope that you would give that some very, very serious attention.

Mr. MINOW. I will. I think it is one of the most urgent. It will require one of the highest priorities for the Commission's attention.

There was just something last week which the Commission permitted one company to run, one experiment. I think this has got to be encouraged, and I intend to do that.

Senator PASTORE. Another thing, I understand there is an international conference to be held in Geneva in 1963, where all the experts of the world will assemble. Of course, the allocation of frequencies is quite an important one, and I think that we in America ought to begin giving it some thought, primarily through the impetus that can be given to it by the FCC, because when we get there we want to be prepared as to what our objectives are and be able to analyze counterproposals that are made, because, as you well know, much of the criticism that have been made by this administration, especially in the field of disarmament, is the fact that sometimes we haven't been too well prepared to properly analyze counterproposals that have been made.

I would hope that by 1963 we are so well prepared that we will know our objectives and know where we intend to go so as to better analyze counterproposals made by other governments.

Mr. MINOW. I will certainly devote myself to that task.

Senator MONRONEY. Mr. Chairman.

The CHAIRMAN. The Senator from Oklahoma.

Senator MONRONEY. I will try to be as brief as I can.

I have four points I would like to get in. As Chairman of the FCC, you will be before the Magnuson subcommittee asking for funds. I would like to get your opinion if it would not be better to ask for funds so that the Commissioners who are invited to, and quite properly, address the conventions and assemblies of people who take an active part in the broadcasting industry, if it would not be better to ask for Government funds so that these men can go representing our Government, rather than going at the expense of the convention or of those seeking it.

There have been several times that Commissioners have been criticized because the tab of their travel has been picked up by people who had an industry point of view. I think it would be highly beneficial if the Government, recognizing our duty to have a voice and advice at these various assemblies, pay the Commissioners' way and not make them the guests of the convention.

Would you feel that that would not be a proper expenditure of Government funds?

MR. MINOW. I certainly think it is. I personally think that it is very hard to operate otherwise, with self-respect as an independent Commissioner. I think this is the only way to do it.

SENATOR MONRONEY. I am glad to hear you say that. You mentioned several times that you believe in competitive radio and television. For about 4 years, I think, the FCC has been sitting on various suggestions, proposals, and petitions to establish in our major markets outlets for the three great networks. Nothing has been done about this.

They fiddled and they have faddled, and they have asked the military to disgorge some of their wavelengths, without success, and nothing has been done.

Meanwhile, we have an imbalance in our competitive television network where certain major markets are denied the advantage of tuning in on the third network.

I would hope that as Chairman you will be able to determine whether there are modern devices, such as directional antennas and other things, such as low power, where you can begin to make a competitive situation.

We don't wish to censor. The best way, I think, of avoiding this is by the great American competitive system. If people have the choice of three stations, three networks, they can perhaps find a program out of the three that they would like to see.

Certainly it deserves more than the continuing death by delay that has been occurring under the present and past operation of the Federal Communications Commission.

MR. MINOW. I certainly share that, Senator Monroney, and will do everything I can to move along to a decision.

SENATOR MONRONEY. Thank you.

One other point that I think is very important: When people sign up that they will devote certain time as a station to receive their television or radio licenses, this is probably not in good faith, and I think many of the local stations would like to carry out their pledge. But sometimes they are captives of the network, and there has been something approaching duress at least.

The "11 o'clock Roundup," the Joe McCaffrey program that I am talking about on the local station here, that is very beneficial to those of us who like a late night roundup on weather, news, and commentary. We might like to receive this instead of a 10-year-old movie that may be sold at a better rate out of New York and add more revenue to the network.

Can the Commission in some way protect the local stations, which may wish local television programming at certain points, against the demands and implied threats that if there happen to be four outlets in the area, that they must salute and obey and put on the corn or whatever it is that is coming on at that time of night from the network?

I think it is a proper point of inquiry for the FCC to look into this matter where stations are in fear of losing their affiliations because of refusing to take programs where they feel the time could be better spent on local originating programs.

Mr. MINOW. This matter, at least part of it, is now before the Commission. My own approach to it is to try to assure to every local licensee as much freedom of action as possible.

Senator MONRONEY. I think to a degree certainly a local station has some right to its local program; that is the way they got their license. That is included in a long list of things they intend to do, yet they are powerless sometimes against the pressures.

You mentioned public service programs. I know you are dedicated to at least a proper amount, or a representative amount. I would call your attention to the fact that in the 22 pages of fine type where the license agreement is made, that on page 2 of this agreement, in section 4, there is a note—it is all in fine type,

NOTE.—The purpose of the following tabulation is to enable the Commission to secure quantitative data as to the proportion of time to be devoted to various classes of programs. The functions of each class of program as a part of the diversified program structure is discussed in the Commission's report of March 7, 1946, entitled "Public Service Responsibility of Broadcast Licensees."

This was true 6 months ago. I haven't had a chance to check it today.

Mr. MINOW. It is under review now, Senator.

Senator MONRONEY. It is?

Mr. MINOW. Yes.

Senator MONRONEY. May you please expedite it and may you please bring it in 10-point type, and up-date it for television. This was written for radio, and yet these men now getting \$10 million and \$20 million licenses have to go back to 1947.

The report that was made on March 7, 1946, is out of print, and even the Senate Library doesn't have it. You can find it if you go to a lot of trouble in the Library of Congress.

It certainly should be printed in full as another bluebook so people will know their responsibilities, so it will be up-dated and they will know what they are.

Mr. MINOW. I will do my best.

Senator YARBOROUGH. I would like to have the privilege of associating myself with the distinguished Senator from Oklahoma on this last point, and expressing approval of his statement and his request to the Commission that this public interest concern be written into boldface type and right into the license itself.

The CHAIRMAN. Mr. Minow, speaking of expediting cases, this committee deals with many of these independent agencies which have a perennial and constant complaint, and it is reflected by the public itself coming to us with what I call regulatory lag in commissions, regardless of what the decision is going to be.

Sometimes people have a justifiable complaint of the length of time it takes these agencies to make a decision. Last year, in Appropriations, I think we arrived at a mean average of time to disprove of contested case in many of these agencies and it averaged 16 months, and some of them 2 years, 2½, or 3 years.

Every nominee we have had up here always said, "We are going down there with a firm resolve to bring this regulatory lag into shape and to expedite the administration of the agency." They get down there and it seems like nothing really happens, although there has been some general improvement in the past 8 or 10 months. Some of this is due to the law itself; I must agree. A lot of it is due to agency regulations which they weave around themselves as a web and then they can't get out of it themselves.

This committee long ago adopted a policy that in order to be as helpful as we could in attempting to correct this situation that we would ask all of the members of these independent agencies, under the jurisdiction of this committee, if they see some place where the law needs to be changed in order to—not as to policy—expedite these cases and these problems that you have before them—would they please submit such recommendations to us, and we will give it sympathetic consideration.

Of course, that job falls mainly on the Chairmen of these Commissions. I would just assume, from talking to you, that you would do that. I think that in the FCC, the law itself, there are many technical, minor amendments that could be made that would lend a climate so that you would be able to expedite a case.

Senator PASTORE. Would the Senator yield?

The CHAIRMAN. Yes.

Senator PASTORE. There hasn't been one recommendation or suggestion made by the FCC, made to your subcommittee, so long as I have been connected with this whole committee, that hasn't been recognized, expedited, and brought to fruition.

We have assisted in every way we could, where we have been asked to, in streamlining the law in such a way that administration can be done for the benefit of the public.

Mr. MINOW. I am aware of that, Senator. I know that in 1960, very recently, there have been a number of changes which I think will be very helpful. You will certainly hear from me if I have some suggestions.

The CHAIRMAN. We can be helpful in that particular case. The regulations of the Commission themselves I need not go into. They are bulky. There has been a lot of criticism made of them. This committee has a running criticism of that, and of all agencies, not only the FCC.

We are hopeful that we can do something about this.

One more thing, you not only will be concerned with programing down there, but you will be concerned with advertising, that is the type of advertising. There is a little duplication in this particular

field with the Federal Trade Commission and the FCC. I am hopeful that you will see, as Chairman, that there is a real liaison between the two agencies on the question of misleading or false advertising.

The Federal Trade Commission—I see this morning the President has appointed a new Chairman. I must say in all fairness that Mr. Kintner was doing a good job on this. But there was a change of administration, and I am sure that the new Chairman feels the same way as he did. I am hopeful that the Federal Communications Commission and the Federal Trade Commission will see to it that in this field of misleading and false advertising, that you have complete cooperation. It is a continuing 24-hour-a-day job. It just goes on all the time.

Mr. MINOW. I will do that, Senator.

For the record, there is one thing I would like to say and that is that the FCC, and particularly Chairman Ford, have welcomed me with a very fine spirit and with open arms. I have found nothing there but the most congenial cooperation. I want this committee to know that. I have been received in that spirit and I think we will work together very well.

The CHAIRMAN. The FCC in particular will be faced not with the type of advertising or the type of programing, but the amount of advertising. That is a matter, of course, that you will have to look at carefully and make a determination on.

Mr. MINOW. Right.

The CHAIRMAN. The Senator from Oregon asked me to ask you one or two questions raised on another subject.

Senator Morse asked this committee to inform you that he has received complaints concerning possible harmful interference in the operation of the frequencies assigned to the forestry conservation radio service, and he asked this question: Are you aware of the importance of the forestry conservation radio service in the fields of forest fire prevention and control, flood control, and in carrying out the functions of forestry, fish, and game protection and other conservation activities?

Mr. MINOW. I am, Senator. It seems to me that those uses, because they are safety uses, should be entitled to some priority. I am not familiar with the exact nature of the complaint.

The CHAIRMAN. I think what the Senator from Oregon means is that this is a field in which we must keep this service operating, and where there is unreasonable interference it is something which the FCC ought to pay particular attention to, to help work it out, because it is needed.

Mr. MINOW. I certainly will.

The CHAIRMAN. That is all that he has.

Are there any further questions?

(No response.)

The CHAIRMAN. If not, the committee will go into executive session.

Thank you very much.

(Thereupon, at 11:46 a.m., the subcommittee was adjourned to the consideration of other business.)





