

assistant general counsel, was listed on the program as one of the panelists but was not present for any of the Tuesday-Wednesday sessions. A subcommittee spokesman said FCC General Counsel John FitzGerald sent word Mr. Smoot was too busy to participate.

Many of the panelists, gathered by subcommittee Chief Counsel Robert W. Lishman, favored a code of ethics for agency personnel; stricter conflict of interest laws; placing commissioners on a judicial level; higher standards for commission appointees.

The panelists were divided on the question of placing an agency's judicial functions in federal courts. No, said Minnesota Prof. Kenneth Davis, Robert W. Ginnane, Interstate Commerce Commission general counsel, and Joseph Zwerdling, Federal Power Commission hearing examiner, all of whom delivered 15-minute papers on the question. Yes, said private attorneys Robert M. Benjamin, Donald Beelar, Ashley Sellers, John Cragun, former FCC Hearing Examiner Fannie Litvin and others. All cited a similar proposal of the American Bar Assn.

William Gatchell, FPC general counsel, proposed that agencies function more as courts, with the Executive branch given "limited or general control" over them.

U. of Minnesota Prof. Kenneth W. Culp said "many good men want to play the game according to the rules and can't find the rules. The cure for pressure on administrative agencies is not to destroy the agencies and transfer their functions to the courts any more than the cure to judicial abuses is to destroy the courts."

The SEC general counsel, Thomas G. Meeker, told the panel and congressmen that *ex parte* contacts are "few in number." The greatest deterrents, he said, are "the quality and loyalty of the personnel serving the agencies." He urged caution in the enactment of legislation designed to prohibit improper influence which also would prevent useful legitimate practices.

Profs. Arthur S. Miller of Emory U. and Clyde Byse of Harvard recommended more precise legislative standards for the FCC and other agencies to follow in granting licenses as one cure for curbing pressures. Both educators also urged the idea of selling tv channels to the highest bidder be seriously considered.

Mr. Landis, former chairman of both the SEC and CAB, said the activities of congressional committees should be directed to recommendations for legislation. "An unfortunate tendency has manifested itself recently in the fact that acting only individually or as a committee they have sought to interfere in the shaping of policy by the administrative agencies," he charged. "The most patent of these is the recent action of the House Committee on Interstate & Foreign Commerce in setting aside a carefully worked out program of the Federal Communications Commission in the field of subscription television."

At the close of the final panel Wednesday, proposed codes of ethics submitted by all agencies under the subcommittee's jurisdiction except the FCC were entered into the record. The Commission has promised to submit a proposal of its own in the future.

Oversight Subcommittee Told Court Cannot Dictate to FCC

A court is not authorized, under the Communications Act, to impose any "real direction" on the FCC as to how the Commission must "ultimately dispose" of a case, the House Legislative Oversight Subcommittee has been advised by the Library of Congress' legislative reference service.

James P. Radigan Jr. and Hugh C. Keenan Jr. of the legislative reference service gave the subcommittee their opinion at the House unit's request. They concluded: "The court is not a superior and revising agency in the field. Its remand obligates the Commission to correct the mistakes of law but leaves it free to take such action as it deems meets the standards of 'public interest, convenience or necessity.'"

The report also, at the subcommittee's request, digested the 12 cases which had been remanded by the U. S. Court of Appeals for the District of Columbia to the FCC or by the U. S. Supreme Court to the appeals court between Jan. 1, 1958, and Oct. 30, 1958, reporting on the progress of the cases as of the latter date.

Five of the cases were remanded—three by the Supreme Court and two by the appeals court—in view of testimony before the House subcommittee of *ex parte* influences. The other seven cases were remands by the appeals court.

Supreme Court Refuses Plea To Upset St. Louis Tv Grant

The Supreme Court last week upheld a U. S. Court of Appeals decision [GOVERNMENT, July 14] and refused a *writ of certiorari* to the St. Louis Amusement Co., a former applicant for tv ch. 11 in St. Louis. The Court of Appeals had affirmed an FCC dismissal of a St. Louis Amusement request that a March 1957 grant for ch. 11 be declared vacant and that it be returned to the Commission for new applications.

CBS won the grant last year, after a contest with 220 Television Inc., St. Louis Telecast and Broadcast House. St. Louis Amusement had previously withdrawn its application because, as it was explained to the Court of Appeals, it felt it had no chance against CBS Inc. as a competitor. Instead of building on ch. 11, CBS bought ch. 4 KWK-TV St. Louis for \$4 million and turned ch. 11 over to 220 Tv. St. Louis Telecast and Broadcast House were paid \$200,000 each by 220 Tv. Ch. 11 is now KCPP (TV) while CBS is operating ch. 4 as KMOX-TV.

100W Maximum for Translators

The FCC last week finalized its rule making to increase the maximum permissible transmitter power output of tv translators from 10 w to 100 w, effective Dec. 26. According to the Commission, this will further tv translator reception in communities where present maximum power is inadequate. The first translator began operation in 1956. There are presently over 140 such stations bringing tv to outlying areas.

East Coast Division
342 Madison Avenue, New York 17, N. Y.

Midwest Division
130 East Randolph Drive, Chicago 1, Ill.

West Coast Division
6706 Santa Monica Blvd., Hollywood 38, Calif.

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