

ampton, Mass., and revues starring Raquel Welch at Lake Tahoe and Totie Fields at Las Vegas.

Showtime's spice. Showtime, Viacom International pay cable programming subsidiary, has entered production area with — 90-minute special taped in Las Vegas called *Spice On Ice*, scheduled to be shown this spring.

Off the presses. National Cable Television Association's "1976 Cable Services Directory" is now available. Publication, formerly known as "Local Origination Directory," has state-by-state lists of cable systems that produce own programming, offer pay, two-way, educational, public and municipal access channels. Directory is available from NCTA, 918 16th Street, N.W., Washington 20006 at \$2 a copy for NCTA members, \$4 a copy for nonmembers.

Microwave purchase. Agreement in principle was reached by American Television and Communications Corp. and Dallas-based Wyly Corp. for sale of Wyly's subsidiary, Microwave Transmission Corp., to ATC for undisclosed price. MTC is interstate common carrier of video and other services to 26 West Coast locations, primarily cable systems in California and Washington. ATC is Denver-based MSO with more than 576,000 subscribers in 31 states. Sale is subject to approval of FCC.

Welcome to club. Society of Cable Television Engineers announced formation of Southeastern chapter covering South Carolina, Georgia, Alabama and Florida. Interested cable technicians and engineers should contact Guy Lee at (404) 892-2288.

HBO spreads. Home Box Office, national pay-TV service, has made an agreement with General Media Satellite Services, Inc., Rockford, Ill., to bring pay programming into Rockford and Love Park, Ill. Programs will be delivered by domestic satellite to 25,000 subscribers in area. HBO now has over 600,000 subscriber homes in more than 300 cable systems nationwide, served by microwave and domestic satellite transmission.

Cable service will also grow in Brooklyn

Two decisions favorable to the expansion of cable TV in New York have been issued. In one, the state Public Service Commission ruled that electric and telephone companies in the state must submit proposals to the commission for rental of utility poles for stringing of cable lines. The proposals are to be submitted within 120 days from the announcement March 7, with further meetings to be held to work out the rates. In New York City, the Board of Estimate on March 10 opened the way for applications by cable companies to provide cable service in Brooklyn, Queens, Bronx and Staten Island. Full service is now provided only in Manhattan. The city's Bureau of Franchises will distribute a description of the requirements and accept proposals.

Broadcast Journalism*

News chiefs want law affirming First Amendment for radio-TV

They send legal brief contending that freedom applies equally to print and broadcast press

The Radio and Television News Directors Association has offered its suggestion to Congress in connection with the rewrite of the Communications Act of 1934 that is now under way: Write a law that assures broadcast journalism the same First Amendment protection that is now enjoyed by the printed press.

RTNDA, in a position paper submitted last week to members of the Senate and House Communications Subcommittees, noted that the recent trend of the law is toward equal treatment of the print and electronic press under the First Amendment. But it said, "regardless of how fast the Supreme Court moves toward this result, the Congress has the responsibility, in reconsidering the Communications Act, to decide for itself whether the First Amendment requires nonregulation of program content by the government."

And RTNDA suggested that Congress take its lead on the matter from Representative Lionel Van Deerlin (D-Calif.), chairman of the House Communications Subcommittee, who called for the Communications Act rewrite. He is on record as stating: "If a broadcaster doesn't have the same, precise protection as the print journalist, he has no protection at all."

RTNDA's paper, prepared by J. Laurent Scharff, of the Washington law firm of Pierson, Ball & Dowd, the association's counsel, tracked what it said was a growing body of court opinion supporting the view that radio and television stations and networks "are journalistic enterprises" and that, "as such, they are part of the 'press' of this nation."

RTNDA recalled that back in 1969 the Supreme Court, in the Red Lion case,

upheld the FCC's right-of-reply rules and the fairness doctrine, on which they are based. The court cited spectrum scarcity and broadcasters' role as public trustee in support of the holding; it also said that it is the public's right to receive "suitable access to social, political, esthetic, moral and other ideas and experiences that is crucial here."

But five years later, in 1974, the Supreme Court took a contrary view in a case involving the *Miami Herald* that, RTNDA noted, "raised almost identical issues." Arguments broadcasters had used to oppose the fairness doctrine in 1969 were echoed in the reasons the court advanced for rejecting arguments defending a state law requiring newspapers to afford a right of reply to political candidates they attack.

Oddly, however, the court did not mention broadcasting in its opinion or attempt to reconcile it with Red Lion. RTNDA contends the two decisions "are in hopeless conflict."

A shift in the Supreme Court's attitude toward broadcasting was discerned by broadcast attorneys in 1973, in a case involving the question of whether broadcasters could be required to sell time for announcements on controversial issues. The U.S. Court of Appeals in Washington said they could. But the Supreme Court said no, that broadcasters must be allowed journalistic discretion. Chief Justice Warren E. Burger wrote: "For better or worse, editing is what editors are for, and editing is selection and choice of material."

What's more, as RTNDA noted, three justices referred to "the role of the licensee as a journalistic 'free agent'" who is "only broadly accountable to public interest standards." And two justices took the position that broadcasters are as entitled to First Amendment protection from fairness and access claims as are newspapers. One of those justices, Potter Stewart, had voted to affirm the fairness doctrine in 1969. The other, William O. Douglas, had not participated in the Red Lion decision.

Then, two years ago, the Supreme Court, in a case involving Cox Broadcasting Corp., overturned a state law which, the court said, infringed upon the First Amendment right of a broadcast station to report information disclosed in a criminal

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