cast properties a year later when he paid $28.5 million for 89% of the stock. However, the acquisition was conditioned by the FCC on Mr. Allbritton's disposing of properties whose ownership brought him into conflict with the rules barring acquisition of co-located multimedia holdings. He has already sold WMAL-AM-FM Washington to ABC for $16 million. And he announced last week WSCI has reached an agreement to sell WLVA(AM) Lynchburg, Va. Neither the proposed purchaser nor the amount was disclosed.

Thus, Mr. Allbritton in less than three years appears to be well on his way to earning a major profit on his Washington venture.

Assuming completion of the WMAL-TV and WLVA-AM sales—and their approval by, the FCC—Mr. Allbritton would be left with the newspaper and with WLVA-TV Lynchburg and WCVI(TV) Charleston, S.C.

CCC, which is based in Phoenix, is only nine years old but is a major multimedia owner. It owns the *Cincinnati Enquirer* and 14 radio and television stations—KTAR-AM-TV and KBBC-FM Phoenix; KARK-TV Little Rock, Ark.; KHS-AM-FM Los Angeles; KSDO(AM)-KEZL(FM) San Diego; KBTV(TV) Denver; WXIA-TV Atlanta; WPTA(TV) Roanoke, Ind.; WLKY-TV Louisville, Ky.; WWDJ(AM) Hackensack, N.J., and KOCO-TV.

Under the agreement—which a CCC official said was structured to provide tax benefits for both parties—the Evening Star Broadcasting Co., the WSCI subsidiary that owns WMAL-TV, would merge into a subsidiary of CCC. In return WSCI would receive 650,000 shares of a new class of CCC nonvoting preferred stock with a redemption value of $100 a share as well as all of the stock of the CCC subsidiary that is the licensee of KOCO-TV.

The preferred stock would pay $5 a share in annual pretax dividends, or a total of $3.25 million a year for five years. In the sixth year, CCC would redeem $30 million of the preferred shares, and an additional $2.5 million of the shares annually in the seventh through 20th years.

The payment to Mr. Allbritton in nonvoting stock in the company that will control WMAL-TV is designed to avoid any further difficulty with the FCC's crossownership or multiple-ownership rules. However, a commission lawyer said he could not tell on the basis of newspaper accounts whether the agreement would satisfy the commission's rules. He said the papers to be filed would have to be studied carefully.

■ The commonly owned KRLD(AM) and KAFM(FM) Dallas are being sold to, respectively, Metromedia Inc. and Bonneville International Corp. in two simultaneous agreements, subject to FCC approval ("Closed Circuit," Jan. 31). Metromedia will acquire all of the stock of the parent KRLD Corp., for $13 million. The purchase price includes the corporation's funded indebtedness, which will be discharged or assumed by Metromedia.

Under the second agreement, Bonneville will acquire from KRLD Corp. the assets of the FM station for about $2,250,000. As a result, Metromedia will gain the AM for about $10,750,000.

The selling corporation, owned by members of the Jonsson family, of Dallas, purchased the stations for $6,750,000 in 1970, when they were spun out of the sale of the *Dallas Times Herald* and KRLD-TV (now KDFW-TV) to Times Mirror Co. of Los Angeles. Metromedia now owns seven FM stations and therefore was barred by FCC rules from acquiring KAFM. Bonneville, which also owns seven FM's, has announced plans to sell KSL-FM Salt Lake City.

Shock waves keep rolling from decision on pay cable

FCC's authority to regulate may be in question; commissioners unsure what ex parte part means; appeals certain in the courts

Government and private attorneys last week were combing through the 105-page opinion the U.S. Court of Appeals in Washington issued in the pay-cable case (BROADCASTING, March 28), looking for nuances and finding some ambiguities. But there is no doubt that the FCC's 1975 pay-cable rules—designed to protect broadcasters against the siphoning of sports and movie programing—have been overturned. And there is no doubt, either, that the opinion will be appealed, although the line-up of appellants is not set.

Too hot to handle. The First Amendment was turned out of FCC Chairman Richard E. Wiley's office last week. A framed rendering of it was presented to the chairman, as some 500 copies have been presented to other dignitaries as well as broadcasters and advertisers by Peters, Griffin, Woodward, New York, station rep. Mr. Wiley was on the verge of accepting it with thanks when counselors advised him the gift was probably above the minimal value acceptable under Carter administration standards. James R. Sefert, president of PGW, and William G. Walters (r), chairman, went off with the forbidden First Amendment after this picture was made. (Other Washington officials' standards are less rigid. PGW presented copies of the same painting to the other six FCC members and to Jody Powell, White House news secretary, last week.)

Indeed, the decision could well provide the impetus that has thus far been lacking to persuade Congress to adopt legislation spelling out FCC jurisdiction over cable television. Broadcasters are expected to press key members of Congress on the siphoning issue. And Representative Lionel Van Deerlin (D-Calif.), chairman of the House Communications Subcommittee, told the National Association of Broadcasters convention last week that Congress would support legislation providing for a ban on the siphoning of sports programing—if not movies—but indicated he would prefer incorporating such a measure into the rewrite of the Communications Act he has begun (see page 41).

But last week lawyers were wondering about the extent of the court's ruling. The major subject of discussion among commission lawyers was the court's order to FCC members and staff to avoid ex parte contacts in rulemaking proceedings. The commission has held that in all but a limited category of rulemaking proceedings, ex parte contacts are proper. But the court criticized the commission for such contacts in the pay-cable proceeding—as a result of an argument by former General Counsel Henry Geller in a friend-of-the-court brief—and told it to shun them in the future.

Does the court mean all rulemakings, including those now pending and regardless of how insignificant? Commission lawyers are not sure. And that section of the opinion seems to trouble the lawyers and the commissioners—all of whom feel that informal off-the-record contacts are beneficial (see page 26)—even more than some of the substantive matters in the decision.

Then, too, questions were raised as to whether the ruling could have the effect of narrowing or limiting the commission's jurisdiction over cable generally. Some lawyers, pointing to language stressing that the commission's authority is limited to that which is "ancillary" to its broadcast regulation, think it might, and say they expect suits to be filed challenging some rules on that ground. On the other hand, Cable Television Bureau lawyers at the FCC argue that the effect of the opinion is limited to the pay-cable rules.

And what of the effect on the commission's exclusion of the states from the regulation of pay cable? A U.S. court in New York last month barred the state from the regulation of pay cable on the ground of federal pre-emption (BROADCASTING, March 21). But if the commission cannot—or does not—regulate pay cable, are the states still barred? There is disagreement, or at least uncertainty, on that point.

Some lawyers note that the court, in stressing that the commission has not demonstrated need for the rules, is shifting the burden of proof in such matters to those seeking to regulate cable. But, the lawyers point out, the burden of proving no harm was originally placed on cable by the Supreme Court.

Some lawyers had trouble, too, in ra-