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CARL McINTIRE AND HIS CRUSADE AGAINST THE FAIRNESS DOCTRINE

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by

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ABSTRACT

This dissertation examines the role that fundamentalist radio commentator Carl McIntire and his station, WXUR, played in the demise of the Fairness Doctrine. McIntire's "crusade" against the Federal Communications Commission and the Fairness Doctrine brought national attention to the doctrine. This attention influenced the FCC, and in 1987, the Commission repealed this regulatory policy. WXUR is the only radio or television station in American history to be denied license renewal by the FCC as a direct result of Fairness Doctrine violations. This dissertation argues that McIntire and WXUR are underappreciated factors that contributed to the demise of the doctrine.

Introduced in 1959 when Congress amended the 1934 Communications Act, the doctrine required radio and television stations to meet two requirements: (1) devote a reasonable percentage of broadcast time to discussions of issues of public importance within the community the licensee served, and (2) design and provide programs so that the public had a reasonable opportunity to hear different and opposing views and arguments on the public issues of interest within that community.

In 1970, 17 years before the Fairness Doctrine's demise, McIntire and WXUR were denied license renewal by the FCC and forced off the air because the station, according to the Commission, did not make reasonable efforts to comply with the doctrine. Despite their historical significance with regards to the Fairness Doctrine, McIntire and WXUR have been largely ignored by media studies scholars. While volumes of research related to the Fairness Doctrine have been produced by media studies scholars, few academics outside of religious studies have explored the fascinating career of Carl McIntire. And no one has provided a detailed account of McIntire and WXUR's role in the eventual repeal of the Fairness Doctrine. This dissertation addresses this oversight.

McIntire and WXUR must be recognized for their role in the history of governmental regulation of speech in the United States. McIntire launched a national crusade against the Fairness Doctrine, using his radio station, WXUR - a station licensed by the FCC and obligated to meet the Commission's fairness requirements – as the primary tool in his campaign. His crusade against the doctrine influenced the opinions of lawmakers, policymakers, the courts and the American public regarding the FCC's fairness rules. In his campaign, which he conducted

through the 1960s and early 1970s, McIntire wasted no opportunity to expose the problems he perceived with the Fairness Doctrine. He blazed a path for another campaign against the doctrine, one conducted by the Freedom of Expression Foundation during the 1980s. The Freedom of Expression Foundation employed strategies similar to those utilized by McIntire in an effort to press lawmakers and the FCC to re-examine the "fairness" of the Fairness Doctrine. Ultimately, the FCC abandoned this regulatory policy in 1987.

McIntire's legacy in American broadcasting, however, did not end when the FCC suspended its fairness requirements. The Fairness Doctrine's demise has contributed to a resurgence of politically conservative commentary on America's radio airwaves in the late twentieth and early twenty-first centuries. Today, the nation's talk radio stations are dominated by politically conservative commentators, thanks, at least in part, to the path cleared by McIntire decades earlier.

This dissertation seeks to increase our understanding of McIntire and WXUR and their underappreciated contribution in shaping not only communication policy in the United States, but also America's contemporary talk radio landscape. Research for the study draws from an on-line collection of radio broadcasts and sermons by McIntire; *The Christian Beacon*, a weekly publication McIntire launched in 1936 to complement his radio broadcasts; books McIntire authored; FCC records and various legal cases and related regulatory proceedings; and a number of contemporary periodicals.

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Chapter 1: Introduction

This dissertation examines the former WXUR-AM and FM radio stations in Media, Pennsylvania, and the broadcast outlet's outspoken leader, Carl McIntire, and seeks to demonstrate that McIntire and his station are underappreciated factors that contributed to the eventual demise of the Fairness Doctrine. WXUR is the only radio or television station in American history to be denied license renewal by the Federal Communications Commission as a result of Fairness Doctrine violations. The Fairness Doctrine was promulgated in 1959 when Congress amended the 1934 Communications Act.[1] It required broadcast licensees to meet two general requirements: (1) devote a reasonable percentage of broadcast time to discussion of issues of public importance within the community the licensee served; and (2) design and provide programs so that the public had a reasonable opportunity to hear different and opposing views and arguments on public issues of interest within the community.[2] The FCC suspended the Fairness Doctrine in August 1987, concluding that the doctrine was no longer able to achieve its intended effect. In the spring of 1987 before the FCC repealed the doctrine, both U.S. houses of Congress voted to make the Fairness Doctrine law and require the Commission to ensure that all licensed stations adhere to the doctrine's policies. However, the "Fairness in Broadcasting Act of 1987," which would have written the doctrine into law, was vetoed by President Ronald Reagan. In 1991, congressional hearings were conducted to re-examine legalization of the Fairness Doctrine, but veto threats from President George H.W. Bush stalled any action on the issue. In addition to the efforts of federal lawmakers, various citizen groups have petitioned the FCC and the courts to reconsider the Fairness Doctrine, all to no avail.[3]

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[1] 47 U.S.C. Sec. 315A, 4 (1970). Before the Act was amended, the FCC's *Report on Editorializing by Broadcast Licensees*, published in June 1949, served as a fairness guideline for broadcasters. *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1246, 1247-51 (1949). Prior to 1949, the threshold for fairness on the airwaves was the "public interest standard" as defined by the 1927 Radio Act and 1934 Communications Act.

[2] *FCC, Fairness Doctrine and Public Interest Standards, Fairness Report Regarding Handling of Public Issues*, 39 Fed. Reg. 26372, 26374, para. 15 (1974). Subcategories of the original Fairness Doctrine were the personal attack and political editorial rules. Both these rules were designed to clarify the FCC's expectations of licensees regarding compliance with part one and part two requirements.

[3] Arkansas AFL-CIO v. KARK-TV, Little Rock, Ark., *Petition for Reconsideration* of Tracy Westen (petition date – Feb. 5, 1992); Tracy Westen v. FCC, *Petition for Writ of Mandamus* (9th Cir. July 28, 1994); Enforcement of the Fairness Doctrine, *Petition for Emergency Declaratory Ruling* of the Coalition for a Healthy Cal. (petition date – Aug. 11, 1994) – copies available in *Federal Communications Law Journal*.

In 1970, seventeen years before the Fairness Doctrine's demise, McIntire and WXUR were denied license renewal by the FCC and forced off the air because the station, according to the Commission, did not "make reasonable efforts to comply with the Fairness Doctrine."[4] Despite their historical significance with regards to governmental regulation of speech generally and the Fairness Doctrine specifically, McIntire and WXUR have been largely passed over by media studies scholars.[5] This dissertation is an effort to fill this void. The experience with McIntire and WXUR influenced the FCC's direction regarding fairness policies following the Commission's decision to revoke the station's license. The crusade he waged against the Fairness Doctrine brought national attention to the doctrine, which the FCC repealed in 1987.

The actions of McIntire and other broadcasters at WXUR forced the FCC to do something it has never done before or since – revoke a radio station's license because of failure to meet fairness requirements. The long-range consequences of the FCC's decision to deny WXUR's license renewal application in July 1970 are significant. McIntire's story did not end in July 1973 when WXUR ceased broadcasting. It did not end in August 1987 when the FCC repealed the Fairness Doctrine. Nor did it end in March 2002, when McIntire died at the age of 95. His legacy lives on in the right-wing programming that dominates today's talk radio stations. His crusade against the FCC is an underappreciated factor which influenced the Commission's decision to suspend the Fairness Doctrine. McIntire's legacy also contributed to the resurgence of conservative talk radio in the late twentieth and early twenty-first centuries. McIntire and WXUR became casualties of the battles they waged against the FCC, but these battles during the 1960s and early 1970s forced the Commission, the courts, lawmakers, policymakers and the American public to reconsider the fairness of the Fairness Doctrine. Using the radio airwaves, McIntire was the first to bring the Fairness Doctrine national attention. Beginning in 1982, the Freedom of Expression Foundation would continue the crusade against the Fairness Doctrine that McIntire initiated during the 1960s. The Foundation's success in raising doubts about the FCC's fairness policies regarding radio and television programming contributed to the Commission's

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[4] Brandywine-Main Line Radio, Inc., v. FCC 2d 565 (1971), aff'd 473 F.2d 16 (D.C. Cir. 1972), cert. denied 412 U.S. 922 (1973). Hereafter referred to as Brandywine Decision.

[5] A number of religious studies scholars have examined McIntire's role in the U.S. fundamentalist movement. Please see "Existing Literature" section.

decision to repeal the Fairness Doctrine in 1987. In the end, McIntire's crusade against the FCC and the doctrine were not in vain.

I employ a historical methodological approach in this dissertation. James Startt and William David Sloan define historical research as a "form of inquiry into the past that asks questions about the actions of people and elicits answers based on evidence. In that process there is a story to be told and a truth to be found."[6] Historical research, note the authors, must include the elements of evidence, interpretation and narrative. The evidence in this historical project include an on-line collection of radio broadcasts and sermons by McIntire; *The Christian Beacon*, a weekly publication McIntire launched in 1936 to complement his radio broadcasts; books McIntire authored; FCC records and various legal cases and related regulatory proceedings; and a number of contemporary periodicals.[7]

Interpretation is the historian's stamp on what he or she has discovered after analyzing the relevant primary sources and related secondary sources. Interpretation is the process of reconstructing the events of the past and requires a fundamental understanding of the historical period under study as well a conscious effort on the part of the researcher to avoid presentmindedness, the practice of viewing events of the past in present-day terms.[8] Because the historical record is always incomplete, historians are required to make decisions on the evidence they choose to include in their research, as well as the ways they intend to use this evidence.

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[6] James Startt and William David Sloan, *Historical Methods in Mass Communication* (Northport, Ala.: Vision Press, 2003).

[7] The most valuable source of information from the McIntire Collection was *The Christian Beacon*, a weekly publication McIntire launched in 1936. The *Beacon* was sent to subscribers and McIntire reproduced many of the letters he received from listeners of his broadcasts, the FCC, elected officials and others in the publication. McIntire also included his own letters to various individuals in the pages of the *Beacon*. Books authored by McIntire include *A Cloud of Witnesses or Heroes of the Faith* (Philadelphia, Pa.: Pinebrook Press, 1938); *Twentieth Century Reformation* (Collingswood, N.J.: Christian Beacon Press, 1944); *The Rise of the Tyrant: Controlled Economy vs. Private Enterprise* (Collingswood, N.J.: Christian Beacon Press, 1945); *Author of Liberty* (Collingswood, N.J.: Christian Beacon Press, 1946); *For Such a Time as This: The Book of Esther* (Collingswood, N.J.: Christian Beacon Press, 1946); *Modern Tower of Babel* (Collingswood, N.J.: Christian Beacon Press, 1949); *Better Than Seven Sons* (Collingswood, N.J.: Christian Beacon Press, 1954); *The Wall of Jerusalem Also is Broken Down* (Collingswood, N.J.: Christian Beacon Press, 1954); *Servants of Apostasy* (Collingswood, N.J.: Christian Beacon Press, 1955); *The Epistle of the Apostacy: The Book of Jude* (Collingswood, N.J.: Christian Beacon Press, 1958); *The Death of the Church* (Collingswood, N.J.: Christian Beacon Press, 1967); *Outside the Gate* (Collingswood, N.J.: Christian Beacon Press, 1967). A collection of more than 300 of McIntire's radio broadcasts are available at *sermonaudio.com*.

[8] James Davidson and Mark Lytle, *After the Fact: The Art of Historical Detection, Fifth Edition* (New York, N.Y.: McGraw-Hill, 2004).

Historians must constantly assess the credibility of the evidence available to them and this interpretation shapes the narrative they ultimately construct. In order to arrive at an accurate interpretation, it is essential that the researcher possess a firm understanding of the primary object(s) of study. I was not exempt from these challenges - nor the limitations imposed by them - in this dissertation project. In my effort to understand Carl McIntire's broadcasting career and his radio station, WXUR, as fully as possible, I listened to more than 100 of McIntire's broadcasts and sermons, delivered across a span of 37 years (1960 – 1996). I reviewed the 12 books McIntire authored during his lifetime and read his extensive writings in the *Christian Beacon*. I reviewed legal cases in which McIntire was involved. I also relied on relevant secondary sources to more fully appreciate not only McIntire and WXUR and their role in the demise of the Fairness Doctrine, but other individuals and organizations that were key players in this narrative.

I have made a conscious effort to include interpretive analysis, when appropriate, in the narrative that follows so that this project might contribute something of value to the historical record. It is important to note that my purpose is not to render judgment on either the events or the participants in this narrative, but rather to suggest, through interpretation, possible explanations as to why events occurred as they did, the possible ramifications of these events, and the possible role these events play in the present.[9] Toward this end, I have quoted McIntire and other key figures extensively in the belief that the story can often best be understood in their own words.

I am conscious of the power I possess as both the interpreter and constructor of this narrative. Interpreting evidence is very subjective – we, as historians, bring our own perspectives, biases and frames of reference to the task at hand. "The historian's conclusions," argues Peter Novick, "are expected to display the standard judicial qualities of balance and evenhandedness. As with the judiciary, these qualities are guarded by the insulation of the historical profession from social pressure or political influence, and by the individual historian avoiding partisanship or bias – not having any investment in arriving at one conclusion rather than another."[10] Despite this insulation, however, it is impossible for me, or any other historian,

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[9] William Storey, *Writing History: A Guide for Students, Second Edition* (New York, N.Y.: Oxford Univ. Press, 2004).

to disconnect entirely from personal biases and beliefs. I have attempted to shelve my personal views as much as possible in the pages that follow – it is left to the reader to determine to what extent I was successful in this endeavor.

Finally, a note on causation. Historians cannot assert that something "caused" something else because it is impossible for us to go back in time and isolate that "something" we believe might have caused that "something else." Causation cannot be determined through historical research methods. Geoffrey Elton notes that "no historical cause ever must have a given known effect, namely, that historical event to be explained."[11] Because of this inability to assign causation, historians are limited to speculating, with this speculation based on a reasonable consideration of the available evidence. Because we cannot make predictions based on what happened in the past, this is the best we can do. In the chapters that follow, I speculate on McIntire and WXUR's role in the demise of the Fairness Doctrine as well as their influence on the contemporary talk radio landscape.

Chapter 2 provides a review of the existing literature on Carl McIntire within not only media studies, which is sparse, but also religious studies. It examines scholarship that explores McIntire's prominent role in the "ultrafundamentalist" movement in the United States, as well as his role as a persistent critic of the FCC. I decided to review religious studies scholars' contribution to the literature on McIntire because I believe this research allows us to better understand why McIntire was so dedicated to waging a lifelong crusade against the FCC and the Fairness Doctrine.

Chapter 3 examines the antecedents of the Fairness Doctrine, including the National Radio Conferences of the 1920s, the Radio Act of 1927 and the Communications Act of 1934. I explore the legal cases that played a role in the promulgation of the doctrine as well as the "birth" of the Fairness Doctrine, which occurred in 1959 when Congress amended the 1934 Communications Act. The chapter ends with a look at Red Lion Broadcasting vs. the FCC, a landmark case in American telecommunications history and one in which the Supreme Court affirmed the legality and effectiveness of the Fairness Doctrine.[12]

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[10] Peter Novick, *That Noble Dream: The "Objectivity Question" and the American Historical Profession*, (New York, N.Y.: Cambridge Univ. Press, 1988).

[11] Geoffrey Elton, *Political History: Principles and Practice* (London: Penguin Press, 1970), 141.

Chapter 4 introduces readers to four commentators who preceded McIntire in using the U.S. radio airwaves to disseminate their right-wing political and religious views to a mass audience. While most of the radio personalities of the 1930s and 1940s provided their listeners a relatively objective interpretation of the news of the day, the Rev. Charles Coughlin, Fulton Lewis Jr., Boake Carter and Upton Close blazed a trail on the American radio dial for McIntire, mixing colorful conservative commentary with persistent criticism of Communism, liberalism and socialism. The chapter also introduces readers to Billy James Hargis, one of McIntire's contemporaries on the radio dial and a fellow ultrafundamentalist. Like McIntire, Hargis would enjoy national success with his right-wing radio program, the *Christian Crusade*.

In Chapters 5 and 6, readers are afforded a close look at the early stages of McIntire's career as a religious leader and radio commentator. Chapter 5 details McIntire's life before he landed on the nation's radio airwaves, his immersion in the emerging struggle between the fundamentalists and the modernists in shaping U.S. culture, and his isolation on the far right fringe of American Protestantism. The chapter examines the individuals and events that helped shape McIntire's worldview, one rooted in halting the spread of Communism, both within the United States and abroad, at all costs. Chapter 6 examines McIntire's first foray into radio and the meteoric rise of his radio program, the *Twentieth Century Reformation Hour*. It details McIntire's early run-ins with the FCC and various community and political organizations that protested his use of the airwaves to promote his ultrafundamentalist agenda. The chapter concludes with a brief history of the FCC's Fairness Primer. Announced by the Commission in 1964, the primer played a significant role in McIntire's decision to purchase WXUR.

In Chapter 7, readers learn some of the details surrounding the transfer of WXUR's license to Faith Theological Seminary. Numerous Philadelphia-area groups strongly opposed the license transfer, seeing the seminary as a "front organization" for McIntire, who served as president of the seminary's Board of Directors. McIntire's radio listeners and supporters, however, were equally outspoken in their endorsement of the transfer and expressed this sentiment through a letter-writing campaign targeting the FCC. The Commission ultimately approved the license transfer without a hearing. The "fairness" philosophies of FCC

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[12] Red Lion Broadcasting Co., Inc. et al. v. Federal Communications Commission and United States of America, 381 F.2d (1967).

commissioners Henry Hyde and Lee Loevinger – who wrote the majority opinion supporting the license transfer without a hearing – are examined in this chapter.

Chapter 8, *New Station, Same Problems*, examines a confrontation between McIntire and the Roman Catholic Church, as well as his clash with the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). These run-ins occurred shortly after Faith Theological Seminary assumed control of WXUR. The chapter also takes a close look at two WXUR programs – *Freedom of Speech* and *Delaware County Today*. Moderated by hosts other than McIntire, these shows are examined in order to give readers a sense of the general tone of the station's programming after the Seminary had secured the license transfer.

Chapter 9 reveals the extent to which McIntire and WXUR drew the ire of not only community members but also elected officials in a short period of time. After assuming control of the Media, Pennsylvania, station in April 1965, WXUR was the primary topic of discussion at a Media Borough Council meeting in October of that year. The borough drafted a letter to the FCC, requesting a review of WXUR's programming decisions. The chapter details the charges levied against the station at this meeting and also examines a resolution approved by the Pennsylvania House of Representatives in December 1965 that asked the FCC to investigate WXUR's programming in order to determine whether the station was fulfilling its fairness obligations. The chapter ends with a look at three bills introduced in the New Jersey state legislature in February 1966 which seemed aimed at silencing McIntire. McIntire's reaction to the steps taken by the Media Borough Council and the Pennsylvania and New Jersey legislators are also discussed.

Chapter 10 chronicles a number of key events in the story of McIntire, WXUR and the Fairness Doctrine. The chapter examines the FCC hearing to determine whether or not to renew the station's license; the Commission's decision to overturn the hearing examiner's finding; the repercussions of this reversal and reactions to this decision by ordinary citizens, various organizations and lawmakers; the codification of the Fairness Doctrine and challenges by McIntire and other broadcasters to this codification; another McIntire run-in, this one with the Institute for American Democracy; the decision of the Seventh U.S. Circuit Court of Appeals in Chicago to set aside some of the FCC's fairness rules and the reversal of this decision; the decision by the U.S. Circuit Court of Appeals in Washington, D.C., to affirm the FCC's decision to terminate WXUR's license and the position of appellate court judge David Bazelon regarding

this ruling. The chapter also briefly discusses McIntire's radio career after the FCC forced WXUR off the air in July 1973.

Chapter 11 examines campaigns to repeal the Fairness Doctrine coordinated during the 1980s by former FCC Chairman Mark Fowler and the Freedom of Expression Foundation, campaigns which ultimately proved successful. In its public relations efforts to generate opposition to the doctrine, Fowler and the Freedom of Expression Foundation followed strategies similar to those employed by McIntire more than a decade earlier. McIntire made lawmakers, policymakers, the courts and the public increasingly aware of the problems he perceived with the Fairness Doctrine; Fowler, working within the FCC, and the Freedom of Expression Foundation, operating outside the Commission, extended this campaign. They succeeded in building a broad coalition of different individuals and organizations opposed to the doctrine. This coalition lent much-needed credibility to the movement to topple the Fairness Doctrine. The chapter explores the strategies the Freedom of Expression Foundation borrowed from McIntire.

In Chapter 12, I summarize my findings. These findings lead me to conclude that McIntire and WXUR played an underappreciated role in not only the transformation of communication policy in the United States during the second half of the twentieth century, but also in the formation of America's contemporary talk radio landscape. The reasons why McIntire felt compelled to launch a crusade to topple the Fairness Doctrine are discussed. A discussion of the "fairness" of the Fairness Doctrine is also included in this chapter.

Chapter 2: Existing Literature about Carl McIntire

While no scholarly work has closely examined McIntire's role in the history of the Fairness Doctrine, historians Erling Jorstad and Gary Clabaugh explore in some detail the important role he played in the American Protestant fundamentalist movement. In *The Politics of Doomsday: Fundamentalists of the Far Right*, Jorstad details how two major forces in twentieth-century America – extreme right-wing fundamentalism and McCarthyism – collaborated to produce the politics of the radical religious right:

> Fundamentalism of the far right was created by the merging of the ultrafundamentalist theology, which first appeared in the 1930s, and the political ideology of the far right, which was created in the late 1950s. These two currents were blended into a single stream by the leaders of ultrafundamentalism at about the time Senator John F. Kennedy announced his candidacy for the presidency of the United States … The far right and ultrafundamentalist movements might never have developed into multimillion dollar enterprises, nor indeed surpassed their five-figure incomes, had not John F. Kennedy, and all that he represented, become president at that moment in history. The radical right found in his principles, his personality, and the accomplishments of his administration the ideal embodiment of the internal conspiracy.[13]

Jorstad examines the origins of far right fundamentalism and attempts to explain the influence and appeal of some of its leading practitioners. "What I have done," the author writes, "is to show how four individuals and their programs have created 'the politics of doomsday.'"[14] He looks at the careers of McIntire, Billy James Hargis, Edgar C. Bundy and Vernon P. Kaub. Jorstad calls McIntire the "prime mover" on the far right. "He more than any other individual would establish the ideology, the tone, and the momentum for fundamentalism of the far right. His leadership would become paramount."[15] Jorstad examines the ascendance of McIntire,

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[13] Erling Jorstad, *The Politics of Doomsday: Fundamentalists of the Far Right* (Nashville, Tenn.: Abingdon Press, 1970), 14 and 82-83.

[14] Ibid., 17.

Hargis, Bundy and Kaub to leadership roles within the ultrafundamentalist movement, noting that "Dr. McIntire's many-sided program was largely responsible for inspiring two other ICCC (International Council of Christian Churches) colleagues (Hargis and Bundy) into forming their own enterprises."[16] Hargis would become a national figure through his *Christian Crusade* radio program and his role in the Red Lion case, while Bundy would gain national acclaim through his Church League of America.[17] Jorstad notes that, despite their differences, their adherence to ultrafundamentalist beliefs would bind them together:

> Outwardly it seemed as though they shared little in common; they differed widely in age, level of education, profession, and region. Within 15 years, however, they would become the most influential leaders in a religiously oriented action program, commanding six- and seven-figure budgets, sponsoring daily radio programs over a thousand stations, and molding the ideals and fears of tens of thousands of citizens. These men would become recognized as the leaders of fundamentalism of the far right. Their several differences would be submerged in the cause of their common interest in the American and International Council of Churches and their loyalty to the religious nationalism most fully expressed by Dr. Carl McIntire.[18]

According to Jorstad, these four men relied heavily on an "internal conspiracy thesis," one that exploited Americans' fear of Communism. McIntire, Hargis, Bundy and Kaub warned that Communist infiltrators were immersed in virtually all walks of American life, including the nation's Protestant clergy. This obsession with Communism would provide the common ground upon which the ultrafundamentalists would collaborate with the McCarthyites. From early 1950 to late 1954, McIntire, Hargis, Bundy and Kaub would cooperate with McCarthy and the Un-American Activities Committee in an effort to root out Communists who they believed had

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[15] Ibid., 27.

[16] Ibid., 70.

[17] Red Lion Broadcasting Co., Inc. et al. v. Federal Communications Commission and United States of America, 381 F.2d (1967).

[18] Ibid., 39.

infiltrated U.S. society. Jorstad details how McIntire made national headlines in 1952 when he found "Communist conspiracies" in the revised standard version of the Bible.[19] The ultrafundamentalists' willingness to collaborate with McCarthy and the Un-American Activities Committee was a precursor of things to come. "During the early 1960s, prior to the nomination of Senator (Barry) Goldwater for president, the ultrafundamentalists showed a growing willingness to forsake their separationism to work directly with those who shared their political convictions. That in itself was a momentous event for them."[20] McIntire saw similarities between the individualistic ethic of fundamentalism and Goldwater's notions of American individualism. "Protestants in the U.S. are for the most part conservatives," argued McIntire, "and don't forget that 27 million of them voted for Goldwater."[21]

Perhaps Jorstad's greatest contribution is his thorough analysis and interpretation of the ideology of McIntire and his fellow ultrafundamentalists. "The leaders and supporters hate and fight Communism with an indignation born of their religious convictions. In the name of anticommunism they conclude that liberalism is the inevitable first step to socialism; socialism is the inevitable twin sister of Communism. Just as no graduations or nuances are possible in their propositional theological doctrine, they allow no shadings in their condemnation of every system of government and economic organization which fails to meet their standards. A citizen has two choices: fundamentalism of the far right or doing the work of Satan."[22]

In his 1974 book, *Thunder on the Right: The Protestant Fundamentalists*, Clabaugh looks at those on the radical right of the fundamentalist movement. He coins the term "fundratists" to describe the Fundamental Protestant Radical Right and makes a sharp distinction between fundratists and the "common run" of fundamentalist preachers. "The nature of their ideology," writes Clabaugh, "causes them to be regarded as outcasts by the Fundamentalist mainstream … Fundratists dogmatically maintain that God *needs* (author's emphasis) America and laissez-faire capitalism, or that all in the world is either good or evil and that the United

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[19] Ibid., 55.

[20] Ibid., 114.

[21] Quoted in *Christian Beacon*, Aug. 19, 1965.

[22] Jorstad, *The Politics of Doomsday: Fundamentalists of the Far Right*, 138.

States is the God-anointed champion of the goodness."[23] While Clabaugh notes that the extremism of the fundratists led most Americans to regard them as "unworthy of serious thought or prolonged attention," he warns that "one should not confuse the absence of intellectual substance with the absence of importance."[24] Noting the "absurdity" of their views, Clabaugh outlines the fundratists' ability to assemble vast resources with which they spread their views and influenced public opinion. "Their resources are formidable. Their beliefs, while ridiculous, are so akin to Fascism that we ignore or laugh at them at our own peril."[25] Clabaugh argues that the fundratists dealt their most serious blow to public education, most notably sex education.

Clabaugh's objective is to expose what he believes are the dangers associated with the fundratists' message. He details the political and religious ideology of the fundratists, a list that includes McIntire, Hargis, Bundy and Fred C. Schwarz, an Australian physician who launched a "Christian Anti-Communism Crusade." The author dedicates significant attention to McIntire, who he maintains, "ranks first in the fundratist order of things. From its very beginning as a distinguishable entity in American Protestantism, the fundratist movement has borne his signature. He nurtured it, shaped it, set its ideological tone, established its major leaders, and set the direction of its thrust."[26] Clabaugh argues that when McIntire was deposed from the Presbyterian Church of the United States in 1936, he became isolated from not only mainstream Protestantism but from most members of the fundamentalist movement as well. He believes that McIntire provided the "chief spawning ground for the fundratist movement."[27]

Clabaugh discusses two key factors that he believes transformed McIntire's "Twentieth Century Reformation" into a national movement. The first was a dramatic shift in McIntire's ideology. He began his career preaching exclusively on religious matters but soon extended his theology – and his sermons – to cover political and economic issues. The second factor Clabaugh believes played a pivotal role in McIntire's rise to influence and power - and helped give birth to the fundratist movement -was the advent of the Cold War. The author emphasizes

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[23] Gary Clabaugh, *Thunder on the Right: The Protestant Fundamentalists* (Chicago, Ill.: Nelson-Hall Co., 1974), 2.

[24] Ibid.

[25] Ibid., XV.

[26] Ibid., 69.

[27] Ibid., 74.

the importance of religious nationalism in not only the emergence of the fundratist movement but in the emergence of traditional Protestant fundamentalism as well. "The birth of modern Fundamentalism coincided with the advent of the First World War … It had consolidated its position during the 'Great Red Scare' of the early 1920s. Both of these times left their mark on the movement and Fundamentalism came to include a measure of 'Christian-Americanism' and ill-defined 'Anti-Communism' as an integral part of its ideology."[28]

According to Clabaugh, while McIntire deserves credit for "setting the direction of the fundratist movement's thrust," he was not the first to blend fundamentalism with "ultra right-wing or quasi-fascist political activities."[29] Clabaugh notes that McIntire followed in the footsteps of Gerald B. Winrod, Gerald L.K. Smith and William Dudley Pelley, yet he maintains that the credit for "launching" the movement must be given to McIntire. "It remained for Carl McIntire to seize the unparalleled opportunity presented by the Cold War in order to really unite the 'fundamentalism of the cross' with the 'fundamentalism of the flag' … He did this by proclaiming that democracy's right to exist was solely derived from its usefulness as a means of serving Jesus Christ."[30] Clabaugh points to the Red Scare as the key event that provided an opportunity for McIntire to sow the seeds of the fundratist movement. Americans' increasing fear of the threat posed by Communism, argues Clabaugh, served to boost McIntire's popularity. "McIntire pounded away with ever-increasing vigor on conspiracy, the Communist menace, and the necessity of re-embracing God, the family, and the mythic America of the theocratic Golden Age. And when this type of approach began to be skillfully used in Congress and the mass media by Senator Joseph R. McCarthy, it became increasingly respectable and popular. Suddenly, McIntire and his followers were on their way to unprecedented public esteem and influence – riding atop a wave of Cold War-engendered, anti-Communistic, one-hundred-percent Americanism."[31]

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[28] Ibid., 83.

[29] Ibid.

[30] Ibid., 84. See also Richard Hofstadter, *The Paranoid Style in American Politics* (New York, N.Y.: Random House, 1965).

[31] Ibid., 85.

The boost provided by McCarthyism notwithstanding, Clabaugh notes that it was only after McIntire began utilizing the radio airwaves that he began to gain widespread popularity. The author offers a cursory glance at WXUR and the station's problems with the Federal Communications Commission. Regarding the Fairness Doctrine specifically, Clabaugh is no fan, noting that "some of those who had hauled him into court were probably less interested in fairness than they were in silencing McIntire … The Fairness Doctrine has the potential for becoming a major means of subverting the First Amendment."[32]

In a June 2007 essay in *American Quarterly* titled "God's Angriest Man: Carl McIntire, Cold War Fundamentalism, and Right-Wing Broadcasting," Heather Hendershot acknowledges McIntire's role in the history of the Fairness Doctrine. The author focuses on McIntire's significance in the history of American fundamentalism and the emergence of the new Christian Right. She also recognizes McIntire's lasting imprint on American broadcast policy and contemporary talk radio programming. Hendershot describes McIntire as a "successful failure," noting that the loss of WXUR's license had long-range implications. She suggests that the battles McIntire waged against the FCC provided incentive for legislators in a war that would continue against the Fairness Doctrine in the wake of McIntire's defeat, culminating in the doctrine's repeal in 1987. Legislators who waved the banner of opposition to the Fairness Doctrine, including senators Sam Ervin of North Carolina and Strom Thurmond of South Carolina, eventually found success in their venture, in part because of the battles McIntire waged and lost two decades earlier. Hendershot argues that McIntire's staunch opposition to government regulation of the broadcast airwaves would, under President Reagan, "become normalized as merely conservative."[33] This normalization of broadcast policy, posits Hendershot, helped shift American communications policymaking to the ideological right.

In *The Good Guys, the Bad Guys and the First Amendment*, Fred Friendly dedicates a chapter to the story of WXUR and the Fairness Doctrine. This chapter is part of a larger body of work in which Friendly seeks to trace the origins of the Fairness Doctrine and the FCC's ineffectiveness in enforcing the doctrine. Friendly concludes that the Fairness Doctrine, while noble in its goals, "has taxed the (American) system's balancing mechanism to its limits without

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[32] Ibid., 202.

[33] Heather Hendershot, "God's Angriest Man: Carl McIntire, Cold War Fundamentalism, and Right-Wing Broadcasting," *American Quarterly* 59, 2 (June 2007): 375.

achieving its goals."[34] A harsh critic of the doctrine, Friendly argues that the First Amendment rights of broadcasters override other public interest considerations.

With regards to McIntire and WXUR, Friendly examines the various decisions of the courts in their story, notably the opinion of Washington, D.C., Appellate Court Judge David Bazelon. After the Commission overturned an FCC hearing examiner's decision and decided not to renew WXUR's license, the station appealed the decision. On September 25, 1972, the Washington, D.C., appellate court upheld the FCC's decision to shut down WXUR. In his majority opinion, Judge Edward Tamm wrote that "these men, with their hearts bent toward deliberate and premeditated deception, cannot be said to have dealt fairly with the Commission or the people of the Philadelphia area. Their statements constitute a series of heinous misrepresentations which, even without the other factors in the case, would be ample justification for the Commission to refuse to renew the broadcast license."[35] What Friendly is most interested in with relation to this case, however, is Bazelon's opinion. While Bazelon initially concurred with Tamm on the decision not to renew WXUR's license, noting that "the licensee deliberately withheld information about its programming plans," he also noted that a "full statement of his views will be issued at a later date."[36] It is this statement, which Bazelon released November 4, 1972, that Friendly calls the "most devastating blow" to the Fairness Doctrine up to this point.[37] In this statement, Bazelon reversed his position concerning WXUR, writing that "the matter does not appear to me now as it appears to have appeared to me then … In the context of broadcasting today, our democratic reliance on a truly informed American public is threatened if the overall effect of the Fairness Doctrine is the very censorship of controversy which it was promulgated to overcome."[38] Friendly calls Bazelon's reversal "the

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[34] Fred Friendly, *The Good Guys, the Bad Guys and the First Amendment* (New York: Random House, 1975), 236. The Fairness Doctrine was still in effect at the time Friendly's book was published. Friendly suggested in an article in *The New York Times* on March 30, 1975, that the Kennedy and Johnson administrations organized secret campaigns to harass radio commentators who did not support their presidential agendas.

[35] Brandywine-Main Line Radio, Inc. v. Federal Communications Commission, 473 F.2d 16, 46-47 (1972).

[36] Ibid., 63.

[37] Friendly, *The Good Guys, the Bad Guys and the First Amendment*, 83.

[38] Ibid., 63-64.

most quoted denunciation by an independent and respected mind of the FCC's attempt to ensure fairness."[39]

In their 1994 book *Regulating Broadcast Programming*, Thomas Krattenmaker and Lucas Powe dedicate a chapter to discussion of the Fairness Doctrine and part of this chapter discusses McIntire and WXUR.[40] The authors describe McIntire as a "superstar in the group of highly controversial right-wing radio ministers."[41] Krattenmaker and Powe write that "no one could deny that WXUR was meeting one of the asserted purposes of the Fairness Doctrine, the presentation of controversial programming … Before his purchase of WXUR, McIntire's type of voice was unavailable in Philadelphia … So long as radios have dials, the McIntire case was wrongly decided."[42]

Krattenmaker and Powe accuse the FCC of inconsistency in its handling of fairness cases. "If the doctrine is to be taken seriously, then suspected violations lurk everywhere, and the FCC should undertake a more consistent monitoring of what is aired. If the FCC will not – or cannot – do that, then the doctrine must be toothless except for the randomly selected few who are surprised to feel its bite after the fact. Furthermore, as the McIntire facts demonstrate, it is likely that the egregious cases where enforcement will occur will continue to involve stations that air significantly more controversial programming than the average. Thus, the doctrine will be enforced against those who best serve one of the stated purposes of the Fairness Doctrine: broadcasting controversial programming."[43] The authors support the FCC's 1987 decision to repeal the doctrine. "The Fairness Doctrine (is) an ill-advised and inefficacious regulatory policy. Honoring the journalistic ethic of thorough and balanced coverage is a noble goal. Legislating and enforcing such behavior, however, is at best a meaningless and futile gesture, at worst a counterproductive and unconstitutional act."[44]

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[39] Brandywine-Main Line Radio, Inc. v. Federal Communications Commission, 473 F.2d 16, 46-47 (1972): 80.

[40] Thomas Krattenmaker and Lucas Powe, *Regulating Broadcast Programming* (Cambridge, Mass.: MIT Press, 1994).

[41] Ibid., 266.

[42] Ibid., 267.

[43] Ibid., 270.

[44] Ibid., 275.

In a 1990 essay in the *Journal of Broadcasting and Electronic Media* titled "Unlicensed Broadcasting in the U.S.: The Official Policy of the FCC," Steven Phipps examines the government's response to Carl McIntire's "Radio Free America," an unlicensed radio station McIntire operated from a sea vessel off the coast of New Jersey. McIntire launched a pirate radio station after the FCC forced WXUR off the air in July 1973. Believing the FCC's control over broadcasters did not extend beyond a three-mile territorial limit off the nation's coastlines, McIntire broadcast from the *Columbus*, a ship stationed approximately 12 miles off the shores of Cape May, New Jersey, on September 19, 1973. Phipps shares the story of Radio Free America and the steps the FCC took to remove McIntire from the air waves for a second time. Government officials filed a complaint charging that McIntire violated a national law requiring that radio broadcasters transmitting from the seas be licensed by the FCC. The government also argued that Radio Free America was violating the International Telecommunications Convention of 1959, which prohibited the operation of a broadcast station from a ship outside national territories. A temporary injunction was instituted and McIntire was again off the air. McIntire fought the injunction on a number of different grounds, including the argument that "the legal action taken against (his) offshore station was the result of a conspiracy against him in the executive branch of government because of his outspoken opposition to various policies of the president."[45] Phipps notes that while the FCC, historically, has been reluctant to intervene in cases involving "pirate" broadcasters, in this case it felt it had no choice but to again force McIntire off the air because he "sought large audiences, enjoyed wide publicity, operated in open defiance of the FCC, and interfered with licensed stations."[46]

In *Danger on the Right*, Arnold Forster and Benjamin Epstein explore the influence of those they categorize as the "radical right and extreme conservatives on the American scene."[47] The authors dedicate a chapter to McIntire and his Twentieth Century Reformation movement. Highly critical of McIntire and his motives, the authors suggest that "the dominant factor in this preacher's life has been the certainty that his own very narrow view is the only correct one, and

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[45] Steven Phipps, "Unlicensed Broadcasting in the U.S.: The Official Policy of the FCC," *Journal of Broadcasting & Electronic Media* 34, 2 (Spring 1990): 142.

[46] Ibid., 148.

[47] Arnold Forster and Benjamin Epstein, *Danger on the Right* (New York, N.Y.: Random House, 1964).

that any view that differs is indeed diabolical."[48] Arguing that McIntire's radio broadcasts dealt much more with political and economic issues than with religious ones, the authors suggest that McIntire used his faith to propagandize on political and economic issues on behalf of the radical right.[49] Forster and Epstein explore McIntire's obsession with rooting out Communism and socialism in the United States and chronicle the ways in which he used his leadership position within the American Council of Christian Churches to promote his anti-Communist agenda. The authors also recognize McIntire's strong influence over his radio audience. "Despite widespread criticism of McIntire's inaccuracy, exaggeration and what sometimes seems to be deliberate distortion, his followers fanatically support him."[50] Forster and Epstein outline McIntire's relationships with other "far-right operators," connecting him to, among others, Merwin Hart (founder of the National Economic Council and chairman of the New York branch of the John Birch Society), Harvey Springer (publisher and editor of the *Western Voice*, a publication critical of the modernist movement) and the John Birch Society.[51] They identify him as a major anti-Catholic propagandist who opposed John F. Kennedy in his race for the White House in 1960 "precisely because the senator was Catholic."[52]

In a 1963 essay published in the journal of *Western Speech*, Barnet Baskerville analyzes the "methods of discourse" of McIntire, Hargis and Schwarz."[53] Baskerville describes McIntire as a man with remarkable communication skills. "His 30-minute program is all talk – most of it extemporaneous. There are no hymns, soloists, or organ music … He beseeches the Almighty to insure contributions sufficient to provide 600 stations. He reads with enthusiastic approval – or with venomous sarcasm – editorials, news items and letters. He pounces on each item with the exuberance of discovery, sharing with his listeners the excitement of uncovering a dark conspiracy, of watching this thing unfold. His touchstone is always the infallible Bible."[54]

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[48] Ibid., 100.

[49] Ibid., 103.

[50] Ibid., 112.

[51] Ibid., 107-108.

[52] Ibid., 109.

[53] Barnet Baskerville, "The Cross and the Flag: Evangelists of the Far Right," *Western Speech* (Fall 1963).

Baskerville argues that McIntire, Hargis and Schwarz all sought to initiate a "great awakening" and, in contrast to evangelists from an earlier generation, emphasized the negative as opposed to highlighting the positive. Baskerville suggests that the trio of evangelists discovered the advantages of identifying an enemy and found that Communists made for a particularly attractive foe.[55] Baskerville uses a number of examples to demonstrate the ways in which McIntire, Hargis and Schwarz capitalize on this strategy. "After the Medicare bill failed to pass," notes Baskerville, "President Kennedy called it a defeat for every American family, and mentioned especially young people from 35 to 40 whose parents might soon be needing medical aid. Dr. McIntire immediately accused the President of subverting the Ten Commandments. In McIntire's view, the Commandment 'Honor thy father and thy mother,' gives to children the responsibility for the care of their parents. On the same broadcast, McIntire invoked another Commandment, 'Thou shalt not steal,' to attack the whole institution of taxation, which in his view is often just plain robbery. He says, in effect, when you take money out of one man's pocket to put into the pocket of someone else, that's stealing."[56]

A number of other non-historical studies involving McIntire have been conducted. Nan Lin, a sociologist, collected data from a McIntire-led march for victory in the Vietnam War to construct a model to examine the process of participation commitment at mass demonstrations.[57] He interviewed participants in the victory march and others at anti-war demonstrations and concludes that subjects' previous participation in similar events is a more significant indicator of the likelihood to participate in such an event than political ideology. The march at which Lin conducted interviews for the study was held on October 3, 1970, in Washington, D.C., and was the second of two such events. McIntire called upon his listeners to turn out for the inaugural "March for Victory" in Vietnam on April 4, 1970, and approximately 10,000 people showed up. Five days later, McIntire conducted a press conference and announced that a second march would be held on October 3 of that year.

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[54] Ibid., 202.

[55] Ibid., 202.

[56] Ibid., 204.

[57] Nan Lin, "The McIntire March: A Study of Recruitment and Commitment," *The Public Opinion Quarterly* 38, 4 (Winter 1974-75).

In July 1970, McIntire invited South Vietnam's Vice President Nguyen Cao Ky to October's March for Victory and, to the surprise of many, Ky accepted the invitation. The vice president, however, would ultimately back out of the visit, bowing to pressure from the Nixon administration, despite a September visit by McIntire to Ky in South Vietnam during which he tried to convince him to reconsider.[58] Ky's initial acceptance and subsequent decline of McIntire's invitation generated widespread publicity for the event, more national attention, argues Lin, "than any other right-wing movement or demonstration in recent American history."[59] Washington, D.C., police estimated the number of attendees at the October march at somewhere between 15,000 and 20,000.[60]

In a study which ran in the fall 1972 edition of *Western Speech* titled "Belting the Bible: Madalyn Murray O'Hair vs. Fundamentalism," Lee Hudson utilizes heuristic criticism, a form of rhetorical analysis, to analyze a televised debate between McIntire and atheist Madalyn O'Hair.[61] Hudson examines the offensive and defensive strategies employed by McIntire and O'Hair during an hour-long debate over the existence of a higher power, including the use of frustration, challenge and humor. She explores McIntire and O'Hair's image development and their interaction with audience members at the event. In the essay, Hudson notes that "McIntire prides himself on his steadfast championing of an infallible Bible, especially in this time of religious liberalism. The pride is common knowledge, like his political bias - to crush all Communism in the church and the entire world."[62]

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[58] Colorado Sen. Gordon Allot, chairman of the Senate's Republican Policy Committee, argued that "it is wrong for an official of a foreign government to attempt to tamper with the political process and public opinion of another country." Quoted in "Ky Told to Stay Home," *The Titusville Herald*, September 18, 1970: A1.

[59] Ibid., 564.

[60] Ibid., 565.

[61] Lee Hudson, "Belting the Bible: Madalyn Murray O'Hair vs. Fundamentalism," *Western Speech* (Fall 1972).

[62] Ibid., 237-238.

Chapter 3: Roots of the Fairness Doctrine

While the 1959 amendment to the Communications Act of 1934 marked the birth of the Fairness Doctrine, the seeds for fairness guidelines were sown years earlier. The first major legislation governing radio in the United States was the Radio Act of 1912. The primary purpose of this act was to regulate the use of the electromagnetic spectrum by ships at sea, but it proved ill-equipped to address the emerging challenges associated with a medium that was growing exponentially. KDKA in Pittsburgh became the first American commercial radio station in November 1920. By the end of February 1922, 60 radio stations had been licensed by the federal government. By the close of 1925, over 575 broadcast stations were competing for space within the spectrum. These stations constantly interfered with one another, resulting in a cacophony of static and unintelligible programming. In describing the competing signals of two Washington, D.C., stations broadcasting church services in 1922, Walter Emery noted that "what poured from the receivers was a pain-provoking jumble of noise that was more conducive to neuroses than quiet religious worship."[63] Not surprisingly, listeners began to complain.

On February 8, 1922, President Warren Harding directed Secretary of Commerce Herbert Hoover to organize a meeting of government and civilian experts to discuss these interference problems. The first National Radio Conference was conducted on February 27, 1922. Fifteen delegates participated – 10 government officials and five private sector participants.[64] At this conference, Hoover discussed a "public interest standard" for radio broadcasters, arguing that some degree of government regulation was justified to ensure the public interest was being served. "It becomes of primary public interest," noted Hoover, "to say who is to do the broadcasting, under what circumstances, and with what type of material."[65] Attendees at the conference concluded that "use (of the radio airwaves) should not be exploited by 'uncontrolled entities'- whether large numbers of small stations or powerful monopolies attempting to push

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[63] Walter Emery, *Broadcasting and Government: Responsibilities and Regulations* (East Lansing, Mich.: Michigan State Univ. Press, 1989), 26.

[64] Edward Sarno, "The National Radio Conferences," *Journal of Broadcasting* 13, 2 (Spring 1969).

[65] Herbert Hoover, Speech to the First National Radio Conference (Feb. 27, 1922), quoted in Krattenmaker and Powe, *Regulating Broadcast Programming*, 8.

their private viewpoints over the air."[66] These conclusions helped lead to the 1927 Radio Act and the eventual amendment that promulgated the Fairness Doctrine.

The recommendations by participants at this first National Radio Conference provided the basis for a proposed bill in the House of Representatives by Maine Congressman Wallace White. The bill, which noted that "it is as difficult for two stations in the same locality to simultaneously transmit on the same wavelength as it is for two trains to pass each other upon the same track," passed in the House but failed to gain sufficient support in the Senate.[67] As chaos on the airwaves continued to escalate, Hoover called for a second Radio Conference, which began on March 20, 1923. The primary objective of the second conference was to devise a temporary plan to alleviate some of the interference on the airwaves, at least until Congress passed legislation addressing this increasingly problematic situation. Out of this conference emerged a "public interest standard." Erik Barnouw notes that attendees at the second National Radio Conference believed Hoover and the Commerce Department should have authority to "regulate hours and wavelengths of operation of stations when such action is necessary to prevent interference detrimental to the public good."[68] White again proposed a bill in the House following the second conference, but again the bill died.[69]

President Calvin Coolidge addressed the third National Radio Conference, which convened on October 6, 1924. "It would be unfortunate indeed," noted Coolidge, "if such an important function as the distribution of information should ever fall into the hands of Government. It would be still more unfortunate if its control should come under the arbitrary power of any person or group of persons. It is inconceivable that such a situation could be allowed to exist."[70] There was no congressional action in response to this third conference and a fourth such gathering commenced on November 9, 1925. More than 400 individuals attended

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[66] Steven Simmons, *The Fairness Doctrine and the Media* (Los Angeles, Calif.: University of California Press, 1978), 19.

[67] H.R. 13773, (67th Congress, Fourth Session), introduced and referred to the Committee on the Merchant Marines and Fisheries (64th *Congressional Record* 1617).

[68] Erik Barnouw, *A Tower in Babel* (New York, N.Y.: Oxford Univ. Press, 1966), 121.

[69] H.R. 7357, (68th Congress, First Session), introduced and referred to the Committee on the Merchant Marines and Fisheries (65th *Congressional Record* 3294).

[70] Supra note 2, 197.

this fourth conference, representing a wide array of constituents including radio manufacturers, government and public broadcasting engineers, amateur radio operators, concerned citizens and educators.[71] The First Amendment rights of the individual (broadcaster) versus the rights of the collective (the listeners) were debated. In Hoover's view, the rights of the listeners - a cornerstone of the Fairness Doctrine - were paramount. "We hear a great deal about freedom of the air," noted the Secretary of Commerce, "but there are two parties to freedom of the air, and to freedom of speech for that matter. Certainly in radio I believe in freedom for the listener."[72] On November 11, 1925, conference participants submitted to Hoover their recommendations to amend the existing laws under the Radio Act of 1912. Among these recommendations was that no radio monopolies should be permitted to emerge.[73] In December 1925, Congressman White again proposed a bill to adopt the conference participants' recommendations. The bill prioritized listeners' rights over those of broadcasters and recognized that there is a limited number of frequencies within the ether. It was passed by both the House and the Senate and became the foundation for the Radio Act of 1927.[74]

The 1927 Act mandated the creation of a five-member Federal Radio Commission with the power to license broadcasters and determine the frequencies and wattage power at which these licensees could operate.[75] The Federal Radio Commission would award broadcast licenses

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[71] Ibid.

[72] Fourth National Radio Conference, *Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio*. (Washington, D.C.: Government Printing Office, 1926), 18.

[73] Supra note 2.

[74] H.R. 5589, (69th Congress, First Session), introduced and referred to the Committee on the Merchant Marine and Fisheries (67th *Congressional Record* 901; debated, 5474, 5485, 5585). While White spearheaded the efforts to regulate radio in the House, Washington's Clarence Dill was the leading sponsor of the 1927 Radio Act in the Senate as well as the Communication Act of 1934. "Uncle Sam should not only police this 'new beat,'" note Dill, "he should see to it that no one uses it who does not promise to be good and well-behaved." – *A Traffic Cop for the Air*, 75 Rev. of Rev. (1927): 181.

[75] In its inaugural report to the Congress in June 1927, the FRC suggested that its first order of business was "clearing up the broadcasting situation. With the physical capacity of the available channels, or wave lengths, already far exceeded by the number of stations actually in operation, and with no provision in the law for Federal acquisition or condemnation of broadcasting stations in order to reduce the total number, the commission found it necessary to evolve some plan whereby, without any unconstitutional exercise of arbitrary authority, the listening public could receive more dependable broadcasting service." – Federal Radio Commission, First Ann. Rep. 1 (1927). Here we see the emphasis on the rights of the collective prioritized over the rights of the individual.

to applicants that it believed would best serve the "public convenience, interest, or necessity."[76] Regarding the issue of fairness specifically, members of Congress discussed whether to include a specific mandate requiring licensees to provide "balanced" treatment of issues of public importance in the 1927 Act. Texas Congressman Luther Johnson proposed an amendment to the Act suggesting that "equal facilities and rates, without discrimination, shall be accorded to all political parties and all candidates for office, and to both proponents and opponents of political questions or issues."[77] Ultimately, no such measure was included.[78]

The Communications Act of 1934 created a seven-member Federal Communications Commission with more expanded regulatory powers than those held by the Federal Radio Commission. The Senate proposed that a fairness provision be included in this Act, one designed to ensure "equal opportunity in the presentation of views on a public question to be voted upon at an election … It is in the public interest for a licensee, so far as possible, to permit equal opportunity for the presentation of both sides of the public question."[79] This provision, however, was pulled out of the Communications Act by the House Committee on Interstate and Foreign Commerce. What was included in the Communications Act of 1934 was Section 315, which became known as the equal-time provision. Section 315 stipulated that if a broadcast outlet provides airtime for one candidate, it must allow the candidate's opponents a similar opportunity. For example, if one candidate pays X amount for airtime, his opponent must be granted airtime at a similar rate. If one candidate gets free airtime, airtime at no charge must be made available to his opponents.

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[76] Ford Rowan, *Broadcast Fairness: Doctrine, Practice, Prospects* (New York: Longman, 1984).

[77] 67 Cong. Rec. 5558 (1926). The foresight of Johnson regarding the problems associated with contemporary political "fairness" on the broadcast airwaves is remarkable. During debates before the Radio Act passed, Johnson predicted to his colleagues that "American thought and American politics will be largely at the mercy of those who operate these (radio) stations, for publicity is the most powerful weapon that can be wielded in a republic. And when such a weapon is placed in the hands of a person, or a single selfish group is permitted to either tacitly or otherwise acquire ownership or dominate these broadcasting stations throughout the country, then woe to be those who dare to differ with them. It will be impossible to compete with them in reaching the ears of the American people" – 67 Cong. Rec, 5483 (1926).

[78] Supra note 4. In 1932, Congress passed several amendments to the 1927 Radio Act, including one which suggested that "it shall be deemed in the public interest for a licensee, so far as possible, to permit equal opportunity for the presentation of both sides of public questions" – in essence, a fairness requirement.[78] Hoover, now president, vetoed this provision of the amendment.

[79] S. 3285, sec. 315(a), 73d Cong., 2d Sess. (1934).

A number of cases during the late 1920s and early 1930s played a role in the eventual promulgation of the Fairness Doctrine. In 1932, the Rev. Dr. Robert Shuler and his Los Angeles radio station, KGEF, were denied license renewal by the Federal Radio Commission. Shuler broadcast sermons every Sunday over his one-kilowatt southern California station and hosted two one-hour shows on the station each week – the *Bob Shuler Question Hour* and *Bob Shuler's Civic Talk*. At the peak of his popularity, "Fighting Bob" commanded an audience of roughly 600,000 listeners.[80] Following a number of complaints from listeners, the Federal Radio Commission investigated Shuler and KGEF, concluding that Shuler had used the station to launch unsubstantiated attacks on, among others, Catholics, Jews, members of organized labor and local judges. Shuler and KGEF applied for license renewal in 1930, and following a hearing before a Federal Radio Commission examiner, the license renewal was approved. Shuler's critics lobbied the Federal Radio Commission to reverse the hearing examiner's decision and after reviewing the records from the hearing, the Federal Radio Commission did just that, denying license renewal and ordering KGEF off the air immediately. The Federal Radio Commission concluded that Shuler had used KGEF as a forum for unfounded attacks on public officials. A court of appeals upheld the Federal Radio Commission's decision and rejected the station's claims that its First Amendment rights had been violated. The appellate court noted that while prior restraint was prohibited under the First Amendment, punishment after the fact – such as denying license renewal – was not.[81]

In 1929, the Chicago Federation of Labor petitioned the Federal Radio Commission for permission to increase the power and hours of operation of radio station WCFL on the basis that the station carried programs that were of interest to organized labor. The Federation argued that there were enough people interested in issues related to organized labor to justify the power increase and extended hours. The Federal Radio Commission disagreed, arguing that "there is no place for a station catering to any (one) group … all stations should cater to the general public and serve public interest, as against group or class interest … If all the programs transmitted are intended for, and interesting or valuable to, only a small portion of that public, the rest of the

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[80] Charley Orbison, "Fighting Bob Shuler," *Journal of Broadcasting* 21 (1977): 459-460.

[81] *Broadcast* magazine strongly disagreed with the FRC's decision to silence Shuler – "the Radio Commission may now muzzle a station simply because of the utterances heard over it." *Broadcasting*, January 15, 1933.

listeners are being discriminated against."[82] Erwin Krasnow argues that the Federal Radio Commission's decision "firmly established programming content as a criterion of the public interest, and included notions which later formed the basis for the FCC's requirements governing ascertainment of community needs and the Fairness Doctrine."[83]

The Federal Radio Commission issued a set of guidelines in its 1929 Great Lakes Statement that sowed the seeds that would germinate into the Fairness Doctrine. The Great Lakes Broadcasting Company had applied to the Federal Radio Commission for a license modification because of interference between its station and two others in the Chicago area. The Federal Radio Commission denied Great Lakes Broadcasting's request and, in the process, established guidelines for assessing licensees' performance under the public interest standard:

> Broadcasting stations are licensed to serve the public, and not for the purpose of furthering the private or selfish interests of individuals or groups of individuals. The standard of public interest, convenience or necessity means nothing if it does not mean this … In so far as a program consists of discussion of public questions, public interest requires ample play for the free and fair competition of opposing views, and the Commission believes that the principle applies … to all discussions of issues of importance to the public. In such a scheme there is no room for the operation of broadcasting stations exclusively by or in the private interests of individuals or groups so far as the nature of the programs is concerned.[84]

Great Lakes marked the first case that dealt clearly and unambiguously with the requirement to present various sides on contrasting issues of public importance and emphasized that broadcasters are expected to use the airwaves to benefit the public at large. It also

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[82] Chicago Federation of Labor v. FRC, 41 F.2d 422 (D.C. Circuit 1930).

[83] Erwin Krasnow, *"The Public Interest" Standard: The Elusive Search for the Holy Grail,"* Briefing paper prepared for the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, Sect. II, Part B (1997).

[84] *Great Lakes Statement* in the matter of application of Great Lakes Broadcasting Co., FRC Docket No. 4900, 3 FRC Ann. Rep. 2 (1929).

established radio stations' content as fair game in assessing whether or not a station was serving the public interest.

If the seeds of the Fairness Doctrine were sown in the Great Lakes Statement, the FCC's 1941 decision regarding Mayflower Broadcasting created the climate within which the doctrine could flourish. The Mayflower Broadcasting Company in Boston had applied for a frequency that was already being used by WAAB, a station owned by the Yankee Network. Mayflower argued that WAAB's broadcasting privileges should be denied because the station had endorsed political candidates and supported partisan positions on issues of public importance, making no effort to maintain balance. The FCC convened a hearing to examine WAAB's programming and concluded that "no pretense was made at objective, impartial reporting."[85] Despite this finding, the Commission renewed WAAB's license after its owner, John Shepard, promised that the station would refrain from future editorializing. "Truly free radio," noted the FCC upon its decision to renew WAAB's license, "cannot be used to support the candidacies of (licensees') friends. It cannot be devoted to the support of principles (a licensee) happens to regard most favorably … The broadcaster cannot be an advocate."[86]

While many broadcasters argued that the FCC's decision not to allow editorializing by licensees impinged upon their First Amendment rights, the Commission countered that it was precisely because of the First Amendment that it was required to take such action: "Freedom of speech on the radio must be broad enough to provide full and equal opportunity for the presentation to the public of all sides of public issues. Indeed, as one licensed to operate in a public domain, the licensee has assumed the obligation of presenting all sides of important public questions, fairly, objectively and without bias. The public interest – not the private – is paramount."[87] The Mayflower Doctrine created an atmosphere of great uncertainty regarding what broadcast licensees could and could not do. As a result, the FCC ordered hearings in September 1947, in order to address "widespread discussion of the exact meaning of its opinion of January 16, 1941, in the Mayflower Broadcasting Corp. case, its application to particular situations, and the desirability or undesirability of having a general policy concerning

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[85] *Mayflower Broadcasting Corp.*, 8 FCC, 333, 338 (1941).

[86] Ibid.

[87] Ibid.

editorializing by broadcast stations."[88] Hearings were conducted in March and April 1948 and the FCC issued its *Report on Editorializing by Broadcast Licensees* on June 2, 1949.[89] This report required licensees to "devote a reasonable percentage of their broadcast time to the discussions of public issues of interest in the community served by their stations and that such programs be designed so that the public has a reasonable opportunity to hear different opposing positions on the public issues of interest in the community."[90] While this report alleviated some of the confusion regarding the expectations of the FCC with regards to programming following the Commission's decision in Mayflower, it by no means provided licensees a road map on what the FCC expected. How broadcasters chose to meet their fairness requirements was left to their own discretion, as were decisions on what constituted "public issues of interest." While the report made clear the FCC's expectation that coverage "extend to all subjects of substantial importance to the community coming within the scope of free discussion under the First Amendment without regard to personal views and opinions of the licensee on the matter," it was left to broadcasters to decide what issues were of "substantial importance to their communities."[91] While slightly less muddied, the waters through which licensees were to navigate were far from clear.

The Fairness Doctrine was introduced in 1959 when Congress amended the 1934 Communications Act and required licensees to provide "reasonable opportunities for the expression of opposing views on controversial issues of public importance."[92] The Report on Editorializing by Broadcast Licensees was incorporated in Section 315(a) of the Act. The two primary aspects of the doctrine, spelled out explicitly in the amendment, were that each station was obligated to cover matters of public controversy and each licensee, if covering only one side of a controversial issue, was additionally obligated to afford those with opposing points of view

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[88] *Annual Report to Congress of the Federal Communications Commission*, 28 (1948).

[89] *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1246, 1247-51 (1949).

[90] Ibid., 1246, 1249.

[91] Ibid. In its annual report to Congress in 1949, the FCC noted that "the particular format best suited for the presentation of such programs in a manner consistent with the public interest must be determined by the licensee." *Annual Report to Congress of the Federal Communications Commission*, 33 (1949).

[92] Federal Communications Commission, *Fairness Doctrine and Public Interest Standard* (The Fairness Report), 48 FCC, 2d 1 (1974).

the opportunity to discuss their "side of the story."[93] In 1963, the FCC announced its Cullman Principle, which clarified certain aspects of the Fairness Doctrine.[94] The Cullman Principle stipulated that if only one side of an issue is presented by a licensee, the station is obligated to present the contrasting viewpoint on this issue, regardless of whether anyone is willing to pay for the air time to present the contrasting viewpoint. Under the Cullman Principle, stations were not permitted to deny reliable spokespeople air time to argue the opposing side of a contrasting viewpoint, even if these individuals did not have the money to pay for air time. The Cullman Principle would lead to the personal attack rule being added to the Fairness Doctrine. This rule required that a licensee notify individuals or groups attacked during the broadcast of controversial issues of public importance, in order to make them aware of what was aired.[95]

The Cullman Principle and the personal attack rule outlined specific expectations the FCC had for broadcasters – it was no longer sufficient for licensees to simply provide the contrasting viewpoint to an issue of public importance. Yet the FCC provided licensees with no specific guidelines regarding how to identify a spokesperson qualified to present the contrasting viewpoint on an issue. Abiding by the rules set forth in the Cullman Principle and the personal attack rule was left to the reasonable discretion of the licensee.[96] This could mean seeking an outside spokesperson to present the contrasting viewpoint, or it could mean the broadcaster simply presenting contrasting views after demonstrating a good faith effort to make those on the other side of an issue aware of what was aired. While the FCC reminded licensees that it was important to present contrasting viewpoints on issues of public importance from those "who actually believe what they are saying," the criteria for meeting this standard were far from clear."[97] As noted by Simmons, "simple over-the-air announcements inviting responsible reply

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[93] Ibid.

[94] Cullman Broadcasting Co., Inc., responsibility under the Fairness Doctrine, Dkt. No. 63-849, 40 F.C.C. 576 (1963): "Where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a controversial issue , has not presented (or does not plan to present) contrasting viewpoints in other programming, and has not been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the licensee – and thus leave the public uninformed – on the ground that he cannot obtain paid sponsorship for that presentation."

[95] Radio Broadcast Services, Personal Attacks; Political Editorials, 32 Fed. Reg. 10,303 (1967).

[96] See Mid-Florida Television Corp., 40 F.C.C. 620 (1964).

[97] *Fairness Report*, supra note 1, at 26377 para. 41.

speakers to air their views have been deemed sufficient" despite the fact that the FCC has "used forceful rhetoric to emphasize a licensee's obligation to pursue the search for a contrasting spokesman vigorously."[98] The fact that the requirements for fulfilling obligations outlined in the Cullman Principle and the personal attack rule were ambiguous would emerge as significant factors in the story of Carl McIntire and WXUR.

In a landmark case related to the Fairness Doctrine, Red Lion Broadcasting and its radio station, WGCB, in Red Lion, Pennsylvania, challenged the constitutionality of the Fairness Doctrine and its personal attack rules in 1964 and lost. Awarded a license in 1950 and owned by the Rev. John M. Norris, WGCB resembled WXUR in its programming, providing its listeners a healthy dose of right wing political and religious commentary. One of the programs carried on WGCB was the Rev. Billy James Hargis' *Christian Crusade*. On his November 25, 1964, broadcast, Hargis attacked journalist Fred Cook and a book Cook authored titled *Goldwater: Extremist on the Right*. Cook was an investigative journalist for the *New York World-Telegram and Sun* newspaper. His book was highly critical of Barry Goldwater, the Republican Party's challenger to Lyndon Johnson in 1964. A staunch supporter of the conservative Goldwater, Hargis described Cook as a "professional mudslinger" on the broadcast and accused him of collaborating with Communists and fabricating stories."[99]

Three weeks after this program, Cook wrote a letter to Norris and the more than 200 other stations that carried Hargis' broadcast, requesting air time to respond to the attack: "I shall expect you to grant me equal time, at your expense, as provided in the FCC regulations, to answer in appropriate fashion the scandalous and libelous attack."[100] Cook had not been notified by any of the stations that carried Hargis' broadcast. He found out about it from the National Council for Civic Responsibility. Less than 50 of the stations that carried Hargis' attack agreed to provide Cook with air time to respond. Norris sent Cook a rate card and suggested he buy time on WGCB to respond. In return correspondence to Norris in December 1964, Cook told him that "the least of your obligation in this matter is to grant me free time for a brief reply. Otherwise, it is conceivable that radio stations might be able to drum up a fairly good business

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[98] Simmons, *The Fairness Doctrine and the Media*, 192.

[99] *Christian Crusade* radio program on WGCB, November 25, 1964.

[100] Letter from Cook to WGCB, December 19, 1964.

by selling time to persons who have been slandered."[101] Norris told Cook he would not provide him free air time. Cook turned to the FCC, which appointed a hearing examiner to look into the situation. In October 1965, the examiner concluded that WGCB should have notified Cook of the attack and was obligated to provide him with air time, regardless of whether he was willing to purchase the time.

Norris refused to comply with the FCC's directive and challenged the examiner's finding in the Washington, D.C., Court of Appeals. In June 1967, the appellate court heard arguments from lawyers for Red Lion and the FCC. The court concluded that Norris and WGCB's constitutional rights had not been abridged and that Cook was entitled to free air time to reply to the attack.[102] Unsatisfied, Norris and WGCB appealed to the U.S. Supreme Court, arguing that the station's First Amendment rights were being abridged. In April 1969, the Supreme Court agreed with the appellate court and rejected Norris' argument. "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount," noted Justice Byron White. "It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail."[103] In early June 1969, shortly after the high court reached its decision, Norris wrote Cook, offering him free air time. In a letter dated June 26, 1969, Cook responded: "I want to thank you for responding so quickly to the U.S. Supreme Court decision in this case and for offering me far more air time than I had sought originally. However, some four and a half years have now passed since the Hargis broadcast of late November 1964. To be of any effect, an answer to a personal attack such as this should be made as soon as possible. I cannot see much point at this date in raking up and rehashing the entire episode, the details of which have probably been forgotten by most listeners."[104] The Supreme Court's defense of the Fairness Doctrine and affirmation of the doctrine's personal attack rules in the Red Lion case served to further strengthen the FCC's fairness rules and its authority over radio and television programming.

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[101] Letter from Cook to Norris, December 31, 1964.

[102] *Red Lion Broadcasting Co., Inc. et al v. FCC and United States of America*, 381 F.2d 908, 924 (1967).

[103] *Red Lion Broadcasting, Inc. v. Federal Communications Commission*, U.S. Supreme Court, 395 U.S. 367, April 2, 1969.

[104] Letter from Cook to Norris, June 26, 1969.

Chapter 4: From Father Coughlin to Reverend Carl: McIntire's Right-Wing Radio Forefathers

While holding the distinction of becoming the first ultrafundamentalist to enjoy sustained success on the radio airwaves, Carl McIntire was not the first to utilize the U.S. radio airwaves as a bully pulpit for his political and religious views. Radio commentators have enjoyed a long and colorful history in the United States. Almost from its inception, American radio has provided a platform for personalities who felt it was not enough to simply deliver information to listeners. Many early U.S. radio commentators believed it was important to provide a certain degree of interpretation, explanation and analysis. Analysis, they reasoned, was necessary in order for the American public to fully understand and appreciate the issues of the day. During the 1930s and 1940s, Boake Carter, Upton Close, Charles Coughlin, Floyd Gibbons, H.V. Kaltenborn, Fulton Lewis Jr., Lowell Thomas and Walter Winchell were a few of the influential voices speaking to Americans over the ether, voices that attempted to explain an increasingly chaotic world to often captivated listeners. Most of the radio personalities of this era provided their listeners with relatively objective analysis and interpretation on local, national and international issues, with several notable exceptions. McIntire's ultraconservative and colorful commentary most closely resembled the work of Couglin, Lewis, Carter and Close. All four commanded loyal and large followings during the 1930s and 1940s, offering those who tuned in persistent criticism of President Franklin Roosevelt, his New Deal policies, and what they believed was the nation's catastrophic shift toward socialism.

McIntire's rise within radio resembled Coughlin's in many respects. A Canadian-born Roman Catholic priest, Coughlin was ordained at 25. He was working for a parish outside Detroit when he came up with the idea of taking advantage of radio to raise funds to help pay his church's mortgage. Generating revenue for his church was also one of the catalysts for McIntire's decision to turn to radio. Coughlin's initial broadcast in October 1926 was delivered over Detroit radio station WJR and was a traditional sermon. It garnered so much interest that the station's owner, Dick Richards, offered him a regular slot on Sunday afternoons. Coughlin continued to preach to listeners on strictly religious issues until January 1930, when he began speaking about the threats of Communism and socialism he saw facing the United States on his radio show, now titled *The Golden Hour*. This foray into political commentary was so well-

received that soon the radio priest's broadcasts dealt almost exclusively with political matters. Coughlin's meteoric rise to celebrity coincided with the onset of the Great Depression. "Something or somebody must be at fault," notes Fang, referring to the Depression years, "but it was hard to know who – unless you tuned to *The Golden Hour*. Father Coughlin knew who was at fault and he said so every Sunday afternoon."[105]

More often then not, Coughlin laid blame for the nation's economic problems at the feet of Roosevelt. But not initially. Coughlin met Roosevelt in early 1932 and liked the president immediately. Although he did not publicly endorse FDR in his race against Herbert Hoover for the presidency, he did ratchet up his criticism of Hoover, attacking the president on a wide range of topics, notably his decision to loan billions of dollars to foreign governments while not providing sufficient financial help, in Coughlin's view, to struggling Americans. Following Roosevelt's election victory, Coughlin made his support for the new president clear on his broadcasts. Alan Brinkley notes that "hardly a major speech or legislative action passed in 1933 without inspiring a Coughlin letter, telegram, or telephone call offering warm words of approval."[106] But just as McIntire would demonstrate initial support and then strong dissatisfaction with President Richard Nixon, Coughlin would with Roosevelt. Coughlin considered himself an expert on economic issues and he split with the Roosevelt administration on what would be the best course of action to lift the United States out of the Great Depression. In November 1934, Coughlin founded the National Union for Social Justice, an organization dedicated to economic objectives. Before a meeting of organization members in Cleveland in 1935, Coughlin told a crowd of roughly 10,000 that "as far as the National Union is concerned, no candidate who is endorsed for Congress can campaign, go electioneering for, or support the great betrayer and liar, Franklin D. Roosevelt … I ask you to purge the man who claims to be a Democrat from the Democratic Party. I mean Franklin Double-Crossing Roosevelt."[107]

Just as McIntire launched the *Christian Beacon* newsletter to provide him with another means of reaching a growing number of followers, Coughlin started *Social Justice*, a weekly publication designed to complement the messages he delivered in his broadcasts. Like McIntire,

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[105] Irving Fang, *Those Radio Commentators* (Ames, Iowa.: Iowa State Univ. Press, 1977), 89.

[106] Alan Brinkley, *Voices of Protest* (New York, N.Y.: Alfred A Knopf Inc., 1982), 109.

[107] Fang, *Those Radio Commentators*, 95.

Coughlin's ascension on the radio airwaves and his fall from prominence happened quickly. Coughlin boasted a listenership somewhere between 30 to 40 million at the peak of his popularity in the mid 1930s. During the latter part of this decade, however, he became more polarizing and moved farther to the radical right on most political and economic issues. By the late 1930s, he had publicly supported Adolf Hitler and his rising Nazi Party in Germany, primarily because of Hitler's staunch opposition to Communism. "Nazism was conceived as a political defense mechanism against Communism," Coughlin told his *Golden Hour* listeners in November 1938, "and was ushered into existence as a result of Communism. And Communism itself was regarded by the rising generation of Germans as a product not of Russia, but of a group of Jews who dominated the destinies of Russia."[108] Coughlin reproduced Nazi propaganda in *Social Justice*, praised Hitler as the "European champion" within its pages, and suggested on his broadcasts that Jews must "change their ways."[109] By 1939, the National Association of Broadcasters suggested that member stations sell less air time to Coughlin and other "spokesmen of controversial public issues."[110] When this step at neutralizing Coughlin's influence did not work, the National Association of Broadcasters revised its self-regulatory code, prohibiting any programs that launched attacks on the basis of race or religion.[111] The radio priest delivered his final broadcast in the fall of 1940. He continued to warn those who visited his church, the Shrine of the Little Flower, of the threat of Communism until his death in 1979.

Fulton Lewis Jr. began his national rise to prominence on the ether around the same time Coughlin's popularity began to wane. A native of Washington, D.C., and the son of a successful lawyer, Lewis enjoyed a privileged childhood before enrolling at the University of Virginia in 1920. He left Virginia in 1924 without graduating and entered George Washington University's School of Law, lasting just a few days. Opting not to follow in his father's footsteps, Lewis landed a position as a news reporter at the *Washington Herald* before joining Hearst's Universal News Service in 1928. As a columnist and correspondent for Hearst, Lewis established himself as a talented and relentless investigative reporter. He uncovered fraud in the manner in which

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[108] Sheldon Marcus, *Father Coughlin* (Boston, Mass.: Brown and Co., 1973), 161.

[109] Ibid.

[110] Ibid.

[111] Ibid.

airmail contracts were awarded and exposed Postmaster General Walter F. Brown's collusion with several airline companies. Following almost two years of research and writing, he finished a 398-page report exposing the collusion. Despite Lewis' exhaustive work, Hearst never published a single news story documenting his findings. The lead editorial writer for Universal News Service, Arthur Brisbane, had a close friendship with the postmaster and Lewis' work was canned. Undeterred, Lewis shared his findings with Democratic Senator Hugo Black of Alabama in 1933. Black convinced the Senate to appoint a committee to investigate the matter and soon after, Roosevelt ordered the U.S. military to fly the mail. On another occasion, Lewis assisted the FBI by taking advantage of his role as a journalist to gather information from former U.S. Navy Lieutenant Commander John Farnsworth, who was eventually convicted of selling military secrets to the Japanese. Lewis was as relentless in his efforts to uncover malfeasance in government as McIntire was in his crusade against the Federal Communications Commission and the Fairness Doctrine.

Lewis' first foray into radio came in 1927 when he began providing news flashes for a Washington station. He also read his newspaper columns over the air and filled in on broadcasts until 1936, when William Dolph, manager of the Mutual Broadcasting Outlet's Washington affiliate, WOL, offered Lewis his own program. On November 27, 1937, his WOL broadcast was sent across the country to Mutual affiliates, which numbered approximately 500 stations. At the peak of his popularity in the early 1940s, his 15-minute weekday newscast, delivered at 7 p.m., reached approximately 16 million listeners. These listeners received a healthy dose of anti-New Deal rhetoric from Lewis, who argued "we never put 'em to sleep."[112] The "helpless gabbler," as Lewis was described by a journalist who worked with him, called the New Deal a "flim-flam structure of specious flap-doodle and preposterous mumbo-jumbo, honeycombed by termites, and operated by radical CIO-PAC, Communist-backed pseudo-economists."[113] Like Coughlin and McIntire, Lewis was staunchly anti-Communist and used the bully pulpit of radio to warn Americans of what he perceived was a grave threat to the nation. Lewis suggested that Vice President Harry Hopkins was involved in a conspiracy to send uranium and radar gear to the Soviet Union. He accused the American Youth Congress, a project initiated by First Lady

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[112] Booton Herndon, *Praised and Damned* (New York, N.Y.: Duell, Sloan & Pearce, 1954), 5.

[113] Fang, *Those Radio Commentators*, 205.

Eleanor Roosevelt, of being a Communist-front organization. He was an ardent supporter of Wisconsin Republican Senator Joe McCarthy's efforts to root out Communism in the United States.[114] When CBS television reporter Edward Murrow challenged McCarthy and his red-baiting tactics on the television program *See It Now*, McCarthy joined Lewis on his radio program to rebut Murrow's allegations. At a party to celebrate Lewis' twenty-fifth anniversary in radio in 1962, FBI director J. Edgar Hoover described the radio commentator as the one broadcaster who consistently opposed Communism.[115]

An isolationist, Lewis dedicated much of his airtime during the late 1930s and early 1940s to warning his listeners that the United States should not become involved in events transpiring in Europe. Like McIntire, he railed regularly against the dangers of socialism. "I love this God-damned country of ours," Lewis told his listeners. "It's a religion with me and I'm not going to stand by idly while a bunch of CIO-backed Communist left-wing crackpots try to wreck it … Our country is locked in a death struggle between two irreconcilable forces – those who want to choke the breath out of our economic system by a liberty-throttling, private initiative-killing government control, and those who are fighting tooth and nail to preserve the sacred principle of free enterprise that our Founding Fathers bequeathed to us. I'm in that fight."[116] Despite a steady decline of listeners during the late 1950s and early 1960s, Lewis, like McIntire, waged war on Communism and socialism over the radio waves until his death. He suffered a heart attack and died in August 1966.

Boake Carter was also an isolationist who believed the United States had no business in affairs across the Atlantic. A rewrite man on the *Philadelphia Bulletin* newspaper's city desk during the early 1920s before becoming assistant city editor at the rival *Philadelphia Daily News*, Carter's first opportunity in radio came at WCAU in Philadelphia in 1930.[117] His coverage of the kidnapping of Charles Lindbergh's child in 1932 landed him a spot at CBS. Carter made his debut across most CBS affiliates on March 2, 1932. According to Culbert, in

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[114] Ibid.

[115] David Culbert, *News for Everyman: Radio and Foreign Affairs in Thirties America* (Westport, CT: Greenwood Press, 1976).

[116] Fang, *Those Radio Commentators*, 208-209.

[117] Culbert, *News for Everyman*.

this broadcast he "roared at the forces of crime, instead of giving a straight news-broadcast."[118] CBS immediately canceled his program. Many of his first-time listeners, however, flooded the network with calls and letters, demanding more of Carter's "analysis." The network relented, reinstating his program. He quickly became one of the most popular radio broadcasters of the 1930s and ranked among the most listened-to broadcasters in the nation during the second half of that decade.[119] In June 1938, *Radio Guide* called Carter the most popular radio commentator in America. He was carried on 85 CBS affiliates in 1938 with an audience numbering somewhere between five and 10 million listeners.[120] Couple this with the roughly seven million people who read his newspaper column and it is difficult to ignore Carter's influence on a significant segment of the American population at the peak of his career.

Carter opposed practically every initiative the Roosevelt administration endorsed. Even in the face of facts directly challenging the positions he endorsed in his political commentary, Carter refused to concede. According to Culbert, Carter's political commentary "relied almost entirely on innuendo, invective, distortion and misinformation in his attacks … He moved so far beyond what is considered journalism's code of ethics concerning the truth that he deserved to be bridled."[121] James De Ste Croix suggests that Carter "presented criticisms of Roosevelt that bear remarkable resemblance – in tone, style and content – to the critiques leveled by radio personalities of the first half of the 1990s. The Carter example represents a bridge from the 1930s to contemporary political talk radio … In the first half of the 1990s, (Rush) Limbaugh and the Radio Right reframed Carter's Depression-Era attack in modern terms."[122] Describing Carter as a "major voice of American isolationism," Culbert argues that he persuaded "literally millions of listeners" to adopt his isolationist views.[123] His contributions to public debate were not limited to his radio broadcasts and newspaper columns. Carter published six books and co-

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[118] Ibid., 38.

[119] Harrison Summers, *A Thirty-Year History of Programs Carried on National Radio Networks in the United States, 1926-1956* (Columbus, Ohio: Ohio State Press, 1958).

[120] Fang, *Those Radio Commentators.*

[121] Culbert, *News for Everyman*, 53.

[122] James De Ste Croix, *The Republic of Talk Radio* (PhD diss., University of Hawaii, 1999), 18, 65.

[123] Culbert, *News for Everyman*, 58.

authored a seventh. Two of these books - *Why Meddle in Europe?* (1939) and *Why Meddle in the Orient?* (1937) - detail why he believed it was in the United States' best interest to steer clear of developing events in these regions.[124]

Upton Close was born Josef Washington Hall in 1894. He began going by the name of Upton Close in 1916 during his time as a news correspondent covering the Japanese invasion of China. He covered this conflict for the Shanghai *Weekly Review*, concluding his stories with the phrase "up close" to indicate that where he reported from was in close proximity to the fighting. An editor at the publication ran the phrase as the journalist's name and a variation of it – Upton Close - stuck. Close graduated from George Washington University in 1915 before relocating to the Shantung province in China. After serving as a news reporter in China, Japan and Siberia, Close returned to the United States in 1922 and began lecturing at the University of Washington.[125]

Like Carter and McIntire, Close was a prolific writer. He wrote seven books on his experiences as a news correspondent in Asia. He made his debut on radio in 1924 and landed a spot at NBC in 1934. He became host of the *Sheaffer World News Parade* in September 1942. This 15-minute program, which later expanded to 30 minutes, aired Sunday afternoons. Sheaffer, a pen company, pressured NBC to remove Close as host of this program in 1944 following increased criticism of Close's right-wing commentary. NBC dumped him in December of that year after he had been accused by listeners of fostering anti-British, anti-Semitic and pro-German sentiments. Like Coughlin, Close did not start his journalistic career on the extreme right and was considered rather liberal in his early years as a news reporter. That would change during his tenure at NBC, during which he regularly attacked the Roosevelt administration and the nation's drift, as he saw it, toward liberalism.[126]

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[124] Books authored by Carter: *Black Shirt Black Skin* (Harrisburg, Pa.: Telegraph Press, 1935); *I Talk as I Like* (New York, N.Y.: Dodge Publishing, 1937); *Johnny Q. Public Speaks: The Nation Appraises the New Deal* (New York, N.Y.: Dodge Publishing, 1936); *Made in U.S.A.* (New York, N.Y.: Dodge Publishing, 1938); *This is Life* (New York, N.Y.: Dodge Publishing, 1937); *Why Meddle in Europe? Facts, Figures, Fictions, and Follies* (New York, N.Y.: Robert M. McBride and Co., 1939); *Why Meddle in the Orient? Facts, Figures, Fictions, and Follies* (New York, N.Y.: Dodge Publishing, 1937). *Why Meddle in the Orient?* co-authored by Thomas Healy.

[125] Fang, *Those Radio Commentators.*

[126] Dixon Wecter, "Hearing is Believing," *Atlantic Monthly*, August 1945, 54-61.

Following his dismissal from NBC, Close landed a spot with the Mutual Broadcasting System in 1945 and it was with Mutual that his rhetoric became increasingly polarized. He recognized the risks associated with his extremist commentary. "Most of the radio-struck younger commentators follow the path of least political and commercial resistance – taking care to please powerful groups and sponsors. They snidely supported the social welfare, organized labor, internationalist and tolerance racketeer forces which thus obtained double grip on the nation – through politics and through radio information and interpretation. The few dissenting voices paid dearly for their independence. Networks and stations which carried them, and their sponsors, paid too."[127] Close retired in 1946 and moved to Mexico, where he was killed in an automobile accident in 1960.

Following a broadcast path cleared by Coughlin, Lewis, Carter and Close, McIntire became the first ultrafundamentalist radio commentator to enjoy success on a national stage. The only other ultrafundamentalist broadcaster to approach McIntire's level of popularity on the airwaves was Billy James Hargis. Born in Texarkana, Texas, in 1925, Hargis was ordained in 1943 and founded the "Christian Crusade" in 1947. He described this crusade as a Christian weapon against Communism. The organization boasted nearly identical goals to that of McIntire's Twentieth Century Reformation movement. An active member of the American Council of Christian Churches and the International Council of Christian Churches, Hargis was recognized by Joe McCarthy in 1950 as a "great preacher."[128] McIntire solicited Hargis' services in 1953, putting him in charge of the "Bible Balloon Project." Hargis oversaw the insertion of scripture writings, which had been translated into several Slavic languages, into helium-filled balloons. These balloons were then released on the Germany-Czechoslovakian border in the hope that they would drift behind the Iron Curtain and into the hands of the "poor souls" suffering under Communist Russia. The project, which Hargis coordinated for five summers, generated national publicity and identified him as a rising star within the ultrafundamentalist movement.[129]

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[127] Fang, *Those Radio Commentators,* 128.

[128] Jorstad, *The Politics of Doomsday*, 71.

[129] "The Untold Story of the Bible Balloons," *New York Times*, August 6, 1961, 13.

By the early 1950s, Hargis had built a four-station radio network. He offered guests free air time on his broadcasts and these individuals were then added to the Christian Crusade's solicitation list. The event that landed Hargis on the national stage occurred in February 1960 when a civilian Air Force employee named Homer Hyde, drawing on Hargis as a source, produced a manual for the Air Force. In this manual, Hyde wrote that Communists had infiltrated the Air Force on a number of different fronts. "Hyde had cribbed most of his lines," wrote *Time* magazine, "from the obscure writings of a tub-thumping fundamentalist Tulsa evangelist named Billy James Hargis."[130] The Air Force eventually withdrew the publication and ordered an investigation of all its non-technical manuals, but not before drawing national attention to Hargis.[131] McIntire defended the manual and Hargis' input on the project. Following the incident, interest and contributions to Hargis' Christian Crusade skyrocketed. In 1959, the Crusade boasted contributions of $373,200; in 1960, donations jumped to $595,500. By 1962, the Christian Crusade's annual income surpassed $750,000.[132] In 1970, Hargis estimated that his organization had generated close to $3 million.[133]

The number of listeners to Hargis' radio program, also called the *Christian Crusade*, grew rapidly as well. Clabaugh notes that "in 1971, *The New York Times* quoted Hargis as claiming 70 stations. For 1962, 1963, and 1964, Forster and Epstein give the number of stations as 200, 50, and 400, respectively. *Newsweek* upped the 1964 figure to 500. On January 23, 1966, Hargis told an interviewer for WTOP-TV, in Washington, D.C., that he buys time on over 1,000 stations a week."[134] Like McIntire, Hargis became a familiar name in the offices of the FCC for his prominent role in the Red Lion case in which the Supreme Court affirmed the Fairness Doctrine.

McIntire and Hargis stand alone as the only ultrafundamentalist broadcasters to generate national followings of radio listeners, although three other far right fundamentalist radio

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[130] "Birdbrained," *Time*, February 29, 1960.

[131] "Doomsday Merchants of the Far Right," *Saturday Evening Post*, April 29, 1962, 24.

[132] "The Finances of the Far Right," Special Report No. 16, September 1, 1964, Group Research, Inc., Washington, D.C.

[133] Peter Schrag, "America's Other Radicals," *Harpers*, August 1970, 37.

[134] Clabaugh, *Thunder on the Right*, 104.

personalities followed in their footsteps, albeit with less success. C.W. Burpo's program, *Radio Chapel of the Air*, boasted a 26-station network and could be heard across 14 states at the peak of its popularity in 1966.[135] Bill Beeny, an outspoken segregationist, launched his radio career in Alton, Illinois. By 1966, he could be heard on 26 stations across the Midwest.[136] He ran for lieutenant-governor of Missouri in 1968 and lost. Richard Cotton broadcast his program, *Conservative Viewpoint*, from Bakersfield, California. It could be heard over 22 stations at its peak in 1965.[137]

[135] Group Research Report, September 15, 1966.

[136] Jorstad, *The Politics of Doomsday*, 164.

[137] Ibid., 165.

Carl McIntire followed in the footsteps of his father, Charles, becoming a Presbyterian minister (photo courtesy of Special Collections, Princeton Theological Seminary Libraries).

Chapter 5: Carl McIntire: Committed to the Cause

Carl McIntire was born in Ypsilanti, Michigan, on May 17, 1906, the oldest of Charles and Hettie McIntire's four children. McIntire's father, a native of Lima, Ohio, was pastor of Ypsilanti's First Presbyterian Church. He moved his family to Stigler, Oklahoma, shortly after McIntire was born. McIntire spent most of his childhood in this eastern Oklahoma community before the family moved to Durant, a town of roughly 3,000 residents located in the southeastern part of the state. His mother and grandmother worked as missionaries on American Indian reservations across southeastern Oklahoma. He showed signs of an entrepreneurial spirit as a teenager. "My experience in selling maps in Caddo County in Oklahoma did as much for me in

my ministry as all my theological training," said McIntire, who also sold maps across parts of Colorado as a teen. "I learned to work with people, to live with people. I had something to sell – I loved the people. It was selling maps that turned me, more than anything else, from being a lawyer as I intended to be and was preparing myself to be, over into the ministry of the gospel of our Lord and Savior, Jesus Christ."[138]

McIntire remained in Durant after finishing high school and graduated with a teacher's certificate from Southeastern State Teachers College (now Southeastern Oklahoma State University). He helped his parents pay for his schooling by serving as a janitor at Southeastern and at a nearby church.[139] In 1927, he completed requirements for a bachelor's degree from Park College in Parkville, Missouri, and was considering law school. McIntire's mother, however, wanted him to follow in his father's footsteps. Charles McIntire had graduated from Princeton University and Princeton Theological Seminary. "My mother was praying that I'd be a preacher and folks, you cannot fight your mother's prayers," said McIntire.[140] He enrolled at Princeton Theological Seminary in the fall of 1928.

McIntire withdrew from Princeton Theological Seminary after just two semesters, citing philosophical differences with the direction he believed the school was headed. Traditionally a stronghold of conservative Presbyterianism, the Seminary found itself increasingly immersed in a struggle between fundamentalism and modernism. This struggle had been emerging within certain segments of American Protestantism since the turn of the century. Dr. J. Ross Stevenson, the Seminary's president when McIntire arrived, supported a more modern theological outlook among the school's faculty members. Opposing Stevenson's agenda and leading the push for the school to adhere to its conservative, fundamentalist principles was Dr. J. Gresham Machen, a New Testament scholar and faculty member at the school. Gary Clabaugh notes "it was Machen's contention that the modernists did not accept the divine authority of the Bible … and a true believer could make no accommodation to modernism."[141] Machen organized students and faculty members in an effort to contain this modernist movement and one of the students who

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[138] *Twentieth Century Reformation Hour* radio program, November 20, 1972.

[139] D. Hoke, "Gentle Fighter," *Sunday School Promoter*, October 1943, Vol. 5, No. 5.

[140] *Twentieth Century Reformation Hour* radio program, December 15, 1977.

[141] Clabaugh, *Thunder on the Right,* 70.

became involved in this effort was McIntire.[142] As the struggle escalated, the Presbyterian Church of the United States, which oversaw the Princeton Theological Seminary, became involved. The Church reorganized the school's governing board, appointing members with a more liberal and modern theological outlook to oversee the direction of the institution. Machen resigned in protest and established the Westminster Seminary just outside Philadelphia in Chestnut Hill, Pennsylvania, in 1929. McIntire followed Machen and enrolled at Westminster. "The founding of Westminster," notes Erling Jorstad, "would become a decisive step in the formation of ultrafundamentalism because one of the students to follow Machen was Carl McIntire."[143]

McIntire viewed Princeton Theological Seminary's shift away from its conservative principles as a serious mistake. "There was a fight to keep the school in accord with its original ideas versus conform to the developments in the church," said McIntire. "There was a vote to reorganize the institution. I'm going to do what I believe the Lord wants me to do. I left Princeton and enrolled at Westminster Seminary. I will always thank God that I did it. It was the turning point in my ministry, in my life. It was the crucial decision."[144] McIntire was a member of Westminster's first graduating class in the spring of 1931 and was ordained a Presbyterian minister on June 4, 1931.[145] The year was a busy one for McIntire. In May 1931, he married Fairy Eunice Davis. A native of Paris, Texas, Davis and McIntire had met as students at Southeastern State Teachers College. Their 61-year marriage was both a personal and professional partnership. Fairy McIntire assumed a prominent role in her husband's ministry, traveling with him around the globe to promote numerous church-related initiatives. The couple had three children: their son, Carl Thomas, became a faculty member and historian at the University of Toronto; daughter, Marianna, also entered education, serving as a principal and teacher; daughter, Sally Celeste, worked in real estate.[146]

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[142] Clarence Laman, *God Calls a Man* (Collingswood, N.J.: Christian Beacon Press, 1959), 18-20.

[143] Jorstad, *The Politics of Doomsday*, 27.

[144] *Twentieth Century Reformation Hour* radio program, November 21, 1972.

[145] Hoke, "Gentle Fighter," *Sunday School Promoter*.

[146] *Philadelphia Inquirer*, September 16, 1992. Three years after Fairy McIntire died in 1992, McIntire married his longtime secretary, Alice Goff. The two remained married until McIntire died in 2002.

Upon graduation from Westminster, McIntire assumed pastor responsibilities at the 200-member Chelsea Presbyterian Church in Atlantic City, New Jersey. On October 1, 1933, he became pastor of the Collingswood Presbyterian Church in Collingswood, New Jersey. "The committee appointed by the congregation of our church to recommend candidates for our pastorate has finally been led to the one we believe peculiarly able to carry on perfectly the work of our Church," wrote the members of the Collingswood Presbyterian Church responsible for choosing a pastor.[147] McIntire would serve as pastor of this church for more than six decades until his retirement in 1999.

McIntire was deposed from the Presbyterian Church of the United States on June 15, 1936. As was the case in his departure from Princeton Theological Seminary, Machen again played a key role in McIntire's fate.[148] Machen had organized a group he called the Independent Board of Foreign Missions. Its purpose was to spread the "true" Presbyterian faith, one based on a conservative, fundamentalist perspective. "I joined the independent board in 1933," said McIntire. "The Presbyterian Church ordered a mandate ordering members of (this) board to resign because they were in violation of the Church. We refused to resign from the board."[149] McIntire and Machen were dismissed from the Presbyterian Church of the United States for "disapproval, defiance and acts in contravention of the government and discipline of the Presbyterian Church of the U.S.A.; not being zealous and faithful in maintaining the peace of the Church; and violation of his ordination vows."[150] They were also accused of "defaming the character of fellow Christians, breaking certain of the Ten Commandments, causing dissension and strife, and engendering suspicions and ill will."[151] Five others were also ousted from the

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[147] This letter to members of the Collingswood Presbyterian Church was reproduced in *40 Years … Carl McIntire and the Bible Presbyterian Church of Collingswood, New Jersey*. The Church prepared this booklet in 1973 to commemorate McIntire's 40-year anniversary as pastor at the church.

[148] McIntire, *The Epistle of the Apostasy*. In an interview with the *Philadelphia Inquirer*, McIntire argued that his dismissal by the Presbyterian Church of the United States was "completely out of order" (December 12, 1993, A1).

[149] *Twentieth Century Reformation Hour* radio program, November 21, 1972.

[150] Ralph Lord Roy, *Apostles of Discord* (Boston, Mass.: Beacon Press, 1953), 188.

[151] Benjamin Epstein and Arnold Forster, "The Radical Right and Religion," Anti-Defamation League of B'Nai B'Rith. Reprinted from the *1965 Christian Friends Bulletin*, 11. Machen and McIntire's problems with the Presbyterian Church of the United States were rooted in the belief that some of its ministers and missionaries were promoting Communism. In 1932, Machen and McIntire claimed to have uncovered evidence that Presbyterian missionaries in China were convincing local residents to support Communism.

Presbyterian Church of the United States. "No true Christian can place the order of a church above the commands of Jesus Christ," wrote McIntire, who was 28 when he joined Machen's Independent Board of Foreign Missions. "We could not obey and support a mission agency that we knew was unfaithful to the Gospel and also cease to support the independent board that we knew was true to the Gospel. No church has the power, though it may presume to exercise it, to place its commands above the commands of God's word."[152] For McIntire, the battle lines in this struggle were now clearly drawn:

> Here was the conflict between the two sides – the liberal, inclusivist side and the fundamentalist side. They called them modernists versus the fundamentalists. That's why I haven't been ashamed of the word "fundamentalist." They've tried to make a bad word out of it, but a fundamentalist is somebody who stands for the great common doctrine that makes Christianity Christianity. A fundamentalist is a good Christian. A modernist who denies the blood can't even be called a Christian. He doesn't believe in it, but he calls himself that anyhow. You have the two lines of struggle – the liberals with their inclusivism and the fundamentalists with their obedience and loyalty strictly adhering to the doctrines of the Bible. Now these two sides have taken shape in the churches of our day.[153]

McIntire's dismissal from the Presbyterian Church of the United States was a decisive moment in his career. "It would lead him to find what became known as total separation, the criteria by which he would assess every phase of Christian thought and practice," notes Jorstad. "Nothing less than complete allegiance to its demands would satisfy his zeal for doctrinal conformity."[154] His steadfast belief in total separation would serve as a driving force throughout McIntire's career, both as an ultrafundamentalist leader and radio broadcaster.

After their ouster from the Presbyterian Church of the United States, Machen and McIntire collaborated to form a new denomination in June 1936, calling it the Presbyterian

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[152] McIntire, *Twentieth Century Reformation*.

[153] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

[154] Jorstad, *The Politics of* Doomsday, 30-31.

Church of America. The members of McIntire's Collingswood Church decided to support their pastor, disassociating from the Presbyterian Church of the United States and joining the Presbyterian Church of America. "Following this disgraceful action ordering me suspended from the ministry and the communion of the church, my great congregation had a congregational meeting and, by formal resolution, they renounced the jurisdiction of the denomination," said McIntire. "It was a historic night."[155] The Presbyterian Church of the United States then ousted McIntire and his followers from the building in which they worshipped, arguing that it owned the building. Judge Francis Davis of the Camden Chancery Court agreed and, on March 18, 1938, McIntire and his church's members were evicted from the property.

Machen and McIntire parted ways in early 1937 following a disagreement on the direction their Presbyterian Church of America should take. Clabaugh details the crux of the problem between the two ministers:

> Machen advocated total separation from those who did not accept the Bible entirely as the word of God. He did, however, readily accept those who disagreed with him regarding matters of interpretation. He also maintained that those within the faith should have sufficient "Christian liberty" to decide for themselves if they were going to smoke, drink, gamble, participate in modern dancing, go to motion pictures and the like. Significantly, McIntire disagreed with his teacher on both these counts. First, his line of separation was far more restrictive. He felt that accepting the Bible as the literal word of God was not enough. Second, McIntire was against allowing believers the freedom to choose between drinking and not drinking, smoking and not smoking, and so forth. Instead, he demanded pledges of abstinence from seminary faculty, students, candidates for the mission fields, and practicing clergy. This ran counter to Machen's desire for "Christian liberty" within the denomination and simultaneously antagonized many potential allies – including a goodly number who did none of these things but resented the idea of an oath or pledge.[156]

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[155] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

[156] Clabaugh, *Thunder on the* Right, 73.

Following Machen and McIntire's split, the Presbyterian Church of America dissolved less than a year after its founding. Those who followed Machen renamed themselves the Orthodox Presbyterians.[157] Those who followed McIntire formed the Bible Presbyterian Church. This split, argues Jorstad, "in essence created ultrafundamentalism because it freed the Rev. McIntire, the undisputed leader of the anti-Machen faction, of any need for conciliatory action toward any with whom he and his followers differed."[158]

For McIntire, the biggest blow from the split was the loss of the Westminster Seminary.[159] He immediately set out to create a seminary for his Bible Presbyterian Church. In 1938, Faith Theological Seminary opened in Wilmington, Delaware, with an inaugural class of 24 students.[160] McIntire assumed the presidency of the Seminary's Board of Directors. He now had an institution where he could teach his ultrafundamentalist interpretation of the Bible. Seminary students were taught to view the role of the church as McIntire viewed it. McIntire believed his church was on the front lines of a war between the modernists and fundamentalists and his Bible Presbyterian Church endorsed a strict adherence to the literal word of the Bible. "The church is not a forum, a debating society, a place where different opinions are offered concerning Jesus Christ," he said. "The church is a banner. It has taken a creed."[161] Throughout his life, McIntire waged war on behalf of his church and its creed. He waged a lifelong struggle against the modernists he believed were undermining the Christian faith. "The church is no place where the ungodly can come in and claim that we have broad basis for all manner of viewpoints. Folks, there is only one viewpoint when it comes to being saved."[162] McIntire believed the modernists were members of an emerging "socialistic, political world system" led by "ecclesiastical politicians."[163] The modernists included Communists, as well as those who

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[157] Machen would not live long after the formation of the Orthodox Presbyterian Church. He died on January 1, 1938, after contracting pneumonia in late 1937.

[158] Jorstad, *The Politics of Doomsday*, 33.

[159] Robert Coote, "Carl McIntire's Troubled Trail," *Eternity*, 3.

[160] The Seminary would move to Elkins Park, Pa., in 1952. The Faith Theological Seminary would also establish two colleges for undergraduate study – Shelton College in Cape May, N.J., and Highland College in Pasadena, Calif.

[161] McIntire, *The Epistle of the Apostasy*, 29.

[162] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

supported evolution, gay rights, labor unions, sex education, dancing, smoking, gambling, drinking and fluoridating water.[164]

In September 1941, members of McIntire's Bible Presbyterian Church collaborated with the Bible Protestants Church to establish the American Council of Christian Churches. McIntire served as the organization's inaugural president. The formation of the American Council of Christian Churches was in direct response to the formation of another body called the Federal Council of Christian Churches. The Federal Council promoted interdenominational cooperation among many different Protestant churches and their members. McIntire viewed such cooperation as a dangerous development and his American Council of Christian Churches sought to neutralize the Federal Council's influence.[165] Less than a year after McIntire founded the American Council of Christian Churches, some of the leading fundamentalists of this era, including J. Elwin Wright, Harold Ockenga, Charles Fuller, Wilbur Smith and Ralph T. Davis, met in St. Louis to organize a loose coalition called the National Association of Evangelicals for United Action.[166] McIntire attended this meeting and outlined the objectives he thought this new Association should seek. One of McIntire's requests was that no members of the National Association of Evangelicals have any dealings with the Federal Council of Christian Churches. To the founders of the National Association of Evangelicals, this seemed unreasonable – they believed individuals should have free will to decide with whom they associated. Indeed, this was one of the fundamental principles of the Protestant Reformation.[167]

After founding the American Council of Christian Churches, McIntire led an effort to organize another group. The International Council of Christian Churches was formed in 1948

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[163] Ibid., 23.

[164] *Philadelphia Inquirer*, March 21, 2002, B1. McIntire wove his religious and political views so seamlessly into his radio broadcasts that FCC hearing examiner H. Gifford Irion acknowledged he had "no competence to determine where one stopped and another began." Brandywine-Main Line Radio Inc., for Renewal of Licenses of Stations WXUR and WXUR-FM, Media, Pa., 14 RR2d 1051, 24 FCC 2d 42, 1970, para. 14. Hereafter referred to as the Initial Decision.

[165] Membership in the Federal Council of Christian Churches far outnumbered that of McIntire's American Council. The Federal Council of Christian Churches eventually changed its name to the National Council of Churches.

[166] Tona Hangen, *Redeeming the Dial: Radio, Religion and Popular Culture in America* (Chapel Hill, N.C.: University of North Carolina Press, 2002), 117.

[167] Bruce Shelley, *Evangelicalism in America: Its Rise and Development* (Grand Rapids, Mich.: Eerdmans Publishing, 1968), 80-83.

and McIntire assumed the presidency of this group as well.[168] As was the case with the American Council, the formation of the International Council was in response to the emerging ecumenical movement. This ecumenism, or cooperation by members of different Protestant denominations, greatly troubled McIntire. McIntire used his leadership positions within Faith Theological Seminary and the American Council and International Councils of Christian Churches to condemn organizations he believed endorsed an ecumenical approach. His favorite targets were the Federal Council of Christian Churches, the World Council of Churches, the Presbyterian Church of the United States, the Roman Catholic Church, the United Nations and various Jewish organizations.

"The liberals and the inclusivists and the ecumenists in the National Council of Churches were determined that they should develop this great world movement - the ecumenical movement - and so they moved on out to give the leadership and the financial backing for the establishment of the World Council of Churches in Amsterdam in 1948," said McIntire.[169] McIntire believed the World Council of Churches and Federal Council of Christian Churches promoted Communism.[170] "The World Council of Churches is coming out more clearly than every before. All the Communist-controlled churches from the Iron Curtain countries are now in it," he said. "The issues are more clearly defined than every before. My problem is that people will switch political parties, but they won't switch churches …You have the World Council of Churches, which is now giving money and contributions to help the guerillas and the Communists to the extent of one million dollars this next year."[171] In McIntire's view, there could be no compromise. He also believed the success of his ultrafundamentalist movement hinged on stopping the spread of Communism. "It is a Twentieth Century Reformation Movement, it is this movement, beloved, that's fighting Communism in the name of the word of God. It's this movement that is crying out against these ideas that somehow or other we can bring the Communist-run and Communist-controlled churches into great movements of Christian

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[168] McIntire was elected president of the International Council of Christian Churches in Amsterdam in 1948 and would serve in this capacity until his death.

[169] Ibid.

[170] The Federal Council of Christian Churches changed its name to the National Council of Christian Churches.

[171] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

cooperation. It is a movement that's standing today for righteousness for not only America but throughout the whole world."[172]

In his 1946 book *Author of Liberty*, McIntire discussed one of his core beliefs, namely that God had bestowed upon the United States a responsibility and that the nation's democratic political system and capitalist economic system were instruments of God's will. He was deeply concerned that the United States was abandoning these traditions:

> America has internal strife which affects us nationally and also internationally. Are we going to continue to have freedom in America, the thing for which our boys died? Or are we turning to the left to socialism, collectivism, Communism? The rupture between capital and labor, because certain deep-seated, irreconcilable concepts, is far more serious than many of us are honest enough to admit. England stunned us all by turning Churchill out and going strongly socialistic. Will America wake up after a future election and discover that she, too, has done the same thing? Much of the propaganda that is flooding America in churches, schools, labor unions, and "front" organizations points that way. Race tensions increase, class divisions deepen, pressure groups multiply, Congressmen shake their heads in bewilderment. We need help … We fought to destroy the idea of an all-powerful State, and we are turning to an all-powerful State to save us! What a paradox! Yet it is real.[173]

McIntire believed with absolute certainty that God was pro-capitalist, pro-democratic and pro-American: "There is no mystery or wonder about the fact that Almighty God, in His grace, gave the secret of the atomic bomb to the nations who were fighting for freedom, particularly the United States and Great Britain and Canada. He withheld it, in His providence, from Germany, Japan, and Russia. What a different world we would have right now if God had given it first to any one of the three just mentioned! On this fact alone the future of the whole world turned."[174]

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[172] *Twentieth Century Reformation Hour* radio program, January 6, 1966.

[173] McIntire, *Author of Liberty*, xii-xiii.

[174] Ibid., 67.

McIntire supported conservative world leaders around the globe. He demanded the House Committee on Un-American Activities investigate Communists he believed had infiltrated numerous American religious organizations. McIntire advocated American intervention in South Vietnam and supported apartheid in South Africa. He believed that pulling Americans out of Southeast Asia and ending apartheid in South Africa would lead to a Communist takeover in both countries. He led counterprotests to peace demonstrators marching against the Vietnam War and criticized President Nixon for his administration's diplomatic overtures to China.[175] "These ecumenical fellows were all supporting the cry of the anti-war," said McIntire. "These liberal churches are supporting the cry of Hanoi – that the U.S. is the aggressor. They were having all their demonstrations and we said we can't sit around and let them run away with everything. So we called our first march – we had five of them. And, oh, how they've stirred the country."[176] While Communism was McIntire's favorite target, the Roman Catholic Church was also high on his list of adversaries. He believed the Soviet Union and the Vatican were closely linked:

> As we enter the postwar world, without a doubt the greatest enemy of freedom and liberty that the world has to face today is the Roman Catholic system. Yes, we have Communism in Russia and all that is involved there, but if one had to choose between the two, one would be much better off in a Communistic society, than in a Roman Catholic fascist setup. One wonders sometimes if all the antagonism of the Roman Catholic Church to Communism is not being played up especially to the United States at the present time for the purpose of gaining advantage for the Roman Catholics. America has to face the Roman Catholic terror. The sooner the Christian people of America wake up to this danger, the safer will be our land.[177]

While overt and outspoken in his opposition to Communism and Catholicism, McIntire was more covert and subtle in expressing his feelings on race-related issues. He opposed the

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[175] *Twentieth Century Reformation Hour* radio program, August 30, 1973.

[176] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

[177] *Christian Beacon*, September 6, 1945.

Civil Rights legislation put forward by the Kennedy and Johnson administrations and dismissed the notion of a "racial brotherhood," maintaining that this was a Soviet ploy designed to "promote class and racial strife in which the Communists delight."[178] He described Civil Rights efforts as a Communist strategy to undermine America's political and economic systems. McIntire argued that the American government was wrongly intervening in the private sector regarding its policies on busing and desegregation. He described busing as "repressive and expensive … You can't change the hearts of man."[179] In an interview with Clabaugh, John Milheim, the former general secretary of the American Council of Christian Churches and a close confidant of McIntire's, confirmed that churches affiliated with McIntire sponsored private, segregated schools.[180] McIntire also opposed inter-racial marriage and liberation efforts across Africa. In 1965, he criticized the Presbyterian Church of the United States for its failure to reject marriage between blacks and whites.[181] In the summer of 1975, McIntire was forced out of Nairobi, Kenya, after criticizing African liberation movements. Kenyan authorities escorted McIntire from his hotel to the airport before forcing him onto an East African Airways jet that transported him back to the United States. McIntire claimed that liberation movements across Africa were "Communist-infiltrated."[182]

McIntire's racism is evident in a number of his writings. He published two books in 1967: *Outside the Gate* and *The Death of a Church*. He wrote in *Outside the Gate* that:

> The Western white world has had the light of the Gospel and the blessing of God because of the promise, "Seek ye first the kingdom of God, and his righteousness; and all these thing shall be added unto you" (Matt. 6:33). It is because of this that there is conflict and envies and jealousies between the nations today in their economic progress … Segregation or apartheid is not sin *per se*; if so, then God is a big sinner, for He certainly did in His providence segregate races and nationalities and colors. The love which

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[178] Forester and Epstein, *Danger on the Right*, 105.

[179] "On the Hot Seat," *Delaware County Daily Times*, November 6, 1972.

[180] Clabaugh, *Thunder on the Right*, 199-200.

[181] *Christian Beacon*, May 25, 1965, 1.

[182] "McIntire Attracts Dissent," *Pasadena Star-News*, January 3, 1976, 4.

> Christians have for one another does not in itself demand an integrated church … Men can be brothers in Christ and still believe that it is better for families that the children not have social intercourse which may lead to an intermarriage between the white and the black.[183]

In *The Death of a Church*, McIntire reverts to one of his favorite tactics – linking movements and organizations he opposes to Communism. "The Communists know what the liberal churches are doing to change the structure of American society and to aid a socialist revolution. The idea is gradually to shift the social structure of America to that of socialism and then the announcement will be made that there is really not too much basic difference between socialist U.S.A. and Communist Russia."[184] He also writes in *The Death of a Church* that "the (Civil Rights) legislation took from the people liberties which they had enjoyed under the reserved rights guaranteed under the Constitution of the United States, as the federal statute proceeded to regulate their private businesses, the individual's right of contract, and the management of his own affairs. The civil rights legislation, championed in the name of freedom, actually restricted and denied to the people large areas of freedom that they had always enjoyed."[185]

To appreciate the zeal with which McIntire approached his faith, it is important to understand that he believed the "last days" had arrived and that his purpose was to save as many souls as possible before the quickly approaching day of reckoning. This belief, argues Jorstad, "dominated (ultrafundamentalists') thought so thoroughly as to color every pronouncement they make on theological and political issues. Everywhere around them they find the world crumbling, old standards being swept away, loyalty to pure doctrine being destroyed, and the work of Satan reigning throughout Christendom."[186] Nowhere was the work of Satan more apparent to McIntire than within the media:

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[183] McIntire, *Outside the Gate*, 61-62.

[184] McIntire, *The Death of a Church*, 72-73.

[185] Ibid., 70.

[186] Jorstad, *The Politics of Doomsday*, 131.

> From the very beginning, ladies and gentlemen, we have had the opposition of the press, the worldwide press. From the very beginning, we've had this struggle to get heard, to get our position recognized. It's been that from the very, very beginning. They have wanted this type of information to be kept from you good people. That's the effect of what they've tried to do and we've been fighting to get through to the people with this great message … The religious editors associated with our various newspapers and the religious editors of the AP and the UPI, these men are in there, and these men are generally supporting ecumenical activities and they completely suppress (fundamentalists). We certainly have suppression here in Philadelphia by the *Bulletin* and by the *Inquirer*. You read their religious columns on Saturdays and it's all the ecumenical side … The liberals and the modernists took charge of the radio programs that were let out by the big networks – they got in there first.[187]

McIntire would make it part of his life's mission to break up what he viewed as the modernists' monopoly of the radio airwaves in the United States.

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[187] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

Chapter 6: Turning to Radio

McIntire's first opportunity in radio came in 1936 when WPEN in Philadelphia began broadcasting his church's Sunday evening services. WPEN broadcast McIntire's church services until 1945, when the station changed its policy regarding religious programming. The station's management decided it needed to provide its listeners more diverse religious voices. Instead of selling air time, WPEN began providing free air time to religious broadcasters, of its choosing, at no cost. "Instead of time for religious broadcasts being sold on a commercial basis as has heretofore been done," it was noted in a letter WPEN sent to McIntire, "we plan to inaugurate on a substantial basis, as a public service, a series of religious broadcasts of general interest, the time for which will not be sold."[188] In response to this decision, McIntire and six other religious leaders collaborated to form an organization called the Association of Philadelphia Gospel Broadcasters. "When they say that these broadcasts have been of one type," noted the Association in a letter to the Federal Communications Commission protesting WPEN's decision, "we want to emphasize that it has been the gospel which saves the souls of men. The fact that there have been so many broadcasts supported by public subscription demonstrates the demand of the people. At no time, during any of the conferences, has the station questioned any single broadcast as a 'racket.' The one issue at stake in this controversy is that of freedom of religion on the air …This principle has been violated by station WPEN in the breaking of its contracts, and the vacillation which now follows."[189] The FCC took no action against WPEN. Little did the Commission know that this initial encounter with McIntire would serve as the opening salvo in a nearly three-decade war with the pastor of the Bible Presbyterian Church.

The *Twentieth Century Reformation Hour*, a 30-minute program hosted by McIntire, made its debut on the radio airwaves in March 1955 on WVCH in Chester, Pennsylvania, a suburb of Philadelphia. "One of the first things we did when we started this ministry was to get a hold of the radio," said McIntire. "I felt that if we could broadcast our Sunday church services we could reach many people. I had the idea way back there - 1934, 1935, 1936 - that we ought to use radio to get the issues to the hearts of the people. You have to get facts to people. People

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[188] Excerpts of letter reproduced in *40 Years … Carl McIntire and the Bible Presbyterian Church of Collingswood, New Jersey*, 19.

[189] Ibid., 20.

must have reliable information on which they can base their judgments and form their conclusions … I felt, here was an area if I could just get on radio and use radio, that we could get through to the Lord's people."[190]

The Rev. John M. Norris, owner of the Red Lion Broadcasting Group's WGCB-AM station, which challenged the constitutionality of the Fairness Doctrine, helped launch McIntire's radio career. "I told him that I'd like to buy 30 minutes of time and have a program and he wanted to know what I'm going to do," said McIntire. "I said, 'I'm going to talk about anything that comes down the road.' He said to me, I'll never forget it, he said 'Dr. McIntire, nobody is going to listen to you for 30 minutes … I said all right, let me buy the time and I'll start talking. Ladies and gentlemen, we bought the time and started talking and we got more talk shows in this country today than anything else and they're the highest rated programs and everybody likes the talk shows."[191]

McIntire established a regional audience for his program and this audience quickly transformed into a national following. In 1958, the *Twentieth Century Reformation Hour* was heard on 13 stations, most located within the Northeast.[192] He was joined on most of his broadcasts by Charles Richter, the assistant pastor of the Bible Presbyterian Church. "Amen Charlie's" primary role on the program was to interject "amens" into the broadcast after points emphasized by McIntire. Soon the ultrafundamentalist preacher was a national figure on America's radio airwaves. In 1964, at the height of his popularity with the *Twentieth Century Reformation Hour*, McIntire could be heard daily on 610 radio stations, most of them in the South and the Midwest, with an audience surpassing 10 million listeners.[193] The money the program generated through contributions from listeners also grew dramatically. In 1961,

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[190] *Twentieth Century Reformation Hour* radio program, January 17, 1968.

[191] *Twentieth Century Reformation Hour* radio program, January 17, 1968.

[192] Stations (all AM stations unless noted) that carried McIntire's *Twentieth Century Reformation Hour* program in 1958 included WVCH (Chester, Pa.), WAVL (Apollo, Pa.), WFAX (Falls Church, Va.), WGCB (Red Lion, Pa.), WIBU (Poynette, Wis.), WMBG (Richmond, Va.), WMUU (Greenville, S.C.), WNMP (Evanston, Ill.), WRTA (Altoona, Pa.), WRAD (Radford, Va.), WEBQ-AM and FM (Harrisburg, Ill.), WBNL (Booneville, Ind.), and KGLC (Miami, Okla.). McIntire, *The Epistle of the Apostasy*.

[193] "The Finances of the Far Right," *New York Times*, June 28, 1965, 22. The *Christian Beacon's* circulation also rose as McIntire's fame grew. In 1960, circulation stood at 20,000. By 1964, the publication boasted a readership of 66,494. Group Research, Inc., "Periodicals on the Right," September 20, 1966.

listeners contributed $635,000.[194] By 1964, contributions had surpassed three million dollars.[195] "This broadcast has entered into my soul, this broadcast has entered into my very being," said McIntire. "It's a part of me. Somebody said, 'Dr. McIntire do you write out your speeches?' Write out my speeches? I'd have to write myself out. You can't do it – I can't operate that way."[196] McIntire was not discreet in seeking contributions from his listeners, ending most broadcasts with a plea for financial support. "They say McIntire always ends up with an appeal for money. That's right and I always will because I can't operate without it," said McIntire. "We've got to have some good gifts, some large gifts. We've got to pay the bills on all these radio stations, every one of them. Keep your pledges coming in here now."[197]

The Anti-Defamation League of B'nai B'rith became the first organization to publicly criticize the *Twentieth Century Reformation Hour*, arguing in a complaint to the FCC that the program was a "medium for spreading racial and religious discord."[198] Several of the stations that carried the program dropped it in light of increasing criticism and fear of repercussions from the FCC. In a letter to a radio listener who had requested that station WBT-AM in Hickory, North Carolina, continue to carry the *Twentieth Century Reformation Hour*, Acting Program Manager James Davis noted that the "Federal Communications Commission has put the broadcaster in a most awkward position of having to give equal time to groups having opposing viewpoints to those of another group which purchases time for the presentation of their ideas in the case of controversial issues. It has the effect of putting the broadcaster right in the middle of a big squeeze."[199]

In an April 1964 article titled "Federal Communications Commission Doctrine of Fairness" which ran in *Concern*, a publication produced by the General Board of Christian Social Concerns of the Methodist Church, author Glenn Everett wrote that "some local stations carrying Dr. McIntire's domestic broadcasts, finding that the programs poisoned their community

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[194] Ibid.

[195] *Newsweek*, September 1973; *New York Times*, June 25, 1973.

[196] *Twentieth Century Reformation Hour* radio program, January 17, 1968.

[197] *Twentieth Century Reformation Hour* radio program, August 30, 1973.

[198] *Philadelphia Inquirer*, December 12, 1993, A1.

[199] Letter from Davis to Mrs. William L. Burton, January 17, 1964. Reprinted in *Christian Beacon*, April 2, 1964.

relations with the majority of Protestant churches, started to show reluctance to sell him any more time."[200] As stations continued to drop the *Twentieth Century Reformation Hour* from their programming, McIntire cried foul, complaining that the FCC was responsible for his loss of affiliates.[201] McIntire asked his listeners to write to the FCC to protest the Commission's role in this "conspiracy." The FCC was soon bombarded with more than 25,000 letters from McIntire's listeners, an unprecedented number of complaints for the Commission regarding a single issue. "As they (the FCC Commissioners) received the barrage of hysterical mail," noted Everett, "they got a taste of what the mail of many a Protestant leader has been the day after he was attacked on a McIntire broadcast."[202]

In a March 1964 memo, the FCC referred to McIntire by name: "If a licensee feels that with respect to Dr. McIntire's or anyone else's broadcast, it is necessary for him to see a script prior to broadcast, the licensee would be acting within his rights, and properly exercising his discretion pursuant to the Communications Act."[203] McIntire took great exception to being singled out by the FCC:

> We believe that under the Constitution, and under the Federal Communications Act, the FCC is forbidden to do what it is now doing. But it does it, and it is making the situation even more acute for the radio stations throughout the land. There should be a complete, full investigation by the Congress of the United States into the FCC, and Congressional action should be taken to restore full freedom of speech and exercise of religion under the Constitution … The FCC is virtually becoming a fourth branch of government. The Congress says one thing, the Constitution says one thing, and the FCC gives the politicians liberty to talk without being censored, but not the Christian ministers in this country who would preach righteousness in the land.[204]

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[200] *Concern*, April 1, 1964, section IV.

[201] *Christian Beacon*, April 23, 1964.

[202] *Concern*, April 1, 1964, section IV.

[203] FCC Memorandum No. 46526, released March 4, 1964.

[204] "Letter to Radio Audience Explains FCC Pressure Tactic," *Christian Beacon*, April 23, 1964, 7.

In the summer of 1964, a clarification by the FCC of what was expected of broadcast licensees and a tussle between McIntire and the Democratic National Committee led to more affiliates dropping the *Twentieth Century Reformation Hour*. In late May of that year, Samuel Brightman, the Democratic National Committee's Deputy Chairman for Public Affairs, sent a copy of a May 25, 1964, article in *Nation* magazine to more than 1,300 radio stations across the country, including most of the *Twentieth Century Reformation Hour* affiliates. In a *Nation* magazine article, titled "Radio Right: Hate Clubs of the Air," author Fred Cook, who played a prominent role in the Red Lion case, called McIntire the "number one spokesman of the radical Right." Copies of the *Nation* article were sent to *Twentieth Century Reformation Hour* affiliates and affiliates of other "hate" programs mentioned in the article. In an accompanying letter, Brightman wrote that "I thought it (the article) would be of interest to you since it is my understanding that your station is one of those carrying the programs it describes. All of these programs have repeatedly attacked the candidates, programs and policies of the Democratic Party."[205] Upon learning that Brightman had sent a copy of the *Nation* article and an accompanying letter to *Twentieth Century Reformation Hour* affiliates, McIntire set his sights squarely on the Democratic National Committee. "This, in my opinion," argued McIntire on his program, "is nothing but a power move on the part of the Democratic National Committee to get rid of some of these programs if they possibly can do so … The idea now that these stations are going to have the finger of the Democratic National Committee pointed at them, because they carry these programs as they're outlined here, may be designed and it may have the effect of intimidating these stations a little bit. At least some of them will say, 'Well, if this is going to develop, let's drop McIntire's program in a hurry.'"[206]

McIntire's prediction would come to fruition. On July 2, 1964, Brightman sent another letter to *Twentieth Century Reformation Hour* affiliates: "I have been informed that your station broadcast today a recorded program by Carl McIntire, a radio preacher of Collingswood, New Jersey, which attacked me personally as well as the Democratic National Committee of which I

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[205] Copy of the telegram was reproduced in *Christian Beacon*, August 20, 1964.

[206] *Twentieth Century Reformation Hour* radio program, August 13, 1964. McIntire persistently criticized the Democratic National Committee over a period of two weeks in late May and early July 1964.

am Deputy Chairman."[207] Brightman included information regarding the FCC's fairness rules with his letter and asked the affiliates to "immediately transmit to me the text of this broadcast and the offer of your facilities for an adequate response. In the event that you do not do so, the matter will be brought to the attention of the Federal Communications Commission.[208]

In the letter, Brightman alludes to the FCC's notice of July 26, 1963, which required that "when a controversial program involves a personal attack on an individual or organization, the licensee (radio station) must transmit the text of the broadcast to the person or group attacked, wherever located, either prior to, or at the time of the broadcast, with a specific offer of his station's facilities for an adequate response."[209] Brightman sent another letter to *Twentieth Century Reformation Hour* affiliates a day later, complaining that he was attacked again by McIntire, this time on his July 3, 1964, program. He requested text of affiliates' broadcasts for July 2 and 3, 1964.

McIntire responded to Brightman's request on behalf of his affiliates, forwarding tapes of broadcasts of his program for the entire week. He also extended an invitation to Brightman: "I hereby invite you to come to the Christian Admiral (Hotel), Cape May, New Jersey, to make your statement on all my stations without cost. Major Bundy of the Church League of America, one of the nine 'hate clubs of the air' named in the *Nation's* article, will also be here next week."[210] Brightman declined the request, prompting McIntire to conclude that "he (Brightman) is interested in using this situation to intimidate and to put fear in the hearts and before the faces of radio broadcasters – fear of the Federal Communications Commission and the removal of their license."[211] Brightman drafted yet another letter to *Twentieth Century Reformation Hour* affiliates, asking for 30 minutes of free broadcast time to air a pre-recorded program discussing Cook's article. "In the event such an offer is not received," wrote Brightman, "the entire matter

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[207] Copy of letter reproduced in *Christian Beacon*, July 9, 1964.

[208] Ibid.

[209] Mapoles, Clayton, 23 Pike & Fischer RR 586, 591; Billings Broadcasting Company, 23 Pike & Fischer, RR 951, 953.

[210] Copy of letter reproduced in *Christian Beacon*, July 9, 1964.

[211] Telegram from McIntire to Brightman dated July 10, 1964. Reproduced in *Christian Beacon*, July 16, 1964.

will be brought to the attention of the Federal Communications Commission."[212] On August 11, 1964, a number of *Twentieth Century Reformation Hour* affiliates granted Brightman the free air time he requested. In his response, Brightman said it was not his intent to pressure affiliates to drop the program: "I would like to tell you we are not trying to intimidate anybody," he said. "All we are asking is when we, the Democratic National Committee, or I, Sam Brightman, am attacked by Carl McIntire or anyone else, we are going to demand our right to get equal time."[213]

On July 1, 1964, the FCC released the *Fairness Primer*, an outline of the steps the Commission followed in addressing fairness matters. The primer emphasized the Fairness Doctrine's role as a "right of access" for the public to the electronic media – "It is the right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation of the American system of broadcasting."[214] The primer reminded licensees that "the public's right to be informed (on issues of public importance) cannot be thwarted by the inability of the licensee to obtain paid sponsorship of broadcast time."[215] The primer required that licensees provide copies of editorials containing an attack to the person attacked "either prior to or at the time of the broadcast, in order to afford a reasonable opportunity to reply."[216] With the release of the *Fairness Primer* and the on-going feud between McIntire and Brightman during the summer of 1964, *Twentieth Century Reformation Hour* affiliates increasingly began to weigh the advantages of carrying the program against the risks of attracting the attention of the FCC. More affiliates decided to drop McIntire's program.

In June 1964, WMBI in Chicago dropped the *Twentieth Century Reformation Hour*. R.L. Constable, president of the Moody Bible Institute, which operated WMBI, noted that it was forced to drop the program because the station was unwilling to grant equal time to McIntire's

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[212] Copy of letter, dated July 8, 1964, was reproduced in *Christian Beacon*, July 16, 1964.

[213] Copy of Brightman's response was reproduced in *Christian Beacon*, August 13, 1964.

[214] National Archives, Office of the Executive Director, General Correspondence, Box 5. FCC Commissioner Rosel Hyde discussed the Fairness Primer in a letter to Robert Baker, co-director of the Media Task Force National Commission on the Causes and Prevention of Violence.

[215] Ibid.

[216] Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 2 RR 2d 1901; 29 Fed. Reg. 10415.

opponents: "We do not ever want to broadcast a defense of liberalism or an argument for false doctrine."[217] In a July 1964 letter to McIntire, Jerry Norman, vice president and general manager of WELE in Daytona Beach, Florida, outlined the rationale behind his decision to drop the program: "I have $40,000 worth of mortgages that can become due and payable if the FCC so much as starts a hearing looking toward non-renewal or revocation. There's no waiting to see if they had proper or constitutional grounds for calling a hearing. By the time that got settled, I'd be out of business. And with their Fairness Doctrine in effect, all they'd have to do is seize upon an incident such as the one with the Democratic National Committee, and decide that maybe I erred in not offering equal time before they wrote to request it."[218]

The sentiment of many of the stations that decided to drop the *Twentieth Century Reformation Hour* was expressed in a July 1964 letter sent to McIntire from Jack Black, manager of affiliate WWWF, in Fayette, Alabama: "I am regretfully terminating your program as of this date. If a solution to the problem presented by the fairness doctrine is worked out, I would like to resume your program …I sincerely appreciate your having permitted us to be among the stations to carry your program in the past."[219] Jay Newman of WBUC in Buckhannon, West Virginia, suggested that *Twentieth Century Reformation Hour* affiliates found themselves "in the position of the out-of-state driver who is arrested for speeding in heavy traffic even though he is just moving along with the local traffic. He certainly has some justification to think he stood out above the rest because of his out-of-state plate."[220] James Tisdale, owner of WVCH in Chester, Pennsylvania, elected to stop carrying the program in September 1964 "on the advice of the attorneys in Washington in connection with their FCC problems."[221] With WVCH dropping the *Twentieth Century Reformation Hour*, McIntire could no longer be heard in Philadelphia, the

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[217] Letter, dated June 24, 1964, from Constable to WMBI listener A.E. Fossland. Letter was reproduced in *Christian Beacon*, August 13, 1964.

[218] Letter was reproduced in *Christian Beacon*, September 24, 1964.

[219] Letter was reproduced in *Christian Beacon*, August 13, 1964.

[220] WBUC radio editorial was reproduced in *Christian Beacon*, August 20, 1964.

[221] Brandywine-Main Line Radio, Inc., v. FCC 473 F.2d 16, 153 U.S.App.D.C. 305.

city's surrounding suburbs and southern New Jersey. That same year, Brandywine-Main Line Radio, Inc.'s WXUR-AM and FM stations in Media, Pennsylvania, went on the market.[222]

[222] Hereafter, the AM and FM stations will be referred to collectively as WXUR.

McIntire, seen here at WXUR's studio in 1971, delivered his first broadcast of the *Twentieth Century Reformation Hour* on the station on April 30, 1965 (photo courtesy of Special Collections, Princeton Theological Seminary Libraries).

Chapter 7: WXUR License Transfer

In October 1964, the Faith Theological Seminary purchased controlling rights of WXUR AM and FM stations in Media, Pennsylvania.[223] The Seminary put up $425,000 ($25,000 cash plus a $400,000 mortgage on the Seminary) and applied for a license transfer.[224] John M. Norris

[223] Media, Pennsylvania, would make national headlines in the spring of 1971. On March 8, 1971, a group of activists, who called themselves the Citizens' Commission to Investigate the FBI, broke into an FBI office in Media. The group stole more than 1,000 FBI documents and then anonymously mailed many of these records to several major American newspapers, including the *Washington Post*, *The New York Times* and the *Los Angeles Times*. The documents exposed an FBI secret counterintelligence program called COINTELPRO. The purpose of this program, which the FBI launched in 1956, was to investigate and disrupt various dissident political groups, including many law-abiding and nonviolent organizations. The documents revealed the FBI's use of spies to monitor black college students and nonviolent black activist groups. One particularly disturbing document exposed the FBI's efforts to discredit Martin Luther King. According to Allan Jalon of the *Los Angeles Times*, the FBI "sent him (King) a composite tape made from bugs planted illegally in his hotel rooms when he was entertaining women other than his wife – and threatened to make it public. 'King, there is one thing left for you to do. You know what it is,' FBI operatives wrote in their anonymous letter." See Jalon's "A Break-in to End all Break-ins," *Los Angeles Times*, March 8, 2006. No member of the Citizens' Commission to Investigate the FBI was ever apprehended.

and the Red Lion Broadcasting Group had expressed interest in purchasing the station but couldn't afford it. McIntire, who served as president of Faith Theological Seminary's 11-member Board of Directors, told Norris that the Seminary wanted to purchase the station and that he wanted Norris and his son, John H. Norris, general manager at WGCB, to run WXUR. The application requesting the license transfer was filed with the Federal Communications Commission on October 23, 1964. WXUR's AM station, located at 690 on the dial, provided a 500-watt daytime-only signal. The FM facility, located at 100.3, had a 4.2 kilowatt signal. The stations covered all of Philadelphia, other sections of southeastern Pennsylvania as well as parts of New Jersey and Delaware. McIntire's life insurance policy of $100,000 was used as collateral for the purchase.

A host of Philadelphia-area groups and organizations, familiar with the *Twentieth Century Reformation Hour*, expressed opposition to the Seminary's transfer application for WXUR.[225] In late 1964, the FCC received a significant number of letters from organizations and private citizens asking the Commission to deny the license transfer.[226] The sentiment of many of those opposed to the transfer was expressed in a letter to FCC Chairman William Henry from the Rev. Robert DeWitt of the Episcopal Church's Philadelphia Diocese:

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[224] Faith Theological Seminary bought all available stock, giving the group controlling rights. The Seminary suggested in its application that it was requesting the transfer "for the principal purpose of broadcasting the Gospel of our Lord and Savior Jesus Christ, for the defense of the Gospel and for the purposes set forth in the Charter of Incorporation."

[225] Those opposing the transfer application included, among others, the Greater Philadelphia Area Committee for UNICEF, the National Association for the Advancement of Colored People, the Anti-Defamation League of B'nai B'rith, the Pennsylvania Southeast Conference of the United Church of Christ, the Presbytery of Philadelphia, the National Urban League, the Greater Philadelphia Council of Churches, the Jewish Community Relations Council, the New Jersey Council of Churches, the Philadelphia Council of the AFL-CIO, the American Baptist Convention, the Eastern Pennsylvania Synod of the Lutheran Church in America, the Philadelphia Baptist Association, and the Executive Committee of the Catholic Interracial Council of New York. It is also important to note that the FCC received letters supporting the transfer application. Application of George E. Borst, et al., 4 P&F Radio Reg.2d 697, 698 (March 19, 1965), hereafter referred to as the Borst Decision.

[226] The FCC received letters from, among others, the Episcopal Church's Diocese of Pennsylvania (Philadelphia), the Springfield (Pa.) Baptist Church, the Glencroft Baptist Church (Glenolden, Pa.), the Church of the Redeemer (Springfield, Pa.), the Ridley Park (Pa.) United Presbyterian Church, the First Presbyterian Church (Norristown, Pa.), the Pennsylvania Southeast Conference United Church of Christ (Collegeville, Pa.), St. Paul's United Church of Christ (Springfield, Del.), the Presbytery of Philadelphia, the Christ West Hope Presbyterian Church (Philadelphia), the Lansdowne (Pa.) Methodist Church, the Covenant Methodist Church (Springfield, Pa.), and the Methodist Church (Princeton, N.J.).

It is my understanding that the approval of such a license carries with it the responsibility to serve the public interest. I think there is little in the applicant's record which indicates that he is a proper person to be recipient of this special privilege. His reliance on inference and innuendo in his attacks upon the established Protestant community, the Roman Catholic Church, the national and local Councils of Churches, the United Nations, Protestant charity appeals, American foreign policy, UNICEF, and various other constructive forces, have established him as a negative and divisive force. It is my belief that to vest in such a person the proprietorship of a public trust would not be in the best interest of this community as a whole nor the body of the religious community. Therefore, I urge you to deny approval of this application.[227]

FCC Commissioner Rosel Hyde summarized the feelings of many opposing the transfer:

The main thrust of the complaints concerning Rev. McIntire is that, in his radio programs and publications, he has made false and misleading statements and deliberate distortions of the facts relating to various public issues such as race relations, religious unity, foreign aid, etc.; that he has made "intemperate" attacks on other religious denominations and leaders, various organizations, governmental agencies, political figures and international organizations; and that such expressions are irresponsible and a divisive force in the community and help create a climate of fear, prejudice and distrust of democratic institutions … A serious question is thus raised, in light of his views, whether he is or will be able to bring about a balanced presentation of opposing views or whether he will place his personal views above the station's public interest obligations.[228]

It is important to note that there were also those who supported the transfer of WXUR to the Seminary, including longtime adversaries of McIntire and the *Twentieth Century Reformation Hour*. In the January 6, 1965, edition of *The Christian Century*, a liberal weekly Christian magazine produced in Chicago and a favorite target of McIntire's, the publication's

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[227] Letter was reproduced in *Christian Beacon*, December 24, 1964.

[228] Brandywine-Main Line Radio, Inc., for Renewal of Licenses of Stations WXUR and WXUR-FM, Media, Pa., 14 RR 2d 1051, 24 FCC 2d 42, 1970, para. 5. Hereafter referred to as Initial Decision.

editors found themselves in the highly unusual position of supporting McIntire in his efforts to acquire a broadcast license: "No reader of *The Christian Century* needs to be reminded that it disagrees with 99 percent of what McIntire believes and preaches. His methods are offensive, his goals disreputable and his achievements calamitous … But none of this weighs for or against McIntire's right to own or control a radio station. In such matters, we find more wisdom in the secular press with its consuming interest in free expression than we do in the actions of religious groups under McIntire's attack."[229] Editors at the *Minneapolis Star* newspaper concurred with the editors at *The Christian Century*. In an editorial in its December 11, 1964, edition, the *Star* argued that denying the license transfer was a preemptive measure that should be avoided in a free society: "If he (McIntire) violates government regulations, then the Federal Communications Commission can be asked to take proper remedial or punitive action. But you cannot convict the man in advance, however much you may disagree with his view or distrust his intentions. It is a strange situation indeed when religious and civil rights organizations, which ought to be – and usually are – in the forefront of the battle for tolerance in public life, behave intolerantly themselves."[230]

The *Minneapolis Star's* editorial drew the ire of the Rev. Herbert Gearhart, President of the Greater Philadelphia Council of Churches. Gearhart sent a letter to the newspaper, criticizing the December editorial for its "superficial treatment" of the Seminary's license transfer request:

> We, sir, are shocked that the editors of so significant a news medium as *The Minneapolis Star* would brush aside so lightly some of the deeper issues which complicate the matter of McIntire's application for a radio license … Because the air waves are involved and because only a limited number of broadcasting facilities may operate within a given area, the proprietorship of a radio or television station has become a public trust, licensed by the federal government to be operated "in the public interest, convenience and necessity." … The history of Carl McIntire's activity on both the local and national levels is the record, in our opinion, of an irresponsible and unconscionable man, who putting aside his agency as a deliberate and calculating divisive force, has long ago proved himself to be of

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[229] *The Christian Century*, January 6, 1965.

[230] *Minneapolis Star*, December 11, 1964.

> a character and moral disposition singularly unfit to discharge the responsibilities of the office he seeks now to possess, irrespective of his peculiar religious views.[231]

Initially, most of the correspondence the FCC received relating to the Seminary's request for a license transfer lobbied the Commission to deny the request. McIntire, however, discussed the issue regularly on the *Twentieth Century Reformation Hour* and within the pages of the *Christian Beacon*, which by this time boasted a circulation of more than 30,000. Soon pro-transfer letters began arriving at the FCC offices. By mid-February 1965, the Commission had received approximately 1,000 letters supporting the transfer and just 70 opposed to it.[232] The majority of those supporting the transfer argued that refusal to award the license to the Seminary constituted censorship. One of the letters submitted to the FCC endorsing the transfer came from students at Faith Theological Seminary: "We ask the Commission to grant early approval of the transaction, in order to clarify the present public confusion concerning the integrity of our Seminary. The Commission would thereby avoid the ill-advised precedent of ruling against an educational institution because of its religious faith."[233]

McIntire himself sent two letters to FCC Chairman William Henry in December 1964. In the first, dated December 9, he told Henry that "I have been unable since then (when WVCH dropped the *Twentieth Century Reformation Hour*) to purchase time on any AM station in this area and there are literally thousands of people in southeastern Pennsylvania who can no longer hear our program and who desire to do so … If the FCC approves of the purchase by Faith Theological Seminary of WXUR, I will then be able to return our broadcast to an area which at the present moment I cannot serve because of the Fairness Doctrine. A situation has been created, Mr. Henry, concerning my broadcast, where stations hesitate to take the *Twentieth Century Reformation Hour* for fear of the FCC." In a second letter to Henry, dated December 21, McIntire made two requests. He asked the Commission to conduct a public hearing on the transfer and asked that any decision regarding the license transfer be made before April 15,

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[231] *Minneapolis Star*, January 6, 1965.

[232] "Latest Developments," *Broadcast*, February 16, 1965.

[233] Letter, dated December 18, 1964, was reproduced in *Christian Beacon*, December 24, 1964.

1965.[234] This date marked a deadline agreed upon by the Faith Theological Seminary and the previous owners of WXUR – if the license transfer was not approved by the FCC before April 15, the contract was null and void.

The Seminary's application for license transfer of WXUR's AM and FM stations was approved, without a hearing, by the FCC on March 19, 1965. In a 5-1 decision, the FCC concluded that denying a license to McIntire and the Seminary would be unfair because it would not afford the applicant an opportunity to "demonstrate good faith" in its pledge to meet its fairness requirements. Commissioners Hyde and Lee Loevinger wrote the majority opinion supporting the license transfer without a hearing, with Commissioner Kenneth Cox dissenting. Cox argued that a hearing exploring how McIntire would use the station should be conducted.[235]

The decision to grant the license transfer was based primarily on McIntire and the Seminary's promise to operate in the public interest rather than for its own private purposes. Citing the 1949 *Report on Editorializing by Broadcast Licensees*, Hyde noted that "Congress intended that radio stations should not be used for the private interest, whims, or caprices of the particular persons who have been granted the licenses, but in a manner which will serve the community generally and the various groups which make up the community."[236] Regarding Fairness Doctrine requirements, McIntire and the Seminary promised to provide those with opposing viewpoints the opportunity to present their views on the station. The Seminary also pledged to the FCC that "a half-hour program will be available and utilized on Sundays, on a sustaining basis … for an *Interfaith Forum* program, in which ministers or representatives of different faiths will be invited to participate in round-table discussions of religious principles and tenets as related to current social problems."[237] McIntire also impressed upon the FCC that the Seminary was not a "front" organization to advance his personal agenda. The day the license transfer was approved, John M. Norris pledged "strict adherence to the Fairness Doctrine."[238]

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[234] Letters was reproduced in *Christian Beacon*, December 24, 1964.

[235] In addition to Hyde and Loevinger, the other commissioners supporting the transfer without a hearing included Henry, Robert Bartley and Robert Lee.

[236] Supra note 17, para. 7. *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1246, 1249 (1949).

[237] Supra note 17, para. 13.

[238] "WXUR's Sale OKd by FCC," *Delaware County Daily Times*, March 20, 1965.

Hyde and Loevinger were joined by fellow commissioners William Henry, Robert Bartley and Robert Lee in approving the license transfer to the Seminary without a hearing. The philosophies of the sitting commissioners in March 1965, notably Hyde and Loevinger, who wrote the majority opinion, played an important role in determining WXUR and Carl McIntire's broadcasting fate, as well as their place in the history of governmental regulation of speech. A Republican from Idaho, Hyde is a very important figure in the history of the Fairness Doctrine. Appointed to the FCC in 1946 by President Harry Truman and promoted to chairman of the Commission by President Dwight Eisenhower in April 1953, he held this post until October 1954. After stepping down as chairman in October 1954, he stayed on as a member of the Commission and was reappointed FCC chairman by President Lyndon Johnson in May 1966, serving in that capacity until leaving the FCC in October 1969. Hyde holds the distinction of being the only FCC commissioner appointed chairman of the organization by a president who was not from the same political party. He is also the only commissioner to serve two separate terms within the FCC. Hyde joined the Federal Radio Commission in 1928 and was a participant in the spectrum allocation meetings that helped organize the FM airwaves and commercial television broadcasting. Hyde remained a consistent defender of the Fairness Doctrine throughout his tenure with the Federal Radio Commission and the FCC.[239] He was also one of the doctrine's founders.

While the Fairness Doctrine was promulgated in 1959 when Congress amended the 1934 Communications Act, the *Report on Editorializing by Broadcast Licensees* issued on June 2, 1949, provided the basis for the doctrine, namely that it is the public's right to be informed on issues of importance because such information is essential to a healthy democracy.[240] In what was officially a 4-1 decision, the FCC's *Report on Editorializing* reaffirmed the fairness obligation of broadcasters set forth in the FCC v. Great Lakes case 20 years earlier.[241] It can be argued that the majority reflected the views of only three of the FCC's seven commissioners at the time – Hyde; George Sterling, a Republican from Maine; and Edward Webster, an

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[239] Two prominent examples of Hyde's commitment to the Fairness Doctrine were his support for the presentation of information on the dangers of smoking within tobacco commercials and his support for the renewal of the license of television station WLBT in Jackson, Miss. See Simmons, *The Fairness Doctrine and the Media*, 67, 239.

[240] *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1246, 1249 (1949).

[241] Federal Radio Commission Third Annual Report 33 (1929).

independent from Washington, D.C. Then-FCC Chairman Wayne Coy and Commissioner Paul Walker did not take part in the decision. Commissioner Robert Jones filed "separate views," agreeing in part with the majority but taking exception to the specific steps outlined to enforce the doctrine. Walker endorsed a case-by-case approach, as opposed to a "fairness guide," which he believed could leave licensees in a "state of confusion" with regards to meeting fairness expectations.[242] In her dissenting opinion, Commissioner Frieda Hennock agreed with the majority that fairness was necessary, but argued that the FCC did not possess the power to enforce fairness.[243] If one considers Jones' separate views as dissenting, the report had the support of only a plurality of the FCC.

Hyde's reappointment as FCC chairman by Johnson in 1966 was welcomed by many broadcasters who had tired of what they perceived as the crusading nature of recent chairmen Newton Minow (March 1961 to June 1963) and William Henry (June 1962 to May 1966).[244] His support for the Fairness Doctrine notwithstanding, Hyde had established a "hands-off" reputation with regards to most broadcast regulations.[245] His reappointment as chairman was generally perceived as strengthening the conservatism of the Commission. In August 1987, several days after the FCC repealed the Fairness Doctrine, Hyde, Cox and seven other former commissioners criticized the decision, arguing that it "undermines the very foundation of the Communications Act of 1934 - the public trustee concept … The Fairness Doctrine has served the public well and it should be kept as long as monopolistic licenses are granted by the government."[246]

In supporting the transfer of WXUR's broadcast license to Faith Theological Seminary, Hyde argued that "the underlying purpose of the Fairness Doctrine is an informed public – so important to the proper functioning of our democratic process. Thus, under the Fairness

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[242] *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1264 (1949).

[243] Ibid., 1270.

[244] Wenmouth Williams, Jr., "Impact of Commissioner Background on FCC Decisions: 1962-1975," *Journal of Broadcasting*, 20 (Spring 1976). Williams notes that Kennedy's FCC appointees generally favored stricter regulation of broadcast programming and competition.

[245] Lawrence Laurent, "Heat's Off Broadcasters," *Washington Post,* July 21, 1966. Lyndon Johnson owned or jointly owned several broadcast outlets during his years in Congress and his family remained active in the broadcast industry during his presidency.

[246] Letter from former commissioners to Sen. Ernest Hollings, D-S.C., and Rep. John Dingell, D-Mich., August 4, 1987. Commissioners who signed the letter criticizing the decision to abandon the Fairness Doctrine included Hyde, Cox, Minow, Lee, Charles Ferris, Abbot Washburn, Tyrone Brown, Nicholas Johnson and Joseph Fogarty.

Doctrine, while a licensee may, of course, editorialize or in other ways present programming reflecting its own point of view, it cannot then block the presentation of contrasting viewpoints. On the contrary, in order not to leave the public uninformed as to those viewpoints (so far as its operations are concerned), the licensee must make a positive effort to secure such presentations."[247] Hyde noted that Faith Theological Seminary had assured the FCC on its transfer application that "equal opportunity will be afforded to opposing viewpoints on controversial public issues" and he argued that denying the Seminary the license would not allow it to demonstrate "good faith" and therefore constituted censorship.[248]

Loevinger joined Hyde in writing the FCC's majority opinion supporting the transfer of the WXUR broadcast license to McIntire and Faith Theological Seminary without a hearing. A Democrat from Minnesota who served on that state's Supreme Court, he was appointed to the FCC by Kennedy after serving as assistant attorney general in charge of the Justice Department's antitrust division from 1961-63. Kennedy appointed Loevinger to the FCC in June 1963 after he prevailed in a landmark antitrust case argued before the U.S. Supreme Court.[249] Loevinger filled the FCC seat vacated by Henry, who was promoted to chairman following the resignation of Minow. He served as a member of the FCC from 1963-68 and is most remembered for encouraging the A.T.&T. Corporation to adopt an emergency telephone number that would evolve into the 911 system. Kennedy appointed four commissioners to the FCC during his presidency – Loevinger, Cox, Henry and Minow.[250] With the exception of Loevinger, the Kennedy appointees tended to favor increased competition among radio and television stations; tended to support the public trustee role of licensees; and endorsed, generally speaking, increased regulation.[251] Opinionated and assertive, Loevinger typically voted with the other Kennedy appointees on issues related to competition. He was also a strong proponent of diversity in ownership and control of broadcast outlets, not surprising considering his

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[247] Borst Decision, para. 12.

[248] Ibid., para. 14.

[249] U.S. v. Philadelphia National Bank. This case marked the high court's first ruling on the applicability of antitrust laws to commercial banks and involved the merger of two of the three largest banks in Philadelphia.

[250] Bradley Canon, "Voting Behavior of the FCC," *Midwest Journal of Political Science*, 13 (November 1969).

[251] John Braeman, *American Politics in the Twentieth Century* (New York, N.Y.: Thomas Crowell, 1969).

background as an antitrust attorney. But he was consistently more conservative on other issues and a strong proponent of less regulation and the free market model. He voted with Hyde on a consistent basis throughout his tenure with the FCC.[252]

With regards to the Fairness Doctrine, Loevinger believed it infringed upon the First Amendment rights of broadcasters. He became an outspoken opponent of the doctrine upon leaving the FCC.[253] Loevinger addressed the free speech rights of talk radio hosts, such as McIntire, in 1965: "Talk is a staple of radio, and the talk, more often than not, is a discussion of public affairs and community problems … Never in history have so many ordinary citizens had so much opportunity to speak so freely to so wide a community. What is said is often the product of ignorance or prejudice, and many are annoyed, but I count such opportunity as a contribution to democracy."[254] In the majority opinion to grant the license transfer to Faith Theological Seminary without a hearing, Loevinger discussed the fine line between preserving the free speech rights of broadcasters and enforcing the Fairness Doctrine. He noted the subtle yet significant distinction between passing judgment on broadcasters' decisions versus affording others the opportunity to present views that challenge those of broadcasters:

> The Fairness Doctrine simply means that the Commission will require licensees to afford a reasonable opportunity for the discussion of conflicting views on issues of public importance. In overly simple terms, the Fairness Doctrine does not require fair presentation but requires only a fair opportunity to reply … If the allegations concerning Dr. McIntire are true, I would disagree strongly with his religious and political views and

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[252] John Pennybacker and Waldo Braden, *Broadcasting and the Public Interest* (New York, N.Y.: Random House, 1969). Williams argues that the "assassination of President Kennedy in 1963 marked the beginning of the transition from the strong regulatory Kennedy Commission to the more laissez faire approach of President Johnson's Commission" – Supra note 23 at 247.

[253] Loevinger ultimately agreed with Mark Fowler and other Fairness Doctrine opponents that the doctrine was no longer able to achieve its intended effect – see *Broadcasting* magazine, August 24, 1987, 64. Throughout his tenure with the FCC, Loevinger consistently sought to protect the free speech rights of broadcasters, the case of Banzhaf v. FCC notwithstanding - John F. Banzhaf III v. FCC, 405 F.2d (1968). In this case, the plaintiff challenged that televised cigarette commercials created the impression that smoking is a "necessary part of a rich, full life," and, citing the Fairness Doctrine, argued that the contrasting argument to this view should also afforded airtime on the TV. Loevinger agreed with the plaintiff, albeit reluctantly, "because of a strong feeling that suggesting smoking to young people, in light of present knowledge, is something very close to wickedness."

[254] "Let's Hear it for the Common Man," *Broadcasting & Cable*, 134, 28: 38. Speech was delivered at trade meeting in Atlantic City, New Jersey, shortly after the Commission approved the transfer of WXUR license.

would find them obnoxious. However, his religious and political views are of no legal significance or proper official cognizance. The Commission had no choice in this case and the result reached is compelled by basic legal and Constitutional principles. By upholding today the principles which protect speech and beliefs that are repugnant to me, I preserve principles that in another day and in other circumstances may survive to protect views and statements which I cherish.[255]

[255] Borst Decision, para. 28, 38.

McIntire (behind podium), seen here at a 1972 rally for WXUR on the steps of the Pennsylvania state capitol building in Harrisburg. He delivered his last broadcast on WXUR on July 5, 1973 (photo courtesy of Special Collections, Princeton Theological Seminary Libraries).

Chapter 8: New Station, Same Problems

License in hand, McIntire and Faith Theological Seminary assumed control of the WXUR AM and FM stations on April 29, 1965, with an inaugural one-year licensing period to extend until August 1, 1966. Three members of the Seminary's Board of Directors – John H. Norris, Edward Roper and J. Wesley Smith – were appointed to WXUR's Radio Board. Norris, general manager of his father's radio station, WGCB, in nearby Red Lion, Pennsylvania, assumed the same role at WXUR. He announced on the day of the license transfer that "the station will be run as a commercial enterprise. Only a few changes in programming are

contemplated."[256] On April 30, 1965, the *Twentieth Century Reformation Hour* became the first broadcast carried over the WXUR stations under the new ownership group. Buoyed by his victory in obtaining a broadcast license from the Federal Communications Commission, McIntire immediately renewed his campaign against the Commission and the Fairness Doctrine. At a rally he organized at Constitution Hall in Washington, D.C., on May 17, 1965, McIntire recommended that all U.S. radio stations be given a permanent license: "Now it is every three years they have to go up to get their approval … These American citizens should have a permanent license, just as permanent as any man who operates a newspaper. Second, the immediate repeal of the so-called Fairness Doctrine, and that all matters of speech, religion and controversy be left to the free and open discussion, an arena of our people as provided under the Constitution, and that it be as free as the press."[257]

It is ironic that McIntire, an outspoken opponent of the Fairness Doctrine, would lobby for air time on the ABC, CBS and NBC television networks in the fall of 1965, arguing that fairness requirements mandated the networks grant him air time. McIntire filed statements of complaint with the networks, alleging they were unfair in their handling of Pope Paul VI's visit to the United States in October 1965. During a 14-hour stop in New York City on October 4, Pope Paul VI met with President Lyndon Johnson and the General Assembly of the United Nations. McIntire took advantage of this visit to attack the pope and the Roman Catholic Church for what he perceived was their weak stance on Communism. "The pope has no realistic formula for peace and ignores the Communists as the number one disturber of peace. His visit to the United States was used by television and radio to present a Roman Catholic propaganda show. The Communists will exploit sections of his speech to the weakening of our Western defense."[258] According to McIntire, "the turning over of all network facilities for virtually the entire day, with Roman Catholic counselors and commentators from the church sitting in for explanations, editorial reporting and Roman Catholic preachments in behalf of the church itself, went far beyond the normal and accustomed news reporting … No opportunity whatsoever was given to the conservative and fundamentalist Protestant movement, or a representative of it, to make any

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[256] "WXUR's Sale OKd by FCC," *Delaware County Daily Times*, March 20, 1965.

[257] *Twentieth Century Reformation Hour* radio program, January 7, 1966.

[258] "Antagonist Raps Pope," *Anderson* (S.C.) *Independent*, October 6, 1965.

comment on the proceeding. We hereby request that all three TV networks make available immediately free time for a representative of the International Council of Christian Churches to present to the American people comments upon the Pope's visit and upon the statements that were made by the Roman Catholic evangelists who were directing the minds of the American people in the matter on behalf of the Roman Catholic Church."[259] The networks refused to grant McIntire any air time and the FCC agreed, concluding the networks had not violated the Fairness Doctrine.

McIntire had a new target in his sights later that month. In a speech before the National Conference on Broadcasting and Election Campaigns, American Federation of Labor and Congress of Industrial Organizations Public Relations Director Albert Zack told those in attendance that "we in the AFL-CIO believe strongly in the free expression of opinion since we have suffered from its denial. But surely, in the national interest, there must be a more effective set of ground rules to ensure that the expression of opinion is not only free but equal." Zack suggested that "the most flagrant and most widespread abuses" in political broadcasting could be traced to the "electronic clergy." He told those at the conference that "this particular God, as interpreted by the Rev. Billy James Hargis, the Rev. Carl McIntire and others, is not quite the same one most of us met in Sunday School. He has very pronounced and specific opinions on the issues of the day … Surely the airwaves, which belong to the nation, should not be so completely dominated by the weight of extremist money."[260]

McIntire invited Zack to appear on the *Twentieth Century Reformation Hour*, but the AFL-CIO public relations director declined. In his letter declining McIntire's invitation, Zack wrote that "day after day, program after program, you expound a point of view which is not only contrary to mine, and that of most Americans, but which grossly offends the concepts of Christian ethics. You now propose to set everything right by asking me to come to Collingswood and speak in reply to anything you may say concerning me. It simply will not do,

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[259] Excerpt from McIntire's Fairness Doctrine complaint that was filed with three television networks, October 5, 1965.

[260] Segments of Zack's speech were reprinted in *Labor* (October 23, 1965) and *Machinist* magazines (October 28, 1965).

Dr. McIntire. This not only does not meet the legal definition of 'fairness,' but it does not meet the far more significant standards set by the conscience of men."[261]

McIntire replied to this correspondence on November 13, 1965, suggesting that Zack had misunderstood his invitation:

> I did not imply even that your appearance in response to your attack upon me would "set everything right." As to the FCC's Fairness Doctrine and its legal definition, the FCC has made it plain that this so-called Fairness Doctrine comes into play on a specific broadcast only when an individual's character and integrity are attacked, but a discussion of one's views and the position which he holds in our national life is a proper and legitimate subject for debate under the protections of the guarantees of freedom of speech and the free exercise of religion in the First Amendment. My offer to you actually went beyond any legal definition of fairness.[262]

WXUR's license was contingent on the Seminary's pledge that the station provide an opportunity for diverse religious voices to be heard over its airwaves. *Interfaith Dialogue*, the program Seminary officials designated to meet this obligation in its license transfer request, did not debut on WXUR until November 28, 1965. "Not only was the program not put on at all for almost seven months, but when it was," noted the FCC at the time WXUR's license renewal was denied, "Brandywine patently failed to carry out the important promise to make every effort to get a varied participation … None of these broadcasts complied with the Seminary transfer application representation that the program would consist of round-table discussions by representatives of different faiths … The program clearly did not live up to its promise."[263] Frustrated over WXUR's one-sided programming, a number of residents from Media and the surrounding community approached the station's primary advertisers and threatened to boycott

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[261] Letter from Zack to McIntire, dated November 5, 1965, quoted in Brandywine Decision, 30.

[262] Letter from McIntire to Zack, dated November 13, 1965, quoted in Brandywine Decision, 30-31.

[263] Application of Brandywine–Main Line Radio, for Renewal of License of Stations WXUR and WXUR-FM, Dkt. No. 17141, 24 F.C.C.2d 18, 21, (1970). Hereafter referred to as February Decision. Brandywine was the official name of the licensee – Faith Theological Seminary was the majority owner in this "corporation."

their companies if they continued to buy time on WXUR. Between April and December 1965, monthly advertising revenue for the station had dropped from $7,000 to $500.[264]

In addition to the problems surrounding *Interfaith Dialogue*, there were complaints about some of WXUR's other programs, most notably *Freedom of Speech*. Moderated by Thomas Livezey, *Freedom of Speech* made its debut on WXUR on June 1, 1965. McIntire recommended Livezey to Norris and suggested that he be hired to host this program.[265] *Freedom of Speech* was a telephone call-in show in which Livezey would often cut callers off when they expressed opposition to positions he supported, many of which were racist and anti-Semitic. Livezey would open the hour-long program, which aired weekdays at 3 p.m. on WXUR's AM station, by reading an editorial, often from the *Wall Street Journal*. He would remind callers to limit their comments to three minutes and to keep them in good taste. The following is an example of Livezey's approach with callers he disagreed with:

> **Livezey:** *Freedom of Speech*, good afternoon.
>
> **Caller:** Mr. Livezey, I've been listening to your show for the past week and I see it like a common theme running through you and your listeners. Since you're worried about the Communists, you know, about being over America, I think it would be advisable or would be a recommendation for your listeners to think positive instead of negative about the people who consist of America. I mean – instead of trying to like – it seems like you're trying to go against talking up somebody else being bad, you should talk about each individual bad person instead of trying to get gruesome and causing hatred and animosity between them. Like you talk about everybody as Americans and not as.
>
> **Livezey:** Well, I don't know, up to now you've made no point. What are you trying to say?
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> **Caller:** In other words, like so-and-so is a Negro and therefore Negroes are like this, and Jews are like this, and Catholics are like this.
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> **Livezey:** I see.

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[264] Initial Decision, para. 125. Companies that stopped advertising on WXUR shortly after the license transfer included Media Lockers, Scott Paper, Sears-Roebuck, Town House Restaurant and Wawa Dairy.

[265] Initial Decision, para. 127.

Caller: Instead of talking about groups – if some guy's a jerk, not because he's Jewish, Negro, or Catholic, it's the guy's a jerk. If the guy's a Communist, he's a Communist, not because he's Jewish, Catholic or Negro, and if you'd think positively instead of negatively.

Livezey: What faith are you, may I ask?

Caller: What race?

Livezey: Yes.

Caller: I'm white.

Livezey: I didn't ask you that, I said what faith?

Caller: Oh, faith. I'm Jewish.

Livezey: I thought you were Jewish.

Caller: I mean, I'm just talking objectively.

Livezey: I see.

Caller: No, I mean, do you see my point?

Livezey: I see your point, yes.

Caller: But, by trying to split the different groups up.

Livezey: Uh-huh.

Caller: Causing hatred, this is just what the Communists.

Livezey: Do you think the Jews are trying to split the Christians up and the Catholics?

Caller: No, I don't.

Livezey: And the Negroes?

Caller: No, I don't.

Livezey: You don't?

Caller: No, I'm sorry. I don't.

Livezey: All right, fine. I'm glad to hear from you.

Caller: And one other thing – Your show is, you call it *Freedom of Speech* but there were certain things that I've noticed over the last week that, you know, just aren't equal.

Livezey: Uh, huh.

Caller: As far as.

Livezey: Well, you leave running the show up to me, will you?

Caller: Can I just say something?

Livezey: How old are you, incidentally?

Caller: I'm 20.

Livezey: You're 20 – you sound like a teenager to me.

Caller: No, I passed that stage two months ago now.

Livezey: Did you? Well I'm glad for you. Maybe you'll get thinking some of the conservative way of thinking instead of the liberal vein.

Caller: Well, that's why I'm listening to your show, but.

Livezey: That's fine. I hope it's an education.

Caller: Yeah, well I mean, I just want to say one thing.

Livezey: Well, make it quick.

Caller: Yeah. On Friday, a teenage girl called, a sophomore from high school.

Livezey: And a very educated young lady, I think.

Caller: Well, you let her speak, which is fine, but then another teenager called up who disagreed with you and you cut him off because he was a teenager. Now.

Livezey: I knew his ilk, that's why I cut him off.

Caller: I mean, if he disagreed with you.

Livezey: It wasn't a case of disagreeing with me. It was the way he presented it.

Caller: And you also, if someone disagrees.

Livezey: All right, your three minutes are up.[266]

Freedom of Speech promoted itself as a forum for free expression, when in actuality, Livezey typically dictated what would and would not be discussed. On several occasions, Norris encouraged Livezey to adopt a gentler approach on his show in response to increasing complaints. The FCC would eventually find that WXUR officials were delinquent in their responsibility to establish procedures for monitoring and reviewing broadcasts and therefore did not regularly know the kinds of views that were being presented on various programs.[267]

Delaware County Today was another call-in show on WXUR. Hosted by Carl Mau, the program's intent was to focus attention on issues of regional interest. Mau, who was hired at

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[266] *Freedom of Speech* radio program, August 31, 1965.

[267] Initial Decision, para. 128.

WXUR after hosting a similar program on WEEZ in Chester, Pennsylvania, booked his guests. Like *Freedom of Speech*, the Broadcast Bureau of the FCC cited concerns regarding this program when it concluded in January 1967 that a public hearing should be conducted to determine whether or not to renew WXUR's license.

Mau acknowledged during the license renewal hearing that he often "roughed up" guests on his program. "I feel I am a moderator," said Mau, "but I become a commentator when somebody brings un-American philosophy up."[268] FCC Hearing Examiner H. Gifford Irion noted that Mau was "unreservedly candid about his antipathy to persons whom he considered un-American."[269] Mau's broadcasting style is evident in a conversation he conducted with Mildren Olmsted. Mau invited Olmsted to join him on *Delaware County Today* to allow her to reply to some of the comments that Delaware County business leader John Bartholomew had made about her on the program several weeks earlier. A member of the Veterans of Foreign Wars, Bartholomew alleged that Olmsted and an organization to which she belonged, the Women's International League for Peace and Freedom, were pro-Communism. Olmsted joined Mau on his program in late November 1965:

> **Mau:** How much membership does the Women's International League for Peace and Freedom have?
> **Olmsted:** Well, we don't count on sizes and we don't give out numbers because we find that various people really make things uncomfortable, difficult for individuals. We give the names of the officers and the names of the sponsors, which I think you have seen, and the names of the headquarters and we stop at that because we have found that it makes it uncomfortable for other people. They're misused.
> **Mau:** I am glad you brought the word "sponsor" up. You had a pamphlet that was distributed at the Wayne Baptist Church, what was two weeks ago or three weeks ago. On the back it showed a list of your sponsors. I think there were 111. We checked and researched that out and do you know that 54 of them have some kind of Communist leanings?

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[268] Initial Decision, para. 194.

[269] Ibid.

Olmsted: I don't.

Mau: Fifty-four out of 111 sponsors!

Olmsted: I don't believe it, if you take the correct definition of Communism. Now, I understand that some people are saying that anybody who doesn't believe in the fundamentalist interpretation of the Bible is considered a Communist, but I don't think we have any as far as I know. But people say Norman Thomas, for example, or Roger Baldwin, who are some of our most eminent citizens, but some people call them Communists. I think you will find that they are not Communist. If I had the list in front of me or you did, I'd be glad to go over each one.

Mau: I am sorry I didn't bring that pamphlet here, but we researched it out. Incidentally, another question that Mr. Bartholomew wanted me to ask. Well, no, he brought it up, that your name has been in the *Communist Daily Worker*, the official Communist paper, and they spoke of you in very glowing terms on quite a number of occasions. Is that true?

Olmsted: Indeed, I don't know. I don't read the *Communist Daily Worker*. It might be in any paper. I don't know. It quite probably is. I know President Johnson's name is quite often, I understand, and all sorts of people, but I have no idea what the answer to that question is.

Mau: Now, Mrs. Olmsted, upon your return from Russia, and I am quoting now, in your own publication, *Four Lights*, you are quoted as saying, "It is challenging to visit a society which is set out to do what is good for the people, regardless of cost and without competition, advertising, unemployment, waste or political rivalry."

Olmsted: Well, that is true.

Mau: Did you say that?

Olmsted: Probably, because that is, I mean, I don't have the quotation for you, but I would say it is.

Mau: It is right there, Mrs. Olmsted.

Olmsted: Well, that's what I said. I would say that because I am a social worker. I struggled for years. I was a hospital social worker for one thing. I was a family-planning worker, and I was working for the Main Line Federation of Churches and we would struggle and struggle and struggle to get some little improvement here, to get some little

improvement there, then to get it through. And my first reaction when I went to Russia was - isn't it wonderful if you can work these people to the idea that this is the better way to run a hospital, this is the better way to take care of the children, which they do very well over there. Wouldn't it be wonderful to be able to go and show and lay your facts and figures before somebody and then the improvements would come about?

Mau: Mrs. Olmsted, on the basis of this statement, have you lost faith in the private enterprise and the free enterprise system?

Olmsted: No, indeed, I haven't, and I wouldn't buy anything but American.

The FCC concluded that *Freedom of Speech* and *Delaware County Today* did not fulfill the obligation required by the Fairness Doctrine to afford a reasonable opportunity for the discussion of contrasting views on controversial issues of public importance, despite the station's claims that viewpoints expressed on its call-in shows typically "balanced out."[270] "*Freedom of Speech* under Livezey," noted FCC Secretary Ben Waple, "was conducted so as to discourage viewpoints with which he disagreed. From the outset, he both cut off and insulted callers who did not share his views. This conduct, for which Brandywine is of course responsible, is patently inconsistent with the requirement of fairness … Fairness cannot be achieved when the expression of one view is deliberately treated in an antagonistic manner while the opposing view is given the opportunity for expression without any interference, harassment or even opposing argument."[271]

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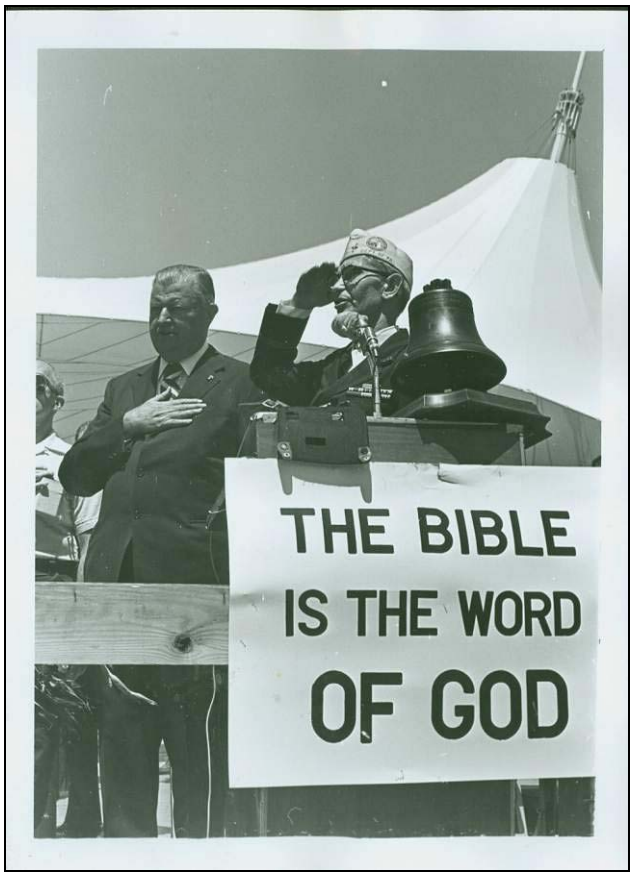
[270] July Decision, para. 11. In addition to *Freedom of Speech* and *Delaware County Today*, *Radio Free Philadelphia* was another call-in show on WXUR in which callers holding views in opposition to the program's hosts were forced to offer up their positions in an "antagonistic setting."

[271] July Decision, para. 11, 12.



McIntire (left), seen here at a "Save America" rally in Philadelphia in 1976, complained that he was a victim of religious discrimination throughout his radio career (photo courtesy of Special Collections, Princeton Theological Seminary Libraries).

Chapter 9: Taking Notice and Exception

Freedom of Speech was discussed at an October 2, 1965, meeting of the board of directors of Faith Theological Seminary. Livezey's choice of words on several of his broadcasts was described as "unfortunate" by Seminary officials in attendance.[272] Livezey remained on the air until the middle of November 1965. During his program on November 18, 1965, one of

[272] Minutes from the meeting, included in Initial Decision, para. 78. Board members in attendance at the meeting included McIntire, Norris, Edward Roper and J. Wesley Smith.

Livezey's callers suggested that members of the American Jewish community were linked with the national pornography industry. Livezey "enthusiastically agreed" with the caller.[273] After the program, Norris and Roper asked Livezey to apologize for his comments, but Livezey adamantly refused to do so, at which point Norris told him he was being taken off the air.[274]

On November 18, 1965, Livezey was the primary topic of discussion at a Media borough council meeting. Arguing that Livezey made repeated attacks on "various ethnic groups and the U.S. government in general," three Media residents demanded that the borough take some sort of action against WXUR.[275] Shirley Porter told borough council members she had heard Livezey "give lengthy orations against various groups of people: Catholics, Jews, Negroes. I heard Livezey be insulting to people that call in to express opposite views. I heard him hang up on people. I heard him call people very derogatory names right over the air."[276] Council members decided to draft a letter to the Federal Communications Commission requesting a review of WXUR's programming decisions, specifically Livezey's attacks on various groups.[277] Emphasizing that the Council was "against any attacks on any Media groups of citizens," Council President Gus Houtman authorized borough Secretary Paul Clark to draft a letter to the FCC "protesting the use of the airwaves for such purposes."[278] Included in the letter was the following excerpt: "Within the context of free speech, we do, however, believe that any radio program inviting the general public to respond by telephone should receive with equal treatment all calls placed."[279]

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[273] Initial Decision, para. 79

[274] Reuben Jay and Jay Parker replaced Livezey as moderators of *Freedom of Speech*. Livezey remained at the station as news director until April 1966. He was on air as news director and also as a disc jockey, but he did not return as a talk-show host. McIntire was out of the country when Livezey was removed as host.

[275] Mrs. James Austin, Mrs. Charles (Shirley) Porter and Mrs. Eva Winters were the residents who complained to the Media Borough Council. "WXUR Hit in Protest to Council," *Delaware County Daily Times*, November 19, 1965.

[276] Initial Decision, para. 191.

[277] "WXUR Hit in Protest to Council," *Delaware County Daily Times*, November 19, 1965.

[278] Ibid.

[279] This letter was sent, but it was retracted in January 1966 after Livezey's program was taken off the air.

One of the council members told those in attendance that local advertisers had begun boycotting the station.[280] An area resident who attended the meeting said she had threatened to withdraw patronage from companies that continued to advertise with WXUR. She said her friends had employed a similar strategy to express their displeasure with the station's programming.[281] Philip Savage, Tri-State Secretary of the National Association for the Advancement of Colored People, threatened a boycott of WXUR advertisers unless the station "cease and desist these stupid programs." He told those in attendance at the meeting that "we will not sit back and take any slander or the type of remarks aimed to hurt us."[282] WXUR officials argued that any action taken by the Council against the station would be illegal. Norris told the Council that any efforts by the group to "control" the station "impinge upon the liberty which we all enjoy under the first, ninth and tenth amendments."[283]

Frustrations with WXUR's programming would soon spill over from the local to the state level. On December 14, 1965, five representatives introduced a resolution within the Pennsylvania House asking the FCC to investigate WXUR. House Resolution No. 160 challenged that WXUR had failed to meet the FCC's fairness requirements and asked the Commission to investigate WXUR to determine "whether or not it is complying with the requirements of a broadcast licensee."[284] The resolution singled out McIntire:

> The views which the Reverend McIntire expounds are those which we now equate with the word "extremism." The danger of such views to our country is self-evident. That such views are rejected by a majority of our citizens was demonstrated by the election returns in November 1964 … The right of the Reverend McIntire to hold or express such

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[280] Initial Decision. Sears, Roebuck and Co. canceled its advertising on WXUR after several community members threatened to boycott the company if it did not sever ties with McIntire.

[281] Mrs. Charles Porter told council members she was "avowedly opposed to the station and, in particular, Livezey" – Supra note 17, para. 53. Initial Decision, para. 56. The letter was sent to the FCC on November 24, 1965.

[282] "Radio Station is Protested," *Delaware County Daily Times*, November 20, 1965.

[283] "WXUR Probe Proposed," *Delaware County Daily Times*, December 15, 1965.

[284] Pennsylvania House of Representatives Resolution 160, December 14, 1965. Democratic Representatives Joshua Eilberg (Philadelphia County), Herbert Fineman (Philadelphia County), James Prendergast (Northampton County), John Pittenger (Lancaster County) and Russell LaMarca (Berks County) introduced the resolution before the state's General Assembly.

> views is not in issue. The only issue is whether the Reverend McIntire exercises the degree of social and public responsibility which the law demands of a broadcast licensee. There is a serious question whether radio station WXUR, under the operational control of Reverend McIntire, is giving the balanced presentation of opposing viewpoints required of broadcast licensees. [285]

Despite the fact that legislators in Harrisburg had grossly overstepped their bounds in criticizing McIntire's religious views and demonstrated, through adopting this resolution, their willingness to disregard the separation of church and state matters, the resolution was approved by Pennsylvania's House Rules Committee and a copy was sent to the FCC.[286] To say McIntire became upset upon learning of this resolution would be a serious understatement:

> Here's the state of Pennsylvania, a sovereign state, through its House of Representatives, attacking a religious leader seeking to defame, to demean, in some way or another, convince the public that this man of whom they're speaking, lacks the social and public responsibility, as they put it, to be a radio licensee. But in order to build a case for an investigation of the radio station WXUR by the Federal Communications Commission, they had to go into all my religious activities and make these announcements concerning the same, which of course is none of the business of any state legislature anywhere. But I tell you, as goes the church, so goes the nation and freedom is everybody's business … We're having religious persecution, religious intolerance, religious discrimination at the hands of the Democratic Party here in the state of Pennsylvania. Oh beloved, it's serious beyond words. These are the mighty issues that relate to faith and obedience and love of God. No earthly power, no political unit, no House of Representatives in the state of Pennsylvania has any right to defame a minister or a congregation because they built their own house of worship. They have no right to do that in the United States of America.[287]

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[285] Ibid.

[286] Brandywine Decision, 10, FN 30.

[287] *Twentieth Century Reformation Hour* radio program, January 6, 1966.

McIntire told his listeners that the actions taken by the legislature were not only unwarranted, but unprecedented as well:

> The state of Pennsylvania has the honor and the distinction of being the first political unit anywhere on the face on this earth to pass resolution seeking to defame and to dishonor and to hinder and to hurt this movement as it is unfolding under the guidance of the spirit of God and with the blessings of almighty God. The state of Pennsylvania stands out alone out of all the 50 states, out of all the governments of the world, in passing a resolution attacking a religious movement and a religious group and saying that the views and the ideas of Dr. Carl McIntire are a danger to the United States of America. When political powers move as the state of Pennsylvania's House of Representatives does to attack one group and to defend another group, we have reached a day when these great forces of Christian unity, they call them the ecumenical movement, and we have all this nice collaboration that's developing between the liberal Protestants and the pope of Rome, and this drive to build the one world church. I tell you my friends, when they get this one great world superchurch toward which they're moving, what will happen with the political powers and where will there be room left for men like myself to rise up and speak in the name of the word of God? We are moving into areas here which are dark indeed and encroachment upon religious grounds by state bodies is when it first takes place. Now's the moment, now's the time for us to resist it in every way we possibly can. Join us now in standing against the state of Pennsylvania and the Democratic Party which would do a thing like this to religious groups and religious leaders here in the United States of America. Oh, this is serious beyond all calculation.[288]

McIntire fired off a letter to members of the Pennsylvania House of Representatives arguing that the resolution "be reconsidered, that I be given an opportunity to appear before the House in my own defense, and that this action be rescinded … My activity as a clergyman in relationship to my religious affiliation and activity in my denominational connections is not a proper area for the state of Pennsylvania to pronounce upon … To have this pronouncement go

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[288] *Twentieth Century Reformation Hour* radio program, January 6, 1966.

forth throughout the land as a declaration of your august and representative assembly does irreparable and incalculable harm to me personally and the religious movement to which I belong."[289] In the letter, McIntire made a distinction between himself and the ownership group of the station, noting that operational decisions at WXUR were made by Brandywine-Main Line Radio, Inc. "This corporation is headed by Mr. John H. Norris, and I am not on it," wrote McIntire. "Faith Theological Seminary owns the stock of the corporation, and I am president of the Board of the Seminary.[290]

McIntire alleged that the same groups who fought to deny the license transfer of WXUR to Faith Theological Seminary in late 1964 were behind this House resolution. "Any way one looks at this action of the state of Pennsylvania," said McIntire, "it involves religious intolerance, religious persecution by the Democrats of a religious leader and movement."[291] McIntire suggested that such governmental "meddling" in the affairs of broadcasters might be only the tip of the iceberg. "If this is happening in the state of Pennsylvania under a Democratic Party leadership, it could happen in the state of New Jersey, where the Democrats are going to be in absolute control of all houses and of the governorship. It could happen in other states in the United States, and it could start a series of attacks by state legislatures … The clear implications of this resolution are far-reaching, so far as freedom is concerned."[292] McIntire sent a copy of the resolution to President Johnson on December 23, 1965, along with a letter in which he emphasized to the president the importance of keeping church and state matters separate. "What is important right here is that this persecution in Pennsylvania comes from the Democratic Party, its leaders in the House of Representatives, and we have outlined to you that this extends to your Washington administration. Religious discrimination should not exist in any form in this country under our constitution. Mr. President, you have it in your power immediately to correct all of this. Please do."[293] Brooks Hays, an adviser to President Johnson, responded to McIntire's letter on February 5, 1966: "Let me assure you that the president respects and abides by the

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[289] Letter was reproduced in *Christian Beacon*, December 23, 1965.

[290] Letter was reproduced in *Christian Beacon*, December 23, 1965.

[291] "Pennsylvania's Constitution," *Christian Beacon*, December 30, 1965.

[292] "Time to Resist is Now," *Christian Beacon*, January 6, 1966.

[293] Letter was reproduced in *Christian Beacon*, December 30, 1965.

constitutional separation of church and state and, indeed, so far as I am aware, no president in our nation's history has ever attempted to arbitrate theological differences or favor one religion over another in his official capacity … If there is improper discrimination by any agency of government, recourse to the courts is always available to those who believe themselves to be aggrieved."[294]

McIntire placed the blame for this "religious discrimination" squarely on the shoulders of Pennsylvania Democrats. "They control the lower House of Representatives in Harrisburg, they control the Congress of the United States, they control the Federal Communications Commission."[295] In a symbolic gesture, McIntire's Bible Presbyterian Church and the American Council of Christian Churches adopted resolutions asking Pennsylvania's House of Representatives to rescind its resolution and issue an apology. McIntire used a historical analogy to express his feelings about the actions taken by the state's legislators: "It was just this very type of thing for which William Penn suffered in prison himself and for which he was prompted to found and develop the colony which became the great state of Pennsylvania."[296]

Upon receiving the letter from Media's borough council and the resolution from the Pennsylvania House, FCC Secretary Ben Waple sent a letter to Faith Theological Seminary on January 10, 1965, requesting that the station's ownership group demonstrate what steps it had taken "to insure full compliance" with the Fairness Doctrine. Waple wrote that the Commission had received "several letters alleging that in your programming you present only one point of view on controversial issues of public importance." The FCC secretary also noted that the letters "refer specifically to a phone-in program broadcast in the afternoon," namely *Freedom of Speech*. Waple reminded Seminary officials that the FCC's March 1965 approval of the license transfer "relied upon your specific representation that you would comply with the Fairness Doctrine."[297] After receiving Waple's correspondence, McIntire predicted that "this is the

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[294] Letter was reproduced in *Christian Beacon*, February 10, 1966.

[295] "The Federal Communications Commission - A Party to Tyranny," *Christian Beacon*, February 3, 1966.

[296] "Liberals Ask Denial of WXUR Radio License," *Christian Beacon*, September 15, 1966.

[297] "WXUR Receives Order," *Delaware County Daily Times*, January 11, 1966.

beginning of the steps necessary to take away the license of the station."[298] His words would prove prophetic.

WXUR officials were invited to a Media borough council meeting on January 20, 1966, to discuss the station's programming. John H. Norris, Brandywine Mainline Vice President Edward Roper and WXUR program hosts Carl Mau and Marion Pedlow attended the meeting. Norris told council members and an audience of approximately 75 community members that Livezey had been removed as host of *Freedom of Speech* and WXUR's acting Program Director Donald MacLean had resigned December 7, 1965. "We have corrected a situation which we ourselves realized was not the best," said Norris. "If there is no complaint now, we would appreciate council so advising the Federal Communications Commission."[299] A motion was made that "a letter be sent to the FCC stating that the objectionable features of *Freedom of Speech* have largely been eliminated."[300] The motion was unanimously approved by members of the Council and a letter was drafted by Borough Solicitor Howard Reed, Jr., and sent to the Commission on February 2, 1966.[301] Borough council members defended their original letter to the FCC, the one questioning WXUR's fairness on *Freedom of Speech*. "WXUR has admitted correcting the situation," noted Councilman Gleave Baker. "Therefore, there was no mistake by Council."[302] Bob Barry became WXUR's station manager in June 1966 and began moderating *Freedom of Speech*.[303]

In January 1966, McIntire announced to *Twentieth Century Reformation Hour* listeners that a "convocation" would be conducted on the steps of the Pennsylvania state capitol building in Harrisburg on February 12, 1966, to protest the resolution. He told those tuning in that a "marvelous spirit" was mounting among his listeners in defense of religious freedom and that he planned to address each of the charges leveled against him. "Ladies and gentlemen," said

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[298] "FCC Hits WXUR," *Christian Beacon*, January 13, 1966.

[299] "Media Alters Stand," *Delaware County Daily Times*, January 21, 1966.

[300] "Media Council Votes to Tell FCC Radio Program No Longer Biased," *Philadelphia Evening Bulletin*, January 21, 1966.

[301] Brandywine Decision, 10, para. 3. J.A. Vol. II, 145h.

[302] "Media Alters Stand," *Delaware County Daily Times*, January 21, 1966.

[303] Initial Decision, para. 103.

McIntire, "I am taking now the opportunity which God has given to me since he has given us all these radio stations throughout this land and our shortwaves around the world to take these accusations by the state of Pennsylvania one by one and discuss them with you people in light of my own personal experiences."[304] McIntire extended an invitation to Joshua Eilberg, the driving force behind House Resolution 160, and one of the five Pennsylvania representatives who introduced the bill. He requested that Eilberg be on hand to receive petitions protesting the resolution. "If, of course, you are unable to be present," said McIntire, "we will leave them at the door of the House."[305]

A crowd of roughly 4,000 people attended the convocation to protest the resolution and present the petitions. During a break in the rally, and with Eilberg a no-show, McIntire attempted to carry the petitions to the assembly chamber, but the doors to the chamber were locked. "He wanted to take them to the desk of Joshua Eilberg, but that's an impossibility," said Harrisburg Police Captain David Cochlin. "I told him he could leave them with me and I'd see he got them."[306] Declining Cochlin's offer, McIntire revisited Harrisburg the following Monday, February 14, with two cardboard boxes of petitions signed by 15,000 people opposing the resolution. He hoped to hand deliver them to Democratic House Speaker Robert Hamilton. Upon arriving at the capitol building, McIntire was told by the speaker's aide that petitions could be presented to the House only at the request of a member of Pennsylvania's legislative body. "These petitions are too important to leave here," said McIntire. "We have the right to present them to someone in a responsible position."[307] In the end, the petitions were never turned over to the Pennsylvania House of Representatives.

On the very same day that McIntire was making a second attempt to deliver the petitions opposing House Resolution 160 to lawmakers in Harrisburg, three bills were introduced in the

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[304] *Twentieth Century Reformation Hour* radio program, January 6, 1966.

[305] Letter was reproduced in *Christian Beacon*, February 10, 1966.

[306] "Dr. McIntire Leads Rally at Pa. Capitol in Protest Against House Resolution," *Catholic Star Herald*, February 13, 1966.

[307] "Dr. McIntire Balked Again on Petitions," *Philadelphia Evening Bulletin*, February 15, 1966. McIntire organized and conducted a second "convocation" in Harrisburg on September 24, 1966, drawing an estimated 5,500 attendees. At the second convocation, McIntire asked those in attendance "to hold the Democratic Party fully responsible at the polls" in the fall elections of that year. "Rally to Protest State's 'Antichurch' Action," Harrisburg *Patriot-News*, September 24, 1966.

New Jersey state legislature that seemed aimed at silencing the *Twentieth Century Reformation Hour* host. New Jersey Assembly bills 375, 376 and 377, introduced February 14, 1966, in the New Jersey Legislature, included an accompanying statement that these bills' primary purpose was to "curtail the activities of hate and extremist groups."[308] Bill 376 targeted religious broadcasters most directly, proposing fines and prison terms for any person convicted of "uttering" in a public place any "threat of violence or offensive, abusive, insulting derogatory words, except when used in the course of and as part of an exposition primarily directed to the advocacy and interest in the serious threat imposed by the formation or existence of hate and extremist groups."[309] Notably, "public place" was defined as including "for the purposes of this act, a radio or television station," and "uttering" was defined as including "communication by any electrical or mechanical means."[310]

New Jersey assembly members who introduced the bill described it as an "opportunity to formally let the citizens of our municipalities, of our state and of our nation, know that we are aware of this threat, that we do not have a liking for it, and that we are doing something about it."[311] McIntire, who usually recorded the *Twentieth Century Reformation Hour* at a studio near his church in Collingswood, New Jersey, and not at WXUR's studio in Media, viewed the bills as yet another attempt by Democratic politicians to silence him. McIntire criticized the New Jersey bills that he believed targeted him. "This legislation should be of the greatest interest of all conservative and patriotic groups throughout the nation," warned McIntire. "In the Eastern part of the United States – Pennsylvania and New Jersey – Democratic leadership in both states has sought to use the legislature's power against extremists, and this indeed has a most definite, political context, a carry-over from the last national election … I call all Christians to work immediately for the defeat of Assembly Bills, 375, 376, 377."[312]

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[308] The bill was introduced by assemblymen McLeon, Friedland, Policastro, Tanzman, Owens, Brown and Woodson and was referred to the state's Committee on Business Affairs.

[309] New Jersey Assembly Bill No. 376, introduced February 14, 1966.

[310] Ibid.

[311] Ibid.

[312] "New Jersey Bills Aimed at Extremists," *Christian Beacon*, April 28, 1966. Collingswood is roughly five miles from downtown Philadelphia.

The FCC's Broadcast Bureau, after receiving numerous complaints that WXUR was failing to present all sides of controversial issues, monitored the programming on WXUR's AM and FM stations from February 15-22, 1966. Roughly two months later, during the week of April 19-25, 1966, several Philadelphia-area community groups who had opposed the license transfer collaborated with the Anti-Defamation League to monitor WXUR's programming. The findings from both the FCC Broadcast Bureau and the citizens groups suggested that WXUR was delinquent in its responsibility to present both sides of controversial issues of public importance. The FCC Broadcast Bureau concluded that WXUR broadcasters "took the positions that a socialistic and welfare-oriented federal government was the cause of inflation, (and) deficit financing … that agricultural and price supports and the War on Poverty were extravagant and wasteful … and that a guaranteed annual income as proposed by a presidential commission was a crack-pot scheme which would erode the capitalistic system and lead to socialism."[313]

Regarding U.S. involvement in the war in Southeast Asia, the Bureau noted that WXUR broadcasters "took the consistent position that the Vietnam War is a war solely against Communist aggression; that the United States should do everything in its power to achieve a triumphant military victory; that the war and especially the bombing of North Vietnam should be escalated; and that individuals who suggest a policy other than total military victory are appeasers playing into the hands of the Communists."[314] The Broadcast Bureau determined that during the two weeks in which WXUR's programming was monitored, a large number of personal attacks were made by broadcasters during discussion of controversial issues of public importance. For example, Bob Walter, one of WXUR's most outspoken hosts, launched into an attack on the Deacons of Defense, an African-American civil rights organization in Louisiana. He called the group an "Anti-White Colored KKK of the South" and accused them of planning "Watts-like riots in the nation's capital."[315]

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[313] July Decision, Appendix A, issue 1.

[314] July Decision, Appendix A, issue 2.

[315] July Decision, Appendix B, issue 2. The Seminary would later argue that the FCC did not judge WXUR's performance on the basis of its entire license period, but instead on the basis of these two weeks in which programming was monitored.

Chapter 10: Irion Hearing and Codification of Fairness Doctrine

The actions of the New Jersey and Pennsylvania legislatures and among members of the Media Borough Council, along with a petition submitted to the Federal Communications Commission from a number of community groups complaining about WXUR, led the Commission to conclude that a public hearing was necessary to determine whether or not to renew the station's license.[316] On January 25, 1967, the FCC ordered that a hearing be conducted in Media to "determine whether the Petitioners' applications for renewal of the licenses to operate its radio stations WXUR and WXUR-FM should be granted or denied."[317] The purpose of the hearing was to determine:

(1) what efforts the applicant has made to ascertain the needs and interests of the public served by its stations during the license period;
(2) what the applicant has done to serve the needs and interests of the public served by its stations during the licensing period;
(3) whether the applicant failed to inform the Commission fully of its program plans in connection with its applications for acquisition of control of Stations WXUR and WXUR-FM;
(4) whether the applicant has complied with the Fairness Doctrine and Section 315 of the Act by affording a reasonable opportunity for the discussion of conflicting views on issues of public importance during its license period;
(5) whether during its license period the applicant has complied with the personal attack principle of the Fairness Doctrine by furnishing copies of pertinent tapes, continuities or summaries to persons or groups attacked, with specific offers of the

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[316] In the fall of 1966, the following organizations submitted a joint petition to the FCC, asking the Commission to deny license renewal: AFL-CIO of Pennsylvania; American Baptist Convention, Division of Evangelism; American Jewish Congress, Delaware Valley Congress; Anti-Defamation League of B'nai B'rith, Pennsylvania-West Virginia-Delaware Region; Board of Social Ministry; Lutheran Synod of Eastern Pennsylvania; Brith Sholom; Catholic Community Relations Council; Catholic *Star-Herald*; Fellowship Commission; Greater Philadelphia Council of Churches; First Presbyterian Church of Lower Merion; Jewish Community Relations Council of Greater Philadelphia; Jewish Labor Committee; Media Fellowship House; National Association for the Advancement of Colored People; New Jersey Council of Churches; Philadelphia Urban League; Women's International League for Peace and Freedom; American Jewish Committee, Pennsylvania-Delaware Region.

[317] Initial Decision, 1.

stations' facilities for responses, where discussions of controversial public issues have involved personal attacks;

(6) whether during its license period the applicant has utilized its stations to serve the sectarian and political views of its principals and to raise funds for their support rather than to serve the community generally and to serve impartially all the various groups which make up the community;

(7) whether the applicant in connection with its application for transfer of control of station WXUR and WXUR-FM misrepresented to the Commission its program plans, its intent to comply with the Fairness Doctrine, and its intent regarding the discharge of its obligation to serve the community generally and the various groups which make up the community rather than its private sectarian, political, and fund raising interests, and whether it misrepresented to the public during its license period its intent to comply with the Fairness Doctrine;

(8) whether in light of all the evidence a grant of the applications for renewal of the licenses of stations WXUR and WXUR-FM would serve the public interest, convenience, or necessity.[318]

Upon learning of the FCC's decision authorizing a hearing, WXUR officials immediately filed a petition asking the U.S. Court of Appeals for a constitutional review of the Commission's order. Suggesting that the FCC's mandate should be set aside on the grounds that the decision to conduct a hearing was "unlawful and beyond the constitutional authority of the Commission," WXUR's petition to the U.S. Appellate Court argued that the Fairness Doctrine violated the first, fifth, ninth and tenth amendments to the U.S. Constitution.[319] Approximately 800 McIntire loyalists protested the FCC's decision at Constitution Hall in Washington, D.C., on May 8, 1967. McIntire told attendees that "nobody's suffered from the Fairness Doctrine the way we have."[320] Less than a month later, during the week of June 3-7, 1967, McIntire hosted a "Radio Conference" in Collingswood, New Jersey. Conference participants unanimously approved a

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[318] Initial Decision, 1-2.

[319] "Petition to Review and Set Aside an Order of the Federal Communications Commission," dated February 23, 1967. Petition was reproduced in *Christian Beacon*, March 2, 1967.

[320] "McIntire's Wrath Aimed at FCC," *Broadcasting*, May 15, 1967.

resolution they hoped would "serve as the basis of a Congressional bill to be introduced into the Congress of the United States to correct the difficulties which have been created by the Federal Communications Commission." Among other things, the resolution called for a repeal of Section 315 of the 1934 Federal Communications Act.[321]

On July 10, 1967, the FCC clarified the rules regarding what was expected of licensees with regards to personal attacks and political editorials, making compliance in this area a specific requirement stations were obligated to meet in accordance with the Fairness Doctrine.[322] This clarification became known as the codification of the Fairness Doctrine. The first paragraph of the revised rules advised licensees that "when, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group (by name), the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of reasonable opportunity to respond over the licensee's facilities."[323] These revised provisions went into effect August 14, 1967. While the FCC never cited a specific rationale for its decision to revise the rules under the Fairness Doctrine, the timing of this clarification – it came several months after the Commission order a hearing to determine whether or not to renew WXUR's license – suggests that McIntire and his station's programming decisions may have played a role in the decision to revise licensees' fairness requirements.

This codification made licensees responsible for all programs carried over their radio or television frequencies, regardless of whether the program was produced in-house, by another station, or by someone buying time on a station, as McIntire did with his *Twentieth Century Reformation Hour* affiliates. The codification spelled out the time limits for notifying individuals attacked over the airwaves as well as what constituted sufficient notification. It offered broadcasters a clarification of the FCC's "Public Notice B," which was released on July 26, 1963. Public Notice B required that "when a controversial program involves a personal

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[321] Resolution was reproduced in *Christian Beacon*, June 22, 1967.

[322] 32 Fed. Reg. 10305-06 (1967), codified at 47 C.F.R. secs. 73.123, 73.300, 73.598, 73.679 (1976).

[323] Ibid.

attack upon an individual or organization, the licensee must transmit the text of the broadcast to the person or persons attacked wherever located either prior to or at the time of the broadcast with a specific offer of a station's facilities for an adequate response." The penalty for failure to abide by these clarified personal attack rules included fines and possible suspension of broadcast licenses.[324] Franklin Littell, chairman of the Institute for American Democracy and a frequent critic of religious broadcasters, applauded the FCC's codification and singled out McIntire specifically:

> Now, stations airing such attacks are required to inform the person or group attacked within a week of the time it takes place and to make time available for a reply. Failure to do so incurs the possibility of fines of as much as $10,000 for each offense. This means that if a Carl McIntire or a Billy Hargis or a Major Edgar Bundy levels a personal attack, each of the hundreds of stations carrying one or more of these or similar radio professionals, has an obligation to search out the victim and offer him the chance to provide that station's audience with exposure to his side of the story … When we allow our churches and our churchmen, schools and educators, civic organizations and their leaders to be discredited to a substantial audience, without providing this audience with the other side of the story, we permit democracy to be needlessly hobbled. If each such attack brings a response, however, citizens will be able to choose the path of wisdom. Ours is a choice between letting a great medium be used to impose a set of harsh, fearful attitudes on an audience numbering in the millions and using these same airwaves to inform.[325]

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[324] Ibid.

[325] "Fairness Doctrine for Airwaves Can Aid Democracy," *Atlanta Constitution*, August 18, 1967. Steven Allen, a member of the Institute for American Democracy's National Committee, told members of the organization that the FCC has developed a "wholly new approach to enforcement of its Fairness Doctrine with stiff penalties for offending stations." Littell was a regular target of many of the radio hosts on WXUR. On December 30, 1966, Richard Cotton, host of a WXUR's *Conservative Viewpoint*, described Littell as someone whose "views put him in favor of planned economy and the camp of the Communists who like to call themselves liberals." Allen demanded air time to respond to these allegations against Littell and the Institute for American Democracy and his response was aired on April 7, 1967. WXUR billed the Institute $22.50 for the air time, although this fee was never paid.

McIntire called the revised fairness requirements a "decree" by the FCC and argued a familiar theme, namely that these revisions created another opportunity for Communists to undermine the United States. "Under the present ruling," said McIntire, "the Communists are entitled to and will receive free time in the United States. Communism is an enemy of this country. It is perpetrating a colossal fraud upon humanity. We should be forced to expose and denounce it. The Communists are now in line to receive all manner of free radio time, for which we can thank the Federal Communications Commission."[326] Charles Baker, executive director of the Institute for American Democracy, wasted little time in testing the clarified rules. In a September 18, 1967, letter sent to *Twentieth Century Reformation Hour* affiliates, Baker requested that all of McIntire's affiliates air a 15-minute tape produced by the Institute for American Democracy titled *Contrasting Viewpoint*. The message on the tape rebutted much of what McIntire had told his listeners regarding the FCC on a September 12, 1967, broadcast. Baker argued that under the recent FCC ruling and in light of "Dr. McIntire's highly biased misrepresentations about the Fairness Doctrine," his affiliates were obligated to air the tape. Upon receipt of Baker's request, McIntire responded, telling him that "as soon as I can secure a copy of your tape, I will present it to the public on our *Twentieth Century Reformation Hour* at no cost to you." McIntire was true to his word. He received the tape and aired it. McIntire also invited Baker "to meet in public debate" to discuss the Fairness Doctrine.[327] Baker declined McIntire's invitation, noting that while "press coverage would help increase the value of a debate on the issue, I am keenly aware of the fact that you have daily access to hundreds of radio stations and the IAD does not. In listening to your program, I have many times felt that items were lifted out of context. Since you can always say whatever you choose in your own voice, it seems to me your editors might be looking for that isolated 20 seconds which, out of context, might convey the opposite of what the speaker intended."[328]

On September 24, 1967, WXUR broadcaster Bob Walter attacked the Institute for American Democracy:

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[326] *Christian Beacon*, October 19, 1967.

[327] Correspondence between Baker and McIntire was reproduced in *Christian Beacon*, October 12, 1967.

[328] Letter from Baker to McIntire was reproduced in *Christian Beacon*, October 19, 1967. McIntire went so far as to contract space and time in Constitution Hall in Washington, D.C., for the debate, before Baker declined his invitation.

> Did you know that at a National Education Association meeting in Minneapolis recently, Dr. Franklin Littell, the left-wing president of the Gestapo-like Institute for American Democracy, that has forced the administration into a position of persecution of stations that carry conservative broadcasts, that he called notice for the complete silencing of all the conservative right-wing broadcasts, and called, mind you, for throwing out from all the professional organizations, school boards, political parties, churches, and synagogues, any person who dares to speak up against the socialistic establishment of our day? He added, Dr. Littell, that the Christian Crusade, and other supporters of right-wing broadcasts, conservative broadcasts, he said, must be, quote, "muted and rendered ineffective."[329]

Baker lodged a complaint with the FCC following Walter's broadcast and the Commission asked WXUR to respond to Baker's complaint. The station invited the Institute for American Democracy to prepare another tape, this time to rebut Walter's charges. Baker sent a tape to WXUR and the station aired it on November 12, 1967.[330] In the evidentiary hearing to determine whether or not to renew WXUR's license, Hearing Examiner H. Gifford Irion heard testimony from Institute for American Democracy and WXUR officials and wrote that this sequence of events was significant because of the questions it posed regarding personal attacks:

> The first question is whether there was an attack upon the integrity, honesty or character of Mr. Baker, Mr. Littell or the IAD. The examiner has found nothing that reflects dishonesty, although they do suggest a pinkish hue which a sensitive individual might take to be an attack upon his character. The next question is whether the documentation was correct. To clarify this, let us take an example. If the commentator declares that X is a member of an organization that has been identified with Communistic leanings, there is presented a question of fact. To condemn Dr. Littell out of hand for being associated with some group or other would be a heartless and unsubstantiated thing to do, but if the

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[329] Initial Decision, para. 255. Walter once criticized WXUR management over the station's airwaves because it employed people who were not Christian fundamentalists.

[330] Ibid.

> administrative process is to be burdened with an examination of all the surrounding circumstances of each "personal attack," it will require far more hearing time than even this prolonged proceeding has consumed … The examiner is forced to conclude that what was said about Dr. Littell and the IAD was not a personal attack.[331]

The CBS and NBC television networks filed briefs with the Seventh U.S. Circuit Court of Appeals in Chicago, arguing that the codification of the Fairness Doctrine, specifically the $10,000 fine that could be imposed for a personal attack, was unconstitutional. CBS noted in its 44-page brief that the personal attack doctrine "involves precisely the type of governmental interference with broadcaster freedom to select public affairs programs that Congress has refused to approve." In NBC's 32-page brief, the network argued that there should not be one set of rules for the print media and a different set for the electronic media: "Broadcasting stations and daily newspapers are comparable media in the sense that each provides current accounts on a daily basis of newsworthy events and activities."[332] McIntire now had two heavyweight allies in his struggle against the FCC. The CBS and NBC petitions were consolidated with another filed by the Radio and Television News Directors Association. The FCC's codification was also opposed by several other broadcasting companies on the basis that it limited free speech and was constitutionally vague.[333]

In light of the FCC's revised fairness requirements and much like the fallout in the aftermath of McIntire's feud with the Democratic National Committee three years earlier, station managers at many *Twentieth Century Reformation Hour* affiliates began to wonder if the risks of running afoul of the FCC outweighed the benefits associated with continuing to carry McIntire's

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[331] Initial Decision, para. 268-274. Irion's rationale is supported by the FCC's interpretation of a personal attack: the Commission has explained that by personal attack, it does not mean mere criticism of a person but an attack upon his honesty, integrity, or like personal characteristics - Correspondence from FCC Commissioner Rosel Hyde to New Jersey Congressman John Hunt, October 4, 1967. National Archives, Office of the Executive Director, Correspondence of the Chairman, Box 53.

[332] Memorandum Amicus Curiae on behalf of the Columbia Broadcasting System, Inc., October Term 1967, No. 600. Brief of National Broadcasting Co. Inc. as Amicus Curiae, October Term, 1967, No. 600.

[333] Other companies that appealed the ruling included Bedford Broadcasting Corp., Central Broadcasting Corp., Evening News Association, Marion Radio Corp., Red Lion (Pa.) Broadcasting Co., RKO General Inc., Royal Street Corp., Roywood Corp., and Time-Life Broadcast Inc.

program. Excerpts from the following letters sent to McIntire demonstrate the growing apprehension among many of his affiliates:

> Letter dated September 8, 1967, from WUNS in Lewisburg, Pennsylvania:
> It is with great regret that we at WUNS have to announce the discontinuation of the program *Twentieth Century Reformation Hour* … In view of the fact of the recent FCC ruling, which causes many, many man-hours of work over and above the regular weekly chores of an already understaffed small radio station, we find we have no alternative. The ruling of which we speak, of course, is the one regarding equal time.[334]

> Letter dated September 20, 1967, from WRIB in Providence, Rhode Island:
> According to the Fairness Doctrine, I must notify all those which are attacked on your program or any other, within seven days, following the broadcast, and allow them time in which to answer charges … Failure to comply with the above is subject to a $10,000 fine … In order to stay away from what I consider unnecessary trouble, I must ask that you refrain from mentioning names on all future broadcasts.[335]

> Letter dated September 21, 1967, from WMEB in Tallahassee, Florida:
> It seems that the management is frightened about the new doctrine of the FCC, in that any party that is criticized in a broadcast must be notified two weeks in advance. These people here are afraid to do anything that might upset the FCC. The stations are aware of your popularity here, and realize that the program would be an asset, but I am yet unable to get a commitment for radio time.[336]

McIntire asked his listeners to write their elected officials and lobby these legislators to pressure the FCC to reverse the new fairness rules. "I have asked the people, everybody, to write their congressmen and the FCC," McIntire told his listeners. "Yes, I mean everybody. Jesus

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[334] Initial Decision, para. 138, WXUR Exhibit 207-9.

[335] Ibid., WXUR Exhibit 207-7.

[336] Ibid., WXUR Exhibit 207-8.

Christ himself would not have been permitted to preach on the radio in the United States without submitting his script in advance for local censorship so that the FCC would not become involved."[337] Like McIntire, Billy Hargis also pleaded with listeners across his radio network of more than 500 stations. In a letter to listeners of the *Christian Crusade*, dated September 8, 1967, Hargis wrote that "a stunning blow to conservative broadcasters was revealed by the Johnson Administration's Federal Communications Commission this past month that must be challenged! … Thus far, our hundreds of stations are holding the line, if I keep my radio payments current. I am rushing this letter to you begging for immediate assistance. I must have financial help."[338]

McIntire's listeners dutifully launched a letter-writing campaign in which they expressed their outrage with the FCC. Thousands of letters were mailed to lawmakers across the country over the second half of 1967, decrying the codification of the Fairness Doctrine generally and the FCC's "mistreatment" of McIntire specifically. From Pottsville, Pennsylvania, to Croswell, Michigan, to Canoga Park, California, to Tampa, Florida, McIntire loyalists wrote their elected officials in both the House and the Senate to complain about the FCC.[339] New York Senator Robert Kennedy, Kansas Congressman Bob Dole and elected officials across the country forwarded their constituents' letters to the FCC Office. Flooded with this correspondence, the FCC prepared a form letter "for use in answering complaints and inquiries which appear to be related to recent statements by the Reverend Carl McIntire."[340]

Geraldine Berryhill of Pittsburgh posed a question to her congressman, William Moorhead. "Do you believe in freedom of speech as Americans have always recognized it under the First Amendment. If you do," asked Berryhill, "will you urge Congress to investigate the current restrictions being imposed on radio ministers and commentators who are preaching the Word of God?" Richard and Mildred Reinhardt wrote their congressman, Ohio's Clarence Brown, complaining that different sets of rules existed for different radio stations: "Should a

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[337] McIntire quoted in United Press International report by Louis Cassels, September 16, 1967. National Archives, Office of the Executive Director, General Correspondence, Box 5.

[338] Letter from Hargis to *Christian Crusade* listeners. National Archives, Office of the Executive Director, General Correspondence, Box 5.

[339] National Archives, Office of the Executive Director, Correspondence of the Chairman, Box 53.

[340] Ibid.

conservative, fundamental minister decry the demoralizing and destructive effects on society of the liberal modern philosophy in religion, the matter immediately becomes controversial and in the public interest. The liberal theologians must be granted free time to answer. However, when the theologians of the left launch their many and sometimes vicious attacks upon fundamental preachers, there is not deemed to be a controversial issue and no free time is granted to the conservatives for rebuttal." In a letter to Senator Jacob Javits, Bob Roney of Oneida, New York, argued that the *Twentieth Century Reformation Hour* paled in comparison to many other radio and television programs. "I have viewed and listened to the programs of Merv Griffin, Dr. McIntire, Mike Douglas, Joey Bishop and Johnny Carson," wrote Roney. "In my humble opinion, the least harmful of the three broadcasts is the one by Dr. McIntire."[341]

In addition to criticizing the FCC and the Fairness Doctrine, McIntire's listeners also vented their frustrations with several of McIntire's other longtime adversaries in their letters to the Commission, most notably the World Council of Churches and the National Council of Christian Churches. Robert Keone accused the World Council of Churches of "blocking the president in his Vietnam War."[342] Newton Rowan told Wisconsin Congressman Glenn Davis he supported the National Council of Christian Churches until he became convinced of their "Communistic inclinations and disgusted with their support of the Communist line."[343] Edward Looney told Texas Congressman George Mahon that "they (the FCC) want to silence anyone who is a patriot or that preaches against such unbelieving organizations as the Council of Churches."[344] Charles Harrison of Berryville, Virginia, linked the codification of the Fairness Doctrine to the Reuther memorandum, a 24-page memo prepared by brothers Victor and Walter Reuther for Attorney General Robert Kennedy. Prominent leaders of the United Auto Workers Union, the Reuthers were also two of McIntire and Hargis' favorite targets. In the memo, they suggested that the Kennedy administration should use the leverage of the Internal Revenue Service to target tax-exempt, right-wing, anti-union organizations for audit. "I feel this ruling is due to what we know as the Walther Reuther Memorandum which was sent to Bobby Kennedy,"

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[341] National Archives, Office of the Executive Director, Correspondence of the Chairman, Box 16.

[342] Ibid

[343] Ibid.

[344] Ibid.

wrote Harrison in a letter to Virginia Senator Harry Byrd, "for the sole purpose of keeping the grass roots in the dark and that Big Brother knows best."[345]

The hearing to determine whether or not WXUR's license should be renewed was scheduled to begin on October 2, 1967, in the Toal Building adjacent to the Delaware County Courthouse. It was postponed by Hearing Examiner H. Gifford Irion because of insufficient space after approximately 200 of McIntire's supporters showed up to support the ultrafundamentalist preacher. After the hearing was postponed, McIntire and his supporters reconvened on the sidewalk outside the Toal Building and began singing hymns.[346] The hearing opened a day later and continued, with several adjournments, until June 26, 1968. Roughly 8,000 pages of records and several hundred exhibits were accrued over the nine months the hearing was in session.[347] As the hearing progressed, McIntire repeatedly defended WXUR's efforts to comply with the Fairness Doctrine on *The Twentieth Century Reformation Hour*. "I have studied the Fairness Doctrine to the best of my ability," he told his listeners, "and I have studiously sought not to engage in what you call personal attacks."[348] He said that what he considered a controversial question of public importance might not be considered controversial by the FCC and vice-versa. "The plague in my mind has been: at what time does a question become a controversial question of public importance?"[349] McIntire persistently criticized the FCC on his radio program throughout early 1968:

> Because of the FCC and all the mischief that attends their operation down there, I haven't been publishing lists of stations lately. You know that. And I've been keeping quiet as to just how many stations I have. I don't do that. You remember how I used to do it? Well I don't do it folks. It's the FCC, that's why. We've got to be careful of this FCC

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[345] Ibid.

[346] "WXUR Case Delayed by Overflow Audience," *Delaware County Daily Times*, October 3, 1967.

[347] Initial Decision, para. 8.

[348] Initial Decision, para. 137. In addition to programs produced by WXUR hosts, a number of the station's regular programs were produced by others, including Billy Hargis' *Christian Crusade*, the *Dan Smoot Report* and *Manion Forum*. No one at WXUR listened to the tapes of these programs before they were aired on the station. In essence, WXUR transferred its Fairness Doctrine obligations, arguing that the stations and hosts that produced these programs were responsible for notifying any individual who was attacked in the course of a program.

[349] Ibid.

down there and all the mischief that is going on. It's a terrible thing that's happened in this country. And the FCC's put this so-called weapon of the Fairness Doctrine in the hands of our enemies to go and harass stations and all of the abuses that comes from that area. Folks, this FCC so-called Fairness Doctrine and these fines over the radio stations, I believe with all my heart, was conjured up and manufactured to deal with a man by the name of McIntire and to get at him. And many of you believe it too. But we believe in God and we believe he's going to undertake for us. Attorneys down there, advising their clients not to take McIntire. There you are - pressure, pressure, pressure, fear, fear, fear. Ladies and gentlemen, it's been built up so that radio stations won't touch men like Dr. McIntire. Think of it, folks. What's been going on in the underground and behind the scenes through these years with these political leaders down there in Washington only God knows. Folks, Dr. McIntire has never walked away from a fight. Where the issues of freedom are at stake, I will not walk away. I will walk into it and I will help win it and that's the spirit we must all have.[350]

In September 1968, McIntire and other broadcasters at odds with the FCC would claim a short-lived victory in their struggle against the Commission. The Seventh U.S. Circuit Court of Appeals in Chicago, responding to the petitions of CBS, NBC and the Radio and Television News Directors Association, set aside the FCC's rule requiring broadcasters to provide equal time to those criticized in editorials on radio and television. "In view of the vagueness of the Commission's rules," read the 30-page opinion prepared by Judge Luther Swygert, "the burden they impose on licensees, and the possibilities they raise of both Commission censorship and licensee self-censorship, we conclude that the personal attack and political editorial rules would contravene the First Amendment."[351] The decision challenged the FCC rules that a station must provide subjects of criticism the opportunity to respond and that a station endorsing a political candidate must provide time for his or her challengers to respond. In reaching a unanimous decision, Swygert and fellow Chicago appellate court judges Robert Kiley and Latham Castle acknowledged the burden that the threat of monetary fines imposed upon broadcasters like

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[350] *Twentieth Century Reformation Hour* radio program, January 17, 1968.

[351] "Equal-Time Rule is Voided," *Philadelphia Inquirer*, September 12, 1968.

McIntire and Hargis: "Whatever discretion is still reposed in a licensee must be exercised in the face of the omnipresent threat of suffering severe and immediate penalties."[352]

The Chicago appellate court dealt directly with the FCC's insistence on affording the broadcast press less First Amendment protection than the printed press. Swygert noted that the Commission "relies on alleged difference between the broadcast press and the printed press to sustain its position that the rules are constitutional." This court disagreed with such distinctions, including the FCC's rationale that radio and TV are fundamentally different from newspapers because frequencies are not available to all. "The question," asked Swygert, "is whether the need for technical, financial and ownership regulation of radio and television licenses, sufficiently distinguishes this group from newspaper publishers so as to warrant sustaining the imposition of burdens on radio and television licensees which would be in flat violation of the First Amendment if applied to newspaper publishers." The three-judge panel concluded that the codification of the Fairness Doctrine could only be considered constitutional if the FCC "demonstrated a significant public interest in the attainment of fairness in broadcasting to remedy this problem, and that it is unable to attain such fairness by less restrictive measures … We do not believe the Commission has made such a demonstration."[353] *Broadcast* magazine editors noted that the Seventh Circuit Court's decision "knocked the props from under the basic rationale that FCC activists have used for years to justify extensions of broadcast regulation … The First Amendment has been rescued from the FCC's wastebasket."[354]

Not quite. In April 1969, the Supreme Court overturned the Chicago appellate court's ruling in its Red Lion decision. "The scarcity of radio frequencies complicates the First Amendment's applicability in this matter," noted Justice Byron White. "Since most people cannot buy or run radio stations, license owners have an obligation to share the publicly owned airwaves with the public."[355]

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[352] Ibid.

[353] Radio Television News Directors Association, et al. v. United States and FCC, F.2d (September 10, 1968).

[354] "FCC Runs Into First Amendment," *Broadcasting*, September 16, 1968.

[355] *Red Lion Broadcasting, Inc. v. Federal Communications Commission*, U.S. Supreme Court, 395 U.S. 367, April 2, 1969.

On December 13, 1968, Irion, in a 97-page decision, found in favor of granting WXUR a license renewal for three years without any penalties. Irion argued that WXUR was providing programming that benefited the public because there were no other Philadelphia-area stations with a "fundamentalist philosophy." In spite of the many complaints the FCC received regarding WXUR's programming, Irion believed the risks associated with denying license renewal were simply too severe:

> Obviously the outcome is of considerable importance not only to the licensee of WXUR, but to the industry in general because it is no exaggeration to say that every broadcast in the United States in some degree or another is under judgment in this proceeding. A diversity of viewpoints was presented over WXUR and the station was not monopolized by the private sectarian and political beliefs of Faith Theological Seminary or, more properly described, the conservative fundamentalist philosophy … If the licenses of WXUR and WXUR-FM were to be denied on the grounds that a number of isolated infractions really did occur, it could very conceivably result in silencing all controversial discussion on American radio and television. Or, as an alternative, it could mean that discussion would henceforth be a diluted parlor chat in which such restraint was exercised that the outcome would be insufferably dull and totally unenlightening … To impose the fell judgment of removing WXUR from the air in light of these facts could only have the consequences of admonishing broadcasters everywhere that they would act at their own peril in allowing robust discussion because penalties would be meted out in rigid compliance with the exactions of the rules. In brief, it is not unreasonable to say – and it is clearly supported by evidence in this record – that an adverse decision here would have the effect of discouraging free discussion on the air and would have the practical result of removing certain militant viewpoints from the microphone. That result would be manifestly contrary to all the Fairness Doctrine stands for and it must therefore be rejected. [356]

[356] Initial Decision, Conclusions section, para. 1, 10, 39, 54.

McIntire called Irion's decision an "answer to prayer" and a "Christmas gift."[357] He reprinted all 97 pages of Irion's decision, at no cost, for all *Twentieth Century Reformation Hour* listeners interested in receiving a copy. In a December 18, 1968, article in *Variety* magazine, the publication's editors called Irion's decision a "real blow" struck by controversial broadcasters. "If his opinion stands up under Commission and possible court scrutiny, broadcasters will have a new and heartening legal precedent to cite."[358] *Broadcasting* magazine also made note of the significance of Irion's decision: "Nineteen civil rights, labor and church groups in and around Media, Pennsylvania, not to mention the FCC's Broadcast Bureau, were still recovering last week from the jolt delivered by an FCC examiner on Dec. 13."[359]

On April 14, 1969, a petition asking the FCC to overturn Irion's decision was filed on behalf of 18 religious and civic organizations and one individual.[360] A day later, the Broadcast Bureau of the FCC noted that it would review Irion's decision. McIntire's "Christmas gift" would be taken away from him in less than six months. On July 7, 1970, the FCC overturned Irion's decision by a unanimous 6-0 vote, denying the station's application for renewal following a review of the records from the hearing. According to the FCC, failure on the part of WXUR to meet Fairness Doctrine obligations was the "central aspect" of its decision to reverse Irion's ruling and not renew the station's license. "Brandywine under its new ownership," noted Commissioner Robert E. Lee, who supervised the writing of the decision, "did not make reasonable efforts to comply with the Fairness Doctrine during the license period."[361] In reversing Irion's decision, the FCC noted that it strongly disagreed with many of the conclusions drawn by the hearing examiner:

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[357] *Christian Beacon*, January 2, 1969.

[358] "FCC Examiner Strikes Blow for Controversy in WXUR License Case," *Variety*, December 18, 1968.

[359] "A Surprise Rebuff to WXUR Critics," *Broadcasting*, December 23, 1968.

[360] The petitioners included the AFL-CIO of Pennsylvania, the American Baptist Convention Division of Evangelism, the Delaware Valley Council of the American Jewish Congress, the Anti-Defamation League of B'nai B'rith, the Board of Social Ministry of the Lutheran Synod of Eastern Pennsylvania, B'rith Sholom, the Catholic Community Relations Council, the *Catholic Star Herald*, the Fellowship Commission, the Greater Philadelphia Council of Churches, the Jewish Community Relations Council of Greater Philadelphia, the Jewish Labor Committee, the Media Fellowship House, the Media Chapter of the NAACP, the New Jersey Council of Churches, the Philadelphia Urban League, the U.S. Section of the Women's International League for Peace and Freedom, the American Jewish Committee, and the Rev. Donald G. Huston, Pastor, First Presbyterian Church of Lower Marion.

[361] July Decision, para. 10.

> The examiner neither tied his view that WXUR had put on all shades of the political spectrum to the station's treatment of particular controversial issues nor made a distinction between the pre- and post-renewal date programming. Our interest is in the right of the public to a reasonable opportunity to hear contrasting views on controversial issues. The record shows no reasonable attempt to meet the station's obligations in this area.[362]

The FCC's reversal of Irion's decision in July 1970 was historic: it marked the first time that the Commission had denied a radio or television station license renewal because of failure to adhere to the requirements of the Fairness Doctrine and the doctrine's personal attack principle. Roughly one year earlier, in June 1969, WLBT television station in Jackson, Mississippi, had lost its license, at least in part, because of failing to adhere to the Fairness Doctrine. In WLBT's case, however, the FCC did not make the decision to rescind the station's license. The U.S. Court of Appeals for the District of Columbia reversed a decision by the FCC, which had decided to renew the station's license. The Commission conducted hearings beginning in May 1967 to determine whether or not to renew WLBT's license and the FCC approved license renewal in June 1968 before the Court of Appeals overturned this decision. [363]

The FCC dismissed McIntire's offers of time for response to the many individuals his station singled out on broadcasts as insufficient in meeting fairness obligations. The Commission also noted that WXUR was not relieved of its fairness responsibilities by delegating them to sponsors or producers of the programs the station broadcast, noting that the ultimate responsibility for compliance with the doctrine belongs to the licensee. "It (WXUR) was indifferent to its affirmative obligation to encourage and implement the broadcast of all sides of controversial public issues, and indeed, it was hostile to such broadcasts. This serious Fairness Doctrine violation (alone) warrants a denial of Brandywine's renewal applications."[364]

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[362] Ibid., para. 15.

[363] For more information on WLBT, which had made a concerted effort to keep African-Americans and those in favor of integration off its airwaves, and the station's relationship with the FCC, see Steven Classen's *Watching Jim Crow* (Durham, N.C.: Duke University Press, 2004).

[364] July Decision, para. 17.

The Commission cited WXUR's failure to abide by the requirements of the personal attack principle of the Fairness Doctrine. While certain programs were exempt from the full notice and reply requirements of the personal attack principle, such as newscasts and news interviews, these were not the types of programs that were in violation of the principle at WXUR. Although Irion did conclude that WXUR had repeatedly violated the personal attack principle, the examiner believed the station's culpability was diminished because in many instances the individual or group attacked was not "alarmed" by the attack. According to the FCC, however, Irion's rationale that the purpose of the personal attack principle was to protect individuals and groups from "personal abuse" was erroneous. "The purpose of the Fairness Doctrine's personal attack principle is the same as that of the Fairness Doctrine itself – to enable the listening public to hear expositions of the various positions taken by responsible individuals and groups on important disputed issues … The unavoidable conclusion is that Brandywine simply ignored its plain duty to the public."[365] McIntire and Faith Theological Seminary countered that the FCC had "never defined the terms honesty, character, integrity or like personal qualities of a person or group."[366] The Seminary claimed that it did not know what constituted a "personal attack" because the FCC had failed to provide broadcast licensees with a clear definition of this term.

The FCC noted in its reversal of Irion's decision that WXUR's transgressions were "particularly reprehensible" due to the fact that the Seminary was warned before the license transfer in March 1965 that the station must provide a fair forum for the discussion of contrasting views on controversial issues of public importance and allow opportunities for reply to personal attacks. The Commission was also clearly frustrated with promises Faith Theological Seminary made that it ultimately failed to honor. For example, on January 13, 1965, with the license transfer pending, FCC Secretary Ben Waple wrote to the Seminary, asking its Board of Directors to explain how it intended to make WXUR available to other religious faiths.[367] In response, the

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[365] Ibid., para. 21-22.

[366] Petition for Reconsideration before the Federal Communications Commission for renewal of the license of Radio Station WXUR and WXUR-FM, was reproduced in *Christian Beacon*, September 3 and 10, 1970. Hereafter referred to as Petition for Reconsideration. Cottone was intimately familiar with the workings of the FCC, having previously served as general counsel for the Commission.

[367] July Decision, Appendix D.

Seminary added *Interfaith Dialogue* to its planned program schedule and noted that "every effort will be made to obtain varied participation from week to week (on *Interfaith Dialogue*) to assure the greatest possible balance of views on the subjects of discussion."[368] The Seminary assumed control of WXUR on April 29, 1965, but it was not until November 28, 1965 - and only after the Media Borough Council had drafted a letter to the FCC requesting that the Commission review WXUR's broadcasting decisions - that *Interfaith Dialogue* first aired. And even after the program was on the air, noted the Commission, the Seminary did not make "every effort" at varied participation.

The Seminary had told the FCC that the intent of *Interfaith Dialogue* was to gather representatives of the Protestant, Catholic and Jewish faiths to discuss controversial religious topics. This type of discussion among different religious leaders never materialized. WXUR blamed the Greater Philadelphia Council of Churches for its failure to obtain varied participation on *Interfaith Dialogue*, arguing that the station, despite its "virtually super-human efforts to obtain the cooperation of the GPCC," was boycotted by this group.[369] Gary Cohen, a professor at Faith Theological Seminary, was responsible for booking guests for the program and served as its host.[370] Cohen did not correspond with the Greater Philadelphia Council of Churches until October 5, 1965; this was more than five months after the Seminary assumed control of WXUR. Cohen's correspondence was only in response to a letter from the Greater Philadelphia Council of Churches in which it requested air time to reply to repeated attacks aimed at the National Council of Churches by McIntire on his *Twentieth Century Reformation Hour* program. It wasn't until December 21, 1965, that WXUR officials invited representatives from the Greater Philadelphia Council of Churches to the station to discuss participation on *Interfaith Dialogue*. As noted by the FCC, "the record does not reveal any communications between the Seminary and potential participants on *Interfaith Dialogue* between the January 25, 1965, proposal to air the program and the November 28, 1965, first broadcast."[371]

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[368] Ibid., para. 24.

[369] Petition for Reconsideration, para. 53. The Greater Philadelphia Council of Churches argued the Seminary "did not want to and never intended to cooperate" with its members.

[370] Initial Decision, para. 150.

[371] July Decision, para. 28.

The FCC disagreed strongly with Irion's conclusion that "the important thing is that it (*Interfaith Dialogue*) did appear, even if tardily."[372] In April 1966, Cohen relinquished his responsibility for lining up guests for *Interfaith Dialogue* to William Broadwick, a student at the Seminary, but problems persisted. The program generally consisted of a fundamentalist host interviewing a fellow fundamentalist. For example, on the program's first broadcast, Cohen interviewed the pastor of his church in York, Pennsylvania. On the second and third broadcasts, he interviewed Broadwick, and on the fourth broadcast, he interviewed Donald Carpenter, another Seminary student.[373] On many Sundays, due to a lack of guests, the program did not air. Broadwick acknowledged that he had made no overtures to religious leaders in the Roman Catholic, Disciples of Christ, United Brethren, Lutheran, Methodist, Episcopal, Baptist or Quaker faiths.[374] Broadwick eventually recommended to McIntire and Norris that, because of a lack of diverse guests, *Interfaith Dialogue* be canceled, which it was in 1967.

The FCC cited other problems with the Seminary's program schedule. "There was a substantial failure to inform the Commission fully concerning program plans."[375] McIntire and other WXUR officials argued that the station was being singled out by the FCC because of a "prejudiced disapproval (by the Commission) of the content of views aired on WXUR." In its petition to the FCC asking the Commission to reconsider its reversal of Irion's decision, the Seminary claimed that it should be given the opportunity to provide additional evidence to support its argument that it had abided by fairness rules:

> In the case of all other renewal applicants, the Commission has always called for additional information when it has not been satisfied with the showing made as to ascertainment of needs. It has always followed the invariable practice of affording opportunity after opportunity to applicants to go out and make further efforts after the

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[372] Initial Decision, Conclusions section, para. 19.

[373] Brandywine Decision, FN 25.

[374] Initial Decision, para. 164.

[375] July Decision, para. 31. The words of FCC Commissioner Kenneth Cox in his dissenting opinion of the decision to approve the license transfer of WXUR without a hearing proved prescient: "I do not believe the applicant has satisfactorily demonstrated that time will be available to other religious groups on an equitable basis." Borst Decision, para 36.

> license period to supplement a showing that did not appear to the Commission to be adequate. But, apparently, WXUR alone was not entitled to the benefit of the same treatment that the Commission accords to its thousands of other licensees.[376]

The FCC found that WXUR officials had made little to no effort to determine the needs and interests of the stations' listeners and then tailor programming to meet those needs and interests. Instead, noted the FCC, WXUR officials relied on a priori judgment that the community they served should be exposed to conservative, ultrafundamentalist programming. WXUR officials countered that call-in programs like *Freedom of Speech*, *Delaware County Today* and *Radio Free Philadelphia* provided station operators with information regarding listeners' needs and interests and that the large sums of money McIntire raised on the *Twentieth Century Reformation Hour* indicated "community ratification" of listeners' needs and interests. The FCC disagreed. "While the licensee must ultimately decide what programs should be broadcast, this decision cannot be made with disregard of the community's own view of its needs and interests … Brandywine both failed to ascertain Media's needs and interests, and failed to show that it was serving those needs and interests to any substantial degree."[377]

In its petition for reconsideration of the FCC's decision, WXUR countered that the "Commission's ruling that local issues were not discussed is shown to be a gross fabrication. There was no evidence whatever showing a single local need or interest that was not served by WXUR's programming!"[378] The FCC told WXUR officials they would be permitted to broadcast until 12:01 a.m. on September 1, 1970. McIntire refused to go quietly:

> This decision is a stunning blow but we shall fight it in every proper and lawful way. We shall take it to the Supreme Court of the United States. We shall take it to the people of the country. We shall take it to Congress. The liberals have revealed openly their intolerance of speech and of religious differences. The Nixon Administration, which now controls the FCC, has revealed its swing to the left and its determination to silence our

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[376] Petition for Reconsideration, para. 58.

[377] July Decision, para. 37.

[378] Petition for Reconsideration, para. 61.

> vigorous opposition to the Nixon position of retreat and withdrawal rather than victory in Vietnam. I consider this decision to be nothing more than a united effort on the part of these forces to destroy our broadcast ministry in this country.[379]

In the petition for reconsideration, WXUR attorneys Benedict Cottone and David Meyers argued that the Commission's decision "is imbued with a prejudiced disapproval of the content of the minority views aired on WXUR, rather than upon any objective evaluation of the licensee's performance under the Fairness Doctrine … The Commission's approach thus foists upon the broadcast industry the Commission's idiosyncratic concept of the 'public interest' which will have the inevitable nationwide effect of banishing such minority views from the airwaves."[380] Three days after the FCC reversed Irion's decision, WQXL in Columbia, South Carolina, a *Twentieth Century Reformation Hour* affiliate, wrote McIntire to tell him that the station would no longer be carrying the program. "As a responsible member of the broadcast community, we feel that individuals, groups and organizations should present various sides of a controversial subject in order that listeners may have as much information as possible in order to arrive at an intelligent conclusion regarding the subject matter that is being presented. We have been concerned about Dr. McIntire's program for a number of weeks and feel that in order to be fair to all concerned, we must take this action."[381]

A number of different groups and organizations supported McIntire in his efforts to continue to fight the FCC and its decision to overturn Irion's ruling. "Dr. Carl McIntire," wrote the editors of *Broadcasting* magazine, "whose *Twentieth Century Reformation Hour* is carried by several hundred radio stations across the country and who is known for his vigorous support of right-wing causes, religious and political, has never been regarded as one of the broadcasting industry's leaders. But it is a virtual certainty that he will go into court to champion broadcasters' First Amendment rights."[382] Editors at a number of print publications also

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[379] "Comments on WXUR's Removal from Air," *Christian Beacon*, August 27, 1970.

[380] Petition for Reconsideration, para. 4.

[381] Letter reproduced in Petition for Reconsideration, para. 8.

[382] "What Now for Carl McIntire?" *Broadcasting*, July 13, 1970.

supported McIntire and WXUR. The *Asheville* (N.C.) *Citizen-Times* argued that the WXUR case could be a precursor of things to come for the nation's print media:

> This (decision) is not only a landmark in American broadcasting, it signals a newly aggressive activism on the part of a federal agency that has used little of its regulatory authority in the past … In its new-found zeal to make broadcasting as public as possible, the agency has now gone a step farther … This proposal pushes fairness to the point of foolishness. It makes as much sense as requiring newspaper editorial writers to find someone to argue with them every time they express an opinion on an important and debatable issue. The requirement could logically be extended to magazines and every other type of mass communication where opinion or personal comment could be offered. The predictable result would be to stifle healthy debate instead of encouraging it.[383]

Editors at the *Anaheim* (Calif.) *Bulletin* suggested that the FCC's goal was not so much to ensure fairness as it was to silence McIntire:

> The appearance is that the FCC sent its own investigator to WXUR and, when he failed to come back with the desired results, the commissioners set his opinion aside and came up with a ruling of their own, precisely opposite to what the investigation revealed. What was the crime of the station? The FCC has many stations offering controversial programs, including wantonly Communist propaganda. But the evident target in the WXUR case is Dr. Carl McIntire, vigorous and effective Christian warrior. He heads the WXUR ownership, Faith Theological Seminary. Additionally, his broadcasts are carried by several hundred other radio stations. The WXUR ruling can be used as an FCC device to discourage the other stations from selling broadcast time to McIntire … We believe it is clear that the FCC, originated on the pretext of preserving the radio waves from electronic pollution, has strayed far from its original goal. By its power to create trouble

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[383] "FCC's Proposal Would Make Fairness Foolish," *Asheville Citizen-Times*, July 25, 1970.

> for broadcasters, the Commission now exercises effective censorship over station programming.[384]

Editors at *Christianity Today*, an evangelical publication based in Illinois and a longtime target of McIntire's wrath, sided with the ultrafundamentalist preacher on this occasion:

> The FCC's action against McIntire, in ironic contrast to the stated intent of the Fairness Doctrine, narrows the diversity of views available to the American public. Unless it is upset by the U.S. Supreme Court, the obvious immediate implication is that station owners will be more wary of airing the views of the political and theological right. McIntire's beliefs are indeed obnoxious to many. Anyone familiar with McIntire knows that *Christianity Today* is frequently subjected to his attack. Nevertheless, we believe that silencing him by government edict is a clear violation of his constitutional freedoms.[385]

Even the American Civil Liberties Union, the target of some of McIntire's harshest criticism, disagreed with the FCC's decision not to renew WXUR's license. Spencer Coxe, Executive Director of the Greater Philadelphia Branch of the ACLU, said that many of the organization's board members were concerned about the use of government power to silence a station on the basis of its content. "It is argued that the requirement of fairness may force radio stations to avoid controversy completely. Can't the area stand one WXUR so long as other stations exist with other tastes? The nineteen opposing groups spent some $30,000 to drive McIntire off the air. Could this money not have been better spent to buy radio time to present their own views on peace, race, civil liberties and religion?[386]

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[384] "Broadcasters Set an Example," *Anaheim Bulletin*, July 29, 1970.

[385] "The Fairness Doctrine," *Christianity Today*, July 31, 1970.

[386] "ACLU's Stand on WXUR," Philadelphia *Evening Bulletin*, July 13, 1970. In contrast to the support of the ACLU and multiple print media outlets, the National Association of Broadcasters was lukewarm in supporting McIntire and his efforts to reverse the FCC's decision. As noted in a story in *Broadcasting* magazine, July 13, 1970, there was uneasiness among many at the National Association of Broadcasters to support a station that "feeds listeners a steady diet of right-wing commentary and relies largely on call-in and interview programs to provide balance on controversial issues and that has been accused of hostility to blacks."

WXUR appealed the FCC's decision to the U.S. Court of Appeals. This enabled the station to stay on the air: in announcing its decision not to renew WXUR's license, the FCC noted that if the station sought a judicial review of the decision, it was authorized to continue broadcasting until the final deposition of any appeals. McIntire conducted rallies around the Philadelphia area and on the airwaves to raise money for what he called "the great crusade for WXUR's defense."[387] At a rally at the Franklin Firehouse in Chester, Pennsylvania, McIntire told a crowd numbering roughly 200 that the actions taken against his station by the FCC were being encouraged by outside forces. "Hippie college students and liberal apostate clergy want to surrender to the Communists in Vietnam and change the U.S. into some form of Communist or socialist government," said McIntire. "It is not an issue of the Fairness Doctrine. It is the same crowd who we've been dealing with who want to keep us from telling people about their false doctrines."[388]

In a three-day fundraising marathon on WXUR from July 15-17, 1970, McIntire raised $31,100 toward WXUR's defense. "Nothing like this," noted McIntire, "has occurred in the history of the *Twentieth Century Reformation Hour* anywhere, at any time, at any place."[389] On September 25, 1972, the U.S. Circuit Court of Appeals in Washington, D.C., voted unanimously to affirm the FCC's decision to terminate WXUR's license. Judge Edward Tamm noted that:

> The Commission forewarned Brandywine about its Fairness Doctrine and personal attack rules and made every effort to explain them. Despite the Commission's sanguine outlook, it was soon evident that Brandywine refused to comply with those requirements, which are designed to serve the public interest and the broadcast audience. Commission good faith was interpreted as an act of weakness. The First Amendment was never intended to protect the few while providing them with a sacrosanct sword and shield with which they could injure the many. Censorship and press inhibition do not sit well with this court when engaged in by either the Commission or by a defiant licensee. The most serious

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[387] "Rally Raises $3,000 to Aid WXUR Case," *Delaware County Daily Times*, July 27, 1970.

[388] Ibid.

[389] "McIntire Holds WXUR Marathon Fund Drive," *Christian Beacon*, July 30, 1970.

> wrong in this case was the denial of an open and free airwave to the people of Philadelphia and its environs.[390]

Joining Tamm in affirming the Commission's decision, at least initially, were judges J. Skelly Wright and David Bazelon. Wright concurred with Tamm, but noted that it was not WXUR's failure to meet the requirements of the Fairness Doctrine and the personal attack rules that led him to reach this conclusion. "While I am not necessarily in agreement with all his (Tamm's) appraisals of the actions of the people concerned with this litigation, including counsel and the hearing examiner, I concur in his decision affirming the Commission on the ground that substantial evidence supports the Commission's finding that appellant misrepresented its program plans and thus consciously deceived the Commission. This finding was a separate ground for denial of renewal by the Commission."[391] Similarly, Bazelon concurred with Tamm's decision "solely on the ground that the licensee deliberately withheld information about its programming plans."[392] Bazelon noted that he would provide a "full statement of his views" on the case at a later date.

Less than two months later, on November 4, 1972, Bazelon completely reversed his position. In a 37-page dissent, Bazelon assailed the Fairness Doctrine:

> A re-examination of the value, purposes and effects of the Fairness Doctrine raises for me such serious doubts about the constitutionality of its application here that I am compelled to withhold my affirmance … Brandywine's First Amendment complaints require that the Fairness Doctrine be subjected to constitutional scrutiny far more searching than either the Commission or my Brother Tamm provides. The FCC, fresh from its vindication in Red Lion, focused only on whether WXUR had in fact violated certain fairness obligations. Judge Tamm also relied on Red Lion to set the constitutional balance in favor of a Fairness Doctrine: if fairness obligations could constitutionally be imposed, the imposition *must* be constitutional in this case. But the facts cry out

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[390] Brandywine Decision, 44.

[391] Ibid.

[392] Ibid.

otherwise. WXUR was no doubt devoted to a particular religious and political philosophy; but it was also a radio station devoted to speaking out and stirring debate on controversial issues. The station was purchased by Faith Theological Seminary to propagate a viewpoint which was not being heard in the greater Philadelphia area. The record is clear that through its interview and call-in shows it did offer a variety of opinions on a broad range of public issues; and that it never refused to lend its broadcast facilities to spokesmen of conflicting viewpoints. The Commission's strict rendering of fairness requirements as developed in its decision, has removed WXUR from the air. This has deprived the listening public not only of a viewpoint but also of robust debate on innumerable controversial issues. It is beyond dispute that the public has lost access to information and ideas. This is not a loss to be taken lightly, however unpopular or disruptive we might judge these ideas to be.

We once stated that "if the Fairness Doctrine cannot withstand First Amendment scrutiny, the reason is that to insure a balanced presentation of controversial issues may be to insure no presentation, or no vigorous presentation, at all."[393] An examination of the facts of this case and the history of regulation which has brought us here raise for me serious doubts about the correctness of continuing to rely primarily on the Fairness Doctrine as the proper means of insuring First Amendment goals. The plain truth is that to uphold the Commission's fairness ruling, not only must we again bless the road we have traveled in the past, we must go farther; for this will be the first time that the FCC has denied a license renewal because of Fairness Doctrine obligations … I originally authorized issuance of the opinions of the court with my concurrence resting on the narrow ledge of Brandywine's misrepresentations (of its planned programming). But it is abundantly clear that the Fairness Doctrine is the central aspect of this case … I have therefore concluded that the great weight of the First Amendment cannot rest on so narrow a ledge.[394]

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[393] See Banzhaf v. FCC, supra note 19, 132, U.S. APP. D.C. at 34-35, 405 F.2d at 1102-1103.

[394] Brandywine Decision, Conclusions section, 49-50, 60-61.

McIntire called Bazelon's dissent "the first break we've had" since the FCC's decision not to renew WXUR's license.[395] In the wake of Bazelon's reversal, attorneys for WXUR filed a petition requesting that all nine judges on the Washington, D.C., Court of Appeals hear the case. When this request was denied, McIntire's lawyers asked the U.S. Supreme Court to intervene. "Folks, everything we have, we've had to fight to get," said McIntire, "and everything we possess, we've had to fight to keep. We had to fight to get WXUR, we had to fight to keep WXUR. Now it's been pronounced dead. We've got to fight to get it resurrected again by the Supreme Court. Ladies and gentlemen, we're in it with everything that we have."[396] On May 29, 1973, WXUR's request for a review of the case by the nation's highest court was denied.

Despite Bazelon's reversal and his harsh criticism of the Fairness Doctrine in his dissent, the Washington, D.C., appellate court's September 1972 affirmation of the FCC's decision not to renew WXUR's license sounded the death knell for the station. While his lawyers fought in the courtroom to keep the station on the air, McIntire urged his supporters to target lawmakers in a last-ditch effort to save WXUR. North Carolina Democratic Senator Sam Ervin called for legislation to abolish the Fairness Doctrine in November 1973. Ervin argued the doctrine was appropriate in radio's early days to ensure a diversity of viewpoints, but now radio stations outnumbered American newspapers and, therefore, should be afforded the same First Amendment rights as these papers.[397] In the House of Representatives, Republican John Hunt of New Jersey and Democrat John Rarick of Louisiana introduced bills which would have mandated that the FCC renew WXUR's license.[398]

McIntire spent a significant amount of time on the *Twentieth Century Reformation Hour* lobbying his listeners to contact their congressional leaders and express their support for him and his station. "Let's get Congress to investigate the Federal Communications Commission," he told his listeners. "Let's get this Fairness Doctrine removed and let's give the radios and the TVs

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[395] "Judge Reverses Self in WXUR Appeal," *Delaware County Daily Times*, November 6, 1972.

[396] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

[397] *New York Times*, December 3, 1973, 82. Noting that there were now 7,351 radio stations operating within the United States, Ervin proposed a unique "solution" to the Fairness Doctrine debate, proposing that the doctrine be implemented only in communities in which four or fewer radio stations reached households, or "remote" parts of country.

[398] Ibid.

of this country the same independence and freedom that the print media enjoys under the Constitution."[399] He suggested that congressional leaders might not want broadcasters to possess the right to speak freely over the airwaves. "They might be talking too much about the corruption down in Washington, D.C."[400]

In the end, neither Bazelon's stinging criticism of the Fairness Doctrine, nor McIntire's lawyers' tireless efforts in pursuing the case in the courts, nor the bills sponsored by Ervin, Rarick and Hunt, nor McIntire's radio rants were enough to save the station. WXUR ceased operations at midnight on July 5, 1973. "Our Father and God," McIntire told his listeners on this last broadcast, "we thank thee that this station has rebuked the devil and exposed wickedness."[401]

This was not the final chapter in the story of McIntire and the FCC. The *Twentieth Century Reformation Hour* remained syndicated following the death of WXUR, although it was heard by a much smaller audience: less than two months after the station's demise, more than 200 of McIntire's affiliates, many of them fearing FCC intervention, had dropped the program.[402] Shortly after WXUR's final broadcast, McIntire and John H. Norris concocted a plan to broadcast from a restored ship off the coast of New Jersey. One of WXUR's listeners purchased a 140-foot minesweeper and gave it to McIntire, who christened the ship the *Columbus* and converted it into a floating radio station, utilizing much of WXUR's equipment.[403] McIntire believed that the FCC's authority did not extend beyond a three-mile territorial line offshore.[404] "We proceeded to get a boat, a former minesweeper, and a 10,000-watt radio transmitter," explained McIntire. "We put the two together and announced that we would have Radio Free America, a ship out in the international waters."[405] McIntire's one and only broadcast over

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[399] *Twentieth Century Reformation Hour* radio program, October 12, 1973.

[400] Ibid.

[401] *Twentieth Century Reformation Hour* radio program, July 5, 1973.

[402] "Carl McIntire, 95; Firebrand Radio Evangelist," *The Los Angeles Times*, March 23, 2002, 1.

[403] The ship was purchased for $40,000 by a McIntire supporter in Florida. It was once used by oceanographer Jacques Cousteau. See Don Jensen's "Radio Free America: A Red, Right and Blue Political Pirate," *The Monitoring Magazine*, October 1988.

[404] Phipps, "Unlicensed Broadcasting in the U.S.: The Official Policy of the FCC," 140.

[405] *Twentieth Century Reformation Hour* radio program, October 26, 1973.

Radio Free America took place on September 19, 1973, approximately 12 miles off the coast of Cape May, New Jersey:

> Ladies and gentlemen, we have been forced by the Federal Communications Commission, which used a sledgehammer to kill radio station WXUR, to move off the East Coast of the United States, in order to enjoy our First Amendment rights – free speech, free exercise of religion. And we're in the greatest crusade we ever had for the cause of the gospel. There's no regulation that anybody knows of, by the FCC or by the laws of the Congress - we searched it out - that has to do with the novel situation that's been created. And we'll see now what's gonna happen … Five million people crushed – crushed by a sledgehammer in the hands of the bureaucrats to kill the radio stations. Before we get through, we want the radio stations of this country to have permanent licenses, taken out from under any possibility of pressure or control or dictation or any demands made upon the radios by the government of the United States. Let's use the radio to straighten out the government.[406]

This broadcast from the high seas would be the first and last for Radio Free America. Discovering that his transmission interfered with two other stations' signals, McIntire voluntarily shut down Radio Free America until he could relocate the station to a spot higher on the AM dial, where there was broadcast space available.[407] The FCC, meanwhile, filed a complaint charging that Radio Free America had violated a national law that required all radio broadcasters transmitting from off the coast of the United States to be licensed by the Commission. Noting that McIntire was the first person to ever broadcast from offshore in defiance of government regulations, the FCC charged that Radio Free America was violating laws established at the International Telecommunications Convention of 1959, one of which prohibited the operation of

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[406] *Twentieth Century Reformation Hour* radio program, August 30, 1973.

[407] "Pirate Ship off Jersey Begins Broadcasts Challenging the F.C.C.," *New York Times*, September 20, 1973.

a broadcast station from a ship outside national territories.[408] Radio Free America was banned from returning to the airwaves when a temporary injunction was issued in October 1973.[409]

McIntire fought the injunction on a number of different grounds, including the argument that "the legal action taken against (this) offshore station was the result of a conspiracy in the executive branch of government because of outspoken opposition to various policies of the president."[410] Using the U.S. government-operated Radio Free Europe as an example, McIntire also argued that because the government was operating its own unlicensed radio station, it was in no position to demand that Radio Free America be taken off the air. McIntire's efforts were to no avail. On February 20, 1974, U.S. District Court Judge Mitchell H. Cohen made the injunction against McIntire and Radio Free America permanent.[411] After nearly two decades of clashes with McIntire, the FCC, it appeared, had at last silenced the ultrafundamentalist preacher from Collingswood, New Jersey.

Not quite. *The Twentieth Century Reformation Hour* remained syndicated, but the number of stations carrying the program plummeted. By the early 1990s, it was broadcast by only two stations: once a week by a station in Camden, New Jersey, and five days a week on a Baltimore, Maryland, station.[412] Beset by financial problems following the FCC's decision not to renew WXUR's license, McIntire would eventually file for bankruptcy in 1990, listing more than $4.3 million in debts.[413] He retired as pastor of the Bible Presbyterian Church in Collingswood in 1998 after serving for more than six decades in this capacity. He died at the age of 95 on March 19, 2002. At the time of his death, the Rev. Martin Murray, a religious studies scholar at the University of Chicago, called McIntire "the most consistent fundamentalist of the twentieth century."[414]

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[408] International Telecommunications Convention of 1959. 12 U.S.T. 2377 (1959).

[409] *New York Times*, September 20, 1973, 97.

[410] Phipps, "Unlicensed Broadcasting in the U.S.: The Official Policy of the FCC," 42.

[411] *New York Times*, February 22, 1974, 71.

[412] "Carl McIntire, 95; Firebrand Radio Evangelist," *The Los Angeles Times*, March 23, 2002, 1.

[413] "Fundamentalist Pastor Carl McIntire Dies at 95," *The Courier Post*, March 22, 2002, 2B.

[414] "Carl McIntire, 95, Firebrand Pastor," *Philadelphia Inquirer*, March 20, 2002.

Chapter 11: Repeal of the Fairness Doctrine

On May 19, 1981, Mark Fowler, a communications attorney who served on Ronald Reagan's presidential campaign staff, became the nineteenth chairman of the Federal Communications Commission. Fowler sought to continue the deregulation efforts that Charles Ferris had initiated during his tenure as chairman of the FCC from October 1977 to April 1981.[415] Ferris had successfully shifted the focus of the FCC from technical and legal issues to one which placed an emphasis on the economic impact of Commission decisions.[416] During his nomination hearing, Fowler described his philosophy as one that emphasized "consumer choice and entrepreneurial initiative over pervasive government control and direction."[417] Despite his longtime opposition to the Fairness Doctrine, Fowler was not asked a single question regarding his views on the doctrine during his nomination hearings.[418] Upon assuming the chairmanship of the FCC, Fowler outlined five objectives he hoped to achieve as leader of the Commission:

(1) to create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications;
(2) to eliminate unnecessary regulation and policies;
(3) to provide service to the public in the most efficient, expeditious manner possible;
(4) to promote the coordination and planning of international communications which assures the vital interests of the American public in commerce, defense and foreign policy;
(5) to eliminate government action that infringes the freedom of speech and the press.[419]

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[415] Robert Lee served as the FCC's interim chairman from April 13 – May 18, 1981.

[416] Donald Jung, *The Federal Communications Commission, the Broadcast Industry, and the Fairness Doctrine 1981-1987* (Lanham, Md.: University Press of America, 1996).

[417] Hearings before the Committee on Commerce, Science and Transportation, U.S. Senate, 97th Congress, 1st Session. Nominations of Mark Fowler, to be chairman, and Mimi Weyforth Dawson, to be commissioner, Federal Communications Commission. May 1 and May 21, 1981. Serial No. 97-46, 4.

[418] Ibid.

[419] "Fowler Moves In," *Television Digest*, May 21, 1981, 7.

Fowler wasted little time in seeking to meet these objectives. In September 1981, the FCC submitted a list of proposals to Congress designed to provide broadcasters more freedom. Among its requests, the Commission asked Congress to consider repealing the Fairness Doctrine and the equal time and personal attack rules.[420] While few congressional leaders believed the House and the Senate would adopt these proposals at the time, Fowler had taken the "crucial first step."[421] Emphasizing his marketplace model for the broadcast industry in speeches to various groups and organizations across the country, he argued that the FCC "should defer to a broadcaster's judgment about how best to compete for viewers and listeners."[422] Like McIntire's crusade, Fowler's campaign against the Fairness Doctrine was a very public one. Unlike McIntire, Fowler, as chairman of the FCC, was in a position to deliver serious and direct blows to the doctrine. Yet while Fowler must be given the most credit for the eventual repeal of the doctrine, his campaign might not have found success if not for another organization committed to seeing the doctrine's demise.

Riding Reagan's coattails, Republicans assumed control of the Senate in January 1981. GOP Senator Robert Packwood of Oregon became chairman of the Commerce, Science and Telecommunications Committee. A strong proponent of deregulation of the telecommunications industry, Packwood, along with Craig Smith, a former official in the National Republican Senatorial Committee, established the Freedom of Expression Foundation in Washington, D.C., in 1982. The primary objective of the Foundation was to lead an effort to repeal the Fairness Doctrine. The money for Foundation activities was generated through private contributions. One of the Foundation's primary goals was to provide lobbyists, editorialists and other opinion leaders with needed arguments and evidence.[423] Packwood called for hearings on the Senate floor to discuss the impact of content regulation on broadcasters' First Amendment rights. During the first of these hearings on September 28, 1982, experts testified that the electromagnetic spectrum was no longer scarce and that it could accommodate an almost

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[420] "Fowler FCC Full Speed Ahead on 'Unregulation,'" *Television Digest*, September 21, 1981, 1.

[421] Jung, *The Federal Communications Commission, the Broadcast Industry, and the Fairness Doctrine 1981-1987*, 36.

[422] "Market Forces Will Be Deciding Who Gets Piece of Video Market," *Communications News*, April 1982, 58-59.

[423] David Brock, *The Republican Noise Machine* (New York, N.Y.: Crown Publishers, 2004).

unlimited number of broadcast stations. Two days later, constitution experts told members of the Senate that the Fairness Doctrine was unconstitutional because the scarcity rationale no longer applied and because the doctrine "chilled speech." On November 19, 1982, members of the broadcast journalism industry, including Dan Rather of CBS and Bill Monroe of NBC, testified that the Fairness Doctrine hindered their efforts to present the news.[424]

The Freedom of Expression Foundation actively sought support from a wide range of telecommunications industry leaders, media experts and academics. Packwood and Smith believed bipartisan support would bolster the argument for the need to repeal the doctrine. Members of the Foundation's policy board included, among others, Katherine Graham, publisher of *The Washington Post*; Charles Brown, chief executive officer of AT&T; Thomas Krattenmaker, a faculty member at Georgetown University Law School; Ralph Davidson, chairman of Time, Inc.; and Robert Wright, president of NBC.[425] The Foundation focused on five issues in its public relations campaign to discredit the Fairness Doctrine. It is noteworthy that all of these issues were emphasized by McIntire during his crusade to topple the doctrine:

(1) The Foundation argued that the nation's founding fathers would have extended First Amendment protection to radio and television broadcasters had the technology to broadcast been available at the time the Bill of Rights was ratified. "Madison and Jefferson's free marketplace of ideas," Packwood told his Senate colleagues in a 1985 speech, "requires that we end regulation of broadcast expression."[426]

(2) The Foundation argued that the scarcity rationale no longer applied due to the dramatic increase in the number of radio and television stations, made possible by cable and satellite broadcasting.[427]

(3) The Foundation argued that the Fairness Doctrine was unconstitutional and

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[424] Craig Smith, "The Campaign to Repeal the Fairness Doctrine," *Rhetoric & Public Affairs* 2, 3 (Fall 1999).

[425] Ibid., 485.

[426] Bob Packwood, "Floor Statement," *Congressional Record*, Vol. 54, No. 131 (May 1, 1985): 10091.

[427] The FCC reported in 1987 that the number of radio stations operating in the United States had risen from 6,595 in 1979 to roughly 10,000 eight years later (51 percent increase). The number of television stations, according to the FCC's findings, rose 55 percent from 1969 to 1987, from 837 to approximately 1,300.

counterproductive because of its "chilling effect" on broadcasters.

(4) The Foundation argued that if broadcasters were not unburdened by fairness requirements, these requirements could soon extend to newspapers as a result of technological advances. *TV Guide* noted in its March 31, 1984, issue that the "subordinate status of the electronic media should trouble the print media. Communications technology is merging the two (*USA Today* and *The Wall Street Journal* are already using satellites to beam their copy across the country to various printers). This convergence may soon undercut pleas for First Amendment protection from publishers."

(5) The Foundation argued that the Fairness Doctrine had been utilized for political purposes by the Kennedy, Johnson and Nixon administrations.[428]

The Foundation produced volumes of material – books, pamphlets, newsletters, articles – in its campaign to convince lawmakers, policymakers, industry professionals and the American public of the need to repeal the doctrine. Newspapers, radio and television stations were provided statistics and historical examples highlighting the perceived unfairness of the Fairness Doctrine. Smith delivered lectures on college and university campuses across the country to discuss the doctrine's flaws. The Foundation, through a handbook and videotapes, developed a curriculum for a college course titled "The First Amendment and Twentieth Century Technology." Over 200 faculty members at colleges and universities across the United States requested free copies of this handbook and video.[429] Another hearing to discuss the Fairness Doctrine, this time before members of the Commerce Committee, was conducted on January 30, February 1, and February 8, 1984. Fifty-six witnesses, including proponents and opponents of the doctrine, testified.

In March 1985, the Meredith Broadcasting Co. appealed a fairness decision by the FCC to the Washington, D.C., Court of Appeals. The company was appealing an FCC ruling which concluded that WTVH, a Meredith television affiliate, had violated the Fairness Doctrine by running advertisements favoring nuclear power without balancing its programming with voices

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[428] Smith, "The Campaign to Repeal the Fairness Doctrine."

[429] Ibid., 489.

opposed to nuclear power. Shortly before the appellate court heard arguments in this case, Fowler announced the Commission was re-examining the applicability of the Fairness Doctrine. In the late spring of 1985, the FCC announced that it now believed the fairness doctrine "chilled" speech. The FCC concluded that the doctrine no longer "furthered public interest" and the commissioners had serious concerns that it was infringing on the First Amendment rights of broadcasters.[430]

Fowler and the FCC faced a quandary. Required to enforce the Fairness Doctrine, the FCC concluded that Meredith had violated the Commission's fairness rules. At the same time, however, the FCC now questioned the doctrine's constitutionality. To complicate matters further, the Commission did not believe it had the authority to repeal the doctrine because of its belief that the doctrine had been codified. The Washington, D.C., appellate court helped rescue Fowler and the Commission from this dilemma. In a case involving teletext, the appellate court, in a 2-1 decision, concluded the Fairness Doctrine did apply to this new technology, but that the FCC was not required to enforce it:

> We do not believe that language adopted in 1959 made the fairness doctrine a binding statutory obligation; rather, it ratified the (FCC's) longstanding position that the public interest standard authorizes the fairness doctrine … (Thus) the Commission is not bound to adhere to a view of the fairness doctrine that covers teletext … It is unclear why scarcity justifies content regulation of broadcasting in a way that would be intolerable if applied to the editorial process of the print media.[431]

On January 16, 1987, the appellate court remanded the Meredith case back to the FCC and ordered the Commission to address the question of the constitutionality of the Fairness Doctrine and whether or not it served the public interest. On August 4, 1987, the FCC suspended

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[430] Federal Communications Commission, *Inquiry into Section 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees*, 102 FCC 2d 143 (Washington, D.C.: 1985), 156-157, 225-226.

[431] *Telecommunications Research and Action Center vs. FCC* 801 F 2d 501, 508-509 (Washington, D.C., Circuit, 1986). The two Washington, D.C., appellate court judges who voted that the FCC was not required to enforce the Fairness Doctrine were Robert Bork and Antonin Scalia.

the doctrine.[432] By this time, Republicans no longer held a majority in the Senate. Following the FCC's decision to suspend the Fairness Doctrine, Senator Ernest Hollings, a Democrat from South Carolina, who had replaced Packwood as chairman of the Commerce Committee, introduced a bill to codify the Fairness Doctrine. Codification would essentially write the doctrine into law. He named the bill the "Fairness in Broadcasting Act of 1987." Just as McIntire garnered support from print news outlets when the FCC reversed Irion's decision to renew WXUR's license, newspapers across the country joined the Freedom of Expression Foundation to protest codification of the doctrine. *USA Today*, on March 26, 1987, ran an editorial titled "Make Airwaves Free; We Don't Need a Law." *The Wall Street Journal*, on April 2, 1987, described the Fairness Doctrine as "unwise in times of calm and dangerous in times of crisis."[433]

On April 21, 1987, the Senate opened floor debate on the "Fairness in Broadcasting Act of 1987." Packwood delivered an emotional speech on the need to repeal the doctrine, garnering some much-needed support on the Democratic side of the aisle in the process. In this speech, he suggested that if partisan members of both parties had their ways, fairness rules would be extended to "newspapers, data transmission, satellite communications and other vital sources of information."[434] Packwood told his colleagues that the doctrine was a "betrayal" of the principles of the nation's founding fathers:

> In 1791, our founders added the First Amendment to the Constitution to protect the only forms of communication known to them at the time – speech and press. They did not consider scarcity a viable rationale for government restrictions. At the time, newspapers themselves were scarce. There were only eight daily newspapers and a handful of weekly newspapers in the entire United States – all of them highly partisan. And yet, the founders chose to protect them … The press, radio, television and various forms of communication are now still quite distinguishable, but advances in technology will render these media much, much less distinct to the end user … At that point, one of two things

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[432] Smith, "The Campaign to Repeal the Fairness Doctrine."

[433] Ibid., 496.

[434] Robert Packwood, "Floor Statement in Opposition to S. 742," *Congressional Record*, Vol. 133, No. 61, (April 21, 1987), 9104.

must happen: either we back off the regulation of broadcasters or we undertake the regulation of print and other forms of communication.[435]

Five Democratic senators – Max Baucus (Montana), Alan Dixon (Illinois), Howell Heflin (Alabama), John Melcher (Montana) and William Proxmire (Wisconsin) – voted against codification. Nonetheless, the bill to write the Fairness Doctrine into law prevailed in the Senate, 59-31. Because these five Democratic senators opposed codification, however, the bill had not garnered enough votes to override a presidential veto. In the House of Representatives, proponents of codification scored an easy 302-102 victory. The next stop for the bill was the desk of President Reagan.[436] On June 20, 1987, the president, a former broadcast journalist himself, vetoed the "Fairness in Broadcasting Act of 1987." Beginning in August 1987, the FCC would no longer be required to enforce the doctrine. Reagan sent the following letter to the Senate the day before he issued his veto:

To the Senate of the United States:

I am returning herewith without my approval S. 742, the "Fairness in Broadcasting Act of 1987," which would codify the so-called "fairness doctrine." This doctrine, which has evolved through the decisional process of the Federal Communications Commission (FCC), requires Federal officials to supervise the editorial practices of broadcasters in an effort to ensure that they provide coverage of controversial issues and a reasonable opportunity for the airing of contrasting viewpoints on those issues. This type of content-based regulation by the Federal Government is, in my judgment, antagonistic to the freedom of expression guaranteed by the First Amendment.

In any other medium besides broadcasting, such Federal policing of the editorial judgment of journalists would be unthinkable. The framers of the First Amendment, confident that public debate would be freer and healthier without the kind of interference represented by the "fairness doctrine," chose to forbid such regulations in the clearest terms: "Congress shall make no law ... abridging the freedom of speech, or of the press."

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[435] Ibid.

[436] Smith, "The Campaign to Repeal the Fairness Doctrine."

More recently, the United States Supreme Court, in striking down a right-of-access statute that applied to newspapers, spoke of the statute's intrusion into the function of the editorial process and concluded that "it has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with First Amendment guarantees of a free press as they have evolved to this time." Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241, 258 (1974).

I recognize that 18 years ago the Supreme Court indicated that the fairness doctrine as then applied to a far less technologically advanced broadcast industry did not contravene the First Amendment. Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969). The Red Lion decision was based on the theory that usable broadcast frequencies were then so inherently scarce that government regulation of broadcasters was inevitable and the FCC's "fairness doctrine" seemed to be a reasonable means of promoting diverse and vigorous debate of controversial issues.

The Supreme Court indicated in Red Lion a willingness to reconsider the appropriateness of the fairness doctrine if it reduced rather than enhanced broadcast coverage. In a later case, the Court acknowledged the changes in the technological and economic environment in which broadcasters operate. It may now be fairly concluded that the growth in the number of available media outlets does indeed outweigh whatever justifications may have seemed to exist at the period during which the doctrine was developed. The FCC itself has concluded that the doctrine is an unnecessary and detrimental regulatory mechanism. After a massive study of the effects of its own rule, the FCC found in 1985 that the recent explosion in the number of new information sources such as cable television has clearly made the "fairness doctrine" unnecessary. Furthermore, the FCC found that the doctrine in fact inhibits broadcasters from presenting controversial issues of public importance, and thus defeats its own purpose.

Quite apart from these technological advances, we must not ignore the obvious intent of the First Amendment, which is to promote vigorous public debate and a diversity of viewpoints in the public forum as a whole, not in any particular medium, let alone in any particular journalistic outlet. History has shown that the dangers of an overly timid or biased press cannot be averted through bureaucratic regulation, but only through the freedom and competition that the First Amendment sought to guarantee.

S. 742 simply cannot be reconciled with the freedom of speech and the press secured by our Constitution. It is, in my judgment, unconstitutional. Well-intentioned as S. 742 may be, it would be inconsistent with the First Amendment and with the American tradition of independent journalism. Accordingly, I am compelled to disapprove this measure.

Ronald Reagan
The White House,
June 19, 1987.[437]

[437] Ronald Reagan's letter to Senate, June 19, 1987, Ronald Reagan Presidential Library.

Chapter 12: Conclusion

This dissertation has sought to demonstrate that Carl McIntire played an underappreciated role in the demise of the Fairness Doctrine. By using his station, WXUR, to relentlessly attack the Federal Communications Commission and its policies, McIntire became the first radio commentator who expressed not only a willingness, but a desire to take on the FCC and its fairness requirements. This was a fight McIntire went looking for and one he relished waging. For the ultrafundamentalist radio preacher from Collingswood, New Jersey, the stakes of this struggle could not have been higher. McIntire believed he needed radio to reach the nation's masses of sinners, sinners he sought to save. The FCC, through enforcement of the Fairness Doctrine, threatened to take McIntire's primary tool for saving souls – his radio station - away from him.

Why Carl McIntire? Among the polarizing radio commentators who preceded and followed him, why was he the one to force a showdown with the FCC over the fairness of the Fairness Doctrine? Part of the answer to this question is because McIntire's feud with the FCC stoked his oversized ego and was good for business. It generated plenty of publicity for McIntire, someone who enjoyed drawing attention to himself. His crusade against the doctrine also made economic sense. The station's struggle against "Big Brother" and its unfair regulatory policies was an easy sell to the listeners of WXUR. He lobbied these listeners to increase their financial contributions to the station so it could fight back against the FCC.

Another part of the answer to this question lies in McIntire's unflinching commitment to his religious beliefs. McIntire was the leader of the ultrafundamentalist movement in the United States and he passionately defended what he believed were the principles of this movement. Believing that Princeton Theological Seminary had compromised its mission, he left the school. He broke with the Presbyterian Church of the United States and collaborated with J. Gresham Machen to organize the Presbyterian Church of America. After a fallout with Machen because of a disagreement over doctrinal issues, he established the breakaway Bible Presbyterian Church. Whenever McIntire suspected his faith was under assault or his freedom to express his faith was being abridged, he responded with counterattacks. Everyone was fair game: the FCC, the World Council of Churches, the Federal Council of Christian Churches, the Roman Catholic Church,

the Democratic National Committee, the Pennsylvania House of Representatives, the New Jersey State Legislature, the AFL-CIO, the Institute for American Democracy and others.

Surrendering to the FCC was not an option for McIntire because it would have required compromise. It would be akin to surrendering to the Communists or yielding to the ecumenical movement. For McIntire, the battle lines in this struggle were as clear as the message he delivered to members of the Bible Presbyterian Church and listeners to the *Twentieth Century Reformation Hour*. "The church is no place where the ungodly can come in and claim that we have broad basis for all manner of viewpoints," argued McIntire. "Folks, there is only one viewpoint when it comes to being saved."[438] For McIntire, there was no ambiguity nor time for indecisiveness regarding matters of the faith. It was incomprehensible to McIntire that the FCC would try and keep him from completing his life's mission by taking away his radio station. "Folks, I've been in many a battle," he told his listeners. "I've had all kinds of experiences. And ladies and gentlemen, I believe that God has put Carl McIntire in the struggles to which we're engaged, with all the troubles I've had, so I can continue to stand up for him and fight for the cause of the Gospel, the cause of freedom and the cause of righteousness."[439]

For McIntire, compromise was not possible – *total* separation from the Godlessness was the only way to ensure eternal life within the gates of heaven. This Godlessness was embodied by Communism and anyone who stood in the way of McIntire's reformation efforts was either a Communist or sympathized with the Communist cause. McIntire's crusade against the Fairness Doctrine was a direct product of this belief. In the struggle against Communism, he believed, the ends always justified the means. "America used the atomic bomb at Hiroshima as an instrument for freedom," wrote McIntire in 1946 during the onset of the Cold War. "It worked. For just the same reason, America should use the atomic power at the present moment, if necessary. If she does not, she is failing her stewardship before God. The helpless, freedom-craving people behind the Iron Curtain need to be liberated just as did the Japanese."[440] Communism was an obsession for McIntire. He used radio not only to pursue his ultrafundamentalist agenda, but also to stoke a growing fear of Communism among many Americans. The influence of the Red

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[438] *Twentieth Century Reformation Hour* radio program, November 22, 1972.

[439] *Twentieth Century Reformation Hour* radio program, November 21, 1972.

[440] McIntire, *Author of Liberty*, 209.

Scare on both McIntire's broadcasting career and his crusade against the FCC and the Fairness Doctrine cannot be overstated.

McIntire's unwillingness to compromise his separatist philosophy ostracized him from the mainstream fundamentalist movement in the United States. Erling Jorstad argues that the ultrafundamentalist movement was born when McIntire split from Machen. He also notes that McIntire's approach differed radically from that of other mainstream fundamentalists:

> The 1937 separation among the separationists in essence created ultrafundamentalism because it freed Dr. McIntire, the undisputed leader of the anti-Machen faction, of any need for conciliatory action toward any with who he and his followers differed. Those who remained supported him without reservation. From this base, tiny and virtually unnoticed by the general public, he introduced into his writing and preaching a judgment which would later become crucial to his "Twentieth Century Reformation" and thus to ultrafundamentalism. Rather than joining those nonseparated, conservative church leaders who were denouncing the familiar ills in America (drinking, gambling, swearing, cinema, dancing, smoking, and the like), McIntire instead spent the overwhelming amount of his time attacking those church people who were not members of the Bible Presbyterian Church. That group included somewhat over 99 percent of all American church members.[441]

McIntire's criticism of other churches and religious leaders made him innumerable enemies. As McIntire's radio audience grew, this growing number of adversaries became increasingly concerned with his rhetoric. With an audience numbering in the millions by the early 1960s, he could no longer be dismissed as a fringe religious broadcaster few took seriously. Those who were regularly attacked by McIntire and other program hosts at WXUR needed a weapon to wield in their battle with the preacher from Collingswood. They found it in the Fairness Doctrine.

In addition to McIntire's split with Machen in 1937, another key moment that led indirectly to McIntire's crusade against the FCC came in April 1942 when the National

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[441] Jorstad, *The Politics of* Doomsday, 33-34.

Association of Evangelicals for United Action formed in St. Louis. McIntire reached out to this Association, detailing the terms he wanted the group to meet if it wanted to associate with his American Council of Christian Churches. Atop his list of demands was no interaction between the National Association of Evangelicals and the Federal Council of Christian Churches, a longtime McIntire adversary.[442] The Association refused to agree to McIntire's terms.[443] "The vast majority of the founders of NAE," notes Bruce Shelley, "were not interested in a unity based on criticism. They regarded the position of the Rev. Carl McIntire and his recently created American Council of Christian Churches unacceptable."[444] By snubbing McIntire, the NAE had drawn a distinction between those belonging to the fundamentalist and ultrafundamentalist camps. "His intolerance toward other fundamentalists who did not agree with him," argues William McLoughlin, "prevented him from attaining the support of the more reasonable opponents of modernism."[445]

For McIntire, who was growing increasingly comfortable in his outsider's role, the decision by the National Association of Evangelicals not to associate with him reaffirmed and validated his belief that God had destined him to lead a Twentieth Century Reformation. It also strengthened his resolve to let no one stand in the way of this reformation. McIntire's unsuccessful negotiations with leaders of the National Association of Evangelicals in St. Louis in April 1942 marked one of the final occasions in which he entertained the possibility of aligning his reformation efforts with the mainstream fundamentalist movement. From this point on, he would blaze a path of ultrafundamentalism. And he would blaze this path over the radio airwaves. "Don't get any idea that the radio belongs to the government," McIntire said. "They didn't make it. God made it. God gave it to us and God didn't give it to the bureaucrats to manipulate so his word couldn't be preached."[446] McIntire concluded early on in his career that he needed radio if he hoped to prevail in his struggle against modernism. In McIntire's view, the FCC was allowing the modernists to dominate the television and radio industry in the United

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[442] Hangen, *Redeeming the Dial: Radio, Religion and Popular Culture in America*, 117.

[443] Shelley, *Evangelicalism in America: Its Rise and Development*, 80-83.

[444] Ibid., 81.

[445] William McLoughlin, *Modern Revivalism* (New York, N.Y.: Ronald Press, 1959), 474, 476.

[446] *Twentieth Century Reformation Hour* radio program, August 30, 1973.

States, and yet this same federal agency, in his view, was seeking to prevent him from delivering his message of salvation.

While McIntire was quick to condemn the FCC's inconsistency in regulating broadcast licensees, he failed to acknowledge the double-standard he had established in his career. While most fundamentalists believed members of the faith were entitled to make choices for themselves whether to drink alcohol, smoke tobacco, gamble, dance, visit a movie theater, etc., McIntire believed "true" Christians should not participate in any of these activities. He demanded abstinence from these "sinful habits" among Faith Theological Seminary faculty members and students, as well as members of the Bible Presbyterian Church's clergy. McIntire made it clear in his broadcasts, books and sermons that he believed the Bible contained certain absolute truths and that if you hoped to be saved, you must abide by these truths.

McIntire demanded that those within his congregation and among his radio audience conform to his interpretation of the "word of God." In doing so, he alienated himself from mainstream American Protestantism and the twentieth century fundamentalist movement. Most of the leaders of the Protestant Church and within the fundamentalist movement adhered to the ideal of individual freedom. It is on precisely this point that McIntire's credibility is irreparably damaged. On his broadcasts and in his writings, sermons and speeches, McIntire championed democracy, freedom and liberty and warned of the evils associated with Communism and a "one-world government." Yet he had precious little tolerance for those who chose to engage in their own free will. He professed an opposition to consolidation of power, and yet he sought tirelessly to consolidate his own throughout his career. Indeed, his ideology as it related to his religious faith was authoritarian and absolute. For someone who praised the United States' political ideals of freedom and liberty, he was more than willing to disregard these ideals when it came to his Twentieth Century Reformation.

Nowhere is McIntire's hypocrisy more obvious than in his relationship with the FCC. Among his followers, McIntire demanded complete subordination to his interpretation of the word of God, regardless of whether or not this ran contrary to the country's political ideals. And yet he was willing to cite violation of these very ideals in decrying the actions taken by the FCC against WXUR:

> Ladies and gentlemen, free speech in this country is being taken away from the people. You cannot hear on the radio and television, anymore, what you used to hear. And now we have 10,425 radio and TV stations in this country that are under government regulations that restrict speech and force censorship. The radio and TV have been taken away from the people as a media of free expression. And we're suffering under it and I'm in the vortex myself of this whirling pool that is pulling us and sucking us down. And we're in the battle of the century for our freedom in this country. Once they get the radio and TV taken care of the way they're doing now, the newspapers and the print media will come next. And this idea of the government controlling fairness, regulating fairness, laying down guidelines for speech and if you don't conform, you can't talk, you've got violations of the First Amendment of the Constitution. We are embattled as we've never been embattled before.[447]

McIntire's condemnation of the FCC for its role in restricting free speech must be examined within the larger context of the broadcaster's relationship with his radio listeners. McIntire discouraged free speech and expression among his followers while simultaneously bemoaning the FCC's abridgement of his own. McIntire imposed strict guidelines if you hoped to be saved. Freedom, in McIntire's view, was only permissible if it served the word of God, provided it was McIntire's God. Throughout his career, his religious principles were wholly at odds with his political values.

This double-standard notwithstanding, we must recognize McIntire for his contribution to the cause of eliminating the Fairness Doctrine. As noted by Heather Hendershot, "historians and religious studies scholars portray McIntire primarily as a distasteful icon of old-fashioned fundamentalism, while media studies scholars have ignored him altogether … Our distaste for this figure should not prevent us from carefully considering his historical relevance."[448] As evidenced by this dissertation, McIntire's historical relevance is not limited to the fundamentalist movement of the twentieth century. He played a role in drawing national attention to the Fairness Doctrine. McIntire was the leader of the ultrafundamentalist movement, one that

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[447] *Twentieth Century Reformation Hour* radio program, October 12, 1973.

[448] Hendershot, "God's Angriest Man: Carl McIntire, Cold War Fundamentalism, and Right-Wing Broadcasting," 374.

ultimately failed to gain the popular support enjoyed by the more moderate and competing mainstream fundamentalist movement. The mainstream fundamentalists would transform into the New Christian Right of the 1970s and the conservative evangelicals of the 1990s.[449] In its struggle to gain widespread support, McIntire's ultrafundamentalist movement was overshadowed by mainstream fundamentalism.

McIntire became a martyr in his crusade to topple the Fairness Doctrine, but in the end, he would ultimately prevail. He made the doctrine a household term among his millions of radio listeners. These listeners dutifully responded when McIntire urged them to contact their elected officials and the FCC to express their displeasure with the doctrine. Over the last six months of 1967, the FCC received 10 times more letters than usual, most of them from McIntire listeners upset with the FCC's revised rules regarding fairness.[450] Listeners vilified the FCC in these letters. Among their many criticisms, they accused the Commission of: "asserting arrogant and abusive power in an unconstitutional attempt to stifle free speech so as to annihilate men and groups who support the tenets of the Bible; enforcing an outrageously wicked and diabolical law with the aim of silencing McIntire and (James) Hargis; and conspiring in the shadows of Communism, popery, the National Council of Churches, John Kennedy and the Johnson administration to put God, the Christian gospel and goodness off the air."[451] These listeners' protests and McIntire's persistent criticism of the FCC made elected officials increasingly aware that the Fairness Doctrine was becoming an unpopular regulatory policy among a significant segment of the American population. McIntire's crusade against the Fairness Doctrine laid the groundwork for the continued efforts of FCC Chairman Mark Fowler and Robert Packwood and Craig Smith of the Freedom of Expression Foundation. In the early 1980s, the Fowler-led FCC and the Freedom of Expression Foundation continued a movement McIntire initiated more than a decade earlier, eventually prevailing in their efforts to topple the doctrine.

McIntire's crusade against the FCC over the legality and fairness of the Fairness Doctrine was very public. While all the publicity did not reflect well on McIntire, it did create a consciousness of the Fairness Doctrine among a number of key lawmakers as well as his

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[449] Ibid.

[450] "Preachers Rally Against FCC Fairness Doctrine," *Long Beach Press-Telegram*, October 4, 1967, A12.

[451] National Archives, Office of the Executive Director, Correspondence of the Chairman, Box 53.

listeners. McIntire helped introduce the doctrine to the national consciousness, paving the way for Fowler, Smith, Packwood and the Freedom of Expression Foundation a decade later.

McIntire was relentless in his assault on the Fairness Doctrine. He organized rallies to protest the FCC's mistreatment of WXUR. He recognized the importance of forming alliances with others who opposed the doctrine and cited historical examples and statistics to make his case. The Freedom of Expression Foundation followed McIntire's public relations playbook closely, producing articles, books, pamphlets and newsletters for its members which provided arguments that could be used to attack the Fairness Doctrine. The Foundation built relationships with a number of key organizations, including the American Newspaper Association, the National Cable Television Association, the National Association of Broadcasters, the Association of American Advertising Agencies and the Reporters Committee for Freedom of the Press.[452] It convinced leaders within these groups to support the Foundation's efforts to repeal the doctrine. It sponsored a series of college campus lectures in which Smith attacked the Fairness Doctrine. It provided newspapers, radio and television stations, lobbyists and industry advocates with information illustrating the unfairness of the Fairness Doctrine.

The Freedom of Expression Foundation used the same strategies in its campaign that McIntire had tested and employed in his crusade against the doctrine. While McIntire was unsuccessful in his efforts to convince lawmakers and policymakers that broadcasters deserved the same First Amendment rights that newspapers enjoyed, the Freedom of Expression Foundation ultimately prevailed in making precisely this same argument. While he was unsuccessful in his bid to force the FCC to repeal the Fairness Doctrine, McIntire's role in opening a national debate on the doctrine and his influence on the court of public opinion proved significant. McIntire and his loyalists pressed the FCC, the courts and the Congress to re-examine the fairness of the Fairness Doctrine. Beginning in the spring of 1964, when McIntire accused the FCC of encouraging *Twentieth Century Reformation Hour* affiliates to refuse to sell him airtime, until the fall of 1973, when he broadcast from a ship 12 miles off the coast of New Jersey, the ultrafundamentalist preacher remained the doctrine's harshest and most persistent critic.

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[452] Smith, "The Campaign to Repeal the Fairness Doctrine."

The most significant victory in McIntire's crusade against the Fairness Doctrine came when he appealed the FCC's decision that WXUR's license not be renewed to the U.S. Circuit Court of Appeals in Washington, D.C. This led directly to the decisive moment in his decade-long struggle against the FCC and the doctrine. On November 4, 1972, Judge David Bazelon, after initially concurring with the decision of his fellow appellate court judges to terminate WXUR's license, reversed his opinion and, in his dissent, launched a stinging attack on the Fairness Doctrine:

> In this case, I am faced with a prima facie violation of the First Amendment. The Federal Communications Commission has subjected Brandywine to the supreme penalty: it may no longer operate as a radio broadcast station. In silencing WXUR, the Commission has dealt a death blow to the licensee's freedom of speech and press. Furthermore, it has denied the listening public access to the expression of many controversial views. Yet the Commission would have us approve this action in the name of the Fairness Doctrine, the constitutional validity of which is premised on the argument that its enforcement will enhance public access to a marketplace of ideas without serious infringement of the First Amendment rights of individual broadcasters.[453]

While Bazelon's critique of the Fairness Doctrine was not enough to save WXUR, his reversal challenged the Supreme Court's affirmation of the doctrine from several years earlier in the Red Lion case, in which Fred Cook's right to reply to the attacks made by Hargis on radio station WGCB was upheld. Bazelon's unwillingness to follow the precedent set by the U.S. Supreme Court in Red Lion raised the first serious doubts regarding the Fairness Doctrine among centrist lawmakers. No longer could those opposed to the doctrine be dismissed as radical right-wing activists. Indeed, Bazelon was widely perceived as a liberal judge. His damaging assessment of the doctrine would not have emerged had it not been for McIntire's crusade.[454] Soon after Bazelon's dissent, Henry Geller, who wrote the majority decision in the Red Lion case, had a change of heart regarding the Fairness Doctrine's effectiveness. Geller said he no

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[453] Brandywine Decision, Conclusions section, 45.

[454] Friendly, *The Good Guys, the Bad Guys and the First Amendment*, 85.

longer considered it proper to apply the Fairness Doctrine on a "broadcast-by-broadcast or issue-by-issue basis." Geller proposed that the Fairness Doctrine apply to broadcasters' "overall pattern of fairness rather than to each specific instance of alleged unfairness."[455]

Following Bazelon and Geller's lead, a number of legislators, most notably Democratic Senator Sam Ervin of North Carolina and Republican Strom Thurmond of South Carolina, began to speak out against the Fairness Doctrine. Addressing his colleagues in the Senate in late 1973, Ervin argued that the doctrine was unconstitutional and abridged Americans' freedom of speech. Both he and Thurmond called for legislation to abolish the Fairness Doctrine.[456] In the House of Representatives, Republican John Hunt of New Jersey, Democrat John Rarick of Louisiana and others began to bemoan the unfairness of the doctrine.[457]

In addition to his role in the demise of the doctrine, McIntire must also be recognized for his contributions to shaping the contemporary talk-radio landscape, one dominated by politically conservative broadcasters. Unburdened by the obligations of the Fairness Doctrine when the FCC suspended it in 1987, many AM radio stations returned to filling the airwaves with talk radio programming. The majority of this programming was one-sided and politically conservative. In 1988, shortly after the dissolution of the Fairness Doctrine, less than 125 radio stations nationwide employed a talk format. In 2010, more than 1,400 stations carry talk radio programming.[458]

In 2007, a study conducted jointly by the Center for American Progress and Free Press examined the programming tendencies of the 257 news/talk commercial radio stations owned by the top five U.S. radio chains.[459] The study found that 91 percent of the weekday talk radio programming on these stations was politically conservative.[460] These stations carried 2,570 hours of conservative political talk during the workweek, compared to 254 hours of progressive talk. "This dynamic" notes the authors, "is repeated over and over again no matter how the data

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[455] Les Brown, *New York Times*, March 31, 1975, 61.

[456] *New York Times*, December 3, 1973, 82.

[457] Ibid.

[458] M Street Directory 1989-1999 and Inside Radio, Radio Book, 2008-2009.

[459] The top five radio chains were CBS, Clear Channel, Citadel, Cumulus and Salem.

[460] The Center for American Progress and Free Press, *The Structural Imbalance of Political Talk Radio* (2007).

is analyzed, whether one looks at the number of stations, number of hours, power of stations, or the number of programs."[461] *Talkers* magazine, the leading trade publication serving the American talk radio industry, annually ranks the broadcasters with the largest listening audiences. In the spring of 2009, 10 of the 11 broadcasters at the top of the *Talkers* list were commentators whose programs exhibited a politically conservative agenda.[462] Rush Limbaugh, who headed the list, boasted an estimated audience of 15 million listeners. This is the largest number of listeners for a radio program since the advent of television.[463] Limbaugh was a little-known regional radio commentator in Sacramento during the early 1980s. His emergence as a national radio personality coincided with the elimination of the Fairness Doctrine.[464] Not surprisingly, he has been an outspoken critic of the doctrine.[465] In an open letter to President Barack Obama in the *Wall Street Journal* in February 2009 (he also read the letter to his radio listeners), Limbaugh implored the newly elected president to keep the airwaves free:

> When I began my national talk show in 1988, no one, including radio industry professionals, thought my syndication would work. There were only about 125 radio stations programming talk. And there were numerous news articles and opinion pieces predicting the fast death of the AM band, which was hemorrhaging audience and revenue to the FM band. Some blamed the lower-fidelity AM signals. But the big issue was broadcast content. It is no accident that the AM band was dying under the so-called

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[461] Ibid., 1.

[462] In the spring of 2009, *Talkers'* top 11 (there was a three-way tie for ninth place) included Rush Limbaugh (15 million), Sean Hannity (14 million), Michael Savage (9 million), Laura Schlessinger (9 million), Glenn Beck (9 million), Laura Ingram (6.25 million), Mark Levin (6.25 million), Dave Ramsey (6.25 million), Neal Boortz (4.75 million), Michael Gallagher (4.75 million) and Michael Medved (4.75 million). Ramsey, who offers financial advice on his radio show, is the lone host on the list without an overt conservative bias in his program. *Talkers'* annual list is based on a national sampling of Arbitron reports as well as other "reliable indicators."

[463] Stuart Kallen, *Media Bias* (Farmington Hills, Mich.: Greenhaven Press, 2004).

[464] Howard Kurtz, *Hot Air: All Talk, All the Time* (New York, N.Y.: Times Books, 1996). "Ronald Reagan tore down this wall (the Fairness Doctrine) in 1987," wrote *Wall Street Journal* columnist Daniel Henninger, "and Rush Limbaugh was the first man to proclaim himself liberated from the East Germany of liberal media domination." Quote from "Rush to Victory," *Wall Street Journal*, April 29, 2005.

[465] Jeff Cohen, "The 'Hush Rush' Hoax: Limbaugh on the Fairness Doctrine," *Fairness & Accuracy in Reporting* (November/December 1994).

Fairness Doctrine, which choked robust debate about important issues because of its onerous attempts at rationing the content of speech.[466]

Thanks in large part to McIntire, who serves as a link connecting the broadcasting eras of Charles Coughlin and Limbaugh, contemporary talk-radio hosts do not have to ration their views on political issues. "This man, what's his name, Limbo Rush?" McIntire told a reporter for the *Philadelphia Inquirer* in 2002. "He has said that if they put the Fairness Doctrine back in, he would get himself a ship."[467] Limbaugh need not venture off shore to deliver his ultraconservative radio messages. The battles waged by McIntire in his crusade against the Fairness Doctrine – a struggle he lost, but one in which his successors ultimately prevailed – have preserved Limbaugh's space on the American radio dial.

The question that remains to be answered, of course, is whether McIntire waged a just crusade against the FCC and the Fairness Doctrine. Was he right? Were the Commission's fairness rules infringing on his First Amendment rights? Based on the findings in this dissertation, the answer to this question is a resounding "yes." But what about the First Amendment rights of the listeners of WXUR? Whose First Amendment rights are more important? This fundamental question lies at the heart of the debate over the fairness of the Fairness Doctrine. To enforce the doctrine, the FCC was required to infringe upon broadcasters' (i.e. the individual) First Amendment rights in order to protect viewers and listeners' (i.e. the collective) right to access to information deemed to be in the "public interest." In Red Lion v. the FCC, the Supreme Court prioritized the rights of the collective, represented by author Fred Cook, over the rights of the individual, represented by WGCB. "The people as a whole," noted the U.S. Supreme Court in Red Lion, "retain their interest in free speech by radio and their collective rights to have the medium function consistently with the ends and purposes of the First Amendment … It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."[468]

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[466] "Mr. President, Keep the Airwaves Free," *Wall Street Journal*, February 20, 2009.

[467] *Philadelphia Inquirer*, March 21, 2002, B1.

[468] *Red Lion Broadcasting, Inc. v. Federal Communications Commission*, U.S. Supreme Court, 395 U.S. 367, April 2, 1969: 390.

First Amendment philosopher Alexander Meiklejohn believes all speech is not equal. "What is essential," argues Meiklejohn, "is not that everyone shall speak, but that everything worth saying shall be said."[469] In his view, the only speech protected by the First Amendment is that which enables man to govern himself more effectively, namely "public interest" speech. If WXUR's programming was not serving the public interest, as the FCC concluded in its reversal of Irion's decision to grant the station license renewal, than from a Meiklejohnian perspective, it should not be afforded protection under the First Amendment.

In order to protect public interest speech, Meiklejohn prioritized the rights of the collective over the rights of the individual. Such prioritization requires acceptance of the premise that it is sometimes necessary for the state to play a "moderating role to ensure that ideas essential to decision making are brought forward and redundancies limited."[470] Given these competing interests, the FCC faced an almost impossible task in enforcing the Fairness Doctrine. Judge Skelly Wright of the Washington, D.C., Court of Appeals acknowledged the conundrum that the Fairness Doctrine posed for the FCC. "In some areas of the law it is easy to tell the good guys from the bad guys. In the current debate over the broadcast media and the First Amendment, however, each debater claims to be the real protector of the First Amendment, and the analytical problems are much more difficult than in ordinary constitutional adjudication."[471]

If one accepts the premise that the First Amendment rights of the collective should be prioritized over those of the individual, and that public interest speech should not only be expected but required of broadcast licensees, than why not extend similar obligations to the print media? Five years after the U.S. Supreme Court issued its ruling in Red Lion, it ruled on a case similar in many respects to Hargis' on-air attack of Cook, with one major exception – this case dealt with a print publication, not a broadcast outlet. In *Miami Herald* v. Tornillo, the Florida newspaper attacked Pat Tornillo, a candidate for state representative. Tornillo demanded the *Herald* afford him space in the paper to respond to the attacks.[472] The *Herald* refused and

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[469] Alexander Meiklejohn, *Political Freedom* (New York, N.Y.: Harper & Row, 1948), 24.

[470] Krattenmaker and Powe, *Regulating Broadcast Programming*, 191.

[471] Commencement Address, George Washington University's National Law Center, Washington, D.C., June 3, 1973. Skelly Wright was a U.S. Court of Appeals judge in the District of Columbia. For more on "two types of access," see Ford Rowan, *Broadcast Fairness* (New York, N.Y.: Longman, 1984).

[472] 287 So.2d 78. 418 U.S. at 256-57.

Tornillo (who lost the election) took his case to the Florida Supreme Court, which sided with him. The *Herald*, however, ultimately prevailed when the U.S. Supreme Court unanimously reversed the lower court's ruling. The Florida Supreme Court based its decision on an increased concentration of media ownership and the challenges this presented the press in fulfilling its public service obligations. The U.S. Supreme Court, while acknowledging the challenges confronting newspapers with increased media concentration, believed editorial decision-making should rest in the hands of the *Miami Herald's* editors (the individual), not Tornillo and the newspaper's other readers who might disagree with these editors' decisions (the collective). The Court did not believe the government should influence newspaper editors' decisions regarding content.

When the FCC concluded in 1985 that the Fairness Doctrine was chilling speech, it suggested that no distinction should be made between the electronic media and its print brethren: "We believe that the role of the electronic press in our society is the same as that of the printing press. Both are sources of information viewpoint. Accordingly, the reasons for proscribing government intrusion into the editorial discretion of print journalists provide the same basis for proscribing such interference into the editorial discretion of broadcast journalists."[473] President Reagan, in his veto of the "Fairness in Broadcasting Act of 1987," agreed.

As discussed in Chapter 3, the justification for different rules for broadcasters and print reporters was rooted in the scarcity rationale – the notion that broadcast frequencies constitute a "scarce resource" and therefore require government regulation. "The scarcity of radio frequencies complicates the First Amendment's applicability," noted Supreme Court Justice Byron White in the Red Lion case. "Since most people cannot buy or run radio stations, license owners have an obligation to share the publicly owned airwaves with the public."[474] Yet, as noted by Senator Robert Packwood, the scarcity of print media outlets in the late eighteenth century did not deter the framers of the U.S. Constitution from protecting the rights of the fledgling nation's printers:

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[473] Syracuse Peace Council, 2 FCC Reports 5043 (1987).

[474] *Red Lion Broadcasting, Inc. v. Federal Communications Commission*, U.S. Supreme Court, 395 U.S. 367, April 2, 1969.

> "In 1791, our founders added the First Amendment to the Constitution to protect the only forms of communication known to them at the time – speech and press. They did not consider scarcity a viable rationale for government restrictions. At the time, newspapers themselves were scarce. There were only eight daily newspapers and a handful of weekly newspapers in the entire United States – all of them highly partisan. And yet, the founders chose to protect them."[475]

It is also important to note that legislators, dating all the way back to the Radio Act of 1927, recognized the broadcast landscape would evolve. "If the number of radio and television stations were not limited by available frequencies," noted the crafters of this Act, "the committee would have no hesitation in removing completely the present provision regarding equal time and urge the right of each broadcaster to follow his own conscience."[476]

Entering the second decade of the twenty-first century, the scarcity rationale, if it ever was justified, certainly no longer applies. With the internet, satellite radio and satellite and cable television, as well as cellular and wireless broadband technology capable of delivering audio, text, video and voice, scarcity might only exist among ham radio hobbyists. The abundance of media options – and access to these options – makes any distinctions between broadcasters and other media unjustifiable. Ellen Goodman dismisses the scarcity rationale in today's saturated media environment:

> If we judge a revival of the fairness doctrine only on its effectiveness in today's digital mediascape, it fares poorly. There is nothing so special anymore about broadcast or cable programming – not in its reach and not in its audience – that can support regulatory distinctions between "conventional mass media" and other media. And the abundance of media options in general … dooms a government attempt to shape public discourse through targeted content requirements. What is salient in public discourse is much more likely to be affected by search engine algorithms and network traffic management

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[475] Robert Packwood, "Floor Statement in Opposition to S. 742," *Congressional Record*, Vol. 133, No. 61, (April 21, 1987), 9104.

[476] Legislative History of Fairness Doctrine, quoted by Guylyn Cummins in "The Fairness Doctrine Redux," *Communications Lawyer* 26, 2 (March 2009).

practices than by whether news-producing broadcast stations have to include differing viewpoints.[477]

Given the proliferation of media outlets in recent years, the Fairness Doctrine is neither constitutional nor an appropriate regulatory policy to ensure that the public interest is being served. To be sure, the American media system, which in many cases is overly commercial, concentrated, partisan and trivial, has serious issues that need to be addressed. One of the most important questions that needs to be explored is why American newspapers, generally speaking, have fulfilled what most traditional print journalists believe is their ethical obligation to provide fair, balanced and objective analysis on the issues of the day, while their colleagues working within talk radio and other "new media" dismiss the notion that there is an obligation to be fair and objective in their reporting.

It is important to note that American newspapers have not always assumed the ethical high ground. During colonial times, newspaper publishers were not concerned with objectivity. Most of the news of the day was sent to them from Britain and they placed these stories directly into their publications. These colonial printers were not news gatherers so much as they were news distributors. In the decade before the Revolutionary War, colonial journalists began to participate more in the newsgathering process, adopting an intensely partisan approach.[478] Beginning in the 1760s and continuing through the Revolutionary War and the early years of independence, the American press developed close ties with the young nation's political parties. Newspapers became mouthpieces for the Federalist and Republican political parties and the papers' publishers sought to mobilize their readers to support the party they endorsed.

These relationships are strikingly similar to those we see between talk radio broadcasters and politicians within today's talk radio industry. Early American newspapers became tools in the political machines of the parties they supported. "Newspaper editors were not bashful," noted William David Sloan. "They employed a wide array of weapons to carry on the (political) battle." Newspapers' advocacy on behalf of their party's agenda, and contempt for the

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[477] Ellen Goodman, "No Time for Equal Time: A Comment on Professor Magarian's Substantive Media Regulation in Three Dimensions," *The George Washington Law Review* 76, 4 (June 2008): 913.

[478] Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York, N.Y.: Basic Books, 1978).

opposition party, were obvious. Name-calling was quite popular among newspaper editors of the era – political opponents were tagged with all sorts of nicknames, including "wretch, coward, hypocrite, prating poppingjay, toad-eater and guttersnip."[479] This relationship between newspapers and political parties was mutually beneficial. Newspapers relied on the parties for financial support because advertising and subscription revenue during this period were insufficient to cover expenses. In return, editors and publishers allowed elected officials to use their publications as mouthpieces for political rhetoric.[480]

This is strikingly similar to today's talk radio environment. While Limbaugh and other polarizing talk radio hosts' programs are not underwritten by the political parties they endorse, their programs do provide a bully pulpit for politicians to speak directly to their core supporters. Intense partisanship and bias remained a staple of American newspaper journalism until the 1830s and the emergence of the penny press. Michael Schudson argues that the penny press signaled the "triumph of news over the editorial and facts over opinion, a change which would lead, in time, to the journalist's uneasy allegiance to objectivity."[481] Commercialism, argues Schudson, provided the foundation on which objective and ethical journalistic traditions emerged. In order to appeal to as wide a readership as possible to lure advertisers, the penny press newspapers began shifting away from partisan journalistic practices.

It is unlikely that today's American talk radio industry will follow a similar evolutionary path toward fairness and objectivity. In stark contrast to the first half of the nineteenth century, the mass media environment of the early twenty-first century is a highly fragmented one. Unlike newspapers of the penny press era, the companies that dominate today's talk radio industry have no illusions of reaching "as wide a readership as possible." Because of the vast number of media options available to Americans today, radio stations have chosen to concentrate their efforts on building and maintaining "niche" audiences. In a survey conducted by the Pew Research Center in 2008, 80 percent of Limbaugh's listeners described their political views as conservative. Only seven percent said they were political moderates and 10 percent of the listeners surveyed

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[479] William David Sloan, "Scurrility and the Party Press, 1789-1816," *American Journalism*, 2 (1988).

[480] Jason Isralowitz, "The Reporter as Citizen: Newspaper Ethics and Constitutional Values," *University of Pennsylvania Law Review*, 141, 1 (1992).

[481] Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York, N.Y.: Basic Books, 1978), 14.

described themselves as liberal. By comparison, the Pew Center found that 35 percent of the American public described themselves as conservative, 35 percent moderate, and 20 percent liberal.[482]

The *Rush Limbaugh Show* is not seeking the kind of mass audience the New York *Sun* newspaper sought in 1833, but only a slice of that audience. Instead of adopting standards of objectivity, balance and fairness in an effort to increase interest in the program among moderates and liberals, Limbaugh rejects these standards and instead crafts his message to appeal to his conservative listeners. Like McIntire's *Twentieth Century Reformation Hour*, his show is dominated by one-sided, partisan commentary, which contributes to a more polarized political culture and serves to reinforce his predominantly conservative listeners' preexisting beliefs. As a result of Limbaugh's program and the others like it that dominate today's talk radio industry, fewer Americans are presented all sides of the political issues of the day, prevailing political positions are hardened, and compromise becomes increasingly difficult.[483]

American democracy is healthier when the nation's citizens are afforded a marketplace of ideas that exposes them to a range of diverse views across societal issues. In today's fragmented media environment, one in which many Americans increasingly migrate to one-sided, partisan media outlets, it is important to seek ways to ensure that the public square of ideas remains vibrant. The Fairness Doctrine, however, is not the proper tool to address this concern. Carl McIntire and WXUR created a national awareness that the doctrine was becoming increasingly ill-suited to meeting its intended goals – in this regard, the ultrafundamentalist radio preacher's crusade was a just one.

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[482] "Pew Research Center Biennial News Consumption Survey," Pew Research Center for the People and the Press, August 17, 2008, 15-16.

[483] For an in-depth look at the debilitating effects political polarization has had on American democracy, see Ronald Brownstein's *The Second Civil War: How Extreme Partisanship Has Paralyzed Washington and Polarized America* (New York, N.Y.: Penguin Press, 2007).

Epilogue: Media Consolidation and the Prospects for a Twenty-first Century Fairness Doctrine

While those who endorse the return of some form of the Fairness Doctrine and those opposed to its reincarnation in any form continue to debate whether the doctrine actually encouraged or chilled the discussion of controversial topics over the nation's radio and television airwaves, there is much less debate among legislators and policy wonks regarding the effects of media consolidation in the United States.[484] Consolidation of media ownership over the last 15 years has led to a dramatic decrease in both the extent of coverage of controversial issues of public importance as well as the presentation of contrasting viewpoints on issues essential to the functioning of an effective democracy.[485] As a result of media consolidation, many broadcasters and their views have been denied entry into the marketplace of ideas.[486]

As noted in the conclusions section, a study completed by The Center for American Progress and Free Press in June 2007 titled "The Structural Imbalances of Talk Radio" found that the overwhelming majority of programs on the news/talk radio stations owned by the top five U.S. radio chains were politically conservative.[487] The authors of this study conclude that the disparity between conservative and progressive programming is the result of "structural problems" in the American regulatory system, and not a result of the repeal of the Fairness Doctrine. They point to the abandonment of the public interest concept and the relaxation of ownership rules mandating local participation as the key factors that triggered the growth of this

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[484] Two 2008 law review articles review some of the pros and cons regarding the reemergence of some form of the Fairness Doctrine. Gregory Magarian argues for the need for a return of fairness rules, citing, among other reasons, the "justifiable and deeply held dissatisfaction with the state of American media." Ellen Goodman challenges Magarian's arguments in a response essay, noting that the "abundance of (today's) media options dooms a government attempt to shape public discourse through targeted content requirements." Gregory Magarian, "Substantive Media Regulation in Three Dimensions," *The George Washington Law Review* 76, 4 (June 2008); and Ellen Goodman, "No Time for Equal Time: A Comment on Professor Magarian's Substantive Media Regulation in Three Dimensions," *The George Washington Law Review* 76, 4 (June 2008).

[485] Six U.S. companies – Bertelsman AG, Disney, General Electric, News Corporation, Time Warner and Viacom/CBS Corporation - own more than 90 percent of the nation's media holdings.

[486] Many mass communications scholars – see Bob McChesney, *Rich Media, Poor Democracy* (Urbana, Ill.: Univ. of Illinois Press, 2000) - argue that the capitalist system, by its very nature, is designed to smash competition, and therefore, to say the market has "malfunctioned" by denying the entry of a range of ideas is simply to say that it has functioned as it was designed.

[487] CBS, Clear Channel, Citadel, Cumulus and Salem.

right-wing radio monopoly. The researchers argue that efforts to increase localism and diversify radio station ownership will result in a more balanced, less one-sided talk radio landscape. "Increasing ownership diversity," the authors suggest, "both in terms of race/ethnicity and gender of owners, as well as the number of independent local owners, will lead to more diverse programming, more choices for listeners, and more owners who are responsive to their local communities and serve the public interest." The authors dismiss the notion that reinstituting some form of the Fairness Doctrine will "even the playing field" within the talk radio industry.

With the passage of the 1996 Telecommunications Act, commercial radio's traditional role as a trustee, designed to serve the public interest, essentially became obsolete. The public trustee model has given way to a marketplace model and the Telecommunications Act, which overhauled the American telecommunications industry, was the catalyst in this shift. Under the Act, limits on the number of media outlets a single company could own were relaxed. The number of major media companies in the United States - around 50 or so during the 1980s - dropped to 10 in the months following the passage of the Act and today stands at six. With regards to radio, Section 202 of the Act eliminated all limits on the number of radio stations a single company could own nationally and relaxed limits on the number a stations a company could own in a single market.

In 1995, before the Telecommunications Act was passed, the largest radio chain in the United States, Clear Channel Communications, owned 42 stations nationwide. Today, Clear Channel operates more than 1,200 stations in approximately 300 cities and generates almost $4 billion annually.[488] The majority of Clear Channel stations – as well as those owned by the other major radio chains – utilize a centralized programming system, where the same programs are carried over most of the chains' stations. This homogenized programming – be it pop music or Rush Limbaugh – is also loaded with advertising, with some stations running as much as 22 minutes of ads an hour. Commercial radio ad rates have increased almost 90 percent since 1996.[489] The 1996 Telecommunications Act and monopoly ownership have contributed to a less diverse talk radio environment than the repeal of the Fairness Doctrine.

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[488] John Vivian, *The Media of Mass Communication* (Boston, Mass.: Pearson, 2008). Jerry Duvall, *FCC Media Bureau Staff Research Paper Series*, 2002.

[489] Ibid. Following the terrorist attacks on the United States on September 11, 2001, Clear Channel allegedly "blacklisted" certain songs from its station, including Cat Stevens' "Peace Train."

And yet the Fairness Doctrine remains a polarizing issue in Washington almost a quarter century since its demise. Ohio Democratic Congressman Dennis Kucinich told attendees at the National Conference for Media Reform in Memphis, Tennessee, in January 2007 that it is his intention to hold hearings on reviving the doctrine.[490] Congressman Maurice Hinchey and Congresswoman Louise Slaughter, both of New York, have indicated they would support legislation to bring back the Fairness Doctrine. House Speaker Nancy Pelosi of California has suggested that the reinstatement of the doctrine could have some positive effects. Within the Senate, Democrats Jeff Bingaman (New Mexico), Richard Durbin (Illinois), Diane Feinstein (California), Tom Harkin (Iowa), John Kerry (Massachusetts) and Bernie Sanders (Vermont) have expressed support for a re-examination of the applicability of the Fairness Doctrine. Feinstein believes that the conservative political talk radio monopoly is utilizing "public airwaves and the public should be entitled to a fair presentation."[491]

Republican Congressman Mike Pence of Indiana, a former talk radio host, has been the most outspoken critic of any attempts to revive the doctrine among lawmakers. He and fellow Republican House members Joe Barton (Texas), Fred Upton (Michigan) and Greg Walden (Oregon) sent a letter to former Federal Communications Commission Chairman Kevin Martin in July 2007, asking him for his "thoughts on the appropriateness of the Fairness Doctrine in today's broadcast environment." Martin, a strong proponent of less regulation during his tenure with the FCC, told the lawmakers "there is no compelling reason to reinstate the Fairness Doctrine."[492] A month earlier, in June 2007, Pence co-sponsored the "Broadcaster Freedom Act," which guaranteed a one-year moratorium on reinstating the Fairness Doctrine. The bill passed, 309-115.[493] At the time, Republican Senator Norm Coleman (Minnesota) said the Fairness Doctrine "flies in the face of the First Amendment. The idea of bringing it back is not just a bad idea, it is a dangerous idea."[494] Coleman unsuccessfully attempted to attach an anti-Fairness Doctrine bill to education and defense legislation in July of 2007.[495]

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[490] The National Conference on Media Reform, January 12-14, 2007, Memphis, Tenn.

[491] Jim Puzzanghera, "Democrats Speak Out For Fairness Doctrine," *Los Angeles Times*, July 23, 2007, Sect. C, 1.

[492] Kara Rowland, "FCC Chairman Rejects Fairness Doctrine," *The Washington Times*, July 27, 2007, Sect. C, 9.

[493] Eric Pfeiffer, "House GOP Tries to Force Fairness Vote," *The Washington Times*, October 17, 2007, Sect. A, 6.

Debate over the Fairness Doctrine has escalated in Washington following Barack Obama's 2008 presidential election victory. In February 2009, the Senate voted, 87-11, in favor of an amendment that banned reviving any form of the Fairness Doctrine. In conjunction with this bill, which was put forward by South Carolina Republican Jim DeMint, the Senate voted, 57-41, that the FCC should work to promote diversity in media ownership to ensure that broadcasters fulfill their obligation to operate in the public interest. The FCC is already required by law to promote such diversity, making this vote a restatement of existing law.[496] Durbin, who proposed this amendment, argued that DeMint's ban could prevent the Commission from enforcing existing regulations regarding the airing of public service announcements and children's programming. "No one is suggesting that the law for the FCC says that you can give this license to a Republican and this one to a Democrat and this one to a liberal and this one to a conservative," said Durbin. "When we talk about diversity in media ownership, it relates primarily to gender, race and other characteristics of that nature."[497] Following the Senate's vote on these two amendments, former FCC spokesman Mark Wigfield told reporters that the Commission "has no intention of reinstating it now."[498]

A House version of the bill to ban reviving any form of the Fairness Doctrine did not get voted on by lawmakers. In July 2009, the House Rules Committee rejected the "Walden-Pence Broadcaster Freedom Amendment," which was attached to a Financial Services Appropriation Bill. The Committee voted, 7-4, not to have the full House vote on the amendment. Despite this setback, Pence, who along with Greg Walden of Oregon sponsored the amendment, believes the Fairness Doctrine's time has come and gone:

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[494] Andrew Richards, "Fairness Doctrine, or is it Just Foul Play?" *The Washington Times*, October 9, 2007, Sect. A, 2.

[495] Kara Rowland, "Senate Democrats Foil Attempt to Bar Fairness Doctrine," *The Washington Times*, July 20, 2007, Sect. A, 1.

[496] "Senate Bars FCC From Revisiting Fairness Doctrine," *The Associated Press*, February 26, 2009.

[497] "Senate Vote Rejects Fairness Doctrine Revival; Amendment Backs FCC's Diversity Goal," *The Washington Times*, February 27, 2009, A06.

[498] Ibid.

> Today Congress had an opportunity to allow the American people and their elected representatives to ensure the freedom of the airwaves and today Congress said no. I am still confident that broadcast freedom will ultimately prevail and we will send the Fairness Doctrine to the ash heap of broadcast history … I am certain that it is only a matter of time before the specter of government censorship of the airwaves is dismantled forever.[499]

Dating back to his campaign for the presidency, Obama has repeatedly assured both houses of Congress and the American public that he has no plans to bring back the Fairness Doctrine. He told *Broadcasting and Cable* magazine in June 2008 that he "does not support reimposing the Fairness Doctrine on broadcasters." Obama described the debate over the doctrine as a "distraction from the conversation we should be having about opening up the airwaves and modern communications to as many diverse viewpoints as possible."[500] Many Republicans, however, insist that Obama wants to regulate content on the airwaves and that he will use concepts such as "diversity" and "localism" as a guise in order to achieve this end. "There is an attempt underway to sneak through the back door with new proposed rules at the FCC known as 'broadcast localism," argued Pence, referring to measures the FCC proposed in December 2007. These measures task broadcasters to be more responsive to the needs and interests of the communities they are licensed to serve. "These regulations are just a Trojan Horse for unelected bureaucrats in Washington to determine what you can and cannot listen to. These proposed regulations would force broadcasters to air programming that fits pre-ordained categories and creates permanent oversight boards that could be stocked with agenda-driven activists."[501]

In June 2008, House Minority Leader John Boehner of Ohio wrote a letter to former FCC Chairman Martin, expressing his concerns about the Commission's plans to "re-regulate" broadcast outlets. "Under the rubric of 'broadcast localism,' it is clear the Commission is proposing no less than a sweeping takeover by Washington bureaucrats of broadcast media,"

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[499] "Pence 'Profoundly Disappointed' as Democrats Reject Vote Banning Fairness Doctrine," *Congressional Documents and Publications*, July 15, 2009.

[500] John Eggerton, "Fairness Fears About Obama," *Broadcasting & Cable* 138, 43 (November 3, 2008): 13.

[501] "Democrats Again Block Broadcaster Freedom Act," *U.S. House of Representatives Documents*, July 22, 2009.

wrote Boehner. "The Commission's proposal amounts to the stealth enactment of the Fairness Doctrine, a policy designed to squelch the free speech and free expression of specifically targeted audiences."[502]

In August 2009, Republican Senator Charles Grassley of Iowa wrote a letter to current FCC Chairman Julius Genachowski, expressing his concern with Obama's appointment of Mark Lloyd to the position of chief diversity officer of the FCC earlier in the month. Before assuming this position, Lloyd had served as a senior fellow at the Center for American Progress and had co-authored "Structural Imbalances of Talk Radio," a study, discussed in Chapter 12, which concluded that conservative voices dominate today's talk radio airwaves. Despite the fact that Lloyd, in the study, dismisses the idea of bringing back the Fairness Doctrine to address this imbalance, Grassley is unconvinced that reviving the doctrine is not on Lloyd's agenda:

> This paper argued that radio programming was currently "imbalanced" and that there are "serious questions about whether the companies licensed to broadcast over the public airwaves are serving the needs of all Americans." Mr. Lloyd's paper suggests three options to remedy the "imbalance" in political talk radio, including (1) restoring caps on commercial radio station ownership, (2) ensure greater accountability in licensing, and (3) require owners who fail to enforce public interest ownership obligations to pay a fee. While these remedies seem innocuous on their face, hidden within the paper are some stark revelations … I am concerned that despite his statements that the Fairness Doctrine is unnecessary, Mr. Lloyd supports a backdoor method of furthering the goals of the Fairness Doctrine by other means. Accordingly, I ask that you clarify and reaffirm your commitment to me to oppose any reincarnation of the Fairness Doctrine.[503]

In January 2010, Genachowski announced that the FCC was launching an investigation into the "future of media." In this investigation, the FCC plans to examine the state of the news industry, trends within the industry, and what policies the Commission might revise in a media

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[502] Boehner's letter to Martin was reprinted in "Boehner Urges FCC to Drop Backdoor Fairness Doctrine," *States News Service*, June 13, 2008.

[503] Grassley's letter to Genachowski was reproduced in *The New Republic*, August 19, 2009.

marketplace undergoing "rapid technological change."[504] While not referring to the Fairness Doctrine specifically, Genachowski noted that the FCC's review of the current media landscape "will not include any effort to control the editorial content of any type of media … The FCC commits to fully understanding the fundamental changes underway in the media marketplace and examining what impact such changes may have for Commission policies, while vigorously protecting the First Amendment."[505]

As of early 2010, there was no movement by anyone within the FCC or the Obama administration to revive the Fairness Doctrine. There appears a strong possibility, however, that localism initiatives might be introduced following the FCC's "future of media" investigation. "Rapid technological change … has caused financial turmoil for traditional media," said Genachowski in announcing the investigation, "calling into question whether these media outlets will continue to play their historic role in providing local communities with essential news and civic information."[506] The localism concept endorsed by the president would establish community advisory boards around the country. These boards, which would consist of elected officials and community leaders, would meet regularly with media representatives to discuss whether or not the outlets are adequately addressing the needs of the communities they serve.

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[504] "FCC Launches Initiative to Examine Future of Media," FCC press release, January 21, 2010.

[505] Ibid.

[506] Ibid.

Appendix: Chronology of Significant Events in Carl McIntire's Crusade Against the Fairness Doctrine

1906

MAY Carl McIntire is born in Ypsilanti, Michigan.

1929

AUG. McIntire enrolls at Princeton Theological Seminary before leaving the school after two semesters, citing philosophical differences with administrators. He enrolls at Westminster Seminary near Philadelphia.

1931

APRIL McIntire graduates from Westminster Seminary with a bachelor of theology degree.

JUNE McIntire is ordained into the Presbyterian Church of the United States.

1933

OCT. McIntire becomes pastor of the Collingswood (New Jersey) Presbyterian Church.

1936

FEB. McIntire launches a weekly publication, *The Christian Beacon*, to help him spread his ultrafundamentalist message.

JUNE The Presbyterian Church of the United States deposes McIntire from the church. McIntire and J. Gresham Machen, who was also deposed, form a new denomination called the Presbyterian Church of America. Members of McIntire's Collingswood Church disassociate themselves from the Presbyterian Church of the United States and join the Presbyterian Church of America.

OCT. McIntire makes his radio debut, broadcasting his Sunday evening services at the Collingswood Presbyterian Church on WPEN in Philadelphia.

1937

JAN. Following a number of disagreements regarding the course of the Presbyterian Church of America, McIntire and Machen part ways. Those who follow Machen rename themselves the Orthodox Presbyterians. Those who remain loyal to McIntire, including the members of his Collingswood Church, form the Bible Presbyterian Church.

1938

AUG. The Faith Theological Seminary opens in Wilmington, Delaware. McIntire assumed the presidency of the Seminary's Board of Directors. The Seminary relocates to Elkins Park, Pennsylvania, a suburb of Philadelphia, in 1952.

1942

APRIL The National Association of Evangelicals for United Action forms in St. Louis. Association leaders refuse to have any dealings with McIntire or the American Council of Christian Churches.

1955

MARCH The *Twentieth Century Reformation Hour*, a 30-minute program hosted by McIntire, makes its debut on the radio airwaves on WVCH in Chester, Pennsylvania. By May 1964, more than 600 affiliates across the country carry the program.

1959

JUNE Congress amends the 1934 Communications Act, inserting a fairness provision. This provision, or Fairness Doctrine, requires that licensees provide "reasonable opportunities for the expression of opposing views on controversial issues of public importance." The *Report on Editorializing by Broadcast Licensees* is incorporated in Section 315(a) of the Act. It requires that broadcast stations must cover matters of public controversy and each licensee, if covering only one side of a controversial issue, is obligated to afford those with opposing points of view the opportunity to discuss their side.

1963

SEPT. The Federal Communications Commission adds the Cullman Principle to all broadcast licensees' requirements. Under this principle, if only one side of an issue is presented by a licensee, the station is obligated to present the contrasting viewpoint on this issue, regardless of whether anyone is willing to pay for the air time to present the contrasting viewpoint.

1964

JUNE WMBI in Chicago drops the *Twentieth Century Reformation Hour* from its programming schedule as a result of concerns over fairness. It is the first of McIntire's affiliates to drop his program because of concerns related to the Fairness Doctrine.

JULY The FCC releases the *Fairness Primer*, which outlines the steps the Commission follows in addressing issues related to fairness. The primer reminds licensees that "the public's right to be informed cannot be thwarted by the inability of the licensee to obtain paid sponsorship of broadcast time." The primer also notes that licensees are required to provide copies of editorials containing an attack to the person attacked prior to or at the time of the broadcast.

OCT. Faith Theological Seminary purchases controlling rights of WXUR in Media, Pennsylvania. The Seminary submits its application for transfer of control of the station with the FCC.

NOV. Billy James Hargis attacks Fred Cook and his book, *Goldwater: Extremist on the Right*, on his *Christian Crusade* radio program on WGCB in Red Lion, Pennsylvania. Three weeks following Hargis' attack, Cook writes to WGCB and approximately 200 affiliate stations that also carried the broadcast, requesting air time to respond to the attack.

1965

JAN. Faith Theological Seminary amends its license transfer application, alerting the FCC that the program *Interfaith Forum* will be added to its programming plans in order to help WXUR meet the Commission's fairness requirements.

MARCH The FCC approves Faith Theological Seminary's application for transfer of control of WXUR without a hearing, despite objections by Philadelphia-area residents who argue that McIntire has a record of failing to meet fairness requirements on the *Twentieth Century Reformation Hour*. WXUR is granted an inaugural one-year licensing period that extends to August 1966.

APRIL Faith Theological Seminary assumes control of WXUR and initiates programming.

JUNE The program *Freedom of Speech* debuts on WXUR.

OCT. An FCC hearing examiner rules that WGCB should have notified Cook of Hargis' attack and concludes that the station is obligated to provide Cook air time, regardless of whether he is willing to pay for the time.

NOV. Media's Borough Council meets to discuss WXUR, specifically *Freedom of Speech* and the program's host, Thomas Livezey. Council members decide to draft a letter to the FCC, requesting a review of WXUR's programming decisions. The letter asks the FCC to pay close attention to Livezey's attacks on different groups of citizens within the community.

NOV. WXUR General Manager John H. Norris removes Livezey from his role as host of *Freedom of Speech*. *Interfaith Forum* debuts on the station.

DEC. WXUR's programming is a topic of discussion within the Pennsylvania House of Representatives. House members approve Resolution 160, which asks the FCC to investigate whether or not WXUR is meeting its requirements under the Fairness Doctrine.

1966

JAN. Media's Borough Council invites WXUR representatives to attend a meeting at which the two sides discuss changes in the station's programming. Borough council members make a motion to send a letter to the FCC indicating that the objectionable features of *Freedom of Speech* have been eliminated.

FEB. McIntire conducts a rally on the steps of the Pennsylvania state capitol building in Harrisburg to protest House Resolution 160. Approximately 4,000 people attend the event.

FEB. The New Jersey state legislature introduces three bills that appear aimed at silencing McIntire. The primary purpose of the bills is to "curtail the activities of hate and extremist groups."

MAY WXUR files a license renewal application with the FCC.

JULY Nineteen different parties, all opposing a license renewal for WXUR, file a joint pleading, asking the FCC to deny the renewal.

1967

JAN. The FCC announces that a hearing will be conducted to determine whether or not to renew WXUR's license.

JUNE The Court of Appeals for the District of Columbia hears arguments in Red Lion versus the FCC. The Court decides that WGCB's constitutional rights were not abridged and concludes that Cook is entitled to free air time to reply to Hargis' attack. WGCB appeals this decision to the U.S. Supreme Court.

JULY The FCC clarifies its fairness rules, outlining what is expected of licensees with regards to personal attacks and political editorials. The Commission makes compliance in this area a specific requirement for licensees. Failure to comply will result in fines and possible license revocation. This clarification becomes known as the codification of the Fairness Doctrine.

OCT. FCC Hearing Examiner H. Gifford Irion opens the evidentiary hearing in Media to determine whether or not to renew WXUR's license.

OCT. CBS and NBC file briefs with the Seventh U.S. Circuit Court of Appeals in Chicago, arguing that the codification of the Fairness Doctrine, specifically a $10,000 fine that the FCC suggests could be imposed upon a licensee for a personal attack, is unconstitutional. The CBS and NBC petitions are consolidated with another filed by the Radio and Television News Directors Association.

1968

JUNE Irion hearing concludes.

SEPT. The Seventh U.S. Circuit Court of Appeals in Chicago finds in favor of CBS, NBC and the Radio and Television News Directors Association, setting aside the FCC's rule requiring broadcasters to provide equal time to those criticized in radio and television editorials.

DEC. Irion rules in favor of granting WXUR a license renewal for three years without any penalties.

1969

APRIL The U.S. Supreme Court upholds the appellate court's decision in Red Lion versus the FCC. This ruling overturns the Seventh U.S. Circuit Court of Appeals' decision in RTNDA, et al. versus the FCC.

APRIL Eighteen Philadelphia-area religious and civic organizations file a petition asking the FCC to overturn Irion's decision granting WXUR's license renewal. A day later, the FCC announces that it will review Irion's decision.

1970

JULY Following a review of the records from the evidentiary hearing, the FCC overturns Irion's decision and denies WXUR's application for license renewal. According to the Commission, failure on the part of WXUR to meet Fairness Doctrine obligations was the "central aspect" of its decision to reverse Irion's ruling.

JULY WXUR appeals the FCC's decision to deny license renewal to the Court of Appeals for the District of Columbia.

AUG. WXUR files a petition with the FCC, asking the Commission to reconsider its decision to overturn Irion's ruling.

1971

FEB. The FCC denies WXUR's request for reconsideration of its decision.

1972

APRIL The Court of Appeals for the District of Columbia hears opening arguments in WXUR's case against the FCC.

SEPT. The Court of Appeals for the District of Columbia concurs with the FCC, concluding that WXUR's license should not be renewed.

NOV. After initially affirming the FCC's decision to deny WXUR license renewal, Judge David Bazelon of the Court of Appeals for the District of Columbia files a dissenting opinion in WXUR's case against the FCC, completely reversing his previous position. Bazelon now argues that WXUR's license should be renewed and criticizes the Fairness Doctrine for its unfairness.

DEC. WXUR asks the U.S. Supreme Court to review the appellate court's findings.

1973

MAY The U.S. Supreme Court declines WXUR's request for a review of the appellate court's findings.

JULY McIntire delivers his final broadcast on WXUR.

SEPT. McIntire delivers a broadcast from the *Columbus*, a ship stationed 12 miles off the coast of Cape May, New Jersey. He calls this station *Radio Free America*. The FCC charges McIntire and *Radio Free America* with violating laws established at the 1959 International Telecommunications Convention, which prohibits the operation of a broadcast station from a ship outside national territories.

OCT. A temporary injunction prohibits McIntire from broadcasting offshore. The injunction is made permanent in February 1974.

1981

MAY Mark Fowler becomes FCC chairman.

1982

DEC. Republican Senator Robert Packwood of Oregon and Craig Smith, a former official in the National Republican Senatorial Committee, establish the Freedom of Expression Foundation in Washington, D.C. The Foundation's mission is to coordinate a public relations campaign to repeal the Fairness Doctrine.

1985

MAY FCC Chairman Mark Fowler announces the Commission has concluded that the Fairness Doctrine chills speech and may violate broadcasters' First Amendment rights. The FCC does not stop enforcing its fairness rules, however, believing it cannot repeal the doctrine because of its understanding that the doctrine was codified into law.

1987

JAN. The Washington, D.C., Court of Appeals orders the FCC to address the constitutionality of the Fairness Doctrine and determine whether or not it serves the public interest.

APRIL Votes in both the Senate and the House of Representatives support the "Fairness in Broadcasting Act of 1987," a bill which would write the Fairness Doctrine into law and require the FCC to enforce it.

JUNE President Reagan vetoes the "Fairness in Broadcasting Act of 1987."

AUG. The FCC suspends the Fairness Doctrine.

1988

AUG. Rush Limbaugh's national radio show debuts.

2002

MARCH McIntire dies at the age of 95 in Voorhees Township, New Jersey.

Bibliography

Primary Sources:

Archival Collections

Federal Communications Commission, National Archives II, College Park, Maryland.
Collection includes records pertaining to WXUR-AM and FM: Accession number 173-550, Office of the Executive Director – Correspondence of the Chairman, Boxes 15-55; Accession number 173-550, Office of the Executive Director – General Correspondence, Boxes 1-25.

Princeton Theological Seminary, Princeton, New Jersey.
Carl McIntire Collection includes a complete run of issues of the *Christian Beacon.*

Sermonaudio.com, Indianapolis, Indiana
Collection includes audio of 370 of Carl McIntire's *Twentieth Century Reformation Hour* radio broadcasts and sermons.

Books Authored by Carl McIntire

McIntire, Carl. *Author of Liberty*. Collingswood, N.J.: Christian Beacon Press, 1946.

_____. *Better Than Seven Sons*. Collingswood, N.J.: Christian Beacon Press, 1954.

_____. *A Cloud of Witnesses or Heroes of the Faith*. Philadelphia, Pa.: Pinebrook Press, 1938.

_____. *The Death of the Church*. Collingswood, N.J.: Christian Beacon Press, 1967.

_____. *The Epistle of the Apostacy: The Book of Jude*. Collingswood, N.J.: Christian Beacon Press, 1958.

_____. *For Such a Time as This: The Book of Esther*. Collingswood, N.J.: Christian Beacon Press, 1946.

_____. *Modern Tower of Babel*. Collingswood, N.J.: Christian Beacon Press, 1949.

_____. *Outside the Gate*. Collingswood, N.J.: Christian Beacon Press, 1967.

_____. *The Rise of the Tyrant: Controlled Economy vs. Private Enterprise*. Collingswood, N.J.: Christian Beacon Press, 1945.

_____. *Servants of Apostasy*. Collingswood, N.J.: Christian Beacon Press, 1955.

_____. *Twentieth Century Reformation*. Collingswood, N.J.: Christian Beacon Press, 1944.

_____. *The Wall of Jerusalem Also is Broken Down*. Collingswood, N.J.: Christian Beacon Press, 1954.

Cases and Regulatory Documents

Annual Report to Congress of the FCC, 28 (1948).

Annual Report to Congress of the FCC, 33 (1949).

Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 2 RR 2d 1901; 29 Fed. Reg. 10415.

Application of Brandywine–Main Line Radio, for Renewal of License of Stations WXUR and WXUR-FM, Dkt. No. 17141, 24 F.C.C.2d 18, 21, (1970) – "February Decision."

Application of George E. Borst, et al., 4 P&F Radio Reg.2d 697, 698 (March 19, 1965) – "Borst Decision."

Arkansas AFL-CIO v. KARK-TV, Little Rock, Ark., *Petition for Reconsideration* of Tracy Westen (petition date – Feb. 5, 1992).

Banzhaf v. FCC, supra note 19, 132, U.S. App. D.C. at 34-35, 405 F.2d.

Brandywine-Main Line Radio Inc., for Renewal of Licenses of Stations WXUR and WXUR-FM, Media, Pa., 19 RR2d 433, 24 FCC 2d 18, 1970, Docket No. 17141. Appendix A, Issue 1 – "July Decision."

Brandywine-Main Line Radio, Inc., for Renewal of Licenses of Stations WXUR and WXUR-FM, Media, Pa., 14 RR 2d 1051, 24 FCC 2d 42, 1970 – "Initial Decision."

Brandywine-Main Line Radio, Inc., v. FCC 2d 565 (1971), aff'd 473 F.2d 16 (D.C. Cir. 1972), cert. denied 412 U.S. 922 (1973).

Brandywine-Main Line Radio, Inc. v. FCC, 473 F.2d 16, 46-47 (1972) – "Brandywine Decision."

Brief of National Broadcasting Co. Inc. as Amicus Curiae, October Term, 1967, No. 600.

Chicago Federation of Labor v. FRC, 41 F.2d 422 (D.C. Circuit 1930).

Congressional Documents and Publications, July 15, 2009.

Congressional Record, Vol. 54, No. 131, (May 1, 1985), 10091.

Congressional Record, Vol. 133, No. 61, (April 21, 1987), 9104.

Cullman Broadcasting Co., Inc., responsibility under the Fairness Doctrine, Dkt. No. 63-849, 40 F.C.C. 576 (1963).

Fairness Doctrine and Public Interest Standard (The Fairness Report), 48 FCC, 2d 1 (1974).

FCC, Fairness Doctrine and Public Interest Standards, Fairness Report Regarding Handling of Public Issues, 39 Fed. Reg. 26372, 26374, para. 15 (1974).

FCC Inquiry into Section 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees, 102 FCC 2d 143 (Washington, D.C.: 1985).

FCC Media Bureau Staff Research Paper Series, 2002.

FCC Memorandum No. 46526, released March 4, 1964.

Fourth National Radio Conference, *Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio*. (Washington, D.C.: Government Printing Office, 1926), 18.

Great Lakes Statement in the matter of application of Great Lakes Broadcasting Co., FRC Docket No. 4900, 3 FRC Ann. Rep. 2 (1929).

H.R. 13773, (67th Congress, Fourth Session), introduced and referred to the Committee on the Merchant Marines and Fisheries (64th *Congressional Record* 1617).

H.R. 5589, (69th Congress, First Session), introduced and referred to the Committee on the Merchant Marine and Fisheries (67th *Congressional Record* 901; debated, 5474, 5485, 5585).

H.R. 7357, (68th Congress, First Session), introduced and referred to the Committee on the Merchant Marines and Fisheries (65th *Congressional Record* 3294).

International Telecommunications Convention of 1959. 12 U.S.T. 2377 (1959).

John F. Banzhaf III v. FCC, 405 F.2d (1968).

Mapoles, Clayton, 23 Pike & Fischer RR 586, 591; Billings Broadcasting Company, 23 Pike & Fischer, RR 951, 953.

Mayflower Broadcasting Corp., 8 FCC, 333, 338 (1941).

Memorandum Amicus Curiae on behalf of the Columbia Broadcasting System, Inc., October Term 1967, No. 600.

Mid-Florida Television Corp., 40 F.C.C. 620 (1964).

Petition for Emergency Declaratory Ruling of the Coalition for a Healthy Cal. (petition date – Aug. 11, 1994).

Petition for Reconsideration before the FCC for renewal of the license of Radio Station WXUR and WXUR-FM.

Radio Broadcast Services, Personal Attacks; Political Editorials, 32 Fed. Reg. 10,303 (1967).

Radio Television News Directors Association, et al. v. United States and FCC, F.2d (Sept. 10, 1968).

Red Lion Broadcasting Co., Inc. et al v. FCC and United States of America, 381 F.2d 908, 924 (1967).

Red Lion Broadcasting, Inc. v. FCC, U.S. Supreme Court, 395 U.S. 367, April 2, 1969.

Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246, 1247-51 (1949).

RTNDA et al. v. FCC, 400 F.2d 1002 (1968), U.S. Court of Appeals for the Seventh Circuit, Case No. 16498.

Syracuse Peace Council, 2 FCC Reports 5043 (1987).

Telecommunications Research and Action Center vs. FCC 801 F 2d 501, 508-509 (Washington, D.C., Circuit, 1986).

Tracy Westen v. FCC, *Petition for Writ of Mandamus* (9th Cir. July 28, 1994).

U.S. House of Representatives Documents, July 22, 2009.

Contemporary Periodicals

Anaheim (Calif.) *Bulletin, Anderson* (S.C.) *Independent, Asheville* (N.C.) *Citizen-Times, Atlanta Constitution, Atlantic Monthly, Broadcasting, Broadcasting & Cable, Catholic Star Herald, The Christian Century, Christian Crusade, Christianity Today, Communications News, Concern, Courier-Post* (N.J.), *Delaware County* (Pa.) *Daily Times, Harpers, Harrisburg* (Pa.) *Patriot-News, Labor, Long Beach Press-Telegram, Los Angeles Times, Machinist, Minneapolis Star, Monitoring Magazine, The New Republic, The New York Times, Newsweek, Pasadena Star-News, Philadelphia Evening Bulletin, Philadelphia Inquirer, Saturday Evening Post, Talkers Magazine, Television Digest, Time, The Titusville* (Pa.) *Herald, Variety, Wall Street Journal, Washington* (D.C.) *Post, Washington* (D.C.) *Times*.

Secondary Sources:

Books and Articles

Barnouw, Erik. *A Tower in Babel*. New York, N.Y.: Oxford Univ. Press, 1966.

Baskerville, Barnet. "The Cross and the Flag: Evangelists of the Far Right." *Western Speech* (Fall 1963).

Braeman, John. *American Politics in the Twentieth Century*. New York, N.Y.: Thomas Crowell and Co., 1969.

Brinkley, Alan. *Voices of Protest*. New York, N.Y.: Alfred A Knopf Inc., 1982.

Brock, David. *The Republican Noise Machine*. New York, N.Y.: Crown Publishers, 2004.

Brownstein, Ronald. *The Second Civil War: How Extreme Partisanship Has Paralyzed Washington and Polarized America*. New York, N.Y.: Penguin Press, 2007.

Canon, Bradley. "Voting Behavior on the FCC." *Midwest Journal of Political Science*, 13 (November 1969).

Carter, Boake. *Black Shirt Black Skin.* Harrisburg, PA: Telegraph Press, 1935.

_____. *I Talk as I Like*. New York: Dodge Publishing, 1937.

_____. *Johnny Q. Public Speaks: The Nation Appraises the New Deal*. New York: Dodge Publishing, 1936.

_____. *Made in U.S.A.* New York: Dodge Publishing, 1938.

_____. *This is Life*. New York: Dodge Publishing, 1937.

_____. *Why Meddle in Europe? Facts, Figures, Fictions, and Follies*. New York: Robert M. McBride and Co., 1939.

Carter, Boake, and Healy, Thomas. *Why Meddle in the Orient? Facts, Figures, Fictions, and Follies*. New York: Dodge Publishing, 1937.

Center for American Progress and Free Press, *The Structural Imbalance of Political Talk Radio* (2007).

Clabaugh, Gary. *Thunder on the Right: The Protestant Fundamentalists*. Chicago, Ill.: Nelson-Hall Co., 1974.

Classen, Steven. *Watching Jim Crow*. Durham, N.C.: Duke University Press, 2004.

Cohen, Jeff. "The 'Hush Rush' Hoax: Limbaugh on the Fairness Doctrine." *Fairness & Accuracy in Reporting* (November/December 1994).

Commencement Address by Skelly Wright, George Washington University's National Law Center, Washington, D.C., June 3, 1973.

Culbert, David. *News for Everyman: Radio and Foreign Affairs in Thirties America.* Westport, CT: Greenwood Press, 1976.

Cummins, Guylyn. "The Fairness Doctrine Redux." *Communications Lawyer* 26, 2 (March 2009).

Davidson, James, and Lytle, Mark. *After the Fact: The Art of Historical Detection, Fifth Edition*. New York, N.Y.: McGraw-Hill, 2004.

De Ste Croix, James. *The Republic of Talk Radio.* Doctoral dissertation: University of Hawaii (Ann Arbor, MI: UMI, 1999).

Eggerton, John. "Fairness Fears About Obama." *Journal of Broadcasting & Cable* 138, 43 (November 3, 2008).

Elton, Geoffrey. *Political History: Principles and Practice*. London: Penguin Press, 1970.

Emery, Walter. *Broadcasting and Government: Responsibilities and Regulations*. East Lansing, Mich.: Michigan State Univ. Press, 1989.

Epstein, Benjamin, and Forster, Arnold. "The Radical Right and Religion." Anti-Defamation League of B'Nai B'Rith, *Christian Friends Bulletin* (1969).

Fang, Irving. *Those Radio Commentators*. Ames, Iowa.: Iowa State Univ. Press, 1977.

Forster, Arnold, and Epstein, Benjamin. *Danger on the Right.* New York, N.Y.: Random House.

Friendly, Fred. *The Good Guys, the Bad Guys and the First Amendment*. New York: Random House, 1975.

Goodman, Ellen. "No Time for Equal Time: A Comment on Professor Magarian's Substantive Media Regulation in Three Dimensions." *The George Washington Law Review* 76, 4 (June 2008).

Hangen, Tona. *Redeeming the Dial: Radio, Religion and Popular Culture in America*. Chapel Hill, N.C.: University of North Carolina Press, 2002.

Hendershot, Heather. "God's Angriest Man: Carl McIntire, Cold War Fundamentalism, and Right-Wing Broadcasting." *American Quarterly* 59, 2 (June 2007).

Herndon, Booton. *Praised and Damned*. New York, N.Y.: Duell, Sloan & Pearce, 1954.

Hofstadter, Richard. *The Paranoid Style in American Politics*. New York, N.Y.: Random House, 1965.

Hoke, David. "Gentle Fighter." *Sunday School Promoter*, Volume 5, No. 5 (October 1943).

Hudson, Lee. "Belting the Bible: Madalyn Murray O'Hair vs. Fundamentalism." *Western Speech* (Fall 1972).

Jorstad, Erling. *The Politics of Doomsday: Fundamentalists of the Far Right*. Nashville, Tenn.: Abingdon Press, 1970.

Jung, Donald. *The Federal Communications Commission, the Broadcast Industry, and the Fairness Doctrine 1981-1987*. Lanham, Md.: University Press of America, 1996.

Kallen, Stuart. *Media Bias*. Farmington Hills, Mich.: Greenhaven Press, 2004.

Krasnow, Erwin. *"The Public Interest" Standard: The Elusive Search for the Holy Grail."* Briefing paper prepared for the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, Sect. II, Part B (1997).

Krattenmaker, Thomas, and Powe, Lucas. *Regulating Broadcast Programming.* Cambridge, Mass.: The MIT Press, 1994.

Kurtz, Howard. *Hot Air: All Talk, All the Time*. New York: Times Books, 1996.

Laman, Clarence. *God Calls a Man*. Collingswood, N.J.: Christian Beacon Press, 1959.

Lin, Nan. "The McIntire March: A Study of Recruitment and Commitment." *The Public Opinion Quarterly* 38, 4 (Winter 1974-75).

M Street Directory 1989-1999 and Inside Radio, Radio Book, 2008-2009.

Marcus, Sheldon. *Father Coughlin*. Boston, Mass.: Brown, and Co., 1973.

McChesney, Bob. *Rich Media, Poor Democracy*. Urbana, Ill.: Univ. of Illinois Press, 2000.

McLoughlin, William. *Modern Revivalism*. New York, N.Y.: Ronald Press, 1959.

Meiklejohn, Alexander. *Political Freedom*. New York, N.Y.: Harper & Row, 1948.

National Conference on Media Reform. Memphis, Tenn. (January 12-14, 2007).

Novick, Peter. *That Noble Dream: The "Objectivity Question" and the American Historical Profession*. New York, N.Y.: Cambridge Univ. Press, 1988.

Orbison, Charley. "Fighting Bob Shuler." *Journal of Broadcasting*, 21, 459-460 (1977).

Overstreet, Harry, and Overstreet, Bonaro. *The Strange Tactics of Extremism*. New York, N.Y.: Norton, 1964.

Pennybacker, John, and Braden, Waldo. *Broadcasting and the Public Interest*. New York, N.Y.: Random House, 1969.

"Pew Research Center Biennial News Consumption Survey." Pew Research Center for the People and the Press (August 17, 2008): 15-16.

Phipps, Steven. "Unlicensed Broadcasting in the U.S.: The Official Policy of the FCC." *Journal of Broadcasting & Electronic Media* 34, 2 (Spring 1990).

Rowan, Ford. *Broadcast Fairness: Doctrine, Practice, Prospects*. New York: Longman, 1984.

Roy, Ralph Lord. *Apostles of Discord*. Boston, Mass.: Beacon Press, 1953.

Sarno, Edward. "The National Radio Conferences." *Journal of Broadcasting* 13, 2 (Spring 1969).

Schudson, Michael. *Discovering the News: A Social History of American Newspapers*. New York, N.Y.: Basic Books, 1978.

Shelley, Bruce. *Evangelicalism in America: Its Rise and Development*. Grand Rapids, Mich.: Eerdmans Publishing Co., 1968.

Simmons, Steven. *The Fairness Doctrine and the Media*. Los Angeles, Calif.: University of California Press, 1978.

Sloan, William David. "Scurrility and the Party Press, 1789-1816." *American Journalism*, 2 (1988).

Smith, Craig. "The Campaign to Repeal the Fairness Doctrine." *Rhetoric & Public Affairs* 2, 3 (Fall 1999).

Startt, James, and Sloan, William David. *Historical Methods in Mass Communication*. Northport, Ala.: Vision Press, 2003.

Storey, William. *Writing History: A Guide for Students, Second Edition*. New York, N.Y.: Oxford Univ. Press, 2004.

Summers, Harrison. *A Thirty-Year History of Programs Carried on National Radio Networks in the United States, 1926-1956*. Columbus, Ohio (1958).

Vivian, John. *The Media of Mass Communication*. Boston, Mass.: Pearson, 2008.

Williams, Wenmouth. "Impact of Commissioner Background on FCC Decisions: 1962-1975." *Journal of Broadcasting*, 20 (Spring 1976).

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Upon completion of his coursework at Penn State in 2007, Farabaugh joined the Department of Journalism faculty at IUP, where he is currently in his third academic year as a full-time temporary instructor. Courses he has taught at IUP include Basic Journalism Skills, Editing, Feature Writing, Journalism and Mass Media, Journalistic Writing, Magazine Principles, Photojournalism and Sports Journalism. He also advises students within the department.

Farabaugh has worked extensively in sports broadcast journalism and remains active in this area. He is also a freelance writer who has written stories and columns for several different magazines and newspapers. Farabaugh was recognized by the College Sports Information Directors of America in 2002, when he was awarded a citation for excellence in writing. He has served as a writing specialist at Saint Francis University, working with students to improve their skills in this area. His most recent freelance work, a feature story for the September 2009 issue of *Johnstown* (Pa.) *Magazine*, detailed the history of potato farming in Pennsylvania's Cambria County. He is currently working on a story for *Johnstown Magazine* which explores the tradition of distance running among many families and how a passion for the sport is passed down from one generation to the next.