To Joseph Thomas Deen
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THE CONVERSION OF THE FM RESERVED BAND:
A HISTORY OF FCC POLICY REGARDING RELIGIOUS APPLICANTS
FOR NONCOMMERCIAL EDUCATIONAL LICENSING
IN THE FM RESERVED BAND

By
Laura Deen Johnson

May 2010

Chair: F. Leslie Smith
Major: Mass Communication

The Noncommercial Educational (NCE) FM band from 87.9 to 91.9 FM is the home of public radio, educational radio, community radio and a select group of noncommercial educational religious radio stations. At the inception of NCE licensing, the FCC intended for the NCE frequencies to be used for educational radio only. Initially, the Federal Communications Commission (FCC) told religious groups and other social nonprofit organizations that the NCE band was intended for curriculum-based educational programming connected to a school system and was not designed for religious broadcasting or other forms of nonprofit radio. Religious applicants were directed to apply in the commercial band. Limited access to the band was not a major issue for religious broadcasters until spectrum scarcity in the commercial FM band caused them to actively seek frequencies in the NCE band. Over time, NCE decisions at the FCC and the creation of public broadcasting relaxed the educational requirements. The 1977 Moody Bible Institute case decision made it possible for future religious applicants to be more successful in their applications for NCE licenses.
To tell the story of FCC policy regarding religious applicants for NCE licenses, the study focused on the individuals and organizations that helped define FCC policy, including the U.S. Office of Education led by John Ward Studebaker, the Moody Bible Institute (MBI) and the major decisions and policy statements at the FCC (and FRC) that defined educational and religious broadcasting policy from the earliest days of radio to the 1977 MBI decision at the FCC.

The secular educational broadcasters have been known to ask why religious groups have been allowed access, reflecting the philosophical secularization of public education in America. Religious groups wondered why they were not allowed access, since they consider education to be central to their mission. One church argued before the FCC that education is the “Quintessence” of religion, reflecting their certain belief that their First Amendment rights were being denied by the state. This philosophical divide in the noncommercial band reflects a similar divide in the public sphere of American life. The FCC was also hampered by a lack of definition to the term “educational” and later, the term “public.” The lack of clear definitions hampered the development of clear, fully developed policy for NCE licensing. Over time, the early understandings of the terms were lost and new broader understandings of the definitions were applied, resulting in more open policy.

The purpose of the study is to show that the existence of the noncommercial educational category of licensing and the reason for denying access to religious organizations is rooted in the history of public education in America, in Progressivism, and its children, the New Deal and the Great Society.
American society is split by deep philosophical rifts in public opinion that are commonly described as “culture wars” by numerous authors. The conflicts cut across the public sphere reflecting a diversity of beliefs about the role of religion in modern life. Complex differences between American citizens are often described simplistically by the media, reducing the ongoing battle to a split between the right and the left, between believers and non-believers, or between religionists and humanists. Activists and commentators caricature, simplify, and propagandize the battle using labels to push Americans into narrow, limiting categories such as secular humanist, holy roller, bible thumper, heretic, godless fool, poor simpleton, religioid, Homo Neanderthalis, and worse. The labels do little more than cloud the ongoing argument. Though the split is most obvious in the public battles over hot topics like abortion, gay rights, and the never-ending discussion about creationism, intelligent design, and evolution in the public schools, the divide exists and expresses itself in diverse ways throughout American culture. The roots of the wrangle over religion extend back in history to a time long before the founding of the American Republic to the beginnings of modernity. The struggle reflects the ongoing conflict between individualism and communitarianism, between rationalism and nonrationalism,
between revealed knowledge and empirical knowledge.\textsuperscript{4} Examples of the dichotomy are found in many aspects of public life in the United States, including broadcasting and education. Public education has long reflected the uniquely American encounter with religion.

A clear example of the philosophical split exists in the world of radio in a small section of the electromagnetic spectrum. Secular stations with roots in the liberal philosophy of public education exist in the noncommercial educational (NCE) band (87.9 to 91.9 FM) next to religious stations with roots in the conservative American Protestant Christian religious tradition. The stations licensed to operate in the restricted FM band all have noncommercial educational licenses.

In the early years, the nonprofit broadcasters worked together in fluid and ever changing coalitions to further their cause before Congress, the Federal Radio Commission, and the Federal Communications Commission.\textsuperscript{5} Though the FRC and later the FCC were slow to respond to the requests for special considerations and protections for nonprofit and educational broadcasting,\textsuperscript{6} the FCC had a secular, public education model in mind for NCE broadcasting once the NCE concept of licensing was created in 1938.\textsuperscript{7} The secular model for educational (and later, public)


stations persisted over time, even as the concept of “educational” broadcasting slowly broadened to include programming that was educational only in the most general sense of the term.\footnote{Lower Cape Communications, Inc., 47 RR 2d 1577 (1980)}

In addition, the regulators at the Federal Radio Commission (FRC) and later the FCC held religious applicants to a different standard than secular applicants for all types of licenses.\footnote{Ashton Hardy and Lawrence Secrest, \textit{Religious Freedom and the Federal Communications Commission} (The Center for Law and Religious Freedom: November 1981) 22-32.} Religious groups had to contend with regulatory, financial, competition, and discrimination issues that also affected other educational and nonprofit broadcasters in the early years of radio broadcasting.\footnote{McChesney \textit{Telecommunications} 19-32.} Few noncommercial radio stations founded in the early years of broadcasting history survived the first two decades and ceased broadcast operations. As a result, most religious broadcasters were heard over commercial stations that provided sustaining time or sold air time for religious programs. The conservative religious broadcasters found it cheaper and simpler to broadcast on commercial stations than to fight a losing battle for a license before the FRC or FCC.

Though some religious institutions did receive NCE licenses after 1948, they were generally awarded in the early days of FM when there were few applicants for FM licenses and the audience for FM radio was small.\footnote{An NCE license for WMBI FM in Chicago was granted to MBI in 1960. There was no competition for the license application and the FCC decision did not create a precedent.} In addition, most of the early NCE stations licensed to religious colleges and universities, such as Notre Dame, offered programming that combined the general audience guidelines favored by the FCC as serving the public interest.\footnote{See WSND FM, licensed to University of Notre Dame; WFUV FM, licensed to Fordham University; KPLU FM, Pacific Lutheran College; and WDUQ FM, Duquesne University.} The smaller
religious organizations and the more conservative religious institutions and organizations were always encouraged to apply for licensing in the commercial band leaving the NCE band reserved mainly for secular public education organizations and institutions that were primarily engaged in educational activities. For many years the religious organizations that were diverted from or denied access to the NCE band would apply in the commercial band for licensing all the while protesting to the FCC that they were, in fact, educational in nature.

When the commercial AM and FM bands began to fill across the United States, religious broadcasters began to actively seek licensing in the NCE FM band because it was the only radio spectrum with available space. In reaction to the social upheaval of the 1960s, conservative religious groups organized politically in order to effect change in the American public sphere. The rising tide of religious activism led to the creation of a number of conservative political organizations including the Moral Majority in the 1970s and the Christian Coalition in the 1980s. The resulting elections of more conservative administrations including the Nixon and Reagan administrations and the election of Jimmy Carter, an evangelical Christian, led to

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appointments at the FCC of individuals who were more sympathetic to conservative religious causes like religious broadcasting.

In 1977, the FCC faced the question of NCE licensing for religious radio broadcasters in a hotly contested decision that involved the Moody Bible Institute of Chicago, an organization that first argued in 1927, in a hearing before the FRC, that it was an educational institution. After a period that spanned five decades, the FCC decided that Moody as a religious educational institution was eligible for an NCE license for two new radio stations that were to be located outside MBI’s home territory of Chicago and that religious applicants had to be treated equally to the secular applicants for NCE licensing. The 1977 decision established a precedent that allowed many more religious applicants access to the NCE band.

Statement of Purpose

To tell the story of NCE licensing for secular and religious radio stations this study will answer the following questions: Why are religious stations found in the NCE radio band of 87.9 to 91.9 FM? What were the philosophical roots behind the creation of NCE radio? What did the FCC intend for NCE radio to be at its inception? How did John Ward Studebaker influence the creation of NCE broadcasting? What role did the Moody Bible Institute play in the FCC policy regarding secular and religious radio stations? Why were MBI and other religious broadcasters interested in NCE channels? Why did the FCC decide to grant two licenses to MBI in the 1977 decision, creating a precedent that made it possible for other religious broadcasters to gain access

16 *Moody Bible Institute of Chicago, 66 FCC 2d 162, 40 RR 2d 1264, (1977).*


18 *Moody Bible Institute of Chicago, 66 FCC 2d 162, 40 RR 2d 1264, (1977).*
to NCE licensing? What role did Stephen Sharp and other individuals at the FCC play in the 1977 decision?

To answer these questions, the study will examine the philosophical roots of NCE licensing which are found in the history of public education in America. In particular, the study will focus on the role of the Office of Education in the Department of the Interior during the era of the New Deal, and on the role of U.S. Commissioner of Education John Ward Studebaker. Studebaker played a pivotal part in the creation of NCE licensing as the federal government’s chief representative for public education while chairing the Federal Radio Education Committee at the FCC. The FCC repeatedly cited his reports and speeches to the exclusion of all others as influencing the development and creation of NCE licensing in 1938.19

Studebaker’s concept of a public education, curriculum-based role for NCE radio stations molded the FCC’s initial guidelines for NCE stations. From 1938 to 1948, when Studebaker left the USOE, NCE licenses were granted only to public school systems and a few universities. In 1949, the granting of an NCE license to an independent nonprofit community organization called Pacifica signaled the first departure from the Studebaker designed model of educational radio. The decision also created the first community radio station licensed to an independent nonprofit organization and the model that later became known as community public broadcasting. Over time, FCC NCE decisions led to a very broad definition of the term educational in NCE radio broadcasting. In particular, after Congress passed the Public Broadcasting Act of 1967 establishing public television and radio, the concept of educational broadcasting moved away from its earlier roots in the public school curriculum, though public broadcasters were still licensed as noncommercial educational stations. The related FRC and FCC decisions and rulings

19 Ring Memorandum.
will be examined to help understand the changing concept of an educational radio station at the
FCC and the *ad hoc* nature of many decisions related to NCE licensing.

The study will examine the roots of secularization in American public education and the
changing role of religion in the public sphere of American life to explain, in part, why the FCC’s
stance toward religion changed over time. In addition, the possible secularizing effects of
professionalism and the technocratic perspectives in the FRC and FCC staff will be examined.

The central role of the Moody Bible Institute in the history of NCE licensing will be
explored along with the efforts of some other nonprofit organizations in the fight to gain access
to the NCE FM spectrum. Their efforts to effect change in the area of NCE policy at the FCC
reflect in microcosm events that were unfolding across the macrocosm of American cultural and
political life as the religious right fought for a prominent place in the public square.

Finally, the study will examine the long and ultimately successful struggle of religious
institutions and organizations to gain access to the reserved noncommercial educational FM
band. There was considerable consternation among secular NCE broadcasters once the NCE
band began to fill as religious broadcasters applied by the hundreds for NCE licensing in the
reserved FM band in the years after the MBI 1977 decision. However, because this study
focused on would-be religious licensees and their struggle to gain access to the educational FM
channels, the reaction of secular NCE broadcasters, trade journals, commercial broadcasters, and
other media will be dealt with only in passing and peripherally.

**Literature Review**

The literature review investigates studies that are most applicable to the study and
identifies contributions the research will make to historical accounts of FCC policy regarding
noncommercial educational licensing and philosophy, particularly as it applies to religious
broadcasting. There is significant research and scholarly literature regarding the history of NCE
policy at the FCC, but the interconnections between different types of noncommercial broadcasting during different time periods have not been fully explored. As yet, no one study tells the complete story of what is most broadly described as nonprofit broadcasting or not-for-profit broadcasting, probably because the topic is large and covers more than eight decades.

A few works offer a significant examination of the noncommercial broadcasting philosophy and history. The most comprehensive discussion of the topic covered by the study can be found in Robert J. Blakely’s *To Serve the Public Interest: Educational Broadcasting in the United States*. Blakely presents a comprehensive history that covers the first five decades of what is known today as public broadcasting and he includes a comprehensive overview of FCC policy decisions. Though he discusses the role of religious groups in the early years of educational radio, his study is primarily about the secular side of NCE broadcasting. *Public Broadcasting: The Role of the Federal Government, 1912-1976* by George H. Gibson is an overview of the federal government’s role in the development of educational and public broadcasting. *Public Radio and Television in America: A Political History* by Ralph Engelman describes how certain pivotal figures changed educational and public broadcasting history, including Lew Hill, the founder of Pacifica Radio, and Bill Siemering whose vision led to the creation of National Public Radio. A number of studies focus on programming philosophies

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The evidence of a cultural divide exists in the research since scholars tend to focus on the secular or the religious forms of broadcasting, not both. In addition, there is a split between the histories of educational and public broadcasting. Prior to the 1967 Public Broadcasting Act which created “public broadcasting,” studies focus on secular educational radio and television. After 1967, most histories focus on public broadcasting with the early history of educational radio being downplayed. There is some evidence in the literature that educational broadcasting is viewed in the public broadcasting world as existing only in the past, without connection to modern public broadcasting, even though NCE licensing at the FCC has always included the term “educational” as a core concept. This dichotomy may reflect the tendency on the part of Americans to forget or downplay the importance of history and tradition. There may also be a sense that public broadcasting is unique or superior to educational broadcasting. Thanks to descriptions of educational broadcasting as being boring, and to the anti-intellectual tendencies in American culture, a desire to downplay the educational aspects of public broadcasting may also exist.

interests and the dominant commercial power brokers as early regulators at the FRC laid the ground work for a commercial broadcasting system in the United States. The nonprofit interests are found to be a diverse group with deep roots in American society, including educational and religious groups. Their cause for noncommercial broadcasting failed due to less organization, less funding, and less political power than the well oiled commercial machine controlled by RCA, AT&T, Westinghouse, and GE.

In contrast, Hugh R. Slotten presents another perspective on the difficulties faced by nonprofit broadcasters in *Radio and Television Regulation: Broadcast Technology in the United States, 1920-1960*. Slotten explains how the engineers at the FRC looked at licensing decisions through a technocratic lens leading them to evaluate stations based on their equipment quality since better technology and equipment led to a better signal for the audience. Thus nonprofits were moved around and shunted aside by the FRC and commercial interests because of budgetary limitations and inferior technology.26

Religious broadcasting tends to come to the attention of researchers when scandal occurs. The colorful stories of financial and moral turpitude in the field of evangelism draws the attention of scholars, journalists, and the general public just as in the world of politics. Thus, the majority of the research in religious broadcasting focuses on the larger-than-life personalities, the infamous, and the criminal. Individuals and institutions who avoid controversy tend to slip by without notice under the radar of scholarly research or public opinion. Also, few scholars or journalists have written about the concept of religious noncommercial broadcasting. The issue was little known outside of a small group of industry specialists, like many telecommunications regulatory issues. In 1977, when the FCC finally granted Moody’s application for a

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26 Slotten 51-59.
noncommercial frequency, there was little notice in the press. Since that time, a few articles have appeared discussing public broadcasters’ concerns that religious groups were flooding the FCC with applications for the NCE band.\textsuperscript{27} The topic did not appear on television until Phil Donahue raised the issue in 2003, twenty-five years after the FCC made it possible for religious groups to gain NCE licensing. As a result, there is no complete explanation of the Moody Bible Institute’s attempts to gain an NCE license or their efforts to change other FCC policy. A few chapters in books and doctoral theses and several masters’ theses explore the history of broadcasting at MBI.\textsuperscript{28}

The role of the Moody Bible Institute in broadcasting history is significant for several reasons. First, Moody is an organization whose broadcasting began with a nonprofit station that is one of the few to have survived the turmoil and upheaval of the FRC’s frequency reallocations, later becoming the anchor station for MBI’s broadcasting system. Moody staff members describe one of its early programs, the \textit{Radio School of the Bible}, as being the longest running educational radio program in history having been broadcast for seventy-seven years.\textsuperscript{29} Second, Moody is the first religious broadcaster to apply for an NCE license. Third, Moody is the only religious broadcaster to have been involved, directly or indirectly, in many historic

\begin{itemize}
  \item \textsuperscript{29} The \textit{Radio School of the Bible} program broadcasts ended in 2002.
\end{itemize}
policy decisions at the FCC and FRC. Finally, the Institute is major supplier of Christian radio programming in the United States and around the world.

*MBI: The Story of Moody Bible Institute*\(^{30}\) by Gene A. Getz presents the history of early Moody radio stations through the late 1960s. This document is a comprehensive history of the Moody Bible Institute and its outreach programs. Another source for information about Moody stations is the magazine, *Moody Monthly*, published by the Moody Bible Institute. In the early years of radio broadcasting, *Moody Monthly* contained a column about radio broadcasting at the Institute, including information about programming, radio personalities, and performers. Later, special articles about Moody broadcasting marked the major events in the history of the stations.

In addition, Ashton Hardy and Larry Secrest wrote “Religious Freedom and the Federal Communications Commission” for the Center for Law and Religious Freedom in November 1981.\(^{31}\) A similar article by Hardy and Secrest was also published in the *Valparaiso University Law Review* the same year.\(^{32}\) In each article Hardy and Secrest draw on their experience at the FCC to discuss law and policy issues related to religious broadcasting, including cases at the FCC that led to the 1977 Moody decision.

The history and philosophy of public education in America have been covered exhaustively by scholars across the academy. Lawrence A. Cremin’s *American Education: The


Metropolitan Experience, 1876-1980 33 is the final volume in Cremin’s history of education in the United States. Cremin’s The Transformation of the School: Progressivism in American Education, 1876-1957 34 provides a depiction of the progressive movement in American Education. It encompasses a discussion of the philosophies that drove efforts to reform American education and to provide nontraditional educational opportunities to adults and nontraditional forms of education using new technologies, such as the radio and television.

A flash point for “culture wars” in the United States occurs at the intersection of religion and public education. As a result of the controversy, the literature has a number of studies that explore this issue from differing perspectives including historical, legal, social, cultural, liberal, and conservative. Between Church and State: Religion and Public Education in a Multicultural America 35 by James W. Fraser provides an overview of how Americans have historically struggled with the principle of separation of church and state as it applies to the public schools. Warren A. Nord wrote a comprehensive history of the role of religion in the public schools in Religion and American Education: Rethinking a National Dilemma. 36 He includes a discussion of modernity and its effect on public education including the secularization of American Education.

The influence of John Ward Studebaker in the history of educational broadcasting is reflected in the published articles and speeches written by Dr. Studebaker when he


35 James W. Fraser, Between Church and State: Religion and Public Education in a Multicultural America (New York: St. Martin’s P, 1999).

was the U. S. Commissioner of Education from 1934 to 1948. Of great importance are
the records of the Office of Education and the Federal Communications Commission at
the National Archives II in College Park, Maryland. In addition, an unpublished
dissertation, *Contributions of John Ward Studebaker to American Education*37 by Paul Clifford
Pickett, examines Dr. Studebaker’s work in education including his efforts to aid the
development of educational radio. Various authors mention Studebaker in the history of
educational radio but there is no comprehensive account of his radio related activities available at
this time.

**Significance of Historical Research**

**Methodology**

My objective was to examine the history of regulatory agency policy regarding religious
applicants for noncommercial educational (NCE) licenses in the FM radio band. The story
combines a history of FCC and FRC policy regarding religious radio broadcasting and a history
of FCC and FRC policy regarding educational radio broadcasting. These two parallel stories
intersect in the history of religious NCE radio broadcasting. Primary research is drawn from
records and documents at the Federal Communications Commission, the National Archives II
(NARA II), the Suitland Depository, and the Moody Bible Institute (MBI) archives in order to
trace the policy decisions that make up the history of educational and religious radio.

The FCC policy history is found in the official FCC record as published by the Federal
Communications Commission; in FCC documents published by Pike and Fischer; in FCC
documents at the Federal Communications Commission in Washington, D.C.; in FCC and FRC
archived documents at the National Archives II in College Park, Maryland; in the Federal

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37 Paul Clifford Pickett, “Contributions of John Ward Studebaker to American Education,”
(PhD Diss., U of Iowa, 1967).
Documents Depository at Suitland, Maryland; and at the Public Broadcasting Archives at the University of Maryland, College Park, Maryland. Relevant documents include published FCC decisions, minutes of meetings at the FCC, memos and letters in FCC archived files, transcripts of hearings before the FCC and the FRC, press releases by the FCC, speeches made by FCC staff and commissioners, and in emails, letters and personal interviews.

The history of education as it relates to broadcasting is drawn from the records of the Office of Education of the U.S. Department of the Interior archived at the National Archives II in College Park, Maryland, and from the Education Library at the U.S. Department of Education in Washington, D.C. Other primary sources include statements made by educational broadcasters in speeches, press releases, testimony before the FCC, the FRC, and Congress, and in the records of educational broadcasting organizations such as the Federal Radio Education Committee.

The contributions of John Ward Studebaker (U.S. Commissioner of Education at the time of the establishment of NCE broadcasting) to the creation of and definition of educational broadcasting are explored through his speeches, policy statements, memos, and letters to prominent individuals, including President and Mrs. Franklin Delano Roosevelt.

The history of religious radio at the Moody Bible Institute is drawn from original historic documents housed at the Moody Bible Institute in their archives and at their broadcasting network, the Moody Bible Network. The history of the Institute and its leaders is found in primary sources at the MBI Archive and in several secondary sources.38

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Secondary sources include FCC policy history studies, educational broadcasting history studies, religious broadcasting history studies, educational history studies, biographies, and studies of American history and politics. Secondary and primary sources provided the historical context in which educational radio was created and the background and perspective of religious broadcasters who sought educational licenses. Secondary sources were used to interpret and evaluate the data from primary sources and to provide context and explanations for the information found in primary sources.

Two types of evaluation were used to determine the quality of sources and to establish their integrity and to understand their substance. First, external criticism addressed the question of authorship and dates of the sources through analysis of content and through comparison of various texts. The documents that were part of the archival record of the FCC housed at the National Archives were generally found to be valid since they were part of the official archival record of the FCC, documented by the staff of the FCC and the staff of the National Archives. The same was true of documents examined at the Roosevelt Presidential Library and of the documents found at Suitland, Maryland.

Internal criticism evaluated the credibility of the sources, the meanings of words, both official and unofficial meanings, the meanings of FCC terms, and the meanings of religious words, phrases, and expressions. Understanding the viewpoints of the actors in each major policy decision at the FCC was necessary in order to explain and to understand their actions and the outcomes of each decision-making process. Where possible, other writings from the time period under question were used to confirm the evidence. Also, interviews with individuals involved in the policy-making process helped to uncover the reasoning, the meaning, the motives, and the philosophy behind words and actions.
Structure of Dissertation

The story of FCC noncommercial educational radio policy is presented in narrative form. The story begins with Chapter 1 introducing the topic. Chapter 2 explores some of the cultural changes caused by the forces of modernity and presents a history of the secularization of public education in America.

Chapter 3 presents a general history of the regulatory, competitive, and financial hurdles faced by early nonprofit broadcasters, including educational, religious, and labor stations. The chapter examines how extremists hurt other nonprofit broadcasters and how the popular press presented negative perceptions of fundamentalist broadcasters. These issues led conservative broadcasters to seek their own licenses for radio stations before World War II.

Chapter 4 presents the story of U.S. Commissioner of Education John Ward Studebaker’s vision for a public education-based form of noncommercial educational broadcasting. Years before Studebaker arrived in Washington, D.C., a broad, disorganized coalition of nonprofit broadcasters—including educators, labor unions, religious groups, and social agencies—began the battle to convince the FRC and later the FCC to create a special category of licensing for noncommercial educational broadcasters. This muddled alliance projected a bewildering array of proposals for nonprofit licenses. Studebaker’s plan for set-aside channels for the public schools became the accepted model for NCE broadcasting at the FCC while he was the Commissioner of Education at the Office of Education in the Department of the Interior.

Chapter 5 presents a chronological history of decisions, events, and cases at the Federal Radio Commission, the Federal Communications Commission, and Congress that trace the progression of noncommercial educational broadcasting policy from a tight public education focus to a loose, “anything goes” definition of the term educational as it applies to broadcasting.
Chapter 6 investigates the history of the Moody Bible Institute and its leaders’ interest in the use of mass media to spread a message. The chapter surveys the early years of radio broadcasting at the Institute and shows the MBI reaction to the development and evolution of federal regulatory policy for nonprofit, educational, and noncommercial radio stations at the Federal Radio Commission and the Federal Communications Commission. The chapter explores Moody’s interest in the creation of noncommercial educational radio licensing in 1938. It also describes the use of public relations, mass media, and new technologies by Dwight L. Moody’s and Henry Parson Crowell to promote their message. The chapter discusses other events at Moody that related to NCE policy, ending in 1977. Chapter 6 tells the story of Moody’s efforts over a period of fifty years to be recognized as an educational institution providing educational radio programming.

Chapter 7 discusses the Moody Bible Institute case of 1977. The major themes in the chapter include the rights of religious broadcasters, equal protection, the due process clause of the Fifth Amendment, and the religious cultural schism at the FCC.

The final chapter of the study offers an overview of the NCE policy story as it unfolded from the 1920s to 1980. The discussion focuses on the implications of the study and specifically on the outcomes of the policy change for religious and secular educational broadcasters.

Definition of Terms

- **Airwaves**: The medium used for the transmission of radio and television signals.

- **Clear channel**: The radio channels licensed to powerful terrestrial radio stations that cover large areas. The stations using clear channels are separated by great distances, greatly reducing interference and allowing the signal to be heard over large areas of the country. The dominant station’s signal is protected by the secondary stations using the same channel. The secondary stations were restricted to daytime use of the signal in the first decades of radio broadcasting. Today, they are restricted in their nighttime use of the signal.
• **Community radio**: A nonprofit terrestrial radio station licensed to a local nonprofit community organization. Pacifica Radio was the first noncommercial educational community station in the country.

• **Education**: The deliberate, systemic, and sustained effort to transmit, evoke, or acquire knowledge, values, attitudes, skills, and sensibilities, as well as any learning that results from that effort, direct or indirect, intended or unintended.\(^{39}\)

• **Educational radio**: Traditionally, educational radio was used to teach curriculum-based programming in a classroom setting or to provide instructional programming for adults and children outside the classroom. Noncommercial educational radio standards evolved over time to a broad standard that includes entertainment and cultural programming.

• **Ether**: An early term for a medium that was supposed to fill all space and allow the transmission of electromagnetic waves.

• **Evangelical**: A broad term for Christians who believe in conversion, and missionary outreach, and base their faith on the Bible. Conservative evangelicals have similar beliefs to the fundamentalist Christians. Liberal evangelicals are found throughout the traditional mainline churches in America.

• **Fundamentalist**: In the U.S., the term generally refers to a Christian who adheres to conservative, fundamental principles. A Christian fundamentalist accepts the inerrancy of the Bible. Fundamentalists tend to separate themselves from the world.

• **General purpose stations and general public-service stations**: The FRC and FCC defined these stations as operating in the public interest by providing programming that meets the needs of a broad, general audience.

• **Mainline church**: A Protestant Christian denomination with moderate to liberal theology. Mainline churches are more accepting of social change and progressive thought than conservative Christian churches.

• **Noncommercial educational (NCE) radio station**: The first NCE radio stations were stations that operated on a reserved frequency band. They were licensed to an organized nonprofit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public. (Rule 1057)\(^{40}\) In 1945, the NCE radio band was relocated to the Very High Frequency (VHF) band where it is located today. The stations are found from 87.9 to 91.9 MHz. As FCC decisions relaxed the definition of “educational,” NCE licenses were awarded to nonprofit organizations and institutions that stated in the application that they intended to broadcast educational programming.

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\(^{39}\) Cremin *American Education* X.

\(^{40}\) *Federal Register*, Wednesday, February 9, 1938, 312.
• **Propaganda**: A term used by the Federal Radio Commission to define what it considered to be a narrow, sectarian message. The FRC defined “propaganda” stations as stations that were more interested in spreading their particular viewpoint than in satisfying audience needs. The FRC’s use of the term is not to be confused with the more widely spread meaning of the term.

• **Public interest**: According to Robert Blakely, the primary purpose of educational broadcasting is to serve the public interest. He titled his history of educational broadcasting, *To Serve the Public Interest: Educational Broadcasting in the United States*. Herbert Hoover is recognized as presenting the first official statement about the public interest aspects of radio broadcasting at the Third Annual Radio Conference in 1924. The inclusion of the requirement in the 1927 Radio Act that broadcast licensees uphold “the public interest, convenience and necessity” (PICON) established the public interest as the basis for the FRC and FCC’s creation of rules and regulations to govern the actions of broadcasters. The vague language of the PICON requirement causes disagreements and conflicts over broadcast regulation. Taylor Branch described government agencies as being of two types: “deliver the mail” and “Holy Grail.” The FRC and FCC were designed to be in the Holy Grail category, attempting to achieve a higher goal than just providing a neutral service in a timely fashion. Blakely believed the educational broadcaster served one purpose, to serve the public interest, while the commercial broadcaster served two purposes, to make a profit and to serve the public interest.

• **Public radio**: A new form of noncommercial educational radio created by the Public Broadcasting Act of 1967.

• **Religious Right**: A broad range of conservative Christian organizations that promote political conservatism and political activism.

• **Reserved band of 87.9 to 91.9 MHz in the FM Band (Channels 200-220)**: Channels reserved for noncommercial educational (NCE) radio broadcasting.

• **Scarcity**: Broadcasting is regulated, in part, because of the scarcity of spectrum available for broadcast stations. For most of broadcasting history, there were not enough frequencies (or channels) for every applicant for a broadcast station. Because of improvements in technology, cable networks, digital broadcasting, satellite radio, and the internet, some argue that scarcity is no longer a major issue.

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41 Blakely xii.

• **Set-aside channels:** Channels set aside for the purpose of a specific type of broadcasting. Early nonprofit radio broadcasters requested that special channels be set aside for nonprofit broadcasting, such as educational, religious, labor, social, etc. In 1945, the FCC set-aside the reserved band of 87.9 to 91.9 FM for NCE radio.

• **Sustaining time:** When broadcasters provided air time at no cost to an individual or group that wished to broadcast a message or a program, the unsponsored air time was known as sustaining time.

• **Translator:** Low power, repeating transmitters that rebroadcast a station’s signal to areas not reached by its main transmitter.

**Implications**

This study explores how traditional arguments regarding the role of religion in American culture can be discerned in the history of religious radio. In particular, the development of noncommercial educational policy for radio at the FCC reflects the ongoing American struggle to define the proper place of religion in the public sphere of American life and the role of government policy makers in relation to religion. The balancing of First Amendment protections for religious expression; for the public interest in broadcasting; for the rights of broadcasters; and for the rights of applicants for licensing; are found at the heart of this story.

The study will examine the important role played by the Moody Bible Institute in the long-term struggle by religious broadcasters to gain access to licensing in the noncommercial educational FM radio band. Most religious broadcasters did not have the resources to adequately fund a radio station and to fight legal battles over broadcast policy with the Federal Communications Commission. In the fight to gain frequencies for the Moody Bible Institute, Moody helped all religious broadcasters who desired a frequency in the NCE FM reserved band.

Moody adopted a cautious, respectful stance in its relationship to the FCC (and FRC) in order to avoid creating controversy. Moody was determined to work within the system in order to achieve change rather than attempting to break the system through defiance. Some religious
broadcasters were undone and lost licenses because of negative press and perceptions brought on by their own confrontational behavior. Because of early FRC characterizations of religious and nonprofit broadcasters as being purveyors of propaganda, MBI appeared to be an outsider in the battle to gain and keep a broadcast license. Commercial stations were the insiders in the licensing process and received the greatest access to licensing. Later the FCC treated secular applicants for NCE licensing in the FM Reserved Band as insiders while religious groups were again treated as outsiders. MBI’s successful fight to keep its first license and its later success in gaining additional licenses in the NCE Reserved FM band (while most other religious broadcaster were unsuccessful) reflects that its apparent status as an outsider did not tell the whole story. The Institute is rooted in the American capitalist ethic. The Institute’s businesslike approach to the licensing process may have given it some access to the insider track held by commercial broadcasters. Its wealth gave it the ability to purchase quality equipment and to maintain and operate its stations as well as any commercial entity. Their emphasis on technical quality may have appealed to the engineering mindset at the FRC.

In addition, the study explores the pivotal role played by John Ward Studebaker and the U.S. Office of Education (USOE) in the development of the policy which first regulated educational broadcasting. Though Studebaker is mentioned in some studies of early educational broadcasting, his role in the creation of the category of NCE licensing was not fully understood or explained. His influence at the FCC is found in the minutes of the meetings at the FCC during important turning points in educational broadcasting history until 1948 when Dr. Studebaker stepped down from his role as Commissioner at the USOE. As a result, this study uncovers what Dr. Studebaker, the USOE staff, and the FCC Commissioners and staff intended educational broadcasting to be at its birth. Federal regulators were uncomfortable with the extreme messages
found in the world of nonprofit radio. By designating that NCE licensing was created for public school systems the FCC knew that the new stations would conform to a safe model that would be controlled by other governmental agencies. The FCC relegated nongovernmental nonprofits to outsider status. Their access to NCE licensing was very restricted until decisions at the FCC and the passage of the 1967 Public Broadcasting Act changed the concept of educational radio. The changes opened the door to legally organized nonprofit organizations.

The FCC NCE decisions slowly broadened the definition of the term “education” making it possible for any nonprofit organization or institution to be eligible for an NCE radio license by stating in the application that they intended to broadcast educational programming. For NCE radio licensing, the FCC does not require an educational mission or the employment of educational specialists.

The study also shows how administrative law and policy are created out of sight and out of mind for most Americans. The U.S. government was designed with a balanced plan of checks and balances that were intended to prevent abuses of power by individuals in government. However, the world of administrative law does not have a comparable system of checks and balances for the staff and commissioners of the FCC. During the period of time covered by this study, one person with significant knowledge of the system could, in theory, alter the outcome of policy decisions, even those decided by the FCC Commissioners. Thus one person could potentially have a significant effect on American society and culture. FCC staff regulated the reach of some decisions by the commissioners at the FCC by not publishing the legal reasons for decisions, thus limiting the potential power of precedent.

Finally, many historical and political studies argue that the rise of the religious right began in reaction to events of the 1960s, leading to the creation of groups like the Moral
Majority, the Christian Coalition, and others. However, the efforts of the Moody Bible Institute to affect, mold, and/or change broadcast policy began in the 1920s, decades earlier than generally understood. Moody also utilized other areas of mass communications including the printed word, film, mass marketing, and public relations, in addition to radio to spread the Institute’s message. Moody’s efforts led to hundreds of NCE licenses being awarded in the noncommercial educational FM band, an outcome that helped the religious right to strengthen its political position by promulgating a conservative religious message to the American audience. The large number of religious applicants for NCE licenses ultimately filled the available spectrum and ended the possibility of expansion by secular noncommercial radio broadcasters in the FM NCE band.

Dwight Moody and business leaders of his time were concerned about the negative effects of modernity on society. The Institute was created as an orthodox, conservative Christian response to those concerns. Through its leadership and graduates, new movements arose in American culture, including the codifying of the conservative beliefs that became known as the Christian Fundamentals movement or Christian Fundamentalism. The social and cultural foundations put in place by MBI and its sister Bible Institutes and religious organizations helped create the infrastructure that supported the Moral Majority, the Christian Coalition, and other similar organizations that arose after the cultural chaos of the 1960s.
America is unique, in part, because of the First Amendment to the United States Constitution. Through its protections the Federal Government is prevented from promoting religion, interfering in religious activities or restricting religious expression. Because of the Fourteenth Amendment, the protections provided by the Bill of Rights also apply to state and local governments. This unusual Constitutional experiment in religious liberty proscribes a state-established religion through the disestablishment clause of the First Amendment. The free exercise clause prevents the government from restricting religious expression through discrimination or actions that might interfere in church or religious operations or activities. The Amendment removes religion from the public sphere of government actions and activities and places it in the private sphere of American society. The Amendment codified the secularization that already existed in some parts of American colonial public life.

While crafting state constitutions and the Federal Constitution, early lawmakers found that the uncommonly diverse collection of denominations and belief systems in the colonies stalled any attempts to impose a state-established religion. It was not possible to reach a consensus amongst the differing religious groups and lawmakers found it prudent to prevent any state establishment of religion and to protect the rights of all to practice their beliefs without interference from the state. This “first” amendment charted a new course for religion that broke with “millennium-old assumptions inherited from Western Europe—that one form of

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1 U.S. Constitution, Amendment 1.

2 The amendment became known as the “first” amendment after the first two proposed amendments were edited out in early drafts. It was actually third in the original order. See Dwight L. Teeter, Jr. and Don R. Le Duc, Law of Mass Communications: Freedom and Control of Print and Broadcast Media, 7th ed., (Westbury, N.Y.: Foundation P, 1992) 10.
Christianity must be established in the community and that the state must protect and support it against other religions.” ³ The break with the past traditions of state-established religions ushered in a new era of religious pluralism, tolerance, and a more secular public sphere.

At the time of the development of nonprofit and NCE radio, Federal administrators and regulators at the Federal Radio Commission (FRC), the Federal Communications Commission (FCC), and the U.S. Office of Education (USOE) appear to have accepted the traditional convention that public education should be a secular activity. That is why they usually denied that religious institutions and organizations were educational and eligible for NCE licensing. To understand their perspective, one has to look into the history of public education, religion, American culture, and the secularization of the modern world.

As public education began to develop after the 1830s in America, two ideals came to the fore. First, Americans believed that “universal education” was indispensable to republican government. Without an informed citizenry, citizens feared that the American form of government could not long survive. The second ideal held that long-term reform could be achieved through education, which was preferable to reforms achieved through politics, particularly in the form of laws and regulation. Both ideals flowered during the Progressive Era, 1889 to 1920, and came to be hallmarks of the Progressive movement in education.

For Lawrence Cremin, progressive writing about education displayed religious “millennial bursts of secular enthusiasm for particular educative institutions.” He cites John Dewey’s belief that education could shape society with the teacher serving as “the prophet of the

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true God and the usherer in of the true kingdom of God.” Cremin argues that the faith once attached to religious beliefs changed into a secular conviction that education held the answers to all social problems. The political structure and programs of the New Deal and the Great Society came to express this progressive American ideal. Noncommercial educational broadcasting was born in the regulatory structure of the New Deal in 1938. The Great Society gave birth to Public Broadcasting in 1967, the second major regulatory expression of the progressive ideal in educational broadcasting.

According to Warren Nord, there are several reasons for the secularization of public education. For much of the past century most students passed through the public education system, including higher education, in the United States without studying religious ideas or beliefs. The subject of religion is presented in public education as being part of history or as literature but not as a “living” subject. Nord contends that educators believe “religion is irrelevant to virtually everything that is taken to be true and important.”

Yet, significant percentages of Americans say they believe that God exists and that various religious beliefs are central in their lives. Religion is referenced on American money, in the Pledge of Allegiance, in political rhetoric, and in never-ending discussions and arguments about the role of religion in modern life. For example, some Americans believe that America is a Christian nation while

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7 Nord 2.
others argue that America was never a Christian nation. At the very least, America’s unique legal and regulatory structures reflect the influence of the debate that is sometimes described as a “culture war” about religion in all its forms. America’s never-ending argument about religion is made possible by the First Amendment with its protections of speech and expression.

In response to the many discussions about American beliefs, Nord asks, “If we are so religious, why does our educational system ignore religion?” Several possible answers include the rulings by courts that limit or forbid the practice of religion in the public schools and universities. Also, religion is so controversial it is simply exiled from many aspects of life. In many social settings, it is considered to be inappropriate to discuss certain topics, including religion. The discussion of religion is avoided in public and private life by many Americans who prefer to keep their own beliefs, thoughts, and feelings private. The American melting pot brings people of disparate religious cultures or beliefs together and social harmony is supported by a tacit understanding that sometimes silence and tolerance are best. The diversity of belief is so great as to overwhelm any regulatory structure that seeks to systematize religion in the public sphere.

Nord believes that the secularization of Western culture may better explain the lack of religion in public education. The expression of religion is considered to be a private matter, part of the private sphere, in contrast to the more public role of religion in history. Modern life is compartmentalized and religion is relegated to the private sphere by custom and the First Amendment. Nord argues that religion is so removed and separated from modern life that most

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9 Nord 2.
people do not attempt to integrate religious beliefs throughout their lives. Americans are so secular they “do not find the absence of religion from education particularly striking.”

Thanks to the secularization of the academy, intellectuals and highly educated individuals are much less religious than average. Their teaching and writing reflect a secular philosophy that religion is irrelevant to the subject at hand. According to Nord, “The intellectual orthodoxy of our time…is fully secular.” Modern life is secular to the point that public education is accepted as being secular and the lack of religion is not questioned by the intellectuals and elites that establish and design the curriculum.

Yet, the very concept of public education in America grew out the Protestant Christian Reformed heritage. Reformers, led by Martin Luther and empowered by the advent of the printing press, argued that each person should read the Bible in his or her own language. They objected to the Catholic tradition that called for priests, bishops and the Pope to mediate the Bible, presenting the religious message in Latin. Their belief that each person should read the Bible required a literate population. Martin Luther wrote that local city governments should provide schools for all citizens.

The echoes of the clash between the Catholic tradition and the Protestant Reformation are still present in the modern American culture of the public school. There has been little agreement in America regarding the proper role of religion in public education from the founding of the

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10 Nord 3.
11 Nord 4.
12 Nord 4.
country. Just as the founding fathers had to accommodate diverse belief systems through the First Amendment protections for religion, public educators have “protected” different faiths and denominations by removing religious references that might offend one group or give preference to another group. The efforts of educators to accommodate all beliefs thus led to a secularization process in the public schools that began long before Supreme Court rulings applied the First Amendment religion clauses to state and local government.

Historically, the secularization of public education was driven by the same religious diversity that prevented the establishment of a state religion in America. The proponents of public education recognized that a narrow, sectarian approach to education would drive some students away and they sought ways to present public religion in a nonsectarian manner. Alexis de Tocqueville wrote in *Democracy in America* about the unusual commitment to public education in America in the period before the Civil War and connected it to the Protestant faith. The commitment to education only grew as American social structures were stretched to extremes by the rapid change of modernity.

In the 1840s Horace Mann, a Unitarian, was criticized for his conviction that it was acceptable and nonsectarian for students in the common schools to read Bible verses in the

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McGuffey Readers\textsuperscript{17} while learning to read. He also believed that teachers could read from the King James Version of the Bible to start the school day. Mann argued that students would not be harmed as long as teachers did not seek to interpret the readings. In contrast, Christians from the Calvinist tradition believed that students should not be allowed to read the Bible without help in understanding its meaning. Mann’s proposal seemed to say that one approach to “religion was as good as the next.”\textsuperscript{18} The Roman Catholics also wanted religion in the schools but could not accept the use of the Protestant Bible and rejected the reading of the Bible without interpretation by a knowledgeable teacher. They found Mann’s ideas to be sectarian and examples of “Protestant error.”\textsuperscript{19}

Catholics and Protestants found that a common school in a religiously pluralistic culture failed to serve all students. Arguments over the inclusion of Bible readings in the school day continued through the nineteenth century. Prayer only added to the disagreement and many schools eliminated the practice of readings and prayer. Horace Mann’s version of a content-neutral approach did not satisfy Catholic leaders and tended to foster dissatisfaction on both sides of the religious divide. Educators and religious leaders also disagreed as to which translation of the Bible was appropriate. Even today, many agree that the presence of religion in the public

\textsuperscript{17} The Reverend William McGuffey created the “McGuffey” which sold more than 120,000,000 copies between the 1820s and the 1920s. By the 1890s, the McGuffey Readers were less religious, reflecting the trend of secularization in the academy. The common school movement began in the 1830s. The schools were tax-supported and non-sectarian. Horace Mann was the most vocal proponent of the common school. See Nord 67-71.


\textsuperscript{19} Moore 25.
schools creates an impossible conundrum because the curriculum will favor one religion over another or it will be secular and anti-religious.\textsuperscript{20}

The issues faced by educators in the early part of the twentieth century grew out of the social and cultural upheavals that followed the Civil War. Most public education at the time of the war grew out of the Protestant common school system. White Protestantism was in disarray since the war was mainly between the white Protestants of the North and the white Protestants of the South. The changes caused by industrialization created further rifts in Protestant culture as class structures changed. Urbanization and immigration on a scale not seen before in history led the Protestant elite to develop curriculums designed to “Americanize” the students, particularly the children of immigrants, and to inculcate traditional Protestant American values. By the \textsuperscript{21} 1870s, the long established white male Protestant hegemony was threatened by a sense of profound change based in the increasing religious and cultural diversity.

By 1920, Protestant fears over the loss of social status grew as immigration brought an increasingly diverse population to America. Education was seen as the only way to acculturate the mass of newly arrived immigrants. The traditional conflict between Catholic and Protestant increased as an enormous wave of Catholic immigrants came to American shores.

Though Catholics forced some secularization in the schools, the Protestants were more concerned about the growth of parochial and private schools than the move toward secularization in the public schools in the years after the Civil War. The schools were seen as the appropriate place for the transmission of American democratic values to the children of immigrants. The Protestant leadership wanted to draw as many students as possible into the public schools and

\textsuperscript{20} Fraser 55.

\textsuperscript{21} Fraser 107.
away from sectarian schools. The popular McGuffey readers were revised to downplay their Protestant, Calvinist roots and to emphasize middle class values, morality, and civil religion.\textsuperscript{22}

The roots of public education were so deeply imbedded in the history of Protestantism that there was little concern over the gradual secularization of the school curriculum. Protestants seemed to believe that there was a natural “harmony” between the purpose of public education and Protestant beliefs.\textsuperscript{23} George W. Marsden summarized the reasoning; “So long as the national heritage was predominantly homogeneous and Protestant, religious and secular views could be easily blended together without great conflict. The public schools, for instance, could teach generally Protestant viewpoints, mixed with American Enlightenment ideals.”\textsuperscript{24} However, by the 1920s this Protestant stance became awkward. Mainline Protestants feared that the forces of modernity would alter the culture that they viewed as being traditionally Protestant and American.

Robert Wiebe describes the end of the nineteenth century as a time of nationalization as the country came to the end of the frontier. Americans struggled to understand the new age without strong national centers to provide authority. Community life was oriented around the local town or region, not toward Washington, D.C. Citizens tried to understand their lives from the traditional perspective, unable to cope with the change brought about by urbanization. Newcomers to the city struggled to find jobs, a place to live, and meaning for their new lives while the longer-term residents felt overwhelmed and resentful of the interlopers. Cities spread

\begin{itemize}
\item\textsuperscript{24} Marsden, \textit{Religion and American Culture} 178.
\end{itemize}
in haphazard fashion drawing in smaller communities as they grew, bringing the urban age to some who wished to stay rural. The civic spirit and pride, present in smaller communities, had no time to develop in the rapid change of the new culture.

Enormous waves of immigrants brought foreign customs, languages, and religions that further changed American culture. To cope with the influx of change, the new middle class promoted “regularity, system, continuity” over the old values of “individualism and casual cooperation of the towns.” Wiebe argues that the new culture was “distended,” adrift, and searching for order. Impersonal professionalism replaced the personal connections of the past. And he wonders how one finds meaning and value in life in rapidly changing times.\(^{25}\)

Wiebe suggests that the rise of large companies controlled by distant owners led to indifference for the rights of employees. Society was disorganized and generated “ethical evasions.” The fiction of the day idealized the past. A “segmented morality” created “compartments” in a man’s life and allowed each part to be judged by a different standard. One could be warm and gracious at home and with friends while displaying a ruthless approach to work relationships.\(^{26}\)

Americans responded to this time of cultural crisis by valuing the obvious, according to Wiebe. A “quantitative ethic” allowed issues to be defined more literally. Large numbers were equated with success. America’s quality was based on quantitative analysis. Statistics proved that America was the greatest nation based on production, immigration, growth, development. Wealth became the most important determinant of a man’s value, not his character. The


\(^{26}\) Wiebe 38-40. The use of the term “man” reflects the period under discussion and the predominance of the male gender in the professional world.
businessman proved his value and success through building large mansions and acquiring material goods in quantity. Social standing could be bought or improved through philanthropy and the wealthy put their cash in tangible, obvious philanthropic assets like churches, libraries, universities, and orchestras.27

Religion supported the use of quantitative values to evaluate the success of a man’s faith and to measure the success of the church. Formulas were developed to evaluate a man’s wealth as proof of God’s grace. Wiebe cites as an example Josiah Strong, who used records of church attendance, the numbers of sinners, the donations, and other statistics to analyze the success of his church. Wiebe explains:

Quantity of results, not quality of belief, impressed Strong, as it must have also impressed Dwight L. Moody, the extraordinarily successful revivalist. Late in the century huge tabernacles rose in city after city across the country to house the large, passive audiences this efficient agent of salvation fitted into his years of clockwork preaching.28

In response to the new problems of rapid change in urban, industrial, impersonal, fragmented America at the beginning of the new century, a new professional middle class began to seek answers to the troubling problems of the new age. Wiebe describes the new middle class as being made up of “two, broad categories.” One was inspired by “strong professional aspirations” in fields such as medicine, law, economics, administration, social work, and architecture. Education soon followed their lead. The second middle class group included specialists in business, labor, and agriculture. These groups were aware that they were different

27 Wiebe 40-41.
28 Wiebe 42.
from other Americans and felt most comfortable within their own professional groups. Trade
unions, professional organizations, and other groups were popular.  

Wiebe argues that education was the area that most needed to be professionalized.
Until 1900, schools were independent and the quality varied from town to town. Teachers were
not required to have special credentials and were held in low esteem. Because of industrial
growth and immigration, schools were pressured to provide needed skills for new occupations
and to prepare immigrant children to be successful in their new country. Compulsory education
became the norm in much of the country by 1900. In the first part of the twentieth century, the
high school curriculum was renovated to meet the needs of the rapidly growing modern
industrial American society. From 1890 to 1920, the numbers of teachers and students increased
by more than 500 percent. 

As the professional middle-class grew in numbers and as their professional organization
increased, their internal cohesion caused further social division. The increasing levels of
education and acceptance of the bureaucratic model further widened the gulf between urban
centers and small-town America. The professionalization of the middle-class helped to
formalize differences that had been developing for years. Professional educators were
developing a modern educational system that was not available in rural areas, particularly in the
South. The new class lectured to the “country folk” but seldom listened in return. The lives each
lived were separate. Rural Americans who feared the new values and problems of the city also
felt threatened by the new professional class and the “sinful city” values that it represented.

\[29\] Wiebe 111-112.
\[30\] Wiebe 117-119.
\[31\] Wiebe 130.
Higher education also changed in the decades after the Civil War as the religious heritage of most colleges and universities faded into the past. Schools began to relax required attendance at chapel by 1900 and the leadership of colleges and universities was increasingly drawn from the new professional class rather than the clergy. By WWI, the religious practices formerly required in higher education were gone or considered to be optional. Rather than searching for “fixed truths” that were based in the Bible, the new intellectual order studied the social customs and cultural forces that produced various beliefs. Social Scientists led by Auguste Comte looked forward to a secular age and declared that the theological age of society existed only in the past. They believed, says Marsden, “that the government, informed by social science, should employ the human mind to control social developments for the good.”

George Marsden argues that their “reformist views” assumed moral values and beliefs and that many social scientists were not completely secular in their personal beliefs.

John Dewey represented the new directions in American academic thought as a secular pragmatist. Though raised in the Christian faith, he later professed views that echoed August Comte. He believed in human progress through scientific methods. Marsden argues that “Dewey was the representative American secular thinker of the first half of the twentieth century.” Henry Steel Commager described Dewey as “the guide, the mentor, and the conscience of the American people.”

Dewey believed that education should create an environment that allowed for the full development of each individual. It was less important to master a body of knowledge than to

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32 Marsden, Religion and American Culture 133.
33 Marsden, Religion and American Culture 134.
34 Marsden, Religion and American Culture 210.
35 Marsden, Religion and American Culture 210.
internalize democratic values that developed character. According to Marsden, Dewey reflected the development followed by the leaders in American public philosophy at the time. Though raised in an evangelical, Christian environment, and active in the church as a young man, Dewey later left the church. His life reflected the cultural shift from a faith based in a traditional religious belief system to a “secular faith” in a scientifically based system that promised to yield the highest moral ideals. He, and others with similar ideals, hoped to create a new, modern civilization built of people from all traditional belief systems by transforming society through education.36

Today, Christian fundamentalists and conservatives point to Dewey as the philosopher most responsible for the secularization of the public schools, citing his support for the creation of a document known as “A Humanist Manifesto.” Though he did not write or edit the Manifesto, he was the most famous individual to sign the Manifesto. Critics argue that the Manifesto was created as a humanist doctrine and it has been attacked by numerous fundamentalists as being a creed for “secular humanism.”37 Fundamentalists have feared the changes brought to American life by modernity, citing concerns over the loss of traditional values. They focus their fear and concerns on progressive education and the public schools, blaming John Dewey and his

36 Marsden, Religion and American Culture 211-212.

37 Tim LaHaye, The Battle for the Mind (Grand Rapids: Baker Book House, 1980). Marlin Maddoux, Humanism Exposed (Lafayette, La.: Cornerstone Pub., 1983). Marlin Maddoux, America Betrayed (Lafayette, La.: Vital Issues P, 1984). The Manifesto is often cited by televangelists Jerry Falwell, Pat Robertson, Jim Bakker, Jimmy Swaggart and others. According to Warren Nord, “humanism” has different meanings. The first Humanist Manifesto (1933) declares that a humanist assumes a scientific view of the world and declares that religion should be understood as “those actions, purposes, and experiences which are humanly significant.” The Secular Humanist Declaration of 1981 states that “Secular Humanists favor free intellectual inquiry; support the separation of church and state; defend the ideal of political freedom; believe that morality is grounded in critical thinking rather than religion; support nonindoctrinative moral education in the schools; are religious skeptics; are concerned about anti-intellectualism in our culture; assert that science provides us with the only reliable way of learning about the world; believe that the current attack on the teaching of evolution must be combated; and assert the value of education in producing a strong and humane society.” See Nord 173.
followers, arguing that a conspiracy is at work, driving religion out of the schools. Dewey is an obvious target, having famously stated his belief that education is the fundamental method of social progress and reform. They also attack the National Education Association (NEA) for insisting the Founding Fathers designed the Constitution and the Bill of Rights “to guarantee a secular humanistic state.” Christian conservatives believe the secular nature of the public schools indoctrinates the children of modern culture into a belief system that negates their traditional Christian beliefs and values.

The notorious Scopes Trial of 1925, a battle over the teaching of evolution in the public schools of Tennessee, is described by Martin Marty as an event “of nationalism, civic morality, and religious power.” More than an argument over the issues surrounding evolution and biological science, Marty depicts the trial as a fundamentalist stand against modernism, a clash of the urban versus the rural. The cultural change brought by industrialization, urbanization, and immigration threatened the traditional beliefs and lifestyle of conservative Christians and they responded by attacking visible symbols of the modern world view, including evolution. James Fraser describes fundamentalism as being antimodernist but not anti-intellectual, while viewing man as existing in a fallen state unable to redeem himself. Fundamentalism was and is a “fighting faith,” hostile toward change and militant about sin.

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41 Fraser 120.
The media coverage of the Scopes Trial, led by H. L. Mencken’s derisive, sardonic depiction of the rural and the religious as knuckle-dragging Neanderthals, painted a negative image of all Christians with the same broad brush. Mainstream media historically depicted conservative and moderate Christians in a narrow way, overlooking the unique aspects of each denomination and belief system. The media also focused its attention on the extremists which negatively colored the impressions of the audience. William Jennings Bryan, arguing against evolution, did not help the conservative religious cause by failing to argue his case effectively. He was unable to defend his assertions and failed to explain fundamental points of his faith. Through his blustering, Bryan was easy to caricature as he fell into a “caustic” rant against the “cultured crowd” describing Darwinism as “tommyrot.” The disdain for intellectuals was evident at the trial.42

Bryan’s sudden death shortly after the Scope’s Trial did nothing to slow Mencken’s mud-slinging attacks. He wrote an “anti-eulogy,” heaping scorn on the rural backwardness that Bryan represented, describing Bryan as having “descended too deeply into the mud, to be taken seriously hereafter by fully literate men, even of the kind who write school-books [sic].” Mencken saw fundamentalism everywhere, contending, “Heave an egg out of a Pullman window and you will hit a fundamentalist almost anywhere in the United States today.” By painting the image of fundamentalism very broadly, Mencken expanded the common understanding of the term to reflect “almost every aspect of American rural or small-town Protestantism.”43 Mencken was unaware or didn’t care that fundamentalism began as an urban movement in the northeast.

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42 Marty, Modern American Religion 190-191.

led by religious leaders who created the World Christian Fundamentals Association following in the tradition of Dwight L. Moody. Fundamentalism had deep roots in the Princeton Seminary.44

The rhetoric on both sides of the story drove the wedges between the conservatives and the modernists deeper, and the world of Christian fundamentalism was transformed. Public awareness of fundamentalism peaked in the summer of 1925 and it appeared that fundamentalism’s importance faded quickly. After the Scopes Trial, the more conservative fundamentalists recognized that they would not be able to control the mainstream culture, and they chose to become separatist, creating a society in which their beliefs could be practiced and kept pure.45 Though the movement adopted a lower profile and fell off the media radar, the leadership developed a new approach, creating schools, institutes, summer camps, and a separate life from the mainstream.46

The general cynicism amongst elites toward religion and the rural population in the 1920s was fed by images in popular culture. H. L. Mencken wasn’t the only writer with a negative view of small-town conservative Christians. Sinclair Lewis, in his book Main Street, told a story of the dreary life found in small town America. Many urban Americans, having left the small town for the big city, experienced the story or understood the rapid changes brought by urbanization in modern life.47 Lewis struck again at fundamentalism in his novel Elmer Gantry published in 1927. Based loosely on the life of the evangelist John Roach Stratton, Gantry was


45 Marsden, Religion and American Culture 179.

46 Marsden, Fundamentalism and American Culture 184-185.

depicted as a not-too-bright, hypocritical, fundamentalist, charlatan. Lewis viewed
fundamentalists as being anti-intellectual and he sought to expose what he saw as hypocrisy.\textsuperscript{48}

Press coverage of fundamentalist extremists only added to the negative perception of
fundamentalists as being rubes. Anti-evolution lobbies; self-proclaimed God-appointed
successors to Bryan including Paul W. Rood; the “flying fundamentalists” led by Gerald Winrod;
the “flat-landers” led by Wilbur Glenn Voliva; and the head of the “Supreme Kingdom” spread
bizarre literature that turned off all but the most extreme fundamentalists. These activities and
antics only added fuel to the anti-fundamentalist fire.

In the Scopes trial of 1925, the clash of the new modern urban America versus the
traditional, rural, Protestant America is visible. With the rise of the industrial revolution,
American society underwent rapid change from an agrarian Protestant culture of small towns run
by independent businessmen to a more secular, urban, professional and bureaucratic, society.
The old values were pushed aside by a new, professional middle class that focused on efficient
bureaucratic models to handle the social issues of the twentieth century. The new value system
conflicted with the old, causing splits in culture that are present to this day. In effect, the old
values of small town nineteenth-century America are still present and in conflict with the
mainstream values of modern society.\textsuperscript{49}

After the Scopes Trial, moderate fundamentalists found their mission misunderstood and
ridiculed in the popular press. Protestant conservatives were embarrassed by the negative
publicity and moved away from public support for the fundamentalist cause. Fundamentalism
disappeared from the mainstream. Many in the mainstream culture thought it simply faded

\textsuperscript{48} Marsden, \textit{Fundamentalism and American Culture} 189.

\textsuperscript{49} David Herbert Donald, foreword, \textit{The Search for Order: 1877-1920}, by Robert H. Wiebe
away, in a quiet death. However, instead of dying, it began to develop in new areas. The leadership cultivated a set of connections through local congregations, Bible schools, new seminaries, colleges and mission organizations.

Fundamentalists utilized the radio (and print media) to further their message by starting new stations and buying air time on independent radio networks. Instead of passing away, fundamentalism continued to grow and to develop, creating a powerful network that passed on their beliefs through education and mass communication. In denominations where they could not exclude the modernists they worked to further their conservative cause. Their numbers also grew in denominations that were not traditionally fundamentalist, as Marsden explains, and the “most extreme fundamentalists separated into their own denominations or independent churches.”

Until the 1930s, many main-line Protestants still viewed the progressive currents as reflections of a Christian heritage. At the beginning of the New Deal, however, many public leaders were openly secular and the Roosevelt administration reflected a secular, bureaucratic approach to the business of government. Moving away from the moral tone of the progressive movement, the New Deal reflected a technocratic approach that valued efficiency above all else. Though many leaders during the New Deal era were raised in a more overtly religious culture, the new style of government they created carried American culture a long step toward the secularization of the public sphere.

The officials at the Federal Radio Commission (FRC), the Federal Communications Commission (FCC), and at the United States Office of Education (USOE) were educated in a secular educational system and lived in a secular world profoundly shaped by modernity. Many

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50 Marsden, *Fundamentalism and American Culture* 195.
came from the main-line Protestant culture, as did most elites in American professional life prior to WWII, and reflected a cultural acceptance of the private role of religion in modern life. Their secular, urban world view was reinforced by negative images of conservative religion found in the mainstream press. These cultural influences may have led the FRC to view nonprofit stations and religious nonprofits in particular as being “propaganda stations” and not serving the public interest. The “Great Lakes Statement” which established an anti-religion regulatory stance was issued by the FRC in 1929. It reflects the cultural beliefs and concerns about the role of religion in modern American life that were found in the mainstream culture at that time.
CHAPTER 3
NOT-FOR-PROFIT BROADCASTING: THE EARLY YEARS

Early Educational Radio

The role of radio in education was discussed with great interest and passion in the early years of radio. Educators earnestly discussed the definition of educational radio and its function as a teacher. Though some educators viewed radio as a new way to deliver instruction and culture to students and the general population, it was also viewed as a potential competitor by other educators. It was described as a teacher, an assistant to the teacher, a social/cultural force, and as intimidating to the average person. The terms “education” or “university of the air” were perceived as a turn-off to the listener who might be more interested in passing the time with a bit of entertainment. There was concern that listeners would rebel at the idea of education just for education’s sake. Though the traditional view of education still held in broadcasting circles, some broadcasters thought the new medium of radio called for a totally new approach to instruction. Educational programs needed to be designed for the radio in order to hold the listener’s interest.

Early Radio Regulation

The first law that provided for control of radio was the Radio Act of 1912 and required radio users to be licensed by the Secretary of Commerce. Though nonprofit stations received no special consideration in the Radio Act of 1912, the secular educational and religious educational

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1 B. H. Darrow, Radio Trailblazing: A Brief History of the Ohio School of the Air and its Implications for Educational Broadcasting (Columbus, OH: College Book Co., 1940) title page.


4 Radio Act of 1912, 37 Stat. 302 (1912). See also Max D. Paglin, A Legislative History of the Communications Act of 1934 (New York: Oxford UP, 1989) 8. The Radio Act of 1912 did not deal with any type of broadcasting since radio communications at the time were all point-to-point, intermittent communication.
broadcasters were represented in the first stations to be licensed, having been among the very first experimenters in radio.\(^5\)

The major problem in the early years of radio was a lack of control over the use of the spectrum space. Broadcasters crowded onto the air waves, operating as they pleased, changing frequencies and interfering with other stations’ signals. Under the 1912 Act, Secretary of Commerce Herbert Hoover did not have the authority to limit a station’s access to a specific power or frequency.\(^6\) As a result, there was much confusion on the airwaves.

Herbert Hoover organized four National Radio Conferences from 1922 to 1925 to make suggestions for the assignment of frequencies, broadcast times, and power for individual stations.\(^7\) During the conferences, Hoover stressed the importance of radio as an educational medium and the necessity of providing for stations whose primary goal was educational.\(^8\) Educational broadcasters found commercial stations were affecting their audiences through direct interference on the spectrum. Because of the interference, educational broadcasting did not live up to its great expectations and its proponents were frustrated by the lack of support from their legislators.\(^9\)


\(^9\) Gibson 6.
A significant number of the early stations were found at secular and religious educational institutions. Many of the earliest experimental stations on record were at educational institutions where the science departments developed early broadcasting technology as other academic departments explored the educational potential of broadcasting.\(^{10}\) Though some schools focused on curriculum based programming content, a number of stations chose a less formal approach to the educational aspects of programming. Many educational stations chose to present public affairs and informational programming in contrast to commercial licensees.\(^{11}\) The first broadcasts were limited but some educators saw in radio the potential to teach beyond the classroom. The expansion of education to the radio listener was viewed from the traditional educational viewpoint in which teaching methods were formal and primarily instructional in nature. These early ideas of educational radio constitute the first examples of traditional education through distance learning utilizing electronic media. Several educational institutions had radio stations on the air transmitting regularly scheduled messages as early as 1914.\(^{12}\) These early education stations were not issued “educational” licenses since a separate licensing category for education did not exist until 1938.\(^{13}\)

During the 1920s the technology of radio outgrew the existing regulatory structure at the Department of Commerce. The Radio Law of 1912 gave the Department no power to withhold radio licenses or to regulate the station’s power or hours of transmission. Since the technology

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\(^{13}\) *Federal Register*, III, 312.
of radio transmission was still relatively primitive, the available spectrum space was not large enough to allow room for all the stations broadcasting by 1927, which created massive interference problems. The frustrating situation led the radio industry to request Congress to provide a regulatory structure that would solve the interference issues and provide a more level playing field for all broadcasters. It was most unusual for an industry to ask the government for a regulatory structure. It was much more typical of industry at that time to fight against government-imposed regulations.

Early Religious Broadcasts

The commonly accepted first broadcast of a religious service occurred on radio station KDKA in Pittsburgh on January 2, 1921. The vespers service was held on the first Sunday of the New Year at Calvary Episcopal Church led by the Rev. Lewis B. Whittemore. The regular minister of the church took the night off because there were concerns that radio was more about public relations and hype than the business of the church. Whittemore believed that KDKA management wanted to be known as broadcasting the very first radio church service. KDKA was owned by Westinghouse, a progressive corporation that had many firsts to its name, including the employment of the first press agent by George Westinghouse. Publicity was part of the Westinghouse tradition by 1921.

An earlier less well known broadcast of a religious ceremony occurred on August 24, 1919, and may have been the very first broadcast of a religious service. The U.S. Signal Corps

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15 Slotten 3.

radio service broadcast the event from Trinity Church in Washington, D.C. In addition, the Canadian inventor Reginald Aubrey Fessenden is credited by many historians as presenting the first radio broadcast of music and voice on December 24, 1906. For that occasion he selected religious music and religious texts for the Christmas season. His choice of programming included “O Holy Night” by Charles Gounod and a reading for the Christmas Season from the Book of Luke. He repeated the broadcast on New Year’s Eve.

**Early Religious Broadcasters**

Martin Neeb writes that religious stations were part of the explosive growth of radio broadcasting in the early 1920s. The first station licensed by the Department of Commerce to a religious organization came within months of the first license awarded to any radio station. KQW was licensed to the First Baptist Church in San Jose, California on December 9, 1921. KQW began as a religious station but was soon sold to Pacific Agriculture Foundation, Ltd. and became a commercial station. WDM was licensed soon after on December 22, 1921 to the Church of the Covenant in Washington, D.C. and broadcast until July 1925. The next station licensed to a religious group was KJS of the Bible Institute of Los Angeles (BIOLA). KTW of the First Presbyterian Church in Seattle, Washington was licensed on April 22, 1922. St. Olaf College in Northfield, Minnesota experimented with radio in the physics department in 1919 and gained a license for WCAL on May 6, 1922.

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19 Neeb 1-5.
According to Neeb, the religious noncommercial stations in the early years of radio history created the model for educational broadcasting because they were operated not for profit but to provide a message that affected the lives of their listeners.\(^{20}\) Though many secular educational broadcasters and historians might disagree with that claim, Neeb underscores that early religious broadcasters played an important role in the development of the nonprofit model of broadcasting (along with other nonprofits).\(^{21}\)

Some early religious broadcasters viewed themselves as educational broadcasters providing a public education service. For example, WOAN in Lawrenceburg, Tennessee was licensed in 1923 to James David Vaughan, a former public school teacher and principal. Vaughan operated the station as a nonprofit station because he viewed the purpose of the station as a public educational service. At the time he was also operating Vaughan Phonograph Records, the monthly magazine *Vaughan’s Family Visitor*, the Vaughan Gospel Quartet, and the Vaughan Normal School of Music which was later renamed The Vaughan Conservatory of Music and Bible Institute. He viewed the purpose of the school as being educational and evangelical and used the station to promote his music school and his published music. The programming of the station emphasized southern gospel music.\(^{22}\) As shall be shown, a number of other religious institutions and organizations argued before the FRC and FCC that they were educational in nature, including the Moody Bible Institute.

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\(^{20}\) Neeb 1-5.

\(^{21}\) Neeb 1-5.

The Commercial Radio Model

Though the issue of paying for programming was not settled in the early 1920s, early experiments in “toll broadcasting” at WEAF in New York City established that airtime could be sold for a profit. The WEAF success paved the way for the commercial model of broadcasting to be accepted by the industry. Secretary of Commerce Herbert Hoover helped establish the commercial hierarchy in 1923 by establishing a three-tiered approach to licensing. The top tier consisted of clear-channel stations that had maximum power and reach. The next tier held the midsized regional stations and the last tier held the local stations that served small geographic areas while being restricted to broadcast during daytime hours.

WEAF (owned by AT&T) argued persuasively that educational stations represented special-interest programming that was worth only secondary status. The management of WEAF contended that it deserved a clear channel because it served the general public. WEAF prevailed and won a clear channel while Hoover relegated most educational and other nonprofit stations to local status, the third tier, which severely restricted their power and broadcast hours. Hoover’s decision placed nonprofit broadcasters at a disadvantage that persisted by establishing a precedent that permanently positioned commercial interests ahead of the nonprofits in American broadcasting.23

Regulation favored the interests of commercial broadcasters over the nonprofit broadcasters. Religious broadcasters and other nonprofit broadcasters were not organized and tended to deal with issues as they arose on a piece-meal basis.24 Their agenda was deeply split by the struggle between liberal modernists and the conservative Christians (evangelical and


24 Hangen 22-23.
fundamentalist) for dominance in protestant America. Each side had a message that was further split by struggles within the right and within the left.

**The 1927 Radio Act and the FRC**

The 1927 Radio Act is described by Ralph Engelman as being “a piece of emergency legislation with long-term consequences for noncommercial broadcasters.” Congress passed the Radio Act of 1927 creating the Federal Radio Commission (FRC) to regulate “the whole field of radio communication” as it existed at that time. The Act grew out of the radio broadcasting industry’s plea to Congress for help with the chaos of the airwaves. By 1927 the ether was like the Wild West with broadcast stations jumping frequencies, operating at illegally high power using equipment that created interference due to technical issues and poor maintenance. The technology of the day could not support the number of stations attempting to broadcast to the public as there were just too many stations fighting over too few frequencies.

The Federal Radio Commission was a grossly under-funded organization with an original authorization of just one year. Congress thought that the FRC would straighten out the interference problems in its first year and then have little else to do since the day-to-day regulation would revert back to the Department of Commerce after twelve months. However,

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25 Hangen 22-23.


27 Engelman 21.


the regulatory issues proved to be complex and by 1929, “the FRC was made permanent.” The regulatory model created by the 1927 Act came to be the model for all future communications regulation. The Act held no special protections or considerations for nonprofit broadcasting.

The progressive concept of the public interest rather than private property rights shaped the regulatory structure put in place by Congress through the Radio Act. Politicians feared that private control of the radio spectrum might allow powerful organizations and individuals to shape public opinion. From this concern grew the idea that the spectrum should belong to the American public and not to the broadcaster.

The new Radio Commission found itself in an unprecedented situation attempting to regulate a new technology with very little financial help from Congress. No financial provisions were made for the FRC in the new law. The fledgling agency had to rely on Department of Commerce funding and borrowed lawyers from other government agencies. The law was “untested” and the new Commission was forced by the urgent public concern caused by interference issues to devote much of its early work to what it called the “broadcast situation.” The new Radio Act would not allow the FRC to censor programming and the Commission had to develop a plan that would create a more “dependable broadcasting service” to the public while not exercising arbitrary authority that might violate the broadcaster’s constitutional rights.

Almost from the start of broadcasting, some engineers and businessmen wanted the

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government to take a technocratic approach to the regulation of radio, arguing that the primary
radio issue was interference and that issue was technical in nature. This technocratic approach to
regulation appeared to ease the concerns surrounding censorship of programming and yet,
according to Hugh Slotten in his regulatory history of technology, it had “significant economic
and social dimensions. By utilizing a technical approach to the problems created by an
overcrowded radio spectrum the process seemed objective, and appeared to serve a ‘neutral
public interest.’”34

Instead of using a wide range of criteria to evaluate each station by including the issues
related to programming, staffing, and financing, the criteria were reduced to technical questions
that could be objectively evaluated using quantitative systems. Those stations with the most up-
to-date, stable transmitting equipment got their licenses renewed; those with poor, unstable
equipment did not get their license renewed and so could no longer broadcast. This system was
acknowledged as being fair and appropriate by those who accepted a technocratic view of the
world. But most not-for-profit broadcasters had little income. They did not have advertising
revenue and over-the-air solicitation was not yet common. With limited financial resources they
could not afford the best technology. So the FRC’s technical approach worked against the not-
for-profit licensees. Their stations tended to have more issues with technical quality and often
operated on air for a few hours each week due to financial limitations not faced by commercial
broadcasters. Thus, the various types of nonprofit broadcasters like the educational, the
religious, the social agency, the labor union, and others operated at a disadvantage when
compared by the FRC to commercial broadcasters.35

34 Slotten 8-11.

35 Slotten 8-19.
The Commission developed a four-step plan to address the issues of spectrum scarcity. First, the Commission planned to hold a series of public hearings in order to determine the “best scientific opinion” regarding the future regulation of the industry. Second, the Commission had to deal with the internal organization of the FRC. Third, they sought to protect the broadcasters until a new frequency allocation plan could be implemented. Finally, the Commission sought to develop a completely new plan for the “allocation of frequencies, power, and hours of operation for all of the existing 732 broadcasting stations.”

During its first meeting, the commission arranged for public hearings to occur from March 29 to April 1, 1927. A number of “prominent persons” spoke at the hearings discussing a range of topics including:

- Broadening the broadcasting band, limitations of power, reducing frequency separation, simultaneous broadcasting with the same frequency, chain broadcasting, division of time, consolidation of broadcasting service, limiting the members of broadcasting stations, and general discussion.

The list of speakers included representatives for the major broadcasting organizations and institutions of the time. Henry Coleman Crowell, representing the Moody Bible Institute (MBI) was one of presenters. His comments were notable because they framed the Moody Bible Institute as an educational organization that broadcast religious programming, which, according to Crowell was also educational. Crowell asked for radio frequencies to be set aside for nonprofit broadcasters. As shall be shown, MBI played a significant role in the efforts of religious organizations to attain a noncommercial educational license at the FCC.

The Association of College and University Broadcasting Stations (ACUBS) lobbied Congress and the FRC to set aside special channels for the use of “land-grant universities,” but

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little was done to help the nonprofit radio station. The FRC through its General Order No. 40 of 1928 laid out a comprehensive allocation plan for use of the radio spectrum that relegated the nonprofit stations to the lowest status. Forty of the 90 available channels were assigned to 50,000-watt stations which had exclusive national use of clear channels. The other 50 channels served the remaining 600 stations that broadcast with low power in different regions on the same frequency or shared airtime on individual stations in the same locale. The FRC also instituted a process by which the frequency assignments of existing broadcasters could be challenged, initiating a period of cutthroat competition.38

The FRC determined that religion was one of seven categories of public interest programming that should be encouraged and fostered by broadcasters.39 They also stated that the airwaves were public property, thus the public interest was of greater concern than the interests of the broadcaster. “[I]t is better that there should be a few less broadcasters than that the listening public should suffer from undue interference.” The FRC’s decisions quickly led a number of technically marginal broadcasters to relinquish their licenses when it became apparent that they could not compete against their better funded commercial competitors.40 As the commercial stations and networks were strengthened by the Radio Act of 1927 and General Order No. 40, nonprofit broadcasting was sinking. A number of nonprofit broadcasters folded in the first few years after the creation of the FRC. Most of the educational licenses issued by the

38 Engelman 22.


end of the 1920s had ceased to exist by the 1930s. Of the 94 nonprofit radio stations operated by educational institutions in 1927 only 49 were left in 1931. By 1945, only 29 educational stations remained on the air.\(^{41}\)

The FRC utilized a multi-pronged process to pressure nonprofits off the air. Stations were assigned licenses for periods of only three months at first. The nonprofits were reassigned to frequencies that were not as in demand, and they had to share time with at least one other station. With each shift in frequency, the station had to find a way to purchase new equipment. Some stations were shifted to several different frequencies in a matter of months causing a number of stations to cease broadcasting.\(^{42}\) The nonprofits that managed to survive were those that could afford legal representation (like MBI) and could afford to travel to Washington to lobby the FRC and to present their cases in hearings.\(^{43}\) Later, the FRC increased the license terms to six months, then to a year, with the ultimate length of three years being the goal.

**FRC Statement Relative to Public Interest, Convenience, or Necessity**

In August 1928, the FRC issued a statement to show how the FRC interpreted the public interest standard and how it would apply the standard to cases heard before the FRC. The Commission said the character of the licensee or applicant for a license would be considered to determine if the individual would operate a station in the public interest. The Commission

\(^{41}\) Engelman 37.

\(^{42}\) For example, WCFL was first assigned to 610 in July of 1926. In May of 1927, WCFL was shifted to the 620 frequency and shared hours with WLTS. In September 1928, the FRC assigned more stations to frequency 620 and reduced WCFL’s power to 1,000 watts. General Order 40 reassigned WCFL to the 970 frequency with radio station KJR.

\(^{43}\) Engelman 24.
intended to examine the individual’s “financial responsibility and his past record.” The Commission warned that broadcasting private issues that might not be of interest to the listener would be violating the public interest standard. The needs and interests of the audience should be put before the needs and interests of the licensees. The Commission explained that the comparative nature of the public interest standard led to the conclusion that the stations that gave the least to the public would be “sacrificed” for the stations that gave the most. The FRC emphasized the rights of the listening public to receive a quality radio service while explaining that the personal interests of the broadcaster had to come second.

**The Great Lakes Statement and Propaganda Stations**

In 1929, the FRC issued the Great Lakes Statement and restated the 1928 public interest standard. The Commissioners reiterated that broadcast 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 FRC expanded the 1928 standard by adding that the broadcast service cannot discriminate among its listeners, “In this respect it is a public utility by virtue of the laws of nature.” The FRC advised that each station should seek to provide programming that meets the interests of “all substantial groups” among the listening public. They argued that spectrum scarcity led the commission to support stations that provide programming of a “general character” to best serve the public because “there is no room for the operation of broadcasting

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stations exclusively by or in the private interests of individuals or groups.”

The FRC intended to license general public-service stations and not “propaganda stations” (which the commission defined as those that would present a limited range of thoughts, whether religious, social, political, or economic) because they believed the ideas could reach the public through the existing public-service stations. The FRC said the term “propaganda” referred more to narrowly focused messages that promoted special interests and was not intended in the derogatory sense. The FRC added that it was unfortunate that some propaganda stations were licensed by the Department of Commerce before the FRC came into existence. The Commission announced that it would use “common-sense” when dealing with stations that it found to be broadcasting propaganda by using comparative hearings, reassignment to less desirable frequencies and fewer hours on air.

In the 1929 Annual Report, the FRC reaffirmed the rationale that Herbert Hoover first promulgated in 1923 in connection with radio station WEAF. Hoover assumed that commercial stations would seek to offer programming that would appeal to the general public because this type of station would have the maximum appeal and thus, the greatest profits. The FRC announced that stations serving the general public with general purpose stations would be favored over stations that presented a message with a narrower focus.

The Commission placed religious stations like WLWL and WCBD in the propaganda category as well as WCFL, the Chicago labor movement’s station. As shall be shown, WMBI of the Moody Bible Institute was indirectly involved in this discussion since it shared time with

47 FRC, Annual Report 1929, 32-35.
48 FRC, Annual Report 1929, 32.
49 FRC, Annual Report 1929, 32-35.
WCBD, owned by the Reverend Glenn Wilbur Voliva, head of the Christian Catholic (Apostolic) Church in Zion, Illinois. The Institute chose to assertively fight all attempts to categorize their station as presenting any form of propaganda. The MBI administration was concerned that the FRC regarded all religious broadcasts as form of propaganda. WCBD was the third station directly involved in the hearings and decision.

The FRC’s statements surrounding the propaganda issue seem to paint all nonprofits as potential propagandists.

There is no room in the broadcast band for every school of thought, religious, political, social, and economic, each to have its separate broadcasting stations, its mouthpiece in the ether. 50

The FRC restated this holding in a decision involving the Chicago Federation of Labor (CFL) station, WCFL. 51

Since there is only a limited number of available frequencies for broadcasting, this commission was of the opinion, and so found, that there is no place for a station catering to any group, but that all stations should cater to the general public and serve public interest as against group or class interest. 52

50 FRC, Annual Report 1929, 34.

51 It was the opinion of this commission, and it so found, that there are numerous groups of the general public that might similarly demand the exclusive use of a frequency for their benefit. There are nearly five million Masons in the United States and about as many Odd Fellows. Their fraternal interests might be urged as a reason for having specific frequencies set aside for them, if it could be demanded of this commission that it set aside a frequency for every large group of citizens having common interests. This classification could be carried on until more classes than frequencies would be found. It is the opinion of this commission, and it is so found, that there are not enough frequencies within the broadcast band to give to each of the various groups of persons in the United States a channel on which to operate a broadcasting station. It must follow as a natural consequence that if one large group is entitled to such a privilege, others are entitled to the same privilege. --Federal Radio Commission, “Chicago Federation of Labor v. Federal Radio Commission, No. 4972,” Third Annual Report of the Federal Radio Commission to the Congress of the United States (Washington, D.C.: United States Government Printing Office, 1 October 1928 to 1 November 1929) 36.

52 FRC, Annual Report 1929, 36.
WCFL was founded by Edward N. Nockels, secretary of the Chicago Federal of Labor, in 1926. He intended for the station to be funded by listener donations and by the income generated by the *WCFL Radio Magazine*. Under General Order No. 40, WCFL, like all the other nonprofits, had to share its frequency with another station, eliminating its evening air time. In response, Nockels asked, “Was it in the public interest, convenience and necessity that all of the 90 channels for radio broadcasting be given to capital…and not even one channel to the millions that toil?” Ultimately, WCFL lost its battle to gain a clear channel 50,000 watt station.

Stations owned by organized labor may have represented “propaganda” to the FRC and other political leaders of the Protestant elite because labor was seen as being more Catholic and because of concerns over labor’s influence on labor costs. Organized Labor Unions drew a negative response from Protestant business men, who tended to live in more rural, small towns. They were uncomfortable with the rapid change of the modern world of urbanization and industry. Many Catholic immigrants lived in the cities and were represented by organized labor. Also, the Jewish community was prominent in the labor movement. Some Protestants feared that Catholic and Jewish groups threatened the Protestant hegemony. Also, the 1920s were the time of the “great” labor strikes that alienated the average Protestant businessman, revealing a number of splits in American culture.

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Role of Government in Early Educational Radio

On May 21, 1929, Secretary of the Interior Ray Lyman Wilbur created a committee of fifteen persons to study the issue of radio in connection with public education. The members included the U.S. Commissioner of Education, two FRC members, the vice-president of the National Broadcasting Company, the president of the Columbia Broadcasting System, a representative of the Western Electric Company, and six educators. Secretary Wilbur said, “We now face the question of what we shall do with radio in connection with public education. That includes not only school room teaching but adult education, and what we shall do with the latter in developing a better citizenship.” According to Robert Blakely, “This broad concept of public education governed all later developments in educational radio.”

The group recommended that Wilbur create and appoint the Advisory Committee on Education by Radio (ACER). ACER was funded by the Payne Fund, the J.C. Penney Foundation, and the Carnegie Corporation of New York. Other advisory groups were created at this time including the National Advisory Council on Radio in Education (NACRE) and the National Committee on Education by Radio (NCER). NACRE was supported by the Carnegie Corporation, the American Association of Adult Education and NBC. NCER was supported by the Payne Fund and the NEA. These two groups did not work together amicably and their conflict undermined efforts to present unified front from educators in support of nonprofit or educational radio.

Secretary Wilbur’s actions laid the groundwork for an ongoing involvement by the

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Department of the Interior and later, the Department of Commerce in the development of educational radio (and later television) that linked the United States Office of Education, the FRC and FCC, educators, governmental agencies, and to a lesser degree, commercial broadcasters. As shall be shown, this linkage led to the creation of noncommercial educational licensing and set-aside channels.

Senator Simeon D. Fess Bill

In January of 1931 Ohio Senator Simeon D. Fess introduced a bill in the Senate which provided for the reservation of fifteen percent of all broadcasting facilities to be reserved or assigned for educational purposes. He reintroduced the bill in 1932 and 1933 but it was never reported out of committee. The text of the bill was written by Joy Elmer Morgan, chair of the NCER. Morgan would have preferred to establish a noncommercial network modeled after the BBC but felt the Fess bill was necessary as an “emergency” measure to support educational broadcasting in the short run. The commercial broadcasters led by their trade and lobbying organization, the National Association of Broadcasters (NAB), did not support the bill and actively worked to undercut the efforts of educational broadcasters to have special frequencies set aside for noncommercial educational use. They were described by Tracy Tyler, a full time staff member of the NCER as “doing all that they can to wreck the educational stations.” Commercial trade publications described the educators in derogatory terms and the concerns of the educational broadcasters were never taken seriously by commercial broadcasters. The NAB worried that educators would gain frequencies as the expense of the existing stations.

58 McChesney, *Telecommunications* 129.
59 Blakely 58-59.
60 McChesney, *Telecommunications* 46-49.
1934 Communications Act

Congress based the Communications Act of 1934 on the 1927 Radio Act while expanding the authority of the new Federal Communications Commission (FCC) to cover “wireless and wire communication, both interstate and foreign.” Congress increased the number of Commissioners to five to handle the expanded duties of the agency. The new Act preserved the philosophical underpinnings of broadcast regulation found in the 1927 Act which included a definition of the features of radio broadcasting.

In response to requests for set-aside channels for nonprofit broadcasting from the Paulist Fathers and organized labor (the “Harney Lobby”) in the form of the Wagner-Hatfield amendment, Congress issued a mandate in Section 307(c) of the Communications Act of 1934 to research the issue of reserved channels for nonprofit organizations.


62 1. The radio waves belong to all the people.
2. Licensees must serve the public.
3. All of the public should receive benefits.
4. Not all applicants are eligible to receive a license.
5. Broadcasting has distinct features.
6. Broadcast expression is protected by the First Amendment.
7. The government maintains discretionary regulatory authority.

The Commission shall study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of nonprofit radio programs, or to persons identified with particular types or kinds of nonprofit activities, and shall report to Congress, not later than February 1, 1935, its recommendations together with the reasons for the same.64

To fulfill the mandate of Section 307(c), the FCC held lengthy hearings that involved one hundred and thirty-five witnesses, fourteen thousand pages of testimony, and several thousand pages of exhibits. The educational/nonprofit arguments were not uniform since there was a great diversity of opinion surrounding the entire topic of educational and nonprofit broadcasting. For example, the NCER and NACRE disagreed over fundamental issues related to the request for set-aside channels for nonprofit radio. Commercial interests, however, were united behind the argument that broadcasting should be commercial and they were well represented by their trade association, the National Association of Broadcasters (NAB). Commercial broadcasters specifically scheduled “educational programming” to demonstrate that reservations of frequencies for noncommercial use were unnecessary. As a result, the FCC reported to Congress that no reservations of channels for nonprofit licensees were needed. Additionally, the nonprofits were split into a number of educational, religious, and social organizations with differing agendas. As soon as the FCC made its report to Congress, the “educational programs” scheduled on commercial stations began to disappear.

The FCC argued that the interests of the nonprofit organizations would be better served by the use of existing facilities, the commercial stations. FCC staff believed that the plan would give the nonprofits access to excellent equipment, facilities, and established audiences. The FCC introduced and encouraged the concept of cooperation between the commercial broadcasters and

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64 Federal Communications Commission, “Report of the Federal Communications Commission to Congress Pursuant to Section 307 (c) of the Communications Act of 1934,” Docket No. 2537, 1 Record Group 173, National Archives II, College Park, Maryland.
noncommercial interests with the idea that the Commission would direct and supervise the cooperation through the efforts of the Federal Radio Education Committee (FREC) led by Office of Education Commissioner, John Ward Studebaker. Some forty representatives of educational organizations were participants in the FREC meetings. On the other hand, religious organizations, labor organizations, and other social groups were not invited. As shall be shown, the government, following the philosophy of the Office of Education, intended for these efforts to develop nonprofit radio to be focused more in the direction of public education.

As religious, educational and other nonprofit groups and institutions fought to have channels set aside for educational, religious, labor, and social organizations in the 1934 Communications Act, some were fighting simply to survive the harsh regulatory environment. They hoped to obtain channels for nonprofit organizations since the regulatory mindset and commercial interests were pushing nonprofits either off the radio dial or to the fringes of the spectrum. An ad hoc committee organized by the Paulist Fathers and organized labor were behind the introduction of the Wagner-Hatfield amendment in the Senate. One leader, Father Harney of the “Harney Lobby,” was fighting for the survival of radio station WLWL. The story of WLWL reflects the impossible pressures placed on most nonprofit stations of the time.

**WLWL and Father John Harney**

The Missionary Society of St. Paul the Apostle (the Paulist Fathers) owned WLWL, a Catholic station in New York City. As the first Catholic radio station in the country, the Paulist order intended for the station to present a broad range of programming, including some religious programming designed for a working class audience. Their plans were ambitious and they believed that they could use the station as a significant vehicle for their work. WLWL began broadcasting on September 24, 1925, on the 1040 frequency operating at 5,000 watts of power. At the time, it was one of the most powerful radio stations in the country and it soon encountered
a number of obstacles put in place by the government.\textsuperscript{65} The problems that it faced were typical of many nonprofits at the time.

First, the Department of Commerce ordered WLWL to share its 1040 frequency with another station in October 1926. The Very Reverend John B. Harney, superior general of the Paulist Fathers, was upset because he believed that the government had combined “a high quality station” such as WLWL with a “low quality station” at a Bronx amusement park on the same frequency. He felt the action discriminated against the Catholic station. WLWL was moved to two new frequencies over the next nine months sharing the 810 frequency with WMCA. In December of 1927, the FRC notified WLWL that it would be broadcasting only two hours per day while WMCA would broadcast the remaining hours. Father Harney noted bitterly that WMCA’s market value rose to $4 million dollars by 1934 while WLWL was worth only the value of its used transmitter and studio equipment due to the FRC decision.\textsuperscript{66}

General Order 40 called for the Paulists to be shifted to the 1100 frequency in fall 1928 where WLWL shared time with radio station WPG, owned by Atlantic City, New Jersey, later sold to CBS. WLWL ultimately broadcast about two hours a day on that frequency. At that time, the Paulists were facing financial concerns since each new frequency shift ruling by the FRC required the purchase of new transmission equipment. The FRC also forced the relocation of WLWL’s transmission facility to New Jersey in order to keep the power output of the station at 5,000 watts. In the midst of all the frequency shifting, the Paulists filed a number of appeals with the FRC in order to increase their broadcasting hours.

Like many nonprofit broadcasters, the reduction in broadcast hours limited the station’s

\textsuperscript{65} McChesney, \textit{Telecommunications} 72-73.

\textsuperscript{66} McChesney, \textit{Telecommunications} 74.
outreach, and the Paulist Fathers were in a no win situation. At times their broadcasts missed the target audience due to FRC imposed air time limitations. The loss in audience reduced their fund raising abilities leaving them vulnerable to a takeover by commercial stations. Father Harney was especially irritated by the FRC’s policy of supporting “general interest” for-profit commercial broadcasters over nonprofit “special interest” stations. He wondered why the FRC saw the commercial interests who were working for a profit as being “general interest” broadcasters when the interests they were working for were actually their own. He did not understand how the FRC could accept that commercial broadcasters operated in the public interest. The Paulist Fathers saw their role as seeking to work for the public welfare, providing a high quality station with diverse programming.67 Like many nonprofit stations, commercial broadcasters sought to buy WLWL. Father Harney passed on the first offers, but when it was apparent that the Paulists were not going to gain their own frequency and the FCC was not going to provide set-aside channels for nonprofit broadcasters, WLWL was sold in June, 1937.

**Commercial Networks and Religious Broadcasters**

The 1927 Radio Act and the rise of radio networks limited the access of conservative religious broadcasters to the airwaves. In 1926, the National Broadcasting Company (NBC) was established as the first radio network. NBC decided to include religious programming in their schedule by donating public service time to Catholic, Jewish, and Protestant broadcasters.68 NBC chose to work through the Federal Council of Churches of Christ in America as its Protestant representative. The Federal Council of Churches represented twenty-five liberal mainline Protestant denominations led by Charles S. Macfarland. He served as chair of the

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67 McChesney, *Telecommunications* 75.

Federal Council’s National Religious Radio Committee and of the religious activities of NBC itself.69 Under the direction of the committee, several programs were produced including the National Radio Pulpit, Catholic Hour, and Message of Israel. Religious conservatives were dismayed to see that the committee promoted the liberal, mainline viewpoint with little time for the conservative religious perspective.70

Between the regulatory hurdles imposed by the FRC on nonprofit broadcasters and the “exclusive” relationship between NBC and the Federal Council of Churches of Christ, fundamentalist speakers found it difficult to gain access to a national radio audience.71 Despite these problems, independent stations and local stations still offered an outlet for conservative religious viewpoints. Religious broadcasters either paid for time on these stations or in some cases received donated time.

As new networks developed including CBS in 1927, Mutual in 1934, and ABC in 1945, additional airtime was available for purchase by religious broadcasters allowing some to be heard nationally. Conservatives were not happy to be relegated to secondary status by the Federal Council of Churches. They feared their access to the airwaves could be lost completely and they resented having to pay for much of their airtime.72 In 1928, the Federal Council moved to control all sustaining time granted by NBC and created a list of “fundamental principles of religious broadcasting” with an eye to removing “sectarian considerations” and “all

69 Hangen 23.
70 Ward 16-17. See also Hangen 23-24.
72 Hangen 25.
divisiveness.”73 The Council added that they were “pursuing an inquiry as to the local services conducted from the various centers of the country at the present time.” This statement struck anger and fear in the heart of conservative religious broadcasters. They believed that the modernists were attempting to block their access to all airwaves. However, Tona Hangen argues that conservative broadcasters were more successful (despite their fears) due to the popularity of their message.74

The attempt by the Federal Council to speak for all Protestants was rejected by the conservatives who believed that the Council was attempting to monopolize all broadcasting. The Federal Council indicated that controversial religious messages might cause religion to be pushed off the air completely. Their fear was legitimized by FRC and FCC decisions that created restrictive regulatory policy in direct response to concerns about the power of religious, political, and social messages broadcast on early stations owned by religious, political, social, and labor groups. The notoriety of early religious broadcasters in the 1920s, including Aimee

73 “1. The National Broadcasting Company will serve only the central [sic] of national agencies of great religious faiths, as for example the Roman Catholics, the Protestants and the Hebrews, as distinguished from individual churches or small group movements where the national membership is comparatively small.”

“2. The religious message broadcast should be non-sectarian and non-denominational in appeal.”

“3. The religious broadcast message should be of the widest appeal—presenting the broad claims of religion, which not only aid in building up the personal and social life of the individual but also aid in popularizing religion and the Church.”

“4. The religious message broadcast should interpret religion at its highest and best so that as an educational factor it will bring the individual listener to realize his responsibility to the organizational Church.”

“5. The national religious messages should only be broadcast by the recognized outstanding leaders of the several faiths.” As cited in Hangen 25-26.

74 Hangen 26.
Semple McPherson, Reverend Robert Shuler, John Roach Straton, Gerald L. K. Smith, and Wilbur Glenn Voliva sparked their concern.\textsuperscript{75} Part of the knee-jerk rejection of all evangelical and fundamentalist messages on radio continued into the 1930s and 1940s as a new group of controversial religious broadcasters including Carl McIntire, Father Charles Coughlin, and Gerald Winrod came to the fore.\textsuperscript{76} Such speakers like Coughlin drew negative attention to all conservative broadcasters, and helped to reinforce negative public perceptions of all fundamentalists. The negative attention drawn by extremists on the far right may have prevented conservative broadcasters gaining access to licensing, particularly in the NCE band.

\textbf{Controversial Radio Ministries}

Wilbur Glenn Voliva was head of the Christian Catholic (Apostolic) Church (CCAC) and the utopian religious town of Zion, Illinois. He became the head of the church and town in 1905 by taking the reins of leadership from Reverend John Alexander Dowie, the founder of the church and the town of Zion. Voliva rejected modernism and held a number of unusual beliefs. He believed that the earth was flat and that the CCAC was the church of the “only true fundamentalists.”\textsuperscript{77} He sought to “strain the gnat of evolution and swallow the camel of modern astronomy.”\textsuperscript{78} He was perhaps best known for his well publicized offer of $5,000 to anyone who

\textsuperscript{75} Marty, \textit{Modern} 273-281. See also Hangen 27.

\textsuperscript{76} Marty, \textit{Modern} 273-281.

\textsuperscript{77} “The idea of a sun, millions of miles in diameter and ninety-one million miles away is plain silly. The sun is only thirty-two miles across, and no more than three thousand miles from earth. It stands to reason, it must be so. God made the sun to light the earth, and therefore must have placed it close to the task it was designed to do. What would you think of a man who built a house in Zion, Illinois, and put the lamp to light it clear in the next state?” Wilbur Glenn Voliva as recounted by Alan Spraggett. \url{www2.pgohg.org:8080/Carbutt/Demo.html}, 10 October 2006: 4.

could prove that the earth was round. In Zion, he enforced laws against lipstick, short skirts, low necks, bare arms, dancing, cinemas, pool, cards, tobacco, profanity, chewing gum, pork, and oysters. Children in Zion declared that the call sign WCBD stood for “Wilbur Can Beat the Devil.”

Father Charles Coughlin was a Roman Catholic priest based in Royal Oak, Michigan. His broadcasting career began in 1926 when he spoke on behalf of Roman Catholicism on radio station WJR in Detroit. His radio program developed into a very controversial radio ministry that focused on religion, economics and political commentary. His requests for financial support from the audience led to an avalanche of mail that brought in more than a half million dollars per year. As his popularity grew, he became more contentious and controversial as he attacked “unregulated capitalism” and politicians like President Herbert Hoover. In 1931, CBS removed his broadcasts from the network’s airwaves. He continued by broadcasting on independent stations reaching an audience of 45 million listeners was reputed to receive more mail than any other person in the world. Because of his speaking skills and popularity, he was credited as being the one person “most responsible for the election of Franklin D. Roosevelt to the presidency.” Father Coughlin’s broadcasts became more controversial during the depression years and he attacked President Roosevelt, the New Deal, and the private banking system. He supported the Nazis and displayed a pronounced anti-Semitic attitude.

Jay Earle Miller, “$5,000 for Proving,” Modern Mechanics, October 1931: 70.


Martin 19.

Educational broadcasting organizations were dismayed by Father Coughlin’s message as he shifted to the far right over the 1930s. Concern changed to scorn at the annual Institute for Education by Radio (IER) at Ohio State University leading other religious conservatives to visit the IER in order to soften Coughlin’s damage to their cause and to present their perspectives on the issue. In July of 1939, the National Association of Broadcasters (NAB) included a stipulation that cautioned against derogatory statements and offensive material on the air in response to Father Coughlin and other controversial religious broadcasters. The NAB sought to avoid attacks on religion or race while fostering tolerance for differences in religious belief.

As Coughlin’s popularity began to wane he found it hard to purchase air time for his independent network and his bishop finally told him that he had to choose between being a priest and being a broadcaster. In 1942, Father Coughlin’s career in radio ended.

Gerald Winrod was a Christian Fundamentalist who began his radio career in Kansas. He helped form the “Defenders of the Christian Faith” and the Defender magazine in which he shared his extremist views. Winrod railed against alcohol, evolution, biblical criticism, the Social Gospel, and religious modernists. While looking for “the fulfillment of prophecy in current events” he freely criticized most political leaders. His anti-Semitic tendencies were

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84 The Institute for Education by Radio (IER) was sponsored by the Payne Fund, the State Department of Education of Ohio, and Ohio State University. The Institute began in 1930 and met annually. Its purpose was to study and discuss the problems of education by radio. See Josephine H. MacLatchy, *Education on the Air: First Yearbook of the Institute for Education by Radio* (Columbus, Ohio: Ohio State UP, 1930).

85 Ward 61-62.

86 Hangen 30.

displayed in his preaching about “the international banking fraternity” and he labeled the New Deal as being communist. In his view, Hitler was the answer to Jewish occultism, communism and finance and he publicly supported the Nazi organization. He was seen as being “America’s leading Christian bigot.”

Gerald L. K. Smith came out of the Disciples of Christ in Wisconsin. He was not a fundamentalist but may have been influenced by the men who supported him, promoting their beliefs, rather than his own. Smith left his ministry to work for Huey Long, Louisiana’s governor and senator. After Long’s assassination in 1935, Smith promoted anti-Semitic and pro-fascist messages in his speeches and radio broadcasts. He was depicted in the mainstream press as being on the “Lunatic Fringe.” In the late 1930s he broadcast over Father Coughlin’s ad hoc network of independent stations, claiming that he represented hundreds of business leaders who were against the New Deal. By 1939, he was broadcasting in Detroit on WJR, a station noted for its anti-Roosevelt stance. He attacked communism, supported private enterprise, lower taxes, fewer regulations, and the “American work ethic.” He became more anti-Semitic and anti-communist over time. He supported Senator Joseph McCarthy while finding fault with each president.

For Carl McIntire, political and social issues were not at the forefront. His primary concern was the fundamentalist faith. In his zeal for perfection, he sought a pure fundamentalist doctrine and found that few could meet his standards. He used the radio to establish a national fundamentalist organization that would be strictly separatist, pro-gospel and anti modernist. McIntire founded of the American Council of Christian Churches (ACCC). As their president,

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88 Martin 19-20. See also Marty, Modern 221-223.
89 Martin 20-21. See also Marty, Modern 267-272.
he demanded equal air time from the national networks to that given to the Federal Council of Churches of Christ (FCCC).90 He also attacked any group or organization that he viewed as being less pure than himself. As a man prone to argument and judging, McIntire was viewed by most fundamentalists as being a negative force. The moderates responded to him by creating the National Association of Evangelicals (NAE.) They were “determined to shun all forms of bigotry, intolerance, misrepresentation, hate, jealousy, false judgment, and hypocrisy.”91 The Moody Bible Institute was a major player in the creation of the NAE.

In the 1940s, the NAE supported evangelical broadcasting by building bridges to the liberal branches of religious and educational broadcasting. Three representatives (including a WMBI representative) attended the IER at Ohio State University to add input to a proposal by the institute’s Religious Work-Study Group. The group recommended that religious broadcasters avoid negative messages with rancorous and/or biased overtones while seeking to present constructive and inclusive messages. In addition, the group proposed that religious broadcasters should receive free, sustaining air time so that they would not need to seek donations over the airwaves. This more liberal stance seemed unfair to the more conservative evangelists at the meeting, since they had little access by way of sustaining time unless they owned their own station, which was still rare for the nonprofits.92 Once again, the evangelicals felt they were being pushed from the airwaves by the modernists.93 After some discussion, the

92 Ward 61. See Hangen 118-119.
93 Hangen 118-119.
recommendations were altered to say that sustaining time should be used for religious broadcasts when possible.  

William Ward Ayer, a prominent evangelist and the first president of the newly organized National Religious Broadcasters (NRB) called for religious broadcasters to demonstrate more “sincerity and honesty” and to avoid being “crackpots, racketeers, fly-by-nights, ranters and sensationalists.” He supported the “recognized” evangelical broadcasters and fought against being “muzzled” by the secular radio industry and the mainline liberal Protestants broadcasters. The National Religious Broadcasters was founded to provide a strong coalition for conservative religious broadcasters who felt blocked by the mainline liberal religious broadcasters from the most favorable airtime on networks.

The early forties were a time of struggle and change for religious broadcasters. The Mutual Network, the only network to sell airtime to religious broadcasters, decided to move its religious broadcasts to air on Sundays before noon. This pushed some very popular programs like the *Lutheran Hour* and the *Voice of Prophecy* to earlier times. Mutual also ended its policy of allowing religious broadcasters to solicit funds on the air. Several religious programs left Mutual to establish independent, ad hoc networks of stations. The Mutual decisions made it even more difficult for conservatives to get access to national airtime. As evangelicals and fundamentalists were pushed off the national networks, they purchased more time on independent stations, causing concern for the liberals. They believed that religious broadcasters

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94 Ward 68-69.
95 Hangen 112-113.
96 Schultze, *Christianity* 120-121.
97 Schultze, *Christianity* 120.
beyond their control were presenting a “distorted” religious message while making a lot of money.  

The liberal groups came together in several organizations including the Protestant Radio Conference, created in 1945 as a cooperative religious broadcasting organization; the Joint Religious Radio Commission; and the National Council of Churches of Christ. These organizations troubled the evangelical broadcasters because they believed the liberal arm of religious broadcasting was still trying to control all religious radio and to push conservatives off the air where possible. In response to these organizations and to the Mutual Network’s changes, the evangelical broadcasters created the National Religious Broadcasters (NRB) in order to protect their interests. This group organized at the IER in Columbus, Ohio in 1944 with a group of 150 evangelical Protestant broadcasters. The new chairman, William Ward Ayer, led the group to adopt a code of ethics for radio evangelism which addressed on air appeals for money by calling for financial accountability and a stipulation that funds should be solicited only for legitimate religious purposes.

By 1947, the NRB became a branch of the NAE and worked to influence the radio industry and to protect the rights of all legitimate religious broadcasters. Despite these successful ventures, many on the right were still concerned that the Federal Council was preventing access to the airwaves for conservative broadcasters. The Council was viewed as having left the faith by denying the inerrancy of the Bible as well as the doctrine of salvation by

98 Hangen 120.
99 Hangen 122-123.
100 Ward 68.
101 Ward 67.
102 Hangen 124.
grace through faith in Christ. They saw the move to doctrinal liberalism and the social gospel as representing the true enemy which was modernism. By the end of the decade, “audience-funded evangelical radio broadcasting was an established institution in American radio.” The advent of television drew advertising dollars away from radio which led stations and networks to relax their restrictions on paid religious broadcasts making it easier for all religious broadcasters to gain access to the airwaves.¹⁰³

¹⁰³ Schultze, Christianity 161-162.
CHAPTER 4
JOHN WARD STUDEBAKER’S CONTRIBUTIONS TO NCE BROADCASTING

In the history of NCE broadcasting, many individuals were influential in the struggle to define, develop, and establish educational broadcasting as an entity deserving Federal Communications Commission protection from commercial competition. Though their efforts were needed to show that a high level of interest in educational broadcasting existed, the overall lobbying efforts by noncommercial groups were unfocused because the groups held a diversity of opinions. Their lack of focus delayed the FCC’s decision to create a special category of licensing for educational broadcasters.¹ According to FCC documents and memos supporting the 1938 decision to create NCE licensing, John Ward Studebaker, U.S. Commissioner of Education from 1934 to 1948, was the point man who marshaled resources and support, both financial and political, to convince the FCC that noncommercial broadcasting was worthy of support for secular educational purposes.²

The purpose of this chapter is to tell the story of Studebaker’s role in the history of educational broadcasting and to examine the unique series of events that led to the creation of educational broadcasting, then to public broadcasting. His influence as a spokesman for public education by radio and later television is evident in the FCC's decisions regarding noncommercial educational broadcasting in the early years of NCE broadcasting. Though

Studebaker is frequently mentioned in public and educational broadcasting histories, his influence and importance in the story have not been fully explored.³

Studebaker was born June 10, 1887, in McGregor, Iowa. He graduated from Leander Clark College, in Toledo, Iowa, in 1910. He received an A.M. degree from Columbia University in 1917 and an honorary LL.D. from Drake University in 1934. In addition, he later received honorary degrees from Muhlenberg College in 1938, the University of Maryland in 1945, and Boston College in 1948.⁴ He was the principal of junior high and elementary schools in Iowa and moved into the assistant superintendent’s position in Des Moines in 1914. In 1920, he became superintendent of the Des Moines school system, where he remained until becoming U.S. Commissioner of Education in 1934. While in Des Moines as superintendent, he promoted vocational education and was regarded as “one of America’s progressive school superintendents.”⁵ During Studebaker’s tenure as Commissioner of Education, the role of the

³ “Unheralded, unexpected, and unprecedented was the FCC action of January 26, 1938. On that day, the commission adopted a set of rules governing a new class of stations called noncommercial educational.” See George Gibson, Public Broadcasting: The Role of the Federal Government, 1912-76 (New York: Praeger, 1977) 49. See also Robert W. McChesney, Telecommunications, Mass Media and Democracy: The battle for the control of U.S. Broadcasting, 1928-1935 (Oxford: Oxford UP, 1993). McChesney gives little space to the role that Studebaker played in the fight to gain special broadcast licensing for educators. See also, Robert J. Blakely, To Serve the Public Interest: Educational Broadcasting in the United States (Syracuse: Syracuse UP, 1980). Blakely gives credit to Studebaker for his role in fighting for reserved channels but doesn’t connect the events of 26 January 1938, when the FCC created the NCE reserved channels, directly to Studebaker. The FCC documents related to the creation of NCE reserved licensing and channels directly credit Studebaker as being the one person who kept the issue of NCE licensing before the FCC (and the public.)


federal government in education expanded nationwide, increasing the role of the national
government in local education.\textsuperscript{6}

Studebaker was a proponent of progressive education, a broad national reform movement
that sought to modernize education and promote ideas that were sometimes contradictory.
According to Lawrence Cremin, “progressive education began as part of a vast humanitarian
effort to apply the promise of American life—the ideal of government by, of, and for the
people—to the puzzling new urban-industrial civilization that came into being during the latter
half of the nineteenth century.”\textsuperscript{7} Cremin describes the beginnings of the progressive education
movement during the 1870s and 1880s as being “episodic and disconnected” which led to a
national reform movement in the 1890s, an element of the larger Progressive movement in
American politics.\textsuperscript{8} By that time, the education movement was becoming pluralistic in scope,
including several smaller movements that focused on child-centered teaching, vocational
education, and a scientific approach to education which reduced the role of religion in education.
Early in the movement, the schools were involved in the health, vocation, and quality of family
and community life; rational teaching techniques were drawn from research in the social
sciences; and instruction was designed for the different kinds and classes of students that were
enrolled in the public schools. New administrative and management techniques were developed
that were more systematic in organization as a new educational bureaucracy developed. Both

\textsuperscript{6} Ingham.

\textsuperscript{7} Lawrence A. Cremin, \textit{The Transformation of the School: Progressivism in American

\textsuperscript{8} Lawrence A. Cremin, \textit{American Education: The Metropolitan Experience, 1876-1980}
administration and teaching became more professional. As the movement matured, emphasis was placed on civic education to develop educated citizens in order to support democracy and the rise of adult education programs like the Public Forum movements (of which Studebaker was a leader) and the Cooperative Extension programs. Due to the success of the reformers, the educational progressive movement dominated American education until the mid-1950s and some researchers argue that progressivism in education and Studebaker’s influence is still present in the schools of today. Studebaker expanded the concept of public education to include adult education and continuing education, particularly to provide adult citizenship education, a goal that is still a prominent feature of education in American culture. The Studebaker legacy includes his role in the development of educational radio and television noncommercial educational (NCE) licensing, the national school lunch program, and the Servicemen’s Readjustment Act of 1944, also known as the G.I. Bill. His staff at the USOE credited Studebaker as being the person most responsible for these major projects in American history.

As the Des Moines School Superintendent, Studebaker embraced progressive ideals that came to

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9 Cremin American Education 212-235.


12 Cremin American Education 212-235.

13 Moreland and Goldenstein 223-239.

14 Moreland and Goldenstein 223-239.

15 Pickett 173-182.
be known as the “frontier” position as described in *The Educational Frontier* (1933). Proponents of this approach believed that education prepared individuals to function effectively during the cultural changes caused by rapid advancement of society and technology. They recommended that individuals need the intellectual and practical tools that would make it possible to integrate successfully into the new social order that was developing. The “New Frontier” educators believed that the key to such an education could be found in a “massive” adult education program reflecting John Dewey’s belief that “education is the fundamental method of social progress and reform.”

Studebaker developed a national reputation as a leading progressive educator for his use of Public Forum techniques for adult education in Des Moines, Iowa. Beginning in 1933, Studebaker presented a series of programs known as the Des Moines Public Forums to provide “a vigorous and well-conceived educational effort aimed primarily at the adult population.” Studebaker sought to provide a comprehensive, but informal arena in which adults (the general public) could learn about the American system of governance and to become well informed citizens. In the first year alone, twenty percent of the adult population of Des Moines participated in Studebaker’s new plan for adult civic education. The program was well organized and promoted, thanks in part to a major Carnegie Foundation grant of $125,000 for a

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18 Cremin *Transformation* 230.

19 Moreland and Goldenstein 223-239.

20 Moreland and Goldenstein 223-239.
five-year period, and he was able to offer the Forums to the public at no charge.\textsuperscript{21} After Studebaker stepped onto the national stage, he continued the Public Forums nationally, funded by the American Association for Adult Education utilizing $744,000 in Federal Emergency Relief Funds to reach one million participants each year at the peak of the program.\textsuperscript{22} Studebaker expanded the programs to six hundred communities in thirty eight states after he became Commissioner of Education.\textsuperscript{23}

Studebaker believed that adult civic education was necessary in order for citizens to be informed about the world around them, including political, economic and social issues. He held that adult civic literacy would improve American life, curing social problems through public discussion, improved decision making, and “social cooperation.” His focus on the effects of modernity on society is reflected in his concern about the loss of traditional communities, the rise of special interest groups, and the impact of complex bureaucracies. Through adult education and public forums, he thought the increase of “government power and propaganda could be dealt with through free and informed public discussion of major issues and questions.”\textsuperscript{24}

Though the United States Office of Education was relatively small prior to World War II, Studebaker used his position to promote progressive school reform and practices in the United

\textsuperscript{21} Hilton 5-7. See also Leonard P. Oliver, \textit{The Art of Citizenship: Public Issue Forums} (Kettering Foundation, 1983) 10.

\textsuperscript{22} Oliver 10.

\textsuperscript{23} Moreland and Goldenstein 223-239.

\textsuperscript{24} Oliver 10.
States. His belief in adult education, the cultural advancement of Americans, and the protection of American democracy all come to the forefront in his public speeches. He once stated:

I conceive it as the task of liberal education to liberate the minds of individuals to function effectively in the democratic control of their social life, and to prepare them for and to induce continuous growth in personal self-expression and personal efficiency.

Studebaker’s professional experience with educational radio began in the winter of 1934 when a coal shortage in Des Moines forced the local school system to shut down for three weeks. Without coal to heat the schools, classes could not be held in subzero weather. To address the problem, Studebaker, then the Superintendent of the school system, responded to the crisis by adopting a novel plan suggested by Lorrain E. Watters, head of the music department for the school system. Watters proposed using the local radio station as a means to bring education to the children in their homes, an early form of distance learning. By broadcasting classes over the radio, the teachers could stay in touch with their students and keep them up to date by giving lectures and assigning homework questions. At the end of the day, students could check their work by reading the local evening paper which agreed to publish the answers to problems and additional information and assignments.

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25 Cremin *American Education* 212-235. See also Pickett 6.


28 Pickett 29-31.
Studebaker liked Watter’s “idea and created the” Des Moines’ “Radio School of the Air.” He appointed Watters to head the committee in charge of the new radio school. Radio Station KSO in Des Moines agreed to broadcast fifteen-minute “lessons” for all classes in the school system, from elementary classes through high school. The Des Moines Register participated by printing the daily class schedule, assignments, lesson outlines, spelling word lists, and answers to homework problems.

The Radio School of the Air began during the first week of January 1934 and covered at least eighteen subjects each day. After the three-week school shutdown ended, the committee determined that radio should continue to be used for educational purposes. For the next five years, Watters directed the radio educational programming in the Des Moines school system.

The idea of using radio for education was not new. Educators in other cities around the country had previously used radio as an educational tool, some for over a decade. Rhetoric regarding the use of radio for education was widespread in educational circles by the 1930s. In 1931, Joy Elmer Morgan, Chairman of the National Committee on Education by Radio (NCER) and Editor of the Journal of the National Education Association (NEA) 1931 stated:

As a result of radio broadcasting, there will probably develop during the twentieth century either chaos or a world-order of civilization. Whether it will be the one or the

29 Pickett credits Lorrain E. Watters with proposing the use of radio and newspapers during the three weeks that the schools were closed. See Paul Clifford Pickett Dissertation Notes, Lorraine E. Watters Interview, May 15, 1965, University of Iowa Archives, Iowa City, Iowa.

30 Pickett 29-31.

31 Pickett 30-31.

other will depend largely on whether broadcasting is used as a tool of education or as an instrument of selfish greed.

There has not been in the entire history of the United States an example of mismanagement and lack of vision so colossal and far-reaching in its consequences as our turning over the radio channels almost exclusively into commercial hands.

The uncommon factor in the Des Moines situation was the school superintendent, John Ward Studebaker. Six months after the coal shortage ended, Studebaker was appointed by President Franklin Roosevelt to be Commissioner of Education. As he left Iowa to head the U.S. Office of Education, Studebaker asked Lorrain Watters to send all the materials on the Des Moines Educational Radio Experiment to his new office in Washington. Studebaker’s interest in radio education and his position as Commissioner of Education gave him a pivotal role in the history of educational broadcasting.

Secretary of the Interior Ray Lyman Wilbur lay the groundwork (beginning in 1929) for Studebaker’s radio work by bringing together the staffs of the FRC and the Bureau of Education (predecessor to the USOE) to study the role of the federal government in relation to educational radio. Studebaker stepped into the structure created by his predecessor, William J. Cooper and Secretary Wilbur and developed it further. Though others had encouraged the FRC and the FCC to set up a special category of licensing for nonprofit, educational stations with protected frequencies, Studebaker had the interest and the influence necessary to persuade the FCC to go ahead and create the noncommercial educational licensing (NCE) category.


34 *New York Times*, May 23, 1934. See also *Des Moines Register*, May 19, 1934.

35 Pickett 30-31.

After Studebaker arrived in Washington, he found the Office of Education had been involved in education by radio for over a decade, beginning in the early 1920s. One of his predecessors, John J. Tigert, had broadcast educational programs regularly over an Arlington, Virginia, radio station. Another, William J. Cooper, began a process of gathering information about education by radio which he then distributed in the hopes of promoting the development of educational radio. Under Cooper’s leadership, Congress approved the Office of Education request to employ Dr. Cline M. Koon as Specialist in Radio Education. Under Koon’s direction, a clearinghouse of information related to educational radio was further developed.

Studebaker’s immediate predecessor, George F. Zook, utilized the services of the National Broadcasting Company’s Red Network to present a weekly program called “Education in the News.”

Studebaker, as Commissioner, found the question of the uses of radio for education constantly coming to his attention. Early on, he and his staff determined that the issue required further study, since radio was a new technology, and he began to work to bring interested educators and broadcasters together to study and discuss the issue in a variety of forums. The 1934-1935 Annual Report of the Commissioner of Education was the first USOE report to

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contain a section called “Radio and Visual Education.” It presented information regarding educational programs on NBC.

Under his direction, the USOE asked for funds from the Department of the Interior to explore the “new ‘social frontier’ of radio education.” According to Studebaker, President Roosevelt was “deeply interested” in the project and added additional suggestions to the list of broadcast subjects that Studebaker had proposed. Studebaker was appointed chair of a committee by the FCC to study methods of teaching by radio. He felt the two greatest problems facing educational radio were gaining access to air time and keeping the audience engaged during educational programming. Emergency relief funds from the Department of the Interior and Administration of $75,000 were granted to the USOE in 1935 to produce experimental demonstrations of educational radio programs beginning in March 1936.

A member of the Office of Education staff, William D. Boutwell, was placed in charge of the project, with planning assistance from educators and scientists. The NBC and CBS radio networks cooperated with the USOE by providing guidance for the production which gave work to a group of technical people, clerical workers, singers, and actors from the W.P.A. and the C.C.C. Studebaker pointed out that the experts provided by the networks included script writers, music directors, and program directors. They were asked to put their technical knowledge to work serving educational objectives. While considering the plans for each program in the series, they served as “course of study” committees for the “curriculum of the air” by reading and

41 Pickett 77.
42 Pickett 78.
44 Gordon Studebaker, letter to Laura D. Johnson, 31 May 2001. Gordon Studebaker is the only child of John Ward Studebaker and was employed at the USOE while his father was Commissioner of Education.
checking every script before it was broadcast.\textsuperscript{45} Thanks to this initial radio programming, the Office of Education received nearly 100,000 pieces of mail from listeners responding to educational programming that they heard on the NBC and CBS networks. Studebaker felt this listener response indicated success for the programs since they were able to compete for the “attention and interest” of radio listeners. He was proud that the programs were “successful” and that they could compete with the commercial programming for audiences interest.\textsuperscript{46}

The Communications Act of 1934, Section 307(c) required the FCC to study the proposal that Congress allocate fixed percentages of radio facilities to types and kinds of nonprofit radio programs or to persons identified with such programs and to report to Congress. The Broadcast Division held public hearings in which commercial broadcasters and some educators argued that allocations of channels for nonprofit radio broadcasters were not needed. The well organized commercial industry argued that they would meet their public interest duty by working in cooperating with educational and religious organizations to provide excellent programming.\textsuperscript{47}

For a time, Studebaker supported the “cooperation” model. After studying the issue, the FCC recommended to Congress in January of 1935, that no fixed percentages of radio broadcast facilities should be allocated by statute to particular types or kinds of nonprofit radio programs. But the Commission also recommended that a regional conference should be held in Washington on May 15, 1935 in order to develop plans for “mutual cooperation” between commercial broadcasters and nonprofit organizations. At the conference, Dr. Studebaker gave a speech in which he called “attention to the importance of the radio as a means of extending the public


\textsuperscript{47} Blakely 66-69.
He believed that the radio should be used as a tool of democratic education where all sides of controversial issues could be discussed. In his mind, radio in the use of education should be “free of governmental or commercial censorship” as well as “indoctrination and propaganda” that presents only one side or viewpoint. He advocated impartiality as a major goal of public education in order to provide forums where the “important ideas which struggle for acceptance in our complicated world order” could be explored.48

After the May 15 conference, Studebaker worked with the FCC to organize a small planning committee “composed of representatives of broadcasters, educators, and the Communications Commission.”49 The group met once a week beginning in November 1935 to study the issue of broadcasting by nonprofit groups. Studebaker was appointed chair of the committee by the Commission and asked to investigate methods of teaching by radio.

Studebaker noted that he wanted to ensure that educators could get their fair share of air time on commercial stations and he wondered what techniques could be utilized in order to get the audience to listen. The committee formulated the agenda for the first full Federal Radio Education Committee (FREC) meeting planned for February 17 and 18, 1936.

The Federal Communications Commission formally announced the creation of the FREC on December 18. The goals of the FREC included cooperation with other governmental agencies and departments to study the issue of educational broadcasting; the elimination of


controversy and misunderstanding among educators and between the industry and educators; and to promote cooperative arrangements between educators and broadcasters on national, regional, and local bases. After the planning sessions and the first sessions of the full committee, it was recommended that a comprehensive study program be undertaken so the FREC would be ready to make specific recommendations to the FCC.\(^50\) The resulting seven experimental programs recommended by the FREC brought in 400,000 letters of support from the public and 54,000 requests for radio scripts used in 42 states over 114 radio stations. Studebaker felt this interest proved that education by radio could be accomplished successfully and that the public interest was sufficient to continue his efforts to establish educational radio.\(^51\)

Studebaker and the FREC organized two annual meetings to discuss the uses of radio for education in 1936 and 1937. In addition to the stated goals of the FREC, by 1936 Studebaker, acting as head of the Office of Education, had an additional goal which he and his staff began to state repeatedly in FCC, Interdepartment Radio Advisory Committee (IRAC),\(^52\) FREC, and related meetings.\(^53\) Studebaker began to promote a special frequency allocation set aside for educational use only. He felt that cooperation wasn’t providing educators with enough access to broadcast facilities.

Some observers were disappointed in the efforts of the FREC and believed that the

\(^50\) Pickett 76-82.

\(^51\) Pickett 76-82.


extensive research undertaken by the group shunted the educators off to the side in a mountain of paper work, effectively slowing their activities, and diverting their energies. \(^{54}\) Critics charged that the FCC placed its responsibility for educational broadcasting with the FREC and failed to follow through on its plan to promote cooperation between educators and commercial broadcasters. \(^{55}\) The efforts to promote cooperation between commercial and non-profit broadcasters ran out of steam by 1940.

In contrast, the FCC staff argued that the continuing efforts by Studebaker, the USOE, and the FREC were crucial to the FCC decision to create a special allocation of frequencies and licensing for NCE radio. His many public comments in speeches and in print began to beat the drum for the idea that special frequencies should be set aside for educational broadcasters. He corresponded frequently with supporters of education, including President and Mrs. Roosevelt, sharing with them his speeches and reports on education in all its forms, including broadcasting. \(^{56}\)

A meeting of the full membership of the FREC was held in February of 1936 and a number of ideas and proposals were discussed. At that meeting, Studebaker proposed that the FCC set aside a frequency allocation for educational broadcasters:

> I come here to represent education in the States and local communities in requesting that a portion of the ultra-high frequencies be reserved for non-commercial use by organized educational agencies. \(^{57}\)


\(^{56}\) Franklin Delano Roosevelt Presidential Library, Hyde Park, New York.

\(^{57}\) Ring \textit{Memorandum} 10 January 1938. See Marsh \textit{Educational Broadcasting 1936} 32-33.
Studebaker requested that the Commissioners set aside:

a minimum of three megacycles to be reserved for the exclusive use of local educational systems for services in addition to those which they could normally expect commercial radio stations to perform. This request has been under consideration by the Communications Commission in connection with the entire problem presented.  

Several months later the FCC organized an “informal” engineering hearing on June 15, 1936 to discuss allowing assorted agencies of the government to use “certain ultra-high frequencies for various purposes.” After the engineering hearing, IRAC held several meetings to discuss the potential uses of the new spectrum during which the USOE representative continued to promote the creation of educational stations in the ultra-high frequency band. Several informal meetings were also held between Studebaker, FCC Chairman Anning S. Prall, Commissioner Eugene O. Sykes, and representatives of the Office of Education and the Commission to continue discussions relevant to the allocation of ultra-high frequencies for stations for educational purposes. Studebaker continued his push for allocations at the Eighth Institute for Education by Radio (IER) in Columbus, Ohio, on May 4, 1937, in a speech titled, “The Government’s Responsibility for Educational Broadcasting.”

According to Studebaker, an FCC press release dated October 13, 1937 spelled out the Commission’s plans to give the needs of educational broadcast systems “most careful consideration” when working out the fine points of the new spectrum assignments. The FCC

58 Ring Memorandum 10 January 1938. See Marsh Educational Broadcasting 1936 32-33.


60 Ring Memorandum 10 January 1938.
told him that the specific frequency allocations would be announced in January of 1938, and he believed that the FCC would grant his request for set aside frequencies for educational use.\textsuperscript{61}

On December 31, 1937, Studebaker presented the FCC with a proposal to set aside channels for “curriculair” stations that would be used for the broadcast of educational radio programming. He proposed calling the new category of stations “curriculair” broadcast stations since he believed the stations should be used by schools (primarily public schools) to create curriculum-related programming. Since the term “education” can be interpreted very broadly, Studebaker sought a name that would narrow the focus of the broadcasting activity. In the meeting notes, the term “curriculair” was rejected while “educasting” is listed as a possible alternative.\textsuperscript{62}

On January 10, 1938, A.D. Ring, Chief of the Broadcast Section of the Engineering Department at the FCC, and Andrew W. Cruse, Acting Chief Engineer at the FCC, submitted a Memorandum to the FCC on a Broadcast Matter. Its subject was “curriculair” broadcast stations. The memo summarized the many efforts of educators and their supporters before the FRC, FCC, and Congress for the utilization of radio facilities in the advancement of education. Included was a list of twenty-nine bills introduced in the 71st through 75th Congresses on the subject of educational or related noncommercial broadcasting. In particular, Ring and Cruse cited the work of John Studebaker and the USOE as being central to the FCC’s decision to create a new category of licensing for educational radio. Ring and Cruse acknowledged that the result of this intensive lobbying effort had been noticed at the FCC:

\begin{quote}
[T]he Commission has had before it constantly plans for the use of radio facilities for the advancement of education. These plans have now centered very
\end{quote}


\textsuperscript{62} FCC \textit{AGENDA}, 19 January 1938.
specifically on the proposal of Dr. Studebaker as a result of the allocation of ultra-high frequencies by Order No. 19, amending Rule 229.63

On January 19, 1938, the FCC held a “broadcast matters” meeting in which they considered a proposal to create a special category of educational stations. Though they approved the memo recommending the creation of an educational category of stations, they tabled the agenda item until the next meeting, allowing the law and engineering departments time to prepare the rules for the new category, to “complete action” on the decision and to prepare a press release.64

The next broadcast matters FCC meeting was held on January 26, 1938, at which six Commissioners are listed as being present: Chairman Frank R. McNinch,65 T. A. Craven, George H. Payne, Eugene O. Sykes, Thad H. Brown and Paul Atlee Walker. In the vote to approve “curriculair” broadcasting as proposed by Studebaker, Commissioner Payne and Commissioner Craven dissented from the majority vote. Craven indicated that he preferred the name “non-commercial educational” instead of “curriculair.” He made a motion to that effect and the majority of Commissioners agreed to the new name with Commissioner Walker abstaining. It appears from the notes that all agreed that the new category should be created, however, Walker was not happy with the final choice of name. The notes record that the press release would be

63 Ring Memorandum 10 January 1938.


changed to reflect the new name of noncommercial educational broadcasting. Studebaker felt the term was not specific enough to define NCD broadcasting, but he accepted it.

In January 1938, the FCC officially announced that a band of twenty-five ultra-high frequency channels between 41,000 and 42,000 kilocycles were set aside for use by noncommercial educational (NCE) stations (from 100 to 1000 watts) creating a new category of licensing at the FCC. The Commission defined a noncommercial educational broadcasting station as:

A high frequency broadcasting station licensed to an organized nonprofit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public.

The station would also be authorized to broadcast lectures and educational matter directly to classrooms of the public schools. It would transmit using amplitude modulation (AM); the Commission had not yet approved transmission by frequency modulation (FM.)

NCE licenses were intended for public educational institutions such as public school systems. The FCC decided that only an organized nonprofit noncommercial educational agency could receive an NCE license and only upon showing that the station would be used for the

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66 FCC AGENDA, 19 January 1938.
67 Rule 229, as amended, allocated the frequency band from 41,020 to 43,980 mc to broadcasting. One megacycle of this band was set aside for educational stations from 41,000 to 42,000 mc.
69 Federal Register, III, 312.
advancement of its educational program. Under this action, each station was required to provide a nonprofit, noncommercial broadcast service.\textsuperscript{71}

The rules proposed and adopted for the new category of educational broadcasting included the following:

1. Stations to be licensed to organized educational agencies only.

2. Technical operation to be governed by rules governing high frequency\textsuperscript{72} broadcast stations.

3. Special provision to be made authorizing a special broadcast service directed to the schools in the system for a portion of the day.

4. Special provision as to the service to be rendered so as not to allow sponsored programs.

5. Channels to be allocated in the band 41,020 to 43,980 kc.

This new category of NCE licensing limited the stations to a maximum of 1000 watts, under the high frequency broadcast regulations. The Commission believed that the signals of these stations would cover from two to fifteen miles, depending on the surrounding terrain. It was understood at the FCC that the station’s programming would disseminate classroom courses to schools as well as broadcasting programs of general interest, educational and entertaining, to the public. The license could not be transferred to another organization.\textsuperscript{73} On February 6, 1938, Studebaker publicly declared the new NCE channels “revolutionary,” comparing them to invention of the

\textsuperscript{71} Federal Register, III, 312.

\textsuperscript{72} Though the FCC used the term “high frequency” in the technical specifications for the new category of noncommercial educational radio, they intended for the new stations to be located in the ultrahigh frequency band from 41,020 to 43,980 kc. See Ring \textit{Memorandum} 10 January 1938.

\textsuperscript{73} Ring \textit{Memorandum} 10 January 1938.
printing press, predicting great results from the use of radio for education.\textsuperscript{74} He displayed the pride of a new father, discussing the great potential of a baby.

Studebaker believed that school systems needed broadcast facilities that could be utilized on a full-time basis. He wanted channels to be reserved for exclusive educational use because he believed that the future requirements of educational radio were “likely to be very extensive.”\textsuperscript{75} Even though commercial broadcasters appeared to be willing to cooperate with educators, Studebaker felt that schools would need a more specialized broadcasting approach for administrative, instructional, and other public-service purposes. Studebaker hoped that the FCC would reserve the special band of ultra-high frequencies for educational use and that educators would be able to take immediate advantage of it. He once said, “Radio frequencies, you know, are like homestead or mining claims—unless you work them, you lose them.”\textsuperscript{76} His faith in the ability of education and technology to improve mankind reflected the progressive view of education:

. . . I revert to the crucial problem of sustaining and strengthening the concept and practice of democracy in the United States by infusing into the management of educational processes the improvements which modern mechanical genius has made available. It is for this reason that I am here to represent education in requesting the reservation of a band of ultra-high radio frequencies exclusively for the use of organized education.\textsuperscript{77}

Educators believed that teachers would begin to experiment by using the radio to teach the everyday lessons in their own home towns. Studebaker hoped that the use of “especially


\textsuperscript{75} Ring \textit{Memorandum} 10 January 1938. See Marsh, \textit{Educational Broadcasting}, 1936, 33.

\textsuperscript{76} Marsh \textit{Educational Broadcasting}, 1936, 33.

\textsuperscript{77} Ring \textit{Memorandum} 10 January 1938.
expert teachers” over the radio would gradually improve classroom instruction. In particular, he believed the rural students would benefit greatly from the use of radio as a teaching tool.

Interest was so great that the Office of Education was “besieged with inquiries” about non-profit educational broadcasting licensing requirements. The Cleveland City Board of Education was the first applicant for the new category of licensing and they were granted the use of 41,500 kc. with 500 watts of power and unlimited time. The Boards of Education in New York City and Detroit along with hundreds of other civic and educational groups wrote to the FCC requesting information about applying for the new NCE licenses.

The precedent setting decision to award set-aside channels to educational use, though significant, was a hollow victory at the time. These AM NCE radio channels were located in a frequency band that could not be received by existing radios, and the later shift to FM did not solve the problem since FM also could not be received by existing radios. Educators and those interested in NCE radio had to purchase special receivers so the educational establishment got very little in the FCC decision to create NCE licensing. The small audience probably limited the growth of NCE radio in the decades following its birth. Though the initial set-aside frequencies were in a bandwidth that few could access easily, the creation of the noncommercial educational license established a precedent that ultimately led to new area of broadcasting still in existence today as manifested in the NCE reserved FM band and television channels.

On April 17, 1939, the FCC issued revised rules for noncommercial educational stations as part of the “Rules Governing Broadcasting Services Other than Standard Broadcast.” Their stated purpose was to meet Federal Register requirements and to modify the wording of rules that were ambiguous and subject to misinterpretation. The proposed rules were described as

being a “more direct and specific statement” of the licensing requirements, including standards that were considered part of regular administrative practice by the FCC staff. In general, the stations covered by the new rules, including NCE stations, were considered to be experimental stations.\(^79\) NCE stations continued to utilize the frequency band from 41,020 to 43,980 kc and were to broadcast using amplitude modulation unless they could show that frequency modulation would better serve the purpose of the station and if sufficient frequencies were available to be grouped so that sufficient band width would be available for a frequency modulated broadcast. The rules stated that an NCE station would be licensed only to an organized non-profit educational agency upon showing that the station would be used for the advancement of the agency’s educational program particularly with regard to use in an educational system consisting of several units.

By requiring service to an educational system with “several units” the FCC made a change that placed tighter restrictions on applicants and served to disqualify large religious institutions such as the Moody Bible Institute. The NCE stations were to transmit programs directed to specific schools in the system for use in connection with the regular courses as well as routine and administrative material pertaining to the school system. They were also allowed to transmit educational and entertainment programs to the general public, though few in the general public had access to radios that could receive the ultra high frequency signals.\(^80\)


\(^{80}\) Dempsey, et al., “Memorandum to the Commission” 17 April 1939.
On May 22, 1940, the noncommercial educational broadcast band was shifted one megacycle up to be adjacent to the regular high frequency FM band by Commission Order No. 67 and the Commission’s Report on Frequency Modulation (Docket 5805). On August 24, 1940, the Commission’s rules were amended to assign the frequencies 42,100; 42,300; 42,500; 42,700; and 42,900 kc to NCE broadcasting and specified that frequency modulation should be utilized unless a special need could be shown for amplitude modulation.81 During WWII, construction of new stations, including NCE stations, was halted, a delay that slowed the development of all forms of broadcasting.

By October of 1944, the boards of education in New York City, Chicago, Cleveland, and San Francisco, and the University of Illinois were operating NCE radio stations. The Buffalo (NY) Board of Education, the University of Iowa, the University of Kentucky, and the University of Southern California were constructing new NCE stations. The Memphis school system and the San Diego school system were not able to finish construction projects due to WWII. Eight additional applications were pending at the FCC for stations at the Atlanta, Detroit, Toledo, and San Bernadino school systems and the universities of Michigan, Western Michigan, Indiana, and Purdue. The FCC received sixteen applications that were returned for corrections and additions with an additional one hundred and sixty institutions writing to the Commission for information regarding applications for NCE licenses. The USOE and the FCC received dozens of inquiries regarding statewide educational radio networks. The Commission responded by saying:

The Federal Communications Commission has received information from the U.S. Office of Education concerning proposed state-wide plans for the allocation of the five frequencies reserved for non-commercial educational FM broadcasting stations. It appears that such plans, if carefully prepared with a view to fair treatment of public and private educational institutions, both urban and rural, at the primary, secondary, higher, and adult education levels alike, may provide a sound means for securing the maximum possible utilization of educational frequencies.\textsuperscript{82}

Studebaker testified at the October 13, 1944, FCC hearings regarding the allocation of FM frequencies to NCE stations. He requested an “additional” allocation of broadcast channels for educational broadcasting “for use by local school systems, colleges and universities, and by state departments of education.” Studebaker was more certain than ever of the need for channels to be “set aside” for NCE FM broadcasting because substantial numbers of educational organizations were making definite plans to construct FM stations as soon as the wartime restrictions on manufacturing were eased. The USOE had correspondence on file showing that official plans existed in 28 states to provide educational broadcasting to every school and every home in those states. He indicated that the planned broadcast stations would reach three quarters of the total population of the U.S. Six other states had plans for individual NCE stations at city school systems, colleges, and universities. Studebaker did not mention religious or other types of non-profit broadcasters. He focused exclusively on the use of NCE stations by public school systems, colleges, or universities.

Studebaker requested a minimum of fifteen consecutive channels, each 200 kilocycles in width, to be allocated exclusively for noncommercial educational FM broadcasting. He also requested that at least two television channels be reserved for educational assignment:

Although such interest in television as schools have indicated to date provides no adequate basis for predicting how soon, or to what extent the schools will become interested in television broadcasting, it is my firm belief that certain facilities of this kind should be reserved for educational use. To this end, I have recommended that at least

\textsuperscript{82} Braum 1419-1421.
two television channels be reserved for educational assignment.\textsuperscript{83}

In making these requests, he referenced a letter that he sent to FCC Chairman James L. Fly in January of 1944.\textsuperscript{84} He also identified the first allocation of NCE channels in 1937 (formally announced in January 1938) as being “based upon an official request of the U.S. Office of Education.”\textsuperscript{85}

Studebaker discussed the need for home listeners to be able to receive the new “school-stations” broadcasts. Reflecting his interest in adult education, he disclosed that some of the plans for FM stations included adult-education programs and “general information” programs.


\textsuperscript{84} In Studebaker’s presentation, he cited a May 1943 speech given by FCC Chairman James L. Fly at the Institute for Education by Radio (IER) at Columbus, Ohio. Fly warned educational broadcasters that pressure was already being applied to the FCC to assign NCE channels in some large cities to commercial FM applicants.

The ether is far too crowded, the pressure from other interests seeking to use radio far too great, to permit continued reservation of those channels, unless educators actually get busy and fill them with educational stations.

These [referring to building stations, operating them, and supplying programs] are things education must supply for itself. And it must do so promptly if its channels are to be maintained. For, as I cannot too strongly suggest, if education does not move into the home set aside for it, there will be plenty of others who will first seek and then demand admission to the vacant rooms.

\textsuperscript{85} The FREC, chaired by Studebaker, responded to Chairman Fly’s warnings by passing a resolution authorizing Studebaker to contact educators around the country to encourage them to move forward with their plans for FM stations. The USOE sent copies of Chairman Fly’s comments with mailings to educators who were planning new stations, and the staff discussed the issue with local and regional educators. Their efforts resulted in letters of inquiry from school systems and colleges all over the country, many of them new to broadcasting. State departments of education also wrote to enquire about statewide systems of broadcast stations in Ohio, Michigan, Connecticut, New Jersey, and Maryland. See Studebaker, \textit{Report of Proceeding}, Docket No. 6651. Non-Commercial Educational. 1430-1436.
that would not be offered by commercial stations. He also believed that “school-owned” FM stations would broadcast programming outside of normal school hours that would “supplement” the regular work of the school day. He hoped that such broadcasts would take the place of traditional kinds of homework. Finally, he hoped that school-owned stations would broadcast educational programs that would help young adults adjust to adult life, with programs about civic, social, and occupational, responsibilities. For the programming to reach its intended audience, Studebaker noted that “standard AM-FM home receiving sets” would have to pick up the NCE broadcasts.86

Studebaker continued his presentation to the FCC by discussing his requests to Chairman Fly that the Commission deal with several technical issues, including guidelines to aid in the assignment of frequencies to individual NCE stations so that interference issues would be reduced while allowing the maximum use of available NCE channels. In addition, he asked for ten relay-transmission frequencies for NCE use to link statewide networks via relay-transmission beams. He also requested that studio-transmitter link frequencies be set aside for NCE stations where the studios were separated geographically from the transmitter sites.87

Neither the Commission nor Studebaker defined “educational” in their statements and regulations, despite Studebaker’s concern that the term was overly broad and FCC staff asked for Studebaker’s guidance when evaluating NCE applications. He held that the term “educational agency” referred to secular, mainstream educational organizations such as public schools systems with more than one campus, thus preventing the Moody Bible Institute from receiving


an NCE license in 1939. Soon, colleges and universities were awarded NCE licenses. Religious educational organizations like the Moody Bible Institute (MBI) were not allowed access to the FM noncommercial educational wavelengths at first. MBI’s application for an NCE station dated June 17, 1938, was denied and they were encouraged to apply for a commercial license.88

The secular definition of “education” reflects the mindset of the educational groups that were represented in the FREC from the mainstream of public education. Studebaker stated publicly that the members of the FREC were “carefully chosen in a sincere attempt to secure a broad and democratic representation of all groups concerned with this problem and having divergent points of view.”89 The representatives were chosen from groups with a traditional public education philosophy.90 Groups that were not in line with public educational philosophies were not included, like conservative religious groups. American public education was a secular entity when NCE licensing came into being, so certain religious organizations were not recognized as traditional educational groups. Other nonprofit organizations, such as labor unions and social agency groups; were also denied access to the NCE band since they were not recognized as educational organizations. Studebaker, in his role as commissioner of education, represented the secular public education interpretation of the term “educational” and helped to establish a mind set at the FCC that continued well into the public broadcasting era, preventing


most organizations that were not secular and traditionally educational in their approach to broadcasting from having access to the NCE band. 91

Studebaker’s importance to the history of noncommercial educational broadcasting and public broadcasting has not been fully appreciated or recognized by historians. His staff at the USOE believed that his influence with the FCC was responsible for the creation of the NCE category of licensing with the set aside ultra-high frequency channels in January of 1938. His selection by the FCC to chair the Federal Radio Education Committee, the inclusion of his report on educational broadcasting in the 1938 “Broadcast Matters” file when FCC staff recommended the creation of NCE broadcasting, is telling. Studebaker’s staff claimed he influenced FCC Commissioners James L. Fly and Clifford Durr to support FM channels being set aside for educational use and the 1945 meetings which resulted in the current reserved 20 FM channels 87.9 to 91.9 MHz in the FM spectrum. 92 Finally, his staff gave him credit for the early interest in utilizing television for educational purposes and reserving television channels for the exclusive

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91 Moody Bible Institute, 40 RR 2d 1264, 1266-1270 (1977). Moody Bible Institute, 66 FCC 2d 162.

92 Roland R. Lowdermilk was head of the Educational Media Department during part of Studebaker’s tenure at the USOE. Lowdermilk claims that he persuaded Studebaker to support the use of FM rather than shortwave radio for educational radio. Lowdermilk attended the Annual Institute for Radio Education in 1936 to learn about FM and he investigated the experimental use of FM at the Riverside, Illinois police department. Lowdermilk told Studebaker FM was better than AM. He demonstrated FM in his home to Studebaker after arranging for the station to broadcast Studebaker’s favorite music. Studebaker asked him to investigate FM further and supported the use of FM for educational purposes. On March 19, 1940 in a hearing before the FCC, Studebaker changed the USOE official request to FM rather than AM (shortwave propagation) for the schools at Lowdermilk’s suggestion. See Paul Clifford Pickett Dissertation notes, Roland R. Lowdermilk interview, March 8, 1965, University of Iowa Archives, Iowa City, Iowa.
use of education. Though Studebaker stood with a large contingent of educators who lobbied for support and protection of educational radio and educational television, the story of his unique position in the history of educational and public broadcasting has been overlooked. He provided an informal but binding definition of “educational” that kept out religious licensees for years.

Studebaker's interest in education by radio and television was a natural outgrowth of his interest in adult education. His successful work in developing public forums as an extension of adult education under girding the preservation of American democracy and his work in the area of communications led to a position of leadership in the fight to establish educational broadcasting licensing and programming.94

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93 Pickett 180-184.

CHAPTER 5
FCC DECISIONS AND CASES RELATED TO NCE LICENSING
BETWEEN 1938 AND 1980

FCC Decisions and Cases 1938 to 1951

On June 24, 1938, the Moody Bible Institute was the first religious applicant to request a
construction permit for a new noncommercial educational radio station. MBI applied to operate
at 41,300 kc with a power of 100 watts with unlimited time but the application was denied as
were all applications by religious groups at that time. Moody gained a license for WDLM in the
commercial FM band in 1941.

In 1945, the FCC overhauled frequency allocations in the FM band. The Commission
moved the FM band to its present position of 88.1 to 107.9 MHz, and reserved twenty channels
for the use of noncommercial educational stations in the conterminous states.¹

The FCC issued a report in 1946 titled “Public Service Responsibility of Broadcast
Licensees” known (because of its cover) as the “Blue Book.”² Concerns about commercial radio
programming content had led the Commission to begin comparing the programming that
licensees claimed they would offer (in license applications) to the programming they actually
broadcast. The Commission found inconsistencies and started challenging erring broadcasters by
issuing temporary renewals and holding hearings. They also formulated a comprehensive

¹ In Alaska, other channels were used because the FM band was set aside for other (non-
broadcast) use. Today, noncommercial stations are found all over the radio dial in Alaska. See
footnote #1 of In the Matter of Changes in the Rules Relating to Noncommercial Educational
the Corporation for Public Broadcasting Public Broadcasting Directory, 1996.

² “The three people who were primarily responsible for its contents were FCC Commissioner
Clifford Durr, Commission staff member Edward Brecher, and Charles Siepmann, former
executive of the British Broadcasting Corporation.” See Federal Communications Commission,
“Public Service Responsibility of Broadcast Licensees (The Blue Book),” Frank J. Kahn, ed.,
148-149.
statement regarding programming policy, and that was the Blue Book.³

On page ten, the report lists types of programming that a broadcast station should provide in order to meet the public interest requirement. The listing applied to all licensees, commercial and noncommercial. Citing the Great Lakes decision of 1929, the report suggested that a well-rounded program service should provide:

entertainment, music of both classical and lighter grades, religion, education, and instruction, important public events, discussion of public questions, weather, market reports, news and matters of interest to all members of the family.⁴

The Blue Book reiterated the 1929 Great Lakes Statement’s support of “general public service stations” that provided programming that served a general audience, including educational and religious programming as a part of the total programming. The FCC restated in the Blue Book that they did not support the licensing of stations that they believed had a narrow or sectarian message, such as religious broadcasters, and few religious stations were licensed during that era. Only a few colleges and universities founded by religious organizations that offered general purpose radio programming were allowed to have a license. Religious broadcasters who wished to present a religious message had to buy time or be given sustaining time from stations and networks.

In 1949, the FCC granted an NCE license to the Pacifica Foundation, a nonprofit private community organization. Pacifica was founded by Lewis Hill, a Quaker influenced, pacifist, and conscientious objector.⁵ The station received first NCE license granted to an organization that

³ Kahn 148-151.

⁴ Federal Communications Commission, Public Service Responsibility of Broadcast Licensees, 7 March 1946, 10. See Kahn 150-151. See also FRC, Annual Report, 1929, 33-35.

was not affiliated with a school or university. The license was for KPFA in Berkeley, California, Pacifica’s first station. At that time, all NCE stations were operated by educational institutions rather than organizations founded for the sole purpose of operating an NCE station. The granting of this license created a new type of noncommercial educational broadcaster known today as the “community” licensee. Some community stations, such as the Pacifica stations, are also called “free form” stations because they may not have a set format. By granting an NCE license to a community group, the decision also established the precedent that successful applicants for reserved FM channels did not have to be educational institutions. In addition, the group did not have to be organized by professional educators or be affiliated with a professional educational organization or institution or accredited by an educational agency.

Prior to the Pacifica decision in 1949, the FCC received a petition in January from the Radio Commission of the Southern Baptist Convention and the Executive Board of the Baptist General Convention of Texas. The petitioners asked that the Commission amend its rules to extend to religious organizations the privileges and exemptions granted to non-commercial educational FM broadcast stations. The Commission held a hearing for oral arguments to determine if, under the Constitution, they could establish a specific category of religious broadcast stations. In December of 1949, the petitioners expanded their petition to include all tax exempt nonprofit organizations. On June 27, 1950, the FCC directed that oral arguments be

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held to determine if the public interest would be served by establishing a new class of FM service for nonprofit organizations that were not educational institutions. The first hearings were held on July 31, 1950.

In October, the Commission en banc heard additional arguments from other religious organizations including the University Baptist Church of Baltimore, Maryland, et al; the First Congregational Church of Hackensack, New Jersey;⁹ and the Protestant Radio Commission,¹⁰ represented by their lawyer, former FCC Commissioner Clifford Durr. The Civil Liberties Union also filed a memorandum supporting the petition. In July 1951 the petition was denied and the commission stated in the decision that there had not been a showing of “substantial demand” for the new service to be operated by “tax exempt nonprofit organizations.”¹¹

FCC Decisions and Cases 1960 to 1969

On March 23, 1960 the FCC considered a petition filed on July 15, 1958 by Miss S. Nisenbaum, “a member of the teaching profession at Oscoda, Michigan.” She sought to have Section 73.503(a) (2) of the FCC rules changed so that privately controlled educational

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⁹ Alexander A. McKenzie, Trustee and Technical Director for Radio at the First Congregational Church of Hackensack, New Jersey wrote that the church had been informed in October 1948 by FCC staff that there was no provision for licensing church stations in the educational FM band. The church then applied for a developmental broadcast station construction permit, which was also denied, since the application came from a church. McKenzie supported the Southern Baptist Petition because his church wanted to operate a radio station.

¹⁰ The Protestant Radio Service was a nonprofit association that produced radio and television programming for broadcast. One of its purposes was the promotion of the more effective use of radio as a religious, educational, and cultural medium. Its membership included mainline denominations and more liberal denominations. The group did not support a separate category of low power NCE FM stations for the exclusive use of religious organizations. It also opposed licensing for religious groups in the reserved NCE band.

institutions or their affiliated bodies would be eligible for a noncommercial educational FM station license only if they were accredited by state departments of education or recognized regional and national educational accrediting organizations. At that time, subparagraph (2) of Section 73.503 indicated that accreditation would be a consideration (not a requirement) for determining the eligibility of privately controlled educational organizations for an NCE license. Subparagraph (1) of the same section indicated that accreditation would be taken into consideration in determining the eligibility of publicly supported educational applicants. However, Miss Nisenbaum did not seek a change in accreditation requirements for publicly supported educational applicants, thus her petition only addressed subparagraph (2).12

The Pacifica Foundation, licensee of KPFA FM at Berkeley, California and of KPIK FM, Los Angeles, opposed Miss Nisenbaum’s petition. Pacifica, as a private nonprofit organization, was not an accredited educational institution such as a school or university and her petition challenged their right to hold an NCE license. Miss Nisenbaum sought to change the rules because she anticipated that individuals and groups unable or unqualified to acquire commercial FM broadcast facilities would apply for reserved NCE FM broadcast frequencies. She feared a group would be able to qualify for a license “by merely organizing a non-profit corporation and stating that its objectives are educational.” She sought accreditation of a privately controlled educational organization to insure that the station would be under the control and direction of responsible educators who would develop and broadcast “genuine” educational programs. She

also believed that accredited educational institutions would make the most efficient and responsible use of the limited number of FM NCE channels.

The FCC rejected Nisenbaum’s proposal as being too narrow. The Commission did not want to limit licensing of stations on the reserved channels to institutions that were accredited by state departments of education or were recognized by regional and national accrediting organizations. The Commission stated that other organizations seeking licenses would continue to be granted after “thorough consideration of their qualifications as a non-profit educational organization and their showing that they would provide . . . a service for the advancement of an educational program.” The FCC was not convinced by Miss Nisenbaum’s argument that the rule needed to be changed. They said an organization under private control did not have to be accredited to be “a bona fide educational organization with responsible management and worthy educational objectives.” The Commission believed it would be “extremely arbitrary” and not in the public interest to deny licensing solely because of a lack of accreditation. The Commission noted that the few authorizations that were held by privately controlled educational organizations such as libraries and foundations were granted only after they had met the requirements of being a nonprofit educational foundation seeking to provide a nonprofit and noncommercial broadcast service for the advancement of an educational program.\(^\text{13}\)

The Commissioners argued that more than 95 percent of the existing noncommercial educational FM radio stations were licensed to public school districts, boards of education, and colleges and universities. They did not appear to want to shut the door on qualified private organizations by creating tougher standards. They noted that few private organizations applied or NCE licenses and that there had been no increase in the numbers of private applications. The

\(^{13}\) FCC, “Petition of Miss S. Nisenbaum” 23 March 1960.
Commission believed that the existing rules and procedures were sufficient to block applications by “spurious educational organizations” and to prevent their qualification for an NCE FM broadcast license. Thus the Nisenbaum petition was denied. With this decision, the FCC declared, in effect, that it would not limit NCE licenses to accredited educational institutions. The decision established a precedent that allowed the definition of educational to be relaxed. The FCC did not view accreditation by an educational organization as being essential to NCE licensing.

Also in 1960, the Moody Bible Institute received an NCE license from the FCC to operate WMBI FM, 90.1 MHz, in Chicago. Prior to 1960, religious institutions found it difficult to gain a license in the NCE reserved portion of the FM band because the FCC often found that the primary purpose of the applicant was religious rather than educational and would deny the license. Religious organizations such as churches were routinely discouraged by the FCC from taking part in the application process, since the primary purpose of a church was viewed by FCC as religious, not educational.

The FCC allowed some religious institutions (but few churches) licensing in the reserved FM band because it was not in great demand before 1960. Secular educators were slow to apply for FM licenses and many FM NCE channels were still available in the late 1950s. MBI administrators recognized the coming popularity of FM and were successful in their application for WMBI FM. The ad hoc nature of FCC policy decisions toward religious applicants for NCE licensing allowed a few applicants such as MBI to gain a license in the NCE reserved band. The reasoning used to support the successful religious applicants while denying other applicants was not consistent and was usually not explained in the official, published decisions. Moody had a long standing relationship with the FCC that helped it succeed where most religious
organizations failed. However, as shall be shown, Moody had a more difficult time persuading the FCC to grant NCE licenses in the 1970s.

The Symphony Network Association, Inc. (SNA) of Birmingham, Alabama, requested the reservation of ninety-four specific frequency assignments in the noncommercial FM band “for a nationwide National Symphony Network.” First filed in November 1965, the application proposed programming that included commercials. The petitioners amended the petition on July 7, 1966 to delete all advertising on the educational FM frequencies. The network was designed “to bring the class appeal of great music to mass appeal.” The network would have consisted of stations individually owned, primarily by local symphony orchestras and “possibly others” affiliated with the Symphony Network Association. SNA planned to provide broadcast services for the network and to act as the advertising agency which “takes a product and merchandises it.” SNA believed that the small national classical audience would not be adequately served by local stations but a network could provide an audience that would give broad sales potential for a qualified national sponsor.14

SNA also stated that educational broadcasters were not using “radio as an efficient, effective, universal, communications medium,” because educational broadcasters used an intellectual appeal, rather than an emotional appeal, to “stimulate” the audience. The Symphony Network did not intend to replace educational broadcasting but intended “to supplement existing efforts ‘in hopes to show education a better and more effective means of communications.’”15

14 George S. Smith, Inter-Office Memorandum, Broadcast Agenda: Item No. 3. Petition for rule making to amend educational FM rules to provide for a National Symphony Network, RM-881, 2 November 1966, Record Group 173, National Archives II, College Park, Maryland.

15 Federal Communications Commission, Memorandum Opinion and Order: In the Matter of Amendment of Subpart C of Part 73, non-commercial educational FM broadcast stations to provide for a National Symphony Network. RM-881. Adopted 9 November 1966, Record Group 173, National Archives II, College Park, Maryland.
The National Association of Educational Broadcasters (NAEB) and three educational stations opposed the Symphony petition and filed statements against creating the network. The opponents argued that the FCC set aside the NCE FM band for nonprofit educational organizations that intended to broadcast educational programming to specific schools and to “transmit educational, cultural and entertainment programs to the general public.” The Symphony Network petition was not consistent with those regulatory requirements of NCE broadcasters according to the NAEB. The educators expressed concern that the NCE frequencies were being used at a “higher rate than ever before” and that “these scarce frequencies should not be diverted from their primary comprehensive use for programming all aspects of education, instruction, culture and entertainment.”

The FCC denied the SNA request, giving four reasons. First, there was no real need shown for the proposed service. Second, a grant of the application would preclude growth of regular educational FM stations in many communities. Third, the application proposed commercial use of the band set aside for purely non-commercial operation. Finally, SNA could not accomplish its intended coverage and objectives without a viable financial plan for support of the network.

During the first four decades of NCE licensing, the FCC seldom granted licenses that allowed the creation of a network of stations unless the network belonged to a public educational entity such as a school system. The Commission usually blocked requests from religious broadcasters to gain licensing in communities other than those in which they operated a school. In this case an application to create a secular network of stations was denied. The plan was

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flawed on several points, but it helped continue the precedent of not allowing networks for most NCE licensees.

During the 1960s educators, and educational groups and various organizations put forth a concerted effort to develop an educational broadcasting system. The most influential organizations in this effort were the Ford Foundation and the Carnegie Foundation. Between them, they funded extensive research and programming that led to the development of a new type of educational broadcasting called “public” broadcasting.

The National Association of Educational Broadcasters (NAEB) proposed in June 1963 that the organization should create a radio division. In early 1964, the radio division became known as National Educational Radio (NER) and one of its first tasks was to connect educational institutions with a live radio network. In September 1965 the first interconnection of educational radio stations was achieved by the NER. The group held a conference in September 1966 which led to a study of 320 educational radio stations in the United States. The resulting report, *The Hidden Medium: Educational Radio* was finished just as Congress began hearings on the public broadcasting bill. Though Congress began work on a bill to promote public television, the work of the NER and the NAEB helped bring educational radio under the umbrella of the public television bill which became known as the 1967 Public Broadcasting Act.¹⁸

In 1967, the Carnegie Foundation issued a report titled: *Public Television: a Program for Action* proposing an independently funded public educational television system, free from political influence. The report focused on television while leaving educational radio out.¹⁹ The purpose of the report was to “extend and strengthen educational television” through the

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¹⁹ Blakely 177.
improvement of programming, facilities, coverage, program production, program distribution, and funding. The report separated educational programming into instructional programming and a more general type of educational programming that was aimed at the public. The Carnegie Commission rejected the use of the term “educational television” in favor of “public television.” The choice of the term was a “public relations device” designed to get under the radar of a public that might reject a broadcast system that appeared to be overtly educational. The proposal led to the passage of the Public Broadcasting Act of 1967 that created a system for public television and public radio in the United States.

The Carnegie report opened the door to a broadened definition of education (in relation to broadcasting) by suggesting that NCE licensees could become public broadcasters without defining the term “public.” Robert Blakely reported that it was called “a name without a concept” by Les Brown. The Commission advocated freedom for the new public television system: freedom from commercialism, freedom from financial restraints, freedom to create and innovate, and freedom of the viewer to see programs that could not be seen on existing broadcast systems. But the Commission did not define what public broadcasting should be.

The Public Broadcasting Act of 1967 amended Section 390 of the Communications Act of 1934 by inserting “noncommercial” before the term “educational.” The Act allowed for a


21 Blakely 178.


“nonprofit foundation, corporation, or association that is organized primarily to engage in or encourage noncommercial educational radio broadcasting and is eligible to receive a license from the Federal Communications Commission.”25 The Act also defined the term “educational programs” as those that are “primarily designed for educational or cultural purposes.”26 The Act included educational radio program development as a function of the newly established Corporation for Public Broadcasting (CPB). For the first time, educational radio was recognized as an eligible applicant for matching grants for facilities from the U.S. Office of Education.27 In addition, the Act established the term “public” broadcasting as a standard term for noncommercial educational broadcasting.

The House Conference Report on the 1967 Act offered a definition of “Educational Television or Radio Programs” to mean “programs that are primarily designed for educational or cultural purposes and not primarily for amusement or entertainment purposes.” The House bill contained the same language but the phrase “and not primarily for amusement or entertainment purposes.” was deleted before the bill was passed by Congress.28 The Senate version had no restrictions on amusement or entertainment. Had the entire phrase been left intact in the final

25 The Public Broadcasting Act of 1967, Pub. L. No. 90-129; 81 Stat. 365. 394 (1967). 47 U.S.C. Section 201, Part IV of title III. “(7) The term ‘noncommercial educational broadcast station’ means a television or radio broadcast station, which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of enactment of the Public Broadcasting Act of 1967, is eligible to be licensed or is licenses by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational use.”

26 47 U.S.C. Section 201, Part IV of Title III, subpart C (9).


version of the 1967 Act, as stated in the House bill, it is possible that public educational broadcasting might have retained a more traditionally educational and instructional character. As passed, the 1967 Act broadened the definition of “educational” broadcasting to include entertainment as an acceptable goal.

The gradual relaxation of the definition of the terms “education” and “educational” in FCC NCE decisions over the decades after the creation of NCE broadcasting, led to “public” programming that no longer reflected traditional public education goals. The creation of public broadcasting was a major transition point in the history of NCE broadcasting. After the passage of the 1967 Act, NCE broadcasting moved further away from its traditional educational roots. Over time, stations broadcast fewer curriculum-based programs, adopting a new approach to NCE broadcasting modeled by National Public Radio (NPR) and the Public Broadcasting Service (PBS) for television.

In July 1968 the FCC considered an application from Christ Church Foundation, Inc. of Washington, D.C., for a construction permit for a new noncommercial educational FM station in Washington, D.C. After consideration, the Commission informed Christ Church representatives that the organization was not a nonprofit educational organization within the meaning of the Commission’s rules. The application was not accepted for filing and was returned to the organization.

The Commission did not publish the text of the decision, only the fact that the application was not acceptable for filing, since the organization did not meet FCC requirements for nonprofit educational organizations. The reasons for the decision are spelled out in the minutes of the meeting by the Acting Broadcast Bureau Chief James O. Juntilla. He explained that the Bureau staff found that the purpose of the organization was not essentially educational in nature. Rather,
from a reading of its Articles and its programming proposal, it appears that its basic purposes are religious rather than educational.²⁹

Juntilla explained that the Foundation was neither accredited nor recognized by an educational accrediting organization. Though these criteria were not required by the FCC for NCE licensing, they were factors that could be taken into consideration under Section 73.503(a)(2). The staff of the FCC Broadcast Bureau held that the Foundation did not meet the educational requirements even as they acknowledged that there was not a clear precedent on the issue.³⁰

After the FCC returned the application to Christ Church Foundation the organization had the opportunity to resubmit the application in amended form to meet the Commission’s objections. In November 1968, the Commission considered an application for a construction permit for a new NCE station filed by the National Educational Foundation, Inc. of Washington, D.C., the organization formerly known as Christ Church Foundation, Inc. The “new” Foundation changed several aspects of the application including the name of the organization and the corporate articles. The new bylaws focused on educational activities, changed the structure of the executive board and advisory board, and made programming to reflect a more educational approach to the programming.

The FCC found that the changes were more cosmetic than actual, noting that the same


individuals appeared to hold similar positions to those in the original application. The educational programs were projected to fill 30 percent of the programming, with religious programming slightly higher at 35 percent. Thus, the FCC did not alter its original finding that the Foundation was primarily religious rather than educational and consequently could not meet the educational requirements for an NCE license. The official FCC record reported that the Commission denied the petition for reconsideration and returned the re-tendered application to the National Educational Foundation, Inc. Once again, the FCC published the official decision without explanation stating simply that the application was denied.

The FCC did not recognize that they were holding religious applicants to a different standard than other applicants such as the Pacifica applicants. The approval of the Pacifica application in 1949 to a secular group that was not traditionally educational with accreditation or recognition from an established educational organization created a precedent for such groups. By not requiring accreditation from NCE applicants, in response to the Nisenbaum case, the FCC established a precedent that weakened their ability to restrict access to the NCE band. By denying religious applications while citing the lack of accreditation in the unpublished record (in the minutes of official meetings), the FCC violated the First Amendment rights of religious applicants by discriminating against them. By not publishing the reasoning behind the decision, the FCC avoided creating a precedent, which allowed the ad hoc approach to the granting of NCE licenses to continue. By granting NCE FM licenses to religious institutions such as the

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Moody Bible Institute in 1960 and to Dordt College\textsuperscript{32} in Sioux City Iowa in 1969, the FCC opened the door to religious NCE licensing. The broadened definition of noncommercial educational broadcasting that grew out of the Carnegie Commission’s report and the 1967 Public Broadcasting Act further undermined the FCC attempts to limit the access of religious broadcasters in the NCE FM band.

\textbf{FCC Decisions and Cases 1970 to 1980}

On November 25, 1970 the Commission dismissed an NCE FM application (BPED-897) for a construction permit for a new station from the Keswick Foundation, Inc. of Nashville, Tennessee.\textsuperscript{33} The applicant was notified by letter of concerns regarding the religious purpose of the station, and the application was dismissed pursuant to section 1.566(a) of the Commission’s rules, which calls for dismissal of applications patently not in conformity with the Commission’s rules which were inadvertently accepted for filing.\textsuperscript{34}

The Keswick Foundation was based in Nashville, Tennessee as a nonprofit corporation that planned to build schools and radio stations. At the time of the application, the applicant had

\textsuperscript{32} Dordt College’s website states that “Dordt College is an institution of higher education committed to the Reformed Christian perspective. Its mission is to equip students, alumni and the broader community to work effectively toward Christ-centered renewal in all aspects of contemporary life.”


not yet built a school and this application was its first foray into broadcasting. The organization was not accredited by any educational accrediting authority. The Keswick application did not propose a religious purpose to the station but the FCC staff led by Francis R. Walsh, Chief of the Broadcast Bureau, noted that the application suggested that the primary purpose of the station seemed to be religious. Keswick contended that its programs could be incorporated into a classroom-based curriculum. The FCC staff believed that the proposed programming breakdown indicated otherwise. The application proposed to devote almost fifty percent of station programming to religion and about twelve percent to education. The seven directors of the foundation included three ministers. One director was employed by a missionary organization. Walsh noted that the Keswick letterhead contained the caption “Faith Cometh by Hearing,” with images of an open Bible with a cross and a radio tower.

Keswick’s application was dismissed since the Commission found the applicant was not a nonprofit educational organization under Section 73.503. The FCC believed that the primary purpose of the organization was religious and not educational though the nonprofit organization appeared to meet the FCC criteria regarding NCE stations. In a footnote to the Inter-Office Memorandum that recommended the dismissal of the Keswick application, FCC officials noted that other concerns regarding financing, missing documentation of the organization’s by-laws, and “the serious question of possible misrepresentation” had not been formally addressed but would be through hearings if Keswick were found by the Commission to be eligible for the NCE license.


36 Francis R. Walsh, Inter-Office Memorandum: Aural Agenda, Application for a non-commercial educational FM broadcast construction permit, (BPED-897), 12 November 1970, See footnote #2 on page two, Record Group 173, National Archives II, College Park, Maryland.
The Commission argued Keswick showed a religious purpose in this application (and in an earlier application submitted by the Foundation) for the station, not an educational purpose. The FCC did not publish its reasons for the decision, choosing instead to simply publish that the application had been dismissed.\(^{37}\) In this decision as in some earlier decisions regarding religious applicants (e.g. Christ Church Foundation, National Education Foundation) the FCC avoided the creation of a precedential decision by limiting the official published record to the stated decision and by not publishing the reasons behind the decision. Through this technique, the FCC avoided creating public criteria for licensing NCE stations. By keeping the criteria in house, and not public, the FCC had more freedom when deciding NCE cases involving religion.

In 1971, the FCC dismissed an application from the Bible Moravian Church, Inc. for an FM NCE radio station. In the first filing, the Broadcast Bureau of the FCC found that the Bible Moravian Church of Winston-Salem, N.C., did not meet the Commission requirements to be considered an educational organization, was primarily a religious organization and was therefore not eligible for an NCE license. The Church challenged the ruling, arguing that education is the “quintessence” of religion. The Church maintained that education, mainly within religious education, was the principal purpose of the Church, although the application stated that the church offered secular education as well.\(^{38}\)

After the application was dismissed, Bible Moravian Church resubmitted its application without making any changes. The FCC denied the application. Though the Articles of

\(^{37}\) Keswick Foundation, Inc. 226 F.C.C. 2d 1025 25 November 1970. See also Walsh, Application for a non-commercial educational FM broadcast construction permit (BPED-897), 12 November 1970, Record Group 173, National Archives II, College Park, Maryland.

Incorporation gave the church the authority to engage in educational activities, the FCC argued that the Church had not proven that educational activities had been significantly implemented. The Commission believed the Articles of Incorporation showed that education and other activities were incidental to the main goals of the church which were religious in nature. The Commission stated that it looked at the application as a whole to evaluate the religious purposes and the educational purposes. If the religious purpose is predominant and the educational purpose is “incidental to and supportive of the religious function, then the organization is not an educational one.” Thus, the FCC denied the application, though the Commission found the Church was a “non-profit organization with meritorious purposes,” because the FCC decided that the Church was not an educational organization.\(^{39}\)

The FCC denied the applications by Keswick, Christ Church Foundation (and the related National Educational Foundation), and Bible Moravian by stating that each organization was not eligible for an NCE license because they were religious organizations and not educational.

Also, in June, 1971, the FCC granted a construction permit for a new NCE FM station to Pensacola Christian School (PCS), in Pensacola, Florida. WPCS transmitted on 89.3 MHz in the FM reserved band with 100,000 watts of power. An example of the ad hoc nature of religious NCE decisions by the FCC, in this case, the FCC believed that the application met the Commission requirement for an NCE license because the institution was a school that offered a broad spectrum of classes. However, in May 1973, the FCC dismissed an application from Pensacola Christian School. The school sought to operate broadcast translator stations in three different communities at 105.5 MHz. Though this frequency is not in the reserved NCE band, the FCC treated the application as an NCE application since the school planned to rebroadcast the

\(^{39}\) FCC Bible Moravian Church.
signal of WPCS, an NCE station.

In this case, the FCC stated that Pensacola Christian School was not eligible for an NCE license in a town outside of Pensacola since it was a religious applicant. Pensacola Christian School was eligible only for an NCE license in the town where it was located because it was a school and met the educational requirements. This appears to be the first time that the FCC publicly stated a local school requirement for religious broadcasters. In the first two years of NCE licensing, the FCC stipulated that public schools were eligible for NCE licensing later adding that NCE licenses should be awarded to school systems with more than one school campus. In the WPCS case, the FCC held religious broadcasters to a different or higher standard than secular applicants because the Commission created a new policy that denied Pensacola Christian licenses in other communities by stating

As a matter of policy, where an applicant is found to be qualified as a noncommercial educational licensee only because it operates a school in the community to which the station is to be licensed, the Commission will not authorize that licensee to construct and operate an FM educational station in another community where it does not operate a school.40

The Commission cited the Keswick Foundation decision of 1970 as support for this policy. However, the official FCC published Keswick decision is a short statement of dismissal and does not mention the school policy as a formal statement of policy in the public record. This policy was not stated in any prior FCC public documents or cases. In addition, secular noncommercial organizations and institutions that operated schools were able to gain licensing in other communities. Finally, the school policy is not stated in the unpublished official FCC minutes of the meeting where the Keswick application was formally denied. It appears that the FCC tried to limit religious broadcaster’s access to the NCE band by adding restrictions to the in-

house guidelines used by the Commission to evaluate NCE applicants. This method of blocking religious applicants echoed the experience of the Moody Bible Institute in 1939 when their application for the first NCE religious station was denied after the FCC added the requirement that NCE applicants should have more than one school campus.

In September 1973, the FCC issued a Notice of Inquiry and a Notice of Proposed Rulemaking regarding ascertainment\(^{41}\) of community problems by NCE stations. Ascertainment was a process by which broadcast licensees, commercial and noncommercial, were to “find out with certainty” or to “ascertain” what programming was needed to meet the public interest requirement of their licenses. In response to the NPRM, the Black Associations\(^{42}\) filed a statement with the FCC. The Black Associations believed that noncommercial educational broadcasting had shifted from “instructional” programming, which was directed toward the student, to “public” programming, which sought to present news, public affairs and cultural offerings to the community. Since the role of educational broadcasters had changed, the Black Associations sought a requirement in FCC rules that NCE stations be charged with ascertaining the educational and cultural needs of the community of license. The Associations stated that the FCC may have acted correctly in deferring to the educational expertise of broadcasters offering instructional programming. However, the change in public programming “demonstrates the need


\(^{42}\) The Black Associations included associations of black law students, student government and black student union groups and black adult educators. These groups included the National Association of Black Adult Educators and the National Association of Black Students.
to impose formal ascertainment requirements on educational broadcasters to insure programming responsive to the general educational and cultural interests in the community.” The Associations emphasized the special problems of minority groups.43

In answer, the FCC stated there was no question that educational broadcasters needed to be responsive to the needs of the community, just as commercial broadcasters were, even though there was no formal requirement for NCE stations to conduct ascertainment at that time. The Commission invited comments from all interested parties as to whether educational broadcasters should be required to conduct ascertainment studies of their communities of license.44 The FCC did not recommend any further action on the issue.

A major turning point in the struggle to define what noncommercial educational broadcasting should be occurred when Lorenzo Milam and Jeremy Lansman, advocates of community broadcasting, filed a petition in 1974 requesting several changes in the FCC rules regarding the licensing of NCE FM stations.45 This incident at the FCC provides a lens through which to observe an example of America’s “culture wars” over the place and role of religion, education, and government in American life.

Lansman and Milam sought (1) to revise the rules that allowed multiple ownership of

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44 FCC Ascertainment of Community Problems by Educational Broadcast Applicants 42 F.C.C. 2d 690-699.

noncommercial educational radio and television stations in a single market; (2) a “freeze” on all applications by government-owned and controlled organizations for NCE FM licenses; and (3) a “freeze” on all applications by religious schools, colleges, and institutes for NCE FM licenses.\footnote{Jeremy D. Lansman and Lorenzo W. Milam, “Petition for Rulemaking,” In the Matter of Revision of Rules Permitting Multiple Ownership of Non-commercial Educational Radio and Television Stations in Single Markets, et al. RM-2493 filed December 1974.} The petition was an attempt to place limitations on the kinds of educational institutions and organizations that could hold an NCE FM license in the reserved educational channels.\footnote{The petition said in part:}

1. Petitioners ask that the Federal Communications Commission to delete paragraphs 73.240(b) and 73.636(b) of the Commission Rules and Regulations which permit non-commercial educational licensees exemption from duopoly regulations. Under the existing rules, there is no limit to the number of radio or television stations which can be held by a non-profit corporation, school, local or state political entity.

12) Freedom of Religion should not presume a sacred duty to program only the most bland and inoffensive: and to enrich the licensee excessively by promulgating a comfortable, blond Aryan view of the Godhead. Rather—Freedom of Religion should involve a positive duty to investigate the challenges of men and their gods, to utilize the arts and creativity to define this relationship, this dialogue between the men and the divine. Until the religious broadcasters of America learn this simple truth, we must protect ourselves from the wanton growth of senseless, inhumane apostolicism which clutters so much American radio and television.

13) Religious broadcasters have shown a remarkable cancer-like growth into the “educational” portions of the FM and TV bands. They control endless monies from “free-will” Contributions, thrive on mindless banal programming aimed at some spiritless, oleaginous God, and show the same spirit as McDonald’s Hamburger Co. in their efforts to dominate American radio and television.

14) It is dreadful enough that Oral Roberts, Family Radio, and The Church of the Foursquare Gospel invade the “commercial” band—but, not satisfied with that, we have such doubtful ‘educators’ as Moody Bible Institute, Miami Christian University, Nazarene Theological Seminary, Southern Missionary College, Pacific Union College, Western Bible Institute, among others, rushing to crowd the narrow FM band set aside for non-commercial, educational stations. We have no doubt that their attack on reserved VHF and UHF television bands will start soon enough.

15) Moody Bible Institute has started applying for 100 kilowatt FM stations in the reserved part of the band outside of its home territory of Chicago. With each new grant, the radio band will be that much poorer in diversity, interest, in-depth public affairs, and true education of the whole man. -- Lansman and Milam Multiple Ownership of Non-commercial Educational Radio and Television Stations in Single Markets, December 1974.
Ultimately, the petitioners argued they were asking the FCC to “make a determination on education. Not programming but education.” They also singled out the Moody Bible Institute for a special drubbing in the petition and in a separate statement (filed in response to the comments sent to the Commission by interested groups). They complained

What we were getting from WMBI was nothing more or less than a single long diatribe for the Moody World View—a fulltime, ongoing, nonstop, endless, open-ended 24 hours, seven days a week, 52 weeks a year, year after year commercial for the Moody Bible Institute, their pin-hole view of humanity, and their dank view of the Divine.

Lorenzo Milam focused on MBI because he saw it as being the most important of the “fundamental” institutions that also operated broadcast stations in major markets. According to Milam; “It obviously has the greatest wealth of the many mendicants in the religious broadcasting industry.”

Milam and Lansman argued that most religious broadcasters offered programming that was not educational but instead offered programming that was “narrow, prejudiced, one-sided, blind and stultifying.” They believed that local independent broadcasters would better serve the public interest than religious or state-controlled stations, such as university-owned NCE stations. It was their view that state-owned and religious stations avoided controversial topics and that their programming was affected by their needs for funding. Thus, they believed the

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licensing of these stations was in violation of the First Amendment because of a chilling effect that prevented the open and robust discussion of controversial topics on NCE radio that did serve the public interest.53

However, the stated intention of the petition was not achieved and the sensational approach favored by Lansman and Milam backfired and created a huge ground swell of support for religious broadcasting that continues to this day. The petition set off a firestorm of reaction in the religious broadcasting community. The National Religious Broadcasters Association quickly mobilized a letter-writing campaign that led to tens of millions of letters being written to the FCC in protest against the “Petition Against God” as it came to be known.54 Madalyn Murray O’Hair, a prominent Atheist, was incorrectly associated with the petition in pop culture, perhaps reflecting the extreme emotions generated by the petition and the resulting cloud of misinformation that still clings to the petition. Though the FCC denied the petition quickly and completely, it has a life that still echoes in conservative Christian churches. The letter-writing campaign is still ongoing despite a concerted effort by the FCC and religious groups to inform the public that the petition was denied over three decades ago.55

Lansman and Milam were a feisty duo, quick to criticize religious broadcasting and to parody religious expression. Milam in particular seemed to revel in a style similar to that of the


54 Armstrong 28-30.

“Gonzo” idiom made famous and perhaps notorious by Hunter S. Thompson. Milam and Lansman were proponents of “community” licensees, where nonprofit secular organizations that were not affiliated with schools or universities controlled the programming. “Community” licensees seldom offer curriculum-based programming such as “traditional” forms of educational or instructional programming. Their formats tend to be geared toward the alternative, the political, and the non-mainstream audiences. Milam and Lansman intended for their petition to promote the “community” style of NCE station by limiting the future licensing of religious stations and state-owned licensees, such as university or college stations. They recognized that the reserved FM band was becoming crowded and feared that future applications by community stations would have greater competition and they hoped to reserve what was left of the noncommercial FM band for community type organizations. The FCC chose to deny all aspects of the petition.

The FCC did not agree that the programming practices of government-supported stations needed to be examined. The Commission stated that the ad hoc enforcement of the existing Commission policies regarding NCE stations was the preferred course of action. At that time, the stations were subject to the Fairness Doctrine and were not allowed to promote only the

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57 Jeremy Lansman, interview with the author, 10 December 1996.

58 F.C.C. Multiple and Religious Ownership of Educational Stations, 34 RR 2d 1217 (1975).

personal or partisan agendas of the broadcaster. The Commission felt that no further action was necessary. The FCC also let the multiple ownership rules stand for NCE stations since they supported statewide networks of NCE stations.

The responses filed by the National Religious Broadcasters, Inc. (NRB) and other religious organizations to the Lansman-Milam petition laid a groundwork of legal opinions that can be discerned in later statements before the FCC and in arguments made by FCC staff and Commissioners who supported religious NCE licensing. In particular, the NRB “Opposition to Petition for Rule Making” stated, “The First Amendment demands ‘neutrality’ of treatment between religious and non-religious groups” arguing that it would not be in the public interest to deny an applicant a license because of religious orientation and a denial would violate the Equal Protection Clause. In addition the NRB argued that the Lansman-Milam petition asked the FCC to cross the narrow line between regulation and the proscribed power of censorship.60 The petition resulted in more than seventy million pieces of mail being sent to the FCC by supporters of religious broadcasting. It may have affected how the FCC and Congress viewed religious broadcasting.

As will be shown in Chapter Seven, the 1977 Moody Bible Institute case may have been pivotal in the history of educational broadcasting because it pointed out the inequities of past FCC decisions on religious applications. After the 1977 MBI decision, religious organizations

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60 Section 326 of the Communications Act of 1934, as amended, provides: “nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.” – National Religious Broadcasters, Inc. In the Matter of Revision of Rules Permitting Multiple Ownership of Non-commercial Educational Radio and Television Stations in Single Markets; et al. “Opposition to Petition for Rule Making,” RM-2493, March 31, 1975.
were much more successful in gaining approval from the FCC for an NCE license in the FM reserved bandwidth.

In 1978, the Commission issued a Notice of Inquiry (NOI) titled, In the Matter of Amendment of the Commission’s Rules Governing the Eligibility for Noncommercial Educational FM and TV Broadcast Station Licenses.\textsuperscript{61} As explained in 43 Fed. Reg. 30842 (18 July 1978), the NOI sought to amend the FCC rules regarding who was eligible to become a licensee of an educational FM or TV broadcast station. The proceeding sought to define the term “nonprofit educational organization.” One proposal would open eligibility for reserved frequencies purely on the basis of “noncommercial” status.\textsuperscript{62}

The NOI stated that while the rules regarding NCE stations had remained the same, educational broadcasting had changed, evolving over time. Many more stations had been licensed as “public” stations. The NOI defined these stations as being devoted to providing educational programming in the broader sense, not limiting them to the earlier role that focused heavily on instructional programming. The Commission noted that the term “educational” continued to be applicable since each licensee was operated by a nonprofit educational organization that was created to further the educational goals of the institution.\textsuperscript{63}

The Commission wanted to explore changes that had occurred in educational broadcasting, including the passage of the Public Broadcasting Act of 1967, and noted that

\textsuperscript{61} Amendment of the Commission’s Rules Governing the Eligibility for noncommercial educational FM and TV broadcast station licenses, 43 Fed. Reg. 30842, FCC 78-164 (adopted July 18, 1978). This argument is used to back up the FCC’s favorable ruling that supports religious NCE broadcasting in the 1977 Moody Bible Institute decision.

\textsuperscript{62} See foot note 4 in First Report and Order on Educational Broadcasting.

eligibility standards for licensing of noncommercial educational television licensees and radio needed to be re-evaluated, in light of the changes. The FCC wanted to insure that the standards were congruent with the existing system of licensing. It appears that the FCC sought standards that would provide the clearest possible guidance for the processing of NCE applications. This guidance was needed because the educational aspects of some NCE applications were not clear. The Commission claimed that, in the past, it had examined every aspect of the application to be sure that the proposal would serve educational purposes. When “public” broadcasters had other goals in addition to educational goals, the FCC found there was a need for clear guidelines. Since the FCC rules and regulations had not changed, each case was handled on an *ad hoc* basis to determine if the “principal emphasis was on programs of an educational nature.”

The Appendix quoted in 43 Fed. Reg. 30842 at 30844 included the following processing guidelines for NCE applicants that were used on an *ad hoc* basis through 1978. By 1990, institutional applicants, secular and religious, were routinely being allowed to operate stations in communities other than those where they operated a school.

**Institutional Applicants:**

Institutional applicants (i.e. those which operate a bona fide full-time school) may qualify for noncommercial educational FM stations only in those communities where they operate a bona fide full-time school. This is the case regardless of whether the school and its courses of instruction are religiously oriented or secular.

**Organizational applicants:**

Organizational applicants may qualify in any community. But, they must demonstrate that they have an educational goal and are committed to the advancement of an educational program.

In considering whether organizational applicants have a suitable educational program, we will give primary weight to those programs which may properly be

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categorized as “instructional” or “general educational.” The definitions of these terms are as follows:

Instructional includes all programs designed to be utilized by any level of educational institution in the regular instruction program of the institution. In-school, in-service for teachers, and college credit courses are examples of instructional programs. General educational (GEN) is an education program for which no formal credit is given.65

The FCC recognized that the noncommercial educational FM stations presented a wide variety of programming, including such matters as light entertainment, gospel or popular music, and sports. For the purpose of determining the applicant’s qualifications, the Commission placed principal emphasis on those programs, as defined above, which were clearly educational in nature. In determining whether a program may properly be categorized as “instructional” or “general educational,” the Commission decided not to disqualify any program simply because the subject matter of the teaching or instruction was religious in nature. While not all religious programs were educational in nature, it was clear that those programs that involved the teaching of matters relating to religion would qualify. In this regard, some programs would properly be considered to be both instructional and religious or both general educational and religious. As in all matters relating to programming, the Commission chose to defer to the judgment of the broadcaster unless his categorization appeared to be arbitrary or unreasonable.66 These guidelines were developed on an ad hoc basis during the 1960s. The FCC has continued to use

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them though they were unevenly applied to religious NCE applicants prior to 1977.\textsuperscript{67} For all intents and purposes, this 1978 NOI lay dormant for eleven years.

In 1978, the FCC denied a petition in a decision called “Florence Bridges.”\textsuperscript{68} In the petition, Ms. Florence Bridges sought to prevent the license renewal application of a secular NCE station, WYEP-FM in Pittsburgh, Pennsylvania.\textsuperscript{69} She complained that WYEP was not presenting “Exclusively Educational” programming.\textsuperscript{70} The Commission responded that Section 73.503 required noncommercial educational FM stations to “furnish a nonprofit and noncommercial broadcast service.” The FCC said that the law authorized the broadcast of “educational, cultural, and entertainment programs to the public.” The Commission found that her complaint did not show that a violation of FCC rules had occurred and dismissed her complaint.\textsuperscript{71}

In 1980, the FCC decided Lower Cape Communications, Inc., and issued a Memorandum Opinion and Order. In this case, Seashore Broadcasting Company, Inc. filed a petition to deny the application of Lower Cape Communications, Inc. for a construction permit for a new secular

\textsuperscript{67} Allen Myers, former Assistant Director, Noncommercial FM Branch of the Federal Communications Commission. Interview with the author, 11 December 1996.

\textsuperscript{68} \textit{Florence Bridges}, 44 RR 2d 667 (1978).

\textsuperscript{69} Florence Bridges, interview with Laura D. Johnson, 13 December 1996.

\textsuperscript{70} She also complained (1) that the ‘Board of Directors is not acting as a coherent body, (2) that a Community Advisory Council has not been appointed (3) that volunteer workers are intimidated, harassed and unreasonably pressured by paid staff and some Board members (4) that some volunteers receive compensation for their work (5) that programming by community residents is discouraged by the Program Director, and (6) that rotation and turnover of programming is at low volume. The Commission stated that these complaints would best be resolved at the local level. \textit{Florence Bridges}, 44 RR 2d 667 (1978).

\textsuperscript{71} \textit{Florence Bridges}, 44 RR 2d 667(1978).
noncommercial educational FM station. Seashore challenged Lower Cape’s eligibility to be licensed to operate in the FM noncommercial band. The petitioner alleged that Lower Cape was not a legally registered educational organization in Massachusetts and it was not an accredited educational institution. Also, the principals had no professional experience as educators and the new corporation had no history of educational activities. The Commission noted that Section 73.503(a) had no requirement that an educational applicant had to be accredited by any educational organization. As in Miss S. Nisenbaum (1960), the Commissioners noted that accreditation was merely a factor to be considered in determining the eligibility of an educational applicant. Since Lower Cape was a legally registered nonprofit organization in the state of Massachusetts “with the stated purpose of establishing and operating a nonprofit, non-commercial educational radio station in Provincetown,” the FCC accepted the application as meeting the minimum criteria. The fact that the applicant was a newly formed corporation with no educators on the board was found to be not relevant. The Commission found Lower Cape was an educational organization within the FCC rules. The petitioner’s contention that the station would not be used “for the advancement of an educational program” was denied by the Commission when they accepted Lower Cape’s proposed educational and institutional programs.


73 Seashore’s petition also questioned “the relationship of Edward Perry Jr. of Educational FM Associates to Lower Cape; the feasibility of Lower Cape’s plan to staff the proposed station with volunteers; and the financial ability of Lower Cape to construct and operate the proposed station for three months.

74 Section 73.503(a) of the Commission’s rules states: A non-commercial educational FM broadcast station will be licensed only to a non-profit educational organization upon a showing that the station will be used for the advancement of an educational program.

They noted that it was not necessary that the programming be exclusively educational, citing *Florence Bridges.*\(^{76}\)

In 1989 the FCC finally addressed the 1978 Notice of Inquiry titled: Eligibility for Noncommercial Educational FM and TV broadcast station licenses. They decided to terminate the 1978 Notice of Inquiry without prejudice. It was terminated in part because so much time had passed since the NOI was issued and because broadcasting had changed in the interim. The Commissioners believed that the existing records and comments were out of date, and the guidelines for determining the eligibility of NCE licensees were in the Appendix of the NOI. These standards were used on an *ad hoc* basis when the NOI was released and have continued to be used by the FCC staff.\(^{77}\) Thus, except for these rather vague standards, the term “educational” remained undefined.

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\(^{76}\) 69 FCC 2d 1824, 44 RR 2d 667 (1978).

\(^{77}\) *Amendment of the Commission’s Rules Governing the Eligibility for noncommercial educational FM and TV broadcast station licenses* 5 FCC Rcd 394; 1990 FCC Lexis 120.
CHAPTER 6
MOODY BIBLE INSTITUTE

The Moody Bible Institute (MBI) of Chicago holds an uncommon position in the history of the development of noncommercial educational broadcasting. Almost from the beginning of radio broadcasting history, MBI took a leadership role as one of the first religious institutions or organizations to seek a broadcast license and as one of the first institutions to lobby Congress for special frequencies and considerations for educational and noncommercial broadcasting. The Institute’s story is also unusual because Moody has been a player in the history of religious broadcasting (and noncommercial broadcasting) from the point in 1925 when the Institute first began to broadcast religious programming until its present day role as a leader in the world of religious broadcasting.

Few religious or noncommercial broadcasters can make the claim that they have had an active role in broadcasting for eighty years or more. Even fewer can claim that they persistently worked to achieve goals that went beyond establishing their own stations to effecting change in regulatory policy at the Federal Communications Commission. The reasons for MBI’s success in broadcasting are varied. As the leader in the Bible Institute Movement,¹ the roots of its success can be found in the beginnings of the institution, in the person of an evangelist named Dwight Lyman Moody. Scholars have often noted that modern evangelicals are quick to adopt modern tools and innovations in the world of communications in order to impart a very ancient message. Richard Hofstadter argued “Moody and his generation, adapting revivalism to the spirit of the new industrial age,” were the first to bring modern “techniques of business

organization” to the world of revivals.² Moody’s innovations brought him great recognition and success as he went from relative obscurity to great fame during a series of revival meetings held in Britain during 1873. After millions heard him speak, he returned to America as “the unchallenged leader of a new phase in American evangelism” and by 1899, at the time of his death, was considered the “greatest figure in American Protestantism.”³

Though Moody was not well educated, his personal charisma took him far in his early adult years as a businessman in the wholesale shoe business in Chicago. The sales techniques that aided his brisk rise in business also aided his rapid rise as an evangelist. Though he never sought to be ordained as a minister, he was active in the Y.M.C.A. and the development of the Sunday School, a new advance in the work of churches after the Civil War. Though Moody had little use for education outside of religious education that focused on the Bible, his primary focus in his later years was on the education of lay people, who could teach the Biblical message and reach the common person. Much of his success as an evangelist lay in his ability to couch his message in everyday terms, borrowing from the language of business sales and promoting each activity with every tool available to him. Moody was a master communicator, comfortable in the world of public relations, marketing and promotion.

When Moody came to New York City in the early spring of 1876, he planned a ten week campaign in the world’s largest indoor arena, the Hippodrome. P.T. Barnum had only recently left the Hippodrome, taking his show on the road, leaving the era’s best known evangelist in an interesting position of comparison. The two super salesmen were both famous for their aggressive use of advertising, which invited inevitable comparisons in the press of the day and in

³ Hofstadter 107.
the press of the present.⁴ Dwight Moody drew innovative people to work in his revivals, and later to work in the new bible institute in Chicago that came to be known as the Moody Bible Institute. This hallmark of Moody and MBI has had much to do with the continued success of the Institute and the development of its outreach programs, including the broadcasting ministries.⁵

Moody was known for his grand ideas and his lack of attention to detail. When he came to understand that his revival ministry was not reaching the people that he most wanted to reach—the working class—he developed his idea of training lay Christian workers that he called “gap-men” to go out into the community to work with those who had no church and needed conversion. He felt that a school could perhaps succeed where his mass evangelism had failed. In order to achieve this goal, he relied on Emma Dryer, the principal of the Illinois State Normal College to help develop his idea for a bible school. By 1886, Moody began to raise money by issuing challenges to the citizens of Chicago to raise funds to train lay workers. He wanted these Christian workers to do city mission work. Though he did not create “the idea of brief training for lay workers to achieve missionary goals” and his school was also not the first such school, his celebrity allowed the school to become well established, growing into the most influential Bible Institute in the country.⁶

A pivotal moment in MBI history came after the death of Dwight Moody in 1899. Though Moody was always able to find the funds needed to keep the Institute programs on track,

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⁶ Brereton 53-55.
his death left a vacuum which no other person at the Institute was able to fill. It was apparent that the lack of planning for future funding would quickly jeopardize the future of the Institute. Help came in the form of a prominent businessman, Henry Parsons Crowell. Though Crowell had not known Dwight Moody personally, he based much of his personal beliefs and philanthropic philosophy on a sermon he heard given by Moody over twenty-five years earlier, when Crowell was eighteen years of age.\(^7\) As a teenager, Crowell suffered from tuberculosis for several years and was forced to put off his dreams of attending Yale University. In the spring of 1873, Crowell heard Moody speak at the Second Presbyterian Church in Cleveland, Ohio, and felt the message was a personal one. Moody reportedly inspired Crowell by asking,

That’s right. What about you? Do you ever think big things for God? Huh? The reason I like to think big things for God is that he deserves it. Now whether it’s evangelism, or your work, or your money, whatever it is, you ought to think of big ways you can be used for God. The world has yet to see what God can do with and for and through and in a man who is fully and wholly consecrated to him. And (Henry) Varley meant any man! He didn’t say he had to be educated.\(^8\)

Henry Crowell responded to these words by deciding that it was perhaps all right if he couldn’t attend Yale. He also committed his life to making money for men like Dwight Moody while pledging that he would keep his own name out of the process. This led to a very generous life of philanthropy and stewardship. Years later, Dr. William Newell, a minister at MBI, developed a close friendship with Crowell, by then the founder and President of the Quaker Oats Company. For several years beginning in 1898, Crowell and his wife, Susan Coleman Crowell, participated in a bible study group led by Dr. Newell.\(^9\) The friendship led to Crowell’s invitation

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\(^7\) Joe Musser, *The Cereal Tycoon* (Chicago: Moody P and Quadrus Media, 1997) 36.

\(^8\) Musser 38. Moody was quoting Henry Varley, a wholesale butcher whose evangelizing packed a meeting hall in West London. Moody met Varley during the two year campaign in Britain that established his fame as an evangelist. See Evensen 17.

to help guide the Moody Bible Institute through the tough transitional period after the death of
Dwight Moody.

In 1901, Crowell went to the Institute to visit with two MBI board members, Dr. Will
Norton and Dr. James Gray, in order to discuss the financial problems and the future of the
Institute. Crowell was concerned to learn that “the school had nothing—no real assets or
practical facilities, no respect, and no real plans for the future. Nothing.”10 Crowell was a man
who sought to use his talents and his wealth to promote Christian work, as he saw it, in the
world. He was also unusual as a conservative Protestant businessman of the time because he
didn’t fear the changes of the industrial age, he embraced them.11

By the time Crowell came to MBI, he had established himself as a “leading statesman” in
the world of big business and evangelical Christianity.12 Though he was best known, perhaps,
for founding the Quaker Oats Company, he made his fortune in several ventures, including the
Perfection Stove Company. He was noted for his philanthropy and his biographers report that he
gave, at times, sixty percent or more of his annual income to religious organizations and
charities. His success in business was credited to his willingness to utilize the new techniques of
marketing, advertising, and merchandizing that were considered revolutionary.

For example, in the early developmental years of the oat milling business, Crowell took a
product that was considered to be fit only for horses to eat and successfully marketed it directly
to housewives and families as an inexpensive, healthful breakfast food. He took the marketing
of oats to the shopkeeper from the barrel on the floor of the general store to the home maker by

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10 Musser 130.
11 Musser 5.
12 Day 155.
repackaging the oats. Quaker Oats utilized fresh, colorful, two pound boxes and added recipes. Later, the opportunity to send off for gadgets like crystal radio sets, complete with headphones, helped establish Quaker Oats as a leading brand. Because of his innovations in the marketing of oats and related cereal products, the Quaker Oats Company became an industry leader.

When evaluating the situation at MBI, Crowell was pleased to find that Dwight Moody had chosen capable teachers and leaders in the type of Biblical scholarship that he supported, but it was obvious that the existing leadership of the school knew very little about the business aspects of managing the Institution. After some discussion, Crowell laid out a plan that would put the Institute on a sound financial footing, while allowing Dr. Gray and the staff to focus on the “educational and spiritual side of the school.”13 Crowell spent nearly every Tuesday for the next forty years of his life working with the MBI Executive Committee, as a member of the Board of Directors, and by 1904, as Chairman of the Board of MBI, guiding the business and financial future of the school. At times, he put his own money into the school, for example, funding half the construction of a new administration building.14 As part of his plan, the school would only build what it had funds to build, avoiding debt, and he found ways to produce long term income using an Annuity Plan that gave income to the annuitants. Under his management, MBI grew in both size and stature, gained respect, and established itself as a leader and moderate voice in the world of Fundamentalist Christianity. Dr. Gray would often say, “It was the brains and heart of H. P. Crowell that brought this institution up, that made this Institute.”15

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13 Musser 130.
14 Musser 131.
15 Day 174.
Crowell’s vision for spreading the MBI message went beyond marketing and advertising, into the field of communications. He is credited with guiding MBI into the world of mass communication, relying on his conviction that all forms of media can be used to help share a message. Taking the old Moody Colportage\textsuperscript{16} Association, he created the Moody Press, and utilized his knowledge of marketing in order to sell books. Then he moved to create a monthly magazine, and pushed the Institute to lead the way in one of the newer technologies, radio broadcasting.\textsuperscript{17} Though some cynics scoffed that no one was listening and no one would respond, Crowell was convinced of the power of radio, observing the dramatic increase in sales of Quaker products after the company began to advertise on the radio. He also observed the overwhelming response of the public to the Quaker radio crystal set promotion. When the first 250,000 radio kits were sold instantly, Crowell moved to repeat the promotion two years later, resulting in even larger sales. By then, he was advertising Quaker products heavily on radio, convinced of its power to reach a vast audience.\textsuperscript{18}

When Crowell first recommended that MBI get into the broadcasting business, only a few stations in the country were broadcasting, but Crowell knew that there were about three million crystal sets, and the numbers were increasing dramatically. He wanted MBI to be the very first religious broadcast facility in the country. When MBI decided to enter the world of radio in 1925, it became one of the early religious broadcasters, gaining a license from the Federal Radio Commission in 1926. One writer felt Henry Parson Crowell’s “deepest love” was shown for the

\textsuperscript{16}“Colportage” is the distribution of religious literature such as religious tracts.
\textsuperscript{17}Musser 132.
\textsuperscript{18}Musser 133.
Institute “in the rise and development of the super-power radio station WMBI. And what is the station fundamentally but a projection of Mr. Crowell and his son, after him?”

Henry Coleman Crowell, the only son of Henry Parsons and Susan Coleman Crowell was born on Chicago’s near north side in 1897 and brought up in Winnetka, Illinois. H. C. Crowell graduated from Yale University in 1921 with a degree in mechanical engineering. He was vice chairman of the Perfection Stove Company and served in the Navy during WWI. In 1923, at the age of 26, he decided to commit his life to working at MBI after working a year at the Bible Institute of Los Angeles (BIOLA) and was placed in charge of promotions for the Institute, working as an assistant to Business Manager A.F. Gaylord. Three years later, he became the assistant to the president of MBI, Dr. James M. Gray. He also managed the technical aspects of radio broadcasting at MBI until 1947. Over the course of his forty-year career at MBI, he served on the board of trustees, as vice president, and later as general manager of the organization. He considered his work as a ministry in which he could help train others for Christian service, a service that gave him “great satisfaction.”

During his years at MBI, H. C. Crowell was “heavily involved” with the creation of radio broadcasting at MBI, the Moody Institute of Science Film Productions (MIS) and the Missionary Technical Training in aviation and communications. He also founded and was President of the Missionary Equipment Service in Chicago. At his retirement, H.C. Crowell was credited with

19 Day 178.


22 H. C. Crowell File, Moody Bible Institute Archive.

creating four radio stations that were owned and operated by MBI since 1926. These included WMBI AM and WMBI FM, with studios at the Institute’s La Salle Street address in Chicago, and WDLM in East Moline, Illinois, and WCRF FM in Cleveland, Ohio. Crowell had an early interest in radio, perhaps due to his father’s influence, and strongly believed in a radio ministry for MBI. 24 One of his legacies is an invaluable collection of comprehensive “Annual Reports” to the Board of Trustees of MBI that tell a richly detailed history of the early struggle for a radio frequency from the perspective of the Institute, particularly from that of a religious and/or educational institution. Though Crowell’s descriptions in the “Legal Story” section in each report reveal few emotions, it is possible to read between the lines and sense the concern and worry as Crowell’s lists of educational and religious broadcasters shrinks as each year passes.

At the time of the creation of the Federal Radio Commission (FRC), all broadcasters faced the difficulties caused by interference from other stations, frequency changes ordered by the FRC and short term licenses that lasted only three months when the FRC began cleaning up the airwaves. In addition, religious and educational broadcasters faced the challenges of being moved to less desirable frequencies, sharing frequencies with other nonprofit stations, power reductions, and legal attacks by other broadcasters who sought their frequencies. Controversy caused by religious broadcasters like Father Charles Coughlin did not help their cause.

The response adopted by the Moody Bible Institute to these challenges is instructive. In Crowell’s reports, a very steady strategic stance of politeness and persistence is evident in the approach taken by Crowell and the Moody administration toward the FRC, the FCC, and all other broadcasters. Where some broadcasters gave up or fought aggressively, Moody took the calm middle ground, avoiding controversy and cooperating in every instance with other

24 H.C. Crowell File, Moody Bible Institute Archive.
broadcasters, the FRC and later the FCC. The Institute formulated policies that required the announcers to never speak ill of anyone or any religion on the air, and the Institute avoided being connected to broadcasters who were known for confrontational tactics. Even when they applied for licensing and the Commission appeared to rewrite policy in order to deny Moody access, Crowell would merely note that the Institute apparently did not meet the requirements. Their wealth allowed them to speak softly and then carry the chairman of the board (the chair of Quaker Oats) to FRC hearings. The same wealth also allowed them the patience to wait out the changes in the hope that the future would bring a resolution that was favorable to Moody, all the while politely lobbying the FRC and the FCC by letters and personal visits from administrators, board members and MBI’s legal team. They also had the ability to generate large letter-writing campaigns, if needed, though they used that option only when they determined that it would be helpful. Few religious or educational stations survive from the early years of radio. Even fewer documents that tell the story of early radio from the perspective of the licensee survive from that period in American radio history.

When the Moody administration decided that the Institute should investigate radio, they opened a new era of programming advancement for the Institute, through a brand new technology. This part of the story has been told by several researchers, including Gene Getz, in MBI: The Story of the Moody Bible Institute. The Institute was cautious about entering a new field about which very little was known. President James Gray was not certain that radio was relevant to the Institute’s mission, or even appropriate for the mission. When the young Henry Coleman Crowell became the assistant to the president in late 1925 it became his responsibility to oversee the development of the Institute’s radio outreach. Once the Institute had an

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arrangement with WENR in Chicago to broadcast programming, President Gray was won over completely to the new technology in 1926, when he received a phone call from a Florida resident who had heard the first WENR broadcast in Florida. The phone call and other correspondence convinced Gray that radio was a positive force that could be used to reach listeners over a large area.

During the early days of radio broadcasting, MBI was forced to contend with the same technological issues that plagued the early days of radio and all other broadcasters. Thanks to an overabundance of stations competing for a finite number of frequencies, chaos and interference were the norm on the radio dial.

Commerce Secretary Herbert Hoover, attempting to relieve the interference problem, took legal action against the Zenith Radio Corporation’s WJAZ. The station had “appropriated a wave length” that was assigned to Canada without a license to use the frequency. However, the U.S. Attorney General ruled on July 8, 1926 that, under the Radio Act of 1912, the Department of Commerce could not prevent a station from using any frequency in addition to the one specified in its license. Once it became clear that no one in government had the authority “to allocate frequencies, withhold radio licenses, or regulate power or hours of transmission,” Hoover gave up all attempts at regulation. Congress began working to create an administrative body that could make the technical and legal determinations as to the licensing and regulation of broadcast radio stations. In the meantime, the interference chaos continued.

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During this period, the Moody Bible Institute was notified that it had been granted a broadcast license on July 27, 1926, with the call letters WMBI and a “wave length of 288.3 meters.” The initial license was for three months, as was common during that turbulent time in radio history for all stations. The first broadcast over the new station occurred on Wednesday, July 28, from 7:00 to 9:00 p.m. The next day, MBI officials learned that another Chicago station had been granted rights to the same frequency, WKBA, of the Arrow Battery Company. After the two organizations discussed the issue through their lawyers and E. S. Hartman, the Mid-Western representative of the American Society of Composers, Authors, and Publishers (a position of considerable influence with broadcasters), the two organizations came to an agreement that allowed radio station WSBC, of the World Battery Company to take the place of WKBA and to share time with WMBI on their frequency.\(^29\) Though WMBI had to deal with complaints of interference from another station, WSWS, and from listeners who lived close to the Institute, the station was successfully granted two additional licenses for the period of three months each.

The day after the 1927 Radio Act\(^30\) was passed by Congress, President Gray sent a letter to the entire MBI mailing list “asking their co-operation in properly presenting the needs of the Institute broadcasting station before the Commission.” He requested that an enclosed postal card be returned as soon as possible by supporters “testifying to their belief that the Institute radio station should be granted a license by the Commission to continue in operation.” Out of a mailing of 130,000 letters with post cards, “a total of 49,930 cards, representing 52,375 signers” were returned to the Institute. “Almost all were enthusiastic about the use of radio by the


\(^{30}\) The Act was signed by the President on February 24, 1927.
Institute, although many were disappointed that they were unable to hear our station because of interference or distance.\textsuperscript{31}

In order to address the issues related to “clearing up the broadcasting situation,” the FRC during its first meeting scheduled public hearings to give the public and qualified experts the opportunity to make “general suggestions” as to how the FRC should proceed in its mission to reduce the interference between existing stations.

Henry Coleman Crowell represented the Moody Bible Institute at the hearings.\textsuperscript{32}

On the third day of the hearings, Crowell was the first speaker to mention religious broadcasting, introducing his comments by describing a type of radio “service that does not depend on revenue derived from the listener, either directly or indirectly.” He was the only speaker to support religious stations and religious educational stations. Crowell presented the religious station and the religious educational station as being types of stations that represent “more truly the real idea of ‘service to the public,’ in that its programs are given with no thought of direct returns, but rather the desire that the public will be helped and benefited.” The purpose of a religious station is to share statements of belief, and to be “remedial and educational, rather than controversial.”\textsuperscript{33}

It is not for pecuniary profit but for the moral and spiritual welfare of our fellow men. I am very sure that the Radio Commission will allow adequate opportunity for the putting forth of this type of message, especially in view of the present increase in crime and lawlessness.\textsuperscript{34}

Crowell then went on to explain that religious stations, like other educational stations

\textsuperscript{31} Crowell, \textit{Annual Report 1927} 7.

\textsuperscript{32} FRC, \textit{Annual Report 1927} 3-4.

\textsuperscript{33} Crowell, \textit{Annual Report 1927} 6.

\textsuperscript{34} Crowell, \textit{Annual Report 1927} 6-7.
represented by the Association of College and University Broadcast Stations operated on a limited schedule of hours. Though some broadcasters and legislators suggested that nonprofit broadcasters could buy time from a commercial station for programming, Crowell argued against that idea because of three concerns. First, it was too expensive for many educational or religious institutions to buy time on commercial stations. Second, the hours desired were also preferred by the commercial stations. Finally, he reasoned that the flow of programming on a commercial station would be disrupted by dropping a religious program into the commercial format. In addition, the religious programming flow would also be disrupted.35

To solve the problems, he asked for a small number of “wave channels” to be used jointly by educational and religious stations. He wanted the channels to “be suitably located, not at the remote end of the present band but where they would be of service to the average listener with their present receiving sets.”36 He suggested the congestion on the airwaves might be eased since most educational and religious organizations didn’t need a large number of hours on air.37

Crowell may have been the first person to suggest in a public hearing before the FRC that set-aside channels were needed for religious broadcasting, and he may have been the first to suggest that set-aside channels were needed for educational broadcasting, as well. He was the first person before a regulatory agency to suggest that religious programming can also be educational in nature.

The Institute’s educational interests were again mentioned in a document dated April 7, 1927, in which Crowell provided further information requested by the FRC. In addition to

restating some of the testimony offered before the Commission, Crowell mentioned the WMBI “Radio School of the Bible” as being the first radio course offered by a religious organization that awarded a certificate to those completing the requirements of the course. The credits earned in this class were accepted at MBI if students wished to enroll and continue their studies. Crowell went on to argue that

Of all religious educational, church, and religious broadcasting stations, the Moody Bible Institute is probably the best qualified to put on the air a balanced spiritual program. The Institute is the world’s largest Bible training school with a student body of 2,190 in its Day and Evening Schools, and a Correspondence school of 9,655. The Institute considered its Correspondence programs to be one of its most important outreach programs.

Like many other stations, commercial and noncommercial, WMBI was shifted over several frequencies during the next few years, being forced to share time with other stations, as was common at the time. During this era of spectral confusion, the FRC considered a case that led to the “Great Lakes Statement.”

WMBI was indirectly involved in the Great Lakes comparative hearings as a station that was sharing time with one of the stations involved in the Great Lakes dispute. Moody was an indirect player in the decision since WMBI shared time with station WCBD, owned by the

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38 The “Radio School of the Bible” was broadcast by the MBI for seventy-seven years before being removed from the air in 2002. An MBI official cited the relaxed FCC requirements for educational content of programming and cost (in man hours) as being reasons for the program’s demise.


Reverend Wilbur Glenn Voliva, a dour, puritanical, “flat-earther.” The beliefs espoused by Voliva on WCBD directly influenced the FRC’s decision to label some stations as “propaganda” stations and to issue the “Great Lakes Statement.” The FRC reduced the air time allocated to WCBD arguing that stations should serve the general public and not a narrow sectarian audience.

The conclusion is unavoidable that this station [WCBD] in emphasis is operated for the purpose of propagating the creed of its owner… The members of the faith and of the persons interested in it are extremely limited in number compared with those of other faiths, and it is not logical that such a sect should enjoy peculiar facilities for propagating its beliefs when there is not room in the ether for the many other sects to have their separate stations.  

In Henry Crowell’s 1929 Annual Report about WMBI, he reported that the FRC held that religious stations as propaganda stations must be content with inferior assignments in wave lengths and hours of operation. The Commission indicated that they would not grant licenses to any propaganda station if they could turn back time and start the entire process of broadcast licensing anew. Crowell noted that the attorneys for the Institute found that opinion to be quite detrimental to the Institute’s coming public hearing regarding the status of their license. The FRC used the term “propaganda” to describe WCBD programming which was religious in nature. Despite Commission comments about the existence of “high quality” religious stations, Moody Institute officials believed that their programming had also been labeled as propaganda and decided that a response was necessary.

MBI sent two attorneys, four institute officials, three character witnesses, six institute witnesses and two demonstration witnesses to the WENR-WLS-WCBD comparative hearings.

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41 Voliva taught his followers that the earth is flat. He offered $5,000 to anyone who could prove the earth was not flat.


(the Great Lakes Hearings) in June of 1929. The Institute officials included the MBI President, James M. Gray and Chair Henry Parsons Crowell. Later, several Commission members stated that the WMBI case was the most organized and best presented case ever, before the FRC.\footnote{Gene A. Getz, \textit{MBI: The Story of the Moody Bible Institute}, (Chicago: Moody P, 1969) 288-289.} One of the MBI lawyers, Frank Joseph Loesch, was later appointed by President Hoover to serve on the National Law Enforcement Commission.\footnote{Crowell, \textit{Annual Report 1929} 7.}

Gray argued during the hearings that the Moody Bible Institute was “not a church or a mission but an educational institution. Its articles of incorporation set forth its purpose ‘to educate, direct, encourage, maintain and send forth Christian workers, Bible readers, gospel singers, teachers and evangelists competent to effectually preach and teach the gospel of Jesus Christ.’”\footnote{James M. Gray, \textit{Gentlemen of the Commission}, Testimony before the FRC, June 1929, Moody Bible Institute Archive 1.} Several times in the course of the presentations, the MBI representatives stated that MBI was an educational institution. Gray also pointed out that MBI was not a denominational school, but was interdenominational and included all sects that could be described as evangelical. He claimed that Moody’s students represented sixty different denominations and the Institute presented a list and a photo of sixty students to show a representative of each different

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\item[45] Crowell, \textit{Annual Report 1929} 7.
\item[46] James M. Gray, \textit{Gentlemen of the Commission}, Testimony before the FRC, June 1929, Moody Bible Institute Archive 1.
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denomination. At that time twenty-three hundred students were enrolled at the MBI campus in Chicago where they attended school tuition free. Eleven thousand students were enrolled in the MBI Correspondence School at the cost of one dollar for each correspondence course. President Gray indicated that the radio station was reaching thousands more though it was a relatively new service of the Institute. The radio station broadcast the performances of six different orchestras, twenty-five glee clubs, and a number of quartets, sextets, octets, fifty different church choirs, all in addition to the talent at the Institute.

President Gray told the Commissioners that Moody’s assets included cash in excess of five million dollars with no mortgages or debts outstanding. His purpose was to show that MBI was a responsible business corporation conducted on established business principles. He argued that the mission of MBI was not about propaganda: “As we have nothing to sell, so we have no fads or theories to promote, whether political, social or religious.” In addition, Gray stated that the Institute was not interested in “pacifistic propaganda” as were other educational institutions and religious organizations. The rest of the MBI argument pointed out the history of educational institutions like Harvard as being organizations that were founded on religious principles.

The President’s testimony opened with a discussion of Dwight Moody’s work as a

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47 “But while the Moody Bible Institute is an educational institution, at the same time it is not in any sense a denominational school, but interdenominational. That is to say, it is not representative of or supported by any particular sect, but includes in its constituency practically all the sects or denominations known as evangelical Baptist, Congregational, Episcopal, Friends, Lutheran, Mennonite, Methodist, Presbyterian, Reformed, Salvation Army, United Brethren, United Presbyterian, and several more. Indeed, a recent census of our student body revealed as many as 60 different denominations represented therein, and all dwelling together in the utmost harmony. See James M. Gray, Gentlemen of the Commission, Testimony before the FRC, June 1929, Moody Bible Institute Archive 1-2b.

48 Gray Gentlemen of the Commission 2b.
successful Christian educator. Gray mentioned Moody’s work as a founder of the Mount Hermon School for Boys and the Northfield Seminary for Girls in Massachusetts as well as his work to found the Moody Bible Institute of Chicago. The goal of public service was emphasized, noting that the tuition for the Day and Evening Schools was free, in addition to the instruction given at no charge, over the radio.

Gray argued that America was founded on Christian principles and the Institute needed a radio station to help in the fight to preserve America from the “infidels” (those who had no faith.)

Gentlemen, we give all honor to our legislators, our courts, our juries, our prosecuting attorneys, our vigilant and heroic police, but the work which the Moody Bible Institute is doing on the land and over the air is that ‘ounce of prevention which is worth a pound of cure.’ The United States simply cannot afford to limit the opportunity of the Moody Bible Institute over the air during the evening hours when men as well as women, may be reached by its ministrations. Circumscribe the evangel in this land, gentlemen, lessen confidence or fail to strengthen confidence in the Bible, democratize the Almighty, lower the Son of God to the level of other men, rob Calvary of its meaning, leave the seal unbroken upon His tomb, and you have driven light and hope from the hearts of men. You have made life not worth living. You have undermined all authority. You have increased lawlessness. You have made government a derision. You have sunk the land into pagan darkness, and to quote ex-President Coolidge again, you will ‘have turned all our material prosperity, overwhelming though it may appear, into a barren scepter in our grasp.’ These are the reasons, some of them at least, over and above everything of a sordid or a selfish kind, on the ground of which the Moody Bible Institute of Chicago makes its plea to you today.49

The Commission did not grant the Moody Bible Institute its own frequency (which Institute officials continued to seek) but allowed the Institute to continue sharing time with WCDB. Each time the Moody administration came before the FRC or the FCC, they argued that the Moody Bible Institute was an educational institution. Members of the FRC were favorably impressed with the Moody approach and the Moody presentation. Ultimately, after the dust of this battled settled, though Moody lost its attempt to gain one day a week to broadcast on

WENR’s frequency at 870 kilocycles, the Commission had a positive impression of Moody’s broadcast service, which appears to have aided their plan to gain their own frequency in the future.\(^{50}\)

In the Great Lakes Broadcasting Company dispute, several stations were interested in the 870 kilocycles frequency that had been assigned to WENR. WMBI was indirectly advised by FRC “Commissioners Pickard, Sykes, and Robinson and Attorney Caldwell to apply for a hearing asking for one-seventh time on 870 kilocycles.”\(^{51}\) At the same time, WCBD was also instructed to apply for one-seventh time on the same frequency. The two-sevenths time would be taken from WENR, but the three Commissioners suggested that WENR could be moved to another frequency, “possibly 1480 kilocycles.”\(^{52}\) After receiving this message, Crowell left for Washington the next day and made application along with the director of WCBD, Mr. DePew, to Commissioner Pickard for each station to receive one-seventh time on 870 kilocycles. Radio station WLS made application for the remaining five-sevenths time left on that frequency. The three stations’ management teams felt they could share the frequency and “probably hold this channel against all other assaults.”\(^{53}\)

In September of 1929, the FRC heard the case of KWSC of Pullman, Washington, in which they applied for “full time” on 1100 kilocycles, a clear channel, with 5000 watts of power. The case is of interest because Senator Dill, co-author of the 1927 Radio Act, appeared at the hearing and spoke “in behalf of the people of his state.” Coleman Crowell noted, in his annual report to the board of trustees at MBI, Dill’s comment that “Congress had intended for the Radio

\(^{50}\) Crowell, *Annual Report 1929* 11.  
Commission to make special provision to college and educational stations.” The inclusion of this comment in Crowell’s report underscored MBI’s continued belief that it was an educational institution operating an educational station and its support for educational broadcasting. At the end of 1930, Crowell included statistics from the FRC based on an analysis of the 600 broadcasting stations for Congress, showing that there were 62 educational broadcasting stations, 45 religious institutions with broadcast stations, 48 newspapers with broadcast stations, and the rest distributed among 45 classes of business. At this time, stations were still receiving license renewals that rarely exceeded three months, including WMBI. By February of 1930, the Commission moved twenty-eight broadcast stations to new frequencies, including WMBI, in order to eliminate interference on adjacent channels. WMBI agreed to be moved along with WBT to 1040 kilocycles from 1080 kilocycles.

A telegram from the FRC dated April 14, 1930, announced that the Commission had denied WMBI’s application for one seventh time of 870 kilocycles. It is of interest that Crowell explained that “[t]here was no reason given by the Commission other than the usual formal one, that ‘the granting of the application would not be in the public interest, convenience and necessity.’” As will be shown, a 1977 FCC decision broke this pattern of precedence avoidance by the FRC and FCC. Both Commissions found it convenient and perhaps easier to hide behind decisions that left out the reasons for the decision thereby avoiding setting a precedent for a future decision.

Henry Crowell’s 1931 Annual Report to the WMBI Trustees sounded a pessimistic note as he shared his concerns that the MBI relationship with the federal government was growing

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“darker and darker.” The FRC used a quota system\textsuperscript{56} to allocate frequencies and Crowell was concerned that WMBI would be further limited if the FRC decided to hold Illinois to its quota. Crowell was apprehensive that FRC quota figures based on the 1930 census would potentially harm WMBI because the state of Illinois was the most over-quota state in the nation with too many radio stations. Also, WMBI was still troubled by interference problems with stations in Cleveland and St. Louis. The MBI station was still sharing time with WCBD, of Zion, Illinois during the daylight hours with 5,000 watts of power.

Crowell sounded a positive note explaining that while 53 educational stations had been deleted or taken over by commercial interests since February of 1927 WMBI was still on the air. He added that the “mortality has been even more severe among religious broadcasters.” “We feel that WMBI is rapidly becoming one of the outstanding Christian broadcasting stations of the middle west and is looked upon by many thousands of listeners as a real leader in this field.”\textsuperscript{57}

In his report, Crowell noted that Commission had announced that the next WMBI license beginning on August 1, 1931, would be for a period of six months. “These are the first six month licenses to be issued since the Commission was created in 1927.” These comments show some of the difficulties most broadcasters faced in trying to deal with the rapidly changing regulatory situation which contributed to the loss of many educational and religious broadcasters by 1931.

\textsuperscript{56} In 1928, Congress added the Davis Amendment to the 1927 Radio Act in order to divide the United States into five zones with equal numbers of stations, equal amounts of power and air time to be assigned to zone. Christopher H. Sterling and John M. Kittross, \textit{Stay Tuned: A Concise History of American Broadcasting}, 2\textsuperscript{nd} ed. (Belmont, California: Wadsworth, 1990) 128-129.

\textsuperscript{57} Crowell, \textit{Annual Report 1931} 2.
In his report for the year ending in April 1932, Crowell sounded as pessimistic as the year before, noting that “the overcrowding of stations on the air continues.” He explained that court decisions may have limited the Commission’s power to make drastic decisions but that the over-quota problems in the Chicago area continued, a dangerous situation which could lead to attempts to withdraw radio facilities in order to meet the quota. Crowell explained that stations such as WOAX were denied applications for expansion of service because the FRC examiners concluded that the station programming was designed to spread the “doctrines and teachings” of an organization called the “Defenders of Truth Society, Inc.” The examiner found the service was not a public service “and the granting of the application would result in the devotion of public facilities to a private use.”

The same examiner found that station KEWF of St. Louis was “being used primarily for the dissemination of the views of certain religious teachers” and he recommended that station WIL be given all of KEWF’s time, thereby taking KEWF off the air. The examiner held that allowing KEWF to use the limited facilities (meaning frequencies) available for private use was “contrary to sound application of the standard of public interest, convenience or necessity.”

In December, FRC examiners deleted station WOQ of Kansas City, Missouri, owned by The Unity School of Christianity. Its license was challenged successfully by KFH, in Wichita, Kansas. Among other stations losing their licenses, Crowell described WPCC of the North Shore Church of Chicago as having been lost in the quota battle, even though examiners originally recommended that the Church be allowed to keep its station. Crowell also discussed

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59 Crowell, Annual Report, 1932, 4-8.
the FRC decision denying renewal of the license for KGEF, owned by Trinity Methodist Church of Los Angeles.

KGEF was operated by the Rev. Robert “Fighting Bob” Shuler and Crowell mentioned that the case was unique because it was a “free speech” case. Shuler appealed the FRC’s decision to delete his license to the Court of Appeals but later lost. Though the Commission stated in this case that they did not tell a station what it should or should not broadcast, the Commission said it had to take into consideration past performance when evaluating a station for license renewal. Shuler contended that the Commission had no right to censor any of his comments that he made over the radio.60

Crowell and officials at MBI were concerned regarding the Shuler decision. The FRC found that Los Angeles and the surrounding area were already being served by eighteen radio stations; that KGEF was owned by Shuler though it was licensed in the name of Trinity Methodist Church, South; despite KGEF being a religious station, some of the station broadcasts were undesirable to several other religious organizations; that KGEF was serving to provoke religious strife; that Shuler’s broadcasts were sensational in nature rather than instructional or entertaining; that Shuler made bitter attacks on public officials without determining if they were true; that removing KGEF would make it possible for a more equitable distribution of radio facilities; and that the public interest would not be served by granting the renewal application of KGEF.61 MBI responded to the plight of other religious broadcasters like Shuler by continuing its stance of avoiding conflict or controversy through cooperation with the FRC and careful monitoring of its own radio programming.

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60 Crowell, Annual Report 1932, 4-8.

Crowell’s 1932 report continued with an extensive listing of all stations in the country. He and the MBI administration were carefully watching FRC actions in regard to all broadcast facilities, and in particular how the FRC handled religious and educational radio stations. He noted that “the Institute had considered the feasibility of appealing to its listeners and general mailing lists regarding a flood of letters and telegrams to be sent in to the commission on behalf of our station.” However, the station’s attorney in Washington, Mr. Guider, discouraged the plan. Instead, Crowell went to Washington to meet with Mr. Guider and members of the Commission. Crowell was assured by FRC Commissioners Saltzman, Starbuck, LaFount, and Sykes that they believed WMBI “was operating in the public interest and we had nothing to fear as long as we were not directly attacked by a broadcasting station in an under quota state.”

Crowell then explained that the Commissioners said it would be very difficult for them to protect WMBI in such a circumstance as long as the state of Illinois was over quota. This issue caused much concern for Crowell and the administration of MBI. In addition, he mentioned the Fess Bill with its plan to set aside fifteen percent of the broadcasting channels for education, though he noted that it was unlikely to pass during the “present session” of the 71st Congress.

In the report prepared for 1933, Crowell cited FRC records explaining “that there were only 39 stations licensed to educational institutions, of which twelve were known to be selling time. In 1927, when the Commission [FRC] was created, there were 95 such stations.” He also listed 21 religious stations that were on the air, with six that “sell time.” Citing a report from the Federal Office of Education he noted that educational broadcasting stations were not

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63 See Chapter 3, supra.

64 Crowell, Annual Report 1932 8-10.

65 Crowell, Annual Report 1933 1.
doing well financially. That report listed only forty six stations still on the air that were “owned and operated by schools, colleges, universities, municipal, state and federal agencies, and other organizations of an educational nature.”\textsuperscript{66} Crowell explained that this number represented only 7.6 percent of the total number of stations currently on the air and that many of them were “selling time commercially” in order to meet the operating costs.\textsuperscript{67} In contrast, in 1925, there were 125 educational and civic stations. He concluded the “Legal Story” section of the report with the note that during his interview in Washington with Commissioners LaFount, Sykes, Brown and Hanley, they were quite “cordial” and “expressed the wish that WMBI might continue to broadcast its program of Christian education for many years to come.”\textsuperscript{68}

In the 1934 report, Crowell began with a discussion of the continuing decline in educational stations. Citing a report by the National Committee on Education by Radio, he mentioned a group of stations that sold time commercially including WRUF at the University of Florida. He also stated that “it will be noticed that WMBI is not listed by the Committee as an educational radio station.” From this comment, it is clear that he is very interested in the public perceptions about WMBI and MBI regarding their educational status. Crowell also discussed an FRC allocation of three frequencies in the band 1500 to 1600 kilocycles for assignment to experimental broadcasting stations. Though educational institutions were encouraged to apply for these frequencies, Crowell noted than only five experimental, not educational, stations had applied. Finally, he observed that several bills had been introduced to Congress, including the Wagner-Hatfield Amendment that would protect educational, religious, agricultural, labor, and

\textsuperscript{66} The difference between the FRC and USOE statistics may reflect different methods of categorization and/or different time periods.

\textsuperscript{67} Crowell, \textit{Annual Report 1933} 2.

\textsuperscript{68} Crowell, \textit{Annual Report 1934} 1-2.
similar nonprofit associations. While he thought the Wagner-Hatfield Amendment had a chance of becoming law, he questioned how the FRC would handle the “inevitable law suits which would be brought about by broadcasting stations that have long time contracts in operation.”

In February of 1935, the FCC sent a staff member to make a site visit at the Institute. This staffer told the administrators that WMBI was highly regarded by members of the new FCC, “and that they had appreciated the care that had been exercised from the beginning in making financial appeals.” WMBI also had very few complaints registered in their file at the FCC about programming at the Institute. The news marked a turning point for MBI and from that point on Institute officials worried less about losing their license and turned to plans for future expansion of the broadcasting service.

On June 24, 1938, the Moody Bible Institute was the first religious applicant to request a construction permit for a new noncommercial educational radio station. The application was for a station using amplitude modulation on the frequency of 41,300 kc with a power of 100 watts, unlimited time (B4-PED-6). The Institute was interested in the new category of licensing because they continued to seek a license that would allow the station to broadcast around the clock. The Commission designated the application for a hearing because it was not able to determine if the proposed station would serve the public interest, convenience and necessity. The hearings before an examiner were held on November 4, 1938.

In the hearings the examiners were Melvin H. Dalberg and James L. McDowell, while Louis G. Caldwell, Reed T. Rollo and Percy H. Russell, Jr. represented the Moody Bible

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71 Getz 291.
Institute. The witnesses included William H. Houghton, president of MBI; Henry C. Crowell, director of the radio station and assistant to the president; Wendell Loveless, music director of WMBI; Glen B. Gillette, engineer; and Martin V. Kiebert, Jr.

Unlike earlier hearings before the FRC and FCC, the hearings for a new NCE license (Docket No. 5321) for MBI were much colder, more formal, and confrontational on the part of the FCC examiners. The Commission asked very specific and detailed questions to determine exactly how the radio station finances were handled; how the board of the radio station and the board of the institution functioned; and how the Institute balanced percentages of educational programs versus religious programs. The most important questions for the Institute covered specific details about the MBI campus. The examiners challenged the expertise of the Moody witnesses repeatedly, including H.C. Crowell’s ability to answer financial and engineering questions about the station in spite of his position as director of WMBI (since its founding) and his Yale University engineering degree.

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Q. Dr. Houghton, the Moody Bible Institute is located wholly in Chicago, is it not?
A. Yes, it is.
Q. Has no branches?
A. No branches.
Q. Or schools elsewhere?
A. No.
Q. In other words, it might be said generally that the entire school is located in the Administration Building in Chicago?
A. Yes, that is the center of it.

The examiner closely questioned each witness as to the primary purpose of the Moody Bible Institute in making application for an NCE license. President Houghton repeated the Institute’s contention that it was an educational entity seeking to provide educational broadcasting.

We feel that being an educational institution, we have a mission to perform which we could perform perhaps in larger measure by use of this new station. We teach so many subjects of general interest as well as those which are biblical. Cultural subjects that we feel that while we are teaching successfully in some measure now over WMBI, such a wave-length as this, if we had the license by the grace of the commission, to broadcast, we could broadcast in hours when WMBI is not on the air. There is a great deal of discussion in these days of adult education. We could have some part in that by conducting evening classes.  

President Houghton was asked to explain what he meant by adult education and whether Moody sought to make a profit on their classes. Several witnesses stated that Moody students on campus were not charged tuition and that their room and board costs covered expenses without generating a profit for the Institute. Many of the questions were designed to determine if Moody made a profit on any of its activities including live remote broadcasts from Soldier’s Field in Chicago. Moody had undertaken Easter Sunrise Services at Soldier’s Field for “several years” in which audiences of forty to fifty thousand attended at no charge. The FCC rule (Rule 1058) at the time of the filing of the application stated that

[A] noncommercial education broadcast station would be licensed only to an organized non-profit educational agency, and upon a showing that the station would be used for the advancement of the agency’s educational program. As of April 17, 1939, the FCC instituted a new rule, 45.02, which superseded the former

74 FCC Official Report 4
rule, Rule 1058. The decision not to grant the license to MBI was based on Rule 45.02, in force after the MBI application. Under the new rule, an NCE station would be used to advance an educational program of the agency owning the station “particularly with regard to use in an educational system consisting of several units.” On June 21, 1939, the FCC held that the granting of the MBI application would not serve the public interest, convenience and necessity.76

When the application was denied by the FCC on November 2, 1939, the Institute staff was not surprised.77 Crowell wrote, “[A]pparently the application of the Institute did not fall into the classification of a school system, such as a board of education of a large city, which seemed to be in the thinking of the Commission when this class of station was appointed.” He also noted that only two stations in the new NCE class had been authorized by the FCC at that time. The first was given to the Board of Education for the City of Cleveland and the second license went to the Board of Education for the City of New York.78

In making the determination that MBI should not be granted a new NCE station, the FCC consulted with the Office of Education regarding the Institute NCE application. A transcript of

76 “Noncommercial Educational Broadcast Stations, formerly lumped in with High-Frequency Broadcast Stations, were made a separate category in the new rules with the same 25 channels allocated for this service. A revised definition specifies that such stations will be licensed only to a recognized non-profit educational agency and upon a showing that the station will be used for the advancement of the agency’s educational program, particularly in regard to use in an educational system consisting of several units. It also specified that such stations shall not get the programs of other classes of broadcast stations unless all commercial announcements and commercial references in the continuity are eliminated.” See Annual Report of Broadcasting Station of The Moody Bible Institute of Chicago for year ending April 30 – 1940, 7. Moody Bible Institute Archives.


78 Annual Report of WMBI--Technical Division of The Moody Bible Institute of Chicago, March 31, 1940 Moody Bible Institute Archives 7.
the 1938 Moody NCE application hearings before the FCC were sent to the Office of Education in the U.S. Department of the Interior where Commissioner John Ward Studebaker, his assistant C.F. Klinefelter, and Harry A. Jager made a recommendation to the commission, based on the transcript of the hearings. They were “in unanimous agreement” that the Commission “should not grant licenses to educational agencies that do not have a system of specific schools in their organization.” They specified that the Moody Bible Institute application for an NCE license should be denied.⁷⁹ It appears that they intended for the licenses to go to public boards of education and that they worked with the FCC to find a way to deny the license to the Moody Institute.

**WDLM FM**

After the NCE license application was rejected, Crowell and the new president of MBI, Will Houghton, went to the FCC to consult with Commission members. They were successful in gaining the support of the Commission, and the institute filed a second application for an FM license in the commercial band. The application was granted on March 4, 1941 for an FM station with the frequency of 47.5 megacycles to be located in Addison, Illinois. Using the call sign W75C, the FCC ultimately granted a construction permit for a 50,000-watt station. Because of WWII, the plans to build the station had to be delayed with the station signing on to broadcast on October 1, 1943. The Institute knew that it would be difficult to obtain at 50,000 watt transmitter during wartime. As a contingency, the Institute ordered a 1000 watt Western Electric transmitter and co-axial antenna. The FCC granted permission to operate the new station at

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⁷⁹ C.F. Klinefelter, Letter to Mr. A.D. Ring, General Records of the Federal Communications Commission, 5 December 1938, File 89-6, Record Group 173, National Archives II, College Park, Maryland.
reduced power on a temporary basis. The new FM station adopted the call sign WDLM and simulcast much of the programming on the WMBI AM channel. It continued operation until December 18, 1952, when the station ceased operations. Since FM broadcasting was slow to be adopted by the public, few people could receive the WDLM signal, and institute officials decided to end the FM operation.

**Cases Before the FCC**

Crowell continued his monitoring of legal and policy issues that could have an effect on WMBI. In particular, he closely watched two different religious cases pending before the FCC. First, in December of 1938 the FCC commissioners heard arguments regarding newspaper ownership and religious ownership of stations in the KSD-KFUO case. The case was of interest to religious broadcasters because the question of propaganda and religious broadcasting was again being discussed before the FCC. According to Crowell, KSD representatives argued that:

> The conflict was between a non-profit religious organization seeking to convert its listeners by extensive missionary work and propaganda, and a commercial station equipped and staffed to perform “a real public service.” “Public preference,” is the only safe guide to public interest, unless our government is to be given over to propaganda. More than 74% of KFUO’s programs are “religious denominational propaganda.”

KSD expressed concern that granting the KFUO application would encourage hundreds of other religious, political, and economic groups to apply for stations leading to “a welter of discordant voices, each pleading for its special cause. The whole trend of democratic government is against

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80 Henry Crowell reported: “At the close of our fiscal year, the Institute has about given up hope of obtaining delivery of our 50,000 watt FM transmitter, or of our permanent General Electric frequency modulation antenna, due to war conditions.” See Crowell, Annual Report, 1942 4.

81 Getz 294-295.

special interests getting special privileges.”

The second case involved an application for a standard (commercial) broadcast station by the “Young People’s Association for the Propagation of the Gospel” in Philadelphia. They requested 1220 kc with 1000 watts of power and daytime operation. The application was denied, reported Crowell, because the proposed station would not be available to all religious groups equally since the founding organization wished to restrict access to groups that held similar beliefs and values. The application was denied on September 6, 1938 because of concerns that the station would be used primarily for one purpose and to promote the principles of one group. Due to spectrum scarcity, the Commission had concerns that there were not enough frequencies available to give each group a license. The Commission stated “that the interests of the listening public are paramount to the interest of the individual applicant in determining whether the public interest would best be served by granting an application.”

Crowell wanted the directors of the Moody Bible Institute to be aware that this principle had been upheld by the courts in several cases including a case involving the Chicago Federation of Labor. Crowell concluded:

We are afraid that this decision may have rather far-reaching influence with the FCC by setting a precedent which in turn can be applied to other religious–educational stations such as WMBI.

Crowell’s report continued with a discussion of the National Association of Broadcaster’s proposed self-regulation of commercial broadcasting as set forth on June 10, 1939, by the NAB Code Committee. Of particular concern was the code’s discussion of issues relating to religious broadcasting, including the eventual outlawing of all paid religious or evangelical programs,

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elimination of paid sponsorship of controversial issue broadcasts, the banning of hard liquor
advertising, and isolation of editorial commentators in programs other than those of a strictly
commentary nature. He included the specific NAB comments related to religious broadcasting:

    Radio, which reaches men of all creeds and races simultaneously, may not be
used to convey attacks upon another’s race or religion. Rather it should be the
purpose of the religious broadcast to promote the spiritual harmony and
understanding of mankind and to administer broadly to the varied religious needs
of the community.86

By the time the new code was put into place by a favorable vote at the NAB convention
on October 1, 1939, most of the religious broadcasting material was omitted, to the relief of the
administration at MBI. Crowell observed that reactions among broadcasters ran the gamut, from
being excellent to being unfair and a monopoly. Crowell noted without comment that Dr.
Samuel M. Calvert, general secretary of the Federal Council of Churches in America, had “high
praise” for the code in an address broadcast on the NBC-Blue Network on November 10.
Calvert was pleased that radio had “been able to provide for a religious interpretation of life that
is spiritually unifying rather than divisive.”87 The NAB hoped to address the controversy created
by the broadcasts of the notorious Father Charles Coughlin, Gerald Winrod, Gerald L.K. Smith,
Reverend “Fighting Bob” Shuler, and others.

On June 4, 1936, the Davis Amendment88 was repealed by the passage of the Wheeler

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86 Annual Report of WMBI--Technical Division of The Moody Bible Institute of Chicago,
March 31, 1940  Moody Bible Institute Archives 8.


88 The Davis Amendment (Public Law 195, 70th Congress) was signed into law on March 28,
1928. “This amendment directed the FRC to provide ‘equality of radio broadcasting service,
both of transmission and of reception’ to each of the five zones established by Section 2 of the
[1927] Radio Act. The amendment was an administrative nightmare for a new commission
plagued with the problems of an overcrowded broadcast spectrum.” See Frank J. Kahn, ed.,
1984) 57.
Bill and the quota policy that had been in place since 1928 ended. The Moody administration feared losing their license since Chicago was in the zone that was most over its quota of radio stations. The demise of quotas did not immediately alter WMBI’s status since the station still shared time with WCBD, (which was under new ownership), and WBT on 1080 kc. When WCBD was allowed to move to 820 kc (and to change its call letters to WAIT), the Institute filed for full limited-time operation in Chicago. The FCC granted that request on June 29, 1941, and the station began the new schedule on July 6. The institute had to create new programs and hire new technical staff in order to meet the needs of the expanded broadcast schedule.

On March 29, 1941, WMBI moved to an operating frequency of 1110 kc. The move was caused by the adoption of the Havana Treaty, causing most stations in the United States to shift to new frequencies. WMBI shared time with WCBD until the station became WAIT and moved to its new frequency. The FCC granted WMBI’s request for “full limited time” on 1110 kc. WMBI began the new broadcasting schedule on Sunday, July 6, 1941. WBT in Charlotte, North Carolina and KFAB in Lincoln, Nebraska, became the dominant stations on the 1110 kc frequency.

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89 WBT was located in Charlotte, North Carolina.

90 Getz 292-293.

91 “The Havana Treaty, known as the North American Regional Broadcast Agreement, was originally adopted in Havana on December 17, 1937, by representatives of Canada, Cuba, the Dominican Republic, Haiti, Mexico and the United States. The major purpose of the treaty was to avoid international interference in broadcasting. See Getz MBI 293.

92 “full limited time” allowed WMBI to broadcast between sunrise and sunset. During the summer, the Institute broadcast up to 14 ½ hours per day. The increased schedule required a larger technical and programming staff. See Crowell, Annual Report, 1942.


In 1957, a group of Cleveland businessmen asked the institute if it would consider applying for a license to operate a radio station in Cleveland. The institute was interested if local funding could support the new operation. The businessmen developed a plan to support the broadcast operation and Moody applied for the new construction permit which was granted by the FCC in 1958. WCRF FM began broadcast operations in the commercial FM band on November 23, 1958 at 103.3 megacycles at 21,500 watts.

As FM broadcasting began to grow in popularity in the late 1950s, the institute administration recognized that it needed to act before the FM band was filled in the Chicago area. On October 15, 1958, the MBI Trustees applied to the FCC for a noncommercial educational FM station on channel 211, 90.1 megacycles. In 1960, the Moody Bible College finally received an NCE license from the FCC to operate WMBI FM in Chicago, Illinois. Since there were no other educational applicants interested in the frequency at that time, the FCC granted the construction permit on March 31, 1960. The Institute began constructing the station immediately, and the first broadcast occurred on July 25 with an effective radiated power (ERP) of 47,000 watts. At the time, it was the fourth strongest FM signal in Chicago. On July 28, 1965, the ERP was increased to 100,000 watts.95

The old call sign for WDLM was used for a new AM station located in East Moline, Illinois at 960 kc in the AM band. The FCC approved a construction permit in December of 1958 for the new station which began operations on April 3, 1960. The call sign was based on the initials of MBI founder, Dwight Lyman Moody. The establishment of a third MBI radio station laid the foundation for the Moody Radio Network.96

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95 Getz 295-6.
96 Getz 296.
The roots of the development of broadcasting at MBI can be seen as an extension of Dwight Lyman Moody’s and Henry Parsons Crowell’s interest in promotion, advertising, and marketing. They both reached for the newest innovations in communications to connect with their audiences and to spread their message. Though Moody was not interested in higher education in the traditional secular sense, he was always seeking to share information and to educate people about the message that he felt was most important. Thus, a type of education did lie at the roots of the founding of the Moody Bible Institute.
CHAPTER 7
MOODY BIBLE INSTITUTE CASE OF 1977

The Moody Bible Institute (MBI) case of 1977 is the most influential Federal Communications Commission (FCC) decision regarding religious applicants for noncommercial educational (NCE) FM radio licenses because it established that religious applicants were held to a different standard than were their secular counterparts and it changed long standing FCC NCE policy by establishing a precedent. The decision’s roots reveal a philosophical split within the FCC regarding religion and education that placed FCC staff members on one side of the issue and the Commissioners and their staff on the other. The FCC was split by religious cultural differences that can be discerned in American society throughout its history. The issue is further confused by words like “education” and “educational.” The FCC did not clearly define what was meant by the terms applied to NCE broadcasting, creating a vague definition of “education” that was as murky and unclear as the term “the public interest.”

The 1977 Moody Bible Institute decision is a fascinating example of the “culture war” that exists between the right and the left in American society. In this case, the battle was over two

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1 FCC Commissioners are appointed by the President of the United States. The FCC Chair holds the greatest power representing the interests of the administration and setting the commission’s agenda. Each commissioner has a staff that reflects the commissioner’s political agenda. The civil service staff members at the FCC are tenured and hold positions that are not dependent who the commissioners are. Since their term of service tends to be longer than that of the commissioners and their staff and is not connected to political appointment, their interests may run counter to those of the commissioners. Some bureau chiefs and other important staffers may ally themselves with the interests of industry while others may ally themselves with the interests of the current chair or commission majority. In 1977 at the time of the MBI decision, the chair, Richard Wiley and his six colleagues had all been appointed by President Nixon or President Ford. In contrast, a few key civil servants at the FCC had roots that extended back to the early 1960s. Barry Cole and Mal Oettinger, Reluctant Regulators: The FCC and the Broadcast Audience (Reading, Massachusetts: Addison-Wesley, 1978) 15.

FM radio frequencies in the NCE FM band, a narrow range of frequencies set aside by the FCC in 1945 for noncommercial educational radio broadcasting. Though the battleground is relatively small—the 20-channel NCE band, 87.9 to 91.9—the conflict at the heart of the 1977 MBI case presents an opportunity to examine how the uniquely American struggle with religion plays out in the regulation of radio broadcasting.

The 1977 decision was a hotly contested struggle that echoed the clash over religious broadcasting in the late 1920s “Great Lakes” decision, a landmark case (that involved MBI indirectly) at the Federal Radio Commission. The conflict underscores the continued long term existence of simmering cultural tensions that are relatively unchanged since their public eruption in the Scopes Trial in 1925. The outcome of the MBI case highlights the advances made by the religious right in the decades after the Scopes Trial and the subsequent shift in public attitudes toward religion in American political and cultural life. The continued presence of the Moody Bible Institute as the only religious, educational broadcaster arguing before the FRC and the FCC for its rights as an educational broadcaster and as a religious broadcaster from the mid 1920s until the decision in 1977 (and to the present) underscores the importance of MBI’s role in changing FCC policy.

In all FCC decisions there are at least two versions of the story. There is the official version as published by the FCC; and there is the unofficial, background story that can reveal how the decision, the official story, was made. In the MBI case of 1977, the rift between religion and education was expressed in a contentious series of confrontations between the two most

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vocal actors in the argument, Stephen A. Sharp and Martin Levy. Their personal battle played out in verbal altercations in meetings and in Machiavellian behind-the-scenes power plays. Though the rest of the players chose to sit on the sidelines, their behind-the-scenes support can be discerned in the official record and in their comments and actions after the case was decided.

In 1977, the Institute was again before the FCC requesting two noncommercial educational licenses and defending its position that it was an educational institution and deserving of the opportunity to have a noncommercial educational radio station. Ultimately, the Commission decided to grant the applications for two licenses in the NCE FM band but not before a bitter fight exposed the different viewpoints that existed at the FCC, differences that led to verbal confrontations and behind-the-scenes maneuvers that were designed to either establish this decision as a precedential decision complete with extensive legal explanations or as a simple decision that once again would not settle the issue of granting NCE licenses to religious organizations. The precedential power of the case ultimately rested on a power struggle between two men at the FCC—Stephen A. Sharp and Martin Levy.

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5 At the time of the MBI case, the FCC evaluated a religious organization that operated a school when it applied to be licensed as an educational organization using the following factors:

1. Whether the school was accredited by the state or other secular accrediting organization.

2. Whether the credits are transferable to state operated or licensed schools.

3. The size and composition of the faculty.

4. The qualifications required for admission and graduation.

5. The type and nature of courses offered.

6. The stated purpose of the school.
The MBI case first came to Stephen Sharp’s attention when he served as senior legal advisor to Commissioner Margita E. White. The Mass Media Bureau recommended denial of Moody’s two applications for NCE FM licenses in East Moline, Illinois, and Boynton Beach, Florida. As Sharp read the case, he came to the conclusion that the decision as proposed by the Bureau was “legally unsustainable.” Sharp stated the proposed denial “struck me as fundamentally unfair and seemed to constitute an unconstitutional discrimination against Moody because it was religious. . . . I remember reacting very negatively when I learned that the Bureau was employing a double standard for applications for educational licenses. When it was brought to my attention, I began making inquiries and doing research.”

Sharp adopted Supreme Court Justice William O. Douglas’ absolutist outlook as his model for legal standards. Sharp stated, “I believe in free speech and that even the most outrageously stupid expression has the right to be spoken and heard. I do not believe in any form of censorship by the government, and don’t like it when it is done by private organizations.”

Sharp visited with staff members and legal advisers to the FCC commissioners and with some of the commissioners as part of his research, including discussions with Larry Secrest, then a legal adviser in the office of Chairman Richard Wiley. Secrest later became deputy general counsel to the FCC. The result was a consensus amongst the commissioners and their staff to

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6 The Concurring Statement attributed to FCC Commissioner Margita White was written by Stephen A. Sharp in his capacity as senior legal advisor to Commissioner White. He held that position from the time of her arrival at the FCC in the summer of 1976 until late 1978. She left the FCC in 1979. Sharp became the general counsel at the FCC in 1981 and was appointed Commissioner in 1982. His tenure at the FCC was cut short in 1983 after the counsel was reduced from seven members to five members in June of 1983.

7 Stephen A. Sharp, [stephen.a.sharp@mailbox.as], “Moody,” private e-mail message to Laura D. Johnson, [ldj1@pitt.edu], 31 May 2001.

8 Sharp.
grant the Moody applications. The next step was to schedule the case for discussion at a Commission meeting.

Sharp described Deputy Bureau Chief Martin Levy as being the “chief proponent” of the Mass Media Bureau’s view that the Moody applications should be denied. As a senior FCC staff member of long standing and an attorney, Levy was viewed as being a “formidable” opponent by Sharp because of his precise knowledge and understanding of the FCC bureaucratic process. Though Sharp did not discuss religion with Levy at any point, he believed that Levy was politically a liberal Democrat and “a staunch supporter of public broadcasting, a believer in educational radio.”

Sharp surmised that Levy might have been Jewish.

According to Sharp, Levy was strongly opposed to religious broadcasters because he viewed them as being conservative Christian fundamentalists which no doubt threatened his liberal outlook. That fundamentalists were generally regarded as being anti-Semitic could only pour gasoline on his heated attitude. The idea that the frequencies reserved for his pet project, “noncommercial educational broadcasting,” might be used to advance the cause of Christian religion (and not the brand practiced by the National Council of Churches) set him [Levy] on the road to apoplexy. He had no problem in licensing Pacifica Foundation, which aired leftist polemics and broadcast avant garde “art,” with few inhibitions, and which was not affiliated with a school as an educational broadcaster. Pacifica had no instructional programming. Yet, he saw no inconsistency in denying a religious applicant which was not affiliated with a school. In his own thought process, I think, he simply could not believe that religion and education could coexist. He perceived them as mutually exclusive.

In these statements, the split between conservative and liberal perspectives toward religion and education in America is evident. It should also be noted that Sharp is speaking for Martin Levy and revealing his own assumptions about Levy’s position. Sharp’s position may have been more rooted in his absolutist stance toward the law than in his personal religious

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9 Sharp. Bracketed material added.
10 Sharp.
11 Martin Levy could not be located for an interview.
beliefs but he reflects the position of the religious right regarding the role of religion and education in American public life. Though he was not a Christian fundamentalist, he did have self-described “amicable” relationships with Jerry Falwell, a fundamentalist, and Pat Robertson, a pentecostalist, both leaders in the Christian Right.

The case was placed on the agenda at several meetings but passed over until the meeting of June 9. Larry Secrest and Sharp both described the lengthy discussion of the MBI case as being contentious and heated with Deputy Bureau Chief Levy arguing “every possible way” to deny MBI the two licenses. Secrest described the decision as being the most contentious decision of his eight-year tenure at the FCC.12 The consensus amongst the Commissioners, generated by Sharp’s research and legwork, held up despite Levy’s attempts to persuade the Commissioners to deny MBI’s request. Sharp felt that Levy’s frustration led to public displays of animosity toward Sharp during the meeting. Perhaps Levy’s anger reflected the frustrations of a senior FCC staff member used to getting his way after three decades of experience, while Sharp was the self-described “young upstart” who had thwarted his plans. As Sharp explained, “I had the votes to grant the applications. The Commission voted to grant and directed that an order be written to do so.”13

Sharp wrote the legal opinion for his commissioner, Margita White. Sharp intended for the opinion to be the published Commission decision. The extensive explanation of the legal justification for the decision was spelled out by Sharp in the White opinion in order to give precedential value to the decision. Sharp and the Commissioners planned to settle once and for all the questions surrounding religious applicants for NCE FM radio licenses. However, at the

13 Sharp.
end of the day, the other Commissioners did not sign on to Commissioner White’s opinion. Commissioner Hooks joined Chairman Wiley in what Sharp called a “milquetoast” opinion and the remaining four commissioners chose to vote without placing their names on either opinion.  

The Commission rejected the Bureau’s item and directed that a new order be issued that granted the applications to MBI. Though Commissioner White’s legal opinion (written by Sharp) was not used as the majority opinion and could only be published as a concurring opinion, Levy was “furious” according to Sharp. Levy was unhappy that MBI had gained its two licenses and that the decision, if published as ordered by the Commissioners, would establish a precedent.

Sharp said that shortly after the June 9 meeting, he went to New Orleans to represent the FCC before the Court of Appeals. While there, he met with former FCC General Counsel Ashton Hardy, a lawyer in New Orleans who represented a number of religious broadcasters. Hardy was very interested in the Moody case since it was of interest to his clients and had relevance to a current case. During their discussion, Sharp was surprised to learn from Hardy that the Moody decision had not been issued by the FCC. Sharp called FCC staff member Beulah Hylton to determine why the decision had not yet been published. Hylton kept the minutes of the FCC meetings and processed the agenda items and orders. In their conversation, Hylton informed Sharp that Levy had told her not to assign an FCC number to the decision because “there would be no FCC opinion, and that the Bureau was going to grant the licenses to MBI as a staff action.” Sharp asked her, “Beulah, what do the minutes say?” She told him that

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14 Sharp.

15 Sharp.

16 Sharp.
the minutes stated “that the Commission had voted to issue a Commission decision.” Sharp then asked for the next available FCC number (for citation purposes) that could be assigned to the Moody decision. He told her to reserve that number for the Moody decision. Since she knew that Levy would not write the decision, Sharp told her, “I will have an order ready for printing on your desk within 24 hours of my return to Washington.” Once off the phone, he then told Hardy that he could cite to FCC 77-422.

Levy was clever; and I was lucky. He planned to grant the applications as a staff action because a staff action would not be precedent. He would outlast me and the sitting commissioners and once we were gone, he would go back to the old way. Moreover, if there were no Commission level order, the opinion I had written would have nothing to attach to. One cannot concur to an order that does not exist. 17

Levy was following the tradition at the FCC of not establishing a precedent in areas related to religious broadcasting. By not explaining the reasoning behind decisions, the staff could leave a lot of wiggle room for future applications that might be similar. They also avoided some legal challenges when applications were denied since the applicant did not know the full reasoning behind the decision. In these “controversial” applications, the staff issued terse decisions that stated the application(s) were granted or were not granted and gave little additional information.

Sharp said that when he returned to Washington, he wrote the two-paragraph order that is printed in the FCC Reports and sent Commissioner White’s concurring opinion to Beulah Hylton who had it printed and issued. He described Levy’s response.

Levy did not know about this development until the order was released to the public. His reaction was a prelude to Mount St. Helens. He called me every name I had learned in the Army and fumed in frustration that he had been beaten at his own game. Because the minutes showed clearly a direction to issue a Commission order, he did not try to argue

17 Sharp.
the point. He did, however, take every opportunity to undermine me personally thereafter.\textsuperscript{18}

The published versions of the Moody decision are not identical. Sharp recommends reading the opinion with the attachments that were dropped out of the official FCC Reports.\textsuperscript{19} The full opinion was printed by Pike & Fischer Radio Regulation, Series II\textsuperscript{20} and contains an appendix with the program schedule of the applicant. According to Sharp, the FCC staff made notes in the margin that “show how the staff rigged the count to say to say the application was not educational” by evaluating classical music programs as being religious programs and thus, not educational. Footnote four was altered, according to Sharp, by adding a final sentence “so as not to offend the staff.”\textsuperscript{21}

In the Federal Communications Commission Reports official version, there is a statement declaring that the Moody Bible Institute is “qualified” to receive an NCE license, that a grant of its applications would serve the “public interest,” and that the applications are “granted” by the FCC and issued by the FCC Secretary, Vincent J. Mullins. This statement is absent in the Pike and Fischer version.

\textsuperscript{18} Sharp.

\textsuperscript{19} 66 F.C.C.2d 162 (1977).

\textsuperscript{20} 40 RR 2d 1264 (1977).

\textsuperscript{21} Footnote 4 “The appendix to this opinion contains Moody’s proposed weekly program schedule for each station, upon which are the handwritten staff evaluations of religious content. Staff working papers summarizing the count of religious minutes are also appended. One can readily discern the morass into which we sink when the process leaves us faced with deciding whether Handel’s Messiah, Verdi’s Requiem, J.S. Bach’s St. John Passion, C.P.E. Bach’s Magnificat in D, or recording of Gregorian chants constitute ‘religious music,’ for the purpose of deciding that a station is too religious to be educational.” See description of East Moline, Sunday, 8 p.m., “Sacred Music.” \textit{Even the good faith effort of the staff to implement these Commission precedents cannot overcome the inherent defects of the system.} (italicized material added to opinion according to Sharp).
Following the official statement is the short Concurring Statement of Chairman Richard E. Wiley and Benjamin Hooks. In this statement, Wiley argued that MBI is conducting activities that are educational and that the grant of the construction permits for the NCE stations is “appropriate” and serves the “public interest.” Wiley stated that the Commission does not have a standard that clearly defines when an organization is qualified for an NCE license under 47 CFR Section 73.503. He was concerned that the FCC standards were particularly unclear when a religious applicant was compared with non-religious applicants. Wiley stated that religious organizations may have faced discrimination when they were not judged on the same basis as non-religious organizations. In looking to past cases and decisions, Wiley believed that the FCC had not judged all applicants for NCE licenses fairly in the past, holding religious applicants to a different standard. He clearly believed that the granting of two NCE licenses to MBI helped to correct past decisions and that the FCC needed to further define their policy in the area of NCE secular and religious applicants.22

The Concurring Statement of Commissioner Margita E. White (written by Sharp) is much longer than Chairman Wiley’s Statement and resembles a legal brief in that it clearly states the legal arguments behind the MBI decision. At the outset, the statement establishes the intent to alter the previous policy of the FCC regarding religious applicants for NCE licenses by citing the *Columbia Broadcasting System, Inc. v. FCC* requirement that the FCC must provide “an opinion or analysis indicating that the standard is being changed and not ignored.”23 In the second paragraph, the White statement then tackled the issue of NCE licensing explaining that in the

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23 454 F.2d 1018, 1026 (D.C. Cir. 1971).
four decades since the creation of the NCE licensing category for radio, the FCC never defined what was meant by educational broadcasting or educational organizations.

It was clear in the White statement that the FCC never addressed the overly broad definitions of the terms “education” and “educational” that developed slowly over the forty-year period through various decisions that were related to NCE licensing. Though some educators, including Office of Education Commissioner John Ward Studebaker, had concerns about the use of the terms education and educational at the creation of NCE licensing, the FCC never developed a more effective method to define NCE broadcasting. As a result, the various decisions made by the FCC regarding religious applicants for NCE licenses over the forty-year period were piecemeal, without a coherent direction, leading ultimately to an educational standard that existed only as a title. By the time of the MBI decision, the FCC accepted a very broad definition of educational programming, one that did not require accreditation for the educational applicant. 24

By 1977, “public” radio licensees were required by the FCC to be educational in name only as nonprofit corporations that stated that their programming would be educational without providing any proof of their ability to provide or to create educational programming. From 1938 to 1977, the FCC discouraged religious applicants who called by phone or who wrote requesting information about the application process by telling them that religious groups and organizations were not eligible for NCE licenses. This tactic kept untold numbers of religious groups out of the NCE application process, or they were encouraged to apply for a frequency in the

commercial band, which became increasingly difficult. This led to few licenses being awarded to religious groups and organizations.

In *Bible Moravian Church, Inc.*, the White Concurring Statement finds the central legal concern of the MBI decision. In 1971, the FCC rejected the *Bible Moravian Church* claim “that education was the quintessence of religion” by ruling that the Commission had to examine the entire application to determine the essential purpose of the organization as to its educational or religious nature. If the educational aspects were not found by the FCC to be the primary aim of the organization, then the FCC would not find that the organization was educational in nature.

The White Concurrence argued that religion and education are not mutually exclusive. Indeed, religion and education have been intertwined throughout history, both in Western and non-Western civilizations. Even in this “secular” age of technology it is preposterous to say that religious instruction is not “educational.” Many religious groups maintain a serious and wide-ranging involvement in educational matters. Even were this not so, it is not the province of government to say that religion, or theology, is unacceptable as a subject of education and instruction.26

The White Concurrence stated that when government steps in to say that religion is not involved in education or educational activities, then the government is in violation of the First Amendment27 “barring both the free exercise of religion and of the abridgement of free speech.” The government has to have “a compelling state interest” to support the “infringement of the free exercise of religion or speech.”28 A related question asked whether the Commission was censoring content and if the FCC was impermissibly determining the religious nature of the

25 28 FCC 2d 1, 21 RR 2d 492 (1971).
27 “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press.”
organization or institution. The Concurrence asserted that Commission policy as stated in

*Pensacola Christian School, Inc.*\(^{29}\) violated the holding of the Supreme Court in *Cantrell v. Connecticut*\(^{30}\) that

> [A] State may not unduly suppress free communication of views, religious or other, under the guise of conserving desirable conditions.

> [To require] a license, the grant of which rests in the exercise of a determination by State authority as to what is a religious cause, is to lay a forbidden burden upon the exercise of liberty protected by the Constitution.

The *Pensacola* policy required the applicants that were found to be “primarily religious in nature”\(^{31}\) to meet a higher standard than secular stations by proving that it was operating a school in the community of license for the new station. In this way, the Commission was not following the ruling of *Cantrell* since the *Pensacola* policy required a determination of the religious aspects of the applicant. In addition, the process of evaluating the religious content of programming also placed the Commission in conflict with Section 326 of the Communications Act of 1934 which states that the Commission cannot censor any radio station’s programming or signal.\(^{32}\)

The White Concurrence also drew on the equal protection aspects of the Fifth

\(^{29}\) 41 FCC 2d 74 (1973).


\(^{32}\) Communications Act of 1934, Section 326.

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Amendment’s due process clause arguing that the FCC’s intrusion into the areas of free speech and religious freedom was discriminatory since it could not “be shown that the system was structured with precision” and "tailored narrowly to serve legitimate and compelling objectives." The White opinion argued that the legal philosophy found in the Pensacola and Bible Moravian Church decisions at the FCC held religious applicants to a higher standard than secular applicants and could not withstand strict scrutiny by the courts. Thus, the White Concurrence argued that the FCC policy regarding religious applicants prior to the Moody case of 1977 was patently unconstitutional and a form of “invidious discrimination” that must be rejected and reversed. Both the Wiley and the White concurrences called for clearly articulated standards for NCE licensing that would not discriminate against applicants based on their religious or non-religious nature.

In June 1977 the Commission granted the application of the Moody Bible Institute for a

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33 “Unlike the Fourteenth Amendment, the Fifth contains no equal protection clause and it provides no guaranty against discriminatory legislation by Congress.” Detroit Bank v. United States, 317 U.S. 329, 337 (1943). At other times, however, the Court assumed that “discrimination, if gross enough, is equivalent to confiscation and subject under the Fifth Amendment to challenge and annulment.” Steward Machine Co. v. Davis, 301 U.S. 548, 585 (1937). The theory that was to prevail seems first to have been enunciated by Chief Justice Taft, who observed that the due process and equal protection clauses are “associated” and that “[i]t may be that they overlap, that a violation of one may involve at times the violation of the other, but the spheres of the protection they offer are not coterminous…[Due process] tends to secure equality of law in the sense that it makes a required minimum of protection for everyone’s right of life, liberty and property, which the Congress or the legislature may not withhold. Our whole system of law is predicated on the general, fundamental principle of equality of application of the law.” Truax v. Corrigan, 257 U.S. 312, 331 (1921). Thus, in Bolling v. Sharpe, 347 U.S. 497, 499-500 (1954), a companion case to Brown v. Board of Education, 347 U.S. 483 (1954), the Court held that segregation of pupils in the public schools of the District of Columbia violated the due process clause. “The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause as does the Fourteenth Amendment which applies only to the states. But the concepts of equal protection and due process, both stemming from our American idea of fairness, are not mutually exclusive. The ‘equal protection of the laws’ is a more explicit safeguard of prohibited unfairness than ‘due process of law,’ and, therefore, we do not imply that the two are always interchangeable phrases. But, as this court has recognized, discrimination may be so unjustifiable as to be violative of due process.” FindLaw: Internet Legal Resources. http://caselaw.lp.findlaw.com/data/constitution/amendment05/13.html. 4 June 2001.

station in Boynton Beach, Florida, reversing its earlier position in *Pensacola Christian School*\(^{35}\) of not allowing some organizations to be licensed in communities other than the community where the organization’s school is located. For the first time the Commission decided that “religious organizations must be judged on the same basis as non-religious organizations.” In his Concurring Statement, Chairman Richard E. Wiley,\(^{36}\) stated that all applicants for NCE licenses had not been judged on the same basis, but he expected that the Commission would seek to clarify the policy in the near future.\(^{37}\)

The published legal arguments underpinning the MBI decision identified FCC policy with deep historic roots in the Federal Radio Commission\(^{38}\) that discriminated against religious applicants by holding them to a different standard than their secular counterparts. The MBI decision established a precedent that all applicants for NCE FM licenses would be treated equally from that date on. Ultimately, the decision opened the door to a wave of applications that began to fill the NCE FM band over the next decade. For secular NCE broadcasters, the MBI decision was profoundly important because it closed off future opportunities for new secular stations and expansion of existing stations’ coverage areas. After four decades of protection, the secular educational broadcasters were dismayed by the MBI decision because it effectively ended their special protections as most available frequencies were filled after religious applicants applied for NCE FM licenses in large numbers.

\(^{35}\) 41 FCC 2d 74 (1973).


\(^{38}\) *Great Lakes Broadcasting*, 32-35.
CHAPTER 8
SUMMARY AND CONCLUSIONS

Summary

Radio broadcasting began in a random fashion. In the decades before 1920, radio broadcasting developed in the hearts and minds of scientists and hobbyists. They created the early technical and programming aspects of radio in laboratories, private homes and even garages. Educational organizations were involved in the research and development of radio at secular and religious colleges and universities. Commercial businesses sought to develop radio to use in profit-making activities. By 1920, KDKA in Pittsburgh, Pennsylvania began to broadcast a regular schedule of music and entertainment. Other stations quickly followed suit. Soon the airwaves reflected a colorful variety of stations representing for profit and nonprofit organizations. Secular and religious nonprofit groups, including the Moody Bible Institute and the U.S. Office of Education sought to use radio to extend the reach of their message.

The dream of radio created a profound interest in broadcasting that quickly led to intense competition for listeners as too many radio stations crowded too few frequencies. The fight to gain the listener’s attention led some stations to try aggressive tactics such as increasing the power output and skipping from assigned frequencies to other frequencies. The net result was massive interference, resulting in complaints from both public and broadcasters. The chaos on the airwaves caused great frustration for broadcasters, the listening public and government regulators. U.S. Secretary of Commerce and Labor Herbert Hoover attempted to regulate radio broadcasting under the Radio Act of 1912 in order to decrease the interference issues since Congress did not quickly move to resolve the situation. He responded by organizing a series of national conferences from 1923 to 1927 to explore the future of radio. Leaders in the radio industry called for Congress to pass new legislation that would allow for the regulation of
broadcasting. Though Hoover supported educational broadcasting at the conferences, his decision to establish a three-tiered system of licensing laid a poor foundation for the future of nonprofit broadcasting. By placing all nonprofit stations in the third tier, assigned for local stations only, he assigned them to the weakest channels.

The 1912 Act gave the Commerce Secretary the power to assign channels and to issue licenses but made no provisions for the Secretary to make regulations or boundaries on licenses stations. Hoover was particularly displeased when string of legal decisions clarified the 1912 Radio Act’s lack of regulatory oversight for broadcast stations. Secretary Hoover learned that he had no regulatory power to regulate existing stations. He could grant licenses to new stations but had no power to control existing stations. Congress created the new Radio Act of 1927 and the Federal Radio Commission (FRC), grossly underfunded administrative agency staffed primarily by engineers borrowed from other agencies.

The FRC held public hearings in late March and early April of 1927 in to discern the best plan to reduce interference problems on the airwaves. The Moody Bible Institute was represented at the hearing by Henry Coleman Crowell who was the first speaker to represent religious and educational broadcasting in a hearing before the FRC. He requested reserved channels to be set aside for religious and educational broadcasters arguing that the religious programming interrupted commercial broadcasts and that commercial programming interrupted the religious programming.

Despite the request from MBI for protections for nonprofit broadcasters, later decisions by the FRC, including General Order 40 in 1928, reinforced the third class status of all nonprofit stations. Commercial stations and network-owned stations were assigned the clear channels and second tier frequencies while nonprofits had to share their marginal, local frequencies with each
other. These government actions, perhaps based in technocratic, quantitative reasoning, insured that nonprofits would be marginalized. Most did not survive the harsh regulatory environment.

The Radio Act of 1927 required that the Commission determine that the “public interest, convenience or necessity” would be served by its action before licensing a broadcast station. By 1928, the FRC had established precedential decisions that defined that ambiguous “public interest” phrase as being served by “general purpose” broadcast stations. The FRC believed that nonprofits were more likely to serve special interests than to serve the public interest. The Commission also argued that radio spectrum was scarce and that stations needed to provide a “general service program” to meet the needs of all and not just a few listeners, in order to serve the public interest.

The financial issues faced by most nonprofits were daunting. Engineers at the FRC established a technocratic mindset that evaluated the overall quality of a station by its technical excellence rather than its programming and service to the community. Nonprofit stations found it difficult to purchase the best quality equipment when the frequency shifts ordered by the FRC required the purchase of new equipment. General Order 40 and later FRC decisions moved stations from frequency to frequency for periods as short as a few months. Nonprofits were usually under-funded and unable to defend themselves against legal challenges from the better-funded commercial broadcasters.

The FRC also allowed stations to challenge other stations for desirable frequencies. The Commissioners used comparative hearings to determine which station would better serve the public interest. The commercial interests usually won the challenges leading some nonprofits to give up and to simply cease broadcasting while others were forced off the air. Concern over the
light of the nonprofit broadcaster led to twenty-nine bills related to nonprofit broadcasting being proposed by federal legislators by 1938.

Though educational and other nonprofit broadcasters faced a difficult path in the early years of radio, religious broadcasters had to contend with additional negative baggage. Already, federal regulators had encountered quacks and schemers who operated radio stations to promote their questionable ploys and the commission wished to forestall further use of the medium for extremist messages, gyps and rackets. This group included a number of religious figures. Wilbur Glenn Voliva and Reverend Robert Shuler, for example, created problems for regulators in the early days of radio broadcasting. Voliva used his station to teach his belief that the world was flat and “Fighting Bob” Shuler used his airtime to attack public figures. The controversies later created by Father Charles Coughlin, Gerald Winrod, and Gerald L. K. Smith supported unfavorable perceptions of religious broadcasters. Negative urban perceptions of the rural and religious were reinforced by the acerbic writings of H.L. Mencken and Lewis Sinclair. Their disparaging presentations of events such as Scopes Trial still resonate negatively in the present.

Some religious broadcasters faced problems gaining access to the airwaves through the new radio networks and independent radio stations. When NBC began an arrangement with the Federal Council of Churches of Christ (FCCC) for programming through their member churches, conservative ministers and churches found their ability to broadcast was restricted. Christian conservatives feared being driven from the airwaves permanently and they placed the blame on (what they considered to be) the “liberal” Federal Council of Churches of Christ for their dilemma. The FCCC represented “mainline” Protestant religious broadcasters which NBC utilized on air to the exclusion of the more conservative religious broadcasters. NBC’s model
was accepted by the other networks, and conservatives were forced to buy time from independent stations creating their own networks in order to broadcast their message.

The Moody Bible Institute entered the world of radio broadcasting in 1925 by purchasing time on WENR. The Institute then applied for and received a license through the Department of Commerce for its first radio station in 1926. During the first broadcast, the Institute found that interference issues with another station affected the program, a common problem for all stations at the time. As soon as the FRC was formed in 1927, Moody faced a number of issues shared with most other broadcasters, including shifting frequencies and short term licenses. Though the FRC responded positively to the Institute’s lobbying efforts, Moody was still required to share time with another religious station, WCBD.

MBI began the process of sending representatives to Washington, D.C. on a regular basis to meet with FRC staff and commissioners. The Institute was concerned that they would be forced off the air by commercial interests or by the FRC’s anti nonprofit stance. In 1929 MBI was an indirect player through its connection to WCBD in the battle for frequencies that led to the FRC’s Great Lakes Statement. The FRC found that religious and sectarian stations were “propaganda” stations because they served a narrow audience and did not serve the public interest. Moody administrators worried that the finding would push the station off the air. They responded by sending a team of advocates, including the head of the Quaker Oats Company, to represent WMBI in the comparative hearings before the FRC. They argued that the Institute was not broadcasting propaganda but as a nondenominational educational institution, the Institute was broadcasting educational programming. Though the Institute did not gain its own license, once again, MBI was allowed to remain on the air. In contrast, most religious and educational stations were forced off the air in the years after the creation of the Federal Radio Commission.
Congress created the Federal Communications Commission (FCC) with the passage of the Communications Act of 1934. Congress responded to the question of not-for-profit broadcasting by mandating the FCC studying the issue and report back its findings. The newly formed FCC reported that special set aside frequencies were not needed for nonprofit broadcasters at that time. They waited four years to create new frequency allocations for educational radio and the United States Office of Education (USOE) Commissioner, John Ward Studebaker, was present at the hearings and in meetings, guiding the Commission.

President Franklin Roosevelt appointed Studebaker Commissioner of Education in 1934. Studebaker was nationally known for his innovative use of public forums for adult education funded by the Carnegie Foundation and had prior experience with educational radio in Des Moines, Iowa. As Commissioner of Education he served on the Interdepartmental Radio Advisory Committee (IRAC) and was asked by the FCC to chair several committees that were studying the question of nonprofit and/or educational broadcasting, including the Federal Radio Educational Committee (FREC).

At the USOE, educational radio had been explored by earlier Commissioners and staff. Studebaker first sought to promote cooperation between educational interests and commercial broadcasters, exploring the question of educational radio through the USOE staff and grants from the Department of Interior for radio programs and radio conferences. He then began to ask the FCC for special reserved or set aside channels for the use of educational radio. Studebaker presented his ideas about special channels for education on radio in letters, public speeches, in meetings, and before the FCC. When the FCC created Noncommercial Educational (NCE) broadcasting in the ultrahigh frequency band in 1938, FCC staff directly cited Studebaker and the staff of the USOE as keeping the question of special channels for education at the forefront.
of their discussions. They included documents prepared by Studebaker in the official minutes of the meeting when NCE licensing was created in January 1938. Studebaker corresponded with many prominent educators and politicians including Eleanor and Franklin Roosevelt, sending letters and documents about various aspects of education and educational radio. The FCC’s 1938 creation of reserved channels for education set a precedent that led to the 20-channel reservation in today’s FM band and to the reserved educational channels in the television bands.

When the Moody Bible Institute became the first religious organization to apply for an NCE license in 1938, the FCC consulted Studebaker to determine if Moody was eligible for an NCE license. Studebaker and his staff said that Moody was not eligible and helped the FCC develop an additional standard for NCE licensees that required the licensee to operate more than one campus. This standard was crafted to insure that NCE licenses would be granted to public school systems since most had more than one school or campus. Few religious or other private nonprofit groups could meet that requirement at that time. Later, Studebaker made specific recommendations for NCE allocations that utilized frequency modulation (FM) and also requested two set aside channels for educational television in public hearings. He left government service in 1948.

After Studebaker stepped down from the USOE, the FCC began to relax its requirement that NCE stations be licensed to public school systems or educational institutions. In 1949, the FCC granted an NCE FM license to the Pacifica Foundation, creating the first NCE station to be run by a nonprofit corporation with no connection to an educational institution. This type of station came to be known as a community licensee. Religious educational institutions such as Fordham University and Notre Dame University were also successful in gaining an FM NCE license. Their success reflects the low demand for FM licenses of all types in the 1940s and the
FCC’s more positive regard for mainstream religious educational institutions. Though few conservative religious groups gained an NCE license before 1977, MBI was successful in gaining an NCE license in the FM band in 1960.

Religious groups utilized various forms of radio broadcasting as licensing was made available by the FCC. Once television was established after WWII, conservative religious broadcasters found it much easier to gain access to air time on commercial radio stations as radio lost advertising revenue to television and sought new ways to generate income. Station licensing became possible in the commercial FM band since FM licenses were not as in demand until the 1960s.

In 1965, the FCC issued a policy statement on comparative broadcast hearings which stated that programming categories would not be part of the comparative process. In making this statement, the FCC ceased requiring a religious category of programming content, perhaps in response to concerns regarding the First Amendment’s Establishment clause.

The 1967 Public Broadcasting Act established a new era for secular educational broadcasting by creating the Corporation for Public Broadcasting with proposed plans for future federal funding of NCE broadcasting. The Act led to the creation of the Public Broadcasting Service (PBS) and National Public Radio (NPR). The term “public” broadcasting became the accepted way of referring to radio and television stations that were licensed as NCE stations and members of PBS or NPR. The term is also used to describe secular alternative NCE stations that are members of Pacifica or are independent. The Carnegie report opened the door to a broadened definition of education (in relation to broadcasting) by suggesting that NCE licensees could become public broadcasters without defining the term “public.”
The House Conference Report on the 1967 Act offered a definition of “Educational Television or Radio Programs” to mean “programs that are primarily designed for educational or cultural purposes and not primarily for amusement or entertainment purposes.” As passed, the 1967 Act broadened the definition of “educational” broadcasting to include entertainment as an acceptable goal.

In the early 1970s, the FCC dealt with a series of applications for NCE FM licenses from religious groups including the Keswick Foundation in 1970, the Bible Moravian Church in 1971, and Pensacola Christian School in 1973. The FCC stated that the Keswick Foundation and Bible Moravian Church were not nonprofit educational organizations under existing FCC rules and denied their applications. The Commission did not publish the full text of the decisions, choosing to limit the precedential potential of each the decision. In Pensacola Christian, the FCC justified its decision to deny the application, citing the earlier Keswick decision as a precedent. However, the FCC official claim that PCS would not be allowed to have an NCE license outside of Pensacola because it was a religious applicant has no basis in official documents related to Keswick. In each case, the decision appears to have been made *ad hoc*.

In 1975, Lorenzo Milam and Jeremy Lansman filed a petition at the FCC requesting changes in FCC rules and regulations regarding the licensing of NCE FM stations. The two community broadcasters believed that government and religious organizations of all types should not be allowed to own or control noncommercial FM radio stations. In addition, they wanted each nonprofit organization to control only one NCE FM station per market. Their purpose was to promote and protect the “community” model of NCE broadcasting since the noncommercial FM radio band was beginning to fill in most large markets.
Though the petition was quickly denied by the FCC, religious organizations around the country organized a letter writing campaign against the petition. Dubbed “The Petition Against God” and linked incorrectly to the atheist Madalyn Murray O’Hair, conservative Christians responded by burying the FCC in tens of millions of letters and cards over the decades that followed. Though the FCC and other organizations have repeatedly explained that the petition was not a threat, the mail continues to arrive at the FCC to the present.

In the Moody decision of 1977, the FCC reversed its previous stance toward most religious NCE applicants and granted MBI’s request for two NCE radio stations. The official \textit{FCC Reports} version of the case and the unofficial Pike and Fischer version of the decision reflects the conflict between two individuals, Stephen Sharp and Martin Levy, who represent the cultural divide that existed at the FCC and in American culture. Stephen Sharp, a member of FCC Commissioner Margita White’s staff (and later an FCC Commissioner), organized the Commissioners’ response to the case by researching the history of religious NCE licensing and presenting an argument for Moody that prevailed despite the efforts by FCC staff to deny the applications for two licenses. Sharp wrote the Concurrence published in the decision under Margita White’s name. Martin Levy, a senior FCC staff member, led the fight to convince the Commissioners not to grant the licenses but could not muster the legal arguments necessary to prove that the White/Sharp Concurrence arguments were not sustainable.

\textbf{Findings}

In the first chapter of this study, five questions were posed, questions that were to be the focus and purpose of the research. The first question asked why are religious stations found in the NCE FM band? To answer that question several additional questions had to be answered. For example, what were the philosophical roots behind the creation of NCE radio? What did the FCC intend for NCE radio to be at its inception?
As shown in Chapter Two and Chapter Four, the roots of NCE radio are found in the history of public education in America. Public education was secular when NCE radio was created in 1938. It appears that Commissioner Studebaker and the FCC believed that only public educational entities should have NCE licenses, thus NCE radio was secular. They did not view other nonprofit organizations as being eligible for NCE licenses because they were not part of the public educational system. Concerns about the power of radio to influence public opinion and the negative perceptions of religion in the popular press and American culture may also have influenced the decisions by Herbert Hoover, the FRC, the FCC, and Commissioner Studebaker to treat religious applicants (and other nonprofits) differently than their secular counterparts.

The study sought to explain the role of the Moody Bible Institute in the development of NCE religious broadcasting. Chapter Six and Chapter Seven show that MBI was a leader in the development of religious radio and religious noncommercial educational radio. The Institute was the only religious organization active in the development of regulatory guidelines for radio from its inception to the present. Henry Parsons Crowell developed a stable financial foundation for MBI after the death of Dwight Moody. Crowell was a successful businessman whose use of mass media helped establish the Quaker Oats Company. He and his son, Henry Coleman Crowell, helped the Institute explore the uses of mass media to share the message of the Institute.

Finally, the study seeks to explain why the FCC chose to grant two licenses to MBI in the 1977 decision that essentially opened the door to religious NCE radio, establishing a precedent. Chapters Four and Five explore the creation of the NCE category of licensing and *ad hoc* nature of many NCE radio decisions prior to the MBI decision of 1977. The term “educational” evolved in FCC decisions to its most general definition. Chapter Seven explains that the FCC MBI decision was guided by Stephen Sharp during his tenure on Margita White’s staff. Sharp
argued that the FCC violated the rights of religious NCE applicants in the past citing the First
Amendment and the equal protection aspects of the due process clause of the Fifth Amendment.
The FCC was also in conflict of Section 326 of the Communications Act of 1934 which
precludes the censoring of programming content.

**Discussion**

During the early FRC attempts to end interference on the airwaves, many religious
stations and other nonprofits were driven off the air. Later, as commercial network air time
became scarce for conservative religious broadcasters, they began to seek alternative ways to
access the airwaves. Religious broadcasters sought licenses in new areas of radio, such as the
experimental AM and FM frequencies. Since frequencies were scarce in the existing spectrum,
religious broadcasters looked to new technologies and new spectrum to gain access to the
airwaves. Their belief in the power of radio may explain why they were among the first to apply
as new forms of licensing were made available. Evangelical Christians, in particular, viewed the
new medium of radio as an appropriate tool for the evangelizing of the world. In addition, the
Moody Bible Institute (and other religious institutions that engaged in curriculum based
instruction) held that they were educational institutions providing educational programming and
were eligible for NCE licensing when it became available.

Fear of the power of radio to manipulate the listener may have worked to undermine
support for the interests of the nonprofit broadcasters at the FRC since they were viewed as being
more likely than commercial stations to promote doctrinal or political messages. Controversial
broadcasters who practiced questionable medicine or spewed extremist politics on the air, gave
all nonprofits a black eye. Radio evangelists who broadcast extremist messages combined with
the cultural aftershocks of the Scopes Trial and the general cynicism toward religion in the 1920s
amongst elites, may have led the FRC to view nonprofit stations and religious nonprofits in
particular as being “propaganda stations” and not serving the public interest. In addition, the technocratic mindset at the FRC valued the technical aspects of broadcasting and placed the resolution of the interference problems caused by the crowded spectrum before all other considerations. The FRC was created primarily to deal with the problems caused by interference. Thus, the attempts by nonprofits to address social, political, labor, religious, educational, and other concerns were of less importance to the engineers at the FRC. They had an enormous technical job to accomplish with limited staff and funds. Other concerns were pushed aside.

When the NCE licensing category was created in 1938, the FCC looked to the Office of Education, led by Commissioner John Ward Studebaker, for the development of guidelines for NCE licensing. The Office of Education was the Federal representative of public education in the United States, and the initial plans announced by the FCC for NCE stations reflected the USOE intention for the new stations to be part of public education in America. The new NCE stations were to be connected to public school systems and to provide programming that supported the curriculum while also providing educational programming of a more general sort to the public at large. Studebaker believed that public forums could be extended by radio to provide adult education through an early form of distance learning, leading to a more productive and better informed citizenry. He proposed that educational radio should be used to strengthen democracy in America by helping to educate the voting public. Studebaker’s vision of educational radio reflected the progressive education movement’s goal of solving social problems caused by urbanization, immigration, and industrialization.

Conservative religious applicants were treated differently than secular applicants for NCE licenses historically because the FCC tended to view them as not being eligible for NCE licenses.
The FCC also guided religious applicants away from applying for NCE licensing in the early decades of NCE broadcasting, thus few religious NCE stations were licensed before the 1960s. The Commission argued that the applicants were religious and not educational in nature. Religious applicants were routinely discouraged from making application for licenses and the applications were usually denied without complete official published explanations. The FCC reflected the mainstream belief that public education should be secular and echoed the FRC’s stance that religious stations could not serve the public interest because they were sectarian. The early FRC statements regarding the public interest were promulgated in response to the concern that a religious station’s programming and other nonprofit programming was too narrow to serve the general audience in a time of spectrum scarcity. The FCC did not appear to consider the First Amendment rights of religious organizations as being paramount in the NCE licensing process until 1977. However, the First Amendment was and is an ever present issue in the world of broadcasting and the questions explored in this study.

The FCC decisions regarding license applications by religious organizations and institutions for noncommercial educational radio stations in the NCE band were decided on an ad hoc basis for much of U.S. broadcasting regulatory history. Staff and Commissioner turn over and the lack of clear, legally defendable guidelines for educational broadcasting may have created the ad hoc conditions. When one examines the history of FCC actions regarding MBI, the application of NCE policy appears to be inconsistent. The ad hoc nature of other FCC religious NCE decisions is even more apparent. Religious nonprofit organizations with connections to specific churches were much less likely to gain an NCE license than secular nonprofit organizations, even those that planned community stations that would serve the general public. The stations that were licensed were often attached to religious educational institutions
such as colleges and universities and provided programming that was more secular than religious. In addition, they tended to be better financed and politically connected.

For the first decade of NCE licensing, the FCC relied on the Office of Education to help determine the educational aspects of each applicant. Once John Studebaker stepped down as Commissioner of Education in 1948, a change in application of NCE policy occurred fairly quickly when the application of the Pacifica Foundation for an NCE license was granted in 1949. Pacifica was the first organization that was not traditionally educational (or religious) to receive an NCE license.

The Pacifica Foundation is a legally incorporated nonprofit organization that had no formal educational purpose other than the intention to produce radio programming. Founded in 1946 by Lewis Hill, a pacifist conscientious objector, Pacifica’s mission was to create a new kind of radio that would provide alternative programming focusing on world peace, alternative news, and the creation of new art forms. An unintended consequence of the advent of Pacifica radio appears to have opened the door at the FCC to a new, broader understanding of what NCE radio broadcasting could be. After awarding the NCE license to Pacifica for its first station, the FCC moved away from the stance that educational licenses must be awarded to educational agencies that would provide radio programming to a system of schools. The Pacifica decision laid the ground work for future community stations and organizations that wished to operate nonprofit stations.

A fundamental problem in the issue of NCE policy is the use of the word “educational.” Though Studebaker believed that the term “educational” was too broad, he was not able to persuade the FCC to adopt a tighter definition for the new type of not-for-profit broadcasting. Studebaker understood before NCE licensing was created in 1938 that the term “educational”
would not support his vision of how NCE licenses should be used. That is why he proposed the odd term “curriculair” to define and limit the use of educational radio to broadcast curriculum-based and related programming. Another weak term proposed by the FCC was “educasting” but it provided less guidance than the term “educational” in defining the purpose of educational radio. In the many NCE decisions that followed Pacifica, the FCC appears to have applied a very loose definition of “educational” that ultimately evolved into a few simple requirements. In order to gain an NCE radio license, the proposed station would have to be governed by a legally incorporated 501(c)(3) nonprofit organization with the stated purpose of providing educational programming.

The Moody Bible Institute occupies a pivotal role in the history of religious and educational broadcasting. The Institute is one of only a few of nonprofit broadcasters left from the hundreds who signed on stations in the early years of radio. Only a handful of nonprofit religious stations founded in the 1920s are still owned and operated by the founding organization. Moody is the only religious educational broadcaster that argued repeatedly to defend its status as an educational broadcaster before the FRC and the FCC over the fifty years leading to the Moody decision in 1977. Moody’s active role in the development of radio policy at the FRC and the FCC is also unusual, though not perhaps not totally surprising, since WMBI is the only religious station that sent representatives to Washington on a regular basis beginning in 1927. The Moody leadership had the ability and the will to continue their broadcasting agenda long after most religious broadcasters had withdrawn. Their battle was supported by the financial and political foundation laid by Henry Parsons Crowell, Chairman of the MBI Board of Directors.
Dwight Moody believed that traditional methods of ministry were not reaching the working class in large cities like Chicago. He intended for the Institute to train “gap” men, a kind of lay ministers who could effect positive change in the rapidly changing world of modern, urban culture. The Institute, like Studebaker and the USOE, sought to use radio as a tool to address social problems caused by urbanization, immigration, and industrialization, though the message of the Institute was religious.

Moody representatives at hearings argued for religious broadcasting, educational broadcasting, and nonprofit broadcasting, requesting special set-aside frequencies for the use of nonprofit broadcasters as early as 1927. They actively worked within the existing legal system, cooperating with the FRC and FCC, seeking licensing at every opportunity and they never quit, no matter the outcome. Moody officials guarded their reputation by never attacking other broadcasters on air and by carefully following FRC/FCC rules and regulations. They kept precise records of the events in the world of radio that could affect their broadcasting and responded when they felt it was necessary to do so. For example, when the FRC used the term “propaganda” in 1929 to describe programming on a religious station, Moody felt it had to act in order to defend its own purpose before the FRC. Moody officials were concerned that the FRC would regard all religious and other nonprofits as “propaganda” stations and refuse to renew their licenses.

When the FCC created the new category of noncommercial educational licensing in 1938, MBI was the first religious license applicant. In their application documents and exhibits, one can see a restatement of the arguments made in 1927 and 1929 before the FRC. Moody presented itself as a nondenominational educational institution that provided classes for thousands of students from all over the world. They included a number of photographs that
showed representatives from sixty different denominations, thirty different countries, classes
over radio, the staff and day students of MBI and the facilities of MBI and WMBI. The FCC
responded to the application by allowing MBI the opportunity to present oral arguments in which
the use of photographs was questioned by the examiner. The tone of the 1938 hearings was more
confrontational than earlier hearings before the FRC. The FCC examiner closely questioned the
MBI representatives regarding the educational and religious activities of the Institute and the
radio station.

Transcripts of the hearings were sent to John Studebaker and his staff for evaluation. It
appears that the FCC relied on Dr. Studebaker to make the final determination regarding the
educational status of applicants for NCE licenses and that the close questioning at the hearings
provided information that the FCC used to explain the denial of the application. Studebaker and
his staff, reflecting mainstream attitudes toward conservative religious organizations, sought to
block the Moody application. They asked the FCC to require that licenses be awarded to school
systems with more than one campus. At the time, Moody had one campus. In his annual report,
Henry Coleman Crowell noted that the FCC issued revised regulations on April 17, 1939
covering the new type of broadcasting station and that the denial of the application appeared to
be based on the new revision of the rules.

In 1959, MBI again applied for an NCE license in the reserved educational FM band at
90.1 MHz on channel 211. It was granted on March 31, 1960, and the station was given the call
sign WMBI-FM.

The 1977 FCC decision to grant two NCE licenses to MBI was unusual for several
reasons. First, the versions published by the FCC and Pike and Fischer were different. Second,
it was rare to have an extensive concurrence attached to an NCE radio decision. Third, it was a
contentious decision. Fourth, after granting an NCE license in 1960, the FCC faced an internal struggle over Moody’s eligibility for NCE licenses in the 1977 decision. Finally, the decision put to rest the Moody Bible Institute’s long term efforts to gain FCC acceptance as to being eligible for NCE licenses.

To gain the license in Boynton Beach, Florida for WRMB, MBI agreed to open an evening extension school as a compromise with the FCC. The decision took more than six years to resolve and Moody was still held to a different standard with the school requirement than were other secular NCE licensees like Pacifica.

The legal reasoning behind the decision states “that religion and education are not mutually exclusive” and “it is not the province of government to say that religion . . . is unacceptable as a subject of education and instruction.” Next, the decision contends that government intrusion into the question of religious education is a violation of the First Amendment by interfering in the free exercise of religion and free speech. Then, the decision claims that the Commission was in conflict with Section 326 of the Communications Act of 1934 by deciding licensing issues based on programming content. Finally, the decision held that the Commission was violating religious applicant’s rights under the equal protection aspects of the Fifth Amendment’s due process clause, citing Bolling v. Sharpe. Thus, the decision claims that the FCC stance held religious applicants to a different and higher standard than secular applicants for NCE FM licenses and could not withstand strict scrutiny by the courts.

The fight over the Moody decision at the FCC reflected the culture wars found in American society. Stephen Sharp represented the conservative side of the clash while Martin Levy represented the progressive viewpoint. Levy attempted to prevent the precedential power of the decision by publishing the decision as a short statement explaining that two licenses were
granted to MBI as a staff decision, not as a decision by the Commissioners. He followed the tradition of brief official publications of earlier NCE religious NCE decisions. In the minutes of the earlier FCC meetings on file at the National Archives II, the decision to publish or not to publish the text of the full decision is indicated at the top of official documents that have obviously been processed in an official fashion. There are dates and notes that indicate the records are official. Had Levy been successful, the official “paper” record in the minutes of the meetings would not have agreed with the audio recording of the meeting. When Sharp heard of Levy’s plan, he arranged to publish the full decision as decreed by the Commissioners.

The official decision by the Commissioners was published in two different versions. The official FCC version omits hand written notes (by FCC staff) that Stephen Sharp sought to include in order to show bias on the part of the Commission staff. The Pike and Fischer version leaves out a short statement by the FCC Secretary. Though the decision to grant the licenses was unanimous, only Commissioner Margita White was willing to put her name on the opinion written by Stephen Sharp. FCC Chair Richard Wiley and Commissioner Benjamin Hooks chose to write a short opinion that stated simply that NCE broadcasting had not been well defined and the lack of definition led to religious broadcasters receiving unequal treatment. The 1977 decision by the FCC to grant two NCE licenses to the Moody Bible Institute essentially opened the doors to religious broadcasting in the NCE band because it established a precedent for the issue that definitively settled the issue for NCE radio.

White’s concurring opinion arguing that the FCC stance toward religious applicants prior to 1977 was patently unconstitutional was actually written by Sharp, a member of White’s staff. And although only White signed onto this opinion, Richard Wiley and Benjamin Hooks clearly called for articulated standards for NCE licensing that would not be discriminatory. However,
they left the FCC before new standards were developed. The 1978 NOI that sought to amend the FCC rules regarding eligibility for an NCE radio or television license did not lead to new regulations and was terminated in 1989. The FCC used the guidelines published in an appendix to the NOI as a guide when considering NCE decisions.

According to Sharp, some of Levy’s concern lay in his personal beliefs about conservative Christians. It is also possible that Levy believed that the NCE band was intended for a secular type of educational broadcasting and that he genuinely did not believe religious groups fit the criteria for licensing. Sharp indicated that Levy was a supporter of public broadcasting, the form of educational broadcasting that was common at the time of the Moody decision. Levy worked at the FCC throughout the developmental years of public broadcasting and was well versed in the historic understanding of educational broadcasting at the FCC.

Moody’s long term battle to be recognized as an educational entity that provided programming that served the public interest paved the way for other less powerful religious broadcasters to gain access to NCE licenses. Moody’s success also curbed the expansion of the secular public radio system. Though religious applicants were interested in licensing, it took several years after the Moody decision before religious applications began to arrive at the FCC in large numbers. In 1989, National Public Radio wrote its member stations informing them that religious groups were applying for NCE licenses by the hundreds and that NPR stations would not have future opportunities to expand (such as by increasing effective radiated power or by building new stations) since the NCE FM band would soon be full. NPR stations were advised that the FCC had placed a hold on applications in order to give all existing NCE stations the opportunity to apply to expand their services.
The history of the Moody Bible Institute decision of 1977 at the FCC may show that the rise of the Religious Right which led to the creation of the Moral Majority, the Christian Coalition, and other powerful political organizations, began far earlier in the twentieth century than is commonly recognized. Many authors point to the unrest and turmoil of the 1960s as the genesis of the political organizations that led to the election of Ronald Reagan, George Herbert Bush, and George W. Bush. However, the lobbying activities of MBI to change government policy over five decades and the religious broadcaster’s success in using mass media to disseminate their message may have planted the seeds that paved the way for the modern movement that seeks to desecularize the American public sphere. The Christian Fundamentals movement may have gone underground in American culture after the Scopes Trial in the 1920s, but the infrastructure and foundations of the political and cultural movement that led to the election of Presidents and Administrations that supported conservative religious beliefs and goals grew out of the Moody Bible Institute (as a leader in the Bible Institute movement), and the many conservative Christian organizations with connections to Moody.

The “religious conversion” of a portion of the NCE FM band greatly reduced the prospect for expansion of secular NCE radio. Educational broadcasters were slow to take advantage of available FM spectrum and FCC Chairman James L. Fly’s prophetic warning in 1943 that educators would lose the reserved channels if they did not use them proved to be true. The FM NCE band that developed after the 1977 MBI decision reflects the ongoing American cultural argument about the role of religion in education and modern life and gave evangelical and fundamentalist Christian groups increased opportunity to spread their message to the world.

Further research into the issues surrounding religious noncommercial broadcasting could focus on the reactions of secular broadcasters and educators to the change in NCE policy at the
FCC, including trade association reactions and organized public broadcasting reactions. The scope of this study essentially concludes with the 1977 MBI decision. Further research into the effects of MBI lobbying activities and the 1977 FCC decision on other religious broadcasters is indicated as well as further study of the expansion of religious NCE broadcasting. Additional public telecommunications issues and conflict involving religion, education, and government funding could be explored by examining applications and denials for grants from the Public Telecommunications Facilities Program (PTFP) at the National Telecommunication and Information Administration (NTIA) in the Department of Commerce as well as the question of licensing religious noncommercial educational television stations.

The protections of the First Amendment cover several issues at the heart of this study. First, the rights of the public to receive information led to the creation of the public interest standard and the idea that broadcasters serve as trustees of the spectrum, a limited resource that belongs to the public. Because of the public interest standard, broadcasters have more regulatory restrictions than other media outlets and fewer protections under the First Amendment. Second, the establishment and free exercise clauses of the First Amendment prevent the government from establishing, supporting, or restricting any religion or religious activity unless there is a compelling state interest to so. The FRC and the FCC accepted that spectrum scarcity in the early days of radio was a compelling state interest and used that reasoning to limit the access of religious broadcasters to licensing during the 1930s and 1940s, arguing that the audience would not be served by stations with a narrowly focused message. They required stations to carry religious programming as one part of the total programming. Decades later, FCC Commissioner Lee Loevinger argued in a series of articles in the 1960s that the FCC, as a government agency was “establishing” religion by requiring stations to carry some form of religious programming.
In 1965, the FCC ceased requiring religious programming or other specific programming categories in comparative hearings apparently recognizing the First Amendment conundrum posed by a government agency requiring the broadcast of religious programming.

As new radio spectrum developed and new communications media were created, the scarcity problem became less of an issue. The compelling state interest to regulate religious content on radio began to fade. The delicate balancing of listener’s interests versus broadcasters interests versus the rights of religious applicants for licensing began to shift. The rights of religious applicants to receive equal treatment in the application process and the rights of religious broadcasters to receive equal treatment during comparative hearings became clear. The FCC is restricted from content regulation by Congress and the First Amendment, thus its regulatory role in the area of religious broadcasting is very restricted.

If the FCC had clearly defined NCE broadcasting as being curriculum based in the public schools and if Congress had reaffirmed that definition when creating public broadcasting in 1967, then religious broadcasters might have been blocked from gaining access to NCE licenses. However, Congress plainly stated in each of the major regulatory Acts that the FRC and the FCC could not censor programming, making it difficult, if not impossible to deny a license based on programming content. In addition, the protections under the First Amendment for religious messages through freedom of speech and freedom of expression would appear to be a major hurdle for regulators to clear. A regulatory agency with no power to censor programming content would seem to be on thin ice when evaluating a religious station for programming content. It would be difficult if not impossible to refute the religious broadcasters’ claim that education is the “quintessence” of religion. The FCC’s inability to define programming may have contributed most to the change in NCE radio policy that could allow any legally organized
nonprofit organization that claims it will provide educational programming to broadcast while using an NCE license.

By the 1970s, the relaxed characterization of “educational broadcasting” especially for radio, was broadened through several NCE decisions at the FCC; through the creation of “Public Broadcasting” in 1967; and through the creation of “community broadcasting” as an acceptable standard. These changes combined with the beginnings of desecularization of the public sphere made it difficult, if not impossible, for the FCC to argue that religious educational broadcasters were not eligible for educational licenses.

In the so-called “Petition against God” decision in 1975, the unintended outcome created by Milam and Lansman, became the single most effective letter writing campaign in history. It also demonstrated the strength and organization of the religious right to officials. Regulators may have been influenced by this overwhelming show of solidarity by supporters of religious noncommercial broadcasting and religious broadcasting of all types.

The FCC’s decision to grant MBI two NCE frequencies to MBI in 1977 may reflect changes in American beliefs regarding the role of religion in the public sphere. By the 1970s, with the rise of the religious right, conservatives in America appear to have accepted that religion, particularly conservative Protestant forms of religion, should have a more public role than was previously accepted. The Republican Party discovered that the religious right was vital to a Republican majority and formed alliances with conservative Christians, Jews, and Catholics. The Republican majority at the FCC did not support the idea that the First Amendment separated the public function of religion from the public role of the state, resulting in a more private position for religion in the American public sphere. In addition, some of the Commissioners and staff members believed that the religious applicant’s rights of free expression under the First
Amendment had been denied by earlier FCC (and FRC) attitudes and decisions regarding religion.

The Moody Bible Institute, like other conservative religious organizations, may have existed outside mainstream American culture as a leader of the Christian fundamental movement. However, the Institute worked to achieve specific political goals despite its appearance as an outsider. By choosing to work with the existing political system at the FRC and the FCC, and by carefully avoiding controversy, the Institute sought to allay regulator concerns regarding propaganda and controversial messages. In addition, the Institute reflected values that were the norm for conservative Protestant businessmen. Dwight Moody and Henry Coleman Crowell were successful businessmen who utilized tools and systems created in the world of business to develop, promote, and protect the work of the Institute. The Institute’s appearance as an outsider may have been ameliorated by its Protestant Capitalist ethic and its careful political stance and strategy. Moody sought to address the problems of modernity from its position as a moderate fundamentalist Christian educational institution. In addition, Henry Coleman Crowell, as an engineer, understood the technical problems of radio and developed effective strategies for dealing with the technocrats at the FRC. The Institute was better prepared to fight for its radio frequency than most broadcasters.

The Paulist Fathers were a progressive organization within the Catholic Church. They also sought to address the social issues caused by industrialization, urbanization, and immigration through education and social support functions. They sought to use WLWL as a tool to address social issues in New York City. Their progressive roots were close to the progressive roots of the USOE and Studebaker. However, as a Catholic organization, they appear to have existed further outside the Protestant mainstream than did Moody. They also
adopted a more visible and vocal stance that publicly worked in opposition to the FRC and the FCC in contrast to Moody’s quieter, behind the scenes use of lobbying.

Though many groups and individuals fought to create a special category of licensing and frequency protections for various types of nonprofit radio, the FCC decision in 1938 to create noncommercial educational radio appears to have grown out government interests rather than the interests of private citizens, social agencies, and religious groups. Secretary of the Interior Ray Lyman Wilbur organized the first federal efforts to explore the uses of radio for education. His decision to bring together representatives of the USOE, IRAQ, FRC, and industry leaders, in May of 1929, to discuss the possible uses of radio in public education created a synergy that aided Studebaker in his quest to create noncommercial educational broadcasting.
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