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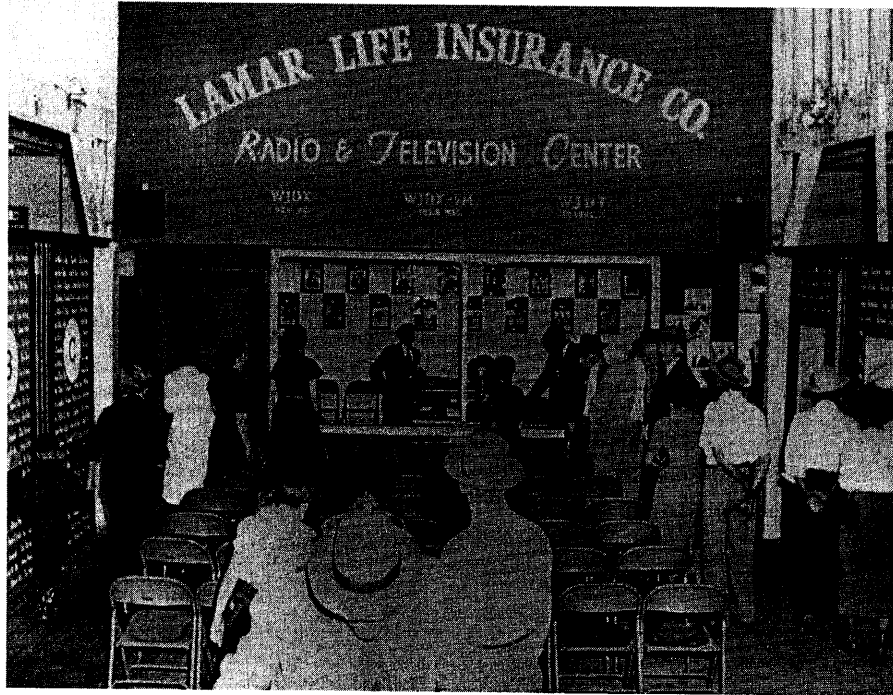
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STEVEN D. CLASSEN

Watching Jim Crow

THE STRUGGLES OVER MISSISSIPPI TV, 1955-1969

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struggle, appreciated and employed by both oppressor and oppressed. The activism and reactionism in Jackson disproved the notion that popular culture and its productions or pleasures could be perfectly disciplined or policed.

Somewhat ironically, it was the voice and communicative power of white Mississippians that aided in this momentary disruption of the dominant social order. As the letter writer to the *Clarion-Ledger* noted, white reaction worked to the advantage of the activists, calling wider attention both to the segregationist position and the reality of coercion. In doing so it forced a veiled contradiction into public view. Contrary to the fundamental tenets of segregationism and the southern "way of life," African Americans were not satisfied with limited cultural opportunities and resources but rather were forced to adapt under the threats of white domination and oppression.

As this knowledge gained circulation, white consent and cooperation with segregation began to fragment. Various performers, public personalities, artistic agencies, and business interests began to distance themselves, physically and symbolically, from Jackson's segregationist institutions.

In Jackson, consent was enabled through the coerced segregation of popular entertainment and the arts. This coercion took many different forms — some overtly violent, others less so — and enjoyed the sanction of the state. It operated most powerfully and encouraged consent most efficiently when its operations were silent and unseen — naturalized or hidden by dominant alliances and institutions. Certainly this was an insight not lost on the leaders of segregation or on the managers of southern media outlets, as they often stopped broadcasts of white-on-black violence or censored representations of racial struggle. And, as the following chapter details, these media workers labored diligently, employing the resources offered by legal bureaucracies, to recode and "naturalize" their strategic maneuvers. They knew that at the moment coercion was articulated, and its implications revealed, it became vulnerable to attack.

Programming/Regulating Whiteness

Although more than thirty years have passed, residents of the predominantly black neighborhoods of west Jackson still recall the popular "in-house" jokes of the fifties and sixties that circulated whenever local stations aired "cable trouble" or "technical difficulty" signs. In these households knowing quips would be exchanged, such as: "It must have been something about black people, because they're messing up the TV."¹ In Jackson and elsewhere, appearances by African Americans on local television screens were exceedingly rare, limited to occasional glimpses of popular performers on the Ed Sullivan show, or more painfully, representations of blacks linked to ignorance and crime.

Still, considered within the context of southern network affiliate practices, the programming of WLBT and WJTV were in many ways unexceptional. The stations regularly aired network fare during the day and prime-time viewing hours, including such popular shows as *Dragnet*, *Gunsmoke*, *Wagon Train*, *Life Is Worth Living* with Bishop Fulton Sheen, and the *Milton Berle Show* during the late fifties; and *The Beverly Hillbillies*, *Bonanza*, *Candid Camera*, and *The Donna Reed Show* in the early sixties. While WJTV enjoyed affiliation with CBS, the network that carried a majority of the top-rated programs during the early sixties, WLBT carried a primary affiliation with NBC and secondary affiliation with ABC, using programming in prime time from both. Both stations frequently used syndicated offerings. Although WLBT's primary economic agreement was with NBC, on the whole the station's programming reflected about a fifty-fifty split of programming from the two networks. Hewitt Griffin, the station's programming director during the mid-sixties, remembers that during that decade network affiliates in Mississippi enjoyed an industrial climate where networks were eager to please and local stations had a variety of programming

options. Network representatives visited station decision makers almost weekly. As Griffin put it, NBC and ABC "were anxious to have our good will."²

A perusal of published prime-time program schedules during the fifties and early sixties reveals that, similar to other affiliates in the region, the stations consistently presented prime-time schedules heavy with network offerings, but often delayed or changed air times for a variety of network fare. And, at least until the mid-1960s, with several programming options at hand, station staffs were careful not only regarding what to include but also what to exclude from the schedule — most notably programming that showcased articulate, accomplished African Americans. For example, when NBC offered the *Nat King Cole Show* during the 1956 and 1957 seasons, affiliate WLBT did not air the program, instead broadcasting ABC offerings in its place or syndicated fare such as *The Whirlybirds*, a helicopter adventure show. This prime-time practice was modified in the years subsequent to the 1964 petition, as programs such as the *Sammy Davis Jr. Show* and *I Spy* were being aired by 1966.

Public affairs and news programs were the most scrutinized and censored of all broadcast materials. On WLBT, of the seven regularly scheduled NBC network "public affairs" programs that occasionally discussed racial integration and were offered to affiliates during approximately fourteen months between 1962 and 1963, the station chose to regularly air only the *Today Show*, and even then allegedly omitted "pro-integrationist" portions of that program.³ Of twelve network special programs listed by NBC as dealing with integration and available to affiliates in 1962 and 1963, four were carried by WLBT. The weekly program *David Brinkley's Journal* was never aired. *Chet Huntley Reporting* was not used, ostensibly because management feared it would "promote violence." WJTV stayed away from airing the award-winning *CBS Reports*. WLBT would also air advisories before chosen *Today Show* segments stating "the following news is network news and represents the view of the northern press. Stay tuned for the local news, which follows immediately."⁴ In 1964 such local station programming inserts were so frequent, particularly during the *Today* program, that even an editor for the *Jackson Daily News* noted "more and more" people complaining about the interruptions and commented, "I've not seen anything on one of them which interested me nearly as much as what I am missing on the network show."⁵

In regard to the noncarriage of network programming, the Jackson stations were also not entirely exceptional, because national and regional broadcast program sponsors were often reluctant to support programming featuring African American hosts or with a focus on southern race relations, for fear of offending southern advertisers and audiences. For this, as well as other well-documented reasons, early network prime-time productions could be characterized as offering very little in terms of African American voices, images, or perspectives.⁶ As one audience member remarked in a letter to NBC regarding the prime-time offerings of the fifties: "Take, for example, *Dragnet* . . . its writers believe Los Angeles [has] no Negro policemen, no Negro criminals, no Negro citizens who are victims of crime or witnesses or innocent bystanders. When it comes to dramatic shows or situation comedies, TV writers never heard of Negroes."⁷

As broadcast historian William Boddy has detailed, networks grew increasingly sensitive to controversial materials in the second half of the fifties and into the early sixties.⁸ Conditioned by overweening sponsor censorship and creative control during the fifties, the television writers of the early sixties practiced self-censorship. An Office of Network Study report summarizing the testimony of television advertisers in 1959 and 1960 concluded that "as a general proposition, sponsor aversion to controversy, thought-provoking material, 'downbeat' material, etc. permeates and shapes the production of 'formula type' program series [such as the ever-present westerns of the early sixties] from start to finish."⁹ And certainly "the race issue" and integration were toward the top of the "controversy" and "to be avoided" lists.

Still, not all Mississippi stations mimicked the powerful Jackson outlets in this regard. During the early sixties there were at least ten television licensees (including the Jackson stations) within the state or with interstate coverage from New Orleans (WDSU) or Memphis (WMCT and WREC). Outside of the capital, local stations offered television in Columbus (WCBI), Biloxi (WLOX), Meridian (WTOK), Greenwood (WABG), Tupelo (WTWV), and Hattiesburg (WDAM). Published broadcast schedules show that some of these affiliates ran network programming rejected in Jackson. For example, WDAM broadcast the *Nat King Cole Show*, at least briefly, and *David Brinkley's Journal*. WТОK aired *CBS Reports*. Mississippi broadcasters were not unified in the belief that an absence of network public affairs programming was necessary or positive. While the Jackson stations often defended their

network noncarriage as based on public safety, ratings, or economic considerations, affiliates outside of the capital chose otherwise — offering their viewers a different journalistic view of contemporary events.

This is not to say that documentary series such as *CBS Reports* were giving national audiences abundant discussion of domestic racial or civil rights struggles — at least, during the early sixties they were not. As Michael Curtin shows in *Redeeming the Wasteland* (1995), the “flagship” documentary series for all three networks were instead preoccupied with the drama of superpower struggle and “Communist threat to the Free World.” Between 1959 and 1964 the *NBC White Paper* series, *CBS Reports*, and *Bell and Howell Close-Up!* broadcast a combined 11 programs focused on civil rights, which was a small fraction of the 167 episodes aired during this period.¹⁰ Within such a context it stands as even more impressive that such series, with their consistent reiterations of American capitalist superiority in the midst of cold war tensions, were still considered sufficiently dangerous or volatile to be censored by Jackson managers.

Instead, WLBT offered a heavy diet of patriotism differently defined. The station’s petitioners took special note of these programs as well as the NBC affiliate’s local “news” and “commentary” segments, which seemed particularly unresponsive to “fairness” concerns. Under the banner of “patriotic” offerings the station aired syndicated programs such as *Lifeline*, *Dan Smoot*, and *Freedom University of the Air* — all reactionary, McCarthyesque productions obsessed with combating the imminent dangers of communism and its perceived partner, the black civil rights movement.¹¹ Typical of specials offered within this narrow range of programming was *Hollywood’s Answer to Communism*, a program describing a 1961 Hollywood Bowl rally organized by the Christian Anti-Communism Crusade and focused on “combating Communist influence in government and public institutions.”¹² Many of the personalities featured on these programs fit Stephen Whitfield’s description, in *The Culture of the Cold War*, of those who had “inferred from the evidence that Communism was loathsome the conclusion that anything loathsome was Communism.”¹³ In the midst of cold war fears any actions or beliefs that did not conform to dominant white segregationist practice, whether pertaining to economics, politics, or race, were immediately suspect as communistic and condemned by the mediated guardians of “the American way.” This conflation of racial integra-

tion with communism was a hallmark of Jackson’s patriotic broadcast programming.

WLBT was also exceptional in that its physical plant facilities served not only as a broadcast center but also as an outlet for anticommunist, anti-integrationist literature. The “pro-American” shows aired on the station frequently promoted the conservative books and pamphlets available at WLBT’s Freedom Bookstore, which originally was located within the station’s main buildings. Monographs promoted by television spokespersons, such as Dan Smoot and *Freedom University’s* W. Cleon Skouson, included *The Naked Communist* authored by Skouson; *Black Monday*, a jeremiad aimed at the 1954 Supreme Court *Brown* decision; and *The Bondage of the Free*, which argued among other things that “Americans have not yet learned to wage a political offense against a collectivist [communist] scheme which holds the onus of color over their heads as a psycho-social guilt factor. Trying to avoid the accusation of ‘racial prejudice,’ white Americans are abandoning an entire social system and way of life — the consummation of centuries.”¹⁴

But perhaps the best known and most remembered segregationist program on WLBT’s weekly schedule was *Citizens’ Council Forum*, a syndicated fifteen-minute program that had its organizational roots in Jackson and usually aired locally on Sunday mornings or afternoons. As mentioned in chapter 1, the council claimed that *Forum* was also shown or heard (in radio formats) on more than three hundred stations nationwide. However accurate or exaggerated this claim was, it was most likely that a majority of the broadcasters running the program were conservative radio stations. In Jackson, for example, WJTV did not televise the *Forum*, but ran the audio program on its sister station, WSLI radio. The program offered a frequent critical focus on northern or federal “threats,” as well as the problem of northern “news management.”

“News management” was indeed an area of primary complaint, not only for segregationist leaders but also for local African Americans and civil rights activists. In the South it was not unusual for television stations to simply suppress images or narratives of white-on-black violence and police brutality while citing a concern for public safety and fear of increasing racial tensions.¹⁵ And in news programming as well as entertainment, before the crises prompted by student sit-ins, boycotts, and freedom riders, many local television news directors paid

little attention to African Americans or the issues that they faced. As a former television news director summarized at a 1965 conference titled "The Racial Crisis and News Media," although television was the "chosen instrument of revolution" during the sixties, during the fifties "with few exceptions, southern newspapers and southern radio and TV stations carried very little news about Negroes and paid almost no attention to news involving racial issues."¹⁶ In Jackson this omission of African American images and perspectives was nearly complete, at least in "mainstream" print and electronic media, and extended well into the sixties. Certainly, attention was paid to racial issues, but African American voices were most often excluded and direct address of racial struggle was deflected through the use of code terms such as "states' rights" and "patriotism." However well this veneer of broadcast codes covered supremacist agendas, at times undisciplined bigotry exposed racism in more raw forms. For example, two of Jackson's best-known news personalities and on-air spokesmen, Alon Bee of WLBT and Bob Neblett of WJTV, were identified as offensive based on their news/weather presentations which often carried a tone of smug mockery and ugly language. The station petitioners identified Jackson's on-air personalities as making slurred references to "negras" and "niggers," accompanied by insulting facial and hand gestures or derogatory quips in reports on civil rights demonstrations.¹⁷

Longtime Jackson residents remember these insults, as well as the station's disproportionate emphasis on African American crime. In a 1992 conversation, Ruth Owens, a former director of public relations at Tougaloo College, vividly recalled newscaster Bee using a newsreel shot of African American students and remarking with disgust, "look at all that black." As she talked about such past newscasts, the power and emotion of these memories were very acute. Owens told me, "I'm just as American as he was . . . this is home for me too. . . . It just hurts to see somebody on the screen saying something like that."¹⁸ But for the official record these electronically transient performances of vulgar racism were not made manifest through a scrutiny of official station logs or records as the station came under formal review.

High on the notoriety scale for offensive programming, on par with the *Citizens' Council Forum*, was the local station's *Comment* series — a five-minute opinion and editorial piece that aired weekdays on an irregular basis, usually alongside the local evening news, weather, and sports. While a variety of guest commentators, including a few "mod-

erates," were invited to make observations regarding current events or news stories, the station again shut out any African American or activist perspectives that might forcefully challenge the white status quo. Although the station defended the series as reflecting a broad political spectrum, the management clearly had its "favorite" commentators, including Tom Q. Ellis who alone made more than 150 appearances between 1951 and 1963.¹⁹ And before the series was curtailed by the station, audiences had heard station manager Beard pronounce "never" in response to the integration efforts of James Meredith at the University of Mississippi, as well as Ellis refer to black Mississippians as "nigras" and "niggers" and repeatedly link racial integration efforts with communism.²⁰ Again in many of these cases the commentator's insulting interpretations, gestures, or departures from an official script were formally transient and informally enduring — "lost" after broadcast but very much remembered.

In the balance of this chapter I deal with memory — ways of "recording" and establishing the past — and with legal decision making. I examine how the FCC evaluated the WLBT programming described above in formal reviews, public hearings, and published statements dating between 1964 and 1969. I join these commission actions and statements to the testimony, complaints, and memories of the petitioners, and in doing so, I focus on the processes of state policy and law, showing how local activist and African American testimony was formally delegitimated by commission actions defended as procedurally necessary. In a manner analogous to the contemporary practices of white supremacy, regulators asserted that serious racial discrimination was not proven while marginalizing black testimony articulating its existence. Voices were dismissed as they announced the omission of similar voices from the television screen.²¹

CHALLENGING INSTITUTIONS

As I discussed in the first chapter, Medgar Evers and the NAACP had established a record of black complaint regarding the programming practices of Jackson's television outlets long before the complicated legal wrangling over Jackson television took form in the mid-sixties. In 1955 and 1957 the FCC received complaints centering on the omission of African American voices on WLBT and its refusals to grant airtime

to integration proponents. In both instances, the commission considered the complaints and solicited station comment, but defined the local programming incidents as exceptional, opting to take no further action.

When the NAACP first brought complaints based on accounts of the 1955 "cable trouble" incident, it requested that an examination be made of the station's official logs, seeking clarification as to how and why network programming was deleted. In rejecting the request, the commission reasoned that the logs were "not required to show why a particular program or portion thereof was not carried, and therefore no purpose would be gained by examining them." Rather, the commission assured the organization that such complaints would be considered when the station filed for its license.²²

However, even as the commission granted the station a license renewal in 1959 it recognized its limited knowledge regarding transitory station practices. The station logs, usually considered to be the official and permanent record of "what had occurred"—before the age of VCRs and cheap videotape—were, by the commission's own admission, limited and incomplete. And as the commission itself had argued, stations were not required to record justifications for even the most peculiar programming practices. Thus, over the course of investigations into station practices during the fifties the commission acknowledged, at least internally, that judgments were made with lingering uncertainties as to what had actually taken place.²³ Finding little that it could satisfactorily document, the commission downplayed focal incidents as "isolated."

However, the 1955 "cable trouble" incident, as well as other controversies that followed, exposed a central problem for the agency—satisfying the knowledge requirements and standards of proof in official legal and regulatory processes. In working with unreliable station records, absent video recordings, or independent monitoring efforts, the commission frequently struggled to find grounds for authoritative judgment. An absence of satisfactory documentation—legitimated knowledges that would provide official truths and justify federal action—was a recurring theme rehearsed by FCC examiners during the long legal fight over the station's license, and on one level it explained the commission's reluctance to significantly change the status quo.

With the 1964 petition, voices deemed dangerous to the status quo gained legal force, building on the important historical record and

precedents established by Evers, Smith, and other station petitioners. At the time of the challenge, there was little doubt regarding which interests dominated the racist, broadcast construction of local history, or the resistance that contrary voices would face. Still, the United Church of Christ Office of Communications set out to gather local African American perspectives regarding the station and its programming practices. And black Mississippians spoke in response to a request from a civil rights ally, circulating alternative versions of the present and past.

The number of African Americans who testified or filed testimony for the petitioners was not large. Few Mississippians, black or white, were willing to speak out publicly given the attendant risks. Those who chose to do so confronted the difficulty of translating historically marginalized concerns into a form acceptable to the regulators, and perhaps more ominously, faced the response of those who assumed the guardianship for white supremacist histories. The segregationist response to activist challenges aimed at prominent institutions had grown increasingly violent in the early sixties, and the local television stations had established themselves as cultural giants—powerful political and economic institutions with close ties to big business and government.

In New York, Everett Parker had a difficult time finding a lawyer who thought the case could be won, given the conservative, proindustry disposition of the FCC, and in Mississippi many blacks doubted that such a powerful local institution could be significantly changed.²⁴ R. L. T. Smith, one of the official petitioners, explained to the FCC that it would be difficult for the UCC to gather public complaints against the station within the black community: "It is extremely difficult to get statements that speak out against the status quo from the victims of an oppressive society. I believe that it will be next to impossible to get statements about the unfair behavior of WLBT from any Negro employees of the state or any subdivision thereof. Making such a statement would almost certainly result in the loss of his job by such a person."²⁵ Smith's own experience added weight to his comments regarding the risk of public activism. His home and grocery store, both centers for local movement organization, were targets of terrorism. Over a period of five years the minister's home had been the target of gunfire and his business had been bombed three or four times.²⁶

As discussed earlier, Smith had interactions with WLBT in attempts to buy airtime for his 1962 congressional campaign. At WLBT his

requests met acrimonious denials and threats in personal conversations, which later were followed by more restrained and formal written rejections. When Smith reported the station's threats and hostility during the course of the commission hearings, WLBT programming director Maurice Thompson offered the commission a very different version of Smith's interaction with the station and proceeded to attack the black minister and the credibility of his account. He wrote: "The action of Rev. Smith in distorting the oral statements of WLBT personnel demonstrates the difficulty encountered by WLBT on occasions when it has endeavored to maintain channels of direct, oral communication with individuals engaged in militant racial activities and emphasized the necessity of limiting exchanges with such persons to written communication which form part of a permanent record and are less subject to misinterpretation."²⁷

Throughout the process of FCC hearings regarding the station's practices, it was such "written communication" or "permanent records" — that is, the papers and files of the station — that a majority of FCC commissioners and the station's defenders held as most informative, objective, and reliable. This record was the standard against which the lived experiences and testimony of local African Americans were judged. In the events involving Reverend Smith and others, black memories of discriminatory or threatening behavior were subordinated to the claims of carefully worded written correspondence.

Early in the challenge process black Mississippians anticipated these bureaucratic limitations and recognized the problem of translating their concerns into arguments that distant federal officials would find credible or convincing. Doris Allison, a young student leader in the Jackson Movement and president of the Jackson branch of the NAACP, put it this way as she concluded a detailed list of complaints regarding WLBT programming: "You have to understand that I must be very exact about what I say because the Federal Communications Commission is in Washington and I am here in Jackson, Mississippi. After all, it has become a grinding effort just to be a Negro in Mississippi. The only time the Negro community is given free consideration on television is when the station wishes to make known that a Negro has raped a white woman or when it brings into focus all the weapons at the white community's command in its attempt to keep the Negro at the bottom of the perpetually shifting and bewildered populace."²⁸

As local media operations and regulatory mechanisms surrounding

them contributed to the alienation and disempowerment of many black Mississippians, few stepped forward to challenge the station, ask for on-air rebuttals, or criticize its practices. As Hartman Turnbow, a black farmer from Holmes County, Mississippi, put it: "I can't rember having ever seen a local Negro [on TV] allowed to speak in favor of civil rights. If there had been such a local Negro, I would have tried to get on and talk some too. I would want to get on because I want the white people to know we don't want to take the courts over, but rather to help them with the courts because we feel they need help there. I haven't tried, however, 'cause I've never seen any local people on, and I figured there are some local Negroes shrewder than me, and if they can't get on, I haven't got a chance to get on either."²⁹

TESTIFYING IN THE SIXTIES

Hartman Turnbow was one of several African American witnesses who responded to the formal invitation to testify against WLBT. The complaints brought forward by these witnesses may have been shaped and guided by outside legal counsel and may or may not have been representative of black Mississippians across the state, although it is clear that most of the witnesses assumed the responsibility of representing the many voices that historically had been silenced. Certainly those who volunteered for this role were exceptional in their courage.

The testimony of Turnbow and others discussed in this chapter comes primarily from the transcribed testimony of African Americans placed in the official dockets of the FCC. Clearly these "official" histories and recollections may be significantly different from other "unauthorized" and previously unrecorded memories: very different audiences and dialogue dynamics are among the variables involved. However, in using these government materials I want to draw out observations and insights that resonate with the "unofficial" — that is, with histories and popular memories I found outside of the records of the government and court. In doing so I offer a triangulation of materials foregrounding perspectives marginalized, if sometimes recorded, via processes of state regulation and law, while looking for common themes. Rather than attempting to theorize or fully define the nature of the "official" sphere, my more modest goal is that of showing how notions of "officialness" have been mobilized to support a racial status

quo. The examination of "official" testimony, its definition and its handling, in this instance reveals the inevitable interaction of the official and unofficial as well as the hierarchies of legitimacy and authorization rooted in particular, "legal," ways of knowing.

Such hierarchies are present not only in negotiations defining the official and unofficial but also within the realm of the official itself because not all official texts are accepted as equally legitimate or authoritative. In evaluating Chicano activism during the sixties and subsequent decades, Chon Noriega has argued generally that a lesson learned by media activists was that entrance into the official institutions of industry and state does not equal acceptance. He further elaborates that "acceptance itself is a problematic concept insofar as it requires an authority — that is, someone or something that can confer acceptance upon the supplicant."³⁰ Noriega describes how Chicano testimony before the federal agencies such as the Equal Employment Opportunities Commission "fell outside the interpretative framework of the various agencies that were approached or confronted. Chicano media activists understood neither the style nor the substance or the 'appropriately neutral and expert policy language' for mass media. After all, they were *not* policy experts, nor were they professionals within the industry; they were outsiders demanding to be let inside."³¹

The petitioners who testified before the FCC and submitted statements opposing WLBT relicensing most likely did not even consider themselves media activists, much less media policy experts or professionals. They most often simply self-identified as viewers and concerned citizens. Their focus was on attacking Jim Crow segregation and promoting civil rights change, and they recognized local television as a strategic site of struggle and potential resource. Thus for all the problems gaining "official" access posed and continues to pose, they did demand to be "let inside" the regulatory processes of the state.

The complaints that antilicensing witnesses officially submitted to the commission were quite specific and included the use of offensive gestures, language, and pronunciations, as well as the lack of use of courtesy titles such as Mr. and Mrs.; news programming and personalities that portrayed local African Americans as essentially criminal and inferior to whites; and the interruption, omission, or blacking out of programming that discussed integration or African American affairs in a positive manner. It was this last complaint — the problem of omission and blackouts — that drew repeated mention and substantial com-

mission attention. Hartman Turnbow, for example, expressed several of these complaints:

As a farmer good television service would be helpful because I like to keep up with the news. It means a lot to me. I've noticed the national news programs are often cut off. Huntley-Brinkley is often cut in on. I've known this to happen quite often. When they cut in I usually cut out because I'm interested in the news and not the other things they show.

When any incident of any kind happens so that they have to use colored peoples' names, they called the colored person by his name only or use the title "Negro" instead of Mr. or Mrs. They generally use the title Mr. or Mrs. for white people in similar circumstances. This is true of both television stations.

Very rarely do we see Negroes on shows originating locally. We see them on national network programs, but very rarely on shows originating locally. Of course I don't watch television twenty-four hours a day, but it happens so seldom that I can't remember when I last saw one. When one appears my wife and daughter call me to the TV to see the Negro. They know I like to see Negroes so they always call me if one appears.³²

Witness Doris Allison also made remarks along these lines:

The general practice of WLBT is to just serve some of the people, and not the community as a whole. And when they do carry an announcement as a service to the Negro community, it is so distorted that even the person who made it cannot recognize it. And when a person speaks out against the oppression of the Negro in Mississippi, he is often very conveniently interrupted. If such a presentation is not cancelled, there are so many interruptions during it that one is forced to guess what the presentation was about. One sees enough of the presentation to know what it probably means, but often one cannot be sure because of the interruptions. This practice was often observed on the *Today Show*.

Mr. Alon Bee is an announcer who is particularly obnoxious whenever he refers to Negroes. When Sidney Poitier won the Academy Award, he said he was sure that no one agreed with the decision that selected Sidney Poitier as the outstanding actor. When he has to report something good about a Negro, he carefully makes sure that everyone sees all his venom and hate. When Dave Garroway's wife committed suicide, Alon Bee commented that even she could not stand to continue to live with Dave Garroway. This was clearly because of Dave Garroway's sympathy for the civil rights struggle.³³

The prominent clergyman Reverend Wendell P. Taylor, pastor of the largest African American Methodist Church in Jackson, also testified. He commented that while living south of Jackson in the Laurel-Hattiesburg area he found local station WDAM to be "fairer" and more cooperative with local African Americans than the Jackson broadcasters. Taylor reiterated the complaints so common among those who submitted testimony:

Since I have been in Jackson I have been concerned about the type and quality of television programs over the local stations. The station WLBT (which I have viewed more regularly) has been of more serious concern because of the following things I have observed in its telecasting:

- 1) Up until recent months there seems to have been a policy of blacking out most programs that dealt with Negroes in their struggle for civil rights.
- 2) Network programs such as *Today* which attempt to present controversial issues unbiasedly are often interrupted in their items with reference to Negroes[,] or when Negro guests appear on the program[,] with trivial news of local interest which is slanted toward the white community. Its local news programs are always slanted in dealing with Negroes or issues involving Negroes.
- 3) Alon Bee, the newscaster on *Today in Jackson*, a program that can be seen at 7:25 and 8:25 A.M. is probably the worst offender in slanting the news with reference to Negroes.
- 4) Another objectionable feature of the news broadcast of this station is its editorial *Comment*. This feature is supposed to deal with controversial issues but only persons with fixed ideas and who support the status quo ever appear on the initial invitation.³⁴

Stella Harrington, a woman active in local voter registration and freedom rider support efforts, also touched on these themes, including problems with the station's entertainment programming:

The first thing I watch in the morning is the *Today Show*. I find that they use anything that can be put in to cut off the show. For instance, on Tuesdays and Thursdays John Stennis appeared for fifteen minutes to interrupt the *Today Show*. . . . Last summer when the *Today Show* was bringing in a lot of national news, any program was used to interrupt it. Some days one could only see an hour and a half of the two-hour program. . . .

Two or three years ago the program *The Rifleman* advertised that

Sammy Davis, Jr. was to appear as a guest star. When the time for the program came they did not show it, but instead ran a film of *The Loretta Young Show*. This is typical of what seems to be a general policy of keeping out appearances of Negroes when possible.³⁵

Finally, Mrs. Arthur Mitchell of Jackson also testified that not only news but entertainment fare had been omitted from WLBT broadcasts:

There is a general reluctance to show Negroes in starring positions, even on national programs, for instance. Sunday, April 19, 1964, the preview for the program, *Bonanza*, was not shown, instead we saw commercials. Every week before the preview had been shown, and every week since the 19th the preview has been shown. Only in this case where a preview of a Negro star was going to be presented did they fail to show the preview. . . .

I'd like to have accurate, objective news reports. I would like to have the station's employees use courtesy titles for all people. I would like to see Negroes freely participate in all the television activities that white people participate in. I would like to have our activities and programs announced by the station. In short, I would like to see the station begin to operate really in the public interest. . . .

The television stations follow the established state policy of discrimination and segregation. This kind of policy is not fair to us. They only seek to show Negroes in a derogatory fashion, if they cannot avoid showing them altogether.³⁶

As news of the challenge to WLBT's license spread throughout Jackson, form letters and local petitions were circulated, both supporting and opposing the station's license renewal. Petitions and form letters were placed at locations in black neighborhoods and businesses such as R. L. T. Smith's grocery store and brought to the attention of Jackson Movement participants at NAACP and church meetings. Even in an environment threatening severe reprisals to antilicensing petitioners, during April and May 1964 the commission received more than 250 signatures on form letters addressed to the FCC chair, E. William Henry, articulating local concerns regarding the dignity and prestige of African American representations: "Dear Mr. Henry: The Federal Communications Commission is urged to investigate programming policies of television station WLBT-TV and its affiliate radio station WJDX before a new permit to operate is granted. It is my firm belief that these stations avoid programs which give prestige parts to Negroes. I

am also convinced that the news is stated in a manner prejudiced to the best interest of Negroes. Respectfully yours."³⁷ A barely legible handwritten letter received at the FCC chairman's office made the simple, one-sentence appeal: "I am asking you please do not renew the license of WLBT on channel 3 here in Mississippi, for the Negro is absolutely ignored."³⁸

In the testimony and correspondence of black Mississippians there was considerable reiteration of these issues. Almost all of the witnesses testified that network programming had been blacked out or replaced by locally inserted programming, continuing the very common complaint regarding the omission of black voices and perspectives. Several witnesses told the same stories regarding specific events and newscasters, notably the offensive language and pronunciations of "Negro" as well as the attacks on celebrities such as Sidney Poitier and Dave Garroway. Many spoke also of the all-white programming for children and teens. Implicit, or sometimes explicit, within the letters and testimony was an appeal for representational respect and dignity — a central theme within the larger scope of the local civil rights movement.

Within the testimony offered by citizens such as Hartman Turnbow were references to the excitement and joy experienced by local African Americans as they viewed rare images of black personalities. Appearances by black actors, actresses, professionals, leaders, and entertainers were exceptional moments, prompting families to call others to gather around the TV set. As the duplicated letters to the FCC chair emphasized, such entertainers in "prestige parts" were noticeably absent from local television.

Several witnesses provided detailed accounts of station practices. Some offered precise records of times, dates, and program titles, thereby corroborating more general observations offered by other viewers. As one of the station's challengers put it, after surveying the very specific, concrete recollections of local witnesses: "I note that in their attached statements, witnesses have to go back into history — two years ago, three years ago. If these channels had used Negro news as it came along, who would have such an accurate memory?"³⁹ The general absence of black representations made the exceptions all the more memorable, especially within the context of the struggles for integration.

The same woman making this observation offered her own vivid memories, including incidents involving Alon Bee of WLBT and Bob Neblett of WJTV. She wrote: "The latter actually has said 'nigger' on

his program, not 'nigra.' Lately, he has been carefully saying "Neeegro," drawing the syllable out. The time I heard him do it, I also heard him laugh. As for courtesy titles, most announcers use none at all for Negroes; they simply give the name in full the first time, and then, for subsequent references, they say 'the woman,' 'the Negro man,' 'the Smith woman,' or 'she.'"⁴⁰ While the call for human dignity and courtesy figured prominently throughout both the larger civil rights campaign and the local Jackson Movement, it came as no surprise to African Americans that this demand, which had been largely ignored by Mississippi's most powerful politicians, business, and religious leaders, was also snubbed by local broadcasters. Such disregard rearticulated the problem of having African American complaints held subordinate to the narratives established by powerful segregationist institutions.

Many local black complaints could not be documented via station records any more than could Beard's alleged posting of a fraudulent cable trouble sign in 1955. The same interests managing daily broadcast programming also managed the technologies of official record — station tapes, correspondence, and logs. Thus, one thin hope of the station's challengers in 1964 was that the FCC would grant a full investigation and hearing into the practices of WLBT, in order that any paper trails could be further investigated and black voices invited into the official record.

Of course, the commission also received letters supporting the stations and their renewal applications. A common theme among these letters was one of genuine shock and surprise that the Jackson stations were found offensive by anyone. A common reiterated phrase was "I cannot understand [how or why the station is being challenged]." These writers were convinced that WLBT and WJTV were engaging their community in a fair and sensitive fashion. Complaints against the stations, much less formal license denial petitions, were sincerely confusing. For example, a former FBI agent living in Jackson wrote that it was "inconceivable . . . that anyone could have an honest and sincere complaint against either or both of these broadcasting companies. . . . It would be nothing short of tragic if their licenses were not renewed, and I cannot conceive of our Government having any question whatsoever as to licensing them."⁴¹ Another Jackson resident wrote: "I am quite surprised that anyone would wish to deny the license. However I do feel the so-called church group is applying pres-

sure in a manner which has little to do with the quality of the TV station."⁴²

Other letters in this camp were marked not only by anger but also by fears regarding the loss of an important, cherished cultural institution, along with a corresponding shift in racial power. Resentment was expressed regarding black gains in popular representation and politics, as well as the interventions of northern church-affiliated "outsiders." It is also striking how many Jackson residents were concerned that television would, in some sense, be "lost" — either completely taken away from Jackson by federal bureaucrats, or given away to some undeserving group. Exemplifying these fears, one writer wrote at some length:

This week we learned on the news that the NAACP is seeking to have our two local TV stations' licenses revoked. That is the most ridiculous thing I've ever heard of. . . . We still see *Bonanza* (even though the three members cancelled their contract to come here because of segregated seating). We still see Lawrence Welk since he has added a negro tap dancer as a regular to this show; Ed Sullivan has always had them; They are often seen on *Password*, *Nurses*, *Concentration*, etc. We saw the Academy Award presentation with Sammy Davis, Jr. and Sidney Poitier.

I haven't heard of any other TV station licenses being questioned and I'm tired of it. There are more color TVs in homes of niggers in Jackson than whites. Are they complaining?

Jackson doesn't want trouble and bloodshed — we just want to be left alone to live in peace as we used to. . . .

I have 29 fourth and fifth grade Girl Scouts and this past Christmas we spent \$20 of our dues giving Christmas dinner, new toys and many good used clothes to a very nice needy negro couple with six children. . . . The color of their skin didn't matter to us! Others have done the same. Please don't black out TV's in Jackson.⁴³

Such letters reiterated the white segregationist vision of the person of color that was quiet and compliant with white control and patronage. For such "Negroes," skin color "didn't matter." Within this imagination large numbers of blacks were well off due to white generosity and concern, and had no reason to complain. In fact, what was startling and offensive, and remains offensive to white privilege today, is the very existence of black complaint — particularly black complaint aimed at established cultural institutions.

Among those writing in support of WLBT and WJTV were also some

very prominent black leaders. Jackson, like other southern cities, had a significant number of accomplished African American professionals — such as Percy Greene, discussed in chapter 3 — who had achieved roles of leadership while routinely endorsing segregationist policies for a variety of reasons, including the sincere conviction that integration would harm local black concerns. This group included established educational and religious leaders; for example, two black college executives, including Jackson State University president Jacob Reddix, signed letters of station support. A primary difference setting these professionals apart from others in the black community arguing against station licensing was the former's alignment with institutionalized power. In most cases, those writing against the station not only did not enjoy such power but also were using their resources at considerable risk in the hope of building alternative alliances with more power.

THE MAJORITY RULES

For more than a year the FCC held both Jackson stations on temporary permits while reviewing their relicensing applications. On 19 May 1965 the FCC voted five to one to renew the license of WJTV and its companion radio station WSLI for a full three-year period. The commission reasoned that subsequent to the petition the station had demonstrated a pattern of operation "designed to ascertain and serve the needs and interests of the entire service area during the next license period."⁴⁴ The commission warned WJTV not to discriminate against blacks in the future, and to consult with black community leaders and more consciously apply broadcasting's fairness doctrine.

The commission's address of WLBT was considerably more complicated. In a relatively brief statement, a majority of the commissioners reviewed the allegations against the station and admitted that serious questions existed regarding "whether the licensee's operations have fully met the public interest standard."⁴⁵ Nevertheless, the majority, by a vote of four to two, decided to grant a probational short-term license renewal to the station, offering the following, rather curt, justification: "In making its judgment, the Commission has taken into account that this particular area is entering a critical period in race relations, and that the broadcast stations, such as here involved, can make a most worthwhile contribution to the resolution of problems arising in this respect.

That contribution is needed now — and should not be put off for the future. . . . We are granting a renewal of license, so that the licensee can demonstrate and carry out its stated willingness to serve fully and fairly the needs and interests of its entire area — so that it can, in short, meet and resolve the questions raised.”⁴⁶

Faced with the complaints that created what FCC general counsel Henry Geller characterized as the clearest call for an evidentiary hearing that he had ever seen, the commission majority overruled staff recommendations for a hearing due to, at least within their formal rationale, the urgency of local race relations. Given the “sensitivity” of these relations, they reasoned, the federal intervention and disruption attendant with hearings would be contrary to the public interest. Supplementing this rationale, a stark footnote announced the commission’s position regarding the legal standing of the petitioners and the FCC definition of the “public” in “public interest.”⁴⁷ The commissioners wrote that the station’s challengers, “as members of a minority group,” could “assert no greater interest or claim of injury than members of the general public.”⁴⁸ This comment stood in marked contrast with the body of the commission’s decision. For pages it discussed whether or not a minority group had been treated or represented fairly compared to other members of the viewing public. The regulators all but explicitly stated that African Americans had been distinctly “injured,” while at the same time arguing that the black petitioners could assert no different claim of injury than those inflicting the injury. While such language espoused a peculiar legal logic, it also enacted a marginalization of lived racial oppression. The commission ended its formal decision admonishing the station “to immediately cease discriminatory programming patterns,” and to establish programming changes as a contingency for relicensing.⁴⁹

Certainly this tortured opinion and justification reflected the pro-industry position of the FCC. Particularly large, powerful broadcasters such as those established in Mississippi’s capital were routinely protected by commission actions. However, this decision made it equally apparent that the commission’s investment in the status quo operated along multiple axes. The commission majority’s arguments were an explicit attempt to shield commercial broadcasters from minority activism. Fearing a flood of “minority” petitions disrupting the efficiencies of industry and regulation, the commission articulated an en-

during strategy for the address of contemporary racial struggle. This strategy entailed foregrounding racial tensions as a justification for caution and conservatism while at the same time evacuating any notions of racial or social difference — in this case noting the “sensitivity” of conflicting racial interests while simultaneously denying that black Mississippians could assert different interests or claims than white Mississippians — all within a segregationist society that had produced divisions precisely around questions of race. By placing faith in “broadcast stations [to] make a contribution to the resolution of [racial] problems,”⁵⁰ the commission effectively surrendered address of racial tensions to the very institutions that African Americans had targeted as problematic.

Charged with discovery of “the facts” in this station’s history, the commission responded with a decision explicitly grounded less in factual discovery than in the conflicting social practices of the time. Understanding itself as an institution intertwined with contemporary civil rights struggles, the commission majority envisioned themselves as a benevolent power offering help to the black citizen.

The 1965 majority decision was also notable for its complete neglect of petitioner complaints not directly aligned with the fairness doctrine. This focus was predictable, as the petition included fairness allegations and the commission had taken the extraordinary step of issuing a “clarification” of doctrine requirements in 1963 — largely in response to southern broadcaster handling, or more precisely neglect, of the integration-segregation debate. Still, while fairness considerations were central to station challengers and defenders, they were not the exclusive grounds for complaint, and arguably were not even the most dangerous accusations aimed at the license. Historically the FCC had dealt severely with stations involved in misrepresentation or misinformation, and as the minority dissent in this case noted, these were exactly the types of issues that begged further investigation. At several points the petitioners’ testimony starkly contradicted station claims and representations. But instances of station misrepresentation received no consideration in the formal majority decision, as the commissioners concentrated on questions of fairness, finally defining the problematic fairness incidents as isolated or related to previous renewal periods.⁵¹

Commission concentration on narrowly defined fairness doctrine

concerns meant a nearly complete dismissal of African American testimony speaking to the problem of omissions and blackouts in important programming. As noted earlier, a central thread in the testimony gathered from black Mississippians was frustration regarding omissions, blackouts, and interruptions. Yet these station practices, taken alone, were not a fairness doctrine violation per se and could be defended as the legally protected First Amendment right of any local broadcaster. The station's formal fairness obligation was only to address "controversial issues of public importance" while offering "reasonable" opportunities for all sides to be heard — all within the context of reconciling overall programming with "the public interest."

Thus the complaints of African Americans would be accorded no more force or recognition than citizens protesting loud commercials or teenage rock and roll. The public interest criteria had been circumscribed by the commission definition of the public as an essentially homogenized group — in which African Americans would have no legally recognized interests distinct from those that supported an oppressive status quo. By reiterating dominant racial discourses, the commissioners in the majority claimed to aid a historically oppressed group by treating them no differently than their oppressors. Perhaps this was one reason the dissenting commissioners, while raising the problem of programming omissions in their response, placed more emphasis on conducting fuller investigations and hearings rather than marshaling African American voices.

The dissenting commissioners hoped to further examine some dramatic discrepancies. For example, R. L. T. Smith offered testimony and evidence regarding his confrontation with Fred Beard and WLBT practices that stood in stark opposition to the narratives offered to the FCC on typed station letterhead. Other witnesses testified to program disruptions and alterations officially denied by broadcast managers. Then again, black Mississippians often provided narratives admittedly contingent on memory — frequently without written corroboration or documentation — while station accounts supported by logs, letters, and other documents denied their historical and political contingency and were largely of the staff's own creation.

And so the petitioners were not surprised to learn in May 1965 that the commission majority would fail to fully consider the stories and testimonies of their witnesses: such nonrecognition was the commonplace.

THE MAJORITY RULES AGAIN

The station's moment of regulatory victory was short-lived. In 1966, the U.S. Court of Appeals for the District of Columbia rejected the commission's ruling regarding legal standing; granted a measure of legal recognition to the petitioners grounded in the discourses of consumerism; and agreed with the commission dissenters that there was enough evidence to merit an evidentiary hearing on relicensing (see chapter 2). The court explicitly reversed the FCC's licensing order and remanded the matter to the commission, while retaining jurisdiction to dispose of the case. Thus, by court order the FCC held formal hearings in Jackson, Mississippi, during May 1967, calling witnesses and reviewing new legal briefs as well as those materials submitted in earlier challenges.

The court charged the commission with investigation of fairness doctrine concerns, black access to station facilities, and address of whether or not the broadcaster had acted in good faith dealing with racial representation. Extensive documentation and testimony was submitted from both sides of the debate. On 27 June 1968 the commission majority announced that they had reconsidered all relevant evidence and then published their decision. Given the commission's history and handling of the case, few were surprised that the regulators decided to grant a full, three-year license renewal to the embattled station.

In a departure from their extraordinary claim of sensitivity to racial tensions that was stated in defense of the 1965 renewal, the 1968 decision justified relicensing due to an absence of significant "corroboration or substantiation" of petitioner allegations. In short, the FCC claimed that charges against the station had not been proven. Echoing the FCC hearing examiner's conclusions released in 1967, the commission majority summarized:

Examiner Kyle determined that the allegations made by the interveners, which were of a sufficiently serious nature to merit an evidentiary hearing, were neither corroborated nor substantiated at the hearing. Rather the examiner concluded that the record demonstrated that WLBT had consistently afforded the right of expression over its facilities to persons of contrasting views to those expressed over the air . . . and that the record was devoid of any evidence that WLBT misrepresented either to

the viewing public or to the Commission, its programming policy with respect to racial issues or that it did not act in good faith in the presentation of programming on that issue. . . .

We are in agreement with the examiner's conclusion that the interveners failed to corroborate or substantiate virtually all of their allegations upon which the hearing was predicated.⁵²

This argument stood in uneasy juxtaposition to the commission's 1965 decision. The earlier ruling had granted only a probationary short-term license, telling the station that the "asserting of ignorance . . . or of reliance on [misleading] labels is over," and demanding that it "immediately cease discriminatory programming patterns."⁵³ In 1968 the commission reexamined many of the same complaints that commissioners had defined as serious and troubling just three years prior, yet now dismissed them as lacking any evidentiary base. Angry dissenting commissioners Kenneth Cox and Nicholas Johnson attacked this contradiction: "The Commission's former show of concern for the public interest has been replaced by all-out indifference. In May 1965, the Commission found WLBT's performance sufficiently disturbing to warrant a special, short-term, probationary renewal. In June 1968, the Commission looks over the same record and declares it clean enough to justify a routine, rubberstamped, 3-year renewal."⁵⁴ Again, in regard to the FCC's decision, the station's petitioners were far from surprised. It had been evident to them early in the hearings that the commission was grudging in its grant of a hearing and that the appointed hearing examiner, Jay D. Kyle, brought into the hearing room considerable animus aimed at the station's challengers and their arguments.

During the two and a half weeks of testimony eleven witnesses appeared for the station challengers and twenty-four for the station. In the case of station witnesses, although attorneys had attempted to bring in African American witnesses supporting WLBT, only one black witness testified.⁵⁵ The eleven witnesses providing testimony for the interveners included the original petitioners — Reverend R. L. T. Smith, Dr. Aaron Henry, and UCC representative Everett Parker — as well as Tougaloo College president Dr. A. D. Beittel, civil rights worker Andrew Young, and three other local black residents. All of these witnesses faced rigorous cross-examination by both station counsel and attorneys from the FCC's broadcast bureau, which was made even more hostile through the rulings and comments of hearing examiner Kyle.

Before the hearings began Kyle made a series of key procedural rulings that put the interveners at a severe disadvantage and essentially ended any hope of a successful license challenge. Kyle ruled that "material regarding civil rights in Mississippi which did not relate" to either of two narrowly defined "fairness" issues — the airing of all sides of controversial issues or facilities access to all segments of the community — would not be accepted. Further, he ruled that any voluntary statements not made in direct response to questions of counsel would not be allowed.⁵⁶

Perhaps most crucial of all, Kyle and the commission preempted damning testimony against the station through the establishment of an extraordinarily strict standard and burden of proof for the petitioners. Working with this standard, the hearing examiner and commission majority routinely refused to accept oral testimony as evidence, even in cases when such testimony was not challenged or contradicted by the station's representatives. The examiner repeatedly dismissed detailed testimony that in his estimation lacked a precise recall of times, dates, and other details, or further corroboration. Within this legal framework, much of the petitioner testimony describing discrimination and station complicity remained formally at the level of allegation and was viewed with suspicion, although emerging patterns and themes were clear.

Andrew Young, then the executive director of the Southern Christian Leadership Conference, was just one of several witnesses who received reprimands or criticisms from the FCC hearing examiner or commission attorneys for perceived vagueness or provision of materials deemed "unrelated to the issues" at hand. In comments to UCC attorney Earl Moore, and later Young, the presiding examiner voiced a familiar criticism of petitioner testimony: "And the witness also used the word 'guess' a minute ago and that is not good," Mr. Moore. Let's tie it down to the places and this station. All we are concerned with here is WLBT. That is all we are concerned with. I don't want any witness to deal with the realm of generalities, so tie it down as to what he had done and what he has not done and then he may be cross-examined and it may be rebutted. There are to be no voluntary statements of witnesses so you are limited to the questions of Mr. Moore and later Mr. Miller and Mr. Kehoe."⁵⁷

Ruth Owens, director of public relations at Tougaloo College until 1965, was one petitioner who brought not only a detailed memory of

station offenses, but precise written records regarding station incidents. She had found local programming so outrageous that she had privately decided to keep written notes, including precise times and dates, regarding some of the station's particularly offensive practices. As she testified, FCC attorneys attempted to discredit her accounts. Shortly before she was called to testify in the hearing room, at least one attorney approached her, and seeing the diary in her hands, charged "you just wrote those notes down here, didn't you?" Owens responded she had not, and that indeed the notes had been put on paper for some time. In her testimony she charged that the station had failed to carry public service announcements that she had personally issued for Tougaloo events, and then documented instances in which WLBT personnel had failed to use courtesy in addressing local African Americans.⁵⁸ In response the FCC attorney attempted to weaken Owens testimony by questioning why some instances she mentioned were documented — that is, described in detail on paper — and others were not.⁵⁹

When a discrepancy arose regarding the use of the term "nigger" by Tom Q. Ellis on the *Comment* program, Kyle's ruling again epitomized the commission's treatment of intervener witnesses. Although WLBT news director Richard Sanders maintained he had never heard station employees use the term, three witnesses testified that both Ellis and announcer Alon Bee had used it. Kyle acknowledged that Bee's use of the term was unrefuted, then he invalidated the testimony as hearsay: "A glaring weakness of the interveners evidence here is that, as in many of their allegations, they did not pinpoint specific times when certain events supposedly occurred thereby unfairly depriving the applicant of an opportunity to properly rebut such allegations."⁶⁰

R. L. T. Smith was in the midst of testimony when examiner Kyle made one of many rulings excluding the information provided by local citizens. Smith, who offered testimony characterized by the commission as vague and lacking detail, certainly carried enough detail into his description of the WLBT premises and the station's on-site supremacist Freedom Bookstore to raise the ire of Kyle. The examiner issued a warning to UCC attorney Moore that explicitly articulated his perspective as well as that of the commission majority: "Well, I want you to keep in mind, Mr. Moore, the issues, all parties will stay on the issues. I have no authority to broaden any issues or enlarge any issues. . . . I don't want a lot of ramification, Mr. Moore. I just want you to stick to the issues."⁶¹

It bears repeating that in calling the petitioners and critics of the station back to the issues Kyle was demanding that diverse practices and experiences of those practices be translated and condensed into very constricted, formally constituted considerations. By telling the petitioner's lead attorneys that he didn't "want a lot of ramification," Kyle cast an emphasis on what one analyst termed "an examination of particulars rather than an evaluation of the total effect of past programming."⁶² Rather than examine larger patterns of practices, individual practices divorced from earlier contexts were to provide conclusive insight into institutional behavior.

This was analogous to a reliance on a few selected police department documents to assess long-standing department practices toward people of color. Various parts of the whole, stripped of their historical context and definitions, were examined through the technically adjusted microscope of administrative procedure. This disaggregative work translated that which was familiar and urgent to the petitioners into the unrecognizable and irrelevant. The relevant cohesions informing everyday experience were taken apart and their meaningfulness was reworked by a set of values and politics formally denied.

In the person of examiner Kyle the commission exercised one of the legal institution's most dramatic and important powers — namely, to renominate and rearticulate everyday concerns — thus forcing them into strangely deadening contexts removed from their original locale.⁶³ Throughout the hearings Kyle repeatedly defended his decisions and limiting judgments as mandated by court directive and the demands of administrative procedure. Such justifications provided a thin formal veil for the particular interests and politics of the agency. Long before the hearing examiner issued his official decision or the commission majority concurred, the petitioners acknowledged that the hearing and commission decisions process must simply be endured as prelude to yet another, 1969, federal court appeal.

DATA THAT MATTERS

Certainly as the FCC began investigations into the practices of WLBT in the sixties, local African Americans gave voice to specific, concrete, articulate knowledges regarding the station and its practices. However, these were knowledges devalued or disqualified within the processes of

administrative law: memories of suspicious omissions or absences; memories that were never officially documented or transferred into the bureaucratic record, but rather communicated orally and circulated throughout local communities.

What the commission's handling of African American testimony in this case points to, among other things, are differences in ways of knowing as well as differences in the epistemological frames employed in evaluating disparate knowledges. Cultures frequently differ in their choice of "data that matters,"⁶⁴ and this fundamental tension was made manifest throughout the WLBT licensing fight. On the one hand there was the "permanence" and authority associated with written documentation, offered often by the station and its advocates, and on the other hand was the "transience" and lack of authority that officialdom associated with orality and intervener memory. This tension underlined the incongruity of localized communal credibility and generalized legal authority. For FCC examiners and attorneys what mattered most was not the credibility of a witness within her/his community or social space, but rather what seemed to many petitioners to be arbitrary and superfluous — a precise notation of times, dates, and durations corroborated by written documentation. In the practice of administrative law these "precise" knowledges were deemed the guarantors of truth and were categorized as substantial and authoritative in the final analyses.

These technologically based assessments negotiated existing tensions between orality and literacy. Privileging printed documents and their ostensible precision corresponded with the primacy of literacy within Western culture and law. In investigating this primacy in *Orality and Literacy*, Walter Ong discusses the historical shifts from orality to literacy, showing how orality values very different types of thinking than does literacy. Ong echoes philosopher Jacques Derrida's insistence that "writing is 'not a supplement to the spoken word' but a quite different performance."⁶⁵

By focusing attention on predominately oral cultures, Ong argues that oral peoples most frequently view the categorical (rather than situational) thinking characteristic of contemporary legal reasoning as unimportant and trivializing. Empathetic and participatory, rather than objectively distanced, knowing and learning are held paramount.⁶⁶ Ong also observes that earlier cultures that knew the technology of writing did not assume that written records had more force than spoken

words as evidence of a long-past state of affairs. Rather, they often assumed quite the opposite, especially in court and legal settings: "Witnesses were *prima facie* more credible than texts because they could be challenged and made to defend their statements, whereas texts could not."⁶⁷ He goes on to caution that "persons whose world view has been formed by high literacy need to remind themselves that in functionally oral cultures the past is not felt as an itemized terrain, peppered with verifiable and disputed 'facts' or bits of information. It is the domain of the ancestors, a resonant source for renewing awareness of present existence, which itself is not an itemized terrain either. Orality knows no lists or charts or figures."⁶⁸

Most of the black witnesses submitting testimony or comments were not only literate but well educated, and were considered all the more threatening for embodying these qualities. But the cultures of most black Mississippians were also rich with connections to oral traditions, and it was the oral testimony offered by petitioners as key evidence that FCC examiners and station supporters assessed as lacking. Evident within this assessment was a racially marked politics of documentation, a supposedly neutral proceduralism promoting particular interests by putting the differences between orality and literacy into play.

For most of the petitioner witnesses the precise details, lists, charts, and figures so highly esteemed by commission attorneys and official legal culture were of less value than other more pragmatic, holistic knowledges. The memories held were common themes valued by the speakers and their community, not verbatim recall.⁶⁹ The oppression emanating from powerful dominant institutions encouraged a healthy skepticism regarding the truthfulness of "precise" official knowledges and warned against the recording of contrary and accusatory data. Oral practices meant that supremacist surveillance had no records for review and reprisal. Instead, within these traditions, knowledges that powerful institutions neglected or refused to formally recognize were hidden, cultivated, maintained, and circulated — knowledges that were officially effaced but remained stubbornly attached to specific contexts and experiences.

As the regulators went point by point through petitioner testimony and memory they refused to consider these contexts, but instead dissected and tore apart that which memories had brought together. Dissatisfied with the generalizing nature of historical memory, those working

within the administrative process began to separate and recategorize these local knowledges, demanding higher levels of precision and exact agreement in historical description. The commission's hearing examiner repeatedly warned movement leaders such as R. L. T. Smith and Ed King that the administrative matters under consideration had nothing at all to do with civil rights and that any testimony explicitly linked to civil rights concerns would be disqualified.

This was the awkward technique of law through which the FCC attempted to renegotiate its relationship with wide-ranging civil rights and racial justice concerns. Of course, the matters under consideration had everything to do with civil rights, and the politics and race struggles of the moment were a prime concern of the commission. The agency had recognized as much. In its 1965 decision the FCC had explicitly justified the relicensing of both Jackson stations in civil rights terms, noting that its streamlined investigation was motivated primarily by the "urgency" of local race relations. Social discourses external to the legal structures of concern had been recognized, making a recuperation of institutional authority seem necessary three years later. While local race relations remained "urgent" in 1968, perhaps even more urgent than 1965, the commission majority now recognized the "supplementary" discourses of local race relations as profoundly threatening to its authority and legitimacy.

Of course, the agents of state law consistently attempt to efface the fundamentally social constitution of their actions. To appropriate Stanley Fish's more general remark regarding the law's operations, the commission is an example of a prominent legal institution that "wishes to have a formal existence." It does not want its policy or decision making declared subordinate to nonlegal structures of concern, or recognized as dependent on "supplementary" social discourses for definition and nomination. Such recognition, while always present on some level, must remain below a critical threshold before it profoundly threatens institutional authority and legitimacy. Thus the commission was forced to continually create and recreate itself out of the social materials and forces that it was also obliged to deny as fundamental to its usefulness and meaning.⁷⁰

In this case, state agency decision making would be redefined, in the words of hearing examiner Kyle, as having "nothing to do with civil rights." Fearing the increasing mobilization, intervention, and power

of civil rights and minority activists, the agency worked to thwart these new citizen petitioners, all the while denying the commission's strategies of regulatory retrenchment.

DISAGGREGATING AND WRITING THE PAST

The commission's handling of the anti-licensing petitioners provides a vivid illustration of how liberal legal and regulatory institutions rely on proceduralism joined to scientific rationalism and other forms of "instrumental reasoning" in "merely another form of politics that postpone or obscure moral and political actions under the cloak of a supposedly universal neutrality."⁷¹ As one theorist has put it: "Scientific rationalism, that way of knowing which imperializing power has developed so successfully, works through separation and categorization; indeed its motto, both politically and epistemologically, is 'divide and rule' . . . [because it] exerts its control over the world by dividing it into ever smaller categories, by drawing ever finer lines of distinction."⁷² By separating everyday experiences and memories of civil rights struggle from the struggles surrounding the station, commission examiners invoked notions of objectivity, a "desirable" disinterest, and simultaneously attacked the countermemories so important to the complainants.

In the present and past this practice of "dividing" — what Supreme Court justice Thurgood Marshall termed "disaggregation" — has been employed in a variety of legal forums to take apart that which has been experienced whole and to isolate experiences from their meaning-giving contexts.⁷³ As critical legal theorists Kimberlé Crenshaw and Gary Peller have argued, disaggregation's primary move is to divorce the effects of racial power from their social context and from their historic meaning.⁷⁴ Such a decontextualization of social events from their space and time leaves only a "hollow, analytic norm of 'color-blind' — an image of racial power as embodied in abstract classifications by race that could run either way, against white as easily as against blacks."⁷⁵ These same decontextualized events, stripped from time and space, are effectively recontextualized and "transformed" as they are inserted into the epistemological systems of legitimated institutions such as law.⁷⁶

The FCC's handling of African American concerns in this case, and

the disaggregation employed by the commission, represented a symbolic and literal isolation of, and from, African American lives. Although the commission's logic and strategies demonstrated creative variations, the 1965 and 1968 decisions were consistent in their refusal to recognize the actual voices and lived experiences of black Mississippians. Presented with evidence that was achingly concrete — painful memories of exclusion and verbal assaults — the legal examiners drew “ever finer lines of distinction” between memories that would be considered “true” — that is, legally admissible — and those that would be, along with the televised images of African Americans, simply omitted.

The late Ralph Ellison was one among many African American voices who responded to such problems of white omission and non-recognition with exceptional power. In his potent novel *Invisible Man* Ellison's black protagonist witnesses a cop kill his friend, and the author uses the character's voice to call attention to the historiographic problem that continues to echo both inside and outside of legal institutions: “All things, it is said, are duly recorded — all things of importance, that is. But not quite, for actually it is only the known, the seen, the heard and only those events that the recorder regards as important that are put down, those lies his keepers keep their power by. . . . Where were the historians today? And how would they put it down?”⁷⁷ As Ellison observes so powerfully, all historiography (and that certainly includes my project) is partial — it is abstracted and invested in the politics of the present. And, officially, the “lies [that] keepers keep their power by” are produced via powerful, legitimated technologies that construct and enable levels of recognition.

As the fate of Jackson television was contested in hearings, courtrooms, and less formal settings, three dominant tactics were deployed in response to petitioner testimony and demands — maneuvers that are often aligned with the defense of white privilege today: nonrecognition, formal recoding, and disaggregation. Histories offered to the representatives of government and law enforcement were frequently ignored, or were recoded and/or stripped of social contexts. Official or legal recognition, then as now, was a technically complicated, multifaceted problem, engaging politics on multiple institutional levels. And interveners were forced to ask themselves, when formal recognition was finally won, how were their arguments and perspectives defined relative to their social and historical locations?

What some have termed “nonracist” or “inferential” racism denies

its power and presence via claims to nonracial processes and concerns. In this case, concrete, specific knowledges and memories were ignored, devalued, disqualified, and/or socially dislocated within the “non-racial” processes of administrative law. And because local voices of color have so often been subordinated to the formal requirements and language of dominant institutions, the problem of translating historically marginalized voices and concerns into the taxonomies and terms of industry, law, and state regulation remains an enduring concern.