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F.C.C. WON'T BLOCK RACIST AD IN SOUTH

Refuses to Let 2 Stations
in Atlanta Reject a Senate
Appeal by J. B. Stoner

NYTimes

Special to The New York Times

WASHINGTON, Aug. 3—The Federal Communications Commission refused today to allow Atlanta broadcasting stations to reject a paid political advertisement asking Georgians to vote for "white racist J. B. Stoner for U.S. Senator" in the primary election next Tuesday.

The Atlanta branch of the National Association for the Advancement of Colored People, acting with other local organizations, asked the commission on Tuesday to inform television station WSB and radio station WPLO in Atlanta that they would not violate Section 315 of the Federal Communications Act of 1934 by refusing to broadcast Mr. Stoner's taped 30-second advertisement.

In a letter to the commission, the group said that Mr. Stoner's advertisement, in which he says "the main reason why niggers want integration is because the niggers want our white women," presented "an imminent and immediate threat" to public safety.

Anonymous Threats

To support their contention, the groups cited anonymous threats of bombing and violence against stations in Augusta and Savannah, which are also broadcasting the advertisement by the white-supremacist candidate.

Mr. Stoner, an Atlanta lawyer who has long been associated with anti-Negro and anti-Jewish causes, is running on the National States' Rights party ticket along with 13 other candidates for the Georgia Senate seat held by David Gambrell, a Democrat.

Mr. Stoner received 500 of 30,000 votes cast in 1948 when he ran for Congress as a candidate of the Anti-Jewish party, which proposed that Judaism be a crime punishable by death.

In its decision, the commis-

sion said that, "however abhorrent some speech might be," there was in this case no evidence of a "clear and present danger of imminent violence which might warrant interfering with speech which does not contain any direct incitement to violence."

Court Decisions Cited

It also quoted Supreme Court decisions holding that any pri-

or restraint on political advertising would "undermine the basic purpose for which Section 315 was passed — full and unrestricted discussion of political issues by legally qualified candidates."

Although he did not participate in the appeal to the commission, Mayor Sam Massell Jr. charged on Tuesday that Mr. Stoner's language in the advertisement might amount to "incitement to riot." He publicly asked the station involved to remove it. They refused, citing their responsibilities under the Communications Act.

Donald Heald, station manager of WSB-TV in Atlanta, said that Mr. Stoner's organization had paid \$3,000 for 21 rebroadcasts of the spot, which shows the candidates seated behind a Confederate flag as he says:

"I'm J. B. Stoner. I am the only candidate for U.S. Senator who is for the white people. I am the only candidate who is against integration. All of the other candidates are race-mixers to one degree or another. I am for law and order with the knowledge that you cannot have law and order and niggers, too.

"Vote white. This time vote your convictions by voting white-racist J. B. Stoner into the run-off election for U.S. Senator. Thank you."

Mr. Heald said in a telephone interview, "We would rather not have to run these spots, and yet we want to preserve freedom of the press, too."

Mayor 'Disappointed'

Mayor Massell, also reached by telephone, said that he was "disappointed" by the commission's decision. He said that he would not "rule out the possibility" of taking some action to remove the spots to "maintain the peace of this community" if it became necessary.

Reached at his Atlanta campaign headquarters, Mr. Stoner said that he was "real busy." But he took time to describe the F.C.C. opinion as "a blessing from God and my Lord Jesus Christ." He called the decision in his favor "a victory for freedom of speech."

Lonnie C. King, head of the Atlanta branch of the N.A.A.C.P., said that his organization was considering appealing the F.C.C. decision to Federal courts in Atlanta and Washington. He conceded that any reversal could probably not be obtained before next Monday, when the advertisements are scheduled to stop.