Sept. 15 when a majority of CPB board members refused to let him join the board without Senate approval.

In *U.S. and William Lee Hanley Jr. vs. CPB and Gillian M. Sorensen*, the administration asked the District Court for the District of Columbia to oust Sorensen. It also asked that CPB "recognize the status and authority" of Hanley as "a duly appointed member" of the CPB board. The administration charges that CPB is "infringing the constitutional and statutory power of the President to appoint members" to the board.

The next—and only scheduled CPB board meeting before March 1—is Jan. 13, making prompt court action necessary if Hanley is to take his seat on the board. The administration has asked for a preliminary and permantent injunction, which would permit Hanley to be recognized with full authority as a CPB director and allow him to participate in the January meeting. However, U.S. District Court Judge Thomas Flannery, who has been assigned the case, has not yet set a hearing date. According to a court spokesman, unless the administration requests a separate motion for an immediate injunction, the court is unlikely to take action for 60 days.

CPB defended its earlier position, which it said is based on Article II of the Constitution and provisions of the amended Public Broadcasting Act of 1967. The latter states that directors of CPB must be "appointed by the President, by and with the advice and consent of the Senate."

Hanley passed through Senate confirmation hearings on Nov. 7 (BROADCASTING, Nov. 14), but was never confirmed by the full Senate. Senator Lowell Weicker (R-Conn.), Hanley's senior home-state senator, and chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, which has jurisdiction over public broadcasting, blocked the nomination on the Senate floor because of Hanley's "rigid, conservative" politics, his recess appointment and reasons involving Connecticut state politics, according to a Weicker aide. According to CPB, under Senate rules, once the Senate adjourned on Nov. 18, "Hanley's nomination... was returned to the White House for such further consideration as the President deemed appropriate." □

TV viewing in Tulsa: a microcosmic analysis

Ogilvy & Mather study shows decline in affiliate shares and growth of independent station; drop in pay TV also shown, but agency warns broadcasters not to be deceived—pay TV is driving force in cable

Ogilvy & Mather, New York, released an analysis last week of television viewing in Tulsa, Okla., showing that shares of network affiliates there are eroding in noncable homes and in limited-capacity cable households (12 channels), but are growing modestly in wide-capacity (36 channel) homes.

Ogilvy based its examination on Nielsen data for May 1981, 1982 and 1983. It reports that affiliate shares in Tulsa noncable homes, for example, dropped in early fringe (3:30-6:30 p.m.) from 90 in 1981 to 78 in 1983; in prime time from 90 to 88 and in late night from 91 to 88.

"We traced this decline to the growth of the local independent—KOKI(TV)," O&M remarks.

Between 1981 and 1983, KOKI's shares increased from 6 to 19 in early fringe; from 5 to 9 in prime; from 4 to 10 in late news, and from 3 to 11 in late night.

The decline in affiliate shares in Tulsa's limited-capacity cable homes is illustrated by these figures: shares in early fringe fell from 78 in 1981 to 60 in 1983; from 71 to 68 in prime time this year; from 85 to 76 in 1983 in late news, and from 66 to 64 in late night.

Ogilvy explained these declines by saying that "the addition of new basic and pay cable services to those systems, plus the strength of KOKI, increased audience fragmentation."

In 36-channel cable households, affiliate shares fell from 56 to 50 in 1983 in early fringe but climbed in prime from 55 to 58, in late news from 62 to 65 and in late night from 50 to 62.

Ogilvy took note of the large share increase in the late night period, saying that on a national basis, network shares declined. It said this was the only instance in which national data did not correspond to the agency's findings in Tulsa. A spokesman said that although there was no ready explanation, it could deal with local conditions in the month of May.

The spokesman said there were no surprises in the findings, although there was some reason to believe that network shares would be higher in view of the decline in pay TV shares. The analysis shows that the pay cable share of viewing rose in early fringe from 2 in 1981 to 4 in 1983, but declined from 25 to 12 in prime time, from 14 to 10 in late news and from 18 to 11 in late night.

"The fall-off in pay television during May was not unique to Tulsa," Ogilvy comments. "National ratings for pay TV between May 1982 and 1983 substantiate this drop. According to Nielsen's Cable Status Report, prime time shares went from 22% to 17% within total pay households."

Ogilvy noted that pay subscriptions remain healthy despite a drop in average viewing levels. The agency says broadcasters should be "alarmed" by the pay figures in Tulsa, and adds:

"Don't believe those who say that pay television has run out of steam and that the networks are rebounding. Pay TV is the driving force in the cable industry and Tulsa shows it's getting stronger.

"In the next few years, as pay television penetration expands, it will have the finances to meet the high prices that top-rated programs will command, even without advertising revenues."

Ogilvy observes that it is "surprised" by the good performance of UHF station KOKI in Tulsa. The agency says it has spoken to the station manager and learned that KOKI is aiming to become a regional independent in the Oklahoma/Arkansas area. Accordingly, it built an antenna twice the height needed for the market, and then sought to obtain programing with strong local and regional appeal.

"KOKI's success in Tulsa suggests that independent stations can become an even more powerful force," Ogilvy remarks. "However, current regulations, including the rule of sevens, could prevent groups such as Metromedia and Westinghouse from controlling a sufficient base of stations which could be necessary to finance original programs." □

Editor's note. BROADCASTING takes its annual editorial holiday next Monday (Dec. 26). The next issue of the magazine is the annual double issue on Jan. 2 featuring a look back at major Fifth Estate events of 1983 and a look ahead at what 1984 has in store in technology, programing, advertising, journalism, government and business.

Structure committee gives NAB approval

Report finds organization's setup generally satisfactory; recommends adding lobbyist each for radio, TV

A special committee appointed by the National Association of Broadcasters to review the association's structure has decided that the NAB, in its present form, is just about right for its jobs.

The structure committee, reporting to the NAB executive committee last week, recommended that the existing organization remain intact, except for the addition of two second-level lobbyists, one for radio and one for television, and the creation of an executive policy council.

The committee rejected a proposal advanced before his retirement by Peter Kenney, veteran NBC Washington vice president and NAB board member, that separate lobbying organizations be established for radio and television (BROADCASTING, June 20 et seq.). It also rejected proposals for the creation of a federation with independent radio and television divisions.

The committee was aided in its deliberations by the management consulting firm of Arthur D. Little.

Its two principal recommendations would install under the senior vice president for government relations a senior specialist in radio and a senior specialist in television and would set up a policy council consisting of the NAB president, executive vice president, and senior vice presidents for govern-