

New Fairness Doctrine Dispute

By John Carmody

The long-smouldering dispute in broadcast and legal circles about the fairness of the Federal Communication Commission's "fairness doctrine" has warmed up again with the disclosure that the Kennedy and Johnson administrations used the rule to stifle right-wing radio attacks in the 1964 campaign.

The revelation, following nearly five years of real and implied pressure on broadcasters by the Nixon administration, largely by threatening the power of the fairness doctrine, has renewed the debate over whether the rule should be abolished completely.

Two bills, submitted by Sen. William Proxmire (D-Wis.) and Rep. Robert Drihan (D-Mass.), that call for its abolishment currently are before Congress.

Yesterday, a spokesman for the House subcommittee on communications said a review of the doctrine is on the agenda for FCC oversight hearings scheduled later this year. At that time, the spokesman said, the recent disclosures about the Kennedy and Johnson years "are sure to be brought up."

The report on the 1963-64 actions was contained in an excerpt from an upcoming book on the doctrine written by Fred W. Friendly, Edward R. Murrow professor of journalism at the Columbia Graduate School of Journalism, a Ford Foundation adviser and former CBS News executive. The article appeared in *The New York Times Magazine* last Sunday.

Friendly focused on the 1969 Supreme Court decision that upheld the right of the FCC to order a broadcaster to grant reply time to a person or group claiming to have suffered from a broadcast over the public airwaves.

The case was known as the "Red Lion" decision (for Red Lion Broadcasting Co. of Red Lion, Pa.). The ruling ordered that WGCB provide time to freelance writer Fred Cook so he might answer a personal attack, contained in a transcribed broadcast of Nov. 25, 1964, by The Rev. Billy James Hargis, a right-wing commentator.

Hargis had been a strong supporter of Sen. Barry

Goldwater (R-Ariz.) in the 1964 campaign. Cook had written a book attacking the Republican presidential candidate as well as an article called "Hate Clubs of the Air," which attacked Hargis as a bigot and which appeared in *Nation* magazine.

Friendly's book reveals for the first time that the decision was tainted. Unknown to the FCC or the courts, according to Friendly, Cook was part of an elaborate campaign, first instituted by the Kennedy White House in October, 1963, to blunt right-wing broadcasters attacking the United States-Soviet nuclear test-ban treaty and the subsequent Johnson campaign stands, all manipulated through the Democratic National Committee.

Friendly quotes a former DNC official as claiming that many right-wing stations were "inhibited" by the campaign and that more than 1,700 free radio replies were induced by vigorous pursuit of attacks (against presumably liberal officials and organizations invoking the fairness doctrine).

The Red Lion decision,

upholding the power of the FCC in such matters, "chilled" the broadcast industry, which had long sought the same First Amendment rights of free speech accorded print journalists, who are not subject to government regulation.

Broadcasters, including network executives, have since viewed Red Lion as an effective but unfair bar to free-wheeling discussion of issues over the airways and a successful attempt by government to control program content. Hargis himself recently said the number of stations carrying his broadcasts has since dropped to 50 from a total of 350 due to fear of fairness doctrine reprisals.

FCC Chairman Richard Wiley said yesterday that the commission "has recently tried to restate the doctrine to insure it will encourage robust debate and not have a chilling effect on expression of views."

Wiley also stressed that there "were no allegations" (in Friendly's story) that any former or present FCC employee had knowledge of a political attempt to harass any station over the years.