

# Reported Political Use of Radio Fairness Doctrine Under Kennedy and Johnson Is Causing Concern

By LES BROWN

A report yesterday that the Kennedy and Johnson Administrations had carried on organized, covert campaigns to harass unsympathetic radio commentators dismayed experts in communications law, most of whom said they were concerned about its impact on a key policy in broadcast regulation.

The policy is the fairness doctrine, under which broadcasters are required to present all pertinent viewpoints in discussions of controversial issues of public importance. It also provides that individuals attacked in radio or television be accorded time by the stations for reply.

Two broadcast licenses have been lost in recent years for violations of the fairness doctrine, WLBT in Jackson, Miss., and WXUR, Media, Pa.

## Clandestine Campaigns

Several bills have been introduced in Congress to abolish the fairness doctrine. A number of communications experts have said that the doctrine would have to be reconsidered in light of the abuses reported yesterday in an article in The New York Times Magazine by Fred W. Friendly.

The article reported that the Kennedy and Johnson Administrations, with financial backing from the Democratic National Committee, had used the fairness doctrine to subdue right-wing radio commentators who

were critical of Administration goals.

The clandestine campaigns, which reportedly began in 1963, were also designed to inhibit stations from carrying commentary supporting Senator Barry Goldwater, Republican of Arizona, at the time he was a prospective Presidential candidate.

What occurred during the two Democratic Administrations, "ironically" emboldened the Nixon White House in its attempts to lean on broadcasters unfriendly to the President," Mr. Friendly wrote.

Mr. Friendly, a professor at the Columbia University Graduate School of Journalism and broadcast adviser to the Ford Foundation, is a former president of CBS News. He identifies himself as a liberal.

In his article, Mr. Friendly said that both the Kennedy and Johnson Administrations maintained professionally staffed organizations that monitored stations carrying right-wing commentary and then demanded time for reply under the fairness doctrine.

These demands for air time, which the stations would have to give gratis, were regarded by many broadcasters as harassments that they chose to avoid, with the result that they either dropped the commentaries or tempered them. Mr. Friendly's interviews with people who have been involved on behalf of the White House indicate that this was exactly what the campaign had intended to achieve.

## 'Provide Ammunition'

"There is no question that these disclosures will provide ammunition for those who oppose the fairness doctrine," said Richard E. Wiley, chairman of the Federal Communications Commission. But Mr. Wiley said he still admired the iple of the doctrine and maintained that it was the cornerstone of all broadcast regulation.

Opposition to the doctrine, by journalists as well as broadcasters, is based on the fundamental free speech and free press guarantees of the First Amendment, which they feel are limited by the requirement to present an opposite point of view. But in a landmark case in 1969, upholding the legality of the fairness doctrine, the Supreme Court held that the public's right to know the full range of views on important issues supersedes the broadcast licensee's right of free speech, since he is a public trustee.

Billy James Hargis, a com-

mentator who was involved in that case and who describes himself as "an extreme right-winger," remarked in a telephone interview from Los Angeles that he believed political misbehavior has doomed the fairness doctrine. "I want to be there for the funeral," he said.

Mr. Hargis, whose daily "Christian Crusade" broadcast, was one of the chief targets of the White House efforts to subdue right-wing opinion on radio, stated:

"I had said all along that there was a campaign by the White House to get me, but no one in the press would listen to me or believe me."

## Down to 50 Stations

Mr. Hargis, who buys time on stations for his programs, said stations began dropping him "by the dozens" because of organized requests for free reply time. "The whole Mutual network dropped me because of those fairness doctrine campaigns," he said, noting that he was once carried by 350 stations but now was down to only 50.

He said his present program is carefully written so as not to invade the claims for reply time that brought on the Supreme Court decision, commonly cause the Red Lion case.

The case derives its name from Red Lion, Pa., where station WGCN challenged in the courts the claims for time by a journalist who said that his character was maligned by Mr. Hargis in November, 1964. The journalist was Fred J. Cook, who had written a book, "Goldwater: Extremist on the Right," and an article in The Nation, "Hate Groups of the Right," which prompted the attack from Mr. Hargis.

In the broadcast, Mr. Cook was accused of dishonesty and of falsifying stories, and Mr. Hargis gave an inexact account of how the investigative reporter came to lose his job at The New York Herald Tribune.

The Supreme Court upheld a decision by the F.C.C. that Mr. Cook was entitled to free air time on WGCN to defend himself. Mr. Friendly pointed out in his article that the court's unanimous ruling established "the power of government to intervene directly in the content of broadcasting."

But Mr. Friendly reported that Mr. Cook was, at the time, a participant in the White House efforts to suppress the voices of the right on radio. The publication of his book and magazine article had been arranged by the Democratic

National Committee, and his request for air time to defend himself was at the behest of the committee and was written with the help of its lawyers.

Moreover, he had been paid by the committee for writing material for the program series "Spotlight," which was used to counter the right-wing programming.

None of this was known either by the F.C.C. or the Supreme Court while the Red Lion case was being debated.

## Data Called 'Alarming'

Henry Geller, the former general counsel of the Federal agency and now with the Rand Corporation, who wrote the F.C.C. decision upholding Mr. Cook's right of reply, called the newly uncovered information "alarming" and said that "if it [the doctrine] can be used in an interfering way by the Government, then it is dangerous and has to be loosened."

Mr. Geller, who was moved by Mr. Cook's case to strengthen the rules and make more precise the broadcasters' obligations under the fairness doctrine, said he would have written the rules differently if he had known how the case had come about.

He said he had changed his position on the fairness doctrine even before Mr. Friendly's article appeared and explained that he now considers it wrong to use the policy on a broadcast-by-broadcast or issue-by-issue basis. His present position, he said, is that the policy should apply to a broadcaster's over-all pattern of fairness rather than to each specific instance of alleged unfairness.

The validity of the fairness doctrine, in spite of abuses, was asserted by the Rev. Everett C. Parker, director of the Office of Communication of the United Church of Christ, a leading advocate of the public's rights in broadcasting.

"The fact that people who are propagandists misused it doesn't make the law any less necessary to offset the monopoly broadcasters have on political and social comment," he said. "It is still a fair and proper way to handle the right of access to the broadcast station."