

## WASHINGTON REPORT:

## Nixon Watches TV

*This column appears in Civil Liberties regularly. Look to it for information on congressional actions you can influence through communication with your congresspersons, the press and other groups.*

By Arlie Schardt

Ever since the national administration began three years ago to implement its Stalinist view of news coverage—i.e., the role of the media is to reflect the views of the government; dissent is tantamount to disloyalty—it has become evermore clear that this administration simply does not want an informed electorate.

The recent jailings of four newsmen for refusal to reveal confidential sources of information is much in the news, and the ACLU is in the vanguard of support for passage of national legislation to protect news sources (see December *Civil Liberties*). Yet this unsettling practice may not even be the tip of the iceberg.

For late in December the administration renewed its attack on what is now the preeminent means of national communication—network television news.

#### Caution

It is hard for some people to imagine how the TV networks could be more cautious than they already are. No sooner did Spiro Agnew commence his series of veiled threats about government's power to review broadcast licenses, than the networks somehow neglected to cover the last of the really massive antiwar demonstrations in Washington.

When the Watergate bugging scandal erupted, with its enormous implications for the integrity of the entire free electoral process, not one network produced a "special." In years past, such an important story would have resulted in a blizzard of such programs.

The news documentary, once a staple, has all but disappeared. During the entire presidential campaign, the only time any representatives of the major candidates (to say nothing of the candidates themselves) faced each other in an honest to goodness debating situation, where positions actually had to be defended and

criticisms answered, was on the one-hour public TV show "The Advocates."

An ironically symbolic climax to this assault on the First Amendment took place last December, when President Nixon sent Attorney General Kleindienst to do battle on behalf of the people's right to know—in the executive suites of the National Football League.

This took place during the very same days when the strictest news blackout of the entire Viet Nam war was in force while American B-52's pounded civilian sectors of Hanoi.

The target: pro football's hometown TV blackout.

The result: the blackout won.

#### More Control

For all its success in intimidating TV, the administration obviously feels the need for still more control over TV news content.

A two-pronged attack has been set in motion. One is directed at the three commercial networks, the other at public TV. The goal seems to be nothing less than putting an end to television as an independent source of news and information.

The new offensive against network TV news was kicked off in mid-December, when the administration announced it was preparing legislation to tie TV licenses to news content by making *local* stations responsible for the objectivity of *network* news shows.

There is nothing subtle about the motive behind the proposed legislation. Speaking to the Indianapolis chapter of Sigma Delta Chi, Dr. Clay Whitehead, a systems and management engineer from M.I.T. who became an instant expert on program content when he was appointed director of the President's recently created Office of Telecommunications Policy (OTP), attacked something called "ideological plugola," which is apparently rampant on network newscasts.

Warning that local stations must clamp down on this network practice or lose their licenses (he did not say how they could assess newscasts in advance, or by what standards) Whitehead asked, "Who



else but management can or should correct so-called professionals who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis?"

Leaving no question about the primary target, Whitehead said, "The standard should be applied with particular force to the large TV stations in our major cities, including the 15 stations owned by the TV networks and the stations that are owned by other large broadcasting groups."

#### Stick & Carrot

What happens to those who fail to meet the "standards?"

"Station managers and network officials who fail to act to correct imbalance or consistent bias in the networks—or who acquiesce by silence—can only be considered willing participants, to be held fully accountable . . . at license renewal time."

This threat was not without its sweetener, however. In return for surrendering the integrity of their newscasts, TV station owners would be handed two major concessions, both of which they have sought for years.

First, they would only have to seek renewal of their licenses every five years instead of every three. Second, the Federal Communications Commission would consider new applicants for a TV channel only after it had taken away the license of the current holder. This would relieve stations of the burden of facing new applicants in an adversary situation, where they might be more likely to lose their license than if they merely need prove themselves against certain "standards."

Thus, when the proposed legislation reaches this Congress, station owners will have to choose between the financially tempting free ride that would result from the virtually guaranteed extension of their license, and the freedom to broadcast uncensored network news (Whitehead, of course, in the best traditions of this administration, has already stated that this plan for censorship is not a plan for censorship).

Whitehead is also an ideal reflection of the administration's regard for the First Amendment. "We think of broadcasting first as a business," he has said, although broadcasting was originally intended, by law, to be a public service, not a guaranteed income for a select few licensees.

#### Attacks

The new censorship legislation—in which the administration would have local stations do indirectly what the administration might otherwise seek to do directly—is by no means the sole route of attack. It is merely the most public. Some of the others are well known:

- Support of the 1971 effort to hold CBS in contempt of Congress over its "Selling of the Pentagon" documentary.

- A 1972 FBI investigation of a CBS newsmen.

- A personal letter from a high administration official to a network correspondent, questioning his patriotism after he reported from North Viet Nam in late 1972.

- Continual assignment of a White House aide to monitor network TV news and grade reporters "for" or "against" the President.

- Suggestion late last spring by Patrick Buchanan, the President's leading anti-press ideologue, of some kind of antitrust approach to network news.

- Drafting of a so-called National Censorship Plan by a military reserve unit that meets monthly in a White House annex. The Plan includes provisions for media censorship in times of "limited war."

Whitehead has refused to give any examples of the "ideological plugola" he finds choking the airwaves. This leaves opponents of the legislation in the difficult position of having to punch at thin air, since the charges have been kept both sensational and vague, as in smear.

Opponents of the proposal have ample ammunition, since they can point out that the FCC already has all the power it needs to see that controversial issues are treated fairly. Therefore, new legislation is superfluous.

Rather than let the administration keep



Drawing by Sandy Huffaker

them on the defensive by explaining away imaginary demons, proponents of free speech might better serve the First Amendment by taking the offensive. They could, for example, question the very legality of the administration-created mechanism for intimidating TV news, the OTP. They could do this, as noted by Frank Millspaugh in the *Village Voice*, on the grounds that OTP appears to usurp both the functions of an independent regulatory commission (the FCC) and the powers of Congress to review the acts of regulatory commissions.

#### Conservatives

The administration proposals startled observers in all quarters. Conservative columnist James J. Kilpatrick said that "coming from a man so inspired by 'responsibility,'" Whitehead's "broadbrush charges were themselves irresponsible."

Television commentator Howard K. Smith, a strong supporter of the Viet Nam war and therefore an administration favorite, lumped Whitehead's "threats" with the jailing of reporters who refuse to reveal confidential sources.

Whitehead's proposals and "the courts' destruction of confidentiality," said Smith, could lead to a time when "we will live solely by government handout."

The *Washington Star-News*, whose editorials generally support the administration, found the proposed law "comparable to a threat by a county government to cancel legal advertisements in a country weekly in reprisal for unwanted editorial criticism."

The *Star* summed up the issue neatly: "The government has no more right to inhibit the freedom of electronic journalism, no matter how obstreperous or obnoxious the journalist, than it has to lean on a country editor who thinks he has found dirty work at the crossroads. The

existing criteria of public interest, convenience and necessity are comprehensive enough to keep broadcasters from indulging in criminal acts."

#### New Agency

As it has done in many other areas, the administration has taken steps to circumvent the will of Congress should legislation fail. In this case, it has created a new agency to undermine the independence, such as it is, of the FCC.

Called the Office of Plans and Policy, it has been placed directly within the FCC itself. Its director, Walter Hinchman, comes straight from the White House, where he was a top official in OTP and is thus well versed in the White House concept of a proper newscast.

Hinchman's new Office of Plans and Policy will develop and evaluate long-range plans and policy recommendations in all areas of FCC responsibility and review all existing FCC policies.

Sound like exactly what the FCC does now? Right. To put it another way, the White House now has its own agency, inside an "independent" regulatory commission, to determine that commission's policy.

This, too, would obviously be an ideal situation for proponents of free speech—in and out of Congress—to go on the offensive rather than being continually tied up warding off regressive proposals, proposals which may well be intended only as a smokescreen to engage those who might otherwise be making better use of their time by looking behind agency doors.

#### Public TV

Just as the White House OTP has made it clear it does not regard network TV documentaries on controversial topics as being within its definition of the public

interest, so has the White House demonstrated with even more bluntness that such informative programs have no place whatsoever on public television.

In public television, moreover, there is no need for coyness about who's in charge. The Government holds all the cards.

The Public Broadcasting Service (PBS), a loosely defined "network" now totaling 232 stations, was set up in 1963 to enable some "interconnection" between the growing number of local (and often ignored) educational TV stations. PBS was placed under the administrative aegis of the Corporation for Public Broadcasting (CPB). Until last year, CPB served mainly as a housekeeping unit, seeking appropriations from Congress and generally staying out of creative and program content decisions.

All that began to change dramatically last year. As PBS began tying together the scattered stations and coordinating a growing number of nationally shown programs, the identity and popularity of the "fourth network" increased markedly.

This disturbed the White House on two counts: Some of the programs included subject matter actually critical of the government; and the rapidly growing audience (currently 40 million) was causing competition for the commercial broadcasters. (The big advertisers were expressing concern.)

So last October the White House named a new chairman of CPB, Henry Loomis. Loomis' comment upon being invited to run CPB: "What is it?" He also told the press he had "never seen a public TV show."

But Loomis and the administration have wasted no time in setting a new course. Last June, indeed, President Nixon vetoed a \$45 million authorization for CPB. It will now receive \$13 million this year and possibly only \$13.5 million next year.

#### Programming

Equally disturbing, the presidentially-appointed CPB is moving rapidly to take control of program scheduling and content away from PBS. Indications point to a drastic switch in the present successful "mix" of public affairs, drama and children's programs.

One CPB board member told Columnist Jack Anderson that public affairs programs are "low on our list of priorities." A meeting early last month was to decide the fate of several programs which administration appointees wanted to kill. Among them: William Buckley's *Firing Line*, *Washington Week in Review*, *Bill Moyers' Journal*, *World Press*, *Public America—73*, *For the Record* and *Black Journal*.

These programs were allegedly to be axed because of the overall administration philosophy that TV—commercial and public—must be placed more firmly under "local control."

Yet only last fall, 140 of the 232 local stations reported that *Firing Line* and *Washington Week in Review* were their two most popular programs. And 12 of the 19 members of the PBS board—a solid majority—are local station managers, while the 15 CPB board members are all presidential appointees who need have no background whatsoever in TV, the arts, journalism or public affairs. Indeed, the head of CPB's program advisory committee is an oilman.

Finally, there were strong indications that the January meetings of the boards of CPB and PBS might see the complete dismantling of PBS supervision of national programming. Indications were that the administration favored a move to cut the PBS staff in half, eliminating all its creative personnel and leaving only an engineering and technical staff.

#### Counter-Attack

The answer to these serious moves to establish administration control over both commercial and public TV is clear. Every citizen who cares about informative, uncensored programming must bombard his or her congressional delegations with demands for a crackdown on these censorship attempts. Perhaps a way might even be found to eliminate the OTP.

In the case of the Whitehead proposals, local groups would do well to meet with the managers of their hometown commercial TV stations and urge that they lobby hard in Congress against the entire ad-



ministration package, including the relaxed license renewal standards. Better programming is in the interest of all the public, and the airwaves belong to the public, not the station owners.

It would also be worthwhile for local groups to urge their stations to bring this issue out into the open by carrying public discussions in prime time.

This boost toward an informed citizenry would certainly be an ideal example of broadcasters providing "meaningful service to all elements" of their communities, as Dr. Whitehead is so emphatically demanding.

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Steady progress is being made in the battle to protect the people's right to know, in the area of maintaining newsmen's confidential sources. And it demonstrates how important lobbying is, especially where the courts have weakened the First Amendment.

A strong newsmen's shield bill passed the California legislature, thanks in no small measure to vigorous lobbying by the California ACLU, and was signed into law by Gov. Reagan on Dec. 28.

An equally strong shield bill passed the New Jersey legislature, again with active backing from that state's ACLU. As of this writing, Gov. Cahill had not yet signed the bill.

All ACLU members and their acquaintances should urge their Congressional delegations to pass the strongest possible federal legislation on this subject. Hearings on some 30 or more bills should take place very soon in both houses of Congress.

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*Arlie Schardt is associate director of ACLU's Washington office.*