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SHALL BROADCASTERS WIELD CENSORSHIP AXE? DURR ASKS

Discussing the problems of free speech and raising the question as to whether or not the broadcasters should be allowed to do the censoring, FCC Commissioner C. J. Durr, who recently took a shot at Representative Cox, made quite a speech at the Woman's National Democratic Club in Washington. He went to the bat for Goodwin Watson and the latter's pals, Messrs. Dodd, Jr. and Dr. Lovett and even had a good word for the "crackpots", saying, "The crackpots of one generation sometimes become the prophets of the next."

"In May of 1941, the Federal Communications Commission handed down several regulations relating to network broadcasting", Commissioner Durr told the Democratic women.

"The network regulations were handed down before my appointment to the Commission, but I have no hesitation in saying that if I had been a member of the Commission at that time, I would have favored them in principle.

"The Commission called its regulations a Magna Carta for the independent broadcasting stations, and claimed that it was extending a degree of free speech to a field where it had theretofore been restricted. Chairman Fly has given as an example the regular program of news comment put on by Raymond Gram Swing.

"Originally Mr. Swing's broadcast was on the Mutual Broadcasting System network. As such it was heard in many cities - and not heard in many others. Portland, Maine, is an example of a city in which Swing could not then be heard. There were only two broadcasting stations in Portland, Maine. One of them was bound by contract to the Columbia Broadcasting System, and that contract contained an exclusive arrangement by which the station agreed not to carry any program from any other network.

"The other station in Portland was affiliated with the National Broadcasting Company, and NBC also practiced exclusivity, so the second station in Portland likewise would not carry Swing's program. As a practical result, Raymond Gram Swing had no free speech, so far as network radio was concerned, in Portland, Maine, and listeners in Portland were deprived of an opportunity to hear him. And the same was true in many other cities.

"Subsequently, Swing transferred from the Mutual Network to NBC, and at that point he encountered another kind of contractual restriction.

"Many of these contracts between networks and stations also contained agreements by the network not to send a program to any other station in the territory served by its regular affiliate, even if the regular affiliate did not have time available or for any reason did not want to broadcast a program. Suppose, using Swing again as an example, that an NBC affiliate in some city decided not to broadcast his program. The result would be that no other station in that city could carry his broadcast, even though listeners wanted to hear him, the other stations wanted to broadcast his program, the network was willing, the advertising sponsor was willing, and Swing himself wanted to be heard.

"The Commission met these problems by providing, among other things, that a station may not enter into a contract which prevents it from broadcasting, if it so desires, a program from another network. The Commission also provided that a station may not enter into a contract which prevents a network, if it so desires from sending to another station in the area a program which its regular affiliate decides not to broadcast. Stations therefore remain free to broadcast or not to broadcast particular programs as they see fit. The purpose of the regulations is to prevent contractual restraints upon the free flow of programs. That, as fairly as I can give it in brief summary, is the Commission's view of the situation.

"The networks argue on the other hand that the regulations constituted an abridgement of the freedom of speech and of the press guaranteed by the Constitution.

"The Supreme Court, in upholding the FCC regulations, did not accept the argument that the guarantee of free press included freedom to make such restrictive contracts as the parties deemed necessary; today, the chief bar to free speech may not be governmental action, but rather the action of private parties.

"Traditionally, the threat to free speech was the threat of suppression by a powerful government. Today, free speech may also depend upon access or lack of access to privately controlled facilities for the dissemination of information - the press and radio. It may be as effectively curtailed by private economic sanctions as by the Government.

"In a town where the newspaper, radio station, and public hall facilities are all under common control, the controlling person or group may as effectively throttle free speech in practice as could a law prohibiting it. We have always been very sensitive to governmental interferences with the liberties of the citizen; and that is a healthy attitude. But I sometimes wonder whether we are sufficiently sensitive to and conscious of private interferences and restraints.

"The Communications Act of 1934 - and I am amazed at how much misunderstanding there is about this - places the decisions concerning what shall and shall not be broadcast in the hands of the more than nine hundred station licensees all over the country.

"England attempted to find the answer in operating its stations through the British Broadcasting Corporation, a governmental agency. On the entertainment side, there are no serious problems. The broadcaster needs listeners before he can sell time, just as a newspaper needs circulation, and this in itself is sufficient incentive to give the listeners what they like. There is, of course, always the danger that news of one nature may be suppressed or played down and news of a different nature played up, but the problem here is the same as in the case of newspapers, and a wide latitude must be allowed to the broadcasters in determining what is newsworthy and what is not. However, the practice indulged in by broadcasters and network officials of blue penciling the script of commentators, where the remarks are neither libelous nor violations of the Wartime Code of the Office of Censorship, is a cause for concern. Even where the blue penciling is based on fear of libel, the question is presented whether or not the libel laws should be modified to encourage greater freedom of speech.

"The greatest problem arises in the field of public discussion, and here I think the danger lies not in what is permitted to be said but what is kept from being said.

"And here arises the question as to whether or not Congress should lay down further standards and set up a Board of Review to pass upon complaints of unfair exclusion from the air. I won't give you the answer, because, frankly, I don't know what it should be. But here are some of the arguments pro and con.

"Arguments for leaving complete responsibility with the broadcaster:

"1. The radio is an instrument of expression not unlike the newspaper and any interference whatsoever with the discretion of the broadcaster would be inconsistent with freedom of speech.

"2. Because of the large number of broadcasters and the diversity of their own prejudices and predilections, the errors made in one direction will be offset by those made in the other, and there will be an automatic balancing which will assure a fair overall presentation of all points of view.

"3. Government supervision would inevitably lead to political pressure and would offer a ready means by which the party in power could consolidate its position at the expense of the minority parties. Likewise, complaints that programs favorable to the 'ins' are barred would receive more sympathetic consideration than complaints from the 'outs'.

"4. The broadcasters, and particularly the independents, are conscious of and sensitive to the problems and points of view of their communities, and any centralized supervision would tend to increase the time devoted to a discussion of national problems at the expense of time for discussion of local affairs.

"Arguments Against Leaving Complete Responsibility with the Broadcasters:

"1. Broadcasters, unlike newspapers, can operate only by virtue of a special privilege granted to them by the Federal Government, namely, the use of radio frequencies. These frequencies are limited in number and belong to the people as a whole, and therefore the imposition of conditions upon which they may be used is not an interference with freedom of speech.

"2. There is as great danger of pressure from private economic groups as from political groups. The greater part of broadcasting revenue comes from a very small number of advertisers who have a life and death power over the stations which they can exercise in their own private interests without accountability to anyone, while government officials are accountable to Congress and therefore, in the final analysis, to the people themselves. Moreover, there is always minority political party to police the actions of the majority party and bring public opinion to bear against the majority party.

"3. While there may be a diversity in points of view of broadcasters, this diversity operates in a very narrow range, as they all operate under the same general business principles and depend upon the same economic conditions for their survival. Therefore, while they may have some differences, such as those which exist, say, between Democrats and Republicans, prohibitionists, and isolationists and interventionists, they would have a common hostility to any economic or political theories which might be inconsistent with their way of doing business or adverse to their economic interests.

"4. Under present law, the only penalty that can be imposed upon a station for failure to act in the public interest is revocation of or failure to renew its license, and this punishment is too severe to be inflicted upon a station which has on the whole rendered satisfactory program service but in isolated cases has discriminated unfairly against individuals or groups. Moreover, the individual or group discriminated against cannot take too great comfort out of seeing the broadcaster punished when it does not serve the purpose of getting them on the air at the time when they feel their message is pertinent.

"5. The commercial broadcasters, concerned as they are with keeping their listeners and advertisers, would be disinclined to permit the expression of a point of view that might be unpopular with even a portion of their listeners, however sound and reasonable the point of view might be. Moreover, the broadcasters themselves are in position to influence their listeners to such an extent that in time a great number of the listeners would be hostile to any point of view that did not coincide with the line that the broadcasters themselves had laid down."

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COX N.Y. HEARING TUESDAY - CLAIM INDEPENDENTS O.K. FLY

The subcommittee of the Cox Committee investigating the Federal Communications Commission will meet in New York next Tuesday, August 3rd, instead of Monday as originally scheduled. The hearings will begin at 10 A.M. in Room 110 of the Federal Reserve Building in Foley Square.

Asked if he had had any reaction to the charges made by Representative Cox that the FCC was terrorizing the broadcasting industry, Chairman James L. Fly said there had been "quite a bit", particularly from the smaller independent stations. The operator of one of these stations wrote: "The Commission is the smaller broadcaster's best guarantee for fair treatment in the industry."

Mr. Fly added:

"There has been some backfire from stations that have been pressed by the staff of the Committee to give evidence or make statements against the Commission when those stations were unwilling to do so. There has been a pretty broad circularization of the various stations by the Committee's counsel in an effort to get them to make statements against the Commission, and in certain cases where they have declined to make such statements, they received sharp reprimands from the counsel of the Committee."

According to Drew Pearson, columnist, who has taken up the cudgel for the FCC, the Cox investigation has degenerated chiefly into a name-calling contest in which Chairman Larry Fly is the main target.

"Everything that happens, no matter whether it pertains to international affairs or the salary of a stenographer, is blamed on Fly", Mr. Pearson writes.

"Only objector to the antics of the Cox Committee is forthright Representative Hart of New Jersey.

"The other day Cox's Committee counsel, Eugene Garey, started to read a message from J. Edgar Hoover, when Cox of Georgia interrupted with a eulogy of Mr. Hoover. He told of his great devotion to the FBI chief, concluding with the remark:

"At one time we wanted to vote a Congressional Medal to Mr. Hoover."

"And I suppose", said Congressman Hart of New Jersey, "that Chairman Fly blocked that too."

Taking another fling at the investigation, the Washington Post, which is also lined up against Representative Cox in an editorial captioned "Dignity of Congress", said:

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"It is a question of whether the dignity of Congress is to be respected or spurned.' So spoke Mr. Eugene L. Garey in protest against the reluctance of Government officials to give confidential information to the Cox Committee of which he happens to be chief counsel.

"We wonder if the dignity of Congress is respected when a committee counsel is permitted to browbeat witnesses in star chamber proceedings. We wonder if the dignity of Congress is respected when a committee counsel subjects witnesses to leading questions of the 'Have-you-stopped-beating-your-wife?' variety. We wonder if the dignity of Congress is respected when a committee counsel conducts an inquiry on the 'principle' - as Mr. Garey felicitously phrased it - of 'the seizure of the headlines' and the 'principle' - again in Mr. Garey's words - 'that the committee must keep the commission's side of the case from reaching the public.'

"We wonder how much dignity Congress will have left if it allows this Cox Committee travesty on the American judicial process to continue."

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U.S. CENSOR WARNS FURTHER ON RADAR PUBLICITY

Following a recent warning from the War Department the following further admonition has been addressed to broadcasters and editors by Byron Price, Director of Censorship:

"The extent of current public discussion of radar is causing increasing concern to the Government.

"The principle of radar is generally understood here and abroad, and some limited disclosures have been made officially. New methods of applying the principle are being developed, however, and there is much the enemy does not know.

"The fact of prior publication should not be used to cover added description, discussion, and deduction, or to support a theory or draw a conclusion.

"Radar is a secret weapon within the meaning of the Code. Editors and broadcasters are especially requested to be alert to every mention of radar and military electronic devices; to establish beyond all question that there is appropriate authority for every statement made; and to submit all material on the subject - other than that released by appropriate Government authority - to the Office of Censorship for review in advance of publication or broadcast.

"So inclusive a request would not be made if the highest considerations of national security were not directly involved."

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PETRILLO ORCHESTRA OFFER SEEN AS 4TH TERM HOKUM

One gentleman in the broadcasting industry laughed long and loud about the plans of James C. Petrillo, head of the American Federation of Musicians to put into execution what was said to be an idea of President Roosevelt to have members of the country's leading symphony orchestras give free concerts in smaller communities which ordinarily do not have an opportunity to hear good music.

"That sounds to me like 4th term hokum to catch the farm vote", he ejaculated. This observer looked upon the \$500,000 fund of the A. F. M. for small town concerts as a shrewd way of contributing to President Roosevelt's 1944 campaign.

Neville Miller, President of the National Association of Broadcasters, said Mr. Petrillo's offer was "unequaled for hypocrisy." Mr. Miller said that when there were records for the home, schools and radio stations, it was possible for "all of our citizens, wherever situated", to hear symphonic music.

"If Mr. Petrillo were sincerely interested in the welfare of symphonic music, he could, by lifting his ban, permit the equivalent, not of 570, but of hundreds of thousands of times 570 concerts", Mr. Miller added.

The fact that Mr. Petrillo had been playing around the White House came as a surprise to many in the industry and explained the cock-sure attitude the music leader has maintained in his dealings with the transcription people and the War Labor Board.

If the WLB, which last week took jurisdiction over the controversy between the American Federation of Musicians and the seven transcription companies, decides that Petrillo's move is a "strike" and not a "labor dispute", it will order musicians to return to work for the transcribers and then proceed with adjudication of the case. The Board has the power, if it's necessary, to formulate a new contract between the two parties and put it in force."

It was said at WLB this morning (Friday) that no further action would take place for the next few days at least.

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President Roosevelt's radio address to the nation July 28th, in which he reiterated his demand for "unconditional surrender" of all three Axis powers, was heard by a listening audience of 42,704,000 persons, according to a survey made by C. E. Hooper, Inc., and released by the Columbia Broadcasting System.

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RADIO BONER PUTS OWI SHORT-WAVE UNDER HULL BLUE PENCIL

The net result of OWI's boner of insulting the Italian King by short-wave and President Roosevelt blowing up with indignation is a hobbling of the Overseas Branch, about the only thing that is left of OWI, by virtually putting it under the blue pencil of Secretary Hull and the cane-swinging boys at the State Department.

After a session "in the woodshed" with Secretary Hull, Robert Sherwood, Director of the OWI Overseas Branch, said that there would be no change in the method of handling policy questions, but "anything the least bit controversial will be referred to the State Department and the joint chiefs of staff".

Policy with respect to the present Badoglio government in Italy was canvassed at the conference, Mr. Sherwood said. In addition to Secretary Hull and Mr. Sherwood, the session was attended by Milton Eisenhower, Acting Director of OWI; James P. Warburg, Director of OWI's Overseas Service in New York City; Michael McDermott, press relations chief of the State Department, and Robert Pell, State Department liaison officer.

Joseph Barnes, Deputy Director of the Overseas Branch of the OWI in New York City, said there that he and James P. Warburg accepted responsibility for the broadcast in which King Victor Emmanuel was described as "the moronic little King" and Marshal Badoglio as "a high-ranking Fascist".

Mr. Barnes said that neither he nor Mr. Warburg had actually written the script but that they were responsible for the context of the broadcasts as prepared by the OWI staff of news writers.

There was further embarrassment for the OWI in the charge by Joseph P. Kamp of the Constitutional Educational League that the Overseas Branch had paid a 15 year refugee boy, who had only been in the country a few months, a salary of \$380 a year.

Mr. Kamp also charged that an employee of the Foreign Language Section of OWI, David Karr, has admitted inability to read or translate any foreign language and that he was for two years "a part-time worker on the staff of the Communist organ, the Daily Worker".

An OWI spokesman, commenting on the charges, said neither Weiner nor Karr now are employed by the agency.

Weiner, he said, was used for three months earlier this year on youth programs short-waved to France and was paid only for the time he worked. He was paid between \$200 and \$300 and has not been employed since May 15, he added.

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BLUE NETWORK REPORTED SOLD FOR 8 MILLION

A New York dispatch reported that sale of the Blue Network has been made to the group headed by James H. McGraw, Jr., President of the McGraw-Hill Publishing Company, and Edward J. Noble, Chairman of Life Savers Candy Corporation.

"A price of \$8,000,000 was reported offered to the Radio Corporation for the network, which was reported as being acceptable, subject to Government approval", the dispatch goes on.

"Final papers have not yet been signed nor has approval of the Federal Communications Commission been obtained, although the way is believed cleared for early consummation of the sale.

"Sale of the system was ordered by the FCC in 1941. It was set up as a separate system in January 1942 as a step toward divorcing it from the Red network of National Broadcasting Company, all owned by R. C. A.

"Mr. Noble is the owner of Station WMCA in New York. Under FCC rulings pertaining to ownership of more than one radio station, it is believed this station will either be sold or merged with Station WJZ of the Blue."

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BATTLE FOR MILLER RESIGNATION EXPECTED TO BE RENEWED

If prearranged strategy is followed, there will be a renewal of the battle to get the scalp of Neville Miller, President of the National Association of Broadcasters, when that organization's Directors meet in Chicago today (Friday). Being groomed to take his place is William B. Lewis, former Deputy Chief of the Office of War Information. It was expected that Mr. Lewis would return to his old position of Vice-President of the Columbia Broadcasting System, but apparently that fell through. At any rate, Mr. Lewis is being backed to succeed Neville Miller. It will take 17 out of 25 votes to oust Mr. Miller and his proponents say that the opposition simply haven't that many votes. On the other hand, the the faction seeking to dislodge the NAB President say they profited by the last encounter against Mr. Miller and that this time they will not lose.

If the NAB Board endorses a resolution asking for Mr. Miller's resignation, full settlement will be made of the remaining term of his contract, which expires in June, 1944. Mr. Lewis will, according to plans, take office Sept. 1. Mr. Miller's salary is \$35,000 a year. It is reported that Mr. Lewis has been offered \$50,000.

Ir Mr. Miller is forced out, it will be chalked down as a victory for Chairman James L. Fly, who has been openly accused of trying to bring about the former's downfall - most recently at the Cox Committee investigation. Things have never been right between Messrs. Fly and Miller since the big row they had at the St. Louis convention and probably never will be until one or the other is eliminated from the picture.

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ANOTHER APPROACH POSSIBLE IF FDR DEFEATS KERR RIDER

Considering the Goodwin Watson ouster in the Kerr legislative rider, Robert Albright writes in the Washington Post:

"Some Congressmen, who doubt with the President the constitutionality of the Kerr rider to the urgent deficiency bill 'firing' by name three Federal employees, are already discussing a more sweeping but probably constitutional approach.

"If the Kerr rider is knocked out by the courts, this group plans to strike again at Government employees connected with allegedly 'subversive' organizations by blanket legislation redefining Civil Service qualifications for office.

"The Kerr amendment appears clearly headed for the court skids because it not only discriminates but in effect impeaches named officials without a trial.

"Ironically, the courts might have to uphold the more general legislative approach, although actually it would indiscriminately bar from Federal office, without naming names, a far greater number who could not meet the prescribed 'standard'."

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TELEGRAPHIC CARRIERS REACH DEAL ON TRAFFIC

The Western Union Telegraph Co. and R.C.A. Communications, Inc. have agreed on the division of international traffic in connection with a plan for merging Western Union and Postal Telegraph companies.

This was disclosed Wednesday at a hearing on the merger before the Federal Communications Commission, but Chairman James L. Fly blocked attempts to put evidence concerning the agreement into the record.

Frank B. Warren, general counsel of the R.C.A.C., stated that so far as Western Union and R.C.A.C. are concerned they are in agreement. Mr. Fly commented that discussion of this could be put

off and the hearing proceeded with technical testimony.

RCAC operates entirely in the international field with domestic offices in only three cities. Elsewhere Western Union offices handle RCAC traffic. Through a long-standing agreement Western Union turns over to RCAC two foreign destination messages for each nine foreign originated messages which RCAC turns over to Western Union for delivery in the United States.

RCAC asked the Commission to order a division formula more favorable to it and a week ago the Commission asked the companies to try to work out a plan. Mr. Warren said this had been done.

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OPA ADJUSTS CEILING PRICES ON WIRE, CABLE

Provisions for the individual adjustment of ceiling prices for producers and sellers of wire, cable and cable accessories similar to adjustment provisions recently made available to manufacturers of essential machinery were announced by the Office of Price Administration today (Friday).

The action, contained in Amendment No. 4 to Revised Price Schedule 82 (Wire, Cable and Cable Accessories), which becomes effective August 4, 1943, is confined to cases qualifying under rigid tests of essentiality of the seller and the product.

The new adjustment provisions are substantially the same as set forth in Amendment No. 78 to Maximum Price Regulation No. 136.

Generally, the new provisions will permit OPA to adjust prices after it has ascertained that ceiling prices are at such a level that supply of vital wire or cable is impeded or threatened provided that the adjusted price will not cause an increase in the cost-of-living.

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WALTER RUSS, MACKAY RADIO MARINE DIV. SUPT., DIES

Walter V. Russ, 43 years old, Manager of the Marine Division of Mackay Radio and Telegraph Company, an associate of International Telephone and Telegraph Corporation, died last Monday at Lynbrook, Long Island.

Born and educated in Portland, Oregon, he was formerly Assistant Radio Inspector for the Commerce Department. Shortly thereafter he accepted a post with the Kolster Radio Corporation in Newark, N.J., as a District Service Manager. After four years with Kolster he went to the Pacific Coast with Westinghouse.

Mr. Russ joined Mackay Radio and Telegraph Company in 1935 in the company's San Francisco office, and was transferred to New York as Superintendent of the Marine Division in 1937; he was made Manager of the Division in 1941.

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