

Tuesday 12/9/69

MEETING  
12/11/69  
2 p.m.

5:50 Mr. Burch had to schedule a 9:30 meeting  
on Thursday (12/11) -- so we have  
rescheduled the meeting for 2 p.m. Thursday  
afternoon.

Thursday 12/4/69

2:30 We have scheduled the meeting with  
Dean Burch for next Thursday (12/11) at 10 a.m. --  
to discuss domestic satellites.

Tuesday 12/2/69

#50 You had indicated you wanted a meeting with  
Dean Burch on domestic satellites.

The only time this week that he would be  
free would be Friday (12/5) between 2 and  
3 o'clock.

Is that O.K. with you?



12/10 any  
with  
Burch

RECOMMENDED PERSONNEL AND ADMINISTRATIVE  
CHANGES TO IMPROVE THE EFFICIENCY OF THE  
FEDERAL COMMUNICATIONS COMMISSION

I. The Need for Improvement

The Federal Communications Commission is in dire need of improvement, in terms of administrative efficiency. Although the Commission functions reasonably well when it comes to glamorous major "think projects" (such as deciding to authorize subscription TV, authorizing CATV systems to originate their own programming, issuing rules to racial discrimination in employment in broadcasting, etc.), the Commission's handling of the grimy, nasty details of its day-to-day work has deteriorated steadily over the past ten years.

Item: In 1960, it took three weeks, on the average, to obtain the consent of the FCC to sell a radio or TV station. Today, it often takes six months or a year, and many transactions are allowed to die on the vine, because the Commission takes so long that the buyer and seller can wait no longer and the agreement of sale is rescinded.

Item: In 1960, an individual or group designing to start a new radio station could make application for a construction permit and, if a channel was available, could expect to have their application processed and granted in, perhaps, 18 months. That was a long time, but at least the Commission was considering applications, pursuant to the Congressional mandate to allocate frequencies, where frequencies are available. Today, pursuant to an order issued in the declining days of the Johnson administration, the Commission has given up the allocation of frequencies for AM radio and imposed a "freeze", claiming it cannot spare the staff to process applications.

Item: Although the Commission has allocated a vast staff to the processing of requests to establish new CATV systems, it takes years to obtain consideration of such requests. There are at least 25 persons assigned to the Commission's CATV task force. On a recent morning, fifteen minutes after the Commission's official opening time of 8:00 AM, the office of the task force was locked, and not one of the 25 employees had shown up for work.

Item: Although all sorts of "reforms" have been instituted in the past ten years to speed up the hearings process, hearings take longer than ever. A principal reason is the establishment of a Review Board to act on appeals from decisions of Hearing Examiners, instead of having such appeals heard by the full Commission. As will be explained herein-after, the whole Review Board system has merely complicated the hearing process by introducing the possibility of second appeals (from the Board to the full Commission), instead of only one appeal (as was formerly the case).



## II. General Obstacles to Improvement in Efficiency

Perhaps the biggest obstacle to improvement is the presence on the Commission of Commissioner Nicholas Johnson. Commissioner Johnson is a headline hunter who regularly dissents to virtually everything his colleagues do, simply for the sake of getting publicity. Johnson's dissents are written in large print, triple spaced, and are emotional in tone. His political and ideological views are best reflected in his action, on Moratorium Day, of closing his office and dismissing his staff so that they could participate in the demonstrations.

Johnson and his staff are not day-to-day workers. Recently, he traveled to Japan on a trip sponsored by the Ford Foundation. During the trip, his office was frequently closed and locked. Johnson has, however, sought to cultivate and curry favor with prominent FCC officials, such as Ashbrook Bryant, a doctrinaire Democrat who is Chief of the Network Study Group, and Robert Rawson, another liberal Democrat who is Chief of the Renewal and Transfer Division. Also, Johnson and another "liberal" Commissioner (Kenneth Cox, formerly counsel to the Magnuson Committee in the Senate), enjoy a close liaison with certain members of Congress, such as Congressman Dingel of Michigan, and Congressman Harley Staggers, the Chairman of the House Sub-Committee on Communications.

As a result, certain conservative FCC staff members, such as Broadcast Bureau <sup>Chief</sup> George Smith, profess to fear to take decisive action in specific situations, lest they be "turned in" by disloyal staff members, or made the subject of Congressional criticism, or Johnson "dissents". The problem of disloyalty is one of the major reasons for delay in the processing of transfer applications. The Chief of the Transfer Branch, a conservative Democrat named Robert Alford, has been feuding with his subordinate Robert Rawson. Some Branch employees are loyal to Alford, others to Rawson. To say the least, the feud has not improved efficiency. Many of the young attorneys in the Branch are "liberal" activists - no business in attitude.

## III. Specific Suggestions

Some of the "shops" within the Commission, such as the License Division (headed by Quentin Proctor), the Existing Facilities Branch (Otis Johnson), the Television Branch (Sam Saady), the Mobile Radio Branch (Randall Harris), are operating very well indeed. No improvements can be suggested. Other "shops" are a mess.

The biggest mess exists in the Renewal and Transfer Division, headed by Robert Rawson. Although he is intelligent and experienced, Rawson is an extremely poor administrator. He personally reads every application for consent to the sale of a station; refuses to delegate this work



to his staff, as a good administrator would do.

The Renewal and Transfer Division has two Branches: a Renewal Branch, concerned with renewals of existing licenses, and Transfer Branch, concerned with approving sales of stations. Rawson has generally refused to give much autonomy to the Chiefs of either the Renewal or Transfer Branches, which is one reason why both renewals and transfers are hopelessly fouled up.

The Renewal Branch has been, until recently, headed by Evelyn Epply, a likeable and capable woman. With her promotion to the Court of Contract Appeals, renewals threaten to become even more of a problem.

The Transfer Branch is still headed by Robert Alford. During the last administration, a Congressional investigation was conducted, dealing with the so-called "Overmeyer scandal". This involved the Commission's granting of certain UHF TV permits to a man named Overmeyer, who later was allowed to assign the permits to a new owner. Congressional critics charged that Overmeyer was never financially qualified to get the permits in the first place, and that he was improperly allowed to realize a large profit on their assignment. Rightly or wrongly, Alford has largely taken the blame for the whole affair. Consequently, his standing and usefulness have been greatly diminished. However, Alford was a good administrator and, when allowed to operate autonomously, was able to move the workload smoothly. It would be possible to replace Alford with a less capable man, provided the Division Chief is replaced with a capable one, or vice versa. But it will not do to have incapable people in both spots.

The Commission's Review Board is another mess. It is composed of five officials, Joe Nelson, Sylvia Kessler, Dee Pincock, Horace Sloan, and Don Berkemeyer (the latter is Chairman). All are capable; most are very liberal Democrats. Unfortunately, the Board system is just no good. Whenever a hearing case is concluded, the losing party is compelled to first appeal to the Review Board and then to the full Commission. The Board is very slow. Hence, it takes years for important policy matters to reach the Commission. As a result, there have been important matters (such as the Commission's policy with respect to program surveys) which have been administered in a certain way by the Board for two or three years, only to have the Commission eventually decide the whole thing was being done wrong, all along.

Furthermore, the Board operates in an ivory tower. The Board rarely holds oral argument, and never holds conferences. If it needs a particular piece of information to make a decision, it never asks for it, but simply decides as best it can without the information. The



Board should be abolished, and provision made for the full Commission to act directly on appeals in hearing cases, as was done in prior years. This would fix the responsibility of deciding policy where it is supposed to be, and would also greatly speed up the hearing process by eliminating the two-appeal system.

The Commission's New and Changes Facilities Division, headed by Martin Levy, is doing a reasonably good job, but the Aural Facilities Branch, headed by Ralph Garret, is grievously understaffed, and desperately needs additional, capable attorneys. The Commission's Office of Opinions and Review, which writes all of the important Commission decisions, is headed by Leonidas P.B. Emerson (politics unknown). It is important that this Office be headed by somebody who can be trusted by all of the Commissioners to be fair and impartial. The Office is grievously understaffed. Actually, it should be re-organized and given a different name (such as "Executive Staff Office"), to make it more attractive and seem less like a place for people with hunched backs and quill pens.

The Office of the General Counsel is not as important at the FCC as in many other agencies. It is over-staffed with highly qualified people, such as Dan Ohlbaum, Stuart Feldstein, and Henry Geller (the General Counsel), all of those named being extremely liberal Democrats. Most of the employees have little or nothing to do.

Another horribly over-staffed Division is the Hearing Division, headed by liberal Democrat Tom Fitzpatrick. They have three times as many attorneys as they need, and most have nothing to do, most of the time.

Heading all of the various Divisions and Branches is the Broadcast Bureau Chief, George Smith. Mr. Smith --- who is a conservative Republican --- has a number of holdovers on his staff, who do not share his philosophy. These include James Juntilla, formerly of the law firm of Arnold, Fortas and Porter, who is Assistant Bureau Chief. A strong Bureau Chief can correct many of the procedural and administrative difficulties, described above. Mr. Smith plans to retire in about a year. A strong replacement is essential. Also, measures might be profitably taken now, to give Mr. Smith more strength and make it easier for him to make positive decisions. These measures would include removal or neutralization of people such as Mr. Nicholas Johnson.

*Schuldhouse*  
The CATV task force, headed by Sol ~~Schidhouse~~ *Schuldhouse* (politics unknown, but believed to be a liberal Democrat), is independent from the Broadcast Bureau, and powerful in its own right. This is a glamor office, because some Commissioners think that CATV is a new and glamorous thing. The head of the Task Force enjoys lots of publicity and trips. The office has more than twice as many people as it needs. Few have much to do.

It is possible that the Commission is too hopelessly snarled up for patchwork; may need major surgery. Possibly, it should be abolished and replaced with a new five-man agency, or with a separate administrator, policy making board and communications court. These ideas, however, are beyond the scope of this memo.