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THE JOHN LORD O'BRIAN PAPERS

Larry B. Wenger*

The John Lord O'Brien Collection, which contains Mr. O'Brien's personal papers, files, and correspondence, is housed in the Charles B. Sears Law Library, State University of New York at Buffalo. Reflecting much of Mr. O'Brien's long and varied career—law practice and public service in Buffalo and New York State, federal service, and law practice in Washington, D.C.—the papers constitute a significant research resource. Mr. O'Brien kept extensive files for many of his activities, the variety of which is indicated by Mr. Horsky in his article. Here only the major facets of Mr. O'Brien's papers will be described.

The earliest significant group of materials are those relating to the New York State Constitutional Convention of 1915. Mr. O'Brien was elected a delegate at large to the Convention and served as Chairman of the Rules Committee and of the Committee on County Government, and as ranking member of the Committee on Cities. It was at this convention that he developed his friendships with, to use his words, "the face cards of the era," including Elihu Root, Henry Stimson, Alfred E. Smith, Robert Wagner, Herbert Parsons, and George W. Wickersham. Mr. O'Brien's files contain correspondence and clippings related to the Convention. His Reminiscences provide sketches—often times vignettes—of many of the individuals and the events of the Convention.

Mr. O'Brien's first federal appointment was as United States Attorney for the Western District of New York. He returned to federal service in 1917 as Special Assistant to the Attorney General for War Work in charge of the War Emergency Division of the Department of Justice. The files relating to this assignment are among the most important in the collection. Mr. O'Brien's responsibilities included not only the enforcement of all matters relating to civil administration of the war laws, but also establishment of the new Division and consolidation of a number of previously uncoordinated and often conflicting Justice Department operations. As a result, his papers include a particularly wide range of material related to the organization of the War Emergency Division as well as legal opinions and other files generated in its operations. Mr. O'Brien was also delegated non-reviewable authority over alien enemies in the United States and personally reviewed every case before permitting internment of an alien enemy. Case histories for many of these individuals are retained in his files.

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Another section of the War Emergency Division papers are those related specifically to foreign espionage activities. Mr. O'Brien's files contain information on the activities of many of the German agents, including the purchase of the New York Evening Mail for propaganda purposes, the efforts of Count Franz von Rintelen (in whose trial Mr. O'Brien participated) to foment strikes in munition plants, and the operations of Dr. Walter Scheele who, while ostensibly operating a drugstore in Flatbush, produced fire bombs which destroyed a number of Allied ships.

In 1929, Mr. O'Brien returned to the Department of Justice as head of the Antitrust Division and served through 1932. A limited number of papers relating to this work are included in the collection.

Mr. O'Brien's last full-time federal appointment was as General Counsel to the Office of Production Management and its successors, the Supply Priorities and Allocations Board and the War Production Board. His files for these agencies are also extensive. As General Counsel from early 1940 through 1944, Mr. O'Brien was directly involved in the exercise by the Board of an almost unlimited power to establish priorities, and allocate resources and facilities throughout the nation. As with the War Emergency Division, Mr. O'Brien's responsibilities included establishing as well as administering the Legal Division of the Board. His papers reflect both his organizing efforts and his continual involvement with issues before the Board.

Also included in these papers are six volumes of legal opinions written by Mr. O'Brien and members of the legal staff. These cover a number of topics and reflect the broad jurisdiction of the Board. Some examples concern: the Board's authority to issue orders limiting production of nonessential products in order to free labor and facilities for priority purposes; the liability of a tenant to pay rent and taxes when the building being rented is destroyed and rebuilding prevented by the Board; legal restraints on the use of prison labor in war production; and the legality of an appropriation of third-party water rights by placing mandatory orders which necessitate the use of that water. Mr. O'Brien also retained files of minutes of the War Production Board, often in his own handwriting, as well as files on major policy areas, such as the dispute between the War Production Board, Department of the Interior, and Federal Power Commission over control of hydroelectric power, a dispute narrowly won by the Board.

In addition to these formal appointments, Mr. O'Brien was often called upon for special assistance to federal agencies. Three major assignments represented in the collection were his appointment as Special Counsel to the Tennessee Valley Authority from 1935 to 1938, his Chairmanship of the Flying Pay Board in 1947, and his Chairmanship of the Board of Inquiry on the labor dispute at the Oak Ridge National Laboratory in 1948. The Tennessee Valley Authority materials include the transcript of an interview in 1970 for the Memphis State University Oral History Research Project on the Tennessee Valley Authority correspondence, and related documents. The files for the Flying Pay
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Board and the Board of Inquiry at the Oak Ridge National Laboratory contain transcripts of hearings, research reports, fact-finders' opinions, position statements, and relevant correspondence of Mr. O'Brien.

Mr. O'Brien's papers for the period from 1944 are extensive, and while only a limited number pertain to his law practice, those that relate to his civic activities are numerous. Mr. O'Brien was, for example, active in the 1956 defense of the Supreme Court, Chairman of the Board of the Washington Institute on Foreign Affairs, a Director of the Fund for the Republic, and Treasurer of the Committee on the Present Danger. He was also active at Harvard University, serving as Overseer, and chairing from 1948 to 1950, a successful $5 million drive for the Divinity School.

Two other portions of the collection deserve mention. One, Mr. O'Brien's Reminiscences is a transcript of tapes made for the Columbia University Oral History Research Office. The Reminiscences were recorded in 1952 and are divided into seven major segments: Mr. O'Brien's early childhood and college days (1874-1898); his law practice and New York State politics (1898-1915); the New York State Constitutional Convention (1915); the Department of Justice (1916-1919); the Supreme Court, the Hoover Administration, and work in the Attorney General's Office (1920-1933); Tennessee Valley Authority, law practice in Washington, and the Republican National Convention (1934-1940); and the Office of Production Management, the Supply Priorities and Allocation Board, and the War Production Board (1941-1952). They detail many of Mr. O'Brien's accomplishments, observations, and his acquaintances, and frequently provide new or supplemental information on events and individuals of the last 70 years.

Also important are the papers and correspondence with or about the judges, lawyers, and public officials Mr. O'Brien knew. Specific files, often dating back to the early 1900's, contain correspondence with such judges as Cordozo, Pound, Learned Hand, Wyzanski, Frankfurter, and Hughes, and lawyers like Charles Warren, Edward B. Burling, and Henry Stimson. Also extensive are the collections of memoranda, clippings, and quotations compiled by Mr. O'Brien, which cover the whole range of his interests, from law and politics to theology and the classics. These were regularly supplemented with summaries of meetings Mr. O'Brien attended, speeches he heard, and stories or anecdotes told to him.

Taken together then, the O'Brien collection provides to researchers many new materials not otherwise available, or accessible only with difficulty. It is indeed fortunate that Mr. O'Brien's papers have been preserved and made available to scholars.