

HEINL RADIO BUSINESS LETTER

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No. 1274

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October 15, 1940.

TOBEY FINALLY FORCES BROWN TO QUIT

Col. Thad H. Brown, whose renomination as a member of the Federal Communications Commission has been blocked for four months by Senator Charles W. Tobey (R.), of New Hampshire, in the Senate Interstate Commerce Committee, yesterday (October 14) submitted his resignation to President Roosevelt.

The renomination for a 7-year term was submitted to the Senate on June 5th. Senator Tobey, as a member of the Interstate Commerce Committee, conducted a virtual one-man investigation of Colonel Brown's qualifications. The inquiry ranged from an expose of a New York night club party to the findings of the FCC Monopoly Committee, of which Colonel Brown was Chairman.

During the course of the Senate hearings, sensational charges were made against the Radio Corporation of America and the Columbia Broadcasting System, which eclipsed the case of Colonel Brown so completely that some days he didn't even attend the sessions. After exploding one bomb-shell after another, Senator Tobey wound up by introducing a resolution in the Senate calling for a Congressional investigation not only of the entire radio industry but also throwing a brick at the Federal Communications Commission, demanding that it too be investigated. Furthermore, Senator Tobey demanded that members of the FCC list for public record the "gifts, favors and other emoluments" they have received from the radio companies.

When the Senate Committee finally got back to the consideration of Colonel Brown's case, it was evidently their intention to recommend confirming him. They had the votes but Senator Tobey, in wrath, defied them, shouting, it is reported, that if the Committee did this, he would take the matter straight to the floor of the Senate "and raise hell". The Senator was said to have declared that he had enough new evidence against Colonel Brown and the radio industry to talk for sixteen hours.

And there the matter rested. After a month or so, someone asked Senator Burton K. Wheeler, of Montana, Chairman of the Committee, when the case would again be taken up, and he replied, "Oh, I think sometime in 1941."

It was believed that Colonel Brown had the personal backing of ex-Governor James Cox, of Ohio, the former presidential running mate of President Roosevelt, and that if this had not been the case, the President would himself have withdrawn the nomination in the face of Senator Tobey's bitter opposition.

A comparatively minor thing - the allegation that Colonel Brown did not tell the truth when asked about a party several Communications Commissioners attended in New York in 1939 - was the beginning of a series of events which seemed to arouse the particular indignation of Senator Tobey. The incident was first brought into the hearing as follows:

Senator Tobey. It has been reported that an entertainment took place in a certain "hot spot" in New York City, and it has been charged that members of the Federal Communications Commission were present; that they got into a drunken brawl; and in the brawl some woman was hurt, her arm twisted. * * * * * Were you there?

Mr. Brown. I do not know what occasion you are referring to.

Senator Tobey. I will be very definite. Do you know of any occasion when an incident like that took place?

Mr. Brown. No, sir; I know of no such incident.

Senator Tobey. Were you personally present when a woman cried out, and certain members of the Commission were present, and there was a drunken brawl, and in the brawl some woman was hurt, her arm twisted? I do not know whether it was the Commissioners who were giving the entertainment or who it was.

Mr. Brown. I know of no such episode.

Senator Tobey. You have no episode in mind where you were present when an incident like that took place?

Mr. Brown. That is correct, sir.

Colonel Brown later, however, admitted that he had been to a party at the Diamond Horseshoe. Whereupon this exchange followed:

Senator Tobey. Were there any women present?

Mr. Brown. I do not think so Senator.

The Chairman. Was it a stag party?

Mr. Brown. Yes.

At a subsequent hearing there was a further inquiry on the part of the investigator:

Senator Tobey. At this Diamond Horseshoe party you told us about last week, your glasses were knocked off by a lady, were they not, and I understand you twisted a lady's arm?

Mr. Brown. I know of no such incident, sir.

Senator Tobey. You stand by that?

Mr. Brown. Yes.

Senator Tobey. Is it true that Commissioner Case picked up your glasses and found them in need of repair?

Mr. Brown. I do not remember any such incident.

Later, however, Commissioner T.A.M. Craven, who was in the club that night along with Commissioner Case and others, but not in Colonel Brown's immediate party, refuted the latter's statements. When called to the stand, Commander Craven testified:

Mr. Craven.

* * * I heard a discussion, apparently coming from the direction where Mr. Brown was sitting; and I noticed that, as a result of that, he was holding the lady's wrist and I was holding it so as to prevent her from - apparently - attacking him in some form; because she seemed to be rather angry, as a result of the discussion. I did not think much of the incident, at all; it quickly subsided. Later on, Governor Case and I thought we had better go back to our hotel, and we asked Commissioner Brown if he wanted to go with us, which he did; and we walked back to the hotel. His glasses were on the floor, and I think they were returned the next day.

I did not consider the incident in any way unmoral - from the standpoint of the characterizations that have been given to it. I did not see anything unmoral about it, and I passed it off. As a matter of fact, I was rather surprised when I heard of its characterization on the floor of the House, on our return. I saw nothing unmoral about it.

Senator Tobey.

Did you hear a noise that sounded like a slap?

Mr. Craven.

Yes; I heard a noise that sounded like a slap, although I did not see a slap.

Senator Tobey.

And when you looked up, Commissioner Brown had lost his spectacles and was holding the wrist of a woman who appeared to be angry?

Mr. Craven.

Yes. There was nothing that looked like twisting the woman's arm or hurting her in any way.

Commander Craven had previously told of Colonel Brown bringing a woman over to his table and introducing her. Senator Tobey commented on the fact that although Colonel Brown a week before had denied any women were present, later admitted there was one at his table "and I might have grabbed her wrist to keep her away from me".

Addressing Colonel Brown, Senator Tobey declared, "The fact remains that you deliberately lied to this Committee last week." Whereupon Senator Tobey concluded as follows:

"So this gentleman makes a statement to the Committee which is false testimony, beyond peradventure; and that can be confirmed by other witnesses, if necessary.

"Yet he comes before us, asking this Committee to confirm him for 7 years more as a Commissioner of the Federal Communications Commission - a man who, in my judgment, has perjured himself, who is guilty of conduct in a public place not becoming to any gentleman, least of all a Federal Communications Commissioner, and who at that place brought over with him a lady whom he does not now remember, and who slapped him, and his glasses were broken; and now he says he remembers nothing about it.

"I say, if there is nothing more, that this man is not worthy to be confirmed, beyond peradventure. The Scripture says that out of their own mouths they condemn themselves; and I say to you (Brown) that out of your own mouth you have condemned yourself before this Committee."

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FCC CHARGED WITH FAVORING PRESIDENT

That President Roosevelt's broadcasts have been unduly favored by the Federal Communications Commission is alleged by Lawrence Sullivan in a new book, "The Dead Hand of Bureaucracy".

"In amazing degree, the FCC has governed broadcasting policy by the assumption that the decisions of the President should be held above public criticism", Mr. Sullivan writes. "In no case have the radio chains made available to opposition speakers the same hook-ups arranged promptly for the President. When comparable chain arrangements were requested by opponents of the Roosevelt court-packing proposal, the broadcasting companies responded they could not interrupt their commercial schedules save upon the demand of the President. When circumstances compel the President to speak in the day hours of small radio audiences, the chains re-broadcast transcriptions on the crowded night periods, displacing news broadcasts with the presidential recordings. Only the President ever has commanded a short-wave re-broadcast of his speeches in eight foreign languages."

Mr. Sullivan declared further that the persistent efforts in Congress to enact amendments specifically outlawing the FCC's assumed powers of censorship have encountered vigorous White House resistance, with the result that bureaucracy's domination of broadcasting today threatens the great American heritage of freedom of speech.

The writer said that in addressing a Town Hall luncheon in New York on April 28, 1938, David Sarnoff, President of the Radio Corporation of America, traced the growing tendency of indirect Federal censorship through regulatory powers. "We have but to look to the autocracies of Europe to see what such governmental control of broadcasting may mean. When the dictator stands before the microphone, the citizens are regimented before the loudspeakers."

"Accumulated protests from the broadcasting industry over a period of six years have resulted recently in vigorous Congressional demands for amendments curbing the Government's assumed censorship authority over radio programs. The 1934 revision of the Radio Act required renewal of broadcasting licenses every three years, but the Federal Communications Commission then prescribed renewals every six months. This executive rule gave the FCC a tremendous leverage for keeping discussion programs in tune with Federal policies. At the same time it served to check appeals against all FCC decisions. As one radio station operator explained before the Senate Committee on Interstate Commerce: 'The technical right of appeal still remains. But nobody can afford to exercise it. . . No man with an investment of \$200,000 to \$300,000 in a radio station can risk non-renewal of his license.'

"In April, 1933, Postmaster General Farley sponsored appointment of Herbert L. Pettey as Secretary of the Radio Commission. Mr. Pettey had been Director of Radio for the Democratic

National Committee in the 1932 campaign. On August 14, 1933, the Commission issued a formal order demanding aggressive radio support of the NRA program. 'It is the patriotic, if not the bounden and legal duty of all licensees of radio broadcasting stations to deny their facilities to advertisers who are disposed to defy, ignore or modify the codes established by the NRA', this rule said. 'Under the Radio Act the Commission has no right of censorship. However, the Commission has the right to take into consideration the kind of programs broadcast when licensees apply for renewal. . . . During the World War those who refused to do their part were termed "Slackers" - a term of contempt. Those who refuse to aid the government in this critical time in its war against depression should be placed in the same category. . . . It is to be hoped that radio stations, using valuable facilities loaned to them temporarily by the government, will not unwittingly be placed in an embarrassing position because of the greed or lack of patriotism on the part of a few unscrupulous advertisers.' Such incidents illuminate the timeless wisdom of the Elder Pitt in his observation: 'Necessity is the plea for every infringement of human freedom. It is the argument of tyrants and the creed of slaves.'

"Another personal appointee of the Postmaster General was placed in charge of the FCC's Broadcast Division, recognized in the industry as 'the policeman of the air'.

"During the 1936 presidential campaign Senator Arthur H. Vandenberg, of Michigan, arranged a fifteen-minute national hook-up late in October, in which he quoted some of Mr. Roosevelt's prior speeches by transcription, interjecting his own observations and comment. The program was duly announced and begun over the coast-to-coast chain. Then the telephone wires from Washington began to sizzle. Within two minutes, station after station began to fade off the chain, each interrupting its own program to announce that transcriptions of this sort might be held a technical violation of FCC regulations. Before ten minutes of the period had elapsed, more than eighty per cent of the stations had choked off the broadcast. Such complete and speedy federal censorship of campaign utterances had not previously been imagined within the industry.

"But on June 2, 1940, after the White House, Congress, and the FCC had been petitioned to forbid broadcasting of the Communist Party's national convention in New York, the Commission ruled formally that it had 'no authority in any manner whatsoever' to intervene against the broadcast. A spokesman for the FCC explained this ruling by the statement that the federal authority 'can't put anybody on the air and it can't take anybody off the air'."

The writer expressed himself on the television situation as follows:

"By a summary order of March 23, 1940, the FCC halted the general application of commercial television broadcasting, as previously authorized, because of 'the fluid state of the art'. The Chairman of the FCC then commanded a nationwide hook-up, in which he advised the audience not to buy television sets, because they soon might be outmoded by technological advances. Thus, after twelve years of costly experimentation had brought television to the point

of general application, an arbitrary bureaucratic ruling decreed abandonment of the development program pending further study and hearings. A whirlwind of public indignation greeted this summary action, but the order was not withdrawn. The significance of the incident was presented forcefully by Mr. David Lawrence in the observation: 'Congress never delegated such authority to the FCC, but assumption of power is the habit of governmental commissions nowadays. Congress has not yet waked up to the fact that it is no longer the law-making body.'"

The publisher is The Bobbs-Merrill Company, Indianapolis and New York, and the price is \$2.50.

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WAGE AND HOUR EXECUTIVE EMPLOYEES' REGULATIONS

In connection with general regulations announced yesterday (October 14), by Administrator Fleming of the Wage and Hour Division of the Department of Labor, effective October 24, when the 40-hour week becomes operative, redefining "executive, administrative and professional" employees, the Radio Manufacturers' Association has sent the following special bulletin to members, along with copies of the regulations and detailed explanatory statement:

"General exemption from overtime is given to executive, administrative and professional employees have 'non-manual assignments which require the exercise of discretion and independent judgment and if they receive \$200 a month or more'. In the radio industry the ruling is especially applicable to engineers and laboratory employees, auditors, credit managers, buyers, and others compensated over \$200 a month.

"The Administration has previously ruled that when the 40-hour week becomes effective, October 24, weekly salaries may be reduced but it is illegal to reduce hourly rates of employees. Time and one-half must be paid for all time worked above 40 hours each week after the first regular work-week following October 24, and overtime must be based on the employee's regular hourly rate. Most work-weeks in the radio manufacturing industry will begin Sunday, October 27, or Monday, October 28, and there is no change in the legal minimum wage which remains at 30¢ per hour."

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A media forum representing newspapers, radio, magazines and outdoor will discuss the economic and social challenges confronting their fields, will be a feature of the convention of the Association of National Advertisers to be held at the Greenbrier, White Sulphur Springs, on Oct. 23 to 26.

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NO FURTHER EXTENSION OF OPERATOR CITIZENSHIP PROOF

The promptness and cooperative efforts of the amateur and commercial radio operators in filing satisfactory proof of their citizenship and identification as required by Order No. 75 has been very gratifying, according to a statement issued by the Federal Communications Commission.

"In order to avoid any unnecessary hardship to the operators, the filing date for the responses to that Order has twice been extended by one month periods from the original date of August 15. Under the provisions of the Order as amended the responses are due on or before October 15, 1940. It is apparent that there has been an honest attempt on the part of the large majority of the operators to meet that filing date", the statement continues.

"There will be no further extension granted. However, the Commission realizes that certain individuals and groups of operators will be unable to secure the necessary documentary proof of citizenship within the time provided by the Order due to factors beyond their control. Accordingly, the Commission is disposed to accept without further action such responses as may be tardily filed provided they are accompanied by satisfactory explanation of the reasons which prevented prompt compliance with the Order. At the same time it is desired to emphasize that arbitrary failure to submit the response in accordance with the Order, or to offer a reasonable explanation of the factors necessitating late filing, may be considered just cause for further action on the part of the Commission."

How one of the large companies, R.C.A. Communications, Inc., carried out this order is told in the October issue of Relay, the family magazine of RCAC:

"During the past week (Sept. 24) Central Office employees have begun to file FCC forms 737 and 738, recently required as a step in the national defense program. Filling out these papers makes necessary, among other things, a birth certificate (or other proof of citizenship), finger-prints, portraits, and notarization.

"In order to assist employees in preparing these papers properly, Mr. Harry Chadwick has been delegated by the Company to establish a temporary office in room 408. Mr. Chadwick answers the many questions which arise, directs various persons to the closest source of vital statistics, and gives personal attention to each finger-printing operation. He is assisted in this work by Miss Dorothy Tudor, typist.

"For convenience in obtaining photographs, RCAC has allowed an outside company to install an automatic photographing machine in room 412.

"Miss Thalia N. Brown completes the requirements by notarizing the two forms. Miss Brown has been handling this work from

room 801, but submissions have become so rapid she plans to join the staff in 408 within the next few days.

"Walter Roe filed the first papers; this is unusual in that the discintion is usually conceded to John Doe.

"Frank Ursitti pushed \$3.60 in dimes down the photo-machine slot before he learned there was no possibility of hitting a jackpot. The ensuing 36 pictures compose a rare character study.

"We pointed out to Mr. Chadwick that his work necessitated holding the hands of every girl in the building.

"If Mrs. Chadwick found this out', we asked, 'wouldn't you experience a quick change of address?'

"Nonsense!' he declared. 'Every time I hold a hand, I leave a good impression!'"

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CLAIM CONSULS PROMOTE FASCISM HERE THROUGH RADIO

That the staffs of the Italian Embassy and Consulates have grown busier every year organizing Facist activities on the radio, through newspapers and other ways, is charged by Prof. Gaetano Salvemini in a study of Fascist activities in the United States issued by the American Council on Public Affairs, Dr. Salvemini cites these "Fascist radio activities" of a single month in New York on the basis of the following schedule:

<u>Hour</u>	<u>Station</u>	<u>Speaker</u>
8:00 A.M.	WOV	Negri
10:15 A.M.	WBNX	Neri
1:00 P.M.	WOV	Capozzucchi
2:30 P.M.	WOV	Forno
4:30 P.M.	WOV	Cammarota-Cammi
5:00 P.M.	WOV	Scotti
6:45 P.M.	WOV	Di Giura
7:15 P.M.	WOV	Gloria
10:30 P.M.	WBNX	Garofalo

Whenever a liberal-minded Italian has bought time from a station to present a more democratic interpretation of events, his program has been banned by the station manager after a few broadcasts, says Professor Salvemini. He asserts that Italian Consuls have managed to get control of nearly all Italian organizations and clubs and to form numerous new ones.

Dr. Salvemini further urges that sources of Fascist radio and school propaganda should be investigated and radio speakers, journalists, parish priests and lecturers of Italian origin who have carried on Fascist propaganda among Italians or English-speaking people during the last few years should be deprived of their citizenship and deported to Italy.

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BIG ADVERTISERS CONTINUALLY INCREASING RADIO TIME

An increase from \$19,000,000 annual network advertising expenditure ten years ago as compared with \$83,000,000 last year was cited by John J. Karol, Columbia Broadcasting System market research counsel addressing the Production Men's Club of New York.

"The food industry, for example, showed a 120 per cent gain in network radio during the past ten years and last year food advertisers spent \$24,600,000 for network time alone", Mr. Karol said. "The percentage of gains for other industries are almost too striking to quote, so to be conservative let me give you a few dollar-volume figures of radio expenditures during the past five years: The big-three soap advertisers, for example - Lever Brothers, Colgate-Palmolive-Peet, Proctor & Gamble - increased their buy of network time from \$4,000,000 in 1935 to approximately \$15,000,000 in 1939; the cigarette and tobacco industry increased from \$3,400,000 in 1935 to \$11,600,000 last year; and the drug and cosmetic industry, one of radio's largest users from the very first, has advanced year to year, going from \$15,900,000 in 1935 to \$22,400,000 in 1939. (As you know, many advertisers in this latter classification are not acceptable to the major networks.)

"In looking through the list of advertisers using our facilities in 1930 as compared with last year, we note a number of interesting changes. For example, ten years ago two categories of advertisers - radio set manufacturers and publications - accounted for about 30 per cent of our total revenue. Last year advertisers in these classifications amounted to less than 1 per cent of our total billing. On the other hand, the automobile industry in 1930 accounted for about one-half of 1 percent of our revenue, whereas last year the automobile industry accounted for $6\frac{1}{2}$ per cent of our billing, increasing from \$31,000 to \$2,200,000.

"Daytime broadcasting was just getting under way in 1930. It amounted to slightly over \$1,000,000, or about 1 per cent of our total revenue. Last year advertisers spent over \$12,000,000 for CBS facilities prior to 6 p.m. and that amounted to over 35 per cent of our total revenue - in other words, over 1000 per cent increase in daytime broadcasting on CBS.

"Some of you may assume from the figures I gave you regarding tremendous increase in expenditures for network time that the cost of broadcasting has similarly increased. Let me give you just a few figures to prove that the reverse is actually true. In 1930, CBS had 61 stations and provided primary coverage of 7,600,000 radio homes. In 1940 CBS comprises 118 stations providing primary coverage of 27,552,000 radio families, an increase of 259 per cent since 1930. Now if we compute the gross cost per 1,000 radio families in Columbia's primary listening areas on the basis of the half-hour evening rate, plus 50 per cent of time for talent cost, we find that the average cost per 1,000 radio families in 1930 was \$1.48 as compared with 77¢ per 1,000 radio families in 1940, or a drop of 48 per cent. . . .

"The simple year-to-year record of expenditures of advertisers for radio broadcasting during the past 10 years is perhaps the most convincing illustration of the effectiveness of radio advertising."

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RADIO PERFORMERS' PAY ROW COMPROMISED

An agreement covering all performers appearing on both commercial and sustaining radio programs, intended to insure industrial harmony until Nov. 1, 1943, has been negotiated by officials of the American Federation of Radio Artists, an A. F. of L. affiliate, and representatives of the National Broadcasting Company and the Columbia and Mutual Broadcasting Systems, it was announced last night.

A compromise on the basic pay for sustaining programs, one of the chief issues that for a time threatened to lead to a strike, was reached. For New York programs and those going out on the networks the fees were fixed at \$19 for a fifteen-minute program, \$23 for a half-hour program and \$27.50 for an hour's program. The rates are proportionately lower for Chicago and the West Coast.

The broadcasters agreed to pay for rehearsals at a rate that represents a 10 per cent increase for union members if programs are held to a new minimum of rehearsal time and a 30 per cent increase if the programs are rehearsed as long as is the present practice.

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DEFENSE SPEEDS UP AND EXPANDS RCA

David Sarnoff, President of the Radio Corporation of America, announced on Monday that the research and production facilities of the company are being expanded to speed national defense orders for radio equipment and to accommodate demands of increased business. In order to execute this expansion program, arrangements have been completed to obtain temporary funds from a group of banks.

These borrowings aggregating \$15,000,000 will be for a term of five years at $1\frac{1}{2}$ per cent interest, but with the privilege of payment in whole or in part at any time prior to maturity. A portion of the sum, Mr. Sarnoff announced, will be used to retire the company's currently outstanding bank loans of \$2,000,000, which carry an interest rate of $1\frac{3}{4}$ per cent, and are due April 8, 1941.

The number of employees of RCA and its subsidiary companies at the end of September totalled 26,595 as compared with 22,640 in the corresponding month of 1939, an increase of 3,955 employees. The new program will further increase employment in the RCA organization.

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RITTER RCA MANUFACTURING V-P

E. W. Ritter, formerly General Manager of radio tube manufacturing for RCA Manufacturing Company, Inc., has been elected Vice-President in charge of all manufacturing and production engineering activities. H. L. Sommerer, former Manager of Manufacturing, has been appointed Assistant to Mr. Ritter.

E. W. Engstrom, former Director of General Research, becomes Manager of all research activities; E. E. Lewis, is appointed Assistant Vice President as executive head of Accounts and Finance; H. L. Beisswenger, I. T. Kitzmiller and E. M. Moore are appointed Assistant Controllers.

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WMCA TO AID REGISTRATION

To expedite registration for selective service and to minimize congestion at polling places, New York City headquarters of the Selective Service Administration will broadcast timely bulletins during registration night on October 16th through the facilities of Station WMCA. The broadcasts will be heard from 6:30 to 10:30 P.M., EST.

All polling places in public schools throughout the five boroughs will be equipped with radios tuned to Station WMCA for the bulletins. These bulletins will be 'phoned to WMCA by officials of the Selective Service and all WMCA programs, commercial and sustaining, will cooperate in the broadcasts.

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OUR S.W. CHEERS ENGLISH IN BLACKOUT

English radio stations either go off the air or turn to record programs during blackouts, and listeners prefer the American entertainment, explained Peter J. Sallis of Southgate in a letter to WGEA, General Electric short-wave station.

"We have had continuous attempts to upset our mode of life by air raids", wrote Mr. Sallis. "Apart from purely material damage, one of their drawbacks is that they have caused our wireless programs either to go off the air altogether or else we have had to listen to numerous record recitals.

"I tune in my receiver to the 19-meter band and listen to WGEA, and although I've done it plenty of times in the past, I must say that these days it's a boon."

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