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THE OIL AND GAS INDUSTRY AND TEXAS POLITICS, 1930-1935

by

Barbara Thompson Day

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TABLE OF CONTENTS

I. BACKGROUND FOR THE 1930's .......... 1
II. EMERGING PATTERNS OF COMPETITION. .... 39
III. THE EAST TEXAS FIELD. ....... 82
IV. ALIGNING OF FORCES. ........ 128
V. THE NATIONAL INDUSTRIAL RECOVERY ACT
   AND OIL ...................... 188
VI. THE FINAL STRUGGLE FOR CONTROL. .......... 244
VII. STABILIZATION ACHIEVED. ....... 291
CONCLUSION ..................... 310
BIBLIOGRAPHY ..................... 320
CHAPTER I

BACKGROUND FOR THE 1930's

The inextricable relationship between Texas politics and the politics of oil surfaced in the 1930's. This era was particularly important in shaping the form and foundation of that government-industry relationship. The impetus to action was the disequilibrium between the supply of crude oil and the demand for finished petroleum products. During this period leaders within the industry increasingly agree that some action should be taken to stabilize the production of crude oil and reduce supply. Unable to agree on a specific program, the diverse interests in the industry engaged in bitter and often bizarre legislative wars. In order to fully understand the historical and political issues that climaxed in the 1930's one must grasp the complex nature of the forces operating on the industry and the industry's response to them.

More than any other single factor the development of the oil industry in the United States stemmed from the legal concept of the ownership of mineral interests
which evolved after the Civil War. In its natural state oil and gas are found trapped in layers of porous rock such as sandstone or limestone. Once wells are drilled into the oil reservoir a pressure differential is set up which causes the oil to move to the surface and drain large areas.¹

The difficulty of establishing ownership became immediately clear. One man pumping oil on his own or leased property could drain all the oil from under his neighbors' lands. Oil men had learned about the fugacious nature of oil through experience and each lessee began putting down multiple wells in order to maximize his portion of the recovery from the field. Such practices were established in the early days between 1859 and 1900 when the industry centered in "a broad elliptical belt extending beyond the western boundary of Pennsylvania into Ohio and West Virginia, and across Pennsylvania in a northeasterly direction into New York."² Two basic legal questions arose: What were the rights of the owners and operators of the land surface under which oil was found? and How could the owner protect himself from loss of oil by drainage due to a neighbor's production of oil? In answer to the first question the courts adopted the position that the oil beneath the surface was like unto a wild animal and whoever captured it could claim right
of ownership. This so called "rule of capture" gave legal sanction to the already existing practice of pumping out oil as quickly as possible to preempt any competitors.

As to the second question, a partial answer came from the development of the common law in the 1860's and 1870's regarding the rights of land owners leasing property to developers. More often than not, the oil operator did not own the land but simply obtained a lease agreement to drill for and produce petroleum on that land. The owners of the land received a percentage of the profits, or royalty, from any oil found. In order to protect the right of the land owner in this situation, the courts ruled that as part of the lease agreement the landowners could stipulate the number of wells to be drilled within a set period of time. This protected the landowner against unscrupulous operators that might want to cut his drilling costs by tying up leases in an area while draining the oil from a central point. Further, in 1899 the Pennsylvania Supreme Court ruled that there were no limits as to the number or location of wells on a given tract saying:

every landowner or his lessee may locate his wells wherever he pleases, regardless of the interests of others. He may distribute them over the whole farm, or locate them only on one part of it. He may crowd the adjoining farms so as to enable him to draw the oil and gas from them. What, then, can the neighbor do? Nothing, only go and do likewise.
These Pennsylvania decisions established the foundation for oil and gas law as the industry grew. The legal principles set down saddled the industry with an irrational plan of development. At the discovery of each new oil field there ensued a wild scramble to drill and produce, leading to a flood of oil. Since the discovery and development of oil fields was usually unpredictable, storage and transportation facilities were rarely adequate. Great waste of both oil and gas resulted from loss by evaporation and fire, premature dissipation of the pressure of the reservoir, and encroachment of salt water. In addition the cost of production was greatly increased by the necessity of drilling and maintaining numerous oil wells. The industry was plagued by periods of oversupply upon the discovery of a new field, followed by periods of shortage.

The American oilman did not accept, nor could he tolerate, these conditions long without relief. Using the technique of horizontal integration, the Standard Oil Company and its affiliates created a virtual monopoly over the transporting and refining of crude petroleum by the turn of the century. Since the Standard Group was essentially the only buyer and also controlled the railroad transportation system it could
set the prices for crude and bring a measure of security to the oil business, at least from the refiners' point of view. It was Standard's policy to let the burden of excess oil flowing from a new field fall on the shoulders of the producer, and many producers were unhappy under this system.\(^7\)

In order to escape the "Octopus's" tentacles and provide an outlet for their excess oil production the producers turned to the technique of vertical as well as horizontal integration. They would not sell their crude to Standard, but instead built long distance pipe lines to circumvent Standard's control of the railroads, and then set up their own refining and marketing operations.\(^8\) They were aided in their efforts to compete with the Standard group by the discoveries of huge deposits of oil in the California, Mid-Continent, and Gulf Coast regions at the turn of the century. These were areas not dominated by Standard. In 1899, 92.45 percent of the total domestic output of crude petroleum was produced in the Appalachian and Lima-Indiana fields. Standard Oil controlled 88 and 85 percent of the crude oil supplies from these fields, respectively. By 1911, however, there were six major areas of production: Appalachia, Lima-Indiana, Gulf Coast, Mid-Continent, Illinois, and California. Standard still maintained substantial control of crude supplies in the Appalachian and Lima-Indiana Fields (78 percent and
90 percent, respectively), but these areas now produced only 13.57 percent of the total U. S. crude production. Standard also controlled 83 percent of the Illinois production which brought in 14.2 percent of the total national output. But a large supply of crude petroleum was available to competitors from the other areas. The Mid-Continent fields produced 30.23 percent and the California fields produced 36.81 percent of the total United States output and Standard utilized only 44 percent and 29 percent of these supplies, respectively. Put in another way, in 1880 Standard had controlled 90-95 percent of the refinery capacity in the United States. This figure dropped to 82 percent in 1899, to 70 percent in 1906, and 64 percent in 1911.9

The non-Standard companies that took advantage of these new sources of supply became known as the "independents." The companies included in this group ranged from small producing units and refiners to large-scale integrated operations. The significant characteristic at this time was non-affiliation with the Standard Group. Among the important independent companies originating at the turn of the century were the American Oilfields Company (California, 1910); the American Petroleum Company (California, 1908); the Associated Oil Company (California, 1901); the Gulf Oil Corporation (New Jersey, 1907); the Indian Refining Company (Maine, 1904);
the National Refining Company (Ohio, 1906); the Pure Oil Company (New Jersey, 1895); The Texas Company (Texas, 1902); the Tide Water Oil Company (New Jersey, 1888); the Union Oil Company of California (California, 1890); and the United Petroleum Company (California, 1899). ¹⁰

In response to this competition Standard bought out or merged with many small companies and began its own process of vertical integration. By 1907 the Standard oil group consisted of sixty-seven subsidiaries including nine refining companies, five lubricating oil and compounding companies, three producing companies, twelve pipeline companies, one tank car transportation company, six marketing companies, and sixteen natural gas companies. Furthermore, some of the subsidiary companies operated at more than one level within the Standard Group itself. ¹¹ Standard also established fifteen foreign subsidiaries to supply crude oil and refined products to its East Coast operations.

Thus, prior to 1911 a significant portion of the oil industry was committed to a large scale integrated operational structure. Initially integration served as a competitive tool against Standard Oil's monopolistic practices, but both Standard and many of the so-called independents discovered additional benefits. Producers forced to pump excess oil under the rule of capture could integrate forward into refining, thus providing a market
for their output and a means of taking advantage of low prices for crude oil in times of flush production. On the other hand, refiners with excess refining capacity might integrate backward into production in order to give themselves greater security of supply. In either case, integration afforded some protection from the ravages of rule of capture and thus greater stability of earnings.\textsuperscript{12}

Despite inroads made by independent companies, the Standard Group still controlled a substantial portion of the market for petroleum products. They sold roughly 75 percent of the kerosene, 55 percent of the lubricating oils, 67 percent of the waxes, and 66 percent of the gasoline marketed in the United States between 1906 and 1911.\textsuperscript{13}

Following 1911 several changes in the industry led to the collapse of the relatively stable conditions under the dominant, if weakening, control which Standard had so painstakingly built over the years: first, the dissolution of the Standard Oil Group through anti-trust litigation; secondly, the rapid rise of the automobile and thus an increased demand for gasoline; thirdly, significant advances in techniques for the refining of petroleum into gasoline; and fourthly, the flood of domestic and foreign oil that entered the market in the 1920's. The combination of these developments placed
great stress on the industry. In trying to meet the challenge of new market conditions and excess production, executives of oil companies found themselves caught by the inflexibility of the legal concepts which dictated their mode of operation. Integration remained an important source of relief from the rule of capture but it could not provide an adequate remedy for the competitive conditions of the 1920's and 1930's.

Standard Oil had been under the scrutiny of federal and state officials for years. Ida M. Tarbell's *The History of the Standard Oil Company* became the bible of those who wanted to resist the Company's influence and her views were often reflected in scholarly as well as popular publications. Standard Oil, often referred to in sinister tones as simply 42 Broadway, joined the ranks of these evil giants which included Wall Street and The Big Money Boys. In Texas one of Standard's marketing outlets, the Waters-Pierce Oil Company, had been driven out of the state in 1907 and the parent company was expelled in 1911 on charges of violating state antitrust laws. But the Supreme Court decision on May 15, 1911, struck at the heart of the organization. Standard Oil was found guilty of violating the Sherman Anti-Trust Act and directed to dissolve its combination and divest itself of its major corporate affiliates. A total of thirty-three corporations were severed from the Standard
Group, including sixteen of the twenty largest affiliates. Included among these were the Standard Oil Companies of California, Indiana, Kansas, Kentucky, Nebraska, New York and Ohio; Continental Oil Company; and Atlantic Refining Company. As a group these corporations had constituted a fully integrated operation but separately all except Standard of California were only partially integrated. For example, Standard Oil of Indiana concentrated on refining and domestic marketing; the Prairie Oil and Gas Company on producing, transporting and storage; and the Waters-Pierce Oil Company on refining and domestic and foreign marketing. The parent company, itself, was left with significant gaps in its overall corporate structure. It wasn't until 1927 that Standard Oil of New Jersey had repaired its internal damage.

Initially, these companies continued to cooperate with each other and to dominate the market in their geographical areas. But the more completely integrated and aggressive independents began making significant inroads into their markets under the unsettled conditions then prevailing in the industry. Also, new competitors appeared to take advantage of crude discoveries, companies such as Shell, Phillips, Sinclair, Skelly, and others. In order to counter such moves the former Standard affiliates began to integrate both forward and backward
by mergers and affiliations of their own. Soon they were competing not only against the major independents but among themselves as well.\textsuperscript{22}

For example, after dissolution, Standard of Indiana was left with an excellent refining operation but very little crude supply. It eagerly sought sources of raw material from independents and majors alike. By the 1930's Standard of Indiana had control of a crude pipeline company, formerly a Sinclair property, and a crude oil purchasing company. It also had merged or affiliated with several smaller producing and refining companies.

In 1938 the Temporary National Economic Committee listed twenty oil companies as majors. Of this number only eight were formerly part of the Standard Oil Group.\textsuperscript{23} The distinguishing characteristic in the industry now became scale of operations rather than "non-Standard" vs. "Standard." Both former Standard Companies and non-Standard companies such as Gulf, Magnolia, Pure, Sinclair, The Texas Co., and Shell had fully integrated production and refining facilities in many states and often foreign countries. Their assets and net profits amounted to millions of dollars and they employed hundreds of people. Their staffs included specialists in geology, law, and chemistry, and their managements had moved toward greater rationalization of operations. Further, by 1930 most of these large companies had special research and
development departments. They dominated the industry by the sheer size of their organization and generally did not hesitate to exercise the resulting power.

Operating on a lesser scale than these giants were hundreds of smaller oil companies. Some were partially or wholly integrated; some specialized in refining or producing. Their position in the industry was characterized first, by their smaller size, secondly, by their non-affiliation with any of the major companies (that is, the fully integrated companies that dominated the industry whether former Standard companies or not), and thirdly, by their dependence directly or indirectly on the major companies as customers and/or suppliers.

The case of the small, non-affiliated refiner demonstrates the vulnerability of these smaller entities. The price he paid for crude was based on the posted price for crude set by the major companies that purchased oil in a given field. The independent refiner would generally pay a few cents above or below this price depending on the supply situation at the time. He might be a purchaser from a fellow independent or from a major company with excess production. In either case, if the independent refinery was any distance from the oil supply he generally depended on major pipe line companies to transport his supply at a cost they set. As a seller of finished petroleum products the refiner might sell to a major
company with a greater market for finished products than its own refiners could produce, sell to jobbers who in turn sold to independent service station owners, or develop its own marketing outlets.

There are numerous examples of attempts by independent refiners to pool their resources and establish successful marketing techniques. For example, in Texas in the late twenties and early thirties a group sold under the brand name, Long Horn. They constantly urged fellow independents to buy their products exclusively. However, the independent marketer found it increasingly difficult to compete with major companies because of 1) the extensive advertising campaigns by major companies pushing their brand name products, 2) higher quality products majors could produce with their superior cracking processes, and 3) the increased difficulty and expense of finding and keeping service station outlets. The independent refiner's chief asset was his ability to undersell the major producer. However, in times when he had to pay a premium for his crude supply, low gasoline prices meant a very slim margin of profit for him. The small refiner, therefore, preferred a plentiful supply of low priced crude typical of the late 1920's and early 1930's. Under these conditions of flush production he flourished. Naturally, he violently resisted attempts to control production and raise price in this same period.
The independent refiner lived by his wits in an economic environment largely determined by the major companies.

The counterpart of the small refiner was the independent producer. Characteristically these operators had short or limited capital resources. To the independent operator, the rule of capture was his life's blood, or so he believed, because he needed the quick return on his investment that unlimited production in a flush field afforded him. For example, in fields like East Texas, it was possible to drill a well in

less than 20 days and the drilling costs seldom exceeded $10,000. Wells with a potential production of as high as 10,000 barrels of oil per day were readied for production with total capital outlays of less than $20,000.27

In addition, production costs were minimal in a flush field so that as long as the oil was allowed to flow an independent could make a quick return of his money, even if the price for crude were low for a relatively short period of time. On the other hand, continually low prices could be disastrous, again, because the small producer tended to have limited capital resources. Therefore, the flush conditions and low prices of the late twenties and early thirties were a mixed blessing for him. As a group the producers had an ambivalent attitude toward the then current idea of controlling production to raise price (proration). Unlike the independent
refiner, they would have liked higher prices but feared that the major companies would use controls to limit production and lower price at the same time, thus destroying the independents in the industry. As one operator expressed it,

Under proration ... you have an absolute guarantee of oil selling at about the price of salt water for the next three years, or until such time as those seeking a monopoly of the oil industry have accomplished their purpose and eliminated all competition.\textsuperscript{28}

Whatever the price, the key to the independent producer's fortune lay in obtaining access to pipe line or other transportation quickly. Because of the high cost and risk involved in building pipe lines, only the largest independent and the major oil companies had extensive lines.\textsuperscript{29} If a company refused connections to a producer, he faced financial disaster. Therefore, the producer was generally forced to sell his production to the first company that would provide pipe line connections. If the independent could secure a pipe line connection, he then met high transportation costs set by the major companies. In the 1920's it was the policy of the majors to charge very high rates in order to pay off the cost of building the pipe lines as quickly as possible.\textsuperscript{30} Of course, more often than not, the pipe line company providing the transportation and the refining company purchasing the crude oil were part of the same integrated
operation. For example, the Gulf Pipe Line Co. would transport a specified number of barrels of oil to the Gulf Refining Company's Baytown refinery.

In time of overproduction the independent generally depended on the company that had provided connections to buy his excess oil and put it in storage, or, under conditions of extreme overproduction, to allow the producer to rent storage until a buyer could be found. Few small producers could afford to build expensive steel storage tanks.

The producer-buyer-transporter relationship while favoring the majors was not altogether one-sided. On the one hand, the independent producer had to find a buyer and obtain transportation, and once pipe line connections were made it was difficult and costly to change buyers even if that company should subsequently lower the price. However, in the fierce competition for crude oil supply some major companies, such as Standard of Indiana and Humble Oil, were constantly in need of new supplies of crude. Therefore, they were willing to buy oil beyond their needs and put it in storage to keep the producer happy even when the price was high. In the 1920's and 1930's when crude was produced in such abundance the price advantage generally fell to the major companies, however.

Granting a certain degree of mutual dependence, the
independent producer-refiner still lived under the
umbrella of the major oil companies who controlled the
transportation systems and who set the basic terms of
competition through their price leadership. It was
estimated by the independents that in Texas the major
companies produced 53 percent of all the oil and pur-
chased an additional 25.72 percent, giving them contrôl
of a total of 79 percent of all Texas oil.31 Given these
circumstances, it is not surprising that an outstanding
characteristic of all independents was an inbred distrust
and even fear of the major oil companies. This antagonism
toward the majors gave the independents some solidarity
despite their own diversity of interests.

One of the more colorful of the independents was
Joe Danciger, President of Danciger Oil & Refining Co.,
Forth Worth, Texas. Danciger took an active part in
opposing the major company policies and never referred to
them except in the most extravagantly critical terms.
A typical sample of his rhetoric appears in a letter
written during the controversy over an attempt to pass
federal legislation to regulate the oil industry. Danciger
wrote:

The Marland bills are simply an effort
to pervert something that is good into
something that is bad and destructive.
This, however, can be expected because
an octopus is by nature slimy and works
in the dark in an attempt to strangle
its victim.32
This type of rhetoric apparently struck a responsive
cord in the hearts of the independents. Many agreed
with William R. Watkins that:

Everyone ought to realize that the major
companies can afford to take a little
loss here and there, when they ultimately
hope to completely dominate the field
after they have rid the field of the
little fellow and made a serf of him,
and if you have visualized their
activities as I have, you will realize
that every step they have taken, in the
end they are looking forward to the time
when there will be no independent
operators.\textsuperscript{33}

As a result of this underlying distrust the independents
tended to take a defensive posture on almost any proposal
supported by the major companies.

But the oil industry was fluid in the 1920's and
today's independent might become tomorrow's major company.
For example, after World War I Humble Oil and Refining
Company became one of the leading independents in Texas
and the nation. By 1918, it was the third largest pro-
ducer of oil in Texas ranking behind Texas and Gulf but
ahead of Magnolia. In 1919 its policy was to develop a
strong integrated company specializing in the production
of oil.\textsuperscript{34} Not satisfied with third place, Humble sought
further expansion but lacked the capital resources to
finance new purchases of production properties. At the
same time, it also sought a buyer for its already great
supply of crude oil which included its own production
and crude connections it maintained with small independent producers. At this time Humble was purchasing approximately 2,719,000 barrels of oil and producing another 6,040,000 barrels. But advances from its principal customer, The Texas Company, and all the bank loans the Humble officials could scrounge did not fill the needs of its ambitious Board of Directors. Humble was particularly anxious to move into the then booming development of the Ranger Field in West Texas. The answer to Humble's problems came from contacts made by one of Humble's vice-presidents, W. S. Farish, with the President of Standard Oil of New Jersey, Walter Teagle. Both men served on the Petroleum Committee of the Council of National Defense during World War I and shared an interest in hunting Texas quail. Standard of New Jersey had always been primarily a refining and marketing company. After the dissolution decree it had been stripped of most of its domestic producing affiliates and needed supplies of crude. A consolidation of Humble and Standard seemed logical. Standard had the capital resources Humble needed and Humble had the crude supply Standard sought. Consequently, the formal agreement whereby Standard obtained 50 percent of Humble stock was signed January 29, 1919. Standard thus became Humble's largest customer for crude production and as Humble owned a large refinery in Baytown, it also assumed the role of a major purchaser
of Humble's refined products, especially lubricating oil. In 1922 Jersey took 47.1 percent of the refinery's output; in 1932 79.7 percent.\textsuperscript{41} Because of the large quantities of oil needed by Standard, Humble began an aggressive program of leasing oil properties and purchasing crude production. In the 1930's Humble became Texas's leading purchaser of crude. Between 1921-1925 Humble's own production accounted for little more than one-half of the total crude gathered by its pipe lines and in 1926-30 it had dwindled to only about one-third.\textsuperscript{42}

Humble Oil's growth played a significant part in the developing oil economy of Texas and illustrates the complexity and interdependency of the industry as a whole. Formerly an important independent, Humble now joined the ranks of the majors financially and philosophically. Its outlook would now reflect its affiliation with the most notorious of all oil companies, Standard Oil of New Jersey. In the wars of the 1930's Humble had changed sides. Its policies would now be viewed with suspicion by its former independent brothers.

The effectiveness and extent of competition at all levels directly related to the dynamic growth of the automobile industry and the resulting increase in demand for gasoline and other petroleum products for the internal combustion engine. Previously the primary product market had been for illuminating oil (kerosene)
and lubricating oil. Standard's companies had controlled these products prior to 1911, but lost much of their advantage as the public shifted to automobile and truck transportation and oil and gas for heating and industrial power. World War I brought a rapid increase in demand which was sustained in the postwar years. By the 1920's both the volume and value of gasoline and fuel oils exceeded that of illuminating oil. The gasoline market was new and expanding and techniques for reaching the consumer were still in the formative stages. Under these conditions competition was more open than it had been since the early days of the industry.

One difficulty in pursuing the new market came from technical requirements. In order to produce kerosene and other heavy oils it was possible to process crude oil by a simple distillation method. The components of the crude were separated by submitting batches of oil to heat and pressure and passing the results through a series of tubes in the classic shell still. Unless repeated several times simple distillation did not produce a sharp separation of the heavier petroleum molecules from the lighter ones that constituted such products as gasoline. The yield of gasoline per barrel of oil was only 15 to 18 percent. Therefore, this process was inefficient, expensive, and commercially impractical. While the chemical reaction was understood, the problem was to
translate it into a profitable process.\textsuperscript{47}

After World War I almost every large refiner began either to do experimental work in the development of a cracking process or to search for a method developed by some individual inventor which they could purchase or control. The Standard Oil Company of Indiana was particularly anxious to develop a cracking process. As already noted, after the 1911 dissolution decree it was left with magnificent refining facilities, but little production of its own. As a large purchaser of crude it was under considerable economic pressure to obtain a maximum return on each barrel of oil. This was particularly true in the immediate post-war period when the price of crude oil was very high.\textsuperscript{48} Therefore, Indiana was the first to acquire patent rights on a commercially important cracking process (the Burton cracking process) in 1911.\textsuperscript{49} By 1913, the new process was producing a unique form of gasoline which Dr. Burton called "skunk oil".\textsuperscript{50} Using this process on the residual fuel oil obtained after producing kerosene, the yields of gasoline were greatly increased. In 1916 the yields were 31.9 percent; in 1917 43.1 percent; in 1918 42.4 percent; and in 1919 44.6 percent.\textsuperscript{51}

In 1913 Standard of Indiana decided to grant licenses to its cracking patent to other companies. Between 1914 and 1919 it licensed fourteen refiners, all formerly a
part of the Standard Group. The terms of these licenses required the companies to pay Standard a royalty of 25 percent of the net profits realized through the use of the process and prohibited the selling of cracked products in Standard's territory. The high costs of installing the Burton process equipment, the royalty payments, and the legal prohibitions of the licenses placed this patent beyond the economic reach of independent refiners. Those companies unwilling or unable to pay royalties to Standard of Indiana had to develop their own techniques. In 1915 the U. S. Bureau of Mines offered a process to companies at no charge. Apparently, it was less successful commercially as the leading oil companies took no interest in it. By 1920 several companies had developed their own or had purchased commercial cracking process. These companies included Sinclair Refining Co., Gulf Oil Company, The Texas Company, Gasoline Products Company, and others.

As the various processes for cracking all involved the use of heat and pressure, inevitable conflicts of patent rights arose. A series of patent suits plagued the industry throughout the 1920's which slowed improvements on the cracking processes and the spread of their use for fear of legal reprisals. But beginning in 1921 various major companies holding patents negotiated agreements among themselves to limit the threat of suits.
The result of these agreements became known as the "Patent Club".

By 1923, Standard of Indiana (Burton process), Standard of New Jersey (Tube-and-Tank process), Texaco (Holmes-Manley process), and the Gasoline Products Company (Cross process) had executed a series of cross-licenses making it possible for each of these four companies to use the cracking patents of the other three without payment of royalty.57

At the same time each benefited from the research or improvements of each of the respective members of the "Patent Club."58 From their point-of-view,

The agreement was advantageous to both companies, the public, and the industry. It removed the threat of costly litigation, eliminated the possibility of paying large damages, enlarged the freedom of each company to manufacture, license, and conduct research on cracking without restraint, and made possible an ample supply of gasoline at reasonable prices.59

On the other hand, it gave these four companies control of all the important commercial patents. Furthermore, these patents covered "so many types and phases of equipment and processes that it was hard to imagine any process operating with heat and pressure that could not be attached from some angle."60 The small independent refiner was put at a great disadvantage and it is not surprising that they felt resentful toward the major companies and tended to see a purposeful plan for their destruction in the actions of these major companies.
Other suits followed including a suit filed by the U. S. Attorney General in June of 1924. A settlement was finally reached in April, 1931, the so called "Peace of 1931", in which the industry was vindicated when the U. S. Supreme Court overturned a District Court decision that had found them in violation of the anti-trust laws. After this decision only a few suits remained which were settled in 1937. Despite the legal hassles over these various patent rights, the major companies benefited greatly from the use of their patents throughout the period.

While the development of the cracking processes was perhaps the most spectacular of the technical changes of the period other innovations were equally important. Each phase of the industry had its improvements, from the evolution of more sophisticated methods of exploring for oil to the development of linings for pipe lines to prevent corrosion, to the techniques of blending gasolines to produce higher octane ratings. Of all the forms of competition during the 1920's none were more important than such continuing technological advances.

Technological superiority alone, however, proved to be an insufficient tool for meeting the competition that burgeoned under conditions of excess supply in the 1920's. Following World War I there had been concern over future supplies of oil. Efforts were made to stimulate oil
exploration at home and abroad. The industry responded to these efforts and the high price of crude in the post war period by increasing the number of wells drilled from 14,157 in 1915 to 33,911 in 1920. Furthermore the number of dry wells was very low, only 20 percent of the total drilled. The results were gratifying by almost anyone's standards. Between 1918 and 1930 the proved domestic reserves of crude petroleum more than doubled rising from 6,200,000,000 barrels to 13,600,000,000 barrels. At the same time imported oil became an increasingly important part of the total crude supply. Between 1920 and 1930 foreign imports consistently represented between 10 and 20 percent of the total new supply of petroleum.

After World War I the greatest foreign production came from Mexico but political troubles there kept things in a turmoil. Americans eagerly sought rights in other areas. By 1929 the largest portion of imports came from Venezuela - 34,431,388 barrels of a total of 78,932,572. Substantial quantities of oil were also shipped from Mexico, Colombia, Peru, and the Dutch West Indies. In addition, the competition from these countries began to cut into the export market for American oil in foreign countries. In 1926 the threat of oil from expropriated properties in Russia was particularly disconcerting.
In terms of supply and demand, the effect of the prolific production of oil was a chronic imbalance on the supply side. From 1929 to 1930 the new supply of crude petroleum exceeded the total demand for domestic use and export except in 1926. As a result, the stocks of crude oil and refined products grew steadily throughout the period except in 1926. The price of crude oil posted by the major companies, sensitive to shifts in supply, steadily declined as stocks rose. Between 1920 and 1930 the price of crude fell from a high of $3.50 per barrel to $1.25 a barrel in 1930. Gasoline prices also declined but at a more gradual rate.

The statistics do little to convey the distress and frustration felt by those who had to deal with one flush field after another. Forced by legal and practical pressure major and independent producers alike pumped oil regardless of whether or not they had an outlet. Even with a ready buyer, shortage of transportation facilities often hampered the movement of oil and further decreased already inadequate storage space. In a new field temporary receptacles often took the form of open pits dug in the ground near wells. Enormous waste resulted through evaporation and seepage plus the almost inevitable fires that burst out. It is hard to imagine the chaotic conditions that existed from the perspective of these orderly times.
The response of the industry to these conditions was multifold. The chief characteristic of the 1920's was expansion by independents and majors. The petroleum industry was one of the last areas where a man could hope to "get rich quick". The spectacle of the great oil discoveries of the 1920's drew many small investors into the oil arena and stimulated the big companies to further development. The companies that had broken off from Standard Oil recognized the opportunity to build up their own organizations and took advantage of the boom. At the same time, the non-Standard majors, such as Gulf, The Texas Company, and Magnolia, wanted their share of the riches being spewed forth. Royal Dutch-Shell also made her bid for the American market. Small independents saw this time as the chance to move into the ranks of the majors, and some succeeded.

The cumulative effect of industrial expansion was overextension in every area from production to marketing. With the discovery of so many new rich fields the market was flooded with oil. In response companies expanded their refining capacity and produced huge quantities of gasoline. In order to keep their heads above water, they began marketing operations of their own. At the same time the oversupply of both crude and gasoline kept prices depressed. This further intensified competition for two reasons. First, the low price of crude made it possible
for many small refiners to enter the market. Some would set up crude refining operations in the fields, buy up distress stock, and produce a poor grade of gasoline which they could then sell for a very low price. Some even sold to automobile owners directly from tankcars parked on railroad sidings. The bootleggers of the gasoline industry sold their gasoline without paying federal or state tax. Secondly, the effect of these types of competitors on the gasoline market was disastrous from the point of view of the major companies. The competition for outlets for gasoline and other motor products was kept at a fevered pitch. The presence of independents that could consistently undersell the majors plus a few unscrupulous men meant the periodic outbreak of price wars. At times gasoline was sold for only the price of the tax. In these wars the major companies generally had the most to lose because of their greater overall investments and lack of flexibility in meeting competition.71

Throughout the 1920's various gimmicks were tried to capture the gasoline market. Many of the majors began setting up company service stations after World War I. They charged higher prices but offered more services. At the same time the majors sought to sell to independent service stations. In the early days independent stations might have three pumps selling three different brands of gasoline. As competition began to increase in the twenties
many companies abandoned the company station and leased their equipment to individuals on condition that the lessee sell only their products. They also began to offer higher margins, free equipment, advertising aids, and other incentives.

The 1920's saw the beginnings of national advertising campaigns. Oil companies sponsored racing cars, radio shows, and elaborate treasure hunts to spread the name of their products. One company, Signal Oil of California, took advantage of the popularity of Tarzan and adopted the motto, "Signal, the Gasoline with the Power of Tarzan." They also established Tarzan Clubs which engaged in intramural sports contests, sponsored the Tarzan program on the radio, and on one occasion

A 52-piece Tarzan band, each player wearing a duplicate of Tarzan's leopard-skin costume, led the Signal caravan to the Los Angeles City Hall steps, where the Mayor gave them his greeting, and thence pranced down Broadway to the Paramount Theatre where a special matinee showing of "Tarzan the Fearless" was opened for "Tarzan Club" members only.

Such elaborate advertising campaigns were part of the intense struggle to sell gasoline under the new conditions of competition.

The stresses and strains within the industry caused by the combined impact of greater competition and over-production of oil and gasoline were felt in the early twenties. The industry was slow to understand the nature
of this problem, however. There had been periods of oversupply before but they had always been followed by shortages when prices rose and storage was used up, thus achieving a rough balance. There was concern in the industry prior to 1925 but not panic. In 1926 the situation eased and many believed that this was the beginning of a new trend. The year 1927, however, felt the impact of the discoveries in 1926 of the Yates Field, Hendrick, McElroy, and Howard-Glasscock fields in West Texas; the Seminole City and Bowlegs fields in Oklahoma; and the Seal Beach field in California. In addition, in 1927 Oklahoma drillers located the St. Louis and Little River Fields. The flood continued in 1928 with the spectacular gushing of the Oklahoma City field, the Kettleman North Dome field in California, and the Eunice-Monument and Hobbs fields in New Mexico. The Van field in East Texas came in in 1929, and all the previous finds were overshadowed by the discovery of the East Texas field in 1930. The impact of the East Texas field was not fully felt until 1931 and by then the Conroe field had also been added. Any hope the industry might have had in 1926 for a normal reversal of the supply situation quickly disappeared. The gasoline marketing situation continued to be wracked with periodic price wars and sharp competitive practices. The major companies' policy of buying up distressed stock from independent producers
began to be too heavy a burden. At the same time, the independent producer resented the low prices set by the major companies. Some independents with no outlet for their oil began to refine their own crude, further intensifying competition for the gasoline customer. The importation of crude and refined products further irritated the sensibilities of the independents who were having trouble getting outlets for their domestic stocks. A few oil men began to examine conditions in the industry in the early twenties and their ranks began to swell in the late twenties. The industry was ill prepared to meet the crisis of the 1930's. Like a major portion of the U. S. business community the extensions of the 1920's left them exceedingly vulnerable when the depression hit.
FOOTNOTES


2 J. Stanley Clark, The Oil Century: From the Drake Well to the Conservation Era (Norman, Oklahoma, 1958), p. 95.


4 Clark, op. cit., pp. 96-97; Brown v. Vandergrift, 80 Penn. St. 142 (November, 1875).


8 Ibid., pp. 18-83.

10 McLean and Haigh, op. cit., p. 71; See McLean and Haigh for the story of the integration of the Mellon organization, Gulf Oil, pp. 71-80.

11 Ibid., pp. 70-71.

12 Ibid., p. 664. Both McLean and Haigh and deChazeau and Kahn provide a detailed analysis of the integration process of several American oil companies.

13 Williamson and Andreano, op. cit., p. 74; George Sweet Gibb and Evelyn H. Knowlton, History of Standard Oil Company (New Jersey): The Resurgent Years 1911-1927 (New York, 1956), pp. 672-73. Even after dissolution in 1911 the Standard Oil Company of New Jersey had a total net value of $285,400,000 which made it the largest oil company in the United States. Compared to other large industrial companies Standard was exceeded in total net value only by U. S. Steel.


15 Clark, op. cit., p. 135. For a partial list of other state suits involving Standard companies 1904-1906 see Williamson, et al., op. cit., p. 9, Table 1:2.

16 This decision upheld the decree of the Federal Circuit Court of the Eastern District of Missouri in the case of U. S. v. Standard Oil Company of N. J., et al.


18 Ibid., pp. 8-9, Table 1.

19 The story told in Gibb and Knowlton is the story of this process of recreation, or, really, transformation of the old company into a modern fully integrated company.


21 deChazeau and Kahn, op. cit., p. 89; Gibb and Knowlton, op. cit., pp. 11-12.

23 deChazeau and Kahn, op. cit., p. 27. The twenty companies were: Atlantic Refining Company, Continental Oil Company, Ohio Oil Company, Socony-Vacuum (now Socony Mobil) Oil Company, Standard Oil Company of California, Standard Oil Company of Indiana, Standard Oil Company (New Jersey), and Standard Oil Company of Ohio - former Standard companies - Cities Service Company, Consolidated Oil Corporation (now Sinclair), Gulf Oil Corporation, Mid-Continent Petroleum Corporation (now Sunray Mid-Continent), Phillips Petroleum Company, Pure Oil Company, Shell Oil Company, Skelly Oil Company, Sun Oil Company, Texas Company, Tide Water Associated Oil Company (now Tidewater Oil), and Union Oil Company of California - all non-Standard companies.

24 In times of short supply the independent would pay a premium; in times of oversupply he would be able to buy under the posted price.

25 J. R. Parten Papers (Houston, Texas). These papers are not yet fully catalogued. Where possible a file will be cited.


27 McLean and Haigh, op. cit., p. 589.

28 Letter, Joe Danciger to My dear oppressed brother oil operator, May 9, 1931, J. R. Parten Papers.


32 Letter, Joe Danciger to Byron A. Irwin, April 26, 1933, J. R. Parten Papers.

34 Larson and Porter, *op. cit.*, p. 89.
35 *Ibid.*, p. 696, Table IX.
38 Farish was President of Humble Oil, 1922-1933; Chairman of the Board of Standard Oil of New Jersey, 1933-1937; and President of Standard Oil of New Jersey, 1937-1942.
44 Clark, *op. cit.*, p. 129.
45 Williamson, *et al.*, *op. cit.*, pp. 111-12, Table 4:2.
49 deChazeau and Kahn, *op. cit.*, pp. 87-88.
54 *Ibid.*, p. 160. All the provisions of the licensing agreements were not strictly enforced.


57 Beaton, *op. cit.*, p. 255.

58 For greater details of such agreements see Gidden, *op. cit.*, pp. 258-59; 265.

59 Ibid., p. 259.

60 Ibid., p. 266.

61 Ibid., pp. 266-80.


64 deChazeau and Kahn, *op. cit.*, p. 137; McLean and Haigh, *op. cit.*, p. 96, Table 4:5 for example of imports by Gulf Oil Co., 98, Table 4:6 for example of domestic production.


70 McLean and Haigh, *op. cit.*, p. 86.

72 Charles S. Jones, From the Rio Grande to the Arctic: The Story of the Richfield Oil Corporation (Norman, Oklahoma, 1972), pp. 95-105, also boat races and airplanes.

73 Tompkins, op. cit., pp. 100-102.

74 Ibid., p. 102.

75 McLean and Haigh, op. cit., p. 87.
CHAPTER II
EMERGING PATTERNS OF COMPETITION

Under the pressure of mounting surpluses of crude during the 1920's, the industry concentrated on alleviating the imbalance using three basic approaches: self-help, state help, and federal aid. During this period many industries were exploring the benefits of cooperation and controlled competition. Some of the executives of the leading oil companies adopted this gospel of self-help and hoped to control conditions through cooperative agreements within the oil fraternity. Others in the industry believed sanctioning authority outside the industry was necessary to bring about an adequate degree of control. Most initially preferred a state agency to federal involvement beyond an advisory capacity. A few of the oil producing states, including Texas, already had conservation statutes governing the use of their mineral resources. It was hoped that effective control might result from the enforcement of existing or new laws such as these. Because of the national character of the industry, however, intra-state controls could not provide real stability. Some form of interstate
cooperation seemed logical and necessary to equalize production throughout the United States. Any plan involving interstate agreement required federal cooperation, at least to the extent of permitting a relaxation of anti-trust laws. Direct federal regulation did not achieve widespread popularity within the industry until the other possibilities had been fully explored and, in the minds of many, proven inadequate. These three ideas - self-help, state-help, and federal aid - emerging and fading, overlapping and conflicting, became the themes for the struggles for control and stabilization of the petroleum industry beginning in the 1920's and extending well into the 1930's.

Following World War I the main concern in the industry had been scarcity of future supplies of crude. As the supply picture changed and prices began to fall with the spectacular discoveries of the 1920's, some oil men began to have the reverse fear of oversupply. For example, in 1923 a report from the oil scouting department of Humble Oil & Refining Company stated:

... the general economic situation as applied to oil is one that staggers the imagination even of those who are well informed concerning the oil business. The oil industry in America faces an overproduction that is beyond the capabilities of financial resources of the industry to take care of it ....

The tension between the fear of scarcity and the dread of oversupply had always been the oil man's burden,
part of the natural course of events. In periods of oversupply the weaknesses of the legal framework for the development of oil properties became acutely apparent as widespread waste usually resulted. In the 1920's a few questioning voices were raised in protest against the cycle of glut and dirth as being unnecessary. Henry L. Doherty, President of Cities Service Oil Co.; Mark Requa; and Secretary of the Interior, Hubert Work, began to press for strong federal action to counteract these unsettling and destructive practices.

Doherty advocated unitization of oil fields under federal sanctions. This idea was based on the geologic theory that an oil reservoir was a natural unit and that it would be most efficient to treat it as such. Under unit operation all lease holders in a common pool would combine their resources and agree to put the development of the field into the hands of a single operator. Profits would be divided on the basis of ownership in the field. Wells would be drilled not to offset neighbors' wells but for maximum recovery, thus decreasing production costs and increasing the life of the reservoir. In short, it was a scheme to circumvent the rule of capture and modify the concept of ownership under that rule.² If state and federal governments and courts would allow companies to join in such agreements by granting exemptions from anti-trust laws, orderly development and
stable prices would result. As more knowledge of the
nature of oil reservoirs was gained, it proved that unit
operations were the most efficient method of tapping oil
supplies. These principles were not widely understood
or accepted in the 1920's, though.

Mark Requa had been oil administrator during World
War I and saw the possibilities for order within the
industry through cooperative action. He decried the
wasteful methods of oil operators and called for con-
servation measures. The ideas of these men were a
definite departure from traditional American business
philosophy and certainly from the conservative philosophy
prevailing in the oil industry. Men such as J. Howard
Pew of Sun Oil Company, G. S. Davison of Gulf Oil
Company and W. S. Farish of Humble Oil, while concerned
about the unsettling effects of overproduction, were not
willing to commit themselves to strong federal action.\(^3\)
They still regarded the effects of rule of capture as a
natural part of the industry in the early 1920's.

The conservative Coolidge certainly did not favor
precipitous federal involvement. Nevertheless, because
of the pressure from Doherty, Requa, Work and others,
President Coolidge created the Federal Oil Control Board
(FOCB) in December of 1924 to advise with the industry
in efforts to correct some of the evils of the existing
system.
Initially, the oil industry pledged complete cooperation with the FOCB. Many were attracted by the prospect of directing the thrust of federal action toward gaining relief from anti-trust prosecution and thus easing the path to industrial cooperation. The Board, however, proved to be more independent than oil leaders had hoped and began asking probing questions about the policies and practices of various companies. Consequently the enthusiasm for the FOCB cooled considerably and in 1925 the American Petroleum Institute (API) established a "Committee of Eleven" to investigate the oil industry on its own. This committee was composed of representatives of important oil companies, including Humble Oil. The report that the committee issued in April, 1925, was less than candid. The tone of this report was defensive. It denied the existence of any problems of significance in the industry in hopes of forestalling any undesirable proposals for federal conservation legislation that the FOCB might recommend. When the API Report came out many were surprised to read that "The waste in the industry is virtually negligible ...." The report went on to say,

A suggestion that the industry is conducted in a manner so wasteful as to be alarming is a matter of great concern to those engaged in it, who know by what ceaseless watchfulness had been brought about the reduction
of physical wastage from oil well to consumer to a figure slightly over 3 per cent of the crude produced."  

Further,  

Gas coming with the oil is used to the greatest efficiency compatible with its market value at the well. Seldom is an appreciable amount of gas wasted by good operators, except in rare and virtually unavoidable instances, or where it costs more to save the gas than it is worth.  

Criticism of the Committee of Eleven's report came from respected men within and without the industry. But, clearly the industry was not yet ready to embrace federal aid.  

All points of view were aired in extensive hearings held by the FOCB the following year, and in October, 1926, the Board finally issued its report. It stressed the need for industry leaders to initiate more effective conservation practices, such as unitization of oil fields, supported by federal sanctions. On the whole, the tone of the report allayed the worst fears of industry leaders and planted seeds of thought concerning the solutions to their problems. But the idea of even limited federal involvement still caused great dissension among industry leaders as well as among the rank and file. The Board of Directors of the API representing the major companies was divided over the report but finally endorsed the FOCB effort. At its December meeting
in 1926 the membership refused to advocate federal sanctions, however.\footnote{11}

The position of some oil leaders in favor of cooperation among their colleagues and against federal interference was quite reasonable. The more efficient exercise of informal or natural methods of control had many advantages over governmental controls, if they could be made effective. The means to enforce informal controls lay primarily in the hands of the major companies by virtue of their dominant position in the industry. The major integrated companies either had extensive producing properties of their own or were affiliated with large producing companies. This placed these companies in a position to influence the flow of oil directly.

By using scientific methods of exploration, the majors hoped to be able to predict more precisely where oil would be found. They could then buy up the mineral leases in the area before any wells were drilled and thus forestall an oil boom.\footnote{12} There was no way to stop wildcatting (exploring in untested areas) by independents, though, and the 1900's were abundant with examples of successful finds including Hendricks, Smackover, East Texas, and the Conroe Fields.\footnote{13} Therefore, the major companies employed oil scouts to investigate any promising discoveries. If the potential of a well was proved, they began buying up leases in the area in hopes
of bringing the field under control. Of course, they also wanted a share of the profits to be gained.\textsuperscript{14} In either case, the major companies had considerable advantage over independent producers by virtue of their superior capital resources and business structure. They could more readily finance the purchase of leases and more easily withhold production in a flush field because they did not need an immediate return on their investment.

Moreover, the major companies could influence the development of fields through their control of pipe lines.\textsuperscript{15} Pipe line companies operating in interstate commerce had been declared common carriers and subject to supervision by the Interstate Commerce Commission under the Hepburn Act of 1906.\textsuperscript{16} Under the supervision of the ICC they were subject to public scrutiny of their rates and practices. In particular the companies were to assure the availability of pipe line service to all shippers on a fair and equitable basis. However, in practice, pipe line companies were allowed considerable freedom in setting their own rates. Furthermore, the ICC could not control intrastate rates or policies. The major companies showed a natural favoritism to affiliated producing companies and long time connections. The establishment of connecting pipe lines and the availability of storage in flush fields was crucial to producers.\textsuperscript{17} Both large and small independent producers frequently and insistently
voiced complaints about discriminatory treatment and excessively high rates.

In Texas pipe lines had been designated common carriers by constitutional amendment as early as 1917 but this meant little in terms of meaningful supervision. Prior to 1930 there were no state laws which regulated the use of storage facilities and charges or the purchase of crude oil.\textsuperscript{18} Nor could pipe line companies be required to extend their lines to new producing areas. For example, in the late 1920's the lack of pipe lines and storage facilities in West Texas caused great consternation on the part of independent producers. Therefore, despite some governmental supervision, the pipe line companies exercised considerable influence over production in informal, but very direct, ways.\textsuperscript{19}

The ultimate weapon, in the laissez-faire tradition, was price. Again, the major companies had the advantage. They set the base prices for the purchase of crude which in turn affected the prices of refined products. Their offerings were tied to the supply situation which they could not fully control. Nevertheless, considering their strong position in the industry many oil executives felt it would be foolish to act prematurely in seeking federal help. Surely, the major companies' informal safeguards plus normal economic forces would suffice to restore order. Under the immutable law of supply and
demand as supply increased prices would decline and exploration would be discouraged, thus, in time, decreasing supply and improving price. In fact, in 1926, it seemed that conditions might already be reversing themselves. Stocks of oil and refined products decreased for the first time since 1918; production of crude was only slightly higher than in 1925; overall price improved; and supply and demand came close to balancing each other. 20

The oil discoveries of late 1926 and 1927 soon dissipated any optimism on the part of industry leaders as conditions worsened. The price of crude oil declined to new lows after 1926 which, in turn, affected the price of gasoline. The greatest profit in the industry at this time came from the sale of gasoline and the competition for gasoline customers was intense. When the price of crude reached very low levels and the supply was abundant more small independent refiners could enter the competition by producing a cheap grade of gasoline and underselling the major companies. The bootleggers and skimmers also appeared to further demoralize the gasoline market. 21

By the late 1920's all the major oil companies that had not already done so were forced to adopt the aggressive practices of their competitors. 22 For example, major companies began furnishing gas pumps to service station owners on the condition that they sell only that company's products. This added to the company's costs of
marketing but in the long run they hoped to squeeze out some of their competitors by such methods.

The companies' financial statements reflected the excesses in producing and marketing. The pattern that emerged showed peak profits in 1926 followed by a sharp decline in 1927, gradual improvement in 1928 and 1929, but falling short of 1926 highs. This pattern was true for such companies as Shell, Sinclair Consolidated Oil, Pure, and Phillips. The Standard Companies, The Texas Corporation, and Gulf managed to improve their profit position by 1929, even though they also felt a sharp drop in revenues in 1927.23

Of course, the overall corporate financial record hid some of the problems faced by divisions, or subsidiaries of large holding operations. For example, Standard of Indiana did very well during these years. In 1926 it was making a net income of little over $55,000,000 but by 1929 it was earning almost $78,500,000. At the same time, the Sinclair Crude Oil Purchasing Co., which it controlled in conjunction with Sinclair Consolidated Oil Co., was under financial stress beginning in 1923 and extending into the next decade.

As the financial position of a number of major companies deteriorated in the late twenties, their managing boards reassessed proposals for industrial controls. Consideration of profits rather than altruistic
concern for the nation's mineral wealth provided most with the motivation for an end to current conditions. The parallels between financial statements and views on conservation are often striking in this early period. For example, the Production Department of Humble Oil and Refining Co. showed a loss for the years 1927-1930 because of the low prices for crude petroleum. In 1927 and 1928 the department showed a net loss, in 1929 a small net profit, and in 1930 a very moderate profit. The overall income picture for Humble was better but still reflected the losses felt in the Producing Department. Their financial stress undoubtedly influenced its leadership to reverse itself and become a driving force in the movement for conservation after 1926. Standard of New Jersey continued to show a profit in the late twenties, if not so much as some other Standard Companies. Humble Oil & Refining Company was their chief producing affiliate in the United States, however. For this and other reasons, therefore, Standard of New Jersey took a sympathetic position on possible industry controls through various conservation measures. On the other hand, the philosophy of Gulf Oil's management was conservative and their financial condition was very good in the 1920's. There was little incentive for Gulf to take an aggressive position favoring restrictive conservation measures for the oil industry. Not surprisingly, they
stood staunchly against controls.25 Parallels are sometimes misleading and generalizations about so large and complex an industry as the petroleum industry are dangerous. Henry L. Doherty, President of Cities Service, saw his company's net income soar from forty-six million in 1926 to over sixty-nine million in 1929 and yet remained one of the most vocal advocates of federal action to bring about compulsory unitization of oil fields. Nonetheless, it seems fair to say that financial difficulties in the late 1920's made many in the oil industry more receptive to new ideas concerning the management of the nation's petroleum resources.

Given such an open mood within the industry various alternatives continued to be put forth. In 1927 in an address before the American Bar Association (ABA), James A. Veasey of the Carter Oil Company discussed the need for effective conservation, if not by the industry itself, then by compulsory legislation.26 Subsequently, the ABA set up a Committee on Conservation of Mineral Resources under its Mineral Law Section to study the legal ramifications of conservation legislation. The API also set up a committee to study possible legal channels for government action.27 Those favoring stricter conservation measures to stabilize the industry also realized the importance of education as a tool in obtaining industry cooperation. The years before
the depression saw a great deal of propaganda and re-
search pour forth from individual companies, the American
Petroleum Institute, and other technical associations,
as well as from the Federal Oil Conservation Board and
the U. S. Bureau of Mines.28

The results of industry and government research
showed with increasing authority that the most efficient
development of an oil reservoir consisted of limited
drilling and managed withdrawal of the oil to minimize
the loss of pressure and encroachment of water. At
the same time such management would be possible only if
the rule of capture could in some way be modified. If
this could be legally accomplished, production control
would naturally cause the price of oil and conditions
in the industry in general to stabilize. The concept
of unitized fields met all the requirements for efficient
and conservation-minded management. It had the additional
advantages of greater ultimate recovery of oil from the
reservoir thus promoting a more secure long term supply
of crude petroleum and a better regulated flow of crude
thus avoiding the chaotic conditions of flush fields
and the accompanying fluctuations in the price of

Increasingly, the major companies came to recognize
that the rational development of oil fields corresponded
to their own self-interest. Under a unit plan supply could be limited to keep price up. The major companies desired higher prices for crude to eliminate small refineries and bootleggers that could and did disrupt the gasoline market.\textsuperscript{29} Under stabilized production their competitors would also be paying higher prices, which would be passed on to the consumer, so no company would be put at a disadvantage. Also, higher prices for crude were necessary to make the operation of older, stripper wells profitable. A large portion of the total United States production of oil came from such wells and there protection could be considered a conservation measure, also. Therefore, a company's support of unitization combined responsible leadership and self-interest.

The small refineries operating "tea-kettle" plants in oil fields and bootleggers were clearly opposed to the idea of unitization. But other, larger, more responsible independents also opposed the concept. The independents' inbred distrust of the majors surfaced. While the independents favored high prices as much as the major companies, they feared that in a unitized pool under major control their production could be so reduced as to eliminate profits. Alternatively, the major companies might temporarily lower to price along
with the production to force the independents to sell out. They saw ulterior motives behind the major company's support of unitization and questioned the scientific validity of the whole concept.

Nevertheless, those in the industry who believed in the validity of unitization continued to work to implement the concept. The Humble Oil & Refining Company's policy provides an excellent example of such endeavors. In 1927 Humble's board committed itself to a new leasing policy. Previously the company had bought up mineral rights on properties in a checkerboard fashion. This policy saved money and, at the same time, assured Humble a share of the oil found in any reservoir. However, after 1927 their interest in controlling production dictated a new course of action. By buying up blocks of leases, Humble put itself in a better position to control the flow of oil. Under this new system Humble succeeded in unitizing the Boggy Creek, Raccoon Bend and Sugarland fields. Such instances were relatively rare in the industry as a whole, however. Generally cooperation among the several owners of a field was necessary to initiate unit development. Immediately when more than one oil company was involved, legal questions about anti-trust violations arose. Ultimately the Humble directors took the advice of
F. C. Proctor, Gulf Oil's venerable legal counsel.

Proctor said,

If he was an oil-company executive interested in bringing about "cooperation on joint operation" in fields where no substantial development had taken place, he would simply disregard legal uncertainties and risk prosecution. 32

As a result, at Humble's initiative the outstanding example of this type of cooperation occurred in the Van Field, Van Zandt County, Texas. The Pure, Sun, Shell, Texas, and Humble Oil Companies consolidated their lease holdings and put the field in the hands of a single operator in the fall of 1929. The venture was very successful and clearly in the interest of the companies involved. But, the Van Field was an exceptional situation in that only major companies were parties to the agreement and the leases were in hand before drilling began. 33 Unitization could not readily be applied to most fields. The widespread educational campaign to gain supporters for unitization of oil fields continued, however, and Humble was one of those at the forefront. 34

The efforts to gain a valid legal base for cooperative ventures to revise the anti-trust laws mounted in the late 1920's. At first turned down by the FOCB in the summer of 1927, E. W. Clark, President of the API, Walter Teagle, President of Standard Oil (N. J.), and W. S. Farish, Humble Oil, continued to press their case.
They publicly denounced the statement of Secretary of Treasury Mellon (Gulf Oil Company) who stated in May of 1927 that the natural law of supply and demand would solve the problem of oil surplus. At the December, 1927, API meeting a majority of the Institute's directors approved federal legislation to encourage oil conservation and the convention went on record urging enactment of federal and state laws to authorize unit agreements and exemption from anti-trust laws.

The following year at the December meeting, the API went further, advocating a plan for reducing the production of crude on a national and possibly world-wide basis. The scheme was to be carried out on a voluntary basis through an elaborate system of regional committees. If successful the idea could be enlarged to include world-wide controls. The idea of regional committees did not differ too much from the plan ultimately adopted under the New Deal, but 1929 was not 1933, and Hoover was not FDR. The API plan was submitted to the FOCB in February. In April the new President, Herbert Hoover, and his Secretary of the Interior, Dr. Ray Lyman Wilbur, stated the administration's policy. They opposed the revision of the anti-trust laws to allow the oil industry to effect such sweeping agreements to curtail production. At the same time, somewhat paradoxically, they urged
the industry to solve its problems through voluntary means and greater efficiency of operations. By way of example to the oil men, the executive initiated reforms in its policies for development of oil on public lands. Prospecting permits were restricted and some revoked. Then, in July of 1930, a temporary statute was passed by Congress allowing the Secretary of the Interior to approve voluntary unitization projects where public lands were involved. The unit projects undertaken proved to be so successful that in 1931 the temporary act was made permanent. Hoover felt no necessity to extend the law to apply to the industry as a whole, however.38

The API had greater success when they approached the Hoover administration about a voluntary marketing code. Conditions in the marketing of petroleum remained chaotic in the late 1920's. Some within the industry believed that besides seeking control of crude production it might be possible to obtain relief from sharp marketing practice through gentlemanly agreements. The American Petroleum Institute appointed a code committee, dominated by major oil companies, to work on this idea in the summer of 1928. A code was written and adopted by the industry at a trade practice conference on February 11, 1929. The code was then submitted to the Federal Trade Commission
for approval. The Code Committee stated that

The code is a voluntary conservation measure. It is designed solely to
abolish or control some of the evils
of destructive competition. It is
the composite work of hundreds of
oil men, and represents an honest
effort to set up agreed standards
that will result in fair dealing
for all and in helping marketers
to effect economies in operation.
Every marketer should be willing
to observe it in letter and spirit.40

Some of the provisions of the code reveal the kind of
practices from which the industry suffered. For example,
it prohibited companies from painting over the signs
or colors of competitors without permission, it forbid
companies from "maliciously inducing or attempting to
induce the breach of existing contracts between competitors
and their customers," and it sought to outlaw the use of
lotteries, prizes, and wheels of fortune in the sale of
gasoline.41 More important to the overall competitive
condition in the industry, the code gave sanction to
exclusive contracts whereby service station owners
agreed to sell that company's products only. Of
course, this provision was extremely repugnant to the
independents. The code also forbade the selling of
goods below cost with the intent of hurting a competitor,
a practice both majors and independents indulged in
from time to time.42 In June the Federal Trade Commission
gave its approval of the code and promulgated rules for
the "National Code of Practices for Marketing Refined Petroleum Products" based on the API Code. The effectiveness of the code depended entirely on cooperation by the members of the industry but the prospects seemed good in the summer of 1929.

The API also explored the possibility of attacking the oversupply problem through the authority of the states rather than the federal government. In 1926, Governor E. W. Marland of Oklahoma was appointed by the API directors to be chairman of a committee to draft state legislation to curb excess production. His committee's report came out in 1927 and provided for rigid state regulation of oil operations. At the same time a bill embodying the basic ideas was introduced into the Oklahoma legislature. The bill failed to pass and the FOCB only went so far as to recommend conservation laws for the states, but, Marland succeeded in stirring up considerable discussion and furor, opening up another possible course of action for the oil industry.

Even without legislative action, a few states had the legal and administrative structure to begin regulating the industry. Oklahoma and Texas already had conservation statutes and agencies authorized to carry out the laws. These statutes were written after World War I and had generally been poorly enforced, but,
they formed a base on which to build. The primary method of controlling production available to state agencies was proration. Proration meant setting a maximum production figure for the state and dividing that amount among the various fields and operators. Although the actual process was relatively simple, the political and economic ramifications made the issue of proration extremely controversial. In Texas, for example, the question was complicated by the fact that the state owned large blocks of oil bearing lands. Any tampering with oil production had a direct bearing on the state's finances. Prorationists could argue that overproduction and low price for crude meant waste not only for the industry, and royalty owners, but also for the state government in unpaid or reduced taxes.

Pioneering in proration began in Oklahoma and Texas in the late 1920's. The first large scale attempt at proration came as oil operators brought in a series of wells in the Greater Seminole area of Oklahoma in 1926. For the first time since the sharp decline in prices of crude in 1921, the price had reached as high as $1.50 a barrel at the well-head. The operators in the field were anxious to keep the flow of oil slow enough to sustain this higher price. Therefore, they instituted a voluntary plan of limited production and the plan worked
well enough for several months. During the summer of 1926 operators in the affected counties were meeting almost daily to discuss the voluntary prorationing and well spacing. But the pressure of mounting stocks grew to be too great.

The Prairie Oil and Gas Company had been storing high-priced oil throughout that year and was anxious to maintain a high price level. It therefore offered to purchase a daily minimum of 35,000 barrels of outside oil in the Seminole City field if other purchasers would buy their pro rata share of the surplus oil.

Harry Sinclair objected because his company was already producing large quantities of oil in the Seminole area. The Carter Oil Company, Magnolia, Gulf, Indian Territory Illuminating Oil Company (ITIO), Amerada, Stanolind, Phillips, Mid-Continent, and Barnsdall chose to go with Sinclair and beginning on February 22, 1927, Carter posted reduced prices for Kansas and Oklahoma oil. Humble followed with similar reductions in North and Central Texas. Other major crude purchasers met these prices thus starting a market decline that was to continue until effective controls were brought on the industry in the 1930's.

The break in prices in 1927 was followed by a series of new discoveries in 1928 - the Kettleman North Dome field in California, the Bonneville Monument and Hobbs
fields in New Mexico, and greatest of all, the Oklahoma City Field in December. At the outset of the discovery of the Oklahoma City Field the interests of the ITIO and the Foster Petroleum Company almost totally controlled the area. By virtue of their dominant holdings they planned for an orderly development through voluntary agreements with minority holders in the area as to the spacing of wells. ITIO and Foster successfully obtained the cooperation of owners of all nearby acreage as well as royalty owners in drilling only one well to every forty acres on a pro rata basis and, in fact, the first eight wells were drilled according to this scheme. But Tom Slick, an independent operator owning a twenty-acre tract, and the Sinclair Oil and Refining Company refused to go along with the plan. Their defection seemed to be the crack in the dam, and the familiar stampede to drill and produce followed.49

The weaknesses of voluntary proration were similar to those of voluntary unitization: 1) possible conflict with anti-trust laws and 2) lack of sanctions against violators of agreements. Recognizing the inevitability of such problems under voluntary programs, and fearing possible federal controls under which the large integrated companies could more readily dominate policy, Governor E. W. Marland, supported by a number of
independents, became the champion of strong state conservation laws. He continued his crusade begun in 1926 under the auspices of the API into the 1930's.

The existing conservation law in Texas was written in 1919 and gave power to supervise the oil and gas industry to the Railroad Commission. The law lacked meaningful sanctions, however, and the Commission lacked staff. Also Railroad Commission orders had never been fully tested in the courts. Any attempt by the Railroad Commission to write a valid proration order met with immediate obstacles. The courts in the late 1920's and 1930's were flooded with suits challenging the proration orders on grounds that they were unconstitutional and that the methods of determining the allocation of production were unfair and illegal. A major portion of the energy of lawyers, judges, state legislators, and oil executives during this time was devoted to creating adequate law in the area of state production controls and the writing of proration orders.

The first important attempts at proration in Texas came as a result of the build up of crude oil supplies in the Panhandle and Permian Basin regions of West Texas in the late 1920's. Beginning in 1923 there had been a series of discoveries in West Texas climaxd by the bringing in of the Hendricks and Yates fields in Winckler and Pecos Counties. The main cause of overproduction
in this situation was lack of adequate transportation facilities. Although the Humble Company contracted to run the Yates oil by December, 1926, it was not until October of 1927 that connections were completed. W. S. Farish, president of Humble, took the initiative in negotiating an agreement for voluntary proration of the field. Because Humble was building the only adequate pipe line to the large Yates field they were in a favorable bargaining position. Humble offered to buy 30,000 barrels of oil a day on a ratable basis, that is, proportionately from each operator in the field, on the condition that all the operators accept such a plan and leave their remaining oil in the ground. The company argued that storing the field's potential production in steel tanks would greatly increase the cost of the crude. In addition there would be the normal waste from evaporation and fire hazard, plus corrosion of equipment because of the high sulphur content of the West Texas oil. The initial meeting of the operators took place in August of 1927 followed by a second meeting in October at which an agreement was drawn up. There was a gentleman's understanding between the operators and the Attorney General's Office that no anti-trust suit would be filed against them. By October 1, 1927, the agreement was put into effect and worked successfully in the Yates field. The result was that the price was kept up and production down.
The difficulty with the Yates plan was that it did not encompass adjoining production in the Hendricks field which was also a prolific area. Oil from the adjacent area put pressure on Humble to lower its price. Early in March of 1928, Farish addressed a meeting of the Railroad Commission urging proration on a ratable basis through cooperation on the part of the industry and government to balance production with consumption and create reserves of petroleum in the ground.54

Wanting to cooperate, the Commission held hearings in April, 1928, on the possible prorationing of the Hendricks and Yates fields under its auspices. The major companies speaking in favor of controls included Humble, Pan-American (Indiana Standard), Marland, and Shell. Speaking on behalf of the independent oil men, Tom Cranfill pleaded against controls until existing contract obligations could be fulfilled. His company had pioneered in the development of the field and Cranfill felt entitled to produce oil for which he already had an outlet. Here was a classic conflict of interests in the oil business: the independent believing he had a right to produce oil on his own leasehold, and the majors insisting on controlled production in keeping with their larger plan for stabilization of supply and price. The major companies considered Cranfill irresponsible because if he were allowed to produce, others would insist on their right
to do likewise. Before long too much oil would be pressing on the existing market causing price to drop. Low prices for crude led to uneconomic uses of oil such as the production of cheap gasoline by inefficient distillation processes. They also caused the shutting down of marginal wells thus causing the irrevocable loss of untold quantities of oil. Finally, low prices meant losses to landowners because of reduced royalty payments and to the state because of decreased tax income. These arguments had been voiced before in various ways. Together they constituted the case used against so-called "economic waste." To prevent this type of waste, and incidentally improve their profit position, the majors held that no oil should be produced in excess of the amount needed to fill the current needs of the nation, or market demand.

Cranfill and the independents in the Yates Field held the opposite point of view. They believed that the role of the state should be in preventing physical waste alone and that the natural forces of the market should determine price. (In this view Cranfill was supported by representatives of the Magnolia Petroleum Co. and Gulf Oil.) Cranfill pointed out to the Railroad Commission that he had agreed to abide by the proration plan once his contract obligations were fulfilled. He had an outlet for this oil and presumably could obtain the necessary transportation. Where was the waste? he asked. The independent's
attitude was that if you could sell your oil, whatever the price, you should be allowed to do so. They held the market demand argument to be fallacious on the grounds that demand depended in large part on what the price was. They concluded that "market demand" was just a thinly disguised method of "price-fixing." Also, the domestic market was artificially small because of imported oil. Many independents went beyond this and claimed that the proration was designed to create monopoly conditions favorable to the major companies with the ultimate goal being the elimination of the independent producer.55

Despite the acrimonious debate arising from West Texas, the advocates of control won and in April and May the Railroad Commission issued prorating orders for the Hendricks and Howard-Glascock fields in Winckler County. In June it took over the control of the Yates field. Its orders were immediately challenged in the courts. Nevertheless, the experiment in the Yates-Hendricks field worked. Here stood a practical example of what prorationing could mean in terms of price maintenance and conservation. Furthermore, the added stability of the production situation encouraged the Texas-New Mexico Company, Gulf, and Shell to build their own pipelines into West Texas thus easing the transportation crisis there.56 The independents were not uniformly
happy with the situation even so. Many viewed it suspiciously as an example of the drive by the major companies to control the industry. They reasoned that the artificially high prices maintained in the area would only stimulate further exploration thus making a break in prices and worsening conditions inevitable.

Despite a certain amount of unrest within the industry in 1929 the differences of opinion had not yet become paramount political issues. For example in 1929 H. B. 388 was passed which specifically stated for the first time that waste "Shall not be construed to mean economic waste." The act was generally viewed as a simple clarification of the existing conservation law in the Revised Civil Statutes of 1925. The new bill also restored sanctions to the statute providing a fine of $1000 a day for violation of the Railroad Commission's orders. The act passed the House by a vote of 101 to 16 and the Senate by a vote of 26 to 2. It received virtually no comment in the press.57 Never again would the industry submit to such changes in the law so calmly.

The first serious break in confidence between the major companies and the independents came in early 1930. The prorationing in the West Texas area affected only a small part of the total production picture in the industry. Under the proration agreement the major companies were paying premium prices for the Yates-Hendricks crude but
they could not continue to do so when the rest of the industry was paying lower prices in other areas commensurate with the overall conditions of excess supply. Accordingly, in early 1930, Humble simultaneously with Carter Oil Company (Standard of New Jersey’s Mid-Continent affiliate) announced drastic cuts in the price of crude, "stating that the reduction was made necessary by low gasoline prices resulting from excessive stocks." There ensued a widespread outcry against the cut in private and in the press. In particular those independent companies that had cooperated in the proration schemes felt betrayed. For some, the action simply confirmed their worst suspicions about the ultimate aims of the major companies. At the mercy of the major pipe line companies the independent had agreed to curtailing his production in exchange for a better price. But, their cooperation was rewarded by a cut in price making them the goat.

In retaliation, and in hopes of finding some protection from the major companies in law, the independents pushed the passage of the "Common Purchaser Bill" in the Texas Legislature in March of 1930. The bill, S. B. No. 25, provided a number of important safeguards. The owners, operators, and managers of oil storage tanks and storage facilities for public hire were designated as public utilities. The Railroad Commission was given jurisdiction
over rates, rules, and regulations governing the storage
of crude petroleum and its products by these public
utilities. Common purchasers were defined as every
person, association of persons, or corporation and its
affiliates engaged in the business of purchasing crude
petroleum and forbidden to discriminate in the purchase
of crude oil except as authorized by the Railroad
Commission of Texas. In strong language the law stated,

It shall be unlawful for any such common
purchaser to discriminate between or
against crude oil or petroleum of a
similar kind or quality or in favor of
its own production, or production in which
it may be directly or indirectly interested,
either in whole or in part, but, for the
purpose of prorating the purchase of crude
oil or petroleum to be marketed, such
production shall be taken in like manner
as that of any other person or producer
and shall be taken in the ratable pro-
portion that such production bears to the
total production offered for market in
such field.

It was indicative of the influence of the independents and
the public resentment of the "Giant Corporation", that
the bill passed with ease. The independents were also
aided by a sympathetic governor, Dan Moody. In signing
the bill, the governor penned a note that reveals the
prevailing attitude at the Capitol. First the governor
complained that the low prices for oil resulted in serious
losses to the state because of lower resulting resource
taxes and lower royalties to the University of Texas and
the public school fund from oil producing properties.
Then he added

... the independent oil producers
say that present conditions and prices
tend to destroy them and place the oil
industry in the hands of monopoly. A
monopoly in the oil business of this
State would be injurious to the general
public.62

Now for the first time the Railroad Commission had
the power to control the storage of crude and to force
ratable taking of crude by "common carriers." However,
events proved that the significance of this law at that
time was more its potential than its practical results,
as it was not enforced. Ironically this turned out to
be a disappointment for the major companies as well as
the independents. Although this legislation was widely
regarded as a punishment for Humble Oil, W. S. Farish
was not displeased. Shortly after the price cut Farish
had written to the head of Standard of California
expressing the hope "that the reaction that will follow
this price cut ... will be such as to give us some better
machinery of control." Accordingly, Farish was pleased
with the "Common Purchaser Act" believing that it had
given the Railroad Commission the authority to prorate
production for the whole state

since, if common purchasers were to be
required to purchase ratably, the
restriction of the state's production
to the purchasing companies' needs would
be essential. Moreover, Humble was pur-
chasing more oil ratably than were a
number of other companies; the executive
believed that the new act would permit the shifting of some of its excess connections to other companies.\textsuperscript{64}

Despite the high expectations of both groups the law was not effectively enforced for years.

Even with effective controls, it became apparent to many that the basic weakness of any state plan of proration, voluntary or compulsory, lay in the fact that other states might not follow a similar course of action. This was certainly the lesson of the Yates-Hendricks experience. The prorated field and state were just punishing themselves to no avail. Consequently, the idea of some form of an interstate compact became widely discussed. Such a compact would consist of an agreement among the oil producing states providing for cooperation in conservation and production of petroleum and petroleum products, with or without federal supervision.

In 1929 the industry's attitude toward interstate cooperation was somewhat ambivalent. The overall picture for the oil industry had improved slightly in the form of a gradual rise in the prices for crude oil from about the middle of 1928 to the middle of 1929.\textsuperscript{65} At the same time, the stocks for both crude and refined petroleum had been rising, making a break in the price structure only a matter of time unless some curbs were applied. Hoover had rejected the API plan for voluntary curtailment in April and was feeling pressure from within the
industry for some tangible aid. Therefore, he took the initiative in calling a conference of the leaders of the industry for June 10 and 11, 1929, at Colorado Springs to consider possible voluntary cooperation in meeting the industry's problems through some form of interstate compact.

On June 10 the meeting was called to order by Mark L. Requa, permanent chairman of the conference and a personal friend of Hoover. He stated that

the purpose of the meeting is to seek a method of cooperative action of the states to conserve for their people and the people of the nation their remaining petroleum resources for more effective use than has characterized the destruction of the resources in the past.66

The meeting was attended by representatives of the oil producing states, various oil associations, and individual oil companies. Even before the conference began, however, it was destined to accomplish little. Representatives of the Western states were angry because the President had barred further prospecting on public lands and vowed that they would "sign no interstate compact until the hands of the state are untied by a modification of the oil leasing order."67 Most of the representatives of the oil states were not empowered to make any commitment to definite action anyway. The representatives of the independent element of the industry refused to cooperate
unless their interests were specifically protected and demanded that a resolution be passed favoring the restriction of importations of oil. They believed that a major cause of the oversupply of oil stemmed from competition with foreign oil. Speaking on behalf of the Southern Oklahoman Oil and Gas Assoc., Wirt Franklin, prominent independent oil man from Oklahoma, voiced the views of many independents. While he pledged a spirit of cooperation, and went farther in accepting the ideas of unit operations and proration than some, Franklin also shared the independents' distrust of the major companies.

... we are fearful that in the name of conservation a compact may be initiated and presented for adoption vesting such absolute authority in a commission, which might fall under the domination of the major factors of the industry, and which commission once established, could restrict domestic production to any extent it might desire, on the ground that it might be necessary as a matter of national defense, or otherwise, to save our own oil for future use, allowing the domestic demand to be satisfied and filled by the importation of foreign oil.... I believe that American markets for crude oil should be kept for American producers of crude oil.

Accordingly, Franklin strongly advocated

the restriction of the importation of oil by the adoption by congress of a tariff on crude oil, and the refined products thereof, of not less than 50 cents nor more than $1 per barrel.

Those major companies with large overseas production properties, including Standard Oil of New Jersey, Shell,
Gulf, The Texas Co., Standard of Indiana, Standard of California, Sinclair Consolidated, Pure, Atlantic Refining Co., Union Oil, Vacuum Oil, Sun Oil, and others, were not enthusiastic about the tariff proposal. Requa, trying to avert conflict, took a strong stand against efforts to pass resolutions on the question of oil importations or western lands. He also threatened the delegates saying,

> If and when the government has made it possible for the industry to cooperate and conserve, and that cooperation and conservation is not forthcoming, then, acting in behalf of the national need no one will be more insistent than myself in urging rigid government coercive regulation.71

Undoubtedly there were those at the conference that shared the frustration that Requa's remarks conveyed, but threats only served to fuel the flames of distrust already kindled in the minds of the independent element of the industry.

Wirt Franklin stated plainly,

> This language, it seems to me, cannot be construed as other than a threat intended at the present time to coerce the members of this conference into supporting a compact among the states ... I don't like it!72

The ill-will engendered was never overcome and the conference closed with a unanimous refusal to agree to any compact.

The only positive result of the conference immediately observable was the creation of the Independent Petroleum
Association of America under the leadership of the Oklahoman, Wirt Franklin. This organization became an important voice for the independents. It set as its single goal the passage of a tariff on the importation of oil. It failed to achieve results in 1929 but began an aggressive campaign in Washington in early 1930. The issue of the oil tariff became a rallying point for independents and gained them much public sympathy.

By the fall of 1930 conditions in the industry, as in the nation, had failed to respond to Hoover's assurances that the worst was over. If anything, the interests in the oil industry were more divisive than before as efforts to regulate the industry increased in intensity. The continual failure of voluntary and state efforts and the fiasco of the Colorado Springs Oil Conference left many uncertain as to what should be done. All these matters would soon be brought to a head by the discovery of the East Texas Field. The flood of oil from that field surpassed all previous experiences and due to unusual circumstances the independent producers had a substantial hold on the area. The patience of many major company officials, already wearing thin, reached its limit in the Piney Woods. The campaign to bring stability to the oil industry began in earnest after the East Texas Field was proved and did not end until the victory was won. The story of the oil industry from 1930 to 1935 centers on the struggle within the industry to determine the means by which stability was achieved.
FOOTNOTES


7Ibid., p. 55.

8Nash, op. cit., pp. 88-89.


10Nash, op. cit., p. 90.

11Ibid., pp. 90-91.


18 Ibid., p. 179.

19 Ibid., pp. 178-79; McLean and Haigh, op. cit., p. 190.

20 U. S., Federal Oil Conservation Board, Fifth Annual Report (Washington, D. C., 1932), Charts F and A; McLean and Haigh, op. cit., p. 86. Crude production in Texas and Oklahoma actually increased in 1926 but the price in Texas rose because of improved conditions in the industry in general. California production declined and there was a slight increase in demand; Larson and Porter, op. cit., p. 185.


25 Ibid., p. 315.

26 Ibid., p. 301.

27 Ibid.

28 Ibid., pp. 257-60, 298.
Some independents even agreed that certain types of operators were no longer desirable. See Letter, W. T. Moran to J. R. Parten, October 7, 1931, and J. R. Parten to W. T. Moran, October 8, 1931, J. R. Parten Papers.


Ibid., pp. 271-75, 293.

Ibid., p. 315.

Ibid., pp. 315-16; Beard, op. cit., pp. 23, 33.

Pure took the initiative in buying up leases in the area; Beaton, op. cit., p. 333.

In 1931 there was a series of articles on the benefits of unitization by Earl Oliver in the Oil and Gas Journal.

Nash, op. cit., pp. 92-94.

Ibid., pp. 95-96.

Ibid., pp. 99-103.


Nash, op. cit., pp. 96-97.


47 Rister, op. cit., p. 244.


49 Rister, op. cit., pp. 251-52.


51 Rister, op. cit., pp. 275-89; 290-95. For a description of the events in West Texas see Rister.

52 Ibid., p. 291.

53 Ibid., pp. 295-97.


55 Ibid., p. 319; Railroad Commission Oil and Gas Docket, No. 101, testimony of Tom Cranfill.

56 Rister, op. cit., p. 299.

57 Houston Post-Dispatch, March 27, 1920, p. 1, col. 1; April 1, 1929, p. 1, col. 1.


59 Ibid., p. 323.

60 Ibid., p. 171; Texas, General and Special Laws of the State of Texas (Forty-First Legis., Regular Sess., 1929).

61 The vote in the Senate was 22 to 4; in the House by viva voce.


64 Ibid.
65 McLean and Haigh, *op. cit.*, p. 86.
66 Houston *Post-Dispatch*, June 10, 1929, p. 1.
67 Ibid.
68 Ibid., June 11, 1929, p. 1, col. 5.
71 Houston *Post-Dispatch*, June 11, 1929, p. 1.
CHAPTER III
THE EAST TEXAS FIELD

The discovery of the East Texas Field became a pivotal point in the history of the oil industry. There had been booms in the oil industry but nothing to compare with the strike that hit Rusk County in 1930. Before this vast reservoir was tapped, the price of crude oil was in a period of gradual decline. With the addition of East Texas crude to already bulging reserves, the price plummeted to new lows throughout the United States. The circumstances surrounding its discovery and development polarized groups within the industry and made more difficult any cooperative effort toward controls. For those seeking to stabilize the production of petroleum, East Texas was an unqualified disaster. The story turned around the good fortune and determination of a wildcatter, Columbus Marion "Dad" Joiner, and his driller, E. H. Lasetter.

Joiner began drilling in August, 1927, with only the support of his geologist, Dr. A. D. Lloyd, and a dream. Money and help were always scarce and the results discouraging. Old timers shook their heads and said,
Can't see why a guy like Joiner, drilling wildcats all his life and broke, should pick this East Texas graveyard with all its dry holes. He may get oil, but he hasn't after trying four years ... only a little sand. Joiner is getting his pecan gap (groceries) out of the natives. He's drilling for a meal ticket that's all. Seen it done before.2

But Joiner believed in East Texas and somehow always managed to scrape together enough money to continue operations. Finally, on October 3, 1930, his third well on the Daisy Bradford farm came in at 3,536 feet.3 When this well was ready to be tested locals from miles around, many of whom had put money and time into the venture, packed a picnic supper; loaded up their cars, trucks, and wagons once more; and drove out to see the show. About a thousand people showed up on that Friday night and they were not disappointed this time. A lady from the nearby town of Henderson was taken up on the platform a few minutes before nine to get a better view. She held her handkerchief over the hole, "and the gas rising from below caused the handkerchief to billow up. All of a sudden we heard a low rumble from beneath us."4 Hurriedly everyone cleared the floor as oil began to gush up from the hole. "Then someone began to yell: 'Put out your cigarettes! Put out your cigarettes!' It was a miracle that we were not all blown up."5 In this homely fashion, the greatest field of all had its beginnings.
Initially the success of this well caused little excitement. The Dallas Morning News of October 4, 1930, put a small item about the Daisy Bradford 3 well on the front page but relegated the story to the sports section the following day. The main reason there was so little interest outside a small circle of faithfuls was that the major oil companies were convinced that there was no oil in this location. Only Humble Oil and Mid-Kansas Oil had any holdings in the area and the judgment of the experts was that even if Joiner found oil it could only be a small pocket.6

One day in late September, 1930, after months of hard work, E. H. Laseter pulled two oil bearing cores. He was understandably elated, but did not want to draw attention to the fact and set off a scramble of speculative lease buying, so he just threw the cores into a couple of buckets on the derrick floor. That evening in his excitement to get home where he could examine the cores more carefully he picked up only one of the buckets. When he realized his mistake he rushed back to the well only to find the other bucket and core gone. He waited throughout the next day to be approached by someone about his find. Finally late in the day a scout for a major company appeared.
'How'ya, Laseter,' he [the Scout] shouted pleasantly.
'Hello Jim,' the driller answered.
'Well, I found your bait last night,' Jim commented still grinning.
'You found my - what?' Laseter asked incredulously.
'Your bait. You know, that Van oil you planted in the sludge bucket and left here on the derrick floor!' 
'Oh, that!' Laseter grinned. 'What'd you think of it?'
'It's as good oil as ever flowed out of a Van well,' the scout commented, his eyes twinkling pleasantly. 'Too bad I didn't fall for it. Guess old Dad's getting kind of hard up again for cash and wants to unload. I don't blame him, understand. Only I wanted you to know I didn't fall for it.'
'Well,' Laseter said with a solemn expression, trying as best he could to simulate a bad boy caught at some trick in school, 'I really didn't leave it for you.'

The scout kept grinning. 'Well, it's too bad, I guess, I spoiled your plan. But you know how it is. All us boys work together. So when I found the bait, I felt it my duty to warn the other scouts - just in case they heard a rumor that you'd hit oil sand. I guess there won't be any big rush to grab leases around here, after all....'"

Whatever the reason, the major oil companies initially took little part in the developments in East Texas, thus leaving an unparalleled opportunity for the small operator. The last big field to be found in Texas had been the Van Field which Pure, Sun, Shell, Texas and Humble Oil Companies monopolized and operated on a unitized basis. This left the independent producer hungry and looking for a home. In East Texas opportunity knocked loudly and oil promoters descended on the little Piney Woods towns like the Biblical locusts.
Not since the discovery of the Ranger field [in Eastland County in 1917] had a well provided such opportunities for the trader and small speculator. Here was the opportunity the 'boomer', the little wildcatter with a few hundred dollars and unfounding enthusiasm had been waiting ... 'I've gambled before, on shots that offered a lot less. Let'er rip!'\(^9\)

And rip it did. After Joiner's successful well, an average of seven wells were completed every two weeks. Prices of mineral leases rose dramatically and the Oil Fever reigned, transforming farm villages into blowzy boom towns. Lease speculators, gamblers, and prostitutes intermingled with the excited town folks, oil scouts, and the unemployed. Finally on December 2, the Crim family's Stroube and Stroube No. 1 Frederick well blew in "throwing oil twenty feet over the top of its 120-foot derrick", proving the huge potential of the field. This brought the major company scouts and land men running.\(^{10}\)

By the end of February, 1930, Humble had purchased the lease on which the Crim well had been discovered for $2,100,000 and had started drilling its own wells along the boundary line of its lease.\(^{11}\) Once the major companies moved into the area they were able to buy up mineral rights at high prices, but the field was too great for them to be able to dominate its development. A major portion of the production remained in the hands of hundreds of small operators who had already staked their
claims. Wells were drilled everywhere, even on tiny
town lots in East Texas villages. In one instance twelve
wells were drilled on a lot in Kilgore, Texas, sixty by
one hundred-fifty feet.\textsuperscript{12} By December 31, 1931, 3,732
wells had been completed and the total climbed to 5,652
in 1932 with no end in sight.\textsuperscript{13} Pipelines and rail
transportation increased in the area but production
easily outran available transport and market.\textsuperscript{14} Under
these conditions the price of oil buckled. When East
Texas was discovered in October, 1930, high grade oil was
bringing $1.10 per barrel. By the beginning of 1931 the
price had dropped to $.25.\textsuperscript{15}

These conditions affected not only Texas but other
states as well. The Oklahoma City Field had been suffering
from overproduction under circumstances similar to those
of the East Texas Field. The governor of that state and
the operators of the field had been struggling to limit
production and keep the price up. But the flood of East
Texas oil added to an already glutted market, causing a
collapse of the price in Oklahoma in the summer of 1931.
Crude oil in Oklahoma that had been selling for $.98
dropped as low as $.16 per barrel.\textsuperscript{16} The repercussions
of East Texas's prolific output, added to the general
economic depression, forced the skeptical to join with
the "conservationists" in searching for a means to curb
production.
The immediate responsibility for alleviating the pressure of East Texas oil rested with the state. The existing governmental machinery for handling such extreme conditions was the Railroad Commission. Because of its obvious weaknesses those favoring controls looked to the legislature to provide the remedy through more adequate legislation, although what constituted proper legislation became a heated issue in itself. The inadequacy of the state's program as it evolved and the interrelated nature of the industry made others look beyond the individual state. Interest was therefore renewed in some form of interstate compact.

The hope of emergency measures to curb the development of the East Texas field lay with the Railroad Commission. Those favoring controls were urging the Commission to act as early as January of 1931. But the opposition to controls was both vociferous and widespread among the people of East Texas. The oil starved independents, the depression ridden cotton farmers, and the Chambers of Commerce of unprosperous towns combined to demand their right to the black gold. Groups began organizing to provide spokesmen for their points-of-view. Among the more important were the local and central East Texas Lease, Royalty & Producers Associations scattered throughout the piney woods. The central organization was backed by Carl Estes, a fiery news editor from Tyler who did not
hesitate to use his press for propaganda purposes. Two groups, the Independent Oil Men's Association of Texas (Claude Wild, Vice-President) and the Independent Producer's Association of Texas (Tom Cranfill, President) later merged to become the Independent Petroleum Association of Texas, an influential representative of the independent's minority views. Confusion existed among the operators and land owners in the field, and these organizations, and others, worked to find the course of action that would best protect the interests of East Texas people. There were few issues behind which the small investors could unite except a shared distrust of the major companies. They believed that the main problem was lack of transportation and storage facilities, which forced the small operator to sell his crude at any price just to get a connection. The result worked to the benefit of the major companies who could then buy up cheap oil for their refineries. This view was partially substantiated by the testimony of R. C. Moore, President of The Texas Co., before the Railroad Commission in the Spring of 1931. Moore said that there had been about 188 wells without connections in the East Texas Field. The first price cut came when two independents could not sell a barrel of oil and had two big wells. Then offsets were drilled by them and they had no money to drill others with. A pipe line company made them a proposition to sell 1,000,000 barrels
of oil for 25¢ per barrel, and they would immediately tie up to their wells, and run not less than 10,000 barrels per day, and the independents were forced to accept that offer.19

Blame was not easy to assess under these pressures and each side accused the other of being the villain.

Having no market, some of the independent producers were forced into refining, adding cheap gasoline to the wholesale market. The small refineries also voiced grievances concerning the marketing practices of the major companies. In particular they objected to the API Marketing Code as undue restraint on trade and another device on the part of the major companies to monopolize the marketing of refined products. The major companies, for their part, deplored the dumping of third grade gasoline on the market, which tended to depress prices for all grades of gasoline.

The Railroad Commission was caught between these forces. Even without such vociferous opposition, its position was very weak at this time. In previous attempts at prorating production the Commission had enjoyed considerable cooperation. In most cases the initiative for controls had come from the oil operators themselves. There had been challenges to its orders even under these more favorable conditions, and in 1931 East Texans promised to be anything but cooperative. Furthermore, the outcome of the most important case challenging the
Commission's authority remained in doubt. In this case the Danciger Company claimed that the Railroad Commission's orders prorating the Panhandle Field in August, 1930, were unconstitutional because "they had no reasonable relation to the prevention of physical waste but, on the contrary, they were concerned primarily with price maintenance or price fixing, and with economic waste," which was specifically prohibited by the existing conservation law.20 Danciger won a temporary injunction but the trial for a permanent injunction was still pending.21

Here emerged the knotty problem of how waste was to be determined. On what basis could the Railroad Commission establish its orders? How could it determine the proper production allowable for each field? What was the practical difference between physical and economic waste, and how did each affect price? The answers to these questions assumed new importance in light of the Joiner discovery. Those who favored limiting production to market demand repeated their view that by surveying the major refiners in the United States it was possible to determine the amount of oil that could be economically utilized. They argued that oil produced in excess of this amount caused waste in several ways: first, in the form of evaporation and leakage from unnecessary storage; secondly, in the guise of wasteful uses of petroleum and gas because of low prices, such as stripping the gasoline
from crude and discarding the residue; and thirdly, by forcing the abandonment of stripper wells which were more expensive to operate but which recovered thousands of barrels of oil which would otherwise be lost forever.

Temporary support for the Railroad Commission came when the trial court ruled in February, 1931, that its order for the Panhandle Field was valid in that it was founded on the elimination of physical waste without consideration of economic waste or price fixing. Danciger immediately appealed the decision. Also, the court had sidestepped the real issue of market demand. Nevertheless, the decision did bolster the authority of the Railroad Commission for the moment. Still, the Railroad Commission continued to move with extreme caution despite urgings from the governor and activists in the industry. Finally, a public hearing to determine facts pursuant to writing a proration order was called for March 24th.

The various East Texas organizations opposed to proration immediately began to make plans. Former governor Dan Moody was hired to represent them at the hearing. It was decided that there would be a "march on Austin" in protest at the time of the hearings. They arrived in Austin on the twenty-fourth in thirteen pullman cars. In the meantime, East Texas Senators Pink Parrish and Tom Pollard were calling for an investigation of the whole question of prorating the East Texas field.
The hearings themselves were predictably heated as the antagonists argued their cases. At one point in the hearing, Dan Moody attacked the opposition speaker, R. R. Penn of the Texas Central Proration Committee, by asking Penn what his connections with the major oil companies were. Penn replied that "It isn't necessary to answer yes or no." Moody retorted, "It's necessary to tell the truth!" "You mean to insinuate that I'm not?" shouted Penn, leaping to his feet. At this point Carl Estes also entered the fray and yelled, "If you want to fight somebody, fight me, you big bully!" The gallery loved it and cheered the combatants.25

Emotion and irrationality frequently prevailed during these hearings. The Railroad Commission was by this time committed to action, regardless, and declared that proration would begin April 10. The allowable production was set at 90,000 barrels daily, to be increased periodically until 130,000 barrels were reached by July 1, when the order expired.26 Moody and Estes immediately challenged the order and obtained an injunction from Judge J. D. Moore at Austin, thus preventing the enforcement of the order. Then on April 13, Fred Upchurch, Assistant Attorney General, ruled that the order obtained by Judge Moore applied only to Estes's personal property, some seventy-two acres. The Railroad Commission then proceeded with plans to enforce its order.27 Before it
could be activated several modifications of the original order were made, delaying its inception until May 1, 1931. Every week that the Commission failed to act more wells were drilled and more crude pumped, further complicating the problems of control. One oil man reported in June that there were 870 wells in the field with 317 more being drilled. W. S. Farish, President of Humble Oil, reported 625 operators with a total of 1140 wells drilled in July, in testimony before the Texas House of Representatives. The actual production of the field greatly exceeded the Railroad Commission's allowable.

The May first order was challenged by new injunction petitions. Those that instituted suits generally assumed that the mere filing of the complaint exempted them from obeying the order. Others simply ignored the restraints, believing them unenforceable. Thus another of the major issues to plague the state was created; "Hot Oil", or oil produced in excess of allowables set by the Railroad Commission. The corollary of the hot oil problem was the slowness of the judiciary in dealing with injunction suits against the Railroad Commission. Commissioner Terrell complained that the conservation orders were never given a chance.

It takes time to finally dispose of those cases, sometimes six months and often one or two years, so these operators who bring suit can with impunity run their wells wide open, get neighbors' oil and
soon bring in water and soon ruin the field. It usually forces offset wells, in order to get their part of their own oil, to run wide open, although they do not desire to do so by reason of violations of our judgments or decrees. \(^{31}\)

Hot oil became a thorn in the industry's side for a number of reasons. Of course it disrupted any attempt at orderly development and undermined the authority of the Railroad Commission. But the crux of the matter reverted to the question of the gasoline market. Low priced hot oil supplied small refineries and skimming plants set up in the field which produced cheap third grade gasoline. This kept the retail market in a turmoil and made it difficult for the majors to sell premium and better grade gasolines. In fact, it was under this pressure that majors began marketing their own third grade gasoline. \(^{32}\) The majors did not regard this as a satisfactory solution to marketing problems, however, and continued to work for an enforceable proration order.

The chief stumbling block in the path of those favoring proration was the existing conservation law. As already noted, this law specifically denied the Railroad Commission the right to prorate a field on the basis of market demand, the sine qua non of the majors' stabilization plan. Recognizing the necessity for passage of legislation to legalize market demand proration, a group of independents and majors introduced legislation
through Representative A. M. Howsley (Albany, Texas) near the end of the regular session of the Forty-first Legislature. The independents endorsing the bill had large holdings in the East Texas Field and were known as staunch advocates of strict production controls. Among the more notable were Charles F. Roeser, Tom Hunter, and J. B. Bridwell. These men became the leaders of the independent cause for control and worked with the major companies of similar mind to achieve results.

A statement was sent to the press by twelve independent producers sponsoring the bill, giving their reasons for supporting the measure (H. R. #1052). This declaration said, in part, that the pipe line bill passed two years previously, did not contain adequate machinery for its proper enforcement and that, therefore, additional legislation like the Howsley Bill was needed to give the Railroad Commission adequate authority. This, apparently, was an attempt to slip the act through the legislature as an anti-pipe line company bill. However, those familiar with the oil industry who read the bill readily saw that its main purpose had nothing to do with pipe lines. Its primary aim was to grant the Railroad Commission authority to base its proration orders on market demand. Howsley's political rhetoric claiming the support of "98% of Texas producers" for his bill lacked credibility also. There was nothing approaching 98 percent agreement
on any issue among East Texas producers, much less on the very controversial market demand principle.

Opposition to the bill was not long in forthcoming. Charles L. Barchfield, President, and Carl Estes, Secretary, of the East Texas Lease, Royalty & Producers' Association announced their organization's opposition to the bill. They asserted, "That bill will make the railroad commission the executioners of every little independent operator in Texas." The San Antonio Independent Petroleum Association, Harry Pennington, President, unanimously objected to the bill as an "economically unsound attempt at price fixing." The West Texas Chamber of Commerce Oil & Gas Committee sent a resolution asking for the passage of the Howsley Bill but not without causing a split in the committee. The Independent Petroleum Association of Texas, Tom Cranfill, President, of course acted against the bill and sent a copy of the bill to all its members, Joe Danciger, sent out a personal letter to the independents condemning the bill.

My dear oppressed brother Oil Operator: ...

... It is inconceivable to believe that the oil industry is old enough to harbor any members who could have got so dumb in so short a time as to believe that House Bill No. 1052 is a good thing for the independent oil producer.... No gray matter is required to know that since the major companies have had the tremendous advantages of proration [in the Panhandle Field and elsewhere] they have used this power, with wanton disregard of every righteous principle involved in the so
called proration plan, which we afterward learned was only a racket to control every honest oil producer in the State, and eliminate competition. 38

Danciger then proceeded to give his analysis of the bill in equally emotional language.

The bill was reported out of the House Committee on Oil, Gas and Mining favorably but by that time the session was eight days from its scheduled adjournment. The parliamentary rules allowed a bill to be put before the House in the last few days but it required a two-thirds majority vote. Because of the outcry against the bill the proponents simply did not have that many votes, and efforts by the governor and others to extend the session failed. 39

As flagrant violations of the Railroad Commission orders continued, however, it became increasingly apparent to operators and land holders in East Texas that a form of control would ultimately be achieved - if not through the Howsley Bill, then some other. Many became disillusioned with the promise of riches which were never fulfilled because of the continuing low prices, or because royalty checks did not reflect the "hot oil" that was being run. On May 26, 1931, Humble and three other major companies lowered posted prices from 65 cents to 35 cents, and, a week later discontinued posting prices altogether. Humble was paying 15 cents per barrel of crude. 40 Citizens
and oil men petitioned the Governor to call a Special Session to pass legislation that could bring them relief. The governor hesitated because he still hoped the operators in East Texas might work out some solution among themselves.

On June 15 those in favor of taking some positive step called a mass meeting of operators, land and royalty owners, and business men at Tyler. The group approved the so-called Cranfill Plan, introduced by Tom Cranfill. The plan provided for a limit of 300 barrels of oil per day for each twenty acre tract of land regardless of the number of wells. There were significant exceptions, however, that favored the small independent producers. All wells completed and producing before June 10 would be allowed to produce 300 barrels per day whatever the size of the tract, unless the tract was less than 20 acres, in which case a maximum of 600 barrels per day was set.\textsuperscript{41} The plan's promoters estimated that the total production resulting would be 200,000 to 220,000 barrels per day. The actual production at that time approached 330,000 barrels per day. Therefore, the Cranfill plan seemed to offer a reasonable reduction.\textsuperscript{42} The implementation of the plan was to come from voluntary shutting in of wells to 300 barrels by the operators. Any
problems or supervision were to be handled by a seven member committee, The East Texas Oil Arbitration Committee. The committee consisted of three representatives of the independent operators, two representatives of East Texas Land, Royalty, & Producers Association, and two representatives of the major companies to be chosen by the other five committeeemen.\textsuperscript{43} It is noteworthy that one of the major representatives chosen was Underwood Nazro of Gulf Oil, known as a staunch opponent of proration.\textsuperscript{44} Support for the plan also came from Sinclair Oil & Gas and Sun Oil.\textsuperscript{45}

The advocates of this plan maintained that the people of East Texas could regulate themselves without outside help or additional legislation.\textsuperscript{46} Most hoped that the plan would eventually be incorporated in a formal order by the Railroad Commission but they feared the influence of the major companies in the legislature and the kind of law that might be passed.\textsuperscript{47} The Arbitration Committee recommended this plan to Governor Sterling and an investigator reported to the Committee June 18, that

After consulting thirty-eight ... violators, we have the assurance of 90% of these gentlemen that they will close their wells into 300 barrels production per day starting at 7:00 A.M. June 20th. Three of the 10% have expressed themselves as being in favor of the plan, but would have to work out a few minor details, we feel quite sure that the committee can assist these gentlemen and have requested that they report their cases to said committee.\textsuperscript{48}
Governor Sterling favored giving the plan a trial, although he expressed some skepticism about its ultimate success. Beginning Saturday, June 20, the Cranfill Plan was initiated in East Texas.\(^49\) There was a great deal of enthusiasm for this plan at its inception. Carl Estes withdrew his injunction suit against the Railroad Commission and editorialized:

> A victory has been won in this fight and I think we who have waged it should recognize that fact and act accordingly. While we have suffered under the 'bull whip' of the big interests who feel that they have the power to control the price of oil, we have succeeded to the extent that every one owning land within this area has had the opportunity to secure a fair price in developing its resources. Farmers who have made a living from pale leaf cotton, sweet potatoes, peanuts and corn nubbins have felt a touch of prosperity, the like of which they never knew before.\(^50\)

Opposition to the Cranfill Plan came from those who favored lower production allowables and new conservation legislation granting the Railroad Commission the authority to consider market demand in its orders. In particular, Charles F. Roeser attacked the plan pointing out that the Arkansas Fuel Oil Company (part of the Cities Service-Doherty group) which then held the greatest acreage in the field, had not agreed to comply with the plan. He also challenged the potential production figures of the plan's advocates.\(^51\) Roeser along with W. L. Todd, chairman of the Texas Oil Emergency Committee, and
R. R. Penn, head of the Texas Central Proration Committee, called for a special session of the legislature in order to write an effective conservation bill.\textsuperscript{52}

The Cranfill Plan came up for consideration by the Railroad Commission at the end of June and resulted in a new order for the field July 2, 1931, based on a modification of the original concept. The prospects of this order seemed little better than those of its predecessors.

Confronted by bristling machine guns of promised injunction suits, gleaming bayonets of threatened violations, and poison gas clouds of pessimistic predictions, the New East Texas proration plan went over the top Saturday to charge the steep heights of success.\textsuperscript{53}

Those favoring the Cranfill Plan felt betrayed, and those advocating stricter controls remained dissatisfied.\textsuperscript{54}

One East Texas editor wrote,

\begin{quote}
Some one took the Cranfill child into the nursery - a bright eyed youngster, sired by East Texans, but, lo and behold! the infant which is now returned to us, and which they expect us to accept as our own, is in our opinion, the offspring of some other - after looking at him, we would say his father appears to be a West Texan or an Oklahoman,\textsuperscript{55}
\end{quote}

The cycle of defiance began anew.

Almost before the Commission order was made, all sides in the controversy realized that the real battle would have to be fought in a special session of the
legislature and began preparations for that campaign. The Special Session lasted through the hot weeks from July 14 to August 12. It was not the sun alone that generated heat, though. Governor Ross Sterling called upon the legislature to strengthen the authority of the Railroad Commission, but before any progress could be made, an investigation of the oil industry was called for. There followed a windy, prolonged probe by both Houses into the activities of the major oil companies in the East Texas field. All sides to the controversy used the investigation as an opportunity to air their views and to spread a little propaganda. When the investigation finally closed, it was near the end of the session, leaving a very limited time for action on legislation. Two virtually identical bills embodied the administration's position, the Woodward Bill in the Senate, and the Wagstaff Bill in the House. The most important features of these bills defined more precisely the duties of the conservation agency in preventing physical waste, set more stringent sanctions for violations, and established a new conservation commission to take over the task of supervision of the oil and gas industry from the Railroad Commission. There were other minor issues at stake but the crux of the controversy centered on two issues: 1) should
the new law allow the Commission to limit production
only to prevent physical waste or should its authority
be extended to consider economic waste by limiting
production to market demand, and 2) should a new
commission be created to deal with the petroleum in-
dustry's problems or should the Railroad Commission be
retained as the conservation agency.

The market demand idea made little headway for a
number of reasons. Most important was the position
taken by Governor Sterling. At first, Sterling did not
come out against market demand openly, but the administra-
tion bills certainly reflected hesitation on that issue.
Then, during the deliberations of the special session,
the three-judge Federal District Court in East Texas
ruled in the case Alfred MacMillan, et al., v. Railroad
Commission of Texas. In this case, MacMillan, an
independent producer, had challenged the Commission's
April 4 order. The court sustained MacMillan's position
on July 28, ruling that the order was invalid because
it had no reasonable relation to physical waste but was
designed to prevent economic waste which was specifically
forbidden in the 1929 statute. Also, it deprived the
plaintiffs of property without due process of law,
impaired obligations under contracts, and interfered
with interstate commerce. The court generally discounted
testimony of geologists and petroleum engineers concerning dissipation of reservoir energy and intrusion of water as theoretical and speculative.

The case was appealed with the support of Sun, The Texas Company, Shell and Humble, Robert E. Hardwicke, counsel. 57 The immediate impact of the ruling was to throw doubt on any market demand legislation. Consequently, on August 3, Sterling urged the legislature to strengthen the existing law, only. Citing the MacMillan case, Sterling reasoned that

> If our laws permit the Railroad Commission to prohibit the production of oil in excess of market demand it would tend to bring about a condition where the oil interests in this state might create a monopoly. 58

He therefore pledged to veto any bill containing market demand provisions.

Accordingly, the House promptly voted down by an overwhelming majority an amendment to the Wagstaff Bill to include market demand. 59 With this issue settled, the chances for passage of the administration bills seemed very good. 60 Then, in a series of parliamentary maneuvers, both the Woodward and Wagstaff Bills were killed, and the so-called Rawlings substitute measure was passed in the Senate. 61 This measure provided for a new conservation law even weaker than the existing law and was roundly denounced. Critics accused Sinclair
and Gulf of foul play and gloom settled over the Capitol.\textsuperscript{62} To the surprise of veteran Capitol observers, however, a Free Conference Committee of the House and Senate managed to write a compromise measure that was passed by both Houses and signed by the governor in the closing hours of the session.

As with all compromise measures, this act did not offer a panacea. The so-called Anti-Market Demand Act did rally to the support of the Railroad Commission. The provision for a new oil and gas commission was eliminated and the authority of the existing commission buttressed. The bill allowed the Railroad Commission to determine the gas-oil ratio with which wells could operate. It defined physical waste more broadly to include an excessive gas-oil ratio, underground waste due to water intrusion, waste of natural gas, and waste incidental to inequitable utilization of the gas and water force resulting from inequitable withdrawal from any common pool. It retained sanctions, providing a maximum fine of $1000 per day for each day of violation, to be recovered by suit filed by the Railroad Commission through the Attorney General or the county or District Attorney in the county in which the violation took place. It allowed the Railroad Commission to hold hearings on complaint of "reasonable imminent" waste
and rule accordingly as a preventative measure. Finally, any violation of a Railroad Commission order sustained by the courts would subject the violator to being thrown into receivership upon application by the Commission. Any party hurt by a violator was given the right to sue the violator for damages. The bill also tried to alleviate the judicial backlog in proration cases. First, no injunctions against a Railroad Commission order were permitted until after notice to the Commission and a court hearing at which the judge would set bond for the complainant sufficient in amount to indemnify all persons who might suffer damages by reason of violation of the law. Any appeals from an injunction suit were to be given precedence over all others in the court. Secondly, any suit against the Railroad Commission order would be advanced for trial and determined as expeditiously as possible. The court was not to permit any postponement except those deemed imperative. 63

Relief for the East Texas field also came from a pipe line measure passed during the special session. This bill was sponsored by the Independent Petroleum Association of Texas and introduced by Tom Pollard, Senator from East Texas. Essentially, it amended and strengthened the 1929 pipe line bill. Pipe lines for transporting oil and gas were declared a public utility
and subject to regulation by the Commission. The Pollard Bill added the provision that every pipe line was a common purchaser, whether a common carrier or not, and, as such, had to give reasonable connections to all producers without discrimination as to facilities furnished or rates charged. It stated that no pipe line could be disconnected or abandoned without the authority of the Railroad Commission or written consent of the owners or operator with the connection. Finally, the Bill provided for enforcement through fines, injunction proceedings, and forfeiture of charters of violators.

Passage of the bills was followed by many expressions of enthusiasm. These two measures should have provided a foundation on which the Railroad Commission could begin to build its authority. Circumstances dictated otherwise, however. Conditions in East Texas had been deteriorating prior to the passage of the Anti-Market Demand Bill. With the MacMillan decision and the Bill's passage, operators assumed that no proration existed in the field until a new order could be promulgated. There was also conflicting opinion as to whether or not the Railroad Commission could write a valid order under the new law. Operators, therefore, were running their wells wide open.
On August 12, 1931, when the new act came into effect, approximately one million barrels of oil per day were being produced in the field or almost one-third of the total needs of the entire United States. Prices fell to new lows and there was much unrest. Governor Murray of Oklahoma had closed the Oklahoma City field by martial law during the special session and called upon Sterling to help curb the excess production. Petitions had been sent to the governor from various people calling for military rule during the session, but Sterling refused, hoping the special session would find a solution. Ultimately, however, he decided to invoke martial law also, at least until the new Railroad Commission's order could be issued.

The National Guard moved into four East Texas Counties - Rusk, Gregg, Upshur, and Smith - under the command of General Jacob Wolters, beginning Sunday, August 16, 1931, and the governor declared martial law Monday, August 17. By Wednesday the field was completely shut down. A new order was issued by the Railroad Commission on September 2, 1931, and carried out by military rule. Under these conditions the field's production was held to the set allowable and prices rose from the low of 10 cents per barrel to 85 cents per barrel. Other fields cooperated and
in the United States as a whole, crude oil prices rose while total stocks of petroleum and refined products declined.\textsuperscript{67} However, nothing had really been settled. The diverse interests in the field were just as determined to achieve their ends. Those who sought a law giving the Railroad Commission authority to limit production to market demand continued to work for its passage. Those opposed to control continued to resist.

One manifestation of defiance was the continued presence of hot oil despite the supervision of the National Guard.\textsuperscript{68} Under the new conservation law all supervisors in the field had to be regular state employees. This eliminated the previous situation whereby the field umpires, those overseeing the operators, were actually paid by the oil companies.\textsuperscript{69} In September, 1931, a group of "Special Investigators" were sent into the field to search for hot oil runners. The oil companies were not without means to influence the state's new employees, however. Investigators who began with the most honest intentions began to observe fellow workers who received the same small salary riding around in big cars and carrying substantial bank accounts .... They had the respect of their superiors and the men with whom they associated.\textsuperscript{70}
One such investigator said

Finally I began to feel like a dumb cluck.... And the next hot oil runner who asked me to look the other way and slipped me a big bill found me looking the other way. From then on my income was never less than five hundred a month.... I eventually gained such a reputation for honesty and knowledge of the oil industry that a large oil company hired me as a 'front man' to handle its tenders and other details before the Railroad Commission and the Federal Tender Board.71

Corruption remained a common complaint against the Railroad Commission Oil and Gas Division, undermining its authority. No one was entirely innocent, however. Charges and countercharges between the major and independent companies were daily fare. There was no question but that some of the independents ran hot oil. Several were actually brought to trial for violations. But, the majors were not as pure as they liked to portray themselves. It was, of course, never their "policy" to run hot oil. Major companies had much to gain if hot oil could be stopped because it was the cheap third grade gasoline made from hot oil that made competition for the retail gasoline market so fierce at that time. But, there were too many who testified to transgressions by the majors for there to have been no truth to their stories.72 Whenever a major company was caught running or buying some hot
oil, it was always the fault of "that damn field man." In light of such continuing attitudes and unsettled conditions, Governor Sterling did not withdraw all the National Guard troops until ordered to by the courts in 1932.

The culmination of a rather rocky year for the petroleum industry came in November of 1931 when an antitrust suit was filed by Attorney General James V. Allred against fifteen major oil companies: Texas v. Standard Oil Co. of New Jersey, Humble Oil & Refining Co., Socony-Vacuum Corp. (Standard of New York), Magnolia Petroleum Co., Standard Oil Co. of California, Pasotex Petroleum Co., Shell Union Oil Corp., Shell Petroleum Corp., The Texas Co., Gulf Refining Co., Continental Oil, Sinclair Refining Co., Simms Oil Co., Cities Service Oil Co., Texas Pacific Coal & Oil Co., The Texas Petroleum Marketers Assoc., and the American Petroleum Institute. Allred charged these companies and organizations with a nationwide conspiracy "to control and dominate the business of marketing gasoline and petroleum products and to destroy independent filling station operators" by systematically acquiring all independent service stations in Texas and fixing the price of gasoline, petroleum products, and filling station equipment, thereby lessening and eliminating competition among themselves and generally dominating the marketing branch of the oil industry.
The chief instrument of this conspiracy was the API Marketing Code. Allred maintained that the Federal Trade Commission had no authority to approve the code and that it was designed to make it appear that no agreement among the companies existed. If Allred's suit was successful the court could require the forfeiture of charters and non-resident permits of these companies and impose a maximum fine of $1,050,000 each or $17,850,000.77 In a memorandum prepared for release to the press Allred made his views clear.

The defendants may say that since their 'Code of Ethics' was approved by the Federal Trade Commission, it is all right and they should not have been sued on that account. My reply to this is the Federal Trade Commission has no authority to approve any violations of the law, and that the agreements of the defendants are in violation of both the state and federal anti-trust laws. Mussolini, or the King of England, would have as much power to authorize violations of the law in Texas as the Federal Trade Commission would. This isn't the first time that a bunch of Republicans in high federal office have approved of violations of the law. The looting of Teapot Dome was accomplished with the approval of federal authorities.78

Jimmy Allred obviously was not a man to avoid controversy. He thrived on it. With this audacious move he was thrust forward to the front of the petroleum controversy and Texas oil politics.

In a sense Allred was moving against the times. The big oil companies with the encouragement of the federal
government were moving in the direction of industrial cooperation. Now Allred flung the gauntlet in the face of "progress." In doing so he became the White Knight of those in the society who were bewildered and antagonistic to the changes in their way of life. This appeal reached not only many among the independent oil men but citizens from all walks of life who wrote encouraging him in his campaigns against the big oil companies, public utilities, and insurance companies. For his weapon Allred chose the anti-trust laws, the traditional protection of the people against monopoly. Allred was ambitious and wanted to be governor, but he was not just a political opportunist. He believed in the principles for which he fought. Almost as soon as he was installed in the Attorney General's office he began working toward the anti-trust suit against the oil companies. In a letter to a close friend and former law partner in March of 1931 he wrote:

If you have any spare time there, I wish you would begin reading up on anti-trust laws and anti-trust decisions in this State ... Up until about a year ago we had a great many independent filling stations selling several brands of gasoline, oils, and greases, etc.... I think we can show that about a year ago they were waited upon by representatives of whatever major company they may have been buying their gasoline from, and told ... That in order to meet competition these companies were going to sell gasoline through their own retail stations, and

unless the station owner would be willing to sell that company's
product exclusive, their margin would have to be cut.

My mind is fully made up that we ought to give this a trial from the standpoint of the public good, but of course, I want to win if I can, and collect all the penalties I can. Of course the major companies will make the claim that some other company started this procedure and that they had to do it to meet competition. However, I see no reason why this would justify the synonymous raising of the price of gasoline and lowering of the price of crude.82

This marked the beginnings of the case he developed against the oil companies. These exclusive dealer agreements were used by all the major oil companies, for just the reasons Allred stated. The major companies asked if the elimination of some kinds of competition, in favor of more orderly affairs, was necessarily wrong. Many felt that chaotic conditions ultimately hurt the consuming public and certainly made life difficult for their company. They believed that fully integrated companies and regulated competition ultimately represented the most efficient use of a perishable resource and meant in the long run the highest quality product at the lowest price to the consumer. Allred answered that monopoly could never truly benefit the people. Allred had made the question a classic confrontation of the "old" versus the "new".

In taking such a stand Allred gained favor with many independents even though as Attorney General, it was
his responsibility to prosecute violators of Railroad Commission orders, which he did with great vigor. He also came to favor some form of control. But he was always suspicious of the policies of the major companies, opposed limitation of production to market demand as price fixing, and fought vigorously against any form of federal control. In short, he came to be the champion for that element of the industry which consistently resisted the power of the integrated giants. He became the champion of men, like the editor of The Wood County Record, who saw "that lurking, shadowy octopus, the Standard Oil of New Jersey, its snaky tendrils, alert and poised," seeking "to get a strangle hold on the East Texas Field."83

In pursuing this course of action, Allred did not gain friends in all quarters. He was put under pressure not to file the suit. For example, S. M. McAshan, President of South Texas Commercial National Bank, wrote, saying that his bank had the accounts of a number of oil companies and that if Allred was going to bring his suit for unimportant violations and technical reasons "rather than vicious, we feel it might not be amiss to write you urging that you refrain from this action."84 But Allred was not to be dissuaded from his course.

While the state government and industry representatives wrestled with the problem created by discovery
of East Texas, activity also continued on national and interstate levels. Low prices in East Texas helped to depress prices throughout the United States. Pleas for relief came from government and private sources. Typical is a resolution passed by the American Petroleum Institute in the summer of 1931. The API condemned the over-production from the field, praised the efforts of the Texas Railroad Commission, and urged the state of Texas to place "the production of crude oil within its border in line with the demand therefore." Looking beyond Texas, though, some form of interstate cooperation seemed in order and the governors of the oil states renewed their interest in an interstate compact. As a result of conferences called by Governor William H. Murray of Oklahoma, February 28 and March 1, 1931, the Oil States Advisory Committee (OSAC) was established. In the words of a resolution passed by the Committee, such a body was needed because

the oil industry in the United States and over the entire world is suffering from a general condition of over-production and slack demand, resulting in depressed prices for crude oil and its products and great distress among all engaged in the industry, including particularly the producers of crude oil ... as well as ... threatened great waste of crude oil reserves by the forced abandonment of approximately 300,000 small wells ..., forever precluding the recovery of many millions of barrels of oil. ... this condition is the result of extreme and uncontrolled competition within the oil industry, resulting in the over-drilling of many areas and a mad race for
production on every hand which has built up present potential production of oil far in excess of the ability of the market to absorb same at prices profitable to the producers ...; such conditions calling for steps by the various legal authorities of the states and of the United States which will permit the oil industry to put its house in order and control its production to fit the market demand;

... if present conditions continued unchecked and unabated, they will result ... in the elimination of virtually, if not entirely, the army of small or independent oil producers in this country, with the survival of only a few of the great major companies, thereby resulting in a condition of monopolistic control of the entire industry ... 86

The committee consisted of seven members representing the seven oil producing states: Oklahoma, California, Kansas, Wyoming, Louisiana, Arkansas, and Texas. Robert R. Penn, president of the Texas Central Proration Committee, was the member from Texas as appointed by Governor Sterling. The Committee received support from the Independent Petroleum Association of America and financial as well as moral support from the American Petroleum Institute.

At the outset, the Committee looked upon itself as an interim body to be replaced by a permanent interstate compact. In the meantime, at the initial meeting, it put forth twenty recommendations to be carried out by the states and hoped to correlate the activities of the various conservation bodies in the states in an advisory capacity. Among the most important of its advisory
functions would be to submit figures of the amount of crude and refined products each state should produce in order to assure a fair price to all parties in the industry. They also planned to work for national recognition of the need for a fair price to conserve petroleum, that is, the necessity to limit production to market demand. The Committee also took a strong stand in favor of the limitation of the importation of crude and refined petroleum products.

Recommendation no. twelve of the OSAC specifically dealt with the situation in East Texas. The committee suggested

That proration be immediately extended by the conservation authorities of Texas to the new East Texas fields, which are now threatening to destroy the entire crude market, providing for those fields fair and reasonable markets and prices consistent with the production of the rest of the country.\(^7\)

In April a joint conference of the FOCB and OSAC was held. At this conference Secretary of Interior Wilbur stated:

What the oil industry needs now is not just stabilization, but permanent stabilization. To reach this basis there must be a curbing of overproduction evils, avoidance of waste, and actual conservation of petroleum in the ground.\(^8\)

These recommendations created considerable controversy in Texas oil circles. Those opposing proration and market demand looked with considerable suspicion on Robert R. Penn as their representative and questioned any work the
committee might accomplish. The OSAC's recommendations to limit production to market demand and thereby fix fair prices, was plainly what many oil men, and some courts, considered iniquitous. Also at a meeting held in Oklahoma City on September 11, 1931, apparently at the instigation of R. R. Penn, the committee passed a resolution stating its opposition to the "Cranfill Plan". The resolution stated its reasons for opposing this plan as follows: the plan was merely temporary in character, and, a private agreement was wrong in principle and in practice and of doubtful validity. The resolution also asserted that

> What the people demand is honest conservation of the national sources, in the public interest, under the sanction of the police power of the States and established by law which are administered and enforced by public authority.\(^\text{89}\)

Such a resolution could do little to improve its relationship with certain elements in the Texas industry and it is very curious that the committee would choose to pass such a resolution long after the failure of this plan, the passage of the Anti-Market Demand Law, and the promulgation of a new order by the Railroad Commission under that new law.

Despite growing opposition, the OSAC continued to work towards its goals. A sub-committee began drafting legislation pursuant to an interstate compact to be
submitted to the federal congress. As the situation in East Texas and Oklahoma became critical in the summer of 1931 the OSAC made a plea to the FOCB to form a Conciliation Board to arbitrate a solution in those fields but the federal government failed to take any positive action. Failing to receive outside help, the governors of Texas and Oklahoma handled the crisis through martial law, temporarily settling the problem as the year closed.
FOOTNOTES


5 Ibid.

6 Lucile Silvey Beard, "The History of the East Texas Oil Field," (unpublished M.S. thesis, Hardin-Simmons University, 1938), pp. 33, 35, 38; See also The Oil and Gas Journal, October 9, 1930, p. 50.

7 Ruel McDaniel, Some Ran Hot (Dallas, 1939), pp. 14-15; See also, Ibid., p. 35.

8 C. C. Rister, Oil! Titan of the Southwest (Norman, Oklahoma, 1949), pp. 221-22.

9 McDaniel, op. cit., pp. 21, 22.

10 Rister, op. cit., pp. 311-12.

11 Ibid., p. 313.


13 Rister, op. cit., p. 315.

15 Rister, op. cit., p. 317.
16 Ibid., p. 264.
18 The merger took place July, 1931.
19 Letter, S. A. Gray to James V. Allred, July 25, 1931, University of Houston, James V. Allred Papers, Acc. No. 1, Cont. No. 233; See also Testimony, R. C. Holmes, Acc. No. 1, Cont. No. 234.
21 Fort Worth Star Telegram, February 3, 1931, J. R. Parten Papers.
22 Hardwicke, op. cit., p. 228. This decision followed the opinion of the Supreme Court in the Oklahoma case of the Julian Oil and Royalties Co. v. Capshaw, 145 Okla. 237, 292 Pac. 841 (October 14, 1930); and the Supreme Court of California in the case of People v. Associated Oil Co., 211 Calif. 93 294 Pac. 717 (December 3, 1930).
23 Larson and Porter, op. cit., pp. 450-51. There is a good narrative of this case in Larson and Porter.
24 McDaniel, op. cit., pp. 90, 92.
25 Ibid., p. 91.
26 Ibid., pp. 94-95.
27 Ibid., pp. 94-96.
28 Houston Post-Dispatch, June 22, 1931, p. 1, col. 7. Charles Roeser was the source of this information.
29 Ibid., p. 1, col. 5; July 25, 1931, p. 6, col. 1.
31 Houston Post-Dispatch, June 15, 1931, p. 1, col. 3.
32 Letter, Worth A. Jennings, Consumer Fuel Association, Inc., Canyon, Texas, to James V. Allred, November 4, 1931;
James V. Allred to Jennings, November 7, 1931, University of Houston, James V. Allred Papers, Acc. No. 1, Cont. No. 233; See also, Holmes testimony, p. 41, question concerning the price of gasoline, Acc. No. 1, Cont. No. 234.

33 Houston Post-Dispatch, May 16, 1931, p. 1, col. 1. This article contains a complete list of the names of the independents.

34 Ibid., May 7, 1931, p. 1, col. 2.

35 Ibid.

36 Ibid., p. 1, col. 4.

37 Ibid., p. 14, col. 1.


39 Houston Post-Dispatch, May 15, 1931, p. 5, col. 5; p. 8, col. 1; Texas, Journal of the House of Representatives (Regular Sess., 42d Leg., 1931), pp. 125-27, 201, 218, 299. The legislation was H. B. 13. The Regular session also passed the Marginal Well Bill (S. B. 337) declaring it a waste to restrict artificially the normal production from such wells, House Journal, op. cit., pp. 978, 1023, 1026, 1078, 1269.

40 Larson and Porter, op. cit., p. 453.

41 Houston Post-Dispatch, July 25, 1931, p. 1, col. 5; p. 6, col. 1. In a statement by W. S. Farish it was estimated in 1931 that 282 independent producers owned 62 percent of the wells.


44 Copy of Cranfill Plan with pencilled notes, J. R. Parten Papers.

45 Interview for the Shreveport Times and Journal by J. R. Parten, J. R. Parten Papers. No date but included in Oil and Gas Files for 1931.

47. Ibid.; Houston Post-Dispatch, June 23, 1931, p. 1, col. 2.


49. Houston Post-Dispatch, June 18, 1931, p. 1, col. 2.

50. Ibid., June 20, 1931.


53. Houston Post-Dispatch, July 5, 1931, p. 1, col. 5.


58. Houston Post-Dispatch, August 4, 1931, p. 1, col. 2; p. 7, col. 3.

59. Ibid.

60. Ibid., August 5, 1931, p. 1, col. 5.

61. Ibid., August 8, 1931, p. 1, col. 5, 8; Letter, James V. Allred to M. E. Foster, editor, Houston Press, August 28, 1931, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 66.

62. Houston Post-Dispatch, op. cit.

63. Ibid., August 13, 1931, p. 1, col. 8; p. 10, col. 4.
Resolution, The Texas Independent, Bulletin #8, November 3, 1931, J. R. Parten Papers. This was a resolution in favor of the measures by the Independent Petroleum Association of Texas.

Hardwicke, op. cit., p. 232.

Houston Post-Dispatch, August 6, 1931, p. 1, col. 2; August 15, 1931, p. 1, col. 5; August 17, 1931; August 19, 1931, p. 1.


McLean and Haigh, op. cit., p. 590.

Houston Post-Dispatch, August 3, 1931, p. 1, col. 8; p. 10, col. 4.


Ibid.

Letter, Walter S. Parker to James V. Allred, January 26, 1936, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 236.


Ibid.; Houston Post-Dispatch, November 13, 1931, p. 1, col. 8; p. 4, col. 1.

Second Amended Original Petition, op. cit.

Memorandum by Allred for press release sent to Mr. Looney, November 12, 1931, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 233.

There are numerous examples of letters from private citizens supporting Allred in his Attorney General Files, General Correspondence. In a private interview with Walter Hall at the Citizens State Bank, Dickinson, Texas, November 11, 1970, Mr. Hall testified to Allred's good character. When Hall was Chairman of the San Jacinto River Authority, Allred was also serving the same body. Allred came to Hall and recommended that Hall cut his salary as Allred felt the Authority was paying him too much.

Letter, James V. Allred to Senator Ben O'Neal, August 5, 1931; O'Neal to Allred, September 26, 1931, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 69.

Letter, James V. Allred to Bernard Martin, March 15, 1931; Martin to Allred, March 6, 1931, J. R. Parten Papers. Allred's letter to Martin contains in detail the proposed agreement between the majors and the service station owners. The Quaker State people had brought the initial complaint to Allred.

Editorial, the Wood County Record (Mineola, Texas), September 9, 1931, J. R. Parten Papers.

Letter, S. M. McAshan to James V. Allred, September 17, 1931, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 233.


Ibid., p. 4.


Interstate Oil Compact Commission, op. cit., p. 15.
CHAPTER IV
ALIGNING OF FORCES

The prospects for achieving concord within the petroleum industry seemed rather bleak as the year 1932 began. The differences among various interests in the oil industry had clarified but were seemingly no closer to compromise. The expedience of martial law had temporarily quelled the outpouring of crude petroleum but the key control agency, the Texas Railroad Commission, had yet to promulgate and enforce a fair and legal pro-ration order in East Texas. Finally, it was an election year for Texas and the nation. The question of oil ranked among the most important and controversial in the state, particularly in the races for governor and attorney general. Both the incumbents, Governor Ross Sterling and Attorney General James Allred planned to take their record to the people for their approval. At the national level, Hoover faced Franklin Roosevelt as the depression deepened.

The alignment of forces which emerged out of the muddle of 1931 did not always fit preconceived ideas of the antagonists. The testimony and lobbying of the major
oil companies before the Texas Legislature and Railroad Commission revealed the limitations of looking upon them as a monolithic group. There existed a certain community of interest among the large integrated companies by virtue of the fact that they dominated the industry. The goal of stability had advantages for all of them, and the elimination of certain kinds of marketing practices had their general support. But, they were also one another's chief competitors. As R. C. Holmes testified to Attorney General Allred,

> There is no discussion of things of that kind [development of a field and putting in of pipe lines]. The thing is highly competitive, each one taking advantage of every situation that he thinks is in his interest, and I think the last thing in the world to occur would be for one to discuss with another what his plans are.  

Just as their financial condition had influenced the companies' initial attitude toward the conservation-stabilization movement, so did their competitive positions and philosophy of management now dictate their posture in the East Texas oil controversy.

Of the major companies directly participating in the East Texas Field, the policies of the Humble Oil & Refining Co., The Texas Company, Gulf Oil Company, and Sinclair Oil Co., will serve to illustrate this relationship.

Humble was extremely interested in the East Texas
Field. Always looking for new crude supplies to fulfill its contract with Standard Oil of New Jersey, East Texas proved a bonanza for Humble. As already pointed out, Humble was primarily in need of a steady, dependable supply and thus strongly in favor of controlled production. William Farish, President of the company, had become a believer in the advantages of unitization and strict proration. He accepted the findings of geologists who showed excessive drilling and too rapid withdrawals from an oil reservoir could permanently damage the pool. Therefore, Humble entered the field with a dual purpose. First, it wished to acquire oil, and secondly, it desired to promote effective production controls. The first goal was simply a matter of company policy. In time Humble became a major purchaser in the field and also conducted a very active campaign of buying leases and drilling on its own. By September 1, 1931, Humble held approximately 20,000 acres or fifteen percent of the total field making it the largest single holder in the field. With such a large holding, Humble stood to benefit greatly by reduced production costs if drilling could be held to a reasonable minimum. But its second aim was more difficult to achieve.

At the outset, Humble tried, as it had in West Texas, to force controlled development. On January 15, 1931, Humble offered to enter the field as a purchaser
on the condition that orderly, ratable production be established. Humble proposed to extend its pipeline from the nearby Van Field and to purchase proportionately as much "oil from others" leases with which its pipeline would be connected as the amount run from its own leases."³ But any hope of an agreement among the numerous and diverse interests represented in the East Texas Field was in vain. Therefore, in order to exert pressure on the local operators to cooperate, and for reasons of self-interest Humble announced on February 27, 1931, that it would not at that time enter the field as a purchaser but would build private facilities to handle the production of its own properties.⁴ In making this announcement Humble stated reasons of economy and pointed out the advantage of regulated development:

Orderly production secures these results by preventing physical underground and above ground waste, by eliminating unnecessary and costly expenditures incident to rush operations, and by preventing the dumping of distress oil on a crowded market and thus breaking the price structure locally with a final resulting break of the price structure generally.... If East Texas produces oil in distress quantities without reference to market demand therefore, not only will there be actual waste of oil indicated above and increased cost of production, but the price of all oil in Texas inevitably will fall to the price basis established for the distress oil of East Texas.⁵

After the Railroad Commission's first proration order was put into effect in May, Humble began extending
its lines into the field. The Commission's order was ignored and soon production in the field was double the amount set as the allowable. On May 26, 1931, four major companies cut their posted price for crude from 65 cents to 35 cents in light of conditions in the field. A week later, they stopped posting prices altogether. Humble's price was 15 cents per barrel, although some were said to be paying as little as 6 cents per barrel. However, even the pressure of low prices brought discouraging results as "hot oil" and overproduction persisted.

In perusing the company's policy aims William Farish appeared before the lower house of the Texas Legislature sitting as a committee of the whole to investigate the oil industry in the summer of 1931. The impact of his testimony extended beyond the oil fraternity into the broader political arena and affected the elections of 1932. That antagonism already existed was clear. One legislator commented as Farish rose to testify, "Now the little boy of the Standard Oil Company of New Jersey." Farish did little to allay such feelings. On the whole the impression created by Farish was one of condescension to the legislators. But most startling were the revelations concerning "loans" to the governor. Early in 1930 Humble advanced to Sterling $175,000 as a bonus on a lease and $225,000 in deferred royalties. Considering the fact that
Sterling was running for governor at the time, the "loans" were rather ill-timed. In his testimony Farish asserted there was no sinister purpose in the transactions. It was very difficult to make the legislators and the public believe this, however. As former president of Humble Oil, Sterling came under suspicion anyway, but this financial arrangement further tarnished both his image and that of Humble Oil. As one citizen observed

... President Farish of the Humble defended the $400,000 'advance' as being one of numerous similar transactions - just one of those things that occur regularly in the oil business (whether or not the recipient is running for Governor). But in the minds of many people in Texas, Sterling has definitely been tarred with the Standard Oil stock, and they believe this will ultimately destroy him politically.... You may see from this brief resume how surely the oil industry, through the stupidity of Farish and other major company executives ... is getting itself into politics.

On balance, Humble had failed to advance the cause of effective proration very far by 1932. It had rallied to its side those major companies and independent operators favoring strong conservation measures and limitation of production to market demand. On the other hand, its policies clearly branded it as the enemy to others. The independent producers, desperate for outlets for their oil, resented Humble's initial decision not to extend its pipe lines into the field and its subsequent lowering of prices. They could only view its patronizing
stand as another link in the chain by which Standard Oil of New Jersey was attempting to strangle the independent oil man and thus monopolize the industry. The ineptitude of Humble’s approach also seriously stunted its political effectiveness, as the elections of 1932 would demonstrate. Humble supported Ross Sterling. He lost. They opposed James V. Allred. He won.

The Texas Company’s position was somewhat different from that of the Humble Company. It also delayed extending lines into the field until the summer of 1931, even though they held 300 acres in leases. Unlike Humble, they had an ample supply of crude elsewhere and were not under pressure to expand. Even by 1933 the Texas Co. held only 2,283 acres of proven oil land in contrast to Humble’s 20,000 acres. Not having such a vital interest in the field, The Texas Co. could take a more detached attitude about the details of its development. However, the company was interested in the larger question of nationwide stabilization of the industry and the implications of the East Texas field production for the whole industry. As R. C. Holmes, President of The Texas Corporation (the holding company for The Texas Co. and its affiliates) testified in 1931, the officials of the various major companies discussed the problem of supply in the industry but arrived at no policies except this: we have been making for two years, a good many of us, an effort to bring
about some conservation and control of production, and get it in more orderly condition.... My own personal attitude has been that whatever might be done by the industry as a whole would be to our interest.\textsuperscript{14}

The Texas Co. executives did not take the position of prominence in the field that the Humble Co. did, but they were sympathetic with the idea of controls and cooperated in lobbying before the Texas legislature.\textsuperscript{15} In the political alignments of 1932 The Texas Company was included in the camp of the prorationists.

The case of the Sinclair Consolidated Oil Co. differed from that of both Humble and The Texas Co. Sinclair's persistent problem over the years had been keeping a supply of crude sufficient for its refining capacities. It lacked the extensive producing properties of some of the other major companies. In the late 1920's and early thirties Humble and The Texas Co. suffered from excess oil in storage which was expensive. Sinclair always seemed to be in need of more oil. Therefore Sinclair's "oil procurement policy was to buy - often as low as ten cents a barrel - in glutted new fields."\textsuperscript{16} Harry Sinclair's policy in the East Texas Field, and other new fields, was to keep the cheap oil flowing as long as possible. At the same time Harry Sinclair probably sincerely believed proration wrong. He certainly was in the mould of the free wheeling independent oil man who
fought and won against the majors by the old rules. At
the end of 1932 he told the press

Proration no more effectively restricts
than prohibition prohibits. It creates
the same army of bootleggers, the same
evasions, and the same administrative
evils that prohibition brought into being.
We are scrupulously observing the laws and
rules of proration [perhaps, a less than
totally candid assertion], but are under no
illusions as to its results.17

Sinclair became a controversial figure in East Texas. His
opposition to proration gained him friends among inde-
pendents, but, at the same time, he was suspected of
working to keep prices for oil low. He was viewed with
considerable ambivalence by the major companies also.

Finally, there is the case of Gulf Oil Corporation.
Gulf Oil was not pressured for new sources of supply,
but it did look upon East Texas oil with considerable
interest. The conservative philosophy of its management,
was decisive in its policies toward conservation, however.
As its chief geologist, Ben C. Belt, expressed it,

My associates in the Gulf Company and I,
ever since the movement for State limitation
of oil production started, have opposed all
such restrictions except those which might
be necessary to prevent actual physical
waste. We did not think attempts to restrict
the production to so-called reasonable
market demand were economically sound or
practical or that such regulation of pro-
duction would or could be fairly administered
or enforced or that the industry would
receive any real benefits as the result of
such limitation. On the contrary, it was
our conviction that such limitation of
production would be harmful in that, in
addition to the many injustices that would probably be caused by the difficulties of administration and lack of real universal enforcement, it would bring about an artificial price structure which would encourage wildcatting and the bringing in of new fields in this state and in other states and other countries, and otherwise stimulate production, thereby increasing the troubles and problems of the oil industry and making the collapse of the artificial price structure inevitable eventually.18

Many of the spokesmen of the independent's cause could hardly have stated their case more clearly. Gulf consistently opposed proration and market demand legislation. It had supported the Cranfill Plan in 1931 and in 1932 it took sides with the independents against efforts to increase controls.

The differences among groups representing the independents of East Texas were also clarified as the events of 1931 polarized attitudes. Several groups claimed to represent the independents but the only organization that limited its membership to companies not affiliated with any major was the Independent Petroleum Association of Texas. In its newsletter, The Texas Independent, the organization proudly proclaimed that it had "no major company affiliation"; that it was "an organization of the 'little man.'"19 It became the spokesman for those independents wishing to hold the line against regulation of the industry. It served as both an informational and lobbying force for these interests.20
Tom Cranfill was succeeded as its president by Major J. R. Parten in 1932, who remained its president through the crucial years of the thirties. Returning from World War I Parten had entered the oil business in Louisiana. In 1922 he helped organize the Woodley Petroleum Company and from 1927 until 1960 was its president and general manager. His credentials as an independent were unimpeachable. In the thirties Woodley moved its headquarters to Texas, and held properties in the East Texas Field and elsewhere. Parten became a spokesman because he could articulate the views held by many independents in the industry and because he was willing to put time and money into their cause. In a letter to a Texas legislator in May of 1931 Major Parten summed up the independent view that was by now becoming familiar to the oil community. Parten believed that the proration movement was not a movement for conservation, per se, but an attempt to stabilize the industry in order to allow the major companies to manipulate price through production control. He thought that if the conservation advocates achieved their purpose the price of crude would be kept low. As Parten said,

The average operator dislikes to see crude oil sold for the low price of 20¢ per barrel, but he would much prefer to see 20¢ oil once in a while and have a chance to see $1.50 oil once in a great while, rather than to see 40¢ oil forever such as stabilization will bring.21
Parten asserted that "a majority of the independent operators, large and small, but chiefly small" believed that efforts at control by the state and national governments constituted a step in the wrong direction as leading inevitably to an absolute monopoly of the industry by the major concerns.

The whole plight of the oil situation today can be summed up as a problem of market price. My company is a producer of oil and gas of substantial quantity, in the State of Texas. Therein lies our only source of income. We would gladly do anything that was not in violation of the anti-trust laws to influence better oil prices. But, after diligent and careful study of the slowly declining prices during the past four years under the operation of the so-called 'proration movement', we have come to the conclusion that the only way to the return of prosperity and normalcy in the oil business is through the medium of free operation of that time honored economic law that supply and demand must govern.  

Major Parten's words echoed those of Cranfill and others. The chief motivation for their activities was a fear of the large integrated companies. They did not object to higher prices, or even stabilization, necessarily, but their experience to that point had been negative (the chief example being the Yates-Hendrick Field which ended with Humble lowering its price on crude). No doubt they took pleasure in placing a paid advertisement in the Tulsa World in which W. S. Farish was quoted from an address he made in Houston December 15, 1916, when he was still an independent.
Gentlemen, some wise men connected with a big refinery interest once said that the price of oil was never marked up or down because of the intrinsic value of the oil; or because of the profits being made out of refining the oil; the price being marked up whenever stocks on hand began to shrink, in order to induce the producer to get out the drills and produce more oil. In other words, the refining profit was always ample. The producer has never in the history of the industry been paid a fair price continuously. The refining industry has always bought up its flush production at a large discount. This is particularly true of the Gulf Coast.

IT IS REGRETTABLE THAT ONE HAS TO DISTRUST THE ARGUMENTS THAT THEY MAKE IN JUSTIFICATION OF THE LOW PRICES THAT THEY PAY, BUT, AFTER ALL THEY ARE RESPONSIBLE FOR THIS DISTRUST!!!!!

The ad went on to ask, "DOES MR. PARRISH [sic] FEEL THE SAME AS HE DID FIFTEEN YEARS AGO?" 23

Given this frame of mind, the Independent Petroleum Association of Texas and their friends took a defensive stance. They worked to limit or regulate the power of the major companies and to thwart efforts toward controls that benefited the major companies. In so doing they took a popular stand in the public eye: the "little man" against corporate wealth and power. By 1932 the group claimed a number of victories. It is doubtful that they deserved full credit for the passage of the oil and gas acts of the 1931 Legislature, but they did have an influence. 24 The pieces of legislation the Association counted among its trophies included the Common Purchase
Law of 1931 which added natural gas and sanctions for violations of the law; Pipe Line Bill (1931)

which seeks to take the pipe line common carrier rate making out of the hands of the carriers and placing it in the hands of the Railroad Commission, and directing that body to establish rates on the basis of a fair return on the value of property; the Anti-Market Demand Law, not introduced at their request but whose provisions had the "suggestion and influence of this Association, being the oil and gas ratio provision, the provision abolishing the company paid umpire system, [and] restriction in the law against market demand."25

Beginning in late 1931 and continuing into 1932, the Independent Petroleum Association of Texas underwent a period of reorganization. The initial period of confusion and enthusiasms had passed. That period had been typified by trains filled with independents converging on Austin to stampede the legislature and Carl Estes's purple prose. Now a period of more sober reflection set in and the choices for future action were open. On the whole the organization followed the advice of Claude C. Wild, the Association's paid Executive Vice-President and chief lobbyist. As Wild put it,

If the Independent Petroleum Association really recognizes the power that is going to be thrown back of the A.P.I. program to have the property laws of Texas changed and unitize all future oil fields in this State, they won't take a chance on a weak defense.26
Wild recommended a strong full-time lobbyist whose activities would be financed quietly by a few large contributors. This would be the necessary "nucleus of substantial people standing for an ideal and this is the only plan that has ever worked permanently in any organization." In addition, there would be a constant program of education and enlistment of members by the "hullabaloo and noise method." Special funds would be solicited for individual programs such as "Legislative session, for tariff funds, expenses pertaining to the reduction of pipe line rates and matters of that kind." This was the basic organizational plan for the Association for the remainder of its most active period. J. R. Parten was elected president at its annual meeting December 15, 1931, Claude Wild remained Executive Vice-President, and Myron and Jack Blalock became chief legal counselors for the Association. The program for obtaining monthly contributions from a small number of dedicated souls was duly carried out. As with most volunteer organizations the results were mixed but somehow the organization survived on the dedication of the very few. Among its chief contributors were Woodley Petroleum Co., C. R. Cole, B. H. Gray, Cranfill & Reynolds Co., and others. The total income per month that the organization could count on was only $525.00. Others who pledged their support but were less diligent in keeping their obligations
were Golding & Murchison (pledged $1000 per month), Jim Pollard, John Deering, C. P. Burton, Earl Calloway, J. M. West, and others. The basic program was dedicated to the maintenance of competition in the business, support of the Independent Petroleum Association of America in its efforts to get a tariff on imported oil and refined products, and a defensive posture opposing "the four main planks in the major companies program as carried on through the American Petroleum Institute, the Oil States Advisory Committee, and the Texas Oil and Gas Conservation Association," namely (a) Market Demand, (b) Compulsory Unitization, (c) New Conception of Ownership, and (d) Interstate Compact under Federal Supervision.  

The above mentioned Texas Oil & Gas Conservation Association was the other most prominent "independent" organization in the state. Some of the independent oil men were disturbed by the negative attitude of the Independent Petroleum Association of Texas. They advocated an independent organization that would cooperate with the major companies. Such an organization came into being after the defeat of the Howsley Bill during the regular session of the legislature and the failure to achieve market demand legislation during the special session. Its principal plank was "stabilization of the oil industry and conservation of petroleum resources through regulation
of production to balance supply with current demand and through ratable takings from all producers." The president of the API and W. S. Farish were involved in the inception of this organization which was to be a consolidation of several existing conservation organizations.31 Prominent among the independent oil men involved were Charles F. Roeser,32 a vice-president in the API and president of Roeser & Pendleton, Inc. He became president of the organization. Others were J. D. Collett; W. B. Hamilton; and H. L. Hunt.33 The Texas Oil & Gas Conservation Association went through much the same organizational strains as the Independent Petroleum Association of Texas after 1931. It claimed a large membership and the true leadership of the independent's cause.34 It also published a bimonthly, The Conservationist. In keeping with their claims they also wished to discredit the organization and leadership of the Cranfill organization. Claude C. Wild was told by a prominent member of this rival organization that "the Independent Pet. Ass'n of Texas would be and must be destroyed and that I [Wild] should get out before I went out with it. I asked him why and he said because it won't play ball."35 Also, like the Independent Petroleum Association of Texas the Conservation Association was financed by a dedicated few. But in this case, the dedicated few included the major oil companies, Humble being prominent
in this group.\textsuperscript{36} The program supported by the Texas Oil and Gas Conservation Association was at the opposite pole from that of the Independent Petroleum Association of Texas. As already noted, they went along with the program supported by the API and the major companies including market demand, unitization, and an interstate oil compact.\textsuperscript{37} The only point of agreement between the two organizations was support for the oil tariff. In the ensuing struggle at the state and national level each of these two groups sought to achieve their goals as the key spokesmen for the "independent" cause.\textsuperscript{38}

At the national level the all encompassing organization of the industry continued to be the API. Its officers, directors, and chairman of important committees tended, however, to be representatives of the major oil companies. This meant that the Institute had some of the most talented legal and technical people in the industry at its disposal. It also meant that the Institute's policies tended to reflect most directly the shifts in the attitudes of the major companies. The basic policy of the API, as other business organizations in the 1930's, was to promote stabilization and cooperation among its members. After the set backs for its proposals in 1931, however, it shifted its strategy from seeking government approval of its voluntary efforts to pressing for direct governmental restraints at the state level. The new policy became
effective in 1931 but gained momentum in 1932. In an article in the *Oil and Gas Journal* in February of 1932, Amos L. Beaty, former head of the Texas Co. and President of the API clearly expressed the new outlook.

I believe not only in the curtailment of production by voluntary action of the industry, but in curtailment by statutory enactments, in which commissions and umpires administer the law, see that all producers alike curtail their operations and that one pool is not discriminated against in favor of another. It needs only legislation against economic waste, or, in other words, law which prohibits production in excess of consumption or market demand. This is government control, but we need this kind of control. Time and time again we have seen the inadequacy of self control.\(^39\)

The crude production picture had actually improved in 1932 because of the dramatic steps taken by the states such as martial law in Oklahoma and Texas, and the API looked forward to the passage of effective legislation in these states to limit production to market demand and prevent economic waste. Beaty sounded a positive note saying,

Oklahoma and Kansas already have laws of that kind. California is in the process of such enactment, and there is good ground for the belief that Texas will not continue to lag behind.\(^40\)

While this constituted the core of the API policy, it supported a multilevel program. It continued to work for codes of ethics for various phases of the industry including marketing and others.\(^41\) The crude production
in the United States had been slowed in 1932 but the
manufacture of gasoline continued to exceed market
requirements. Again, the API urged voluntary restraints.
In an article in the July **API Quarterly** Amos L. Beaty
stated

> The volume we have,... is sufficient to
produce fair profits - even in these
times if operations are conducted on a
rational basis. Our effort, therefore,
is to rationalize, or in other words
cut the garment to the cloth.42

On the question of unitization of oil pools the Association
backed away from the idea of compulsion but continued
to stress voluntary participation in such projects.43

The Institute recommended to refinery owners that

> no well which would open new territory
and force additional drilling should be
started until a reasonable protective
area around it, the larger the better,
has been unitized. A satisfactory
explanation to the management for any
deviation from this rule should be
required.44

The API also decided to support the movement for a tariff,
perhaps seeing it as inevitable at that time, and con-
tinued to support the Oil States Advisory Committee's
work for an interstate compact.45

The independents also had their national organization,
Independent Petroleum Association of America. Its
president, Wirt Franklin, was also a Director of the
API. By limiting its activities largely to the oil tariff
issue, however, the Association avoided much of the
controversy existing in the independent community. For example, included among its state vice-presidents were J. R. Parten, President of Independent Petroleum Association of Texas (Vice-President for Northern Louisiana) and Ed Landreth, one of the founders of the Texas Oil and Gas Conservation Association (Vice-President for Southwest Texas), bitter enemies at the state level.46

The year 1932 saw success grace the Independent Petroleum Association of America for its efforts. Wirt Franklin, running for senator from Oklahoma on the Republican ticket, forced the acceptance of an oil tariff plank in the Republican National platform.47 Support increased from the oil community itself also.

Among others, endorsements have come from the Mid-Continent Oil and Gas Association, the California Oil and Gas Association, the Oil Producers Sales Agency of California, the American Petroleum Institute, ... the North Texas Oil and Gas Association, and all the state divisions of the Independent Petroleum Association. In addition to these named, most of the marketing associations of the country have likewise endorsed the move. The Chambers of Commerce of most of the oil producing states have done effective work in our behalf.48

In light of the growing momentum for the oil tariff, the failure of voluntary efforts at curtailment of imports,49 and the continuing difficulties of the independents, the oil tariff finally passed as part of the federal revenue act effective in late 1932.50
In sum, 1932 saw major companies and the API shifting their support to stronger state regulations. In Texas the Texas Oil and Gas Conservation Association became a spokesman for their position, at the same time claiming to represent primarily the independents' point of view. The Independent Petroleum Association of Texas reorganized and became the chief voice opposing the goals set forth by the other groups.

The success of any sort of legislative or voluntary program depended in good measure on the recalcitrant legislature in Texas because of the state's profuse oil production. In turn, the fate of Texas's conservation laws and the proration orders based on those laws lay in the hands of the courts. The Railroad Commission was given some support by both the legislature and the courts in 1931. However, the real test of the Commission's authority had been postponed when Governor Sterling declared martial law and temporarily removed the responsibility for enforcement from the Commissioners' shoulders. The matter was reopened in 1932 when the federal court for the Eastern District of Texas ruled in the Constantin Case that the Governor had no right to declare martial law and assume the functions of the Railroad Commission in enforcing its proration order. Although the Governor kept some troops in the field to aid the local
peace officers until December, 1932, the primary burden
of enforcement reverted to the Commission. Hearings
were promptly held and a new order for East Texas was
issued on February 25th. This order allocated production
on a per well basis. Each well, regardless of pro-
ductive capacity or size or tract, could produce 75
barrels of oil per day making the total field allowable
approximately 325,000 barrels a day. The promulgation
of the order was followed by the usual flood of injunction
suits and general defiance in the field. Before the
year was over the Railroad Commission had issued nineteen
separate orders; each was attacked.

On March 23, 1932, the Court of Civil Appeals in
Austin ruled in the Danciger case. The court upheld
the trial court decision which had found the Railroad
Commission order valid. More importantly, the judges
stated that production in excess of reasonable market
demand did result in physical waste and was not limiting
to prevent economic waste or fix prices. As this order
had been issued under the 1929 Conservation Act (which
forbade restriction to prevent economic waste) there
was still doubt concerning orders under the new act
passed in 1931. However, the court had made a very plain
statement as to its feelings about market demand which
had a bearing on any attempts to pass oil legislation in
1932. This decision was, unfortunately, in direct
conflict with that of the federal courts ruling in the MacMillan Case that had held restriction to market demand was for the prohibited purposes. Little wonder that the Railroad Commission had difficulty writing a valid order.

Relief came on May 16, 1932 when the Supreme Court of the U. S. set down its decision in the Champlin Case.\textsuperscript{55} This case involved an Oklahoma Conservation Statute which specifically granted its conservation agency the power to limit production to market demand. The court ruled that limitation to market demand was a valid means of preventing physical waste and that any effect on price was incidental.\textsuperscript{56} Again, this decision was in direct conflict with that of the federal district court in the MacMillan case. The ruling added weight to the arguments for allowing market demand, however.

These decisions had little immediate or practical effect on Texas because consideration of market demand for any purpose had been specifically denied the Railroad Commission in the 1931 Anti-Market Demand Act. The Railroad Commission had yet to write a valid order within the limits set by the 1931 law.

The first federal case dealing with this point was so-called The People's Case.\textsuperscript{57} The court refused injunction without a hearing on the merits but intimated that it would find the Railroad Commission order in conflict with the 1931 statute and the present method of
prorating on a per well basis arbitrary and inequitable. Thus, the court encouraged operators to ignore the rulings of the Commission on the grounds that they would be invalidated, or, to institute their own injunction suits. The trial on merits of the People's Case and companion cases did not take place until October. As anticipated when the ruling came down on October 24, 1932, the Commission's order was found invalid primarily because production was limited to market demand contrary to the 1931 Statute. The court also took exception to the distribution of the allowable on a per well basis as inequitable and to the total allocation for the field as being too small and thus transcending public necessity. This decision put the Railroad Commission in an intolerable position. It seemed impossible to write any order without reference to market demand in some form. Such an order, even if it were for the purpose of preventing physical waste was seemingly subject to invalidation under the Anti-Market Demand Law.

Foreseeing the repercussions of the People's Case decision Governor Sterling sent in extra national guards to help in keeping the field under control. The Governor hesitated to call a special session but pressure mounted. Finally, upon application by Maurice Cheek, assistant attorney general, the court agreed to delay the effect of its recent order in invalidating the
Railroad Commission's order until action by the legislature could be taken. Sterling called a Special Session to convene November 3, 1932. A number of changes had taken place since the passage of the Anti-Market Demand Bill. The atmosphere at this special session would be different. 61

Despite the confused conditions resulting from the instability of the Commission's authority and the flow of hot oil, prices in the East Texas field had remained relatively stable during the spring and summer of 1932. In April Magnolia had raised the price it posted to 98 cents and other companies followed suit. Only Humble was reluctant to increase the price beyond what it considered a reasonable amount under prevailing market conditions (Humble's view reflected the fact that it was the largest purchaser, had many more connections than other companies, and held more crude in storage than it needed at the time). 62 Higher prices served two purposes. First, they put a strain on the small independent refiners who depended on cheap oil to compete in the retail gasoline market. While the major companies raised the price of crude they also continued selling third grade gasoline very cheaply. Secondly, they made producers more amenable to controls to keep the price up. As the likelihood of a special session increased in the fall, some of the majors tried to encourage this tendency.
Beginning October 15, J. Edgar Pew of Sun Oil Company, eager for the passage of a market demand bill, took the initiative in raising the price of crude to $1.10.\textsuperscript{64}

It is difficult to assess the influence of price considerations on the outcome of the special session. Undoubtedly better prices made those who dealt in hot oil less popular since greater profits were at stake. Also, oil producers feared a collapse in the price structure if the Railroad Commission continued to be ineffective.\textsuperscript{65} But other considerations also played a part. There was a growing acceptance of some of the technical arguments concerning the nature of an oil reservoir and the effect of too rapid or unnecessary withdrawals of petroleum from the common pool. A system of voluntary exchange of information and data among engineers of oil companies and the U. S. Bureau of Mines plus active educational efforts by advocates of conservation helped to spread the word.\textsuperscript{66} W. S. Farish spoke throughout the country on conservation and wrote two articles for The Oil and Gas Journal in June and October, 1932, emphasizing the need for limiting production to market demand and calling for stabilization of the industry.\textsuperscript{67}

In any case, when the Special Session convened, those seeking a market demand bill were in the ascendency. Identical bills were introduced in both houses and were given hearings before the houses sitting
separately as committees of the whole. These hearings witnessed a great deal of emotion and bitterness on both sides, but there were no railroad cars filled with irate independents as there had been in 1931. The advocates of the bills denied that their passage would mean price fixing in the industry. They pointed to the court decisions recognizing the validity of such laws and the difficulties of the Railroad Commission in trying to write its orders under the old statute. The members of the Railroad Commission also asked for the passage of such a law, saying that they needed to be able to consider all the factors, including the market demand, affecting the oil industry in writing their orders.68

One of the more dramatic shifts in position was made by Carl Estes. During this special session he testified in favor of the new law.69 Asked if he didn't know that such a bill would turn the industry over to the majors, Estes replied heatedly,

You know I won't turn anything over to the major oil companies.... But I'd rather turn it over to the majors than to the Capones who selfishly want more than their share of oil.70

Joe Danciger provided an equally flamboyant witness for the opposite side,71 and Underwood Nazro of Gulf Oil took the stand to give his usual reasoned opposition to "interfering with the Laws of supply and demand under the guise of preventing waste."72
The basic argument of the independents was

Any proration of production to meet market demand now advocated ... must entail arbitrary allocation to different fields with the attendant advantages to buyers to designate where they want the most oil. If the State grants each oil field the right to capture all of the world's market that it can capture, and thereafter proceeds to allocate the production of that field to fill that natural market demand on a ratable basis insuring each well in the field a right to produce its ratable share of the oil marketable there from, then it has established ratable conservation of resources.73

In other words they did not want to be limited in what they could legitimately sell. They maintained that the existing conservation law had not been given an adequate trial and that until that was done no new law was needed.74 The forces pushing for passage of the market demand bill were clearly in control, however, and both bills were given a favorable report. When the final vote came the bills were passed overwhelmingly. In addition, both houses got a two-thirds majority vote which allowed the bill to be put into effect immediately.75 At this session it was the "conservationists" turn to stampede the legislature and relish victory.

The bill provided in its definition of waste "the production of crude petroleum in excess of transportation or market facilities or reasonable market demand," and did not prohibit consideration of economic waste by the Railroad Commission in promulgating its orders.76 There
was included, however, a two year limit to the law, indicating some misgivings on the part of the legislature. In an address before the Annual Convention of the Independent Petroleum Association of Texas, J. R. Parten vowed that many legislators at Austin in the recent legislative session, before passage of the market demand proration bill, frankly admitted that the measure was wrong in principle ... [T]hey announced that it was accepted for expediency only with the hope that it might be erased from the statute books should the need ever arise. This accounted for the two-year limitation placed on the life of the law.77

Of course, the passage of the market demand bill was a bitter defeat for those of the Independent Petroleum Association's persuasion. They saw the direst consequences arising from the trend of events. In their fears they tended to misjudge the aims of the major companies. In this same address J. R. Parten told his audience

Your directors long since have concluded that should Federal control of oil and compulsory unitization of fields be realized, the competitive element would thereafter be eliminated from the business. The consequent higher refined oil prices to consumer would create demand for fuller regulation and finally utilization of the oil business. It is logical that the major oil company would gladly submit to strictest regulation in return for pure monopoly granted. It is a fact well known that utilities have feasted well at the expense of the public and under semblance of regulation of profits.78

For its part, the Railroad Commission was still struggling to write a valid order. It proceeded to hold
hearings in preparation for its first attempt under the new Market Demand Bill. The Commission tried to find a compromise that would satisfy its own belief as to what was best for the field, the views of the disparate interests in the field, and the rulings of the federal courts. The resulting order kept a low allowable of 325,000 barrels per day for the field or approximately 37 barrels per day per well. The specific schedule for allocation of production would be issued after investigation each month based two-thirds on the daily allowable per well and one-third on the bottom hole pressure in the field and the acreage owned by the operator using a basic 20 acre unit. The Railroad Commission wished to retain the per well method of allocation in keeping with the traditional legal concept of rule of capture, i.e., that oil is fugaceous and ownership comes with successful capture of the mineral. At the same time, the Commissioners felt constrained to recognize the urgings of the court to consider all the factors in oil production. 80

Compromise rarely satisfies all parties, and as predicted in the newspaper, suits against the order under the new law were forthcoming. 81 The Railroad Commission was criticized by representatives of API persuasion for keeping per well basis of allocation even in a modified form. They argued, as did the court in the People's Case decision October 24th, that such a basis was unreasonable
and inevitably inequitable. To their minds it was necessary to modify the old rules of ownership in order to conserve the oil resources. The chief spokesman of this view was Earl Oliver whose articles appeared repeatedly in *The Oil & Gas Journal*. Typical of the argument used by Oliver and found "to exist among well informed leaders," was the one expressed in the April 21, 1932 issue. In answer to the question, "What is causing the petroleum industry's difficulties?" the article replies

The basic laws of oil and gas conflict with sound engineering and economic principles and initiate a trail of results that dominate each successive branch of the industry. Even the destructive practices of the marketing branch are largely traceable back to the capture theory of ownership that forces crude oil on the market in excess of current demand.  

Such problems are manifested by the competitive race to capture and produce. Therefore, the law must be changed. They should substitute for the 'capture theory' in oil and gas, regulatory action in development and operation that would have the same practical results as would 'ownership in place' strictly applied.  

By 'ownership in place', Oliver meant the equitable division of the production of a field under unitization as opposed to simple 'rule of capture.'  

The Railroad Commission's order fell considerably short of Oliver's goal, but it did take into account
the size of the lease holding as one of the factors in determining the per well allowable. For the independent opposed to unitization the introduction of the concept of acreage even on a limited scale was a mistake. In a letter to Commissioner Ernest Thompson, J. R. Parten stated this view with clarity.

To many independents who have diligently fought the American Petroleum Institute's 'Acreage Content Theory' as a new basis of oil land ownership it will no doubt appear that this order, if made mandatory, will serve as an initial precedent for a new jurisprudence that will foster monopoly of oil land ownership.... Why should it be necessary to change the old law of oil land ownership, now half a century old? The old rule has allowed the building up of the oil industrial giants.... The old rule has allowed competitive elements of lesser size, but nevertheless formidable, to grow up around these giants and deal them misery in a competitive business.86 Whatever the justice of the new order, it still had to be tested and the ramifications of the Market Demand Bill remained in question at the end of 1932.

Equally as important as the new conservation bill was the resignation of Pat Neff and the appointment to the Railroad Commission of Colonel Ernest 0. Thompson, June 4, 1932. Thompson was a self-made man, former mayor of Amarillo, hotel owner, and lawyer. Since he was a young man and junior member of the Commission he was chosen to keep headquarters in the East Texas Field at Kilgore.87 He learned conditions literally from the
ground up by beginning his stay in the tent on "Proration Hill" vacated by Commander of National Guard, Jake Wolters. He knew little about the oil industry but was eager to learn and had strong convictions concerning the role of government. On the one hand, Thompson spoke in favor of the market demand law in the special session of the legislature. At the same time, however, Thompson took a firm position against price fixing, unitization of oil fields, and federal control of the oil industry. In a speech before the Independent Petroleum Association of Texas in the fall of 1932 Thompson revealed where his sentiments lay.

It is my firm opinion that each State should be left alone to pass its own laws regarding the conservation, production and transportation of oil and gas within the boundaries of its confines.... It is the duty of every loyal citizen of Texas and other States who think anything of State's rights to see to it that no power is delegated to the National government which can properly be exercised at home.... Much has been said about unitization, unified work, and unit control of oil lands and gas producing properties, but I am of the opinion that unitization means the extermination of the little man.... Those who would foster Federal control point out that with a Federal law covering the oil operations, unitization might be advanced, but I for one do not believe that Federal control or unitization should be forced upon our people.

Here was a man who could reach the independents of the Parten organization and yet was not totally alienated from the other elements in the industry. He was determined
to see effective controls at the state level without embracing price fixing or any larger program of regulation. Because of his forceful personality he soon dominated the Railroad Commission proceedings.90

On the national and interstate level the interest of the oil industry centered on the activities of the Oil States Advisory Committee (OSAC). Pursuing its chief goal, the enactment of an interstate compact, the Advisory Committee prepared a bill for introduction into Congress early in 1932 and sent it to the FOCB and the president of the API for suggestions and possible changes.91

In the Dallas Morning News of March 28th the chairman of the OSAC stated that

his committee is working on a plan of joint Federal and State control of the industry, to the end that the very best conservancy be had, both as to physical and economic waste.... Generally speaking the proposed Federal legislation would be patterned after the powers exercised by the Interstate Commerce Commission in granting certificates of public convenience he said. In that way unnecessary drilling, unnecessary refining and other methods of glutting the market by bootlegging the by-products at ruinous prices would be stopped.... Federal legislation under joint control would mean a perfect balancing of production with demand....92

Beginning in May 1932, the OSAC put on an intensive drive for the passage of their legislation in the national congress. The bill was introduced in the Senate by Thomas of Oklahoma (S. 4264), and in the House by
Representative McKeown (H. R. 10863). The bill would have authorized an interstate compact among the oil producing states with the following objectives:

regulation and control of drilling, producing, refining, distribution and operation methods, so as to promote maximum ultimate economic recovery and use; retention underground of oil and gas whose production would be in excess of transportation or marketing facilities or reasonable market demand, and when required to preserve the oil pools of settled production; prohibition of unreasonable waste of all kinds ...; ratable taking of oil and gas from competing fields and from wells within the same field; authorizing unit operation of a single oil or gas field or area; said compact also to establish permanently an Oil Conservation Board ... to cooperate with the Governmental agencies of the Federal Government and of the States, and to recommend laws and regulations helpful to the Industry, and to protect the consumer; to recommend the allocation of demand for American oil and its products among the producing areas and to recommend state quotas of production to supply such demand; to approve agreements entered into for the purpose of complying with its recommendations.

The OSAC was already viewed with suspicion by the Independent Petroleum Association of Texas since it had the strong backing of the API. Independents were warned that

The American Petroleum Institute are working to bring about Federal control through the medium of what is called the Oil States Advisory Committee. This is a committee composed of a member from each of the principal oil producing states appointed by the Governors thereof, and which is supposed to represent the states
in advising the FOCB just how much oil each state should make daily from quarter to quarter, ostensibly in the interest of conservation, but actually to keep the price of oil at 83¢ per barrel so that the small independent refiners will remain shut down and be able to make no gasoline with which to disrupt the gasoline price structure.95

The McKeown and Thomas bills shared in this general distrust.96 The most iniquitous portion of the bills gave the federal government the authority to interfere with the states' right to conserve their own resources through the permanent Oil Conservation Board.

The independents expected proposals of this nature from the OSAC but were disturbed by the fact that Wirt Franklin, President of the Independent Petroleum Association of America (along with William M. Davis, President of the Mid-Continent Oil and Gas Association), had participated in the discussion in Washington leading to the drafting of the bill. Wirt Franklin wrote to Parten concerning his participation.

It is apparent to me that some such bill will eventually be enacted into law, allowing the oil producing states to form a compact for the control of over-production and providing a means of allocating the market demand over the several oil producing states.... It has the support of the administration. I thought the best way to do, under the circumstances, was to try to make it workable and eliminate from it, if possible, the Federal control feature, leaving the States in the saddle, so to speak, and thus preventing the dominion (sic) of the Board by the major oil interests.97
The most that Franklin's efforts actually accomplished was to minimize federal representation on the Oil Conservation Board, without eliminating it. Franklin's attitude was unacceptable and his compromise distasteful to the Parten group. Any representation of the federal government left the door open for its increased influence and interference, and at the national level the clout of the major companies greatly outweighed their own. Parten replied to Franklin that

It would appear that when once the states begin to surrender the rights of conservation control, there can be no stop until the Federal Commission is exercising absolute control. I am thoroughly aware that the API, as well as the largest oil companies of the land, favor this program. I am therefore impelled to conclude that this procedure will strip from the petroleum business the element of competition which is so essential to the maintenance of independent enterprise of non-integrated operator, royalty landowner, the State and Nation.98

A real show down on this legislation was postponed, however, because oil tariff legislation then also before the Congress, was given precedence. Both of the OSAC bills received favorable committee reports, and although opposition to the bills was growing there seemed to be a good chance that they might pass. However, in the committee considerations in the House, Representative LaGuardia had made the point that the provision in the McColown Bill that limited imports to 55 percent of the
domestic demand made passage of an oil tariff unnecessary.\textsuperscript{99} The Independent Petroleum Association of America was unwilling to rely on the passage of the Compact Bill (the independents called it the Federal Control Bill) for the achievement of its goal, so long sought. Therefore, the OSAC agreed not to push its bill until action had been taken on the oil tariff.\textsuperscript{100} By the time the tariff bill had passed and the OSAC was ready to begin activities again the national election had taken place changing the whole atmosphere in Washington and in the industry. At the OSAC's meeting in Houston, November 10, 1932 the API withdrew financial support and informed the Committee members that a better plan was in the works. Also, the Independent Petroleum Association of America withdrew its support because of dissension among its members over the Compact plan.\textsuperscript{101} Thereafter, formal activities of the committee ceased much to the chagrin of its members who had worked very hard. Their views were presented to the president-elect, Franklin Delano Roosevelt and the proposed bill sent to members of the oil community.\textsuperscript{102} Perhaps the most lasting impact of the committee's activities was to coalesce forces over the issue of control. As conditions in the industry deteriorated, court decisions remained uncertain, and state efforts at control seemed ineffective more in
the industry became convinced that federal-state cooperation was necessary, and desirable. On the other side, those fearing federal intervention were put on their guard and began mobilizing to fight any such plan.

The tumultuous events in the East Texas fields and the aligning of forces over the issues also had their impact on Texas politics. The year 1932 witnessed heated campaign battles with the oil question figuring prominently in the gubernatorial and attorney general races. In 1930 Ross Sterling had defeated Miriam ("Ma") Ferguson for governor. The Fergusons were not ready to leave Texas politics, however, and 1932 seemed to be their year for revenge and return to office. The Fergusons had been in Texas politics many years and had accumulated powerful enemies. Nevertheless, Sterling had vulnerable points and "Farmer" Jim still had a great talent for reaching the common folk. "Ma" ran for governor instead of Jim because he had been impeached and convicted on illegal use of state funds in 1917 and was therefore barred from holding public office. It was common knowledge, nonetheless, that he was the power behind the throne. These were depression times and more than the East Texas oil field was on the minds of the voters but our focus will be on that point as most germane to the problem of this paper.
As the campaigns got underway Sterling had an important advantage over Ferguson. The state press almost universally supported him and opposed Ferguson as ignorant and dishonest. Most of the big city papers took a biased position in favor of Sterling early. A typical editorial pictured the election in this way:

The issue... is that of honest, efficient, economical, progressive government, as had been realized under the administration of Governor Ross Sterling, against dishonest, inefficient, wasteful and irresponsible government, as was perpetrated upon the state during the administration of the Fergusons.103

Among the oil community at large Sterling received support from expected sources and some from surprising quarters. Ex-governor Dan Moody actively took to the stump in Sterling's behalf. This was not entirely surprising as Sterling and Moody were old friends. Sterling supported Moody for governor in 1926 and as governor, Moody appointed Sterling Chairman of the Highway Commission.104 Nevertheless, Moody had been the attorney for the East Texas Producers, Royalty & Landowners Association in the early days of the East Texas field and generally allied with those opposing regulation. Support came from a more unlikely quarter when the Blalock brothers threw their influence behind the Sterling Campaign. Myron and Jack Blalock were lawyers and close associates with J. R. Parten
and the Independent Petroleum Association of Texas.

Their support rested on two main premises. First, they distrusted Ferguson, and secondly, Sterling had been an ally in opposing the Market Demand bill in the regular session of the legislature in 1931. The first Democratic primary was held, July 23, 1932, before the special session and passage of the Anti-Market Demand Bill and the declaration of martial law. The basis for distrust of the Fergusons was carefully outlined in campaign materials. Drawing a picture of the Ferguson's record in public affairs a leaflet listed:

1. Senate Bill 180, a law lifting the barrier against the Standard Oil Company in Texas, was passed during the administration of Miriam A. Ferguson and signed by her at the direction of her wily husband. The result was the purchase of the Humble Oil Company by the Standard of New Jersey and the operation of the Standard in Texas.

2. Ferguson used the columns of THE FORUM and personally lobbied to defeat the bill designed to limit the earnings of the pipeline trust to ten percent of the capital investment.

3. When the small independent oil operators... sought a bill compelling the oil trust to sell its filling stations, Ferguson fought that measure both in his FORUM and in the state-rooms of the legislature.

4. When another of the giant oil companies were advancing a bill to limit by law the production of oil to the demands of the market, Ferguson SUPPORTED that measure both in the role of editor and oil-hired lobbyist in the halls of the legislature. And he now advocates such a measure in the Ferguson platform which he wrote for his wife.
Despite such efforts the supporters of Sterling were unable to counter Ferguson's charges that Sterling was dominated by the "big oil Companies." In Texas one party politics the real political battles were fought in the Democratic primaries. The Democratic nominee for office invariably won the election. In the first primary Sterling received only 296,383 votes to Ferguson's 402,238. As Claude C. Wild, Executive Vice-President of Independent Petroleum Association of Texas observed to Myron Blalock,

'In my rounds over the State recently,... I have been impressed with the fact that Governor Sterling is not personally popular, especially with those people with whom I deal. They are honestly and conscientiously afraid he is dominated by the Humble and Texas Companies.'

The fact that Sterling had been one of the founders of Humble, its president from 1917-1922, and Chairman of the Board from 1922-25, plus the revelations about the $400,000 "advance" from Humble that had come out in the oil investigations in 1931, certainly worked to his disadvantage. The results of the first primary put Sterling and Ferguson in a run-off which was held August 27th. Between the time of the first primary and the second primary, the Special Session of the legislature had passed the Anti-Market Demand Bill and Sterling had declared martial law in the East Texas field. Clearly,
the anti-Ferguson, pro-Sterling forces made headway in this time because Ferguson defeated Sterling by only 3,798 votes in an election with great voting irregularities. The returns from more than a hundred counties, mostly in Ferguson's strongest area — East Texas, recorded 37,719 votes in excess of poll tax receipts. Sterling's efforts to get a recount failed and the next two crucial years would see the Fergusons in the State House.

The other campaign that created considerable public interest was the race for the attorney general position. James Allred had been prominently in the newspapers since the filing of his anti-trust suits against the major oil companies in November, 1931. This controversial action made the election particularly dramatic. Throughout 1932 Allred continued his investigations and trial of this case, as well as, his normal duties, involving a tremendous number of suits in the East Texas Field at the request of the Railroad Commission. Allred made many friends by attacking the major oil companies and received hundreds of letters of encouragement from people in all walks of life, not just in the oil business. At the same time Allred developed some very powerful enemies among the major oil companies and associated concerns. The campaign
centered on the oil suits and was very bitter. Allred's chief opponent was Clem Calhoun, who was branded as the stooge of the Fergusons and the oil interests. Political oratory was fairly unsophisticated in the 1930's in Texas, but in the emotion laden style of the day, Allred could compete with the best of them. Allred's rhetoric flowed powerfully before an audience in Longview, deep in East Texas:

The Humble-Standard Oil company came down to Austin several months ago, boasting openly that they would destroy our anti-trust laws. They had the nerve to declare in open court that we had no such laws. They boldly asserted that the people of this state were at the mercy of any monopolistic scheme they might conceive to carry out.

In addition to their usual array of legal talent they brought in fifty new lawyers including former judges of the Supreme Court of Texas. But they failed and the court declared Texas' anti-trust laws valid. Now, Allred asserted, they are attempting to gain at the polls what they could not achieve at the bench.

"If they can elect their mouthpiece on July 23 to the office of attorney general don't you know they feel their troubles are over?"113

The major companies for their part actively entered the fray, flexing their muscles before the public, their employees, and the press. Such companies as the
Hughes Tool Company and Humble sent notices directly to their workers using the scare tactic that Allred's re-election might mean the success of his suite, the ouster of their company, and thus the loss of jobs and wages in the oil industry. Attached to the pay checks of employees at Hughes Tool Company was an editorial comment by Walter C. Teagle, president of Standard (New Jersey) to that effect and a comment by their Company's president, R. C. Kuldell, urging the men to vote for Mr. Calhoun "who is not in favor of removing any of our Companies and their payrolls from this State."\(^{114}\)

In his campaign for re-election the Independent Petroleum Association of Texas actively supported Allred. Claude Wild made several speeches in Allred's behalf. As Wild said, "I will, of course, appear as an individual citizen and not as a representative of the Association. Of course, the public cannot distinguish."\(^{115}\) Parten also had a letter sent to the directors urging their active support and made useful information for Allred campaigners available.\(^{116}\)

The heat of the campaign caused considerable polarization in the public and among political circles. There seems to be considerable truth to Wild's statement.
... I do not think that they (the big oil companies) ever had a chance, but they had no chance at all after it became evident that it was a contest between the oil companies and the people.\textsuperscript{117}

One well known political figure, Thomas B. Love, felt compelled by Calhoun's campaign tactics to make a public statement, despite the fact that he did not generally agree with the anti-trust suits, nor had he been a supporter of Allred before. But he apparently spoke for many in the voting public.

I cannot but feel but that some of our oil companies are making a serious mistake in the fight they are making to prevent Mr. Allred's re-election; and I am sure the people of Texas would make a serious mistake if they should permit the forces that are massed against Allred, in this campaign to defeat any Attorney General for re-election to his second term.\textsuperscript{118}

Allred won in the first Democratic Primary by better than 300,000 votes over Clem Calhoun.\textsuperscript{119} One enthusiastic West Texas supporter wrote,

We your friends in this part of the state are rejoicing over your landslide against that Wall Street Cur, namely Clem Calhoun. With all their yellow sheets put out in this country and all the influence of the Major oil companies we carried this county for you 2,453 to 738 for Calhoun.\textsuperscript{120}

The other race of interest to the oil industry was that of Railroad Commissioners. C. V. Terrel was running for a new six year term and Ernest Thompson was running for the unexpired term of Pat Neff (four years).
These races received very little public interest. In the Democratic primaries almost 100,000 fewer votes were cast their ballots in these races than did in the governor's and attorney general's race. Both the incumbents were re-elected leaving the existing commission in tact.

The significance of the election for oil politics was clear to any interested industry observer. Thompson, Allred, and Parten held similar views on the foremost issues before the industry: they opposed price fixing, compulsory unitization and federal controls for the industry. Parten had known Ernest Thompson in law school at the University of Texas and had renewed that acquaintanceship when Thompson was appointed to the Railroad Commission by Sterling. Although Thompson and Parten did not agree on every point, they could exchange ideas and their basic political attitudes were sympathetic. Parten wrote to Thompson in November of 1932 after the passage of the Market Demand Bill to say that he had always opposed market demand proration because he believed it to be the forerunner of federal controls, but

I will admit that though I have not been converted otherwise, I have been impressed with the arguments of late made by some very fine minds in the oil business, including your own, to the effect that we might have permissive market demand legislation and at the same time, with extreme diligence, we might avoid federal control.
This is an extremely important statement as this was ultimately the position taken by Allred, Parten, and Thompson. They supported state controls including market demand legislation but vigorously opposed any infringement of state's rights by the federal government, including the 1932 proposed interstate compact. In opposition to this triumvirate, the Ferguson administration threw its support behind the major oil companies.
FOOTNOTES


5. Ibid., p. 450.

6. Ibid., p. 452.

7. Ibid., p. 453.

8. Ibid., p. 456.

9. Ibid.


11. Letter, Unsigned sent to "T" with note to Allred from his aid, "This is interesting - personal," University of Houston, Allred Papers, Acc. No. 1, Cont. No. 233. It is also noted in this letter that the Dallas Herald-Tribune had printed an article trying to build up Sterling and asserting that he had the full confidence of all elements of the industry. The writer pointed out the absurdity of such a claim. In his condemnation of the major companies the writer stated, "I expect the Magnolia because it played a lone hand and refused to join the Farish-Teagle-Holmes plot to force a special session of the Texas Legislature by cutting the prices of crude oil to 10-22c - the biggest fool thing that was ever done in the industry's history." The writer was referring to the special session of the legislature in 1931.

13. Letter, Ben C. Belt, Gulf Oil Co., to James V. Allred, April 6, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 234. (This data was gathered by the Gulf's scouting department for the week ending 7 A.M., April 3, 1933. According to their estimates, Humble Oil held 13,508 acres in the East Texas Field.); Houston Post-Dispatch, July 25, 1931, p. 1, col. 5; p. 6, col. 1. (As reported in the paper, Farish testified that Humble held 20,000 acres at that time.); National Petroleum News, fall issue 1931, p. 24, J. R. Parten Papers. (This article recorded Humble's holdings as 16,763 acres or 14.7 percent of the total field. The Texas Co. was shown as holding 2,942 acres or 2.59 percent of the total field).


15. Ibid., pp. 30-37, 38.


18. Ben C. Belt, Gulf Oil Co. to James V. Allred, op. cit.


20. Ibid., see for purpose as stated in by-laws.


22. Ibid.

The independents had an impressive array of allies during the oil investigation by the House and Senate in the special session of 1931. See Houston Post-Dispatch, July 24, 1931, p. 1, col. 1; p. 4, col. 1; July 15, 1931, p. 1, col. 8, p. 2; p. 2, col. 9; July 18, 1931, p. 1, col. 2.

The Texas Independent, Bulletin #8, op. cit.; News release, no date but approximately, September 22, 1931, by Claude C. Wild, Executive Vice-President and Tom E. Cranfill, President, Independent Petroleum Association of Texas; Bulletin to Directors from Claude C. Wild, August 14, 1931; Letter to Legislature of Texas from Claude C. Wild, July 20, 1936, J. R. Parten Papers.

Letter, Claude C. Wild to Tom E. Cranfill, December 5, 1931, J. R. Parten Papers.


Letter, Wild to Cranfill, December 5, 1931, op. cit.; Claude C. Wild to Tom E. Cranfill, August 2, 1932, Parten Papers.

Letter, Claude C. Wild to J. R. Parten, August 2, 1932; January 12, 1932; March 31, 1932; May 7, 1932; July 18, 1932; December 13, 1932. The December letter contained a list of the 1932 subscriptions actually received. One hundred and seventy-five people contributed. Thirty-seven gave $100 or more, six gave $1000 or more, J. R. Parten gave $2,850. The total accounts received were $15,120.99. See also Claude C. Wild to George McCanev, January 23, 1932, Parten Papers.


33 Letter, Claude C. Wild to W. E. McKinney, Irish Oil Company, January 1, 1932, Parten Papers; Larson and Porter, op. cit., pp. 464, 457. The Texas Oil Emergency Committee was also prominent in organizing the Texas Oil and Gas Conservation Association and supported the market demand principle during the 1931 special session.


36 Memorandum, James V. Allred to John B. Elliott, not exact date but during 1931, Parten Papers; Houston Post-Dispatch, July 29, 1931, p. 3, col. 3; July 22, 1931, p. 1, col. 2; Larson and Porter, op. cit., p. 464. Underwood Nazro of Gulf Oil testified before the House investigation that Rowser had asked Gulf to contribute $12,000 to the Texas Oil and Gas Conservation Association which they had refused to do. R. R. Penn also testified that Humble was the largest contributor to the Association because the oil companies were assessed by size and Humble was the largest producer in Texas.

37 Confidential Director's Weekly Bulletin #2, Independent Petroleum Association of Texas, January 12, 1932, Parten Papers.

38 Larson and Porter, op. cit., p. 465. The Texas Oil and Gas Conservation Association broke up in 1933 apparently because of difference within the membership as to whether authority to regulate the industry should rest with the federal or state government.


40 Ibid.; See also API Quarterly, Vol. 2, No. 3 (July, 1932), p. 4.


API Quarterly, Vol. 1, No. 2 (April, 1931), pp. 5-6.

Nash, op. cit., p. 108.

"Receipts Classified by States," Independent Petroleum Association of America, 1932, Parten Papers. Also attached "Proposed Budget 1932-33" and "List of Officers".

Newspaper reprints, The Tulsa Tribune, June 16, 1932; Oklahoma City Times, June 18, 1932, Parten Papers.


Nash, op. cit., p. 110.


Hardwicke, op. cit., p. 235.

C. A. Warner, Texas Oil and Gas Since 1543 (Houston, Texas, 1939), p. 174. The hearings before the Railroad Commission were often colorful, and East Texans followed the results with interest. One suspects the pen of Carl Estes in an editorial that appeared in the Tyler Courier-Time-Telegraph, February 14, 1932, Parten Papers.

At Verdun the French said 'On ne passe pas.' and the Hun didn't pass.

At the Austin hearing the independents said, 'They shall not pass,' and the Standard's scheme for unitization of the East Texas field met a stone wall of opposition.

When they saw the solid front of the once leaderless and divided independents, the Standard's cohorts, including some so-called independents who have done nothing but trail after John D. like a hound dog.
following a covered wagon, tucked their tails between their legs and lit a shuck for the cane brakes. And you can bet your last two-bits they'll howl the next time anyone mentions 'compulsory unitization.' And, brethren, that's not all.

The woods of East Texas are as full of Robin Hood's Merry Men and when they spring up at the sound of the whistle, the High Sheriff will have to go back to the squires and nobles of Standardham and admit he has caught a wildcat.


56 Hardwicke, op. cit., p. 237.

57 People's Petroleum Producers, Inc. vs. Sterling, 60 F. (2d) 1041 (E. D. Texas, July 19, 1932).


59 Ibid., p. 238.

60 Houston Post-Dispatch, November 3, 1932, p. 3, col. 1.

61 Houston Post-Dispatch, November 1, 1932, p. 1, col. 1; November 3, 1932, p. 1, col. 8.


63 Joseph E. Pogue, "Influence of Proration on Recent Course of Industry," The Oil and Gas Journal, February 25, 1932, Parten Papers; Letter, C. F. Burton to J. R. Parten, October 18, 1932, Parten Papers.

Houston Post-Dispatch, November 3, 1932, p. 1, col. 8. The Railroad Commission estimated that by November 15 there would be over 8700 producing wells in the field.

Larson and Porter, op. cit., p. 463.

Ibid., pp. 466-68; Letter, Rex Baker to J. R. Parten, January 18, 1932, Parten Papers. There were several arguments on the other side. Some "experts" still maintained that the rapid withdrawal of oil actually allowed greater recovery. See Ray Richmond, "Low Allowable Hurts Etex Field Richmond Says in Special Story," Tyler Courier-Times-Telegraph, February 21, 1932, Parten Papers.

Houston Post-Dispatch, November 5, 1932, p. 2, col. 1; November 1, 1932, p. 1, col. 1.

Houston Post-Dispatch, November 4, 1932, p. 5, col. 1. Among others who testified were Tom Pollard and Hardy Breckenridge, former opponents now staunch advocates of market demand.

Ibid.

Ibid., see also November 6, 1932, p. 1, col. 1.


"Ratable Taking of Oil or Gas from Fields," a paper by J. R. Parten, 1932, Parten Papers.

Nazro Testimony, op. cit.

The vote in the House was 105 to 22, in the Senate 23 to 15. See also Houston Post-Dispatch, November 13, 1932, p. 1, col. 8.

Hardwicke, op. cit., p. 239; Texas General and Special Laws of the State of Texas (Forty-Second Legis., 4th called session.), p. 3.


Ibid.
79 _Tyler Daily-Courier-Times_, November 30, 1932, Parten Papers.


81 _Houston Post-Dispatch_, November 13, 1932, p. 1, col. 8.

82 Hardwicke, _op. cit._, pp. 240-41. Hardwicke served as attorney for major oil companies and believed in their basic goals.

83 Earl Oliver, "Oil Industry's Problems and Remedies," _The Oil and Gas Journal_, April 21, 1932, pp. 14-16, Parten Papers.

84 Ibid.

85 Ibid.

86 Letter, J. R. Parten to Ernest O. Thompson, December 2, 1932, Parten Papers.


88 _Ibid._, pp. 81, 92-93. In 1933 Governor Ferguson assigned a Texas Ranger to be Thompson's body guard because of reports that Thompson's life was in danger.


91 Interstate Oil Compact, _op. cit._, pp. 18-19.

92 As quoted in letter from J. R. Parten to Myron Blalock, April 5, 1932, Parten Papers.

93 Interstate Oil Compact, _op. cit._, p. 20.

94 _Ibid._, p. 21.

95 Letter, J. R. Parten to Myron G. Blalock, April 5, 1932, pp. 3-4, Parten Papers.
Letter, Claude C. Wild to J. R. Parten, March 31, 1932; Resolution by the Independent Petroleum Association of Texas at Annual Convention, December 9, 1932, Parten Papers.

Letter, Wirt Franklin to J. R. Parten, June 25, 1932, Parten Papers. At these talks Franklin was participating as an individual, not as a representative of his organization.

Letter, J. R. Parten to Wirt Franklin, June 27, 1932, Parten Papers.

Interstate Oil Compact, op. cit., p. 23.

Ibid.

Ibid., p. 27.

Ibid., pp. 27-30.


J. R. Parten, personal interview, op. cit.


Sterling did not receive more votes partly because of a split in the "oil vote" between himself and Tom Hunter who received 220,391 votes. See The Texas Almanac and State Industrial Guide (Dallas, 1933), p. 271; McKay, op. cit., p. 225.


Texas Almanac, op. cit., p. 272. The vote was 477,644 to 473,846.
McKay, op. cit., pp. 239-40, 237; Texas Almanac, op. cit., p. 273. In the August primary there were recorded 397,386 votes in 132 counties. The poll tax receipts in those same counties totaled 359,667 or 37,719 fewer than number of voters. Also, the unusually high Republican vote in the election was seen as an anti-Ferguson vote.

Commissioners C. V. Terrell and Esmewt O. Thompson to James V. Allred, 1932; "Rabbit" (H. S. Gordon) to James V. Allred, March 11, 1932, April 9, 1932, June 1, 1932; Trial Record, Standard Oil Case, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 202@203; Fort Worth Star Telegram, October 14, 1932, Parten Papers.

There were too many of these letters to cite each one but a few examples are typical. J. Emmor Harston to James V. Allred, September 12, 1932; Will L. Barbee to James V. Allred, early 1932. Barbee expresses admiration of Allred for "Bringing to bay... the Oil Monopoly", University of Houston, Allred Papers, Acc. No. 1, Cont. No. 233-37.

Houston Post-Dispatch, July 7, 1934, p. 7, col. 5.

Letter, T. S. Taliaferro to James V. Allred, July 18, 1932; See also Charles W. Tune to James V. Allred, August 12, 1932 concerning similar propaganda to the cotton ginners; T. W. Lane to Allred, July 19, 1932, concerning letter to Humble employees urging them to vote from Clem Calhoun and personal solicitations made to employees; B. F. Robbins to Allred, July 25, 1932, University of Houston, Allred Papers, Acc. No. 1., Cont. 69.

Letter, Claude C. Wild to J. R. Parten, July 18, 1932; See also Wild to Myron Blalock, July 25, 1932; Wild to All Directors, July 18, 1932, Parten Papers.

Letter, C. S. Thomas, to J. R. Parten, June 16, 1932; Parten to Thomas, June 18, 1932, Parten Papers.


Press release, Thomas B. Love, July 17, 1932, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 68.
119 Texas Almanac, op. cit., p. 271.

120 Letter, B. F. Robbins to James V. Allred, July 25, 1932, University of Houston, Allred Papers, Acc. No. 1, Cont., No. 69.

121 Texas Almanac, op. cit., pp. 271-72; See Clark, Three Stars for the Colonel, pp. 74-80, for a brief account of Thompson's race. Thompson received the support of the Independent Petroleum Association of Texas also. See Wild to Parten, October 1, 1932, Parten Papers.

122 J. R. Parten, personal interview, op. cit.

123 Letter, J. R. Parten to Ernest O. Thompson, October 5, 1932; December 2, 1932; "Federal Control of Oil Production," an address by Thompson, op. cit.

124 Letter, J. R. Parten to Ernest O. Thompson, November 9, 1932; See also Parten to Claude C. Wild, January 7, 1933, Parten Papers.
CHAPTER V

THE NATIONAL INDUSTRIAL RECOVERY ACT AND OIL

The spring of 1933 saw the morale of the oil industry decline drastically in the state and nation. The price of crude oil began to drop in the later part of 1932 and continued the downward trend well into the spring as hot oil production reached new peaks in the East Texas field. Shortly after Roosevelt's election a number of the industry's leaders sought help from the federal government asking Secretary Ickes to institute a program of drastic regulation. The impulse toward regulation shifted from the state to the national level in 1933. For those in opposition this was a year of crisis.

It did not take long for the enthusiasm following the passage of the anti-market demand law to die down. The reality of the difficulties in writing a valid order still facing the Railroad Commission soon became apparent. The first legal test of their new order under the Market Demand law came in March, 1933, as prices for oil sank lower. The People's Petroleum Company again filed as plaintiff against the Commission. This case was tried with the companion case of Rowan and Nichols. In the
three-man federal court decree handed down March 17, 1933, the Railroad Commission was constrained from enforcing its order and the complainant's argument upheld. The federal court pointed out that the allowable, approximately 325,000 barrels, was lower than previous orders that had been struck down. The crucial element in the order that the court found offensive, and on which it based its decision, was the method of distribution of the allowable, however. The Railroad Commission's attempt to compromise various methods, per well, acreage, and pressure factors, did not satisfy the court. This was a serious blow to the prestige of the Railroad Commission. The Fort Worth Star-Telegram denounced the Commission as a failure and a joke and accused it of deliberately writing an invalid order.

The Railroad Commission immediately wrote a new order which again attempted some form of compromise in its methods of allocating production. In this instance the factor of bottom hole or reservoir pressure was included. The court was not satisfied, however, and cited the Attorney General and the Commissioners for contempt of court. As James Allred reported,

Judge Randolph [Bryant] told us 'You tell the Railroad Commission and that red headed scoundrel, as Mr. Thompson has been referred to, you tell him if they don't materially change that order and write a valid order this time, I am going to send them to jail ...'
In the meantime the Railroad Commission was receiving pressure from other quarters as well. On March 5, 1933, Jacob F. Wolters, counsel for The Texas Company, sent Ernest Thompson a copy of a notice from the company's president, Mr. R. C. Holmes of New York. The notice stated that The Texas Company had been paying prices 7 cents - 12 cents per barrel above the prices posted by other large buyers which they could not continue to do. Mr. Holmes promised that

If on April 1, 1933, or any date prior to April 1, the authorities of the States of Texas and Oklahoma shall have fixed the allowable of crude production in line with reasonable market requirements, and shall have prevented entirely the production of oil in excess of such allowable, The Texas Company will post a price of 75¢ per barrel for 35.0 to 35.9 gravity ... crude oils.  

Holmes then recommended an average national daily crude production and felt that the states could work out equitable distribution of said allowable. Finally, Mr. Holmes expressed the opinion that

In the meantime, if the conservation authorities in Texas and Oklahoma, or elsewhere, will accept the cooperation of competent committees representing the oil industry in endeavoring to arrive at the most equitable basis for allowances; and of a committee of counsel from the industry to assist in drafting the necessary conservation laws and commission orders that may better stand the Courts' tests as to validity, I will immediately endeavor to get the industry to form such committees...
Ernest Thompson wrote a rather indignant reply to Mr. Wolters stating that as the Railroad Commission was not a price fixing body, they could not consider price in writing its orders,

Mr. Holmes further recommends that leaders of the industry or a committee from the industry should indicate to the Commission just how much oil should be allocated to the States and within the States. He further recommends that we let oil company lawyers write our laws and proration orders. This is a rather far reaching subject, and I believe the people of Texas would not concur in such a procedure.10

The gist of Mr. Holmes's offer also appeared in an editorial in the Dallas Morning News, March 10. The heading of the article was "Burden Is On State." Mr. Thompson wrote the editor a heated reply denouncing Holmes.

I cannot let this most flagrant attempt at monopolistic domination and dictation go by without raising my voice as a public official of the State of Texas against such effrontery. It is an example of the kind of control that big business is trying to exert over the people of this land. I refer most particularly to some large oil company activities in their efforts to dominate the conservation policies of Texas.11

Another source of pressure was the American Petroleum Institute. A special committee of the API and leaders of the industry visited Fort Worth and Austin in March and they ended their tour in Tulsa, Oklahoma. The purpose of the committee was to promote some action to alleviate
the industry's problems. The committee was chaired by J. Edgar Pew of Sun Oil and attending the Tulsa meeting were C. B. Ames, Vice President of The Texas Co. and President of API; R. C. Holmes, President of The Texas Corp.; Walter Teagle, President of Standard of New Jersey; E. G. Seubert, President of Standard of Indiana; F. G. A. Van Der Woude, President of Shell; A. J. Byles, President of Tidewater Associated Oil; Harry Sinclair, President of Consolidated Oil, and many large and small independent operators. These executives represented approximately 90 percent of the petroleum purchasing power east of California. At the time of their meeting important oil conservation legislation was pending in Oklahoma and the Texas Railroad Commission was under pressure to write a valid order. The committee vowed, rather hollowly, that "their meetings had no political significance." 12

The result of the investigative tour was a statement by the committee that oil proration must show its ability to control production or be abandoned. Although they did not say what the alternative would be, federal involvement of some variety was implied. Finally, the committee stated its willingness to give the proration approach one more chance.

In Texas the committee received the cooperation of several oil organizations including the Texas Oil and
Gas Conservation Assoc., the North Texas Oil and Gas Assoc., and others. These groups supported the API's recommendation to the Railroad Commission for an "industry program" to limit the state's output to 800,000 barrels of crude per day.¹³

Not all members of the industry caught the spirit of the committee's work, however. In describing the tour the National Petroleum News of March 22, 1933, chose a circus motif.

Preceded by a thunderous blast of publicity, ... the traveling circus of the American Petroleum Institute ... unloaded at the fair grounds.

Giant pachyderms from the Jungles of Wall Street, the blood-sweating behemoth of Holy Writ, roaring lions snared in the uplands of 42nd Street and from lower Broadway, and a host of other zoological specimens - including the chameleon - all were put on display in what was pronounced by the delighted audiences to be the most complete menagerie to play the oil industry in several years.

Several performers gave exhibitions of wire walking with positively no assistance, save a little water carried on each shoulder. Others, using the famous conservation umbrella, carried on sleight-of-hand tricks of such rapidity that no member of the audience, not even the state police, could fathom them.¹⁴

The paper added a special note on the Texas performance.

For the Texas appearance, the colossal circus merged with several local shows.... It had been announced that, by taking in the East Texas Producers & Royalty Owners Association, a dog and pony show in winter quarters in Tyler, the services of the famous wild man, Carl Estes, would be obtained.
The Estes teeth, however, have become worn from three years of constant gnashing and he refused to accompany the troupe to Fort Worth. He is reported to be recovering, although steadfastly refusing to go on a Standard diet or to eat Humble pie...

There was an attempt by the local "law" to prevent the circus from setting up.
Sheriff Ernest O. Thompson, a member of the Railroad Commission... demanded that the performances be now allowed to show on Texas soil.

No attention was paid to this, however, by the business men of Fort Worth.... This city was founded on the stockyards trade and no amount of bull disturbs its poise.15

Notwithstanding Thompson's independent stand, on March 21st a meeting was held in Austin of various oil groups, the Attorney General Allred, Assistant Attorney General Neal Powers, and representatives of the Railroad Commission. Included among those speaking for the oil industry were J. S. Bridwell, President of the North Texas Oil & Gas Assoc., a group located in Wichita Falls, Jimmie Allred's hometown; Judge Ben Powell, who generally represented Humble's interest in Austin; a Mr. Wheelock; and others. This group wanted the Railroad Commission to let the Attorney General's office write the next proration orders in order to assure its validity. Pouring on the charm Mr. Bridwell told the group (according to Allred),

... if you gentlemen would call on the Attorney General to write your proration orders we feel like you're going to have a valid order, ... You know this is a little personal matter, ... You know we people in Wichita Falls, we love Jimmie Allred,
we think the world and all of him, he's our Attorney General, we think, ...
I don't know whether you remember it, Jimmie, the first time you ever worked on the Grand Jury, I was on that Grand Jury; you remember how we fought the Klan together.16

Apparently the charm worked because it was agreed that the Attorney General's office would take the lead in writing the next order. From that time until a successful order was written at the end of April, Allred received much advice and offers of help from various quarters. The Texas Oil & Gas Assoc., Charles Roeser's organization, sent Allred a written request stating the kind of order they wanted.17 Mr. W. B. Hamilton also sent suggestions. Both of these gentlemen were independent oil men working with Humble Oil in its efforts toward conservation goals.18 Several lawyers also offered their assistance and talked with Allred about points of law pertaining to the order. Included in this group were Richard Hardwicke, an attorney for The Texas Oil & Gas Conservation Assoc., the Humble Co., and other majors; John Kilgore, of Wichita Falls; "and three other major company attorneys."19 Although it is doubtful that these major company influences were the only ones the Attorney General's office was subject to, it does indicate the degree of pressure applied by those seeking the goals of the majors.
The order promulgated on April 22, 1933, provided the material change Judge Bryant wanted. First, the production allowable for East Texas Field alone was raised to approximately 750,000 barrels a day; secondly, the allowable for each well (about 10,000 at this time) was based on the potential of each well as determined by potentials taken in several key wells. This order caused great consternation among the major oil companies who had indicated to Allred that they wanted an allowable of 342,000 barrels for East Texas in keeping with the market demand they calculated. Under the new order the total production for the whole state also greatly exceeded the 800,000 barrel limit recommended by the API Committee in March. Years later Hardwicke wrote that the primary concern of the large companies was to prevent the dissipation of reservoir energy.

They contended that the facts fully justified the restriction of production to approximately 400,000 barrels per day, regardless of any market demand for a higher amount, and it should be assumed that, upon another trial, the federal court could be convinced of such fact.

Also, according to Hardwicke, they contended that the method of distribution, being on a per-well-potential-basis, without regard to the size of the tract upon which the wells were drilled or the density of drilling, was almost as discriminatory as the orders which had theretofore been declared illegal, being on a flat per-well basis.
From the point-of-view of the Railroad Commission and the Attorney General, however, the courts had looked with disfavor on a 400,000 barrel limit in two previous cases (Constantin, Danciger Cases) and had threatened to throw them all in jail if they didn't change their order. In their opinion, prudence indicated a higher allowable. One of the other reasons given by Allred for the high allowable was the existing Marginal Well Law. Under this law marginal wells could produce a maximum of 40 barrels a day. Allred contended that the courts would not accept any order that put a limit of below 40 barrels on flush wells. Since there were by this time approximately 10,000 wells in the field, a minimum allowable would have been 400,000 barrels, an amount already criticized by the courts. Of course, Allred's opinion was challenged by other lawyers, including Richard Hardwicke, but Allred was the state's lawyer. A new Marginal Well Act was introduced in the legislature reducing the maximum production to as little as 20 barrels. But the bill was not passed and signed by the governor until after the Railroad Commission's order had been issued.

For the J. R. Parten faction, the order was victory indeed. It greatly increased the amount of oil that could be produced, and at the same time, continued to omit the objectionable acreage provision as it had in the previous two orders.
Other events were taking place concurrently in Austin before the Forty-third Legislature. Early in the year work began on a bill to transfer the control of the oil and gas industry from the Railroad Commission to a new appointive agency. This proposal was not a new one but took on new political connotations in 1933. A "pro-Ferguson member of the House of Representatives" reported to Claude Wild that Ferguson was anxious to obtain control of the administration of those [conservation] laws, and the most accessible manner is the creation of a separate oil and gas commission, the members of which would be appointed by the Governor. Transfer of control of oil and gas laws is in line with the principles advocated by the Fergusons during the campaign.28

Probably at that point Ferguson was primarily interested in personal power rather than simply doing the bidding of the oil industry. In any case, the idea gained added impetus when it became known that the probable content of the new proration order would fly in the face of the goals of the major oil companies.

Early in April W. S. Farish wrote to Walter Teagle expressing his depression over the East Texas situation and his support for the new Commission plan. He complained that the restraints Humble had practiced had only cost it millions of barrels of oil and thence forth he intended to protect his company's interests and develop Humble's properties at the same rate as competitors
were. Farish wrote that satisfactory control required

two indispensable and major accomplish-
ments: ... a new Commission ... beyond
political control, or the control of any
independent or major company,' which would
deal with proration orders on their merits
and 'a low price for crude over a
sufficient ... time thoroughly to discourage
uncontrolled development ... to make the
industry conscious ... that in order to
produce at a profit it must have the benefit
of the low-cost production that follows
control and unit operation.'

Other major oil companies also came to the support
of the Ferguson proposal for a new oil and gas commission.

On April 3, 1933, R. C. Holmes in a telegram to President
Roosevelt lashed out at the Texas Railroad Commission
and what he called the "oil vandals." He asked

Are we going to allow a part of the press,
with a misinformation or lack of full
information, and a few uninformed mis-
guided politicians to ruin the oil industry
and perpetuate a scandal that makes oil
scandals of the Harding administration look
like petty graft and larceny?
When we find enforcement officers co-
conspiring, aiding and abetting the crime,
it seems to me it is time that the legitimate
industry be listened to.
This lawless element, if allowed to operate
a little longer, will complete the destruction
of the industry here and abroad ...

On the same day the bill to create a new appointive oil
and gas commission stood first on the calendar in the
House of Representatives for consideration. The press
predicted accurately that a bitter fight would ensue.

Several tactics were used by the independent camp.
First, they were pressing for the passage of a bill that
would have divorced pipe lines from the refining companies. If a compromise was necessary at some point the divorcement bill would give the independents some leverage and hopefully make the major interests more cooperative. This was a ploy they had used before with some success. Of course, the independents sincerely wanted the passage of divorcement legislation, but were realistic about its chances of passage.

Secondly, they managed to bottle up the Commission bill in the House behind an administration bill providing for a graduated tax on oil - the greater the production, the higher the tax. It was generally agreed that if the bill could be passed in the House, it would pass quickly in the Senate. The major oil companies did not want the graduated tax bill to pass, however, and they did not have the votes to by-pass the tax bill. To counteract this tactic and gain votes, the sponsors of the commission bill added a tax provision to their proposal. By doing this they hoped to gain support from those who, although generally opposed to a new commission, wanted a tax bill. It was charged by the opponents of the bill that once the house bill reached the Senate the tax provision would be eliminated thus achieving the purpose of the major oil companies.

Matters remained stalemated at this point until late in April. J. R. Parten wrote a friend on April 22, 1933, saying
The facts are that we are having a death struggle before the Texas Legislature.... A few independents are fighting the big oil companies. The big oil companies desire a new Oil and Gas Commission because the administration of our present regulatory body, namely the Railroad Commission, is too much in sympathy with the people in the fair administration of the laws of the State. The big oil companies are striving to change this law by methods of indirect attack.35

In the meantime, the Railroad Commission was making front page news almost every day. It closed down the East Texas Field April 7 - 21 to test the potential production of key wells pursuant to issuing its new order. It put out periodic bulletins to keep the public informed of its progress.36

Monday, April 24th, matters came to a head. News of the Commission's first order under the new Market Demand Act appeared in the papers, The Texas Company announced a price cut of 10 cents on East Texas oil, and the big push to pass the Oil and Gas Commission Bill in the House took place.37 Each side accused the other of attempting to influence the legislature. As already described, the major companies were as outraged by the order as the independents were pleased. The action of the Texas Company in reducing their price was seen by the independents as an attempt to embarrass the Railroad Commission and to force the passage of the Commission Bill.38 Their suspicions were further aroused when Humble, Tide Water,
Shell, Stanolind, Sun, and Arkansas Fuel also cut their price. Gulf stopped posting a price for crude at all. Commissioner Thompson blasted The Texas Company saying

This is the boldest, most sinister, coercive and high-handed action the major oil companies have yet taken in their efforts to control Texas.

An editorial in the Austin Daily Dispatch of April 25th read in part:

It was just a little more than six weeks ago that the major tentacles of the oil octopus roosted on the speaker's platform in Texas House and tried to convince the lawmakers that it was just a big, jolly, harmless, overgrown sucker. On that occasion through its mouthpiece, the head of the American Petroleum Institute, had the unparalleled effrontery to attempt to bargain with the people's representatives with the greatest oil deposit in the world as the pawn. Cut production and we'll give you a dollar a barrel for your oil but if you dare increase production, then Heaven help you.... By increasing the output of the field the Texas Railroad Commission has brought the wrath of the major oil companies down upon its head. On the heels of the order, R. C. Holmes, president of the Texas Company, announced that his company would pay only 10 cents for oil - a cut of 40 cents.... It was the first tightening coil of the octopus.

To this element of the press the ultimate purpose was clear: to intimidate the legislators into passing the bill creating a new oil and gas commission "To oust the regulators who fail to do the major oil company's bidding and to put in others who will." Undoubtedly the cut in price was partially related to the increase in
production in the field under the new allowable.\textsuperscript{42} Nevertheless, it would be naive to credit the action of The Texas Co. and fellow majors in cutting price with no political motivation.

By whatever pressure or influence, late in the afternoon of April 24th, 1933, Jim Ferguson somehow managed "to blast" the Commission Bill out of the House by a six vote margin.\textsuperscript{43} This apparently spelled defeat for the independents. That night the opposing forces were celebrating their victory. Charles Roeser and some friends went up to see J. R. Parten and Claude Wild in their room in the Austin Hotel. They told Parten that he had lost and asked if he wouldn't give his support to the bill to help smooth the divisions in the industry. This Parten declined to do, but he was generous with his liquor and visited with Roeser's group until he had to leave for a dinner engagement. When Parten returned to the hotel after midnight the lobby was electric with tension. Parten asked the desk clerk what was up. The clerk replied that there had been a fight. Charles Roeser and his friends had encountered Representative Gordon Burns in the lobby. Burns was a staunch opponent of the Commission Bill and an ally of the independent group. Feeling little pain at that point, Roeser and his friends proceeded to knock Burns down and "stomp him." Burns was hurt seriously enough to be hospitalized for two days. The next morning
the Commission Bill was due to come up before the Senate. J. R. Parten went up to the Capitol in a pessimistic mood, but when he got there he found emotions running at a high pitch. He walked up to the third floor gallery to have a look. The legislators were orating in the House and in the Senate. A friend of Parten's who was lobbying in favor of the bill saw him and said he hoped there was an understanding that a vote on the bill would be deferred until things calmed down. Parten responded that if there was any way to get a vote on that bill before sundown he would push for it. The final vote didn't come quite that quickly but its opponents worked to keep emotions high.

On Thursday, April 27th, the Commission Bill was given a hearing before the State Affairs Committee, a key control committee in the Senate. Testimony on both sides was heated. Proponents of the bill charged that the violators were against the bill because they feared a commission that would enforce proration. The opponents of the bill charged that the commission was just a child of the API. On that same day a District Court denied an injunction against the new Railroad Commission order. This was an important ruling by the court at this politically sensitive moment. Nevertheless, on Friday the State Affairs Committee recommended that the bill do pass.44

In the meantime, in the House a special investigating
committee presented a report on the Roeser incident, stating

That on or about midnight of April 24, 1933, Charles F. Roeser, Bryan Payne and W. C. Stroube, acting together, did unlawfully and wilfully, in the lobby of the Stephen F. Austin Hotel ... make an assault upon the person of Hon. Gordon M. Burns ... by hitting, striking, kicking, and cursing him, because of words spoken by said Member in debate on the floor of the House.... That on the date above-mentioned the said Charles F. Roeser, Bryan Payne, and W. C. Stroube did curse and otherwise abuse the said Gordon M. Burns, and among other things, called him a "son of a bitch."45

Roeser and the other parties were called to appear before the House to tell why they should not be held in contempt.46 On Monday the defendants appeared and pleaded not guilty, claiming that the fight had nothing to do with Burns's statements in the legislature.47 The House also heard a message from the governor criticizing the Railroad Commission and urging passage of the Commission Bill. Then, to add to the mounting tension, Humble announced that it would no longer post prices for crude oil in East Texas.

The following day, May 2, 1933, the opponents of the bill in the Senate forced a reconsideration of the bill by the Senate sitting as a committee of the whole. There was additional testimony before the Senate including statements by Allred, J. R. Parten, and Commissioner Thompson.48 When a vote was finally taken the committee
of the whole cast 20 votes to 10 against recommending passage, thus killing the Commission Bill.\textsuperscript{49} Beginning Wednesday, May 3rd, Sinclair and Prairie, followed by Magnolia, Empire, Atlantic Refining, Tidewater, and Arkansas Fuel companies raised the price of crude in East Texas to 25 cents per barrel. The Texas Company followed their lead on May 10th and Humble on May 13th.\textsuperscript{50}

There seems to be no way to explain the peculiar pricing policy of the major companies during this short time except as an attempt at political blackmail. The independents for their part were handed an extraneous but emotionally potent issue in the Roeser-Burns incident which they used for their purpose without compunction. The human element in politics won out and the Railroad Commission retained its authority, however imperfect, over the oil and gas commission. This constituted an important victory for Thompson, Allred, and Parten and for the future of the oil industry.

Some of the disgruntled losers set out to exact revenge. J. S. Bridwell apparently believed Allred had betrayed a trust by his actions in writing the April 22 order and in helping to defeat the Commission Bill. Bridwell exerted some influence in Wichita Falls and Allred was particularly vulnerable to an attack from his home town. On May 4, 1933, Bridwell, with notable lack of charm, sent a notice to his employees announcing a
wage cut and stating that the cut was necessary because

... the Railroad Commission and Attorney
General have seen fit to grant Texas an
allowable of more than 1,300,000 barrels a
day, with no reason for doing so except a
desire (as I see it) on their part to
destroy the oil industry.51

Bridwell, acting in part through the North Texas Oil and
Gas Association, helped to circulate a petition of protest
from Wichita Falls citizens which was sent to the Rail-
road Commission May 10, 1933. A mass meeting was held
the evening of that same day to denounce Allred. Bridwell
personally condemned Jimmie and read telegrams criticizing
the Attorney General.52 All of these happenings were
duly reported in the press.

Allred chose to take the offensive against Bridwell.
With the help of friends he obtained a statewide radio
hook up May 17, 1933, to answer the charges against him.
The money for this broadcast, as Allred stated during
the program, came from his former law partner, Bernard
Martin, who contracted for the radio time for $100.00.
J. R. Parten separately provided funds for broadcasting
the program on a small station in Louisiana.53

More important than its immediate impact, this
broadcast gave Allred and his supporters an opportunity
to make political hay. Allred and his friends were
already looking toward the state house and the elections
of 1934. The broadcast was thoroughly political from
beginning to end. Allred began expressing his thanks
to those who had helped make the broadcast possible so that "my little wife and my little boy in Austin" could hear the speech. Allred could not afford the expense of bringing them with him. He then went down the issues point by point covering his role in the writing of the Railroad Commission order and opposing the Commission Bill. In so doing he made public the efforts of various oil groups to influence the Attorney General and the Railroad Commission during that spring. He also brought in the assault on Gordon Burns by Roeser.

On the night of the 24th day of April, after they got this bill through the House, on the night of the 24th, Mr. Bridwell, and Mr. Charles F. Roeser who were unquestionably celebrating the victory won, brutally assaulted a man who asked him to go about his business, assaulted a member of that Legislature who had dared to denounce the Humble Oil Company on the floor of the House, ... [they] run up and kicked him in the side while he was on the floor and shouted 'Kill the blankety-blank son of a gun,' and they put this boy in the hospital for two days. I resented that. 54

Thus flowed Allred's rhetoric. He also went to some length to discredit the Texas Oil and Gas Conservation Assoc. as a representative of the independents in Texas, repeating the figures concerning membership and financial aid from the major companies. In this confrontation Allred and the Railroad Commission seemed to come out ahead.

In the long run the most important result of the
failure of the Commission Bill was that it gave the Railroad Commission some badly needed time. If their newest order was upheld by the courts there was a good chance that they would be able to build a foundation for their authority. Indications in May were already favorable.55 Thompson told the press that, unlike 1932 when all nineteen of the Commission's orders were struck down by the courts,

This time I am happy to be able to tell you that the present order has been in effect now more than two full weeks, and five attempts have been made to obtain injunctions against the Railroad Commission from the carrying out of this order, and all have failed.... Three attempts were made in the Federal Court and two were made in the State District Court, and in each instance an injunction was refused.56

The real test of the order came at the end of May when a three-judge federal court ruled in the Hunt Case and companion cases, on an application for an interlocutory injunction to restrain the Railroad Commission from enforcing its orders. At the close of the hearing, May 26, 1933, the court declared that balancing conveniences, no interlocutory injunction would be issued. At last the court indicated its approval of the amount of the allowable and the method of distribution.57

In the following month another favorable decision was handed down by the federal court in the Second Danciger Case. Danciger Oil Company was seeking an
interlocutory injunction restraining the Railroad Commission from enforcing its new order in the Panhandle field. In its decision the court upheld both the Market Demand Law and the Commission's orders. Most importantly, it took the position that in light of the conflicting testimony as to physical conditions in the field the court should not properly substitute its judgment for that of the Railroad Commission. This holding constituted a major breakthrough in the development of the agency's power. Given conflicting testimony, the court would presume the decision of the Railroad Commission to be correct unless otherwise shown. The burden of proof would now rest with the complainant.

While these decisions bolstered the position of the Railroad Commission, the crisis was far from over. Even though the Commission could now write a valid order it had the problem of controlling hot oil which had reached new highs in 1933. Shortly after the defeat of the Commission Bill it set about "Cleaning house from attic to cellar," at the agreement of the commissioners. The widespread corruption in the Oil and Gas Division was common knowledge. It seemed a good time to reorganize and to replace anyone suspected of "disloyalty, inefficiency, and any sort of irregularity" in the performance of their duties in the East Texas
Field as part of building a better public image. 61

While this was beneficial, the problem was of such magnitude that the commissioners could not hope to enforce the allowable limits without even stronger sanctions. The desire to see the Railroad Commission's orders followed and hot oil eliminated became extremely important to Allred, Thompson, Parten, and others at this time because of the pressure at the federal level to intervene. As they saw the situation

Our market trouble comes as a result of the 'Hot oil.' The consumptive requirements of the Nation can absorb the present East Texas allowable. If we can eliminate the 'hot oil' then crude oil price betterment is inevitable.... Now the question arises as to whether, ... the enforcement bodies can effectively enforce this order. In this connection I want to say that the Railroad Commission and the Attorney General of Texas have openly committed themselves to leave no stone unturned in this direction. I take it that all operators with our view point should diligently apply themselves to the accomplishment of this end in the interest of avoiding (1) any further legislative trouble in Texas, and, (2) any possibility of Federal control. 62

In the desire to eliminate hot oil both the majors and a good portion of the independents could cooperate. In this spirit legislation was passed and became effective September 1st, making production of oil in excess of legal limits a felony. 63 The weapons in the
Commission's arsenal were becoming more deadly but still hot oil persisted. The final answer ultimately came through state-federal cooperation.

All the events taking place in Texas were but one part of the overall developments in the industry. For the nation as a whole, attention was focused on Washington, D. C.. The year 1933 saw the inauguration of Franklin Roosevelt and the passage of the National Industrial Recovery Act with its Petroleum Code.

Surveying conditions as the installation of the new Democratic administration approached many in the oil industry were unhappy. The high level of production in Texas and Oklahoma in late 1932 and early 1933 plus the apparent inability of state agencies to bring the gigantic potential of existing pools under control caused great concern in the industry. The East Texas Field, as a principal offender, continued to produce more oil than the industry's major purchasers desired or needed to buy, thus depressing crude prices. Hot oil regularly reached the market encouraging the proliferation of small independent refineries. By 1933 in East Texas there were close to fifty operating refineries. Of this number, twenty-seven were built in 1933 alone. Some of these refineries were legitimate operations but others used hot oil and most lacked true
cracking facilities. For the most part, the small refineries produced cheap third grade gasoline. In 1933 and 1934 third grade gasoline from East Texas, which sold for as low as 3 cents per gallon dominated the wholesale price market east of the Rockies, and made life especially difficult for oil companies extending northward into the Mid-West. The disruption of the market for higher grades of gasoline produced by the major companies caused considerable financial distress for them. For example, while Standard of New Jersey did not fail to record earnings in any year during the depression, their per share profits were only 1.34 cents in 1931 and dropped to 0.01 cent in 1932 as compared to 4.43 cents in 1928 and 4.75 cents in 1929. These pressures in early 1933 combined with the frustration of the depression to push many oil executives to support direct federal intervention.

Before entering the political labyrinths of the New Deal it is worthwhile to examine the shifts in position that had taken place within the oil community. The philosophy of the major companies did not change appreciably but more companies subscribed to it. The large integrated companies controlled most of the production, refining, and transportation in the industry and it was extremely exasperating to have a few relatively
small producers and refiners keep the industry in an uproar. They wanted sufficient regulation of the industry to permit them to buy oil where and when they needed it. Dislocations in marketing oil and products caused by flush fields kept competition unnecessarily intense. Finally, there was a growing body of technical data proving that the development of a field under rule of capture did lead to physical waste in the form of premature dissipation of reservoir energy and water encroachment as well as the obvious surface hazards. From their perspective, it was far better to leave the oil in the ground, divide the market, raise the price of oil, and keep competition on a fairly civilized plain. Their goal was not monopolistic control in its traditional sense, as the independents feared, but rationalization of the industry according to their rules. Although the major companies argued that their proposals were in the best interest of the consuming public, their primary motive was properly maximization of profits in an industry dominated by fully integrated units. The independent had a place in this system but on the major companies' terms. The only real change in the majors program was the means for achieving stabilization. The fact that the API withdrew its support from the OSAC compact plan indicates
the shift. In December, C. B. Ames, President of API, was urging strong federal controls to curb production and he and other oil leaders were considering the form federal involvement should take. The nation in general stood ready for emergency measures in many areas as Franklin D. Roosevelt took office. The petroleum industry was no exception.

The independents had actually changed their position more radically than the majors. Recognizing the inevitability of some form of regulation they chose the side of state regulation as the least of the two evils. To forestall federal intervention, they argued that state agencies were already adequate and gaining in effectiveness. Further, they maintained that no true overproduction existed. They pointed out that the total demand for crude and refined products had exceeded the supply every year from 1929 to the fall of 1932. In addition, in that time period total stocks or crude oil had also declined steadily, and domestic refinery runs had exceeded domestic crude oil production. They saw the so-called overproduction in 1932 as merely temporary and directly related to continued heavy imports of foreign oil and distorted figures for demand as put forth by the major purchasing companies. As far as they were concerned, while it was regrettable that the major oil companies were inconvenienced by the large
portion of the nation's production coming from Texas and Oklahoma, the law entitled the independent to produce from his leases and obtain as large a part of the market as possible. Claiming states' rights they denounced the idea of federal intervention as unnecessary and unconstitutional. Their basic philosophy remained rooted in a more primitive form of capitalism that had become unfashionable and was already doomed or non-existent in other areas of industry.

For both sides in the controversy the goals were basically economic but the means were decidedly political. On March 4, 1933, a group of industry leaders appealed to Secretary of the Interior, Harold Ickes, to take drastic action to handle the oil crisis. In response to this plea, and others, Secretary Ickes called upon the governors of oil producing states to send representatives to a Conference to be held in Washington, March 27, to consider the industry's problems and make recommendations to the new administration. Everyone in the industry recognized the importance the suggestions could have and began making preparations for the meeting.

In the two weeks or so between Ickes call on March 8th and the convening of the conference, several things happened that influenced the outcome. First,
an article by George Creel appeared in the popular
*Collier's Magazine*, March 11, that was widely read and
talked about in the industry. Creel's statements
concerning the course of government action caused most
comment. He maintained that it was

> Obvious that industry must be permitted
to constitute itself into self-controlling, self-governing organizations.... All
of which necessarily calls for drastic revisions of the present anti-trust laws.71

This article expressed views in keeping with those in
the industry seeking federal controls but considerably
alarmed the independents at the opposite end of the
spectrum.

A second event involved the judiciary and gave
apparent justification to those favoring federal in-
tervention. On March 17th in the People's Petroleum
Case the court struck down the Texas Railroad
Commission's order, generally demoralizing the
Commission and its friends. The following week the
special API Committee made its tour of Texas and
Oklahoma and Holmes of The Texas Co. made his plea
for industrial cooperation. Thus, when the oil con-
ference met on March 27 there was considerable agitation
on all sides.72

During the pre-conference meetings it became
evident that the API had prepared a plan for submission
to the group and that it had the support of the majority of the delegates representing independent and integrated companies. It also was apparent that the proceedings would not be without opposition to the API plan.

Wirt Franklin, president of the Independent Petroleum Association of America, called a meeting of all the independents for Sunday, March 26, in the Chinese Room of the Mayflower Hotel in Washington, to discuss plans for the convention. Representatives from the various state independent organizations were asked to attend. A plan was presented to the group by Mr. Boyd, a Vice President in the API, which was a prototype of the majority report eventually adopted by the meeting. The purpose was to gain the support of the independents in order to present a unified front to the President, for the independent oil men's point of view.

But to one group of independents, the whole proceeding smelled of 42 Broadway. Mr. John B. Elliott, President of the California Independent Petroleum Association and Franklin Roosevelt's campaign manager in California in the recent election, "stated upon the floor that inasmuch as this turned out to be a stacked meeting and one called by and dominated by the major interests" his organization would be forced to with-
Elliott had been working hand in hand with J. R. Parten and the Blalock brothers; representing Independent Petroleum Association of Texas. At this time only California walked out, but the fissure was clear.

The majority report that came out of this pre-convention meeting was actually quite mild. It neither recommended direct federal controls nor state-federal cooperation in any formal arrangement. It did state that "On account of the excessive producing capacity in three or four States, there has been great difficulty in enforcing the conservation laws" - not a very inflammatory statement on its face. Nevertheless, the Parten-Elliott group violently objected to the majority report and took issue over the old question of limitation of production to market demand and price fixing, goals generally agreed upon by the industry at that time. They also maintained that no true overproduction existed in the United States. When a vote was taken on the majority report of the independent's meeting all voted in favor of the document except the Independent Petroleum Association of Texas. The California organization was, of course absent. Other Texas organizations voting in favor of the report were the Mid-Continent Oil and Gas Assoc. of Texas, The North Texas Oil and Gas Assoc. and the Texas Oil and Gas Conservation Assoc.
The events prior to March 27th did not bode well for the Conference. When the meeting was officially convened, Alfred Landon, Governor of Kansas, was named chairman ostensibly because he was the only governor present at the meeting. He was known as a staunch advocate of federal controls, however, which did not start things off on a very positive note as far as the vocal minority group was concerned. A committee of fifteen was chosen to write a draft of a recommendation to the president. The result was a lengthy document containing many of the expected provisions. The president was asked to declare an emergency and close the flush oil fields until April 15th and to recommend that Congress give him the authority to appoint a special representative at the federal government to work with the state agencies. The states were urged to write adequate conservation laws, to limit production to market demand, and to allow voluntary unitization of oil fields. Also the report strongly sought federal legislation and supervision to stop the production of hot oil.75

Dissatisfied with the recommendations and the conduct of the proceedings, a group of independents presented their views to Ickes separately. They also set up a more permanent base of protest by organizing the
Independent Petroleum Association Opposed to Monopoly. Its membership included John B. Elliott of California, President; Jack B. Blalock of Texas, Secretary; Edward Jones of New York; E. B. Howard of Oklahoma; Myron G. Blalock of Texas; W. J. Reid, President of the Independent Petroleum Association of California; Joseph Danciger of Texas; F. F. Schoofield of Texas; H. C. Champlin of Oklahoma; J. R. Parten; E. H. Harris of California; and William N. Keck of California - the "free-thinking and uncontrolled independents." Monday, May 29th, following the Oil Conference, this group met with Roosevelt to present their views in person. They also carried support with them from the Texas Legislature in the form of a House Resolution condemning federal controls. Their plea included a recommendation for the divorcement of pipe lines from other outlets of the industry as well as the other usual arguments.

Their appearance before Roosevelt did not go unchallenged. In a telegram to the President, April 5, 1933, signed by W. B. Hamilton; J. R. Pearson, Vice President of the East Texas Producers and Royalty Owners Assoc.; Sam W. Ross, President of East Texas Land Owners Assoc.; J. D. Sandefur, Jr., President of the West Central Texas Oil & Gas Assoc.; J. S. Bridwell, President of the North
Texas Oil & Gas Conservation Assoc., challenged the right of Elliott, Champlin, Danciger, Parten, Blalock, Murchison and the others to speak for the independents. They condemned the practices of Clint W. Murchison and Danciger, and "other violators" of the Railroad Commission's proration orders. Finally, they stated their strong support of the report of the conference.

The end product of the conference was increased division within the industry. The Independent Petroleum Association Opposed to Monopoly constituted a strong, vocal minority opposition. Also because of Wirt Franklin's increased participation with the API, many in the Independent Petroleum Association of America withdrew their support. The independents had always been an unruly group but up to 1933 the Independent Petroleum Association of America had held them together by working for only one goal, the tariff. As conditions changed the independents began splitting off and going their separate ways.

On April 3rd President Roosevelt sent a telegram to the governors of the oil states stating that he did not wish to take over the oil industry. He recommended that legislation be passed to give him the authority to deal with oil produced in excess of state allowables and shipped in interstate commerce and to divorce pipe
lines from refining and producing segments of integrated companies. Beyond that, he left the solution to the industry's ills to the governors, urging them to take appropriate action.\(^80\) In this way, Franklin D. Roosevelt cleverly sidestepped the controversy and placed the burden for action on the Congress and the governors. He only took a definite stand on the question of hot oil, about which there was general agreement, and on the issue of pipe line divorcement, about which there was little chance for definite legislation. The possibility still existed that either side might achieve its goals through the Congress, but it was their battle. The *Houston Post-Dispatch*, editorialized on Roosevelt's telegram saying

> It will be highly displeasing, we fear, to the larger operators, especially as it concerns pipe lines, but the public, while withholding final judgment, will be disposed to feel that Mr. Roosevelt has spoken as usual, courageously and in thorough sincerity. He has brought the inevitable showdown a great deal closer.\(^81\)

As the summer approached, it became a foregone conclusion that there would be some form of federal involvement. Two possible Congressional solutions existed. One was the passage of separate special legislation for the oil industry, and the other was the inclusion of the oil industry in the general provisions of the *National Industrial Recovery Act (NIRA)*. Between the
end of the Washington Conference and the passage of NIRA in June both possibilities were thoroughly explored.

In keeping with the first idea, a number of bills were introduced embodying various remedies for the industry's ills: 1) more effective tariff legislation, 2) prevention of the shipment of hot oil, 3) encouragement of the passage of state conservation laws, 4) pipeline divorcement, and 5) other miscellaneous.

There was one general area of agreement within the industry in 1933. Almost all parties believed that federal aid was necessary to stop the shipment of illegal oil in interstate commerce. Commissioners Thompson and C. V. Terrell appeared before Secretary Ickes to urge the passage of legislation of this sort. The real controversy, as before, lay in how this was to be accomplished, and what else, if anything, should be included in legislation affecting the oil industry.

The most important legislation other than the General Industries Bill was the so-called Marland-Capper Bill sponsored by Representative Marland of Oklahoma and Senator Arthur Capper and written by Solicitor of Dept. of Interior, Nathan Margold. This measure had the support of Wirt Franklin and his followers. Their attitude was that passage of some form of federal control bill was inevitable and that the best course to be followed was to pass a measure written by them that would
minimize the disadvantages to the independents in the industry.

The American petroleum industry faces two alternatives. It might either have a form of control which specifically provides definite remedies for the existing demoralization of the industry, to be administered by a Cabinet officer in cooperation with state authorities; or it might simply come under the provisions of the General Industries Act, in common with all other industries, being subject to a code adopted by an association formed from the petroleum industry ...

The difficulties in the way of complete representation of the small independent producer in a national trade association, ... are self-evident. While large corporations might delegate their representation to one of their many officers, few, if any, small producers could give the frequent attention to such an association which would be vitally necessary for the conservation of their own best interest. 84

Franklin also maintained that failure to pass a measure like the Marland-Capper Bill was simply playing into the hands of the major companies who wanted controls through the general industries bill.

Nevertheless, the Independent Petroleum Association Opposed to Monopoly and its friend decided to fight both the Marland Bill and the general industry bill. 85 Many of the provisions of the Marland Bill were too repugnant to their philosophy for these men to ever come to its support. 86 They argued that no legislation giving the federal government supervision over the industry was necessary other than preventing interstate shipment of
of hot oil, providing a more effective tariff, and separating the pipe lines from the integrated companies. Feeling that the control bills were aimed primarily at East Texas they cited the validation of the Railroad Commission orders in the Hunt and Danciger cases as evidence that Texas could handle its own problems. An editorial in the Fort Worth Press, May 8, 1933, expressed their basic fear of federal control:

>We are against it because far from eliminating politics, it would simply remove oil in industry politics to Washington far from the people of the interests most concerned.\textsuperscript{87}

The major companies were also divided over the issue of federal control. At the May meeting of the API the convention failed to pass any resolution on this question, although some with considerable influence favored strong federal controls including C. B. Ames and R. C. Holmes, among others.\textsuperscript{88}

The governors of the oil states ignoring the president's admonition to take charge passed the buck back to Roosevelt and Congress. Governor Landon of Kansas and Murray of Oklahoma prepared a draft of a bill to give Ickes direct controls over the industry. By mid-May the Fergusons in Texas also called for federal support.\textsuperscript{89}

In light of these divisions and the increasingly slim chances for passage of the Marland-Capper Bill,
Roosevelt finally urged the Congress to abandon this separate legislation so as not jeopardize the passage of the general bill. On June 16, 1933, the NIRA became law and Sec. 3 of Title I authorized the oil industry to frame codes of fair competition which, with the President's approval, would govern the industry. Included as Section 9(c) of the NIRA was Senator Tom Connally's (Democrat, Texas) amendment to prohibit the shipment of illegally produced oil. The passage of the law did little to remedy the divisions in the industry. It simply removed the struggle from the halls of Congress and returned it to the industry itself, as it set about to write an oil code acceptable to the oil community. The issues and the players had not changed, and the controversy continued throughout the summer.

A Code Conference was called for June 14-17 in Chicago. The API took the lead in preparing a draft for presentation at the Convention. Included among the members of the committee were industry heavy weights J. Howard Pew, Harry Sinclair, C. B. Ames, A. L. Beaty, and W. R. Kingsbury of Standard of California. In a sense, this conference represented the most direct challenge the integrated units of the industry, meeting as a body, had had to face. Before differences had been suppressed in the general common goal of enforcing production and marketing controls on an unruly minority.
Now these differences were aired and compromise was difficult to achieve. The most serious debate arose over the provision in the API draft code that would have permitted the federal government to issue permits for drilling, to fix production quotas, and to set minimum prices. C. B. Ames of The Texas Co., J. Howard Pew of Sun Oil, and Van DerWoude of Shell Oil criticized the provision while Amos Beaty, L. P. St. Clair of Union Oil and Wirt Franklin favored it.  

Despite misgivings, the proposed code was adopted and submitted to Hugh Johnson, head of the National Recovery Administration (NRA). Hearings on the code were set for July 24 and lasted until August 3, 1933. The arguments continued among the major companies as well as between the majors and the independents and included the old issues of curtailment of oil imports, separation of pipe lines and refineries, adoption of unit operations, acceptance of exclusive lease and agency agreements for station owners, and administration of the code provisions. But the most violent debates centered around proposals for price control. Not only were there clashes between companies but also within companies. Most notable was the bitter fight within Standard Oil (N. J.) — the independents' monolith. J. A. Moffett, a Vice-President of Standard and close advisor of Roosevelt, strongly favored federal price regulation. He was
opposed by Walter Teagle and W. S. Farish. Teagle forced
the resignation of Moffett from Standard in July as a
result of this conflict. K. R. Kingsbury of Standard
Oil of California and Harry Sinclair of Consolidated
Oil sided with Moffett (an interesting turn about from
Sinclair's earlier pronouncements in opposition to mere
proration). Standard of Indiana, Dutch Shell, The Texas
Co., and Gulf joined Teagle and Farish in opposing price
controls. In these deliberations, if they can be so-
called, Johnson sided with the Teagle group and Ickes
with those favoring federal price controls. ⁹⁶

Through the summer hearing there were eight primary
groups participating and many individuals. ⁹⁷ The two
most important organizations were the API and the Inde-
pendent Petroleum Association of America. Included among
the lesser groups participating were the Independent
Petroleum Association Opposed to Monopoly or "Group of
22 Independent Producers' Associations" headed by Jack
Blalock. As before this group spoke primarily for the
small nonintegrated crude petroleum producers and refiners
operating in Texas, the Southwest, and California. (The
Independent Petroleum Association of Texas refused to
attend as a group.) ⁹⁸ Blalock's organization was the
only one to submit an alternative code to the President
and, although they did not gain their goals, they did
help to modify some of the provisions they found most
objectionable. The hearings failed to produce a consensus, however.

In the face of the apparent inability of the industry to come to terms with a code, Roosevelt finally left the drafting to Johnson and Ickes. The code as adopted August 19, 1933, was the result of their compromise, although it embodied the API recommendations for the most part. Many of the issues before the industry were left to the discretion of the future oil administrator. For example, one of the key questions was whether or not exclusive service station contracts would be allowed. This was neatly sidestepped pending a ruling by the Federal Trade Commission. If no such ruling was forthcoming in sixty days the President or his appointed agent could settle the issue as they saw fit.

Roosevelt's choice for the job of handling the oil code was Harold Ickes which meant an advocate of strong federal controls would be directing the implementation of the code. Ickes set up a separate organization, the Petroleum Administration, to implement the code. Under this central authority was the Petroleum Administration Board consisting of five members - three lawyers and two economists. There was also a very powerful advisory group from the oil industry, the Production and Coordination Committee. Its membership consisted of
fifteen individuals nominated by the API and independent and trade associations. The resulting committee was dominated by men favoring price-fixing, including James A. Moffett, Wirt Franklin, and Charles F. Roeser.\textsuperscript{105} No one who had been opposed to the API plan or who sought to prevent federal control was given representation on the committee.\textsuperscript{106}

The industry was also involved in the code's implementation by a series of regional committees. These groups were to be the liaison between the Production and Coordination Committee and the industry at large. The overall scheme closely resembled the voluntary plan envisioned by the API for a long time, with the significant addition of federal authority behind it.

Ickes's main problem in the fall of 1933 was to bring production under control and stabilize prices. There were two aspects to this task. First, to stabilize the price of crude oil, the flow of hot oil, chiefly from the East Texas field, had to be stopped. Secondly, to stabilize the price of gasoline, the stocks of distress gasoline already pressing on the market had to be eliminated or absorbed. In both instances Ickes was inclined toward federally established price controls. Under the code compromise price controls were left to the discretion of the president for ninety days. Roosevelt was not anxious to use this power and the opposition to
price controls was formidable. Ickes threatened their use, though, and actually prepared for implementation. Ultimately, however, Ickes used Roosevelt's tactics to handle the gasoline problem by ordering the industry to settle the problem themselves or accept price control. The Production and Coordination Committee subsequently recommended that the major companies agree to buy three percent of their gasoline sales requirement from independents with distress stocks. The major companies accepted the suggestion and created a money pool to buy up the excess gallonage, thus removing it from the immediate market. The actual buying program did not begin in the East Texas Field until November of 1934, however. 107

The hot oil question was more difficult to deal with successfully. Under Section 9(c) of NIRA, Roosevelt issued an executive order July 11, 1933, forbidding the offer or receipt of oil produced or withdrawn from storage in excess of the legal state allowable or contrary to state law or regulation. 108 Three days later the administration and enforcement of this order were delegated to Ickes and on July 15, 1933, rules governing this order were promulgated. 109

These regulations required monthly reports of petroleum production by every producer and of receipts thereof by carriers and refiners. Shippers were required to make positive affirmation
by affidavit that the oil tendered for shipment was produced lawfully.... No distinction was made or permitted between interstate and intrastate operations or transactions.110

In September Ickes sent federal investigators into East Texas. They aided the Railroad Commission through November and slowed the flow of hot oil. The basic weakness of the rules promulgated lay in the lack of distinction between intrastate and interstate oil production. By the end of 1933 the East Texas Federal District Court had issued several injunctions against the enforcement of the rules on the grounds that the federal government had no jurisdiction over intrastate activities. Judge Randolph Bryant's conservative attitude toward state and federal controls put the whole federal-state hot oil program on shaky ground.111

Despite political strife, 1933 ended on a more cheerful note for the oil industry from an economic point of view. Although hot oil was not stopped, it was slowed. Overall production for the nation declined as did stocks of crude and refined products and prices for crude rose and leveled off at $1.00 per barrel. Many in the industry expressed confidence in the code and looked to continued bettering of conditions.112

The discordant element in the industry was temporarily quiet but remained suspicious. They did not like the
power wielded by the Production and Coordination Committee and feared Ickes. They recognized that the code had accomplished the API goal by granting the industry

a legislative exemption from the anti-trust laws in behalf of business confederacies bent upon cooperative regulation of 'trade practices,' a euphemistic phrase for marketing practices.113

They tended to agree with Senator Borah that the result was unfair to consumers and independents alike.114
FOOTNOTES


4 In the People's Case heard in July and October, 1932, the court had indicated its belief that the limit of 400,000 barrels was arbitrary and too small for public necessity. Of course, these rulings had been under the 1931 Law, and were not the key points in the case. The low allowable under the new order was based on the Railroad Commission's consideration of market demand estimates.


6 Larson and Porter, op. cit., p. 475.

7 Letter, Harper to James V. Allred, April 6, 1934, with attached copy of Wichita Falls Radio Speech, May 17, 1933, University of Houston, James V. Allred Papers, Acc. No. 1, Cont. No. 234.

8 Leaflet, "High Pressure Methods of the Oil Monopoly," with attached letter from Jacob F. Wolters to Ernest O. Thompson, March 5, 1933, containing notice signed by R. C. Holmes, March 4, 1933, J. R. Parten Papers.

9 Ibid.

Letter, Ernest O. Thompson to Editor, March 10, 1933, Parten Papers.

Houston Post-Dispatch, March 20, 1933, p. 10, col. 5.

Ibid.

Ibid.

Ellick Botts, "Gala Opening of the Spring Circus Season," typed copy from the National Petroleum News, March 22, 1933, Parten Papers. Although more than one party would qualify as the "chameleon," Harry Sinclair seems a likely candidate.

Ibid.

Wichita Falls Radio Speech, op. cit.

Letter, Maurice Cheek to James V. Allred, December 8, 1933, with attached copy of plan approved by the Texas Oil and Gas Conservation Assoc. and others, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 65.


Hardwicke, op. cit., p. 243; Oil and Gas Docket 120, Order of April 22, 1933.

Wichita Falls Radio Speech, op. cit.

Hardwicke, op. cit., p. 242; See also "Extracts of Testimony Before the Railroad Commission of Texas, Oil and Gas Division at the Proration Hearing at Austin, Texas, April 3, 1933, Parten Papers. The Extract contains largely testimony of Hardwicke. Also the views of Allred, Thompson, Smith, and others such as Beaman Strong, Mr. Werby, Mr. Charles L. Black, Hines Baker (Humble Oil). Press release, Ernest Thompson, "The East Texas Oil Situation," May 9, 1933, Parten Papers.

Hardwicke, op. cit., p. 242.

"Extracts of Testimony Before the Railroad Commission of Texas," op. cit.

26 Houston Post-Dispatch, April 15, 1933, p. 1, col. 3; April 23, 1933, p. 1, col. 4; April 28, 1933, p. 1, col. 7. The bill was signed by the governor April 27. The Railroad Commission did subsequently use this law in lowering the allowable.


28 Letter, Claude C. Wild to J. R. Parten, January 16, 1932; January 18, 1933; See also Letter, Leon Harrison, Texas House of Representatives, to George S. Heyer, President of Cranfill-Reynolds Co., March 30, 1933, carbon copy to J. R. Parten, Parten Papers.


30 Telegram, H. R. Gallagher, Vice-Chairman, Sinclair Refining Co. to J. W. Reid, April 5, 1933, Parten Papers, File on Pipeline Divorcement, 1933.

31 Houston Post-Dispatch, April 3, 1933, p. 1, col. 5.

32 Houston Post-Dispatch, April 3, 1933, p. 1, col. 5; April 7, 1933, p. 1, col. 5.


34 Houston Post-Dispatch, April 7, 1933, p. 1, col. 5; p. 2, col. 2; April 8, 1933, p. 1, col. 5; April 10, 1933, p. 1, col. 2.

35 Letter, J. R. Parten to John B. Elliott, April 22, 1933, Parten Papers.

36 Houston Post-Dispatch, April 8, 1933, p. 1, col. 13; April 11, 1933, p. 1, col. 6; See also front page of papers almost any day during this period.

37 Houston Post-Dispatch, April 25, 1933, p. 1, col. 8; See especially the comments by Representative Gordon Burns before the House.
38 Larson and Porter, op. cit., p. 476; Houston Post-Dispatch, April 26, 1933, p. 1, col. 2.

39 Houston Post-Dispatch, April 25, 1933, p. 7, col. 1.

40 Editorial, Austin Daily Dispatch, April 25, 1933, Parten Papers.

41 Ibid.; See also Letter, J. R. Parten to Nathan Margold, April 30, 1933; Telegram, for release to press, by Independent Petroleum Association of Texas, copy to Parten, April 24, 1933; Telegram, Parten to John B. Elliott, April 30, 1933, Parten Papers.

42 Houston Post-Dispatch, April 27, 1933, p. 1. The operators in the field were desperate to keep production down to raise price. Talk was renewed of voluntary cut backs. Still, hot oil continued to be produced. Many probably felt secure in violating the order in light of the conviction on the part of the major companies that the order was invalid.


44 Houston Post-Dispatch, April 28, 1933, p. 1, col. 5; p. 2, col. 1.


46 Houston Post-Dispatch, April 29, 1933, p. 1, col. 3; p. 2, col. 2.

47 Houston Post-Dispatch, May 2, 1933, p. 1, col. 2.


49 Houston Post-Dispatch, May 3, 1933, p. 1, col. 1; May 4, 1933, p. 1, col. 7.

51 Letter, J. S. Bridwell to Employees, May 4, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 235, Memoranda File.

52 Petition to the Railroad Commission from the Citizens of Wichita Falls, May 10, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 235, Memoranda File.

53 Wichita Falls Speech, op. cit.

54 Ibid.

55 Letters, J. R. Parten to S. A. Guiberson, Jr., May 10, 1933; Parten to John B. Elliott, May 10, 1933, Parten Papers.

56 Ernest Thompson, "The East Texas Oil Situation," for release May 9, 1933, Parten Papers.

57 Hardwicke, op. cit., p. 243.

58 Ibid., p. 244.

59 Danciger Oil & Refining Co. v. Smith, et al., 4 F. Supp. 236 (N. D. Tex., June 25, 1933); appeal taken but by stipulation of the cause was declared to be moot, and case was dismissed. 290 U. S. 599, S. Ct. 209, 78 L. Ed. 526, December 4, 1933).

60 James Clark, op. cit., p. 98; C. A. Warner, Texas Oil and Gas Since 1543 (Houston, Texas 1939), p. 175. It should be noted that there was increasing evidence in the field of premature dissipation of pressure and encroachment of salt water. On the basis of this physical evidence the Railroad Commission gradually lowered the allowable with the approval of the courts. By November and December of 1933 the allowable had been cut to 450,000 barrels in East Texas.

61 Letters, Ernest Thompson to Lon A. Smith, May 19, 1933; Smith to C. V. Terrell and Thompson, May 10, 1933, Parten Papers.


64 Warner, op. cit., p. 175.
65 Ibid., p. 176.


69 The Oil and Gas Journal, March 30, 1933.

70 Nash, op. cit., p. 130. The call for the conference was made March 8, shortly after the inauguration.

71 Letters, R. B. Brown to Wirt Franklin, March 20, 1933; W. G. Williams to Jack Blalock and Joe Danciger, March 11, 1933, Parten Papers.

72 The choice of representatives to the convention was important. Ferguson chose Toddie Lee Winne of Athens, Attorney for Clint Murchison and Dan Harrison, independent oil operator and attorney from Houston - both sympathetic to the independent cause - and C. C. McDonald of Wichita Falls, a recent employee of the Humble Oil Co. See Letter, J. R. Parten to S. A. Guiberson, Jr., March 22, 1933, Parten Papers.

73 Houston Post-Dispatch, March 30, 1933, p. 1, col. 6.

74 "Brief History of the Washington Oil Conference," Parten Papers; "Suggestion for a House Speech on Pending Oil Legislation," a memorandum to Mr. Swanson, The Shreveport Times, April 1, 1933, Parten Papers.

75 Houston Post-Dispatch, April 2, 1933, p. 6, col. 1; p. 2, col. 2; Copy of recommendations, Don Harrison to James V. Allred, June 2, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 67.


78 Letter, John W. Olvey to Independent Petroleum Association Opposed to Monopoly, with enclosure, "Brief Filed by John W. Olvey Representing His Excellency, J. M. Futrell, Governor of Arkansas, At the Governors Conference," April 13, 1933, Parten Papers.

Houston Post-Dispatch, April 4, 1933, p. 1, col. 7.

Houston Post-Dispatch, April 6, 1933.

Dallas Morning News, March 31, 1933, Parten Papers.

Houston Post-Dispatch, April 15, 1933, p. 1, col. 3; p. 3, col. 1; Nash, op. cit., p. 132; Myron W. Watkins, Oil: Stabilization or Conservation? A Case Study in the Organization of Industrial Control (New York, 1937), pp. 53-54.


Telegram, Jack Blalock to George Heyer, June 3, 1933; Heyer to Blalock, June 5, 1933; Letter, H. H. Champlin to James V. Allred, May 20, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 67; Letters, Bailey W. Hardy to Jack Blalock, May 28, 1933; Joe Danciger to E. B. Howard, May 28, 1933; Telegram, W. G. Williams to Franklin Roosevelt and Harold Ickes, May 4, 1933; Group of telegrams and letters from a number of oil producers and royalty owners approximated to be representative of 250 operators; Telegram, Jack Blalock to J. R. Parten, June 3, 1933; Brice Clagett to J. R. Parten, May 19, 1933; Telegram, Bailey W. Hardy to Senators Sheppard and Connally, May 28, 1933; J. Edward Jones, "Federal Control of the Petroleum Industry," May 20, 1933 before the U. S. Senate Finance Committee, Parten Papers; Dallas Morning News, May 7, 1933; May 30, 1933, Parten Papers.

Support for the group came from Texas and elsewhere. See Letters, Byron A. Irwin to J. R. Parten, April 24, 1933; Joe Danciger to Parten, April 25, 1933; Danciger to Irwin, April 26, 1933; W. G. Williams, Oil Conservation Engineer in charge of the Mid-Continent Field, U. S. Fuel Admin. during World War, "Let There be Light on Monopoly's Oil Legislation: No 'New Deal!'" in Capper Bill, S. 1224 and Marland Bill H. B. 5044," sent to all senators, congressmen, cabinet members, and newspapers in Texas and U. S., one article in series by Williams, Parten Papers.
Nash, op. cit., p. 132.


Nash, op. cit., pp. 133-34.

73rd Cong., 1st sess., Public Act No. 67.

A separate convention of representatives of the refining, marketing, and natural gas associations met a week later and adopted a similar code. See Watkins, op. cit., p. 59; Nash, op. cit., p. 136.

Nash, op. cit., p. 135.

Ibid.

The American Petroleum Institute Quarterly, July, 1933, pp. 2-3; Tyler Courier Times, June 18, 1933, Parten Papers; Letter, E. H. Eddleman, Executive Vice-President of the Texas Oil and Gas Conservation Association to All Texas Producers, June 23, 1933; R. B. Brown to Wirt Franklin, June 20, 1933, Report #15; Wirt Franklin to J. R. Parten, June 22, 1933 and copy of questionnaire to ascertain what elements in the industry were being represented, Parten Papers.


Both Allred and Thompson attended; Letter, Harry Hines to James V. Allred, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 67; Letter, James V. Allred to Hugh Johnson, July 26, 1933, Allred Papers, Acc. No. 1, Cont. No. 235; Watkins, op. cit., pp. 60-61, 63, see for description of the eight groups and their representatives.

Telegram, J. R. Parten to Axtell Byles, June 12, 1933, Parten Papers.

Watkins, op. cit., p. 63.

Letter, R. B. Brown to Wirt Franklin, August 8, 1933, Report #19, Parten Papers.


Ibid., p. 68.
103 Ibid., p. 72. The oil industry was not put under NRA as other industries.

104 Ibid., p. 75.

105 Nash, op. cit., p. 140; Others favoring price controls were Ralph T. Zook, E. B. Reeser, Kenneth K. Kingsbury, Barney L. Majewski, Henry M. Dawes, Amos L. Beaty.

106 Letter, R. B. Brown to Franklin, September 1, 1933, Report #21, see for complete list, Parten Papers.

107 Nash, op. cit., p. 142; Watkins, op. cit., p. 68.

108 Executive Order #6199.

109 Copy of rules attached to letter, R. B. Brown to Wirt Franklin, July 17, 1933, Report #17.

110 Watkins, op. cit., p. 57.

111 The Panama Refining Co. v. Ryan, 5 Fed. supp. 639 (Feb. 12, 1934); injunction was granted in November, 1933, pending trial of the case.


113 Watkins, op. cit., p. 62.

114 Fort Worth Star Telegram, December 30, 1933, Parten Papers. Senator Borah assails oil and marketing pooling pacts and "termed unfair to consumers and independents" such practices.
CHAPTER VI
THE FINAL STRUGGLE FOR CONTROL

The year 1934 witnessed a crucial struggle between the advocates of federal and state control of the oil industry. The defeat of the Marland-Capper Bill in 1933 and the institution of the Petroleum Code under the NIRA provided an uneasy truce. The NIRA, however, was limited to a two year period ending June 15, 1935. Therefore, the stabilization of the petroleum industry remained moot. During 1934 the performance of the state authorities, particularly the Texas Railroad Commission, and the rulings of the courts were crucial to this contest. Above all else, the control of hot oil in the East Texas field constituted a paramount test of federal and state authority.

The help of federal investigators trying to curb hot oil was eagerly welcomed by the Texas Railroad Commission in the summer and fall of 1933.¹ There were difficulties in coordinating activities, however, and the authority of federal officers to interfere with intrastate oil production under Section 9(c) was challenged in the courts. Also, the Commission still suffered from lack
of legal authority in certain areas and from a chronically inadequate staff. The Attorney General's Office continued to prosecute violators vigorously. Between May 4, 1933, and April, 1934, the department filed 363 legal actions for alleged violations of the Railroad Commission in East Texas. The vast majority of these involved overproduction. Nevertheless, the hot oil continued to flow. It was estimated that in the fall of 1933 as much as 75,000 barrels per day were being produced in excess of the legal allowable. The majority of this oil was going to small refineries. In light of the continuing distress conditions, the Railroad Commission in cooperation with the industry began an all out effort to control hot oil beginning in the spring of 1934. Ernest Thompson was especially eager to prove the ability of the Commission because he staunchly opposed federal control which he feared would follow if the state failed in this task.

Assistance from the industry was channeled through the Texas Petroleum Council. This organization was initially set up in July of 1933 "to establish a close liaison with the enforcement authorities, both state and federal, and to aid in the coordination of their activities." Their primary aim was to eliminate hot oil and in 1933 they opened their offices at Longview in the heart of the East Texas Field. From this perspective they hoped to get a "true and factual picture of the hot
oil situation." The Council was a nonfactional group of majors and independents including leading members of Independent Petroleum Association of Texas. In the early spring of 1934 the Council secured the support of the influential East Texas Chamber of Commerce and Carl Estes. Other chambers of commerce followed with pledges of aid including the Dallas and West Texas chambers.  

In April the Council hired an attorney to represent them in the field, in addition to the Council's voluntary Vice-President and General Counsel, John E. Kilgore. This attorney, W. F. Weeks, of Tyler, worked with the Attorney General's Office whatever way possible. The most difficult task was securing criminal prosecutions against violators. The Attorney General brought civil and penalty suits against violators, but the local district and county attorneys were responsible for bringing criminal actions under the 1933 law making violations a felony. The fact that local officials were in charge made enforcement much more difficult and criminal prosecutions were necessary for the success of the joint Railroad Commission-Council efforts.  

The Council also sought to bring pressure on violators through other means. The Council and the East Texas Chamber of Commerce passed a resolution asking

That the Banks and Supply Houses, ... for the protection of the industry and themselves, refused to extend credit
to individuals, firms or corporations known to be violating the letter or spirit of proration laws and regulations. That, ... all distributing and marketing companies be and are hereby urged to refrain from purchasing any refined products from refineries known to be purchasing or running excess oil.\textsuperscript{8}

Pressure also came from individual companies. For example, The Texas Co. refused to handle oil in instances where the violator had paid a fine and then wished to ship the oil in commerce. General Jacob Wolters stated "We will not accept oil that has been 'annointed' or 'cooled' by payment of fines." Of course, such action left companies open to suits for refusal of shipment as common carriers and made such methods unpopular.\textsuperscript{9}

Two of the more tangible results of the Council's efforts involved the supplying of crude to the independents and drilling of new wells. In March, 1934, the Council and the East Texas Chamber of Commerce were jointly responsible for negotiations between the major companies and the independents concerning the supply of crude. The independent refiner generally had three ways to obtain crude. He could buy oil from a fellow independent producer, but with low allowances these operators could not always fulfill his needs. Secondly, he could buy from a major company, but usually at a premium above the posted price, putting him at a competitive disadvantage. Thirdly, he could buy hot oil. Under the
agreement negotiated by the Council the major oil companies operating in the East Texas field agreed to supply crude "to legitimate independent refiners" at the posted price. 10

The question of drilling wells was also controversial in the East Texas Field. In May, 1934, there were more than 13,000 wells in the field and it was estimated that there would be 7-10,000 more. 11 From the independents' point of view, drilling on old holdings or in developing new properties was essential to life. Although the potential production from a small piece of property might be great, the daily allowable per well kept the amount low. According to the independent this circumstance necessitated that we spend large sums of money for fully developing our East Texas properties in order to get small returns of thirty to forty barrels a day from the wells. It leaves the independent operator in the position of having to seek large profits only from new developments and large acreage holdings. 12

At the same time, the small independent producer was caught in a vicious cycle by constant drilling. With every well drilled, the potential production of the field increased. Allocation orders were based in part on field potential, the tendency was to decrease the per well allowable in inverse proportion to potential. This left the small producer where he began, unable to
produce enough oil to cover his high overhead. Under such pressure some turned to the illegal production of oil out of desperation.\textsuperscript{13}

The major companies argued that excess drilling greatly increased the cost of developing the field, ultimately raised the price of gasoline to the consumer, and dissipated the pressure of the oil pool unnecessarily.\textsuperscript{14} On this issue the Commissioners had to side with the majors. Somehow the cycle of drilling had to be broken. A first step was taken in May. With the help of the Council the Railroad Commission wrote a new order requiring that no permit to drill a well in Texas which calls for an exception to the spacing rule would be granted without public notice and a hearing on the same. While this did not eliminate the drilling of offset wells it did slow their progress.\textsuperscript{15}

The Railroad Commission also received help from the legislature in the special sessions of 1934. The most important bill passed gave the Commission new authority over the refineries in the East Texas Field. Under this law the Commissioners could require reports from the refineries as to the source of their crude. The refineries had to install meters on their pipe lines to measure the oil taken in, thus providing a new check on the flow of oil in the field.\textsuperscript{16} The small refiners were, of course, opposed to the refinery control bill. The forces
favoring its passage were too strong, however. Even those who had initially opposed increased control by the Commission, cooperated for fear of the alternative to effective state regulation. It is noteworthy, for example, that the Independent Petroleum Association of Texas did not take an active part in the proceedings of the special sessions.\textsuperscript{17}

A second bill also increased the Railroad Commission's powers. This act made the president, active members, and trustees of corporations criminally responsible for any violation of the law.\textsuperscript{18} In the fall of the year another special session passed a law extending the Commission's authority to cover not only the production, sale, and handling of crude oil but also of its refined products.\textsuperscript{19} These laws combined to give the Railroad Commission extensive supervisory powers by the end of 1934. To have the laws was one thing. To make them effective was another. Ernest Thompson expressed the situation simply in a speech at a meeting of oil men.\textsuperscript{20}

\begin{quote}
It seems that they [the members of the oil community] think they have to be saved from so called chaos about every sixty days ... They are too impatient. This oil law - this regulation of the almost immutable law of supply and demand by man made statutes is all so new that it takes a little time to perfect the laws and the administration of them ... We have had to progress by trial and error ... And now before the ink is dry on this last piece of legislation we see in the papers that we
\end{quote}
must at once have Federal control or another gross lot of chaos will be upon the industry. Honestly and seriously, gentlemen, you should be a little more patient. You should not be too anxious.

Seeking further help in curbing hot oil Thompson met with a group of bankers in Dallas in June, 1934. From this meeting came the creation of the State Tender Board, called variously "The Little Commission" and "The Three Wise Men." Its members were three prominent East Texas bankers; Tucker Royall of Palestine, Walter P. Moore of Overton, and R. W. Fair of Tyler. They were assigned the task of passing on all applications, or tenders, to ship oil.21 The Texas Petroleum Council was influential in convincing the Railroad Commission to make these hearings open to the public. The Council felt that making the hearings open would give added impetus to the proceedings.22

The Board inaugurated activities June 27, 1934, and experienced mixed success. Some flaunted its authority signing the tender forms with such names as Ed Wynn, Mr. Franklin D. Roosevelt, Will Rogers, Julius Caesar, etc. But the main difficulty was that its authority did not extend to oil in interstate shipments.23 Finally, on October 25, 1934, Secretary Ickes instituted a Federal Tender Board in Kilgore to supplement the state board. There were complaints about all the forms to be filled out from the oil operators.
To fill out all the forms required before oil could be moved would have taxed an experienced accountant; and yet the average independent producer knew little and cared less about office routine. He knew mainly how to produce and dispose of crude oil.24

The result was many errors and some violence.25 Nevertheless, the combined federal-state efforts to stop the running of hot oil had a definite impact. It was estimated that illegal production was reduced to 33,000 barrels by the end of the year.26 Even during the spring of 1934 oil men could point to the advances accomplished.

When we look back to December 20, [1933,] we can appreciate the progress that has been made. At that time the Federal men had been 'run off' the refineries, and the Attorney General! [sic] forces had been reduced to a skeleton.... The violators had learned they could bluff the Federal Authorities.27

The jurisdictional dispute between the state and federal agencies in the East Texas Field continued to rankle, however. Furthermore, some oil men still challenged the Railroad Commission's authority in the courts. The first important ruling concerned with these matters came down February 12, 1934, in the Amazon and Panama Cases. The court considered both the validity of the Railroad Commission's orders and the validity of Section 9(c) of the NIRA. A three judge court ruled in favor of the Railroad Commission saying in very strong language, "We find ourselves wholly unable to see that
the conclusion the Commission reached is not one which reasonable minds could entertain." As in the Hunt Case the court refused to substitute its judgment for that of the Railroad Commission's, thus further strengthening the position of the Commission in the state. As to the second question, the court ruled that oil refining companies which had not signed the Oil Code and which were engaged only in intrastate business were not subject to penalties under Section 9(c). This meant that the federal government's authority was limited to strictly interstate transactions. The court also stated that it had the "gravest misgivings, if not the absolute certainty of conviction" that the portion of the Code dealing with hot oil was invalid on grounds that "such an invasion of rights of the States is not permissible in our dual form of government." In a hand written note to Mr. Parten, Ernest Thompson expressed delight at this decision. "It is fine to know that the State of Texas can still run her own internal affairs." 

In May, on appeal before the Circuit Court of Appeals in New Orleans the Railroad Commission's orders were again upheld. However, the decision of the lower court concerning Section 9(c) was overturned. In a unanimous decision the court upheld the constitutionality of NIRA, the Petroleum Code, and all federal regulations under the Code. An appeal was taken to the Supreme
Court and as of the end of 1934 the issue of state or federal jurisdiction in the oil industry remained in doubt.

On the strength of the New Orleans decision Ickes dispatched a new chief of investigations to the East Texas Field, Louis R. Glavis. Glavis had a reputation as a tough administrator and his presence helped in the curtailment of the hot oil by the end of the year. Glavis stated, "It is my intention that these men [violators] shall feel the lash of the law which they have so long and brazenly flouted."\(^\text{32}\)

Despite the substantial progress in controlling production in 1934 not all elements of the industry were satisfied. Impatient with the "trial and error" method of the state agencies, some made plans in the spring to add permanency to the powers granted the Petroleum Administration under NIRA. They were concerned because of the continued flow of hot oil from East Texas and because of the ruling by the District Court in the Amazon and Panama Cases which questioned the authority of the Petroleum Code in February. Accordingly, on April 30, 1934, Senator Thomas of Oklahoma introduced a federal oil control bill which had been written largely by Ickes.\(^\text{33}\) To its opponents it became known as the Ickes Oil Dictatorship Bill or simply the Ickes Bill.\(^\text{34}\) Hostilities in the struggle for control of the oil industry which had temporarily lapsed with the passage of NIRA were immediately
renewed.

According to the provisions of the Thomas-Ickes bill full power to carry out the goal of federal regulation rested with the Secretary of the Interior. In carrying out his duties he would control imports, determine national and state demand, and set quotas for each state, down to the well, if necessary. Hearings on quotas were to be held and determinations of fact made at such hearings would be conclusive and not subject to review. The secretary would have the right to promulgate such rules as necessary to insure the enforcement of the law. Any person having exhausted administrative remedies and seeking relief from rulings would have the right of appeal to the Court of Appeals in Washington, D. C., or in special cases before district courts. Here was an exceedingly tough federal control bill. It was also well known to the industry that the Secretary of the Interior named in the bill would be Harold Ickes should the bill pass.35

The contest for controls cannot be totally separated from the personality of Harold Ickes at this point. From the first, Ickes had favored increased centralized control by the federal government. Unlike Roosevelt who was more willing to allow the industry to conduct its own war, Ickes was a determined partisan. With few exceptions those who joined Ickes did so more out of exasperation at the
Texas Railroad Commission than from commitment to permanent federal controls under Ickes leadership.\textsuperscript{36}

The most important support for the Thomas Bill came from several national leaders of the oil industry. Axtell J. Byles, President of API, endorsed the measure as did Amos L. Beaty, Chairman of the Planning and Coordination Committee.\textsuperscript{37} In statements to the press in May, Beaty announced:

Our Committee strongly favors the oil control bill as agreed upon with the Administrative Board and approved by the Secretary of the Interior.\textsuperscript{38}

Federal legislation of some kind is essential ... State control and enforcement have proven insufficient from a national standpoint and the industry must look to Congress for relief or else suffer until nature works a cure. In other words, it is a choice between central control and chaos.\textsuperscript{39}

In Texas the strongest support (and opposition) came from East Texas. Among those losing faith in the Railroad Commission was the East Texas Chamber of Commerce. It gave full approval to the principle of federal control of production and enforcement of the law against "the runners of hot oil."\textsuperscript{40} A committee in support of the bill was dispatched from East Texas including such notables as Carl Estes; Roy Kilgore, Vice-President and General Counsel for the Texas Petroleum Council; and Walter P. Moore, member of the "Little Commission." This group also called a state wide meeting to support the Thomas Bill
in Tyler. Although some of these men hedged their commitment by saying they were not for permanent controls, they voted strong agreement with the Ickes proposals which provided for extensive federal supervision of the industry. Speaking with his usual flare at the Tyler meeting, Carl Estes expressed profound disgust with the Railroad Commission and Ernest Thompson.

I want the strong, protecting arm of the federal government - not the dominating arm ... Oh, I hear some of you cry states rights. We did not yell state rights when the federal government drove the Comanche Indians back across the river. I say to you now that a scalp on the head is far better than a scalp in the states rights bucket.

These comments were followed by tremendous applause. Then W. F. Weeks, the Texas Petroleum Council's special attorney in the field, avowed that Franklin Roosevelt was "divinely inspired. If I cannot trust Franklin D. Roosevelt I cannot trust anyone in Texas."

Answer to those favoring the Thomas-Ickes Bill came from many quarters. The all pervading enthusiasm for federal programs during the crisis of 1933 had faded. For example, the consumer was somewhat concerned about the self-regulation of business under the NRA and the Petroleum Administration. In an article in the Saturday Evening Post, June 23, 1934, David Lawrence voiced such sentiments, when he said
any system which seeks, ... by adroitness to give to the Federal Government complete power over the behavior of individuals in business is doomed to collapse both from an economic as well as legal point of view.45

The opponents of the Ickes Bill certainly subscribed to Lawrence's point-of-view.

Within the oil industry itself there was a growing dislike of Ickes's paternalistic, hard-headed approach to problem solving. His difficulties in Texas, for example, stemmed in large part from a personality clash with Ernest Thompson. In one instance a well had gone wild in the Conroe field north of Houston, Texas. Aside from the financial loss caused by a well out of control, the possibility of fire threatened the whole field. Men were working twenty-four hours a day to bring the well under control. Colonel Thompson was on the scene when a telegram arrived from Harold Ickes ordering that this wild well be brought under control. Thompson reportedly left the field and phoned Ickes to say,

'Mr. Secretary I have read your telegram to the wild well in Conroe and it is still blowing. Do you have any further questions?' The Secretary hung up the phone.46

Ickes and Thompson had another run-in over the development of the Cayuga field in 1934. Ickes ordered that only seven wells be drilled in the field. At that time there were hundreds of leases already held around
the discovery well.

'Thompson merely asked the Secretary which seven wells he thought should be drilled and then reminded him that the Texas Railroad Commission would make that or any other decision on matters pertaining to the regulation of the oil-and-gas industry within the state of Texas.'

Such experiences helped to build antagonism and suspicion between Thompson and Ickes, the champion of states' rights versus the champion of federal control.

Nor was Ickes alone in receiving criticism. The industry arm of the Petroleum Administration; the Production and Coordination Committee also came in for its share of adverse publicity. The principle of industrial self-government and cooperation had been popular for a long time. The major companies in particular had urged this course through the modification of anti-trust laws, marketing codes, and unitization agreements. Under the Petroleum Code they were given the opportunity to put these ideas to the test. At the end of 1933 many in the industry expressed satisfaction, and others generally supported the Ickes Bill to make these arrangements more permanent. But, even among the majors, there was a growing uneasiness.

From the outset the Production and Coordination Committee was dominated by those favoring strong federal controls including Wirt Franklin, Axtell J. Byles,
Amos L. Beaty, Charles F. Roeser, and others.\textsuperscript{51} The power granted to this Committee was very great as they made appointments to regional and state subcommittees. They also chose the members of the Board of Review for controversies arising out of refinery operations under the refinery section of the Oil Code.\textsuperscript{52} In addition the industry was asked to contribute to the expenses of the Committee and all companies were assessed.\textsuperscript{53} The attempt to please all elements in the diverse oil community must have been a discouraging task, but there were apparently some legitimate complaints against the Committee. For example, in May of 1934 the Chairman of the Petroleum Administration Board wrote to Amos Beaty, then Chairman of the Committee to report that

\begin{quote}
We have received many critical letters from members of the petroleum industry concerning their want of proper representation on the regional and state committees under the jurisdiction of the Production and Coordination committees and the serious character of the charges made have prompted us to bring this matter to your attention. There seems to be a substantial basis for the complaint that an undue percentage of the members of these various committees are representatives of major oil companies or individuals handling major oil companies' products, and that a similar condition exists as to the key positions on many of these committees. The lack of proper representation of certain independent groups has caused them to feel that they have been either deliberately ignored or denied an opportunity to obtain proper recognition of their problems and has created in their minds a suspicion that these committees will not act impartially when complaints against these independent groups are brought before the committees.\textsuperscript{54}
\end{quote}
Those being discriminated against were the independent marketers and independent service station dealers and associations. These groups represented one of the chief unsettling elements in the industry from the point-of-view of the major companies. Given the power, it is not too surprising that they tried to squeeze them out.

A further criticism of the activities of the Committee expressed in the same letter was that

Officials of a company charged with the infraction of the Code are permitted to serve on the committees of which they are members during the progress of the investigation of their own company and even to participate in the rendition of the judgment and report made on the complaint. In some instances the Regional Chairman has been placed in the attitude of investigating his own company.55

But the most damning criticism of the various producing and marketing codes adopted under NRA came from the NRA Consumers Advisory Board which made its reports in the spring and summer of 1934. The Board was headed by Clarence Darrow, noted champion of the people. The consumers group denounced the codes of the industries that they studied and recommended that they be modified. As far as the oil code was concerned they specifically felt the codes to be injurious to the independent segment of the industry. They declared that "complete demoralization of the oil industry's retail price structure and the wiping out of the independent refiner" was impending. They
pointed to monopolistic tendencies in the code as injurious to the independent and the consumers of the nation. In their third and final report issued in July of 1934, they severely criticized the NRA codes for making no attempt to modify the monopolistic tendencies present.

'On the contrary,' the board said, 'there seems a sinister purpose to entrench them still more securely in the process of the act, to make still more unquestioned the monopolistic sway of the great interests.'

Opposition also began to develop from within Congress. The most outspoken critic was Senator Borah of Idaho. He began his attacks on the petroleum Code in the fall of 1933 and continued undiminished throughout 1934 in correspondence and in the press. He was joined by Senator Gerald P. Nye of North Dakota. But of the greatest influence in determining the outcome of events was the position of bitter opposition against the federal control bills taken by the Texas delegation to the Congress. Senator Tom Connally, Representative Rayburn, and Vice President Jack Garner were very influential, if not always openly so.

Even before the Thomas Bill had actually been introduced the forces opposing began organizing. Included among this group were many familiar faces from Texas, California and elsewhere: John B. Elliott of California, President of Independent Petroleum Association.
Monopoly; Jack and Myron Blalock from Texas; J. R. Parten, President, Independent Petroleum Association of Texas; Harry Pennington, of Texas; J. Edward Jones of New York, and others. Ernest Thompson visited Washington in late April - early May and viewed the situation with alarm. Jack Blalock reported these fears to J. R. Parten and stated:

To be frank with you, I think that we are up against the hardest fight of the past three years. The enemy is organized better than they have ever been and it appears to me that we are not so well organized as we have been in the past. They have succeeded in enlisting the support of the East Texas Chamber of Commerce and are using this organization for political purposes and the spearhead of their attack.... They are using the Texas Petroleum Council and every other organization except your own.62

If their forces were not well organized at this point they immediately set about to change this condition. The usual barrage of resolutions, letters, and telegrams began.63

There were few new arguments in the spring and summer offensive of the ongoing battle for supremacy over the oil industry. Those favoring the Ickes legislation tried to paint their opponents as self-seeking violators of law. Secretary Ickes himself released a statement to the press saying:

Only a small minority of oil operators in East Texas are responsible for the campaign of publicity designed to halt passage of the pending bill.
Evidently it has become necessary to point out that the publicity campaign against the oil bill is backed and financed by the 'hot oil' crowd of Texas. They are, regardless of the consequences to others and to the entire oil industry, fighting against legislation which would put an end to their theiving of their neighbors' oil from the common pool tapped by their wells.64

As proof they pointed to the continued production of hot oil in East Texas. In one press release Ickes told of portable refineries which could be "shuttled through the backwoods roads of Eastern Texas" and of trick valves which permitted "oil to flow out while apparently sealed and locked." He pointed out the wastefulness of such operations and said the kind of federal powers proposed in his bills were necessary to reach these unscrupulous operators.65

But even to some of Ickes supporters the Thomas Bill seemed to go too far.66 Therefore, the Thomas Bill was modified in Committee and when Representative Disney introduced his companion bill (H. R. 9676) in the House on May 17, 1934, it was a somewhat modified version of the Thomas Bill. It de-emphasized, while not eliminating, the necessity for federal intervention within the state; made appeals from federal rulings possible in district courts; re-established some of the authority of the state agencies; and set a two year time limit to the bill. Nevertheless, the principle of strong federal
controls under the direction of the Secretary of Interior remained. 67

The opponents of the Thomas-Disney-Ickes Bill took the basic position that these laws provided for unconstitutional infringement of states rights to regulate commerce within their borders, and that in any case, the laws were unneeded as the hot oil crisis had passed. 68 After the Court of Civil Appeals decision in New Orleans, in the Amazon Case, they added that NIRA stood and was certainly adequate for the industry's current needs, a position violently denounced by Amos Beaty. 69 Even with the time limit on the Disney Bill, the antagonists went along with Colonel Thompson when he made an analogy between Aesop's fable concerning the sick lion and the proposed legislation. All the beasts except the fox came to call on the ailing lion. The fox explained his failure to appear by saying that he had noticed the tracks of the animals leading to the lion's den, but, no tracks coming away. "That's federal control. All the tracks go in but none come out," Thompson stated.

There is no emergency great enough to justify the state turning over the birthright of the school children, the public oil lands, to the federal government. It would be bad enough under Democratic control; I hate to think what it would be like under Republican control. 70

The opponents also resented Ickes's blanket accusation that they were all violators of the law. 71 Congressman at
large, Joe W. Bailey, Jr. expressed his indignation to the press,

Surely the secretary does not accord to himself the only sincerity in his public duties. I, for one, am very strongly opposed to that bill, because, as a public official representing the state of Texas, I deem it hostile to the interests of my state.72

Ultimately, that was the position taken by the majority of the Texas delegation.

In Washington the battle began with parliamentary maneuvering. In the Senate the proponents of the Thomas Bill were able to switch the bill from the questionable Interstate Commerce Committee to the Committee on Mines and Mining chaired by Senator Logan of Kentucky, a state which produced no oil. This committee had no senators from Texas or California, either.73 In order to assure speedy passage Chairman Logan severely limited the hearings on the bill despite petitions to testify from many people.74

Ickes was among the few to appear before the Committee. He defended the bill as not opposed to states rights. He argued, as did Section 1 of his bill,

It is well established in law that the State's authority ceases at its boundaries and it is equally well established in economic fact that virtually all crude oil moves into interstate commerce either in the raw state or as refined products. The intrastate and interstate character of the oil industry is so inextricably interwoven that it cannot, as an economic reality be separated into corporate jurisdictions of
State and national sovereignty. Recognizing this fundamental factor, it is our desire to cooperate with the States in a uniform method of preventing excessive production of crude oil.75

And, he was undoubtedly sincere when he added, "God only knows what will happen to the industry if we don't get this bill through."76 Others speaking in favor of the bill included Carl Estes representing the East Texas Chamber of Commerce; Colonel H. B. Fell of Ardmore, Oklahoma, Executive Vice President of Independent Petroleum Association of America, but representing the National Stripper Well Assoc., and others including the North Texas Oil & Gas Assoc.; and W. B. Hamilton of Wichita Falls, Chairman of the West Texas Chamber of Commerce.77

Those speaking against the bill included familiar voices such as royalty owner, J. Edward Jones; E. O. Thompson, Railroad Commissioner; Jack Blalock, and others. Elwood Fouts of Texas offered telegrams from a number of prominent Texans such as ex-governor Ross Sterling, H. R. Cullen, J. M. West, J. S. Abercrombie, Mike Hogg, Harry Hanzen, John Hamman, John H. Kirby, C. M. Frost and many more.78

While not coming out against the Ickes bill openly, Walter C. Teagle, President, and W. S. Farish, Chairman of the Board of Standard Oil (N. J.), stated that they had always supported rigid control of the crude oil supply
and continued to support the self-governing basis of the industry as under the Petroleum Code, but, "any policy approaching complete regimentation, whether temporary or permanent, will prove fatal to the best interests of the public and the oil industry alike." There were other indications of misgivings within the industry's majors, also. At its May 22-24 meeting, the API Board of Directors and Executive Committee failed to take a position on the Ickes Bill.

Finally, on May 24th the Senate Committee reported general approval of the Thomas Bill, but it made little progress in the Senate beyond this point. It became clear to proponents of the bill that any hope of passage of the Thomas-Disney Bill lay with the House. The first skirmish occurred over the committee to which the bill would be assigned. An attempt was made to place the bill in the Committee on Mine and Minerals which had no Texans represented on it, as in its Senate counterpart. However, Representative Sam Rayburn interceded with the Speaker of the House and persuaded him to refer the bill to his committee, Interstate and Foreign Commerce Committee. Whatever his personal opinion in the matter, Rayburn recognized the importance of the bill to the oil interests of his state and was not about to be rushed into passing so controversial a measure. Although it was nearing the close of the session, Rayburn insisted on a thorough hear-
ing for the bill which extended from May 30, 31 to June 1, 5, 6, 7. Once again the forces for both sides assembled in Congress and pled their cases.\textsuperscript{83}

At this time the unquestioned loyalty of Ickes's supporters began to waiver over Section 5 and 6 of the Thomas-Disney Bill. These sections gave the Secretary of Interior power to determine demand and set quotas down to the well, if necessary. Even to some that generally believed aid from the federal government was necessary to curb effectively the hot oil production of East Texas, balked at granting such overriding power to Ickes. Carl Estes and W. F. Weeks became increasingly vocal in their criticism of these provisions and favored amendments to change them.\textsuperscript{84} Using his usual colorful language during the Committee Hearings Estes attacked Ickes saying

\begin{quote}
If the author of this bill is familiar with Texas history he undoubtedly will recall that a man who styled himself 'Antonio Lopez De Santa Anna, Napoleon of the West' was put forward as a proposed dictator of Texas. The last time his followers were heard of, they were running through the brush on the banks of a place in Texas called Buffalo Bayou, yelling 'Me no Alamo; Me no Goliad.'\textsuperscript{85}
\end{quote}

Ickes was determined to retain the power he believed necessary to his goals and spoke in favor of them in the hearings. Also, he was able to get an amendment passed in the Senate removing the time limit set to the Disney Bill.\textsuperscript{86} At this point E. B. Reeser, President of Barnsdall
Corporation; past president of API, and member of Production and Coordination Committee came out against the measure and urged his fellow oil executives to do likewise. Charges and counter-charges fill the pages of the hearing transcript and the press. By the fourth of June it was clear that the only hope of passing the bill depended on whether or not the president would put it on the "must" list of legislation to be passed in the session. This Roosevelt declined to do. On June 11, 1934, Parten wrote Joe Danciger that defeat of the measure was assured. On June 14, Rayburn's committee voted 12 to 5 not to consider the Disney bill.

Rayburn's Committee did adopt a resolution (H. R. #441 and 442) calling for a complete investigation of the oil industry and the need for federal legislation. This became known as the Cole Committee because it was headed by Representative Cole, Democrat from Maryland. This Committee conducted extensive hearings in the oil producing states themselves where all sides were able to present their respective views again. They also made use of technical advisors from the Dept. of Interior, U. S. Bureau of Mines, and the U. S. Geological Survey. The investigations continued through the summer and fall and its report did not come out until the first of 1935. It was generally recognized that its recommendations could have considerable
bearing on the eventual outcome of oil legislation and each interest exerted all the influence it could to convince the Committee members of the justness of their point-of-view.

Ickes was, of course, very unhappy at the failure of Congress to pass his legislation. He continued to exercise authority under the Petroleum Code, established the Federal Tender Board in October, and waited along with others for the outcome of the appeal of the Amazon and Panama Cases before the U. S. Supreme Court and the Cole Committee Report.  

The after effects of the Congressional battle began to appear in the fall of 1934. In September an editorial appeared in the *Oil & Gas Journal* warning that

> Unless the industry pulls itself together and retraces its steps it is likely to find itself in a Federal straitjacket with every well, plant and outlet ticketed and quoted.  

This marked the beginning of a trend away from comprehensive federal control of industry.  

In November Ickes spoke before the API meeting in Dallas. In his speech Ickes was very defensive of his own actions, chiding the industry for its unreasonableness in expecting too much of him. He covered the old ground concerning the ills of the industry and the faults of the East Texas Field. He bitterly attacked the "contemptible and lawless minority with no respect for law or order and incapable of ordinarily decent behavior" - those
who wanted to discredit the Oil Administration and cried states' rights. Before closing he warned the industry that unless it put its house in order it would rather be nationalized or be declared a public utility. 96

Ernest Thompson attended the meeting. "'Well,'" he said with a sort of sigh of relief, 'Old Ickes and federal control are both through. That speech killed them." 97 Thompson was correct. Talk of an interstate compact was revived and in December a conference to discuss this idea was called by Governor-elect Marland of Oklahoma. In its December meeting the API withdrew its support of federal oil legislation. The Production and Coordination Committee drafted a bill to replace the Ickes Bill hoping to remove the objectionable features but retaining the principle of some federal control as under the Petroleum Code. When the Committee voted on whether or not to recommend this draft on December 18, 1934, the vote was divided with 11 in favor, 9 opposed, and 2 abstaining. Included among those favoring the legislation were Amos L. Beaty, Wirt Franklin, and C. F. Roeser. More significant are those in opposition. They included C. B. Ames, Axtell J. Byles, E. B. Reeser, W. J. Reid, and Walter C. Teagle. Here was a major shift in political alignment among majors in the industry. 98

In Texas, Senator Tom Connally who had remained
cagey throughout the Congressional fight openly stated that he had opposed the Ickes Bill. The staunch opponents of federal control, while encouraged by Connally's words recognized that the issue had not been finally settled. They began organizing for another Congressional fight in the upcoming session and the Cole Committee investigation.

In the meantime there was work to do at home. J. R. Parten and nine important independents resigned in a huff from the Texas Petroleum Council chiefly because of its activities in Congress. This greatly diminished the effectiveness of the Council although it vowed to continue to work. More important, Parten and his friends knew that the next governor of Texas might be helpful in determining the outcome of federal legislation and that he would be very influential if some form of interstate compact was settled upon. Therefore, they began an all out effort to elect James V. Allred the next governor of Texas.

In any state wide campaign support had to be extensive, and the issues, of course, transcended the oil question. Nevertheless, the motivation for a number of Allred's supporters was his position on the oil controversy. At the dinner at which Allred officially announced his candidacy he specifically requested the presence of Carl Estes, Tom Foster (another East Texas
newspaper editor), Myron and Jack Blalock, Senator Blackert, Tom DeBerry and others. There were many familiar faces from the oil fights in his campaign, also. Ross Sterling publicly supported Allred and so did J. R. Parten.

Allred's opponents in the campaign included Clint Small, formerly a powerful member of the Texas senate and an oil and gas lobbyist; Tom Hunter, wealthy independent oil operator from Wichita Falls; and C. C. McDonald, Jim Ferguson's candidate for governor, also from Wichita Falls. Although none of their platforms dealt directly with the oil issue, the problem was a recurring theme throughout the campaign.

There were powerful interests backing the other candidates. For example, Wolters of The Texas Co. publicly stated he would be "for anybody against Allred" and T. H. McGregor, attorney for Humble Oil, was a strong backer of Tom Hunter. The oil companies did not make the mistake of openly campaigning against Allred as they had in 1932, however. There was the usual political harassment but little of the blatant attempt to discredit Allred that had been present before.

Allred played up his role as defender of the people. One of his major campaign promises was to regulate lobbyists in the legislature. In his opening speech Allred called for a New Deal for Texas with a "New Deck."
The trouble is that lobbyists for
the oil companies, the sulphur com-
panies and the public utilities have
been dealing too many jokers. To my
mind, this is the greatest issue today
before the people of Texas. 108

This plank struck the right note with the voting public
in 1934. A friendly editorial from the Wichita Daily
Times tied the issue directly to the oil issue later in
the campaign. After Allred's speech concerning lobbyists

a lawyer-legislator, who, as the official
records show, is in the employ of a major
oil company, issued a statement to the
newspapers attacking the candidate for his
utterances. He brought the matter more
forcibly to the public's attention than the
candidate himself could have done. 109

Allred's record as Attorney General was attacked and
his sincerity in pressing the anti-trust suits questioned.
He was accused of selling out to the big oil interests
by his opponents in last minute smear sheets. 110 Allred's
answer to those who wanted to know what happened to his
great anti-trust program was ready and forceful. He told
his attackers that his staff had spent more than a year
taking testimony and disposing of points of law accumulating
the biggest record in the history of the State Attorney
General's office. The case had been set for March 20, 1933,
long before passage of NIRA. Then Humble Oil used a
technical maneuver to delay action. They appointed
T. H. McGregor, a member of the Legislature, as one of
their attorneys.
As you perhaps know, there is a law on the statute books which requires the continuance of cases where a member of the Legislature is of counsel. I vigorously protested the continuance of the case and sought to have it set down for June, immediately after the Legislature adjourned.¹¹¹

However, the judge in the case was in ill health and could not take cases up during hot summer months, so the case was set for September. By then the NRA code had been adopted "embracing most of the agreements about which I had sued the defendant companies. The court then ruled, erroneously I think," that NRA had superceded the anti-trust laws of the state. Allred then appealed but was blocked by the major oil companies and the courts from further action.¹¹²

It was an emotional, personal campaign and brought out a record vote in the first primary, July 28, 1934. Allred received the highest vote, 298,903; Hunter, 243,254; C. C. McDonald, 207,200; and Small, 125,324.¹¹³ These results placed Allred and Hunter in a run-off scheduled for August 25th. The personal attacks and insinuations increased in intensity. The other candidates and Jim Ferguson threw their support behind Hunter, which in the end probably cost him the election. Allred accused Hunter of a deal with Ferguson.¹¹⁴ Whether true or not, virtually all the major daily newspapers threw their
weight behind Allred, less out of love for Allred than out of hate for Ferguson. Among the papers that editorialized strongly in favor of Allred were the Dallas Morning News, the Houston Chronicle, Post, and the Press. The Chronicle in its editorial columns defended Allred's handling of the anti-trust suits against the major oil companies and vilified Tom Hunter for his attacks against "the boy", as Hunter called him. Shortly before the run-off primary election the Chronicle characterized Hunter in an editorial entitled "Passing From The Picture."

Tom Hunter's Houston appearance showed him physically tired, mentally discouraged, or both. He gives every indication of already being convinced of his defeat.

The Houston Post berated the defeated candidates for attempting to swamp Allred. The Post's editors asked why they were so anxious to see Allred lose.

He (Allred) has fought consistently for the interests of the people for four years as attorney general. He has had the courage to express his convictions, regardless of political effect. He has advocated constructive reforms for the betterment of Texas and her 6,000,000 people. And for that his opponents would strike him down.

In his hand is a paper stating: Vote for My Friends: Hunter [for Governor], Fandt [for Railroad Commissioner], Lattimore [for Assoc. Justice of the Texas Supreme Court]. A sign on the Capitol door read "Belongs to Ferguson Family and Friends." On the same page was an editorial entitled "Fergusonism Must Go."\(^{118}\)

Ferguson, for his part, did not fail to attack Allred in his personal paper, The Ferguson Forum. In a particularly colorful article entitled "With Apologies to Shakespeare," August 23, 1934, Ferguson set the stage for action "in a room in the Austin Hotel the third day following the first primary." The cast of characters included Allred, Major Parten, and Advisors. Major Parten complains of Allred's defeat in the first primary saying

Trouble, hell. You damn ratty politicians told me Jimmie would win over the field if I would dump that last $30,000 in the pot for a grand finale ... I can show you counties where I dumped enough money to buy 'em fee simple, and still Jimmie ran third. [Allred ran first in the primary.]

Jimmie replies that he has made several deals with various parties that will assure him the election. Further, he says, "My contact with Andrew Mellon thru [sic] the Gulf Oil Company will give us plenty money right out of Wall Street."\(^{119}\) Ferguson's literary efforts were to no avail, however.

Another issue besides Fergusonism that may have swayed the voters to Allred's side was the tax issue.
Allred was a staunch opponent of the sales tax. Hunter also claimed to be against the sales tax and advocated what he called a "blended tax." But a member of Allred's staff was able to dig up a letter in which Hunter had earlier stated his support for a sales tax.\textsuperscript{120}

When the vote was counted in the run-off primary, Allred had achieved victory by a close vote of 499,343 to Hunter's 459,106 votes. The state was divided but Allred won. All candidates Ferguson supported lost making a line up of state officials favoring state control of oil.\textsuperscript{121}

The prospects for those in the oil industry following Allred's leadership seemed good for 1935.
FOOTNOTES


2 In light of the court decisions upholding the Railroad Commission's orders there were virtually no injunction suits against the Commission. See "Reports concerning activities of the Attorney General's Office in East Texas" prepared by R. V. Shirley, attached to Memorandum to the Officers and Directors of the Texas Petroleum Council (TPC), April 10, 1934, J. R. Parten Papers.

3 Pamphlet, *Texas Petroleum Council*, based on Secretary's Report to Officers, Directors, and Contributing Members, April 27, 1934, Allen V. Peden, Secretary, Parten Papers.

4 Pamphlet, *op. cit.*, p. 3.


6 Pamphlet, *op. cit.*, p. 6; Minutes of the Texas Petroleum Council, April 27, 1934, Parten Papers.


9 Minutes of Meeting of the Officers, Directors, and Contributing Members of the TPC, April 27, 1934, Parten Papers.
10 Ibid., March 20, 1934; March 27, 1934.

11 Tyler Daily Courier Times, May 14, 1934, Parten Papers.


14 Tyler Daily Courier Times, May 14, 1934; Minutes of Meeting of the Officers, Directors, and Contributing Members of TPC, April 27, 1934 - see particularly the comments by Hine Baker of Humble Oil; John R. Susman, "Correct Well Spacing, Use of Modern Methods Will Insure All Operators Equal Recovery," in Oil and Gas Journal, May 31, 1934, p. 68, Parten Papers.


20 Speech, Ernest O. Thompson, Dallas, Texas, March 29, 1934, Parten Papers.


22 Pamphlet, op. cit., p. 9.


Ibid., pp. 232-33.


Minutes of the Meeting of the Officers, Directors, and Contributing Members of TPC, April 27, 1934, Parten Papers.

Hardwicke, op. cit., pp. 246-47.


Letter, Allen V. Peden to Director [TPC], with attached copy of decision, May 23, 1934, Parten Papers. Quotes from the decision were also wired from U. S. Spec. Attorney Charles I. Francis.


34 Telegram, Jack Blalock to Senator Tom Connally, May 1, 1934, Parten Papers.

35 U. S., Congress, Senate, S. 3495, op. cit.

36 Dallas Morning News, June 17, 1934, Parten Papers.


42 Houston Chronicle, May 7, 1934; Dallas Morning News, May 8, 1934, Parten Papers.

43 Houston Chronicle, May 9, 1934; See also Dallas Morning News, July 12, 1934, Parten Papers.

44 Houston Chronicle, May 9, 1934, Parten Papers.


47 Ibid., p. 108.

48 The American Petroleum Quarterly, April, 1934, p. 9. Russell B. Brown speaking at the Eastern Division of the Institutes Division of Production Meeting April 7, 1934, stated these goals well.

49 Nash, op. cit., p. 141.

50 "Address of John B. Elliott before the California Independents, November, 1933"; "Letter from a Texas Independent to a United States Senator Concerning the Plight of the Independent under the Oil Code," by Harry Pennington, Parten Papers.
Letter, R. B. Brown to Regional Chairman, March 19, 1934; Parten Papers.

Press release, Department of the Interior, June 2, 1934; Parten Papers.

Letters, Irwin Lamp, For the Finance Committee of the Production and Coordination Committee to J. R. Parten, May 22, 1934; Henry M. Dawes, Treasurer of the Production and Coordination Committee to J. R. Parten, April 16, 1934; Parten Papers.

Letter, Charles Fahy, Acting Chairman, Petroleum Administrative Board to Amos L. Beaty, Chairman of Production and Coordination Committee, May 12, 1934; Parten Papers.

Ibid.; See also Letter, Harold Ickes to Regional Chairman, January 12, 1934; Parten Papers.

Letter, H. B. May, Secretary of the Southwest Petroleum Assoc. to Hubert Harrison, General Manager of the East Texas Chamber of Commerce, April 21, 1934; Parten Papers; Chicago Journal of Commerce, April 20, 1934; Parten Papers.

Dallas Morning News, July 2, 1934; See also Houston Post, July 3, 1934; Parten Papers.


Editorial, Houston Post, July 3, 1934.


Letter, Jack Blalock to J. R. Parten, May 9, 1934; See also Telegram, J. R. Parten to John B. Elliott, May 1, 1934, Parten Papers.

Press release, Department of the Interior, May 8, 1934; See also Letter, Jack Blalock to J. R. Parten, May 9, 1934; Houston Press, May 17, 1934, Parten Papers.

Press release, Department of the Interior, June 9, 1934, Parten Papers.


Houston Chronicle, May 9, 1934; Houston Press, May 18, 1934, Parten Papers. In the Press, Senator Tom Pollard calls Ickes a "Hitler drunk with power."


Houston Post, May 8, 1934, Parten Papers.

74 *Houston Post*, May 16, 1934, Parten Papers.

75 *Dallas Morning News*, May 17, 1934, Parten Papers.

76 *Houston Chronicle*, May 16, 1934, Parten Papers; See also *Houston Post*, May 17, 1934; *Houston Chronicle*, May 17, 1934, Parten Papers.

77 *Dallas Morning News*, May 22, 1934, Parten Papers. In a letter to J. R. Parten from Bailey W. Hardy, May 12, 1934, Hardy reported that G. S. Dyer of the Independent Petroleum Association of America and Vice-President of Wilcox Oil & Gas Co. had visited Thompson in Austin to unify opposition to the Ickes Bill. Dyer said that the Independent Petroleum Association of America was against the bill. "This seems to be a contradiction of what Wirt Franklin said.... If this is not a scheme to obtain our movements it appears to me that we have an additional alignment to our forces."


81 *Houston Post*, May 25, 1934; *Houston Press*, May 25, 1934; *Houston Chronicle*, May 29, 1934, Parten Papers. In the *Dallas Morning News*, June 16, 1934, Rayburn was reported as telling his committee that the bill could not pass the Senate because 12-15 senators were prepared to fight it.


*Houston Post*, June 1, 1934; *Dallas Morning News*, June 1, 1934; *Houston Press*, May 31, 1934; *Tyler Daily Courier Times*, June 5, 1934, Parten Papers.

*Tyler Daily Courier Times*, May 31, 1934, Parten Papers; *Oil and Oil Pipe Lines, Hearings*, op. cit., p. 45.

*Tyler Daily Courier Times*, May 31, June 6, 1934, Parten Papers.


*Tyler Daily Courier Times*, June 1, 5, 6, 1934; *Houston Press*, May 31, June 5, 7, 1934; *Houston Chronicle*, June 5, 6, 1934; *Dallas Morning News*, June 2, 3, 6, 7, 1934, Parten Papers.

*Dallas Morning News*, June 2, 5, 10, 1934, Parten Papers.

*Tyler Daily Courier Times*, June 14, 1934; *Houston Chronicle*, June 14, 1934; *Houston Press*, June 14, 1934; *Dallas Morning News*, June 16, 1934, Parten Papers.

*Dallas Morning News*, June 14, 16, 1934; *Houston Chronicle*, June 19, 1934, Parten Papers.


Press release, Department of the Interior, Petroleum Administration Board with letter from R. B. Brown, Compliance Director of Production and Coordination Committee, June 27, 1934, Parten Papers.


Clark, op. cit., p. 114.

Pamphlet, "Federal Legislation: Recommended by the Production and Coordination Committee for the Petroleum Industry to the Sub-Committee of the House Committee on Interstate and Foreign Commerce," Parten Papers.


Letter, Ernest Thompson to J. R. Parten, October 6, 1934, Parten Papers. In this handwritten note Thompson told J. R. that while in Washington on another matter he had "promptly embraced" the opportunity "to harass the PAB and Ickes and Margold and the Atty. General's office ... to my hearts' [sic] content," on the question of oil control.

Letters, J. R. Parten to George A. Hill, Jr., February 2, 1934; Hill to Parten, February 3, 1934; Parten to R. Loyd Wheelock, President of Texas Petroleum Council, June 30, 1934, also signed by J. S. Abercrombie, Mills Bennett, Jack Frost, George W. Strake, Myron G. Blalock, and Bailey W. Hardy; Hill to Parten, et al., July 3, 1934; Parten Papers. See also Tyler Daily Courier Times, July 3, 1934, p. 3, Parten Papers.

J. R. Parten had extensive files on the Allred campaign which include news clippings, daily press releases, campaign, literature, etc.

Letter, James V. Allred to Fred Young, March 31, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 69.

Letters, Ross Sterling to Dolph Briscoe, December 28, 1933; Sterling to James V. Allred, December 28, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 69. The support for Allred's campaign for governor began to gather as early as 1932. There are too many letters from friends and well wishers to list each separately. See University of Houston, Allred Papers, Acc. No. 1, Cont. No. 65-69 for numerous examples of letters from supporters. These letters come from many lawyers and businessmen, a scattering of bank presidents, and many plain folk.


Letters, Hubert T. Faulk to James V. Allred, June 11, 1933; Allred to Faulk, June 12, 1933; Allred to R. W. H. Kennon, May 15, 1933; University of Houston, Allred Papers, Acc. No. 1, Cont. No. 66. Allred believed that much of the harassment came from the Ferguson camp.

Kerrville Mountain Sun, December 21, 1933, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 65.

Letter, C. K. Johnson to James V. Allred, April 17, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 68.


Letter, James V. Allred to A. H. Alsup, April 14, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 65.

Ibid.; See also A. H. Alsup to James V. Allred, April 6, 1934; Allred to G. R. Nunnally, January 26, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 65; Campaign Literature, Parten Papers.

The Texas Almanac and State Industrial Guide (Dallas, 1934).

Houston Post, August 10, 1934; Austin American, August 7, 1934, Parten Papers.


Houston Chronicle, August 18, 1934, Parten Papers.

Editorial, Houston Post, August 7, 1934, Parten Papers.

119 The Ferguson Forum, August 23, 1934, Parten Papers.

120 J. R. Parten, Personal interview, October 5, 1970; Houston Post, August 10, 1934; Houston Press, August 9, 1934; Houston Chronicle, August 9, 1934; Press Release, Allred Campaign, August 9, 1934, Parten Papers.

121 "Ferguson Takes Count; Arrogant Lobby Warned; Criminals Think Twice," Sunday American Statesman (Austin), August 26, 1934; See also Seth Shepard McKay, Texas Politics, 1906-1944 (Lubbock, Texas, 1955), p. 278.
CHAPTER VII
STABILIZATION ACHIEVED

As 1935 began there were still two clear alternatives: state control or federal control. The choice between the two became more pressing as the expiration of the NIRA drew near. The states' rights group rapidly gained ground. The political realignments that had begun in late 1934 were the most significant development in the contest. Those pushing for federal centralization still had considerable influence with the Congress, however, and it would be the final arbiter.

The long awaited decision in the Panama Refining Company Case came down on January 7, 1935. The United States Supreme Court ruled against the validity of Section 9(c) of NIRA and the Federal Petroleum Administration's right to prohibit "hot oil" and refined products in interstate commerce. The decision was based on technical errors in the drafting of the law rather than on its principle.¹ Still, the industry was immediately thrown into a panic by the potential increase in production of crude oil without any federal supervision. The Federal Tender Board set up by Ickes in the fall of
1934 had been quite effective in curbing excesses of production. Emergency steps were taken in East Texas to forestall a crisis and in Washington Ickes prepared a new act that could meet judiciary scrutiny. Senators Gore and Connally introduced the bill. While there was some opposition to the legislation, the Connally Act, as it became known, caused little controversy. It rapidly passed both houses, was signed by the President, and became effective by February 22, 1935.  

On March 1, by executive order, Roosevelt restored the Federal Tender Board and the impending danger was averted.

To men like Ernest Thompson and James Allred, this act constituted the extent of federal involvement necessary to assure regulation of the oil industry. However, they recognized that others viewed the case differently and that proposals for additional legislation would be forthcoming. They, therefore, joined in consideration of some form of interstate compact in hopes of forestalling further federal action.

The compact idea found favor in a number of quarters that had previously discarded the idea as unworkable. In October of 1934 the Production and Coordination Committee of the Petroleum Administration urged the states to take action along these lines. In his year-end message to the API, President Axtell Byles argued that the industry was capable of taking care of its own affairs and advised
formulation of interstate compacts for conserving petroleum resources. In keeping with such encouragement, in November of 1934 Governor-elect Marland of Oklahoma invited the governors of the oil producing states to meet in Ponca City to explore the compact idea.

Initially Allred was suspicious of the compact proposal because the API gave it its support and because Governor Marland publicly announced that his attorney was Patrick Hurley, counsel for Sinclair Oil Co., which also gave the compact support. Writing to his friend Senator Ben G. Oneal, Allred said, "Frankly, ... I am very skeptical about the interests behind this interstate compact." Being somewhat paranoid, Allred expressed the fear that

... Marland and the API crowd are going to try to put me on the 'spot' at Ponca City and, sooner or later, if I refuse to recommend an interstate compact, charge me with responsibility for any 'chaos' they may be able to create.

Then they would have another excuse to cry for federal help. Oneal and others, including Mark L. Requa, tried to encourage Allred to keep an open mind about the compact as an alternative to federal control. Governor-elect Marland also wrote Allred to assure him that the meeting would be an open one; that he had no "cut and dried plan to submit to the Governors' Conference." Whatever his misgivings, Allred attended this first conference held at
Marland's "palatial" home in Ponca City and sent Jack Blalock to represent him at a second meeting a month later on January 3, 1935, also at Marland's home. Only one day before this gathering, January 2nd, the Cole Committee had issued its extensive report on its investigations of the oil industry.\textsuperscript{10} To Marland's and Allred's delight and Ickes's chagrin, the Congressional Committee recommended no federal legislation but instead strongly urged the states take the initiative and establish a compact.\textsuperscript{11} This was an added spur to the Conference and made clear that Congress was willing to accept a compact as an alternative solution to the problems of the oil industry.

From the beginning of negotiations, however, it became apparent that Marland and Allred were at odds as to the aims of a compact. The other representatives of Louisiana, Arkansas, New Mexico, California, Kansas, and Illinois followed the lead of one or the other of these two dominating men. A Marland-Hurley Resolution offered at the January 3rd conference contained precisely the provisions that Allred had feared they would advocate. Basically Marland and his followers wanted to stabilize the industry with higher prices by manipulation of crude production. This would be accomplished by a joint federal-state fact finding agency which would determine the demand for domestic production and exports and
allocate the amount to the states. The agency would also recommend uniform conservation legislation for the states.\textsuperscript{12} In addition several amendments to the Marland resolution were introduced that would have had the effect of increasing federal supervision and would have given the president the final say as to national demand in case of conflicts.\textsuperscript{13} With the assistance of representatives from Louisiana, Arkansas, and New Mexico, Blalock was able to vote down all the amendments, but the Marland resolution passed by a vote of 5 (Kansas, California, Illinois, New Mexico, Oklahoma) to 3 (Texas, Arkansas, Louisiana).\textsuperscript{14}

This was not before Blalock had introduced Allred's declaration of principle. Allred stated

\begin{quote}
that if the Federal Government saw fit to permit the states to enter into an Interstate Compact, that said legislation should be permissive only and that it should confine the States to a consideration of conservation and the prevention of physical waste, that if such a resolution was introduced he would vote for it . . . ."
\end{quote}

But that he, Allred, was unalterably opposed to Federal Control and any form of compact that had as its purpose price fixing, the creation or perpetuation of monopoly or regimentation.\textsuperscript{15} Blalock also introduced a formal resolution to the conference stating these principles. Blalock reported to Allred that Marland stated frankly that he found the resolution embarrassing and wished that Blalock would withdraw it. Blalock heatedly refused,
saying he didn't see how opposing price fixing, monopoly, and regimentation could be embarrassing. Marland responded that price fixing might become necessary in order to preserve stripper wells and that he was basically striving for higher prices for oil in the interest of conservation. 16

Blalock retorted, 'I think price fixing is un-American and unconstitutional and Governor Allred is unalterably opposed to it.' 17

By a vote of 5 to 3 Blalock's resolution was tabled. The only points agreed upon at the conference were: 1) a recommendation to Congress to pass enabling legislation for a compact, 2) the permanent enactment of Section 9(c) of NIRA (The Connally Act had not yet been passed), 3) the limitation of imports of crude and refined petroleum products. 18

Despite the acrimonious exchanges between Marland and Blalock, no one was willing to give up hope of compromise. Blalock himself introduced and the conference unanimously agreed to two simple points as a basis for further negotiation: 1) that Congress pass enabling legislation as already accepted, and 2) that the legislatures of the various states be requested to authorize their governors to appoint representatives to meet and adopt a contract "relating to the conservation of the petroleum resources of the states and the prevention of waste of these petroleum resources." 19 Another conference
was called for February.

Between January and February Allred sought and received without difficulty authority from the state legislature to negotiate a compact. In the meantime Allred and Thompson met with a special representative of Governor Marland, W. J. Holloway, former Governor of Oklahoma, to discuss possible compromise of the issues dividing the two states. Apparently these conferences were of some benefit. In any case by this time Parten, Thompson, Blalock, and Allred were committed to the compact and Allred extended an invitation to hold the next monthly meeting in Dallas on February 15, 1935, at the Adolphus Hotel. At the February 15th meeting Allred and Marland presented their opposing drafts for a compact. A committee to work out a compromise was appointed headed by ex-Senator W. M. Downing of Colorado. Its members included Elwood Fouts of Texas, a strong supporter of Allred's position, and Tom Anglin of Oklahoma.

In the end Allred's views prevailed. Without Texas no compact could work and Allred steadfastly refused to compromise his fundamental principles. The compact provided for no federal participation and for voluntary compliance with recommendations by the Compact committee as to allocation of national demand. By way of concession, Texas did agree to the formation of a permanent Compact Board to oversee execution of future agreements, and
Marland was asked to be its first chairman. The committee's draft was unanimously adopted by the Conference and was to be effective upon ratification by three states.\textsuperscript{24}

Returning home Allred sent a special message asking the legislature to ratify the agreement. The Railroad Commission also gave the compact its full support in a letter to Allred which was also submitted to the legislature.\textsuperscript{25} The Compact was ratified by Texas and other states by April, 1935.\textsuperscript{26} It was hailed by its advocates as the answer to oil conservation problems, in that it provided for cooperation but left the real job of regulation up to the individual states.\textsuperscript{27} It still remained for Congress to pass enabling legislation before the compact could be made legal. Once again the controversy moved to the halls of Congress.

There were those who were decidedly unimpressed with the compact. Wirt Franklin, for one, publicly denounced the oil states' compact.

\begin{quote}
It's just a scrap of paper and not worth the paper it's written on and everybody in the business knows it.\textsuperscript{28}
\end{quote}

He, along with others, were still committed to federal aid to stabilize the industry.\textsuperscript{29} Among other arguments to support the need for federal assistance, this group pointed to the continued presence of hot oil.

In a strong article in \textit{The American Mercury}, Wayne Gard stated the case against Texas and for federal controls.
He pictured the American public as the victim of the selfish oil speculator. He argued that only federal control at the well would stop hot oil. Quoting the testimony of Frank Phillips of Phillips Petroleum Co. before the Cole Committee he asked the basic question, do the nation's oil resources belong to the speculator who has made a lucky buy or to the people of the United States whose children may want to drive automobiles in 1972. To expect the hot oil runner to take a patriotic view or to think of the next generation would be like asking a jackal to sing an aria. 30

This was more or less Harold Ickes's attitude as well.

The motives of those in the industry were more complicated, of course, but those that still supported Ickes generally believed that industry's hand would still be strong enough to influence the federal government. They saw the benefits of stabilization as outweighing the disadvantages of regulation. New legislation had to be passed to accomplish this end. The Connally "Hot Oil" Act provided merely the first step.

Nor was Ickes satisfied with the powers given him under the new Connally "Hot Oil" Act, as he publicly stated. 31 Accordingly, on February 25, 1935, S. B. 2027 was introduced by Senator Thomas. This was a somewhat revised version of the Thomas-Disney Bill of the previous session. The bill, as later amended, recognized the oil states compact but also incorporated the basic
recommendations of the Production and Coordination Committee draft supported by Beaty, Roeser, et al. It authorized the President to establish a permanent Petroleum Administration Board composed of five members and a Petroleum Advisory Committee from the petroleum industry. The Board was to be authorized to approve voluntary agreements by members of the industry (unitization projects), determine the reasonable market demand for the United States, and the allocation of production for individual states. There was a great deal more emphasis on cooperation between the federal agency and the existing and future state conservation agencies than in the previous bills. It also contained similarities to the existing administrative structure of the Petroleum Administration.32

Matters were brought to a head during the summer by the U. S. Supreme Court decision in the L. A. Schechter Poultry Corporation case, also known as the "Sick Chicken" Case, which declared the entire NIRA unconstitutional. Opposition to the Thomas Bill had begun mobilizing before the decision, however. A war chest was raised to provide funds to hire lawyers to battle the proposed oil legislation.33 A small number of large contributors was invited to a meeting at J. M. West's offices in Houston "to discuss the Federal Oil Control legislation question." Those invited included Elwood Fouts, Jack Blalock, H. R. Cullen, Mike Hogg, Steve L. Pinckney, George W. Strake,
Messrs. Brown & Wheeler, Mills Bennett, J. S. Abercrombie, D. J. Harrison, Adrian Moore, Hugh Montgomery, and William Keck. These men set up a trust account with J. M. West, trustee. As of May 31, 1935, contributions amounted to $57,500.00. Retainers were paid to Blalock, Blalock & Blalock; Fouts, Amerman & Moore; Stanley Moore; and Boyle, Wheeler, Gresham & Terrel.  

There is evidence that money was also spent by the same interests elsewhere. Ickes received from R. B. Brown, Executive Secretary of the Production and Coordination Committee, a list of Texas oil men who had contributed money to make up the deficit of the Democratic National Committee. The list was supported by a statement prepared by certain people in Texas to the effect that these men had been induced to give with the understanding that the Thomas Bill would be defeated. In Parten's papers in the federal oil control files are a number of letters in 1935 soliciting contributions to eliminate the Democratic National Committee's deficit. No specific reference is made to the oil legislation of the Thomas Bill, but their presence in these files lends credence to the Ickes story.

In April hearings were held on the Thomas Bill. Notable among those testifying against the bill were Governor James V. Allred and President Axtell Byles of the API, a new team on the oil circuit. In May, the Texas Senate passed a resolution condemning the Thomas Bill
which Senator Connally had placed in the U. S. Senate record. Another outspoken opponent of the Thomas Bill was Executive Vice-President of the API, W. R. Boyd, Jr. He made several speeches denouncing what he termed unnecessary federal legislation designed rigidly to control the petroleum industry.

'It is only natural that some of us,' he added, 'should regard such threats as indicative of a purpose eventually to bring about the complete socialization of nationalization of this and of other important industries.'

These shifts in the position of some of the leaders of the API to Allred's views played an important part in determining Roosevelt's stand. Ickes found increasingly that his support from the industry and White House was softening.

In August a compromise measure, called the "Cole-Disney Compromise" was introduced in Congress which included the basic principles of the Thomas bill but provided for the removal of the administration of the oil industry from the Department of the Interior and Ickes's control. There was some temporary waiving in the ranks of those against federal control, but in the end the troops rallied against federal regulation with or without Harold Ickes. Roosevelt decided in August to go with Connally and Rayburn against Ickes and came out strongly for simple ratification of the Interstate Oil Compact. The Cole Committee also recommended this action,
though with reservations. Accordingly, in late August Cole offered H. J. R. #407 to ratify the compact with a two-year limit. Thus the federal oil control fight was brought to its final rest. There remained those who believed that greater federal regulation was necessary but they became a rapidly diminishing group, especially among oil men. The industry and the states were thrown finally and definitely on their own resources. By 1935 conditions within the industry had passed the crisis point, production was significantly curtailed, and the strength of the states agencies greatly enhanced, making federal interference seem less desirable. The impact of the war in Europe soon created a tremendous demand for oil and its products which pushed thoughts of federal control still further from the minds of industry leaders.

In Texas the Railroad Commission saw its powers increased by legislative action in 1935. Its ability to deal with hot oil and products, the principle test of its effectiveness, was enhanced by a new market demand law which strengthened and extended the old law, a "hot oil" statute allowing for confiscation of oil produced in violation of its orders, and a transportation act which set up a new state tender system. The controversy over these bills was minimal with Allred at the helm and the growing consensus within the industry for effective state controls. Demonstrating the shift that had taken place in November, 1935, Ernest::0. Thompson was asked to speak
at the 16th annual meeting of the API in Los Angeles.

Thompson, recognizing his new position within the industry expressed the thought,

We feel that I would not have been asked here today were it not that many of you now regard us as a constructive part of the industry, working for its betterment and sincerely interested in its welfare and success. I feel that I am among friends, and intend to speak as such.46

In his remarks he enunciated his rather conservative evaluation of the role of state regulatory agencies and summed up the events of the New Deal Era succinctly. The impetus for control of the oil industry came from the industry itself, not the consuming public which had over the years been receiving higher quality products at gradually declining prices. In the industry the push for federal control came because: 1) state control of production was ineffective, 2) the existing method for allocation of production was unsatisfactory to many and disruptive of the marketing branch of the industry, and 3) there was a general recognition that national production should be balanced to the national market. With these objectives in mind the proponents of federal legislation embraced the Petroleum Code.

...but it very quickly became clear that, with a bureaucracy established in Washington, there would be an increasing interference with labor, with marketing, and with refinery pipe line operations, as well as with production. In short, the control would so evoke as to give the industry what amounts to utility status. Such a price was entirely too high, and there was a rapid reversal of position by the interests who were originally for the legislation.47
FOOTNOTES


4. Ibid., p. 148.


7. Letter, James V. Allred to Senator Ben G. Oneal, November 28, 1934; See also Allred to Oneal, November 27, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 236.

8. Letters, Ben G. Oneal to James V. Allred, November 24, 1934; M. L. Requa to James V. Allred, November 6, 1934; Requa to Allred, December 8, 1934, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 236.


11 Ibid., pp. 8-9, 11.


15 Blalock to Allred, January 8, 1935, op. cit.

16 Ibid.

17 As quoted in article, Charles H. Newell, Austin American, January 4, 1935, clipped to letter, Senator Morris Sheppard to James V. Allred, May 2, 1935, University of Houston, Allred Papers, Acc. No. 1; Cont. No. 236.

18 Blalock to Allred, January 8, 1935, op. cit.

19 Ibid., Newell article, op. cit.


"An Interstate Compact to Conserve Oil and Gas" copy in J. R. Parten Papers.


Nash, op. cit., p. 150; Clark, op. cit., p. 185. New Mexico ratified the Compact 2/25/35; Oklahoma, 3/6/35; Kansas, 3/13/35; Colorado, 4/15/35; Texas, 4/15/35; Illinois, 7/10/35.


Dallas *Morning News*, February 27, 1935; Parten Papers.


"Memorandum to the Press" (extracts from argument of Governor James V. Allred in opposition to the Thomas Bill), April 17, 1935, Parten Papers; Editorial, Dallas
Morning News, March 19, 1935, University of Texas, Barker Texas History Center, Allred Scrapbook. In this editorial Allred is challenged as spokesman of all Texans.

'It is probable there are more producers, marketers, and royalty owners who are for Federal Control, if it can be legally and effectively secured, than there are for continued trust in state enforcement.'

There were, of course, many who disagreed with the Morning News. See, for examples, Letters, D. O. Beene to James V. Allred, March 18, 1935; A. H. Tebroke to Allred, March 22, 1935; University of Houston, Allred Papers, Acc. No. 1, Cont. No. 235; API Quarterly, April, 1935, p. 11.


38 API Quarterly, July, 1935, pp. 8, 10.

39 Ibid., p. 8.

40 Nash, op. cit., pp. 146, 147.

41 Houston Post, August 8, 1935, Parten Papers; Ickes, Op. Cit., pp. 413-18. The authors of the bill recognized that many in the industry shared the views of John G. Elliott when he said that he agreed with "the theory held by many regarding the Secretary, that he is personally entirely honest, but misguided, and with a narrow vision and exceedingly stubborn temperament," in Letter, John B. Elliott to Joe Danciger, January 25, 1934, Parten Papers. Elliott also said, "It may be significant that Secretary Ickes has never been accused, probably for physiological reasons, of being a member of the Brain Trust." in "In reply to a personal attack upon him made by Secretary of the Interior Harold L. Ickes in Washington, D. C.," Parten Papers.

42 Letters, Morris Sheppard to J. R. Parten, August 8, 1935; Jack Blalock to Parten, August 8, 18, 1935; Tom Connally to Parten, August 12, 1935, Parten Papers.

43 Nash, op. cit., p. 152; Letter, James V. Allred to Franklin D. Roosevelt, August 9, 1935, University of Houston, Allred Papers, Acc. No. 1, Cont. No. 236.

44 Nash, op. cit., p. 150.

45 Larson and Porter, op. cit., pp. 486-87; Hardwicke,


47 Ibid.
CONCLUSION

After following in some detail the vagaries of the political-economic struggles within the oil industry during the early 1930's, it is time to pause and examine the practical outcome of these events. Although the advocates of federal control lost and the states' rights group spearheaded by the Texas independents won, who was the actual victor?

Let us consider the aims of the major oil companies throughout the contest. Their basic need was for stabilization and rationalization of the industry. By stabilization was meant the regulation or elimination of certain practices harmful to their profit structure and wasteful of natural resources. The principal offender was uncontrolled production in flush fields under the rule of capture which caused periods of excess production and consequent instability in the price structure.

Oversupply of crude petroleum was related to the second industrial evil: unrestrained marketing practices in wholesaling and retailing gasoline. The dawning of the auto age meant that the money in the oil business was in gallonage. The major companies controlled the
patents on the commercially successful cracking processes and wished to sell high quality products produced by these more sophisticated and efficient methods.

In order to support the cost of their extensive and more expensive refining processes they had to maximize their sales of gasoline at a reasonably high price. The presence of large quantities of low priced crude oil allowed small refiners to produce a cheap grade of gasoline by simple methods. The presence of this third grade gasoline tended to depress the price for all grades of gasoline and make competition for gallonage fierce. The goal of the majors, therefore, was twofold. They wanted to make the supply of crude oil more secure and to limit it to market demand. If these two things could be accomplished the price of crude petroleum would be steadier and at a higher level. Congressman Pettengill, a member of the Cole Committee put it succinctly:

No one could have sat on the Cole Committee without becoming acutely aware that a majority of even the most sincere advocates of conservation were also interested in stabilization - and enhancement of price.¹

Control of production meant control of price, easing of the worst forms of marketing competition, and greater stability of profits.

In the course of events, several points about the major companies' aims became clear. First, the action of
the major companies in seeking federal aid was not motivated simply by economic conditions. There was no generally prevailing excess production present in the 1930's. Stocks of both crude and refined products declined in this period except for a brief time. The financial distress of the twenties had made many oil executives consider the possible benefits of stabilization. Once convinced of the salutary quality of such a program they continued to press for its acceptance even after conditions had shown improvement. Secondly, these companies were not interested in the conservation of the nation's resources alone. Nevertheless, the evidence of greater efficiency of production under unitization and controlled production constituted an important argument for controls. Thirdly, they were willing to go to considerable lengths in accepting federal aid in order to achieve their aims. Despite later disclaimers, some form of permanent federal government-industry relationship came close to being a reality.

In all their efforts to bring about these goals, there is little evidence that the majority of major companies ever visualized stabilization outside the control of the industry itself, however. They hoped for government sanctioned cooperative agreements to control production and marketing practices through industry initiative and industry organizations, principally the American Petroleum Institute. The primary change in their position between
1929 and 1934 was how far they were willing to go in accepting federal aid in order to achieve these goals. At first they hoped for simple modification of the anti-trust laws to permit such agreements. When this possibility was denied by the Hoover administration they sought help at the state level through state conservation agencies and possibly some form of interstate cooperation. Only when these alternatives seemed ineffective in achieving stability did the majority of the industry embrace extensive federal participation, and even then it was on their own terms. The Petroleum Code of the NIRA was essentially that recommended by the major companies. The administration of the Code incorporated a very influential committee staffed by leaders in the industry and made use of an extensive system of regional and state committees of the industry itself. Even in the 1935 Thomas Bill strong industry cooperation was provided for and to the end its advocates maintained they were opposed to federal control. Wirt Franklin stated in late February, 1935, "It is necessary to have Federal aid, not control, to bring stabilized conditions to the oil States." By the late 1930's oil men who had supported the Marland-Capper Bill of 1934 and even the Thomas Bill of 1935 hastened to say that they had been willing to try anything in the spirit of crisis prevailing at that moment but that they were certainly never really in favor of federal controls.
Considering the powerful industrial interests behind the push for stabilization it was not surprising that they eventually realized their purpose. What was surprising was that their efforts were frustrated for so long. What stood between their desires and fulfillment? First was the oil policy of the Hoover administration. Secondly was the unique ownership pattern of the East Texas Field, plus the extent of the discovery. All attempts at control through the state were in vain until at least partial cooperation by the numerous small independents in this field was obtained. Hot oil from East Texas plagued the whole industry until the authority of the Texas Railroad Commission was fully established. Thirdly was the determined opposition of a relatively small number of independent oil men, principally from Texas and California. This minority was able to stall the passage of permanent legislation at the federal level until others in the industry became convinced of the soundness of their views. Fourthly was the personality of Harold Ickes plus his lack of knowledge of the industry which alienated some who might have been valuable allies. By threatening the industry with nationalization or public utility state, Ickes single handedly helped to turn the industry away from the idea of extensive federal supervision of the industry.

Ironically, the major companies were making substantial
headway in achieving their basic goal at the same time that their plan of the moment was being frustrated. This was true because the aggressive tactics of the majors forced their opponents into accepting the principle of controlled production. Whether carried out by state or federal authority the limiting of production to market demand was the key to stabilization.

The Allred-Thompson independent forces adopted the idea of proration by the state conservation authority and cooperation through an interstate compact as alternatives to federal controls. In the process, however, they also came to recognize the advantages of stable production for the industry. Even though Thompson consistently spoke out against conscious price fixing, any restraints on production automatically affected price. By 1935 the Railroad Commission had the power to enforce its orders based on statutes and court decisions. All the practical problems of restricting production had not been resolved, but the Commission as regulator was fully recognized by the industry. The participation of Texas in the Interstate Compact also made possible agreement as to overall national demand among the producing states, thus furthering orderly development of producing properties. The only form of federal participation welcomed by Texas independents, was aid in the prevention of interstate shipment of hot oil and refined products. In fact,
federal cooperation in this area was essential to the effectiveness of the Railroad Commission within the state.

Thus, the major companies achieved their primary goal of stabilization of supply and price without the necessity of federal regulation. In this, both the independents and majors ultimately benefited. Had federal involvement been achieved greater restraints would likely have resulted. As Ernest Thompson phrased it, "The Nation has few producing states and many consuming states, and Congress ultimately would probably give dominant consideration to the consumer interest."3 Those that had earlier cursed the names of Jimmie Allred, Ernest Thompson and their friends recognized the error of their ways in the late 1930's. One of J. R. Parten's favorite stories concerns how J. Howard Pew, President of Pure Oil came to him, put his arm around J. R.'s shoulders, and admitted how wrong he had been in asking for federal aid. (Incidentally, Parten's company, Woodley Oil, eventually sold out to the Pure interests.)

What of the goals of the independents, aside from state control? The federal government refused to take a stand concerning the issue of exclusive lease agreements by service station operators. Today the independent retailer is hard to find and a station offering more than one brand of gasoline is a thing of the distant past.
The major companies also retained control of the pipelines, although they were subjected to much stricter supervision of charges and services. By and large, though, the principal victory of the independents was the right to fight the major companies before their state agencies where they retained greater political clout than in Washington, D. C.

The one group notably absent in these discussions about the stabilization of the oil industry was the consumer. The industry would argue that the American public has fared well under the industry controlled system by being furnished with high quality products at a relatively low cost. As some industry spokesmen suggest, the truth of this view is testified to by the lack of complaint by the public. However, any system which bestows great benefits on industry without corresponding social responsibility has to be questioned.

In Texas, the Railroad Commission was given extensive powers as the ultimate arbiter for the industry. Over the years it decided in behalf of both the majors and the independents. On the whole, the industry in Texas seems satisfied with its rule. And well it should, as the Railroad Commission became largely a creature of the industry. The interest of the public was only minimally represented by the Commission. Although the agency had remained an elective body, most of the citizens were ignorant of the candidates for commissioner and did not vote
in those races. The selection of the Commission was left primarily to those within the industry. This in turn made the Railroad Commission more dependent on acceptance by the industry. Public scrutiny of the rules of the Commission was also minimal because of lack of interest and knowledge of the technical problems within its jurisdiction.

The state legislature had some control over the Commission through its power of appropriation. However, the Texas law makers were at a disadvantage in keeping meaningful watch over its activities. First, the legislature met only biannually while the Railroad Commission operated year round. Also, the Railroad Commission was an independent agency, theoretically responsible directly to the people only. Over the years individual tenure on the Commission had tended to be very high. In contrast the state legislature had a notoriously high turn over in membership. Finally, the financial resources that can be utilized by so powerful an economic interest as the petroleum industry greatly outweighed those of part time law makers.

To answer the initial question, undoubtedly the oil and gas industry was the victor in the battle for control of the nation's mineral resources. Since the proper concern of corporations is profit, it seems unlikely that broader problems of conservation were really given the consideration they were due. For example, even today, Texas has a relatively few unitized oil fields. What the consumer may suffer in the long run in terms of lost resources has not yet been fully calculated.
FOOTNOTES


2 Dallas Morning News, February 27, 1935, Parten Papers.

BIBLIOGRAPHY

PRIMARY SOURCES

Manuscript Collections


Texas. Legislative Reference Library. Collections of Miscellaneous Governors' Papers. Austin, Texas.
Miriam and Jim Ferguson
Dan Moody
Ross Sterling
James V. Allred

University of Houston. The James V. Allred Papers. Houston, Texas.

University of Texas. Barker Texas History Center. Austin, Texas.
Allred, (James V.). Scrapbook.
John A. Lomax Collection.

Newspapers Consulted

Amarillo Sunday News and Globe.

Austin Daily Dispatch.

The Austin Statesman.

The Dallas Morning News.

The Ferguson Forum.

The Forth Worth Press.

Gainesville Daily Register.

The Gladewater Journal.
The Houston Chronicle.
The Houston Post-Dispatch (The Houston Post after May, 1933).
The Houston Press.
The Kilgore Daily News.
The Oklahoma City Times.
The Plain Dealer.
The Port Arthur News.
The San Antonio Express.
The Shreveport Times.
Sunday American-Statesman (Austin, Texas).
The Tulsa Tribune.
The Tyler Daily Courier Times.
Waco Tribune Herald.
The Wall Street Journal.
Wichita Daily Times.

Oil Periodicals Consulted
Lockwood's Texas Oil Report.
The National Petroleum News.
The Oil and Gas Journal.
The Oil Weekly.

Petroleum Reporter.
The Texas Independent. (The Independent Petroleum Association of Texas).

Government Documents


Texas. Legislature. Report of the Joint Legislative Committee on Organization and Economy by Griffenhagen and Associates. (13 parts; Austin, Texas, 1933).


U.S. Congress. Senate. A Bill to Regulate Commerce in Petroleum, and for Other Purposes. 73d Cong., 2d sess., S. 3495, 1934.


Interviews


Foster, Thomas E. Rice Hotel, Houston, Texas.


SECONDARY SOURCES

General Works


Bain, Joe S. The Economics of the Pacific Coast Petroleum Industry. (3 vols.: Berkeley, 1944-45).


Clark, J. Stanley. The Oil Century: From the Drake Well to the Conservation Era. (Norman, Oklahoma, 1958).


Interstate Oil Compact Commission. *A Summary of the Background, Organization Purposes, and Functions of the Interstate Compact to Conserve Oil and Gas.* (Oklahoma City, 1954).


McDaniel, Ruel. Some Ran Hot. (Dallas, 1939).


McKay, Seth S. and Faulk, Odie B. Texas After Spindletop. (Austin, 1965).


Rister, C. C. *Oil! Titan of the Southwest.* (Norman, Oklahoma, 1949).

Sellers, Gover; Noel, James; and Hyder, Eltom M., Jr., compilers. *Texas Gas Conservation Laws and Oil and Gas Regulations,* Texas Mid-Continent Oil and Gas Association. (Dallas, 1946).


*The Texas Almanac and State Industrial Guide.* (Dallas, 1928-1936).

Vernon's Annotated Revised Civil Statutes of The State of Texas. (3 vols.: Kansas City, Missouri, 1967).

Warner, C. A. *Texas Oil and Gas Since 1543.* (Houston, Texas, 1939).


Company Histories


Unpublished Materials


Articles


"The Rule of Capture and Its Implications as Applied to Oil and Gas." Reprint of address delivered before the Section of Mineral Law, American Bar Association, annual meeting. (Los Angeles, July 15-16, 1935).

"Hot Oil Increases." The Oil Weekly, September 9, 1935, p. 54.


"Oil Administrator Speaks Frankly to Petroleum Industry (text of address by Harold L. Ickes before the American Petroleum Institute, November 14, 1934)." Lockwood's Texas Oil Report, November 14, 1934, pp. 1-13.
Oliver, Earl. "Oil Industry's Problems and Remedies." The Oil and Gas Journal, April 21, 1932, pp. 14-16.


Pogue, Joseph E. "Influence of Proration on Recent Course of Industry." The Oil and Gas Journal, February 25, 1932, pp. 18, 32.


"Remove the Cause." The Oil and Gas Journal, April 21, 1932, p. 26.


"Texas." Fortune, Vol. XX, No. 6 (December, 1939), p. 81.


Williamson, Harold F. and Andreano, Ralph L.  