The Regulation and Conservation of Petroleum Resources in Louisiana, 1901-1940. (Volumes I and II).

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THE REGULATION AND CONSERVATION OF PETROLEUM
RESOURCES IN LOUISIANA
1901-1940
VOLUME I

A Dissertation
Submitted to the Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College in partial fulfillment of the requirements for the degree of Doctor of Philosophy in The Department of History

by
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ABSTRACT

This dissertation examines the State of Louisiana's policies and programs for the conservation and regulation of petroleum resources during the period 1901-1940. Where possible, it explores the relationship between Louisiana's regulatory policies and those of other petroleum-producing states, but it offers no comparative judgments regarding the effectiveness and success of these policies. Furthermore, the study considers contemporary federal policies and programs only when they had a direct influence on actions taken or decisions made by state officials in Louisiana.

Within the limitations set forth above, this study explores the development, implementation, and effectiveness of Louisiana's petroleum conservation programs; the administrative bureaucracy established to oversee their application and enforcement; the taxation of petroleum-resource production; and the leasing of state-owned property for petroleum exploration. In each of these categories it presents the statutory and legal development of the state's authority; discusses the political controversies that accompanied the delegation and implementation of this authority; and describes the abuses and scandals involving the administration, enforcement, and misapplication of the policies and programs for the conservation and regulation of petroleum resources by Louisiana officials.

Throughout most of the period under consideration, the state government's efforts to conserve and regulate the production of petroleum...
resources were tentative and were limited by financial and manpower con-
straints. Moreover, during the 1930's, several public officials condoned
and participated in unethical and occasionally illegal activities that
tarnished the state's reputation regarding the conservation of petroleum
resources and the leasing of state-owned lands for petroleum development.
By 1940, however, Louisiana had overcome these difficulties and entered
the new decade with a nationally-recognized conservation statute, a re-
vised conservation bureaucracy, an adequate system for administering
the development of state-owned mineral-bearing properties, and a tax
system that made the production of petroleum resources an important source
of state revenue.

The principal sources consulted in this work are selected archives
and manuscript collections, state and federal court cases, government
publications, and newspapers
INTRODUCTION

It can be claimed that the history of twentieth century Louisiana has three major elements: (1) the political activities of Huey P. Long; (2) the struggle of the Negroes to achieve equality; and (3) the exploitation of the state's natural resources, especially oil and natural gas. Historians have studied at some length the dominant political and social phenomena, but have paid little attention to the history of the development of the petroleum resources in this state.

This dissertation addresses one aspect of this subject by exploring the development, implementation, and significance of the state government's policies and programs for the conservation and regulation of petroleum resources during the period 1901-1940. The emphasis throughout this study is on the actions and reactions of the state government. Consequently, the history of the exploration for and exploitation of petroleum resources is discussed only insofar as it sheds light on a conservation problem or helps to explain the rationale behind a regulatory policy. The activities and attitudes of the petroleum producers and the federal government are normally presented only as antecedents of or responses to state action.

Where possible, this study explores the relationship between Louisiana's regulatory policies and those of other petroleum-producing states. This most often involves identifying antecedents of conservation programs considered or adopted by Louisiana. This process occasionally includes judgments regarding the appropriateness of specific
legislative proposals, but no attempt is made to compare the effectiveness and success of Louisiana's conservation and regulatory policies and programs to those of other petroleum-producing states. A paucity of scholarly treatments of similar topics in other petroleum-producing states influenced this decision.

As indicated in the title, this study ends in 1940. The main reason was the desire to avoid entanglement with federal policies and regulations enacted during World War II. Moreover, the selection of this terminal date permits the omission of the regulatory decision stemming from the petroleum exploration and development of the Louisiana tidelands and the ensuing controversy with the federal government over the ownership of this property. Finally, avoidance of these areas of potential conflict with and subordination to federal policies enabled the author to concentrate on Louisiana's conservation and regulatory policies and programs and to identify more accurately and readily their deficiencies and strengths.

Within the limitations set forth above, this dissertation explores the development, implementation, and effectiveness of Louisiana's petroleum conservation programs; the administrative bureaucracy established to oversee their application and enforcement; the taxation of petroleum-resource production; and the leasing of state-owned property for petroleum exploration. The treatment of these subjects is topical within a roughly chronological framework. Each of these broad categories warrants serious consideration as the subject of a monograph, but all have been included in this work because the elimination of any one would have detracted from the final assessment of Louisiana's effort to conserve and regulate petroleum resources and their exploitation.

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The principal sources consulted in this work are newspapers, court cases, archive and manuscript collections, and government publications. Unfortunately, few state government records from this period have survived, and those that are extant, except for the lease files of the State Mineral Board, are so fragmentary as to be of little value. Consequently, in several areas this work, of necessity, relies not on the best conceivable source, but on the best available source.
CHAPTER I

INITIAL PETROLEUM DEVELOPMENT AND
RECOGNITION OF THE CONSERVATION ISSUE

The modern American petroleum industry came into existence on
August 28, 1859, with the discovery of oil in Colonel Edwin L. Drake's
well near Titusville, Pennsylvania.¹ The completion of the Drake well
accelerated the evolution of petroleum from medicinal and pharmaceutical
applications to use in illumination, lubrication, and eventually propul-
sion.² Concurrent developments in the science of distillation were
expanding the usefulness of coal oil as an illuminant. These same advances
were readily applicable to petroleum oils.³ The Drake well and the resul-
tant oil boom in western Pennsylvania furnished the dependable supply that
made commercial production of petroleum-based illuminants economically
feasible.⁴

1 J. Stanley Clark, The Oil Century: From the Drake Well to the

2 Harold F. Williamson and Arnold R. Daum, The American Petroleum
Industry: The Age of Illumination 1859-1899 (Evanston: Northwestern Uni-
versity Press, 1959), 12 and 24. Hereinafter cited as The Age of Illumina-
tion. According to Williamson and Daum, the Seneca Oil Company, of which
Drake served as a director, approached its Titusville venture as a poten-
tial supply of illuminating oil rather than a source of medicinal oils.

3 Ibid., 51-52.

4 Ibid., 60.

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The fledgling domestic petroleum industry produced barely 2,000 barrels in the first year of the Drake era. By 1870, annual production had risen to more than 5,250,000 barrels. This increase and significant advances in bulk transportation, drilling and refining technology, and market promotion "combined to make petroleum an outstanding American industry by the early 1870's." During the next 30 years, the American industry, while still directed toward the illuminant and lubricant markets, attained a level of maturity that prepared it for the transportation innovations of the early twentieth century.

One aspect of this maturation was the discovery and development of dependable sources of production and proven reserve supplies. Around the turn of the century, the coastal region of southwest Louisiana was a significant area of exploration. According to Boverton Redwood, an early authority on the science and technology of petroleum, knowledge of petroleum in Louisiana dates from the 1820's when settlers used "petroleum oils" from deposits that oozed to the surface to lubricate wagon axles and


6 Williamson and Daum, The Age of Illumination, 114.

7 Ibid., 730-731.
protect tools from rust. A commercial discovery did not occur, however, until 1901, with the completion of the first producing well at Jennings.

Fully eight years before the achievement at Jennings, Louisiana's first noteworthy petroleum exploration began with the arrival of Captain Anthony F. Lucas. Having secured employment as a mining engineer with a salt mining firm, Lucas in 1893 moved his family to Petit Anse, Louisiana. His background, like that of many men active in the early stages of the modern American petroleum industry, was quite varied. Born and educated in Austria, Lucas was graduated from the Polytechnic Institute at Gratz and from the Naval Institute of Fiume and Pola. In 1879, while on leave from the Austrian navy, he came to the United States to visit an uncle living in Michigan. While on this sojourn he became sufficiently interested in the lumber business to resign his commission, apply for American citizenship, and embark upon a career in lumbering.

In 1888, Captain Lucas moved his family to Washington, D.C., where he began a new career as a mechanical and mining engineer. During the next six years, he worked as a consulting engineer and made a marginally

8 Sir Boverton Redwood, Petroleum: A Treatise on the Geographical Distribution and Geological Occurrence of Petroleum and Natural Gas; The Physical and Chemical Properties, Production, and Refining of Petroleum and Ozokerite; the Characters and Uses, Testing, Transport, and Storage of Petroleum Products; and The Legislative Enactments Relating Thereto; Together with a Description of the Shale-Oil and Allied Industries; and a Bibliography, I (London: Charles Griffin & Company, Limited, 1926), 113-114.

9 Leigh S. McCaslin, Jr., "Spindletop: Cradle of the Southwestern Oil Industry," Oil and Gas Journal (Golden Anniversary Number), May 1951, 114. Lucas was the Anglicized version of his surname, Luchrich.

successful attempt at gold prospecting in the San Juan Mountains of Colorado. Lucas brought this adventuresome background with him to Louisiana when he accepted a position as mining engineer at Petit Anse.\footnote{Oil and Gas Journal, June 25, 1920.}

Captain Lucas spent the years from 1893 to 1899 exploring the vast salt dome deposits at Petit Anse, Jefferson Island, Grand Cote, Belle Isle, Weeks Island, and Anse la Butte. While pursuing his work, he encountered signs of oil, gas, and sulphur and postulated a relationship between the salt plugs and the existence of these other mineral deposits.\footnote{James A. Clark and Michael T. Halbouty, Spindletop (New York: Random House, 1952), 30.} In 1899, having selected a location atop a gradual rise approximately 15 feet higher than the surrounding territory, Lucas tested his theory by drilling a well as Anse la Butte, three miles northeast of Breaux Bridge (see Figure 1.)\footnote{The establishment of the time of work on the Lucas well is an approximation on my part. I have established that the well was drilled in 1899, but have been unable to narrow that chronological span. McCaslin, "Spindletop: Cradle of the Southwestern Oil Industry," 114, New Orleans Times-Democrat, April 8, 1901.}

To the south and southeast of the chosen site within a radius of 200 feet, were several places where natural gases percolated to the surface. These gases were escaping from petroleum deposits trapped along the sides of the salt structure or accumulated in arched formations, anticlines, above the dome.\footnote{For illustrations of salt domes and their influence on petroleum accumulations, see Grover E. Murray, Geology of the Atlantic and Gulf Coastal Province of North America (New York: Harper & Brothers, 1961), Figures 5:13, 5:14, and 5:15 on pages 214-15; and Max W. Ball, This Fascinating Oil Business (Indianapolis: The Bobbs-Merrill Company, 1940), 60. They burned in a steady flame if a short length...
of pipe was driven a few feet into the ground and the escaping gases were then ignited. It was not surprising, therefore, that Captain Lucas found traces of natural gas almost immediately upon commencing drilling operations. At a depth of approximately 450 feet, Lucas struck oil, allegedly of sufficient quality to burn unrefined in coal oil lamps. The quantity of production from this level apparently did not make the well a commercial success; thus, the drilling continued. Before Lucas could get much deeper, however, his financial support collapsed, and he was unable to obtain new creditors. Notwithstanding a firm conviction that his endeavor had already demonstrated its eventual success, Lucas abandoned the Anse la Butte well and turned his attention to other opportunities.¹⁵

Captain Lucas explored much of southern Louisiana for minerals while employed as a mining engineer during the 1890's. During this period he occasionally made weekend trips to study the mineral possibilities associated with uplifts and salt domes along the neighboring Texas coast. Through these excursions he came to recognize the potential for development in the area surrounding Beaumont.¹⁶ One particular section, known locally as Gladys City, stimulated his interest because he found what he considered strong indications of sulfur.

Apparently at a time roughly simultaneous to the collapse of his Anse la Butte venture, Lucas noticed an advertisement placed by Patillo Higgins in a New York trade journal that renewed his interest in the Gladys City site. Lucas subsequently traveled to Beaumont where he and Higgins

¹⁵ New Orleans Times-Democrat, April 8, 27, 1901.
¹⁶ Clark and Halbouty, Spindletop, 30.
discussed the mineral development of the area that came to be known as Spindletop. Higgins related his theory that accumulations of petroleum around the salt dome would flow like geysers, but had to admit that his own attempt in 1893 had failed to prove the hypothesis.

The experience and theory of Higgins combined with his own belief in the existence of a commercially profitable sulphur deposit prompted Lucas to drill an exploratory well. On June 20, 1899, Lucas leased 27,000 acres at Spindletop for mineral exploration.\(^{17}\) His first well reached a depth of only 575 feet when mechanical difficulties made continued drilling impossible. It also depleted Lucas's financial assets, but did show strong indications of natural gas and enough crude oil to provide a sample. Fortunately, the sample enabled Lucas to secure additional financial backing from the Pittsburgh wildcatting firm of Guffey and Galey.\(^{18}\)

Returning to Beaumont, Lucas directed the renewed drilling effort that, on January 10, 1901, produced the famous Lucas or Spindletop gusher. Carl Coke Rister said of this well that it "marked the dawn of a new era in the Southwest."\(^{19}\) Some astounding claims have been advanced concerning the Lucas well and the Spindletop field, but this writer has no reason to doubt their accuracy. The Lucas well alone allegedly generated twice as much oil as all the wells in Pennsylvania, at that time the leading petroleum producing state, and at least half of the nation's total production.

\(^{17}\) Ibid.; McCaslin, "Spindletop: Cradle of the Southwestern Oil Industry," 111.

\(^{18}\) Clark and Halbouty, Spindletop, 30; McCaslin, "Spindletop: Cradle to the Southwestern Oil Industry," 111.

\(^{19}\) Carl Coke Rister, Oil: Titan of the Southwest (Norman: University of Oklahoma Press, 1949), 51.
production. At its height, the Spindletop is supposed to have produced more oil each day than the rest of the world combined.  

By demonstrating such astounding success, the developments at Spindletop sparked an immediate wave of petroleum exploration throughout the coastal regions of Texas and Louisiana. At several places, local investors envisioned Spindletop-like bonanzas at neighboring salt dome formations. Such was the scenario that produced Louisiana's initial commercially successful petroleum developments at Jennings.

The existence of a gas-emitting spring on the Mamou Prairie near Jennings (see Figure 1), similar to those which attracted Lucas to Anse la Butte and Spindletop, had been known since at least 1893. It took the successful development at Spindletop, however, to promote serious entrepreneurial consideration of this surface indication. Within three months of the Lucas gusher at Spindletop, a small group of Jennings businessmen led by S. A. Spencer secured leases on 2,000 acres of land near the gas seepage and sought to employ a competent drilling crew.  

Spencer and his associates traveled to Beaumont, where they had the good fortune to secure the services of W. Scott Heywood. At the time only 29 years old, Heywood had previous drilling experience in California and, together with his brothers, had completed several successful wells at Spindletop.

20 Clark and Halbouty, Spindletop, 79.

21 Rister, Oil!, 71; W. Scott Heywood, "Autobiography of An Oil Man," Oil: Pictorial Trade Journal of the Petroleum Industry, June 1941; New Orleans Times-Democrat, April 12, 1901. Spencer's partners were Thomas Mahaffey, Dr. A. C. Wilkins, Frank Jaenke, and I. D. L. Williams. A copy of Heywood's autobiography is also available in Collection #3262, Jennings-Heywood Oil Syndicate, Louisiana State University Department of Archives and Manuscripts, Baton Rouge.
Despite his involvement in an already profitable venture, Heywood showed considerable interest in the proposition advanced by the men from Jennings. The opportunity to obtain extensive leases in prime territory must have been attractive to Heywood since much of the Beaumont area had become unavailable by the time he had arrived from California. Heywood was in any case an adventurer, and the challenge may have been too appealing for him to ignore. 22

Whatever his motivation, Heywood on April 29, 1901, signed a contract with the Jennings businessmen. The terms of this agreement, according to Heywood, called for the organization of the Jennings Oil Company, to which S. A. Spencer and Company, the five-man partnership of Jennings businessmen, was to deed any 40 acres of its lease holdings that Heywood might select. In turn, the Jennings Oil Company was to drill two exploratory wells to a depth of 1,000 feet each. One-half of the Jennings Oil Company's 60,000 acres of stock went to S. A. Spencer and Company in exchange for the 40-acre lease. Fifteen thousand of these shares, along with 20 of the 40 acres, were to be deeded to Heywood upon completion of the two wells. 23

As the site for his wells, Heywood selected a tract on the Jules Clement farm in Acadia Parish, approximately six miles northeast of Jennings. This location was near the Jennings knoll, another salt dome, on which was


found the gas-emitting spring. He promptly completed the necessary preliminary arrangements and began drilling the first well. Early in July, at a depth of roughly 250 to 275 feet, the drillers struck a flow of oil that yielded 30 to 40 barrels a day. The nature of the formation through which they were drilling convinced Heywood that this oil was being forced toward the surface from a deeper stratum. He, therefore, decided to "case off" this flow and to continue to the depth agreed upon in the contract.

The Jennings Oil Company completed its initial well to the required depth around the first of August. Heywood's contract provided that he must begin the second well within 30 days after the completion of the first. Believing that oil would be found in a deeper formation, Heywood proposed that he be allowed to drill the second 1,000-foot well at the bottom of the first effort. Overcoming some initial reluctance from his Jennings associates, on August 11, 1901, he obtained just such an agreement. Subsequently, Heywood and his crew renewed their work on the existing well. Producing no significant results, the endeavor continued until at a depth of approximately 1,700 feet, strong indications of oil appeared. The drillers set what proved to be the final casing at a depth of 1,793 feet and ran the drill stem another 47 feet into the oil sand. Stopping at a depth of 1,840 feet, the crew began bailing (the process of removing...
cuttings, debris, and water by mechanical means) the well in preparation for production. On September 21, 1901, after the bailer had been run a second time, Jennings Oil Company's Spencer #1 well came in as a gusher spouting a four-inch stream of oil and sand to a height of 100 feet, fully 25 feet above the top of the derrick.\(^{28}\)

The gusher performance by Jennings-Spencer #1 continued for approximately seven hours, by which time sand had risen 1,000 feet in the drill pipe and effectively shut off the flow. Having experienced similar situations in California, Heywood attempted to alleviate the sand problem by flushing out a cavity in the oil-bearing sand at the foot of the well. Beginning on October 7, Heywood and his crew ran a two-inch pipe to the bottom of the well and pumped water through it to create the desired cavity. Upon starting to withdraw the two-inch pipe, however, the well again gushed oil and sand until the volume of sand entering the well blocked the flow.\(^{29}\)

The drillers repeated this process, with similar results, until the sand caused the two-inch pipe to become stuck inside the four-inch pipe. Efforts to free it were unsuccessful, and the Jennings Oil Company eventually decided to abandon the well.\(^{30}\)

Although Jennings-Spencer #1 was never a commercial success, it substantiated the belief held by S. A. Spencer, his associates, and W. Scott Heywood that oil existed beneath the territory surrounding the

\(^{28}\) Rister, Oil! 72; New Orleans Times-Democrat, September 24, 1901, Forbes, "Jennings," 496. Forbes erroneously fixed the completion of Jennings-Spencer #1 as occurring in August 1901.


Jennings knoll. Moreover, its performance stimulated a wave of development on about 60 square miles of the Mamou Prairie lying between bayous Nezpique and des Cannes, which converge east of Jennings to form the Mermentau River (see Figure 1). By early January 1902 seven wells were being drilled, and 15 more derricks were under construction in this area. These enterprises proved sufficiently encouraging to prompt the formation of a partnership between the Jennings Oil Company and the Southern Oil Company to construct a pipeline, with accompanying storage facilities, from the Jennings knoll area to the town itself. Despite these developments, the conclusive demonstration of commercial potential did not appear until May 21, when Southern Oil Company #3 shot a six-inch stream of oil over the derrick to a height of 100 feet. Drilled to a depth of 1,850 feet, this well was only 40 feet from Heywood's discovery well. Free of sand and other impurities, oil gushed from Southern #3 at an estimated initial rate of 70,000 barrels per day. This well truly inaugurated the era of commercially profitable oil development in Louisiana.

Beginning in 1902, the flush or boom production period at Jennings lasted through 1906. During this time, the field's annual production rose from approximately 549,000 barrels to 9,077,508 barrels, a figure that warranted its consideration as one of the leading fields of the Southwest.

31 New Orleans Times-Democrat, January 3, 1901.
32 Ibid., March 5, 1902. This venture was largely the result of the successful completion as a pumping well of Southern's #2 well and the positive indications of profitable operation at Jennings Oil Company #2.
33 Ibid., May 22, 1902; Oil Investors' Journal, May 24, 1902.
By 1907, the boom had passed its zenith, and production started to decline. The decline continued until the discovery in 1916 of a new well producing 185 barrels a day sparked a new wave of development.\textsuperscript{35}

During the early years at Jennings, oil men encountered conditions that would eventually be considered significant conservation problems. In its boom years, the Jennings field experienced two major fires. The first started on June 15, 1902, when a bolt of lightning ignited an oil storage tank at the Jennings Oil Company #2 well. The flames rapidly consumed the derrick and surrounding work buildings and spread to a pool of waste oil remaining from the well's initial gusher production. The fire ultimately reached the well, where it fed upon oil leaking from a faulty valve.\textsuperscript{36} This continued for nine days, until the Heywood-led drilling crew, aided by numerous volunteers from other companies, replaced the defective valve.\textsuperscript{37} The second major fire occurred on August 25 and 26, 1904, at the Morse Oil Company #8 well. As at the Jennings #2 fire, the flames spread to surrounding support structures and storage facilities.\textsuperscript{38} Drilling crews were again able to extinguish the flames, but the proximity of neighboring wells and their storage facilities added to the danger and the difficulty of controlling the fire.

\textsuperscript{35} Ibid., 502-503.

\textsuperscript{36} Heywood, "Autobiography of An Oil Man," 21; New Orleans Times-Democrat, July 16, 17, 1902. The tremendous heat generated by the fire exacerbated the leaking condition until the well fed an estimated 5,000 barrels of oil a day to the conflagration.


\textsuperscript{38} Oil Investors' Journal, September 1, 1904.
Not only did the storage conditions at Jennings aggravate the fire menace, they also contributed to occasionally serious conservation and pollution problems. Jennings's relative isolation, limited local market, and initial lack of adequate petroleum transportation facilities resulted in a vast backlog of stored petroleum. The only immediately available solution was the use of earthen storage pits. By the end of 1904, there were 3,670,000 barrels of oil stored at Jennings, and at one point during the boom years Scott Heywood estimated that more than 7,000,000 barrels of oil were held in earthen storage. Most of these facilities consisted of pond-like craters surrounded by earthen levees. These vast open tanks—the Heywood Brothers owned one of approximately 1,000,000 barrels capacity—were subject to constant patrol to prevent careless ignition of the oil. Despite the expense involved, and the losses due to evaporation, seepage, and fouling of the oil, most operators considered producing and storing oil in this way necessary to protect their leases from underground drainage by neighboring wells.

As the Jennings field matured, the development of more efficient transportation facilities and a decline in production obviated the need to store oil in earthen pits. Roughly coincident with the decrease in oil production was the appearance of the problem of salt-water disposal. Both a cause and an effect of the declining oil flow, salt water intrusion threatened to create a potentially damaging pollution problem for the

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41 Ibid.; New Orleans Times-Democrat, September 1, 1907.
neighboring rice farmers. The state legislature eventually required the oil interests to contain their salt water production during the time of the year when rice farmers used the rivers and bayous as a source of irrigation water. Fortunately, in many instances, the producers possessed earthen storage facilities that were no longer needed to handle excess oil production. These open storage pits thus were employed for a number of years as tanks for temporarily holding salt water.42

The events at Jennings earned their place in Louisiana history by virtue of having provided the first productive discovery of oil, the first commercially successful drilling operation, and experience with oil-related conservation problems. What occurred at Jennings was not, however, an isolated instance. Conditions that had stimulated oil exploration in the Jennings vicinity—surface indications and the impact of the discovery of oil at Spindletop—also excited oil fever throughout southwest Louisiana.

Roughly ten miles west of Jennings, near Welsh on the Mamou Prairie, Alexander Verrett drilled a well in April 1901 that produced positive indications of oil, but was not a commercial success (see Figure 1). Verrett's well and the subsequent developments at Jennings quickened the oil excitement around Welsh. It was not, however, until November 1902 that the successful completion of the Welsh Oil and Development Company's #3 well furnished Louisiana its second area of commercial oil production.43

Petroleum exploration occurred at Anse la Butte, as explained in the discussion of Anthony Lucas' Louisiana activities, before the developments

43 New Orleans Times-Democrat, April 12, November 18, 1902.

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at Spindletop and Jennings. As early as 1855, a water well near Breaux Bridge produced so much oil that it rendered the well useless. Signif-
ificant development efforts did not begin until the 1890's, when Captain Paul LeDeanois tried to interest local investors in drilling a well, and later when Captain Lucas's exploratory effort proved unsuccessful. During 1900 and 1901, the Moresi brothers from Jeanerette, Louisiana, secured several leases close to the Lucas well and drilled five of their own. They found strong indications of oil and gas, small quantities of oil, but not the gusher production that they sought.

The experiences of the Heywood Brothers Oil Corporation at Anse la Butte roughly paralleled those of the Moresi brothers. The Heywoods, primarily Scott and Alba, became interested in Anse la Butte during the winter of 1901-1902. Despite their inability to bring in a gusher, they share credit with the Moresi brothers for proving the Anse la Butte field. The big discovery finally came on November 14, 1907, with the completion of the Lake Oil Company's seventh well. Its production has been cited in various sources as ranging from 3,000 to 7,000 barrels a day. This success encouraged the Gulf Oil Company to make a sizable investment at Anse la Butte, but no other well approached the achievement of Lake Oil Company #7.

44 Ibid., May 6, 1907.
45 Oil Investors' Journal, November 19, 1907; New Orleans Times-
Democrat, August 6, 1902.
46 Oil Investors' Journal, June 7, December 15, 1902, April 15,
1903, December 3, 1905, November 19, 1907; New Orleans Times-Democrat,
September 18, 1907.
47 Oil Investors' Journal, November 19, December 5, 1907; Rister,
Oil!, 74.
During the discovery era, neither Welsh nor Anse la Butte rivaled the Jennings field. The same can be said of the fourth area of exploratory interest in southwest Louisiana, the area around Lake Charles in Calcasieu Parish (see Figure 2). Located roughly 50 miles east of Beaumont and 30 miles west of Jennings, it was not surprising that an interest in oil development arose in Lake Charles. Two areas of immediate activity were at Hackberry Island, roughly 20 miles southwest of Lake Charles, and near Vinton, approximately 20 miles west of the city. Surface indications furnished plenty of encouragement at Hackberry Island, but no significant development occurred during the discovery era. The events at Vinton followed much the same pattern—an abundance of positive signs, but a dearth of results.

A third area of exploratory interest in Calcasieu Parish developed near Sulphur, ten miles west of Lake Charles. The events at Spindletop generated a new round of intrigue surrounding some inactive wells belonging to the Union Sulphur Company. Several area residents, keenly interested in the prospects for petroleum development, believed that the company abandoned these wells because the intrusion of small quantities of oil hampered their operation as sulphur producers. The Union Sulphur Company never officially refuted, or even acknowledged, these claims; but the general manager of the company that drilled the wells said the reports were greatly


49 New Orleans Times-Democrat, February 5, 14, May 9, June 12, 1901.
The first decade of petroleum development in southwest Louisiana witnessed the discovery of only one area of significant oil production, Jennings. The Welsh and Anse la Butte fields warranted inclusion in the tables of production statistics published by the Oil Investors' Journal, but in 1908, the best year for both, daily production in the entire Anse la Butte field averaged just over 500 barrels. Furthermore, by 1909, the production of those fields was declining. The 123 per cent increase in statewide production that Louisiana experienced in 1910 was not the result of intensified petroleum activity in southwest Louisiana. Rather it reflected the emergence of Caddo Parish as a center of petroleum development in north Louisiana.

As was the case in southwest Louisiana, there had been indications of gas and oil deposits in Caddo Parish for several decades before intensive exploration began. The earliest recorded discovery occurred in 1870 when the drillers of a deep water well for a Shreveport ice plant struck natural gas. The well owners used the gas for illuminating purposes, but otherwise paid scant attention to its existence. Thirty-two years elapsed before the next accidental encounter with petroleum of which we have record.

50 Ibid., April 30, 1901, January 4, 5, 1902, June 2, 1910.
51 Oil Investors' Journal, February 20, 1910.
52 Ibid., January 13, 1911.
In this instance, Ellison M. Adger, a farmer from Belcher (see Figure 3), drilled several unsuccessful wells in an attempt to secure water for his livestock. Each of these efforts reached depths of approximately 400 feet and found only salt water. Unwilling to admit defeat, Adger asked A. C. Veatch, an employee of the United States Geological Survey stationed at Texarkana, to analyze core samples from his wells with regard to the possibility of finding potable water if he drilled to 1,000 feet. Responding to this request, Veatch indicated that the chances for a successful artesian well were not at all favorable. Should he wish to drill to that depth for oil or gas, however, the probability of success was high. Having no interest in oil or gas, Adger dismissed Veatch's encouraging remarks and abandoned the project. 54

These indications might eventually have generated exploratory interest in the Caddo Parish region, but the initial activity actually came as a result of events at Beaumont and Jennings. 55 The first recorded oil exploration in northwest Louisiana occurred in DeSoto Parish. Ira G. Hendrick, a chief engineer for the Kansas City Southern Railroad, secured

54 Forbes, "Caddo," 59; Shreveport Times, December 16, 1908. In the spring of 1907 the Dixie Oil, Gas & Pipe Line Company drilled a well at a location two and one-half miles southwest of Dixie, Louisiana--almost on the exact site where one of Mr. Adger's wells had been drilled to a depth of 425 feet. At a depth of 825 feet, this well struck a flow of gas estimated at more than 1,000,000 cubic feet per day. As they were looking for oil, the drillers "cased off" this flow and continued their work. At 2,167 feet they penetrated an oil-bearing sand that proved to be 11 feet thick. The owners again decided to go deeper in the hope of finding a bigger bonanza. Their attempt to obtain a well of gusher capabilities was eventually unsuccessful. The findings of this well and two other gas wells subsequently drilled on the same lease did, however, substantiate the claims made by A. C. Veatch.

55 Oil and Gas Journal, September 19, 1929.

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Figure 3

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a lease on the Joe Dean farm in the summer of 1901 and started work that winter. This well, which eventually became inoperable, struck a commercially profitable flow of natural gas at a depth of 987 feet. He subsequently drilled two more wells in the same vicinity; but, despite several promising indications, neither was commercially successful.

Caddo Parish experienced its first oil and gas exploration in 1904. The impetus for this endeavor came from S. A. Cameron, a cotton compress manager from Ruston; D. C. Richardson, a Shreveport lumberman; and Sam Fullilove, president of the Shreveport Progressive League. These gentlemen persuaded two experienced oil men, Dr. Frank H. Morrical and Mr. W. A. Savage, to survey the surface indications at a site approximately 20 miles north-northwest of Shreveport. Morrical, a native of Ohio, had gained practical experience in numerous oil fields in the United States and Canada, his most recent successes having been at Beaumont. Savage hailed from Charleston, West Virginia, and received his start in the oil industry there. His initial success came at the Sour Lake, Texas, field in 1895, and he was currently active in oil developments at Jennings. Somewhere along the line, these two individuals joined together to form the Savage, Morrical, and Savage Syndicate which was one of the leading drilling and field supply companies in the South.

56 Ibid.
57 O'Pry, Chronicles of Shreveport, 104.
58 Ibid.; Oil and Gas Journal, September 19, 1929. Another source lists Cameron as having been from Homer, Louisiana. Shreveport Times, May 18, 1904.
59 Shreveport Times, April 13, 1904.
The Syndicate was searching for promising new areas to explore, and the surface indications that Morrical and Savage saw near Ananias Station in the late spring or early summer of 1904 aroused their immediate interest. They made a contract with the Caddo Lake Oil and Pipe Line Company, a partnership of Shreveport-area entrepreneurs promoting oil development in Caddo Parish, to drill an exploratory well at Ananias. The drilling began in late August in the midst of a raging real estate boom at the Caddo City townsite. Morrical and Savage completed the well, Caddo Lake Oil and Pipe Line Company #1, on March 28, 1905, at a depth of 1,556 feet. From that level the well yielded five barrels of oil per day and a considerable flow of gas. Approximately five weeks elapsed before the owners decided to have the well deepened in the hope of securing a stronger flow of oil without having to employ pumps. Unsuccessful in their attempts to make the well a profitable oil venture, the owners abandoned it in June 1907 at a depth of approximately 2,200 feet with only several mediocre flows of natural gas to show for their efforts.

60 Ibid., April 13, June 20, July 24, 1904. Ananias, later to be known as Caddo City and eventually Oil City, was at that time merely a station on the Kansas City Southern Railroad. The surface indications at Ananias--mounds of earth rising above the surrounding territory, fissures and springs through which gas percolated to the surface, and the faint smell and taste of sulphur in the local ground water--were similar to those found at Beaumont, Jennings, and Anse la Butte.

61 Ibid., August 27, 1904. O'Pry erroneously fixed the beginning of work as occurring in June. O'Pry, Chronicles of Shreveport, 105. The confusion probably stemmed from the fact that construction of the derrick began in May, but not all of the drilling equipment arrived until August.

Soon after Savage Brothers and Morrical began their first well for the Caddo Lake Oil and Pipe Line Company, other companies started drilling exploratory wells in the same vicinity, along the northeast border of the Sabine Uplift, just northwest of Caddo City (see Figure 3). One of the most important of these companies, at least from the conservation point of view, was the Producers Oil Company of Houston, Texas. With each of its first three wells, Producers Oil experienced a problem that was to plague area drillers—an inability to control the extremely high gas pressure that they encountered. Producers' initial effort apparently suffered a blow-out during drilling late in 1904 or early in 1905. They were, however, able to bring the well under control and to use its gas as a fuel supply at their other wells.

A much more spectacular fate awaited the Producers Oil Company at their second well near Caddo City. Producers #2 blew out and became uncontrollable in the early evening of May 7, 1905, as the drilling crew was making preparations to complete the well. Reaching the contracted depth of 1,620 feet without discovering a commercially profitable oil-bearing sand, the owners decided to discontinue drilling and to finish

63 The Sabine Uplift is a "broad dome-like structure" running from northwest to southeast across northwest Louisiana and northeast Texas. A diagram of the structure is found in E. N. Tiratsoo, Petroleum Geology (London: Methuen & Co., Ltd., 1951), Figure 55, page 209. For several interesting maps and a brief description of this area's development, see G. D. Harris, I. Perrine, and W. E. Hopper, Oil and Gas in Northwestern Louisiana With Special Reference to the Caddo Field, Geological Survey of Louisiana Bulletin No. 8 (Baton Rouge: The New Advocate, 1909), 4-10.

64 Producers Oil Company was one of the antecedents of the Texas Company, which is now known as Texaco.

65 Shreveport Times, May 8, 1905.
the well as a gas producer as several fine gas-bearing sands had been en­
countered. With all but 200 to 300 feet of drill pipe removed from the
well, it blew out and went wild. The energy created by the sudden release
of subterranean gas pressure shot the remaining drill pipe and the rotary
drilling tools out of the well to a height of approximately 40 feet. This
tremendous explosion was plainly heard at a distance of up to 14 miles,
and its power caused the earth to shake and tremble with sufficient vigor
to convince people living nine miles away that they were experiencing an
earthquake.66

Having gone completely out of control, conditions at the well rapidly
began to deteriorate. After the initial explosion, the tremendous pressure
began forcing gas to the surface outside the well's casing. The situation
steadily worsened until a second explosion, less intense than the first,
catapulted the casing out of the ground. The well quickly took on the
appearance of a wild volcano as the flow of gas and salt water shot more
than 75 feet into the air and hurled rocks and pebbles to such heights
that some landed as far as two miles from the well.67

Throughout the night of May 7, the escaping gas and salt water mix­
ture eroded the ground around the well's mouth. Suddenly, on the second
day, as the well exhibited a burst of fury, the ground surrounding the
well collapsed, taking with it what remained of the derrick and drilling
equipment. When this happened, the water and drilling fluid from adjacent
pools drained into the hole where they mixed with the salt water coming
from the well. Witnesses described the result as a "churning cauldron"

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66 Ibid., May 8, 9, 11, 1905.
67 Ibid., May 11, 1905.

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in which the fluid mixture was continuously agitated by the column of gas and water still being hurled skyward. 68

The performance of the wild well continued unabated until early Tuesday night, May 9, when the hole apparently plugged itself and all activity ceased. This respite proved brief, however, as the accumulating pressure burst through or worked around the impediment and the well renewed its rampage with no noticeable decrease in vigor. 69 By now the well had assumed the appearance of a pond with a surface area of approximately one acre. Near its center, a continual geyser of gas, water, mud, and debris rose to heights of 40 to 50 feet. Around the lake's circumference the ground constantly trembled and everything within several hundred feet bore a coating of slime and mud from the falling geyser. Upon viewing this spectacle, experienced oil men unanimously expressed the opinion that never before had they witnessed a blow-out of such magnitude. 70

The next significant change in conditions occurred on the night of June 17, when someone managed to ignite the flow of gas. The resulting fire made a drastic change in the well's appearance. The geyser of water and mud now rose only ten feet above the lake's surface, but then served as a pedestal from which arose a column of flames estimated to be 30 to 50 feet high and almost as wide. At night the flames were plainly visible at a distance of nearly five miles and brightly illuminated the countryside immediately surrounding the well. The heat from the fire, furthermore,

68 Oil Investors' Journal, May 18, 1905.
69 Shreveport Times, May 11, 1905.
70 Ibid.
brought the water within a 60 square foot area encircling the well's mouth to a raging boil, thus producing great clouds of steam. The burning gas and rising steam produced a tremendous roar that was audible for several miles in every direction. The well soon became an attraction for sightseers, and their numbers prompted the Kansas City Southern to install special excursion rates from Shreveport to Ananias Station.

The novelty of the situation at Producers Oil Company #2 eventually waned and members of the Shreveport business and commercial community started expressing concern over the volume of gas going to waste. The Shreveport Progressive League took the first overt step to remedy the situation by inviting Chief State Engineer Major Frank M. Kerr to visit the well, investigate its condition, and formulate a plan for extinguishing the fire and controlling the blow out. Major Kerr and Governor Newton C. Blanchard responded to this invitation by visiting the wild well, accompanied by a delegation from the Shreveport Progressive League, on November 4, 1905. Governor Blanchard explained to the Shreveporters that the state had no money to expend on closing the well, but it would employ all the professional and scientific expertise at its disposal to suggest plans for controlling the well. After the inspection, Major Kerr refused to


72 Shreveport Times, June 23, 1905.

73 Ibid., November 3, 1905.

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issue a formal statement, commenting only that he would prepare a complete report for Governor Blanchard upon their return to Baton Rouge.\textsuperscript{74}

Before Major Kerr submitted his report, however, the fire and escape of gas at Producers Oil Company #2 suddenly stopped. No one knew exactly what had happened, but the most widely accepted theory was that a diminishing flow of salt water caused the water level in the crater to drop. As a result, the mixture of water, dirt, and sand held in suspension by the constant churning action began to thicken. This process continued until the weight of the mixture was sufficient to prevent a continued escape of gas, and the well choked itself off. Within a few days, the "churning cauldron" assumed the appearance and character of a small, peaceful pond.\textsuperscript{75}

The sudden demise of Producers Oil Company's #2 well brought little respite to those concerned about the waste of gas from wild wells in the Caddo field. On November 15, two days before it stopped, their third well blew out and went wild. On November 26, Major Kerr inspected the conditions at both Producers Oil #2 and #3, again at the invitation of the Shreveport Progressive League.\textsuperscript{76} Early in December he delivered to Governor Blanchard a report detailing the history of Producers Oil #2 and comparing it to the situation at Producers Oil #3. The latter, while

\begin{itemize}
\item \textsuperscript{74} \textit{Ibid.}, November 4, 5, 1905.
\item \textsuperscript{75} \textit{Ibid.}, November 17, December 8, 1905. The article of December 8 contains a copy of Major Kerr's report to Governor Blanchard. In that report, Kerr makes reference to two wells: Producers Oil #1 and Producers Oil #2. These wells should be known as Producers Oil #2 and Producers Oil #3, respectively.
\item \textsuperscript{76} \textit{Ibid.}, November 27, 1905. The location of Producers Oil #3 was approximately 200 feet from Producers Oil #2, the famous burning well.
\end{itemize}
formidable, he found to be not at all of the same magnitude as Producers Oil #2. Indeed, he offered the opinion that its activity was already diminishing and that it was not an appreciable threat to the field's life or to the gas supplies for Shreveport. Finally, Kerr maintained that closure of Producers Oil #3 was both possible and practicable, and that it could be accomplished for no more than $5,000.77

Kerr's report to the governor quite likely furnished little consolation to members of the Shreveport Progressive League when, on December 9, word reached Shreveport that Producers Oil #3 was burning fiercely. The description of the situation in the next day's Shreveport Times bore a strong resemblance to that which had existed at Producers Oil #2, except that the new well had not cratered.78 Additional disturbing news reached Shreveport in March 1906 when two more blow outs occurred in less than two weeks time. On March 11 another well belonging to the Producers Oil Company located about one mile south of Ananias went wild. It soon caught fire and the flames from the two burning wells illuminated the night sky as far away as Shreveport, 20 miles to the south-southeast.79 The next blow out indicated that this type of misfortune was not the lot of the Producers Oil Company alone. On March 23 the Citizens Oil and Pipe Line Company's #2 well blew out; and, while it did not catch fire, it was a significant financial loss to the owners.80

77 Ibid., December 8, 1905.
78 Ibid., December 10, 1905.
79 Ibid., March 12, 1906.
80 Ibid., March 24, 1906. This well, located two and one-half miles west of Ananias, was one of the oldest in the field.
The tremendous waste of natural gas occurring in the Caddo field, highlighted by the performances of Producers Oil Company's #2 and #3 wells, generated a considerable amount of concern over the life of the field and its impact on Shreveport's industrial growth. One forum in which this concern found expression was the 1906 session of the General Assembly of Louisiana. The legislature responded to the situation by enacting Louisiana's first petroleum conservation statute.81

Governor Newton C. Blanchard discussed natural gas conservation in his message read to the opening session of the 1906 General Assembly. The governor cited as wasteful examples the wild wells owned by the Producers Oil Company, and then stressed the state government's obligation to conserve and protect this valuable natural resource for the benefit of its citizens. To accomplish this goal, he explained, the state needed mineral laws. Since there were no such laws on Louisiana's statute books, Blanchard indicated that he was making copies of the Indiana statute available to those in attendance, and urged them to enact a version of it modified to suit the peculiar needs of Louisiana.82

Echoing the spirit of Governor Blanchard's recommendations, on June 5, Senator T. C. Barret, of Caddo Parish, introduced a bill roughly

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patterned after the Indiana statute. The expressed purpose of this bill--it became Act #71 when Governor Blanchard signed it--was to protect Louisiana's natural gas fields. According to its provisions, the act declared unlawful the waste or wasteful burning of natural gas from a gas well after five days from the receipt of written notice to control, close, or securely plug the well in question. Should the owner or operator of a wasteful natural gas well fail to close, or "in good faith commence the work of so closing," his well within the five days allowed, the act empowered the governor to delegate the task of doing so to the Board of State Engineers. Furthermore, in the event the state had to intervene, Section Two authorized it to retain possession of the well and land adjacent thereto belonging to the owner or operator until its income reimbursed the state's expenses. Section Three made it a misdemeanor punishable by fine, imprisonment, or both for any owner or operator wilfully or negligently to allow his gas well to become wild and the gas to burn wastefully. Finally, Section Five also declared it a misdemeanor to abandon a gas well without first sealing off the gas-bearing sand through the use of wooden plugs. The purpose of this provision was to protect the sand from the infiltration of water migrating from other strata penetrated by the well.83

As Louisiana's first petroleum conservation statute, Act #71 of 1906 was noteworthy. It contained, however, several significant flaws--some of omission and others involving vagueness of wording. The act failed to provide an appropriation for its implementation. Unfortunately, the

provision for state retention of wild wells could not furnish the capital necessary to close them. Furthermore, the act did not assign enforcement powers to any particular agency and the inclusion of words such as "in good faith commence" and "negligently permit" allowed considerable latitude in dealing with cases of gas waste. Finally, the law limited its provisions to gas wells only, no mention being made of oil wells. The authors failed to consider cases of considerable gas waste in the drilling and operation of oil wells.84

Although the events that resulted in the passage of Act #71 of 1906 involved principally the waste of natural gas, the object of the exploration that caused this waste was oil. But this quest was slow in producing results. According to the Oil Investors' Journal, the Caddo field produced 4,650 barrels of oil in 1905, but none in 1906.85 Judged by these figures, initial exploration was at best sporadic. One contemporary oil man attributed this languor at least in part to what he termed the "selfish" method in which Caddo Parish landowners insisted on leasing their property.86 Apparently they preferred to lease only small tracts, holding the rest of their land off the market in the hope that successful exploration would bring higher prices.

Despite this slowness of development, Shreveport-area drillers and investors remained optimistic that the Caddo oil fields had great potential.

84 At that time, it was a common practice among oil men to allow strong flows of gas to exhaust themselves in the hope that a commercially profitable flow of oil would follow.
85 Oil Investors' Journal, January 19, 1908, February 6, 1909.
86 Shreveport Times, September 28, 1906.
Rumors continually circulated that this or that well was on the verge of steady, commercially profitable production. A number of these reports in the latter half of 1906 concerned the Hardy-Sharp test well, also known as Producers #1, on Pine Island, and the Savage Brothers and Richardson well at Caddo City. By the end of that year, the Hardy-Sharp well was daily producing approximately 150 barrels of low-gravity oil, accompanied by a substantial flow of water. The Savage-Richardson well, on the other hand, was still unproductive, but work was continuing.  

During 1907 a few Caddo oil men finally achieved the success that they had steadfastly predicted. At the beginning of that year only 15 wells had been completed in Caddo Parish, and of them, only two had succeeded in producing oil on even a limited scale. The others included four dry holes or wells ruined by salt water, four blow outs, and five fine gas-producing wells. In late May word reached Shreveport that the S. S. Hunter well at Caddo City was a naturally flowing producer of from 100 to 500 barrels daily. For more than two months the Hunter well averaged approximately 100 barrels per day. A sudden blow out on August 7, while the drillers were cleaning the well, ended its production.  

Despite its brief duration, Hunter's achievement furnished encouragement and brought renewed interest to petroleum exploration in Caddo Parish. Occurring almost simultaneously, the events at Big Four #1 multiplied the

87 Ibid., July 26, October 14, December 24, 1906, January 5, 1907; Oil Investors' Journal, October 18, November 3, December 3, 1906, January 3, 1907.

88 Shreveport Times, March 25, 1907.

89 Ibid., May 24, August 8, 1907.
benefits resulting from the Hunter well. W. B. McCormick, the owner of Big Four #1, brought it in on May 27 as an intermittently flowing well. Based upon its sporadic performance, observers estimated its daily potential at not less than 1,000 barrels if it could be made to flow continuously. McCormick made several unsuccessful attempts to improve the well's production before deciding to drill deeper. On the morning of July 22, 1907, he completed the well for a second time, receiving a steady flow of 150 barrels per day. Several months later, he increased production to more than 200 barrels by cleaning and refinishing the well.\(^\text{90}\)

While the oil fraternity obviously welcomed the success of the Hunter and Big Four wells, they were not the large-scale gushers that the drillers sought. On the day following McCormick's second completion of Big Four #1, a well drilled by the Producers Oil Company came in as a small gusher. This well, Producers #4, sent a thick stream of oil to the height of the derrick, but the nature of the display convinced the drillers that this was only a temporary condition. They felt sure, however, that it would settle down to a steady flow with a daily production of from 300 to 500 barrels. Their expectations may have been somewhat exaggerated, but it was still listed as a producing well in February 1908.\(^\text{91}\)

Increasingly impressive gushers came in during late 1907 and early 1908 on the D. C. Richardson property at Pine Island (see Figure 3). Brought in on November 15, the Richardson #1 well shot a stream of oil to a height of more than 70 feet. Problems soon developed, however, and

\[^{90}\text{Ibid.}, \text{May 28, July 23, October 28, 1907.}\]

\[^{91}\text{Ibid.}, \text{July 24, 1907, February 5, 1908.}\]
Richardson's second well came in prematurely around the first of February. It made a fine gusher display, estimated at about 1,000 barrels per day, but the well's production rapidly dropped to less than 50 barrels a day, and the owner decided to rework it with the intention of drilling deeper. In early May the drilling crew completed the well a second time, again in gusher fashion. This time conservative estimates of its initial production ranged from 250 to 400 barrels. Within one week, however, as the workers finished bailing the well, its daily production rose to between 1,500 and 2,000 barrels.

As visually impressive and spectacular as were the occurrences involving the Richardson wells, they failed to match the developmental significance of wells brought in by the Caddo Gas & Oil Company and the Blanchard Oil Company. Caddo Gas & Oil completed its E. K. Smith #4 well on February 28, 1908. Although not a gusher, the well immediately produced 200 barrels of oil per day, accompanied by an estimated 10,000,000 cubic feet of natural gas. As the volume of gas subsided, the flow of oil increased until one week later daily production had risen to between 700 and 800 barrels. Blanchard Oil Company #1 also started with a steady flow and exhibited a tendency toward increased production. While never as prolific as E. K. Smith #4, Blanchard #1 and the Smith well attracted considerable attention to the Caddo field. Several eastern investors

92 Ibid., November 16, 1907, February 4, 1908.
93 Ibid., February 4, May 5, 10, 11, 1908.
94 Ibid., February 29, March 3, 5, 1908.
95 Ibid., March 4, 5, 1908.
visited the area and praised its potential, but the most significant indication of its recognition as proven oil territory was the announcement that the Standard Oil Company had decided to drill four test wells at Pine Island.96

An appropriate climax to the Caddo Parish oil excitement occurred in the spring of 1908 at the Hostetter well near Mooringsport, approximately 15 miles northwest of Shreveport and six miles south of Caddo City. The J. M. Guffey Petroleum Company originally completed this well on March 3, 1907, but it blew out during the process and remained a wild gasser for several days. Upon bringing the well under control, the owners were of the opinion that the blow out had forever destroyed its chances of being a profitable investment. They decided, therefore, to cap and abandon the well. Conditions at the well remained unchanged for a year until Hostetter released the cap and the well gushed oil. After repeating this experiment several times, on April 6 Hostetter staged a demonstration. This time the well remained uncapped for one and one-half hours and developed a gusher flow estimated at 2,000 to 2,500 barrels a day.97

This performance by the Hostetter well created a great deal of excitement in Caddo Parish. Not only was the well's display spectacular, but it extended the proven oil territory by more than three miles and provided the field's first large gusher. Despite its showing, most oil men initially believed that the Hostetter well would not be a commercial proposition because uncorrected damage remained from the previous year's blow

96 Ibid., March 10, 15, 1908.
97 Ibid., April 7, 10, 1908.
out. Subsequent tests indicated, however, that its production was steady and slowly increasing. The owners hastily constructed receiving tanks at the well and runs of oil into these tanks on April 16 and 17 revealed daily production rates of 1,680 and 1,800 barrels, respectively. The continuing volume of production eventually convinced the owners to rework and refinish the well as an oil producer.\textsuperscript{98}

These developments in 1907 and 1908 demonstrated the existence of oil deposits in commercial quantities in north Louisiana. While the oil excitement dominated Caddo Parish, oil men remained interested in extensions of the proven natural gas territory. Their concern stemmed from the widely held belief that strong flows of natural gas were reliable indications of future oil production. By the late spring of 1908, therefore, residents of the Shreveport area had ample reason for optimism as the proven oil territory covered an area roughly three and one-half miles wide and six miles long, following a southeast to northwest axis running through Caddo City.\textsuperscript{99} Moreover, this region did not even include the recent southerly extension toward Mooringsport brought about by the completion of the Hostetter well. The proven gas field encompassed a much larger territory, extending approximately 35 miles from Shreveport northwestward through Mooringsport and Caddo City and on to the vicinity of Vivian (see Figure 3).\textsuperscript{100}

\textsuperscript{98} Ibid., April 7, 10, 15, 16, 17, May 8, 1908.
\textsuperscript{99} Ibid., February 5, 1908.
\textsuperscript{100} Ibid., April 27, 1908.
The development that Caddo Parish experienced in 1907 and 1908 coincided with an increasing concern about the area's prodigious gas waste. Events at the Producers Oil Company's #2 and #3 wells in late 1905 prompted members of the Shreveport Progressive League to seek state assistance in combatting gas waste. This effort produced little in the way of lasting results other than the weak and ineffective Act #71 of 1906. In September 1907 calls for action to correct and prevent these wasteful conditions reappeared in the Shreveport press. In attempting to secure widespread civic support, leaders of this effort described the magnitude of the waste in locally understandable terms. They asserted that enough gas had already been wasted in the Caddo field to satisfy Shreveport's total market for the next 20 years. Furthermore, they estimated the value of the gas being lost at approximately $1,000,000 annually. These figures led them to believe that unless corrective action were taken, local residents would benefit from no more than ten per cent of this bounty.

The Shreveport civic leaders originally hoped to get the state to repair, control, or close the wells wasting natural gas. Realizing that the State Board of Engineers did not have the money to do so, the business leaders proposed to raise it through contributions to be refunded by the next session of the legislature. Evidently this proposal received several local endorsements and pledges, but nothing substantive grew from it.

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101 Ibid., September 17, 1907.
102 Ibid.
103 Ibid., September 17, November 4, 1907. Apparently, the Shreveport civic leaders were unable to secure a pledge of reimbursement from the state.
Undaunted by their failure to secure state financial support, the civic leaders directed their efforts toward a locally available alternative—the enactment of an ordinance to prohibit the transportation of natural gas out of Caddo Parish. Although such a strategy would contribute nothing to the goal of preventing gas waste, it would preserve the available supply for the local market. In early November 1907 the Shreveport Progressive League openly proposed such an ordinance. Quite naturally, a number of gas companies, especially those controlled by investors outside the Shreveport area, immediately rose in opposition.\footnote{Ibid., November 8, 19, 1907.} Debate and discussion regarding this issue continued throughout the winter of 1907-1908. On April 9, 1908, the Caddo Parish Police Jury unanimously adopted an ordinance that, in effect, prohibited the piping of Caddo Parish natural gas out of the state. The measure authorized the police jury to regulate or prohibit the laying, construction, maintenance, and operation of any pipeline "along, over, under, across, or through the highways, roads, bridges, streets, or alleys" of the parish.\footnote{Caddo Parish Police Jury Minutes April 9, 1908 (MS in Box 18, Vol. 10, Part 1, Louisiana State University Department of Archives and Manuscripts, Baton Rouge), 221-22.}

This ordinance was apparently patterned after a 1907 Oklahoma statute prohibiting the shipment of natural gas out of the state. The jurors quite likely assumed they were on safe legal ground, as the Oklahoma law had reportedly survived its initial court challenge.\footnote{Alvin O'Dell Turner, "The Regulation of the Oklahoma Oil Industry," (unpublished Ph.D. dissertation, Oklahoma State University, 1977), 56-57; Shreveport Times, April 11, 1908.} Regardless of the
jurors' belief, on May 27, 1909, the Caddo Gas & Pipe Line Company filed suit in Caddo Parish district court requesting an injunction against Police Jury President Richard Furman, the parish district attorney, and Sheriff J. P. Flourney to prevent their enforcement of the April 9 ordinance. The company's petition maintained that the ordinance violated Article I, Section 8, of the United States Constitution in that it attempted to regulate interstate commerce. The company's attorneys further argued that the police jury's sole intent was to prevent the company from fulfilling a valid contract to supply gas to the city of Texarkana. On June 1, 1908, District Judge T. F. Bell issued the injunction, but he required the company to post a $15,000 bond before it could continue constructing the line to Texarkana. Caddo Gas & Pipe Line Company completed its pipeline to Texarkana, and no appeal was made from the district court decision.

Given the concern demonstrated by residents of Caddo Parish, it was not surprising that gas waste conditions received considerable attention in the next regular session of the General Assembly. In his letter read to its opening session on May 12, 1908, Governor Newton C. Blanchard expressed the opinion that Act #71 of 1906 was ineffective and called upon

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108 Ibid., June 2, 1908.
109 In 1911, The United States Supreme Court declared unconstitutional the Oklahoma statute that apparently furnished the pattern for the Caddo Parish Police Jury ordinance. Turner, "The Regulation of the Oklahoma Oil Industry," 57.
the lawmakers to draft new legislation to protect and conserve Louisiana's
valuable natural gas resources. 110

When his address was read to the General Assembly, Governor Blanchard
was in Washington, D. C., serving as the chairman of the Louisiana delega-
tion to President Theodore Roosevelt's Conference on the Conservation of
Natural Resources. 111 The president had summoned delegations led by each
state's governor, business and industry leaders, and various government
officials to a three-day conference at the White House on May 13-15 to
discuss the danger of exhausting the nation's natural resources. The ini-
tial suggestion for such a conference came from the May 1907 meeting
of the Inland Waterways Commission, which proposed only a discussion of
methods to improve the nation's waterways and develop its water resources.
Largely as a result of the influence exerted by W J McGee and Chief
Forester Gifford Pinchot, however, when the president called the conference
its scope was extended to cover all aspects of natural resource conserva-
tion. 112

The main activities of the conference were the delivery of remarks
by the various governors and of speeches, often written by McGee and Pinchot,
by industry, government, and academic experts. McGee and Pinchot designed

110 Message from the Governor to the General Assembly of the State
of Louisiana. Session 1908 (Baton Rouge: The Daily State Printing Company,
State Printers, 1908), 79; Baton Rouge Daily States, May 14, 1908.

111 Shreveport Times, May 10, 1908. Other members of the Louisiana
delegation were Judge T. J. Kernan, John M. Parker, and E. H. Farrar.

112 New Orleans Times-Democrat, November 18, 1907; Samuel P. Hays,
Conservation and the Gospel of Efficiency: The Progressive Conservation
Movement, 1890-1920 (Cambridge: Harvard University Press, 1959), 128;
Roy M. Robbins, Our Landed Heritage: The Public Domain, 1776-1936
(Princeton University Press, 1941), 355. W J McGee was the secretary
of the Inland Waterways Commission.
these lectures and exhortations to create a general sentiment in favor of a cooperative policy of conservation. Apparently convinced by what they heard, the delegates unanimously adopted a declaration of principles in which they acknowledged the importance of natural resources, called for the enactment of laws for their protection, and recommended that each state appoint a commission to promote their conservation.

Motivated by the remarks of then Governor Blanchard and the recommendations of the Governors' Conference, the General Assembly wasted little time in adopting legislation to create a conservation commission. In less than three weeks, both branches of the legislature passed, and newly-elected Governor Jared Y. Sanders signed, House Bill #348, introduced by Representative Ralph S. Thornton of Rapides Parish, which upon promulgation became Act #144 of 1908. This act created a Commission of Natural Resources composed of seven members, two of whom, the Professor of Horticulture at Louisiana State University and the Chief Engineer of the State Board of Engineers, were ex officio. The other five members were to be appointed by the governor, and he was also authorized to select the commission's president and secretary. All commissioners were to serve without


115 Calendar of the House of Representatives of the State of Louisiana. Regular Session 1908. First Regular Session of the Third General Assembly under the Adoption of the Constitution of 1898 (Baton Rouge: The ing Company, 1908), 128-29.
compensation, except for the secretary, who could be paid up to $900 annually. The act further provided that the commission would cease to exist at the end of the 1910 legislative session unless given new life by that General Assembly. The legislature directed the commission to investigate and report to the next session on the condition of Louisiana's natural resources. It also instructed the commissioners to recommend whatever legislation was needed to protect the state's resources. Finally, the act appropriated $2,500 to defray the commission's expenses.\textsuperscript{116}

With the creation of the Commission on Natural Resources the State of Louisiana reached the first milestone on its way toward an effective program of petroleum regulation and conservation. In less than seven years, Louisiana had witnessed the discovery of four oil and gas fields, experienced waste and conservation problems in the Jennings and Caddo fields, and seen their legislature take its first action toward protecting the state's petroleum resources. These events provided the foundation upon which Louisiana established its initial conservation effort.

CHAPTER II

MATURATION OF LOUISIANA'S CONSERVATION BUREAUCRACY: 1908-1920

As explained in Chapter I, the creation of the Commission on Natural Resources completed the initial development phase in Louisiana's progression toward a comprehensive program of petroleum conservation and regulation. Governor Jared Y. Sanders initiated the second phase by appointing the commission's members and officers. During the nearly seven months between the commission's creation and its first meeting, petroleum development and gas waste continued in Caddo Parish. Completed on November 29, 1908, an oil well near Hart's Ferry extended the proven territory by approximately two miles and made it one of the largest oil fields in the country. Visiting the Caddo field at the invitation of the United States government, Dr. Leo Ubbelohde, the international petroleum authority, described its daily waste of 70,000,000 cubic feet of natural gas as

1 New Orleans Times-Democrat, November 24, 1908. Baton Rouge Daily State-Times, November 24, 1908. Automatically appointed as ex officio commissioners by statutory provision were the horticulture professor at Louisiana State University and the Chief Engineer of the Board of State Engineers, Major Frank M. Kerr. Selected by Governor Sanders to round out the commission's membership were: Henry E. Hardtner, president; Harry P. Gamble, secretary; W. E. Glassell; Swords R. Lee; and Justin F. Denechaud.

2 Shreveport Times, November 30, 1908. With the completion of the Benedum-Trees well at Hart's Ferry the field was approximately five miles wide and seven and one-half miles long, following a northwest to southeast axis from Mooringsport to Hart's Ferry. Apparently Hart's Ferry is near the present location of Trees City, Caddo Parish, Louisiana.
"... the most aggravated case of American advertising that can be conceived . . . ." Other sources estimated the daily gas waste at 100,000,000 cubic feet, one-half from two wild gas wells near Oil City, the rest from producing oil wells, dry holes, and abandoned wells.

Roughly concurrent with Dr. Ubbelohde's visit to Caddo Parish was the meeting of another conservation conference in Washington, D.C. On December 8-10, 1908, the National Conservation Commission, created by President Theodore Roosevelt as a result of his Conference on the Conservation of Natural Resources and instructed to investigate the condition of the nation's natural resources, presented its findings to a conference of governors, state conservation commissions, and representatives of business, industry, labor, and civic organizations. The commission estimated the nation's natural gas production for 1907 at 400,000,000,000 cubic feet. Added to this was a daily gas waste of 1,000,000,000 cubic feet. If these figures are correct, the United States wasted almost as much natural gas

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3 Ibid., December 4, 1908. Dr. Ubbelohde was chairman of the International Commission for the Unification of the Methods of Testing Petroleum.

4 Ibid., January 17, 1909.


as it used. Furthermore, Dr. Ubbelohde's figure of 70,000,000 cubic feet of gas wasted each day in Caddo Parish indicates that it accounted for approximately seven per cent of the nation's daily gas waste.

Given the magnitude of the problem and the public awareness of the condition, it was not surprising that Caddo Parish gas waste commanded the attention of Louisiana's Commission on Natural Resources. Its principal concern was the wild wells near Oil City. In late January 1909, W. E. Glassell, a member of the commission from Shreveport, forwarded to Governor Sanders an offer from a man in Fort Worth, Texas, to close the wells for $25,000. Were he to fail, the state owed him nothing. The Shreveport Times quoted Glassell as supporting the proposal and expressing the opinion that it was a bargain for the state. At roughly the same time, Representative Leon Smith, of Caddo Parish, urged the governor to remedy the wasteful conditions in the Caddo field by invoking Act 71 of 1906.

Unfortunately, there was little that Governor Sanders could do in this situation. The failure of the previous General Assembly to appropriate funds for corrective operations prevented him from responding to either proposal. The governor did, however, request Chairman Hardtner to summon a meeting of the Commission on Natural Resources to study the gas waste situation and determine what remedial measures could be taken.

The two wells of chief concern were Caddo Gas and Oil Company's Gilbert #1 and the well known as Dawes Trustee #1. The Citizens Oil and

7 Shreveport Times, January 26, 1909.
8 Ibid., January 27, 1909.
Pipe Line Company, its original owner, had completed Gilbert #1 on July 7, 1905, as a gas well producing an estimated 4,000,000 cubic feet daily. At some point during the next seven months the owners decided, for whatever reason, to close and cap the well. Unfortunately, gas began to leak outside the casing, and on February 17, 1906, the well blew out and went wild. As had happened at the nearby Producers Oil #1, Gilbert #1 rapidly assumed the appearance of an erupting volcano. The ground around the well's mouth collapsed forming a crater that grew in diameter to more than 300 feet. Salt water gushing from the well filled the crater and created a scene not a great deal different from the "churning cauldron" at Producers Oil #2. Periodically someone would ignite the jet of gas arising from the crater's center and the heat generated by the flames would evaporate enough of the water to cause the water and mud mixture to thicken. This process would continue until the mixture became heavy enough to choke off the flow of gas and extinguish the flames. The well would then remain dormant for a brief period until the gas pressure forced its way through the mud and reestablished its wild flow. The well repeated this performance each time it was set on fire.

Dawes Trustee #1 was another cratered well located approximately three-quarters of a mile southeast of Oil City. It blew out on May 11, 1908, from a depth of 1,800 feet. Within 24 hours the rate of gas flow

10 Shreveport Times, July 8, 1905.
11 Oil and Gas Journal, October 28, 1926; Shreveport Times, February 5, 1908.
12 Oil and Gas Journal, October 28, 1926; Shreveport Times, February 5, 1908.

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was 40,000,000 cubic feet per day. On May 13, as the drillers worked to control the well, a tornado destroyed the derrick, drilling rig, and support facilities. The drillers finally abandoned their efforts when they discovered that the gas had worked its way around the foot of the surface casing and entered a water-bearing sand at a depth of 75 feet. The gas migrated through this sand and blew out through the earth's surface approximately 300 feet from the well. When the surface blow out began working its way toward them, the drillers ignited the gas as a safety measure and let the well follow its own course. In less than three weeks the escaping gas and water formed a crater at least 100 feet in diameter.  

Local agitation concerning the two burning wells—Gilbert #1 and Dawes Trustee #1—prompted Governor Sanders to request a special meeting of the Commission on Natural Resources. In response to the governor's request, the commission met in Shreveport on February 4-5, 1909. It spent most of the first day touring the fields. That evening it held a public hearing at which representatives from the oil and gas industry and other interested citizens discussed waste conditions in general and the wild wells in particular. One of the first to speak was Senator T. C. Barret, author of Act 71 of 1906, who explained the manner in which he intended the measure to operate. Although admitting that the law had been a "dead letter" because no substantive effort had been made to enforce it, Senator Barret maintained that the measure could be used to enable the state to

deal with cases of waste and obtain reimbursement for all expenses in-
curred.  

The second noteworthy speaker was S. S. Hunter, president of Caddo
Gas and Oil Company. Hunter explained that his company had tried to close
Gilbert #1, but after expending $17,000 in the effort, found it impossible
to do so. He further averred that other men who had visited the well and
studied its condition shared his opinion that it could not be closed. In
response to a question from President Hardtner, Hunter declared that Caddo
Oil and Gas had abandoned its interest in that part of the field and, there­
fore, had withdrawn its offer of $10,000 to anyone who could close the
well.

The most notable presentation of the evening came from J. B. McCann,
a widely known and respected oil man with considerable experience in the
Caddo field. McCann explained that the absence of a rock formation between
the gas-bearing stratum and the surface was the basic cause of the conser­
vation problem. He asserted that most drillers had taken all available
precautions in their operations, but that too often the existing technology
was not sufficient to handle the situations they encountered. McCann ad­
vised the commission that, given the geology of the area, he foresaw little
hope of success in attempts to control and close the wild gas wells. On
a brighter note, McCann commented that increased knowledge of local

14 Shreveport Times, February 5, 1909.
15 Ibid.
conditions and advances in drilling technology were reducing the likelihood of future occurrences of prodigious gas waste from wild wells.\textsuperscript{16}

The commission received additional testimony at another public hearing on February 5 and then met in executive session to consider their report to Governor Sanders. While not issuing a formal statement to the press, President Hardtner revealed that the commission would recommend that the state do all in its power to insure that the wild wells were controlled or closed. He also indicated that the commission held a rather liberal interpretation of Act 71 of 1906, believing that it empowered the state to seize and hold the property of a well owner, wherever located, until the cost of correcting a conservation problem at his gas well was collected. This assumption was not realistic, however, because the statute's second section stipulated that the state could do so only if the property adjacent to the well belonged to its owner or proprietor.\textsuperscript{17}

President Hardtner also indicated that the commission members were considering making several recommendations to the governor. Aware of weaknesses in the enforcement procedures embodied in Act 71, they would propose the appointment of a state oil inspector empowered to make arrests of, or to file complaints against individuals or corporations ignoring the law. To meet the cost of these measures the state would levy a tax on each

\textsuperscript{16} Ibid.

\textsuperscript{17} Ibid., February 6, 1909; Acts Passed by the General Assembly of the State of Louisiana at the Regular Session Begun and Held in the City of Baton Rouge, on the Fourteenth Day of May, 1906 (Baton Rouge: The Times, Official Journal of Louisiana, 1906), 112. Hereinafter cited as Acts of Louisiana.
1,000 cubic feet of natural gas and each barrel of oil produced in the area served by the inspector. 18

President Hardtner implied that the commission's report would recommend a proposition for closing the Caddo field's wild wells. Before, during, and after the Shreveport hearing, the commission received formal and informal offers to close the wells. Most discussed were the proposals submitted by J. M. Robbins of Fort Worth, Texas. He first offered to close the wells for $25,000 and to charge nothing if his efforts failed. Upon making a more thorough examination of the Caddo wells, Robbins presented an alternative plan which he refused to make public. 19

Another proposal stipulating that payment was due only upon successful completion of the work came from S. J. Webb. Webb expressed his interest in closing the wells at the Shreveport hearings, and approximately two weeks later submitted his proposition in writing. During the intervening time, both wild gassers ceased burning. Surveying the new conditions at each well, Webb indicated that the escape of gas at Gilbert #1 appeared to be decreasing, while the opposite was true at Dawes Trustee #1. Webb would say very little regarding his plan other than that it involved the drilling of "supernumerary" wells. From that statement the Shreveport Times inferred that his proposal would cost more than the $25,000 requested in the plan made public by J. M. Robbins. 20

18 Shreveport Times, February 6, 1909.
19 Ibid., February 9, 1909.
20 Ibid., February 17, 18, 1909.
In making its report to the governor, the Commission on Natural Resources avoided endorsing any of the proposals that it had received. Rather, the commission recommended that the state notify the owners of the wild gassers to bring their wells under control. Should they fail to do so, it advised Governor Sanders to instruct the Board of State Engineers to do the work. Furthermore, the commission strongly urged the governor to pursue this action even if it meant that the state government ultimately had to absorb the cost.

The commission's report also directed the governor's attention to the need for an agent in the field to protect the state's interests. The commissioners recommended that this representative be authorized to regulate and supervise the field operations of the petroleum industry in Caddo Parish because "Private individuals cannot be relied upon to conserve the public interest in this respect."21

While decrying the prodigious gas waste from the wild wells, the commission declared that these conditions resulted "more from a lack of knowledge of what precautions would be effective than from negligence or indifference." The same was not true, they indicated, of the smaller but less excusable gas waste associated with the drilling and operation of oil wells. The report estimated that producing and abandoned oil wells in the Caddo field wasted between 15,000,000 and 30,000,000 cubic feet of natural gas each day. The commissioners characterized the practices that caused this waste as careless, indifferent, and negligent.22

21 Ibid., June 14, 15, 1909.
22 Ibid., June 14, 1909.
The matter of gas waste in oil production had come up during the commission's February hearings in Shreveport. In the discussions of gas waste from the wild wells, representatives of the gas interests charged that oil men attached little importance to natural gas and purposefully wasted millions of cubic feet of gas each day. The gas interests maintained that most of this waste was preventable by the installation of pumps on oil wells. On their inspection tour of the Caddo field the commissioners witnessed and expressed their concern about several examples of this type of waste in which from 5,000,000 to 10,000,000 cubic feet of natural gas was lost daily in order to produce from 50 to 150 barrels of oil. J. B. McCann ably presented the position of the oil interests by explaining to the commissioners that there were two producing strata in the Caddo field. The shallow sand was at an average depth of 800 feet and yielded only natural gas. The deeper sand, on the other hand, produced both oil and gas from a depth of about 1,800 feet. The two strata were totally independent of each other and, assuming that proper drilling procedures were followed, activity in one had no effect upon the other. According to McCann, the gas being released in oil production from the 1,800-foot level was not commercially valuable, but was being used to raise the oil to the surface.

The line dividing the rival interests in this controversy appeared to be based upon economic identification. On one side were the gas

23 Ibid., June 25, 1909.
24 Ibid., February 6, 1909.
25 Ibid., February 5, 1909.
operators, royalty owners, transmission interests, and those who hoped to profit from industrial development stimulated by the vast natural gas deposits. On the other side were the oil men, their royalty owners, and those who believed they lived in the path of future oil development. Differences in the economic attractiveness of oil and gas served to complicate the recognition of divisions of interest. Shreveport's relative isolation from natural gas markets and the rudimentary nature of gas transmission severely limited the possibilities for immediate financial return from gas development. The adaptability of oil to different modes of transportation and storage eliminated several of these problems. It was not unusual, therefore, to find individuals owning property in proven gas territory siding with the oil interests if they anticipated that serious oil exploration in their area was imminent.26

The debate over gas waste in oil development continued, but not until March 1910 did it again become a newsworthy item. On March 1 W. E. Glassell received a letter from Secretary Harry P. Gamble authorizing him to chair a meeting of Caddo Parish oil and gas interests. Gamble specifically asked him to obtain expressions of opinion as to what, if any, waste prevention legislation the state needed and to report his findings to the March 7-8 meeting of the entire commission.27 The attendance at Glassell's meeting was moderate and composed primarily of gas interests. The consensus was that there was not sufficient time to make a thorough study of field conditions and report to the whole commission at its next scheduled meeting.

26 Ibid., July 12, 1909.
27 Ibid., March 2, 1910.
Those present decided, therefore, to have Glassell appoint a committee representing both oil and gas interests to examine the situation and make its recommendations to a special session that the Commission on Natural Resources would be invited to hold in Shreveport. The participants also urged the committee to meet as soon as possible so that positive suggestions could be submitted to the forthcoming session of the General Assembly.28

On May 17, 1910, the commission convened in Shreveport to receive the recommendations of the committee appointed by Glassell. Apparently the committee was unable to draft proposals for legislative action, however, as the oil and gas interests seemingly found little upon which they could agree. A. G. Mercer, of the Busch-Everett Syndicate, was the principal spokesman for the gas interests. He explained that his company was delaying the construction of pipelines from Caddo Parish to New Orleans and St. Louis because the legislature had not enacted a conservation statute strong enough to protect the state's natural gas resources from the practices commonly employed by oil men. Mercer urged the commission to recommend adoption of a modified version of the Indiana statute that closely regulated the operation of oil wells in proven gas territory. Such a law in Louisiana, he maintained, would significantly reduce the waste of an estimated

28 Ibid., March 4, 1910; Oil Investors' Journal, March 6, 1910. Commissioner Glassell appointed a seven-member committee composed of three oil men; three gas men; and Beeman G. Dawes, president of the Vivian Oil Company, who had sizable holdings in both resources. The other members were: J. B. McCann or A. J. Mercer, the Busch-Everett Company; George Sipe, Louisiana Gas Company; Sam S. Hunter, Caddo Oil and Gas Company; J. F. Fisher, Gulf Refining Company; I. E. Etchison, Black Bayou Oil Company; and J. B. McCue, Producers Oil Company.
200,000,000 cubic feet of natural gas each day by oil wells that produced from 600 to 1,000 barrels. 29

Rising in defense of the oil operators, F. C. Proctor, of the Gulf Refining Company, argued that a statute like that of Indiana would effectively kill the oil industry in Caddo Parish. He further maintained that the most notorious instances of gas waste in the Caddo field, the two wild wells, were the result of gas, not oil, exploration; that it was preposterous to consider saving oil and gas from the same well; that oil was of much greater value than natural gas; and that he did not believe that anyone would ever pipe natural gas from Caddo Parish to New Orleans. Finally, Proctor informed the commission that oil men would not object to a conservation statute prohibiting the escape of natural gas from any well, provided the well was not being used exclusively for oil production and that the oil produced was greater in value than the escaping gas. 30 This was essentially the West Virginia gas conservation law and would have exempted most commercially profitable oil wells from the statute's provisions.

Despite their inability to formulate with the oil interests a mutually acceptable compromise recommendation, the Caddo Parish gas interests and those concerned about gas waste continued to work for the adoption of a more workable gas conservation statute. Their primary effort lay in seeking to educate the members of the 1910 General Assembly as to the economic and physical consequences of unbridled gas waste. On June 1 members

29 Shreveport Times, May 18, 1910; Baton Rouge Daily State Times, May 18, 1910; New Orleans Times-Democrat, May 18, 1910.

30 Shreveport Times, May 18, 1910; Baton Rouge Daily State Times, May 18, 1910; New Orleans Times-Democrat, May 18, 1910.
of the House of Representatives were persuaded to extend an invitation to experts from the United States Geological Survey to speak to the legislature on oil and gas conservation, and the Senate concurred in making the invitation. Although Director George Otis Smith was unable to come to Baton Rouge, he sent two of his ablest assistants, Chief Geologist C. Willard Hayes and Dr. David T. Day, to speak in his place.  

On the evening of June 15, Day and Hayes delivered lectures on the conservation of natural gas to interested legislators and members of the public. Day reminded the audience that the time had come to kill the wild gas wells and insisted that no insurmountable conditions prevented their closure if there were sufficient determination to do so. Implying that the wild wells could be capped for a cost of between $30,000 and $40,000, he urged the state to demonstrate its commitment to natural gas conservation by underwriting the task. It would then be incumbent upon the state to help establish an atmosphere where oil and gas production could exist in harmony. The key to the success of this effort lay in making natural gas too valuable to waste. Day encouraged business and civic groups to develop local markets that would make it economically unwise for oil operators to allow natural gas to escape. He also suggested the use of natural gas to produce carbon black.


Elaborating on the economic theme, Hayes justified state action to close the wild wells in Caddo Parish by drawing an analogy between such an endeavor and the provision of fire protection. He reasoned that both were "expenditures for the protection of the innocent public against loss through crime, carelessness or indifference of the individual." Beyond suggesting remedies for wasteful conditions, Hayes argued that effective conservation would come about only through the operation of economic laws—natural gas must be made too valuable to waste.33

Despite their inability to offer immediate solutions for gas waste problems, the lectures by Day and Hayes served to create and maintain interest in conservation legislation. Furthermore, their addresses presented a positive analysis of gas waste conditions in Caddo Parish without alienating or castigating the oil operators. This was extremely important because the legislature was at that time considering more effective gas conservation legislation. The measure being debated was House Bill 333 introduced by Representative Henry E. Hardtner, the same Henry E. Hardtner who served as President of the Commission on Natural Resources. Hardtner introduced his bill on June 10 and saw it referred to the House Committee on Conservation.34 The committee amended the bill in a manner that virtually assured its passage by gaining acceptance from both oil and gas spokesmen. Their compromise was essentially an application of the Indiana gas waste statute to all Louisiana wells except those where the value of the oil produced

33 Shreveport Times, June 17, 1910.
34 House Calendar, 1910, 126.
was greater than that of the gas used. 35 As reported to the house, the bill actually represented a victory for the oil operators because it exempted most commercially profitable oil wells from its provisions. From statements issued by Sidney Herold, attorney for the Gulf Refining Company, and Harry Hawes and A. J. Mercer of the Busch-Everett Syndicate, it appears that the legislators and industry representatives built the compromise around the expectation of increased markets for natural gas in the near future.

Having come out of committee in amended form, the Hardtner bill moved through the house and senate with only token opposition and on July 6, 1910, became Act 190. Its first section provided a detailed procedure to be followed in situations where a driller or owner wished to abandon an oil or gas well. This provision the authors borrowed almost verbatim from the 1893 Indiana gas conservation statute. The same was true of Section Two, which stipulated that natural gas could not be allowed to escape from any well for more than two days. To this was added, however, the qualification drawn from the West Virginia conservation statute that this provision did not apply to wells from which "the oil produced has a higher salable value in the field than has the gas so lost." Section Four provided that anyone violating Sections One and Two was guilty of a misdemeanor and subject to fine or imprisonment. The fifth section, again copied almost verbatim from the Indiana statute, prescribed the situations and manner in which adjacent

35 Shreveport Times, June 19, 1910.
or neighboring landowners could intervene to correct wasteful conditions in the event that the owner or driller neglected to do so.\textsuperscript{36}

Act 190 was not the only bill passed by the 1910 General Assembly that dealt with the conservation of the state's natural gas resources. On June 20 Representative Leon Smith, of Caddo Parish, introduced House Bill 426 that sought to amend and re-enact Sections One and Two of Act 71 of 1906. This measure moved through both branches of the legislature with ease and became Act 183 upon receiving the governor's approval.\textsuperscript{37} It repeated the provisions of Sections One and Two of Act 71, but also provided a method through which the state might more easily be reimbursed if it had to intervene to close a wild or wasteful well. Section Two of Act 71 authorized the state to maintain possession of such a well and adjacent land belonging to the same owner until its expenses were repaid.\textsuperscript{38} Act 283 amended this provision by empowering the state to seize, and if necessary sell, any and all property belonging to the well owner or operator in order to recover its expenses in closing a wild or wasteful well.\textsuperscript{39} While Act 283 strengthened the state's ability to collect payment for work already

\textsuperscript{36} House Calendar, 1910, 126; Acts of Louisiana, 1910, 313-15. The Indiana statute that served as the model for much of Act 190 of 1910 was Chapter 36 of the Acts of 1893. The Louisiana General Assembly turned to the Indiana statute as a pattern because there was no doubt as to the constitutionality of its provisions. 177 United States Reports 190-213 (April 9, 1900).

\textsuperscript{37} House Calendar, 1910, 158.

\textsuperscript{38} Acts of Louisiana, 1906, 112.

\textsuperscript{39} Acts of Louisiana, 1910, 484-86. This provision closely follows the interpretation of Act 71 of 1906 announced by Chairman Hardtner on February 5, 1909. See Fn. 17.
done, it did absolutely nothing to provide the financial resources required for effective implementation of its provisions.

In 1910 the General Assembly also enacted legislation to oversee and promote more effectively the conservation of the state's natural resources. Act 144 of 1908 stipulated in Section One that the Commission on Natural Resources would cease to exist at the end of the 1910 legislative session unless that body provided for its continuance. Prolonging the life of the commission was the intent of House Bill 280 introduced on June 8 by Representative Hardtner. His bill moved through both houses with few changes and became Act 172. This statute converted the Commission on Natural Resources into the Conservation Commission and enlarged its membership by the addition of the State Forester as an ex officio member. Among the duties assigned to the commission were to inquire into the condition of the state's forest resources; to prevent waste in the production of oil, gas, and other resources; to supervise the Department of Minerals and Forestry; and to submit to the General Assembly biennial reports on the condition of natural resources in Louisiana. The act also authorized the commission to draw upon the Conservation Fund "to promote, protect and conserve" the state's resources, provided that such an expenditure did not jeopardize the money needed for fixed expenses.

The 1910 legislature completed the creation of a petroleum conservation bureaucracy with the passage of Act 254. This statute, introduced on June 8 as House Bill 281 by Representative Hardtner, established a Department

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of Mining and Minerals and charged it with the prevention of unsafe and wasteful mining practices. The department was to be led by a Supervisor of Minerals, a job delegated to the Register of the State Land Office. As supervisor, he was to have one deputy, appointed by the governor upon the recommendation of the Conservation Commission, who must possess practical knowledge of geology, oil, and natural gas. The register was to receive an additional $500 annually for his services and the deputy was to be paid $2,000, plus up to $1,000 for expenses.\(^{41}\)

Act 254 instructed the Supervisor of Minerals or his deputy to inspect, "so far as practicable," all mining operations in the state, especially those involving natural gas and oil. He was to see that mining and petroleum interests observed all laws and regulations and to supervise the enforcement of penalties against those who failed to do so. The statute also required him to make a detailed annual report to the Conservation Commission concerning the location, geology, production, operation, and profitability of each mining operation in the state.\(^{42}\)

The enactment of Act 172 and Act 254, creating the Conservation Commission and the Department of Mining and Minerals and defining the authority delegated to each, provided Louisiana with its first conservation bureaucracy empowered to take positive action to correct and prevent oil and gas waste. With this accomplishment the state reached its second milestone on the road to effective conservation and regulation of its petroleum resources.

\(^{41}\) House Calendar, 1910, 108; Acts of Louisiana, 1910, 423-25.

The establishment of this bureaucracy was not all that the 1910 General Assembly accomplished in the way of petroleum-related conservation. It also dealt with the salt water pollution problem that periodically plagued the rice-growing regions of southwestern Louisiana. The Jennings area had had difficulty in disposing of salt water as early as 1904. In many instances well owners and operators had been able to dispose of the salt water by turning it into neighboring rivers and bayous. This practice, however, created a serious problem for rice farmers because they customarily drew upon these streams for irrigation water.

This issue attracted attention in April 1908 when Crowley attorney Hampden Story served notice on the oil operators of the Jennings field to cease discharging salt water into the tributaries of Bayou des Cannes and the Mermentau River or face legal action from his clients, a group of rice growers. The letter from Story raised a serious problem for the area's oil operators. According to figures furnished by the Jennings Times-Record, daily salt water production in the Jennings field averaged from 125,000 to 150,000 barrels and threatened to exceed the field's storage capacity unless operations were curtailed. Evidently the oil interests were able to arrive at a temporary solution to their problem because no damage suits were filed against them that year by rice planters.

This problem did not disappear after 1908; rather it recurred each planting session. In 1910 the General Assembly enacted Act 193, which made it a misdemeanor for oil interests to pollute with oil or salt water

43 Lake Charles Daily American, April 7, 1908; New Orleans Times-Democrat, April 7, 1908.

44 Lake Charles Daily American, April 2, 1908.
any natural stream used for irrigation purposes between March 1 and September 1 of each year. During that period oil interests were to provide secure storage facilities for the pollutants, to employ watchmen for these facilities, and clearly to post the ownership of each reservoir or tank in which contaminants were stored.\textsuperscript{45}

Petroleum conservation activity during 1910 was not limited to the legislative arena. On May 5 Attorney General Walter Guion and Representative Leon R. Smith filed suit in Caddo Parish District Court on behalf of the State of Louisiana to restrain the Caddo Oil and Gas Company from allowing the continued escape of natural gas from the Gilbert #1 well. The state alleged that, acting under the provisions of Act 71 of 1906, it had served notice on the company and its president, S. S. Hunter, to close the well, but that they had made no effort to do so. When interviewed the following day by a Shreveport Times reporter, Hunter declined to make a statement. He did, however, detail for the press the actions taken by his company to close the well and explained how each had failed.\textsuperscript{46}

The case settled into a protracted legal debate, the first round of which the state won on February 25, 1911, when District Judge E. W.

\textsuperscript{45} Acts of Louisiana, 1910, 272. The State Supreme Court, in the case of State vs Duson, later affirmed a district court decision which revoked the statute's provisions regarding the posting and providing of watchmen for salt water storage facilities. Nevertheless, this act was the legal basis of the state's effort to control petroleum-related water pollution for several decades to come. \textsuperscript{58} Southern Reporter 159-60 (March 25, 1912); Opinions of the Attorney General of the State of Louisiana from May 1, 1928, to April 30, 1930 (New Orleans: Montgomery-Andre Printing Co., Inc., 1930), 112.

\textsuperscript{46} Shreveport Times, May 6, 8, 1910; New Orleans Times-Democrat, May 6, 1910.
Sutherlin rejected the Caddo Oil and Gas Company's exception of no cause of action. The next step could have been for the state to demonstrate in the trial of the suit on its merits that the well could be closed and that the owners were negligent in not doing so. Further legal action was, however, unnecessary because officials of the Caddo Oil and Gas Company announced on March 21, 1911, that they had brought the well under control and had closed it. A relief well had been drilled next to the crater to the gas-bearing stratum tapped by the wild well. When the combined production from the two wells had noticeably diminished, workmen constructed earthen levees around Gilbert #1 and filled its crater with water. With the use of pumps, they then forced water into the gas-producing sand through the relief well. The combined effect of the water migrating toward the wild well through the gas-bearing stratum and the weight of the water in the crater eventually shut off the flow of gas from Gilbert #1. The crew then capped the relief well, finally ending a waste of natural gas that had lasted for six years.47

The Louisiana Conservation Commission evidently attempted to claim that the suit pending in the Caddo Parish District Court had moved the Caddo Oil and Gas Company to act to close the well, but in fact the company had long been engaged in a continuing effort to do so.48 As detailed earlier, the Conservation Commission came into existence in July 1910 with the passage of Act 172. In late August Governor Sanders announced his

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47 Shreveport Times, March 22, 23, 1911; Oil and Gas Journal, March 30, 1911.

48 Oil and Gas Journal, March 30, 1911.

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appointments to the new commission. Its membership was the same as that of the Commission on Natural Resources with the addition of Fred Grace, Register of the State Land Office, as an ex officio member. The renamed and enlarged commission held its first meeting on January 10, 1911, in the committee room of the Shreveport Chamber of Commerce. At that session they reviewed the state's conservation laws, especially those dealing with oil and gas. The commission anticipated receiving an annual revenue of approximately $80,000 from the conservation fund provided by the new mineral license tax and announced that a significant portion of this sum would be allocated to the closing of wild gas wells in Caddo Parish.

The commissioners made no immediate plans to spend their money, however, because the constitutionality of the tax was under challenge in the courts. In a suit filed on January 14, 1911, in Caddo Parish District Court, the Etchison Drilling Company sought to restrain and permanently enjoin the parish tax collector from collecting the tax on the ground that Act 196 of 1910 was unconstitutional. Virtually powerless to do anything until it received some funds, the commission criticized the court for its slowness in deciding the case. Finally, on April 17, 1912, the court handed down the long-awaited decision ruling that insofar as it applied to the business of oil and gas production, the tax was unconstitutional, null, and void. The Caddo Parish tax collector, Sheriff J. P. Flournoy, immediately appealed the district court decision to the state Supreme Court.

49 The New Advocate (Baton Rouge, La.), August 27, 1910; Shreveport Times, August 28, 1910; New Orleans Times-Democrat, August 28, 1910.

50 Shreveport Times, January 11, 1911; Oil and Gas Journal, January 19, 1911.
That body upheld Judge E. W. Sutherlin's ruling, leaving the state without a valid license tax and the Conservation Commission without a source of financial support.\textsuperscript{51}

As a result of the decision in \textit{Etchison Drilling Company vs J. P. Flournoy, Tax Collector}, the Conservation Commission looked to the 1912 session of the General Assembly for legislation to support their work.\textsuperscript{52} The legislature responded by providing an appropriation for the Conservation Commission's expenses\textsuperscript{53} and by reestablishing the Conservation Fund in Section Four of Act 127. This fund was now to receive all fees and revenues collected by the commission, and any surplus beyond that needed for regular expenses could be used to advance the conservation effort.\textsuperscript{54} The money provided under this act, however, proved to be inadequate to finance action in the oil and gas fields.

Revitalization of the state's conservation bureaucracy in the 1912 General Assembly went beyond the effort to provide a more secure financial foundation. Act 127 also reformed and reorganized the Conservation Commission by consolidating all duties and authority previously assigned to the Department of Forestry and Mines and Minerals. Furthermore, Section

\textsuperscript{51} 59 Southern Reporter 867-72 (June 19, 1912); New Orleans Times-Democrat, March 28, 1912; \textit{Etchison Drilling Company vs J. P. Flournoy, Tax Collector} #14,250 First Judicial District Court, Caddo Parish.

\textsuperscript{52} New Orleans Daily States, May 18, 1912; New Orleans Item, May 18, 1912; Shreveport Times, May 20, 1912. At a commission meeting held in New Orleans on May 18 President Hardtner reminded his fellow commissioners, and through the press the legislators, that the Conservation Commission was helpless to enforce the existing laws unless the General Assembly was willing to provide a dependable source of revenue.

\textsuperscript{53} House Calendar, 1912, 146.

\textsuperscript{54} Acts of Louisiana, 1912, 155.
Two empowered the commission to adopt rules and regulations for the protection and supervision of the state's natural resources, and Section Three directed it to enforce its rules and other conservation laws, and to report criminal violations to the appropriate district attorney for prosecution.  

Act 127 also significantly altered the commission's structure. Previously composed of seven and then eight members, five of whom were appointed by the governor, the new Conservation Commission was to have only three members, all of whom were to be selected by the governor. Each commissioner was to be knowledgeable about some aspect of natural resource conservation. The president was to be paid an annual salary of $3,000 and each of the others $2,400. The law further authorized the commissioners to employ whatever staff they deemed necessary, provided the clerical, office, and travel expenses did not exceed $20,000 annually.

With the promulgation of this act Louisiana established its first full-time, professional conservation department. On August 16, 1912, Governor Luther E. Hall announced the appointment of M. L. Alexander, Edgar T. Leche, and J. A. Dayries as commissioners, with Alexander, supposedly an authority on conservation, the commission's chairman. Alexander was a businessman from Alexandria, Leche was a former registrar of voters from Orleans Parish, and Dayries was from Pointe Coupee Parish.

55 Ibid., 151-60.

56 Ibid. This provision was evidently a reaction to the alleged excesses in the game warden service instituted by Governor Sanders as part of the conservation reorganization in 1910. New Orleans Times-Democrat, July 7, 1912.

57 New Orleans Times-Democrat, August 15, 1912; New Orleans Daily States, August 16, 1912; New Orleans Item, August 17, 1912.
At the Conservation Commission's first meeting on August 17, Chairman Alexander completed the top-level organizational structure by announcing that Commissioners Dayries and Leche would jointly supervise the conservation of oyster and fish resources, while he would be responsible for the forest, game, and mineral resources.  

While still organizing the commission, on October 30 Alexander demonstrated his concern about the waste of natural gas resources by visiting Shreveport and the Caddo oil and gas fields. He emphasized that the new commission was dedicated to the prevention of waste and the conservation of petroleum resources for the benefit of the state and its citizens.  

In mid-December Chairman Alexander again traveled to Shreveport, this time to attend a meeting of prominent oil and gas men arranged by W. E. Glassell, president of the Shreveport Chamber of Commerce. Those in attendance discussed ways and means of preventing gas waste, and before adjourning Chairman Alexander asked Glassell to appoint a committee to draft suggested rules for reducing waste in oil and gas operations. He requested that this committee report to the Conservation Commission by January 15, 1913.  

58 New Orleans Daily States, August 28, 1912; New Orleans Times-Democrat, August 28, 1912.  
59 Shreveport Times, November 1, 1912.  
60 Ibid., December 14, 1912; Oil and Gas Journal, December 19, 1912. Appointed to the committee by Glassell were: C. K. Clarke, representing Standard Oil of Louisiana; Charles Clayton, superintendent of the Producers Oil Company; Lon Malet, superintendent of Gulf Refining Company; C. D. Keen, agent of the Jan Doster Company; H. L. Heilperin, president of Louisiana Real Estate and Development Company; O. A. Wright, representing the Palmer-Potter interests; A. J. Mercer, general manager of the Busch-Everett Company, Thuriel Hicks, Arkansas Natural Gas Company; and A. G. Curtis and George Sipe, Southwestern Gas and Electric Company.
The conservation commissioners and their chief engineer, Frank T. Payne, went to Shreveport for their January meeting. At its first session the special committee appointed by President Glassell analyzed the conditions existing in the Caddo field and presented recommendations for rules to govern all subsequent activity. The "underground conservation" subcommittee assessed the ways in which oil and gas resources could be protected while still in their subterranean reservoirs. Their presentation concentrated on the prevention of waste during the drilling, operating, and abandoning of wells. Following an explanation of these topics, this subcommittee concluded with these recommendations: that the present statute regulating the plugging of abandoned wells be amended to meet the Caddo field's peculiar conditions; that operators employ the mud-laden fluid process in drilling and abandoning all future wells; that surface casings be kept in good condition and cemented properly; that the time allowed for blowing gas wells be reduced from two days to two hours; and, that all gas wells producing salt water in quantities judged detrimental to the gas-bearing sand be abandoned and properly plugged.61

61 Shreveport Times, January 16, 1913.

The "aboveground conservation" subcommittee prefaced its recommendation by explaining that it had concerned itself only with gas waste originating from gas-bearing sands. Its members contended that gas found in the same stratum with oil was not a commercial proposition; therefore, its escape into the air in conjunction with the production of crude oil should not be considered a waste. Having made clear its position, the subcommittee recommended that the Conservation Commission adopt rules prohibiting the...
use of natural gas in the production of oil when drawn from a gas formation, the daytime burning of flambeaux and torches, the generation of power by direct expansion engines of greater than 15 horsepower, or flat rate sales for unrestricted uses.\textsuperscript{62}

The commissioners took no immediate action on the committee's report, preferring to view the field conditions before committing themselves to a course of action. They spent the next morning touring the field and then reconvened their meeting to consider each of the recommendations. That afternoon Chairman Alexander expressed the commission's thanks to the committee members and announced that it planned to adopt their suggestions as a formal resolution within the next 30 days. He also indicated that the commission intended to employ an inspector for the Caddo field and delegate to him the supervision of oil and gas operations.\textsuperscript{63} On January 28, 1913, then, the Conservation Commission adopted the special committee's recommendations as Louisiana's first set of rules for the regulation and conservation of its petroleum resources.\textsuperscript{64}

Shortly after the promulgation of the commission's first oil and gas rules, Chairman Alexander announced the appointment of John W. Smith, of Lake Charles, as its inspector for the Caddo field. Smith had had experience with the commission's predecessors, having served as an inspector

\textsuperscript{62} Ibid.

\textsuperscript{63} Ibid., January 16, 17, 1913.


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charged with the supervision of salt water disposal in the Jennings field. His selection for the Caddo field position demonstrated the close working relationship that existed between the state conservation bureaucracy and the petroleum industry during this era. According to a report appearing in the Shreveport Times, Chairman Alexander compiled and forwarded to several individuals active in Caddo Parish oil and gas development a list of six to eight possible appointees for the position of special inspector, and it was largely on the basis of their evaluations and endorsements that the commission chose Smith. 65

Inspector Smith moved to Shreveport and assumed his duties on February 15, the day the new rules and regulations went into effect. He immediately made it known to the area operators that he did not expect instantaneous compliance with all rules, but that he would require them to make a conscientious effort to bring their operations into conformity as soon as possible. 66 In an interview with the local newspapers in early May, Smith expressed his gratitude for the cooperation he was receiving from the operators and indicated that significant progress was being made toward bringing all operations into compliance with the flambeaux and torch regulations and that the rules concerning the blowing and abandoning of wells were being warmly received. He further complimented the operators for bringing possible violations to his attention, thus saving him much valuable time. 67

65 Shreveport Times, February 7, 1913.
66 Ibid., February 21, 1913.
In his interview, Inspector Smith also noted that Dawes Trustee #1 was still spewing natural gas at a daily rate of approximately 10,000,000 cubic feet. The inspector announced that he was negotiating with an unnamed gentleman to close this well and implied that another attempt to do so would be made in the near future. On May 29, having traveled to New Orleans, Smith met with the conservation commissioners to discuss plans for an attempt to control the wild gas well. After the meeting, he announced that the commission would offer a definite plan within the next few weeks and that he believed the well could be closed for approximately $25,000.

It would be erroneous to infer from Smith's activities that he was the sole, or even the principal, agent responsible for the renewed interest in closing the wild gas well. At its two-day meeting in Shreveport, January 15-16, 1913, the Conservation Commission discussed conditions at Dawes Trustee #1 and pledged to implement measures to bring it under control. They indicated that an attempt would be made to locate its owner and proceed according to the provisions outlined in the state's conservation statutes. Furthermore, Commissioner Alexander congratulated the Shreveport Times on its campaign to rally public support for another

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68 Ibid.
70 Shreveport Times, January 17, 1913.
attempt to close the well and urged its editor to stress the necessity of spontaneous and unreserved cooperation if the effort was to be successful.\(^7\)

The various elements working to find a solution for the gas waste problem finally came together when the Conservation Commission announced that it would hold a public hearing on July 9 at the Caddo Parish courthouse. The commission hoped that an exchange of information, opinions, and strategies would produce a workable plan for closing the well that all parties could support. In his opening remarks to the large and enthusiastic crowd, Chairman Alexander explained that Louisiana faced no greater problem than the profligate waste of its natural resources, the foremost example of which was natural gas waste in the Caddo field. He claimed that the commission's actions over the preceding six months had resulted in a daily saving of more than 12,500,000 cubic feet of natural gas. Unfortunately, the wild wells continued to waste approximately 10,000,000 cubic feet each day, and, he explained, remedying this situation was beyond the commission's financial capabilities. Only through the cooperation and monetary support of concerned Shreveport-area residents would the commission be able to bring this waste to an end.\(^7)\)

Following the introductory remarks, Ex-Governor Newton C. Blanchard addressed the hearing. Stressing the importance of the gas resource, he

\(^7\) Ibid., June 19, 1913. The Times informed its readers that the gas escaping from wild wells in Caddo Parish, 77 per cent of which came from Dawes Trustee #1, represented a daily loss of $260 at the well head and many times that amount in potential commercial development. The editor called upon Shreveport business and civic leaders to cooperate with the Conservation Commission for the protection of this valuable resource and the future betterment of their city.

\(^7\) Ibid., July 1, 10, 1913.
declared that it was of much greater value to the average citizen than oil. But for the public to benefit it must be guaranteed a continued and uninterrupted supply. To assure such a supply, uncontrolled waste must be stopped. Largely as a result of wild wells, the reservoir pressure in affected areas of the Caddo field had dropped from an initial 375 pounds per square inch to 80 pounds. Should the discharge of wild wells continue, the supply of gas would soon be exhausted. The former governor maintained that, because the Conservation Commission did not have the money to undertake closing the wild wells and because the gravity of the situation made it unwise to wait for an appropriation from the General Assembly for that purpose, it remained for the citizens of Shreveport and Caddo Parish to finance closure of the wild wells.73

Following the address by Blanchard, representatives of several oil and gas companies pledged their cooperation in any effort to solve the gas waste problem. Finally, Colonel J. B. Ardis, of the Caddo Oil and Gas Company, arose and declared: "It takes money to do things, ... hot air don't [sic] do anything." He moved that a conference of oil and gas men meet the next day to discuss just how much each was willing to contribute to closing the wild wells. The motion carried unanimously.74

The conference convened on July 10 in the offices of the Shreveport Chamber of Commerce. Organizational in nature, its only significant result was the appointment of two committees, finances and methods, which were instructed to deliver reports to another conference that would meet on

73 Ibid. July 10, 1913.
74 Ibid.
July 19. At the second meeting the Finance Committee did not present a formal accounting of its activities, but Chairman Alexander distributed copies of a resolution adopted by the Conservation Commission subscribing $2,500 to the fund for closing the wild wells. Appended to the resolution were an endorsement by Governor Hall and an attorney general's opinion upholding its legality.

Chairman Alexander also informed those attending the second conference that the commission had located the owner of Dawes Trustee #1, D. D. Davies of Waterloo, Iowa, and had served him with the five days' notice required by law within which to begin closing the well. Having acknowledged receipt of the notice, Davies's failure to act in time removed the last legal barrier preventing the state from closing the well. Accordingly, Chairman Alexander authorized the Committee to Devise Means of Closing Wells to install pumps at the crater and lower its water level in order to study the well more closely.

75 Ibid., July 11, 1913; Oil and Gas Journal, July 17, 1913. Membership on the two committees was as follows: Finance: W. B. Pyron, Gulf Refining Company, chairman; J. B. Ardis, Louisiana Gas Company; State Senator Leon R. Smith; C. K. Clarke, Standard Oil of Louisiana; Therel Hicks, Arkansas Natural Gas Company; Samuel Guy, independent operators; and H. L. Heilperin, Black Bayou Oil Company. To Devise Means of Closing Wells: A. G. Curtis, Southwestern Gas and Electric Company, chairman; H. A. Melat, Gulf Refining Company; Charles P. Clayton, Producers Oil Company, J. E. Todd, Standard Oil of Louisiana; J. C. McCue, McCue Oil Company; F. J. McNellie, Higgins Oil Company; W. L. Todd, Atlas Oil Company; W. C. Wolff, Wolff Drilling Company; George B. Sipe, Louisiana Gas Company; S. A. McCune, Arkansas Natural Gas Company; M. B. Carmody, Southwestern Gas and Electric Company; and Frank T. Payne, chief engineer of the Louisiana Conservation Commission.

76 Shreveport Times, July 20, 1913.

77 Ibid., July 17, 20, 1913.
While presenting no report at the second conference, the Committee to Devise Means of Closing Wells transmitted two proposals from S. R. Lippincott of Ashdown, Arkansas. In the first, Lippincott explained that he and his business associates, together comprising the Germania Oil and Gas Company, had leased a ten-acre tract containing the Dawes Trustee #1 well. They offered, if allowed to exercise complete control, to drill four wells into the gas-bearing formation. These wells, they contended, would sufficiently diminish the flow of gas and salt water from the wild well to allow its crater to be emptied by pumps. They would then drill a fifth well adjacent to Dawes Trustee #1 and through it introduce cement into the bottom of the offending well, while at the same time pumping cement into its mouth. At the conclusion of this procedure both the wild well and the relief wells, plus the short span of gas-bearing sand connecting them, would be completely cemented and sealed. Chairman Alexander rejected this proposal, explaining that the Conservation Commission was not willing to relinquish its authority over the wild well.

Lippincott's second proposal was accorded a more favorable reception. In it he asked for permission to drill a gas well near the wild gasser. In return, he offered the state a 25 per cent royalty from his well until it amortized the debt incurred in closing the wild well. Chairman Alexander advised Lippincott that the Conservation Commission would consider the proposal and give him an answer as soon as the Committee to Devise Means to Close Wells delivered its report.78

78 Ibid., July 20, 1913.
The Committee to Devise Means of Closing Wells was delaying its report until it had an opportunity to inspect more closely the wild gasser at Caddo City. They intended to empty the water-filled crater and survey the condition of the original casing before committing themselves to a plan. The original drilling crew had attempted to repair a rupture in the surface casing by running a string of 14-inch casing to a point below the break, securely cementing the two casings together. Their effort produced a joint strong enough to withstand the immense pressure, but the gas forced its way around the bottom of the casing and percolated to the surface at several points around the well. The committee believed that the tremendous decrease in reservoir pressure from 400 pounds per square inch to less than 100 pounds made feasible another attempt to close the valve atop the 14-inch casing. They abandoned this effort, however, after seven days of continuous pumping had lowered the water level 35 feet but had not revealed the valve. 79

The committee's lack of success in their initial undertaking led them to recommend the drilling of a relief well near the crater. On or about August 10, Chairman Curtis transmitted this recommendation to the Conservation Commission. The commission wasted little time in acting. On August 24 the Shreveport Times reported that W. W. Blocker, of Shreveport, had a contract from the state to drill a relief well and had almost completed the construction of his derrick and other preliminary activities. 80

79 Ibid., August 2, 1913.
80 Ibid., August 10, 24, 1913.
Selecting a site less than 15 feet from the crater's edge, Blocker's crew drilled a relief well with the aim of blocking the flow of gas into the wild well by flooding the gas-bearing sand. They set an 8-inch casing at the top of the gas sand, allowed the cement to harden for nine days, and, under the supervision of Inspector Smith, drilled 20 feet into the gas stratum. Having previously constructed a three-acre reservoir nearby, they then began pumping water into the relief well. Fighting against the pressure exerted by the escaping gas, the pump initially forced only 29 gallons of water per minute into the well, but by the fifth day it was injecting 165 gallons per minute. On the seventh day the drillers noticed that the pressure against which the pumps were working would drop drastically and then slowly increase to near its previous level. They speculated that the water was opening and filling a new channel through the gas-bearing sand each time this occurred. Concurrently, the drillers noticed a slow decrease in the flow of gas and salt water from the wild well. On the tenth day its flow suddenly ceased and the mixture of salt water and mud in the crater drained back into the well. The crew continued for three more days pumping water into the relief well to drive the gas away from the foot of the wild well. They also corrected weaknesses found in the casing joints at the mouth of Dawes Trustee #1, thoroughly cemented the space between the two casings, and securely closed and capped the gate valve. For further insurance against a renewed flow, they placed dynamite charges ten feet apart around the crater's circumference. Their detonation dumped several tons of shale and clay into the crater. The drillers
theorized that a subsequent flow of gas and water would mix with this material to form a thick mud the weight of which would plug the well.\footnote{Ibid., September 6, 1913; Biennial Report of the Conservation Commission, 1912-14, 25-29. A report in the Shreveport Times estimated that 4,334,000 gallons of water were pumped into the relief well during the first ten days. Shreveport Times, September 30, 1913.}

The reaction to the demise of Dawes Trustee #1 was swift and ecstatic. A. G. Curtis, field manager of the Southwestern Gas and Electric Company and chairman of the committee that had devised the plan for closing the well, declared that extensive gas waste was now a thing of the past. Senator Leon R. Smith praised the work of the Conservation Commission and the local oil and gas industry and observed that the closing of Dawes Trustee #1 would be recorded as one of the great moments in Louisiana's history. More subdued and detached from the jubilation of the moment, W. B. Pyron, of the Gulf Refining Company, said that the closing of this well was significant because it demonstrated that wild wells could be closed, often at no great expense. Furthermore, the success of this effort reduced the likelihood that other wells would be allowed to remain wild for any substantial time.\footnote{Shreveport Times, September 30, 1913.}

As Pyron declared, the successful closing of Dawes Trustee #1 demonstrated that wild wells could be closed at a reasonable expense. Past estimates of the cost of closing wild gassers in the Caddo field had ranged from $5,000 to $100,000, with $25,000 the most frequently quoted figure. The Finance Committee ultimately raised $10,607.95 for the campaign to close

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the well. Of this amount, the Conservation Commission expended only $5,109.15. The remaining $5,419.80 the commission returned to the contributors.  

Heartening to those who were working to close Dawes Trustee #1, and adding to the sweetness of their success, was the announcement on September 19 that the other wild gasser, known locally as the Dixie well, had ceased to flow. The Dixie well had been wild since September 1, 1907, flowing both gas and salt water. Although initially much greater, the well's gas production had declined in its last two years to approximately 3,000,000 cubic feet per day. Early in September 1913 the well's pressure dropped below 100 pounds per square inch and observers noted a considerable increase in its salt water production. Without warning, apparently on September 17 or 18, the gas flow suddenly stopped and the well became quiet. This event was especially encouraging to those working on the Dawes well because they assumed that the salt water flow choked off the escape of gas. The news could not have arrived at a better time because on September 19

83 Biennial Report of the Conservation Commission, 1912-1914, 17-18; Shreveport Times, April 14, 1914. The following is an accounting of the money received and amount returned to each contributor:

<table>
<thead>
<tr>
<th>Contributor</th>
<th>Received</th>
<th>Returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southwestern Gas and Electric</td>
<td>$1,000.00</td>
<td>$1,021.45</td>
</tr>
<tr>
<td>Caddo Levee District</td>
<td>1,000.00</td>
<td>510.73</td>
</tr>
<tr>
<td>Gulf Refining Company</td>
<td>2,000.00</td>
<td>1,021.45</td>
</tr>
<tr>
<td>Gas Supply</td>
<td>50.00</td>
<td>25.45</td>
</tr>
<tr>
<td>Oil Field Gas</td>
<td>50.00</td>
<td>25.45</td>
</tr>
<tr>
<td>Louisiana Gas</td>
<td>1,000.00</td>
<td>510.73</td>
</tr>
<tr>
<td>Producers Oil Company</td>
<td>2,000.00</td>
<td>1,021.45</td>
</tr>
<tr>
<td>Conservation Commission</td>
<td>2,507.95</td>
<td>1,280.89</td>
</tr>
</tbody>
</table>

$10,607.95 $5,417.78

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the drilling crew, under supervision of Inspector Smith, began pumping water into the relief well at the Dawes Trustee site.\textsuperscript{84}

Although blowouts and well fires plagued other gas producers than those in the Caddo field, their occurrence at oil wells in this area had not produced significant conservation problems. The field experienced its first extensive oil well fire on May 12, 1911, when Producers Oil Company's Harrel #7 caught fire during completion. Drilling crews from neighboring wells quickly settled on a course of action for battling the fire, and the installation of batteries of steam boilers began immediately. As soon as the equipment was in place, an attempt was made to extinguish the fire by directing several jets of steam and water at the stream of oil and gas escaping from the well head. Unfortunately, this effort failed.\textsuperscript{85} The next attempt employed involved interrupting the flow of gas and oil feeding the fire by use of a well-directed cannon shot. It was also unsuccessful.\textsuperscript{86} The suggestion and rejection of several more plans followed until those fighting the fire struck upon the idea of redirecting the flow of oil and gas by means of a tunnel. Working in shifts, a crew of 40 men excavated a 50-foot long shaft, 15 feet below the earth's surface, to the well. Upon locating the well's six-inch casing, the crew tapped into it with a four-inch pipe. By pumping the water through this connection, they were able to impede and eventually disrupt the flow of oil.

\textsuperscript{84} Shreveport Times, September 20, 1913.\textsuperscript{85} Oil and Gas Journal, May 18, 1911; Gerald Forbes, "A History of Caddo Oil and Gas Field," The Louisiana Historical Quarterly, XXIX (1946), 68. Hereinafter cited as "Caddo".\textsuperscript{86} Oil and Gas Journal, May 18, 1911; Forbes, "Caddo," 68.
and gas thus extinguishing the flames. Once this happened, they were able to make repairs at the well's mouth and regain control of the well.\(^{87}\)

A second major oil well fire during this period affected operations at Standard Oil of Louisiana's Stiles #96 well just northeast of Trees City. On May 24, 1913, the well blew out and sent a stream of oil and gas to a height of at least 200 feet. On the following morning a spark generated by a stone striking the crown block ignited the gas and within seconds the gusher became an enormous pillar of flames. As with the Harrell #7 fire, the first attempt to extinguish the blaze involved directing jets of high-pressure steam and water at its base. This effort failed, but as other approaches were being prepared the crew decided to try again. This time they used large metal shields to protect them from the heat as they laid the pipes conducting the jets of steam and water closer to the well. As they reached a point approximately 30 feet from the well the crew found that the heat began to abate. Approaching still nearer they discovered that the temperature continued to drop, and, upon reaching the well, that the gate valve and casing were cool enough to touch. They were able, therefore, to complete the necessary repairs and partially close the valve while the well still burned. Their effort reduced the flow of oil and gas and contributed to the success of the second attempt to extinguish the flames.\(^{88}\)

While the fires at Harrell #7 and Stiles #96 posed no conservation problems, they provide, by means of comparison, an interesting insight

\(^{87}\) Shreveport Journal, June 6, 1911 Forbes, "Caddo," 68.

\(^{88}\) Shreveport Times, May 26, 27, 28, 29, 30, 1913.
into the efforts to combat and prevent gas waste. Within the Caddo field, certain wells would be allowed to remain wild and wasteful for up to five years, while others were brought under control in a matter of weeks. Granting that the conditions were not identical at all wild wells and that the discovery era was a time of rapid technological advancement, there still appears to be one factor that cannot be eliminated from the comparison. The wells that were allowed to run wild for extended periods were gassers, while those rapidly closed were oil producers. It appears, therefore, that the economic attractiveness of the resource involved had some bearing on the effort expended to bring a wild well under control. At this time in Caddo Parish natural gas was of little value to either the well owner or the royalty holder, so little effort was made to conserve it. There would be little that the state could do to alter this situation until its fledgling conservation bureaucracy matured and something happened to increase the value of natural gas in Louisiana.

Two events occurred in 1916 that brought closer the time when it would be effective to conserve and protect natural gas resources. The first of these involved still another reorganization of the conservation bureaucracy. As part of his message to the 1916 session of the General Assembly, Governor Ruffin G. Pleasant reviewed the financial condition of the Conservation Commission. His figures showed that from April 1, 1914, to March 31, 1916, the commission had lost a total of $43,517.77. Having entered the period with a cash balance of more than $39,000, it ended with a deficit of more than $4,000. To remedy this situation, Governor Pleasant suggested that the commission exercise greater economy and eliminate excess employees. As a first step, he recommended that
the legislature reorganize the conservation bureaucracy by replacing the three-man commission with one commissioner. This move, he contended, would increase efficiency, reduce dissension, and save money.89

Acting on the governor's recommendation, the legislature passed such a bill, which the governor signed on June 30. The new statute, Act 66 of 1916, amended and re-enacted Section One of Act 127 of 1912 by placing the direction and control of the Department of Conservation in the hands of a Commissioner of Conservation to be appointed by the governor.90 To fill the position Governor Pleasont selected M. L. Alexander, the chairman of the old Conservation Commission.91 Now, for the first time, one man was responsible for the protection of Louisiana's petroleum resources.

The second significant event of 1916 was the discovery of a commercially profitable natural gas deposit near Monroe. The completion on September 1, 1916, of an exploratory well by the Progressive Oil and Gas Company at Spyker Station (see Figure 4) unveiled a gas-bearing formation that upon its full development came to be known as the Monroe field.92 Within a few years this area became the world's largest and most prolific


92 Monroe News-Star, September 2, 1916; Shreveport Times, September 3, 1916. At that time Spyker Station was a small depot on the Arkansas and Louisiana Midland Railroad located three miles south of Bastrop and 16 miles north-northeast of Monroe.
gas field, a development that brought new and increasingly complex conservation problems to Louisiana state government.

The initial petroleum exploration effort in the Monroe area occurred in 1909 as a result of the city's drilling of several artesian wells to secure water for an artificial lake. On July 24 the driller encountered a strong flow of salt water and on the next day struck a gas-bearing formation similar to those in the Caddo field. He advised the mayor and council that continued drilling into the gas sand and casing off the water-producing stratum should produce a fine gas well.\textsuperscript{93} Evidently this endeavor did not fulfill their commercial expectations, but this well and another drilled in the same location did demonstrate the existence of a gas-bearing formation in the area.\textsuperscript{94}

Sporadic drilling efforts continued in the Monroe area for the next several years, all resulting in failure until the completion of Progressive Oil and Gas Company #1.\textsuperscript{95} Organized in March 1916, Progressive Oil and Gas Company drilled an exploratory well that spring at Spyker Station in the hope of finding a commercially profitable oil deposit. Those following the well's progress experienced a premature wave of excitement in late July when the drillers struck what they considered an oil-bearing sand of considerable potential.

The oil prospect did not materialize, but the drillers did find gas in commercial quantities. Initial estimates of the well's daily

\textsuperscript{93} Shreveport Times, July 25, 1909.

\textsuperscript{94} Monroe News-Star, January 1, 1917.

\textsuperscript{95} Ibid.
Production ranged from 1,000,000 to 3,000,000 cubic feet, but by the end of the first week the flow had risen to between 5,000,000 and 6,000,000 cubic feet per day and showed every indication of increasing. The growing gas production even led some observers to believe that the well was in the process of becoming an oil producer.\(^9\) Although not discounting the possibility of future oil production, R. E. Allison, the drilling contractor, recommended that work be discontinued on the well, because its gas production made it a commercial success, and that preparations be made to drill a second well in the same vicinity. Accordingly, on September 7 the officers of the Progressive Oil and Gas Company contracted with Allison to drill another well.\(^9\)

Progressive Oil and Gas #1 caused a wave of excitement throughout the Monroe area concerning the prospects for oil and gas development. The completion of Progressive Oil and Gas #2 on November 19 as a tremendous gasser producing an estimated 15,000,000 cubic feet per day, however, aroused interest far beyond the region. Several major oil companies soon began to investigate the region's petroleum prospects. Obviously impressed, their representatives secured leases and signed contracts to drill exploratory wells.\(^9\)

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\(^9\) Ibid., March 15, June 29, July 28, September 2, 6, 1916; Shreveport Times, September 3, 1916.

\(^9\) Shreveport Times, September 3, 1916; Monroe News-Star, September 4, 6, 7, 1916. Allison advised the officers of the Progressive Oil and Gas Company that there was a ready market for the gas from their #1 well in the towns of Monroe, Bastrop, and Collinston.

\(^9\) Monroe News-Star, November 20, 23, 1916. The major companies that decided to invest in the Monroe field were the Gulf Refining Company, Producers Oil Company, and Standard Oil of Louisiana.
The same phenomenal successes at Progressive Oil and Gas #1 and #2 that attracted some of the major oil companies to the Monroe field also prompted representatives of the carbon black industry to make investments and construct plants there. On January 24, 1917, the Columbian Carbon Company announced its intention to build the world's largest carbon black plant in the Monroe area. 99

The arrival of the carbon black manufacturers caused some state officials to question whether this was the proper use of Louisiana natural gas resources. 100 They wondered whether the burning of natural gas to produce carbon black might inhibit other uses of the gas. Senator Leon R. Smith, of Caddo Parish, was the first legislator to advocate state intervention to protect gas resources from the carbon industry. On May 15, 1918, he introduced a bill designed to limit, if not prevent, the manufacture of carbon black from Louisiana's natural gas. Senate Bill 28 sought to make the wasteful use of natural gas a misdemeanor and to empower the conservation department to prevent any use of natural gas that

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99 Ibid., January 24, 1917. This plant, to be operated by its subsidiary, the Southern Carbon Company, was to be the world's largest, initially scheduled to process 2,000,000 cubic feet of natural gas daily from Progressive Oil and Gas #2.

100 The carbon black industry as a conservation issue will be explored in Chapter V. It is introduced here to show its impact on the maturation of the conservation department and the direction of the state's conservation program prior to the 1920's.
"threatened the common reservoir . . . with exhaustion." It proposed that the conservation department monitor the production, sale, and manufacturing use of natural gas and file quarterly reports with the governor as to the current production and proven reserves at each of the state's natural gas fields. It also sought to authorize the conservation department, upon detecting an instance of waste or improper use, to seek an injunction in any state district court of competent jurisdiction to prevent the activity in question.

Senator Smith's bill encountered immediate opposition from several sources. Representative R. C. Webb, of Ouachita Parish, explained that the carbon industry came to northeast Louisiana at the invitation of the Monroe Chamber of Commerce believing that they would be accorded fair treatment. Their investments were worth millions and to destroy them by statutory enactment would amount to no less than a "legislative crime." Contending that the carbon black industry was no more wasteful of natural gas than the average American homemaker, W. G. Leet, president of the Hydo-Carbon Company, denied Senator Smith's accusation.

101 Shreveport Times, May 16, 1918; New Orleans Times-Picayune, May 16, 1918; Monroe News-Star, May 16, 17, 1918; Senate Calendar 1918 The State of Louisiana. Second Regular Session of the First General Assembly under the Constitution of 1913. Thursday, July 11, 1918 (Baton Rouge: Ramires-Jones Printing Co., 1918), 26. Hereinafter cited as Senate Calendar. A companion bill introduced by Senator Smith, Senate Bill 29, sought to ban the industrial use of natural gas when the manufactured product was of potentially less value than the gas consumed.

102 Monroe News-Star, May 17, 1918.

103 New Orleans Times-Picayune, May 16, 1918.
that unrestricted use of natural gas to manufacture carbon black presented a serious threat to the gas supply of the City of Shreveport.\footnote{Shreveport Times, May 22, 1918.}

Less outspoken, but probably more effective, in his opposition to Senator Smith's measure was Conservation Commissioner M. L. Alexander. Reporting to the General Assembly on the impact of carbon black plants on the conservation of natural gas, Alexander conceded that the first priority in the use of the state's natural resources should be domestic consumption by its own citizens; but if the supply was sufficient, it might be used in the manufacture of vital industrial products. Having established this premise, the commissioner outlined several apparently essential products that relied on the availability of carbon black. He then explained that his department required more time to gather and analyze the statistical information necessary to determine accurately the rate at which the state's natural gas resources could be consumed without injuring the reservoirs or detrimentally affecting domestic use. Concerning the economic impact of the growing carbon industry on the Monroe area, Alexander noted that without this market many of the wells in Ouachita and Morehouse parishes would be capped and cease to be producers of revenue for the state. The commissioner recommended that no legislative action be taken other than to authorize and empower the conservation department to study the problem and, through its rule-making power, limit
the industrial uses of natural gas, should they prove to be a menace to any gas field in the state. 105

While the Smith bill lay in the senate Committee on Conservation, Senator H. G. Fields, of Union Parish, introduced a bill to prohibit the wasteful use of natural gas more closely in line with Alexander's recommendations. This bill was also referred to the Committee on Conservation. 106 At the committee's hearing on these two measures Senator Smith declared that his sole purpose was the protection and conservation of Louisiana's natural gas resources. He opposed the use of natural gas to manufacture carbon black, he repeated, because it threatened to deplete this resource and to deny its benefits to the state's citizens. Testifying against Smith's bill were Conservation Commissioner Alexander and, as spokesman for the carbon black interests, former Senator W. F. Millsaps, of Ouachita Parish, and Ex-Governor Luther E. Hall. They preferred the Fields measure because it embodied most of Alexander's proposals and did not endanger northeast Louisiana's only significant market for its gas.

At the conclusion of the hearing, the committee referred the matter to a special subcommittee that was able to work out a compromise measure with Smith and Fields. On June 19 the Committee on Conservation considered

105 New Orleans Times-Picayune, May 23, 1918; New Orleans Daily States, May 23, 1918; Shreveport Times, May 24, 1918. The principal uses of carbon black listed by Chairman Alexander were: printers ink, automobile tires, paints, carbon paper, typewriter ribbons, and phonograph records.

106 New Orleans Item, May 30, 1918; Senate Calendar, 1918, 46. The Item indicated that there was a direct link between the opinion of Commissioner Alexander and the bill introduced by Senator Fields.

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the subcommittee's recommendations and sent the Smith-Fields substitute to the full senate. As it came out of the committee, Senate Bill 193 authorized the conservation department to prevent the waste or wasteful use of natural gas by limiting the production of any gas well to no more than 25 per cent of its open flow capacity. It also empowered the department to use injunction proceedings to halt wasteful conditions in the production of natural gas. The bill contained four definitions of gas waste borrowed from the Oklahoma gas waste statute. These provisions were: (1) the escape of natural gas in commercial quantities; (2) the intentional drowning of gas-bearing sands capable of unassisted production; (3) underground waste; and (4) permitting natural gas to burn wastefully.\(^\text{107}\)

The Smith-Fields substitute bill won the unanimous approval of the senate, encountered no significant opposition in the house, and became Act 268 of 1918.\(^\text{108}\) This statute contained the first legislative recognition that overproduction could damage or destroy a common gas supply, and sought to remedy this condition by enacting the state's first production allowable, a statutory or regulatory limitation of performance, for gas wells. State conservation officials soon realized, however, that this provision was of limited benefit because producers could easily circumvent it by drilling more wells. This increased the opportunity for both surface and underground waste, presenting a greater threat to the


\(^{108}\) Senate Calendar, 1918, 118-19; Acts of Louisiana, 1918, 513-15.
life of a gas reservoir than unlimited production from existing wells.\textsuperscript{109}

Act 268 was also the legislature's first attempt to broaden the definition of gas waste to cover instances other than surface waste and potentially wasteful underground conditions related to faulty closing or abandoning of gas wells.\textsuperscript{110}

Senator Leon Smith's carbon black-inspired, gas waste bill was not the only petroleum conservation measure to stir debate in the 1918 General Assembly. An extensive and sometimes bitter discussion of the conservation department's activities in the conservation of natural gas resulted from the introduction on June 10 of Senate Resolution 6 by Senator Fields. The Union Parish legislator asked that the senate direct its Committee on Conservation to investigate thoroughly the management and activity of the conservation department and report back to the parent body before it acted on Representative Daniel F. Ashford's bills to increase the department's appropriations for salaries and expenses. Senator Fields explained that he bore no personal animus toward the department or its officers, but that apparently widespread dissatisfaction with the government's conservation effort made it only prudent to obtain all available information before voting to increase these appropriations. More specifically, Senator Fields questioned the advisability of increasing

\begin{itemize}
  \item \textsuperscript{110} R. Nolan Moosa and Kaliste J. Saloom, Jr., "The Oil and Gas Conservation Movement in Louisiana," Tulane Law Review, XVI (New Orleans: Tulane University of Louisiana, 1942), 211-12.
\end{itemize}
the commissioner's salary by almost 40 per cent at a time when the department's activities in the areas of petroleum, fish, and wildlife conservation were being attacked as inadequate.  

The Committee on Conservation held several hearings relative to the Fields Resolution. Its findings failed, however, to convince the senators to trim the conservation department's expense and salary appropriation. Representative Ashford's legislative package passed the senate with only one amendment, which called for a reduction in the proposed salary increase for Commissioner Alexander from $1,400 to $400.  

Many of the same doubts that motivated some senators to oppose, at lease initially, the Ashford legislative package also influenced a group of 10 senators and 17 representatives to organize in opposition to House Bill 89 of 1918, a measure introduced by Representative J. Martin Hamley, of East Carroll Parish, providing the general appropriation for the conservation department. Hamley's bill proposed a $25,000 annual increase in the department's appropriation for the fiscal years ending June 30, 1919, and June 30, 1920. This money was to be appropriated from the "Conservation Fund" after first being collected by the Department of Conservation under the oyster, fish, and conservation laws. The 27 legislators believed that the funds collected by the conservation department should be paid directly into the state's general fund, rather than the separate "Conservation Fund." Furthermore, they agreed that the

111 Senate Calendar, 1918, 132-33; Baton Rouge State-Times, June 12, 1918; Shreveport Times, June 12, 1918; New Orleans States, June 12, 1918. The senate adopted Senator Fields' resolution on June 11, 1918.  

112 New Orleans Times-Picayune, June 28, 1918.
Department's appropriation should be slashed to $100,000 annually instead of being increased to $175,000.\textsuperscript{113} Hamley's bill emerged from the house Committee on Appropriations with a favorable report. After first defeating the measure, on reconsideration the house passed it, as then did the senate, and it was approved by the governor.\textsuperscript{114}

Throughout the 1918 General Assembly conservation-related issues, especially the carbon black-inspired measures and the appropriation bills, were subjects of considerable debate. At a meeting of the senate Committee on Conservation of June 12 the effectiveness of Louisiana's natural gas conservation effort and the dedication with which the Department of Conservation pursued this work came under vigorous attack. Oliver A. Wright, general manager of the Atlas Oil Company of Shreveport, delivered an address before the committee, entitled "Criminal Waste of Natural Gas in the Fields of North Louisiana," in which he charged the conservation department with negligence in the protection of the gas fields and disregard of appeals from those whose interest lay in the conservation of natural resources. Wright further alleged that the department's representative in Caddo Parish engaged in the buying and selling of oil and gas leases. He also challenged the committee to invite, at his expense if necessary, a competent official from any state with progressive petroleum conservation legislation or the United States Bureau of Mines to assess the adequacy of Louisiana's petroleum conservation rules, the

\textsuperscript{113} House Calendar, 1918, 41; Acts of Louisiana, 1918, 142; New Orleans \textit{Item}, June 5, 1918; Baton Rouge \textit{State-Times}, June 5, 1918.

\textsuperscript{114} House Calendar, 1918, 41; New Orleans \textit{Item}, June 18, 20, 1918; Baton Rouge \textit{State-Times}, June 18, 1918; New Orleans \textit{Times-Picayune}, June 19, 1918; Shreveport \textit{Times}, June 19, 1918.
manner of their enforcement, and the quality of protection that they pro-
vided.

Wright then made a series of specific allegations against the con-
servation department and its personnel. He outlined nine ways in which
natural gas could be wasted and charged that nearly all occurred in
Louisiana. He acknowledged that the conservation department could not
be held responsible for conditions prior to 1913, but declared that it
could and should be held accountable for all subsequent gas waste. Wright
implied that some conservation officials had more interest in personal
gain than in protecting the state's resources, as he had informed Com-
missioner Alexander. According to Wright, it was exceedingly difficult
to get the conservation department to take action against obviously waste-
ful conditions, such as wild wells. He discounted the department's con-
tribution to the closing of the famous wild gas wells near Oil City,
saying that it had delayed action until they were nearly exhausted and
their pressure had dwindled to almost nothing. Finally, he recited in
detail the events surrounding the closing of a well belonging to his com-
pany in the conservation department's allegedly misguided attempt to
remedy a wasteful condition in the Elm Grove field.115

Replying to Wright's charges, Alexander denied the allegations
and maintained that, despite having been hindered by a shortage of funds,
his department and its employees had done a creditable job of protecting

115 Shreveport Times, June 13, 14, 1918; Monroe News-Star, June
13, 1918; Baton Rouge State-Times, June 13, 1918. The nine methods of
gas waste discussed by Wright were: wild wells, blowing well, inade-
quate or defective casing, excessive draft, waste by drilling into salt
water, excessive drilling, extravagant utilization, defective transpor-
tation and distribution systems, improper plugging of abandoned wells.
and conserving the state's petroleum resources. He admitted that the operation of the conservation department was not perfect, but said that the legislature must bear its share of the blame for any deficiencies that existed. Alexander told the committee that he "challenge[d] 90 percent of the statements . . ." made by Wright and implied that his allegations were the result of personal differences with the conservation department. Finally, Alexander expressed the opinion that the committee had been somewhat unfair in allowing Wright to present charges without giving the department some notice that would have enabled it to gather the information needed to answer or refute each point. 116

In order to give Alexander an opportunity to reply in greater detail to Wright's charges, the committee scheduled a meeting for June 19. During the intervening week activity continued on both sides of the controversy. On June 13 Senator T. L. Dowling proposed that serious consideration be given to placing the conservation of oil and gas under a separate department of state government. He reasoned that Wright's testimony had indicated that Alexander had no special knowledge of petroleum and that its growing importance warranted the establishment of a separate office under the leadership of an expert in oil and gas operations. Senator Dowling realized that it was too late in that session to attempt such a change, but his proposal had some support for future consideration and the editorial backing of at least one major newspaper. 117

116 Shreveport Times, June 13, 14, 1918; Monroe News-Star, June 13, 1918; Baton Rouge State-Times, June 13, 1918.

117 New Orleans States, June 13, 16, 1918; Shreveport Times, June 17, 1918.
Considerable interest grew in what Commissioner Alexander would have to say at the June 19 committee hearing. This was especially true in the Shreveport region, as that was the area in which Wright's company was active. On June 15 a group of area residents, businessmen, oil and gas company representatives, and investors gathered informally at the offices of the Shreveport Chamber of Commerce. Their consensus was that no shortage of gas existed in that area, but they showed their concern about Wright's allegations by appointing a ten-man committee to survey conditions in the surrounding gas fields and a seven-man committee to journey to Baton Rouge on the 19th to hear Alexander's presentation.118

On June 19 Alexander rebutted Wright's charges against the conservation department. Stressing the positive accomplishments during his tenure, Alexander explained that the conservation department had managed to hire five oil field inspectors, despite having had absolutely no funds appropriated for that purpose. These dedicated employees had personally supervised during the past year the drilling of approximately 2,500 oil and gas wells. Alexander admitted that a degree of waste existed in the drilling and operation of oil and gas wells in Louisiana; however, he forcefully maintained that the activities of his department far surpassed its obligations and declared that he stood proudly on its record of accomplishment. The commissioner asserted "that the continued growth of Louisiana's petroleum industry was making it increasingly difficult for the Conservation Department to maintain its high standards in resource protection and waste prevention. If it was to be successful in the future

118 Shreveport Times, June 16, 1918.

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the legislature must provide its minerals division with adequate annual appropriations.\textsuperscript{119}

Alexander's plea for a specific appropriation with which the conservation department could protect the state's petroleum resources was just one of the conservation-related issues debated in 1918 that became the subject of legislative enactment by the 1920 General Assembly. Convinced that an unrestrained carbon black industry would exhaust the state's natural gas reserves, Senator H. B. Warren of Lincoln Parish introduced legislation to strengthen the 1918 conservation statute.\textsuperscript{120} In 1918 Commissioner Alexander had opposed legislation to impose limitations on the carbon black industry, but in 1920 he characterized the Warren bill as "... one of the most important constructive bills that has been introduced in the Legislature in many years." Enjoying the support of Governor Parker and not strenuously opposed by the natural gas and carbon black interests, the measure passed the legislature and became law.\textsuperscript{121}

In dealing with the use of natural gas in the manufacture of carbon black, Act 250 of 1920, as the measure was officially designated, combined the old and the new. Section Five modified the definition of waste found in Section Two of Act 268 of 1918 by specifically including "unreasonable waste or leakage in the production of crude petroleum. . . ."

\textsuperscript{119} Ibid., June 20, 1918; New Orleans \textit{Times-Picayune}, June 20, 1918; New Orleans \textit{States}, June 20, 1918.

\textsuperscript{120} The magnitude of that growth and its impact on Louisiana's natural gas resources will be explained in Chapter V.

\textsuperscript{121} Baton Rouge \textit{State-Times}, June 17, 1920; New Orleans \textit{Times-Picayune}, June 18, 19, 1920; \textit{Senate Calendar, 1918}, 72-74, 88; \textit{House Calendar, 1918}, 213.

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Whereas Section Three of Act 268 authorized the conservation department to limit the production of natural gas wells to 25 per cent of open flow capacity when the common reservoir was threatened with exhaustion, Act 250 empowered the department to restrict production to whatever percentage of potential capacity might be "reasonably necessary" to conserve and guarantee an adequate supply of natural gas. Section Two of Act 250 gave the conservation department a new power by authorizing it to prescribe rules and regulations requiring carbon black manufacturers to remove the gasoline content from the natural gas they consumed whenever it appeared that such a process would be beneficial or profitable.¹²²

Carbon-related conservation issues were not the only subjects covered by Act 250. Its fourth section revised and re-enacted Section Two of Act 283 of 1910 by authorizing the Department of Conservation to take possession of and close any wild well if its owners did not act to do so within five days of receipt of written notice from the department. Section Seven empowered the Conservation Department to employ the full authority of the courts to compel obedience to its rules and regulations, and, more significantly, imposed specific limitations on the use of the injunction process to restrain the department from enforcing its rules and regulations. Furthermore, Section Eight established a strict limit on the time within which any of the department's orders, rules, or regulations could be challenged. Finally, and perhaps most significantly, Section Twelve provided that the funds necessary to enforce Act 250 were

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¹²² Acts of Louisiana, 1920, 483-86.
to be appropriated from the revenues derived from the license taxes im­
posed on the business of severing natural resources. 123

There may well have been a connection, at least indirectly, between
the inclusion of restrictions on the use of the injunction process in
Section Seven of Act 250 and the events before and after the debate dur­
ing the 1918 General Assembly between Oliver A. Wright and Commissioner
Alexander. As was indicated previously, Alexander maintained in his ap­
pearances before the senate Committee on Conservation that Wright's alle­
gations were motivated by personal animus toward the department and its
officials. The commissioner apparently believed that this ill-feeling
stemmed from the department's efforts to close a wild gas well belonging
to the White Brothers in the Elm Grove field, Bossier Parish.

The White Brothers originally had completed their #1 well in
November 1917, but it subsequently blew out with a daily volume of waste
estimated at 25,000,000 cubic feet. The owners drilled a relief well
to a depth of approximately 900 feet and managed to correct the situation
causing the blow out. 124 The well subsequently experienced intermittent
problems, but the operators maintained control. Late in 1917 or early
in 1918, gas and water began escaping outside the surface casing and event­
tually caused the earth around the well's mouth to collapse. 125

In April 1918 representatives of the conservation department met
with a committee of Shreveport area oil and gas producers to consider

123 Ibid.
124 Oil and Gas Journal, May 2, 1918.
125 Shreveport Times, April 23, 1919.
ways to control the White Brothers' well. Their consensus was that the

gas causing the wild condition at White Brothers #1 was migrating from

the neighboring Ward #1 well belonging, at that time, to the Atlas Oil

Company. Those attending the meeting decided, with the agreement of its

owners, to attempt to correct the wild condition by closing Ward #1. 126

The Atlas Oil Company closed its well by pumping it full of a mud-laden

fluid mixture on May 2 and allowed it to remain dormant until August 16.

Despite initial reports that this action had reduced the flow of gas from

White Brothers #1, it in fact had not. 127 Consequently, the owners of

Ward #1 decided to put their well back into production. However, Commis-

sioner Alexander still believed that Ward #1 was the cause of the waste

at White Brothers #1. After informing the new owners of Ward #1, the

Louisiana Gas and Fuel Company, of this conclusion, on January 17, 1919,

Commissioner Alexander announced that the conservation department intended

to assume control of Ward #1, with the owners' consent if possible, or

by resort to legal action if necessary, and to take whatever steps were

necessary to bring an end to the waste at White Brothers #1. 128

The plan of the conservation department was to allow Ward #1 to

run wide open for up to 15 days to notice what effect, if any, this had

on the escape of gas from White Brothers #1. Should this procedure in-

dicate that Ward #1 was not causing the problem at White Brothers #1,

then its owners would be compensated for their losses resulting from the

126 Ibid., April 26, 1918; Oil and Gas Journal, May 2, 1918.

127 Shreveport Times, May 6, 9, 10, 1918; 81 Southern Reporter

454-57 (March 31, 1919).

128 81 Southern Reporter 455 (March 31, 1919).
experiment. On the other hand, if Ward #1 was the cause of the waste at the neighboring well, the conservation department proposed to close and permanently kill it at the owners' expense. The owners responded by obtaining a writ of injunction to prevent the conservation department temporarily from taking control of their well. The conservation department reacted by obtaining a counter injunction prohibiting the owners from interfering with its efforts to take possession of the well, or with their activities once the well was under their control.129

With the two sides deadlocked, the Louisiana Gas and Fuel Company appealed to the Louisiana Supreme Court asking that it issue a temporary injunction preventing any further action by the conservation department, and on March 31, 1919, the court did so.130 The effect of its ruling was to force the Department of Conservation to prove in court that Ward #1 was causing the waste at White Brothers #1 before it could institute further legal proceedings against the Louisiana Gas and Fuel Company. The case was tried in the First Judicial District Court in Shreveport in April, but before the court handed down a decision the two parties reached an out-of-court agreement in late February 1920 at a meeting of oil interests and representatives of the incoming Parker administration. Commissioner Alexander accepted, at the urging of Governor-elect Parker, a suggestion by N. C. McGowan of Louisiana Gas and Fuel to try to remedy the wasteful situation at White Brothers #1 by drilling a relief well.131

129 Ibid.; Shreveport Times, February 1, 1919.
130 Shreveport Times, February 6, 1919; 81 Southern Reporter 454-57 (March 31, 1919).
131 Shreveport Times, April 15, 23, 1919, February 29, 1920; New Orleans Times-Picayune, April 17, 1919; Oil and Gas Journal, March 5, 1920.
Having encountered these difficulties in attempting to exercise his authority under the provisions of Act 268 of 1918, it appears plausible that Commissioner Alexander wanted a section specifically detailing the applicable injunction process included in the administration's 1920 conservation bill. Adding weight to this conclusion is a statement issued to the press by Assistant Attorney General Gamble on April 15, 1919, while in Shreveport preparing to represent the conservation department against Louisiana Gas and Fuel in the district court. While discussing this case Gamble indicated that he believed "that the whole field of mineral legislation will be revised at the next session of the legislature in order that the state might have full and complete authority over oil and gas conservation."132

Act 250 of 1920, the Parker administration's revision of the state's mineral laws, included a provision limiting the applicability of injunctions in cases involving the enforcement of Louisiana's petroleum conservation laws. The act also expanded the conservation department's rule-making powers. The first four sections of the statute specifically authorized the department to adopt and promulgate whatever rules it might deem necessary for the conservation of the state's "crude petroleum, natural gas and mineral substances . . . ." More specifically, these sections empowered the department to issue rules and regulations for the drilling, operation, and abandoning of wells; the use of natural gas for carbon black and other manufacturing purposes; and the prohibition of waste or wasteful practices in the exploration for and production or consumption

132 Shreveport Times, April 15, 1919.
of natural gas. Furthermore, Sections Six through Eleven provided for the enforcement, supervision, and amendment of any such rules adopted by the Department of Conservation.\footnote{133 Acts of Louisiana, 1920, 482-86.}

On October 1, 1920, the conservation department issued 35 new oil and gas rules that went into effect on November 1. These rules, some initially adopted as early at 1913 and others embodying the provisions of previous conservation statutes, provided Louisiana with its first code of petroleum conservation regulations.\footnote{134 Conservation Laws of Louisiana Creating the Department of Conservation and Governing the Development and Use of Mines and Minerals; Forests; Game and Other Wild Life, Fish, including Frogs, Terrapins, and Seafood except Mullusca; Oysters and Waterbottoms; and Other Natural Resources. Compiled in 1920 (New Orleans: Louisiana Printing Company, 1920), 74-87.} Moreover, issuance of all petroleum conservation rules, both old and new, in this manner removed all doubt as to the applicability of the enforcement procedures of Act 250 of 1920.

Act 250 and the rules adopted pursuant to it furnished Louisiana with its first comprehensive body of petroleum conservation laws, at least for natural gas. These laws and their companion regulations grew out of the state's experiences of the preceding decade. In this same decade the maturation of the state's program for taxing natural resource severance provided a means with which the Department of Conservation could pursue the enforcement of its petroleum conservation regulations, especially regarding the use of natural gas in the manufacture of carbon black. Before considering these developments, however, attention should be given to an oil-related conservation issue that was contemporary with
the events leading to the enactment of Act 250 of 1920 and that brought into prominence a figure who was to dominate governmental conservation efforts in Louisiana for the next 15 years--Huey Pierce Long.
CHAPTER III

PETROLEUM, PIPELINES, AND POLITICS:

THE PINE ISLAND SITUATION

Although by 1920 Louisiana had a comprehensive set of laws and regulations for the protection of its petroleum resources, the immediate economic value of these resources still remained an important, if not the most important, consideration in the success of any conservation program. At that time there was little that the state government could do, short of relaxing its restraints on the carbon black industry, to increase the market for and value of petroleum resources. Recognition of this limitation and a desire to protect the independent oil and gas interests prompted a movement in the 1918 General Assembly to guarantee virtually all Louisiana petroleum producers a share of the market.

The instruments employed to accomplish these goals were common carrier and common purchaser statutes. Legislation declaring petroleum pipelines common carriers was not new to Louisiana. Section One of Act 36 of 1906 provided that all intrastate pipelines conveying petroleum or other liquids "for any consideration, . . ." were common carriers and
subject to regulation by the state's Railroad Commission. However, the statute did very little to insure independent producers a market, because it failed to prohibit pipeline companies from discriminating in favor of their own production or that of favored customers. To prevent such discrimination, at least with regard to natural gas, the 1918 General Assembly adopted Act 270, the Gas Common Purchaser Act.

The impetus for the common purchaser measure came from a meeting at which Caddo Parish independent gas producers alleged that the existing gas distribution system placed them at the mercy of the pipeline owners. They maintained that the distribution companies often drove them to adopt wasteful practices and dispose of their product at artificially low prices just to protect their investments. On June 25 Senator Leon R. Smith, of Caddo Parish, introduced a common purchaser bill, Senate Bill 198, designed to correct many of the deficiencies outlined by the independents.

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3 Baton Rouge State-Times, June 25, 1918.

4 Senate Calendar, 1918, 122-23.
Explaining that it was a conservation measure, he proposed to make natural gas pipelines common purchasers and place them under the control of the Conservation Commission, to prohibit discrimination by pipeline companies in favor of their own gas production or that of favored customers, and to forbid the purchase and transmission of natural gas in excess of market demand. His bill encountered considerable opposition in the senate Committee on Conservation. Representatives of the major pipeline companies argued that Senate Bill 198 was not a conservation measure, but that its sole purpose was to require the pipeline companies to purchase gas offered for sale by the small independent producers. After hearing the testimony and arguments from both sides, the committee adopted three amendments proposed by Senator H. G. Fields, of Union Parish, which made the well owners responsible for providing a connection to the pipeline companies' facilities, limited the price received by the well owner for his gas to ten per cent of the current retail price, and exempted existing gas purchase contracts from the bill's provisions.

Reported favorably by the Committee on Conservation, the Smith common purchaser bill encountered strong opposition on the senate floor. On July 4 the bill failed to pass its third and final vote by a tally of 20 to 16, but Senator Smith managed to extend its life by changing his vote from yes to no and announcing that he would move for reconsideration

5 Shreveport Times, June 28, 1918.

6 New Orleans States, July 2, 1918; New Orleans Item, July 2, 1918; New Orleans Times-Picayune, July 3, 1918.

7 New Orleans States, July 2, 1918; New Orleans Item, July 2, 1918; New Orleans Times-Picayune, July 3, 1918.
on the following day. In the intervening period he managed to rally new support for his measure and, upon reconsideration, it passed by a vote of 23 to 11 and was forwarded to the house.\(^8\)

The house received Senate Bill 198 on July 5 and referred it to the Committee on Natural Resources. After two days of intense and sometimes bitter debate, the committee, by an 8 to 7 vote, gave the bill an unfavorable report and returned it to the house floor.\(^9\) The bill appeared to have little chance of passage until a series of compromise negotiations on July 10 resulted in relatively easy passage. The protagonists of that day's action were Senator Smith and Orleans Parish Commissioner of Public Property E. E. Lafaye. The commissioner went to Baton Rouge at the request of Senator Smith to explain the reasons that the Orleans Parish delegation opposed the common purchaser bill. Their efforts produced three amendments which obligated the well owners to sell their gas to the pipelines once connections were provided, completely eliminated the price-fixing provision, and exempted municipally owned pipeline systems

\(^8\) New Orleans Times-Picayune, July 5, 6, 1918; Shreveport Times, July 6, 1918; Senate Calendar, 1918, 123-24.

\(^9\) House Calendar, 1918, 242; Monroe News-Star, July 9, 1918; Baton Rouge State-Times, July 9, 1918; New Orleans States, July 9, 1918. At a committee hearing an independent gas operator testifying in favor of the bill suggested that one of the committee members, no name being mentioned, should recuse himself from all further consideration of the measure because of personal interest. The exchange prompted by this statement grew rather heated as Representative W. F. Pipes, of Ouachita Parish, rose to explain that his was the vote in question and that the alleged personal interest involved only title and abstract work performed for the Arkansas Gas Company. He declared, furthermore, that his connection with the pipeline company was a thing of the past and that he considered the implication of a conflict of interest regarding his vote a personal insult.
from the provisions of the common purchaser bill. With these amendments the bill passed the house by a vote of 95 to three.10

The senate unanimously concurred in the lower chamber's amendments. Upon receiving Governor Pleasant's signature, the common purchaser bill became Act 270.11 Section One authorized the Department of Conservation to prorate natural gas production whenever the full production from a common source of supply exceeded the existing market demand. This provision demonstrated the legislators' awareness of the growing fear that overproduction and wasteful consumption in the Monroe field threatened the common source of supply.12 In this respect Act 270 was a companion measure to Act 268 because both sought to protect gas reservoirs from premature exhaustion due to overproduction.

Section Two of Act 270 declared all gas pipelines operating in Louisiana to be common purchasers and obligated them to purchase, without discrimination, all natural gas offered to them at their trunk lines. Furthermore, this section provided that in periods when natural gas production exceeded market demand the pipeline company must purchase ratably from each of its suppliers. On the other hand, this same provision compelled well owners or operators to sell their production to the pipeline

10 Monroe News-Star, July 11, 1918; Baton Rouge State-Times, July 11, 1918; Shreveport Times, July 11, 1918; New Orleans Item, July 11, 1918; House Calendar, 1918, 242.

11 Senate Calendar, 1918, 123; Acts of Louisiana, 1918, 518.

12 Acts of Louisiana, 1918, 516-17; Fourteenth Biennial Report. Department of Conservation. State of Louisiana. 1938-1939 (New Orleans: Department of Conservation, 1940), 169. Simply stated, prorationing allows a well owner to produce or sell only a specifically determined portion of his potential production.
companies or face the penalties enforceable against common purchasers who refused to buy. Exempted from this section, however, were pipeline and distribution systems owned by municipal corporations. Section Six made violation of the act a misdemeanor punishable by fine, imprisonment, or both.

The Louisiana General Assembly of 1918 enacted the Smith Common Purchaser Act in response to the combined threat of two conservation-related problems. One of these was the specter of potential damage to the common reservoir due to overproduction in the Monroe field. The other involved both surface and underground waste related to the difficulty that small independent gas producers in the Shreveport area had in obtaining markets. A similar oil conservation problem developed in late 1918 in the Pine Island section of the Caddo field resulting in the enactment of common carrier and common purchaser statutes for oil pipelines. The legislative history of this issue involved a serious conservation problem, a gubernatorial campaign, and the formulation of political relationships that would influence the conservation movement and state government for the next 20 years.

What came to be known as the "Pine Island situation" was an outgrowth of the impact of World War I on the American petroleum industry. As the level of United States involvement in the war increased, demand for the products of the domestic oil industry grew. By the time this country entered the conflict, the allied nations were relying heavily

13 Acts of Louisiana, 1918, 517.
14 Ibid., 38.
on American petroleum to fuel their war effort. This created a strong and lucrative market for American oil, and the federal regulatory bureaucracy encouraged the petroleum industry to increase its production to satisfy the demand.\(^{15}\)

When the war ended, however, the federal government reacted slowly in dismantling its regulatory bureaucracy. Furthermore, the enormous market for the petroleum industry's full-scale production immediately disappeared. Faced with uncertain direction from a hesitant federal bureaucracy and a sudden and rapidly increasing oversupply of raw and refined products, American refiners sought to stabilize the economic situation by curtailing crude oil purchases and slashing the prices paid to the producers.\(^{16}\) Most directly and severely affected by this action were the producers of low-gravity oils whose primary market had been the Allied military complex.

The rapid growth of the Pine Island district rested upon the production of such low-gravity crude oil. By the war's end, 113 independent operators were producing roughly 25,000 barrels of oil from the Pine Island field each day. The major pipeline companies, Standard Oil of Louisiana, Gulf Refining, and the Texas Company, purchased and transported most of this oil at $1.55 per barrel, primarily for use as boiler fuel after blending

\(^{15}\) A good brief account of the impact of World War I on the relationship between the federal government and the oil industry is found in Gerald D. Nash, United States Oil Policy 1890-1964: Business and Government in Twentieth Century America (Pittsburgh: University of Pittsburgh Press, 1968).

\(^{16}\) Ibid., 38.
it with higher quality crude oil from Mexico. With the signing of the armistice virtually the only market for Pine Island crude oil disappeared as the major companies had been refining very little of it. According to one source, the pipeline companies immediately refused to make new connections to their gathering lines and began to cut the price offered to the producers. Finally, on December 1 Standard Oil of Louisiana announced that effective December 10 it would not purchase Pine Island crude at any price. This embargo became total as the Texas Company and Gulf Refining quickly followed Standard's lead.

The immediate response by the independent oil operators was to organize and jointly to seek a remedy. Several hundred independent producers, well owners, and leaseholders came together in early December to form the Independent Oil and Gas Producers Association of North Louisiana. At its meeting of December 10, the independents' organization appointed a five-man committee to draft an official response to the pipeline companies which had advised them to curtail production and cease drilling.

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18 W. Scott Heywood to L. Ward Bannister, December 13, 1929 (Jennings-Heywood Oil Syndicate MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

19 Third Annual Report, Louisiana Public Service Commission, Order No. 118, 32.
until the industry and market had a chance to stabilize. The committee's letter indicated that wartime regulations had tied the independents' production to the pipelines in question and that it was impossible on such short notice to arrange for access to other markets. They further implied that this marketing arrangement carried with it an obligation to continue handling Pine Island oil under existing agreements. This could be accomplished, the independents' reasoned, by expanding and reallocating storage facilities and curtailing the importation of Mexican crude.

The importation of Mexican crude by the pipeline companies, especially Standard Oil of Louisiana, became an integral part of a more forceful argument by the independents as the controversy continued. As early as March 1919 they contended that the pipeline companies were importing Mexican crude to fulfill their fuel oil requirements as part of a conspiracy to drive the independents out of business and gain control of a valuable oil field. Increasing the credence of this "freeze out" scenario, at least in the independents' eyes, was the fact that the price

20 Oil and Gas Journal, December 20, 1918. The members of the committee were: W. C. Woolf, B. F. Roberts, S. C. Fullilove, R. O. Roy, and W. Scott Heywood. Heywood some years later claimed to have instigated the organization of the Independent Oil and Gas Producers Association of North Louisiana. W. Scott Heywood to L. Ward Bannister, December 13, 1929 (Jennings-Heywood Oil Syndicate MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

21 Oil and Gas Journal, December 20, 1918.

of Pine Island oil rapidly dropped from $1.55 per barrel at the war's end to approximately 50¢ a barrel in the spring of 1919.23

The pipeline companies, following the lead of Standard Oil of Louisiana, denied the independents' allegations. Standard Oil consistently maintained that it was a victim of the vicissitudes of the market, as were the independents. Faced with a situation in which it could no longer dispose of low gravity crude and with limited facilities for its storage, Standard Oil asserted that it had no alternative to suspending indefinitely the purchase of Pine Island crude.24 George Gibb and Evelyn Knowlton, in their history of Standard Oil of New Jersey, describe the situation as one in which the major oil companies were being "blamed for conditions which were to their advantage, but which would have existed, irrespective of their action or lack of action, . . ."25

Regardless of the validity of the opposing sides' arguments, the embargo on Pine Island crude soon produced serious conservation problems. The geologic nature of the Pine Island district and the state of well drilling and operating technologies convinced most independent operators that it was not feasible to close in their wells and wait for improved market conditions. They believed, with some justification, that by

23 Ibid., Third Annual Report, Louisiana Public Service Commission, Order No. 118, 32; W. Scott Heywood to L. Ward Bannister, December 13, 1929 (Jennings-Heywood Oil Syndicate MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

24 New Orleans Times-Picayune, March 23, 1919; Oil and Gas Journal, February 14, 1919.

drastically curtailing or completely halting production they ran a consider- able risk of losing their investment due to unrestricted intrusion of subterranean salt water into their wells. Furthermore, many of them believed that the only way to prevent their "share" of the common source of supply from migrating toward wells on neighboring leases was to produce it as rapidly as possible.

The combined inability and unwillingness of Pine Island independents to curtail production when faced with a pipeline embargo created a serious storage, as well as conservation, problem. Having been able to dispose of all they could produce before the armistice, the Pine Island well owners and operators had paid scant attention to the availability of storage. The sudden imposition of the embargo in December 1918, therefore, found them almost totally devoid of such facilities. Facing this situation, some operators hastily constructed earthen storage pits while others simply turned their production into nearby watercourses or let it flow on the ground. Each of these actions produced environmental damage, physical danger, and economic hardship.

The most obvious effect on the environment was the pollution of lakes, bayous, and rivers by oil run directly into these bodies or entering them from overflowing earthen pits. By late March 1919 frequent accounts of water pollution attributed to the situation in the Pine Island district appeared in the Shreveport Times. Visitors to the area reported that every stream and bayou carried a glistening film of oil.26

26 Shreveport Times, March 29, 30, 1919.
Compounding the damage resulting from discharging petroleum into watercourses and the flooding of earthen storage pits was that caused by seepage from storage facilities. In fact, seepage was probably the most serious environmental and conservation consequence of the Pine Island situation. According to Earl W. Wagy, an inspector with the petroleum division of the United States Bureau of Mines, 40,000 barrels of oil stored in an earthen pit would disappear in six months.\(^\text{27}\) The principal cause of this waste was subterranean seepage. Aggravating this situation was the fact that oil seeping from an earthen storage facility tended to spread out instead of going straight down. The combined effect of this process occurring at the numerous earthen storage tanks in the Pine Island district was to affect adversely the local farm economy. Neighboring farmers complained that the oil caused their seeds to rot and killed young plants. Furthermore, one farmer maintained that he could not even plow his land because the furrows filled with oil from the saturated soil.\(^\text{28}\)

More serious than the ecological problems was the fire hazard associated with the seepage and evaporation of stored oil. Inspector Wagy labeled the situation "an indescribable fire menace . . ." and declared that the outbreak of a major fire would completely destroy the entire area.\(^\text{29}\) B. E. Baker, a veteran oil operator in Caddo Parish, declared that it would be hard to exaggerate the seriousness of the fire menace in the Pine Island district. According to his assessment, by April 1919

\(^{27}\) Ibid., April 9, 1919.  
\(^{28}\) Ibid.; Oil and Gas Journal, April 4, 1919.  
\(^{29}\) Shreveport Times, April 9, 1919.
much of the land surrounding the producing wells was saturated with oil to a depth of two to three feet.\textsuperscript{30} The evaporation of the oil's lighter and more volatile elements exacerbated this situation by producing a highly flammable mist that hung low over the territory. Under these conditions the residents and operators of the Pine Island district were extremely fortunate to have experienced only small fires that the neighboring crews were able to control.\textsuperscript{31}

These conservation problems also contributed to a serious economic crisis for the area's well owners, leaseholders, and neighboring landowners. By mid-May industry observers declared that storage waste, excluding losses from fires, consumed 2,000 barrels of oil each day, and this represented, at current prices, an immediate loss of $1,500 daily.\textsuperscript{32} A more startling and thorough analysis of the economic situation appeared in the June 8 Shreveport \textit{Times}. According to the \textit{Times} article, at the signing of the armistice the Pine Island district was producing roughly 38,000 barrels of oil per day. The embargo, however, resulted in the loss of a market for approximately 21,000 barrels daily, leaving a marketable production of only 17,000 barrels. Additionally, the Shreveport paper figured that the "freeze out" prevented an increase in production, based on past performances, that would have brought daily output to at least 50,000 barrels.

Following this line of reasoning, it appeared that the pipeline embargo had reduced the Pine Island district's marketable oil production

\begin{itemize}
  \item \textsuperscript{30} Ibid.
  \item \textsuperscript{31} \textit{Oil and Gas Journal}, April 4, 1919.
  \item \textsuperscript{32} Shreveport \textit{Times}, May 18, 1919.
\end{itemize}
by at least 33,000 barrels. This represented an immediate monetary loss, based on the prevailing field price of 75¢ per barrel, of $24,750. By using this figure, the Times arrived at a direct financial loss to the Pine Island producers during the preceding six months of roughly $4,000,000. Judged according to the price prevailing before the armistice, the value of the unmarketable production resulting from the embargo approached $9,500,000. There was also the further loss of associated and ancillary incomes attributable to the embargo and its resultant conservation problems. Taking into consideration the unrealized profits of royalty owners and landowners, neighboring farmers affected by soil and water pollution, the loss of business revenues, and all calculable oil industry damages, the Shreveport paper asserted that the Pine Island embargo cost the Caddo Parish economy approximately $15,000,000 in its first six months.33

Even though many of the calculations included in the Shreveport Times article were subject to serious question and are impossible to verify, there is no question that a substantial segment of the Caddo Parish business community felt that they were suffering a serious financial hardship at the hands of the major pipeline companies. One of those who considered himself particularly aggrieved and who would have a great deal to say about the future course of petroleum regulation and conservation in Louisiana was Huey Pierce Long. Long, with O. B. Thompson, Oscar K. Allen, and several other Winn Parish residents, was a partner in the Banks Oil Company, a small concern which was active in the Pine Island district. His initial investment was $1,050, but the remarkable success of the Pine

33 Ibid., June 8, 1919.
Island district during World War I had increased its value many times. At one time he offered to sell his interest to Standard Oil of Louisiana for $12,000, but it refused to pay more than $8,500 and the deal fell through. It was not long thereafter that the war ended, the fuel oil market collapsed, the major pipeline companies sharply curtailed their purchases of Pine Island crude, and the worth of the area's independent oil companies plummeted. According to one source, by the time Long and his associates were able to unload their holdings they realized only 10¢ on the dollar of their initial investments.

Facing these steadily worsening economic and environmental problems, and unable to convince the pipelines to lift the so-called "freeze out," the Caddo Parish business and oil interests turned to the state government for assistance. As an independent oil man, a brilliant young lawyer, and an aspiring politician, Huey Long assumed a position of leadership in this effort. He did so by inducing the Louisiana Railroad Commission, of which he was one of the three commissioners, to investigate the Pine Island situation.

The commission held its first hearing on the matter at its regular monthly meeting which took place in Shreveport on February 18, 1919. In their testimony against the pipeline embargo, the independent oil interests labeled it a calculated "freeze out" conducted under the leadership of


35 David B. McConnell interview with T. Harry Williams, March 14, 1960 (Box 3, folder 35, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

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Standard Oil of Louisiana. The pipeline interests did not appear at the hearing, having made their position known at a public meeting where they reaffirmed their decision not to transport, store, or purchase the independents' oil.36

The commission adjourned its meeting without taking action. Subsequently, Long prepared a summary of the independents' grievances for presentation at the commission's March session in Baton Rouge. Long understood that the Railroad Commission's authority over the pipelines was limited at best. Act 36 of 1906 designated oil pipelines as common carriers, but significant weaknesses in that statute enabled the transportation companies to evade its provisions when it was to their advantage to do so. In this particular instance, the pipeline companies refused to transport the unwanted crude oil on the grounds that the independents could provide neither purchaser nor storage facilities at the lines' ends. Keenly aware of the law's deficiencies, Long hoped to get the Railroad Commission to request publicly that Governor Pleasant call a special legislative session to remedy this situation through adoption of a common purchaser statute for oil pipelines.37

At its March meeting Commissioner Long withheld consideration of his report on the Pine Island situation until the commission went into executive session. Long's report included an account of the economic

36 Third Annual Report, Louisiana Public Service Commission, Order No. 118, 28-29; Williams, Huey Long, 131; Shreveport Times, March 26, 1919.

distress in Caddo Parish, laying the blame for this condition on the pipeline companies, and called upon Governor Pleasant to call the legislature into special session to correct this situation through the adoption of common purchaser legislation. After some discussion, the Railroad Commission adopted the report.\(^{38}\)

Not until March 24, roughly coincident with the Railroad Commission's March meeting, did the Conservation Commission respond publicly to the Pine Island situation by announcing that it planned to conduct a thorough investigation of the petroleum conservation problems in that region. On April 4 Chairman Alexander, Inspector J. W. Smith, and State Fire Marshal William Campbell briefly visited the area. Alexander announced, upon leaving for New Orleans, that he planned to return during the next week and would eventually submit a report of his findings to the governor.

Commissioner Alexander returned to Shreveport on April 7 to complete his inspection. While there he conferred with representatives of the pipeline companies and the board of directors of the Independent Oil and Gas Producers Association of North Louisiana to determine what, if anything, they could do to curtail the waste of oil in the Pine Island district. Having completed his investigation, Alexander returned to New Orleans and on April 8 reported to Governor Pleasant at a special meeting in which representatives of various interests groups discussed the convening of a special legislative session to consider the Pine Island question. The

\(^{38}\) Williams, Huey Long, 131; Third Annual Report, Louisiana Public Service Commission, Order No. 118, 28-29; Shreveport Times, March 26, 27, 1919; New Orleans Times-Picayune, March 26, 30, 1919.
commissioner described the situation at Pine Island and declared that something must be done to remedy it. Having said this, however, he acknowledged that his department was powerless to do anything.\textsuperscript{39}

Even so, Commissioner Alexander refrained from urging the governor to call a special legislative session. He reasoned that by the time the legislature acted the damage would be so extensive as to overwhelm any statutory solution.\textsuperscript{40} On the other hand, the independents insisted that a special session was both necessary and proper. Their principal spokesman in this effort, Judge Emile Godchaux, restated their well-known view of the Pine Island embargo and maintained that legislative action offered the only truly effective solution. He also declared that the independents "need[ed] legislation to limit the [number of] wells . . ." because they were "at the mercy of the big fellows."\textsuperscript{41} This was apparently an expression of a desire on the part of at least some of the independents for some form of state-imposed production restriction or well spacing statute.

Serving as the spokesman for the pipeline interests, Hunter C. Leake, general counsel of Standard Oil of Louisiana, presented the most thorough explanation yet to be made public of his company's version of the Pine Island situation. Leake made it perfectly clear that Standard,\textsuperscript{39 Shreveport Times, March 25, April 5, 8, 1919; New Orleans Times-Picayune, April 9, 1919. It possessed the authority to close the wasteful wells and could halt the issuance of new drilling permits for the field, but these actions were likely to create as many problems as they might solve. The closing of wasteful wells would probably result in the irreversible loss of significant petroleum deposits, and a ban on drilling and production would produce a myriad of complicated legal issues for the contractors, lease holders, and well owners.

\textsuperscript{40 Shreveport Times, April 9, 1919.}

\textsuperscript{41 Ibid.}
and by implication the other pipeline companies, was unalterably opposed to the calling of a special legislative session designed to make its property common carriers and purchasers. The Pine Island situation was, he contended, "due solely to the conditions created by the sudden end of the war . . . ." It was, therefore, "purely an economic question" for which statutory enactments would never provide a satisfactory remedy.

Leake pointed out that his company was doing everything that it could to help the independent producers. He explained that before the armistice Standard Oil of Louisiana purchased an average of 9,600 barrels of Pine Island crude daily. Since that time, despite the complete market collapse, the company had taken all the Pine Island oil it could store and now handled approximately 5,000 barrels daily. This it was willing to do despite the heavy financial losses from these transactions. Furthermore, he continued, all of Standard's efforts to secure additional markets for the Pine Island oil, even when offered strictly at cost, had proved unsuccessful.42

After listening to the testimony and comments of industry representatives and government officials, Governor Pleasant announced that he was taking the special session proposition under advisement and would make his decision known at a later date.43 On April 9, the day following his meeting, Pleasant requested the running of analytical tests on Pine Island crude to determine its comparative value and potential applications,

42 New Orleans Times-Picayune, April 9, 1919; Shreveport Times, April 9, 1919.

43 New Orleans Times-Picayune, April 9, 1919; Shreveport Times, April 9, 1919.
an action prompted by the widely differing assessments of its qualities. The question of quality became more prominent in late April when C. D. Keen, representing the independent operators, provided the news media with copies of a report he had submitted to the governor implying that Pine Island crude could yield as much as 33 per cent gasoline. Upon hearing of this, Colonel F. W. Weller, president of Standard Oil of Louisiana, declared: "I wish I could believe that Pine Island crude can be made to yield 33.3% gasoline under any treatment that would yield a profit on the gasoline in competition with that obtained from other crudes." He cautioned that special laboratory procedures often produce amazing results that could not be duplicated in what he termed "practical commercial conditions." Finally, Weller advised those inclined to believe Keen's claim to withhold judgment as to its validity until Pine Island crude experienced the phenomenal increase in refinery demand that was sure to follow if the laboratory procedure was commercially feasible.

In a statement appearing in the newspapers of April 29, Keen suggested that Weller was misrepresenting the facts. According to Keen, the independents advised Governor Pleasant that arrangements had been made with Great Southern Producing and Refining Company to subject a shipment of Pine Island crude to the so-called "Forward Process" at its Urbana,

44 New Orleans Times-Picayune, April 9, 10, 1919. At Governor Pleasant's conference Hunter C. Leake described Pine Island crude as being of such low quality, allegedly containing less than three-quarters of one per cent gasoline, that it had a very limited market. On the other hand, the independents claimed that it produced a good grade of lubricants, "a fair amount of gasoline," and several other by-products.

45 Baton Rouge State-Times, April 28, 1919; Shreveport Times, April 28, 1919.

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Ohio, refinery. The 33 per cent claim, he continued, was made by the refining company in promotion of their procedure, a fact clearly expressed in the report submitted to the governor. Keen then declared that he had witnessed a test of Pine Island crude that yielded between 18 and 19 per cent gasoline. He emphasized that this had been no laboratory experiment conducted under special conditions, rather it had occurred at a refinery and was of sufficient magnitude to demonstrate its commercial feasibility.\footnote{Shreveport Times, April 29, 1919.}

Despite these claims regarding the commercial value of Pine Island crude and the continued growth of the conservation problem in Caddo Parish, Governor Pleasant still refused to summon a special session of the legislature. Moreover, his failure to make known his intentions regarding the Pine Island situation made political issues of the conservation problem, the proposed pipeline legislation, and the special session suggestion.

Discussion of these topics kept the Pine Island situation in the news throughout the spring and summer of 1919. By late March 1919, just a few days after the Railroad Commission had made public its report on conditions at Pine Island, newspapers around the state reported that Governor Pleasant was receiving numerous letters and telegrams from public officials, businessmen, and civic representatives from northwest Louisiana urging him to call a special session of the legislature.\footnote{Ibid., March 29, 1919; New Orleans Times-Picayune, March 30, 1919; Monroe News-Star, March 31, 1919.} By far the most vocal and persistent advocate of a special session was Huey Long. On June 7 he addressed a mass rally at Vivian, in northwestern Caddo Parish, berating the pipeline companies, especially Standard Oil, and urging his
listeners to increase their pressure on Governor Pleasant to call a special legislative session. Those attending appointed a committee to communicate their feelings to the governor, and it composed several resolutions calling upon him to summon the legislature into special session for the express purpose of separating the ownership of pipeline, refining, and production companies and to provide common purchaser legislation for oil pipelines. Long followed the transmittal of these resolutions to the governor with a personal letter in which he strongly emphasized the necessity of legislative relief for the Pine Island operators. Furthermore, he implied in a rather indirect manner that Governor Pleasant's failure to call the legislature into special session might be mistakenly interpreted by some people to mean that he, the governor, was being influenced not to do so by the wealth of Standard Oil of Louisiana.

While championing the independents' campaign for a special legislative session, Huey Long also became involved in a public feud with Standard that took the form of full-page advertisements appearing in many of the state's major newspapers. The first was a Standard advertisement in the Shreveport Times of May 4, 1919, headed "The Truth About Pine Island." It asserted that Pine Island crude was a low quality product whose only substantial market had disappeared with the end of the war and that no legislative session, special or otherwise, would be able to solve this economic problem through statutory enactment. Two succeeding Standard advertisements...

48 Shreveport Times, June 8, 1919; New Orleans Times-Picayune, June 10, 1919.

49 Huey P. Long to Ruffin G. Pleasant, June 12, 1919 (Box 2, folder 62, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
Standard advertisements on May 9 and 11 attempted to refute the "freeze out" argument by stressing the company's efforts to secure a market for the Pine Island oil.  

Huey Long entered the fray on May 10 with an advertisement, entitled "An Answer to the Standard Oil Company of Louisiana," which appeared in the Shreveport Times. It summarized the history of so-called "freeze outs" employed by Standard Oil in other southwestern oil fields and accused it of enforcing a deliberate embargo against the Pine Island independents in an effort to absorb their holdings.

Long also called upon the people of Louisiana to demand a special legislative session to enact common purchaser statutes and laws to force the separate ownership of pipelines, refineries, and producing interests. On May 21 Long ran a second advertisement in which he repeated his charges of "freeze out" and a call for a special session. He also included his interpretation of Standard's legal battles in Texas and Kansas, claiming that it had been driven from both states as an "outlaw." Standard, he declared, had come to Louisiana not as a good citizen, "but as an escaped convict goes to Honduras."  

Letters, petitions, resolutions, and newspaper coverage notwithstanding, Governor Pleasant would not be pressured into taking a public stand on the Pine Island situation, much less calling the legislature into special session. On June 26 he finally announced that he had no immediate plans to call a special session because he could not in good

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50 Shreveport Times, May 4, 9, 11, 1919.
51 Ibid., May 10, 21, 1919.
conscience do so until something occurred that affected the entire state "more generally than does the Pine Island oil field situation . . . ."52 Pleasant's announcement brought an immediate and harsh response from Long. The Railroad Commissioner took exception to the governor's assessment of the Pine Island situation and implied that it might be more than just coincidence that Standard Oil had worked a "freeze out" on the independents of the Creighton field while Pleasant was attorney general, and that the company was now employing the same tactic at Pine Island with Pleasant as governor.53

Long's castigation of the governor did not go unchallenged. In a statement issued on July 1, State Fire Marshal William Campbell, a political appointee of Governor Pleasant, attacked Long's motive for wanting a special session and accused him of using his official position to promote his own financial interests. Following a decidedly uncomplimentary version of Long's involvement with the Banks Oil Company and its activities at Pine Island, Campbell characterized the commissioner's activities as being "the first time anyone had the brass to get an extra session of the State Legislature in order to pull off a stock-jobbing deal . . . ." In closing, Campbell challenged Long to answer these charges on July 4 at a big political rally to be held at Hot Wells where

52 Ibid., June 28, 1919; New Orleans Times-Picayune, June 27, 1919. He reasoned that the conditions at Pine Island affected so few Louisianians, his figure was one-fiftieth of 1 per cent, that he could not justify calling the 159 legislators away from their homes and businesses.

53 New Orleans Times-Picayune, June 28, 1919.
several persons were going formally to launch their campaigns for governor. 54

Not known as one to shy away from a fight, Long appeared as scheduled at the Hot Wells rally. In his speech Long attacked Standard Oil of Louisiana, Governor Pleasant, and Fire Marshal Campbell. He repeated the familiar "freeze out" accusation against Standard Oil and declared that Louisianians interested in "commercial freedom" must oppose Standard Oil as if they were "fighting against the ravages of the cattle thief and highway bandit." He again implied, this time more forcefully than before, that Standard Oil was able to pursue its calculated plan to drive the independent oil men out of business only because the current administration allowed it to do so. With regard to Campbell's "stock-jobbing" accusation, Long categorically denied the allegation and denounced it as a deliberate lie. Huey maintained that the only truth contained in the statement was that he had worked tirelessly to interest independent refiners in the Pine Island district. 55

The Pine Island situation remained an issue during the entire gubernatorial campaign. Indeed, it was an integral part of a comic episode occurring in mid-July that enlivened the early stages of the race. On July 9 Senator E. M. Stafford, president pro tempore of the

54 Ibid., June 2, 1919. Hot Wells was at that time a popular spa some 15 miles west of Alexandria, in Rapides Parish, at which was staged the informal opening of each gubernatorial campaign.

55 Ibid., July 5, 6, 1919. Additional refutation of the allegations involving the Banks Oil Company came on July 5 in a statement issued by O. K. Allen, the company's secretary and business partner of Long. He labeled Campbell's charges a "scandalous misstatement" and indicated that Huey Long owned only 10 shares of Banks Oil Company stock.
senate and acting governor in the absence of Governor Pleasant and Lieutenant Governor Ferdinand Mouton, issued a proclamation calling the legislature into special session beginning on August 11. Assistant Secretary of State Richard Flower declined, however, to accept, sign, or promulgate the proclamation because he had not received official notification that Lieutenant Governor Mouton had left the state. Stafford, however, claimed that the secretary's role was purely ministerial and that his proclamation was valid without official promulgation. He added that he had announced at the Hot Wells rally that if given the opportunity he would summon a special session of the legislature to deal with the myriad problems facing the state and, therefore, both Governor Pleasant and Lieutenant Governor Mouton were fully aware of his intentions.

To Stafford's surprise, on July 10 Mouton released a statement that he had not left the state. Having received word of Stafford's proclamation while traveling by train from Lafayette to Beaumont, Texas, and knowing that a special session was not in Governor Pleasant's plans, Mouton had left the train at Vinton, Louisiana, and returned to Lafayette as soon as possible. Senator Stafford, however, contended that his

56 Baton Rouge State-Times, July 9, 1919; Shreveport Times, July 10, 1919. In the official call for the extraordinary session Stafford listed 14 specific items for the legislature to consider, the seventh being the Pine Island situation.

57 Baton Rouge State-Times, July 9, 1919. Stafford based his authority to proceed as acting governor on the fact that Governor Pleasant was out of the state on a trip to Winnipeg, Manitoba, and that Lieutenant Governor Mouton was reported to be in Beaumont, Texas.

58 Ibid., Shreveport Times, July 10, 1919.
proclamation was valid because he had issued it after receiving a letter from Mouton giving official notification of his intention to leave the state. Regardless of where Mouton was now, he had acted in good faith and that was all that mattered. With Lieutenant Governor Mouton's presence in the state no longer in doubt, there was no possibility that Senator Stafford's special session would convene. Nevertheless, an acrimonious exchange between the two principals continued for some time diverting public attention from the Pine Island situation.

Not until September did the Pine Island matter again come to the fore as an issue in the political campaign. By that time the race for the Democratic gubernatorial nomination had become a two-man contest between Colonel Frank P. Stubbs and John M. Parker. At a Labor Day rally in Shreveport Huey Long drew from Colonel Stubbs an expression of sympathy regarding the independents' plight and a pledge of support for a fair and equitable common carrier law to regulate all pipelines in Louisiana. Stubbs declined, however, to commit himself to support the divorcement of ownership legislation advocated by Long and the independents, pleading ignorance of its provisions and ramifications.

Having received a declaration of support from Colonel Stubbs, Long and other representatives of the independents' cause turned their

59 Shreveport Times, July 10, 1919.

60 Mouton and Stafford traded versions of the events surrounding the Hot Wells rally and estimates of each other's veracity throughout the rest of July until the "Charlie Chaplin comedy" ceased to be newsworthy. Baton Rouge State-Times, July 10, 11, 1919; New Orleans Times-Picayune, July 12, 1919; Shreveport Times, July 11, 12, 14, 18, 21, 1919.

61 New Orleans Times-Picayune, September 2, 1919.
efforts toward eliciting a similar statement from John M. Parker. During early September, both Long and Leland H. Moss wrote letters to Parker. Long asked Parker to state his position regarding the common carrier and divorcement legislation while Moss requested a more general declaration of support for regulatory legislation designed to protect the independent oil interests.  

P Parker answered Long and Moss in a speech in New Orleans on September 18 by pledging "To protect the independent oil interests of the State against the great corporations." To the independents this was a promise to protect them against further "freeze outs." In late October Long announced that he was satisfied with the oil-related positions taken by each of the major candidates, but that he would back Parker for governor because Stubbs had the support, at least in Long's eyes, of the New Orleans ring, the railroad interests, and Standard Oil of Louisiana.  

62 Huey P. Long to John M. Parker, September 3, 1919 (Box 15, folder 235, John Milliken Parker MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill); Leland H. Moss to John M. Parker, September 11, 1919 (Box 15, folder 235, John Milliken Parker MSS, Southern Historical Collection, University of North Carolina, Chapel Hill).  


64 Matthew James Schott, "John M. Parker of Louisiana and the Varieties of American Progressivism" (Ph.D. dissertation, Vanderbilt University, 1960), 228.  

65 New Orleans Times-Picayune, October 26, 1919. In his autobiography Long claimed that he declared his support for Parker in early November, and implied that this announcement provided the edge necessary to insure Parker's victory. Long, Every Man a King, 47-48.
Parker won the election and soon after began to develop a program for his initial legislative session. Freely admitting his ignorance concerning the complex oil-related issues, the governor-elect decided to have a conference of industry and government representatives to discuss oil industry problems. The conference was held in Shreveport on February 27 and 28 and was attended by more than 500 representatives of the oil industry. The opening day featured a presentation by C. D. Keen, president of the Independent Oil and Gas Producers of North Louisiana, in which he again proposed that all oil pipelines in Louisiana be declared common carriers; that all pipeline companies be required to operate as common purchasers, thus having to purchase ratably from all producers during times of oversupply; and that the ownership of producing and pipeline interests be segregated.

Standard Oil of Louisiana, represented by Judge J. C. Pugh, its local attorney, and Hunter C. Leake, vigorously opposed the independents'

66 Schott, "John M. Parker," 345. The subject of such a conference appeared several times in Parker's correspondence for January and early February 1920. Specifically, a letter to Thomas O. Harris, secretary of the Independent Oil and Gas Producers Association of North Louisiana, suggested that he arrange an oil conference to convene in Shreveport in late February. John M. Parker to Huey P. Long, January 27, 1920 (Box 17, folder 255, John Milliken Parker MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill); and Box 3, folder 77, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); Archibald B. Roosevelt to John M. Parker, January 19, 1920 (Box 17, folder 257, John Milliken Parker MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill); John M. Parker to Thomas O. Harris, February 2, 1920 (Box 30, folder a, John M. Parker MSS, University of Southwestern Louisiana Archives, Lafayette).

proposal. Leake maintained that Standard's pipeline facilities were an integral part of its entire operation. Furthermore, he argued that independent common carrier pipeline companies were not economically viable and cited the collapse and bankruptcy of the Buckeye Oil Pipe Line Company of Ohio as an example. In conclusion, he averred that Standard's "... pipe lines cannot be construed as common carriers, and the Legislature has no authority to make a public utility of an enterprise which was not developed for one." He pledged that Standard would contest any effort to declare its pipeline holdings common carriers. 68

As the conference came to a close, the independents informed Parker that they would submit a legislative package to him by April 1. They also announced the appointment of a committee to prepare this legislation and to confer with a committee from the pipeline companies. 69 As promised, on April 1 Thomas O. Harris, secretary of the independents' association, presented two proposed laws to the governor-elect. The first provided the pipelines doing business in Louisiana be declared common carriers. The second measure, a common purchaser bill, prohibited discrimination in the purchase of oil by pipeline companies. It was endorsed in principle by both the Gulf Refining and Texas companies. 70


69 New Orleans Times-Picayune, February 29, 1920. These men composed the independents' committee: E. R. Bernstein, chairman; Leland H. Moss; J. E. Smitherman; W. L. Woody; and S. C. Fullilove.

In a press release timed to coincide with delivery of the independents' legislative package to Parker, Secretary Harris maintained that these proposals contained "nothing radical or untried." Their sole purpose was to protect the small independent operator from being driven out of business by transportation monopolies. The common carrier measure merely brought the provisions of Act 36 of 1906 more closely into line with the pipeline laws of the more progressive petroleum states, specifically Oklahoma and Texas. It was not confiscatory. Pipeline companies carrying their own production to their own storage or loading facilities were exempted from the common carrier measure, its provisions becoming effective only when they purchased oil or carried it for hire. Furthermore, the ratable taking provisions of the common purchaser bill applied only to those pipelines that purchased oil for transportation or carried oil belonging to others.71

Interestingly, one of those voicing displeasure with the independents' legislative package was Huey Long. He claimed to have prepared the original statutory proposal for the independent oil men, but that the measures presented to Parker omitted at least two provisions crucial to the package's success. Long interpreted the limitation of the anti-discrimination provision's applicability to periods of overproduction as a total capitulation. He reasoned that the state had not experienced overproduction since the discovery of the Pine Island district, thus the common purchaser proposal as submitted by Harris was of absolutely no value. Furthermore, Long again argued that failure to divorce the

ownership of the pipelines from the major production and refining interests left the independents at the mercy of the big oil companies, especially Standard Oil, and subject to repeated "freeze outs."  

Knowing they faced significant opposition from two formidable sources, the independents' association proceeded with its program and on May 31, 1920, saw bills to enact their legislative package introduced in both chambers of the General Assembly. The common carrier measure was introduced by Representative J. S. Douglas as House Bill 111 and by Senator E. Wayles Brown as Senate Bill 63, while Representative J. T. Tanner's House Bill 122 and Senator H. B. Warren's Senate Bill 51 embodied the provisions of the anti-discrimination or common purchaser measure. The senate referred the Brown and Warren bills to its Committee on Conservation, but all action on them soon ended as both chambers focused their attention on the house versions.

72 Huey P. Long to John M. Parker, April 21, 1920 (Box 18, folder 267, John Milliken Parker MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill). According to Long, the changing pattern of ownership and control in the Pine Island district explained the independents' new attitude. Before the armistice Pine Island had been 87 per cent under independent control, whereas it was now 95 per cent controlled and dominated by Standard Oil and its affiliated companies. Long implied that the final preparation of the independents' legislative package reflected this managerial shift. Further to illustrate this point, Long maintained that he had drawn the initial version of the independents' legislative proposal, but that the final, flawed, and weakened draft was actually the work of Judge Sidney L. Herold, a Shreveport attorney and legal counsel of the Texas Company and its pipeline interests.

73 House Calendar, 1920, 42; Senate Calendar, 1920, 40.
74 House Calendar, 1920, 47; Senate Calendar, 1920, 36.
75 Senate Calendar, 1920, 36 and 40.

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On June 1 the house referred the Douglas and Tanner bills to its Committee on the Conservation of Natural Resources and from that point on they progressed through the General Assembly almost simultaneously. The committee's hearings served as the forum for the debate, sometimes degenerating into clashes of personalities, on the measures. Leland H. Moss of Lake Charles, ably presented the case of the small independent producers in support of both bills. He repeated the independents' contention that they were not advocating radical legislation. The common carrier bill would open the lines of transportation to each and every producer, while the anti-discrimination bill would guarantee that all producers received equitable treatment during periods of flush production. 76

Spokesmen for Standard Oil of Louisiana, particularly Attorney Arthur Moreno, delivered scathing condemnations of the pipeline package, especially the Douglas common carrier bill. They maintained that House Bill 111 would drive the pipelines out of business and in that way drastically cripple the state's oil industry. Furthermore, they consistently implied that enactment of this measure would be one more step leading this country down the road to socialism. Moreno openly made this connection by declaring that the real issue before the legislature was whether or not it intended to "dedicate private property to public use

or to the use of class." The independents, he contended, were preaching "the doctrine of Marx and John Spargo."77

By far the most startling development during the first two days of hearings was the position announced by a group of large independent oil producers. Speaking for his clients, Attorney Thomas Milling maintained that the legislative package of the smaller independents was at best unnecessary and could easily be counterproductive. He reasoned that the common carrier bill would vest the control of private property in "an authority perhaps not capable of dealing with it in a public way." Even the threat of such action, Milling continued, would discourage the construction of new pipelines or the expansion of existing facilities and hinder the development of both production and refining industries in Louisiana.78

Adding further fuel to an already heated situation were the comments and accusations of Huey Long. On several occasions he alleged that a financial connection existed between large independents which now opposed the pipeline bill, such as the Gilliland Oil Company, and the Standard Oil trust. He also repeated in some detail his well-known

77 Baton Rouge State-Times, June 17, 1920. By emphasizing the "socialism" issue Standard Oil attempted to use the Red Scare hysteria still sweeping the nation to their benefit. John Spargo was born in Great Britain on July 31, 1876. By age 18 he was identified with the Socialist cause in Great Britain. Spargo came to the United States in 1901 and was closely associated with the Socialist Party serving for several years on its national executive committee. Spargo was best known for his books on social problems, especially child labor. Who Was Who in America, 1961-1968, IV (Chicago: Marquis - Who's Who, Inc., 1968), 887-88.

charges against Standard Oil which included allegations that it was importing Mexican oil while refusing to purchase crude from Louisiana producers, that it was an "escaped convict" from Kansas and Texas, and that it had a history of employing the "freeze out" to drive independent producers out of business. 79

Responding to Long's attacks, Hunter C. Leake presented Standard Oil's argument against the pipeline bill and recounted its efforts to secure markets for Pine Island crude during the so-called "freeze out." The rest of his remarks the Baton Rouge State-Times described as "skinning Huey P. Long . . ." and "tacking his hide against a derrick . . .," with the implication that said derrick belonged to the Banks Oil Company. 80

The oratorical fireworks of the first three days of hearings on the Douglas and Tanner bills vastly overshadowed the remaining legislative consideration of these measures. By the 17th, the position of each major interest group was clearly understood and it appeared that a long and difficult course lay ahead for the pipeline bills. At that point, moderates in the General Assembly suggested the appointment of a legislative commission to study the matter and report back to the next regular session. Governor Parker, while announcing that he regarded the Douglas and Tanner bills as administration measures, indicated that he would


80 Baton Rouge State-Times, June 18, 1920. Leake produced copies of the charter, prospectus, and an advertising booklet of the Banks Oil Company and used them to demonstrate the positive attitude and economic condition of an independent oil company in the Pine Island district.
accept constructive amendments as long as they did not compromise the anti-discrimination features. 81

On June 22 the house Committee on Conservation of Natural Resources held its final public hearing on the Douglas and Tanner bills and on the following day reported each favorably. 82 On June 28 both bills came up for final passage in the house. Tanner's anti-discrimination measure encountered little opposition, passing by a vote of 90 to 2. 83 After some discussion, Douglas's common carrier bill was adopted by a vote of 63 to 41. 84

The senate received both bills on June 30 and on the next day referred them to its Committee on Conservation. 85 By that time the position of each major interest group was well-known and enough time had elapsed since the initial house committee hearings to allow some of the rancorous feelings to subside. Nevertheless, the day before the senate actually received the two measures, Senator Robert Butler, an administration floor leader, introduced a resolution directing that the common


82 Baton Rouge State-Times, June 23, 1920; House Calendar, 1920, 42 and 47.

83 House Calendar, 1920, 47.

84 New Orleans States, June 29, 1920; New Orleans Item, June 29, 1920; House Calendar, 1920, 42. An editorial appearing in the Baton Rouge Sunday News on June 27 aggravated an already tense atmosphere surrounding the final vote on House Bill 111. The editorial credited Douglas with going Karl Marx one better by "father[ing] a specious scheme to appropriate private property that would make Marx's doctrine very conservative." Baton Rouge Sunday News, June 27, 1920.

85 Senate Calendar, 1920, 147 and 150.
carrier and anti-discrimination bills be referred to a joint house and senate committee, to be appointed by the governor, for study and investigation. This committee would submit a report to Governor Parker within one year. Despite Senator Butler's relationship with the administration, his resolution did not receive Governor Parker's endorsement, and never came up for a formal vote.

Governor Parker shared Senator Butler's desire to avoid additional controversy over the pipeline bills, but he hoped to achieve an acceptable compromise through a conference of all interested parties. Overcoming the reluctance of the small independents to participate, the governor's mediation produced a compromise definition of the term "common carrier," thus clearing the way for the bill's passage. The conferees agreed upon a definition suggested by the legal counsel for Standard Oil and patterned after that used by the Interstate Commerce Commission. In essence, this provision left most decisions concerning common carrier status to courts of competent jurisdiction.

With agreement reached on a common carrier bill, the pipeline regulatory package moved easily through the rest of the legislative process. On July 2 the senate Committee on Conservation reported both the Douglas and Tanner bills favorably with amendments, and on July 5 the full senate passed them by identical votes of 35 to 0. The house concurred in the amended versions that same day, with only one negative vote.

86 Ibid., 114-16; Baton Rouge State-Times, June 29, 1920.
87 New Orleans Times-Picayune, June 30, 1920; Senate Calendar, 1920, 114.
vote cast against the Douglas bill. On July 6 Governor Parker signed both measures and the Tanner "anti-discrimination" bill became Act 73 while Douglas's common carrier bill became Act 75.89

Act 73 provided that "during a period of over-production, . . ." buying agencies (read pipelines) were to accord each producer the opportunity to sell the portion of his production that his "potential production" bore to the field-wide "potential production." Excluded from this rule were the operations of purchasers buying less than 500 barrels daily and transporting the petroleum through their own facilities. Sections Three through Six established a regulatory mechanism under the supervision of the conservation commissioner, while Section Seven defined such key terms as "potential production," "over-production," "producers," and "buying agencies." Section Eight declared that the entire act was designed to operate in the public interest during periods of overproduction to conserve oil by providing its producers with a reasonable opportunity to market a fair proportion of their product.90

Act 76 amended and re-enacted Act 36 of 1906. Sections Two and Three, the heart of the statute, declared pipelines to be common carriers when they transported crude petroleum for hire or when legally held to be so by the "nature of the business conducted or from the manner in which such business is carried on." The next 12 sections outlined

89 Ibid., July 3, 5, 1920; Oil and Gas Journal, July 9, 1920; Senate Calendar, 1920, 147 and 150; House Calendar, 1920, 42-47.

in great detail the supervisory and enforcement powers of the Railroad Commission.\textsuperscript{91}

These two acts provided the basis for regulation of the petroleum pipeline industry throughout the remainder of the inter-war years. The only changes occurred with the enactment of Act 120 of 1934. This statute amended and re-enacted Section One of Act 73 of 1920 by stipulating that no pipeline owner could be compelled to construct a line for "an unreasonable distance" to make connection with a producer's well. It also removed all mention of price from the 1920 law for reasons that will be explained in a later chapter with reference to a state law establishing a ratio between crude petroleum prices and those of refined gasoline.\textsuperscript{92}

Another enduring result of the 1920 pipeline legislation was the beginning of the political split between Huey Long and John M. Parker. As explained previously, Long supported Parker's candidacy for governor in no small part because of his stand on the pipeline issue. This support rapidly turned into disenchantment because in Long's estimation Parker, once elected, quickly came under the domination of the powerful corporate lobbies, particularly Standard Oil of Louisiana, and used his influence to obtain a common carrier pipeline law designed to answer their objections.\textsuperscript{93}

\textsuperscript{91} Ibid., 107-113.

\textsuperscript{92} Acts of Louisiana, 1934, 471-73.

\textsuperscript{93} Schott, "John M. Parker," 367; Williams, Huey Long, 143-45; Huey P. Long to Léland H. Moss, November 11, 1920 (Box 3, folder 74, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
By November 1920 the split appeared unmendable as Long described Governor Parker as "fast slipping into the tentacles of the polluted corporate lobby whose money has succeeded in retaining those whose advice the Governor most readily accepts." The full effect of the Long-Parker break will be demonstrated in the next chapter which takes up the developmental phase of petroleum severance taxation in Louisiana.

94 Huey P. Long to Leland H. Moss, November 11, 1920 (Box 3, folder 74, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
CHAPTER IV

MONEY, RESOURCES, AND GENTLEMEN:
PETROLEUM SEVERANCE TAXATION, 1910-1925

With the establishment in 1910 of Louisiana's fledgling conservation bureaucracy, the question of financing its operations immediately arose. As indicated in Chapter II, the General Assembly attempted to provide these funds by adopting a license tax on the severance of mineral resources. A constitutional error, however, temporarily negated this source of revenue, thus severely handicapping the nascent conservation effort and producing Louisiana's first severance tax-related dispute. Ultimately resulting in a substantial and dependable source of revenue, efforts to alter, amend, or increase Louisiana's petroleum severance tax during the next three decades generated notable political, legislative, and legal controversies. During the first 15 years of this period these quarrels attracted more and more attention as the taxation of natural resources assumed an increasingly prominent role as a function of state government.

Dating from Michigan's enactment of a tonnage tax on iron ore in 1853, severance taxation was nothing new when Louisiana extended its system of license taxes to include mining pursuits. By whatever name

1 Theodore Newton Farris, Severance Taxation in Louisiana (Nashville: George Peabody College for Teachers, 1937), 5.
they might be called, these taxes were essentially "compulsory contribu-
tion[s] exacted by the state from individuals or firms engaged in the
extraction of natural resources." Their advocates cited three justifi-
cations for levying severance taxes: (1) stimulation of conservation,
(2) equalization of tax burden distribution, and (3) fiscal necessity.

In Louisiana the primary motivation was fiscal necessity, but the oppor-
tunity to reallocate the tax burden was also a consideration. Aware
that most large companies exploiting Louisiana's natural resources repre-
sented a type of foreign investment, the state's legislators recognized,
according to Leslie Moses, "... a brilliant political move in taxing
such foreign capital for the purpose of obtaining additional revenue
for the operation of the state." 4

Louisiana's first severance tax originated in May 1910 at a two-
day meeting of the Louisiana Conservation Commission. At its sessions
the commission members discussed with representatives of several resource-
based industries a proposal to finance the state's conservation effort
with revenues raised by taxing the severance of natural resources. None
of the industry spokesmen expressed vehement opposition, the petroleum

2 Ibid. See also Wallace James Landry, "The Louisiana Petroleum
Industry: Taxation of Basic Operations (MBA thesis; Louisiana State
University, 1940), 35; and Leslie Moses, "Severance Taxation in Louisi-
ana--The Constitutional, Legislative and Judicial Growth," Taxes--The
Tax Magazine (April 1940), 224.


4 Leslie Moses, "The Growth of Severance Taxation in Louisiana
and its Relation to the Oil and Gas Industry," Tulane Law Review, XVII
(New Orleans: Tulane University of Louisiana, 1943), 603.
interests even grudgingly indicating approval; however, they generally cautioned that such a levy should not be excessive.  

On June 1 Representative Henry E. Hardtner, of LaSalle Parish, who was also Chairman of the Commission on Natural Resources, introduced in the legislature the first segment of the commission's two-part severance taxation package. The expressed purpose of House Bill 209 was to amend Article 299 of the Constitution of 1898 in order to allow the imposition of a license tax on those involved in the severance of natural resources. Reported favorably by Section B of the Committee on the Judiciary, it encountered some rather ineffective opposition on the house floor before passing by a vote of 86 to 16 and being sent to the senate. The bill moved through the upper chamber with relative ease, gaining its concurrence on July 1, and on July 6 it received Governor Jared Y. Sanders's signature to become Act 154. This act provided that an amended version of Article 299 be submitted to the voters at the general election in November 1910 for approval or rejection. The proposed amendment

5 Baton Rouge Daily State-Times, May 17, 1910; New Orleans Times-Democrat, May 18, 19, 1910. Speaking for the oil industry, F. C. Proctor, an attorney for the Gulf Refining Company, after saying that no one welcomed additional taxation, advised the commissioners that his clients viewed a tax rate of one-tenth of 1 per cent of well head value as fair and equitable. They believed, however, that not even this levy should be imposed until a field was fully developed and the production was of a "paying quantity."


7 Ibid.; Baton Rouge Daily State-Times, June 23, 1910; Shreveport Times, June 24, 26, 1910.
removed the exemption of mining pursuits from license taxation and rendered those involved in the business of severing natural resources liable for such taxes.®

Act 196 embodied the second half of Representative Hardtner's severance tax package. Introduced as House Bill 332 on June 10, it called for license tax rates of one-fifth of 1¢ per barrel on crude oil and one-fifth of 1¢ per 10,000 cubic feet on natural gas.® The bill encountered only scattered opposition and emerged from the General Assembly with only minor changes. Receiving Governor Sanders's approval on July 6, Act 196 provided for the collection of an annual license tax, as authorized by the amended version of Article 229, from those individuals and businesses severing Louisiana's natural resources. The tax rate on natural gas was as Representative Hardtner originally proposed, but that on crude oil was doubled. The licenses were to be collected by parish tax collectors and paid into a specially created "Conservation Fund" from which the conservation commissioner was to draw the commission's operating expenses.® Section Nine of Act 196 provided that it would not become effective unless or until the state's electorate adopted the constitutional amendment embodied in Act 154. The voters approved

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9 House Calendar, 1910, 126; Shreveport Times, June 2, 1910.

the amendment at the November election, and on January 2, 1911, Acts 154 and 196 became law.\textsuperscript{11} On March 4, 1911, the Conservation Commission received from six parish tax collectors $3,752.95, representing Louisiana's first severance license tax receipts.\textsuperscript{12}

Collection of this new tax, however, came to an abrupt halt almost before it began. On January 14, 1911, the Etchison Drilling Company filed suit in Caddo Parish District Court against J. P. Flournoy, tax collector of Caddo Parish, to block collection of the new tax. The plaintiff's attorneys contended that Flournoy was demanding of their client a license tax of $53.58 for the oil it produced during 1910. They maintained that Act 196 was unconstitutional, null, and void because it contravened Article 229 of the state constitution prohibiting such taxes, defied Article 227 by exceeding the taxing powers allotted to the state, violated Article 31 because the title did not express its object, breached Article 225 by not providing for equality and uniformity of taxation, and by classifying the "severing of timber and minerals from the soil" as one business, violated Section One of the Fourteenth Amendment to the United States Constitution. The plaintiff's attorneys concluded by asking the court to declare the act unconstitutional, to rule that their client was not liable for the payment of the tax, and to enjoin permanently the parish tax collector from attempting to collect it from their client.\textsuperscript{13}

\begin{thebibliography}{99}
\bibitem{11} Ibid., 330; Moses, "The Growth of Severance Taxation," 604-605.
\bibitem{12} The New Advocate (Baton Rouge, LA), March 4, 1911.
\bibitem{13} Etchison Drilling Company vs. J. P. Flournoy, Tax Collector (MS in file #14,250 in the office of the clerk of the First Judicial District Court of Louisiana, Parish of Caddo, Shreveport).
\end{thebibliography}

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On January 18, 1911, the plaintiff's attorneys amended the original petition to allege further the unconstitutionality of Act 196 because, at the time of its passage, Article 229 required that all license taxes be graduated. On February 18 Flournoy's lawyers filed an answer to the plaintiff's petition in which they alleged that the plaintiff had no cause or right of action and asserted their client's authority by defending the constitutionality of the severance license tax. The case went to trial on February 25, 1911, based upon each side's petitions and a mutually acceptable statement of facts. District Judge E. W. Sutherlin received the evidence and petitions and took the case under advisement.

As explained in Chapter II, the Etchison Drilling Company suit brought a virtual halt to the conservation commission's operations due to a lack of revenue. Shortly after the case went to trial, Attorney General Walter Guion advised Governor Sanders to direct the parish tax collectors to continue collecting the tax, but to deposit the receipts in special bank accounts rather than transmitting them to the Conservation Fund. The governor heeded this advice and on March 7, 1911, forwarded

14 Ibid.
15 Ibid.
16 Ibid.; 59 Southern Reporter 967-68 (June 19, 1912).
17 Shreveport Times, March 8, 1911. The attorney general reasoned that the state would experience a great deal of difficulty should it collect, transfer, and spend this money if the district court ruled for the plaintiff. On the other hand, should they suspend collections and subsequently win the court challenge, a considerable portion of this revenue might be irretrievably lost.
a copy of Guion's letter to each parish tax collector. Evidently, however, the implementation of this policy was not uniform because on March 27, 1912, Chairman Hardtner informed the governor that the severance license taxes were not being collected in accordance with the attorney general's recommendation.\footnote{Ibid., March 31, 1912.}

Governor Sanders reminded the tax collectors of their duty in this situation, but his reminder mattered little because on April 17, 1912, Judge Sutherlin finally issued his long-awaited decision in the Etchison case. He ruled that Act 196 of 1910 was unconstitutional "so far as it purports to affect the business and occupation of the plaintiff . . . ." Accordingly, the tax collector was enjoined and restrained from proceeding against the plaintiff in any manner to collect this tax.\footnote{Etchison Drilling Company vs. J. P. Flournoy, Tax Collector. Apparently Judge Sutherlin delivered his opinion on April 10, but it did not become part of the official record in this case until April 17.}

Judge Sutherlin based his decision in no small measure on the sequence of events involved in the passage of Acts 154 and 196. The heart of his reasoning lay in the following statement:

\begin{quote}
Reduced to its last analysis it appears plain that the Legislature by passing this Act 196 of 1910 . . . flew plainly into the teeth, and proceeded in direct violation of the provisions of Article 229 of the Constitution as they were then in force, which plainly prohibited the Legislature from imposing such licenses on persons, associations of persons, or corporations engaged in such mining pursuits.
\end{quote}

Reaction to Judge Sutherlin's decision was immediate, but not harsh. Most interested parties expressed the opinion that his ruling was argumentative.
and sure to be appealed to the state supreme court, if not to the Supreme Court of the United States. Several persons also suggested that the prudent course would be for the General Assembly of 1912 to enact a new license tax on the severance of natural resources to remove the constitutional question altogether.\textsuperscript{21}

As expected, Sheriff Flournoy filed the necessary bond and writ to appeal Judge Sutherlin's decision to the state supreme court. On July 19, 1912, Justice Sommerville issued its opinion upholding the lower court decision. He reviewed Louisiana's recent statutory enactments concerning oil and gas and declared that it was obvious the legislature now considered petroleum production to be a mining process. The judge then recounted the chronology of events surrounding the passage of Acts 154 and 196 of 1910, the electorate's approval of the constitutional amendment, and the implementation of the severance license tax on mining pursuits. The adoption and promulgation of Act 154 of 1910, he declared, could have no effect in this matter because the amending of Article 229 could not be retroactive. Therefore, the statute complained of by the plaintiff in the original action must be unconstitutional because Article 229 exempted mining pursuits from all license taxes at the time the legislature adopted Act 196 of 1910.\textsuperscript{22}

The 1912 General Assembly convened while all parties were awaiting the supreme court's decision in the Etchison case. Not willing to depend upon a favorable court ruling, Representative Robert Roberts, of Webster

\begin{itemize}
  \item \textsuperscript{21} Ibid., April 11, 12, 1912.
  
  \item \textsuperscript{22} 59 Southern Reporter 867-72 (June 19, 1912).
\end{itemize}
Parish, introduced a bill to levy a severance tax on gas and oil as permitted under an amended Article 229. The measure moved through both chambers with little significant opposition. Upon receiving Governor Luther E. Hall's signature, the Roberts bill became Act 209. This statute, differing in several respects from the abortive effort of 1910, levied a license tax on the business of severing natural resources. It made the tax payable quarterly rather than annually and delegated supervision of the collection process to the state auditor. Furthermore, Section One based the levy on value rather than quantity, fixing the rate at one-half of one per cent of the gross value at the place of severance, and stipulated that the tax was to be paid by the land or royalty owner. It also required each person, association, or corporation severing natural resources to file with the state auditor within 30 days of the end of each quarter a formal report showing the exact location of each mine, well, or operation; the quantity of product severed; and its exact cash value.23 The remainder of the act gave the state auditor sufficient authority to enforce its provisions, provided penalties for delinquencies in payment, and specifically repealed all laws or parts of laws with which it might conflict, including by direct mention Act 196 of 1910. In Section Eight, however, the state specifically reserved any and all rights that it might legally have under Act 196 of 1910, whether or not under litigation, until repealed by Act 209.24

23 House Calendar, 1912, 116; New Orleans Item, June 12, 1912; Acts of Louisiana, 1912, 437-40.

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Although embodying several changes that in and of themselves warrant consideration, the real impetus for the adoption of Act 209 lay in the litigation involving Act 196 of 1910. Unexpectedly, the constitutionality of Act 209 was also challenged. On August 20, 1913, an attorney for the tax collector of Caddo Parish filed suit in the First Judicial District Court against W. P. Stiles to force payment of the license tax authorized by Act 209. Stiles, reportedly one of the largest royalty owners in Caddo Parish, and his fellow royalty owners believed that the provision in Section One making them liable for the payment of the license was confiscatory and unconstitutional. Therefore, Stiles agreed to refuse to pay the tax in order to force a test of the law.\(^{25}\)

Stiles's attorney, John B. Files, argued that the language of Act 209 clearly showed that it did not "impose, or seek to impose" a license tax on his client. The title said nothing about taxing royalty owners, providing only for a license tax on those engaged in the business of severing natural resources. Where it did mention the taxation of royalty interests, the law distinguished between royalty owners and those engaged in the business of severing natural resources. Stiles, asserted his attorney, was not in the business of severing natural resources. Even if the act did impose a tax on royalty owners it was unconstitutional because it violated Article 227 of the Constitution of 1898 which required the title of a statute to express accurately its object. Act 209, contended Stiles's attorney, was "unreasonable, oppressive, and unconstitutional"

\(^{25}\) New Orleans Times-Democrat, August 21, 1913; Shreveport Times, August 21, 1913.
in that it imposed an additional tax burden upon land that already bore more than its fair share of taxes.26

This case went to Judge T. F. Bell based upon each side's initial petition and a mutually acceptable statement of facts, and on November 22, 1913, he dismissed the suit.27 The state appealed Bell's decision to the supreme court where Justice O'Neill on June 12, 1915, issued an opinion affirming the district court's decision. He ruled that Article 229 of the constitution imposed a license tax on those engaged in the business of severing natural resources, but made no mention of land or royalty owners. Act 209 could not be used to make the royalty owners liable for the license tax on petroleum accruing to them because to do so would violate the provision found in Article 31 of the Constitution of 1913 that the object of a statute must be accurately reflected in its title.28

Having experienced procedural difficulties in its first two attempts to tax the severance of natural resources, the General Assembly's next three biennial sessions, 1914 through 1918, continually experimented with different methods of collection and rates of taxation. Seeking to improve the former, on May 22, 1914, Representative Duncan Buie, of Richland Parish, introduced a bill to return supervision of license tax collection to the conservation commission. This measure moved through

26 State vs. Stiles (MS in file #17,454 in the office of the clerk of the First Judicial District Court of Louisiana, Parish of Caddo, Shreveport).

27 Ibid.

28 68 Southern Reporter 947-49 (June 12, 1915).
both houses without encountering serious opposition and upon receiving Governor Hall's signature became Act 41 of 1914. Aside from returning the supervisory duties to the conservation commission, the statute's third section obligated all pipeline companies and natural resource purchasers to file quarterly reports with the conservation commission indicating the quantity and gross value of all resources purchased and from whom each was purchased.  

A second enactment of the 1914 General Assembly doubled the severance license tax levy in many parts of the state. Representative Albert M. Rives, of DeSoto Parish, introduced a bill on June 9, which became Act 196, authorizing parish police juries to impose annual license taxes upon persons, corporations, and associations engaged in the business of severing natural resources. The only expressed restriction upon the police juries was that these taxes must not exceed the levies established by the General Assembly.

During the spring and summer of 1915 at least two parish police juries, Red River and Caddo, enacted the license taxes authorized by the act. Both governing bodies imposed the one-half of one per cent tax allowed on the gross value of the resource produced, less the royalty


30 House Calendar, 1914, 144; Shreveport Times, June 14, 1914; Acts of Louisiana, 1914, 605-606.
interest accruing to the landowner. Standard Oil of Louisiana subse-
sequently challenged both ordinances, the controlling decision coming in
the case of Standard Oil Company of Louisiana vs. Police Jury of Red
River Parish. Standard paid its 1915 license tax to the Red River Parish
Police Jury under protest and filed suit in the Eleventh Judicial Dis-
trict Court, Red River Parish, asking that the ordinance be declared
unconstitutional. Judge W. T. Cunningham rejected their argument and
the company subsequently appealed to the state supreme court.

Before the high court Standard's lawyers contended that Act 196,
and the police jury ordinance passed subsequent to it, was unconstitu-
tional because it (1) exempted royalty interests from the license tax
thus discriminating against the remaining interests, (2) violated Article
225 that required taxation to be equal and uniform, (3) violated the
letter and spirit of Article 229 by imposing a license tax only on the
business of severing minerals, and (4) violated the Fourteenth Amendment
to the United States Constitution and the second article of the Consti-
tution of Louisiana by depriving the plaintiff of his property without
due process of law. In an opinion rendered on June 30, 1916, Justice
O'Neill rejected each of the plaintiff's arguments and affirmed the lower
court decision.

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31 72 Southern Reporter 802-804 (June 30, 1916); Caddo Parish
Police Jury Minutes, Volume XI, Part 2 (Louisiana State University De-
partment of Archives and Manuscripts, Baton Rouge), 128; Shreveport
Times, July 9, September 3, 1915. The initial Caddo Parish Police Jury
Ordinance called for a license tax of two per cent, an obvious error
which they corrected after Standard Oil filed suit.

32 72 Southern Reporter 802-803 (June 30, 1916).

33 Ibid., 802-804.
The pattern of experimentation continued in the 1916 General Assembly where the legislators adopted two statutes changing the method of collecting the severance license tax. On May 26 Representative Edward J. Gay, of Iberville Parish, introduced a bill incorporating Governor Ruffin G. Pleasant's suggestion that supervision of collection be returned to the state auditor in a measure designed to amend Act 209 of 1912 by removing the provision exempting royalty owners from license tax liability. His bill moved easily through both houses of the legislature and on June 16 became Act 10 upon receiving the governor's approval. 34

Just two days prior to Governor Pleasant's signing of Act 10, Representative James T. Shell, of Morehouse Parish, introduced House Bill 356, another measure designed to change the severance license tax system. The bill's author, Assistant Attorney General Harry Gamble, formerly a member of the Commission on Natural Resources, proposed the doubling of the conservation tax from one-half to one per cent of gross value and the dedication of the increased revenue to a "Rural Progress Board." As envisioned by Gamble, this agency would study and implement methods of replenishing the state's renewable natural resources. 35 While before the house this bill encountered stiff opposition from the state's oil and gas interests, but they withdrew their objections when the bill's supporters agreed to retain the one-half of one per cent limit on parish


no significant opposition. Signed into law by Governor Pleasant on July 5, Act 145 specifically repealed Act 10 of 1915, signed by the governor only 19 days earlier. The statute retained, however, both the "Rural Progress Board" and the governor's suggestion that supervision of the collection be returned to the state auditor. More significantly, Act 145 altered the rate structure to reflect quantity-based rather than value-based taxation. Accordingly, the new rates imposed on oil and gas were three-quarters of one cent per barrel and one-fifth of one mill per thousand cubic feet respectively. Finally, Section Four limited parish mineral license tax levies to no more than one-half of the rate imposed by the state.37

In 1918 the General Assembly amended the severance license tax collection system provided by Act 145 of 1916. Section One of Act 82 returned supervision of collection to the Department of Conservation. Section Nine dedicated one-sixth of the revenue derived from the levy imposed on oil and gas to the Department of Conservation for use in the "police, protection, and investigation of the oil and gas resources of the State . . . ." This section further stipulated that this revenue


37 House Calendar, 1916, 138; Senate Calendar, 1916, 301; Acts of Louisiana, 1916, 360-65. During its 1918 legislative session the General Assembly amended and re-enacted Section Nine of Act 145. Act 124 created the Current School Fund; stipulated that it was to receive one-quarter of all severance license taxes; and provided that all assets of the Rural Progress Fund, not needed to satisfy existing obligations, were to be transferred to the Current School Fund effective July 1, 1918, at which time the Rural Progress Board would cease to exist. House Calendar, 1918, 81-82; Acts of Louisiana, 1918, 196-97.
was to be in addition to the appropriation already received by the De-
partment. 38

Louisiana's severance license tax system during the years 1914-
1918 experienced a period of drift in which changes were made and reversed
and experiments tried and abandoned. The taxation of the business of
severing Louisiana's natural resources entered a new era in 1920 with
the election of John M. Parker as governor. This is not to say that
the days of experimentation were left behind, but the subject burst into
the public arena as an issue possessing political potency, constitutional
significance, and increasing financial importance.

Parker's governorship has usually been characterized as one of
"enlightened conservatism," "business progressivism," and "conserva-
tive progressivism." 39 During the 1919 gubernatorial campaign Parker
offered the voters, according to his biographer, a modest but overdue
program of reform. Furthermore, he promised to finance progressive pro-
grams in education, charitable services, and highway construction without
increasing the property tax. He figured to fulfill these promises through

38 Acts of Louisiana, 1918, 117-21. The legislature re-enacted
essentially the same statute at its extraordinary session in 1918 because
it had inadvertently omitted the word "pine" from one clause in Section
One of Act 82 or 1918. Acts of Louisiana, 1918 [Extraordinary Session,
25-30; New Orleans States, August 8, 1918.

39 Allan Sindler, Huey Long's Louisiana: State Politics, 1920-
1952 (Baltimore: Johns Hopkins Press, 1956), 42; Monroe Lee Billington,
The Political South in the Twentieth Century (New York: Charles Scribner's
Sons, 1975), 41; Matthew James Schott, "John M. Parker of Louisiana and
the Varieties of American Progressivism (Ph.D. dissertation; Vanderbilt
University, 1969), 349. In a more personal vein, Schott described Parker
as a "southern poor cousin" of Theodore Roosevelt while T. Harry Williams
labeled his efforts as indecisive. T. Harry Williams, Huey Long (New
more efficient collection of the severance license tax and an increase in its rate to an across-the-board two per cent of gross value.\textsuperscript{40} Parker not only saw in the taxation of natural resources a relatively untapped source of revenue, he also reasoned that those involved in this business owed a certain debt to the state's citizens and future generations because they benefitted from the consumption of nature's one-time bounty.\textsuperscript{41}

As explained in Chapter III, while still governor-elect Parker admitted his ignorance of the controversial subject of oil and gas regulation. He did, however, have a strong commitment to increasing the state's revenue derived from taxing the business of severing these resources. Even before his Shreveport conference in late February 1920 Parker was on record that he would insist that those severing Louisiana's resources make a larger contribution to the state's treasury.\textsuperscript{42} At the conference the governor-elect made it clear that he was seriously considering asking the upcoming session of the General Assembly to increase the severance license tax levy.

Parker returned to this theme on various occasions during the next two months. In a speech to the New Orleans Rotary Club on March 10 he maintained that had Louisiana "conserved her natural resources and . . . obtained from them the proper revenues, . . . [it] would now be criss-crossed with the finest, most modern highways in the country, and it

\begin{itemize}
  \item \textsuperscript{40} Schott, "John M. Parker," 348-52.
  \item \textsuperscript{41} Ibid., 363; Sindler, Huey Long's Louisiana, 42.
  \item \textsuperscript{42} New Orleans Times-Picayune, February 16, 1920.
\end{itemize}
would have the best schools, . . . all with a very low tax rate. On April 3 the Baton Rouge *State-Times* indicated that Parker would make an increase in the taxation of natural resources part of his legislative program. The bulk of this money was to come from the taxation of natural resources, with oil scheduled to shoulder the heaviest portion of this increased burden.

Parker conferred with representatives of the petroleum industry on April 8 concerning the administration's legislative package for the upcoming General Assembly. On this occasion Parker informed them that he was unwilling to accept a tax rate on oil and gas of less than two or two and one-half per cent of the gross value at the time and place of production. The industry representatives countered with a proposal to have the new levy set at one per cent of gross value, a figure that they contended would quadruple the revenue derived from the present levy on oil or three-quarters of one cent per barrel. Given the tremendous investments required in the oil and gas industries, they argued that this offer was more than equitable. Governor-elect Parker, on the other hand, stood firm in his insistence that the rate must be at least two per cent and implied that if the industry did not agree to that figure it could take its chances with the legislature.

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45 *Ibid.*, April 9, 1920; *Shreveport Times*, April 9, 1920; *New Orleans Times-Picayune*, April 2, 9, 1920; *Oil and Gas Journal*, April 16, 1920.
An article appearing in the New Orleans Times-Picayune on April 10 shed more light on Parker's insistence that the severance license tax rate be increased to at least two per cent. The writer explained that, as then understood, Parker's program of construction and reform would require an annual expenditure of approximately 5.2 million dollars. The existing tax structure, which the governor-elect had promised not to increase, would raise approximately $2,700,000, not counting the revenue from the severance license tax. This meant that the levy on natural resources must produce two and one-half million dollars if Parker was to implement his program.46

Parker and the petroleum interests met again on April 23 and the governor-elect made it perfectly clear that he was more firmly committed than before to a levy of at least two per cent on the business of severing natural resources. Despite Parker's reaffirmation of a previously known position, the industry representatives, with Judge Thomas Milling of the Independent Oil and Gas Producers Association of North Louisiana their principal spokesman, continued to oppose the two per cent levy. Judge Milling protested that the two per cent levy was too much, but announced that a tax rate of one and one-half per cent would be acceptable. Milling went on to remind the governor-elect that Louisiana law required that all taxes must be equal and uniform, and that it was the industry's contention that a two per cent license tax was anything but equal and uniform. Unmoved by Judge Milling's argument, Parker again announced: "I do not propose to budge one hair's breadth from my stand."47

46 New Orleans Times-Picayune, April 10, 1920.

47 Baton Rouge State-Times, April 23, 24, 1920; Shreveport Times, April 24, 1920; New Orleans Times-Picayune, April 24, 1920.
The inability of the petroleum interests to reach an agreement with Parker on his license tax proposal led the New Orleans Times-Picayune to speculate that they would join a powerful coalition to scuttle the new administration's programs of construction and reform. 48 This alliance never materialized, however, as Standard Oil of Louisiana informed the governor-elect on April 27 that it would no longer oppose the enactment of a two per cent license tax. Their announcement left the Independent Oil and Gas Producers Association of North Louisiana as the only petroleum interest actively opposing the increase, and Judge Milling remarked that his clients would have to reassess their position in light of this development. 49

The governor-elect and Standard Oil of Louisiana reached a settlement by way of a famous "gentleman's agreement" of which a great deal will be said later. The gist of their understanding was that Standard agreed not to oppose the two per cent levy in the upcoming legislature in return for Parker's promise not to raise the tax rate above two per cent during his term of office. This "gentleman's agreement" was to be a powerful political issue during the next few years, and has subsequently received differing interpretations from historians. Matthew Schott saw the agreement arising from Parker's willingness to play economic hardball with a politically powerful industrial giant, while T.

48 New Orleans Times-Picayune, April 25, 1920. The article by Gilbert Meade figured the oil and gas interests to join with the lumber interests and New Orleans area politicians to oppose the governor's new programs.

49 Ibid., April 28, 1920; Baton Rouge State-Times, April 28, 1920.
Harry Williams characterized the agreement as an unnecessary retreat by an indecisive governor in the face of strong-willed opposition. Whichever interpretation one chooses to endorse, Schott appears to have accurately described Parker's motivation in the matter. According to Schott, Parker viewed such arrangements between responsible elements of the public and private sectors as "preferable to legally expensive and uncertain acts of executive defiance." 50

Having obtained the acquiescence of Standard Oil of Louisiana to the two per cent levy through the "gentleman's agreement," Parker turned his attention toward removing the opposition of the independent oil interests. On May 1 Judge Milling and Thomas O. Harris, secretary of the Independent Oil and Gas Producers Association of North Louisiana, informed Parker that their organization would no longer actively oppose the two per cent license tax levy. They accompanied this notification with a statement explaining that their prior opposition resulted from differences of opinion as to what policy was best for the industry and the State of Louisiana. They assured the governor-elect that the independents bore no animosity toward him and pledged their willingness to discuss any and all differences in an honest and straightforward manner. 51

Representative Jules Dreyfous, of Iberia Parish, introduced the Parker administration's severance tax bill in the House on May 31, and saw it referred to the Committee on Ways and Means. Evidently the oil

50 Farris, Severance Taxation in Louisiana, 10-14; Williams, Huey Long, 146-47; Schott, "John M. Parker," 360-66.
and gas interests honored their promise to Governor Parker, as the New Orleans Times-Picayune reported on June 6 that the measure, House Bill 119, was encountering absolutely no opposition in the committee. Nevertheless, the bill's supporters, fearing the possible consequences of a constitutional challenge, made so many small changes in the measure that they decided to draft a substitute, House Bill 223. When the substitute came up for its second reading on the house floor, a small group of representatives, led by J. Martin Hamley of East Carroll Parish, attempted to amend it. They sought to increase the license tax from two to five per cent, an action apparently motivated by the belief that Governor Parker had invaded the legislature's domain by causing to be introduced a tax measure whose rate could not be altered because of his "solemn" agreement with the interest to be taxed. Hamley rather sarcastically suggested that if Parker's bill was designed to raise money, why not increase the rate to five per cent and get more revenue from a source able to pay it without hardship.52

The house overwhelmingly rejected Hamley's amendment and on June 15 gave its final approval by a unanimous vote and forwarded House Bill 223 to the senate. It breezed through the upper chamber, receiving its unanimous approval on June 30.53 Upon receiving the governor's signature, the bill became Act 31 of 1920. The expressed purpose of this statute

52 New Orleans Times-Picayune, July 1, 6, 11, 1920; House Calendar, 1920, 46 and 81-82; Shreveport Times, June 11, 1920.

53 House Calendar, 1920, 81; New Orleans Times-Picayune, June 16, 1920; Baton Rouge State-Times, June 30, 1920. On the senate floor Delos Johnson rose to make the only speech on House Bill 223 before the final vote was taken. He said: "This bill is horse high, hog tight, and bull strong." The bill then passed 37 to 0.
was to carry into effect Article 229 of the Constitution of 1898, as amended, by levying a license tax on those engaged in the business of severing natural resources. Section Two vested supervision of the tax's collection with the supervisor of public accounts and established the rate of license for each quarter at two per cent of the gross value of the individual's natural resource production during the previous quarter. In an effort to insure more complete collection of the licenses due, Section Nine stipulated that each purchaser of natural resources severed in Louisiana must file sworn quarterly statements with the supervisor of public accounts indicating from whom the products were purchased, the quantity bought, and the price paid in each transaction.  

Act 31 of 1920 became effective on July 1, 1920, and the first license tax collections under its provisions were for the quarter ending September 30. During the third and fourth quarters of 1919 the Department of Conservation, operating under the authority granted by Act 20 of the Extra Session of 1918, collected license taxes of $53,285.77 on petroleum resources severed in Louisiana. For the same period in 1920 the figure was $1,473,707.08, an increase of more than 2,700 per cent. By the corresponding period of 1921 petroleum production had decreased significantly, but the license tax collections still represented an


increase of approximately 1,080 per cent over the collections of the last half of 1919. 56

The collection figures cited above indicated that Governor Parker enjoyed a fair amount of success with his severance license tax program in 1920. The control that he was able to exert in 1920, however, began to desert him during 1921. That year witnessed the convening of a constitutional convention and a special legislative session, and during both the taxation of natural resources was a volatile issue. Furthermore, Parker found it increasingly difficult to maintain both the spirit and the letter of his "gentleman's agreement," and his efforts to do so alienated several important supporters who had backed him in 1920.

When the constitutional convention convened on March 1, 1920, two groups were committed to an attempt to increase the rate of taxation on natural resources. One group took the position identified with Huey Long who believed that the corporations, especially Standard Oil of Louisiana, should bear a greater share of the tax burden. The other group, composed largely of delegates from the oil and gas producing parishes, hoped to divert a portion of all severance taxes to the parish governments within whose jurisdictions they were collected. Although these elements were not necessarily from the same philosophical mold, they frequently worked together while striving to achieve independent goals. 57

57 Williams, Huey Long, 148.
The first two weeks of the constitutional convention saw the introduction of several ordinances to alter the rates, method of collection, and distribution of taxes on the severance of natural resources. One set of ordinances sought to continue the use of license taxes on the business of resource production. The second type of ordinance sought to authorize the General Assembly to impose direct severance taxes on the production of natural resources within the State of Louisiana. The Constitutional Convention referred all of these proposals to its Committee on Taxation, Equalization and Exemptions. For the next two and one-half months this committee would consider these measures before reporting back to the full convention.

The debate over the severance tax ordinance soon evolved into consideration of two basic questions: the dedication of the revenue, or purpose for which the money was to be spent, and the rate of taxation. Most easily resolved was the subject of disposition of the revenue. It was already understood that Governor Parker planned to use this revenue for the construction of his pet project, the Greater Agricultural College. The governor figured that the severance license tax as enacted in 1920 would produce $2,500,000 annually. For the duration of his administration he wanted this money—a sum approaching ten million dollars—dedicated to the agricultural college. Delegate Charles Holcombe, of East Baton

58 It is appropriate at this time to distinguish between "severance taxes" and "severance license taxes." The first impose a tax directly on the resource produced, while the second taxes the "business" of producing the resource through the imposition of a license. Neither Louisiana's constitution of 1898 nor 1913 made any provision for "severance taxes"; therefore, the only way the General Assembly could tax these products was through the use of licenses on those businesses.
Rouge Parish, on March 31 introduced an ordinance, 333, that reflected the governor's wishes. On April 6, however, Delegate Robert R. Reid, of Tangipahoa Parish, submitted Ordinance 373 proposing that severance tax revenues be deposited in the state's general fund after June 30, 1922, to be disbursed by the legislature through its standard appropriating process.

Governor Parker appeared before the Committee on Taxation on April 6 to defend his plan. He pleaded with the delegates not to jeopardize construction of the agricultural college, arguing that the state had done less for its farmers than any other group and that one of the reasons they were having to struggle was a serious shortage of trained agricultural experts. Following Parker's appearance word began to spread regarding a compromise. On April 8 Delegates Holcombe and Reid visited the governor at his office and the rumors of compromise grew even stronger.

The subject faded from the news for the next few weeks, but on May 4 the terms of the compromise became known. Their agreement stipulated that between June 30, 1922, and January 1, 1925, five million dollars of severance tax revenue would be dedicated to the construction of the


60 Calendar, Constitutional Convention of 1921, 78; Journal, Constitutional Convention of 1921, 334.
new agricultural college. After that, one-half mill of the five and one-quarter mill property tax limitation would be used to support the state university. The delegates incorporated the compromise into the constitution as Article XII, Section 17.

At the same appearance before the Committee on Taxation Governor Parker appealed to the delegates not to alter the existing severance tax rate structure by allowing individual parishes to enact their own severance taxes. He explained that such taxes, if adopted, would interfere with the agreement he had reached with the resource producing interests prior to the 1920 legislative session. This understanding, the so-called "gentlemen's agreement," the governor regarded as a contract and he urged the delegates to honor its provisions. Despite the governor's efforts, the committee unanimously agreed to allow the parishes to enact severance taxes until the legislature diverted a share of the state levy to them. Effectively, this provision meant that the parishes could impose severance taxes until the dedication of a considerable portion of each year's severance tax revenue to the agricultural college ended.

61 New Orleans State, April 6, 7, 1921.
62 Ibid., April 8, 14, May 14, 1921; Constitution of the State of Louisiana Adopted in Convention at the City of Baton Rouge, June 18, 1921 (Published by Authority of the State, 1921), 96. Hereinafter cited as Constitution of 1921.
63 New Orleans Times-Picayune, April 7, 1921; Baton Rouge State-Times, April 7, 1921; New Orleans States, April 7, 1921, New Orleans Item, April 7, 1921.
64 New Orleans States, May 3, 1921; Shreveport Times, May 4, 1921.
The committee's action on May 3 provided, however, only a framework. The job of completing this structure it delegated to a subcommittee chaired by Ex-Governor Pleasant. The subcommittee proposed a three per cent levy on the severance of petroleum resources, one-third of which was to belong to the parishes in which production occurred, and a two per cent tax on all other natural resources. It also suggested a ceiling of $300,000 annually on individual parish severance tax receipts, local shares above that amount reverting to the state. On May 20 the full committee incorporated these recommendations into a proposal that forbade the adoption of parish severance taxes and provided that the three per cent tax would be in lieu of any other taxes upon machinery, equipment, or property concerned with the production of oil or gas.

Governor Parker did not wait for the Committee on Taxation's report to reach the convention floor before launching his campaign against it. On May 26 he summoned a group of interested parties to his office and explained that he could not accept the committee's report in its existing form because the "lieu tax" provision threatened to destroy the financial foundations of state and local governments. If compelled to do so, he would ask to appear before the delegates and "fight this lieu tax on the floor of the convention." Responding to this pronouncement, Judge Thomas Milling, spokesman for the oil and gas interests, declared that his associates would accept an increased severance tax only if it were made a "lieu tax." Without such a guarantee, they would have to insist

that the state honor the "gentleman's agreement." The implication in his statement was that an increased tax without an "in lieu" provision would probably find its way into the courts.

Governor Parker hosted another conference on June 1 at which industry representatives and convention delegates discussed the severance tax problem. Although making no formal announcement of support, those attending this meeting appeared to agree to a proposal offered by Delegate Henry T. Liverman, of DeSoto Parish. This plan called for a severance tax on oil and gas of three per cent, one-third of which the parish of production would receive, up to a limit of $300,000 annually. It also stipulated that there would be no increases in the property tax assessments on land due to the presence of petroleum resources, this being its only "lieu" provision.

The Committee on Taxation's meeting on June 3, however, shattered the optimism engendered by the Liverman proposal. H. B. Warren, of Lincoln Parish, submitted a plan to authorize the parishes to levy severance taxes no greater than one-half the state levy, the question of rate determination being left to the legislature with no constitutional limitation imposed. Delegate U. A. Bell, of Calcasieu Parish, then proposed a compromise that the committee finally accepted. It fixed the state severance tax rate at two per cent; allowed the parishes to impose their own severance tax at a rate not to exceed one per cent; and limited the


67 New Orleans States, June 2, 1921.
parish revenue from such taxes to no more than $300,000 annually, any collection in excess of this figure to be deposited in the state's general fund.68

On June 7 Chairman Carver introduced the Committee on Taxation's severance tax ordinance. On the measure's second reading, Delegate L. O. Broussard, of Vermilion Parish, offered a substitute that left rate determination to the legislature while still empowering that body to allocate up to one-third of the tax to the parishes of production. Delegate W. D. Haas, of Rapides Parish, proposed a similar substitute, but it also included an "in lieu" provision.69 Conferences among several key delegates produced an agreement that most found tolerable. It combined the principal features of the Broussard and Haas substitutes, omitting, however, any mention of dedicating a portion of the revenue to the parishes of production.

Captain Allan Sholars, of Ouachita Parish, immediately submitted an amendment calling for a three per cent severance tax on oil and gas, two per cent on other resources, for the remainder of the Parker administration. It promised the parishes of production one-third of the tax revenue generated, limited to $200,000 annually for each parish, and prohibited them from levying any form of severance tax. The delegates adopted the Sholars amendment and sent the measure to the Committee on

68 Baton Rouge State-Times, June 3, 1921; New Orleans States, June 3, 1921; Shreveport Times, June 4, 1921.

69 Journal, Constitutional Convention of 1921, 952 and 979; Calendar, Constitutional Convention of 1921, 108.
Coordination. If carried to final enactment in its existing form, it threatened the complete abrogation of the "gentleman's agreement."

On June 13 the Baton Rouge State-Times reported that the Coordination Committee had rewritten the ordinance to remove several conflicts with previously adopted articles. When the convention convened for business on June 14 the committee reported a substitute severance tax ordinance based largely on the Sholars amendment. At that point Delegate Esmond Phelps, of Orleans Parish, introduced a second substitute. This measure, the product of a conference that morning in the governor's office, provided that the legislature would fix the rate of taxation, prohibited parish or local governments from levying severance taxes, exempted oil and gas property from additional taxes due to the presence of petroleum, and directed the legislature to allocate one-fifth of the severance tax revenues from oil and gas to the parishes of production, up to $200,000 annually. Generally considered to be part of this proposal, but not appearing in the Phelps substitute, was an understanding that the upcoming special session of the legislature would increase the severance tax rate to two and one-half per cent on oil and gas to compensate for the portion dedicated to the parishes. Obviously, this would abrogate

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70 Baton Rouge State-Times, June 11, 1921; Shreveport Times, June 11, 1921; Journal, Constitutional Convention of 1921, 1027.

71 Baton Rouge State-Times, June 13, 1921.

72 Ibid., June 14, 1921; New Orleans States, June 14, 1921; Shreveport Times, June 15, 1921; Journal, Constitutional Convention of 1921, 1055-1056.
Governor Parker's "gentleman's agreement," but both parties to the agreement reportedly found the Phelps substitute acceptable.73

The introduction of the Phelps substitute prompted an acrimonious debate on the convention floor. Pleading with his fellow delegates to uphold the "dignity and independence of this convention," Ex-Governor Pleasant contended that the delegates should in no way feel obligated to honor an extra-legal agreement between Governor Parker and the big oil interests. He emphasized that the only limitations on their authority were those imposed by the Constitution of the United States, valid contracts executed under the existing state constitution, and the guidelines established by Act 80 of 1920 calling the convention into being. Since the so-called "gentleman's agreement" derived no special protection from these documents and because they did not specifically exclude consideration of severance taxation, the Constitutional Convention was entirely justified in charting its own course on the subject.74

Supporting the Phelps substitute, Former Governor Jared Y. Sanders advised his colleagues that the "gentleman's agreement" involved not only the good faith of Governor Parker, but that of the entire state. He appealed to them "... not to let it be said that the faith of this state is but a scrap of paper to be torn in twain and stamped beneath the ruthless heel of the constitutional convention ... ."75

73 Baton Rouge State-Times, June 14, 1921; New Orleans States, June 14, 1921; Shreveport Times, June 15, 1921.

74 Shreveport Times, June 15, 1921; New Orleans States, June 15, 1921; Baton Rouge State-Times, June 15, 1921.

75 Baton Rouge State-Times, June 15, 1921.
Sholars responded that those supporting the "gentleman's agreement" were no more dedicated to the preservation of the state's honor than those opposing it. Furthermore, he implied that if there was anything that brought the state's honor into question it was the insistence by the administration's supporters that the convention adopt a severance taxation article that had the approval of the interests to be taxed. Finally, he expressed his belief that the big oil interests, particularly Standard Oil of Louisiana, were using the issue of state honor as a smoke screen to shield from view their concerted efforts to protect their monetary interests.76

When the debate ended and the vote was taken the Phelps substitute was adopted by a vote of 71 to 52.77 The opposition was, however, not yet ready to admit defeat. On June 15 Pleasant moved to have the vote on the Phelps substitute reconsidered, accompanying his motion with a scathing attack on Governor Parker and the handling of the severance tax issue by his administration. Pleasant claimed that he had attended a conference at the Governor's Mansion on the evening of June 11 to consider the severance tax. Although a majority of the persons present favored a three per cent tax, the governor invited A. K. Gordon, treasurer of Standard Oil of Louisiana, to the mansion to offer his views on the matter. Gordon rejected the three per cent package but indicated that the oil interests might agree to a two and one-half per cent severance tax levy. This, according to Pleasant, was the origin of the Phelps

76 Shreveport Times, June 15, 1921.
77 Journal, Constitutional Convention of 1921, 1056-1057.
substitute. It had been dictated by Standard Oil of Louisiana to the Constitutional Convention. The former governor declared that if his colleagues were willing to tolerate such brazen activity by the big oil interests by accepting the Phelps substitute, he would refuse to sign the new constitution.78

Unpersuaded by Pleasant, the convention adopted the severance tax ordinance by a vote of 86 to 45, and sent it to the Committee on Style and Revision for final polishing. The committee returned the ordinance with an amendment stipulating that all existing severance license tax laws were to remain active until the legislature acted to put its provisions into effect. Thus amended, the Phelps substitute became Article X, Section 21 of the Louisiana Constitution of 1921.79

The enactment of the Phelps substitute was Governor Parker's second successful defense of the "gentleman's agreement." The governor was fully aware, however, that he still faced a serious challenge in the special session of the legislature that was to convene on September 6. At that session Representative J. W. Alexander, of Rapides Parish, introduced the administration's severance tax bill. House Bill 60 sought to carry into effect the compromise associated with the Phelps substitute by imposing a two and one-half per cent severance tax on oil and gas and

78 New Orleans States, June 15, 1921; Baton Rouge State-Times, June 15, 1921; Shreveport Times, June 16, 1921.

79 New Orleans States, June 15, 1921; Baton Rouge State-Times, June 15, 1921; Shreveport Times, June 16, 1921; Journal, Constitutional Convention of 1921, 1063-1064, 1070, 1071, 1075; Calendar, Constitutional Convention of 1921, 88-89.
allocating one-fifth of that amount, up to $200,000 annually, to the parishes of production. As expected, opposition arose almost immediately. On September 21 Senator A. R. Johnson, of Claiborne Parish, informed Governor Parker that a coalition of legislators from oil and gas producing parishes would fight the bill. They planned to amend House Bill 60 to provide for a three per cent severance tax on oil and gas with one-third of the revenue, up to $300,000 annually, to be returned to the parish of production.

The Committee on Ways and Means, on receiving the Alexander bill, instructed a three-man subcommittee to compare the proposed severance tax system to the existing severance license tax levied by Act 31 of 1920. Before a debate could develop over the merits of the bill, however, it became a major political issue. On September 26, Ruffin G. Pleasant issued a direct appeal to the legislators to guard against being "clubbed . . . into fawning, bootlicking subservience" at the hands of Governor Parker and the oil interests as had the recent Constitutional Convention. He appealed to the solons "... as a protestant against Kaiserism and Bourbonism, and in the interest of justice . . ." to throw

80 Shreveport Times, September 18, 20, 1921; Baton Rouge State-Times, September 19, 20, 1921; New Orleans States, September 19, 1921; New Orleans Times-Picayune, September 20, 1921; House Calendar, 1921, 28-29. Judge Thomas Milling, Hunter C. Leake, and Amos K. Gordon, with Parker's full knowledge and blessing, reportedly wrote this bill.

81 Baton Rouge State-Times, September 21, 1921; New Orleans Times-Picayune, September 23, 1921.

82 New Orleans Times-Picayune, September 23, 1921.
off the shackles of executive domination and enact a three per cent severance tax on oil and gas.®

On September 27 Huey Long added a new twist to the controversy by issuing a circular attacking both Pleasant and Parker. According to Long, Louisiana's government was under the domination of Standard Oil and its allied corporate monopolies. Their control had become so brazen that even the former tool of the corporate interests, Pleasant, now complained of the ruthlessness with which the "invisible corporate government" of his administration had been transformed into a "visible corporate government" in the guise of Governor Parker's administration. Louisiana's only hope for honest and free government, he declared, was that the legislature would throw aside the dictatorial plans of an administration dominated by "the Broadway leaders of the Standard Oil Company." 84

Several members of the legislature answered these attacks. As soon as the house convened on September 28, Judge Gilbert Dupre of St. Mary Parish, labeled "as false as the coinage of hell ..." the statements by Pleasant and Long that the executive department and the Standard Oil interests had dominated the Constitutional Convention. Representatives S. E. Tobin, of Natchitoches Parish, and Paul G. Borron and Jules A. Carville, both of Iberville Parish, also spoke in the same vein. All three defended their actions as delegates to the Constitutional Convention

83 New Orleans States, September 26, 1921; New Orleans Times-Picayune, September 27, 1921; Baton Rouge State-Times, September 28, 1921.

84 New Orleans States, September 27, 1921.
and rejected the implications that any interest, gubernatorial or otherwise, had dominated and controlled them. 85

On September 29 several more representatives arose to denounce Long from the floor of the chamber. Their remarks came in response to a second circular letter in which Long decried the influence of the corporate interests, especially Standard Oil, in Louisiana government and ridiculed the administration supporters in the legislature for their acquiescence to those who would plunder the state. J. W. Alexander denounced Long as a "pusilanimous politician" and accused him of "knowingly, willfully, and deliberately . . . [uttering] . . . a malicious falsehood." John Dymond, of Plaquemines Parish, asserted that the time had come to "appoint a lunacy commission to inquire into the sanity of Huey P. Long." Advising restraint, David M. Evans, of Madison Parish, claiming to have known Long since he emerged from Winn Parish with "cockleburrs in his clothes and molasses in his hair," urged his colleagues to ignore Long's capers, but to investigate the manner in which he used the office of public service commissioner to further his political ambitions. 86

Returning to serious consideration of House Bill 60, on October 4 the Committee on Ways and Means voted to adopt and report favorably a substitute bill prepared by its special subcommittee assisted by W. N. McFarland, supervisor of public accounts, and Luther E. Hall, a former governor and now a legal representative for several large petroleum and carbon interests. Their proposal was quite similar to Alexander's original

85 Baton Rouge State-Times, September 29, 1921; New Orleans Times-Picayune, September 29, 1921.
86 New Orleans Times-Picayune, September 29, 30, 1921.
bill except that it changed the method of collection from that of a license tax to a percentage of value severance tax. The committee waited for more than two weeks before reporting the substitute measure, House Bill 209, to the floor in order that it might first determine whether or not the omission of the word "license" from the constitution's severance tax article, Section 21 of Article X, meant that any severance tax levy must be figured as part of the five and one-quarter mill property tax limitation. Advocates of the bill, including two prominent members of the convention's taxation committee, assured Governor Parker that there were no legal grounds for challenging the legislature's authority to impose a severance tax. They convinced him that the new constitution provided a complete system of taxation of which the severance tax was only one part, and an unlimited one at that.

On the basis of these assurances, Governor Parker recommended on October 18 that the substitute be reported out of committee for consideration by the full house. The house received the committee's substitute on October 19, but on the twenty-sixth Representative J. S. Douglas, of Caddo Parish, offered an amendment to increase the tax imposed on oil and gas to three per cent. In the ensuing debate the amendment's supporters and opponents raised all of the familiar arguments concerning reserving a share of the tax for the petroleum producing parishes. When

87 Ibid., October 5, 1921.

88 Ibid., September 27, October 11, 1921; Baton Rouge State-Times, October 10, 17, 18, 1921; New Orleans States, October 7, 10, 14, 1921; Shreveport Times, October 12, 1921.

89 New Orleans Times-Picayune, October 19, 1921.
the debate ended the house rejected the Douglas amendment by a vote of 46 to 64 and passed the bill on to its third reading. On November 2 they approved House Bill 209 by a vote of 83 to 0 and sent it to the senate.90

Upon receiving the bill the senate directed it to its Committee on Finance. On November 9 the committee reported the bill back to the floor with amendments increasing the severance tax rate on oil and gas to three per cent. After a rather acrimonious debate, often involving a discussion of government by "gentleman's agreement," the senate adopted the bill as amended by a vote of 25 to 13 and sent it on to its third and final reading.91

Following the senate approval of the finance committee amendments, attention again centered on the General Assembly's lower chamber, even though the senate had not taken final action on the bill. Opponents and proponents of the three per cent amendment realized that house concurrence in the senate amendment would require 60 votes. By November 13 both sides claimed to be only one or two votes short of the total needed to win. With the newspapers full of speculation on the subject, it was anticlimactic when the senate finally approved the amended version of House Bill 209 by a vote of 27 to 8 and returned it to the house.92

90 House Calendar, 1921, 28-29 and 90; Shreveport Times, October 27, 1921; Baton Rouge State-Times, October 27, 1921; New Orleans Times-Picayune, October 27, 1921; New Orleans States, October 27, 1921.

91 Senate Calendar, 1921, 97; Senate Journal, 1921, 323; Baton Rouge State-Times, November 9, 10, 1921; Shreveport Times, November 10, 1921.

92 New Orleans Times-Picayune, November 11, 16, 1921, Shreveport Times, November 14, 1921; Baton Rouge State-Times, November 14, 15, 1921; Senate Calendar, 1921, 97.
On November 16 the house considered the senate amendments. J. W. Alexander moved that the house refuse to concur, but Representative J. S. Douglas made a substitute motion that the house concur in the senate's amendments. Without debate the speaker directed the clerk to call the roll on the Douglas substitute and it failed by a vote of 55 to 53. The two versions of the bill then went to a conference committee of both houses to attempt to iron out their differences. As expected, the conference committee failed to reach an agreement, and the bill died when the special session adjourned sine die.  

Enlivening the debate over Alexander's severance tax bill was a related controversy that developed between Huey Long and Governor Parker. As previously mentioned, on September 27 and 28 Long had issued circulars which implied that the Alexander bill was another indication that the corporate interests dominated the administration and its supporters in the General Assembly. Long continued his attack on October 1, this time making Parker the target of his invective. Huey contended that, although Parker campaigned on a reform platform, his administration had come to be dominated by the Standard Oil Company. Its control was now so complete, Long asserted, that the governor could not deny that the treasurer and two lawyers of Standard Oil of Louisiana wrote the Alexander severance tax bill and that it was forwarded to 26 Broadway, Standard Oil of New Jersey's headquarters in New York City, for approval prior to its introduction. Long also implied that Parker allowed and abetted Standard's

93 Baton Rouge State-Times, November 16, 18, 1921; Shreveport Times, November 17, 18, 1921; New Orleans Times-Picayune, November 17, 19, 1921; New Orleans States, November 17, 1921; House Calendar, 1921, 90; Senate Calendar, 1921, 97; Senate Journal, 1921, 497.
use of professional positions at Charity Hospital in New Orleans as patronage plums.  

Governor Parker responded immediately and vigorously to these accusations. On the afternoon of October 1 he conferred with Attorney General A. V. Coco and the district attorneys of East Baton Rouge and Orleans parishes and then appeared before Judge H. F. Brunot of the Twenty-second Judicial District Court to swear out two affidavits charging Long with criminal libel. Both instruments contended that Long had defamed the governor's character by issuing false statements to the effect that Standard Oil interests were in control of the Parker administration and the state's government, and that Long had charged that Governor Parker had blatantly used his appointment powers to appease the corporate interests.

Judge Brunot signed the affidavits and directed the sheriff to execute arrest warrants for Long. On October 4 Huey surrendered to the sheriff and made bond of $2,500 on each charge. The case went to trial before Judge Brunot on November 3 and Huey built a defense around his interpretation of the events involving the oil and gas severance tax at the 1920 session of the legislature and the constitutional convention. In both instances he contended that the corporate interests, in this case

94 New Orleans States, October 2, 1921.

95 Baton Rouge State-Times, October 3, 1921; New Orleans States, October 3, 1921; New Orleans Times-Picayune, October 4, 1921; (Box 3, folder 83, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

96 New Orleans States, October 4, 1921.
Standard Oil, had exerted influence to the point of control over the Parker administration. In the end Judge Brunot, having weighed all the evidence, found Long to be technically guilty of the misdemeanor charges of criminal libel. On the first charge the judge gave him a 30-day suspended sentence, while on the second he fined him one dollar, a fine that Long's lawyer eventually paid when his client refused to do so.

On the surface it might have appeared at the end of the 1921 special legislative session that Governor Parker was still winning the severance tax battle. Such was not the case, however, as opponents of the governor's "gentleman's agreement" began mobilizing their effort for the next regular session almost as soon as the special session ended. In early December Representatives R. L. Prophit and J. S. Dreyfous, of Ouachita and Caddo parishes, respectively, announced that they planned to call a conference of legislators to convene in Shreveport in January for the express purpose of developing a definite program to enact a three per cent severance tax. This conference never convened because subsequent events made it unnecessary. As early as January 8, 1922, the Shreveport Times reported that Governor Parker and the big oil companies were

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97 New Orleans Times-Picayune, October 25, November 3, 4, 1921; New Orleans States, November 3, 4, 1921; New Orleans Item, November 4, 1921; Baton Rouge State-Times, November 5, 1921; John H. Overton to Huey P. Long, November 8, 1921 (Box 3, folder 77, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

98 Williams, Huey Long, 155-57.

99 New Orleans Times-Picayune, December 2, 1921.
preparing to dissolve the "gentleman's agreement." At that time, however, both the governor and a spokesman for the Mid-Continent Oil and Gas Association denied that such a compromise was in the making.\textsuperscript{100} Despite the earlier denials, on January 30 Parker announced that the Mid-Continent Oil and Gas Association had abrogated the "gentleman's agreement" and that he intended to recommend an increase in the petroleum severance tax to three per cent when the legislature convened.\textsuperscript{101}

In making the cancellation public Governor Parker expressed his appreciation and commended the oil and gas interests for having "exhibited a patriotic willingness to make sacrifices to the public weal." He then announced that he would recommend a three per cent severance tax to the next session of the legislature, with the understanding that a portion of its revenue would be dedicated to the parishes of production. He also explained that he had never denied that these parishes deserved a share of the severance tax revenue, but that he felt himself honor-bound to uphold his end of the bargain reached with the oil and gas interests. He further maintained that, while delighted to be released from it, the "gentleman's agreement" had served the state's best interest by removing the real threat of extended litigation that might have hamstrung the government fiscally.\textsuperscript{102}

\textsuperscript{100} Shreveport\textit{ Times}, January 8, 1922.


While termination of the "gentleman's agreement" was a source of relief to most parties, reactions varied somewhat. The Baton Rouge State-Times stated editorially that cancellation of the "gentleman's agreement" should produce a welcome spirit of harmony in the upcoming legislature.\(^{103}\) As might have been expected, Huey Long offered a rather different interpretation of these developments. In a statement released on February 7, Long implied that the abrogation stemmed from Parker's fear of a recently enacted recall statute. Long alleged that the governor and the Standard Oil interests realized that Louisiana's citizens would no longer tolerate such an open example of government by corporate interest as existed under the "gentleman's agreement." Therefore, he characterized the abrogation as an attempt to maintain control rather than a civic-minded contribution to the state's well-being.\(^{104}\)

Long's views notwithstanding, most individuals in and out of state government appeared to believe that the industry's voluntary cancellation of the "gentleman's agreement" cleared the way for relatively easy enactment of a three per cent severance tax levy on oil and gas. This spirit still prevailed when the legislature met in May and Representative J. F. Schell, of St. Landry Parish, introduced House Bill 15, proposing that severance taxes be levied in two classes. The first—petroleum resources—would be taxed at three per cent of their gross market value. The second—all other natural resources—would bear a two per cent gross value tax.


\(^{104}\) Monroe News-Star, February 7, 1922.
Furthermore, according to Schell's measure, one-third of the revenue collected from the oil and gas tax was to be returned to the parishes of production, up to $200,000 annually. The outlook for this bill remained so promising that the Times-Picayune reported on the day of its introduction that the only significant opposition would probably come over the provision to return part of the revenue to the parishes, and here the argument would center around the amount to be refunded, rather than the proposal to make such a refund.105

Given this atmosphere, the strongly negative reaction of the Mid-Continent Oil and Gas Association came as quite a surprise. On May 11, J. B. Elam, secretary of the Louisiana subdivision of the association, denied that his group had agreed to a three per cent severance tax. Elam indicated that the association's executive committee had indeed abrogated their "gentleman's agreement" with Governor Parker, but that that action should not be interpreted as acceptance of any increase in the existing tax rate. When asked if the association would actively oppose the Schell bill, Elam's only response was that "the oil producers have implicit confidence in the fairness of the Louisiana legislature."106

The evasiveness of this answer became clearer on May 24 when the Ways and Means Committee held its first hearing on the Schell bill. Elam informed its members that the Mid-Continent Oil and Gas Association strongly opposed House Bill 15 or any other attempt to increase the severance tax on oil and gas. He cautioned them that the oil and gas

105 New Orleans Times-Picayune, May 10, 1922.
industry was making a large contribution to the progress of Louisiana and that it would be unwise to treat it so harshly. E. L. Smitherman, an independent oil man from Shreveport, echoed Elam's thoughts and pointed out that only three other states imposed severance taxes, and all of them were lieu taxes. 107

Regardless of this opposition, the Ways and Means Committee reported the Schell bill favorably by substitute, House Bill 411. Six days later, on June 20, despite continuing protests from the oil and gas industry, the house adopted the committee substitute. 108 On June 28, after rejecting several attempts to amend it, the full house approved the measure by a vote of 102 to two. 109 Almost immediately J. B. Elam warned that the oil and gas industry considered this bill totally unjust and announced that "the industry will pay this tax when and if the highest court in the land decides it must do so." 110

Oil industry representatives attributed part of the difficulty encountered in presenting their case to the solons to a misunderstanding of the "in lieu" provisions embodied in Section 21, Article X, of the Constitution of 1921. It provided that landowners would not have their property assessments increased as a result of the oil producing value

107 New Orleans Times-Picayune, May 25, June 1, 1922.

108 House Calendar, 1921, 11 and 152-53; Baton Rouge State-Times, June 14, 1922; Shreveport Times, June 18, 19, 1922.

109 House Calendar, 1922, 152-53; Shreveport Times, June 29, 1922; Monroe News-Star, June 19, 1922.

110 Shreveport Times, June 30, 1922; New Orleans States, June 30, 1922; Baton Rouge State-Times, June 30, 1922; Oil and Gas Journal, July 6, 1922.
of their land, but it did nothing to protect the physical, movable property of the well owners and oil producers from higher ad valorem taxes. Industry spokesmen contended that many of the supporters of House Bill 411 were under the mistaken impression that the constitutional "in lieu" provision applied to all property, thus they had little sympathy for claims that the Dreyfous substitute would impose an unreasonable tax burden.\textsuperscript{111}

Unwilling to abandon their cause, the oil interests carried their fight against the Dreyfous substitute to the senate. Their efforts in the upper chamber proved futile, however, as the senators approved the Dreyfous bill with some minor amendments on July 5 by a vote of 33 to 2. The house concurred in these amendments without opposition and forwarded the measure to the governor for his approval.\textsuperscript{112} While it lay on his desk Governor Parker received several letters and telegrams offering advice relative to his signing or vetoing the measure. On June 14, however, the governor affixed his signature to the bill and it became Act 140 of 1922.\textsuperscript{113}

\textsuperscript{111} Oil and Gas Journal, July 6, 1922.

\textsuperscript{112} Senate Calendar, 1922, 145-46; New Orleans Times-Picayune, July 6, 1922; House Calendar, 1922, 152-53.

\textsuperscript{113} S. B. Hicks to John M. Parker, July 7, 1922, B. W. Marston to John M. Parker, July 7, 1922, Hampden D. Story to John M. Parker, July 11, 1922, J. B. Elam to John M. Parker, July 11, 1922 (Box 3, folder 46, Louisiana State Executive Department Governor's Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); Baton Rouge State-Times, July 14, 1922; Acts of Louisiana, 1922, 302.
The new severance tax statute established two categories of natural resources for the purposes of taxation. The first encompassed only oil and gas and on them the statute levied a tax of three per cent of the gross market value. All other natural resources fell into the second category and they continued to bear a two per cent tax. For each classification the gross market value was to be computed while the resource was in its natural, unprocessed state at the site of production. The statute delegated parish tax collectors to receive the quarterly payments and to deposit them with the state treasurer. One-third of the oil and gas severance tax was to be returned to the parish of production, up to a limit of $200,000 for each parish annually. All other severance tax revenues were to be credited to the Severance Tax Fund.\footnote{Acts of Louisiana, 1922, 295-97. In line with receiving a portion of the state tax, parish and local governments were prohibited from levying their own severance taxes.}

Sections 5 through 21 specifically outlined the obligations of each and every party involved in the production, ownership, transportation, manufacturing, and marketing of these products with regard to the payment and collection of these taxes. More specifically, Sections Six and Seven directed the taxpayer to withhold all severance taxes due from the payments made to partners, associates, or royalty owners, whether the payments were in currency or in kind. Section 15 provided that the severance tax was to be in lieu of increased property tax assessments on land containing natural resources, but it did not exempt the equipment,
movable property, and real estate holdings of resource-producing interests from property taxes.\textsuperscript{115}

The detail with which Act 140 of 1922 stipulated the manner of administration, collection, distribution, and enforcement of the severance tax was its greatest contribution.\textsuperscript{116} But, the principal subject of interest after the legislative session continued to be the additional one per cent tax imposed on the production of petroleum resources. On November 22, 1922, a report appeared in the Baton Rouge \textit{State-Times} that quoted "an authoritative source" as indicating that oil interests from North Louisiana were preparing to challenge the constitutionality of Act 140 in the federal courts. According to the anonymous informant the oil interests considered the new levy vulnerable because, as a severance rather than a license tax, it came within the scope of Louisiana's constitutional limitation on property taxation.\textsuperscript{117} When asked to confirm or deny this report, J. B. Elam indicated that the decision on whether or not to challenge the new statute was "a matter of future consideration."\textsuperscript{118}

\begin{footnotes}
\item \textsuperscript{115} Ibid., 297-301. The state's owners of oil and gas-producing land received additional relief from property taxes when the state supreme court ruled in \textit{Shaw vs. Watson, Tax Assessor} that the owners of mineral-producing properties who had leased or sold a portion of their royalty interests were liable for property taxes only on that portion of the royalty that they retained, 151 \textit{Louisiana Reports} 894-908 (May 8, 1922).
\item \textsuperscript{116} In this observation the author agrees with one of the earliest authorities on Louisiana's severance tax, Leslie Moses. See Moses, "The Growth of Severance Taxation in Louisiana," 603.
\item \textsuperscript{117} Baton Rouge \textit{State-Times}, November 22, 1922.
\item \textsuperscript{118} Ibid., November 25, 1922; New Orleans \textit{Times-Picayune}, November 25, 1922.
\end{footnotes}
The oil interests removed all doubt when on January 29, 1923, ten companies sued in the Twenty-second Judicial District Court in Baton Rouge asking for an injunction to restrain Supervisor of Public Accounts W. N. McFarland from collecting, or seeking to collect, the three percent severance tax levied by Act 140 of 1922. Before the court took any action on these suits, on January 31 two more companies sought similar injunctions against McFarland. In order to simplify what gave every indication of being a massive and complicated proceeding, the court ruled on February 1 that it would hear and decide the first suit filed, that by the Gulf Refining Company of Louisiana, and record the same final decree for each of the other 11 suits.¹¹⁹

In their petitions the oil companies contended that the severance tax exceeded the limitation on property taxes imposed by Sections 1 and 3 of Article X of the Constitution of 1921. They also maintained that the statute was arbitrary because it taxed oil and gas produced in

¹¹⁹ Baton Rouge State-Times, January 29, 31, February 1, 1923; Shreveport Times, January 29, February 2, 3, 1923; New Orleans Times-Picayune, January 30, February 1, 1923; Oil and Gas Journal, February 1, 8, 1923; Arkansas Natural Gas Company vs. McFarland, Supervisor of Public Accounts (#6,798, Twenty-second Judicial District Court, East Baton Rouge Parish, Baton Rouge). The 12 cases filed against McFarland were as follows:

#6793; Gulf Refining Company of Louisiana vs. . . .
#6794; Louisiana Oil Refining Corporation vs. . . .
#6795; Fortuna Oil Company vs. . . .
#6796; Caddo Central Oil & Refining Corporation vs. . . .
#6797; The Texas Company vs. . . .
#6798; Arkansas Natural Gas Company vs. . . .
#6799; Humble Oil & Refining Company vs. . . .
#6800; Keen-Woolf Company vs. . . .
#6801; Morefield & Tanner vs. . . .
#6802; Amerada Petroleum Corporation vs. . . .
#6803; Standard Oil Company of Louisiana vs. . . .
#6808; Ohio Oil Company vs. . . .
Louisiana, but not that brought into the state. In addition, the plaintiffs argued that Act 140 was unconstitutional because its title embraced more than one object and its body addressed subjects not covered in the title; that it illegally attempted to continue in force the license tax levied under Act 31 of 1920; and that it exceeded constitutional limitations by imposing upon the petroleum producer the obligation, without compensation, of collecting the taxes owed on natural resources owned by third parties.  

The oil companies realized that their challenges to the tax were not likely to be popular and could hamstring the plans of their old friend Governor Parker. They offered, therefore, to continue paying the old two per cent levy while the new statute was in litigation if the state would credit this money to their respective accounts should the three per cent tax be upheld and Attorney General A. V. Coco agreed. Un fortunately, this interim arrangement collapsed because the two sides could not agree on the date that the new three per cent tax levy would become effective. Consequently, Coco informed the oil interests that they would have to pay the entire three per cent tax, but that one per

120 Gulf Refining Company of Louisiana vs. McFarland, Supervisor of Public Accounts (#6793, Twenty-second Judicial District Court, East Baton Rouge Parish, Baton Rouge); Baton Rouge State-Times, January 29, 1923; Shreveport Times, January 29, 1923; New Orleans Times-Picayune, January 30, 1923; Oil and Gas Journal, February 1, 1923.

121 Baton Rouge State-Times, January 31, February 1, 7, 1923; New Orleans Times-Picayune, February 1, 1923; Shreveport Times, February 2, 1923.
cent would be held in escrow until final disposition of the legal challenges to Act 140. 122

On February 12 Judge H. F. Brunot heard the opening arguments in Gulf Refining's suit against W. N. McFarland. The attorneys for the state rejected each of the five grounds on which the oil companies attacked the new tax law. They specifically maintained that as a severance tax enacted under the provisions of Section 21 of Article X, Act 140 did not come within the scope of the property tax limitation of Section 3 of the same article. Contending that the state had no authority to levy a severance tax on oil from other states, they dismissed the argument that the statute discriminated against oil produced in Louisiana. After hearing the lawyer's arguments, Judge Brunot gave each side ten days to prepare and submit final briefs. 123

Judge Brunot released his decision on March 7 and read and signed it in open court two days later. He ruled for the defendant, McFarland, on every point. 124 Gulf Refining appealed to the state supreme court,

122 New Orleans Times-Picayune, February 17, 1923; Shreveport Times, February 17, 1923; Oil and Gas Journal, February 15, 1923. The state insisted that Act 140 of 1922 went into effect on January 1, 1923, whereas the oil companies contended that it would become effective on April 1, 1923.


but on April 30 it affirmed unanimously Judge Brunot's decision. Justice C. J. O'Neill, speaking for the court, held that the severance tax enacted by Act 140 was an excise tax, not a property tax. Therefore, it could not be attacked on the ground that it exceeded the constitutional limit on property taxes, nor could the constitutional clause requiring uniformity and equality in taxes be applied since it also referred only to property taxation.\footnote{125}

Having won its main point, the state immediately requested that the supreme court rehear the case because the court had directed the supervisor of public accounts to allow the oil companies credit for the two per cent license tax paid on natural resources severed in the first quarter of 1923 against the amount of three per cent severance tax due on June 30, 1923, for the second quarterly period. The state contended that this ruling could cost it $300,000 and would mean that there would be a six-month period during which no taxes would be received.\footnote{126} The court granted the rehearing and, in a decision written by Justice Land, amended the original decree so as to deny the credit given the plaintiff for payments under Act 31 of 1920.\footnote{127}

\footnote{125} New Orleans Times-Picayune, April 11, May 1, 1923; 97 Southern Reporter 433-36 (April 30, 1923).

\footnote{126} Baton Rouge State-Times, May 1, 1923; 97 Southern Reporter 435-36 (April 30, 1923).

\footnote{127} 97 Southern Reporter 437-38 (July 11, 1923). The Gulf Refining Company appealed the state supreme court decision to the United States Supreme Court where on March 17, 1924, it was affirmed. 264 United States Reports 573 (March 17, 1924); New Orleans Times-Picayune, March 28, 1924; Farris, Severance Taxation in Louisiana, 30-32.
Although having lost their challenge of the new severance tax, the oil companies did challenge successfully the state's interpretation of its application. On May 1, 1924, the Gulf Refining Company again filed suit against W. N. McFarland in the Twenty-second Judicial District Court, this time seeking an injunction to restrain him from collecting all of the three per cent severance tax due for the first quarter of 1923. In this instance the oil company admitted that it owed $55,825.76 under the new statute, but it claimed that it had previously paid $35,164.51 under the old 1920 two per cent severance license tax for the same three months. Gulf Refining claimed that it owed the state only the difference between the two sums—$20,661.25—plus all accrued penalties.

McFarland held that the $35,164.51 represented Gulf Refining's license tax payable on the oil it had produced during the fourth quarter of 1922 for the privilege of severing petroleum resources in the first quarter of 1923. It in no way affected the severance tax due on the oil the company actually produced during January, February, and March, 1923. On June 12 Judge W. Carruth Jones ruled in favor of the plaintiff and granted the injunction that it requested. He reasoned that fairness and equity demanded that the Gulf Refining Company received credit for the $35,164.51 paid in January 1923 under "an improper construction of Section 21 of Act 140 of 1922 . . . ." Therefore, he

128 Gulf Refining Company of Louisiana vs. McFarland, Supervisor of Public Accounts (#7680; Twenty-second Judicial District Court, East Baton Rouge Parish, Baton Rouge); Baton Rouge State-Times, May 1, 1924.
decree that Gulf Refining owed the state only an additional $20,661.25, plus penalty—the amount admitted all along by the plaintiff.\textsuperscript{129}

Upon the state's appeal of Jones's decision to the supreme court, it affirmed the district court ruling. In his opinion Justice Rogers stated:

\begin{quote}
Inasmuch as the 3 per cent tax was the only legally existing severance tax at the time the payment was made and for which plaintiff was liable, it would be highly inequitable and extremely technical to deny plaintiff the right to impute to the payment of the tax for the privilege of producing oil during the first quarter of the year 1923 the amount erroneously exacted and collected from it for the privilege of producing the same oil during the same yearly period.
\end{quote}

Almost immediately after the supreme court denied the state's application for a rehearing on February 2, 1925, oil companies that had paid both the two per cent and three per cent levies for the first quarter of 1923 began submitting claims for credits on their next quarterly severance tax payments. Supervisor McFarland had originally contended that companies should petition the legislature for refunds, but after Gulf Refining's successful suit he notified the companies affected that they could claim the credit on their next quarterly payments, as requested.\textsuperscript{131}

\textsuperscript{129} Gulf Refining Company of Louisiana vs. McFarland, Supervisor of Public Accounts (#7680; Twenty-second Judicial District Court, East Baton Rouge Parish, Baton Rouge).

\textsuperscript{130} 103 Southern Reporter 17-19 (January 5, 1925); Baton Rouge State-Times, January 5, 1925.

\textsuperscript{131} 103 Southern Reporter 17-19 (January 5, 1925); Baton Rouge State-Times, February 2, 4, 1925.
With the settlement of the controversy surrounding Act 140 of 1922 the severance tax on oil and gas was for the moment no longer a major public issue. Not until the first legislative session of the Huey Long administration would it again be a topic of extensive political consideration. This is not to say, however, that other oil-related issues were not before the public during this period. A heated controversy involving the regulation of the state's carbon black industry commanded its attention throughout most of the 1920's, while at the same time the administration of the state's conservation bureaucracy became an issue in itself.
CHAPTER V

THE EMERGENCE OF THE CARBON BLACK INDUSTRY, 1918-1924

During the first two decades of the twentieth century Louisiana's petroleum-related conservation problems usually involved the use, misuse, or waste of natural gas. The only really significant deviation from this norm was the Pine Island situation, and its political significance earned it considerably more attention than its economic or ecological importance warranted. As Pine Island's newsworthiness faded, the focus of Louisiana's conservation effort once again turned to its natural gas resources. The main subject of concern during the 1920's was the effect of the carbon black industry on the state's natural gas resources.¹

Carbon black, a product of the incomplete combustion of natural gas, was first successfully produced on an industrial scale in 1872 at a factory in New Cumberland, West Virginia. Fifty years later, most manufacturers employed the channel process to make carbon black. In this process jets of natural gas flame impinged on slowly moving steel channels as they passed above lava burner tips. Close regulation of


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the gas and oxygen supplies produced a yellowish, smoky flame that deposited relatively pure carbon on the channel bars. Scrapers removed this accumulated carbon from the bars. It fell onto a conveyor belt and was carried to a packaging department to be prepared for shipment. Dedicated conservationists considered this process wasteful because it produced less than two pounds of carbon black from each 1,000 cubic feet of natural gas consumed, even though that amount of gas contained 35 to 40 pounds of carbon.²

Despite the wastefulness of this process, many Louisianians welcomed the carbon black industry. Its advent followed closely the discovery of the magnificent Monroe gas field in 1915. It would be hard to imagine the existence of economic circumstances more favorable to this industry's establishment and growth, for the production of carbon black depended upon the availability of plentiful and relatively cheap supplies of natural gas. Louisiana was already producing natural gas in excess of market demand, and most experts believed that piping Louisiana gas to distant northern and eastern markets was economically and technologically unfeasible. Carbon black's historic application was in the production of printing inks, but the burgeoning automotive industry stimulated a new market when it was found that the addition of carbon black to the rubber compound used in making pneumatic tires gave them greater resilience, traction, and heat tolerance.³ Additionally, the wartime demand for carbon black threatened to exceed the industry's

² Oil and Gas Journal, September 27, 1918.
³ Monroe News-Star, June 2, 1919.
productive capacity, resulting in rapidly escalating profits with little increase in the cost of production. The carbon black companies were, therefore, eager to expand into the Monroe field, and local petroleum interests were eager for them to do so.\textsuperscript{4}

At least one carbon manufacturer had investigated the possibility of establishing a plant in Caddo Parish in 1913, but he evidently felt that the conditions were not promising enough to warrant the investment.\textsuperscript{5} Soon after the opening of the Monroe field, however, the first carbon black plant was established in Louisiana. About two months after the completion, on November 19, 1916, of Progressive Oil and Gas Company's second well, the Columbian Carbon Company announced that it was going to construct the world's largest carbon black plant on a site near Spyker Station (see Figure 4). To fuel this plant it would purchase two million cubic feet of gas daily from Progressive Oil and Gas #2.\textsuperscript{6}

The success of Columbian's Spyker plant, operated by its subsidiary, the Southern Carbon Company, prompted the company to construct another in the fall of 1917 at Fairbanks (see Figure 4), roughly 12 miles northeast of Monroe.\textsuperscript{7} By June 1919 there were six carbon plants operating in the Monroe area. They were responsible for northeast Louisiana's participation

\begin{itemize}
  \item \textsuperscript{4} Oil and Gas Journal, September 27, 1918; John F. Gallie, "Carbon Black in its Relation to the Natural Gas Industry," \textit{Interstate Oil Compact Quarterly Bulletin}, IV (June 1945), 136.
  \item \textsuperscript{5} Shreveport \textit{Times}, January 13, 1913.
  \item \textsuperscript{6} Monroe \textit{News-Star}, September 2, November 20, 1916, January 24, 1917; Shreveport \textit{Times}, September 3, 1916.
  \item \textsuperscript{7} Monroe \textit{News-Star}, September 3, October 16, 1917; \textit{Oil and Gas Journal}, September 6, 1917.
\end{itemize}
in what George B. Tindall characterized as the New South's industrial "take-off" period. For the calendar year 1919 Louisiana's carbon black plants (second in number only to West Virginia's 23) produced 14,024,606 pounds of carbon black, roughly 27 per cent of the nation's total output. By the end of 1920, Louisiana had 11 plants, which produced something over 18.5 million pounds of carbon black, 36 per cent of the national total. In 1921 Louisiana produced just over 31 million pounds of carbon black, making it first among American carbon-producing states with almost 52 per cent of the nation's output. By 1924 Louisiana's 35 plants manufactured 144,601,550 pounds of carbon black, approximately 77 per cent of the national total.

The phenomenal growth of the carbon black industry in Louisiana, however, did not occur without opposition. Almost from the beginning, serious questions arose regarding its impact on the state's natural gas resources, the efficiency of its operations, and the economic benefits derived by gas producers. Industry defenders generally stressed that

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8 Monroe News-Star, June 2, 1919; George Brown Tindall, "Business Progressivism: Southern Politics in the Twenties," South Atlantic Quarterly, LXII (Winter 1963), 95. In this instance Tindall applied the third of Walt Rostow's five stages of growth to the economic development of the American South in the twentieth century. According to Rostow, the take-off is the "watershed in the life of modern societies . . . ." During this period the "forces making for economic progress . . . expand and come to dominate society." As part of this process the rapid expansion of new industry stimulates a wave of capital investment and the development of affiliated and auxiliary service and support activities. W. W. Rostow, The Stages of Economic Growth: A Non-Communist Manifesto (Cambridge: University Press, 1960), 4-9.

carbon black's contribution to the nation's economy should not be measured solely in monetary terms. Its value, they contended, like that of a rare metal, lay in its indispensable applications. Furthermore, they reminded industry critics, the United States Bureau of Mines acknowledged that the manufacture of carbon black was a legitimate application of natural gas in "remote" areas, and the Monroe field was such an area.  

The first prominent Louisianian publicly to oppose the carbon black industry was Senator Leon R. Smith, of Caddo Parish. In late December 1917 he warned that the carbon black industry's unrestricted exploitation would exhaust the state's proven gas reserves in four to five years. On January 1, 1918, a special meeting of the board of directors of the Monroe Chamber of Commerce rebutted the senator's statement. They reaffirmed that the carbon plants were welcome and had made positive contributions to the region's development. They charged that the senator's allegations were premature and that his statistics were inaccurate.

Smith, in an interview with reporters published in the January 5 newspapers in Shreveport and Monroe, contended that the statements

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10 Oil and Gas Journal, June 3, 1926; New Orleans Times-Picayune, May 15, 1923; USBM Bulletin 192, 51.

11 Shreveport Times, December 30, 1917; Oil and Gas Journal, January 10, 1918. Smith's statement featured an argument that would be the key weapon for the early opponents of the carbon black industry, a comparison of the fuel value of natural gas as compared to its value for sale to carbon black manufacturers. Moses, "Statutory Regulations in the Carbon Black Industry," 85-86.

12 Monroe News-Star, January 1, 1918. Senator Smith cited the example of an individual who sold 24,394,500 cubic feet of natural gas to a carbon black plant. At the prevailing price of 2 cents per 1000 cubic feet, this producer should have received $487.89, rather than the $48.70 presented by Smith.
attributed to the directors of the Monroe Chamber of Commerce were suspect. He suggested that they might be benefitting financially from the carbon black industry. Most of the region's citizens, he noted, had yet to enjoy the advantages of natural gas. When they did, he implied, their views would probably reflect a deeper concern for its conservation. Smith promised to do everything in his power to prevent the waste of natural gas, the implication being that he would introduce any legislation deemed necessary or appropriate to curtail the carbon black industry in Louisiana.\textsuperscript{13}

At the ensuing session of the legislature, Smith introduced two bills designed to restrict the carbon black industry. Senate Bill 28 sought to make it unlawful to waste natural gas or to use it in any manner or for any purpose that threatened the common reservoir with exhaustion. Its companion, Senate Bill 29, prohibited the manufacture of any product from natural gas when the value of the finished item was out of "just and reasonable proportion to the . . . value of the gas consumed . . . ."\textsuperscript{14}

The carbon interests were vocal in their opposition to the Smith bills. W. G. Leet, president of the Hydro-Carbon Company, rejected Smith's contention that the entry of the carbon black plants into a field

\textsuperscript{13} Ibid., January 5, 1918; Shreveport Times, January 5, 1918.

meant the rapid demise of domestic consumption from that source.\textsuperscript{15} He cited the experience of Bradford and Oil City, Pennsylvania, both served for more than 30 years by fields that supplied carbon black plants. He contended that, when all the losses were considered, the use of natural gas for carbon black production was no more inefficient than its use as a fuel in home heating.\textsuperscript{16} Spokesmen for the printing trades stressed that carbon black was vital to the production of printing inks and reminded the legislators that carbon black plants had historically spurred the industrial and commercial development of other natural gas fields.\textsuperscript{17} Perhaps the most significant opposition came from Conservation Commissioner M. L. Alexander. He recommended that the solons eschew restrictive legislation, but authorize the conservation department to monitor the situation and adopt all necessary regulations. He contended that, given the recognized importance of carbon black to the war effort, there was not yet sufficient statistical data on the wastefulness and inefficiency of its production to warrant prohibiting the use of natural gas for that purpose.\textsuperscript{18}

This opposition, and the lack of any concerted body of support for his bills, blunted Senator Smith's effort. Eventually the Committee

\textsuperscript{15} Shreveport Times, April 21, 1918; Oil and Gas Journal, May 2, 1918. On April 21 Smith announced that his research indicated that "exhaustion followed in every field from 18 months to 2 years following the use of natural gas for carbon-making purposes."

\textsuperscript{16} Shreveport Times, May 22, 1918.

\textsuperscript{17} New Orleans Times-Picayune, May 23, 1918.

\textsuperscript{18} Ibid.; New Orleans Daily States, May 23, 1918; Shreveport Times, May 24, 1918.
on Conservation reported Senate Bill 29 without action, while a substitute for Senate Bill 28 ultimately became Act 268 of 1918. This statute made it unlawful to use natural gas in any manner that might threaten the premature exhaustion of the common reservoir, but made no direct mention of the carbon black industry. The closest that it came to an unveiled restriction of the carbon industry was a requirement embodied in Section Five obligating those furnishing or using natural gas for manufacturing purposes to submit semi-annual reports to the Department of Conservation detailing the quantity of gas purchased and the manner of its use.

Concern about the alleged threat that the carbon black industry posed to natural gas reserves was not unique to Louisiana. Especially after the end of World War I removed the patriotic element from the defense of the carbon black industry, its use of natural gas came under attack in several states. A key to understanding these restrictive efforts was a policy statement issued on November 30, 1918, by the United States Fuel Administration. Frank H. West, of the fuel administration's Education Bureau, announced that the federal government discouraged the unrestricted use of natural gas in the production of carbon black in areas where the resource had domestic and other industrial applications.

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19 Senate Calendar, 1918, 26-27. Chapter II contains the legislative history of this measure's enactment.


21 Oil and Gas Journal, December 6, 1918.
little more than one month later it became known that an attempt would be made at the upcoming session of the West Virginia legislature to prohibit the use of natural gas for manufacturing carbon black. It also became apparent that the fuel administration supported this effort. The prohibition measure failed, but several West Virginia plants "voluntarily" agreed to close and planned to relocate elsewhere.\(^\text{22}\)

Louisiana was one of two states usually mentioned as future locations for the plants leaving West Virginia. The other was Wyoming. Louisiana's public officials took no immediate steps to counter decisions being made in West Virginia and Washington, D. C.; but such was not the case in Wyoming. Its legislature enacted a statute prohibiting the use of natural gas in the manufacturing of carbon black within ten miles of an incorporated town or industrial plant, unless the heat produced was "actually applied and utilized for other manufacturing purposes or domestic purposes . . . ."\(^\text{23}\) This law became effective on September 30, 1919, and a little more than a year later a suit instituted by the Midland Carbon Company to restrain William L. Walls, Wyoming's attorney general, from enforcing it was argued before the United States Supreme Court. The carbon company contended that the statute transcended the state's police power because it actually sought to prohibit, rather than to regulate, certain classes of resource application, thereby making it violative of

\(^{22}\) Ibid., January 10, 1919; New Orleans Times-Picayune, January 5, 1919.

\(^{23}\) Oil and Gas Journal, March 7, 1919; James A. Veasey, "Legislative Control of the Business of Producing Oil and Gas," ABA Reports, LII (1927), 600; Leonard Rosensen, "The Power of a State over Its Natural Resources," Tulane Law Review, XVII (1943), 276; 41 Supreme Court Reporter 118-25 (December 13, 1920).
Articles I and X, and the Fourteenth Amendment to the United States Constitution. On December 13, 1920, Justice Joseph McKenna delivered the court's opinion upholding the constitutionality of the Wyoming law. Ironically, however, two months later the Wyoming legislature repealed the carbon black statute.

While Wyoming used a law in its brief effort to restrict the carbon black industry, Louisiana's sister Southwestern gas-producing states Oklahoma and Texas, used bureaucratic regulations. In late June 1920, Oklahoma's Corporation Commission placed a total ban on the sale of natural gas for use in the production of carbon black. It did so by declaring that carbon black was a nonessential industry and labeling its consumption of natural gas "wasteful utilization." In Texas, the Railroad Commission, by issuing Rule 41, prohibited carbon black manufacturers from using natural gas if such application appeared to threaten the "... reasonable future demand for the gas in domestic or industrial consumption ..." As the decade continued, however, the Railroad Commission gradually eased this restriction and Texas became the nation's leader in carbon black production.

24 41 Supreme Court Reporter 118-25 (December 13, 1920).
25 Ibid.
26 Oil and Gas Journal, February 25, 1921.
27 Ibid., June 30, 1920. The federal courts upheld the legality of this regulation in Quinton Relief Oil and Gas Company vs. Corporation Commissioner of Oklahoma.
The decisions with respect to the production of carbon black made in Washington, D.C., West Virginia, and Wyoming, as well as the attitudes expressed in Oklahoma and Texas, were noted in Louisiana. By September 1919 Commissioner Alexander was publicly on record as opposing the continued use of Louisiana natural gas for the production of carbon black. On May 30, 1920, as the legislature was about to meet, the New Orleans Times-Picayune attributed the following assessment of the carbon black industry to the commissioner:

... unless a limitation is placed upon the use of gas in the manufacture of carbon black, this asset, which has been conceded to belong to the whole people, will be greatly impaired.

... It is my personal opinion that the manufacture of carbon black should be limited by act of the legislature.

When the legislature convened Senator H.B. Warren introduced an omnibus petroleum conservation bill designed to enhance the regulatory authority of the Department of Conservation. This measure moved easily through both houses and upon receiving Governor Parker's signature became Act 250 of 1920.²⁹

Despite its veneer of accomplishment, the measure's anti-carbon black provisions were rather hollow. Its requirement, for example, to save the gasoline content of natural gas used in the manufacture of carbon was applicable only when there was reason to believe the process


would be "profitable." The conservation department was given authority to limit gas production when "reasonably necessary" to deal with a threat to the common source of supply.31

Under the general terms of this law the conservation department sought to provide increased protection to the state's natural gas resources. Apparently in early November 1920, it issued a series of regulations dealing with various phases of petroleum production, transportation, and consumption. Two of these pronouncements—Oil and Gas Rules 29 and 30—dealt directly with the carbon black industry. Rule 30, under the authority granted the department by Section Two of Act 250 of 1920, required the extraction of gasoline from natural gas before its consumption in the manufacture of carbon black, whenever such action promised to be profitable. Rule 29 provided that the department would regulate, through the issuance of permits, all future construction, enlargement, or modification of carbon black plants. All permits were to expire one year from the date of issuance and were to be renewable at the discretion of the Department of Conservation. The rule would not apply to construction or extension projects undertaken prior to the promulgation of the order, it did nothing to limit the consumption of natural gas by the carbon plants already in existence.32

31 Acts of Louisiana, 1920, 482-83.

32 Conservation Laws of Louisiana Creating the Department of Conservation and Governing the Development and Use of Mines and Minerals; Forests; Game and other Wild Life; Fish, including Frogs, Terrapins, and Seafood, except Mollusca; Oysters and other Natural Resources; Compiled 1920 (New Orleans: Louisiana Printing Co., 1920), 84-85. Hereinafter cited as Conservation Laws of Louisiana; Monroe News-Star, November 6, 1920.

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To this point the debate over the future of the carbon black in-
dustry in Louisiana had been quiet in comparison to other contemporary
petroleum-related issues. This soon changed, however, as carbon black
became, along with severance taxation, a pre-eminent political question
in Louisiana during the third decade of the twentieth century. This
issue matured during the first half of 1921 as the growing concern over
the industry's consumption of natural gas, both locally and nationwide,
coincided with the convening of Louisiana's constitutional convention.

As the decade began, an article appeared in the New Orleans Times-
Picayune that presented a comprehensive defense of the carbon black in-
dustry. It emphasized that carbon black could be made only from natural
gas. Similar products could be manufactured from other fossil fuels,
but they lacked carbon black's lightness, fineness, miscibility, intensity
of color, and covering power—properties that made it invaluable in the
production of printing inks and automobile tires. It also emphasized
the industry's contribution to the conservation of petroleum resources
by furnishing a profitable and economically beneficial market for natural
gas that might otherwise be wasted. 33

At approximately the same time there was a meeting of carbon in-
terests in New York City to lay plans for furthering their interests
in Louisiana. It was rumored that the participants agreed to rely heavily
on affiliated industries, such as printing and rubber, to present their
case before the constitutional convention. Returning from this meeting
where he represented several Monroe-area carbon companies, Attorney H. D.

33 New Orleans Times-Picayune, January 12, 1921.
Briggs indicated that participants also made plans for "a campaign of education in Louisiana to show that carbon black is a useful article and necessary for various important [manufactured] articles ..."\textsuperscript{34} This campaign began with an open letter to the Louisiana Department of Conservation from Reid L. Carr, secretary and general counsel of the National Gas Products Association. He emphasized the positive contributions that the Southern Carbon Company had made to the economic and social development of the Monroe region and defended it against allegations of gas waste.\textsuperscript{35} A few days later, in an interview granted in New York City, Carr implied the existence of a conspiracy to drive domestic carbon manufacturers out of business in order to secure a monopoly for foreign suppliers. Furthermore, he for the first time publicly made probably the strongest argument against state laws to restrict or outlaw the carbon black industry by declaring that such legislation would only affect operations within Louisiana since it could not prevent the interstate shipment of natural gas to carbon black plants in other states.\textsuperscript{36}

Spokesmen for the carbon black industry were especially concerned to defeat their opponents' efforts to convince the constitutional convention to include a provision in the new constitution patterned after the restrictive legislation adopted in Wyoming. They received a considerable psychological boost when it became known that the 1921 session of Wyoming's

\begin{itemize}
  \item \textsuperscript{34} Monroe News-Star, January 18, 19, 1921.
  \item \textsuperscript{35} New Orleans Times-Picayune, February 14, 1921; Oil and Gas Journal, February 25, 1921.
  \item \textsuperscript{36} Monroe News-Star, February 19, 1921.
\end{itemize}
legislature had repealed its carbon black statute. However, did not soften the efforts of the proponents of carbon black restriction. They argued mainly that this industry discouraged other domestic or commercial applications of the gas by threatening its premature exhaustion, and that manufacture of carbon wasted the resource's tremendous heat potential. They claimed that 96 per cent of the heat released by burning the gas in producing carbon black went to waste.

The anti-carbon black forces were greatly assisted by the active participation of the Parker administration. As early as January 12 Governor Parker expressed his support of the recently promulgated rules designed to limit the consumption of natural gas in the production of carbon black. Only three days later, Commissioner Alexander announced that the governor was of the opinion that the state's gas resources should be saved for domestic rather than industrial applications. More specifically, he explained that Parker believed that "Louisiana must not be stripped of its gas by the introduction into the state of numerous carbon plants."

Recognizing that the educational campaign being conducted by the carbon black interests was a good indication that they would wage a strong fight in the upcoming constitutional convention, Parker sought to obtain some concrete evidence with which to bolster his arguments in favor of

37 Oil and Gas Journal, February 18, 1921; Monroe News-Star, February 24, 1921.
38 New Orleans Times-Picayune, January 15, 1921.
restricting the industry. He requested the United States Bureau of Mines to send a team of experts to investigate the patterns of consumption of Louisiana's natural gas. In confirming press dispatches disclosing his request, Parker maintained that it reflected no bias on his part, rather it merely demonstrated his desire to distinguish the efficient from the inefficient uses of natural gas. Having made this disclaimer, however, the governor repeated the allegations he and Commissioner Alexander were making at every opportunity that the carbon black plants were wasting natural gas and inhibiting the state's industrial development and the growth of its domestic gas market.40

Bureau director H. Foster Bain referred the governor's request to H. W. Bell of the Bureau's Dallas office, and Bell responded by assigning the investigation to one of his petroleum engineers, R. A. Cattell. Assisted by personnel from Louisiana's Department of Conservation, Cattell spent approximately six weeks—from mid-February to early April—surveying and studying conditions in the Monroe field. He reported the results of this investigation to Governor Parker and Commissioner Alexander in mid-June. The extremely high pressure of the gas in the Monroe field, declared Cattell, indicated that it was a valuable source of domestic and commercial fuel, and he recommended that the state not allow any more carbon plants to be built in the Monroe region. This same high pressure, however, made it virtually impossible to close already producing wells

40 New Orleans Times-Picayune, February 11, 1921; Monroe News-Star, February 12, 1921; Oil and Gas Journal, February 18, 1921; Benjamin Spencer Phillips, "Administration of Governor Parker" (M.A. thesis; Louisiana State University, Baton Rouge), 78.
without impairing their future profitability and risking possible damage to the reservoir itself. Cattell advised, therefore, that existing carbon black plants be allowed to continue in operation, as long as their consumption of gas was not increased, until alternative markets were developed. 41

Unfortunately, this study by the Bureau of Mines' experts was not completed in time to be of much value to the constitutional convention delegates. When the convention was barely two weeks into its deliberations, Commissioner Alexander addressed the convention on the subject of carbon black. Once again he emphasized that Louisiana's natural gas should be saved for domestic consumption and industrial development, not squandered in the production of carbon black. 42

Serving to blunt somewhat the influence of the administration's stand against the carbon black industry were the pronouncements of two Bureau of Mines representatives before an informal gathering of the convention's conservation committee. On March 23 H. W. Bell and A. W. Ambrose assessed the efficiency of the carbon black industry, the extent of Louisiana's natural gas reserves, and the advisability of allowing carbon plants to continue operating in Louisiana. They advised that the state discourage the construction of additional carbon plants, but observed that the plants already in operation were among the most efficient in

41 Oil and Gas Journal, March 18, June 24, 1921; State of Louisiana Department of Conservation Bulletin 9, "The Monroe Gas Field: Ouachita, Morehouse, and Union Parishes, Louisiana" (New Orleans: Louisiana Department of Conservation and United States Bureau of Mines, 1921), 7 and 98; Shreveport Times, June 13, 1921.

42 Baton Rouge State-Times, March 15, 1921.
the nation. Moreover, they explained that national conservation officials generally agreed that the use of natural gas in the production of carbon black in isolated areas was economically justified, and that the Monroe field was such an isolated region.43

These presentations, however, were merely a prelude to the conservation committee's formal consideration of the carbon black issue. On March 31 it held a three-hour session and invited public testimony. At that meeting nationally recognized natural gas authority Henry P. Westcott explained that knowledgeable capitalists would not invest in alternative markets for Monroe gas as long as the carbon industry continued to operate in that region. Captain Allan Sholars, a convention delegate from Monroe, argued that the carbon black plants were not of sufficient economic benefit to either the well owners or the state to warrant continued tolerance of their waste. Finally, Commissioner Alexander informed the committee that it was now the Parker administration's policy to close all carbon plants within three years by gradually reducing the allotment of gas they could consume.44

On April 2 an editorial in the New Orleans States gave unqualified support to those combating the carbon black industry. The paper reasoned

43 New Orleans Item, March 23, 1921. In making this statement Bell and Ambrose echoed the bureau's official position regarding the production of carbon black. This policy contended that in situations involving low-pressure gas, residue gas from natural gas gasoline plants, and "distinctly" isolated districts the consumption of natural gas by carbon black plants was "in reality often a conservation measure." USBM Bulletin 192, 51.

44 New Orleans Item, April 1, 1921; New Orleans States, April 1, 1921.

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that the evidence presented before the conservation committee should convince any objective person that the waste of natural gas must end. Therefore, it urged the convention to authorize and empower the proper authorities "to prohibit carbon factories from operating in the State."\footnote{New Orleans States, April 2, 1921.} \footnote{Ibid., April 1, 1921.}

The committee also heard other views of the matter on March 31. Reid L. Carr cautioned against hasty action. He stated that carbon black plants actually contributed to the cause of true conservation by enhancing the value of an isolated resource--his point being that it was not human nature to value or conserve that which could not be sold. The state should exercise caution lest it adopt regulatory policies that might blunt commercial initiative and decrease the marketable value of its resources.\footnote{New Orleans States, April 2, 1921.} \footnote{Ibid., April 1, 1921.}

Carr's remarks brought a sharp retort from Governor Parker. Declaring that carbon black plants were one of the biggest "menaces" to the survival of Louisiana's natural gas fields, on April 4 he announced that henceforth his administration would not issue licenses for new carbon plants, while monitoring the operations of those already in existence to insure that their gas consumption was not "excessive." He would not, however, ask the convention to prohibit the production of carbon black in Louisiana. Rather, he hoped the delegates would adopt an article empowering the legislature and Department of Conservation to protect and
conserve the state's gas resources "in any manner that may be deemed
best in the public interest." 47

Parker's initiative found considerable support in the constitu­
tional convention. Between April 4 and 7 Delegates Hugh Wilkinson, J. W.
Joffrion, and H. Flood Madison introduced ordinances that dealt, directly
or indirectly, with the production of carbon black. In each instance
they proposed that this activity be controlled through statutory enactment
or administrative regulation. 48 A comparatively radical ordinance, intro­
duced on April 8 by former Lieutenant Governor T. C. Barret, sought to
declare the use of natural gas to manufacture carbon black to be a "wanton
economic waste" and to direct the legislature to enact laws to prohibit
it. 49

The convention referred these measures to its Committee on Conser­
vation where most of the debate centered around Delegate Barret's ordinance,
413. The former lieutenant governor maintained that the use of natural
gas to produce carbon black was "an economic crime" and that it posed a

47 New Orleans Times-Picayune, April 5, 1921; New Orleans States,
April 5, 1921; Baton Rouge State-Times, April 6, 1921.

48 Calendar of the Constitutional Convention of the State of
Louisiana of 1921. Held in the City of Baton Rouge in the Hall of the
House of Representatives. Tuesday, March 1, to Saturday, June 18, 1921
(Baton Rouge: Ramires-Jones Printing Co., 1921), 31, 82-83. Hereinafter
cited as Calendar of the Constitutional Convention 1921. Official Journal
of the Proceedings of the Constitutional Convention of the State of Louis­
iana. Begun and Held in the City of Baton Rouge March 1, 1921 (Baton
cited as Journal of the Constitutional Convention 1921. These ordinances
were 116 (Wilkinson), 94 (Joffrion), and 402 (Madison).

49 Calendar of the Constitutional Convention 1921, 85; Journal
of the Constitutional Convention 1921, 373.
serious threat to the continued existence of the state's gas resources. Several Monroe-area businessmen, not all of whom were directly involved in the carbon industry, came to the defense of the carbon black plants, stressing the "material benefit to Monroe" of the carbon industry and urging the delegates to reject any measure that "would prohibit or... unduly restrict" the consumption of natural gas to produce carbon black.51

On April 14 the Committee on Conservation spent nearly three hours listening to testimony and questioning witnesses on all aspects of the carbon black question. Barret again labeled the production of carbon black a criminal waste and compared the use of natural gas in its manufacture to "kill[ing] a fine chicken only to get his gizzard." Delegate Madison echoed many of Barret's sentiments while advocating his semi-prohibitory ordinance, a measure quite similar to the Wyoming carbon black statute. Delegates Joffrion and Hardtner, the latter the chairman of the committee, expressed sympathy for the objectives sought by Barret and Madison, but contended that the constitutional convention was not the proper forum to enact such specific remedies.52

Among those who expressed their opposition to the imposition of restraints on the carbon producers were several residents of Ouachita Parish. A. R. Smith, of Sterlington, maintained that his neighbors favored the carbon black industry because it came to Ouachita Parish offering to buy natural gas at a time when no one else appeared interested.

50 New Orleans Times-Picayune, April 9, 1921.
51 Monroe News-Star, April 12, 1921.
52 New Orleans States, April 15, 1921.

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C. P. Hatcher and C. D. Weeks, both of Monroe, along with J. D. Barksdale of Ruston, cautioned that the state should have clearly demonstrated and committed alternative markets for this gas, not mere promises, before adopting a policy to limit or prohibit an existing steady industrial customer.\(^53\)

On April 20, when the committee next considered the carbon black issue, a large delegation of businessmen from Ouachita Parish, led by President J. B. Foster of the Monroe Chamber of Commerce, made known their opposition to the Barret ordinance. But at the same meeting Commissioner Alexander advised the committee to conserve the state's natural gas resources for future domestic enjoyment and industrial development rather than allow it to be wasted in a marginally efficient commercial venture. The most effective way to accomplish this end, he maintained, was to equip the legislature and Department of Conservation with sufficiently flexible regulatory powers.\(^54\)

The Committee on Conservation met again on the following day and by a nine to three vote gave a favorable report to a substitute ordinance introduced by Captain Sholars. This measure, Ordinance 467, empowering the legislature to prohibit the wasteful use of natural gas resources, had the support of Commissioner Alexander and the grudging acceptance of the carbon black interests. The latter viewed it as a far preferable

\(^{53}\) Ibid.

\(^{54}\) Ibid., April 20, 1921.
alternative to risking the inclusion of a complete ban on their operations if they continued to oppose the regulatory ordinance. 55

Ordinance 467 did not satisfy those delegates who favored prohibition because it left the issue to the legislature. They were not, however, able to amend it significantly even though the convention re-committed the ordinance to the Committee on Conservation, and that body again reported a substitute ordinance. Eventually, the convention passed a derivative of the various carbon black proposals, Ordinance 487, by a vote of 83 to 0. Upon receiving its final structural revision, this measure became Article IV, Section One of the Constitution of 1921. It delegated to the Department of Conservation responsibility for protecting and conserving the state's natural resources and directed the legislature to enact the laws necessary to prevent their waste or wasteful use. 56

Because, by adopting Ordinance 487, the constitutional convention left the carbon black issue to be dealt with by the legislature, interested parties immediately turned their attention to the upcoming special legislative session scheduled to convene in September. Opponents of the carbon black industry believed they had concrete evidence to show that the carbon

55 New Orleans Times-Picayune, April 22, 1921.

56 Journal of the Constitutional Convention 1921, 552, 763-64; Calendar of the Constitutional Convention of 1921, 104; Constitution of the State of Louisiana Adopted in Convention at the City of Baton Rouge, June 18, 1921 (Baton Rouge: 1921), 22. Hereinafter cited as Louisiana Constitution 1921.
plants were retarding the Monroe area's commercial and industrial development.\textsuperscript{57} The carbon black interests, on the other hand, prepared a lobbying campaign that stressed their accomplishments in the Monroe field and discounted the necessity for further conservation legislation.\textsuperscript{58}

These positions were to a large extent predictable, but the determining and unknown variable was the position of Governor Parker. At the urging of industry representatives, the governor invited a group of oil and gas men to Baton Rouge on September 2 to discuss the upcoming session. At their meeting, on September 3, Parker explained that the policy of his administration would be to "... exercise the power now vested in the conservation department, of restricting the use of gas for carbon only, but to handle this along the line of plain, common sense, not with the idea of instantly shutting up these industries, but of regulating them ... ."\textsuperscript{59} Evidently a majority of the carbon industry's opponents acquiesced, at least for the time being, in the governor's policy, the only public protest against this course of action coming from the New Orleans \textit{States}.\textsuperscript{60}

\textsuperscript{57} New Orleans Times-Picayune, July 30, September 7, 1921; Shreveport Times, August 30, 1921; Oil and Gas Journal, September 9, 1921. Bolstering their conviction was the announcement that the Arkansas, Louisiana, and Texas Development Company, a venture backed by J. S. Cullinan, a founder of the Texas Company, and A. E. Frost, a prominent oil man from Shreveport and president of the Frost-Johnson Lumber Company, was suspending its plans to pipe natural gas from the Monroe field to markets in a five-state area until more effective restrictions were placed on the carbon industry.

\textsuperscript{58} Shreveport Times, September 11, 1921.

\textsuperscript{59} New Orleans \textit{Times-Picayune}, September 4, 1921.

\textsuperscript{60} New Orleans \textit{States}, September 30, 1921.
The passing of the 1921 special legislative session did not cause the carbon black issue to fade from public attention. Throughout the remainder of 1921 and the first quarter of 1922 the administration's efforts to implement its regulatory program kept carbon black a newsworthy subject. In large measure that was because during this period the administration was indecisive, at best. In early January 1922 Commissioner Alexander announced that the conservation department would issue a permit, of 12 months' duration, to the Theratonic Carbon Company, for the construction and operation of a carbon black plant at Sterlington, in Ouachita Parish. The commissioner reaffirmed the administration's resolve to restrict the use of natural gas in the production of carbon black, but indicated that there were special circumstances that had led the department to issue this permit. Despite this explanation, the granting of this permit brought into question, in some minds, the strength of the department's determination gradually to eliminate the carbon black industry in Louisiana.

On February 17, however, Commissioner Alexander issued an order banning further consumption of natural gas from the Elm Grove field, in Bossier and Caddo parishes, for the production of carbon black. He contended that Shreveport needed this gas to insure its commercial and

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61 Monroe News-Star, January 12, 1922. These extenuating circumstances included the proposed use of a new and more efficient method of production, the promised utilization of approximately 60 per cent of the heat generated in the manufacturing process, and the fact that the plant was to be located in an isolated section of the Monroe field that then had no market for its gas.
domestic fuel supply.\textsuperscript{62} Only four days later, the department issued Oil and Gas Rule 42 lowering the daily allowable production from natural gas wells in the Monroe field to 20 per cent of their open flow capacity.\textsuperscript{63} In explaining the department's recent actions to the governor, Commissioner Alexander stated that he had issued the permit to the Thermatomic Carbon Company to effect a more equitable distribution of the economic benefits associated with gas production, as the Sterlington area had little market for its gas. Never losing sight, however, of its commitment gradually to reduce the consumption of gas by the carbon plants, through Rule 42 and a closer scrutiny of its permits to drill new wells the department planned to bring about a decrease in the total daily production of gas from the Monroe field of approximately 100,000,000 cubic feet.\textsuperscript{64}

Despite these activities, Commissioner Alexander publicly acknowledged that the Department of Conservation needed a more precisely defined statutory basis for controlling the carbon black industry. On February 8 he explained to a conference of petroleum representatives gathered at the Monroe Chamber of Commerce that the continued growth of the proven gas territory had made the department's existing rules inadequate. The

\textsuperscript{62} Shreveport Times, February 18, 1922; Oil and Gas Journal, February 24, 1922.

\textsuperscript{63} Shreveport Times, February 24, 1922; Oil and Gas Journal, March 3, 1922; Conservation Laws of Louisiana 1923, 60-61.

\textsuperscript{64} M. L. Alexander to John M. Parker, February 20, 1922 (Box 1, folder 9, Louisiana State Executive Department Governor's Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge). Presently production was 110,000,000 cubic feet, but under Rule 42 Alexander estimated that it would be approximately 100,000,000, even with the new carbon plant at Sterlington.
department, he explained, wanted to conserve the resource for beneficial uses, but at the same time did not want to cause economic hardship for the Monroe area or risk damaging the gas sands by regulations that would interfere with their proper management. This required more specific legislation concerning the consumption and conservation of the state's natural gas.  

The Parker administration was determined to secure more specific and effective restraints on the carbon black industry at the next session of the legislature. The carbon interests prepared for a bitter struggle. The battle opened on May 23, 1922, when Senator E. Wyles Browne, of Caddo Parish, introduced Senate Bill 36, virtually a duplicate of the 1919 Wyoming carbon statute. Browne favored this measure because it had withstood all legal challenges, its constitutionality having been affirmed by the United States Supreme Court. His only modification of it was the addition of a provision delegating authority over the issuance of permits for carbon plants to the Department of Conservation.

Browne's bill did not come up for its initial public hearing before the senate's Committee on Conservation until the evening of June 7. Prior to that the New Orleans Times-Picayune outlined the need for restrictive legislation against the carbon black industry and maintained that the

65 Oil and Gas Journal, February 10, 1922; New Orleans Times-Picayune, February 9, 1922; Monroe News-Star, February 9, 1922; Shreveport Times, February 9, 1922.

66 Oil and Gas Journal, April 13, 27, 1922; New Orleans Times-Picayune, May 24, 1922; Senate Calendar, 1922, 20-21. On the next day Senator Browne withdrew Senate Bill 36 and introduced in its place Senate Bill 40. Apparently the only difference in the two bills was the replacement of one word in the title, but this alteration made the measure more direct and definite.
adoption of such a statute was the "unquestionable duty" of the General Assembly. It also printed an article by Senator Browne on the bill in which Browne declared that he had introduced it to encourage the construction of a natural gas pipeline to New Orleans and to insure an adequate supply of gas to support this and other intrastate and interstate pipeline systems. The achievement of these objectives required the immediate restriction and eventual elimination of the carbon black industry.\textsuperscript{67}

The carbon black interests understood that their opponents in this session of the legislature were much stronger than those whom they had faced in 1918 and 1920. They also realized that the supporters of the Browne bill had two advantages that would be hard to combat: (1) the United States Supreme Court had upheld the constitutionality of Wyoming's carbon black statute, the model for Browne's measure; and (2) a recently released report by the conservation department recommended the elimination of carbon black factories and the construction of pipeline systems into the Monroe field.\textsuperscript{68}

On June 7 the senate Committee on Conservation held its first public hearing on Senate Bill 40. Browne, as the first witness, maintained that his measure was purely regulatory and would not force anyone out of business. Despite this assurance, he made no attempt to hide his conviction that the manufacture of carbon black was a grossly wasteful

\textsuperscript{67} New Orleans Times-Picayune, May 25, June 1, 7, 1922.

\textsuperscript{68} Oil and Gas Journal, June 1, 1922; Ben K. Stroud and Frank T. Payne, Preliminary Report on Proposed Gas Pipe Line From The Monroe Gas to New Orleans Made At the Request of Governor John M. Parker (New Orleans: Department of Conservation, 1922).
application of Louisiana's petroleum resources. Following Browne, Conservation Commissioner Alexander testified that the construction of pipelines from the Monroe field to Baton Rouge and New Orleans was technologically feasible, but that economic and financial considerations traceable directly to the carbon plants prevented the completion of these projects. The commissioner cautioned the committee members that they must adopt some form of regulatory legislation or face the political consequences of a public demand for restrictive or prohibitive statutes.

The opponents of the Browne bill were well represented before the conservation committee. Captain A. L. Smith, a planter and landowner from the Monroe area, explained the economic impact of the carbon black plants on the region and reminded the committee that before the construction of those plants no one had appeared interested in the region's gas resources. Furthermore, he contended that the Browne bill would do little more than drive the carbon black plants into a neighboring state, specifically Arkansas, where they would continue to exploit Louisiana's gas resources totally free of Louisiana's control. The solution to the wastefulness of the carbon industry, if indeed it was wasteful, was for urban markets to outbid them for the gas. In this way the conservationists

69 New Orleans Times-Picayune, June 8, 1922; Shreveport Times, June 8, 1922.

70 New Orleans Times-Picayune, June 8, 1922; New Orleans Item, June 8, 1922. Also testifying in support of the bill were I. W. Sylvester, city engineer for Alexandria, and Charles H. Behre, chairman of the industrial bureau of the New Orleans Association of Commerce. They stressed their respective cities' desire for natural gas and explained in monetary terms the benefits and savings that its introduction to the metropolitan areas of central and southern Louisiana could bring.
could achieve their goals without destroying the economic well-being of the Monroe area. 71

The main spokesman for the carbon black interests was former Governor Jared Y. Sanders. Sanders acknowledged that he appeared as a spokesman for the National Gas Products Association, but defended his record as a conservationist, stressing the difference between "conserving and hoarding." The Browne bill, he charged, sought to place control "of the use of natural gas at the mercy, the whim or the caprice of some future, unknown commissioner of conservation." He meant to cast no aspersions on Commissioner Alexander, Sanders assured the committee, but he cautioned that no one could be sure that some future commissioner might not abuse this authority. Finally, he questioned the need for such legislation as Senator Browne's bill because the carbon black companies were not then even using the amount of gas allocated to them. 72

After hearing witnesses on June 7, the Committee on Conservation recessed without acting on Senate Bill 40. Following a meeting of Alexander, Sanders, and Lieutenant Governor Hewitt Bouanchaud with the governor on the evening of June 14, the committee met and reported a substitute measure, Senate Bill 214. The new measure was regulatory instead of prohibitory. It proposed to permit carbon black companies to use at least 15 per cent, but no more than 20 per cent, of the open flow capacity of any gas well provided the gas was not needed to supply other markets. Should such a need arise, the conservation commissioner

71 New Orleans Times-Picayune, June 8, 1922.

72 Ibid.; New Orleans Item, June 8, 1922; Baton Rouge State-Times, June 9, 1922.
could reduce, even to nothing, the allocation for carbon black production.\textsuperscript{73}

The reasons for the change are a matter of some disagreement. In April 1924 Governor Parker, responding to criticism of his administration because it was too tolerant of the carbon industry, claimed that he had favored a statute patterned after the Wyoming law and that he, Alexander, Bouanchnaud, and Sanders had agreed to accept the Browne bill, but that Alexander and Sanders later changed their minds and pushed through a substitute.\textsuperscript{74} Some seven years after the event Sanders claimed that the substitution was made because of the logic and persuasiveness of his presentation against the Browne bill. He also maintained that late in 1921 Parker and Alexander had assured him that they were fully satisfied with the existing regulations and saw no need for additional legislation.\textsuperscript{75}

Senate Bill 124 progressed rapidly through the upper chamber. On June 20 the senators passed it unanimously and sent it to the house. Commissioner Alexander testified for it before the house Committee on Conservation. The committee reported the bill favorably and on July 5

\begin{itemize}
\item \textsuperscript{73} Baton Rouge State-Times, June 15, 1922; New Orleans Times-Picayune, June 16, 1922; Oil and Gas Journal, June 22, 1922.
\item \textsuperscript{74} John M. Parker to A. V. Coco, April 8, 1924 (Box 10, folder 190, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); Matthew James Schott, "John M. Parker of Louisiana and the Varieites of American Progressivism" (Ph.D. dissertation; Vanderbilt University, 1969), 383.
\item \textsuperscript{75} Chapter Nine in a series of 22 articles by Sanders that appeared in the Tangipahoa Parish News from October 1926 to April 1927 (Box 4, folder 24, Jared Y. Sanders & Family MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
\end{itemize}
the lower chamber passed it by a vote of 82 to 0. Governor Parker signed it the next day and it became Act 91 of 1922. Section Two empowered the conservation commissioner semiannually to determine the percentage of open flow capacity from every gas well in the state that might be used in the production of carbon black. This percentage was to be, under normal circumstances, no less than 15 and no greater than 20, and as nearly as possible, was to be consistent throughout contiguous areas of production. Section Three, authorized and required the commissioner to reduce the consumption of natural gas for the manufacture of carbon black, even below the 15 per cent minimum established in Section Two, whenever it was necessary to provide adequate supplies of gas for domestic purposes and commercial and industrial enterprises, other than the production of carbon black. Section Five authorized the commissioner to adopt and promulgate any rules and regulations necessary for the enforcement of this statute, and Section Eight stipulated that three convictions for violation of the provision of Act 91 would subject the offender to forfeiture of the right to manufacture carbon black in Louisiana. 76

In early November, pursuant with the provisions of Act 91, the Department of Conservation issued an order, Oil and Gas Rule 43, restricting to no more than 20 per cent of open flow capacity the production of all wells in the Monroe field furnishing gas to carbon black manufacturers. 77 The carbon black industry operated with considerable success

76 Senate Calendar, 1922, 60; House Calendar, 1922, 244; Shreveport Times, June 23, 1922; Acts of Louisiana, 1922, 170-72.

77 Shreveport Times, November 7, 1922; Oil and Gas Journal, November 16, 1922.
within the restraints imposed by Rule 43. In July 1923 the *Oil and Gas Journal* estimated that the plants in the Monroe region burned between 400,000,000 and 500,000,000 cubic feet of gas daily in producing something over 200 tons of carbon black. More than half of this productive capacity had come into operation within the last six months, and the outlook was for continued rapid growth.  

At approximately the same time, however, developments occurred that stimulated a renewed and even more strenuous effort in 1924 to regulate or outlaw the carbon black industry. The first of these developments came to the attention of the Parker administration when its conservation bureaucracy was without clear direction because of the death of Commissioner Alexander. On May 2, 1923, H. L. Williford, chief deputy supervisor of the minerals division, informed Governor Parker that, while as a whole the production of the Monroe field was within the 20 per cent limit established by Rule 43, department representatives had noticed "a general tendency to over-produce on individual wells ... ." Williford explained that his agents had notified the worst offenders that their violation would result in legal action against them, but he indicated that these warnings would have little effect until the state secured a conviction in an overproduction case.

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78 Shreveport *Times*, May 13, 1923; *Oil and Gas Journal*, July 26, 1923.

Williford's letter prompted no noticeable change in conservation department activity in the Monroe area, but it did foreshadow a situation that would have dramatic consequences for the department and the carbon black industry. In December 1923 the conservation department, through its new supervisor of the minerals division, H. W. Bell, announced that a serious condition of water encroachment had developed in the Swartz region of the Monroe field (see Figure 4). The situation was so severe that several wells had to be run at full capacity in order to produce the allowed 20 per cent of original open flow. In late February 1924 Supervisor Bell went to Monroe to discuss the Swartz situation with the area's gas and carbon interests. Citing records from the department's local office, Bell asserted that the region was over-drilled. While remedial measures might prolong its productive life, he indicated that it was probably too late for corrective action, but that lessons could be learned that would prevent recurrences of this condition in other areas. To this end he appointed an investigative committee, composed almost exclusively of representatives from the area's carbon-related interests, to gather data, study the problem, and suggest whatever operation or regulatory modifications their findings might warrant.®

Interestingly, the most severe critic of this course of action was the Monroe News-Star, a paper which had been one of the carbon industry's staunchest supporters until this juncture. It now openly questioned the propriety of Supervisor Bell's action in appointing a committee

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80 Oil and Gas Journal, March 13, 1924; Monroe News-Star, February 27, 28, 1924. According to Bell, there were 67 producing gas wells in the 16-section Swartz region. The same area also contained 13 carbon black plants and eight natural gasoline processors.
dominated by the carbon interests to investigate the conservation problem in the Swartz region. Furthermore, the paper's editorial staff implied that the Department of Conservation had lost sight of the fact that its principal duty was to protect the state's natural resources, not to aid in their exploitation. 81

The committee appointed by Supervisor Bell met to discuss its findings on March 4 at the Monroe district office of the conservation department. The committee members recommended that each of the region's gas wells be regauged and the 20-per-cent production limit provided in Rule 43 be strictly enforced. They also favored the imposition of a back pressure requirement on all wells in the Swartz region to check the intrusion of salt water into the gas sands. Although there was some disagreement as to the degree of back pressure that would be necessary to maintain the wells' integrity, they settled on 200 pounds per square inch. Bell explained that the back pressure requirement would be considered experimental and thus subject to alteration as events might dictate. The back pressure standard would become effective on March 15, in order to give the carbon plants time to adjust to the changes, and the Department of Conservation would assume responsibility for regauging the wells. 82

The Monroe News-Star found fault with the department's action, or lack thereof. It questioned the department's apparent unwillingness, in the face of the serious problem at Swartz, to reduce the production

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81 Monroe News-Star, February 29, 1924.
82 Ibid., March 4, 1924.
allowable on wells serving carbon plants to the statutory minimum, 15 per cent. Referring to Swartz as the "first line of defense for other areas," it challenged the decision to confine regauging and strict enforcement of the 20 per cent allowable to this region alone. Contending that honest analysis of the situation conclusively demonstrated that the carbon black industry "must be curbed," it recommended a more forceful policy by the Department of Conservation and the imposition of more stringent regulations lest the carbon black industry destroy itself and the gas field.

By March 12 the conservation department had completed regauging the 90 gas wells in the Swartz region. Its preliminary findings indicated that the open flow capacity of these wells had decreased by approximately 50 per cent. This meant that the average well in this vicinity, while operating within the constraints imposed by Rule 43, was producing nearly 40 per cent of its actual capacity, a fact that helped to explain the drastic decline in pressure and the rapid intrusion of salt water. At the same time that these figures were made public, Conservation Commissioner Dudley Berwick revealed that he had received information that several companies in the Monroe field were producing more than their 20 per cent allowable through the practice of "meter jumping." The

83 Ibid., March 6, 1924. The paper attempted to win converts to its radically new anti-carbon stance by running a three-part series entitled "The Virgins' Lamps" on March 6, 7, and 8, in which it explained the reasons behind its shift in editorial policy. It is impossible to measure the popular impact of these articles, but at least one reader, Senator W. L. Bagwell, expressed his wholehearted agreement with their intent and pledged to do all in his power during the upcoming legislative session to set the conservation department on the right track. Monroe News-Star, March 11, 1924.
commissioner promised a swift and thorough investigation of this allegation and, if discovered, the immediate termination of such activity.\textsuperscript{84}

Before Commissioner Berwick had much of an opportunity to act, the matter was presented to a newly impanelled grand jury in Ouachita Parish. District Judge Fred M. Odom directed the jury to investigate any possible criminal violations of the state's conservation statutes.\textsuperscript{85}

On March 18, as a result of information provided to the grand jury by Captain R. P. Webb, the highest ranking officer of the minerals division stationed at its Monroe office, District Attorney David I. Garrett filed 20 bills of information against the Monroe-Louisiana Carbon Company of Hancock, Louisiana. Each of the bills cited a separate instance in which the company exceeded the 20 per cent withdrawal limit imposed by Rule 43 by running gas through a by-pass around the meters at its wells. Three days later Garrett secured arrest warrants for these violations against the company's president, Charles J. Binz of St Louis.\textsuperscript{86}

The initial excitement caused by these events was just beginning to subside when a new wave of revelations rocked northeast Louisiana. On March 26 the Monroe office of the conservation department disclosed that the day before its special investigative agent in the Monroe field caught D. E. Morrison, superintendent of the Southern Carbon Company's Swartz plant, removing an illegal orifice plate from one of that company's gas well meters. Agent W. F. Bronsell explained that the illegal plate

\textsuperscript{84} New Orleans Times-Picayune, March 13, 1924.
\textsuperscript{85} Monroe News-Star, March 17, 1924.
\textsuperscript{86} Shreveport Times, March 19, 21, 1924.
had an inch and a half opening instead of the authorized seven-eights of an inch. This difference, Bronsell continued, allowed the company to draw three times the reported amount of gas through the meter. The carbon company had probably been drawing 50 to 60 per cent of the well's initial open flow capacity rather than the 20 per cent allowed by Rule 43. 87

Upon becoming aware of this situation, District Attorney Garrett wired Commissioner Berwick urging him to have the attorney general file for an injunction to prohibit such violations. The district attorney contended that an injunction could be used to bring offending corporations into court, whereas the statutes themselves were enforceable only against their officers. Furthermore, the existing penalty provisions provided for the levying of fines, but a contempt citation was punishable by imprisonment. Garrett believed that implementation of this procedure would provide additional protection for the state's gas resources until the legislature adopted a more stringent statute. 88

On March 26 the Ouachita Parish grand jury made its report to District Judge Odom. According to Jury Foreman W. M. Washburn the investigation revealed that the possibilities for meter fraud were virtually

87 Ibid., March 27, 1924; Monroe News-Star, March 26, 1924. The orifice meter employs a metal plate, usually 1/8 to 1/4 inch thick, to partially restrict the flow of gas through the pipeline. By measuring gas pressure both upstream and downstream from the plate, and knowing the size of the orifice, it is possible to determine the volume of gas passing through the opening. W. Fred Heisler (compiler), Natural Gas Vocational Training Courses (Stillwater: The College Book Store, 1937), 107-108.

88 Shreveport Times, March 27, 1924; Monroe News-Star, March 26, 1924.
limitless, while the chances of detection were remote. The jurors discovered that the use of by-passes and illegal orifice plates was ubiquitous, and that the conservation department lacked an adequate procedure for checking the accuracy of gas line meters, usually leaving that job to the consumer. The jurors acknowledged that the department's existing field force was too small to supervise thoroughly all phases of petroleum production and consumption in the Monroe region. They charged the department with pursuing a "penny-wise, pound-foolish" policy by not hiring enough agents to patrol the area. The financial burden entailed would be more than offset by the increased severance tax collected on the illegally produced gas. They recommended, therefore, that the department immediately augment its staff in the Monroe field and direct these agents personally to supervise the critical stages of natural gas production, transmission, and consumption.89

The activities of District Attorney Garrett and the Ouachita Parish grand jury prompted Commissioner Berwick to initiate a department investigation of meter fraud allegations in the Monroe field. Concurrently, the Department of Conservation issued two regulations, to become effective on April 15, to deal with meter fraud: Rule 55 stipulated that by-passes around pipeline meters were to be used only for "reasonable periods of time" to allow necessary maintenance or pressure equalization; Rule 56 provided that conservation department personnel would inspect, read, and seal all gas line meters. Moreover, whenever it was necessary to

89 Shreveport Times, March 27, 1924; Monroe News-Star, March 26, 1924.
break a seal, for whatever reason, a department representative would have to witness the operation. 90

These measures demonstrated the department's willingness to take corrective action, but they did nothing to deal with the fundamental problem of the mineral division's manpower shortage. Recent developments in the Monroe field had made this situation obvious to all concerned. On March 28 minerals division employees W. F. Bronsell and Duncan Cook were monitoring a work crew from the Southern Carbon Company as it demolished illegal by-passes and checked the orifice plates in the company's gas line meters. Having noticed another crew from Southern Carbon apparently working unsupervised in the same area, Bronsell and Cook became suspicious that someone was working ahead of them in an attempt to cover up illegal activities. Cook followed the other crew. While the men were away from their car he examined it. In the trunk he found an "end wrench," a tool used to loosen the special bolts employed in securing orifice plates. The crew men discovered Cook looking in their car trunk, and one of them, John Scarf, in the company of two fellow employees of Southern Carbon, knocked Cook to the ground and kicked and cursed him and advised him to mind his own business.

When Agent Bronsell confronted Superintendent Morrison of Southern's Swartz plant in reference to the day's events, Morrison allegedly told him that Scarf had already informed him of the incident and advised Bronsell to forget the altercation. He implied that Cook had provoked it by illegally searching the car being used by Scarf. Learning of the

90 Monroe News-Star, March 27, 28, 1924.
company's attitude, Captain Webb vowed that unless restrained by Commissioner Berwick he would immediately insist on strict adherence to all conservation rules. Furthermore, regardless of all else, he would demand that those involved in the attack be prosecuted to the full extent of the law.91

On April 7 Commissioner Berwick turned over to Attorney General A. V. Coco all evidence of meter fraud and other violations in his possession and requested that he prosecute whenever and wherever possible.92 The commissioner was not the only one requesting that an investigation be conducted by the attorney general's office. On April 8 Governor Parker instructed Coco to investigate the meter fraud allegations, and, as part of the same undertaking, to examine the severance tax returns to determine if any additional payments were due the state. The governor directed Coco to prosecute to the fullest extent of the law any corporation found to be deliberately violating the conservation statutes and to consider annulling its charter.93

91 Ibid., March 31, 1924; New Orleans Times-Picayune, April 1, 1924. It should be remembered that only three days earlier Morrison had been caught removing an illegal orifice plate.

92 Dudley Berwick to H. W. Bell, April 7, 1924 (Box 10, folder 190, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); New Orleans Times-Picayune, April 8, 1924; Monroe News-Star, April 8, 1924.

93 John M. Parker to A. V. Coco, April 8, 1924 (Box 10, folder 190, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); New Orleans Times-Picayune, April 9, 1924; Baton Rouge State-Times, April 9, 1924; Shreveport Times, April 9, 1924.
Arriving in Monroe on April 14, the attorney general began his meter fraud probe with a three-hour conference with Supervisor of Minerals H. W. Bell followed by a personal inspection of the gas fields. Upon returning to Monroe, Coco explained that sufficient evidence to warrant prosecution existed in the files of the Department of Conservation, but that his investigation was necessary to build an air-tight case. He acknowledged, furthermore, that the cases of meter fraud and illegal activity already discovered would probably not come to trial before he left office.\footnote{Monroe News-Star, April 14, 15, 1924.}

On April 15 the attorney general discussed the investigation with District Attorney Garrett. During their meeting Garrett expressed his concern that only the smaller companies would be prosecuted while the larger ones would not. Coco assured him that this was definitely not the case, and at the end of their meeting he publicly ordered the conservation department to make a report on the production and operation of every carbon company in the field. According to the attorney general, charges would be filed against every company found violating the law.\footnote{Baton Rouge State-Times, April 16, 1924; Monroe News-Star, April 16, 1924; New Orleans Times-Picayune, April 17, 1924.}

Called back to New Orleans on April 16, Coco pledged to continue his probe of illegal activities from there. The very next day Supervisor Bell transmitted his report on overproduction in the Monroe field to the attorney general. After defending the performance of his office in enforcing the law, Bell declared that the problem of water infiltration
in the Swartz region was the result of continuous overproduction. The wells at which this occurred, he argued, were normally those belonging to the smaller carbon companies, not the larger concerns as District Attorney Garrett had implied. This being the case, Bell recommended that the state attempt to settle these problems without court action, secure more effective laws, and institute a program of closer inspection of field operations.  

Neither Attorney General Coco nor District Attorney Garrett appeared inclined to accept Bell's advice to forego prosecution of the violators and get on with the work of improving the total conservation effort. The two men met on May 2 to discuss the prosecution of the overproduction and meter fraud cases and indicated that they were considering not only initiating criminal charges, but also filing civil suits for the collection of unpaid severance taxes. Five days later Garrett filed bills of information, prepared by the attorney general, alleging 194 violations of the conservation laws against 11 carbon and gas production companies. Each bill accused the defendant of "overpulling" gas wells so that they exceeded the 20 per cent of initial flow capacity limit.  

While District Attorney Garrett admitted that the day's developments blocked further action against the corporations, he asserted that

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96 Monroe News-Star, April 17, 1924; H. W. Bell to A. V. Coco, April 17, 1924 (Box 10, folder 193, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

similar charges would be filed against the officers of each company and
the cases against them vigorously prosecuted. Accordingly, on May 27,
Garrett filed the first of approximately 300 bills of information against
the officers of several carbon companies charging them with overproduc-
tion of gas wells. The companies successfully delayed the arraignment
of the first five officers to face these charges until June 20, at which
time they all entered pleas of "not guilty." Despite Garrett's wish
that the initial trials coincide with the legislature's regular session
so that the identification of loop-holes in the existing conservation
statute would have the maximum influence on that body's deliberations,
Judge Fred M. Odom announced that due to the impending close of the
court's term (the session was to expire the following day) these cases
would not go to trial until the court reconvened in the fall. His
decision effectively marked the end to the state's first period of carbon
black regulation. The General Assembly's 1924 regular session saw the
enactment of a new conservation statute that renewed and strengthened
Louisiana's commitment to control the carbon black industry.

98 Monroe News-Star, May 24, 27, 1924; New Orleans Times-Picayune,
May 25, 1924.

99 New Orleans Times-Picayune, June 20, 1924; Shreveport Times,
June 20, 1924; Baton Rouge State-Times, June 20, 1924.
CHAPTER VI

INDUSTRY IN DECLINE: CARBON BLACK IN LOUISIANA, 1924-1930

The overpulling cases which Judge Fred M. Odom was to hear in the fall of 1924 never came to trial, for the parties reached an "amicable agreement" and the district attorney dropped the charges. This amicable agreement probably grew from the events prior and subsequent to the enactment of Act 252 of 1924. With the legislature scheduled to convene in mid-May, strengthening the state's regulatory control over the carbon black industry again became the subject of considerable debate. On March 25 Conservation Commissioner Dudley L. Berwick advocated the imposition of acreage limitations to govern the drilling and production of new gas wells. This manner of restriction, the commissioner maintained, could be used to control the number and location of new wells drilled and to regulate the quantity of production from each well. This addition to the conservation statute, he believed, when combined with the continued efforts of his agents and the expected cooperation of the carbon companies, would adequately protect the field from future dangers.

1 Oil and Gas Journal, January 29, 1925. Unfortunately, the local newspapers carried no coverage of the agreement and the records of the period in the Clerk of Court's office in Monroe are in such disarray as to be virtually unusable.
Beyond that, he recommended an increase in his department's appropriation to enable it to augment its force of field agents.²

The next day's Monroe News-Star carried an article in which Supervisor of Minerals H. W. Bell elaborated on some of the points covered by Commissioner Berwick. Bell recounted the financial strictures under which the entire department functioned, emphasizing especially the $130,000 deficit inherited by Berwick. He also stressed the lack of leadership experienced by the department during the last year, but indicated that conditions were improving, despite a less than ideal conservation statute, due to the diligence of the department's field staff.³

Prompted by the statements of Berwick and Bell, and the quickening pace of the meter fraud and overpulling investigations, several of the state's leading newspapers carried editorials criticizing the conservation effort and calling for stricter and more restrictive conservation laws. The Monroe News-Star, long a supporter of the carbon black industry, questioned the commissioner's expression of confidence in the cooperation of the carbon companies in observing all conservation laws. The New Orleans Times-Picayune charged the upcoming session of the legislature with the obligation of enacting stricter safeguards to protect Louisiana's petroleum resources. Echoing much the same sentiment, the Baton Rouge State-Times blamed defective legislation for much of the

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² Monroe News-Star, March 25, 1924.
³ Ibid., March 26, 1924.
Monroe field's conservation problem and called upon the forthcoming General Assembly to take corrective action.⁴

Drawing even more attention to this issue was the publication of an open letter, dated April 4, from Oliver C. Dawkins to Governor Parker. Describing himself as an ardent opponent of the carbon black industry and a personal friend of the governor, Dawkins asserted that Parker had been "silent and inactive" while the carbon companies had run "rough shod" over him and his administration. He implied that the governor had been duped by the carbon interests and allowed them excessive influence in the formulation of administration policy. Dawkins called upon the governor to redeem himself by holding an open hearing at which to gather testimony on the "crooked methods and the appalling [sic] extent of stealage [sic] and wastage by these foreign pirates . . . ." By so doing, Dawkins reasoned, the governor would arouse an overwhelming sentiment against the carbon interests that the legislators would not be willing to ignore, thus forcing them to enact legislation to drive the industry from the state.⁵

Not committing himself to the public hearing demanded by Dawkins, according to the Times-Picayune, the governor indicated that he believed that any further investigation was the prerogative of the legislature.⁶

⁴ Ibid.; New Orleans Times-Picayune, March 26, 1924; Baton Rouge State-Times, March 29, 1924.

⁵ O. C. Dawkins to John M. Parker, April 4, 1924 (Box 10, folder 190, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); Monroe News-Star, April 5, 1924.

⁶ New Orleans Times-Picayune, April 6, 1924. I was unable to find a copy of Parker's reply to Dawkins.
The governor may well have wished he had taken Dawkins' advice when on May 1 he received Attorney General Coco's report on overproduction and waste conditions in the Monroe gas field. Coco strongly condemned the performance of the Department of Conservation and asserted that it had done little "to inform itself with the general trend and true condition in regard to gas consumption by carbon operators . . . ." He informed the governor that many carbon black operators readily admitted overpulling their wells and gave the impression that the Department of Conservation condoned their actions. Coco contended that it was inconceivable that companies with such large capital investments would flagrantly violate the law, unless they were convinced that the state would treat them leniently. In his estimation, the facts presented an undeniable indictment of the state's conservation bureaucracy and warranted the revocation of the charters of the guilty companies. 7

Commissioner Berwick quickly denied Coco's allegations, but the report served a purpose that no amount of argument could nullify. 8 The attorney general delivered his report less than three weeks before the general assembly opened its 1924 session and at a time when the call for punitive action against the carbon industry was gaining popularity. As early as mid-March several lawmakers from northeast Louisiana made public their support for restrictive legislation against the carbon black

7 A. V. Coco to John M. Parker, April 29, 1924 (Box 10, folder 190, Louisiana State Executive Department Governors' Correspondence, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); New Orleans Times-Picayune, May 1, 1924; Monroe News-Star, May 1, 1924.

8 New Orleans Times-Picayune, May 2, 1924; Shreveport Times, May 3, 1924.
industry. On March 15 Senator W. L. Bagwell, of Oak Grove, West Carroll Parish, called for concerted action by his colleagues to preserve the Monroe field. He believed that the conservation department's inattention to its duties warranted a thorough investigation and quite possibly remedial legislation. The very next day Senator T. L. Hood furnished a statement to the Monroe News-Star concerning the gas situation in the Monroe field. Long a defender of the carbon black industry, he now believed that these companies had not "kept faith with the legislature." He maintained that the statute which they were apparently violating so flagrantly was the product of mutual agreement in 1922 among the governor, the legislators, and the industry. As a result, the companies would clearly deserve whatever they received from the upcoming legislative session.

On April 3 Senator Hood gave an indication of what the carbon companies might expect. He explained that a preliminary draft of a measure to revise the conservation statute had been completed and that he and Representatives T. T. Webb and R. L. Prophit expected to have it ready for presentation to the legislature. According to the senator, their measure would embody specific rules to alleviate weaknesses in the current statute. More specifically, he hinted that it would contain a proposal to limit drilling and a prohibition on the use of unmetered natural gas.

9 Baton Rouge State-Times, March 14, 1924; Shreveport Times, March 16, 1924.
10 Monroe News-Star, March 17, 1924.
11 Shreveport Times, April 5, 1924.
Restriction of the carbon black industry was a topic of considerable discussion as the General Assembly convened its 1924 session. In the Department of Conservation's biennial report, submitted to the governor and legislature on May 12, minerals division supervisor H. W. Bell explained that the existing law allowed curtailment of gas consumption by carbon makers only after an actual shortage developed. He recommended that the legislature authorize the department to restrict the carbon black plants' use of natural gas whenever a gas shortage appeared likely, and to discontinue it altogether unless they gained parity with other industrial consumers in the use of waste heat and other gas by-products. Finally, he suggested that the carbon black industry be put on notice to increase significantly the efficiency of its operations or face legislatively mandated curtailment of their gas supply.  

Not all legislators were satisfied with Bell's recommendations. On May 29 Representative Horace Wilkinson, of West Baton Rouge Parish, introduced what he described as a "real carbon black bill," actually another attempt at prohibition patterned after the 1919 Wyoming statute. It died in committee. Senator W. L. Bagwell introduced a concurrent resolution proposing the appointment of a joint investigative committee to study the carbon black situation and to report its findings to the

12 Monroe News-Star, May 13, 1924; Oil and Gas Journal, May 29, 1924.

legislature within 15 days. Although the senate adopted the resolution, the house rejected it, apparently believing that the time for study had passed and that positive action was needed to protect the state's resources.\footnote{\textit{New Orleans States}, May 30, June 4, 1924; \textit{New Orleans Times-Picayune}, May 31, 1924; \textit{Shreveport Times}, June 1, 4, 1924; \textit{Senate Calendar 1924 The State of Louisiana. Second Regular Session of the Legislature under the Constitution of 1921} (Baton Rouge: Ramires-Jones Printing Co., 1924), 146. Hereinafter cited as \textit{Senate Calendar}. \textit{House Calendar 1924}, 297.}

The measure generally favored by those advocating stricter regulation of the carbon black industry was Senate Bill 155, introduced on June 9 by Senator T. L. Hood. The senator, along with Representatives Webb and Prophit, had been preparing his bill for well over a month. It was developed to achieve easier prosecution of gas conservation law violators and stricter regulation of gas consumption by the carbon black industry. The former objective it proposed to accomplish by incorporating the current oil and gas rules into the statute; the latter purpose was to be achieved by provisions designed to control the amount of natural gas that could be produced. They called for limiting: (1) the consumption of natural gas by carbon manufacturers to 200,000,000 cubic feet daily, (2) the number of wells drilled by imposition of an acreage requirement, (c) and the amount of gas to be produced daily from any well to 20 per cent of open flow capacity and for establishing a minimum working pressure requirement of 200 pounds per square inch on every gas well. Hood sought and got Governor Fuqua's support of the measure before
introducing it.\textsuperscript{15} Even so, it underwent several changes before it was referred to the Senate Committee on Conservation. Most notable of these were an increase in the maximum daily gas consumption for carbon manufacturing to 275,000,000 cubic feet and the adoption of a graduated scale of acreage requirements and production limitations for gas wells.\textsuperscript{16}

On June 18 the conservation committee gathered for its initial hearing on Senate Bill 155. Claiming that potential witnesses had not had sufficient time to study his measure, Senator Hood required and received a one-week delay in its consideration. Most of those in attendance, committee members and spectators alike, assumed that a substitute was being prepared.\textsuperscript{17} When the committee next met, Hood, substantiating rumors of compromise that had been circulating about the capital, introduced in place of 155 a substitute bill that he claimed was the product of a conference involving all parties vitally interested in the carbon black industry and the preservation of Louisiana's natural gas resources. Its main difference from Senate Bill 155 was that it removed the 275,000,000 cubic feet daily limit on the amount of natural gas that the carbon plants could consume. Hood explained that this modification was necessary because the Department of Conservation had recently issued

\begin{itemize}
\item \textsuperscript{15} Shreveport Times, April 17, 1924; Monroe News-Star, May 16, 1924; Baton Rouge State-Times, April 18, May 12, 20, 1924; New Orleans Times-Picayune, May 8, 12, 24, 1924; Senate Calendar, 1924, 87.
\item \textsuperscript{16} Shreveport Times, June 15, 1924. The bill provided that a well drilled on a 160-acre tract would produce 25 per cent of its daily open flow capacity. It limited production from smaller plots in this manner: 80 acres--20 per cent; 40 acres--17 per cent; 20 acres--14 per cent; 10 acres--11 per cent; five acres--eight per cent.
\item \textsuperscript{17} Baton Rouge State-Times, June 20, 1924.
\end{itemize}

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additional permits for the construction of carbon black plants which would consume approximately 110,000,000 cubic feet of natural gas each day. According to Commissioner Berwick, these permits could not be revoked, and, therefore, the original consumption limit was unrealistic.

The substitute bill also modified the provisions that tied per-well production to site acreage. It lowered the allowed daily production of 160-acre tracts to 24 per cent of the open flow capacity, but increased the allowable on all other categories from one to two per cent and created a new classification for those wells drilled on tracts of less than five acres. This production allowable schedule was not to apply to wells in operation, or for which drilling had been contracted, before June 24, 1924. These wells were to be governed by the terms of Act 91 of 1922, restricting the percentage of a gas well's open flow capacity that might be used, under normal conditions, in the production of carbon black to no less than 15 and no greater than 20, except that their back pressure was not to drop below 200 pounds per square inch. Furthermore, the 200-pounds-per-square-inch back pressure requirement was not to apply to wells in the gas fields of Bossier, Caddo, DeSoto, Red River, Sabine, Terrebonne, and Webster parishes because the pressure in those fields was extremely low.

Senator Hood explained that he had abandoned his original bill because the substitute, while not perfect, was "the very best we can expect to pass . . . ." The carbon interests, he continued, had convinced him that his original measure would put them out of business. Therefore, he was willing to settle for a measure that would increase
the protection provided for the state's gas resources, but, at the same time, would not be unduly harsh on the carbon manufacturers.¹⁸

On June 26 the Committee on Conservation reported the substitute favorably to the senate floor. Several of its members indicated later that they were unsure as to the merits of the substitute, but voted for it largely because the session was drawing to a close and the gas waste problem urgently demanded legislative action. Since no gas conservation bill had been introduced in the house, these senators believed that the Hood substitute was all that was available to them.¹⁹ At Hood's urging, the senate passed the measure and forwarded it to the house.²⁰

On July 10 the senate received a notice of concurrence from the house of representatives and forwarded the bill to the governor. Governor Fuqua, however, refused to sign the bill, deciding instead to let it become law without his signature. Although he gave no reason for his action, the governor reportedly believed the bill to be too weak. Senator Hood indicated that Fuqua had communicated his reservations

¹⁸ Ibid., June 26, 1924; Shreveport Times, June 26, 1924; New Orleans States, June 26, 1924.

¹⁹ Baton Rouge State-Times, June 26, 1924; Shreveport Times, June 27, 1924; New Orleans Times-Picayune, June 27, 1924.

²⁰ Baton Rouge State-Times, July 1, 1924; Senate Calendar, 1924, 87-88, 128-29, 666. Most members of the conservation committee supported the substitute and counseled their colleagues to approve it because it was acceptable to all parties and the best possible statute that could be enacted at this session. Several members also indicated that a more stringent conservation statute would be introduced in the 1926 General Assembly.
concerning the measure to him personally while admitting that he could not afford to veto it.\textsuperscript{21}

As Governor Fuqua believed, Act 252 of 1924 did not provide strict regulation of the carbon black industry. Section One restated the already enacted definition of natural gas waste while Section Two gave full statutory standing to the existing conservation department rules dealing with natural gas production, transportation, and consumption. The schedule of acreage/percentage of production allowable ratios appeared in Section Three as agreed upon in the Hood substitute. An additional proviso stipulated that all wells would be allowed to produce at least 1,000,000 cubic feet of natural gas daily, provided the minimum back pressure requirements could be maintained. Furthermore, this section specified that all wells were to be drilled as near as possible to the center of the tract, and in no case more than 100 feet from the tract's center—a provision that the statute specifically forbade the conservation commissioner to waive. Finally, Section Three also stipulated that the production allowable schedule would not apply to wells drilled, or for which contracts had been awarded, prior to June 24, 1924. Such wells were to be governed by the provisions of Act 91 of 1922 as long as they were able to maintain the minimum back pressure requirement.

Having established this fairly elaborate structure of regulation and production allowables, the statute's fourth section empowered the conservation commissioner to increase or decrease the production allowable for any well or area whenever he deemed it necessary as a conservation

\textsuperscript{21} Senate Calendar, 1924, 128-29; Baton Rouge \textit{State-Times}, July 18, 1924; Monroe \textit{News-Star}, July 19, 1924.
measure. The fifth section invested the conservation commissioner with
the authority to issue permits for the production of carbon black, but
one interesting and obviously unconstitutional provision stipulated that
Louisiana natural gas could not be piped out of the state for consump-
tion by carbon black manufacturers. Finally, Sections Seven through
Thirteen outlined the procedures and requirements to be followed in the
enforcement of the statute.\footnote{22 Acts Passed by the Legislature of the State of Louisiana at
the Regular Session Begun and Held in the City of Baton Rouge on the
Twelfth Day of May, 1924 (Baton Rouge: Ramires-Jones Printing Co.,
1924), 594-605. Hereinafter cited as Acts of Louisiana.}

Almost immediately after the 1924 legislative session, the Depart-
ment of Conservation embarked upon a campaign to spread the message that
all conservation laws would be strictly enforced. On the night of July
21, in the conference room of the Ouachita National Bank in Monroe, de-
partment officials, including Acting Commissioner Frank T. Payne,
informed local gas and carbon representatives that the state would no
longer tolerate violations of its conservation statutes. These officials
made it perfectly clear that future infractions would be dealt with
swiftly and sternly, and that any well found to be continually overdrawn
would be sealed by order of the commissioner.\footnote{23 Oil and Gas Journal, August 7, 1924; Baton Rouge State-Times,
July 22, 24, 1924; New Orleans Times-Picayune, July 24, 1924. Following
the meeting of the 21st, Supervisor H. W. Bell spent the next day invest-
gerating overpulling accusations in the Monroe field. He found that four
wells belonging to the Louisiana Carbon Company were violating the depart-
ment's production standard; therefore, he ordered their valves sealed.
The carbon company's local attorney, Carl McHenry, applied the next day
for permission to reopen the wells and Supervisor Bell indicated that
it would be granted as soon as the company employed a competent meter
man to oversee its operation. By "competent" Bell explained that he
meant for the company to hire someone to put the meters in proper work-
ing order and to inspect them daily.}
In line with its efforts to enforce more strictly the conservation of natural gas, the Department of Conservation began actively to consider reducing the consumption of natural gas by the carbon plants. Senator Hood's original measure, it will be recalled, had proposed limiting the daily consumption of natural gas by carbon manufacturers to 275,000,000 cubic. By late November many observers believed that the Department of Conservation would soon adopt such a policy, some even predicting a reduction of up to 50 per cent of the approximately 375,000,000 cubic feet daily consumption. Rather surprisingly, at first glance, the carbon companies appeared willing to accept a significant cut in their gas consumption, even though they balked at the 50 per cent figure. The main reason for their cooperative attitude was that the carbon manufacturers were experiencing a marketing slump and were having a difficult time showing a profit. 24

On December 18, 1924, Conservation Commissioner W. J. Everett, while visiting the Monroe field, discounted the rumors of a 50 per cent reduction in allowable gas consumption and indicated that he was considering only a 35 per cent decrease. As the current daily consumption was approximately 375,000,000 cubic feet, even a 35 per cent reduction would establish the daily allowable at the figure lower than that sought by Senator Hood. 25

24 Shreveport Times, November 23, 1924; Oil and Gas Journal, January 29, 1925.

25 Monroe News-Star, December 18, 1924; Shreveport Times, December 20, 1924.
Despite the existence of unfavorable market conditions, many carbon makers, anticipating restrictive action, actually increased production in order to augment their stocks while costs remained low. As a result, by early January their daily consumption of natural gas passed the 400,000,000 cubic foot mark and continued to increase during the first quarter of 1925 while industry supporters and opponents alike speculated as to the exact terms of the reduction plan that all expected the commissioner to announce. 26

Finally, following a conference with representatives of gas and carbon interests, in the office of Attorney General Percy Saint, Commissioner Everett indicated that effective February 25 the daily natural gas consumption by carbon manufacturers would not be allowed to exceed 275,000,000 cubic feet. On February 12, then, representatives from 48 carbon manufacturers agreed to a gas use schedule that reduced their total gas consumption by 35 per cent. 27 As made public on February 28 by Commissioner Everett, the department's new conservation rules fixed the maximum daily allowable consumption of natural gas by carbon plants, for manufacturing purposes, at 299,000,000 cubic feet, not including gas used for light and power at the plants. Everett reemphasized the department's conviction not to issue additional permits for the

26 Oil and Gas Journal, December 15, 1924, January 15, 1925; Shreveport Times, January 4, 1925; Monroe News-Star, January 9, 1925.

27 Percy Saint, Attorney General, to Reid L. Carr, January 22, 1925, in Opinions of the Attorney General of the State of Louisiana from May 1, 1924, to May 1, 1926 (New Orleans: Montgomery-Andree Printing Co., 1926), 85-86; Monroe News-Star, February 4, 1925; Shreveport Times, February 8, 14, 17, 1925; Oil and Gas Journal, February 12, 19, 1925; Baton Rouge State-Times, February 13, 1925.
construction or operation of carbon black plants, unless these enterprises were intended to use casinghead gas or gas that would otherwise go to waste.  

The effect of these announcements was to return the carbon industry's level of gas consumption to what it had been in the early spring of 1924. The carbon companies appeared to adapt quite easily to the 161,000,000 cubic foot decrease in gas consumption, probably because of the vast stockpiles they had accumulated during the previous year. Feeling the brunt of the reduction, however, were neighboring well owners and landowners. They faced a loss of a market for the future since the carbon plants were likely to be able to fill their gas requirements from company-owned wells.

The conservation department's initial restrictive effort appeared to be a success as there were no public protests against it. Six months later, on September 1, the new conservation commissioner, Dr. V. K. Irion, announced that the daily consumption allowable for the next half year would be 290,000,000 cubic feet. This figure required that the area's largest carbon producers reduce their total gas utilization by 10,238,000 cubic feet daily, while several smaller plants received daily increases totaling 1,238,000 cubic feet. This agreement was to last until March 1, 1926, at which time Dr. Irion indicated that additional curtailments would

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28 Shreveport Times, March 1, 1925; Oil and Gas Journal, March 12, 1925. Evidently Everett intended all along to implement a 35 percent reduction. It follows, therefore, that his initial announcement of a 275,000,000 daily allowable was based on obsolete production data.

29 Shreveport Times, March 7, 1925; Oil and Gas Journal, March 19, 1925.
establish a 275,000,000 cubic feet limitation. True to his word, on March 1, 1926, Commissioner Irion issued an order implementing this reduction. He also indicated that gas consumption during the past six months had been four per cent lower than the total allowed. Despite some allegations of overpulling, he expressed satisfaction with the cooperation of the carbon companies.

More significantly, however, at approximately this same time the first of three law suits to define the limits of Act 252 of 1924 reached the state supreme court. Citing information furnished by Supervisor of Minerals H. W. Bell, on December 12, 1924, Ouachita Parish District Attorney David I. Garrett charged that three area companies had exceeded their production quotas by a total of 30,000,000 cubic feet during October and November 1924. In their defense it should be remembered that this figure represented several weeks' overproduction at a time when the carbon companies daily consumed approximately 400,000,000 cubic feet of natural gas. On January 9, 1924, Garrett filed formal indictments against all three companies.

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30 Baton Rouge State-Times, September 1, 1925; Shreveport Times, September 6, 1925; Oil and Gas Journal, September 17, 1925.


32 Monroe News-Star, December 12, 1924; Baton Rouge State-Times, December 12, 1924; Shreveport Times, December 13, 1924. The amounts of gas the companies were accused of overpulling were: Carson Carbon, 17,000,000 cubic feet; Thrift Oil and Gas, 7,442,000 cubic feet; and Consumers Gas, 7,944,000 cubic feet.

33 State vs. Thrift Oil and Gas (#17,818; Fourth Judicial District Court, Ouachita Parish, Monroe); State vs. Carson Carbon Company (#17,819; Fourth Judicial District Court, Ouachita Parish, Monroe); State vs. Consumers Gas Company, Inc. (#17,820; Fourth Judicial District Court, Ouachita Parish, Monroe).
The first case to be heard was that against the Thrift Oil and Gas Company. In an indictment filed on March 18, 1925, in the Third Judicial District Court, Union Parish, the state alleged that during the week beginning November 13, 1924, this company "willfully, feloniously and maliciously" produced an excess of 1,757,000 cubic feet of gas from its Parks #2 well. On March 28 attorneys for Thrift Oil and Gas filed an exception to the indictment contending that Parks #2, drilled and completed prior to June 24, 1924, was governed by the provisions of Act 91 of 1922 rather than Act 252 of 1924. In ruling on the defendant's petition, District Judge S. D. Pearce refused to accept the contention that Section Three of Act 252 meant that all wells drilled, or for which contracts had been awarded prior to June 24, 1924, must be governed by the provisions of the 1922 statute. Therefore, he rejected the petition for an exception and ordered the legal proceedings to continue.  

Unsuccessful in a second attempt to have the case dismissed, on September 21, 1925, attorneys for Thrift Oil and Gas filed an answer to the state's indictment. They contended that the gas from Parks #2 was not used to manufacture carbon black and, therefore, its production

34 State vs. Thrift Oil and Gas (#6,054; Third Judicial District Court, Union Parish, Farmerville). This was just one, but the controlling one, of five suits filed against Thrift Oil and Gas concerning the same charges for the period between October 9 and November 20. Each suit, Nos. 6,050-6,054, covered a one-week period.

35 Ibid. Thrift Oil and Gas obviously wanted to have the operation of Parks #2 governed by Act 91 of 1922. A favorable ruling on this point would have hampered the state's ability to prosecute the company for exceeding the well's production quota because Act 91 was enforceable only against individuals.
was not subject to the provisions of either Act 252 of 1924 or Act 91 of 1922. Moreover, the attorneys maintained, their client had not violated these statutes. Section Three of Act 252 of 1924, they claimed, entitled Thrift Oil and Gas to produce a minimum of 7,000,000 cubic feet a week from Parks #2, and for the week in question its production was only 6,506,304 cubic feet.36

On November 20, 1925, Judge Pearce found the company guilty and fined it $550 plus costs.37 The company appealed his decision to the state supreme court. The court handed down its decision on March 29, 1926. In the first instance, it upheld the constitutionality of both Act 91 of 1922 and Act 252 of 1924, giving the conservation department authority to establish natural gas consumption schedules for carbon black manufacturers. It also rejected the company's contention that Section Three of Act 252 of 1924, allowing certain wells to produce at least 1,000,000 cubic feet of natural gas daily, controlled the operations of Parks #2. Rather, it affirmed the district court decision that the ruling statutory provision in this instance was Section Five of the 1924

36 Ibid. The provision upon which the attorneys based this contention reads as follows:
Where the percentages hereinabove provided applied to any well reduces the amount allowed below one million cubic feet, there may be taken from such well a total of one million cubic feet, provided the back pressure as elsewhere herein provided for, shall be maintained. Acts of Louisiana, 1924, 600.

37 State vs. Thrift Oil and Gas (#6,054; Third Judicial District Court, Union Parish, Farmerville).
law limiting wells drilled prior to June 24, 1924, to the percentages fixed by the 1922 law. 38

Justice Land was not, however, to have the last word in this case. The Thrift Oil and Gas Company applied for and received a rehearing, and on October 5 Justice John St. Paul issued the final judgment. According to Justice St. Paul, a proper understanding of this case demanded an accurate interpretation of the provision contained in Section Three of Act 252 of 1924 stipulating that wells drilled, or for which contracts had been signed, on or before June 24, 1924, "shall be allowed to produce the same percentage of the open flow capacity that such well could produce under Act 91 of 1922." The state contended that such wells, Parks #2 being one, were governed by the 1922 law and were not entitled to the exemption allowing wells to produce at least 1,000,000 cubic feet daily. In rejecting this reasoning as unsound, Justice St. Paul interpreted the previously cited provision as an "allowable" designed to secure additional benefits rather than as a restriction upon the freedom to produce. He reasoned, therefore, that Parks #2 was entitled to produce at least 1,000,000 cubic feet of natural gas each day provided that it maintained the stipulated working and back pressures. Since it now appeared that the district judge had erred in his interpretation of the law, Justice St. Paul set aside the original verdict and remanded the

38 110 Southern Reporter, 188-96 (March 29, 1926).
case to the district court for a new trial. In light of these developments, on November 15, 1926, the district attorney filed motions to nol
prosse all five cases against Thrift Oil and Gas, and all suits were dropped.

Despite the setbacks encountered in the suits against Thrift Oil and Gas, the state continued its effort to obtain a conviction under the provisions of its new gas conservation statute. On April 15, 1925, the district attorney of Morehouse Parish filed 11 separate suits against the Carson Carbon Company alleging overproduction of its Erwin #1 and #2 wells. Not quite one year later, the state secured convictions in all 11 cases, the carbon company being fined $325.00 on each charge.

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39 110 Southern Reporter, 196-98 (October 5, 1926); Acts of Louisiana, 1924, 600. Thrift Oil and Gas also used the same segment of Section Three as the foundation for its contention that Parks #2 was governed exclusively by Act 91 of 1922. It sought this interpretation because the company could thereby escape the provisions of Section Twelve of Act 252 of 1924 that furnished a method by which the state could bring corporations before the courts for violations of the conservation laws. Justice St. Paul also rejected this argument. He maintained that Act 252 of 1924 was the paramount gas conservation statute in the state and that the effect of Section Ten declaring it to be "cumulative of and in addition to" all laws not specifically in conflict with its provisions meant, in essence, that Act 91 of 1922 was now to be treated as a section of the 1924 statute.

40 Minute Book M, Third Judicial District Court, Union Parish, Farmerville, 419.

41 State vs. Carson Carbon Company (#4,111; Fourth Judicial District Court, Morehouse Parish, Bastrop). The companion cases were Nos. 4,102, 4,103, 4,104, 4,105, 4,106, 4,107, 4,108, 4,109, 4,110, and 4,112. In the controlling case the state alleged that the company overpulled Erwin #1 by 3,782,000 cubic feet during the seven days from October 8 through October 15, 1924.

42 Shreveport Times, March 18, 1926; State vs. Carson Carbon Company (#4,111; Fourth Judicial District Court, Morehouse Parish, Bastrop).
Carson Carbon appealed the district court's decision to the state supreme court, and on November 29, 1926, the court gave its decision, affirming the convictions and sentences imposed by the district court.\(^{43}\) In rejecting Carson Carbon's application for a rehearing, the court emphasized that Act 252 of 1924 was the preeminent gas conservation statute in the state and controlled the operation of all gas wells. In this case, however, Erwin #1's production had not only exceeded the maximum allowable established by Act 252, but also the provision continuing in effect the production schedules for certain classes of wells under Act 91 of 1922.\(^{44}\)

In the Thrift Oil and Gas and Carson Carbon cases the state supreme court upheld the constitutionality of the state's efforts to impose limits upon the production of natural gas. As a result the state now possessed an indirect method of limiting the production of carbon black that was relatively impervious to constitutional challenge. Late in 1925 the Department of Conservation, by that time under the direction of Commissioner V. K. Irion, embarked upon a considerably more straightforward campaign to restrict the production of carbon black by refusing to issue additional construction and operation permits. Not unexpectedly, the legality of this policy came under attack, this time in the federal courts. The state eventually lost the ensuing battle, but by that time the center of domestic carbon production was shifting to the Texas panhandle and the carbon black industry no longer posed the threat to the state's gas resources that many observers perceived in the mid-1920's.

\(^{43}\) 111 Southern Reporter, 162-66 (November 29, 1926).
\(^{44}\) 111 Southern Reporter, 166 (January 3, 1927).
The challenge to the conservation department's policy of withholding additional carbon black permits came in the fall of 1925. In June of that year, J. Smylie Herkness, a Pennsylvanian, obtained land, gas rights, and wells in Morehouse and Ouachita parishes for the purpose of producing natural gas and using it in the manufacture of carbon black. In pursuit of this enterprise, on October 29, 1925, Herkness filed an application with the Department of Conservation for a permit to construct and operate a carbon black plant. Citing an attorney general's opinion that the utilization of natural gas to manufacture carbon black was a "recognized waste," on November 23 Commissioner Irion informed Herkness that his application had been refused. Since it was the policy of the conservation department to curtail the consumption of natural gas by carbon manufacturers, explained Irion, it would "be folly for me to sanction the erection of additional plants . . . ." Two days later Irion made public his rejection of the Herkness application and reaffirmed the department's commitment to the eventual elimination of the carbon industry in Louisiana. He also expressed the belief that the department would soon be able to channel the region's natural gas into more profitable and less wasteful markets. The Monroe News-Star, once the staunchest defender of the carbon black industry, applauded the commissioner's decision.

45 11 Federal Reporter (2nd Series), 387 (March 6, 1926); New Orleans Times-Picayune, November 15, 1925.

46 Monroe News-Star, November 25, 26, 1926; New Orleans Times-Picayune, November 25, 1925.
On November 29, Irion also denied a permit application received from the Pelican Gas Products Company, and he asserted that "all similar requests [will] be denied in the future . . ." Herkness refused, however, to accept the commission's rejection as the final word on his application. On December 17, 1925, he filed suit in the federal district court for the Eastern District of Louisiana seeking to enjoin, both temporarily and permanently, Commissioner Irion and the attorney general from interfering, or seeking to interfere, with the construction or operation of his carbon black plant.  

District Judge Louis H. Burns granted the temporary injunction and set January 18, 1926, as the trial date. Following a brief postponement, a three-judge federal panel convened in New Orleans on January 23 to hear the case. Herkness' lawyers contended that the commissioner's refusal to issue the permit threatened to subject him to a significant financial loss because his property was "without substantial value except for the purpose of producing natural gas and manufacturing it into carbon black." They argued that the state's conservation laws did not authorize the commissioner to prohibit those not already engaged in the manufacture of carbon black from embarking on such an enterprise, especially because the current conservation statute recognized the right of those already

47 New Orleans Times-Picayune, November 29, 1925.


49 11 Federal Reporter (2nd Series), 386-88; Monroe News-Star, January 23, 1926. Joining Burns in hearing the case were District Judge W. I. Grubb and United States Appeals Court Judge Rufus Foster.
conducting such a business to continue doing so.\footnote{11 Federal Reporter (2nd Series), 386-88. Should the conservation statute be construed to permit such action, the attorneys maintained that it was clearly in violation of the Louisiana constitution and the 14th Amendment to the United States Constitution because it tended to create a monopoly in favor of those already in business by discrimination against those prevented from engaging therein.}

In defending the commissioner's refusal to grant the permit, First Assistant Attorney General Wood H. Thompson stressed the inefficiency of the carbon black industry and the steps taken by other states to restrict or prohibit its manufacture. On March 6, 1926, Judge Burnes delivered the court's opinion denying the injunction for which Herkness had prayed. Burns, while rejecting the plaintiff's legal arguments, also held that the suit was actually a request for a writ of mandamus to compel the issuance of the desired permit, and as such had no legal standing before the federal tribunal. The mandamus action should have been filed in the state courts.\footnote{Ibid.; Monroe News-Star, March 6, 1926; New Orleans Times-Picayune, March 7, 1926.}

On March 20 Herkness' attorneys filed notice of appeal from the district court's decision to the United States Supreme Court, and asked that the temporary injunction be continued during the litigation.\footnote{Herkness vs. Irion (#18,272 Equity; District Court of the United States for the Eastern Division of Louisiana, New Orleans), Location Code A-11-013-2, Federal Records Center, Fort Worth; Monroe News-Star, March 20, 1920.} The Supreme Court heard the appeal on October 8, 1928, and on November 19 Justice Brandeis delivered its decision. The court reversed the district court decision. It held that there was no reason to rule on the
question of constitutionality because the action in question, the conservation commissioner's refusal to issue a permit for the construction and operation of a carbon black plant, was not authorized by the statute being challenged, Act 252 of 1924. In fact, both Acts 91 of 1922 and 252 of 1924 merely detailed the guidelines under which the commissioner would continue to issue permits, but did not authorize him to refuse to issue such permits.\(^5^3\)

The Supreme Court's ruling in the Herkness case had a curious impact on the carbon industry in Louisiana. Herkness, acting under the district court's temporary restraining order against interference by state officials, had constructed his carbon plant and already had it in operation by the time the Supreme Court handed down its decision. Concurrently, however, economic realities imposed a rein on further construction of carbon black plants. Following nearly a decade of dominance of the market, the industry's focus was moving from Louisiana to the Texas panhandle where vast reservoirs of "sour" gas—containing large quantities of sulphur—had been discovered. At the same time the construction of pipelines from the Southwest to the metropolitan areas of the Northeast was opening a new market for Louisiana natural gas. The combination of these two developments, coupled with the conservation department's continuing program of reducing the allowable consumption of natural gas for carbon black, made industry financiers reluctant to invest vast sums in plant construction in Louisiana.\(^5^4\)

\(^{53}\) 49 Supreme Court Reporter, 40-42 (November 29, 1928).

\(^{54}\) Monroe News-Star, November 19, 1928; Oil and Gas Journal, November 29, 1928.
In the light of these circumstances, the movement for carbon black restriction lost much of its fervor during the late 1920's. Nevertheless, several anti-carbon black bills were introduced during the 1926 legislative session. Because several legislators and anti-carbon activists had expressed their dissatisfaction with Act 252 of 1924 at the time of its enactment, and because it was under attack in both state and federal courts, it was quite natural that corrective measures should be introduced. Support for these efforts was, however, by no means unanimous. Senator T. L. Hood, of Ouachita Parish, for example, declared that since the conservation department's program to reduce natural gas consumption by carbon black manufacturers was progressing quite well, there was no need for radical new legislation. 55

Despite the advice offered by Senator Hood, on May 25 Senator John Paul Jones, of Bienville Parish, proposed the complete abolition of the carbon black industry in Louisiana. Reportedly the product of a conference among Huey P. Long, Senator T. W. Shields of Union Parish, and Senator Jones, Senate Bill 111 designated the production of carbon black a wasteful use of natural gas and declared such utilization to be unlawful. Jones asserted that the threat posed by the carbon plants demanded that the state protect its irreplaceable natural gas resources by enacting a total ban on the production of carbon black. He claimed

55 Monroe News-Star, April 1, 1926; New Orleans Times-Picayune, April 2, 1926; Shreveport Times, April 4, 1926.

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that at least 85 per cent of the state's electorate would vote for his measure if provided with the facts about the carbon black industry.\textsuperscript{56}

Senate Bill 111 encountered considerable opposition. Senator T. L. Hood argued that it would indiscriminately drive from the state an industry with $10,000,000 in capital investment in his district alone.\textsuperscript{57} Even the New Orleans \textit{States}, probably the most outspoken opponent of the carbon black industry, opposed the measure. Objecting that it was too radical, the \textit{States} advocated continued reduction of the industry's gas consumption allowables, but rejected as unfair to the gas field parishes its immediate abolition.\textsuperscript{58} Reported without action on June 30 by the Committee on Conservation, Senate Bill 111 had so little support that Jones withdrew it.\textsuperscript{59} Furthermore, despite reports that it was a compromise acceptable to both supporters and opponents of the Jones bill, the same fate awaited Senate Bill 179, Senator T. W. Shields' attempt to resurrect the 1919 Wyoming carbon black statute.\textsuperscript{60}

The Jones and Shields measures were not, however, the only carbon black bills introduced at this legislative session. In Senate Bill 231, John C. Davey, of Orleans Parish, proposed to reduce the daily consumption


\textsuperscript{57} Oil and Gas Journal, June 17, 1926.

\textsuperscript{58} New Orleans \textit{States}, June 1, 1926.

\textsuperscript{59} Senate Calendar, 1926, 62-63.

\textsuperscript{60} Ibid., New Orleans \textit{States}, June 4, 1926; Baton Rouge State-Times, June 4, 1926; Monroe News-Star, June 4, 5, 1926; New Orleans \textit{Times-Picayune}, June 5, 25, 1926.
of natural gas by carbon black manufacturers to use a new "efficient" burner in their operations. Referred to the Committee on Conservation, Senator T. L. Hood led the fight against it claiming that the proposed reduction would serve no useful purpose because existing restraints sufficiently protected the gas supply. Furthermore, the measure would inflict an undue hardship on the existing carbon manufacturers and severely cripple the Monroe area economy. The committee reported the bill unfavorably and it was indefinitely postponed.

At the time of its introduction most observers assumed that Commissioner Irion and Attorney General Percy Saint had authorized the Davey bill. When it became probable that the senate conservation committee would not report the measure favorably, however, both individuals denied responsibility for it. Before anyone resolved the authorship question to the satisfaction of the carbon black industry's opponents, another issue forced it out of the limelight. A new controversy sprang forth on July 12 when Public Service Commissioner Huey P. Long released an open letter to Governor Fuqua, J. Y. Sanders, and Commissioner Irion demanding that the administration recall a permit allegedly issued for the construction of a carbon black plant near Shreveport. Long implied that the conservation department had consistently withheld permits for such plants in Caddo Parish until Sanders, an attorney for the carbon

61 New Orleans States, June 9, 1926; Shreveport Times, June 10, 1926; Monroe News-Star, July 1, 1926.

62 Monroe News-Star, July 1, 1926; New Orleans Times-Picayune, July 1, 1926; Senate Calendar, 1926, 135.

63. Shreveport Times, July 13, 1926.
interests and "adviser" to Governor Fuqua, intervened. Asserting that Sanders had received a "substantial compensation," Long asked "... how much harm can be done to this country for the financial and political gain of J. Y. Sanders?"64

The targets of his attack responded almost immediately. On July 13 Commissioner Irion released a statement in which he maintained that the permit in question had been issued to the Glassell interests for the construction of an industrial complex near Waskom, Caddo Parish, one part of which was a carbon black plant. According to the commissioner, this same group had applied for a carbon black permit some six to eight months earlier, but had been refused. A subsequent application indicated that they wished to implement a newly-patented manufacturing process as part of a plan to market a type of liquid petroleum gas to rural consumers throughout northern Louisiana. They proposed to extract a component of the natural gas, described as "rock gas," and convert it through pressurization into a more easily handled liquid. As a corollary to this procedure, they asked for permission to use the residue gas for the manufacture of carbon black. Irion explained that after obtaining a favorable opinion from the attorney general he granted the desired permit with the understanding that it would be revoked if the company's representations proved untrue.65

An even stronger reply issued from J. Y. Sanders. He labeled Long's charge a deliberately uttered "gratuitous falsehood." He denied

64 *Shreveport Times*, July 13, 1926.

having any connection with the permit and furnished statements from the attorneys for A. G. Glassell, principal investor in the project, explaining that they had handled the entire negotiation for the Owl Oil Company. They contended, furthermore, that an unbiased examination of its provisions clearly showed that only residue gas left from the production of "luminol," the rock gas derivative, would be used in the manufacture of carbon black.66

Evidently these explanations did little to convince Long that he was wrong. On July 15 he labeled Irion's reply a "flimsy camouflage" and reasserted his belief that J. Y. Sanders stood behind the issuance of the permit. Concurrently, several prominent Shreveport business and civil leaders, led by Mayor L. E. Thomas and the editorial staff of the Shreveport Times, protested the issuance of the permit and predicted severe economic consequences for the entire Shreveport region. The mayor, joined by Public Utilities Commissioner W. T. Mayor and several members of the chamber of commerce, summoned representatives from the gas-producing regions of northwestern Louisiana and eastern Texas to a protest meeting on the 19th. He indicated that Commissioner Irion would be in attendance to explain the department's position in the permit controversy.67

Representatives of all interests opposing the controversial permit convened on Monday morning, July 19, at the Shreveport city hall.

66 Undated political pamphlet entitled "Gov. Sanders Nails Long with the Record" (Box 2, folder 1926, Jared Y. Sanders and Family MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

67 New Orleans Times-Picayune, July 16, 1926; Shreveport Times, July 16, 17, 18, 1926.
Notwithstanding an assertion of friendship for the Fuqua administration, Mayor Thomas opened the meeting by urging revocation of the permit and threatened court action if that became necessary. All claims concerning luminol aside, he contended that the crux of the matter was the conservation department's willingness to allow the production of carbon black in Caddo Parish. This decision could only be viewed as a threat to Shreveport's continued economic development. Echoing many of Thomas' arguments, T. B. Owens and Bryan Blalock, respectively mayor and chamber of commerce secretary from Marshall, Texas, reminded Commissioner Irion that Louisianians had lobbied in the Texas legislature three years earlier against the introduction of the carbon industry into the East Texas fields. They warned that the construction of a carbon black plant in Caddo Parish would make it extremely difficult to maintain the existing prohibition.68

Although the opponents of the permit were overwhelmingly in the majority, theirs was not the only opinion expressed at the Shreveport meeting. Emphasizing that they were "unduly alarmed," Commissioner Irion explained that the Owl Oil Company had received only a one-year experimental permit for the production of luminol and that it would be allowed to burn residue gas for the manufacture of carbon black. In no way, he reassured the concerned citizens, did this represent a relaxation of the department's policy against the use of natural gas in the production of carbon black.

68 Shreveport Times, July 20, 1926.
Rejecting the commissioner's explanation, several members of the audience expressed the opinion that the use of roughly 12,000,000 cubic feet of "residue" gas daily in carbon black production appeared to be much more than an experiment. Others questioned Irion as to exactly what luminol was, but the commissioner was unable to answer. Unfortunately for him, Shreveport city chemist J. W. Railsback furnished a description that did absolutely nothing to further the commissioner's argument. As he understood the process the Owl Oil Company planned to employ, explained Railsback, 1,000 cubic feet of natural gas would yield approximately one pint of gasoline. Pressurization of the most valuable components of the remaining natural gas would then produce about one-half pint of the liquid gas referred to as luminol, and 970 cubic feet of gas would be left for utilization in carbon black production.  

If anything, the meeting on the 19th deepened the resolve of the vocal anti-carbon black activists to secure the revocation of the Owl Oil Company's permit. The Shreveport Times characterized the entire matter as a "deliberate attempt to hoodwink the public . . . ," while the Baton Rouge State-Times, basing its judgment on Railsback's explanation of the luminol process, called the permit a fraud.  

Demonstrating irritation regarding the continuing controversy, Commissioner Irion stuck by his interpretation of the events surrounding the permit's issuance, and refused to cancel it and blamed much of the agitation over the matter on Huey Long. The public service commissioner relished the recognition

69 Ibid.

70 Ibid.; Baton Rouge State-Times, July 24, 1926.
and used this opportunity to describe Irion as the "mere interposed mouth-piece of the Sanders-Fuqua administration," a way of saying that he was little more than a puppet in the hands of the carbon industry.71

Try as he might, Irion could not quell the controversy surrounding the Owl Oil Company permit. Newspapers, private citizens, and public officials alike continued to berate the commissioner for backsliding in his opposition to the carbon black industry.72 Irion tried to defend his performance, and that of the Fuqua administration, by asserting that they were contending, and he believed quite successfully, with a problem inherited from Governor Parker. He cited figures to demonstrate that the previous administration allowed the construction of 49 carbon black plants that consumed at the end of its term 370,000,000 cubic feet of natural gas per day. During the Fuqua administration, however, his department had reduced this figure by almost 100,000,000 cubic feet daily through a program of honest and efficient regulation. With this record, the commissioner believed that it was unfair to question the conservation department's dedication to the protection of Louisiana's natural gas resources merely because of the Owl Oil Company permit. Still, Irion could not silence his critics. The Shreveport Times offered no defense of the Parker administration, but refused to congratulate Fuqua and Irion for their efforts. According to the Times, J. Y. Sanders, the architect of the carbon industry's successful campaign against effective regulatory legislation during Parker's term in office, still dominated the

71 Shreveport Times, July 25, 1926.
72 Ibid., July 25, August 13, 1926.
Fuqua administration. Furthermore, the success it had experienced in reducing the consumption of natural gas by the carbon black plants came largely as a result of the industry's desire to limit competition and inventories during a period of depressed market activity.\footnote{Baton Rouge \textit{State-Times}, August 18, 1926; Shreveport \textit{Times}, August 24, 1926.}

Not only was Irion charged with backsliding with regard to regulating the carbon black industry, but also with violating a pledge made by M. L. Alexander, Governor Parker's conservation commissioner, not to allow the construction of carbon black plants in the parishes adjacent to the State of Texas.\footnote{Shreveport \textit{Times}, July 25, 1926.} This subject received even more attention at a special hearing that Irion called for August 19 in Shreveport to discuss the permit controversy. In a letter to Mayor Thomas he indicated that his investigation had uncovered no evidence that any agreement existed between Louisiana and Texas regarding the issuance of permits for carbon black plants along their common boundary. He requested that the mayor provide any documentary proof that he might have of such a pact.\footnote{New Orleans \textit{Times-Picayune}, August 19, 1926.}

The Shreveport \textit{Times} admitted that there was no formal, written contract between the two states, but averred that oral understandings between "men of honor carry the same force as though they were attested in a formal manner." The \textit{Times} also printed a series of letters in which then Governor Parker and Conservation Commissioner Alexander urged their counterparts in Texas to reject applications for permits to produce carbon black in the gas fields near the Louisiana boundary. According to
the Times' interpretation of these letters, the efforts of Parker and Alexander, and their assurances concerning Louisiana's opposition to the continued growth of this industry, were a significant influence on the railroad commission's decision not to authorize carbon black production in Texas. The paper held that current Louisiana officials had a "moral obligation" to uphold this "gentleman's agreement" fashioned by their predecessors. 76

Irion's Shreveport conference failed to materialize because, as he explained to Mayor Thomas on August 24, the attorney general advised him that he had no legal authority to compel witnesses to attend and testify under oath. The commissioner again indicated that he could find no record of an agreement, written or otherwise, with Texas to restrict the spread of carbon plants in the state line area, and explained that he had been advised that any such accord would have been in violation of Section Two of Act 91 of 1922. According to Irion, the only part of the Caddo Parish carbon black issue still unsettled involved accusations by the permit's opponents that Owl Oil Company based its application on false and fraudulent information. Irion implied that he put little credence in these charges, but indicated his willingness to consider any evidence on the subject that might be brought forth. To expedite the matter, the commissioner informed Mayor Thomas, he had retained the services of two Shreveport attorneys, William C. Barnette and J. D. Barksdale, to receive affidavits from anyone desiring to furnish information with regard to the truthfulness of the permit application. 77

76 Shreveport Times, August 19, 29, 1926.
77 Ibid., August 25, 1926.
The commissioner's cancellation of the public hearing angered the carbon industry's opponents. The New Orleans States, castigating Commissioner Irion for doing the bidding of Sanders and Fuqua, characterized his decision as an "abject retreat." The Shreveport Times carried the States' editorial and also printed letters from Commissioner Irion to W. C. Barksdale and Dr. A. W. Turner, both of Shreveport, which indicated that the cancellation was a political decision made on the advice of Attorney General Saint and Carey Thompson, attorney for the Owl Oil Company. 78

The permit controversy continued into September, but centered around the propriety of Irion's cancellation of the Shreveport hearing. On September 1 the Shreveport Times reprinted a letter written two days earlier to Mayor Thomas by Attorneys Barnette and Barksdale. In it the lawyers acknowledged, on the basis of the correspondence published by the Times, the existence of a "gentleman's agreement" between members of the Parker administration and their counterparts in Texas relative to the introduction of carbon black plants into the Bethany-Waskom gas field, the same area in which the Owl Oil Company planned to construct its controversial plant. They maintained, however, that Commissioner Irion had not been aware of this agreement and, even had he been, it did

78 Ibid., August 28, 31, 1926. The Times later identified, by way of further demonstrating the involvement of J. Y. Sanders in this controversy, Dr. A. W. Turner as the paid head of the Anti-Saloon League. It also claimed that he was a salaried employee of the Department of Conservation, but spent a considerable part of his time actively working in Sanders's senatorial campaign. Carey Thompson it identified as a close personal and political friend of Sanders, having served as a deputy legislative floor leader during his administration, and the local attorney for and representative of the National Carbon Association.
not legally bind him. Furthermore, since that time the legislature had enacted Act 91 of 1922, Sections Two and Three of which restricted the commissioner's authority to prohibit the use of natural gas for this purpose. They contended, therefore, that under the mandate implied by this act the commissioner had to grant a permit unless sufficient alternative markets existed to absorb the area's minimum allowable production. For this reason, the lawyers explained, they advised Commissioner Irion to cancel the Shreveport permit hearing because without the authority to swear witnesses and maintain order it could easily degenerate into an "indignation meeting." Finally, they expressed their willingness to receive affidavits from those who might be able to furnish evidence of misrepresentations on the Owl Oil Company's permit application, but they cautioned that irrefutable proof would have to be presented before the commissioner could revoke a permit issued in compliance with the law. 79

Mayor Thomas, in replying to Barnette and Barksdale, pointed out a glaring inconsistency in their position. The mayor expressed his amazement that Barnette and Barksdale, speaking for the commissioner, contended that Irion had no authority to withhold permits to construct and operate carbon black plants, while at the same time the commissioner and the attorney general were arguing the opposite in the case of Herkness vs. Irion. Barnette and Barksdale answered the mayor by lamely asserting

79 Ibid., September 1, 1926. No new information came to light through the affidavit process, due to a lack of cooperation from Mayor Thomas according to Commissioner Irion. Ibid., October 1, 1926.
that in citing an attorney general's brief submitted in the Herkness suite he was mistaking a lawyer's opinion for a ruling on the law.®

Following this exchange the Owl Oil Company permit controversy disappeared from the news. The controversial luminol plant apparently used its residual natural gas to manufacture carbon black for only two years. During 1927, its best year, it produced 851,000 pounds of carbon black—barely more than four-tenths of one per cent of the national total. In 1928 its output dropped off to 137,000 pounds, and thereafter it went out of business.

This was not, however, the final carbon manufacturing permit controversy during this period.® A similar question arose in the newly discovered gas field of Richland Parish, about 25 miles south and each of the Monroe field. In late August 1927 a delegation of citizens from the parish asked Commissioner Irion to issue Century Carbon Company a carbon black permit. They contended that the great flood of that season had left their economy in a shambles and that they sorely needed the financial boost that a carbon black plant could provide. Irion did not immediately commit himself on their application; rather, he announced that he would chair a public hearing at Rayville on August 20 to gather evidence regarding their request.®

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80 Ibid., September 11, 14, 1926.
82 Monroe News-Star, August 26, 1927.
At the hearing, which was held on September 1, Commissioner Irion heard a number of people argue for his granting the permit. Tobin R. Hodges, attorney for the applicant, testified that his client had a market for the carbon it wished to provide and that if it could not do business in Richland Parish it would have to move to Texas where permits were now relatively easy to obtain. Residents of the parish were virtually unanimous in their support of the application, and even the Monroe News-Star, in recent years an advocate of carbon black restriction, expressed its support of Century Carbon's application because of the destruction suffered as a result of flooding in Richland Parish. The only vocal opposition came from a representative of the Moody-Seagraves Company of Shreveport, a pipeline company, who argued that Richland Parish gas should be saved for more efficient applications. 83

Following the Rayville hearing, Commissioner Irion returned to New Orleans without issuing a decision on the carbon permit application. After waiting more than three weeks for the commissioner to decide, Rayville Mayor George Wesley Smith sent Irion a telegram bearing the signatures of 78 Richland Parish citizens requesting immediate action on the application. The commissioner replied that he was as yet unwilling to issue the permit, even though he did not specifically assert that he would never do so, because in his estimation public sentiment was against it. 84

83 Ibid., August 27, 1927; Baton Rouge State-Times, September 2, 1927; Oil and Gas Journal, September 15, 1927.

Refusing to withdraw the application, Century Carbon and its supporters waited instead for a final ruling in the Herkness case. The United States Supreme Court handed down its decision on November 19, 1928, finding illegal the commissioner's action in refusing to grant the desired permit. The same situation obtained in Richland Parish, but by that time the conservation department appeared to be no longer concerned about the possibility of a large influx of carbon producers into the Rayville area. The reason was to be found in an analysis of the Richland Parish situation appearing in the Oil and Gas Journal. At this time the field's maximum daily allowable production was approximately 500,000,000 cubic feet. Three operational or soon to be completed interstate pipelines furnished a market for 300,000,000 cubic feet of this total. The remaining 200,000,000 cubic feet appeared earmarked to go to at least three intrastate systems, most significantly one to New Orleans. These developments and the department's authority to limit the production of any well gave conservation officials reason to believe that the carbon black industry was no longer a significant threat to the Richland Parish field.\(^{85}\)

Moreover, by the time the Supreme Court ruled in the Herkness case the changing market for natural gas in Louisiana and a decision by the Texas Railroad Commission to allow the use of "sour gas" from the huge Panhandle fields for the manufacture of carbon black combined to shift the focus of the domestic carbon black industry to the neighboring state. As early as 1928 the Department of Conservation in its

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\(^{85}\) 49 Supreme Court Reporter, 40 (November 19, 1928); Oil and Gas Journal, January 31, 1929.

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Eighth Biennial Report noted that the expansion of the pipeline system in northeast Louisiana was forcing the carbon black industry to increase the prices it paid to its gas suppliers. Four years later Louisiana's gas fields were supplying large domestic markets in St. Louis, Atlanta, and New Orleans while the country's general economic depression had drastically reduced the demand for carbon black. These conditions gradually forced more and more carbon factories to move to the cheap gas supplies of west Texas in order to stay in business. 86

Carbon black was important enough in Louisiana during the 1920's to overshadow all other petroleum conservation issues. By the beginning of this century's fourth decade, however, its importance as a subject of public and political concern had declined greatly as had the matter of the conservation of natural gas. The conservation of natural gas was superseded as a subject of public concern by more complex petroleum conservation issues involving overproduction in Louisiana's oil fields.

The 1920's were also a period of turmoil, some of it related to the regulation of the carbon black industry, in the state's conservation bureaucracy. An awareness of the political controversies that plagued

86 Eighth Biennial Report of the Department of Conservation of the State of Louisiana 1926-27 (New Orleans: Department of Conservation, 1928); Tenth Biennial Report of the Department of Conservation of the State of Louisiana 1930-1931 (New Orleans: Department of Conservation, 1932). In 1923, the first year in which Texas allowed the production of carbon black, its share of the national output was not quite two per cent. By 1928 this figure had risen to 40 per cent and in 1929 it became the country's principal carbon black producer, a position it would not surrender in the 1930's, with 62 per cent of the nation's total. Minerals Resources 1924, 122; Minerals Resources 1928, 33; Minerals Resources 1930, 50.
the Department of Conservation during this decade will contribute to a clearer understanding of the petroleum-related activities of numerous state officials during the 1930's.
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CHAPTER VII

A DECADE OF DISORDER:
ADMINISTRATION OF THE CONSERVATION BUREAUCRACY IN THE 1920's

As should be evident from Chapters V and VI, the regulation of the carbon black industry and its use of natural gas were the paramount petroleum conservation issues during the 1920's. A topic of secondary significance, but often of no less interest, was the turmoil pervading the leadership of the state's conservation bureaucracy. The disorder that permeated its upper echelons during the Parker, Fuqua, Simpson, and Long administrations consumed a significant portion of each commissioner's time and energy, frequently subjected the conservation department to public ridicule, and contributed to an atmosphere of skepticism concerning the dedication of department officials and employees to the fulfillment of their responsibilities.

The conservation bureaucracy emerged intact from the 1921 constitutional convention, but during the next decade it was to endure several assaults—direct and indirect—that undermined its effectiveness.¹

¹ Constitution of the State of Louisiana Adopted in Convention in the City of Baton Rouge. June 18, 1921 (Baton Rouge: 1921), 22. Hereinafter cited as Constitution of 1921. The state's constitutional convention by enacting Article IV, Section One of the new organic law reaffirmed Louisiana's resolve to protect, conserve, and replenish its natural resources. The new constitution delegated these responsibilities to the Department of Conservation and placed its direction in the hands of an appointive office, the commissioner of conservation.
The crux of the initial challenge involved the eligibility of Ben K. Stroud, a Parker administration appointee, to serve as supervisor of the minerals division. On July 28, 1922, Ruffin G. Pleasant filed a petition with the district attorney of Caddo Parish, L. C. Blanchard, asking that he institute an ouster suit against Stroud. The former governor contended that Stroud could not hold office in state government because he had not resided in Louisiana long enough to be a qualified elector.²

District Attorney Blanchard delayed instituting legal proceedings until he could obtain the attorney general's opinion clarifying Stroud's status as an officer or employee of state government. This differentiation was clearly the essence of the question because Stroud had come to Louisiana from California in August 1921 to become supervisor of the minerals division. Pleasant contended that the brevity of his residence in the state made him ineligible to hold any governmental office. Conservation Commissioner M. L. Alexander maintained, on the other hand, that the constitutional provision cited by the former governor did not

² Shreveport Times, July 29, 1922; Oil and Gas Journal, August 10, 1922. Contemporary newspaper accounts offered no speculation as to Pleasant's motive in this effort. It may have been, however, that this action was a vehicle for the former governor to harass Governor Parker after his bitter defeat on the severance tax issue in the constitutional convention.
apply to Stroud because he served as an employee of the conservation department.³

On August 9 Blanchard announced his intention, based on Attorney General A. V. Coco's refusal to rule on Stroud's status, to file the ouster suit desired by the former chief executive.⁴ True to his word, on October 14 the district attorney filed an ouster suit against Supervisor Stroud in the First Judicial District Court, Caddo Parish, alleging that he was ineligible to hold that office due to his not being a qualified elector. For the same reasons advanced by Pleasant in his petition, Blanchard asked the court to find Stroud "legally incapable of holding the office of Supervisor of Minerals . . ." and to remove him from that position. Just over two weeks later Stroud responded by filing an exception of no cause of action, his contention being that he served as an employee rather than an officer of state government.⁵

On March 7, 1923, District Judge E. P. Mills sustained Stroud's motion for an exception of no cause of action. This judgment ended the

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³ Shreveport Times, July 29, August 2, 1922; Oil and Gas Journal, August 10, 1922. Governor Pleasant built his argument on the provisions of Article VIII, Sections 13 and 1, of the Constitution of 1921. Section 13 stipulated that "No person shall be eligible to any office . . . who is not a duly qualified elector of the State, district, parish, municipality or ward wherein the functions of said officer are to be performed." Section 1 provided that the individual must have resided in the state for two years to be a qualified elector. Constitution of 1921, 69 and 74.

⁴ Baton Rouge State-Times, August 9, 1922; Oil and Gas Journal, August 17, 1927.

⁵ Shreveport Times, October 15, 1922; State ex rel Blanchard vs. Stroud (#33,362; First Judicial District Court, Caddo Parish, Shreveport).
attempt to oust the supervisor, but by that time the issue was moot, for Stroud had resigned to become the director of the engineering department of the National Tube Company of Los Angeles, California. There may have been no connection between the still pending ouster suit and Stroud's decision to take another job, but it is plausible that he believed that his ability to function effectively as the head of the minerals division had been compromised by the legal challenge.

Stroud's departure cost the minerals division a widely respected leader at a time when the state's entire conservation bureaucracy was coming under careful scrutiny. Shortly after Stroud resigned, on March 18, Commissioner Alexander died. As the search for a new commissioner began, it became apparent that Alexander had left his successor a considerable deficit. The department's financial condition was such that H. L. Williford, chief deputy supervisor of the minerals division who was temporarily in charge following Stroud's resignation, had to caution his employees to refrain from making expenditures that were not absolutely necessary. An audit by the supervisor of public accounts revealed that Alexander's administration had amassed a deficit of approximately $130,000.

6 State ex rel Blanchard vs. Stroud (#33,363; First Judicial District Court, Caddo Parish, Shreveport); Shreveport Times, February 23, 1923.

7 Chief Deputy Supervisor to Employees, Minerals Division, April 4, 1923 (Box 27, folder d, John M. Parker MSS, University of Southwestern Louisiana Archives, Lafayette).

8 New Orleans Times-Picayune, April 24, 1923; Shreveport Times, May 3, 1923; John M. Parker to Henry S. Watson, May 15, 1923 (Box 27, folder f, John M. Parker MSS, University of Southwestern Louisiana Archives, Lafayette). In a letter to Watson, on the editorial staff of Field and Stream, the governor described the former Commissioner as "... a very good man, but he had no idea of the value of a dollar."

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Since most of the excessive expenditures had occurred in the fisheries and forestry divisions, the minerals division escaped the brunt of the fiscal restraints imposed by Governor Parker. The governor was also probably aware that this division was operating with a skeleton staff.9

It was under these circumstances that, on June 30, 1923, Parker appointed Dudley Berwick to be the new conservation commissioner. Berwick, a prominent lumberman, was the former mayor of Eunice and had been active in politics on the state level. Inheriting a deficit amounting to roughly 35 per cent of his department's annual appropriation, the new commissioner pledged his unstinting effort to balance the ledgers by the beginning of the next fiscal year. By mid-March 1924 he confidently predicted success, crediting his accomplishment to rigidly enforced budgetary strictures. This fiscal retrenchment, he acknowledged, had hurt the department's effectiveness, but he predicted that in the next fiscal year it would receive sufficient funding to carry out its work properly.10

Unfortunately for those administering the state's conservation program, liquidation of the Alexander deficit did not end the turmoil surrounding the department's operations. When the regular biennial session

9 At this juncture the minerals division maintained six offices (Shreveport, Monroe, Haynesville, Oil City, Mansfield, and Crowley) and a field staff comprised of seven agents, one of whom was the chief deputy supervisor. Furthermore, the monthly salary figures for the entire division amounted to only $2,060. State of Louisiana Department of Conservation. Sixth Biennial Report January 1, 1922 to December 31, 1923 (New Orleans: Hyatt Printing, 1924), 17; memorandum, April 2, 1923 (Box 27, folder d, John M. Parker MSS, University of Southwestern Louisiana Archives, Lafayette).

of the General Assembly convened several legislators expressed concern over the way the department had used its funds. Senator Henry E. Hardtner, a member of the original conservation commission and a nationally prominent figure in forest conservation, questioned why only $25,000 of the $60,000 budgeted for the forestry division in fiscal 1924 had been spent in forestry work. Ouachita Parish Senator T. L. Hood raised a similar question with regard to the funding of the minerals division. Senator Jules Fisher of Jefferson Parish announced that he was considering introducing legislation to compel the department to expend the funds that it received from oil, gas, and forest products severance tax levies for the conservation of those respective resources. 11

Not surprisingly, the senate conservation committee conducted a detailed examination of the conservation department's budgetary policies. The investigation was initiated, however, by a house concurrent resolution introduced on May 21 by Representative Allen J. Ellender. It proposed the appointment of a joint legislative committee "to secure information covering all the sources of revenue and all expenditures of the Department of Conservation . . . ." The full house considered his resolution on May 22, adopted it, and forwarded it to the senate. Senator Delos Johnson opposed Ellender's measure because, he believed, the scope of the proposed investigation was too wide. His opposition led to the introduction of a substitute, Senate Concurrent Resolution 7, limiting the inquiry to the presentation of written interrogatories to Commissioner Berwick. Both houses of the legislature eventually adopted the substitute resolution.

Among the questions submitted to the commissioner were several that dealt with the minerals division. Most of them sought an explanation of why department officials cited lack of funds as a reason for the existence of conservation problems in the Monroe gas field while funds appropriated for mineral conservation were transferred to other divisions.\textsuperscript{12}

Senate Concurrent Resolution 7 directed Commissioner Berwick to appear on Wednesday, June 4, 1924, before a joint meeting of the house and senate conservation committees to answer the questions submitted to him. Testifying at the appointed time, Berwick responded to the questions, but in his answers, especially with reference to the minerals division, he admitted no wrong doing on the part of his department. He continued to maintain that a lack of funds hampered the minerals division and contended that inadequate laws handicapped efforts at natural gas conservation. Furthermore, he defended the transfer of funds from the minerals division to other divisions by contending that he was obligated to do so to repay funds owed by the minerals division to other divisions.\textsuperscript{13}


\textsuperscript{13} Senate Calendar, 1924, 140; New Orleans States, June 5, 1924; Monroe News-Star, June 17, 1924. With regard to the inadequacy of existing laws, the commissioner specifically complained that his department had no authority to limit the number of wells drilled.}
Berwick's appearance did not end the investigation of the conservation department's financial problems. In mid-July Hardtner, chairman of the senate conservation committee, released a report detailing the monetary juggling which Commissioner Berwick had performed to erase his department's inherited deficit. The committee's findings indicated that in fiscal 1924 the minerals division had had a total of $93,000 at its disposal, but had used only $39,000 in the conservation of mineral resources. Hardtner attributed a considerable portion of the conservation problem in the Monroe field to this diversion of funds and called upon a future session of the General Assembly to enact laws to prevent recurrences of such practices.\footnote{Monroe News-Star, July 17, 1924.}

When the 1926 General Assembly convened Senator Coleman Lindsey, of Webster Parish, introduced another investigative resolution. In Senate Resolution 8 he proposed that the lieutenant governor appoint a special three-man senate committee to examine "the present and past conduct and management" of the conservation department because it was, he alleged, "... in a deplorable condition financially and otherwise due to gross mismanagement, extravagance and favoritism ...." Lindsey maintained that the proposed investigation would take only about three weeks and would cost no more than $2,000, and, he averred, it offered an excellent opportunity for the conservation department to clear its record. He also contended, however, that the conservation bureaucracy and Governor Fuqua were using their influence to try to persuade many senators who wished to support his resolution to vote against it. They were apparently...
successful for the Senate to vote 26 to 7 to postpone indefinitely Senate Resolution 8.  

A key aspect of the investigative resolutions of 1924 and 1926 was the financial condition of the conservation department, and the minerals division in particular. Under Berwick's retrenchment program for fiscal 1924 the minerals division had a budget of only $37,500. Having erased the deficit, for the next two years the allocations for the minerals division were $75,000. By calendar 1929, however, it had grown to just over $100,000, and the division was able to show a surplus of almost $13,000. With its funds hovering around the $100,000 level, in 1931 the division ended the year with a surplus of just over $31,000. In 1932, the annual funding was just 29 cents shy of $75,000, and the division had to obtain a transfer of almost $19,500 from the state's general account to avoid an overdraft, but in 1933 it was able to adapt to a 43 per cent decrease in total receipts with an overdraft of only $425.  

While in the early 1920's the department's financial difficulties were the subject of considerable trouble, beginning in the latter half of 1924...  


of 1924 departmental leadership was an even more significant cause of turmoil. As was noted above, Dudley Berwick became commissioner of conserva-

tion in late June 1923 following the death of M. L. Alexander. Berwick did a commendable job of erasing the inherited deficit, but with

the inauguration of Henry Luce Fuqua he was not reappointed and, on July 10, 1924, vacated the commissioner's office. Fuqua came to the governorship as a successful entrepreneur (he was the founder and owner of Fuqua Hardware Company of Baton Rouge) and after an eight-year tenure as warden of the state prison. He did not immediately name a successor for Berwick, and in the interim Frank T. Payne, the supervisor of the oyster division, served as acting commissioner. In what many hoped was a promising development for the minerals division, on November 1, 1924, Fuqua appointed W. J. Everett as commissioner. Everett had served previously as the governor's private secretary, worked for many years on the editorial staff of the Monroe News-Star, and was considered to be fairly knowledgeable concerning the conservation problems of the Monroe gas field.17

This appointment presaged rather than precluded further controversy. With almost no indication of what was to happen, on August 10, 1925, Governor Fuqua announced that he was asking for the resignation of Commissioner Everett. The governor refrained from explaining his action, adding only that he wished the resignation to be effective on August 15 and that he was asking Everett to step aside "for the good of

the service." Commissioner Everett also withheld extensive comment, but he expressed pride in the accomplishments of his administration, asserted that he had always done his duty as he saw it, and hinted that his removal may have stemmed from political considerations.^^

On August 14 Fuqua named Dr. Valentine K. Irion, a dentist and a dabbler in reform politics, to be the new commissioner of conservation. At the same time Fuqua explained that he had asked for the incumbent's resignation because of allegations that Everett had shown favoritism in the granting of trapping privileges on state-owned lands. Initially wanting Everett's immediate resignation, the governor had honored the commissioner's request for a five-day delay so that he could straighten up some routine office matters. According to Fuqua, however, Everett repaid this courtesy by signing a spate of questionable contracts and awarding appointments to several unneeded conservation agents. For this reason, the governor asserted, he was instructing Irion to take possession of the conservation department offices as soon as possible.20

That same day Everett responded to the governor's allegations by implying that Fuqua was removing him at the insistence of a powerful political adviser, unnamed but obviously J. Y. Sanders, because he "would not serve some of the powerful carbon black interests . . . ." Furthermore, he described Fuqua's accusations as being "typical of the methods of the dictator [Sanders] who largely guides your administration and

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18 Baton Rouge State-Times, August 10, 1925; Shreveport Times, August 11, 1925.
19 Baton Rouge State-Times, August 13, 1925.
20 Ibid., August 11, 14, 1925; Monroe News-Star, August 14, 1925.
formulates your subservient policies."\textsuperscript{21} Four days later, on August 18, now former Commissioner Everett widened the scope of his condemnation by describing Attorney General Percy Saint as the "mouthpiece of the opposition" and contending that his selective prosecution of conservation law violaters had resulted in a bonanza for the carbon black industry at the state's expense.\textsuperscript{22}

While Governor Fuqua tried diplomatically to avoid a public confrontation with Everett, both Attorney General Saint and Sanders boldly ventured into the fray. The latter challenged Everett's interpretation of a trip all three had taken to New York City in December 1924 to attend a conservation conference. While there they also negotiated with industry representatives concerning the consumption of natural gas by carbon black plants. Everett had implied that only his protests had prevented Saint and Sanders from agreeing to a plan advocated by the carbon interests that would have strengthened their domination of the Monroe field, an allegation that Sanders vehemently rejected. Saint directly refuted the former commissioner's statements alleging laxity on his part in enforcing current laws regulating natural gas consumption by carbon black manufacturers. Instead of laxity in enforcing the laws, the attorney general maintained, he had three witnesses to a meeting at which then Commissioner Everett suggested that he, Saint, discontinue the prosecution

\textsuperscript{21} Baton Rouge State-Times, August 15, 1925. \textsuperscript{22} Shreveport Times, August 19, 1925.
of overpulling cases against several carbon black companies in the Monroe area.\textsuperscript{23}

Everett responded that rather than attempting to squelch prosecutions, he had only tried to summarize exploratory plea bargaining negotiations between himself and Allan Sholars, attorney for several of the carbon black companies. Everett maintained that this was clearly understood by all involved and that he had fully supported the legal cases against the offending companies. Concurrently, however, another party who had attended that meeting, Captain R. P. Webb, agent in charge of the minerals division office in Monroe, issued a statement that substantiated the attorney general's interpretation of the events in question.\textsuperscript{24}

Indicative of the continuing and accelerating turmoil experienced by the conservation bureaucracy, Everett's was merely the first and least stormy of the resignation controversies involving commissioners of conservation during the 1920's. Upon becoming governor following the death of Henry L. Fuqua, Oramel Hinckley Simpson initiated a new leadership crisis in the conservation department. On October 19, 1926, he requested the immediate resignation of Commissioner V. K. Irion and appointed as his replacement Major Frank T. Payne, director of the department's oyster division. In asking for Irion to resign, the governor indicated that he did so because the conservation department had been exceeding its operating budget, having accumulated a deficit of $24,500 during the preceding four months. A continuation of this trend would necessitate

\textsuperscript{23} Monroe News-Star, August 19, 1925; Baton Rouge State-Times, August 19, 1925.

\textsuperscript{24} Shreveport Times, August 20, 1925.
an emergency appropriation, and the state government must live within its means, he declared.25

Commissioner Irion refused to resign. Asserting that his was a constitutionally-created office, he accepted full responsibility for the financial condition of his department and vowed to function as its chief administrative officer until his term ended. Irion summarily dismissed Major Payne, the governor's commissioner-designate, and announced that he would immediately begin searching for a new director of the oyster division.26

Considering the dismissal of Payne a direct challenge to his authority, Governor Simpson considered his future course of action against the commissioner. In the meantime, Irion released to the newspapers a statement more clearly explaining and defending his position. While admitting that he had already expended just over 44 per cent of his department's appropriation of $225,000 for fiscal 1927, Irion reaffirmed an earlier pledge not to end the year with a deficit. He attacked as wrong the governor's charge that his present expenditures were excessive because nowhere was it stipulated, either in law or in custom, that the yearly appropriation was to be portioned out in equal monthly allotments.27

25 Monroe News-Star, October 20, 1926; New Orleans Times-Picayune, October 20, 1926; Shreveport Times, October 20, 1926. Governor Fuqua died on October 11, 1926, of a severe gastric hemorrhage. His successor, Simpson, was a native of St. Landry Parish, an attorney, and before his election as lieutenant governor had served for 16 years as secretary to the state senate. New York Times, October 12, 1926, November 18, 1932.

26 Monroe News-Star, October 20, 1926; New Orleans Times-Picayune, October 20, 1926; Shreveport Times, October 20, 1926.

27 New Orleans Times-Picayune, October 21, 22, 1926.
On the same day that the newspapers carried Commissioner Irion's statement, Governor Simpson wrote him a letter clearly enumerating his reasons for demanding the commissioner's resignation and threatening to institute legal proceedings to bring it about if he failed to cooperate. Simpson stated that Irion's department had exceeded its 1926 budget by 25 per cent, and inasmuch as this same trend appeared to be developing for the current fiscal year, he could not "in good conscience" allow Irion to remain in office. On a more personal level, the governor insinuated that a fair proportion of this financial mismanagement stemmed from the commissioner's personal extravagance. In addition, asserted Simpson, Irion's handling of trapping contracts and carbon black permits were not in the best interest of conserving the state's natural resources.28

When the governor failed to receive the commissioner's resignation by October 25, he directed the attorney general to file suit to oust Irion from office. The governor instructed Attorney General Saint to designate Senator Hugh M. Wilkinson as a special attorney to assist in the initiation of ouster proceedings against Irion on the grounds of "gross mismanagement of the affairs of the department of conservation."29 Despite all indications that the matter would quickly reach the courts, several weeks passed before the filing of the ouster suit. The delay

28 Baton Rouge State-Times, October 25, 1926; Shreveport Times, October 28, 1926.

29 New Orleans Times-Picayune, October 26, 27, 1926; Shreveport Times, October 26, 27, 1926; Monroe News-Star, October 26, 1926; Baton Rouge State-Times, October 26, 27, 1926; Oil and Gas Journal, November 11, 1926.
irritated Irion and on November 15 he made public a letter addressed to the governor six days earlier requesting that he either make good on his promise to file charges against him or retract and disavow his allegations. 30

Commissioner Irion did not have to wait much longer for the proceedings to begin. On November 21 the governor presented Attorney General Saint with 87 specific charges to be used as the basis of the ouster suit. Most of them involved minor violations of game ordinances, the alleged use of public funds and property for private purposes, and the reckless expenditure of state funds; but items 73 through 78 sought to saddle Irion with the responsibility for having scuttled the Davey carbon black bill during the 1926 session of the General Assembly. 31

Irion responded by filing, through his attorneys, Edward Rightor and Rene A. Viosca, exceptions contending that the charges were "so vague, indefinite and insufficient" that it was impossible to prepare a proper defense. In their answer, Attorney General Saint and Senator Wilkinson accused the counsel for the defense of attempting to use legal technicalities to "muddy the waters" and asserted that an abundance of evidence existed to prove that Irion was guilty of several misdemeanors, incompetency, favoritism, extortion, oppressive conduct in office, and gross misconduct—all of which were constitutional grounds for removal from

30 Baton Rouge State-Times, November 15, 1926; Monroe News-Star, November 16, 1926.

office. On January 3, 1927, Judge Mark M. Boatner ruled that the ouster proceedings should go to trial, but not until parts of the plaintiff's petition were amended so as to provide additional information. Specifically, the judge found that those articles alleging incompetency in the administration and regulation of fur trapping and carbon black operations were sufficiently vague to maintain the defendant's exception. Judge Boatner indicated that a trial date would be set once the state had submitted a corrected petition and the defense was allowed sufficient time to file exceptions if it chose to do so.

While the ouster suit against Commissioner Irion was in a period of suspension awaiting the state's filing of its amended petition, a new issue arose that further complicated the situation. On January 28, 1927, it came to light that neither the secretary of state nor the state auditor had any record that Commissioner Irion had filed the required oath of office upon beginning his current term of office, raising a question of whether this alleged failure to file the proper oath invalidated Irion's confirmation by the senate since he had not met all of the qualifications. Governor Simpson contended that Irion was legally merely a holdover officer and thus subject to replacement at his convenience.

32 Baton Rouge State-Times, December 6, 18, 1926; New Orleans Times-Picayune, December 19, 1926.

33 New Orleans Times-Picayune, January 4, 1927; Baton Rouge State-Times, January 3, 1927; Shreveport Times, January 4, 1927.
On January 29, Simpson asked Attorney General Saint to issue an opinion regarding Irion's right to hold office.\textsuperscript{34}

On January 31, without waiting for the attorney general's opinion, the governor appointed Major Frank T. Payne to be the new commissioner of conservation and directed him to assume immediate control of the office. Payne filed his oath of office with Secretary of State James J. Bailey in Baton Rouge and immediately departed by auto for New Orleans, the site of the Department of Conservation headquarters. At the same time, the governor contacted Orleans Parish Criminal Sheriff George E. Williams, informed him of that day's events, and requested that he furnish the new commissioner "all the protection needed" in the occupation of his new office.\textsuperscript{35}

At approximately 10 o'clock that evening Major Payne, accompanied by W. S. Holmes, a recently dismissed department employee and a friend of Governor Simpson's, arrived at the department offices in the Orleans Parish civil district courthouse. The only employee on the premises was Wilson Holland, an officer in the enforcement division. As he

\textsuperscript{34} Shreveport Times, January 30, 1927; Baton Rouge State-Times, January 30, 1927; New Orleans Times-Picayune, January 30, 1927. The governor's brief followed this line of reasoning: Irion became conservation commissioner on August 15, 1925, when he filed his oath of office to complete the four-year term begun on December 20, 1921, by the late M. L. Alexander. This term expired on December 20, 1925, but there was no record that Governor Fuqua reappointed Irion, even though in May 1926 he sent his name to the senate for confirmation. Even if this confirmation was valid, his failure to file the required oath of office within the stipulated 30-day period following confirmation disqualified him from office. The office was, therefore, technically and legally vacant. Baton Rouge State-Times, January 28, 1927.

\textsuperscript{35} Baton Rouge State-Times, February 1, 1927; New Orleans Times-Picayune, February 1, 1927.
responded to Payne's knock at the door, the new commissioner displayed his appointment commission, entered the office, and assumed control. Holland offered no resistance, but congratulated Payne, and then called Irion and the department's chief enforcement officer, Thomas Killeen, to inform them of what had just transpired. Within a short time Killeen, accompanied by his brother and son, arrived at the office. Payne showed them his commission, but Killeen responded that the circumstances of the moment required him to ignore the document. Payne then requested the sheriff and his deputies, who had arrived on the scene, to remove Holland and the Killeen party, and they left peaceably.

Bolstered in his possession of the office by the presence of Sheriff Williams and approximately a dozen deputies, Payne summoned a locksmith, broke open the commissioner's private office, and took possession of the premises. Irion, accompanied by his attorney, Edward Rightor, arrived around 11 o'clock, but was denied admission to the office. At approximately the same time, Killeen returned in the company of a squad of New Orleans policemen from the neighboring Third Precinct. Irion told the police that Payne's party was trespassing and demanded that they be put under arrest. Chief Deputy Sheriff George Million intervened, however, and asserted that he was in control of the situation and that Payne would remain in possession of the office. Irion and Rightor replied that they intended to secure Payne's removal if it took the entire New Orleans police force. For the moment, however, they
retired to the Third Precinct headquarters to discuss the options available to them.  

Governor Simpson's actions had been designed to put Payne in actual possession of the department offices before Irion's attorneys could obtain injunctions to secure their client's position pending further legal action. The success of this move placed the burden of instituting legal proceedings seeking the removal of the rival claimant on Irion, and in the early morning hours of February 1 his attorneys were reportedly preparing to do so. Before they acted, however, Payne's lawyers obtained from Judge Boatner a temporary restraining order to prevent Irion from interfering with Payne's possession of the office. Irion, in the meantime, attempted with his senior office staff to conduct business as usual from a rival suite of offices on the same floor of the courthouse. Upon being served with the restraining order, Irion announced that he would keep his rival offices open, but would not violate the injunction.

On February 5 Judge Boatner heard testimony on Payne's motion to make the temporary injunction permanent. Irion's lawyers argued that the petition must be denied because Payne failed to come into court with "clean hands." Their reasoning was that Payne had occupied the office by force, at night, with the assistance, as described by Rightor in

36 New Orleans Times-Picayune, February 1, 1927; Baton Rouge State-Times, February 1, 1927; Shreveport Times, February 1, 1927. Killeen had just recently replaced Holmes as chief enforcement officer. Formerly Orleans Parish Register of Voters, he was president of the Old Regular caucus and served as the manager of J. Y. Sanders's 1926 senatorial campaign.

37 Baton Rouge State-Times, February 1, 1927; New Orleans Times-Picayune, February 1, 2, 1927; Payne vs. Irion (#167,247; Civil District Court, Division B, Orleans Parish, New Orleans).
speaking of the sheriff's deputies, of a "gang of gunmen." Furthermore, they reaffirmed that Irion was a properly appointed constitutional officer whose term of office would not expire until December 1929. Senator Wilkinson, on the other hand, maintained that the question before the court was not Irion's claim to the office. Rather, since Payne was the de facto commissioner by virtue of his possession of the department offices, it was whether or not Payne was to enjoy a continued and unharassed tenure in that office. If Irion wished to challenge his right to hold the office, he should be directed to bring action against Payne under the provisions of the Intrusion into Office Act. 38

Deciding that his paramount duty was to require both parties to respect the status quo ante, Judge Boatner ruled that Irion was the rightful de facto commissioner of conservation. Hence, he withdrew the temporary injunction and denied the permanent restraining order. Acknowledging that Payne's attorney planned a suspensive appeal and a request for a new trial, however, Boatner did not order Payne to leave the department offices immediately. Irion's attorneys, for their part, indicated that they would not force the issue until after the judge ruled on the suspensive appeal. 39

On February 7 Judge Boatner denied the appeal and refused to grant a new trial. In a remarkable display of restraint, Irion announced that he would not attempt to reoccupy the department's offices until 11:00

38 New Orleans Times-Picayune, February 5, 1927.

39 Baton Rouge State-Times, February 5, 1927; New Orleans Times-Picayune, February 6, 1927; Payne vs. Irion (#167,247; Civil District Court, Division B, Orleans Parish, New Orleans).
A.M. the next day, Tuesday, the eighth, in order to give the state supreme court an opportunity to consider an appeal which Payne filed immediately after Judge Boatner gave his decision. At the same time Payne's attorneys agreed that their client would peacefully surrender the department offices should they lose their final appeal. On Tuesday the supreme court denied Payne's appeal. Later that evening, therefore, Irion returned to the department offices and resumed his duties as conservation commissioner. ⁴⁰

The failure of Payne's effort to keep Irion from reoccupying the conservation department headquarters was not, however, the only legal development of February 8 in the Payne-Irion controversy. Having obeyed the court's decree and vacated the commissioner's office, Payne immediately set in motion another attempt to secure clear legal title to the office. That afternoon his lawyers filed an intrusion into office suit against Commissioner Irion. In this suit the attorneys contended that on January 31, 1927, Governor Simpson appointed their client, Payne, as commissioner of conservation. Since that time, however, he had been hindered in his efforts to exercise the duties of his office by Irion, who, as the former incumbent, continued to usurp the office and refused to surrender it to the plaintiff. Payne's attorney's maintained that Irion's tenure as conservation commissioner was as a recess appointee to complete the term of W. J. Everett which had expired on December 12, 1925. Since that time Irion had been a holdover officer because he had failed to file the required oath of office when he had been appointed.

⁴⁰ Baton Rouge State-Times, February 7, 8, 1927; Shreveport Times, February 8, 9, 1927; New Orleans Times-Picayune, February 8, 9, 1927.
commissioner by Governor Fuqua and confirmed by the senate. Therefore, Irion lost all constitutional right to hold the commissionership when Governor Simpson appointed Payne to replace him. Since Payne took his oath of office on January 31, Irion had been an "usurper and . . . intruding into the unlawfully holding the office of Commissioner of Conservation."\(^{41}\)

On February 14 Irion's attorneys filed an exception to the plaintiff's petition claiming that intrusion into office suits could only be initiated by the attorney general on behalf of the state. District Judge Porter Parker heard arguments on the defense motion on February 18, and at that time Senator Wilkinson, representing Payne, asked permission to draft a supplemental bill that would make the attorney general party to the suit. Judge Parker granted a five-day delay, but Payne and Wilkinson were unable to convince Attorney General Saint to join their effort. When the court convened on February 23 Judge Parker dismissed the plaintiff's petition, ruling as the defense had claimed, that only the attorney general could initiate an action of this kind. Senator

\(^{41}\) New Orleans Times-Picayune, February 9, 1927; State ex rel Payne vs. Irion (#167,419; Civil District Court, Division D, Orleans Parish, New Orleans).
Wilkinson immediately appealed the decision to the state supreme court, but on May 23 Justice John H. Land sustained the district judge's ruling.42

While the intrusion into office suit received most of the headlines, the legal proceedings associated with the original ouster suit continued. On February 14 Judge Boatner denied an exception filed by Irion's attorneys that attempted to predicate dismissal of the ouster suit upon the filing of the intrusion suit, and ordered them to answer the plaintiff's petition within 10 days. On March 2, apparently having secured an additional delay, Irion's lawyers filed their answer to the 87 original and 21 supplemental charges contained in the ouster suit. Their response amounted to a sweeping denial of virtually all of these accusations and allegations.43

On March 28, 1927, trial began in Division B of the Civil District Court of Orleans Parish on the merits of the ouster suit against Commissioner Irion. The state condemned Irion for extravagance, financial mismanagement, and misapplication of funds. It also presented testimony from numerous witnesses in an effort to prove duplicity and

42 State, ex rel Payne vs. Irion (#167,419; Civil District Court, Division D, Orleans Parish, New Orleans); New Orleans Times-Picayune, February 15, 19, 24, 1927; Shreveport Times, February 19, 24, 1927; Baton Rouge State-Times, February 23, May 23, 1927; 113 Southern Reporter 360-361 (May 23, 1927). It is not clear why Attorney General Saint failed to join in the intrusion into the office suit, but it may well have been because he had yet to issue an opinion with regard to the legality of Irion's tenure in office. Also, he apparently dropped all consideration of this matter when Governor Simpson appointed Payne and directed him to occupy the office by force. Shreveport Times, February 1, 1927; New Orleans Times-Picayune, February 2, 1927.

malfeasance on the part of high-ranking conservation officials in the regulation of Louisiana's wildlife resources and attempted to demonstrate that Irion had been lax in regulating the carbon black industry and was responsible for scuttling the Davey carbon black bill during the 1926 session of the general assembly.

In presenting their defense, Irion's attorneys relied heavily on the testimony of public officials with past or present interests in the conservation and regulation of natural resources, especially natural gas. On April 14 Senator Henry E. Hardtner, chairman of the conservation committee and a member of the original conservation commission, declared that, in his judgment, the conservation laws had never been more effectively enforced than during Irion's term as commissioner. With specific reference to the carbon black industry, Hardtner defended the commissioner's program for reducing the consumption of natural gas by the carbon producers and reminded those who contended that his actions had not been sufficient that there was a difference between regulation of an industry and the confiscation of private property. In reference to the Davey carbon bill, Hardtner rejected the insinuation that Commissioner Irion was responsible for its defeat. The senator acknowledged that the commissioner had actively opposed the measure, but he maintained that the bill died in committee because his colleagues did not feel that it was fair to the carbon interests who had invested vast sums of money in the Monroe area.44

44 Baton Rouge State-Times, April 14, 1927; New Orleans Times-Picayune, March 29, April 15, 1927; Shreveport Times, April 15, 1927.
Hardtner's appearance corroborated similar testimony presented by Senator T. L. Hood, of Ouachita Parish, and Captain R. P. Webb of the minerals division office in Monroe. The senator denied Irion's responsibility for the defeat of the Davey bill, asserting, to the contrary, that the measure died in committee because it would have destroyed the carbon black industry in Ouachita and Morehouse parishes. Captain Webb echoed many of Senator Hood's sentiments, contending that the Davey bill was unfair to the carbon black industry and to the Monroe area. Furthermore, the carbon companies were participating in a program gradually to reduce their use of natural gas, and Webb expressed his belief that Commissioner Irion's goal of restricting consumption to 150,000,000 cubic feet daily would be reached in an orderly fashion. 45

In presenting the state's closing argument, Senator Wilkinson attempted to refute and discredit the testimony of Hardtner and Hood. He labeled Irion's part in the carbon black debate during the 1926 legislative session as a "master stroke of treachery . . ." and compared his actions to those of Benedict Arnold. Furthermore, Wilkinson characterized Hardtner and Hood as "recognized defenders" of the carbon black industry. On May 17, in his final statement for the defense, Edwart Rightor asserted that the entire proceeding against his client was politically motivated. For several of the state's witnesses from the New Iberia area, Rightor observed:

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45 Baton Rouge State-Times, April 13, 1927; New Orleans Times-Picayune, April 14, 1927; Shreveport Times, April 14, 1927.
Nine out of ten of those Cajans [sic] will lie. They will lie about anything. Those Cajans [sic] are of a low order of mind and morals. One of them that took the witness stand looked like a monkey.

One week later, on May 24, Judge Boatner delivered his decision. Although rejecting several of the charges against Irion outright and exonerating him of many others, Boatner found the commissioner guilty of an assortment of misdemeanors and of general misconduct sufficient to warrant his removal from office. Specifically, Boatner judged Irion guilty of buying ducks, violation of state and federal prohibition statutes on conservation department boats, using department boats for personal entertainment, charging personal automobile expenses to the department, and maintaining "deadhead" employees on the payroll. Boatner ruled that the court could not find Irion guilty on the carbon-related charges just because he did not endeavor to convince the legislature to adopt a more stringent conservation policy. According to Boatner it would have taken a man "of firmness and capacity beyond the ordinary" to have pursued a different course in the face of the powerful carbon lobby. Irion's conduct was not surprising reasoned the judge, because he was "... a man inept and of but ordinary ability, whose opinions could not withstand determined opposition."47

Irion's lawyer, Rightor, immediately gave notice that he would appeal Boatner's decision to the state supreme court. On June 6 Judge Boatner issued a suspensory appeal that maintained Irion as conservation


47 New Orleans Times-Picayune, May 26, 1927; Shreveport Times, May 26, 1927; 116 Southern Reporter 549-59 (March 12, 1928).
commissioner until the high tribunal ruled. On March 12, 1928, the supreme court reversed the district court's decision, unanimously exonerating Irion of all charges. The court ordered that all other legal proceedings challenging the commissioner's tenure in office be dropped. It now seemed clear that Irion's term as commissioner would not expire until July 1929.48

With all the turmoil that surrounded the commissioner's office in the preceding two years, it is not surprising that the department of conservation was the target of legislative activity, some of it radical, in the 1928 General Assembly. On June 4 Frank H. Peterman, of Rapides Parish, introduced Senate Bill 95 proposing the abolition of the office of commissioner of conservation as presently constituted. In its place the senator suggested the creation of a nine-member state board of conservation, eight of the members to be elected, one from each congressional district, and the ninth to be appointed by the governor. This board would then appoint a conservation commissioner for a term of four years, the same term that each board member was to serve. The bill specified that no individual having a financial interest in an enterprise supervised by the conservation department would be eligible to serve on the proposed board or to be commissioner. It also stipulated that the commissioner would serve at the pleasure of the board and could be removed for cause.49


49 Senate Calendar, 1928, 45-47; New Orleans Times-Picayune, June 5, 1928; Shreveport Times, June 5, 1928; Oil and Gas Journal, June 14, 1928.
Peterman's bill had an interesting legislative history. Upon its introduction the *Times-Picayune* reported that the bill had the endorsement of then Governor Huey P. Long and would receive the administration's support in the legislature. According to the recollections of Peterman, however, this was not true. The anti-Long faction in the senate, he recalled, had generally favored his measure until they became convinced that the governor was for it. Long actually strongly opposed the bill, however, because it threatened to deprive him of a good deal of patronage power. Acting under a misapprehension, to Long's delight, the anti-Long faction managed to deny the bill, drafted in the form of a constitutional amendment, the two-thirds majority it needed for senate approval.  

Long achieved a minor legislative victory with the passage of House Bill 359, introduced by Representative J. C. Fruge of Ville Platte. This measure authorized the governor to institute ouster proceedings against public officials employed by the state. Despite objections that the bill was unconstitutional because that authority had been specifically delegated to the attorney general, the General Assembly passed the bill and Long signed it into law as Act 102 of 1928.  

Act 102 of 1928 played a small but integral part in the final episode of administrative turbulence to rock the department of conservation.

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50 Senate Calendar, 1928, 45; New Orleans *Times-Picayune*, June 5, July 5, 1928; Frank Peterman interview with T. Harry Williams, October 13, 1959 (Box 3, folder 37, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

51 House Calendar, 1928, 125; New Orleans *States*, June 8, 1928; New Orleans *Times-Picayune*, June 24, 1928.
during the 1920's. On Sunday, February 3, 1929, Governor Long announced the appointment of Robert S. Maestri of New Orleans as the new conservation commissioner. Long contended that he had every right to make an appointment at this time because V. K. Irion's term as commissioner had expired on August 3, 1928, and since that time he had served as a holdover. This argument rested on the fact that the statute creating the post of commissioner of conservation, Act 66 of 1916, became effective on August 3, 1916, and stipulated that the term of office for this position was to be four years. Further, the governor maintained that the Constitution of 1921 provided for the continuance in office of all executive, legislative, and judicial officers of the state until the expiration of the present terms, unless such action contravened another provision of that document. Since the constitution did not alter in either form or substance the administration of the conservation department, Long reasoned that the commissioner's term of office still dated from August 3, 1916, the day that Act 66 became effective. Therefore, the four-year term that Irion had been appointed to complete, upon the resignation of W. J. Everett, had expired on August 3, 1928, and Long could appoint his successor. 52

In announcing Maestri's appointment, Governor Long explained that he had acted because several important issues faced the conservation department and that the "public interest" would suffer unless immediate administrative changes were made. The only situation that he specifically

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mentioned was the waste of immense quantities of natural gas in the oil fields of Richland Parish. Long probably made the appointment for patronage reasons. Maestri was a wealthy real estate owner in New Orleans and an important source of financial support for Governor Long. Furthermore, because of his unswerving loyalty to Long he was ideally suited to head a patronage-laden agency.\footnote{53}

Maestri received his appointment and commission on February 5 but did not file the required oath of office with the secretary of state until the following day. At 10:30 on the morning of February 7 Maestri appeared at the department headquarters in New Orleans, accompanied by Commissioner of Public Safety Paul Habans and the governor's brother Earl, and presented his commission to Irion. In an atmosphere that differed markedly from his confrontation with Major Payne two years earlier, Irion respectfully refused to turn over the office to Maestri, contending that his term of office would not expire for another five months. Irion indicated, however, that if Maestri's commission was adjudged by a proper court to be legal, he would surrender the office at once.\footnote{54}

At the time of the friendly confrontation with Maestri, Commissioner Irion indicated that he had referred the entire matter to the attorney general and his personal attorneys for study. Attorney General Saint, however, refused to issue an opinion, describing the controversy as "a


\footnote{54 New Orleans Times-Picayune, February 6, 8, 1929; Baton Rouge State-Times, February 7, 1929.}
personal matter between you [Irion] and Mr. Maestri . . . . " Governor Long, acting under the authority given him by Act 102 of 1928, directed the attorney general to prepare an ouster suit against Irion on the grounds that he had no title or right to the office because his term had expired on August 1, 1928. The governor signed the ouster petition personally and listed himself as the trial lawyer for Maestri.

Attorney General Saint filed the suit on February 14 in the Orleans Parish Civil District Court. The commissioner's attorneys, Edward Rightor and Rene Viosca, responded on February 25 by filing exceptions of insufficiency and no cause of action. On March 1 District Judge Mark M. Boatner heard the arguments on these motions and took the issue under advisement. The plaintiff's position, by now well known, was presented by Governor Long, while Rightor and Viosca argued that in 1921 the office had become a constitutional entity and was, therefore, no longer subject to the removal powers of the chief executive. They maintained that, since the Constitution of 1921 had become effective on July 1, 1921, Irion's present term of office would not expire until June 30, 1929.

55 New Orleans Times-Picayune, February 8, 9, 1929; Monroe News-Star, February 8, 1929.
57 State vs. Irion; New Orleans Times-Picayune, February 15, March 2, 1929; Baton Rouge State-Times, March 1, 1929.
On March 8, 1929, Judge Boatner rejected the defendant's exceptions and scheduled the suit for a trial on its merits. At the beginning of this trial, Rightor and Viosca filed another exception in which they argued that the state had no right to bring this suit against Irion because the legislature had met twice since Maestri's appointment and on neither occasion did the senate confirm the governor's action. Without this confirmation, they held, Maestri had no legal claim to the office. Judge Boatner accepted the defendant's contention, ruled that Maestri's appointment was "incomplete and ineffective," and dismissed the suit on this technicality. 58

Maestri's attorneys filed an appeal from Judge Boatner's decision with the state supreme court. Despite their desire that the court issue a ruling before its summer recess, the high tribunal did not hear arguments in the case until early October. The court's decision, issued on November 4, reversed the district court judgment and declared that Irion was in unlawful possession of the commissioner's office. The justices ruled that his term of office had expired on August 8, 1928, as argued by Governor Long, and that the office was vacant at the time of Maestri's appointment, Irion being merely a holdover tenant. They also ruled that the senate's failure to confirm Maestri's commission was not fatal because it was not necessary for special legislative sessions to act on recess appointments. Therefore, the court directed Irion to

58 State vs. Irion; Baton Rouge State-Times, March 8, June 14, 1929; New Orleans Times-Picayune, March 9, June 15, 1929; Shreveport Times, March 9, June 15, 1929; 125 Southern Reporter 567-79 (November 4, 1929). Rightor and Viosca convinced Judge Boatner that the senate's failure to confirm Maestri's appointment amounted to an automatic rejection.
recognize Maestri's title to the office of commissioner and to relinquish possession of it to him. 59

Irion gave immediate notice of his intention to apply for a re-hearing. Although his action infuriated Governor Long, Maestri made no effort to take possession of the department's offices until the supreme court ruled on the appeal. On December 2 it rejected Irion's application, and that afternoon he surrendered the office to Maestri. 60 Within an hour of taking office Maestri dismissed all but two of the headquarters' office employees. Already, in late November, just before the supreme court rejected Irion's appeal, W. F. Chisholm had resigned as supervisor of the minerals division. Maestri named as his replacement Dr. J. A. Shaw of Shreveport. A native of Homer and formerly a dentist, Shaw was a wealthy oil man by virtue of his family's ownership of much of the Homer field. Since its discovery he had been active in the oil business and was secretary-treasurer of the Calcoate-Shaw Oil Company. For the better part of the next decade Maestri, his successor William Rankin, and Shaw furnished the leadership in the state's petroleum conservation effort. 61

By the end of 1929 the stage had been cleared for the Long administration to assume complete control of the conservation department and to

59 New Orleans Times-Picayune, June 18, October 9, November 5, 1929; Baton Rouge State-Times, June 25, October 8, November 4, 1929; Shreveport Times, November 5, 1929; 125 Southern Reporter 567 (November 4, 1929).

60 New Orleans Times-Picayune, November 5, 19, December 3, 1929; Williams, Huey Long, 306; 125 Southern Reporter 567 (November 4, 1929).

61 New Orleans Times-Picayune, December 3, 1929; Shreveport Times, December 6, 1929; Oil and Gas Journal, December 12, 1929.
implement its policies with regard to the state's petroleum resources. Actually, this process had begun over 18 months earlier when Governor Lond had initiated his program of severance tax reform during the General Assembly's 1928 session. The oil industry learned that spring and summer, if they had had any doubts, that they faced a powerful and determined adversary in the governor's mansion.
CHAPTER VIII

THE MATURATION OF THE PETROLEUM SEVERANCE TAX:

1924-1940

As governor, Huey Long wanted to control the conservation department not just because of the patronage that it gave him but also because of its role in regulating the activities of the oil companies. Long sought to augment this control through the enactment of tax laws that strengthened his regulatory leverage over the industry. The legislation enacted during Long's administration and carried forward by his successors during the 1930's gave Louisiana one of the nation's highest rates of severance taxation and made that levy a significant revenue producer.

The last significant severance tax statute enacted prior to Long's inauguration was Act 140 of 1922. Adopted following the abrogation of Governor Parker's famous "gentleman's agreement," it increased the levy on oil and natural gas production from two to three per cent.1 As detailed in Chapter IV, 17 oil companies displayed their displeasure with this development by challenging its constitutionality, but to no avail.

The end of this legal challenge did not, however, close the debate surrounding severance taxation. The 1926 session of the General Assembly

witnessed the introduction of several proposals to augment the state's severance tax revenue. As had been the case in both 1920 and 1922, the additional tax was wanted to finance a particular governmental activity—in this instance public education.\(^2\) The most radical measure proposed, although never formally introduced, was that attributed to Senator T. W. Shields of Lincoln Parish, Representative H. B. Connor of Concordia Parish, and J. M. Booze, a member of the state board of education from Jefferson Davis Parish. Alleging that current severance tax revenues from oil and gas did not accurately reflect their true market value, they favored changing the bases of taxation to flat rates per unit of production of six cents per barrel for oil and three cents per 1,000 cubic feet for natural gas.\(^3\) The three men did not introduce the bill, however, because they came to believe that the heart of their program, a huge increase of the natural gas tax, would cripple the carbon black industry.\(^4\) Other bills to amend the severance tax law, however, were introduced.

\(^2\) In 1920 the principal justification was the construction of an agricultural college and in 1922 provision of additional revenues for local governments in the petroleum-producing parishes.

\(^3\) New Orleans Item, June 5, 1926; Baton Rouge State-Times, June 5, 1926; New Orleans Times-Picayune, June 6, 1926; Shreveport Times, June 6, 1926. Shields, Conner, and Booze estimated that the artificially low value upon which most natural gas producers figured their severance tax payments meant that the actual tax rate amounted to .9 per cent rather than the three per cent mandated by Act 140 of 1922. To correct this inequity, they proposed to levy the tax on a quantity basis of three cents per 1,000 cubic feet, an actual increase amounting to 3,300 per cent. The same logic governed their suggestion that the oil severance tax be fixed at six cents per barrel, an increase of approximately two cents per barrel.

\(^4\) New Orleans Item, June 7, 1926.
Anticipating the generation of $320,000 in additional revenue for public education, Representative J. W Gaar of Winn Parish introduced a bill to increase the rates on oil and gas by one per cent and those on other natural resources by one-half per cent. Referred to the ways and means committee, the measure received an unfavorable report and was withdrawn. On June 8 St. James Parish Representative Davis Richarme, chairman of the ways and means committee, introduced a bill, largely written by Supervisor of Public Accounts W. M. McFarland, to change the levy from a value to a quantity basis. Denying any intent to increase tax receipts significantly, McFarland and Richarme maintained that their sole motive was to simplify collection procedures. Having been referred to the ways and means committee, the bill encountered serious opposition from petroleum industry spokesmen. Appearing as the legal counsel for Standard Oil of Louisiana, Judge T. M. Milling argued that a quantity-based levy was unjust because it would impose the same tax rate on all oil even though higher gravity crude was worth more than lower gravity. Representative Richarme, while admitting that some change might be needed in the bill, implied that under the existing law the

5 Baton Rouge State-Times, June 8, 1926; Calendar of the House of Representatives of the State of Louisiana. Third Regular Session 1926 of the Legislature under the Adoption of the Constitution of 1921 (Baton Rouge: Ramires-Jones Printing Co., 1926), 171. Hereinafter cited as House Calendar.

6 New Orleans Times-Picayune, June 9, 1926; House Calendar, 1926, 192. McFarland explained that House Bill 491, if adopted, would fix the oil severance tax rate at five cents per barrel, whereas the present levy of three per cent of market value generally amounted to just under four and one-half cents per barrel. Similarly, the proposed rate on natural gas was one mill per 1,000 cubic feet, only one-tenth mill greater than the current average value-based levy.
major oil companies posted market prices substantially below those paid at the wellhead in order to avoid a significant portion of the severance tax. The full committee, feeling that a quantity-based levy would prompt constitutional challenges, reported the bill unfavorably, and Representative Richarme withdrew it from further consideration.\(^7\)

Although it produced no legislation, consideration of severance tax reform in 1926 foreshadowed the actions of the next General Assembly. Supervisor of Public Accounts McFarland was again ready to lobby for a quantity-based severance tax, but this time he received invaluable assistance and direction from Huey P. Long, the newly inaugurated governor. Long had a plan to provide free school textbooks and proposed to finance it by amending the severance tax to impose a quantity-based levy. Although the tax on most natural resources would remain virtually unchanged, that on oil and gas would be raised significantly to support the school book program.\(^8\)

Even prior to Long's inauguration, he and McFarland were planning new severance tax legislation. On May 19, 1928, McFarland suggested a quantity-based tax schedule of seven and one-half cents per barrel on crude oil and one and one-half cents per 1,000 cubic feet on natural gas that would produce the estimated three million dollars needed to

\(^7\) New Orleans States, June 16, 1926; New Orleans Times-Picayune, June 18, 1926; Baton Rouge State-Times, June 22, 1926; Monroe News-Star, June 22, 1926; House Calendar, 1926, 193.

fund the school book program. This schedule formed the basis of the administration's severance tax measure introduced on May 24 by Representative J. E. McClanahan of Caldwell Parish.\(^9\)

The response of the carbon and natural gas interests of northeast Louisiana to the McClanahan bill was immediate. The carbon black lobby labeled it confiscatory because it proposed a natural gas severance tax equal to 75 per cent of the local wellhead price. Expressing shock and dismay, Monroe-area gas producers asserted that the suggested levy would severely injure those lacking manufacturing or pipeline affiliation—virtually eliminating their profit and effectively halting further development in the region. The Monroe News-Star cautioned its readers that they would be the ones ultimately to suffer if anything adversely affected natural gas production and development.\(^10\)

On May 25, replying to these expressions of opposition, Governor Long released a statement explaining that the McClanahan bill was part of his legislative package for educational progress. Committed to his free textbook proposal and convinced that the tobacco tax, which was then funding many educational programs, was an unstable and unpopular source of revenue, the governor looked upon the severance tax on oil and gas as more secure and lucrative. Both resources, Long believed, could easily bear the additional tax levy, and, he maintained, the

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\(^9\) W. N. McFarland to Huey P. Long, May 19, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); House Calendar, 1928, 39; New Orleans Times-Picayune, May 25, 1928; Monroe News-Star, May 24, 1928.

production and processing industries would remain in Louisiana because
it would be to their economic benefit to do so.\footnote{11}

Throughout the rest of May and into early June spokesmen for all
facets of the petroleum industry lobbied against the McClanahan bill.
Long and his legislative lieutenants received numerous letters and wires
from independent producers who argued that a flat per barrel levy was
inequitable because it taxed low and high gravity crudes at the same
rate. Having made this point, however, most of them indicated a will-
ingness to accept a per barrel tax if it was modified to reflect value
differences according to gravity.\footnote{12} Most small gas producers and royalty
owners maintained that the proposed levy would virtually force them out
of business because they sold their gas to larger interests under fixed-
price contracts—normally for three cents per 1,000 cubic feet.

\footnote{11} Baton Rouge State-Times, May 26, 1928; New Orleans Times-
Picayune, May 26, 1928; Monroe News-Star, May 26, 1928; New Orleans
States, May 26, 1928.

\footnote{12} New Orleans States, May 30, 1928; W. Scott Heywood and Neal
Whisenhunt to Representative John B. Fournet, Senator John Gamble, and
Representative J. C. McClanahan, May 30, 1928 (Jennings-Heywood Oil
Syndicate Records, Louisiana State University Department of Archives
and Manuscripts, Baton Rouge); C. W. Lane to Huey P. Long, June 1, 1928
(Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department
of Archives and Manuscripts, Baton Rouge); Victor Wenzel to Huey P. Long,
June 2, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State Uni-
versity Department of Archives and Manuscripts, Baton Rouge). One should
recall that in 1926 Judge Milling opposed a quantity-based levy because
it failed to recognize gravity differences.
Imposition of an increased tax, they contended, would barely allow them to cover fixed operating expenses.\textsuperscript{13} Despite the opposition, Long did not waver in his support of a quantity-based severance tax. While House Bill 89 awaited consideration by the house ways and means committee, however, he discussed his tax package with several representatives of the oil and gas industry in his suite of rooms at the Heidelberg Hotel. The natural gas interests indicated a general willingness to cooperate, but argued that the rates embodied in the McClanahan bill were confiscatory and too onerous to accept. Although Long withheld public comment, several gas industry spokesmen revealed that he listened patiently and predicted that a reasonable compromise would be forthcoming in the near future.\textsuperscript{14} Concurrent informal negotiations with oil industry spokesmen were considerably less productive, probably because the major oil companies refused to participate, but the independents reported that the governor was taking their suggestions under advisement.\textsuperscript{15}

\textsuperscript{13} T. E. Flournoy to Huey P. Long, May 26, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); S. D. Hunter to W. K. Henderson, May 26, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); George Wesley Smith to Huey P. Long, May 27, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
\textsuperscript{14} Baton Rouge \textit{State-Times}, June 2, 1928; Shreveport \textit{Times}, June 3, 1928; New Orleans \textit{States}, June 3, 1928. Acknowledging that the administration's commitment to the free textbook plan, the gas interests included in their discussions with the governor consideration of shifting a portion of the tax burden to the carbon black industry.
\textsuperscript{15} New Orleans \textit{States}, June 3, 1928; Shreveport \textit{Times}, June 3, 1928; Baton Rouge \textit{State-Times}, June 4, 1928.
Whatever the effect of these discussions, on June 5 the New Orleans Times-Picayune reported that an agreement had been reached to alter significantly the oil and gas provisions of the McClanahan bill. The crude oil levy would be graduated according to gravity, the natural gas rate would be one-fifth cent per 1,000 cubic feet, and to compensate for these reductions a four-tenths of a cent per pound license tax would be imposed on the manufacturing of carbon black.\footnote{New Orleans Times-Picayune, June 5, 1928; Monroe News-Star, June 5, 1928.} While the Times-Picayune carried this story, however, the Shreveport Times quoted S. P. Borden, spokesman for a group of northwest Louisiana oil and gas interests, that the compromise rumors were not accurate. According to Borden, 98 per cent of Louisiana's oil and gas operators opposed the proposed increase in the severance tax.\footnote{Shreveport Times, June 5, 1928.}

Amidst these rumors, on June 5 the house ways and means committee held a public hearing on House Bill 89. Before it opened Representative McClanahan indicated that he would introduce amendments lowering the natural gas levy to one-fifth cent per 1,000 cubic feet and establishing the crude oil rate according to a sliding gravity-based scale from four to 11 cents per barrel. Despite this announcement, a parade of oil and gas spokesmen appeared to express their opposition to the bill in its
The only speakers supporting the bill were W. N. McFarland, supervisor of public accounts and one of its authors, and W. Scott Heywood, an independent oil man from Jennings. McClanahan stressed the administrative benefits of a gravity-based levy while Heywood emphasized its fairness and the genuine need for the free textbook program.

The next morning the administration's entire severance tax package and the free school book measure were on the committee's agenda. Representative McClanahan's bill proposing an occupational license tax on the production of carbon black received unanimous approval, but disension arose when the committee took up House Bill 89. When Representatives Fred J. Heintz, of St. Tammany Parish, and Ernest M. Conzelmann, of Jefferson Davis Parish, moved its approval, Representative Joe B. Hamiter, of Caddo Parish, argued that his constituents believed that the proposed tax schedules for oil and gas were exorbitant, and Representative Frank J.

18 New Orleans Times-Picayune, June 6, 1928; Shreveport Times, June 6, 1928; New Orleans States, June 6, 1928; New Orleans Item, June 6, 1928. Among those testifying against the bill were: Albert S. England of New Orleans, a royalty landowner in Richland Parish; Tobin R. Hodge, a former legislator from Richland Parish; W. B. Clark, spokesman for the United Carbon Company of Monroe; J. R. Parten, of the Woodley Petroleum Company; C. R. Minro, representing Gulf Refining Company; Thomas W. Robertson, representing a group of royalty landowners from Webster Parish; J. W. Stewart, representing oil interests from Calcasieu Parish; and Fred G. Hudson, spokesman for the Monroe Chamber of Commerce.

19 New Orleans States, June 6, 1928; New Orleans Item, June 6, 1928. Thirteen years later Heywood claimed that he had authored the compromise gravity-based schedule for crude oil at the instigation of Governor Long. While there was no corroborating evidence for this claim, it may well be true as Heywood was very close to Long during his gubernatorial term. W. Scott Heywood, "Autobiography of An Oil Man," Oil: Pictorial Trade Journal of the Petroleum Industry, I (September 1941),15-16.
Stich, from New Orleans' fifth ward, expressed his objection to the use of a gravity-based levy on oil.

At the first indication of opposition, Governor Long, who had been watching from the sidelines, took control of the meeting. Under his direction the committee approved House Bill 89 by a vote of 13 to 2, but parliamentary technicalities delayed its final consideration until June 11. During that interval opposition again appeared in several of the state's newspapers. The New Orleans Item castigated Governor Long for what it viewed as his willingness to finance a program of questionable need, free school books, at the expense of innumerable little landowners, well owners, and independent producers. The Monroe News-Star and the Shreveport Times carried "informational advertisements" provided by the Mid-Continent Oil and Gas Association. The crux of these ads was that the heaviest burden imposed by the McClanahan bill would fall on independent producers and small land and royalty owners—the backbone of Louisiana's petroleum industry. These interests, the association contended, could not pass this expense along to the ultimate consumers; therefore, House Bill 89 threatened the very existence of more than 50 per cent of the state's oil and gas industry and promised to inflict another blow to an already flood-ravaged economy.\(^2\)

Despite their public protests, most of the bill's critics realistically anticipated its approval by the lower chamber and were girding

\(^2\) Baton Rouge State-Times, June 6, 11, 1928; New Orleans Item, June 6, 10, 1928; New Orleans Times-Picayune, June 7, 1928; House Calendar, 1928, 39-40; New Orleans States, June 10, 12, 1928; Monroe News-Star, June 9, 11, 1928; Shreveport Times, June 10, 11, 1928.
for another battle in the senate. As they expected, on June 11 the house passed the amended version of the McClanahan bill by a vote of 69 to 27 and forwarded it to the senate. The upper chamber's Committee on Finance considered the measure for the first time on June 15 and decided to hold a public hearing on the 19th at which opponents and proponents would be allowed one and one-half hours each to present their arguments.21 This development prompted the Mid-Continent Oil and Gas Association to institute another media campaign. They contended that the proposed severance tax increases promised economic calamity for the petroleum industry and financial difficulties for the rest of the state. A group of businessmen from Monroe conducted a similar campaign calling upon the citizens of Louisiana to rescue them from the "threatened injustice, oppressiveness and danger . . ." posed by the McClanahan tax package.22

On Tuesday evening, June 19, the finance committee held its public hearing on House Bill 89. Leading off for those favoring the bill, Superintendent of Education Thomas H. Harris explained that the revenue generated by it would be sufficient to fund the governor's free textbook program and allow repeal of the unpopular tobacco tax. Following Harris, Supervisor of Public Accounts W. N. McFarland reiterated that the quantity-based rate schedule would be easier to administer and harder to evade


22 Baton Rouge State-Times, June 18, 19, 1928; Monroe News-Star, June 16, 18, 1928; New Orleans Item, June 17, 18, 1928; New Orleans States, June 17, 18, 1928; Shreveport Times, June 17, 18, 19, 1928.
than the existing ad valorem tax. On the other side of the issue, W. K. Henderson, of Shreveport, argued that the proposed tax increase would cripple oil production because refining interests would look for crude supplies in other states rather than pay higher prices for Louisiana oil. C. deB. Claiborne, spokesman for a group of New Orleans bankers, cautioned the senators to consider carefully the effect a tax increase might have on business investment.

The highlight of the evening began with the testimony of Sidney L. Herold of Shreveport. Ridiculing Governor Long for opposing the public hearing, Herold proclaimed the citizens' constitutional right to express their opinions before the legislature and asserted that "Louisiana needs no Mussolini to administer the affairs of this state." With reference to the subject before the committee, he described the arguments of the bill's proponents as "puerile" and contended that the proposed rate schedule would increase the taxes on crude oil production from 50 to 140 per cent. Enactment of this tax would, he maintained, thoroughly demoralize the state's oil producers and devastate Louisiana's oil industry.

When Herold finished, Governor Long took the floor to make a closing argument for the bill. In reply to Herold's accusations, Long denied that he was perfect, but also denied that he was Louisiana's Mussolini. Rather, as one of the state's common people he had the tactics and actions of men like Herold and the oil lobby to thank for his election as governor. Furthermore, a continuation of their activities would probably make someone else governor at the next election, the implication being that it would be his hand-picked candidate. Long then launched into a diatribe against Standard Oil, which he described as "... that monumental ex-convict ... absolute monarch of price fixing ... job fixing ...
and producers." Contending that Standard's actions had driven him out of the oil business, he asserted that "... it's going to cost them more than $2,000,000 before I get out of the governor's chair."

At the conclusion of his speech Long asked if there were any questions. Senator Thomas A. McConnell arose and inquired if he knew what the constitution said about the governor influencing legislation. Long tried to brush aside this question, but the Orleans Parish solon would not be ignored and walked down the aisle to hand him a copy of the constitution. Tossing the document aside, Long asked if there were more questions. Mrs. Ruffin G. Pleasant, wife of the former governor, asked if he was aware that the state's government consisted of three separate and equal departments. Obviously irritated, Long responded in the affirmative and volunteered that he had recently had her husband fired from one of these departments. By that time the chamber was in such an uproar that committee chairman J. Hugo Dore was barely able to restore order. Senator Pike Hall finally proposed that further action be deferred until the committee could consider the measure in a more stable atmosphere. His motion carried by a vote of eight to six.23

The following morning, June 20, the finance committee approved an amendment submitted by Senator O. K. Allen, of Winn Parish, to change the rate schedule for crude oil. Accordingly, the levy for oil above 28 but not above 31 gravity was set at four and one-fourth cents per barrel and that for oil above 31 but not above 32 gravity at five cents. The committee then gave the bill a favorable report by a vote of 12 to 2.

23 Baton Rouge State-Times, June 20, 1928; New Orleans States, June 20, 1928.
Accompanying the bill, however, was a minority report, drafted by Senators Pike Hall and John M. Caffery, alleging that House Bill 89 was class legislation aimed directly at the oil and gas industry. Their objections had little influence, however, and on June 28 the senate voted 25 to 14 to adopt the bill as amended.24

The lower chamber concurred in the senate's amendments on June 29 by a vote of 57 to 4. The governor's signature made the bill Act 5 of 1928. The statute established a gravity-based severance tax schedule for crude oil ranging from 4 to 11 cents per barrel. It also provided for a levy on natural gas of one-fifth of a cent per 1,000 cubic feet. The new law stipulated that 20 per cent of severance taxes collected on oil, gas, salt, shells, timber, sand, and gravel would be allocated to the parish of production up to a limit of $200,000 annually.25

There was, however, another piece of legislation that figured prominently in the administration's severance tax package. As initially introduced by Representative McClanahan, House Bill 89 had proposed a one and one-half cent per 1,000 cubic feet severance tax on natural gas.


25 Acts of Louisiana, 1928, 6-8; House Calendar, 1928, 40. This statute provided the bulk of the revenue needed to finance Governor Long's program of free textbooks for Louisiana's elementary and secondary school children. The constitutionality of the free textbook law was upheld by the United States Supreme Court in Cochran vs. Louisiana State Board of Education (281 US 370, 1930).
Immediate and vociferous protests by Monroe-area independent producers, landowners, and royalty owners convinced the administration to lower the suggested levy to one-fifth cent per 1,000 cubic feet and to shift the remaining tax burden to the carbon black industry, a major gas consumer, in the form of an occupational license or privilege tax. According to House Bill 317, introduced on June 4 by Representative McClanahan, carbon black producers would pay a levy of four-tenths of a cent for each pound of carbon black produced, although highly efficient manufacturers could choose instead to pay one cent per 1,000 cubic feet of gas consumed as long as they maintained a consistent average of three pounds of carbon black from each 1,000 cubic feet of gas burned.26

The carbon interests had been among those lobbying against the McClanahan severance tax bill, but they were not a party to the negotiations that led to the introduction of House Bill 317. Indeed, so surprised by this bill was the carbon black lobby that it was unable to mount a concerted effort against the measure as it moved through the house, and it passed by a vote of 83 to 8.27

When the senate finance committee considered the bill, Governor Long appeared and in his testimony indicated that he would not mind if the levy on carbon black was raised to one cent per pound. Long was irritated at the carbon interests' refusal to go along with the compromise arranged between his administration and the Monroe area gas producers

26 House Calendar, 1928, 109-110; Shreveport Times, June 5, 1928; New Orleans States, June 5, 1928.

27 House Calendar, 1928, 109-110; New Orleans States, June 11, 1924; Baton Rouge State-Times, June 11, 1924.
on the tax to be levied on natural gas. Efforts to amend the bill to levy a cent a pound tax failed, however, and the tax was fixed at one-half cent per pound. On July 16 Governor Long signed the measure into law as Act 152 of 1928.  

Although Act 152 became effective on August 1, 1928, not until three years later did a carbon company challenge its constitutionality. On October 12, 1931, the Century Carbon Company, a business incorporated in the State of Delaware, filed suit in the federal district court for the western district of Louisiana against the sheriffs and tax collectors of Ouachita and Richland parishes, and the supervisor of public accounts, to restrain their collection of the tax. The company contended that the statute was unconstitutional because it: (1) imposed an unreasonable tax that would deny the plaintiff his property without due process of law, (2) created an arbitrary classification of property for taxation, (3) imposed an undue burden on interstate and foreign commerce, and (4) attempted to levy a duty on exports.

On October 26 a three-judge federal panel heard initial arguments and five days later issued a temporary injunction restraining those
officials from enforcing the act until a trial could be held on the merits of the case. The case was tried in December, and on May 20, 1932, the judges handed down their decision ruling for the state on every point. They held that Act 152 of 1928 imposed an excise tax and that the legislature was perfectly within its rights to do so. They could find nothing discriminatory in this levy because it bore equally on all Louisiana carbon manufacturers. Since its imposition occurred before the carbon black entered foreign or interstate commerce, it was not unconstitutional. 29

A greater court challenge was mounted against the McClanahan severance tax bill. Even before it became effective on August 1, 1928, rumors circulated that the oil and gas interests would immediately question its constitutionality. The opening round in what proved to be a long and complicated process of litigation and associated political maneuvering came on August 6 as the Ohio Oil Company filed suit in the federal district court in New Orleans seeking a preliminary injunction to block the collection of the quantity-based severance tax while they contested its legality. 30


30 28 Federal Reporter, 2nd Series, 441 (September 17, 1928).
and scheduled a hearing for August 16 in Shreveport on the request for a preliminary injunction. Governor Long assumed that Attorney General Percy Saint was using this interval to prepare the state's case. When, on August 15, he discovered that the attorney general had done virtually nothing, the governor took over the state's defense himself. Long appeared in court the next day and argued that the plaintiff's motion should be dismissed on the grounds that it was premature and Ohio Oil had no cause of action.  

Appearing as chief attorney for Ohio Oil, Sidney J. Herold maintained that the gravity-based severance tax was discriminatory and arbitrary since oil's gravity had no real relationship to its market value. He pointed out that oils of the same gravity varied in price from one

31 Oil and Gas Journal, August 9, 1928; New Orleans Times-Picayune, August 9, 1928; Huey P. Long, Every Man a King: The Autobiography of Huey P. Long (New Orleans: National Book Co., Inc., 1933), 116-17; Williams, Huey Long, 341-42. Long argued that the legislature had not intentionally discriminated against anyone; on the contrary, the gravity-based levy was the only fair severance tax schedule for crude oil that it could adopt. Furthermore, the governor contended that while the legislature had no control over peculiar features that may influence the price of particular commodities, it most certainly possessed the right to levy its taxes in any way it saw fit as long as there was no denial of due process. Finally, Long maintained that a gravity-based levy by quantity protected the state's right to collect such taxes because the major oil companies could influence the market value of petroleum to such an extent that their severance tax payments were essentially voluntary. Shreveport Times, August 17, 1928; New Orleans Times-Picayune, August 17, 1928; Ohio Oil Company vs. Conway (#19,129 Equity, Federal District Court for the Eastern District of Louisiana, New Orleans, Federal Records Center Location Code #A-11-013-2, Fort Worth).
locatilty to another. In Louisiana, he contended, this was especially true between the northern and southern sections of the state.\textsuperscript{32}

On September 17 the court denied the plaintiff's motion for a preliminary injunction. The judges found that the state possessed, under its constitution, the right to levy severance taxes based either on quantity or value. Furthermore, there was nothing in the law to prevent the legislature from fixing such taxes on different scales for different products, as long as they were equitable in application to all engaged in the same type of business. The question, therefore, was whether gravity was a reasonable basis upon which to classify crude oil for taxation—and the judges ruled that it was.\textsuperscript{33}

On September 27 the attorney for Ohio Oil filed an appeal from the district court decision to the United States Supreme Court. The company now argued that it should be granted the preliminary injunction so that it could test the statute's constitutionality without having to pay the disputed tax. Under current Louisiana law, it claimed, there was no way to recover taxes illegally collected or unnecessarily paid. On October 24 Governor Long responded by filing a deposition offering

\textsuperscript{32} Shreveport Times, August 17, 1928. Herold based his argument on the fact that most of the oil produced at that time in South Louisiana had an asphalt base, while that of North Louisiana was of a paraffin base. The low gravity asphalt base oil of the south was valuable in the production of lubricating oils, thus earning for it a price considerably higher than its gravity might warrant. For this reason, he contended that the quantity levy based on a gravity scale was discriminatory against northern producers who received much less per barrel for their low-gravity oil.

\textsuperscript{33} New Orleans Times-Picayune, August 17, 18, 1928; Shreveport Times, August 18, September 18, 1928; Baton Rouge State-Times, September 17, 1928; 28 Federal Reporter, 2nd Series, 441-47 (September 17, 1928).
to call a special legislative session to refund any taxes that the company might pay that were later held to be invalid and illegal. On March 5, 1929, the supreme court released a per curiam opinion overturning the district court decision and ruled that the lower court should have granted the company's request for an injunction. The high court remanded the case to the district court and on April 15 the lower court issued the preliminary injunction.  

The oil companies could thus stop paying the severance tax until the courts finally ruled on its constitutionality. Anticipating this development and unwilling to let his textbook program wither for lack of funds, on March 14 Long announced that he would summon a special legislative session to enact legislation under which taxpayers could recover taxes erroneously paid. Such a measure, Long believed, would convince the federal courts to withhold or withdraw the preliminary injunction being sought by the Ohio Oil Company.  

On Saturday, March 16, 1929, Long issued the official call convening the legislature on March 18 for a six-day special session. Listed among the objects of the call was the enactment of legislation to provide for the recovery of erroneously or illegally paid taxes, to prohibit the issuance of orders by state courts to restrain the collection of taxes, and to levy an occupational license on the business of refining.

34 Ohio Oil Company vs. McFarland (#19,192 Equity, Federal District Court for the Eastern District of Louisiana, New Orleans, Federal Records Center Location Code #A-11-013-2, Fort Worth); Baton Rouge State-Times, March 5, 1929; Oil and Gas Journal, March 7, 1929; 49 Supreme Court Reporter, 256-57.

petroleum products. The governor intended to induce each house to suspend its rules so that he and his floor leaders could hustle these bills through the committee process with a minimum of debate.

When the General Assembly convened the governor could not muster enough votes to secure suspension of the rules in both chambers, so he revised his strategy. Believing that he had the votes necessary to push his program through a somewhat longer session in which there would be no need to suspend the rules, the governor arranged for his supporters to adopt motions to adjourn sine die as soon as their respective chambers convened on the nineteenth. Having successfully aborted the six-day session, he issued another call for a special legislative session, this time of 18 days' duration.36

In his second proclamation the governor repeated the subjects included in the initial call issued on the sixteenth.37 The General Assembly convened on March 21 and members of the administration's faction introduced bills to implement Long's program.38 Consideration of these


38 Among these measures were House Bill 5 to amend the carbon black occupation tax, Senate Bill 3 to provide for the recovery of illegally collected taxes, and House Bill 1, the refinery tax. Senate Calendar, 1929, 6; House Calendar, 1929, 7 and 11.
bills was brief and incomplete for the legislature abandoned all regular business on March 26, following the initiation of impeachment proceedings against Governor Long. The move to impeach the governor was brought on by his insistence on the enactment of a five-cents per barrel refinery license tax. His motive was apparently personal revenge. Outraged by the resistance of the major oil companies to paying the recently enacted severance tax, the governor proposed the refinery tax as a means of extracting needed revenue from the big oil interests and an opportunity to settle an old score with Standard Oil of Louisiana, the state's largest refiner. Long's rancor dated from the financial collapse of the Banks Oil Company during the Pine Island controversy as a result of Standard's refusal to purchase and transport Banks Oil's crude. 39

When the governor first announced that he would call a special session, the oil interests assumed that the legislature would enact legislation to correct flaws in Act 5 of 1928. Apparently, they were unaware of Long's plans for the refinery tax because their public statements reflected a feeling of indifference; for they believed that legislative action would not influence the suit then before the courts. This attitude, and that of the state's conservative business and political interests, changed, however, with the introduction of House Bill 1, the refinery license tax. According to T. Harry Williams, the governor's severance tax package and the manipulation of the legislature had angered

39 Long, Every Man a King, 122-23; Confidential correspondence (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); interview, Shelby Kidd with T. Harry Williams, October 27, 1959, (Box 3, folder 34, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
and frustrated many of his opponents, but the refinery tax proposal alarmed a large segment of the state's businessmen, causing them to wonder if any part of the economy was safely beyond his reach. The measure provided the catalyst that brought the anti-Long factions in the legislature together and resulted in his impeachment by the house of representatives. The resulting trial was sensational, but due in no small part to Long's political acumen, the prosecution was unable to secure a conviction in the senate.

Although the effort to remove him from office failed, Long emerged from the special session still lacking the legislation to provide for the recovery of erroneously or illegally paid taxes. All the histrionics concerning the refinery tax and the impeachment effort aside, the governor had deeply desired the enactment of this legislation because he believed it might save the 1928 severance tax in the constitutional challenge levied by the Ohio Oil Company. A little more than one month later three federal judges began hearing testimony in Ohio Oil's constitutional challenge of Act 5 of 1928. The oil company initially filed suit on August 6, 1928, but the trial on its merits had been held up until the court settled the injunction question. The same judges who had heard the initial proceedings—R. E. Foster, Wayne G. Borah, and Ben C. Dawkins—sat for the trial in Shreveport. Witnesses summoned by chief defense attorney Sidney J. Herold testified that gravity was, at best, of local

40 Shreveport Times, March 17, 1929; Williams, Huey Long, 365-66.

41 For the best account of the special session, impeachment, and trial see Williams, Huey Long, especially Chapters 14 and 15.
applicability in determining the value of crude oil and sought to demonstrate that the price of like-gravity crudes frequently varied from one field to another. In their cross-examination Attorney General Percy Saint and George Seth Guion, a special counsel retained to assist him, consistently won admissions that most oil companies posted crude oil prices in terms of the Baume gravity standard and that the American Petroleum Institute used the Baume scale when classifying crude oil as to quality and price. The attorney general argued that gravity furnished a fair and reasonable basis for classifying crude oil for taxation and rejected the plaintiff's contention that a gravity-based severance tax discriminated in favor of oil produced in South Louisiana. Saint admitted that a considerable portion of southern Louisiana's crude oil was sold on a fixed price basis, but most of this asphaltic petroleum had a gravity of less than 25, a level below which a variation of several degrees had a negligible effect on its value.

On August 9 the court found Act 5 of 1928 constitutional. It explained that the Louisiana constitution authorized the imposition of "specific taxes," that legal tradition stipulated that such levies must


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bear some relation to value, and that the gravity-based severance tax satisfied this requirement. Furthermore, since exact equality was impossible when dealing with specific taxes, the legislature could not be condemned for failing to anticipate fluctuations in market value resulting from variations in the chemical properties of different crude oils. Since the law was not intentionally discriminatory, the court refused the plaintiff's plea for an injunction and dismissed the case. 44

On August 20 Ohio Oil filed an appeal to the United States Supreme Court. The court upheld the district court's decision, declaring that the gravity-based severance tax scale was not "palpably arbitrary." 45 This decision removed the last constitutional shadow from Governor Long's 1928 severance tax package.

The controversy surrounding this revenue program continued, however, as approximately two months later the 1930 regular session of the General Assembly considered Senate Bill 230, a measure by R. B. Knott of Ruston to repeal the carbon black license tax and increase the natural gas severance tax to one cent per 1,000 cubic feet. The senator hoped that the repeal provision would enable Louisiana's carbon manufacturers to compete more easily with their Texas counterparts while the increased natural gas severance tax would offset the lost revenue. Upon being

44 Baton Rouge State-Times, August 9, 1929; New Orleans Times-Picayune, August 10, 1929; 34 Federal Reporter, 2nd Series, 47-50 (August 9, 1929).

persuaded that his proposal would nearly double the tax liability of the carbon black manufacturers, Knott withdrew his bill.46

In 1932 two Ouachita Parish legislators, Representative J. Porter Burgess and Senator James A. Noe, introduced bills to repeal the carbon black license tax. At the suggestion of Long, now a United States Senator, the house ways and means committee amended Burgess's bill to reduce the one-half cent per pound levy to one-tenth cent. Long explained that the reduction would create a greater market for Louisiana's natural gas and produce more revenue from the severance tax. The bill, as amended, was returned to the calendar by the full house on June 15. Two days later, however, the senate unanimously approved the Noe carbon black repeal bill, and after minor changes by the house, it was sent to Governor O. K. Allen and he signed it. As Act 42 of 1932, it repealed Act 152 of 1928, the carbon black occupational license tax.47

Allen, Long's handpicked successor, agreed to the repeal of the carbon black license in the hope that it would support a sagging market for Louisiana natural gas. The carbon interests had complained that the occupational license put them at a disadvantage when competing with producers from other states. As early as July 1931 similar arguments began to be heard concerning the gravity-based oil severance tax. Oil interests, especially in the regions of light oil production, contended

46 Senate Calendar, 1930, 109; New Orleans Times-Picayune, June 11, 1930; Baton Rouge State-Times, June 11, 1930; Monroe News-Star, June 10, 11, 19, 1930.

47 House Calendar, 1932, 271; House Journal, 1932, 527; Senate Calendar, 1932, 109; Acts of Louisiana, 1932, 226; Monroe News-Star, June 9, 18, 1921, Shreveport Times, July 14, 1932.
that the per-barrel levy significantly reduced their profits during periods of low prices, and in a depressed market local producers looked to the state government for tax relief to improve their competitive position.48

As the economic condition of the oil industry worsened nationwide, their demands for relief became stronger. Industry spokesmen claimed that Long's tax program had prostrated the light oil districts of North Louisiana. Although the former governor had adopted his program to punish the large oil interests, specifically Standard Oil of Louisiana, he had missed his target and delivered a potentially lethal blow to the independents.49 Their protests finally produced some results when the General Assembly gathered for its 1934 regular session. Addressing the legislature on May 14, Governor Allen recommended adjustment of the crude oil severance tax as part of a larger tax reform program, the principal purpose


49 Shreveport Times, August 20, September 24, 1933. The oil interests argued that the tax on light crudes at current prices was approximately 20 per cent, while producers of similar grade crudes in neighboring stages paid two or three per cent. W. H. Werner, a prominent real estate broker from Shreveport, in a plea to Representative J. Porter Burgess, chairman of the Louisiana Tax Reform Commission, described the current crude oil severance levy as "the damndest fool tax ever perpetrated upon the public of this state."
of which was property tax relief. His proposal reflected a partial endorsement of a much broader tax relief proposal formulated over the past two years by the Louisiana Tax Reform Commission. This body, created by Act 132 of 1932, had studied methods of providing tax relief to homeowners and property taxpayers while at the same time ensuring an adequate financial base for public education and governmental services. 50

The severance tax portion of the tax commission's program was largely the work of W. Scott Heywood, its vice-chairman and senator from Jefferson Davis Parish. He proposed that the 4-to-11-cent-per-barrel schedule imposed by Act 5 of 1928 be lowered to three to eight cents per barrel. He predicted that this reduction would save Louisiana's oil producers more than $464,000 annually and stimulate the market for Louisiana-produced crude. To compensate for lost revenue, Heywood recommended that the same levy be made to apply to imported oil after it entered the refining process--his estimate being that this would produce approximately $1,182,000 annually. Furthermore, he contended that these changes would spur the exploitation of underdeveloped oil leases because foreign crude would no longer possess a significant price advantage. 51

50 Senate Journal, 1934, 13-14; New Orleans Times-Picayune, May 15, 1934; Fourth Report of the Louisiana Tax Reform Commission in Accordance with Act No. 132 of the Legislature of Louisiana for 1932. Submitted for the Consideration of His Excellency Governor O. K. Allen, and Members of the Legislature of the State of Louisiana (n.p., 1934). 3-5. In its fourth and final report to the governor and legislature the commission recommended 17 possible sources of additional revenue that the administration and solons should consider in developing the universally desired property tax relief program.

Although Senator Heywood was the plan's principal author, all four commissioners--J. Porter Burgess, Louis M. Wimberly, A. C. Gardiner, and Heywood--jointly introduced the proposed legislation. As House Bill 336, it made a series of changes in the severance tax, including a reduction in the crude oil levy. The petroleum interests, however, almost unanimously opposed the bill, explaining that they much preferred a measure introduced by Representative Clifford W. Drake, of Sabine Parish, and M. M. Morelock, of Claiborne Parish, returning the severance tax levy to three per cent of market value. This effort to lower the tax rate ended abruptly on June 8 when Senator Heywood announced that Huey Long had let it be known that he would countenance no reduction of the oil severance tax. Accordingly, the ways and means committee amended the bill to restore the oil and gas provisions exactly as they were in Act 5 of 1928. The house and senate both approved the measure and Governor Allen signed it into law as Act 53 of 1934.

As indicated above, the oil interests generally supported a measure, House Bill 89, introduced on May 21 by Drake and Morelock to re-enact the three per cent of gross market value tax rate that had existed under Act 140 of 1922. In view of the way in which the ways and means committee had given in Senator Long's demands, the Drake and Morelock bill stood little chance of passage. When it reached its third reading, therefore, Morelock moved to change the rate schedule to two to five

52 House Calendar, 1934, 166; New Orleans Times-Picayune, June 1, 3, 1934.

cents per barrel depending on the oil's gravity. Even with this change, the house rejected it.\textsuperscript{54}

With the defeat of the Drake and Morelock bill, all efforts to reduce the crude oil severance tax during the 1934 regular session ended. The legislature did, however, consider several revenue-generating proposals offered by one or more of the tax reform commissioners. A measure to increase the tax on natural gas from one-fifth of a cent to two cents per 1,000 cubic feet failed.\textsuperscript{55} Another would have imposed a tax of two cents per 1,000 cubic feet on companies gathering, transporting, or distributing natural gas in Louisiana. Although designed to shift a large portion of the tax burden to the resource's ultimate consumers, the "gas gathering" tax never got out of the house ways and means committee--largely because Long expressed his belief that it was unconstitutional. The same fate awaited the effort championed by Senator Heywood to impose a tax on imported oil refined in Louisiana.\textsuperscript{56}

Over the next two years Heywood, following a split with the Long organization, attacked the senator for his opposition to the gas gathering and imported oil taxes. Addressing the senate in March 1935 he

\textsuperscript{54} Shreveport Times, May 23, 1934; House Calendar, 1934, 47; House Journal, 1934, 1153-54. As amended by the committee of the whole, the Drake and Morelock bill proposed the following rate schedule for the crude oil severance tax:
\begin{itemize}
  \item[a)] on oil 32 gravity and below, two cents per barrel;
  \item[b)] above 32 gravity to 36 gravity, three cents per barrel;
  \item[c)] above 36 gravity to 40 gravity, four cents per barrel;
  \item[d)] above 40 gravity, five cents per barrel.
\end{itemize}

\textsuperscript{55} Monroe Morning World, June 17, 1934; New Orleans Times-Picayune, June 18, 1934.

\textsuperscript{56} House Calendar, 1934, 166-67; Baton Rouge State-Times, June 12, July 3, 1934; New Orleans Times-Picayune, June 23, 1934.
castigated Long for undermining the tax reform commission's program by torpedoing the gas gathering tax. According to Heywood, Long wanted to delay the presentation of the commission's findings and proposals until after the next gubernatorial election, the implication being that Long planned then to use these issues as a significant part of his faction's campaign platform. The commissioners, however, refused to cooperate and, when announced, their program received so much support that the administration could not afford to block its introduction. Heywood maintained that Long allowed his name to be linked to the package, while at the same time personally making sure that it had no chance of success during this legislative session.57

Whatever the truth of Heywood's accusations, the attempt to lower the crude oil severance tax and impose gas gathering and imported oil taxes received little support in the legislature. Regardless of Long's motive, in December 1934 his manipulation of the third extra session of year's General Assembly indicated that he was not opposed to increasing the tax burden on the oil industry. When Governor Allen called the legislature into an extraordinary session beginning December 16, 1934, he stated that it was to enact and repeal revenue, license, and tax laws. Until the session's last days, its work only affected the petroleum

57 Baton Rouge State-Times, March 2, 1935. Heywood repeated many of these contentions, at the same time referring more directly to the tax on imported oil, on January 17, 1936, while delivering a broadcast speech in support of the gubernatorial candidacy of Cleveland Dear. Transcript of radio speech by W. Scott Heywood, January 17, 1936 (Jennings-Heywood Oil Syndicate Records, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
industry by providing that the supervisor of public accounts would assume complete control of the collection of the state's severance taxes.58

Near the end of the session, lobbyists for the oil interests apparently relaxed their guard, and the administration moved to attach a five cent per barrel crude oil refining tax to a bill dealing with the imposition, collection, and enforcement of license taxes. Before the industry lobbyists were able to organize to oppose it, the senate adopted the bill as amended and the house gave its concurrence.59

For Senator Long the refinery license tax offered a two-fold benefit—not only would it provide a significant source of revenue, it was also a means of attacking an old foe, the Standard Oil Company of Louisiana.60 That these were not his paramount motives became apparent, however,


59 House Calendar, 3rd Extra Session 1934, 18; Senate Calendar, 3rd Extra Session 1934, 24; Acts of Louisiana, 3rd Extra Session 1934, 112-16; interview of T. Harry Williams with Chick Frampton, June 24, 1957 (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); interview of T. Harry Williams with Judge Isom Guillory, March 28, 1960 (Box 3, folder 32, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); interview of T. Harry Williams with Judge Robert O'Neal, March 15, 1960 (Box 3, folder 36, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); T. Harry Williams interview with Chick Frampton, June 25, 1957 (Box 3, folder 31, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); T. Harry Williams interview with Fred Blanche, May 19, 1961 (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

60 T. Harry Williams interview with Judge Robert O’Neal, March 15, 1960 (Box 3, folder 36, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); T. Harry Williams interview with Fred Blanche, May 19, 1961 (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
as the time approached for Act 15's promulgation. Standard Oil and the other refiners moved quickly to oppose the new tax. On January 3 Standard announced that the new levy would require it to curtail operations at its Baton Rouge refinery and to lay off unnecessary employees. Refinery executives and their apologists, chief among whom was the Baton Rouge State-Times, explained that the Baton Rouge plant principally served markets outside of Louisiana and that the new tax would make their products uncompetitive. The company promised to continue to purchase and refine the crude oil produced by its Louisiana suppliers, but because this amounted to only 10 per cent of their normal capacity, their Baton Rouge operation would be greatly curtailed. 61

In making this announcement Standard Oil and its allies provided the evidence Long needed to accomplish his main purpose. His principal aim in securing enactment of the refinery license tax was to increase the demand for Louisiana crude oil, and Standard's admission that Louisiana producers supplied no more than ten per cent of its crude oil requirements provided Long with the basis for demanding a change in their purchasing practices. The big refiner's discrimination against Louisiana crude, Long contended, hurt the state's oil industry because it production allowable was based on market demand. Although expressing concern

61 Baton Rouge State-Times, January 3, 4, 1935; Shreveport Times, January 3, 1935. There is some question as to the extent of the connection between the refinery license tax and the lay-offs announced by Standard Oil. In an interview with T. Harry Williams, Bonnie V. Baker alleged that these lay-offs were about to happen anyway because Standard had completed a construction project at the Baton Rouge facility for which it had employed 900 temporary workers. Interview with T. Harry Williams with Bonnie V. Baker, November 3, 1959 (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
for the jobs that might be lost in Baton Rouge as a result of Standard's curtailment of operations, Long maintained that Standard's purchasing practices were keeping thousands of men out of work in Louisiana's oil fields. He indicated a willingness to compromise on the matter, but asserted that "If they [Standard Oil] got to leave this state--unless we're going to let 'em continue what they're doing here--they can go to hell and stay there."62

Long's offer to negotiate brought immediate results. Late Saturday evening, January 5, he announced that a compromise had been reached with Standard Oil. According to Long, the administration pledged to rebate the refinery license on Louisiana-produced oil if the oil companies agreed to use at least 80 per cent Louisiana oil in their refineries. The senator indicated, furthermore, that if statutory action was necessary to implement the rebate, a special legislative session would be summoned to do so. The state promised to extend the rebate to all oil processed at Louisiana refineries for a period of 90 days, but after that time it would apply only so long as the refinery seeking the exemption utilized at least 80 per cent Louisiana crude, provided that sufficient stocks

62 Baton Rouge State-Times, January 4, 5, 1935. A more complete discussion of proration and production allowables will be presented in the next chapter.
of domestic crude were available. Finally, the state pledged to enact no new taxes on the oil industry for a period of four years.

On February 26 Governor Allen summoned a special legislative session to convene that evening. The governor listed 23 items in his official call, but Senator Long indicated that the principal one was partial repeal of the refinery license tax. When the session began Orleans Parish Representative E. G. Burke, chairman of the ways and means committee, introduced House Concurrent Resolution 1 authorizing the governor to suspend by executive proclamation all or part of the refinery license in excess of one cent. The governor could make suspensions for such periods as he might choose except that none would be effective beyond the twentieth day after the adjournment of the General Assembly's regular session for 1936. The house adopted Burke's resolution by a vote of 74 to 8 after adding a provision that all suspensions would be irrevocable for the period fixed in the governor's official proclamation of suspension. The senate concurred in the resolution by a vote of 26 to 7. The legislators who opposed it did so because they believed that it delegated too much power to the governor. The legislature adjourned at noon on March 2 and that afternoon the governor issued an executive proclamation suspending

63 New Orleans Times-Picayune, January 6, 1935; Shreveport Times, January 6, 1935; Baton Rouge State-Times, January 7, 1935. Twenty-nine years later James A. Noe claimed to have played the key role in the compromise negotiations. According to Noe, Senator Long relied on him to conduct the crucial initial discussions with J. C. Hilton, president of Standard Oil of Louisiana, and Walter Teagle and William Parish of Standard Oil of New Jersey. Their efforts produced an atmosphere of cooperation from which came, with Senator Long's contribution, the compromise that he announced on January 5. T. Harry Williams interview with James A. Noe, March 17, 1964 (Box 3, folder 36, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
collection of four-fifths of the five cent per barrel refinery license tax for a period of eight months.\textsuperscript{64}

The legislature gave the governor the power to suspend all but one cent of the refinery tax not only by resolution but also by passing a law—Act 5. On March 26 Assistant Attorney General George M. Wallace filed a "friendly" suit against Supervisor of Public Accounts Alice Lee Grosjean in the 19th Judicial District Court in Baton Rouge. Wallace contended that the legislature had no authority to suspend a law, and neither could it delegate such authority to any other party. Even if it had such power, a concurrent resolution was not the proper vehicle to use to exercise it. House Concurrent Resolution 1 and Act 5 were therefore unconstitutional, null, and void, and Wallace asked the court to direct the supervisor of public accounts to collect the full five cents per barrel occupational license. Miss Grosjean replied that she felt bound to honor the governor's proclamation. Judge James D. Womack ruled for the defendant and the attorney general's office appealed to the state supreme court. This high court sustained the lower court's decision upholding the constitutionality and legality of the resolution, statute, and the governor's suspensive proclamation.\textsuperscript{65}

\textsuperscript{64} House Calendar, 1st Extra Session 1935, 46; Acts of Louisiana, 1st Extra Session 1935, 518-21; Baton Rouge State-Times, February 16, 17, 18, 1935; New Orleans Times-Picayune, February 26, 28, March 2, 1935; Shreveport Times, February 27, 28, March 2, 3, 1935.

The refinery license tax enacted in 1934 not only allowed Senator Long to increase the market for Louisiana's crude oil, but it also provided him with a great deal of leverage over the actions of his longtime foe, Standard Oil of Louisiana. The adoption of the resolution and statute empowering the governor partially to suspend this levy indicated that it was really the leverage rather than the revenue that the senator desired. Indeed, once he acquired this advantage over the refinery interests, Long allowed a small demonstration of good will to be made toward the oil industry. On September 8, 1935, during that year's fourth extraordinary session of the General Assembly, administration floor leader Isom Guillory, of St. Landry Parish, introduced House Concurrent Resolution 1 pledging that neither the state nor any of its political subdivisions would enact any new taxes on the production, transportation, refining, or marketing of crude oil, and that current levies would not be increased. Designed, according to Representative Guillory, to encourage the expansion of Louisiana's oil industry, by September 11 both legislative chambers had adopted the resolution. The day before its adoption, Senator Long was assassinated while directing the solons' activities.

One might have thought that the legislature's work in 1935 would have ended oil severance taxation as a subject of controversy for the foreseeable future. Such, however, was not the case. On March 30, 1935, Attorney General Gaston L. Portiere, representing the supervisor of public

66 House Calendar, 4th Extra Session 1935, 34-35; Shreveport Times, September 11, 1935. For more on the assassination, and the controversy surrounding it, see Williams, Huey Long.
accounts, sued the Texas Company in the 19th Judicial District Court for the collection of unpaid severance taxes dating from 1928. The attorney general contended that from July 1, 1928, through March 31, 1935, the defendant had produced in Louisiana 302,308.33 barrels of crude oil on which it had not paid the severance taxes. During this same period it had also failed to pay the severance tax on purchases of 22,951.10 barrels of Louisiana-produced crude. Porterie accused the company of evading this tax by making arbitrary deductions in its gross production and purchase figures, subtracting alleged impurities from the total volume of production or purchase before figuring its tax liability. Porterie contended that the Texas Company owed the state $22,280.40 in delinquent severance taxes; $14,838.72 in penalties for being delinquent; $3,611.91 in attorney's fees; and accumulated interest from the date of judicial determination until paid. 67

The Texas Company replied by filing suit in the federal district court for the Eastern District of Louisiana on May 31, 1935, to block the attempt to collect the alleged debt. It contended that Act 140 of 1922, as amended, was unconstitutional because it failed to provide for proper notice and hearing on the determination of tax liabilities and the filing of liens against a taxpayer's property. It further held that its deductions from gross crude production and purchase figures had been made to account for water, dirt, volatile gases, and other foreign

67 State ex rel Porterie vs. Texas Company (#10,439, 19th Judicial District Court, East Baton Rouge Parish, Baton Rouge).

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substances commonly referred to as basic sediment in the oil. This was an established practice in the industry.\textsuperscript{68}

After filing suit against the Louisiana Supervisor of Public Accounts in federal district court, the Texas Company asked to have the state's suit transferred to that court. The state court rejected the petition, but the federal court granted the company a preliminary injunction enjoining the state from proceeding to collect the taxes in question until it ruled on the case before it. A few days later, however, the federal court recalled its preliminary injunction because, it held, the company's rights were fully protected before the state court.\textsuperscript{69}

The federal court's ruling in the Texas Company's suit did not, however, end the controversy surrounding the determination of severance tax liability. At about the same time that the Texas Company filed suit against Grosjean, the Magnolia Petroleum Company, of Dallas, Texas, initiated proceedings in the same court. Magnolia attempted to have the two suits consolidated, but its motion was overruled. The judge hearing the case granted an interlocutory injunction and scheduled a hearing on its merits. When the stipulated date arrived, however, counsel for both parties agreed to an indefinite delay, believing that the decision

\textsuperscript{68} 16 Federal Supplement 265-66 (July 2, 1936); Texas Company \textit{vs.} Grosjean, \textit{Supervisor of Public Accounts of Louisiana, et al.}\ (#329 Equity, Federal District Court for the Eastern District of Louisiana, Baton Rouge, Federal Records Center Record Group #21, Fort Worth).

\textsuperscript{69} 16 Federal Supplement 264-66 (July 2, 1936); Texas Company \textit{vs.} Grosjean, \textit{Supervisor of Public Accounts of Louisiana, et al}\ (#329 Equity, Federal District Court for the Eastern District of Louisiana, Baton Rouge, Federal Records Center Record Group #21, Fort Worth).
to be rendered in the Texas Company's suit would preclude the necessity for a formal hearing.

That turned out not to be the case as the federal district court dismissed the Texas Company's suit without ruling on its merits. By that time, however, the state had filed a similar suit in the 19th Judicial District Court against the Standard Oil Company of Louisiana, and the attorneys in the Magnolia suit agreed to continue their delay. 70 Attorney General Porterie contended that Standard had unlawfully avoided, through the use of arbitrary deductions, the payment of severance taxes on 251,108.85 barrels of oil produced and 525,371.22 barrels purchased from August 1, 1928, through December 31, 1936; therefore, it owed the state $142,915.02 in taxes, penalties, and attorney's fees. On February 26, 1937, the legal counsel for Standard Oil appeared before Judge James D. Womack to answer these charges and explained that it had computed its tax liability after determining its volume of production or purchases according to the standard industry practice, making deductions for impurities and corrections for temperature and then deducting an additional one or two per cent, depending on the location of the field, to compensate for losses incurred in shipping and handling the oil. The attorney general agreed that deductions should be allowed for variations in temperature and to compensate for the presence of impurities, but maintained that the company's practice of making additional deductions was invalid. Attorneys for Standard Oil argued that in none of its severance tax statutes had the state defined what it meant by a barrel of

70 24 Federal Supplement 325-28 (August 22, 1938); Baton Rouge State-Times, April 17, 1936.
oil and that in the past it had used the term as employed in the industry. Its unopposed acceptance of industry terminology, Standard's counsel contended, amounted to a "construction of the law" and prevented the substitution of a new definition. 71

In all, some 19 oil companies made similar deductions when figuring their severance tax liabilities during the years from 1928 to 1936. In each instance the judgment in the Standard Oil case would prevail, and on March 10, 1937, District Judge Womack overruled all the defense motions seeking dismissal and early the following month issued his decision in favor of the state. Standard Oil appealed to the state supreme court, but again the decision was in the state's favor. Shortly thereafter the federal district court of the eastern district of Louisiana recalled its interlocutory injunction and dismissed the suit brought by the Magnolia Petroleum Company against Grosjean, citing the judgments rendered in The Texas Company vs. Grosjean and State vs. Standard Oil Company of Louisiana. 72

While these cases were in litigation, other severance tax-related matters also received consideration. The initial legislative session of

71 State vs. Standard Oil Company of Louisiana (#11,891, 19th Judicial District Court, East Baton Rouge Parish, Baton Rouge); 178 Southern Reporter 601-627; Muse Watson Alford, III, "The Oil Severance Tax of Louisiana" (M.A. thesis; Louisiana State University, 1967), 51-52.

the Leche administration produced both good and bad news for various segments of the petroleum industry. Having advanced to a position of leadership in the Long organization, Richard W. Leche defeated Cleveland Dear in the 1936 Democratic gubernatorial primary, ran unopposed in the general election, and on May 12, 1936, took the oath of office as governor.

Finding a vast disparity in the tax burden borne by various elements of the petroleum industry, the new governor expressed a desire to decrease the burden borne by the oil industry while increasing the tax revenue generated by the state's natural gas resources. Leche advocated reducing the five cent per barrel refinery license tax to one cent per barrel, a move he believed was compatible with the policies of Senator Long and Governor Allen and that would provide an overt signal that his administration sought new industrial development for Louisiana.

On May 21 administration floor leaders E. G. Burke and Frank T. Stich of New Orleans and C. A. Morvant of Lafourche Parish introduced a bill to reduce the refinery license or privilege tax to one cent per barrel. House Bill 33 moved through the house and senate with little difficulty and Governor Leche signed it into law as Act 333 of 1936.

While at least symbolically lowering the tax burden on the oil industry, the administration sought to increase it on the producers and...

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73 Sobel and Raimo (eds.), Biographical Directory, II, Iowa-Missouri, 585-86; Oil and Gas Journal, April 9, 1936; Shreveport Times, April 12, 1936.

74 New Orleans Times-Picayune, May 12, 1936; Shreveport Times, May 20, 1936.

75 House Calendar, 1936, 72-73; Baton Rouge State-Times, June 2, 1936; Shreveport Times, June 3, July 2, 1936; New Orleans Times-Picayune, July 3, 5, 1936; Acts of Louisiana, 1936, 784-89.
industrial consumers of natural gas. On May 17 Representatives Peter Hand and E. G. Burke of New Orleans introduced a bill to restore the carbon black occupational license tax by placing a levy of one-half cent per pound on its production. As might have been expected, House Bill 238 sparked a wave of protest from the state’s remaining carbon black manufacturers who argued that additional taxation would drive them out of business. The house ways and means committee reported the bill favorably on June 9, but then on June 17, the carbon black lobby induced the bill’s authors to withdraw the measure because it “would have hurt the little fellows.”

Failing to raise the tax on carbon black, Governor Leche acted to increase it on natural gas. He planned to use this additional revenue to finance part of the state's new social security program. He proposed to raise roughly $1,000,000 from a 200 per cent increase in the natural gas severance tax. Disclaiming any malice toward natural gas producers, Leche contended that the $490,000 realized annually from the one-fifth cent per 1,000 cubic feet levy appeared inequitable when compared with

the roughly $6,000,000 annual severance tax revenue generated from the state's oil industry.  

On May 28, Representatives Burke, Morvant, and Stich introduced a bill embodying the governor's proposal. The measure encountered immediate and vocal opposition from independent gas producers who again argued that such a drastic tax increase would drive them out of business. Evidently they were able to sway the governor and his legislative lieutenants. As originally introduced, House Bill 285 proposed a severance tax of four-fifths cent per 1,000 cubic feet, even though the governor had first talked of a three-fifths cent levy. On June 20, however, Leche announced that it had come to his attention that the proposed increase would strike most heavily at the small landowner and producer, while it had been his intention to shift a significant portion of the tax burden to out-of-state consumers. Accordingly, on June 23, at the administration's request, the ways and means committee amended the bill to fix the tax rate at two-fifths cent per 1,000 cubic feet, and the house passed it and forwarded it to the senate. On July 2, as the upper chamber had the bill before it for final approval, Senator Harvey Peltier, the administration's floor leader, introduced an amendment further to reduce the tax to three-tenths cent per 1,000 cubic feet. The senators, by an overwhelming majority, adopted the amendment and approved the bill. Upon

77 Shreveport Times, May 8, June 7, 1936; Baton Rouge State-Times, May 7, 12, 1936; New Orleans Times-Picayune, May 12, 1936.

78 House Calendar, 1936, 148; Clifton F. Davis to Governor Leche, May 18, 1936, Fred H. Ryan to Governor Leche, June 2, 1936, Alfred C. Glassell to Governor Leche, June 9, 1936, C. W. Longwell to Governor Leche, June 17, 1936 (Box 48, Richard W. Leche MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
receiving house concurrence and the governor's signature, it became Act 119 of 1936.79

The 1936 statute was the only petroleum-related tax legislation enacted during the Leche administration. A major revision in the severance tax system occurred, however, following the inauguration of Sam Houston Jones as governor in May 1940. Elected as a reform candidate on an anti-Long platform, Jones inherited a deficit of approximately $10,000,000 and faced an anticipated decrease in revenue of another $16,000,000 from a proposed repeal of the sales tax and reduction of the automobile license fee. Even allowing for savings stemming from the introduction of more efficient governmental practices, the governor's supporters estimated that he would need an additional $10,000,000 annually to provide a balanced budget for the first two years of his administration. To raise these funds the governor proposed a five-point revenue program including: (1) a privilege tax on the processing of natural gas, (2) extension of the severance tax system to several new resources including petroleum distillate and casinghead and natural gasoline, (3) an increased

79 House Calendar, 1936, 148; House Journal, 1936, 1061-1062; Senate Calendar, 1936, 305; Senate Journal, 1936, 1500; Acts of Louisiana, 1936, 381-83; Shreveport Times, June 21, 1936; New Orleans Times-Picayune, June 24, July 3, 1936; Baton Rouge State-Times, July 2, 1936. Act 119 increased the natural gas severance tax to three-tenths cent per 1,000 cubic feet and, despite the governor's initial explanation that the increase was needed to help fund the social security program, dedicated the money collected to the "maintenance, support and improvement" of the state's educational, charitable and correctional institutions.

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income tax, (4) an increased tax on liquor, and (5) elimination of the three per cent deduction on gasoline taxes allowed for oil refineries.  

The petroleum-related segments of the governor's revenue package became part of a general measure to reform the severance tax system. House Bill 545, introduced by Representative E. C. Parker of Bienville Parish, was initially intended to extend the severance tax to the harvesting of pulpwood, but was later amended to reduce the levy on distillate to 11 cents per barrel and to set the rate on casinghead gas at one cent per barrel, and to exempt from the natural gas severance tax gas injected into the earth for purposes of storage, recycling, represuring, and providing lift in crude oil production. The house passed the bill by a vote of 81 to 7.

The senate finance committee amended the measure by adding two new gravity categories for levying taxes. The tax on oil of 22 gravity and below was to be six cents per barrel, while that on oil of greater than 22 to 28 gravity was set at seven cents. Furthermore, the amendment also adjusted the rate on oil above 43 gravity to 11 cents per barrel. The senate approved the amended bill and the house concurred. Upon receiving the governor's signature, it became act 145 of 1940.

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81 House Calendar, 1940, 245; Shreveport Times, June 13, 15, 1940; New Orleans Times-Picayune, June 15, 21, 1940; House Journal, 1940, 1142.

82 House Calendar, 1940, 245; Senate Calendar, 1940, 399; Senate Journal, 1940, 1096; New Orleans Times-Picayune, June 26, 1940.
This statute was Louisiana's last severance tax law enacted before World War II. It also represented the first time since Governor Parker's "gentleman's agreement" that a major piece of severance tax legislation was passed without serious and well-organized opposition from the oil industry. In this instance the greatest tax increases were borne by the oil producers from southern Louisiana, and they were not as well organized as their northern counterparts. Furthermore, the oil and gas interests from the northern section of the state could claim significant victories in lowering the proposed rate on distillate, gaining exemptions for much of their casinghead gasoline, and even more significant exemptions for gas returned to the producing formation through injection wells. Not since 1920 had they been so successful in securing legislation tailored to meet their desires.

Although industry representatives may have felt that at long last they again had a friend in the governor's mansion, the industry's financial contribution to the state's coffers had changed considerably. In 1924, the first year of the Fuqua administration, the state collected $1,542,014.18 in severance taxes on crude oil and $158,175.08 on natural gas. These figures reflect, respectively, 69.4 and 7.1 per cent of the total state severance tax collection, and together they comprised 5.4 per cent of the state's total tax revenue. For all the industry's protests against the severance tax policy of the Long administration, in 1931 the petroleum interests were paying only $227,000 more in severance taxes than in 1924 and its percentage of total tax revenue had decreased to
little more than 2 per cent. By 1940, however, the petroleum severance tax contributed more than 17 per cent of the state's total tax revenue.\textsuperscript{83}

The true meaning of these figures cannot be understood until one investigates the condition of the oil industry in Louisiana during the 1930's and the state government's efforts to regulate it. Furthermore, the total financial contribution should take into consideration the revenue derived from the leasing of state-owned property for oil and gas exploration and development. It is to these topics that we shall turn in the next three chapters.

\textsuperscript{83} Alford, "The Oil Severance Tax of Louisiana," 73-79.
CHAPTER IX

PRODUCTION RESTRICTION IN LOUISIANA:

THE LEGAL STORY

Louisiana's foremost petroleum-related issues in the 1920's were the regulation of carbon black production and the turmoil that pervaded the conservation bureaucracy. The principal problem confronting those charged with conserving and protecting Louisiana's petroleum resources in the 1930's was an oversupply of crude oil, a situation with its roots in the previous decade. With regard to supplies of crude oil, the twenties have been aptly described as a period of "alternating fears of feast or famine..."\(^1\) Exacerbating this situation was the virtually universal application of the "rule of capture" which, combined with rapid technological advances and the stabilization of market demand, brought chaos to the oil industry in the late 1920's, a time of increasing waste and decreasing prices. Together these conditions threatened the industry's physical and economic future.\(^2\)

\(^1\) Wilfred Dunbar Webb, "The Interstate Oil Compact: Its Background and Development" (Ph.D. dissertation: University of Texas, 1940), 40.

\(^2\) Joseph E. Pogue, "A Design for More Effective Proration," Transactions of the American Institute of Mining and Metallurgical Engineers, CXXXII, Petroleum Development and Technology 1939 (New York: AIME, 1939), 207. Hereinafter cited as Transactions AIME; Erich W. Zimmermann, Conservation in the Production of Petroleum: A Study in Industrial Control (New Haven: Yale University Press, 1957), 270-71. Essentially resting on the tenet that one could not claim ownership of a resource until he had physical possession of it, the rule of capture contributed to an operational climate that stressed maximization of production regardless of price.

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By the early 1930's the oil industry was on the brink of collapse. Producing companies were often unable to recover their drilling and operating costs. This situation aggravated the already depressed economies of the oil-producing states and diminished a significant source of tax revenue at a time when it was sorely needed. As a result, there developed an atmosphere in which many members of the petroleum industry and government officials supported, or at least expressed guarded sympathy for, efforts to reduce oil production through state regulation.\(^3\) The advocates of restrictions on production recognized, however, that the resource was a vagrant and not the producer's to control until reduced to physical possession. The individual was, therefore, often at the mercy of his neighbors and competitors when it came to making crucial operational decisions. Further complicating the situation, the rule of capture stimulated individual effort and insulated many aspects of oil production from the controlling influences of price.\(^4\)

Faced by these conditions, the oil interests developed an awareness that cooperative effort offered the only hope of economic survival and that there were only two methods of action available to them. The first involved the voluntary pooling of individual leases into a single operational entity—unitization. The other, and more feasible, sought the benefits of unitization through the imposition of rules of production.

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\(^4\) James A. Veasey, "Legislative Control of the Business of Producing Oil and Gas," ABA Reports, LII (1927), 578; Pogue, "Economics of Proration," Transactions AIME 1932, 74.
This effort, known as proration, is best defined as the ratable and equitable allocation to each well in a given field of a total [daily or monthly production allowable] based either upon the maximum amount of petroleum which the reservoir characteristics of the field will permit it to produce efficiently, or that portion of the total market demand which may be properly assigned to the particular field . . . .

The latter type of allocation, commonly known as market demand proration, found the widest application because restriction of a field to the level of efficient production would still have resulted in a serious overproduction problem. Under the market demand system state regulatory agencies issued orders restricting production for a period, usually one month, to no more than what they estimated the market would consume. Any number of variables have been used in the determination of individual proration allowables, but those most widely employed in the 1930's were per well allowances, potential production, and acreage. None was wholly satisfactory. The per well basis stimulated the drilling of additional wells, the potential method was itself wasteful and difficult to administer, and acreage was not an equitable basis unless the physical characteristics of the producing formation were uniform. Increasing recognition of these limitations and the importance of uniformity

of application to any successful prorationing plan produced more sophisticated allocation formulas before the decade ended.\(^6\)

Whatever the method of allocation, its supporters maintained that prorationing accomplished two purposes—conservation of the resource and the maintenance of equity between producers. Just as consistently, however, critics contended that any advancement of conservation was "incidental and secondary." Eugene Rostow argued that its most notable contribution was the stabilization of price by controlling the amount

\(^6\) Wallace F. Lovejoy and Paul T. Homan, Economic Aspects of Oil Conservation Regulation (Baltimore: Johns Hopkins Press, 1967), 128; Pogue, "A Design for More Effective Proration," Transactions AIME 1939, 208-209; David D. Leven, Done in Oil: The Cavalcade of the Petroleum Industry From a Practical, Economic and Financial Standpoint (New York: The Ranger Press, Inc., 1941), 187; E. A. DeGoyler (ed.), Elements of the Petroleum Industry (New York: AIME, 1940), 287; Wallace F. Lovejoy, "Conservation Regulation: The Economics and Legal Setting," in Lovejoy and Pikl (eds.), Essays on Petroleum Conservation Regulation, 35; Northcutt Ely, "The Conservation of Oil," Harvard Law Review, 61 (May 1938), 1225-29. The use of per well allowables had the obvious advantage of simplicity, but its use was fraught with problems. The principal disadvantage was that unless uniformity of spacing existed between the wells, this type of allowable would have little relationship to the amount of recoverable oil under its tract. As the technology of prorating matured, the per well allowable was most often employed to furnish a profitable minimum that any well would be able to produce. Potential was widely utilized in the prorating because it most closely approximated the proportion of the total reservoir capacity that a well would have been able to produce under the rule of capture. Employment of this method, however, often prompted the use of heavier production equipment and the application of techniques that, while initially more profitable, damaged the reservoir and reduced total productivity. The acreage factor, on the other hand, worked reasonable well when combined with reliable information as to the thickness of the producing formation. Unfortunately, this type of data was all too often impossible to obtain. Among the other variables that gained wider acceptance as the proration system matured were bottom-hole-pressure, gas-oil ratio limitation, and the depth of the producing formation. "Allocation of Production Within Oil Pools," Interstate Oil Compact Quarterly Bulletin, L (1946), 64-65; A Study of Conservation of Oil and Gas in the United States 1964 (Oklahoma City: Interstate Oil Compact Commission, 1964), 63-64, 78.

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produced, and Robert Engler "congratulated" the petroleum industry for obtaining government acceptance of "private price fixing," thereby avoiding both competition and anti-trust prosecution.\(^7\) Advocates of proration admitted that economic stabilization was an inevitable by-product of its application, but they maintained that this equilibrium favored the consumer by adding millions of barrels to the nation's proven oil reserves and restraining the industry's urge to increase prices.\(^8\)

While the prorationing controversy came to dominate the domestic petroleum industry in the 1930's, this manner of production restriction had been used earlier in Oklahoma and Texas. State-enforced proration first occurred in 1914 in response to severe overproduction in several Oklahoma oil fields, especially Cushing and Healdton. In both instances, but particularly at Cushing, vast quantities of crude oil were being stored in open, earthen pits. Representatives of many of the state's independent oil operators maintained that the major companies were consciously maximizing production in an effort to drive them out of business. The independents appealed to the Oklahoma Corporation Commission for assistance and on September 22, 1914, citing its authority to prevent waste, that body ordered that no operator could produce more oil than

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could be sold at 65 cents per barrel or stored in regulation steel tanks. 9

Although this order was temporary, initially to be effective only until October 1, the commission apparently maintained similar orders in effect until the first of the new year. At that time the legislature passed, again apparently at the instigation of numerous groups of independent oil producers, a measure establishing a state-wide system of production control. This statute prohibited the production of crude oil in any manner or condition that would constitute waste; it defined waste to include production in excess of transportation facilities or reasonable market demand; and it declared that whenever the full production of any common source of supply resulted in a condition of waste, the region's operators would have their output prorated to their rightful share of the amount that could be taken without waste. 10

The statute delegated the enforcement and rule-making powers associated with production restriction to the corporation commission.


10 Oil and Gas Journal, January 21, February 11, 13, 1915; Clark, "The Beginning of Oil and Gas Conservation in Oklahoma, 1907-1931," 384-86; Zimmermann, Conservation in the Production of Petroleum, 135-38; W. P. Z. German, "Legal History of Conservation of Oil and Gas in Oklahoma," in Legal History of Conservation of Oil and Gas: A Symposium (Chicago: The Section of Mineral Law of the American Bar Association, 1938), 126-27; Turner, "The Regulation of the Oklahoma Oil Industry," 81-92. A companion statute established a minimum price of Oklahoma crude oil at 60 cents per barrel and provided that no purchaser could take more than 1,000 barrels from a well until that source's production was within the limit of pipeline capacity. Oil and Gas Journal, February 25, 1915.
Acting on a complaint from the Ardmore Oil Producers Association, on June 5, 1915, the commission issued Order #920 restricting production from the Healdton field to 15,000 barrels per day and imposing a prorationing system to distribute that allocation equitably. For the next ten years the corporation commission intermittently exercised its authority as local conditions warranted. The discovery of the Seminole field in July 1926, however, brought this period of relative tranquility to an abrupt halt. Intensive development that summer and fall demonstrated that the conditions at Seminole were beyond the corporation commission's capabilities to correct. Aware that they faced imminent disaster, the area's oil interests consented to the voluntary imposition of an "umpire system."

The Greater Seminole voluntary proration system, having overcome several developmental problems, functioned fairly well until the pressure of rapidly increasing production from new discoveries throughout the state threatened its cooperative foundation. Convinced that the progress made at Seminole should not be allowed to dissipate, on September 9, 1928, the corporation commission issued Order #4430—establishing the country's first prorationing program. It decreed that the total state market demand was 700,000 barrels daily. Of this amount, the commission delegated 175,000 barrels to areas of settled production and the

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remaining 425,000 barrels to the flush pools. Furthermore, the order limited all new wildcat wells to no more than 100 barrels per day and stipulated that if further development led to the recognition of a new field, it would be included in the 425,000-barrel allocation for flush pools.\(^\text{12}\) The administration of this order, and its successors, was not smooth or easy, especially after the discovery of the Oklahoma City field in 1929; but it was significant because it furnished a model for Oklahoma's sister states to study as they considered the adoption of proration programs.\(^\text{13}\)

Oklahoma established its state-wide proration system when faced with an overproduction problem not susceptible to localized control. Events in Texas followed a similar pattern, although there the first really significant development was purely voluntary. Isolated from any substantial market, the Yates field in Pecos County became noteworthy in the early summer of 1927 because wells producing as much as 6,000 barrels daily of a relatively low-demand oil could be drilled in less than a week. Fortunately, several large oil interests controlled most of the region and at the instigation of W. S. Farish, president of Humble


\(^{13}\) For more detail on the consequences of Oklahoma City development on the maturation of prorationing in Oklahoma see Clark, "The Beginning of Oil and Gas Conservation in Oklahoma, 1907-1931," and Powell "The Oil Industry and the Depression From the Development of Greater Seminole Through the Passage of the Oil Code."
Oil and Refining Company, they gathered in Houston on August 18, 1927, to consider a prorationing and conservation plan. They subsequently drafted a voluntary plan and entrusted its supervision to an umpire. This cooperative effort brought stability to the area and on July 1, 1928, the Texas Railroad Commission assumed responsibility for the administration and enforcement of the local system.  

Shortly thereafter, the railroad commission ordered the establishment of a similar program, at the request of area producers, for the Winkler field in West Texas. Having received numerous petitions relative to the extension of the proration system, in the summer of 1930 the commission investigated production conditions throughout the state, and as a consequence, on August 14 issued a state-wide proration order. It was far from effective, however, as many of those affected secured injunctions to block its application, and several fields, including the vast East Texas field, were excluded from its coverage.


In early June 1931, the Texas Railroad Commission issued an order extending the prorationing program to the East Texas field. Several area operators challenged the order's legality and on June 28 a federal district court ruled that the commission had violated the State Conservation Act of 1929 by basing its proration schedule on estimated market demand. This occurred while the legislature was in session and it responded by enacting a statute that removed economic waste, and thus market demand, from the scope of the state's conservation laws, thereby abrogating most of the railroad commission's proration orders and releasing a torrent of unmarketable oil. Fortunately, sounder judgment soon prevailed. On March 23, 1932, the Texas Civil Court of Appeals released a decision supporting market demand proration as being necessary to prevent physical waste. Less than two months later, the United States Supreme Court ruled that limiting production to reasonable market demand was a proper and legal method of preventing physical waste. The legal barriers thus removed, a special session of the Texas legislature enacted a new conservation statute that specifically included provisions for the determination of market demand and the implementation of production restriction on that basis.16

While Oklahoma and Texas provided examples upon which any state could draw in designing a proration system, Louisiana's legislators and


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conservation officials were not totally inexperienced. As detailed in
Chapter Six, in 1924 the legislature adopted a statute, Act 252, that
imposed a schedule of acreage-based production allowables on natural
gas wells in the Monroe field. Through the implementation of that
law Louisiana became a leader in the application of production restric­
tions for natural gas, but it was generally reluctant to apply such re­
straint to its oil industry. In no small part, this was a consciously
adopted position by the Long administration and its successors. They
feared, especially during the late twenties and early thirties, that
a too zealous application of production restrictions would inhibit the
development of Louisiana's oil resources, the state not having experienced
the productive bonanzas that had occurred in Oklahoma and Texas.

17 Fourteenth Biennial Report, Department of Conservation, State
of Louisiana, 1938-1939 (New Orleans: Department of Conservation,
1940), 171; Yandell Boatner, "Legal History Conservation of Oil and Gas
in Louisiana," in Legal History of Conservation of Oil and Gas: A
Symposium, 65-66.

18 A companion statute, Act 253, authorized the Department of
Conservation to adopt rules covering the spacing of oil wells and contained
the state's first legislative recognition of the gas-oil ratio as a com­
ponent of its petroleum conservation program. Act 253 lacked a penalty
clause, a flaw that the legislature sought to correct by enacting Act
123 of 1926. The new statute retained the gas-oil ratio restriction
for oil wells, but it was ineffective because it established an arbitrary
economic formula that was not modified to reflect the changing values
of the two resources. Acts Passed by the Legislature of the State of
Louisiana at the Regular Session Begun and Held in the City of Baton
Rouge on the Twelfth Day of May, 1924 (Baton Rouge: Ramires-Jones Print­
W. Bell, "Conservation of Gas in Louisiana," Interstate Oil Compact
Quarterly Bulletin, I (October 1942), 69; Fourteenth Biennial Report
Department of Conservation, 171-73; H. W. Bell, "Louisiana," in "A Survey
of the Administration of Oil and Gas Conservation Laws," Interstate Oil
Compact Quarterly Bulletin, II (December 1943), 55-56; Acts of Louisiana,
1926, 190-94; Boatner, "Legal History of Conservation of Oil and Gas
in Louisiana," 67.
These same considerations governed Louisiana’s participation in the numerous cooperative interstate conservation efforts that culminated on August 27, 1935, in congressional ratification of the Interstate Oil Compact (the state did not formally join until the administration of Sam Houston Jones). According to an historian of its origins, the Interstate Oil Compact was the product of a movement away from “the credo of the ‘intense individualists’” that gained increasing popularity in the petroleum industry during the late twenties and early thirties. Those espousing this principle recognized the need for more effective regulation of petroleum production as a method of promoting economic stability. Governmental advocacy of this cause was strongest in those states experiencing problems with bonanza production, especially Oklahoma and Texas. Louisiana, on the other hand, at the time was devoid of large-scale oil development and its elected officials were skeptical of the motives behind any effort to restrict domestic oil development. While attending a conference of governors arranged by President Hoover in June 1929 as the personal representative of Governor Huey P. Long, W. Scott Heywood succinctly expressed the attitude of the administration and a sizable segment of Louisiana’s oil industry concerning the restriction of oil production through prorationing:

The governor of Louisiana and the independent producers and royalty owners of Louisiana . . . do not see any justice in curtailing and shutting in production in the United States to allow the Standard Oil and its subsidiaries . . . to produce oil in foreign countries and ship it to this country . . . we are against any legislation that tends to regulate production without such . . . legislation shall include with it the regulation and stabilization of prices.

If the Government [federal] wants maximum recovery, and waste stopped, it would be well for the Government to regulate and stabilize prices of crude on a basis that will allow
the operators of the smallest wells in our different fields to be able to produce and recover all of the oil possible from each field and at a fair profit.

Over the next few years Heywood represented Governor Long at several interstate oil conferences. Their relationship appeared to be a natural outgrowth of a concert of opinions, especially a mutual antipathy toward the major oil companies, and Heywood's anti-proration statement at the conference of governors should have come as no surprise to those who followed the course of petroleum-related issues in Louisiana politics. On May 25, 1928, Heywood wrote to Governor Long advocating the enactment of a bill to regulate the pricing of crude petroleum. Heywood contended that the major oil companies were consciously importing foreign oil and using the resulting oversupply of crude as a justification for the low prices they offered on the domestic market. Aware that legislative establishment of prices was at best of questionable constitutionality, Heywood proposed a pricing system for crude oil pegged to the retail price of gasoline at a ratio of ten-to-one. According to his plan, if a gallon of gasoline sold for ten cents, the minimum price of a barrel of crude oil would be one dollar. 20


20 W. Scott Heywood to Huey P. Long, May 25, 1928 (Box 5, folder 147, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge). Heywood contended that his plan would stabilize the prices of petroleum products, keep gasoline at a lower price, and force the major oil companies to pay more for crude oil. Furthermore, it would accomplish these purposes without endangering the additional revenues sought by Governor Long in his 1928 severance tax package.
On June 4, 1928, Representative George K. Perrault, of St. Landry Parish, introduced a measure, House Bill 326, that embodied the central principles of Heywood's plan. Referred to the conservation committee, it returned by way of a substitute that moved through both legislative chambers with little significant opposition and became Act 147 of 1928. It stipulated that for crude oil of 23 to 30 degrees the minimum selling price per barrel was to be not less than ten times the highest recorded retail price, less tax, for a gallon of gasoline in the state during the previous month. For every degree, or fraction thereof, above 30 degrees Baume, the minimum price per barrel was to increase by at least one cent.21

Little more than two weeks after Governor Long signed Act 147, the Standard Oil Company of Louisiana obtained a temporary restraining order from Federal District Judge Ben C. Dawkins to prevent its enforcement. In its petition to the court, Standard contended that there was "no reasonable relationship" between prices of crude petroleum and refined gasoline, and that by seeking to establish a correlation where there was none, Act 147 legislated arbitrary price fixing. The statute, the company maintained, impaired its freedom of contract and in so doing violated Section 1 of the Fourteenth Amendment to the United States Constitution by depriving it of liberty and property without due process of law.

On August 6 a three-judge federal panel considered Standard's application for a permanent injunction and took the matter under advisement after issuing a temporary injunction. For whatever reason, little more was heard of the price ratio issue. The state may have recognized that its position was going to be exceedingly difficult to defend, or that it was an inappropriate time to antagonize the oil industry, a significant source of state revenue. Whatever its motivation, the 1932 session of the general assembly unanimously repealed Act 147. Despite this action, however, Standard Oil did not request dismissal of its suit until late July 1934, following the end of Percy Saint's tenure as attorney general.22

Despite its effort to protect the state's petroleum producers through price controls and experience with natural gas production restrictions, Louisiana public officials steadfastly refused to join the other southwestern states in the enactment of and participation in crude oil proration programs. In 1933, however, prorationing came to Louisiana with the adoption of the National Industrial Recovery Act. Section 9 of this statute authorized the drafting and implementation of a code of fair competition for the petroleum industry. Its most notorious feature, paragraph 9(c), empowered the president to prohibit the interstate shipment of so-called "hot oil"—i.e., petroleum produced in excess of established allowables. The code authorized the petroleum

administrator to determine monthly production quotas, restrict oil imports, regulate the marketing of refined products, and to institute pricing regulations.23

At its next regular session, convened in May 1934, the Louisiana General Assembly provided a statutory basis for the system to allocate the state's production allowable. Act 61 empowered the commissioner of the Department of Conservation to issue regulations, subject to the governor's approval, for the proration of crude oil production so as to be in compliance with the National Industrial Recovery Act.24 Governor Oscar K. Allen had not waited, however, for a legislative mandate to comply with the federal petroleum code. On November 4, 1933, representatives of 30 producing companies and several independent operators gathered in the senate chambers, at the governor's invitation, to meet with officials of the conservation department. In his welcoming remarks the governor explained that Louisiana was not then exceeding its state-wide production allowable, but he wanted his guests to assist in drafting an allocation program.

Following his comments, industry representatives and conservation department officials began discussing the proration issue, the most


controversial aspect of which was the treatment to be accorded to wells of little production. The independent operators whose leading spokes-
man was Senator W. Scott Heywood, contended that these wells should be exempt from proration restrictions because they had suffered dispropor-
tionately from the low prices brought about by the nation-wide oversupply situation. The conferees eventually recommended the exemption of wells producing less than 100 barrels daily and the prorationing of production from all other wells on a percentage of potential production basis in order that the state might comply with the federally-imposed allowable. Determining the amount of restriction necessary to satisfy these two agreements was to be the responsibility of Dr. J. A. Shaw, director of the conservation department's minerals division. The operators also agreed that no field would be allowed to increase its percentage of the federal allocation by virtue of the completion of new wells or increased production of older small wells. Finally, they acknowledged that these agreements were subject to change as deemed necessary and urged the state to continue its efforts to obtain a larger allocation from the federal government.

25 Baton Rouge State-Times, November 4, 1933; Shreveport Times, November 5, 1933. Heywood was particularly strident in arguing for uncurtailed production from small wells. All of his wells were in this category and he maintained that the price structure of the past three years, a creature of the major oil companies, had nearly driven him out of business and caused physical damage to the producing formation. W. Scott Heywood to F. H. Farwell, Vice President, The Lutcher and Moore Lumber Company, November 29, 1933, and W. Scott Heywood to C. R. Minor, Regional Chairman, Production Committee of the Planning and Coordination Committee, Regional District #2, Petroleum Industry Code, Shreveport, January 4, 1934 (Jennings-Heywood Oil Syndicate Records, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
Almost from the beginning questions arose as to the ability or determination of Louisiana's proration administrators to comply with the federal allocation. On February 1, 1934, Shaw wrote Secretary Ickes, the federal petroleum administrator, to deny published reports that Louisiana was exceeding its production quota. Whatever the truth of Shaw's assurances, later that year a more serious question arose concerning the administration of Louisiana's proration program. On August 25 a spokesman for the Department of the Interior confirmed that federal officials were investigating allegations of favoritism in the distribution of production allowables in the Leeville field. The accusers contended that the Lincoln Oil Company had received approximately one-third of the field's 17,000 barrel daily allotment, while its lease comprised less than one-tenth of the total field acreage, because of the political connections with Senator Long and officers in the conservation department of its president, William Helis. Both Helis and a spokesman for Director Shaw denied the allegation and nothing concrete came of the federal investigation.

By the beginning of 1935 Louisiana had over one year's experience with a federally-imposed system of proration. This program received a severe jolt on January 7, 1935, when the United States Supreme Court

26 Dr. J. A. Shaw to Harold L. Ickes, February 1, 1934 (Jennings-Heywood Oil Syndicate Records, Louisiana State University Department of Archives and Manuscripts, Baton Rouge). This denial challenged production figures in the Oil and Gas Journal that indicated that Louisiana was exceeding its 69,700 barrel daily quota.

27 New Orleans Times-Picayune, August 25, 26, 1934; Shreveport Times, August 26, 1934. Much more will be presented in the next chapter concerning Helis' relationship with officers of the Department of Conservation with regard to the Canal Oil Company's operations in Iberia Parish.
ruled in Panama Refining Company, et al. vs. Ryan, et al. that federal agencies could not enforce production quotas established by state governments, thereby invalidating Section 9(c) of the National Industrial Recovery Act. The court objected to the delegation of legislative power embodied in Section 9(c), but Secretary Ickes corrected this flaw while drafting a new measure to control interstate commerce in "hot oil." Enacted into law less than two months after the issuance of the Panama decision, the Connally Act was the foundation of the federal government's proration program throughout the remainder of the pre-war period. 28

The supreme court's decision in the Panama case effectively dismantled Louisiana's only crude oil proration program. By mid-1935, however, many of the state's officials, including Governor Allen, had come to appreciate the value and necessity of production restriction, despite the frequent contentions that Louisiana had not received adequate monthly allowables under the petroleum code. Aware that immediate action was in the state's best interest, Governor Allen included consideration of a proration program in his official proclamation summoning the General Assembly into its third extra session of 1935. 29

28 Johnson, Petroleum Pipelines and Public Policy, 1906-1959, 224; Nash, United States Oil Policy 1890-1964, 145-56. Less than five months later, on May 27, the supreme court's decision in Schechter vs. United States invalidated the entire National Industrial Recovery Act. Chief Justice Charles Evans Hughes, writing the court's unanimous opinion, found that the code-making authority embodied in the statute was an illegal delegation of legislative power to the executive department.

The administration's proration bill moved through both houses with little opposition and became Act 13 on July 8 when the governor signed it. This law prohibited the production, purchase, and transportation of crude oil in excess of "reasonable market demand," which it defined as that quantity of crude oil produced in this state that might realistically be expected to be purchased by pipelines, refineries, and other purchasing agencies during a one-month period. Whenever the conservation department determined that the state's oil production exceeded reasonable market demand, the statute authorized the department to restrict production and allocate the state-wide allowable on a "reasonable basis." It provided considerable flexibility in the enforcement of these provisions, however, by stipulating that each reservoir was to be treated as an individual entity and was to be governed by a proration program suited to its reasonable market demand. Therefore, there was no guarantee that well owners and operators would be insured equality of treatment beyond the confines of their distinct common source of supply.

30 House Calendar, Third Extra Session 1935, 13; Acts of Louisiana, Third Extra Session 1935; 36-38; Yandell Boatner, "Legal History of Conservation of Oil and Gas in Louisiana," 68-69. Act #13 armed the conservation department with a tool that was both flexible and rigid enough to adequately meet its needs. By basing the proration system on "reasonable market demand," it furnished a system in which Louisiana's conservation officers could keep a tight rein on production when necessary, but also allow the continued development of the state's petroleum resources without incurring the problem of physical waste through flush production. Its supporters also maintained that it not only prevented waste, but also provided economic protection to the small, independent producers by contributing to a more stable and orderly market—"in which the normal forces of a free market, such as cost of production, increasing demand, or relative abundance . . . have full play in determining price." A Study of Conservation of Oil and Gas in the United States 1964, 89; H. B. Fell, "Relations Between Market Demand and Physical Waste—The Necessity for Limiting Production of Oil to Reasonable Market Demand in Order to Prevent Actual Physical Waste," Interstate Oil Compact Quarterly Bulletin, IX (May 1950), 76 and 82; George A. Wilson, "Louisiana's Oil and Gas Conservation Laws," Interstate Oil Compact Quarterly Bulletin, III (April 1944), 14.
The enactment of Louisiana's reasonable market demand proration statute came none too soon, for on July 7, 1935, the United Gas Public Service Company completed its Young #1 well as the first oil producer in the Rodessa field. Located in extreme northern Caddo Parish, adjacent to and eventually extending across the Arkansas and Texas boundaries, Rodessa's oil development resulted in what Carl Coke Rister labeled the fourth of Louisiana's "el dorado" fields. Opened on August 3, 1930, with the completion at the 5,500 foot level of the O. J. Hill #1 as a gas well, over the next five years the Rodessa field grew into Louisiana's third largest gas-producing region. Drilled one and one-half miles north of the Hill well, Young #1 had an initial daily production of 5,775 barrels from a depth of 6,048 feet. Nine months later, there were 120 oil wells in the Rodessa area that had produced approximately 4,689,000 barrels of oil. Despite the state's efforts at proration, the field experienced a bonanza development in 1936, producing nearly 19,250,000 barrels of oil.31

Soon after the discovery well's completion, oil interests from states where overproduction was already a problem began questioning the determination of Louisiana's conservation officials to prevent a new wave of flush production. Little more than one month after the completion of Young #1, Director Shaw announced the implementation of a proration plan for Rodessa featuring production allowables based 75 per cent on acreage and 25 per cent on potential production. He indicated

31 Rister, Oil! Titan of the Southwest, 215-17; Oil and Gas Journal, March 5, 1936; Doris Mae LeBlanc, "The Development and Growth of the Oil Industry in Caddo Parish," (M.A. thesis; Louisiana State University, 1949), 33-34.

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that the acreage portion of the formula established a 40-acre maximum and five-acre minimum size per tract, a measure designed to protect the small landowners from overproduction by the owners of large acreages in the productive zones.  

Shaw's announcement did not, however, remove the fears of overproduction expressed by oil interests from other states. Their concerns came to a head in early March 1935 when Harold L. Ickes, Secretary of the Interior, ordered an investigation into charges of "hot oil" being transported out of the Rodessa field. The secretary indicated that the Independent Petroleum Association of America had brought to his attention reports that someone was shipping 15,000 barrels of crude oil daily from the Rodessa field into East Texas without the federally-required tender certificates.

Almost immediately thereafter Dr. Shaw instigated a thorough investigation of all present and past movements of crude petroleum from the Rodessa field. Concurrently, he explained that the conservation department had permitted many of the field's oil wells to produce more than the established daily allowables in order to help the operators recover their developmental costs. The department had, however,

32 Oil and Gas Journal, September 12, 1935; Shreveport Times, July 20, August 12, 1935. Throughout the remainder of 1935 the state gradually increased the Rodessa field's allocation from 3,000 to 15,000 barrels per day. Shreveport Times, October 3, November 1, 1935; Oil and Gas Journal, December 26, 1935.

33 Baton Rouge State-Times, March 3, 4, 1936; Shreveport Times, March 4, 1936. Tom Anglin, representing Oklahoma's Governor E. W. Marland on the Oil States Compact Commission, contended that overproduction was an increasing problem in Louisiana, its suggested quota being 130,000 barrels daily and its actual production closer to 200,000 barrels daily.
discontinued this practice, and Shaw promised vigorous prosecution of any operator exceeding the 400 barrel daily production allowable. Governor James A. Noe, having become governor following the death of Oscar Allen, also assured federal officials and neighboring oil interests that the Rodessa wells would be kept within their legal production quotas. He indicated that General L. F. Guerre, superintendent of the state's bureau of criminal identification, had been designated to command a ten-man force to inspect all oil shipments leaving the Rodessa field. "The oil fraternity," he explained, "need have no fear of hot oil operations in the Rodessa field." 34

Approximately one week after the matter of overproduction in the Rodessa field arose, an editorial in the Oil and Gas Journal indicated that the charge of "hot oil" leaving Rodessa appeared to have been exaggerated. Two weeks later another issue of the same publication stated that Louisiana's officials were keeping production within the published allowables. 35 These statements were not, however, universally accepted. On April 3, 1936, it became known that an organization of independent oil producers from Texas was planning a series of protest meetings to publicize what they considered excessive production in the Rodessa field. Evidently their agitation stemmed from a special production allowable of 20,000 barrels a day granted by the Louisiana Department of Conservation to the Pelican Oil and Gasoline Company for its 13 wells. Knowledge of this allowable also prompted Tom Connally, United States Senator

34 Baton Rouge State-Times, March 4, 1936; Shreveport Times, March 4, 7, 1936; Oil and Gas Journal, March 12, 1936.

35 Oil and Gas Journal, March 12, 26, 1936.
from Texas, to request of Secretary Ickes an urgent and thorough investigation of reports that Louisiana was allowing excessive production in the Rodessa district and that this oil was being shipped to refineries in Texas. 36

Almost immediately more information became available about the controversial permit. Reporting to Governor Noe, Director Shaw explained that he had granted the Pelican Oil and Gasoline Company a permit allowing it to produce 1,500 barrels daily from each of its 13 wells at Rodessa. He did so, Shaw explained, because the company had demonstrated that a refinery in Texas needed this oil to satisfy market demand. According to Shaw, the special allowable was for a period of 60 days and permitted R. C. Glassell, president of Pelican Oil, to sell this oil to the East Texas Pipe Line Company, a Dallas-based firm headed by Freeman W. Burford, for transfer to the Texas refinery. Governor Noe ordered the special permit to be withdrawn immediately and the current 400-barrel daily allowable be made to apply to all wells equally. The announcement of Noe's order received a good deal of attention, but already three days earlier Glassell had abandoned the 1,500-barrel allowable and voluntarily reverted to the 400-barrel limit because of the unfavorable publicity which the special permit had produced. 37

The combined voluntary abrogation and gubernatorial revocation of Pelican's permit, however, did not quell the controversy. Indeed,

36 Baton Rouge State-Times, April 3, 1936; Shreveport Times, April 4, 1936; New Orleans Times-Picayune, April 4, 1936. Much more will be told about this permit in the next chapter.

37 Baton Rouge State-Times, April 3, 1936; Shreveport Times, April 4, 1936; New Orleans Times-Picayune, April 4, 1936.
the events triggered by its disclosure proved to be only the initial chapter of a lengthy and complicated story. As early as April 3 the Federal Oil Tender Board #1, domiciled in Kilgore, Texas, began investigating its authority over the oil produced by Pelican Oil under the special allowable. Four days later it rejected applications for tenders sought by the East Texas Pipe Line Company to ship from its Longview, Texas, terminal to a refinery belonging to the Texas Company at Port Arthur, Texas, 125,000 barrels of crude oil purchased from Pelican Oil. J. W. Steele, chairman of Tender Board #1, explained that Pelican's special allowable had been improperly and illegally granted; therefore, the oil wrongfully produced under its provisions was contraband, and the board was clearly within its rights to deny tenders for its shipment. 38

The East Texas Pipe Line Company refused to accept Chairman Steele's ruling as final, filing a petition in federal district court seeking to enjoin the tender board from interfering with the oil's shipment. The company maintained that the oil had been produced under a valid permit issued by the Louisiana Department of Conservation. Richard H. Hill, a special assistant to the Attorney General of the United States, admitted that the tender board had no authority to prohibit the transportation of legally produced crude and petitioned the court to dismiss the company's suit without prejudice. Judge Randolph Bryant honored this

38 New Orleans Times-Picayune, April 4, 5, 1936; Shreveport Times, April 4, 7, 1936.
request, thereby sustaining East Texas Pipe Line Company's right to ship oil purchased from Pelican Oil through its facilities.\(^{39}\)

In mid-May attorneys for the East Texas Pipe Line Company, and its affiliate East Texas Refining, appeared once again before Judge Bryant seeking an injunction to prevent the federal tender board from questioning the legality of oil purchased from Pelican and from requiring tenders for its shipment. A series of purchases from Pelican Oil prompted the companies to seek judicial intervention. Five days later Richard Hill appeared in the same court to file a bill of complaint against the Texas Company, Texas Empire Pipeline Company of Texas, Tide Water Oil Company, East Texas Refining Company, and the East Texas Pipe Line Company, contending that they were violating Section Three of the Connally Act by participating in the interstate and foreign shipment of contraband oil, and asking for temporary and permanent injunctions against the defendants. Hill argued that the special allowable possessed by Pelican Oil, and used by it to support the legality of its action, was invalid because it violated Louisiana's conservation laws and regulations.\(^{40}\) On May 16

\(^{39}\) Shreveport Times, April 12, 1936; Oil and Gas Journal, April 16, 1936.

\(^{40}\) Oil and Gas Journal, May 14, 1936; United States vs. Texas Company, et al. (#980 Equity, Federal District Court for the Eastern District of Texas, Tyler, Federal Records Center, Fort Worth). Hill's petition maintained that Act 13 of the Third Extra Session of 1935 did not authorize the issuance of special allowables, that the permit in question was not properly signed, that it was not based on "reasonable market demand" as defined by the conservation statute, that it discriminated in favor of one common source of supply, and that it appeared to have been granted for an unlimited period of time.
Judge Bryant issued the temporary restraining order, thereby impounding the 71,374 barrels of oil in question.41

On June 12 Judge Bryant handed down his decision. Reviewing the involvement of all parties, the manner in which the conservation department issued the special permit, and the disposition of the oil produced under the special allowable, he found that during a six-day period from March 26 through March 31, 1936, the Pelican Oil and Gasoline Company produced 99,571 barrels of oil from the 13 wells on its Sexton Heirs lease. Without the extra allocation these wells would have been limited to the 400 barrels per day permitted under Production and Proration Order #3, or 31,200 barrels for the period in question. At issue, therefore, was the legality of the 68,371 barrels of oil produced under the provision of the special allowable. Judge Bryant ruled that the special permit was invalid, null, and void, and so the 68,371 barrels of oil produced in excess of the limits provided by Production and Proration Order #3 could not legally enter interstate or foreign commerce. Judge Bryant, therefore, made permanent the injunction restraining the East Texas Refining Company and the East Texas Pipe Line Company from transporting and disposing of the 68,371 barrels of contraband oil which they held. The defendants appealed Judge Bryant's decision to the United States Circuit Court of Appeals for the Fifth Circuit, but on December 8,

41 United States vs. Texas Company, et al.; Baton Rouge State-Times, May 16, 1936. Five days later legal representatives for the Texas Company and Texas Empire Pipeline Company appeared before the judge to explain that none of the oil in question was in their possession. Convinced by their presentations, Judge Bryant withdrew the restraining order as it applied to them.
1937, the appellate court rejected their plea and ordered that the in-
junction be affirmed and made final.42

While this legal controversy regarding the Rodessa field dominated
public attention, its continued development spurred further considera-
tion of petroleum conservation by the Louisiana General Assembly. This
should not be taken to indicate, however, that the state's public offi-
cials felt a great deal of remorse regarding the quantities of oil being
produced at Rodessa. As early as April 6, 1936, at approximately the
same time that the controversy involving Pelican Oil surfaced, Richard W.
Leche, then still governor-elect, pledged that his administration would
not let oil production run wild in Louisiana. He tempered this promise,
however, by indicating that he would seek to bring about orderly develop-
ment of the state's petroleum resources "... on a basis that will be
fair to the state and the capital invested in the oil and gas indus-
tries."43

Upon assuming the governorship, Leche did not take long to demon-
strate his administration's attitude toward restricting the production
of crude petroleum. Whereas Governor Noe had cancelled the original
special permit issued to Pelican Oil and Gasoline, within three days
after Leche took office Director Shaw renewed Pelican's controversial
production allowable. Moreover, he indicated that the conservation de-
partment intended over the next few months to increase the state-wide
production allowable to 250,000 barrels per day, even though the current

42 United States vs. Texas Company, et al.; Baton Rouge State-
Times, May 22, 1936; Oil and Gas Journal, May 28, 1936.

43 Oil and Gas Journal, April 9, 1936.
212,000 barrel daily allowable was 50,000 barrels more than the daily quota suggested by the United States Bureau of Mines. Shaw contended that Louisiana was entitled to provide more than the federally-suggested quota because its oil industry was expanding at a more rapid rate than its neighbors.44

Many spokesmen for producing interests in the southwestern oil states registered protests against the actions of the Leche administration, but Chairman Ernest O. Thompson of the Texas Railroad Commission indicated that he saw it no threat to the stability of the national market.45 Some of these critics, however, raised an issue that received consideration from Louisiana's conservation bureaucracy--the enormous gas waste associated with oil production at Rodessa. During the spring of 1936 estimates of this waste ranged from 600,000,000 to 750,000,000 cubic feet daily. Of this total, a report in the Oil and Gas Journal charged a loss of 125,000,000 to 150,000,000 cubic feet daily to the 13 wells on the controversial Sexton Heirs lease. The same article stated that according to unnamed petroleum engineers, a continuation of this waste threatened both the profitability and longevity of the field.46


45 Oil and Gas Journal, May 21, 1936; Shreveport Times, May 27, 1936.

The 1936 regular session of the General Assembly recognized that this great waste of gas could not be allowed to continue and, indeed, that the whole petroleum conservation system created by Act 13 of the Third Extra Session of 1935 was inadequate. Members of the conservation bureaucracy and the newly installed Leche administration also acknowledged that the 1935 conservation statute had been hastily prepared and probably lacked the clarity of definition in regard to several key terms and powers necessary for it to withstand a serious legal challenge. Furthermore, the developments at Rodessa highlighted the need for provisions that had not been included in the 1935 statute or had been dealt with in a less than thorough manner. Chief among the former were its failure to establish adequate spacing requirements for oil and gas wells, the maintenance of efficient gas-oil ratios in oil wells, the drilling of unnecessary wells, and the compulsory pooling of small tracts within a spacing unit. Most prominent in the latter category was the law's failure to provide a prorationing system for both oil and gas that was realistically related to the requirements of sound conservation.

47 Moosa and Saloom, "The Oil and Gas Conservation Movement in Louisiana," 218-19; George A. Wilson, "Louisiana's Oil and Gas Conservation Laws," Interstate Oil Compact Quarterly Bulletin, III (1944), 15; Boatner, "Legal History of Conservation of Oil and Gas in Louisiana," 70; Wilson, "Recent Developments in Louisiana Oil and Gas Law," 555. Louisiana's legislators and conservation officials should not be condemned too harshly as there were explanations for the condition of the state's petroleum conservation laws. First, most of the state's laws had been enacted in response to particular conservation problems, there had been no concerted effort to draft and enact an omnibus piece of legislation. Secondly, and probably more significant with regard to proration legislation, oil exploration and development in Louisiana had been in the doldrums for over ten years and the natural gas industry had not attracted great amounts of attention since the national focus of the carbon black industry shifted to Texas in the late 1920's.
To supply these deficiencies the legislature passed Act 225. Closely patterned after New Mexico's comprehensive conservation statute, widely recognized as the nation's most advanced conservation statute, this law provided Louisiana with its first comprehensive petroleum conservation statute. Its foundation was a prohibition found in Section One against the production, purchase, transportation, and handling of petroleum resources in excess of reasonable market demand, as determined by the Commissioner of Conservation, or in any amount that constituted or resulted in surface or underground waste. Section Two furnished definitions of key terms, such as "reasonable market demand," "underground waste," and "common source of supply." Sections Three through Six delineated the authority of the Department of Conservation to institute prorationing when the production of any common source of supply exceeded reasonable market demand. More specifically, Section Three stipulated that each well owner operating under a proration system must be accorded the opportunity to produce and market "a just and equitable share" of the reservoir energy. Section Six authorized the commissioner to issue orders and rules for the prevention of underground and surface waste, requiring electrical surveys and logging of all wells, regulating the spacing of wells, establishing a tender system for the transportation of and commerce in petroleum and its products, restricting the drilling of wells, establishing either voluntary or compulsory pooling agreements whenever necessary to protect individual rights while furthering the
cause of conservation, and requiring the maintenance of efficient gas-
oil ratios in the production of petroleum resources. 48

Act 225 also prescribed the manner in which the commissioner was
to schedule and conduct public hearings before the issuance of any orders
and rules. One of the first subjects to be considered under this rule-
making power was the Rodessa gas waste situation. On August 3 Governor
Leche and Dr. Shaw toured the Rodessa field and attended a conference
of concerned operators to discuss suggestions for the prevention of fur­
ther waste. At its conclusion the governor announced that the operators
had agreed to draft and submit to the conservation commission within
30 days recommendations for the correction of gas waste conditions. From
their recommendations the conservation department would formulate rules
and regulations for the Rodessa field. 49

Four days later operators representing 90 per cent of the Rodessa
field's productive acreage gathered in Shreveport to begin drafting recom­
mendations. Their initial meeting produced several suggestions, the
most significant of which proposed the appointment of an operators' com­
mittee to study all practical means of securing both conservation and
equity. The committee selected P. C. Murphy, of the Phillips Petroleum
Company, as chairman, and Murphy retained H. W. Bell of Shreveport to

48 House Calendar, 1936, 237; Leslie Moses, "Louisiana Oil and
Gas Conservation Laws," Tulane Law Review, XXIV (1950), 313; Acts of
Louisiana 1936, 602-616.

49 Baton Rouge State-Times, August 4, 1936; New Orleans Times-
Picayune, August 4, 1936; Oil and Gas Journal, August 6, 13, 1936.
furnish expert advice on petroleum engineering and to assist in the interpretation of technical data.  

After the committee had spent about five weeks studying the problem and drafting its recommendations, Governor Leche summoned them to another conference on September 14 in his office at Baton Rouge. The governor expected the committee to present a complete regulatory proposal, but soon discovered that its members were in sharp disagreement. Bell advocated limiting the flow of natural gas to no more than 12,500 cubic feet for each barrel of oil produced and restricting each oil well to a maximum release of 3,000,000 cubic feet of natural gas each day. He claimed that his plan would save 251,000,000 cubic feet of natural gas each day, a reduction of 42 per cent of the amount of gas currently produced by the field's 274 oil and distillate wells. Several independent operators contended that Bell's proposal was equitable for oil wells, but that the limits should be doubled for distillate producers. J. W. McWilliams of Standard Oil of Louisiana maintained that the 12,500 cubic feet per barrel allowance suggested by Bell was "absurdly high" and argued that its adoption would significantly lower the amount of oil ultimately recovered from the Rodessa field. Ted Hall of the Tide Water Oil Company, the only other major oil company representative to comment on Bell's proposal, urged that whatever program was eventually implemented be made to apply by the lease rather than on a per well basis.  

50 Shreveport Times, August 12, 1936; Oil and Gas Journal, August 13, 20, 1936.  

51 Monroe News-Star, September 11, 1936; Baton Rouge State-Times, September 11, 14, 1936; Shreveport Times, September 12, 1936; New Orleans Times-Picayune, September 15, 1936.
Leche criticized the committee for having failed to produce a set of recommendations and cautioned them that their inability to reach an agreement might force the state arbitrarily to issue its own regulations. The next day William G. Rankin, conservation commissioner, and Dr. Shaw jointly issued a temporary conservation order for the Rodessa field. They explained that the situation at Rodessa constituted a condition of both surface and underground waste as defined in Act 225 of 1936, and they were acting to deal with it. An amalgamation of the ideas expressed at the previous day's conference, their rules were to govern all oil and distillate wells in the Rodessa field for the next 30 days.\footnote{Shreveport Times, September 15, 16, 1936; Baton Rouge State-Times, September 16, 1936.}

The effect of these rules was that roughly 30 per cent of the field's oil wells could no longer produce their entire proration allowables of 240 barrels per day, resulting in an estimated 50 per cent reduction in its waste of gas. Since the operators' committee failed to present its own conservation recommendations by the end of 30 days, Commissioner Rankin extended the temporary order for another 30 days.\footnote{Oil and Gas Journal, October 15, 1936; Shreveport Times, October 15, 1936.}

On November 27 a second conference of state officials and producers met, at the governor's request, to discuss the Rodessa field situation. At this meeting the independent operators spoke in favor of continuing the gas-oil production ratio presented by Commissioner Rankin, doubling the gas allowable for distillate wells, and closing any well producing only gas from the oil-producing formation. One major...
integrated oil company advocated a maximum gas-oil production ratio of 5,000 cubic feet of gas per barrel of oil and proposed fixing the production allocation for oil wells based 50 per cent on surface acreage and 50 per cent on bottom-hole pressure. Similar formulas were suggested by representatives of other oil and gas companies.  

Five days later Commissioner Rankin announced the implementation of one of the suggestions arising from the governor's conference. He directed that the 58 wells producing from more than one petroleum-bearing sand be closed immediately, but stated that these closures would not decrease the field's oil production because their share of the 62,500 barrel daily allocation would be distributed among the remaining wells. Describing this action as an "advance order," he explained that a complete set of rules and regulations would be forthcoming in the next few weeks.

The state-imposed temporary order closely followed the plan originally suggested by the operators' committee, and their last official actions, ordering the closure of the 58 multi-horizon wells, also agreed with the operators' committee's proposal.

54 New Orleans Times-Picayune, November 28, 1936; Baton Rouge State-Times, November 28, 1936; Shreveport Times, November 28, 1936; Oil and Gas Journal, December 3, 1936. The acreage portions of the allocation formulas suggested by the larger oil and gas interests sparked considerable opposition from the independents. The smaller producers argued that acreage was not a factor during the early development of the field, a period that they characteristically dominated, and that it would be most unfair to impose it at this time. On the other hand, representatives of the larger interests, particularly Boatner and McWilliams, argued that a 2,000-to-one gas-oil ratio was eminently reasonable since it was the standard employed in the Texas portion of the field.

55 Oil and Gas Journal, December 3, 1936; New Orleans Times-Picayune, December 2, 1936; Baton Rouge State-Times, December 2, 1936.
with a recommendation made by the independent interests. The announce-
ment, on December 15, 1936, of a set of rules and regulations, to become
effective on January 1, apparently patterned after the recommendations
of the major oil companies was, therefore, quite a shock to the indepen-
dent operators and stirred a new wave of controversy.

Described by the commissioner as "drastic," the new order was
intended to limit oil production to reasonable market demand and to in-
sure that its production did not result in either waste of the crude
oil or its associated reservoir energy. It ordered the closing of all
distillate wells pending their reclassification as gas wells, and as
such they would be limited to 25 per cent of their potential capacity.
For oil wells it imposed a gas-oil ratio of 2,000 cubic feet per barrel
and stipulated that all future production allowables would be allocated
among the field's wells according to a formula of 50 per cent bottom-
hole pressure, with a correction factor included for those wells having
greater than a 2,000-to-1 gas-oil ratio. Commissioner Rankin indicated,
however, that these provisions would not reduce the field's total daily
production even though some wells would not be able to produce their
225-barrel quota under the new rules. 56

The reaction by Rodessa-area independent producers was swift and
predictable. At a protest meeting organized by the Louisiana Independent

56 Baton Rouge State-Times, December 15, 19, 1936; Shreveport
Times, December 16, 1936; Oil and Gas Journal, December 24, 1936. The
Rodessa field proration order for January indicated that the producing
area encompassed 5,518.1 acres and the wells in that region had a cumu-
lative bottom-hole pressure of 490,772 pounds. With the per well allo-
cation calculated on a field allowable of 62,500 barrels, the acreage
factor was worth 5.663 barrels per acre with the pressure factor rated
at .0637 barrels per pound. Oil and Gas Journal, December 31, 1936.
Oil and Gas Association on December 18, R. J. Reinke, their state secretary, maintained that the order was "the most detrimental thing that could happen to the State of Louisiana." He contended that its implementation would reduce the state's daily tax income approximately $4,000, endanger the incomes of numerous land and royalty owners, and seriously threaten the continued investment of outside capital in Louisiana's development. He and R. G. Patton described the experiences of independents in the Oklahoma City field when confronted with similar discriminatory regulations. They explained that, even though eventually successful in the court challenge to the offensive rules, the Oklahoma City operators found their wells ruined and investments lost. Having listened to these warnings, those attending the protest meeting approved the appointment of a committee to ask the governor and Commissioner Rankin to delay the implementation of the new rules.57

On December 30 the independents' committee spent nearly two hours trying to convince Commissioner Rankin and Dr. Shaw that the new rules were not in the best interest of the state or the oil producers. J. M. Hayner and M. B. Chastain argued that the allowable allocation formula would deny many independents the opportunity to produce anything approaching the currently allowed 225 barrels a day. They asserted that some producers were unlikely to receive daily allocations greater than 25 barrels—a figure much too low to cover the costs of operation.58

57 New Orleans Times-Picayune, December 17, 1936; Baton Rouge State-Times, December 17, 1936; Shreveport Times, December 18, 19, 1936; Monroe News-Star, December 20, 1936.

58 New Orleans Times-Picayune, December 31, 1936; Baton Rouge State-Times, December 30, 1936.
Despite the independents' protest, the conservation department refused to delay the implementation of Order #7. A radical departure from the type of regulation previously provided by the state, it was the first instance in which acreage played a part in the establishment of a proration formula for oil wells. It also demonstrated a recognition of and appreciation for sound engineering precepts in the development of a proration formula. When fully effective, it reduced the field's daily gas waste to less than 110,000,000 cubic feet, significantly lessened the decline in the bottom-hole pressure at the area's wells, and produced estimates of additional oil recovery as high as 10,000,000 barrels. This success muted the opposition of its critics and, despite the many predictions, no legal challenges were filed against it. 59

After three-quarters of a year under Order #7, conditions at Rodessa had improved enough that many of the area's operators began to call for its modification. At their request, Commissioner Rankin met with them on October 29 at the Washington-Youree hotel in Shreveport. Representatives of the field's oil producers, especially those from the major oil companies, maintained that the area still had a gas waste problem directly attributable to the operation of the gas wells. They contended that the field's 56 gas wells received disproportionately large shares of the common reservoir's gas supply causing an ill-advised and unjustifiable decline in reservoir pressure that would eventually impair crude

59 Boatner, "Legal History of Conservation of Oil and Gas in Louisiana," 71-73; Speech by Governor Richard W. Leche to Nineteenth Annual Convention, American Legion, Monroe, Louisiana, July 11, 1937 (Box 42, Richard W. Leche MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
oil recovery. They suggested that gas well production allowables be limited to a quantity "volumetrically equal" to the gas and oil allowables of the field's oil wells. They predicted that imposition of this formula would reduce the production of the 56 gas wells by approximately 75 per cent, but would also decrease by at least half the current rate of decline in field pressure. The result would be to increase significantly the field's total oil production while not affecting the ultimate recovery of natural gas, but slowing its rate of production.

R. O. Garrett, of Arkansas Natural Gas Company, refuted these charges and recommendations. He maintained there was no significant difference in the gas and oil wells, claiming that the gas wells had a daily displacement of 132,000,000 cubic feet while the oil wells displaced 140,000,000 cubic feet per day. Consequently, there was nothing to warrant abandoning the existing production allocation system.60

Early in the following year the conservation department announced its decision concerning a volumetric withdrawal limitation. On February 22, 1938, Commissioner Rankin stated that a program similar to that requested by the oil producers would become effective on March 1 in the Gloyd and Young-Dees horizons of the Rodessa field. Both were oil-producing sands and were to be operated in a manner such as to increase ultimate oil recovery. All wells producing from these strata were to have their natural gas output closely monitored by department-approved meters. The effect of Order #11 was to reduce the field's immediate level of gas production and to increase its ultimate oil recovery.

60 Shreveport Times, October 28, 30, 1937.
Throughout the remainder of the pre-war period petroleum producers in the Rodessa field operated according to the provisions of this order.\(^61\)

Despite all of the controversy surrounding the drafting and issuance of Orders \#7 and \#11, no legal challenges resulted from their promulgation. This was not true of the implementation of some of the department's other field orders. The first such challenge involved the development of distillate production from the Bodcau sand in the Cotton Valley field in Webster Parish. Following a pattern similar to that employed in the Rodessa field, on March 23, 1938, the Department of Conservation issued Order \#10. It stipulated that all wells producing from the 8,000 foot level and below were to be operated in spacing units of 80 acres, a figure that represented a compromise between the wishes of the major oil companies and the independent producers. The order also established a proration program based on each well's gas production, the individual allowables being determined according to a ratio of 75 per cent surface acreage and 25 per cent bottom-hole pressure. The allocation program contained a proviso, however, that a well could produce its natural gas allowable only if it had a market for the gas or used it in an approved repressurization project.\(^62\)

In December 1938 the department granted a special allowable to the Ohio Oil Company, as a representative of the Cotton Valley Field

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Operators' Committee, so that it could produce enough extra gas to conduct a recycling experiment at its Account #2 well. On April 13, 1939, the Longwood Oil and Gas Company, the owner of two wells on the adjacent Hope lease, announced that it had come to its attention that several neighboring royalty owners objected to the manner in which it operated these two gas-distillate wells. Longwood admitted that it was taking "slightly more than the allowable" from these wells, but stated that it had to do so in order to protect its investment against excessive drainage of the common reservoir by Ohio's Account #2 well. Longwood protested Ohio's manner of operating under its special permit, specifically insisting that it should not be allowed to concentrate the benefits of the special allowable at one well.

Despite this explanation, on April 27 the Webster Parish grand jury, under the direction of District Attorney Robert F. Kennon, returned a series of indictments against Longwood for operating its Hope A-1 and A-2 wells in excess of the state's published allowable schedules and against the Premier Oil Refining Company for having purchased and transported the illegally produced petroleum. Premier maintained that the indictments were completely unfounded because it had in its files monthly letters of legal tender from Commissioner Rankin certifying that the oil had been legally produced. Indeed, the commissioner had issued another special permit on December 19, 1938, to the Longwood Oil and Gas Company withdrawing daily between 15,000,000 and 20,000,000 cubic feet of natural gas and produced in conjunction with the gas approximately 1,200 and 1,500 barrels of distillate.

63 State vs. Longwood Oil and Gas Company (#6,826 Criminal, Twenty-Sixth Judicial District Court, Webster Parish, Minden); Shreveport Times, April 14, 1939. Under the terms of this permit, the Ohio Oil Company withdrew daily between 15,000,000 and 20,000,000 cubic feet of natural gas and produced in conjunction with the gas approximately 1,200 and 1,500 barrels of distillate.
Company to operate Hope A-1 and A-2 at a rate such as to produce anywhere from 200 to 350 barrels of distillate daily from each well. This special allowable remained in effect until revoked by Commissioner Rankin on April 29, 1939, "coincidentally" the same day on which Premier replied to the indictments. 64

The revelation of Rankin's special permit ruined Kennon's case against both companies and he dropped it. 65 Kennon's decision removed the legal question involving the operation of the Hope lease wells, but left unanswered the question of why Longwood Oil and Gas had not revealed the existence of its special permit when the issue of overproduction arose. State Treasurer A. P. Tugwell, campaigning for the Democratic gubernatorial nomination, accused Commissioner Rankin of having issued the permit only after the excessive production by the Longwood Oil and Gas Company became an issue. 66

Although Orders #7 and #11 produced no legal challenges and those resulting from the application of Order #10 involved the granting of exemptions were dropped, the same can not be said of the proration system adopted to govern petroleum production in the Eola field of Avoyelles Parish. Promulgated on April 14, 1939, South Louisiana Order #3 established a well spacing program of no more than one well to each 20 acres to be followed whenever possible, due recognition being given to the

64 State vs. Longwood Oil and Gas Company; Shreveport Times, April 14, 29, 1939.
65 State vs. Longwood Oil and Gas Company.
66 Baton Rouge State-Times, July 11, 12, 1939; New Orleans Times-Picayune, July 13, 16, 1939. This issue will reappear in the next chapter with significantly more interesting consequences.
fact that it might be impractical to unitize smaller tracts without compromising the rights and interests of all involved. The order further stipulated that the allocation of the field's monthly proration allowable would be based entirely on acreage, with each well's allowable figured by multiplying the per-acre share of the field allocation by the number of acres in the well's tract. A well unable to produce its total allowable could not transfer the unattainable portion to other wells, and all wells were restricted to a gas-oil ratio not to exceed 2,000 cubic feet per barrel of oil.67

On August 16 George E. Lilly, the owner of a lease in the Eola field upon which had been drilled the Haas Investment Company #1, filed a protest with the Department of Conservation against Order #3. Lilly's well had been drilled before the conservation commissioner had issued a drilling permit. He had withheld the permit because the proposed location was too close to a common property line. To protect his lease, Lilly began drilling the well on June 13 without the permit, but received it two weeks later.

Lilly's crew completed Haas Investment #1 on August 4 and it demonstrated an open flow capacity of 2,000 barrels per day. Ten days later the Department of Conservation informed Lilly that the daily allowable for his well was, according to the proration plan established by South Louisiana Order #3, 61.1 barrels. Within the 48-hour period allowed for such action, Lilly filed a complaint with the department, contending

67 Lilly vs. Conservation Commissioner of Louisiana (#191 Civil Action, Federal District Court for the Eastern District of Louisiana, New Orleans, RG21, Fort Worth).
that since his lease was a 23-acre tract, the daily allowable should be 214.9 barrels, the figure generally allocated for a 20-acre lease.

Without issuing a formal reply, on August 23 Commissioner Rankin issued South Louisiana Order #9, amending Order #3. It included a new proration schedule, effective September 1, that reduced the Haas Investment #1 allowable to 29 barrels per day. Lilly again appealed within the time allowed. Failing to obtain satisfaction, on September 2 he filed suit in the federal district court for the Eastern District of Louisiana seeking to enjoin the enforcement of South Louisiana Order #3 and its successors, contending that its proration formula contradicted Act 225 of 1936 and abridged his rights to due process and equal protection as guaranteed by the Fifth and Fourteenth Amendments to the federal constitution. Specifically, Lilly alleged that the Department of Conservation was discriminating against him by refusing to recognize the producing horizon tapped by Haas Investment #1 as a separate and distinct formation and by applying "shape of the tract" allocation to him while all others in the same field were accorded "acreage" allocation.68

On September 13 a three-judge federal panel began hearing testimony on Lilly's suit. Approximately five weeks later, the federal court

68 Ibid.; 29 Federal Supplement 892-98 (October 25, 1939). In denying Lilly the full 20 acre allowable for his Haas Investment #1 well, the conservation department, speaking through its commissioner, reasoned that his was a "long, slender tract" and that it would not be operated as a 20 acre unit, despite its total acreage of 23 acres, without encroaching on the rights of adjacent landowners. This was the justification used for establishing Lilly's initial allowable at 61.1 barrels daily. The conservation department reduced this production level by more than half because they alleged that Lilly's well more than doubled the maximum allowed gas-oil ratio.
issued a preliminary injunction restraining Commissioner Rankin from enforcing the 29-barrel limitation, continuing in effect the initial allocation of 61.1 barrels daily, but admitting that a serious question remained regarding the legality of the allocation formula. On November 14 the Department of Conservation agreed to reconsider the production allowable for Hass Investment #1, and Lilly withdrew his court challenge to the department's order for the Eola field.69

The design and application of proration programs for Louisiana's oil fields was controversial and seemingly involved many political decisions. A striking example of the influence of politics in regulating oil production occurred in the Evangeline-Jennings field. The most outspoken complainant in this instance was none other than W. Scott Heywood, the father of Louisiana's petroleum industry and one of the leading champions of the independent oil man. Heywood contended that the operational practices employed by W. T. Burton were resulting in an unjustifiably rapid exhaustion of reservoir pressure and an avoidable decline in the production from neighboring wells. He acknowledged, however, that Burton's actions had a full cloak of legality because he had used his influence with Governor Leche to receive special allowable permits from Commissioner Rankin. Furthermore, Heywood alleged that Burton commonly overproduced his more productive wells in an attempt to recoup that portion of the per-well allowable unrealized by his other wells. He maintained that

69 New Orleans Times-Picayune, September 3, 7, 19, November 15, 1939; Shreveport Times, September 14, 19, 1939; Lilly vs. Conservation Commissioner of Louisiana.
conservation department officials were aware of this practice and chose to ignore it, implying again that they did so because of favoritism. 70

Heywood later claimed that he had been able to have these illegal practices stopped—but he had done so largely through the exercise of special influence. Upon the resignations of Governor Leche and Commissioner Rankin in the summer of 1939, Heywood used his friendship with Leche's successor, Earl Long, to influence the conservation department to reduce the daily well allowables in the Jennings field by one-third and to adopt a considerably more professional attitude toward the prevention of proration violations. 71

It is clear, then, that despite some rather glaring exceptions, Louisiana's conservation bureaucracy was becoming increasingly aware of the benefits of controlling the rate of oil production. It was also slowly coming to recognize that significant reductions in petroleum and reservoir energy waste could be attained through the implementation of uniform well-spacing programs.

As was the case with proration, the implementation of well-spacing programs was often controversial. Within the petroleum industry the larger companies generally stressed conservation and economic benefits when advocating well spacing regulations, often attempting to secure

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70 W. Scott Heywood to Gene B. Heywood, April 1, 1939, and W. Scott Heywood to William G. Rankin, May 20, 1939 (Jennings-Heywood Oil Syndicate Records, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).

71 W. Scott Heywood to Ernest Clements, July 26, 1939, W. Scott Heywood to Ernest Clements, August 1, 1939; W. Scott Heywood to Gene B. Heywood, August 2, 1939; W. Scott Heywood to Gene B. Heywood, September 26, 1939 (Jennings-Heywood Oil Syndicate Records, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
enactment of spacing units as large as 40 to 80 acres per well, while the independents tended to view them as another effort by the major companies to monopolize the industry by making it impossible for smaller producers to make a profit. Since drilling wells was expensive, the larger interests saw in well-spacing programs a way to reduce expenditures. Furthermore, an increasing body of technical information indicated that uniform well spacing minimized underground waste and maximized the efficient use of reservoir energy.\footnote{York Young Willbern, "Administrative Control of Petroleum Production in Texas," (Ph.D. dissertation, Austin: University of Texas, 1943), 41; Wallace F. Lovejoy and Paul T. Homan, Economic Aspects of Oil Conservation Regulation (Baltimore: The Johns Hopkins Press, 1967), 85-89; D. H. Kaveler, "Some Considerations in Regulation of Well-spacing," Interstate Oil Compact Quarterly Bulletin, X (September 1952), 61; Stuart E. Buckley (ed.) Petroleum Conservation (Dallas: AIME, 1951), 163-64; Fifth Biennial Report Department of Conservation, 41-42.}

Louisiana's first omnibus proration statute, Act 225 of 1936, contained in Section Six two provisions authorizing the Department of Conservation to institute well-spacing programs.\footnote{Acts of Louisiana, 1936, 606-607.} Application of this authority produced little immediate controversy because much of the exploration and drilling was then taking place in South Louisiana where most of the fields were found on the slopes of piercement salt domes where uniformity of spacing was impractical, while many of the fields in North Louisiana were already too old to make the imposition of a spacing program practical. The opening of the Shreveport field in the summer of 1938, however, changed this situation and made the regulation of well spacing a controversial issue.

On July 15, 1938, R. E. Allison completed his Ellerbe #1 well near the Cross Lake spillway, just one mile northeast of the Shreveport city limits. Officials from the Shreveport office of the conservation department indicated that they intended to impose a 40-acre restriction until the department had an opportunity to hold a formal spacing hearing. This announcement sparked considerable protest. On July 21 the Caddo Parish policy jury went on record against any form of spacing regulation. Earl G. Williamson, the police jury president, denounced all attempts to regulate the spacing of wells and described the practice as the "closest thing to Hitlerism that this country has ever seen, ..." He maintained that implementation of 40-acre spacing would benefit the major companies who owned large tracts in the area, but would preclude the small property owner from participating to any significant degree in the profits from oil production.74

The police jury was not alone in protesting application of spacing restrictions to the Shreveport field. On July 30 Shreveport Mayor Sam S. Caldwell wired Commissioner Rankin urging him to insure that every property owner in the area would be allowed to participate in the region's development. Two days later Senator Roscoe C. Cranor announced that he had informally surveyed property owners in the vicinity of Ellerbe #1 and found overwhelming opposition to any program of spacing units larger than ten acres. He stated that he had sent a telegram to

74 Shreveport Times, July 22, August 3, 1938.
Commissioner Rankin containing this information and indicated that he planned to deliver the same message to Governor Leche. 75

On August 2 Commissioner Rankin announced that a public hearing would be held on the 12th in Baton Rouge to consider a well-spacing program for the Shreveport field. On August 4 the Shreveport real estate board considered the spacing question. T. S. Neal and Lawrence L. May argued against spacing units of more than ten acres, making the case normally advanced by independent oil operators. They maintained that 40-acre spacing was another effort by the major oil companies to "steal" the field from the small property owners. N. B. Stoer, on the other hand, contended that 40-acre spacing was not a conspiracy, and suggested that if ten-acre spacing were adopted, the conservation department would probably prorate production for each unit to no more than one-quarter of that allowed for 40-acre units. This would severely hurt profits, because the same amount of oil would have to support the drilling and operation of four wells rather than one. 76

On August 5 the advocates of ten-acre spacing announced that a mass meeting to protest 40-acre spacing would be held on Wednesday evening, August 10, at the Shreveport municipal auditorium. Several well-known individuals addressed the crowd. Harvey G. Fields, the United States attorney for the western district of Louisiana, predicted that the application of 40-acre spacing to the Shreveport field would be the "most damnable outrage ever perpetrated on the city of Shreveport."

75 Ibid., July 31, August 3, 1938; New Orleans Times-Picayune, July 31, 1938.

76 Shreveport Times, August 3, 5, 1938.
James E. Smitherman, a long-time oil operator in the area, advocated the unrestricted drilling of enough wells to reveal the extent and characteristics of the productive structure, and then the adoption of "reasonable regulations" for further development and prudent operations. The meeting eventually adopted a resolution, drafted by Judge J. G. Palmer, calling upon the conservation department to withhold drilling restrictions for the Shreveport field until the completion of further investigation. Should it maintain that some type of spacing restriction was necessary, the department ought to allow ten-acre well spacing outside the city and at least one well for every block within its limits.  

Approximately 50 Shreveporters went to Baton Rouge to continue their effort to secure unrestricted drilling for the new field at the hearing called by Commissioner Rankin. Their spokesmen restated the by-then well-known position that wide spacing would work to the detriment of the small property owners and independent producers. Until this point very little had been heard from the advocates of 40-acre spacing, but this changed at the hearing. Sidney Herold, one of the property owners in the tract containing the discovery well, indicated that Ellerbe #1 was situated on a unitized tract of 2,000 acres and that its owners supported the adoption of a 40-acre spacing plan. Herold maintained that no one profitted from "town-lot" drilling except speculators and promoters,

77 Ibid., August 6, 9, 11, 1938. In the intervening period the protestors gathered approximately 7,500 signatures on a petition proposing ten-acre spacing for the area outside the Shreveport city limits and "block" drilling within the city.
and that this practice had contributed to the premature dissipation of promising fields at Rodessa and Lisbon. 78

As the hearing came to a close, Commissioner Rankin indicated that he would take the matter under consideration and that the conservation department would issue a temporary order in the very near future. The order, when released, called for ten-acre spacing within the city limits and 40-acre spacing outside them. On March 1, 1939, the Department of Conservation promulgated Order #13, providing the legal method by which the owners of small tracts might more easily pool their interests into a commonly operated 40-acre unit, the well spacing which was required. As a result of the application of this order and official vigilance, the department claimed, there were few exceptions to the 40-acre rule, even within the city limits. 79

During the years immediately following its enactment, Act 225 of 1936 served the state fairly well. By 1940, however, several deficiencies had come to light that required legislative action to correct. These included the law's inadequate definitions, excessive dependence upon market demand in determining the application of prorationing, inability of its spacing and pooling provisions to prevent the drilling of unneeded wells, failure to deal adequately with the problem of recycling and gas pressure maintenance in gas-condensate fields, and its lack of provisions for the condemnation of products manufactured from

78 Ibid., August 13, 1938.

79 Ibid., August 25, 27, 28, 1938; Oil and Gas Journal, September 1, 1938; Fourteenth Biennial Report Department of Conservation, 181.
The 1940 session of the General Assembly sought to correct these defects and to establish more clearly the authority of the commissioner and the conservation department in the protection and regulation of Louisiana's petroleum resources. Considered by contemporaries to be the country's most progressive and technically sound petroleum conservation law, Act 157 based the application of proration upon the prevention of waste rather than "reasonable market demand" and significantly restricted the individual property owner's discretion in deciding whether to participate in state-sponsored pooling programs. Moreover, it furnished increased protection for individual property owners against the adverse economic consequences of the promulgation of prorating and spacing programs. It also demonstrated an awareness of the growing importance of gas-condensate production by authorizing the commissioner to draft and implement recycling and pressure maintenance programs.  


81 Senate Calendar, 1940, 74; Senate Journal, 1940, 527-28, 2064; House Calendar, 1940, 495; Acts of Louisiana, 1940, 610-629; Moses, "The Louisiana Department of Conservation," 170-73; Moses, "Louisiana Oil and Gas Conservation Laws," 311-13; Wilson, "Louisiana's Oil and Gas Conservation Laws," 15-17; Oil and Gas Journal, July 25, 1940; Edward L. Gladney, Jr., Original Brief on Behalf of Joseph L. McHugh, Commissioner of Conservation, State of Louisiana, Defendant-Appellant. #36,653, Supreme Court of Louisiana. The Hunter Company, Inc., and Superior Oil Corporation vs. Joseph L. McHugh, Commissioner of Conservation, State of Louisiana (New Orleans: Hauser Printing Co., nd.), 55-56. Hereinafter cited as Original Brief. Louisiana's legislators borrowed liberally from the experiences of their sister oil-producing states while drafting Act 157 of 1940. In one area, however, the resultant statute went far beyond its antecedents. Section 9(c) authorized the conservation commissioner to require, and if necessary order, the pooling and unitized operation of separately-owned tracts of land in an effort to prevent waste of the natural resource and to provide each interested party an equitable opportunity to share in the bounty of the producing area.
Act 157 was soon challenged in the courts. After holding the prescribed public hearings, on June 17, 1941, Director of Minerals Joseph L. McHugh promulgated Order #28 establishing 320-acre drilling units for the Jeter horizon of the Logansport field in DeSoto Parish. Roughly two years earlier the Hunter Company had completed the field's discovery well on a 190-acre tract. It objected to being forced to participate in the 320-acre unitization pattern and, having exhausted the administrative remedies available to it, filed suit on September 24 in Orleans Parish Civil District Court attacking the order and the constitutionality of the statute allegedly authorizing its issuance. Hunter maintained that it should be allowed to operate its wells according to the provisions of Act 252 of 1924; that the commissioner's attempt to force it to pool its lease into a drilling unit of 320 acres was null and void; and that Act 157 of 1940 was unconstitutional because it authorized the commissioner to issue such an order.

On February 26, 1942, Civil District Judge Nat W. Bond ruled for the plaintiff and issued a permanent injunction restraining the conservation commissioner from enforcing the statute. Bond reasoned that Act 157 was unconstitutional insofar as it required the owners of separate tracts to pool their interests to operate as a drilling unit. The state appealed this decision to the state supreme court and on November 30 the court handed down its decision rejecting the trial judge's two principal reasons for finding Act 157 unconstitutional—that it unlawfully delegated legislative power to the commissioner, and that by authorizing the commissioner to compel the pooling of individual tracts into common drilling units, it deprived those persons of their property without due
process. Finding the statute and the commissioner's order legal, the
court set aside the district court order and dismissed the suit.\textsuperscript{82}

The most significant accomplishment of Act 157 of 1940 was to
provide for the compulsory unit operation, when necessary, of gas-
condensate fields. Although the United States Supreme Court had upheld
the constitutionality of this statute in Hunter Co. Inc. vs. McHugh,
that case dealt with the pooling of tracts to form a drilling unit rather
than with the unit operation of an entire field. Unit operation was
not a radically new idea when the Louisiana legislature adopted Act 157.
It had received sporadic consideration during periods of economic stress
in the petroleum industry, especially during times of overproduction
and excessive drilling. As commonly understood, unitization involved
the "combination of two or more tracts of land . . . with all parties
owning interests in the production therefrom . . . receiving their re-
spective shares from the products produced from any one or more wells
or any specific portion of the unitized tract."\textsuperscript{83} Its proponents

\textsuperscript{82} Gladney, Original Brief, 6-9, 55-56, 61-64; 11 Southern Re-
porter, 2d Series 495-509 (November 30, 1942); E. Leland Richardson,
"Louisiana, 1938-1948," in Blakely M. Murphy (ed.), Conservation of Oil
and Gas: A Legal History 1948 (Chicago: Section of Mineral Law, Ameri-
can Bar Association, 1949), 237-39. Approximately one year later the
United States Supreme Court issued a per curiam decision on an appeal
from the state supreme court ruling. The justices refused to rule on
the matter, deciding instead that the question was moot because the order
attacked had been superseded by Orders #28-C and #28-C-10, the consti-
tutionality of which were not questions before the court. 64 Supreme
Court Reporter 19-22 (November 8, 1943).

83 H. H. Kaveler, "Progress of Unit Operation," Drilling and
Production Practice 1951 (New York: American Petroleum Institute, 1952),
325; K. E. Beall, "Formation and Operation of Unit Projects in Secondary
Recovery," in Secondary Recovery of Oil in the United States, 69; Lovejoy,
emphasized that unit operation reduced the level of capital investment required, lowered developmental and operating costs, increased the efficiency of operation and the recovery of petroleum resources, and stabilized the entire business venture by reducing price fluctuations and risks.\footnote{Burns H. Errebo, "Unit Operation at Cotton Valley: An Alleged Violation of the Sherman Act," Tulane Law Review, XXIV (1949), 79; Logan, The Stabilization of the Petroleum Industry, 189; Earl Oliver and J. B. Umpleby, "Principles of Unit Operation," Transaction AIME 1930, 114-15.} The principal obstacle to its implementation was the tradition of independence that permeated the oil and gas industry. Many lease holders and operators, especially the small ones, were distrustful of anything that might compromise individual control of their property. Their legal representatives often argued that unitization, whether compulsory or voluntary, violated state and federal antitrust statutes.\footnote{George Otis Smith, "Unit Operation," American Petroleum Institute Production Bulletin #206 (New York: American Petroleum Institute, 1930), 77; L. C. Snider, "Propositions and Corollaries in Petroleum Production," Transactions AIME 1931, 98; Oliver and Umpleby, "Principles of Unit Operation," 115-16; Lovejoy and Homan, "Economic Aspects of Oil Conservation Regulation" 72-75; Willbern, "Administrative Control of Petroleum Production in Texas," 30; Logan, The Stabilization of the Petroleum Industry, 189; John C. Jacobs, "Union Operation of Oil and Gas Fields," Yale Law Review, LVII (1948), 1213-14.}

At the end of the 1930's the opponents of unit operation argued that most of the petroleum industry's commonly encountered wasteful practices would be corrected through the application of existing regulatory authority, and that unitization was not needed. At about this time, however, technical advances spurred the development of condensate pools and the initiation of secondary recovery projects. The magnitude of
these operations virtually required that some form of unitization be employed.86

At this time Louisiana ranked behind only Texas in proven reserves of high-pressure gas-condensate. The most effective way to produce this resource was to use and, through recycling, reuse the high-pressure natural gas to bring the valuable condensate to the surface. This manner of operation required a considerable investment in recycling facilities and constant vigilance to maintain the reservoir pressure as nearly as possible at the initial level. The most effective way to do this was through unitized operation of the entire productive area. This was, however, often impossible to do because of the refusal of independent-minded petroleum operators to participate in such cooperative ventures.

Act 157 of 1940 provided the Louisiana Department of Conservation with the means and authority to institute compulsory unitization where deemed necessary in the development of gas-condensate fields. The first application of this authority was in the Cotton Valley field. As early as 1938 the conservation department had issued special production allowances to the Ohio Oil Company to investigate the feasibility of recycling operations. By late June 1940, 80 per cent of the field's operators and royalty interests had joined the Cotton Valley Unitization and Pressure Maintenance Agreement and in July the conservation commissioner issued Order #10-B authorizing the members to construct and operate a

processing plant for the removal of liquid hydrocarbons and recycling of dry gas as a unit operation.

Not quite seven months later, the participation percentages for the field's operators and royalty owners were 92 and 97, respectively. Having achieved this level of acceptance, on February 1, 1941, the commissioner ordered that all gas produced in excess of market demand must be returned to the producing formation. This virtually mandated participation in the recycling project because most producers had concentrated their efforts on the production of condensate and had not made marketing arrangements for the natural gas. This order ultimately withstood a legal challenge when the Louisiana Supreme Court ruled in Crichton vs. Lee that it was a "proper exercise of the police power of the State of Louisiana for a public purpose . . . " Several years later, on


88 Myers, The Law of Pooling and Unitization: Voluntary-Compulsory, 420. The suit by the Crichton family sought to annul a lease on the grounds that its five-year primary term had passed with the stipulated development. This lease was situated in the Cotton Valley field, and, according to the terms of Order #10-C, it had been unitized. Also, in the original suit filed in the Twenty-sixth Judicial District Court, Webster Parish, the plaintiffs contended that Order #10-C and Act 157 of 1940 were constitutional because they denied them of their property without due process of law. Judge T. F. McInnis ruled for the defendant and the Crichton family appealed to the state supreme court. Before the high court they dropped the constitutional arguments, stressing instead that the state's exercising of its police power was a violation of due process because it impaired a previously executed contract. The supreme court denied the appeal, rejecting the plaintiff's argument because the commissioner was entirely within his rights to issue Order #10-C and the defendant was precluded from drilling thereby. Furthermore, Justice Hawthorne indicated that the royalties of all involved in the unitization agreement had increased due to its operation, including the plaintiff, a fact that led him to believe that the order was accomplishing its purpose. 25 Southern Reporter, 2d Series 229-36.
June 17, 1947, the United States Department of Justice filed an antitrust suit in the United States District Court for the Western District of Louisiana contending that the joint processing, refining, and marketing arrangements embodied in the unitization agreement amounted to the elimination of competition and as such were an unfair restraint of trade as defined by sections one and two of the Sherman Act. The issues in this action never came up for a decision, however, because the district judge dismissed the case after the government's attorneys refused to provide certain documents they claimed were privileged. The Supreme Court refused to hear the case on appeal and the matter was dropped, thereby ending the legal challenges to the unitization program at Cotton Valley.89

The enactment of Act 157 of 1940 and the legal challenges that it withstood made Louisiana a leader in the establishment of conservation procedures and programs. Yet, by 1940 Louisiana had a disgraceful and well-earned reputation in the conservation of its petroleum resources.

CHAPTER X

DECADE OF DISHONOR:
REGULATION OF PETROLEUM RESOURCES IN THE 1930'S

In late June 1939 Richard W. Leche resigned as governor of Louis­iana in the face of a full-blown scandal involving the construction of buildings on the campus of Louisiana State University and the operation of the university. He was succeeded by the Lieutenant Governor, Earl K. Long, the brash and outspoken younger brother of the "Kingfish." It was Long's job to try to reestablish the peoples' confidence in state government. Responding to rumors of corruption in the issuance of drilling permits, on July 8 Long announced the dismissal of Dr. J. A. Shaw as director of the conservation department's minerals division and named as his replacement David McConnell, then chief officer of the conserva­tion department's Shreveport office and the brother of Huey's widow. The governor declined to explain this personnel change except to say "I think my action speaks for itself."\(^1\)

\(^1\) Baton Rouge State-Times, July 8, 1939; Shreveport Times, July 9, 1939; Harnett T. Kane, Louisiana Hayride: The American Rehearsal for Dictatorship, 1928-1940 (New York: William Morrow and Company, 1941), 319. Shaw learned of his replacement during a conference with Commissioner Rankin. Following their meeting, the commissioner referred all questions concerning Shaw's dismissal to Governor Long. He did, however, deny the rumor that Shaw had made the issuance of drilling permits contingent upon the purchase of drilling equipment and supplies from an oil field supply company in which he allegedly owned an interest. Kane, Louisiana Hayride, 320; New Orleans Times-Picayune, July 9, 1939.
Reminiscent of the events surrounding his appointment in 1929, Shaw refused to step aside graciously. This time, however, there was no confrontation—Shaw continued to occupy the New Orleans office and McConnell stayed in Shreveport. These developments occurred at the start of the gubernatorial election campaign. Long was one of the candidates for the Democratic nomination, and one of his opponents, State Treasurer A. P. Tugwell, tried to raise the turmoil in the conservation department as a campaign issue. Only three days after Long announced his intention to dismiss Shaw, Tugwell called for a thorough investigation of the department, implying that the action taken against Shaw would not "solve the problem," and demanded the resignation of Commissioner Rankin. The governor responded that an investigation was in progress, but since Rankin's appointment had been confirmed by the senate, he was reluctant to force his removal.

Tugwell was not about to let Long dismiss the matter so easily. During the next two weeks he impugned the commissioner's honesty with regard to the issuance of special production permits to the Longwood Oil and Gas Company and implied that the conservation department funds dedicated to the construction of the geology building at Louisiana State

2 New Orleans Times-Picayune, July 13, 1939; Shreveport Times, July 21, 1939. Direction of the minerals division remained confused throughout July, the governor indicating that Shaw would probably use this period to clear up his affairs and McConnell explaining that he was without orders to assume the managerial position at the headquarters in New Orleans.

3 New Orleans Times-Picayune, July 12, 1939; Shreveport Times, July 12, 14, 1939.

4 Baton Rouge State-Times, July 12, 1939.
University had been mishandled. Further alleging corruption and abuse of power by department officials, he stated that dealers in oil field equipment were required to place their orders through the Maxwell Supply Company, a firm domiciled in Houston, Texas. According to the treasurer, all that Maxwell Supply did was to prepare bills for payment, a service for which they charged a ten per cent fee. Tugwell found it incomprehensible that the supply companies would tolerate such an unprofitable arrangement except for the fact that Maxwell Supply's resident agent in Louisiana was Representative C. A. Morvant of Thibodaux, the chief counsel for the conservation department.

Tugwell's effort to make the conservation department a campaign issue failed, but it contributed to an atmosphere in which Commissioner Rankin became a political liability. Governor Long requested his resignation and the commissioner complied. On July 24 the governor named as his successor Senator Ernest S. Clements of Allen Parish. When asked

5 Jerry Purvis Sanson, "The Louisiana Gubernatorial Election of 1940" (M.A. thesis; Louisiana State University, 1975), 43-44.

6 New Orleans Times-Picayune, July 19, 22, 23, 27, 1939; Baton Rouge State-Times, July 19, 1939; Shreveport Times, July 19, 22, 24, 1939. Representative Morvant pleaded ignorance of the entire situation, even maintaining that he was not sure if he represented Maxwell Supply, while L. J. Maxwell, president of Maxwell Supply, contended that his was an entirely legitimate business. Despite these denials, on July 24, Morvant resigned his position as chief counsel and Governor Long indicated that he would not name a successor.
to explain his action, Long responded that he knew Clements better than he did Rankin.⁷

At the time that this change was taking place, an issue was maturing that would drive the treasurer from the front pages of the state's newspapers. On July 14, 1939, Secretary of the Interior Harold L. Ickes announced the initiation of an investigation into alleged violations of the Connally Act in Louisiana. Operating out of New Orleans, the probe's director was O. John Rogge, the head of the United States Attorney General's criminal division.⁸ Less than two weeks after his arrival in Louisiana, Rogge informed his superiors in Washington that the evidence pointed toward a major oil scandal involving several "notable" citizens and leading oil producers.⁹ As Rogge had predicted, on August 7, 1939, a federal grand jury in New Orleans returned a sweeping indictment which charged Richard W. Leche, the recently resigned governor;

⁷ Sanson, "The Louisiana Gubernatorial Election of 1940," 45; New Orleans Times-Picayune, July 25, 1939; Baton Rouge State-Times, July 25, 1939; Shreveport Times, July 25, 1939. At the same time Long indicated that he was requesting that Clements immediately reinstate Shaw as director of the minerals division, convinced that Shaw had not been involved in the oil supply business, and that Shaw would share the duties of that office with David McConnell.

⁸ New Orleans Times-Picayune, July 14, 15, 1939; Shreveport Times, July 15, 1939. The initiation of this investigation produced considerable speculation as to which, if any, present or former public officials might have been involved in the shipment of "hot oil." On July 19 the Shreveport Times carried a front page editorial raising the prospect that New Orleans Mayor Robert S. Maestri, formerly conservation commissioner, had been involved in hot oil transactions. The next day Governor Long dismissed this editorial as an attempt to damage his gubernatorial campaign by ruining Maestri, whom Long described as "the finest and squarest man in the state ...." Shreveport Times, July 19, 21, 1939.

⁹ Shreveport Times, July 25, 26, 1939; New Orleans Times-Picayune, July 26, 1939.

The indictment charged blatant corruption on the part of Leche and his compatriots, and ineptitude and dereliction of duty by the highest officers in the conservation department. As early as January 1936, it declared, Leche, Weiss, and Burford began discussing the construction of a pipeline from the Rodessa field to a refinery owned by the East Texas Refining Company in Longview, Texas. In March the conspirators, along with Glassell, Winfrey, and Estes, developed a scheme to persuade Director of Minerals J. A. Shaw and Conservation Commissioner Robert S. Maestri to authorize the production of 20,000 barrels a day by the Pelican Oil and Gasoline Company from its Sexton Heirs lease wells. On March 24 Leche, Weiss, and Burford allegedly convinced Shaw and Assistant Attorney General James O'Connor that Maestri had investigated their request for a special production permit and had determined that Pelican Oil and Gasoline had a reasonable market demand for the 20,000 barrels of oil per day, and that this oil could be withdrawn from its Sexton Heirs lease without damaging the reservoir. The conspirators, on the basis of this false information, first obtained a ruling from O'Connor that the production permit would be legal. Then, having O'Connor's opinion, Shaw got from Maestri authorization to sign the permit. Maestri, however, knew nothing of the deception that had been practiced on Shaw and O'Connor.
Pelican Oil and Gasoline's permit allowed it to produce 20,000 barrels a day from wells whose normal daily allowable was only 5,200 barrels.

Between March 24 and June 12, when a federal district judge in Texas issued an injunction restraining the oil's interstate shipment, Pelican Oil and Gasoline produced and sold to Burford's companies approximately 336,000 barrels of oil all or part of which had been produced in excess of the proper legal allowables. On July 7 Seymour Weiss received $48,952.66 from Burford and the East Texas Petroleum Company, allegedly as a commission for his services in securing the special production permit. Between September 24 and November 12 Weiss received another $100,000 from the East Texas Refining Company for expediting the sale of Burford's pipeline to the United Gas Company for a sum in excess of $900,000. Later in November Weiss gave $67,000 to Leche as his share of the "commissions" and another $14,800 to Martin B. Winfrey, Burford's attorney, for the legal work involved in the oil transfers and the sale of the Rodessa-Longview pipeline.  

10 United States of America vs. Richard W. Leche, et al. (#19,712, Criminal; Eastern District of Louisiana, New Orleans Division, Federal Records Center, Fort Worth); Shreveport Times, August 8, 1939; Baton Rouge State-Times, August 7, 1939; New Orleans Times-Picayune, August 8, 1939. Later testimony regarding this case indicated that Freeman Burford, whether on his own initiative or at the behest of A. C. Glassell, agreed to pay Seymour Weiss ten cents per barrel for the oil shipped from the Sexton Heirs lease to his refinery in Longview, Texas. Since he eventually paid Weiss more than $48,000, and since the indictment makes mention of only 336,000 barrels of oil shipped in this scheme, there remains the question of how much oil actually changed hands. Not having found hard evidence to the contrary, my best estimate is that the 336,000 barrel figure represents approximately the quantity of allegedly illegal oil involved; and that Weiss' commission of $48,000 was figured on the total amount of oil shipped, not all of which would have been illegally produced. The $48,000 figure may also represent payment for both the 336,000 barrels shipped into Texas and approximately 140,000 barrels of oil transported from Rodessa to Good Hope, Louisiana, just upstream from New Orleans on the Mississippi River, from whence it entered foreign commerce bound for Italy.
After the grand jury returned the criminal indictment, John Rogge instituted proceedings to bring Burford, a resident of Dallas Texas, to New Orleans for trial. On August 8 Burford appeared before United States Commissioner John Davis in Dallas to be arraigned. Davis ordered him to appear in New Orleans and then released him on a $5,000 bond. That evening, however, Burford secured a writ of habeas corpus staying his removal to Louisaina from Federal Judge T. Whit Davidson. Concurrently, Judge Davidson announced that he would consider making the habeas corpus action permanent on the following Monday. 11

On August 14 Burford appeared before Judge Davidson to plead his case against his extradition to Louisiana. Contending that the oil in question had been legally produced and transported, he presented a copy of the March 24 order authorizing the production signed by Director Shaw together with copies of affidavits signed by Shaw and Commissioner Maestri reaffirming and continuing the order and a letter on conservation department stationery authorizing the East Texas Pipe Line Company to transport the oil. Burford also explained that a "squeeze-game" by the larger oil companies in the East Texas field drove him to protect his refinery by constructing a 60-mile long pipeline to the recently discovered Rodessa field. Apprehensive about regulatory harassment in Louisiana, he and his attorney, Martin B. Winfrey, approached Seymour Weiss, a man they recognized as a power in Louisiana politics, for assistance. Weiss put together a deal whereby Burford agreed to purchase from Pelican Oil and Gasoline 1,000,000 barrels of oil at 20 cents per barrel below the

11 New Orleans Times-Picayune, August 10, 1939.
price posted for Rodessa crude by Standard Oil of Louisiana. Burford contended that Pelican's president, A. C. Glassell, later insisted that ten cents per barrel of the agreed upon price be paid to Weiss as a commission for his services. The $48,000 paid to Weiss, therefore, was actually Glassell's money. The remainder of his money--$100,000--paid to Weiss was a commission on the sale of the Rodessa pipeline after the termination of the contract with Pelican.\textsuperscript{12}

Having listened to Burford's explanation, Judge Davidson continued the hearing until Wednesday in order to allow John Rogge to present the argument for Burford's being taken to New Orleans for trial. Appearing under subpoena as a government witness, J. A. Shaw testified that he had signed the controversial 20,000 barrel-a-day allowable very reluctantly and then only at the urging of Governor Leche and Seymour Weiss after being told by Commissioner Maestri to do so. Shaw pleaded ignorance of the ten cents per barrel commission paid to Weiss, but added that he had assumed that Leche and Weiss had some monetary involvement in the matter or they would not have shown so much interest in obtaining his signature on the order. In response to a question from Dillard Estes, Burford's attorney, Shaw admitted that the issuance of this special order was not an isolated incident, but, observed Shaw, the others had produced no lasting controversy.\textsuperscript{13}

\textsuperscript{12} Shreveport Times, August 15, 1939; New Orleans Times-Picayune, August 15, 1939.

\textsuperscript{13} Shreveport Times, August 16, 18, 1939; New Orleans Times-Picayune, August 18, 1939.
Assistant Attorney General O'Connor, appearing before Judge Davidson, stated that at a meeting with Weiss on March 23, 1935, he was given a description of the Sexton Heirs lease and was told that Commissioner Maestri had made the required investigation of the request for a special production allowable and wanted to know if he had the authority to issue it. Upon studying the controlling statute, O'Connor testified he gave an affirmative opinion and was led to believe that Weiss would convey it to Maestri. O'Connor denied any knowledge of the ten-cents-per-barrel payment to be received by Weiss. Had he had such knowledge, declared O'Connor, he would not have issued his affirmative opinion because it would have been "tainted with fraud and corruption."14

Maestri's testimony concerning his involvement with the alleged conspiracy was presented in a sworn deposition. Maestri declared that when asked in January of February 1936 by A. C. Glassell, president of the Pelican Oil and Gasoline Company, and then several days later by Seymour Weiss, for a special production allowable of 20,000 barrels daily from his Sexton Heirs lease in the Rodessa field, he had refused to grant it. He had authorized Shaw to act, Maestri deposed, on March 24 only when Shaw informed him that he was in possession of an opinion from Assistant Attorney General O'Connor that it was legal for him to do so. Maestri maintained that he had had no knowledge that Weiss was to receive a commission on the oil to be produced under this order, or that any portion of the money would eventually be paid to Leche. Had he

14 New Orleans Times-Picayune, August 18, 1939.
suspected that there was such an agreement, he would not have issued the order.\textsuperscript{15}

A. C. Glassell also testified in Judge Davidson's court. He stated that after having spent nearly $100,000 in developing his Rodessa leases, he encountered a system of \textit{de facto} proration under which Standard Oil limited pipeline runs from the field to 200 barrels daily per well. To enlarge the market for his crude Glassell sought help from Seymour Weiss, and Weiss suggested that they approach Burford. According to Glassell, he had offered Weiss a "reasonable commission" to arrange with Burford to construct a pipeline from his Longview refinery to the Rodessa field. Glassell insisted that he did not discuss specific financial terms with Weiss. Burford subsequently purchased approximately 400,000 barrels of Glassell's oil. He had then informed Glassell that, pursuant to instructions received from Weiss, he was withholding a commission of ten cents per barrel for Weiss. Glassell protested that this was not in keeping with his agreement with Weiss, but that he was forced to accept Weiss' terms or risk losing the entire amount.\textsuperscript{16}

Of all the witnesses testifying before Judge Davidson, Martin Winfrey was the star attraction. Even though he had served as Burford's legal representative on several occasions during the previous eight years,

\textsuperscript{15} Ibid.

\textsuperscript{16} Ibid.
Winfrey appeared as a witness for the government. He related that in late 1935 or early 1936 Burford had retained him because of his acquaintance with Seymour Weiss. Planning to construct a pipeline into the Rodessa field, Burford had expressed reservations about actually starting unless he received some assurance that Standard Oil would not squeeze him out of business. He believed that Weiss carried sufficient political influence in Louisiana to guarantee the success of this venture and had asked Winfrey to establish contact with him. Weiss had received Burford and Winfrey warmly and during the next few months intervened on several occasions to clear legal and bureaucratic barriers that were slowing the pipeline’s construction.

Weiss and Leche were also instrumental in securing the special production allowable granted to the Pelican Oil and Gasoline Company. According to Winfrey, he and Dillard Estes had studied the Louisiana conservation statute, Act 13 of the Third Extra Session of 1935, and had drafted a permit proposal authorizing Glassell to produce 20,000 barrels a day from the Sexton Heirs lease. Weiss had then arranged the meeting at which they obtained Shaw’s signature on the roder. Winfrey stressed that their actions on Burford’s behalf were legal. They believed, according to Winfrey, that a simple demonstration of market demand justified the issuance of a special production order. Clearly, he continued,
the demand existed because all that stood between the signing of a 1,000,000 barrel sale by Glassell to Burford was the issuance of the order.18

In his closing argument, Rogge described the arrangement by which Weiss and Leche split $134,000 as the "most venal single transaction that I ever have come across ...." As much as "the governor" and "the political boss" deserved to be held accountable for their actions, he characterized Freeman Burford as the scheme's motive force. Throughout the entire episode, according to Rogge, Burford fully understood what he was doing and at his bidding the others, indicted and unindicted alike, had developed and implemented a plan so "outrageous" as to be enjoined by a federal district court.19

In his final argument, Will Harris, an associate of Burford's attorney Dillard Estes, declared that the evidence presented did not prove that the actions of Leche, Weiss, or Burford were illegal. The special production orders issued to the Pelican Oil and Gasoline were legal, and there was no violation of the Connally Act and, therefore, no probable cause for Burford's removal to New Orleans. A "palpable injustice" would be committed, asserted Harris, if Burford were removed to Louisiana, a state which he described as "a cauldron of partisan politics and factional fights."20

18 New Orleans Times-Picayune, August 18, 1939; Shreveport Times, August 18, 1939.
19 New Orleans Times-Picayune, August 19, 1939.
20 Ibid.
Having listened to the testimony and arguments, Judge Davidson issued a writ of habeas corpus blocking Burford's removal from the northern district of Texas to stand trial in the eastern district of Louisiana. The indictments, according to Judge Davidson, had a questionable legal foundation because the alleged criminal conspiracy to violate the Connally Act rested in no small part on the validity of Louisiana's conservation statute. That law's constitutionality was open to attack, however, since the Texas market demand statute had been found null and void. The judge implied that a legal challenge would produce the same result in Louisiana, thus making it impossible for Burford and the other defendants to have violated the Connally Act.

Davidson indicated that he saw no criminality in Burford's discussions with Weiss. They were merely efforts on Burford's part to obtain a clear understanding of the reception he might expect in Louisiana. As for the sale of Burford's pipeline to the United Gas Company, the judge found it to be a legitimate business deal. Similarly, he maintained that Burford could not be indicted for having paid Weiss a $48,000 commission on the purchase of oil from Glassell unless the government could demonstrate prior knowledge that "he was aiding and abetting in a scheme and a conspiracy of Seymour Weiss to violate the laws of Louisiana." This Rogge could not do.21

Judge Davidson believed that Burford had conducted himself as a "reasonably prudent man," and that the government had failed to substantiate its allegations against him. Davidson raised a question

21 Shreveport Times, August 19, 1939; New Orleans Times-Picayune, August 19, 1939; Baton Rouge State-Times, August 19, 1939.
concerning "that element of impartiality that should go with any fact-
finding body" with regard to the grand jury that had indicted Leche,
Weiss, and Burford, but had failed to indict Maestri and Shaw. The evi-
dence, according to Davidson, strongly indicated that Maestri and Shaw
provided the permits desired by Leche and Weiss in return for being al-
lowed to keep their jobs. Such being the case, the indictment returned
against Burford was not entitled to the respect usually accorded such
documents in a court of law.\footnote{Shreveport Times, August 19, 1939; New Orleans Times-Picayune, August 19, 1939; Baton Rouge State-Times, August 19, 1939. Davidson's issuance of the habeas corpus writ crippled the government's attempts to prosecute the conspiracy charges against Leche, Weiss, and Burford. Rogge was, however, unwilling to admit defeat. Answering reporters' questions upon his return to New Orleans, he indicated that the justice department considered Burford a "fugitive from justice." Robert Weinstein, an Assistant United States Attorney for the Eastern District of Louisiana who had accompanied Rogge to Dallas, explained that they planned to dis-
tribute copies of the indictment to every district to which they believed
Burford might travel. Should he leave the northern district of Texas,
they vowed to have him apprehended and brought to New Orleans to stand
trial. Shreveport Times, August 19, 1939; New Orleans Times-Picayune, August 19, 1939.}

Having failed to gain Burford's extradition to Louisiana, Rogge
reconvened the federal grand jury in New Orleans and directed its prepara-
tion of indictments against J. A. Shaw for aiding and abetting the al-
leged Leche-Weiss-Burford conspiracy. Harnett Kane maintained that Shaw
probably knew that this was going to happen. The strain, caused by this
knowledge combined with rumors of his impending dismissal by the new
conservation commissioner, Ernest Clements, and a narrow escape from
death in an auto "accident" proved to be more than the director could
handle. During the early evening of August 20 Shaw placed a gun to his head and ended his life.\textsuperscript{23}

Even though Rogge's staff still pledged vigorous prosecution of the cases against Leche and Weiss, they admitted that Shaw's death made their task more difficult. To demonstrate that Leche, Weiss, and Burford had conspired to violate the Connally Act the government attorneys had to prove that Glassell illegally had produced the oil which he sold to Burford. This part of the case relied heavily on Shaw's testimony concerning the issuance of the special production allowable. With his death, however, all that Rogge had was the transcript of his testimony at Burford's extradition hearing, but it could not be used because Shaw had not been cross-examined by Burford's attorney.\textsuperscript{24}

On February 12, 1940, attorneys for Leche and Weiss appeared in the federal district court for the eastern district of Louisiana to file demurrers attacking the indictments. The defendants contended generally that the indictments failed to cite an offense against the United States and specifically that Act 13 of the Third Extra Session of 1935 was unconstitutional because it delegated legislative functions to an administrative body, established a regulatory procedure that denied equal protection of the laws, and that as a criminal statute it did not specifically define the crime to which it pertained. Furthermore, the lawyers maintained that the Connally Act was unconstitutional because it delegated

\textsuperscript{23} Kane, \textit{Louisiana Hayride}, 331; Shreveport \textit{Times}, August 21, 1939; \textit{New Orleans Times-Picayune}, August 21, 1939.

\textsuperscript{24} Baton Rouge \textit{State-Times}, August 21, 1939.
to the State of Louisiana "the power to regulate interstate commerce by defining contraband oil." 25

On November 19, 1940, Seymour Weiss appeared in court where he was arraigned and pleaded guilty to the charges of having violated the Connally Act and conspired to defraud the government. District Judge Wayne G. Borah imposed a suspended sentence and placed Weiss on probation for five years. 26 The charges against Leche and Burford remained active until February 21, 1951, when federal attorney John N. McKay filed a motion to have them dismissed, and Judge Herbert Christenberry granted the request. 27

Although Rogge had relatively little success in his efforts to prosecute Leche, Weiss, and Burford for conspiring to violate the Connally Act, on August 6, 1940, Orleans Parish District Attorney J. Bernard Cocke used the information contained in the federal indictments to charge that on July 8, 1936, Burford and Glassell had paid Leche and Weiss $48,592.66 for having induced Director of Minerals J. A. Shaw to issue illegally a special production permit to the Pelican Oil and Gasoline Company. On August 22 Glassell, Leche, and Weiss appeared before the parish grand jury. Although Glassell testified for approximately three

25 United States vs. Leche; Baton Rouge State-Times, February 13, 1940; Shreveport Times, February 14, 1940. On the same occasion Leche's lawyer, St. Clair Adams, contended that the indictments should be dismissed because the statute of limitations had expired before the grand jury returned the indictments.

26 United States vs. Leche. At this same time Weiss pleaded guilty to income tax evasion charges concerning the operation of the Win or Lose Oil Company and ten separate non-oil related tax evasion charges. Kane, Louisiana Hayride, 444.

27 United States vs. Leche.
hours, Leche and Weiss cited the constitutional privilege against self-incrimination in their refusal to answer any questions. Contending that the Constitution of Louisiana of 1921 had created an exception to the self-incrimination provision with regard to testimony in bribery cases, Cocke instituted contempt proceedings against them. Since it appeared that the defendants had been acting under the direction of responsible legal counsel, Judge Fred M. Oser dismissed the contempt charges.28

Without the testimony of Leche and Weiss, District Attorney Cocke faced the same problem encountered by Rogge--there was not enough admissible evidence to warrant bringing the case to trial.29 Cocke suspended prosecution of the indictments but they were not withdrawn. On November 15, 1944, the attorneys for Leche and Weiss asked Judge Oser to order that the indictments be nolle prossed. Since the district attorney had not brought the case to trial within the three years allowed for felony cases, Judge Oser granted the motion and the indictments were dismissed.30

Leche, Weiss, and Burford were not the only Louisiana public officials accused during this period of conspiracy to evade the state's

28 State vs. Leche, et al. (#100,802, Criminal District Court of Orleans Parish, Division C, New Orleans); New Orleans Times-Picayune, August 7, 1940. Recognizing that the defendants might attempt to respond that the statute of limitations had elapsed on the alleged violation, the district attorney admitted that it had been more than one year since the criminal act had occurred, but that it had not been more than one year since the judge, district attorney, or grand jury had become aware of the offense. Indeed, the district attorney filed these charges exactly 365 days following the return of "hot oil" indictments against Leche, Weiss, and Burford.

29 New Orleans Times-Picayune, August 21, 23, 1940; Baton Rouge State-Times, September 4, 1940; State vs. Leche, et al.

30 State vs. Leche, et al.
petroleum conservation laws. B. L. Krebs, an investigative reporter for the New Orleans Times-Picayune began a series of articles in December 1939 exploring alleged "hot oil" operations during 1936 and 1937 in the Iberia field. The central feature of this investigation was Robert Maestri's relationship with William Helis, a Greek-American multimillionaire who was active in several south Louisiana oil fields.

According to Krebs, Helis moved to Louisiana in the mid-1930's fresh from a period of little success in the East Texas oil field. Lacking the capital necessary to participate in the fledgling oil boom in the coastal parishes, Helis made a deal with Commissioner Maestri under which Helis was to provide the operational expertise and make marketing arrangements, and act as the "front" for the combination, while Maestri would finance its initial stages and arrange for wells that Helis had purchased to produce more oil than allowed under existing proration regulations. Maestri and Helis allegedly put their plan in operation in the Iberia, or Little Bayou, field in Iberia Parish. During 1936 and 1937 this field produced approximately 3,000,000 barrels more than allowed by the proration schedules. One of the two companies that dominated production in the field during those years was the Canal Oil Company--the product of the deal between Maestri and Helis.31

31 Kane, Louisiana Hayride, 392-93; Shreveport Times, August 1, 3, 5, 1939; "Hot Oil Deals by Robert S. Maestri and William Helis," August 22, 1939 (folder 13, W. D. Robinson MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill); New Orleans Times-Picayune, December 10, 13, 1939. Krebs believed that the records of the Department of Conservation would reveal the extent to which Maestri had used his authority to enable Canal Oil to profit from the production of "hot oil." Unfortunately, Commissioner Clements had ordered the records closed so that Supervisor of Public Funds Frank S. Shattuck could conduct a complete audit of the department.
Krebs' investigation indicated that the large-scale excessive production in the Iberia field began in August 1936, the month that Maestri resigned as commissioner to become mayor of New Orleans. While this tended to exonerate Maestri and shift the blame on his successor, William G. Rankin, Krebs tried to establish that the stage for illegal production had been set during the preceding 19 months. According to Krebs, the Canal Oil Company came into existence in late December 1934 and during the next year and a half acquired extensive lease holdings in the Iberia field. Krebs believed that Canal Oil was producing oil in the Iberia by early 1936, if not earlier. If this was true, and if, as was alleged, Maestri had been Helis' silent partner, then the former commissioner had apparently violated Act 127 of 1912 which provided in Section 7 that no salaried officer of the conservation department was to be actively interested in the exploitation of the state's natural resources.

By inspecting oil shipment records on file with the Texas Railroad Commission, Krebs discovered that from November 1936 through May 1937 the Texas Company shipped 1,971,866 barrels of oil from its wells in the Iberia field to its refineries in Texas. For this same period the total production allowable for the Iberia field was only 1,166,000 barrels. Therefore, the Texas Company had produced and shipped at least 800,000 barrels of illegal or "hot" oil. Even so, data available from the Oil and Gas Journal and the collector of revenue indicated that another 1,634,076 barrels of oil had been produced in the Iberia field

32 New Orleans Times-Picayune, December 10, 1939.
during this period. Since the Canal Oil Company was the only other large-scale producer in the field, Krebs contended that a considerable portion of this oil had been produced by the company owned by Maestri and Helis. ³³

Although having constructed a good circumstantial case against Maestri, Krebs could not prove that the former commissioner had profitted from his business relationship with Helis while holding state office. Fortunately, Krebs' was not the only investigation of the Maestri-Helis relationship. Assistant Attorney General Rogge brought this subject to the attention of the federal grand jury investigating the Louisiana scandals and on February 14, 1940, he and United States District Attorney Rene A. Viosca disclosed its findings. From August 1, 1935, through May 16, 1937, production from the Iberia field had exceeded the authorized allowables by 3,111,511 barrels. Rogge and Viosca stated that 250,519 barrels of this hot oil was produced by the Canal Oil Company and, of that amount, 138,972 barrels had been produced while Maestri was commissioner of conservation.

Although most of the illegally produced oil had entered interstate commerce, no one was indicted for violating the Connally Act. Rogge explained that Maestri and Rankin had announced monthly production allowables for each of the state's oil fields, but they had not allocated these amounts among each field's producers. Rather, the conservation department's usual practice was to encourage the field's operators to develop a mutually acceptable plan to assign each well its share of the total. This made it extremely difficult, Rogge contended, to demonstrate that

³³ Ibid., January 3, 1940.
a producer had wilfully exceeded his monthly allowable. Furthermore, Act 225 of 1936 specifically required the holding of hearings before the issuance of orders to limit production, but none had convened with regard to the Iberia field.  

Rogge also disclosed that the grand jury's investigation indicated that, as of November 30, 1938, Maestri had realized $4,157,161 from his ownership of 50 per cent of the stock in the Canal Oil Company—$675,000 in cash dividends and the rest representing his share of undivided company profits. This revelation created quite a stir. One of the first public figures to comment on it was Sam Houston Jones, at that time embroiled in a bitter campaign against Earl Kemp Long for the governorship of Louisiana. Campaigning at the head of the "reform" ticket in the 1940 election, Jones pledged that he and his candidate for attorney general, Eugene Stanley, would file suit against Maestri to recover the money the mayor had received from illegal oil investments during and after his tenure as conservation commissioner. Referring to his counterpart on the Long ticket, Stanley said that a "vote for the administration's stooge candidate is a vote to protect Bob Maestri--Honest Bob--in his crooked oil deals."  

Maestri had not responded publicly to the Krebs stories carried earlier in the Times-Picayune, but he did reply to the newspaper's report of Rogge and Viosca's announcement concerning the grand jury's findings.

34 Ibid., February 15, 1940; Shreveport Times, February 15, 1940; Baton Rouge State-Times, February 15, 1940.

35 New Orleans Times-Picayune, February 15, 1940; Shreveport Times, February 15, 1940; Baton Rouge State-Times, February 15, 1940.
The mayor termed the article a "last-minute slash at my character and integrity . . ." and a "political trick on the part of the New Orleans newspapers in attempting to distort a federal report intended to show no law violation on my part." He also furnished a statement by Lloyd J. Cobb, attorney for Canal Oil, outlining the financial dealings that resulted in his part ownership of the company. According to Cobb, in early December 1934 the Canal Oil Company, formed and headed by Helis, arranged to purchase leases in the Leeville field from the Prince Oil Company. Maestri had lent Canal Oil the $250,000 necessary to complete the transaction. Helis, in return, had agreed to repay Maestri from the company's subsequent profits and to transfer ownership of one-half of its stock to the commissioner. At a later date Maestri had lent another $60,000 to the company to purchase leases in the Iberia field.36

The public stir caused by the Rogge-Viosca revelation lasted for several days, but ended after February 20 when Sam Jones defeated Earl Long in the second primary for the Democratic gubernatorial nomination.37 Approximately one month later, the lame duck conservation commissioner, Ernest S. Clements, made an agreement with the Citizens' Voluntary Committee of Louisiana to open his department's financial books and operational records.38 Krebs inspected the department's records and found

36 New Orleans Times-Picayune, February 16, 1940; Baton Rouge State-Times, February 16, 1940; Shreveport Times, February 16, 1940.


38 New Orleans Times-Picayune, March 19, 1940.
that during the last six months of 1935, when Maestri was still commissioner of conservation, the Canal Oil Company had exceeded the field's total proration allotments by nearly 200,000 barrels.39

In the wake of Krebs' article exposing proration violations in the Iberia field, Attorney General Stanley announced that his office had undertaken an investigation of "hot oil" transactions in Louisiana.40

Roughly eight and one-half months later he filed a civil action to recover the financial gains derived by Maestri from the Canal Oil Company. The attorney general maintained that Maestri's initial involvement with the company had been illegal because Act 127 of 1912 specifically prohibited salaried officers of the conservation department from participating in businesses that produced natural resources. In the petition presented to Judge Nat W. Bond, Stanley asserted that between December 11, 1935, and November 30, 1939, Maestri had received as his one-half share of the company's profits and earnings a total of $825,000. He also owned 500 shares of capital stock in Canal Oil on which he received dividends of $100,000 on December 31, 1940. Stanley asked for a writ of sequestration against Maestri's stock and the forfeiture of all benefits derived

39 Ibid., June 15, 1940. Approximately one month later another article by Krebs explored the overproduction problem in the Leeville field during 1934. Krebs' implication was that Maestri must have been aware of this practice by the Lincoln Oil Company, a business owned by William Helis, before they formed their partnership. New Orleans Times-Picayune, July 16, 1940.

40 Ibid., July 21, 1940.
by Maestri from rights acquired in Canal Oil during his tenure as commissioner of conservation, the total sum amounting to $925,000.41

On May 6, Maestri's attorneys sought to have the suit dismissed on the ground that the plaintiffs had no right or cause of action—the principal argument being that the statute under which Maestri was accused had been repealed. Even if it were still valid, they maintained, the prohibition in Section 7 did not apply to the commissioner.42 On June 2 Judge Bond dismissed the suit, explaining that he found "... practically every word, phrase, and clause in section 7 [of Act 126 of 1912] ... subject to several constructions ... ." Such being the case, it was impossible to define accurately the statute's limits and prosecution of the suit could not fairly proceed.43

The attorney general appealed Judge Bond's decision to the state supreme court. On December 1, 1941, Associate Justice Wayne G. Rogers delivered the high court's nearly unanimous decision (Justice McCaleb recused himself because his father represented Maestri). The court rejected the appeal and affirmed the district court judgment. In its opinion it stated that Section 7 of Act 127 of 1912 clearly stipulated that "no salaried officer or employee" of the Conservation Commission should be "Actively interested in the exploiting for personal gain of any of the natural resources of the State,..." By failing to mention

41 Baton Rouge State-Times, April 7, 1941; New Orleans Times-Picayune, April 8, 1941; 5 Southern Reporter, 2nd Series 499-504 (December 1, 1941).
42 New Orleans Times-Picayune, May 7, 1941.
43 Shreveport Times, June 3, 1941.
specifically the commissioner, however, Section 7 could not be made to apply to him.44

The supreme court's ruling brought an end to more than two years of controversy and litigation involving scandal, corruption, and allegations of impropriety against Robert S. Maestri. The mayor and former Governor Leche were not, however, the only public officials to be accused of having improperly managed or illegally and unethically benefitted from the manipulation of petroleum resources during this period. Less than three weeks after the federal grand jury in New Orleans returned the indictments against Leche, Weiss, and Burford, the Ouachita Parish grand jury indicted two local conservation department employees on bribery charges. The jurors found that W. D. Dark and L. J. Melton, general manager and field agent, respectively, of the minerals division office in Monroe, had accepted $4,450 for agreeing to use their influence to obtain favorable action from a public official. On five occasions they had expedited the issuance of permits to "acidize"—a method of attempting to increase the permeability of a petroleum-bearing sand through the injection of carefully formulated acid solutions—gas wells and once had intervened on a company's behalf to obtain permission for it to reopen

44 Ibid; 5 Southern Reporter, 2nd Series 499-504 (December 1, 1941).
a well that had been closed by the conservation department because of repeated violations of its rules.45

Prominently mentioned in the indictments were the J and H Gas Company and Inabet and Pipes. The president and general manager of J and H Gas was James A. Noe, formerly governor, and a state senator and candidate for governor. W. B. Inabet, a partner in Inabet and Pipes, was the state representative from Ouachita Parish. Upon being indicted, Dark and Melton resigned their positions and issued a joint statement for the purpose of "... acquainting the public with the real facts ..." They implied that they had granted the favors they were accused of giving because they assumed that Noe and Inabet, two powerful political figures, wanted them. Noe labeled these allegations as "distorted and untrue." The payments were not bribes, rather they were "shakedowns" perpetrated for personal gain by representatives of a "vicious political machine," the

45 Monroe News-Star, August 23, 1939; Shreveport Times, August 24, 1939. The specific charges returned by the grand jury were as follows:

#22853—That on August 2, 1939, Dark and Melton accepted $750 from Inabet and Pipes to influence Shaw to issue permits to acidize four gas wells.

#22854—That between September 11, 1937, and February 15, 1939, they accepted $2,250 from the J and H Oil Company to influence Shaw to issue permits to acidize 12 wells.

#22855—That on January 30, 1938, they accepted $100 from the Pioneer Gas Company to influence Shaw to issue a permit to acidize one well.

#22856—That on January 20, 1938, they accepted $100 from the Pioneer Gas Company to influence Shaw to issue a permit to acidize one well.

#22857—That on July 20, 1938, they accepted $1,000 from Inabet and Pipes to improperly influence Shaw to permit the reopening of one gas well.

State of Louisiana vs. W. D. Dark and L. J. Melton (Nos. 22853-22857, Fourth Judicial District Court, Ouachita Parish, Monroe).
Richard Leche—Earl Long administration. Noe even claimed that the grand jury investigations had begun at his suggestion and that the attempt by Dark and Melton to implicate him was merely a ploy by his opponents to injure his gubernatorial campaign.\textsuperscript{46}

Melton replied to Noe's statement by disclosing that the senator had secured his job for him in order to dominate the mineral division's Monroe office. "I carried out implicitly orders and directions from him," Melton continued, "and on numerous occasions punished producers of gas simply because he wanted it done . . . ."\textsuperscript{47}

Whatever the influence of the Dark-Melton affair, Noe was defeated in the first Democratic gubernatorial primary, and Dark and Melton were not prosecuted on the bribery charges. Initially the case same before Judge J. T. Shell, but he granted a defense pre-trial motion to quash the indictments. The state supreme court, however, vacated this order and remanded the case to the district court. There Judge David I. Garret

\textsuperscript{46} Monroe News-Star, August 23, 1939; Shreveport Times, August 2, 1939; New Orleans Times-Picayune, August 24, 1939.

\textsuperscript{47} Shreveport Times, August 29, 1939; Baton Rouge State-Times, August 29, 1939. Several weeks later Noe issued his own statement concerning the Dark and Melton allegations. He denied the accusations made against him, defended his company's desire to acidize its wells as a "legal and customary procedure," outlined what he considered to be a "shakedown" in the issuance of the acidization permits, and delivered one more blast at Earl Long. Still pursuing his gubernatorial campaign, Noe assured the voters that the charges were "absolutely false, untrue, and inspired by a political machine as evil and debauched as Adolph Hitler." Shreveport Times, September 10, 1939; Monroe Morning-World, September 10, 1939.
approved the defense's motion to quash the indictments and dismissed the defendants. 48

To this point the attempts to convict public officials for violating the conservation laws or profiteering at the expense of the state's petroleum resources had been unsuccessful, but this was not always to be the case. On January 18, 1940, a federal grand jury in Shreveport indicted Charles G. Laskey and George Belchic, trustees of the Longwood Oil and Gas Company; Sylvester Dayton, president of the Premier Oil Refining Company; both corporations; and William G. Rankin, formerly Louisiana's conservation commissioner, for illegal transportation of contraband oil in interstate commerce and conspiracy to violate the Connally Act.

The activities cited in the indictment involved the operation of the Longwood Oil and Gas Hope A-1 and A-2 wells in the Cotton Valley field from September 1, 1938, to April 22, 1939, and the processing, disposition, and transportation of their production. Commissioner Rankin was charged with issuing an "experimental" order permitting Longwood Oil and Gas to exceed the published proration allowable schedule for the avowed purpose of conducting an experiment in gas recycling but really merely to increase the wells' distillate production. The liquid petroleum was then refined at the Premier Oil Refining Company's facility in Webster Parish and shipped to markets outside Louisiana. Premier Oil

48 195 Southern Reporter 54-56 (April 1, 1940); Minute Book Q, District Court Ouachita Parish, Monroe (March 5, 1941), 740.
disposed of the unwanted natural gas, without making any effort to re-cycle it. 49

Rankin was already serving a term in federal prison for mail fraud involving the "gift" of a boat by state employees and contract holders to former Governor Leche. After initially entering a plea of innocent to the hot oil indictment, on March 21, 1940, Rankin changed his plea to guilty. Federal Judge Ben Dawkins accepted Rankin's plea covering the first two of ten specific instances of having violated the Connally Act, but he dismissed the remaining eight and imposed a five-year suspended sentence. This was the first time that the Connally Act had been invoked successfully against an offender in Louisiana and the first conviction of a public official for improper or illegal action with regard to Louisiana's petroleum resources. Five days later, J. M. Grimmet, counsel for Longwood Oil and Gas, entered a guilty plea for the company in the federal district court in Shreveport to the first two counts of the indictment. Judge Dawkins dismissed the remaining counts and fined the company $3,000. On the ground that the "experimental" order had been issued to the company, not its trustees, the judge also dismissed the charges against Laskey and Belchic. 50


The newspaper reports and the indictments and trials of officials of the conservation department and of various oil companies placed a cloud over the conservation of petroleum resources in Louisiana during the 1930's. Having defeated Earl Long in the 1940 gubernatorial election, Sam Houston Jones made the elimination of discrimination, dishonesty, and favoritism from the conservation department one of his top priorities. In announcing the appointment of Major B. A. Hardey as temporary commissioner, Jones explained that he would fill several key positions with men who were not seeking permanent jobs in state government and who would, therefore, be more determined to carry out the reorganization necessary to bring efficiency to their departments than the career public employees had been. Hardey proposed that the mineral-related activities of the Department of Conservation be segregated and merged with the State Mineral Board to form the Department of Minerals. Furthermore, he advised that its headquarters be in Baton Rouge, rather than New Orleans, so that its officers could work more closely with the geological survey and the revenue department.

Title XXII of Act 47 of 1940 authorized the changes recommended by Hardey, and on February 1, 1941, Jones signed an executive order creating the Department of Minerals. Considering his mission accomplished, Hardey resigned and the governor named Joseph McHugh the new Director.

51 Oil and Gas Journal, March 7, May 9, 1940; New Orleans Times-Picayune, May 3, 1940; Baton Rouge State-Times, May 2, 1940. Hardey knew the industry from the bottom up and was currently vice-present of the Independent Petroleum Association of America.

52 New Orleans Times-Picayune, June 2, 1940; Shreveport Times, February 6, 1941.
of Minerals and W. H. Hodges Conservation Director. The Department of Minerals, however, had a short life. On June 30, 1941, the state supreme court declared unconstitutional Act 384 of 1940, the statute embodying the constitutional amendment furnishing the basis for the governor's reorganization plan. In the majority opinion in Earl R. Graham, et al. vs. Sam H. Jones, et al., the court explained that the proposed amendment was unconstitutional because the statute failed to specify the date on which the amendment would be submitted to the electorate and covered material that should have been presented in two separate amendments.

Even though the Graham ruling applied only to the constitutional amendment, Governor Jones decided to abandon his reorganization program based on it. On July 19 he announced that the Department of Minerals would be dismantled and its constituent parts returned to the conservation department or the mineral board. W. H. Hodges would remain as commissioner of conservation and Joseph McHugh would be supervisor of the reconstituted minerals division. The Department of Minerals officially ceased to exist on August 11 when the reformulated mineral board held an organizational meeting and elected its officers. Governor Jones served as ex-officio chairman while his fellow board members selected Major B. A. Hardey as their active chairman. This body resumed administrative responsibility for all state-owned mineral properties.

53 Louisiana Acts of 1940, 268-69; New Orleans Times-Picayune, February 1, 1941; Shreveport Times, February 2, 1941.
54 New Orleans Times-Picayune, July 1, 1941.
55 Ibid., July 1, August 12, 1941.
As has been shown, the misuse and abuse of authority, favoritism, and dereliction of duty characterized Louisiana's regulation of petroleum resources during the 1930's. These regulatory weaknesses enabled several influential Louisianians to realize, often through the exercise of unfair advantage, considerable monetary rewards. Some of these same gentlemen, especially those participating in state government, were the recipients of similar special consideration in the leasing of state-owned property for petroleum development.
CHAPTER XI

THE EXPLOITATION OF PETROLEUM RESOURCES
ON STATE-OWNED PROPERTY

The first lease of public lands for the commercial exploration and production of petroleum or natural gas negotiated by a public body in Louisiana was made by the Caddo Parish Levee Board. On April 7, 1908, it leased 640 acres to the Commercial Oil and Pipe Line Company in return for its pledge to commence drilling within 90 days and to pay as royalties 25 per cent of all minerals and oil produced and 15 per cent of the gas sold.\(^1\) Apparently some questions arose concerning the legality of this action; therefore, on May 28 Representative Leon R. Smith introduced a bill in the House of Representatives to authorize the Board of Commissioners of the Caddo Parish Levee District to lease their land for oil and gas development. Encountering no opposition, the measure eventually became Act 268.\(^2\) Although a specific authorization, this

\(^1\) Shreveport Times, April 8, 1908.

statute was the state's first legislative enactment pertaining to the leasing of public lands for petroleum development. 3

The leasing authorized by Act 268 of 1908 provided a bonanza for the Caddo Parish Levee Board. Previously one of the poorest agencies in the state, by August 1910 the board was depositing approximately $1,000 per week into its account with the state treasurer. This performance prompted some state officials to consider using this resource to liquidate the state debt. 4 While the state began experimenting with license taxes on the production of petroleum in 1910, it also soon sought to realize a profit from leasing its lands for petroleum exploration and production. In 1912 the General Assembly passed Act 258 empowering the governor to lease any "vacant and unappropriated public lands belonging to the State [sic] . . ." for the exploration and development of petroleum, salt, and mineral resources. 5

As the state's principal leasing agent the governor, upon receiving a lease application, was to instruct the State Land Office to inspect the land and report on its nature and character. He was then to advertise for bids for a period of at least 10 days. He was to stipulate that all bids must guarantee at least $200 per annum for each gas well and a royalty of not less than one-eighth of the resource produced, but he could also set further conditions. The governor did not have to accept


4 New Orleans Times-Democrat, August 14, 1910; The (Baton Rouge) New Advocate, October 23, 1912.

5 Acts of Louisiana, 1912, 582-83.
the highest bid but could make any lease satisfying the minimum requirements that he considered to be in the "best interests of the State." 6

Reminiscent of concurrent developments with respect to Louisiana's initial severance tax legislation, the next several legislative sessions after that of 1912 witnessed numerous attempts to refine the state's leasing authority. According to Leslie Moses, Act 258 was not properly drawn; therefore, attempts to correct it occurred during the legislature's 1914 session. Act 38 empowered the governor to withdraw from sale or entry any vacant and unappropriated public lands and water bottoms whenever, in his opinion, they appeared to be more valuable for mineral development than for other purposes. It also confirmed the withdrawals made subsequent to the passage of Act 258. 7 A companion statute, Act 271, reenacted Act 258 of 1912, changing its form from that of a concurrent resolution to that of a bill, and expanded the governor's leasing authority to include lake beds and bottoms. 8

Under the authority of Act 271 of 1914, on April 1, 1915, Governor Luther E. Hall executed the first lease of state-owned land for petroleum development by leasing 6,500 acres of the bed of Cross Lake (see Figure 3) in Caddo Parish, to J. M. McInerney. The lessee bound himself to

6 Ibid.


commence drilling within 30 days and to continue his discovery efforts with "reasonable diligence and prudence" until at least one well had been drilled for every 40 acres of the tract. McInerney also agreed to pay a one-eighth royalty on all oil wells producing less than 200 barrels daily, a one-sixth royalty on wells producing more than 200 barrels daily, and a cash bonus of 25 per cent of the oil produced until its value reached $65,000. Furthermore, and this is an indication of the respective value assigned to the major petroleum resources, the lessee agreed to pay a $250 quarterly royalty on each commercially successful gas well.9

Barely one month after executing this lease, Governor Hall summoned the General Assembly into a special session. Obviously he felt that some improvements were needed in the state's leasing authority because 3 of the 33 subjects listed in his official call dealt with the leasing of public lands, and the legislature acted on all three.10 On May 21, Representative L. A. Fontenot of Opelousas introduced a bill, eventually enacted as Act 30, that removed the stipulation "vacant and unappropriated" from the definition of the public property that the governor could lease. It also lengthened the period for which the call for bids must be advertised and directed the governor to award the lease to the highest bidder, should he choose to accept a bid.11

9 State Oil Lease 1, Cancelled Lease File, State Land Office, Baton Rouge.


Concurrently, the legislature adopted a bill by Representative Leon Locke to ratify and confirm the leases already awarded by Governor Hall. Enacted as Act 21, this statute, however, specifically excluded those cases involving land or lake beds the title to which was the subject of court action on or before May 15, 1915.\textsuperscript{12} This statute and Act 29—prohibiting the issuance of injunctions to restrain the exploration for oil, gas, or mineral resources of land or water bottoms owned or claimed by the state—were responses to a controversy with the City of Shreveport over the state's desire to lease the bed of Cross Lake for oil exploitation.\textsuperscript{13}

Cross Lake, once a navigable body of water backed up behind the Red River Raft, was then a slowly drying swampy region just west of Shreveport. In 1910 the legislature authorized the Register of the State Land Office to sell the lake's bed to the City of Shreveport for use as a water reservoir. The state, however, reserved the mineral rights.\textsuperscript{14} Public officials from Shreveport tried to obtain Governor Hall's guarantee that he would respect the city's plan to develop a water reservoir, but on March 21, 1915, he advertised for bids for oil and gas leases in the bed of Cross Lake. The response from Shreveport's governmental and civic leaders was immediate and negative, but the governor insisted

\begin{itemize}
\item \textsuperscript{12} Acts of Louisiana, 1915 Extra Session, 50.
\item \textsuperscript{13} Ibid., 61-62.
\item \textsuperscript{14} Acts of Louisiana, 1910, 50-52.
\end{itemize}
that it was his duty to lease the property before wells on adjacent tracts exhausted the common reservoir. 15

As already explained, on April 1, 1915, Governor Hall leased 6,500 acres of the bed of Cross Lake to J. M. McInerney. Having been unable to prevent this transaction, the City of Shreveport sought legal relief and on April 25 secured a preliminary injunction from District Judge R. D. Webb blocking any drilling until its suit could be heard on its merits. The city avoided a prolonged struggle when McInerney sold his lease to J. W. Atkins. Assuring the city fathers that he had no plans to explore for oil, but only for natural gas, Atkins allayed their fears and the city dropped its suit. 16 During the remainder of the decade several unsuccessful wells were drilled in Cross Lake, but they did not hamper Shreveport's development of the lake as a water reservoir. By 1936 the state had adopted a more protective stance as Governor James A. Noe refused to lease the lake bed for additional petroleum exploration because of the threat such activity carried to the city's water supply. 17

While the state's Cross Lake lease was not a successful producer of royalty revenue, this did not hold true in all cases. From April 1, 1915, through March 31, 1916, the state derived $32,359.10 through oil


16 Baton Rouge State-Times, April 1, 1915; New Orleans Times-Picayune, April 25, November 17, December 8, 1915; Shreveport Times, April 25, November 17, 1915.

17 Shreveport Times, April 2, 1919, April 18, 1936.
and gas leases.\textsuperscript{18} Growing increasingly aware that much of the state's property was more valuable for mineral development than for any other purpose, on May 20, 1917, Governor Hall withdrew from sale or entry all vacant and unappropriated state-owned land and water bottoms. Further demonstrating the state's cognizance of its property's value for mineral exploitation, in 1920 the Parker administration sponsored legislation creating a commission to ascertain the extent of the state's land holdings and in whose stewardship they were held. Furthermore, pending completion of this inventory, Act 34 of 1920 suspended all sales of state-owned land unless approved by the governor, and stipulated that in all subsequent sales the state would reserve the property's mineral rights.\textsuperscript{19}

During the next 15 years the state government amended and extended its leasing authority on several occasions. In 1922 the legislature, by adopting Act 20, authorized parish school boards to execute oil, gas, and mineral leases on any property that a board might own in whole or in part.\textsuperscript{20} The movement toward agency autonomy in leasing lands initiated by Act 20 continued as, in 1928 and 1934, the legislature extended the same privilege to levee boards and Louisiana State University.\textsuperscript{21}


\textsuperscript{20} Acts of Louisiana, 1922, 38.

legislative session of 1926 amended the royalty provisions found in Act 30 of the 1915 Extra Session. The earlier statute stipulated that the minimum royalty due from oil wells on state-owned land was one-eighth of the resource produced, while for gas wells it provided for fixed yearly cash payments of not less than $200 per well. Act 315 of 1926 simply extended the one-eighth minimum royalty to gas wells on state-owned land.22

The first significant modification of the procedure for leasing state-owned land occurred in 1936 as part of a "reform" package advanced by Richard W. Leche. While still governor-elect, Leche maintained that Louisiana was receiving considerably less than the potential revenue from its lands leased for oil and gas development. He promised to remedy this situation, thereby improving the state's financial condition. On May 4, 1936, Leche wired Governor James A. Noe asking that he postpone the acceptance of bids on several leases scheduled to be let during the last nine days of this term.23

Not on the best of terms because Noe felt that he had been wrongfully denied the party's gubernatorial nomination, Leche's telegram aggravated an already strained relationship. The governor found particularly galling the fact that Leche furnished copies of the telegram to the newspapers. Moreover, in answering reporters' questions the governor-elect implied that Noe had been less than conscientious in his stewardship


23 Richard W. Leche to James A. Noe, May 4, 1936 (Box 49, Richard W. Leche MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge); Shreveport Times, May 5, 1936.
of the state's mineral resources. It is not surprising, therefore, that Noe ignored Leche's request and awarded the leases as scheduled. Nor did Noe allow Leche's implications to go unchallenged. On May 7 he sent a letter to the governor-elect defending his record and explaining that he was following procedures employed by Huey Long and O. K. Allen.24

Leche did not let Noe's attempt to cast himself as the heir to Huey Long deflect him from his announced purpose of reforming the system employed in leasing state property. In a radio address delivered on May 11, Leche repeated his contention that the state's leasing revenues were considerably less than could be realized under a more efficient system. Insisting that all the advantages lay with the lessee, he proposed that the leasing authority be transferred to a state mineral board composed of the governor and two individuals he would appoint. Furthermore, he suggested the imposition of a 5,000-acre limit on tracts that could be leased from the state for mineral exploitation and a three-year limit for their exploration. Leche also proposed that holders of state leases be required to file daily production reports in order that the revenue department could accurately determine the amount of royalty and severance tax payments due the state.25

On May 21 Representatives Edmund G. Burke, C. A. Morvant, and Frank T. Stich introduced House Bill 129 embodying the changes suggested by the governor. It moved through both chambers of the legislature with

24 New Orleans Times-Picayune, May 5, 7, 9, 1936; Shreveport Times, May 7, 1936.

25 New Orleans Times-Picayune, May 12, 1936; Baton Rouge State-Times, May 12, 1936.
only minor changes and on June 26 became Act 93 of 1936. This statute created the State Mineral Board composed of the governor as ex-officio chairman and four of his appointees, and vested in it full authority to lease any land or water bottom belonging to the state for mineral development. Upon receiving an application to lease a tract of land, it could require inspections into the nature and character of the property before advertising for bids. The statute required, furthermore, that the board must demand royalties of at least one-eighth of the minerals produced, limit the size of these leases to no more than 10,000 acres each, and stipulate that annual rentals to delay drilling must equal at least one-half of the bonus paid for the lease. Finally, the statute provided that holders of mineral leases on state-owned lands must file daily reports with the Register of the State Land Office listing the quantity of resources produced. 26

Act 93 of 1936 reformed the procedures employed by the state in leasing its property for mineral development, but it left intact the decentralized system whereby agencies such as school systems and levee boards controlled the leasing of their lands. Beginning in 1938 the legislature started making the expertise and personnel of the State Mineral Board available to assist state agencies with their leasing

26 House Calendar 1936, 70; New Orleans Item, May 21, 1936; Acts of Louisiana, 1936, 276-80. Governor Leche signed Act 93 of 1936 in late June, but almost a year elapsed before he named its members. In announcing his appointments, Leche stressed that they were "purely nonpartisan." The first members were Robert S. Maestri, formerly conservation commissioner; C. C. Sheppard, a lumberman from Clarks; Henry V. Howe, chairman of the geology department at Louisiana State University; and Charles G. Laskey, a Shreveport oil man. Shreveport Times, June 13, 1937; Oil and Gas Journal, July 8, 1937.
programs. The first step in this direction, Act 80 of 1938, authorized the mineral board, upon request, to lease land belonging to levee districts.27

The first legislative session of the Sam Jones administration continued this trend. Act 162 specifically empowered any state agency to lease its property for mineral development. The statute also provided, however, that these agencies might designate the State Mineral Board to function as their official leasing agent and outlined the manner in which the mineral board was to proceed in such cases. Furthermore, should an agency prefer to handle the leasing of its property, it stipulated that these leases must be approved by the mineral board.28

That same legislative session made significant changes in the mineral board's leasing authority. Act 71 provided that the mineral board could amend any state lease so that the lessee could participate in pooling and unitization agreements. The statute stipulated that these amendments could be made without having to readvertise the tract for bids.29 Two other statutes aroused considerable opposition from many of the state's oil and gas interests. Act 77 authorized the State Mineral Board and the Department of Conservation to regulate geophysical and geological surveys made on state-owned land and water bottoms. Furthermore, the statute directed that anyone conducting such a survey on state


29 Acts of Louisiana, 1940, 384-86.
property must file a complete copy of the results with the State Mineral Board within 30 days of its completion. This provision also applied to property contiguous to any state-owned bottom and inland for a distance of 2,000 feet. A companion statute, Act 92 of 1940, authorized the mineral board to commission such surveys whenever an application was made to lease state-owned property.

Upon the promulgation of Act 77 of 1940, spokesmen for the larger petroleum exploration companies implied that its strict enforcement would cause them to turn their attention toward other states. In response to this protest, Governor Jones maintained that the state was "attempting to do simply what prudent business men would." Promising to deal fairly with all involved and explaining that no one in his administration wanted to retard oil and gas development, he insisted that the state was "entitled to a degree of information in return for the privilege of exploring . . . [its] lands." The governor's statements made it clear that the administration would not support the industry's effort to repeal Act 77. Their protests, however, probably had some influence on the regulations released by the mineral board on August 29, 1940, governing the provision of geophysical survey data to the state. Holders of survey permits were still required

**Footnotes:**

30 Ibid., 393-96. It stipulated that they could not be conducted on state property without permits obtained from the conservation department and that they were to be governed according to regulations adopted by the mineral board.

31 Ibid., 438-41.

32 Shreveport Times, August 9, 15, 1940; New Orleans Times-Picayune, August 14, 1940; Oil and Gas Journal, August 22, 1940.

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to furnish copies of their data to the state, but there was no obligation to disclose the conclusions they drew from them. Furthermore, the mineral board declared that these data would be strictly confidential and available only to the director of minerals, his geophysical staff, and board members, and then only for use in "the proper administration and mineral development of publicly owned lands . . . ." In addition, the board did not require that data be furnished from private property bordering state-owned land and water bottoms.\textsuperscript{33}

Through these measures the Jones administration tried to obtain tighter control of mineral development on state property. During that same legislative session it secured enactment of a statute designed to increase the state's revenue from this source. Governor Jones originally had hoped that many of the leases granted by Allen and Noe could be broken because they had been secured through political favoritism and without sufficient compensation to the state, but he decided not to press the matter.\textsuperscript{34} On May 22, however, Representative Alvin Crais of Orleans Parish introduced a bill to halt the leasing of state-owned lands and to create a fund to finance the state's development of its own petroleum and mineral resources. Crais contended that his measure would produce enough revenue to erase the state's debt and allow the repeal of all taxes. His colleagues in the house, however, were not convinced. Referred to the appropriations committee, that body returned a substitute by its chairman James Domengeaux that made the state's authority to

\textsuperscript{33} \textit{Shreveport Times}, August 30, 1940; \textit{Oil and Gas Journal}, September 5, 1940.

\textsuperscript{34} \textit{Shreveport Times}, May 19, 1940.
engage in developmental operations discretionary rather than mandatory. In this form the bill moved through both legislative chambers and upon receiving the governor's signature became Act 311 of 1940.\textsuperscript{35}

As discussed in the preceding chapter, in 1940 the Jones administration secured the enactment of enabling legislation authorizing it to reorganize the regulation of the state's leasing procedures. Although it eventually abandoned the reorganization program, that setback did not affect the leasing system established in 1936 and refined in 1940. That system, capped by the State Mineral Board, for the first time gave the state government a realistic opportunity to receive its fair share from the exploitation of petroleum resources found under its land.

The leasing of state lands for petroleum development was not immune to the scandals that pervaded other aspects of the oil industry during the 1930's. There were two significant differences, however, that should be mentioned at the outset. First, the effort at reform began with the inauguration of Richard W. Leche and was not a result of the revelations of improper conduct by oil men and public officials during his administration. Moreover, while many of the events that produced these reform efforts involved governmental officials, their actions were almost always legal, although they may be regarded as betrayals of the public trust.

While the most notable controversies surrounding the leasing of state property occurred during the 1930's, earlier years were not always

\textsuperscript{35} Ibid., May 24, 1940; Monroe News-Star, May 24, June 6, 1940; House Calendar 1940, 58-59, 412; Acts of Louisiana, 1940, 1234-35.
tranquil. As previously mentioned, the state had executed its first oil development lease on April 1, 1915, to J. M. McInerney. This lease sparked a controversy, but the parties involved reached a satisfactory compromise largely because the state's ownership of the property was not seriously challenged and the initial drilling efforts were unsuccessful. Such was not to be the case, however, when on April 26, 1916, Governor Hall leased a portion of the bed of the Red River traversing an area of recent oil development in Red River Parish. Almost immediately the riparian landowners began talking openly about challenging the state's right to lease the river's bed for mineral development. Initially they emphasized the obstruction of navigation, but their real motive was to protect their property from drainage by wells drilled on state property. In response to these early protests the state assured everyone that it had no intention of allowing petroleum development to hamper navigation, contending that the drilling activity would occur on parcels of land within the river bed that were rarely submerged.

The disagreement between the state and riparian landowners came to a head in a suit brought by the state against J. S. Richardson and the drilling company of Benedum and Trees. At issue was the ownership of a peninsula jutting into the river at a place known as Gusher Bend.

36 Shreveport Times, January 5, April 27, 1915; Baton Rouge State-Times, January 9, April 27, 1915. On Saturday, April 10, Governor Hall received approximately 25 bids for all or part of a 15-mile stretch of the river's bed. After studying the offers for over two weeks, he awarded leases to six different firms. These leases were often split into several pieces, but in the aggregate they covered approximately 1,750 acres of the river's bed.

37 Shreveport Times, August 4, 1915; Oil and Gas Journal, August 19, 26, 1915; New Orleans Times-Picayune, September 14, 1915.
The state contended that it owned all land within the river's bank below the ordinary high water mark. The defendants made no claim to the river bed, but they disputed the manner in which the state was attempting to determine the ordinary high water mark. Having listened to the testimony, Judge T. F. Bell held that the matter rested on two key points—the determination of the high water mark and what constituted the river's banks. He furnished a lengthy discourse on the proper method of defining those limits and then ruled that the land in question, while admittedly within the river's recognized banks, was not submerged at the ordinary high water level. The peninsula belonged, therefore, to the defendant. 38

The state appealed Judge Bell's decision to the state supreme court and, on October 6, 1915, Justice C. J. Monroe read its decision affirming the district court action. While Justice Monroe dismissed as immaterial Bell's construction of an ordinary high water mark for the section in question, his reasoning was even more damaging to the state's position. Basing his opinion upon those sections of the Civil Code dealing with alluvial property, Monroe maintained that any land rising far enough above the bed of a river to be of use to the riparian landowners belonged to them. 39

While the state was unable to establish its title to the disputed property at Gusher Bend, it was successful in defending its claim to a

38 Shreveport Times, February 3, 1916; New Orleans Times-Picayune, February 3, 1916; State vs. J. S. Richardson, et al. (#20,466, First Judicial District Court, Parish of Caddo, Shreveport). Initially filed on September 21, 1915, in the Eleventh Judicial District Court, Red River Parish, both parties agreed to have the case transferred to the First Judicial District in Shreveport where it was heard by Judge Bell.

39 72 Southern Reporter 984-92 (October 6, 1916).
much larger and more valuable tract in Caddo Parish. Part of a series of three interconnected lakes stretching from near Mooringsport, Louisiana, to Jefferson, Texas, Ferry or Caddo Lake (see Figure 4) had been formed by the overflowing of low lands and bayous behind "The Great Raft" on the Red River. This process supposedly had begun during the 15th century and by the time Louisiana had become a state the lake was navigable. Throughout much of the nineteenth century it had served, along with Soda and Clear lakes, as part of the regular avenue of commerce between New Orleans and Jefferson, Texas. When the army's Corps of Engineers removed the raft in 1871 its sister lakes drained back into the Red River, but a smaller raft sufficiently blocked the outlet of Ferry Lake to preserve its identity.40

No great amount of attention had been directed toward this shallow body of water until the discovery of oil near its shores. At its next regular session the general assembly authorized the Caddo Parish Levee District to lease lands and water bottoms under its jurisdiction for oil and gas development. Believing that this included Ferry Lake, on November 4, 1910, the levee board leased a portion of its bed and shores to the Gulf Refining Company of Louisiana for petroleum exploitation.41 This was not, however, the first attempt at mineral development in Ferry Lake. As early as March 1908 a syndicate of petroleum investors from

40 Oil and Gas Journal, March 1, 1917; New Orleans Times-Democrat, January 25, 1910.

Texarkana filed placer claims for approximately 700 acres of the lake's bed with the register of the federal land office in Natchitoches. Within less than one month, similar applications had been filed for mineral leases encompassing 3,340 acres under or surrounding Caddo Lake.42

Coincident with the filing of these placer claims, several sportsmen's clubs that regularly made recreational use of Caddo Lake protested that the initiation of oil and gas development in and along the lake. While they were worried about the area's ecological balance, the federal government was apprehensive about allowing rapid development in this region because of the waste of natural gas occurring in the neighboring Caddo field. Recognizing that the state's regulatory statutes were deficient and that remedial efforts to correct wasteful conditions were progressing slowly, on December 15, 1908, President Theodore Roosevelt withdrew all federal lands in Caddo and Bossier parishes from settlement, entry, or appropriation.43

The Interior Department's subsequent ruling that the withdrawal order applied to the Caddo Lake placer claims indicated that it considered the ownership of the lake to be vested in the federal government. The State of Louisiana, on the other hand, contended that Ferry Lake was a navigable body of water and as such the state had acquired title to its bed upon admission to the Union. As a secondary defense of its title claim, the state maintained that it had obtained the property through a federal statute enacted on March 2, 1849, by which congress granted to

42 Shreveport Times, March 24, April 9, 1908.
43 Ibid., March 38, December 17, 19, 1908.

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the State of Louisiana "the whole of those swamp and overflowed lands, which may be or are found unfit for cultivation . . . ."

The state and federal governments began to contest this issue in 1910 and throughout the next seven years their attorneys argued it before the Department of the Interior and the attorney general. On July 12, 1915, the Interior Department ruled that submerged land lying below the lake's mean high water mark of 1839 belonged to the state while that land, submerged or not, found between the 1839 demarcation and the meander line established by the Warren and Bristol survey of 1871 was federal property.\(^{45}\) A little more than one year later the attorney general's office issued an opinion supporting the Interior Department's decision.\(^{46}\)

To this point the federal government had not seriously challenged the state's secondary claim involving the 1849 swamp land grant. But on September 16, 1921, Secretary of the Interior Albert B. Fall issued an opinion in which he contended that the 1849 statute had been amended one year later to stipulate that these properties would be transferred to the states through the issuance of patents. Since a patent had not been issued for Ferry Lake, its ownership remained in the federal government. Furthermore, since the 1850 statute contained a provision precluding

\(^{44}\) Oil and Gas Journal, March 1, 1917; 287 Federal Reporter 1000 (March 5, 1923).

\(^{45}\) New Orleans Times-Picayune, July 13, 1915. This decision reserved approximately 650 acres to the federal government.

\(^{46}\) Ibid., September 23, 1916; Oil and Gas Journal, October 12, 1916, March 1, 1917.
the transfer of lands known to be mineral in character, it was not now possible for the state to obtain title to this property.\textsuperscript{47}

While not abandoning its original position, the state argued that either statute gave it the swamp and overflowed lands within its boundaries. Unable to secure a reversal of Fall's opinion within the normal bureaucratic appeal procedures, the state applied for injunctive relief in the Supreme Court of the District of Columbia. In the early spring of 1922 that tribunal sustained the state's title to the swamp and overflowed lands within its boundaries by virtue of the 1849 statute, and the Court of Appeals of the District of Columbia upheld this decision.\textsuperscript{48}

The appellate court's ruling concluded the dispute with the federal government over the title to Ferry Lake. Simultaneously, however, the state was involved in a similar title struggle involving Ferry Lake with the Caddo Parish Levee District. The levee district's Board of Commissioners maintained that Act 74 of 1892 and its amendment, Act 160 of 1900, transferred to their jurisdiction the state's swamp and overflowed lands within the district. Subsequently, they prevailed upon the Register of the State Land Office to declare the bed of Ferry Lake to be swamp and overflowed lands and as such subject to transfer to the levee district.\textsuperscript{49}

\textsuperscript{47} Report of the Attorney General 1920-1922, 16; 287 Federal Reporter 1001 (March 5, 1923).

\textsuperscript{48} Report of the Attorney General 1920-1922, 16-17; Shreveport Times, April 4, 1922; New Orleans Times-Picayune, March 7, 1923; 287 Federal Reporter 999-1003 (March 5, 1923).

\textsuperscript{49} State ex rel., A. V. Coco, Attorney General vs. Board of Commissioners of the Caddo Levee District, et al. (#25,309, First Judicial District Court, Parish of Caddo, Shreveport). Hereinafter cited as State vs. Board of Commissioners.
As early as August 1912, Governor Luther E. Hall requested that Attorney General Ruffin G. Pleasant investigate the legality of this land transfer, but little more was heard of the subject until his June 18, 1914, address to the General Assembly. In this message the governor contended that Ferry Lake was a navigable body of water and as such not transferable to the levee board as swamp and overflowed lands. He asked, therefore, that the legislators reassert the state's right to this property. By Act 86 the legislature referred the matter to the attorney general's office for a thorough investigation.

Even before the attorney general had completed this investigation Governor Hall availed himself of another opportunity to press the state's claim to Ferry Lake. In addressing an extra session of the legislature on May 16, 1915, he expressed his belief that it possessed the authority, and had the duty, to reassert state sovereignty over land erroneously and unlawfully conveyed to a subsidiary agency. Five days later Representative Louis Locke of Calcasieu Parish introduced House Bill 20 containing such a provision.

Not unexpectedly, the Locke bill encountered strong opposition. The Shreveport Chamber of Commerce adopted a resolution condemning it as "a covert attempt on the part of the state to hamper or destroy the property of the levee board."

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50 New Orleans Daily States, August 14, 1912; New Orleans Item, June 18, 1914.
51 Baton Rouge State-Times, June 18, 23, 1914; Shreveport Times, July 2, 1914; New Orleans Item, July 2, 1914; Senate Calendar, 1914, 121; Acts of Louisiana, 1914, 202.
integrity of the Caddo levee district . . . ." A delegation of its members joined Lieutenant Governor T. C. Barret, Speaker L. E. Thomas, and Attorney General Pleasant in speaking against the bill before the House Committee on Public Works, Lands and Levees. Apparently their arguments were impressive as the committee voted unanimously to give it an unfavorable report. When House Bill 20 came up for its second reading, however, Representative Locke read into the record a letter from former governor Newton C. Blanchard contending that Ferry Lake was a navigable body of water, and the house voted to override the committee's report and forward the measure to its third reading. But, on the final vote on June 8, the representatives reversed themselves and defeated the measure by a one-vote margin of 47 to 48.

After 1915 no further efforts were made through legislative enactment to vacate the levee district's claim to the bed of Ferry Lake. On March 22, 1919, however, Attorney General A. V. Coco announced his intention to institute legal proceedings against the Caddo Parish Levee District challenging its claim to Ferry Lake and seeking reimbursement for the royalty payments erroneously made to it. According to the attorney general this represented a considerable sum of money since his information was that the Gulf Refining Company alone had made royalty payments in excess of $1,500,000 since 1910. He also indicated that the state might seek to have the leases generating these payments annulled.

53 Shreveport Times, May 17, 18, June 1, 1915; New Orleans Times-Picayune, May 27, 28, June 1, 2, 1915; New Orleans Item, May 28, June 1, 1915; House Journal, 1915 Extra Session, 13.

54 New Orleans Times-Picayune, June 9, 1915; Shreveport Times, June 9, 1915; House Calendar, 1915 Extra Session, 13.

55 Shreveport Times, March 23, 25, 1919; New Orleans Times-Picayune, March 23, 1919. According to the attorney general this represented a considerable sum of money since his information was that the Gulf Refining Company alone had made royalty payments in excess of $1,500,000 since 1910. He also indicated that the state might seek to have the leases generating these payments annulled.
prompted the levee district's Board of Commissioners to release a statement repeating that they had received fee simple title to the lake's bed by virtue of Act 74 of 1892 and Act 160 of 1900. The proposed suit, moreover, reflected unfavorably on the state's honor and dignity and appeared to be a case of freely disposing of an object and then demanding its return when its value increased.  

Attorney General Coco was not to be deterred and on Saturday, April 12, 1919, he forwarded to Shreveport a petition to be filed on the state's behalf reasserting its authority over the bed of Ferry Lake. In it he contended that Ferry Lake was not, and never had been, swamp or overflowed land; therefore, it had never been susceptible to transfer to the levee district's jurisdiction. He further averred that the levee district's board of commissioners had been cognizant of this fact when they convinced the Register of the State Land Office to classify the property as swamp and overflowed land. Their actions, therefore, amounted to the perpetration of a fraud against the state. Coco asked the court to negate the transfer and to direct the levee district and its lessees to reimburse the state for the minerals produced under leases illegally granted by the Caddo Parish Levee District.

As with many legal proceedings, the course of this suit through the district court was slow. Not until July 5 did the levee district

56 New Orleans Times-Picayune, April 2, 1919; Shreveport Times, April 2, 1919.

57 Shreveport Times, April 13, 1919; New Orleans Times-Picayune, April 13, 1919; State vs. Board of Commissioners, This was no small sum as Coco maintained that since 1910 the levee district and received $2,000,000 in royalty payments and that its lessees had retained another $14,000,000.
formally respond to the attorney general's petition, and then it filed for an exception of no cause of action, a way of asking that the suit be dismissed. Twelve months later, while still reserving its rights under the original motion for dismissal, the levee district's attorneys denied that Ferry Lake had been a navigable body of water at the time of the state's admission to the Union. They contended that it was and always had been an area of swamp and overflowed land created by "The Great Raft" and as such Louisiana obtained title to the area from the federal government through a swamp land grant in 1849. That being the case, their action in securing conveyance of the lake's title from the Register of the State Land Office could not have constituted a fraud. Therefore, the state was not entitled to recover the value of the oil and gas produced from mineral leases granted by the levee district for the development of the lake's bed.\textsuperscript{58}

The suit finally went to trial on February 17, 1921, but the next eight months produced only a series of delays while the opposing parties negotiated their differences. On October 21, 1921, they advised Judge E. P. Mills that they had agreed to an equal division of the $1,000,000 in royalty payments currently held in escrow. They further agreed that the levee board would receive one-third of all future royalties until it had obtained an additional $500,000. The levee district abandoned its claim to the lake in return for an acknowledgment that it had acted in good faith and the state's pledge to honor the leases awarded by its

\textsuperscript{58} State vs. Board of Commissioners.
board of commissioners. Approximately three weeks later Judge Mills returned a decision incorporating this compromise, thereby giving each of its provisions the force of law.

The only outspoken critic of the compromise was Huey P. Long. Within a matter of days following the issuance of Judge Mills' decision, the public service commissioner released a statement denouncing what he described as the deferential treatment accorded the levee board's lessee, Gulf Refining Company. Because of this treatment, he maintained, the state had received nothing not already held in the name of a subsidiary agency, the levee district. Long did not pursue the question after releasing this statement, but he did return to it on September 18, 1923, while opening the New Orleans portion of his first gubernatorial campaign. In a speech that evening at the Athenaeum he claimed that the Parker administration's compromise was nothing less than a "gift" of $60,000,000 to the Gulf Refining Company. When approached by journalists for a response to Long's latest allegation, Attorney General Coco explained that the issue had always been between the state and the levee district over title to the lake bed. During their negotiations the sole concern of the Gulf Refining Company had been the protection of its contracts. Upon reaching an agreement with the levee district, the state


60 State vs. Board of Commissioners; Report of the Attorney General 1920-1922, 11-15; Shreveport Times, November 15, 1921.

61 New Orleans States, November 19, 1921.
determined that the existing lease arrangement was "most excellent and ... [afforded] more benefits and advantages to the state than other contracts of a like nature ..." The administration decided, therefore, to retain the current leases with Gulf Refining. While the explanation failed to satisfy Long, it did serve to defuse the Ferry Lake settlement as an issue in the 1923 gubernatorial primary campaign. 

While Long's criticism of the Ferry Lake compromise may have been motivated by anger at Governor Parker or personal hatred for the large oil companies, his principal contention was that the state had missed an opportunity to increase its revenues while giving a bonanza to Gulf Refining. Ironically, barely seven and one-half years later quite similar allegations would be made against then Governor Long, and this time the charges would include personal fraud on his part.

This controversy arose on March 21, 1929, when Lieutenant Governor Paul N. Cyr, while addressing the senate, contended that recent events involving state oil and gas leases demonstrated that Long had allowed the state to be "swindled." According to Cyr, on December 10, 1928, Long had signed agreements approving the transfer of eight state oil leases from the Louisiana Land and Exploration Company to the Texas Company. Louisiana Land and Exploration had acquired the rights to these tracts from their original holder, R. S. Hamilton, who had leased them from the state. Geophysical tests had indicated the existence of salt domes under these leases; but, Cyr maintained, Louisiana Land and

62 New Orleans Times-Picayune, September 23, 1923; Undated news release (Box 3, folder 91, Huey P. Long MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
Exploration could not afford to drill for oil. Fearing that the leases would revert to the state because of nondevelopment, the company had agreed to sell them to the Texas Company for $1,800,000 and a one-quarter royalty. This was not a bad profit on leases for which the state had been paid a total of $214,000 and a one-eighth royalty. Although he did not directly accuse Long of having personally profitted from this deal, Cyr described the governor's approval of the transfer as Louisiana's "Teapot Dome scandal." The implication was clear, though unstated, that the governor had received some form of monetary reward.  

Three days later Governor Long responded that the lieutenant governor was obviously "uninformed." Long explained that he had been fully aware of the tremendous profit to be realized by Louisiana Land and Exploration when he signed the transfer, but that he had felt that their good fortune was justified because of the risk involved in securing such leases originally. He dismissed the forfeiture argument and contended, ironically so in view of his attack on the Ferry Lake compromise, that it would not speak well of the state to attempt to recover these leases by blocking their transfer.

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64 New Orleans Times-Picayune, March 25, 1929; Shreveport Times, March 25, 1929. Despite Cyr's implications of scandal surrounding the transfer of these leases, no hard evidence was forthcoming to support the allegation. W. D. Robinson apparently attempted to gather the necessary evidence, but his efforts, although uncovering reports to the effect that Long received $100,000 for approving the lease transfers, always collapsed before a link could be established. Whether or not the rumors were true, apparently enough people at that time believed them to be true to cast some doubt on T. Harry Williams' rejection of the allegation as "monstrously illogical" because Long had always opposed the major oil companies. Undated article (Folder 19, W. D. Robinson MSS, Southern Historical Collection, University of North Carolina Library, Chapel Hill); Williams, Huey Long, 368-69.
Although Lieutenant Governor Cyr was unable to demonstrate that Long had benefitted monetarily from dealings in state-owned oil and gas properties, the same cannot be said of his successors, Oscar K. Allen and James A. Noe, both of whom—along with Long—were participants in the Win or Lose Oil Company. Chartered on November 20, 1934, to "acquire, sell, or exchange lands and leases for the drilling and prospecting of oil, gas, and other minerals," its officers were James A. Noe, president; Seymour Weiss, vice-president; and Earle Christenberry, secretary-treasurer. All three had strong connections with the Long-Allen administration: Noe was its floor leader in the senate, Weiss was a long-time political confidant of Huey Long, and Christenberry was Long's secretary. They were also the company's original shareholders—Noe holding 98 shares while Weiss and Christenberry had one each—but Long and Allen soon received 31 shares each from the portion initially held by Noe.  

Throughout the remainder of the pre-war period Win or Lose Oil was tremendously successful in acquiring and selling oil leases. Many of these leases involved tracts of state-owned land and water bottoms and a circumstantial case can be constructed to demonstrate that much of the company's success stemmed from the personal involvement of its officers in its activities. On October 23 Governor Allen executed state mineral lease 309. By its terms Noe, then still a senator from Ouachita Parish, received the right to explore and develop for oil and gas the beds of Bayous Bartholomew, DeSiard, DeArbonne, DeLoutre, and Boeff, and

65 Williams, Huey Long, 866-68; T. Harry Williams interview with Robert Angelle, April 27, 1963 (Box 3, folder 28, Thomas Harry Williams MSS, Louisiana State University Department of Archives and Manuscripts, Baton Rouge).
a stretch of the Ouachita River nearly 40 miles in length without taking into account its meanderings. Governor Allen certified that Noe's bid was the most "advantageous" to the state, which may well have been true, but it seems curious that this property, actually 50 separate tracts within the proven limits of the Monroe gas field, would have generated no better bid than a promise to pay the usual one-eighth royalty and to commence drilling the first well no later than 30 days after having secured the required permits. His bid contained no mention of a cash bonus or annual rental payments, although a subsequent amendment to the lease allowed the lessee to postpone drilling for five years by paying an annual rental of $15,000.

Sixteen days after having received state mineral lease 309, Noe had sold 30 of the 50 tracts comprising the lease to J. E. Farrell, M. S. Rhoades, and D. J. Simmons, all residents of Tarrant County, Texas. Noe apparently received $27,500 and reserved an overriding one-quarter royalty interest in any wells drilled on these properties. The remaining 20 tracts he transferred to the newly formed Win or Lose Oil Company on November 20 in return for 98 of its 100 shares of capital stock.

Nine months later, on August 21, 1935, Win or Lose Oil assigned ten tracts to the Interstate Natural Gas Company for $160,000, and transferred the other ten to the United Gas Public Service Company for another $160,000. Governor Allen approved both of these transactions. On the twenty-seventh Win or Lose Oil purchased three cashier's checks, all made payable to "Cash," for $62,000, $50,000, and $24,000. Although unknown at the time, it later was revealed that these checks were issued to Huey Long, Seymour Weiss, and Oscar K. Allen, respectively. Noe also took a $62,000 share of the company's profits, and he and Allen used an
additional $87,500 to purchase a one-half interest in 11,000 acres in the Sligo oil field in Bossier Parish.⁶⁶

Lease 309 was not the only state lease from which Win or Lose Oil profitted. On July 2, 1935, W. T. Burton of Lake Charles, acting as the company's agent, was the highest bidder for state mineral lease 318. On that occasion he paid a cash bonus of $32,750. Sixteen days later Burton, still acting as the agent for Win or Lose Oil, sold this lease to the Texas Company for $70,500 and 1/24th overriding royalty. From this transaction Win or Lose received $27,797.50 and three-quarters of the overriding royalty.⁶⁷

Less than two months later, Governor Allen awarded state mineral lease 323, embracing all state-owned water bottoms covering the known limits of the Bayou Bouillon salt dome in Iberville and St. Martin parishes,

⁶⁶ Williams, Huey Long, 867-68; Shreveport Times, November 22, 1935; October 15, 1939; Baton Rouge State-Times, December 14, 1935. As this sequence of events, or at least part of them, became public knowledge there was an attempt to interject them into the 1936 gubernatorial campaign. From Thanksgiving through mid-December 1935 Congressman Cleveland Dear, candidate for governor on the Home Rule ticket, tried to use Win or Lose Oil as an issue to attack the Long machine's candidate, Richard Leche. Dear's standard approach was to quote Leche's pledge to continue the policies and programs of the Allen administration, and then to recount the enormous profits made by Allen, Noe, and their associates from the state mineral leases that formed the basis of the Win or Lose Oil Company. These manipulations he described as a "greater outrage than the Teapot Dome scandal ...." As was true of many aspects of Louisiana politics, this episode also had its lighter side. Especially in small town stump speeches, Dear often referred to Governor Allen as "Oil" K. Allen or "Oily" Oscar. Both Allen and Leche either ignored or evaded Dear's accusations, but such was not true of Earl K. Long, the candidate for lieutenant-governor on Leche's ticket. In characteristic fashion, he vigorously denied the allegations of fraud, corruption, and scandal, and saddled the Home Rule candidate with the moniker "Dodo" Dear. New Orleans Times-Picayune, November 18, 19, 30, December 10, 1935; Baton Rouge State-Times, November 28, 29, 30, December 9, 14, 1935; Shreveport Times, December 10, 1935.

⁶⁷ Shreveport Times, October 15, 1939.
to D. J. Simmons, one of the three Texans to whom Noe had sold part of his Monroe gas field lease. Simmons received the lease even though his bid was for only $50 and a pledge to drill within six months, while two other bidders, each promising to drill within one year, promised cash bonuses exceeding Simmons' by 11 and 60 times, respectively. On February 26, 1936, Noe, having become governor following Allen's death, approved the assignment of a 1/16th overriding royalty interest in lease 323 to Win or Lose Oil. In return, the company agreed to pay Simmons one dollar and "other good and valuable considerations." The Bayou Bouillon area soon proved to be a productive oil field and Governor Noe's oil company began to profit handsomely from its one dollar investment.68

D. J. Simmons also figured prominently in a transaction by which Win or Lose Oil directly benefitted from the development of state mineral lease 343. On March 7, 1936, Governor Noe awarded Simmons exclusive drilling privileges on the state-owned water bottoms found in the Elm Grove field of Caddo and Bossier parishes containing approximately 50,000 acres. For this lease Simmons agreed to pay a cash bonus of $500 and to commence drilling a well within one year, a promise that could be postponed for up to five years through the payment of a $250 annual rental fee. Moreover, in addition to the usual one-eighth royalty, Simmons agreed to pay the state $100,000 out of a 1/128th overriding royalty--an assigned portion of the leaseholder's interest--from the lease's wells.

That same day Noe authorized the assignment of a 1/32nd override to Win or Lose Oil, the company of which he was still president. Once again the company paid Simmons one dollar and "other good and valuable considerations."69

It is clear that Allen and Noe, while not violating any statutes, derived handsome profits from their dealings in mineral leases on state-owned lands and water bottoms. They were by no means, however, the only public officials to benefit from such activity. During the 1930's State Senator Harvey Peltier of Thibodaux was phenomenally successful in purchasing overriding royalty rights in state mineral leases. On November 13, 1935, Simon A. "Pops" Guidry obtained state mineral lease 328 for an $8,000 cash bonus, the usual one-eighth royalty, and an overriding 1/128th royalty up to a limit of 1,000,000 barrels of oil. This lease covered all state-owned water bottoms in a 400-square-mile segment of Lafourche and Terrebonne parishes not currently under state lease. Three months later Guidry transferred four-fifth of this lease to Peltier, Dr. Thomas Stark, sheriff of Lafourche Parish, and Sam Palmer of Schriever for $1,000. Peltier put up $500 and received a 40 per cent interest in the original lease. In May 1935 the four owners sold the lease to the Fohs Oil Company for $22,500, a profit of $14,500 from which Peltier received $3,800 on his 40 per cent share. They also retained a 1/24th overriding royalty interest in the lease from which, by November 1939, they had received and split approximately $25,000.70

69 Shreveport Times, October 22, 1939.
70 New Orleans Times-Picayune, November 8, 1939.
Whereas Peltier did not obtain an interest in state mineral lease 328 until early 1936, as early as 1931 he, Guidry, and O. K. Allen had been partners in several mineral rights speculations in Lafourche Parish. After Allen became governor he awarded a lease for that portion of Bayou Lafourche that bisected the already-proven Leeville field to Guidry in return for a cash bonus of $500, the required one-eighth royalty, and a promise to drill 11 wells. Approximately six months later Guidry assigned the northern half of this lease to R. Y. Walker of Dallas, Texas. Walker agreed to assume the state's royalty and to pay Guidry one-eighth of the remaining seven-eights until he had received $200,000. In May 1933 Guidry assigned the remaining portion to William Helis for the same terms as received from Walker. That same month Guidry sold one-half of his $400,000 royalty interest to Peltier for $1,000 and "other good and valuable considerations." This transaction was not, however, made public until nearly four and one-half years later. By the end of September 1939 Peltier had realized from this $1,000 investment a total return approaching $175,000.\footnote{Ibid., November 7, 1939.}

Although Peltier's success may have been common knowledge in certain circles, not until the New Orleans Times-Picayune carried a series of article on his investments did the average citizen become aware of these activities. Since the newspaper's editors hoped to derail Peltier's candidacy for lieutenant governor, their articles carried the underlying insinuation that these deals had been made possible by political favoritism. While this implication may have been true, the paper could not
substantiate it. Furthermore, although there were valid ethical questions concerning Peltier's investments, they were clearly not against the law as it existed in the 1930's. Regardless of the ethical question, by September 30, 1939, the senator owned royalty interests in ten separate state mineral leases and from them had received, according to the *Times-Picayune*'s estimates, approximately $250,000.\(^7\)

It must be restated that the actions of Allen, Noe, and Peltier were not illegal. Act 30 of the 1915 Extra Session designated the governor as the state's leasing agent and bestowed upon him wide discretionary powers, the principal stipulation being that he select the bid that he considered most advantageous to the state. For the next 20 years limits on the governor's authority were imprecisely defined and unchallenged. This situation changed, however, on April 2, 1936, when C. M. Brenner, a Shreveport oil man, filed a suit against Governor Noe and W. T. Burton seeking to have the court cancel a lease granted to Burton and direct the governor the execute a lease in his favor. Brenner explained that on August 17, 1935, Governor Allen awarded Burton a lease covering certain state-owned water bottoms in Bossier and Caddo parishes. Subsequently he discovered that the call for bids had not been properly advertised. The governor, therefore, cancelled Burton's lease and caused the property

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\(^7\) Ibid., November 6, 1939. Peltier responded to these articles with a letter to the editor of the *Times-Picayune* in which he contended that his financial successes in the oil business were the result of good fortune in speculation. To his political opponents, however, the magnitude of his profits suggested a "sure thing" rather than a speculation. According to Harnett Kane, his detractors described Peltier as a "fellow that has a wonderful nose; he can sit on his front porch and smell oil all over Louisiana." New Orleans *Times-Picayune*, November 9, 1939; Harnett Kane, *Louisiana Hayride: The American Rehearsal for Dictatorship, 1928-1940* (New York: William Morrow & Company, 1941), 391-92.
to be readvertised. According to Brenner, the second advertisement stipulated that the lessee must agree to drill within one year. Brenner responded with a bid promising a $100 cash bonus, $100,000 in oil paid at the rate of $10,000 per producing well, the standard one-eighth royalty, and a pledge to drill within one year. Burton, on the other hand, submitted a bid in which he promised to drill within two years. Despite this discrepancy, Governor Allen again awarded the lease to Burton.

As a consequence, Brenner filed suit in the 19th Judicial District Court, East Baton Rouge Parish, to annul Burton's lease and to direct the governor to award him a lease for the same property. Burton's attorney responded that the courts had no jurisdiction over the governor's leasing authority and that Brenner had no cause or right of action. Judge Amos Lee Ponder, Jr., sustained the defense's exceptions and dismissed the suit. Brenner appealed to the state supreme court. On November 30, 1936, Justice John B. Fournet, speaking for a nearly unanimous court, sustained the dismissal, but this time on a legal technicality involving a procedural incompatibility between the types of relief sought by Brenner. The court did not, therefore, rule on the merits of the case, but Justice Fournet explained that in leasing state property the governor possessed only specifically granted authority. Moreover, his exercise of this authority was subject to judicial review and could be set aside if found to exceed statutory limits.

73 New Orleans Times-Picayune, April 3, May 19, June 2, 1936; Baton Rouge State-Times, April 2, May 18, June 2, 1936; 171 Southern Reporter 708-709 (November 30, 1936).

74 171 Southern Reporter 708-713 (November 30, 1939); New Orleans Times-Picayune, December 1, 1936.
The supreme court's ruling in *State ex rel. Brenner vs. Noe, et al.* acknowledged that the governor's leasing authority was subject to limitations. The Leche administration's reform package resulted in the establishment of the State Mineral Board and removed the need for further judicial action to determine the extent of the governor's powers. Act 93 of 1936 provided a vehicle that could be used to provide a professional and full-time steward for the state's mineral-bearing properties. As with most governmental agencies in Louisiana, the mineral board was subject to political manipulation and its reputation would often be no better than that of those persons appointed to serve as board members. Regardless, by removing the governor from direct control of the leasing operation the Leche administration made a positive and lasting contribution to the management of state-owned mineral properties, a reform demanded by the abuses of the previous system.
CONCLUSION

During the first 40 years of the twentieth century the State of Louisiana's stewardship of petroleum resources, if metaphorically expressed in terms of human development, progressed through the faltering steps of infancy, the tantrums of childhood, and the rebelliousness of early adolescence. At the end of the period the petroleum industry in Louisiana had tremendous potential for growth, and the state government finally appeared to have the authority, dedication, and leadership necessary adequately to conserve and regulate petroleum resources.

Easily one of the most significant events in the history of the American oil industry, the completion on January 10, 1901, of the Lucas gusher initiated the Spindletop oil boom. This well, according to Carl Coke Rister, "marked the dawn of a new era in the Southwest."\(^1\) The phenomenal success at Spindletop sparked an immediate interest in exploration for petroleum resources at similar surface indications in southwest Louisiana. The completion of the Jennings Oil Company's Spencer #1 well on September 21, 1901, brought Louisiana into Rister's "new era."

Along with having ushered Louisiana into the petroleum era, the discovery at Jennings initiated the "boom and decline" cycle that characterized the state's oil industry throughout most of this period. Prior to the mid-thirties, the production of oil in Louisiana was sporadic,

\(^1\) Carl Coke Rister, Oil! Titan of the Southwest (Norman: University of Oklahoma Press, 1949), 51.
bursts of frenzied development occurring successively in the Jennings, Caddo, Homer, and Haynesville fields. None of these areas, however, sustained its initial levels of production. Not until the beginning of extensive exploratory and drilling activities in the state's coastal regions and the discovery of the Rodessa field did Louisiana consistently produce significant quantities of oil.

Although the growth of Louisiana's oil industry was sporadic, the opposite was true with regard to natural gas. Almost immediately after the initial discoveries in Caddo Parish, Louisiana became a significant producer of natural gas and, with the discovery of the Monroe field, became the nation's preeminent natural gas producing state. Until the advent of the carbon black industry in the Monroe field, however, there was little demand for the gas. Those involved in the discovery process were almost always seeking crude oil and considered natural gas, at best, an indication that there might be oil in the vicinity or, at worst, a total nuisance. Without a market for the resource and lacking the technology to handle safely the high pressure deposits encountered in North Louisiana, drillers often abandoned wells that struck natural gas or allowed the unrestrained venting of the gas in the hope that the wells would begin to produce oil.

The enormous quantities of gas wasted in Caddo Parish and the dire consequences if such waste continued prompted the Louisiana legislature to take action. Act 71 of 1906, the state's first petroleum conservation statute, was borrowed in almost every particular from a similar statute in Indiana, Louisiana having had no previous experience with mineral regulation or conservation. This initiated a trend that would continue throughout this period as Louisiana normally patterned its
conservation statutes after those of other states, adapting them, when necessary, to suit local conditions.

In reality, Act 71 of 1906 was local legislation. The state had acted because civic and commercial interests in Shreveport feared that the uncontrolled waste threatened a tremendous economic asset. By the time of the Monroe field's discovery and the arrival of the carbon black industry, however, people throughout the state looked to the day when an improved pipeline technology would bring natural gas to their cities and towns. Representatives of these potential consumers sought state action to preserve the state's natural gas by curtailing, if not banning, the use of this resource in the production of carbon black. This was the first time that the conservation of a petroleum resource became a state-wide issue in Louisiana.

The advisability of using natural gas in the production of carbon black was the dominant petroleum conservation issue in Louisiana from the end of World War I until the early 1930's. In general, residents of the Monroe area welcomed the carbon black industry because it furnished an immediate and steady market for the natural gas. Realistically, until the late twenties there was no viable alternative market for the locally-produced gas. The debate over the carbon black industry, therefore, involved essentially making a choice between preserving the resource for future consumption or allowing its use in the only existing market, regardless of efficiency or importance.

Throughout this period virtually every legislative session witnessed the introduction and consideration of bills to banish the carbon black industry. Advocates of these measures argued that the carbon black industry's consumption of natural gas was a wasteful application of the
resource. On each occasion the pro-carbon black interests prevailed because they were able to convince enough legislators that the removal of this industrial market would have caused severe economic consequences for northeast Louisiana.

Not willing arbitrarily to banish the carbon black industry, the Parker administration committed the state to a policy of gradually eliminating the carbon plants by curtailing their consumption of natural gas. The hope was that this would accomplish the desired goal while allowing time for the development of alternative markets, particularly pipelines. Refinements of this policy’s statutory basis enabled the conservation department effectively to regulate the production of natural gas by restricting the production of gas wells according to an acreage-per-well formula.

The state government deserved credit for designing and implementing a reasonable policy to regulate the carbon black industry. It was not, however, the implementation of this policy that removed the carbon black industry as a conservation issue in Louisiana. Initially, the carbon black manufacturers had not seriously opposed the restriction program because they were suffering a depressed market and had accumulated large inventories. By the time market conditions improved, two developments had made it economically wise for these businesses to reduce the size of their Louisiana operations. The first was the construction of pipelines from the Monroe field to sizable urban markets in the South and Midwest, creating significant competition for gas. The second was the discovery of vast deposits of natural gas in the Texas panhandle. The simultaneous advent of these developments prompted most carbon black manufacturers to move their operations to Texas. Some carbon plants
remained, but their consumption of natural gas paled in significance when compared to that purchased by pipeline companies and their continued operation was no longer a serious conservation issue.

While Louisiana's conservation officials had been concerned with finding a solution to the carbon black issue, their counterparts in Oklahoma and Texas had confronted serious problems of overproduction of crude oil. By 1929 these states were in the forefront of efforts to find an equitable basis for reducing production to the level that would satisfy market demand and, at the same time, prevent the waste of millions of barrels of unneeded crude. The governors of Oklahoma and Texas sought this objective through interstate cooperation in the assignment and enforcement of market quotas.

Louisiana's governors from Huey Long to Richard Leche steadfastly refused to participate in voluntary restriction programs because they believed that Oklahoma and Texas were using these arrangements to protect their disproportionately large shares of the domestic oil market. The governors contended that advocates of restriction programs failed to appreciate that Louisiana's oil industry was still in the developmental stage and that serious exploration would not occur within the strictures of a rigid production quota system. Despite these objections, proration of oil production came to Louisiana with the implementation of the petroleum code of the National Industrial Recovery Act. While the petroleum code was in force allegations of impropriety and favoritism in the allocation of production allowables were made against Louisiana's conservation officials, but federal officials were unable to substantiate these charges.
When the United States Supreme Court invalidated the system of production restriction established under the National Industrial Recovery Act, the question again arose as to whether Louisiana would cooperate in voluntary restriction programs. Fortunately, the experience under federal proration had demonstrated to Louisiana's public officials that, despite continuing doubts concerning the fairness of quotas, there were benefits to be realized from production restrictions. At its third extraordinary session of 1935 the legislature established a system of "reasonable market demand" proration for the oil industry. While providing considerable flexibility in the allocation of production allowables, Act 13 demonstrated that Louisiana was slowly developing an appreciation for the benefits of production control even as its leaders opposed interstate cooperation.

The enactment of Act 13 came just in time because the completion in early June of the Rodessa field's first oil well began Louisiana's first oil bonanza in more than a decade. Occurring as it did during a period of nation-wide oversupply, the opening of the Rodessa field severely tested the prorationing provisions of Act 13. This experience demonstrated that the statute had been hastily drawn and contained several serious deficiencies. The General Assembly sought to correct these flaws at its regular session in 1936 by returning to its practice of copying the best applicable statute from another state. The result was Louisiana's first omnibus petroleum conservation statute, a law closely patterned after the New Mexico conservation law—recognized as the nation's most progressive.

Further refinements of Act 225 of 1936 by the 1940 General Assembly provided Louisiana with the nation's most comprehensive and technologically

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advanced petroleum conservation statute. During that same legislative session, Governor Sam Jones obtained enabling legislation allowing him to accept membership for Louisiana in the Interstate Oil Compact. The state joined the compact later than year, ending 13 years of resistance to interstate cooperation, and the compact recognized Louisiana's comprehensive conservation statute, Act 157 of 1940, as a model for other states to follow.

The framework which provided for effective and progressive conservation and regulation of petroleum resources contained in Act 157, warranted its recognition for excellence, but during the previous 30 years the state had earned a soiled reputation with regard to its conservation effort. Throughout the teens and twenties the conservation department and its predecessors were woefully understaffed and underfunded. Forced to operate within these constraints, the department sought technical assistance from the petroleum industry in designing its regulatory program. This reliance upon the private sector was a wise move by department officials considering the exigencies of the situation they faced. The industry, although normally inclined to protect its own interests rather than the public weal, possessed technical expertise that the state could not afford to employ. This same defense cannot be made, however, of the department's periodic dependence upon industry representatives to monitor compliance with its regulations.

Clearly, the conservation department's procedures and its record often left much to be desired. The department's nadir, however, occurred during the 1930's and involved public corruption, conspiracy to violate federal and state conservation laws, favoritism, abuse and misuse of
authority, and dereliction of duty. Unfortunately, the evidence that might have revealed the extent of these practices—the records of the conservation department—are no longer extant. Were these records available, they would probably demonstrate that until the summer of 1939 Louisiana's proration statutes were only sporadically enforced, with hundreds, perhaps thousands, of violations uncorrected and unofficially condoned. Regardless, the evidence that is available suggests that these practices affected, at least to some extent, all levels of the department, but that they were especially prevalent in its highest administrative offices.

The ineffective enforcement of Louisiana's proration statutes and conservation regulations enabled several public officials, not the least of whom was Commissioner of Conservation Robert Maestri, to profit handsomely from questionable operation of their petroleum holdings. Some of these same officials also made significant profits through leasing public lands for petroleum development. In this instance, however, there was nothing illegal about their activities, even though in several cases they involved conflicts of interest—some of which were actually abuses of the public's confidence in its elected officials.

From 1914 to 1936 the governor served as the sole leasing agent for state-owned lands and water bottoms. So long as bids satisfied the minimum royalty requirement and other stipulations in the official advertisement, the awarding of leases that were advantageous to the state was left to the governor's discretion. During the early 1930's Oscar K. Allen and James A. Noe abused this loosely-drawn authority by making several leases that rapidly became the property of their own petroleum development companies.
Although the actions of Allen and Noe were not illegal, they were so obviously unethical as to bring into question the governors' dedication to honesty in government. On more than one occasion both men approved transfers of state leases from third parties to companies in which they owned interests. In these transactions the current owners received only token remuneration, thereby giving credence to the allegation that the third parties were acting as agents of the public officials.

Not only was this system easily abused, but during this period little effort was made to assure that the state received a fair profit from the property it leased. In part, this situation stemmed from the lack of a maximum size limitation on state leases. This deficiency and the unwillingness of the state's chief executives to call for reform resulted in the state awarding several phenomenally large leases. Fortunately, most of them reverted to the state because the leaseholders failed to develop them. The mind-boggling exception to this general trend was the lease by which the state literally gave away its water bottom holdings in the Monroe field in return for the promise to develop the property and to pay the minimum royalty. Interestingly, Governor Oscar K. Allen awarded this lease to a state senator, James A. Noe, and part of it eventually formed the basis for the Win or Lose Oil Company in which both were large shareholders.

Ironically, despite his involvement in and identification with the Louisiana scandals, Richard Leche was the principal advocate of reforming the procedure for leasing state land. While campaigning for governor in 1935 Leche maintained that Louisiana was losing vast sums of money through the mismanagement of its leasing program. He vowed to correct this deficiency when elected. His first legislative session
created the State Mineral Board, entrusted it with the stewardship of state-owned mineral-bearing properties, established a 10,000-acre limit on future state leases, and fixed the minimum royalty on all such leases at one-eighth of the minerals produced.

The first legislative session of the Sam Jones administration empowered the mineral board to require companies conducting geophysical and geological surveys on state property to file copies of their data with the agency. A companion statute authorized the board to commission such surveys whenever an application was made to lease state-owned property. This legislation enabled the mineral board to gather the information necessary to determine the probable value of a tract of state-owned property before advertising for bids for its mineral development. The mineral board thus possessed, should it wish to employ it, sufficient authority to insure that the state was duly compensated when leasing its property for mineral development.

Despite the scandals of the thirties, Louisiana entered the 1940's with an adequate statutory base for the conservation of petroleum resources and the leasing of its mineral-bearing properties. In both areas, however, the progress toward adequacy had been deliberate, at best. Fortunately, this same languor had not characterized the state's development of a far-sighted policy for taxing the production of mineral resources. As early as 1910 the state had sought to impose license taxes upon those involved in the production of these resources. This attempt encountered constitutional difficulties, but a similar attempt in 1912 succeeded. Over the next eight years the legislature experimented with the license tax at virtually every session until in 1920 it adopted the two-per cent value-based levy made famous by Governor Parker's "gentleman's
agreement." This statute, Act 31, made the taxation of petroleum resources a significant producer of revenue for the state government.

In 1921 the taxation of petroleum resources and the "gentleman's agreement" were topics of considerable debate at the state's constitutional convention. The Constitution of 1921 provided for the levying of severance taxes, and in 1922 the legislature made the percentage-of-value levy a severance tax rather than a license. These were important developments with regard to Louisiana's taxation of petroleum resources, but throughout their consideration the degree of deference to be accorded the "gentleman's agreement" dominated the debate. One reason for this was Huey Long's skillful use of the issue, particularly his periodic allegations of corporate domination of state government, to keep his name before the public and to cast himself as the champion of freedom in government. In this manner, Long used the severance tax issue to help launch his state-wide political career.

Although the 1920 and 1922 legislative sessions and the 1921 Constitutional Convention have traditionally dominated consideration of severance taxation because of their political significance, the most important severance tax statute enacted during this period was Act 5 of 1928. The occasion was the first legislative session of the Huey Long administration and, characteristically, the protagonists were the governor and Standard Oil of Louisiana. Although it sparked considerable rhetoric, Act 5 did not significantly increase the amount of taxes paid by petroleum producers. It did, however, return the tax to a quantity basis, but one that incorporated a graduated scale which recognized that crude oil generally increased in value with the rise in its specific gravity.
At that time, the shift to a quantity-based tax was a wise move. It simplified the collection procedure by removing the value variable from the computation of tax liability, even though at the same time it added the gravity calculation. Furthermore, it furnished a measure of protection to government agencies whose financial bases rested on severance tax receipts. Since the oil industry was still weathering boom-and-bust cycles, the resource's value had a tendency to fluctuate wildly. The quantity-based tax eliminated this source of potential financial problems. Moreover, the quantity-based severance tax removed a source of potential political leverage from Governor Long's chief opponent, Standard Oil. As the largest integrated oil company operating in the state, Standard could dictate the field price of Louisiana crude during periods of overproduction, a condition characteristic of the years after the mid-1920's. Under a value-based tax, therefore, Standard could indirectly control the amount of severance taxes collected by the state. The quantity-based severance tax neutralized this threat and reduced Standard's ability to disrupt the state government's financial basis.

The enactment of Huey Long's severance tax program stabilized, at least until the renewal in the mid-1930's of noteworthy oil development, the share of the state's annual revenue requirements generated by the production of petroleum resources. Moreover, by 1940 Louisiana had constructed an adequate bureaucratic and legal system to regulate and conserve its petroleum resources, but human frailties had often compromised its efficient operation. Throughout the consideration of these developments, the reader's attention has been directed toward the condition of the resources, their exploitation, and the formulation and
implementation of policies for their regulation. Except in those instances when the assumption of rival positions had political significance, little attention has been paid to the nature of the working relationship that existed between the "industry" and the state government. There are two reasons why this relationship has not received greater attention. One reason is the paucity of records of the state agencies involved in the regulation and conservation of petroleum resources, as well as the unavailability of the records of the principal oil company active in Louisiana during this period, Standard Oil of Louisiana. Besides, it is not really proper to speak of a "petroleum industry" in Louisiana during this period. Frequently, the oil and natural gas interests pursued independent goals. Furthermore, internal divisions racked the oil industry as the "independents" (smaller companies normally involved in one segment of the industry) opposed the "majors" (large, integrated oil companies) as often as they stood together to combat the gas interests or government agencies.

Despite these limitations, a few general conclusions are in order concerning the relationship that existed between the petroleum industry and the state government. At the federal level Gerald Nash and Norman Nordhauser found in this period a cooperative effort between the industry and the government with regard to the drafting and implementation of regulatory policies. Nash saw this as the development of a consensus between business and government concerning what was best for the industry and country, while Nordhauser interpreted the same events to indicate that the oil companies had been able to mold and manipulate government policies in order to stabilize the industry and protect their economic standing.
There is not enough evidence pertaining to industry-government relations in Louisiana to support either thesis. If available, the evidence would reveal, I believe, that the cooperation necessary to support either interpretation did not exist. This judgment rests on three observations. First, the cooperation seen by Nash and Nordhauser stemmed from economic difficulties related to the overproduction of crude oil. This catalyst was missing in Louisiana because significant oil development did not occur until the mid-thirties. Second, the antagonism between Huey Long and Standard Oil produced an atmosphere of mutual distrust that retarded any predilection for cooperative enterprise. Finally, Louisiana's conservation bureaucracy was so lacking in leadership that its participation in the development and implementation of a consensus policy or its service as a useful vehicle for industry-inspired and government-aided stabilization of the status quo would have been highly improbable.

Free of undue industrial influence in charting the future course of its regulatory and conservation policies, Louisiana entered the 1940's with a strong conservation statute, a revised conservation bureaucracy, an adequate system for administering the development of state-owned mineral-bearing properties, and a tax system that made the production of petroleum resources an important source of state revenue. Given the difficulties encountered along the way, this was no small accomplishment in 40 years.
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Candidate: Brady Michael Banta

Major Field: History

Title of Thesis: "The Regulation and Conservation of Petroleum Resources in Louisiana, 1901-1940"

Approved:

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Major Professor and Chairman

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Dean of the Graduate School

EXAMINING COMMITTEE:

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Date of Examination:

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