OCS Study
MMS 2003-052

Public Policy, Oil Production, and Energy Consumption in Twentieth-Century California

Final Technical Summary

Final Study Report

U.S. Department of the Interior
Minerals Management Service
Pacific OCS Region

Public Policy, Oil Production, and Energy Consumption in Twentieth-Century California

Final Technical Summary

Final Study Report

Authors

Rachel A. Schurman
Principal Investigator
and
Paul E. Sabin

Prepared under MMS Cooperative
Agreement No. 14-35-0001-30761
by
Southern California Educational Initiative
Marine Science Institute
University of California
Santa Barbara, CA 93106

U.S. Department of the Interior
Minerals Management Service
Pacific OCS Region

Camarillo
October 2003

Disclaimer

This report has been reviewed by the Pacific Outer Continental Shelf Region, Minerals Management Service, U.S. Department of the Interior and approved for publication. The opinions, findings, conclusions, or recommendations in this report are those of the author, and do not necessarily reflect the views and policies of the Minerals Management Service. Mention of trade names or commercial products does not constitute an endorsement or recommendation for use. This report has not been edited for conformity with Minerals Management Service editorial standards.

Availability of Report

Extra copies of the report may be obtained from:
U.S. Dept. of the Interior
Minerals Management Service
Pacific OCS Region
770 Paseo Camarillo
Camarillo, CA 93010
Phone: 805-389-7621

A PDF file of this report is available at:
http://www.coastalresearchcenter.ucsb.edu/SCEI/

Suggested Citation

The suggested citation for this report is:

Schurman, Rachel A., and Paul E. Sabin. Public Policy, Oil Production, and Energy Consumption in Twentieth-Century California. MMS OCS Study 2003-052. Coastal Research Center, Marine Science Institute, University of California, Santa Barbara, California. MMS Cooperative Agreement Number 14-35-0001-30761. 330 pages.

Table of Contents

FINAL TECHNICAL SUMMARY 1

FINAL STUDY REPORT: *Petroleum Polity: Law and Politics in the California Oil Economy, 1900-1940.*
Ph.D. Thesis by Paul E. Sabin. 3

Abbreviations 6

List of Illustrations and Graphs 6

Acknowledgements 8

Introduction 11

Section One. The Politics of Access and the Federal Property Regime, 1900-1920 28

Chapter 1: "Treasures of an empire": Federal Oil Lands in the San Joaquin Valley 28

Chapter 2: Shaping a new federal property regime: The 1920 Mineral Leasing Act 52

Section Two. California's Coastal Petroleum Controversy, 1921-1938 74

Chapter 3: Beaches vs. Oil in Southern California, 1921-1933 74

Chapter 4: Breaking the Ban (and the Law) at Huntington Beach 93

Chapter 5: "The same unsavory smell of Teapot Dome"? Public Finance and Coastal Oil, 1934-1937 111

Chapter 6: The Petroleum Politics of 1938 137

Section Three. The Politics of Regulation – Disciplining the Market, 1910-1939 167

Chapter 7: The Struggle to Regulate California Oil Production, 1910-1931 167

Chapter 8: Federalism and the Unruly California Market, 1931-1939 212

Table of Contents, continued

Section Four. Building the Infrastructure for Petroleum Consumption, 1923-1938 253

Chapter 9: California Tax Politics and Highway Construction, 1923-1933 253

Chapter 10: Defending the User Financing System, 1933-1938 270

Conclusion. "The Economic Stimulus of Price" 301

Bibliography 306

FINAL TECHNICAL SUMMARY

STUDY TITLE: Public Policy, Oil Production, and Energy Consumption in Twentieth-Century California

REPORT TITLE: Public Policy, Oil Production, and Energy Consumption in Twentieth-Century California

CONTRACT NUMBER: 14-35-0001-30761

SPONSORING OCS REGION: Pacific

APPLICABLE PLANNING AREA(S): Southern California

FISCAL YEAR(S) OF PROJECT FUNDING: FY 96, FY 97

COMPLETION DATE OF REPORT: September 2003

COST(S): FY 96 - $48,114; FY 97 - $45,265; FY 98 - no cost; FY 99 - no cost

CUMULATIVE PROJECT COST: $93,379

PROJECT MANAGER: Russell J. Schmitt

AFFILIATION: University of California, Santa Barbara

ADDRESS: Coastal Research Center, Marine Science Institute, University of California, Santa Barbara, CA 93106-6150

PRINCIPAL INVESTIGATORS: [1]Rachel A. Schurman

ASSOCIATED AUTHORS: [2]Paul Sabin

ADDRESSES: [1]Energy and Resources Group, 310 Barrows Hall, Berkeley, CA 94720; [2]Department of History, University of California, Berkeley, CA 94720

KEY WORDS: Oil production, Energy consumption, California, Policy-making and politics, economic development, political evolution, offshore production, oil leasing, production controls, highway finance, gasoline taxation, Huntington Beach, Elk Hills

OBJECTIVES: To examine the role of politics and public policy in shaping the history of California's oil production and consumption

DESCRIPTION: This study of the California oil economy examines how the political

relationship between business and government shaped a key state's growing dependence on petroleum. Thematic sections on public land policy, business regulation, transportation development, and tax policy discuss how state and federal governments determined the contours of the California oil market. In studying the volatile politics of the oil economy, this study carries forward in time the research of historians who have written about nineteenth-century economic development, federalism, and infrastructure like canals and railroads.

SIGNIFICANT CONCLUSIONS: Energy shortages, climate change, the debate over national security—each has thrust oil policy to the forefront of American politics. How did Americans grow so dependent on petroleum, and what can we learn from our history that will help us to craft successful policies for the future?

This study of California oil politics challenges us to see politics and law as crucial forces behind the dramatic growth of the United States oil market during the twentieth century. Using pre-World War II California as a case study of oil production and consumption, the study demonstrates how struggles in the legislature and courts over property rights, regulatory law, and public investment determined the shape of the state's petroleum landscape.

The study provides a powerful corrective to the enduring myth of "free markets" by demonstrating how political decisions shaped the institutions that underlie California's oil economy. The depth of California's growing reliance on petroleum, in other words, was not predetermined. Who should control access to the state's vast oil fields, and how fast should those reserves be developed? How, if at all, should California regulate petroleum output? What public investment should California make in its highways, the key infrastructure for generating increased oil consumption? This study demonstrates how today's oil market and price structure depend significantly on the ways in which these hotly contested policy questions were answered before World War II.

STUDY PRODUCTS: A dissertation to be submitted in partial satisfaction of the requirements for the degree of Doctor of Philosophy in History in the graduate division of the University of California, Berkeley

2001 W. Turrentine Jackson Award for the "Most Outstanding Dissertation on the Twentieth Century American West," awarded by the Pacific Coast Branch of the American Historical Association

A book based on this research will be published by the University of California Press in fall 2004. Please refer to the University of California Press website for further information in 2004.

FINAL STUDY REPORT

PETROLEUM POLITY:

LAW AND POLITICS IN THE CALIFORNIA OIL ECONOMY, 1900-1940

by

Paul Eliot Sabin

B.A. (Yale College) 1992
MA. (University of California, Berkeley) 1994

A dissertation to be submitted in partial satisfaction of the requirements for the degree of

Doctor of Philosophy
in

History

in the

GRADUATE DIVISION

of the

UNIVERSITY OF CALIFORNIA, BERKELEY

Committee in Charge:
Professor Robin Einhorn, Co-Chair
Professor Harry N. Scheiber, Co-Chair
Professor Richard Walker

Spring 2000

UMI Number 9979786

Copyright 2000 by
Sabin, Paul Eliot

All rights reserved.

UMI®

UMI Microform 9979786

Copyright 2000 by Bell & Howell Information and Learning Company.
All rights reserved. This microform edition is protected against
unauthorized copying under Title 17, United States Code.

Bell & Howell Information and Learning Company
300 North Zeeb Road
P.O. Box 1346
Ann Arbor, MI 48106-1346

PETROLEUM POLITY:

LAW AND POLITICS IN THE CALIFORNIA OIL ECONOMY, 1900-1940

Copyright 2000

by

Paul Eliot Sabin

Abbreviations

Bancroft Library	BL
California State Archives	CSA
California State Library	CSL
Gerald T. White History Project	GTWHP
Huntington Library	HL
Los Angeles Times	*LAT*
Sacramento Bee	*SB*
San Francisco Chronicle	*SFC*

Illustrations and Graphs

Outline Map of Oil Fields and Districts 7

General Taxes vs. User Taxes in California, 1920-1945 255

Motor Vehicle Fuel Tax Revenues, 1924-1945 261

State Expenditures for Highways 263

California State Highway Mileage 274

Highway Fund and General Fund Balances, 1928-1942 284

Tax Assistance as Fraction of $532 Million Spent by State and Federal Governments on Highways in California, 1933-45 288

Division of Oil and Gas, <u>Summary of operations: Annual Report of the State Oil and Gas Supervisor.</u> San Francisco: California State Printing Office, 28: 2 (1942), 5.

Acknowledgments

I am delighted to acknowledge the support and assistance of a number of individuals and institutions. First and foremost, Harry Scheiber and Robin Einhorn have been superb co-chairs of my dissertation committee. Harry guided me through the fields of legal and economic history and has been an excellent mentor and critical reader, as well as an avid storyteller. Robin imparted a passion for political history and scholarly debate and taught me an enormous amount about historical writing and argument. I thank them both for their enthusiastic support, critical engagement, and instinct for focusing this project.

Richard Walker generously shared his vast knowledge of California history, economic geography, and natural resource issues. I benefited greatly from his expertise. At an early stage, Rachel Schurman drew my attention to key funding opportunities, collaborated on proposal development, and served as principal investigator on the major grants supporting my work. I appreciate her confidence that I would deliver the goods.

I owe William Cronon considerable thanks for mentoring me throughout my undergraduate and graduate education and welcoming me into his network of environmental and western history graduate students. Bill's commitment to teaching and public service and his keen eye for group process have set a high standard and I am grateful for his example and his friendship.

David Hollinger provided sound counsel throughout graduate school, in addition to some marvelous classes. Carolyn Merchant arranged research support and an excellent teaching experience during my early years at Berkeley. At Berkeley, I am also grateful to Margaret Chowning, Jon Gjerde, Tulio Halperin, James Kettner, Kerwin Klein, Mabel Lee, Lawrence Levine, and Robert Middlekauf.

I have been fortunate to receive generous financial support for my graduate education and doctoral research from the Jacob Javits Fellowship Program; Minerals Management Service of the U.S. Department of the Interior (under MMS Agreement No. 1-35-0001-30761); University of California Energy Initiative; University of California Graduate Division; Mellon Foundation; Huntington Library; and, the John Randolph Haynes Foundation/Historical Society of Southern California. (The views and conclusions contained in this document are, of course, those of the author alone and should not be interpreted as representing the official policies, either express or implied, of the U.S. Government.)

I am also deeply indebted to the many librarians and archivists who assisted me at the Bancroft Library, California Historical Society, California State Archives, California State Library, Huntington Library, National Archives, UCLA Special Collections, Stanford Special Collections, and the Institute for Governmental Studies. I owe a special thanks to the Chevron Corporation, formerly Standard Oil of California, for generously allowing me to spend a week in its Dublin warehouse working through papers collected by Gerald White in his history of the company. I encourage Chevron to make this extraordinary collection more widely available.

I could not have completed this project without the inspiration and support of a number of colleagues and friends. David Engerman served alternately as critical reader, cheerleader, and intellectual sounding board. I am grateful for his comments on draft chapters, in addition to his friendship. David Igler also critiqued the entire manuscript and has been a wonderful colleague. Ethan Pollock, Diana Selig, Elizabeth Gessel, and Philip Soffer shared all the ups and downs of graduate school and helped keep things in perspective. Phil's database program also worked flawlessly. I am also grateful for the intellectual stimulation of working with Helen Denham, Anne Keary, Marcy Norton, Monica Rico, Myrna Santiago, Jason Smith, Mary Ann Sung, Anne Woo Sam, and others. Environmental history particularly thrives on interdisciplinary collaboration and I have relished the friendship and intellectual companionship of William and Norrie Boyd, Jackie Cefola, Cathy Cha, Navroz Dubash, Mairi Dupar, Archon Fung, Jamal Gore, Penn Loh, James McCarthy, Steven Moss, Rinku Murgai, Dara O'Rourke, and Scott Prudham.

Nancy Quam-Wickham shared the California oil field generously and I appreciate her faith that the rich historical pool contained more than enough material for both of us. On the theme of academic labor, Linda Lee, Zamzam Syed, Jill Bazelon, and Joshua Linn contributed valuable research assistance, copying many of the newspaper and periodical articles. I appreciate their assistance and regret that the nature of the work could not tap the full range of their abilities.

John Mack Faragher, Gordon Geballe, Robert Gordon, George Miles, James Gustave Speth, and others welcomed me into the Yale community while I completed the dissertation, and Robert Johnston, Robin Winks, and Jon Butler arranged an enjoyable teaching opportunity. I am grateful to Denise Bossy, Jonathan Holloway, Benjamin Johnson, Michelle Nickerson, Max Page, Steven Pitti, Aaron Sachs, Eric Seivers, Kristie Starr, and others for making me at home in New Haven. From afar, Richard White has provided valuable encouragement and guidance at important moments.

Charles Halpern nearly derailed this dissertation with one delightful hike in Italy in August 1996. Almost four years later, the Environmental Leadership Program, a new initiative to train and support emerging environmental leaders from academia, non-profits, business, and government, has resulted from that serendipitous outing. Charlie, Richard Mark, and Mark Walters at the Nathan Cummings Foundation took a risk on a young graduate student, incubated the program, and thoroughly changed my life in the process.

Charles Mauser, my grandfather, helped support my education and also taught me about the practical aspects of business and life. I am sorry that he did not live to see the finished document. A long time ago, Kate and Dick Wallace introduced me to environmental concerns and I hope they find something to be proud of here. I owe them a lifelong debt. My new family, Richard, Eileen, Lara, Jill, and Dana Bazelon, and Miriam and Robert Knox, have patiently watched this project mature. I appreciate their years of tact. Steven Mufson shared his considerable expertise in politics and economics, and I thank Steven, Laura, and Daniel Mufson and their families for their support.

I am honored to come from a close family of dedicated teachers and I credit much of my writing and thinking to their influence. My brother and sister-in-law, Michael and Debbie Sabin also provided the sort of gentle mockery and commiseration that is invaluable in the face of a dissertation abyss. My parents, Margery and Jim Sabin, have been superbly involved throughout all the twists and turns of graduate school, and have also inspired me through their commitment to their own professional work. Emily Bazelon has thought far more about oil for far more years than she ever planned and I cannot thank her enough for her patience, encouragement, editing, and love. Our recently born son, Elijah Charles, spurred me toward completion.

Introduction

How did California and the nation become so dependent on petroleum? Common wisdom holds that popular demand, abundant oil, and new technologies, all operating within a free and unfettered market, fully explain the rapid increase in petroleum use in the twentieth century. In this dissertation on the California petroleum economy, I challenge the idea that pure market logic caused the rise of the oil age. Instead, I examine how a framework of laws and institutions structured market decision-making by both industrialists and consumers. Because government is inherently intertwined with our economic life, policy decisions about that institutional framework had to be made. These public policy choices greatly influenced petroleum supply and demand. For this reason I ask: how did politics and government policy-making shape the production and consumption of oil in California?

My investigation focuses on some of the basic ways that governments establish the framework for an economy, examining how governments distribute access to resources through property law and public land policy; exercise regulatory power over business; invest public revenues in infrastructure such as highways; and make choices about how to raise government fluids. In each of these four spheres of activity, I analyze government's pivotal role in shaping the oil market. I also explore the political impulses driving policy choices, for "government" is a collection of powerful social institutions over which political and economic groups struggle for control. The messy workings of politics and law, as much as a microeconomic logic of capital or a bureaucratic state imperative, created the petroleum society that we live in today.

In studying the volatile politics of the oil economy, this study carries forward in time the research program of historians who have written about nineteenth-century economic development, federalism, and internal improvements. Post-World War II scholars like Louis Hartz, Oscar and Mary Handlin, Milton Heath, and Carter Goodrich found the intellectual and substantive roots of the New Deal in antebellum state intervention.[1] They discovered an "American System," in which state governments played an active role planning, promoting, and regulating economic development.[2]

James Willard Hurst's magisterial study of the governance of the Wisconsin lumber industry, Law and Economic Growth, carried to new heights the investigation of the relationship between government and the economy that I hope to continue here. Hurst divided the legal history of the lumber industry into component parts, examining in turn property regimes, contract law, police power, and regional planning. He thus sketched a skeleton of the nineteenth-century state, examining in extraordinary detail the distribution of public lands, awarding of transport franchises, taxation of timber production, establishment of a framework of contract, and the absence of overall planning for regional development. Hurst argued that the evolution of the Wisconsin lumber industry could be characterized by "drift" and "inertia"— the "cumulative impact of countless narrowly focused actions." Lacking far-sighted political leadership, the Wisconsin lumber industry rapidly clear cut the northern forests, leaving behind a trail of social and ecological devastation. The "hundreds of statutes and court decisions and countless

transactions, plans, and operations channeled and given form in contract, lease, license, deed, mortgage, and lien"— all of which constituted the "law" to Hurst—propelled the industry to cut Wisconsin's forest "rapidly to exhaustion."[3]

Using a new state, a different natural resource, and a later time period, I follow Hurst's long-overgrown trail into the thicket of public land policy, business regulation, transportation development, and public finance. Oil is an apt commodity through which to examine American political and economic history. It has permeated many of our economic activities and has come to thoroughly dominate the transportation sector. Moreover, pollution and price shocks associated with petroleum have placed the oil economy at the very center of United States environmental politics. California provides a manageable case study because as a leading producer and consumer of oil the state serves as a microcosm of the nation's petroleum experience. Over the course of the twentieth-century, the environmental, political, cultural, and economic development of both California and the nation became intertwined with the production and consumption of oil.

Government deeply influenced the pace at which oil moved onto the market as it busily constructed the California highway system, the infrastructure of oil consumption. State, federal and local governments decided who would reap the benefits of the oil boom, determining which operators would receive what kinds of drilling rights, and what share of oil production the government would retain for the public treasury. California's petroleum politics disrupted earlier national patterns of public land disposal and government promotion of canals and railroads. Yet new state and federal leasing programs and the new highways also shared much in common with their predecessors, particularly in the ways that they promoted rapid resource development and channeled economic development towards one dominant mode of transportation. Politics and governmental institutions structured the evolving twentieth-century oil market, just as they had determined the fundamental contours of the American economy in the nineteenth century.

Section I. The Politics of Access and the Federal Property Regime, 1900-1920

State and federal property politics and law determined which oil lands would enter into production and how quickly operators would exploit them. In general, state and federal governments promoted the rapid development of petroleum resources. Fragmented private holdings forced private landowners into a competitive race for production, while generous leasing policies quickly unleashed oil from public lands onto the market. The result was a flurry of oil production that sent the price of oil plummeting.

As part of their promotional policies and their tight relationship with the oil industry, state and national politicians retained only minimal rights for the public. Few politicians shared California Governor Culbert Olson's belief that petroleum resources constituted a natural heritage of the people and that the public should capture natural resource rents. Political leaders instead adopted policies to encourage private development and facilitate private gain. The state and federal governments did stop their land disposal policy, but even when they retained ownership of oil lands they granted private parties the rewards from oil extraction.

United States public land policy and property law set the basic framework for access to petroleum in the United States. In California, the transition from Mexican to American rule left a legacy of private landholdings and an extensive public domain. On private lands, the American law of property as applied to oil resources created a highly competitive market for oil. Nineteenth-century legal decisions in favor of the rule of capture— whereby the quickest operators to pump oil out captured larger shares of a common oil pool— led to competitive overproduction and the inefficient drainage of oil reserves, frustrating efforts to conserve petroleum and stabilize the oil industry.[4]

Federal lands in the San Joaquin Valley contained some of the richest oil fields in the nation, including Midway-Sunset, Kettleman Hills, and Elk Hills. As a regional oil boom heated up in the first decade of the twentieth century, the federal government continued its nineteenth-century policy of land disposal, transferring lands to the Southern Pacific Company via railroad land grants, to individual operators who filed prospecting claims, and to the State of California under the school land grant program. Designed to thwart monopoly and distribute resources, these federal land disposal policies thoroughly fragmented land ownership in the oil fields. Small, interlocked land holdings in turn intensified competition over subsurface oil pools and resulted in the rapid depletion of oil reserves. Property law and oil's naturally fluid movement underground, rather than marginal market prices, drove individual production decisions as' operators struggled to claim their share of petroleum resources.

Concerned about the waste of California's oil reserves, President Taft's administration reversed course in 1909. Taft's executive withdrawal of the nation's petroleum lands from prospecting claims set off three decades of policy debates, scandal and litigation. The contest over California's petroleum lands predominated in these political struggles, which included the Teapot Dome scandal, the 1920 Mineral Leasing Act, and interminable litigation over property title with the Southern Pacific Railroad Company, Standard Oil Company, and smaller oil

operators. Congress, strongly influenced by western oil interests, subverted the Wilson administration's subsequent legal effort to recover oil lands that had been opened to prospectors only a few years earlier. Congress and the federal courts largely accepted the resulting patchwork of railroad land grants and private claims that fragmented the public domain, even though many of the claimants had established their footholds under questionable auspices.

While congressional politics and federal court decisions constrained policy options, the federal government still owned San Joaquin Valley oil lands and so faced an array of new public choices about how to develop them. Leasing laws and naval oil reserve management policies would establish the legal framework for production decisions, including drilling specifications, well spacing requirements, royalty rates and waste disposal practices. After years spent lobbying for favorable legislation, the oil operators and their Congressional allies succeeded in passing a new Mineral Leasing Act in 1920. The oil interests did not gain all that they sought. But they managed to create a leasing system quite similar to the open-handed distributional policy that it replaced. Albert Fall, Secretary of the Interior under President Harding, further weakened federal management policies as part of that administration's effort to reverse recent conservation policies. Fall approved generous leasing regulations and opened the federal naval oil reserves to development by private companies. His cozy ties with the petroleum industry, particularly the acceptance of $400,000 in bribes for leases in California's Elk Hills and Wyoming's Teapot Dome fields, ultimately brought him down in a national scandal. Fall's outright corruption derailed his larger political effort, but he and other industry allies had successfully prevented any efforts to improve federal management under the new federal leasing system.

Section II. California's Coastal Petroleum Controversy, 1927-1938

The state government was subject to many similar political pressures, but vocal advocates for beach protection complicated the development of California's coastal oil fields. With California's onshore lands either in private hands or under federal control, the state government could claim only the petroleum in the tidal and submerged lands off the Pacific Coast. Yet the Elwood, Huntington Beach, Wilmington and other coastal oil fields ranked among the most rich in the nation's history; only Prudhoe Bay and East Texas exceeded the Wilmington field in the Long Beach and Los Angeles harbors. Control of rich coastal mineral deposits gave the state government considerable power to determine how California's oil resources would be developed, and by whom. Complicated political and economic questions needed to be answered: Would the state have operators build piers and islands along the shore or drill slanted wells from the beach bluffs? Would oil revenues reward lucky private operators, make cities like Long Beach tax-free petroleum paradises, fund California's aggressive beach and park land purchase program, or finance the state water project? Or would the state perhaps choose to conserve its oil reserves during a period of severe overproduction.

The state government began the 1920s by passing a state leasing act modeled on the recent federal bill. But the state politics of coastal oil quickly deviated from previous national struggles over petroleum lands in the dry, sparsely populated San Joaquin Valley. In Section Two, I

examine the conflict between oil operators seeking to tap coastal petroleum fields and powerful real estate developers and other coastal commercial groups developing a lucrative recreational and residential paradise in southern California. After the California Supreme Court forced the state government to issue petroleum leases for lands near wealthy Santa Barbara in 1928, legislative opponents of coastal industrialization voted an outright ban on further coastal leasing. California oil operators spent the next ten years chipping away at this legal barrier and maneuvering for preferential access.

The intense politicking by oil operators that dominated national politics in the 1910s now manifested itself in myriad legislative and ballot campaigns to open the coastal oil fields. Legislative restrictions held firm until 1933, when oil operators brazenly trespassed at Huntington Beach and forced the state government's hand. In the following two legislative sessions, oil politics consumed the legislature as state politicians fought over the coastal oil controversy. Legislative battles over oil bills frequently stretched into the early hours of the morning. Allegations of corruption were rife. "It was so oily back of the rail" where lobbyists gathered, "that if you ventured there you were liable to slip," recalled one legislator of the 1935 session.[5] The contentious legislative sessions ended in deadlock, however, and the coastal oil fight persisted into the 1938 campaign for governor. Democratic State Senator Culbert Olson and Republican Lieutenant Governor George Hatfield seized the oil issue to attack the "corrupt" administration of Governor Frank Merriam. With the State Lands Act of 1938, Merriam brokered a compromise between beach protection groups and the oil industry, trading beach funding and protection for the right to open coastal oil fields to development. Merriam's political maneuvering could not protect him on the explosive oil issue, however, as administration officials charged with managing the state's oil lands tarnished his campaign with a bribery and oil leasing scandal in the summer of 1938. Culbert Olson, California's first Democratic governor in forty years, rode the oil controversy to victory and brought a belated New Deal to California. Olson continued to promote his natural resource management agenda, including a state severance tax on oil and a mandatory conservation program to moderate state oil production.

Section III. The Politics of Regulation—Disciplining the Market

Public land policies and property law established the continually renegotiated ground rules for the oil market, creating a competitive scenario that stimulated waves of excessive oil production. Regulatory law was then used to ameliorate the wild production cycles. Longstanding antitrust laws, developed to contain monopolies like the Standard Oil Trust, blocked private rough-and-tumble tactics that might have disciplined the market and improved oil prices. Within the framework of existing property law and antitrust regulation, oil industry leaders and government officials struggled to restrain cutthroat oil production and to bolster the industry's financial situation. Industry, state and federal leaders spent much of the late 1920s and early 1930s searching for the proper legal authority to enforce production controls. They never found one. Only the onset of World War II, the steady exhaustion of California's oil fields, and the steep growth in domestic oil consumption ultimately resolved the problem of overproduction. Section Three examines these unsuccessful, but persistent, efforts to deal with excessive oil production.

The oil industry at first sought to regulate itself through a voluntary program to Limit oil production begun in early 1929. Officials elected from within the petroleum industry suggested "allowable" levels of production for the different oil fields and oil wells and California operators were asked to comply. The program somewhat restrained state oil production, but curtailment "umpires" lacked the power to bring recalcitrant operators into compliance. This and subsequent industry efforts to manipulate the market would underscore similarities between self-government by trade groups and governance by elected officials. Both illustrated how far oil was from a "free market" and made clear the crucial role of public authority and power in administering an oil control program.

The state government attempted its own production controls later in 1929 with a law that barred the waste of natural gas. Since petroleum wells produced natural gas in concert with oil, the gas law would also control oil production in the flush fields. Under the cover of preventing "waste," the stale skirted around state and federal antitrust laws that prevented cooperation to limit oil production and raise prices. The natural gas law did contain the most egregious cases of excess gas production, as at Santa Fe Springs. It also played a significant role in stimulating a market for natural gas in San Francisco and other urban areas. But the gas act did not target oil production directly and therefore could not cope with the severe overproduction of 1930 and 1931. Enforcement of the bill also quickly became tangled up in court, with the constitutionality of the gas law uncertain until upheld by the U.S. Supreme Court in the fall of 1931.

Disappointed with the natural gas act and spurred on by continuing chaos in the industry, oil operators sought further private solutions. A group of midsize oil producers joined together in the spring of 1931 to form the Oil Producers Sales Agency. Members who complied with the industry's voluntary curtailment program could sell their oil through the sales agency. This system reinforced curtailment by tightening the link between compliance and access to an outlet for a company's oil. At the same time, the larger refining and marketing companies like Standard Oil of California, controlling the majority of the state's refining capacity, used their market power to discipline smaller operators. Standard Oil slashed the price it paid for crude until operators obeyed curtailment guidelines. Such private governance of the oil market, however, placed refining companies uncomfortably close to the lines drawn by the state and federal antitrust laws. As a result, the larger companies sought to modify antitrust laws that prevented them from cutting off non-compliant producers or from developing formal agreements among oil operators to limit production and raise prices.

The disappointing failure of industrial self-governance and of the gas law sparked further demands for state action. Voluntary curtailment had failed because it lacked a legal mechanism for enforcement— the voluntary system needed either the power of government or the government's approval of the exercise of power by the major companies. A State Senator from Contra Costa County, home of Standard Oil's Richmond refinery, proposed a state oil control bill on behalf of the major oil companies. At a referendum in 1932, however, the electorate decisively defeated the measure.

California oil operators returned to voluntary control efforts and also began to view greater involvement by the federal government more favorably. Under the National Industrial Recovery Act, the oil companies negotiated a partnership with Interior Secretary Harold M. Ickes. The National Recovery Administration (NRA) would empower the California Oil Operators Committee to allocate statewide oil production and issue orders constraining production by rebellious oil operators. The infatuation with federal involvement passed, however, in as little time as it took for the U.S. Supreme Court to strike down the law establishing the NRA. California oil operators disliked assertive and independent federal regulation, and they feared the long term implications of federal involvement in the oil market The *Panama Refining* and *Schecter* decisions, which invalidated the National Industrial Recovery Act codes, returned California to the voluntary efforts of 1932 and to renewed agitation for a state oil control bill.

California left the decade of the 1930s as it entered, without any reliable mechanism to control oil production even though production and reserves still exceeded the demand. Conflict over the proper role of public authority and divisive internal struggles in the industry prevented much sought after control of the market. Faced with destructive competition and overproduction in the late 1920s, practically no one, in or out of the oil industry, called for a "free market" solution that left oil prices solely to the forces of supply and demand. The oil operators and politicians shared the belief that, like a unruly oil well, the market for petroleum had to be subdued to serve their needs. They differed starkly in their views of what kind of control was needed, however, and exactly whose needs should be paramount. Major oil companies sought to maximize their control over production and refining, seeking a greater market share and stable, high prices for their products. Smaller companies demanded protection from the daunting market power of the major companies, and also sought regulations to open new or better outlets for their oil. They saw oil production controls as a government-supported conspiracy on behalf of big oil companies; yet at the same time, they demanded that the government transform private pipelines into common carriers and block rising imports of foreign oil.

What cumulative impact did these competing demands for government action have on the California oil economy? Production controls, though not completely effective, did keep oil in the ground while safeguarding oil company profits. The regulation of the 1930s thus moderated the production and consumption of oil, holding prices neither too high nor too low. This enabled the oil boom to endure and smoothed the transition to a full-fledged petroleum society. Production controls simultaneously preserved the credibility of the state and federal governments as effective protectors of the public interest. Although government agencies failed to make oil production more efficient or to conserve the nation's valuable oil reserves, public attempts to address the problem maintained the legitimacy of public institutions.

Section IV. Building the Infrastructure for Petroleum Consumption

By channeling public revenues into business enterprises and public infrastructure, governments powerfully influence economic development. Government dollars are not worth more than private sector dollars, of course, but frequently governments take unusual risks, pool resources

into tremendous sums, and have further powers—such as eminent domain—that enhance the value of public money. These factors magnify the impact of public investment decisions. The importance of public investments is also amplified because they happen *in time*— a substantial infusion of public funds into one technology or another can lead to path dependence, whereby initial decisions constrain future choices. One technology or company comes to dominate the market and subsequent economic decisions by private actors then are made based on this dominance.

In Section Four I examine how public investment in transportation stimulated oil consumption. In the 1920s, gasoline-powered motor vehicles displaced railways and railroads as the form of transportation most favored by public largesse. Just as governments stood behind the stupendous growth of the nation's railroad network in the nineteenth century— sponsoring railroads with tax exemptions, land grants, protections from liability, and other aids— now public entities provided crucial backing for highway development. By the end of the 1930s, gasoline for motor vehicles dominated the oil market, while sales of asphalt for highways helped bring additional profits to the California companies. Governments had made highways the transportation network that would link new suburban communities to urban centers and to each other, and that would provide the transportation backbone for trucking goods and commuting to work.

State governments provided the core funding and institutional development for the highway-building effort, while the national government contributed important seed money and expertise. California financed highway construction initially through a series of three state bond issues. Then in the early 1920s, when the bond funds proved insufficient, the state turned to special gasoline and motor vehicle taxes. I argue that this switch from bond financing to highway taxes played a crucial role in advancing state highway development. The special highway funds gave the highway program an independent financial basis for growth. The political rationale that they were "special taxes" also protected them from further political encroachment.

After examining political conflicts over California's highway program, I compare highway taxes to railway and railroad taxes and argue that the finances of the transportation market contributed significantly to the automobile's decisive victory by mid-century. During the crippling years of the depression, when California's government and railroads and railways limped financially, the state highway budget grew steadily. Even as the state government carried budget deficits in the tens of millions of dollars, leading California to radical tax innovations including the introduction of state sales and income taxes, California's highway program ended each year with a $20 million budget surplus. The thirties were pivotal years for the state's transportation system. Railroad and railway networks stalled and staggered, emerging from the decade far weaker than they entered. Meanwhile, the state government spun an intricate web of highways. In the post-World War II period, however, California found itself caught in this web. By the late 1960s, many Californians agreed that the state had overbuilt its highway system, and even Governor Ronald Reagan called for action against automobile-related smog. The state had trapped itself in an automobile landscape of its own making, one that bolstered the market for petroleum through the remainder of the twentieth century.

Analyzing the Causes of Environmental Change

My analysis of the California oil economy thus explores in great depth leasing policies, highway finance, taxation, and regulatory politics, subjects that may seem quite removed from environmental history. Environment and ecology are typically associated with trees, rivers, animals, and minerals— the stuff of non-human nature. Why focus on economic politics and law in a project that seeks above all to contribute to our understanding of *environmental* problems and solutions?

During the post-World War II period, the Santa Barbara oil spill, Los Angeles smog, urban refinery pollution, oil price shocks, and freeway expansion placed petroleum at the very center of California environmental politics. Environmentalists have attributed these diverse environmental problems to the oil economy and the automobile society. Yet blaming the oil economy only prompts a further question: how did we become so dependent upon oil and the automobile? To answer this question, we must turn our attention away from petroleum's well-known impacts on the environment towards the factors that actually shaped the California petroleum economy itself.[6]

By examining how politics and law established the economic architecture of the California oil sector, my dissertation builds on recent developments in environmental history that highlight intricate connections between environment and economy.[7] By the early l980s, leading environmental historians had departed from an earlier emphasis on conservation politics and ideas of nature.[8] Authors such as Donald Worster, William Cronon, Carolyn Merchant, and Richard White instead relied heavily on ecological studies and land use histories to trace changing material relations between nature and society.[9] By 1985, Richard White declared that these material relations constituted the core of environmental history. "Intellectual and political history may be environmental history's parents," White wrote, "but they are, by themselves, unable to nurture it," because they treated nature as "merely a background." By contrast, White continued, the new environmental history explored the "transformation of the land" in greater detail and examined the "reciprocal influences of a changing nature and a changing society."[10] While some environmental historians continued to emphasize political and intellectual themes, many others came to see the material intersection between changing nature and society as their particular domain.

Yet even as this new approach attracted followers in the 1980s, recurring questions about *causality* sparked further methodological change. Hewing close to the intersection of nature and society produced rich accounts of the exploitation of natural resources, the physical transformation of the land by human action, and the ways that nature itself might constrain and shape society. But did these accounts fully address the causes or origins of human actions towards the natural world? Cronon pointed towards the expanding metropolitan economy in Chances in the Land, but how did that economy expand, incorporate, and transform distant hinterlands? Was it enough to assert, as Worster did in Dust Bowl, that the 1930s dust storms had been caused by a peculiarly American form of "capitalism" whose "drives and motives" were "overrunning a fragile earth"?[11] As Richard White warned in 1985, unless environmental

historians were careful, "the new scholarship" could "end up as merely a series of undemonstrated claims about the relationship between society and the environment. Historians must find some way to fix with care and precision the causes and consequences of the changes that they study."[12]

Dissecting the workings of capitalism and metropolitan expansion required more subtle and thorough analysis of human institutions and economies, as subsequent work by Worster, White, and Cronon revealed. Worster's Rivers of Empire articulated a theory of "the state" and invoked the Frankfurt School on relations between humans and nature, linking the domination of nature to the domination of people.[13] In Roots of Dependency, Richard White used sophisticated cultural and political analysis to establish the social context of ecological transformations and the decline of Native American traditional economies.[14] Cronon's Nature's Metropolis explored the economic and ecological connections between Chicago and its hinterlands by examining the rise of the railroads and markets for grain, lumber, and meat.

This increasingly sophisticated economic and political analysis set the stage for a fresh dialogue about the causes of environmental transformation. For example, Cronon's nuanced account in Nature's Metropolis raised questions about the societal forces that shape urban growth, market expansion, and ecological change. Cronon's tale highlighted widely shared individual responsibility. "We are consumers all," Cronon concluded, reshaping distant lands through our everyday actions.[15] In his explanation of why consumers and businesses acted in ways that shaped distant landscapes and societies, Cronon blurred distinctions between the harvest of grain on the farm and the machinations of the Board of Trade in Chicago. He raised profound questions about the central forces of the economy that sparked wide-ranging ecological change.

In my search for the causal factors behind the transformation of the California environment, I continue this trajectory by moving from the immediate interface between nature and society— the direct acts of producing, transporting, processing, and consuming petroleum— to examine the social institutions that shaped these activities. We live in the petroleum landscape every day. We know well the impacts of the Santa Barbara and Exxon Valdez oil spills, the environmental implications of smog and freeways, and the threat of global climate change. But what *drives* the oil economy?

My analysis of the California oil sector probes the historical record with regard to two rather simple propositions. First, politics profoundly shaped the oil economy that so drastically affected California's ecology. Consumers, investors and producers in California made economic choices within a *political* economy structured by history, politics and law. Rather than take a larger market framework for granted and limit my study to how firms behave within that framework, I show how the market itself changed over time in response to political, legal, and economic developments.

Second, politics and economics have never recognized sectoral boundaries. In California, political and economic developments inextricably linked issues that we commonly separate as "environmental" and "non-environmental." The growing burden of unemployment relief in the

l930s, for example, affected state budget decisions that shaped public policies towards coastal oil development. Also in the 1930s, motorist advocates and oil companies fiercely defended the sales tax to safeguard funds for highway development. In the 1910s, philosophical differences about the proper balance between government and private business in the economy shaped the decade-long controversy over access to California oil lands that culminated in the Mineral Leasing Act of 1920. Contemporary protagonists recognized these inter-connections and acted upon them. We can only understand the factors shaping petroleum development and environmental change more generally in the same broad political and economic context.

The Relationship Between Business and Government

Guided by this theoretical approach to environmental history, my dissertation goes well beyond traditional environmental concerns to contribute to a related but larger discussion about the role of government in the economy. How much should government intervene in our economic life? How much rein should we give to the market? American politics frequently turn on our answers to these broad questions. Political conservatives commonly criticize how government distorts the "free market." They contend that if government would just stay out of the economy, markets would efficiently allocate society's resources. Political liberals, meanwhile, point to market failures and inefficiencies and demand that government intervene to protect the poor, the environment, or American Laborers. These two perspectives often mark the boundaries of our political commentary. Yet a close look at our economic history reveals that both the questions and the answers are fundamentally incomplete. Both views share a common assumption that "capitalism" and the "market" can exist, and have in the past existed, apart from government. As we hear so commonly in our political discourse, government *intervened* in the market, either to save it or to destroy it.

The common conceptual division of market institutions from government stems from a deeply flawed understanding of our economic history. In fact, governments constructed the legal framework for the market; they enabled market institutions to shift with new developments; and they bankrolled many of the newest, unexpected additions. Governments have continually created new property rights (allocating the broadcast spectrum), channeled economic activity through tax policies (rewarding home ownership), or nurtured new industries through public investment (the initial development of the internet). By necessity governments have continually balanced competing interests, choosing between types of taxation (income versus sales versus wealth), between antitrust enforcement and the creation of property rights that lead to monopoly, and between favoring some enterprises with government largesse over others, as in the transportation sector. Governments alone have not built the market, of course, but *without* government there would be no capitalist market as we know it today.

Public policy decisions on issues of public finance, regulation, and access to resources have enormous implications for business success and failure in every portion of the economy. Consequently, throughout the forty-year period covered in my dissertation, individuals and corporations in the oil and transportation sectors struggled constantly to reshape the legal

regimes that governed their operations. Businessmen knew that laws and politics greatly determined their access to resources, the speed at which they would develop oil reserves, and the extent and quality of highway infrastructure. They felt deeply the cut of taxes and royalties. Grasping the importance of public institutions and public policies to their corporate success, California's oil operators, highway contractors, real estate developers, and other business people entered the political arena.

Within the context of business history, I show how business politics are a central part of business operations. As historian Richard Vietor has written of the airline, telecommunications, and natural gas industries, "there are two related environments in which [a regulated firm] must operate effectively: the market and the political arena."[16] I similarly examine how businesses balanced political and economic constraints, acting within an institutional "market" context that the firms themselves helped structure. Yet traditional business regulation was but one of many areas in which firms intervened politically. Taxation, public investment, and laws determining access to resources were equally important.

Corporate leaders at Standard Oil of California as well as independent businessmen like Ralph Lloyd understood that they could not disentangle business from economic politics. Standard Oil, the Southern Pacific Railroad Company, and other corporations and individuals engaged in extended political struggles to gain access to oil lands in the San Joaquin Valley and along the California coast. Similarly, between 1929 and 1939, California oil operators like Ralph Lloyd worked with public officials to find an institutional mechanism to tame a wildly fluctuating oil market. They experimented with an array of public and private solutions, ranging from cooperative marketing plans and voluntary statewide curtailment of production to federal and state production controls. Finally, over the time period, California auto clubs, highway contractors, oil companies, and other highway supporters struggled to bolster and protect state highway funding. With highways funded entirely through public largesse, competition in the transportation sector involved a dynamic political interaction among firms and public institutions.

The political coalitions that formed around energy issues further reveal that oil producers and consumers saw their interests as closely allied. The oil industry actively lobbied for measures that built demand for their product. This commitment led the industry to support, or at least acquiesce, to state gasoline taxes earmarked for highway construction. The oil industry also used these gasoline taxes paid by motorists as an effective rhetorical means to deflect efforts to institute a state severance tax on oil. In a further twist, California's petroleum politics came together to produce the state's vaunted state park system. A broad-based highway coalition that included oil companies became the parks' leading promoters and state oil royalties emerged as California's primary source of beach and park funding.

As the many references to state gasoline taxes, state parks, and state budgets indicate, the relationship of business to state government is far more intimate and often more significant than at the national level. I argue throughout the dissertation that United States historians must look more closely at the profound influence and striking independence of twentieth-century state and

local governments. The California government dominated the major transformations occurring in the state's oil economy in the first four decades of the twentieth century. From coastal oil development to the regulation of petroleum production to the development of the highways, statewide politics, more than national maneuvering, structured California's oil economy until at least World War II.

Historians writing about twentieth-century energy and transportation policy have largely ignored state governments. Studies of U.S. energy policy typically do not examine state legislative activity, overlooking the critical role of stare policy, particularly in the pre-World War II period when the states established the institutional framework for the emerging petroleum society.[17] The OPEC crisis and a more generic federal bias among researchers have led most recent histories of the oil industry to concentrate almost exclusively on national and international struggles over production, access and energy policy.[18] The literature on the U.S. energy industry has consequently given short shrift to the regional impacts of oil development and to important sub-national political conflicts over energy policy.[19] A similar omission prevails in transportation history. Consequently, I give fresh attention to the state-level politics and economics that led to the national embrace of motor vehicles.[20] By doing so, my analysis of state highway development situates California's new transportation system more directly within a rich literature on nineteenth century internal improvements.[21] Political and institutional factors at the state level strongly promoted investment in road and highway infrastructure and decisively shaped and stimulated consumer demand.

Studying past developments in the California oil economy is particularly rewarding because it opens the door to such a wide range of historical fields: political, legal, business, environmental, and western. Truths about the oil economy are insights into our entire society. Virtually every economic activity in the United States is connected in some way to the petroleum economy. Many of the largest companies in the United States in the twentieth century were those oil, chemical, automobile, and aircraft firms directly dependent on the production, processing, and consumption of oil. Oil spills, petroleum-based pesticides, and automobile-related smog and sprawl have made the oil economy a central concern for the modern environmental movement. Global warming, caused in great part by the release of carbon dioxide from oil consumption, may prove the century's single most lasting and significant legacy.

The twentieth century was thus an age of oil. Oil's utility contributed enormously to its rapid adoption and consumption. Yet petroleum has also been the subject of intense and incessant political and legal wrangling. This dissertation explores how, through politics and public policy, we shaped our dependence on oil.

Endnotes: Introduction

[1]Oscar Handlin and Mary Flug Handlin. Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts. 1774-1861. Cambridge. MA: Harvard University Press. 1969 (rev. ed: 1st ed. 1947); Louis Hartz, Economic Policy and Democratic Thought: Pennsylvania. 1776-1860. Cambridge, MA: Harvard University Press, 1948; Milton Heath, Constructive Liberalism: The Role of the State in the Economic Development of Georgia to 1860. Cambridge, MA: Harvard University Press. 1954; Carter Goodrich, Government Promotion of American Canals and Railroads, 1800-1890. New York: Columbia University Press, 1960; Carter Goodrich, ed., Canals and American Economic Development.
New York: Columbia University Press, 1961; George Rogers Taylor, The Transportation Revolution, 1815-1860. New York: Rinehart & Company, 1951; Henry W. Broude, "The Role of the State in American Economic Development, 1820-1890" in Hugh G. J. Aitken, ed., The State and Economic Growth. New York: Social Science Research Council, 1959, 4-25. See also, Harry N. Scheiber. Ohio Canal Era: A Case Study of Government and the Economy, 1820-1861. Athens, OH: Ohio University Press, 1969; L. Ray Gunn, The Decline of Authority: Public Economic Policy and Political Development in New York State, 1800.1860. Ithaca: Cornell University Press, 1988.

Surprisingly, this fine tradition of scholarship has sparked little scholarly work on twentieth-century state governments. For one call for studies of state law and governance in the twentieth century, see, Harry N. Scheiber, "Public Economic Policy and the American Legal System: Historical Perspectives." Wisconsin Law Review (1980): 1159-1189, 1179. State level studies that reach into the twentieth century include: Lawrence M. Friedman, Contract Law in America: A Social and Economic Case Study. Madison: University of Wisconsin Press, 1965; Gerald D. Nash, State Government and Economic Development: A History of Administrative Policies in California, 1849-1933. Berkeley: Institute of Governmental Studies, University of California, 1964; and, Arthur McEvoy, The Fisherman's Problem: Ecology and Law in the California Fisheries, 1850-1980. New York Cambridge University Press, 1986. See also work on the history of the state courts from 1870 to 1970 by Robert Kagan, Lawrence Friedman, Bliss Cartwright, and Stanton Wheeler: Kagan, et al., "The Business of State Courts, 1870-1970," Stanford Law Review 30 (November 1977): 121-156; Kagan, et al., "The Evolution of State Courts." Michigan Law Review 76 (May 1978): 961-1005; Friedman, et al., "State Supreme Courts: A Century of Style and Citation," Stanford Law Review 33 (May 1981): 773-818; Wheeler, et al., "Do the 'Haves' Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970," Law & Society Review 21: 3(1987): 403-445.

[2]Robert Lively, "The American System: A Review Article." Business History Review 29 (1955): 81-96. See also, Harry N. Scheiber, "Government and the Economy: Studies of the 'Commonwealth' Policy in Nineteenth-Century America," Journal of Interdisciplinary History 3 (1972): 135-151.

[3]James Willard Hurst, Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915. Cambridge, MA: Belknap Press of Harvard University Press, 1964, 4, 5. Hurst is better known for his other pioneering (and less-imposing) studies of American law: Growth of American Law: The Law Makers (1950); Law and the Conditions of Freedom in the Nineteenth Century United States (1956); and, Law and Social Process in United.States History (1960). For commentary on Hurst's contributions to legal history, see, Harry N. Scheiber, "At the Borderland of Law and Economic History: The Contributions of Willard Hurst," American Historical Review 75 (1970): 744-756; Mark Tushnet, "Lumber and the Legal Process," Wisconsin Law Review (1972): 114-132; Robert Gordon, "J. Willard Hurst and the Common Law Tradition in American Legal Historiography," Law and Society Review 10: 1 (1975): 9-56; Sidney Harring and Barry Strutt, "Lumber, Law and Social Change: The Legal History of Willard Hurst," American Bar Foundation Research Journal 113: 1 (1985): 123-144.

[4]Other oil-producing nations, including the Persian Gulf states, Venezuela, and Mexico (before and after Porfirio Diaz), did not fragment mineral rights in the same way. National ownership of mineral and petroleum resources made it possible to manage oil pools as units. This strategy obviously presents different issues related to political and economic control over regional development and revenue-sharing with the producing region. Still it is clear that the U.S. system was not predetermined. The United States government would zest alternatives to the rule of capture when it established cooperative field management in the 1930s, most noticeably at Kettleman Hills. For the most part, however, oil operators developing oil fields on private lands in California—at Signal Hill or Santa Fe Springs,

for instance—did so rapidly, in competition with their neighbors. See Harold Williamson and Arnold Daum, The American Petroleum Industry, Volume 1, Appendix E on possible alternatives to the rule of capture.

[5]Herbert Phillips, "Lower House Will Act on Olson Bill," *SB*, 28 April 1935.

[6]This literature is substantial. See, among other works, James E. Krier and Edmund Ursin, Pollution and Policy: A Case Essay on California and Federal Experience with Motor Vehicle Air Pollution. 1940-1975. Berkeley: University of California Press, 1977; Robert M. Fogelson. The Fragmented Metropolis: Los Angeles, 1850-1930. Berkeley: University of California Press, 1967; Mike Davis, City of Quartz: Excavating the Future in Los Angeles. New York: Vintage, 1992 (1990); Alfred Lewis, Clean the Air! Fighting Smoke, Smog, and Smaze Across the Country. New York: McCraw Hill Book Company, 1965; Joel Garreau, Edge City: Life on the New Frontier. New York: Doubleday, 1991; James Kunstler, Geography of Nowhere: The Rise and Decline of America's Man-made Landscape, New York: Touchstone, 1993; Fred W. Viehe, "Black Gold Suburbs: The Influence of the Extractive Industry on the Suburbanization of Los Angeles, 1890-1930," Journal of Urban History 8: 1 (November, 1981): 3-26; A.E. Keir Nash, Dean E. Mann, and Phil G. Olsen, Oil Pollution and the Public Interest: A Study of the Santa Barbara Oil Spill. Berkeley: Institute of Governmental Studies. University of California, Berkeley, 1972; Robert Easton, Black Tide: The Santa Barbara Oil Spill and Its Consequences. New York: Delacorte Press, 1972: Nancy Quam-Wickham, "'Cities Sacrificed on an the Altar of Oil': Popular Opposition to Oil Development in 1920s Los Angeles," Environmental History 3: 2 (1998): 189-209; Joseph A. Pratt, "Letting the Grandchildren do it: Environmental Planning during the Ascent of Oil as a Major Energy Source," The Public Historian 2: 4 (Summer 1980): 28-61; John Ise, The United States Oil Policy, New Haven: Yale University Press, 1926. The story of global climate change has just begun to be told; see, for example, William K. Stevens' coverage of the science and politics of climate change in the New York Times. For a
recent review of the scientific literature, see, Tom M.L. Wigley, The Science of Climate Change: Global and U.S. Perspectives. Pew Center on Global Climate Change, 1999.

[7]For a parallel shift in modern environmental politics, see the increasing efforts by environmental groups to shape international trade agreements, tax policy, international financial flows, and government subsidies for highways, dams, and natural resource industries. The programs of the World Resources Institute and Friends of the Earth exemplify these trends, although the organizations are hardly alone in such efforts. See, http://www.wri.org and http://www.foe.org. See also Raymond Williams' critique of the "intellectual separation between economics and ecology" in Williams, Problems in Materialism and Culture: Selected Essays. London: Verso, 1980: 84.

[8]For an excellent discussion of this shift, see, Richard White, "American Environmental History: The Development of a New Historical Field." Pacific Historical Review 54 (1985): 297-335. Two pioneering works representing the political and intellectual strains of the field are, Samuel P. Hays, Conservation and the Gospel of Efficiency: The Progressive Conservation Movement. 1890-1920. Cambridge, MA: Harvard University Press, 1959 (1969); Roderick Nash, Wilderness and the American Mind, Third Edition. New Haven: Yale University Press, (1967) 1982.

[9]Richard White, Land Use, Environment, and Social Change: The Shaping of Island County, Washington. Seattle: University of Washington Press, 1980; William Cronon, Changes in the Land: Indians, Colonists, and the Ecology of New England. New York: Hill and Wang, 1983; Carolyn Merchant, Ecological Revolutions: Nature, Gender, and Science in New England. Chapel Hill: University of North Carolina Press, 1989; Donald Worster, Dust Bowl: The Southern Plains in the 1930s. New York: Oxford University Press, 1979. Dust Bowl: The Southern Plains in the l930s.

[10]White, "American Environmental History," 316-317, 335.

[11]Worster, Dust Bowl. 243.

[12]White, "American Environmental History," 334.

[13]Donald Worster, Rivers of Empire: Water, Aridity and the Growth of the American West. New York: Pantheon, 1985.

[14]Richard White, The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos. Lincoln: University of Nebraska Press, 1983.

[15]Cronon, Nature's Metropolis, 384.

[16]Richard H. K. Vietor, Contrived Competition: Regulation and Deregulation in America. Cambridge. MA: Harvard University Press, 1994, 21.

[17]Two exceptions to this tendency to focus on federal policy are, David F. Prindle, Petroleum Politics and the Texas Railroad Commission. Austin: University of Texas Press, 1981, and William R. Childs, "Texas, the Interstate Oil Compact Commission, and State Control of Oil Production: Regionalism, States' Rights, and Federalism during World War II," Pacific Historical Review (1995): 567-598.

[18]See, Daniel Yergin, The Prize: The Epic Quest for Oil Money and Power. New York: Simon and Schuster, 1991; John G. Clark, Energy and the Federal Government: Fossil Fuel Policies, 1900-1946. Urbana: University of Illinois, 1987; Richard H. K. Vietor, Energy Policy in America since 1945: A study of business-government relations. New York: Cambridge University Press, 1984; Anthony Sampson, The Seven Sisters: The Great Oil Companies and the World They Shaped. New York: Bantam Books, 1975; Gerald D. Nash, United States Oil Policy 1890-1964: Business and Government in Twentieth Century America. Pittsburgh, PA: University of Pittsburgh Press.

[19]For exceptions to this characterization of energy studies, see Joseph Pratt's work on the Texas oil industry and the transition from coal to oil in the early twentieth century: Joseph A. Pratt, The Growth of a Refining Region. Greenwich, CT: JAI Press, 1980; Pratt, "Growth or a Clean Environment? Responses to Petroleum-related Pollution in the Gulf Coast Refining Region." Business History Review 12: 1 (Spring, 1978): 1-29; Pratt, "Letting the Grandchildren do it: Environmental Planning during the Ascent of Oil as a Major Energy Source," The Public Historian 2: 4 (Summer 1980): 28-61; Pratt, "The Ascent of Oil: The Transition from Coal to Oil in Early Twentieth-Century America" in Lewis Perelman, Gus Giebelhaus, and Michael Yokell, eds. Energy Transitions: Long Term Perspectives, Boulder, CO: Westview Press, 1980. For a call for further study of regional oil development, see, Gerald D. Nash, "Oil in the West: Reflections on the Historiography of an Unexplored Field," Pacific Historical Review 39: 2 (May, 1970): 193-204.

[20]For the national story, see James J. Flink, The Automobile Age. Cambridge, MA: MIT Press, 1988; Mark H. Rose, Interstate: Express Highway Politics 1941-1956. Lawrence: Regents Press of Kansas, 1979; Warren James Belasco, Americans on the Road: From Autocamp to Motel, 1910-1945. Cambridge, MA: MIT Press, 1979; Mark S. Foster, From Streetcar to Superhighway: American City Planners and Urban Transportation, 1900-1940. Philadelphia: Temple University Press, 1981; Clay McShane, Down the Asphalt Path: The Automobile and the American City. New York: Columbia University Press, 1994; James Howard Kunstler, The Geography of Nowhere: The Rise and Decline of America's Man-Made Landscape. New York: Touchstone, 1993; and, Joel Garreau, Edge City: Life on the New Frontier. New York: Doubleday, 1991.

Greater attention to state transportation policy can be found in Caro, The Power Broker and in Hal S. Barron, "And the Crooked Shall Be Made Straight: Public Road Administration and the Decline of Localism in the Rural North, 1870-1930," Journal of Social History 26, no. 1 (Fall 1992): 81-103. Despite being viewed by many as the epicenter of American automobile culture, California still lacks a comprehensive survey of state highway and transportation development in the twentieth century. Two recent overviews are, David W. Jones, Jr., California's Freeway Era in Historical Perspective. Berkeley: Institute of Transportation Studies, University of California Berkeley, 1989; and Brian Deane Taylor, "When Finance Leads Planning: The influence of public finance on transportation planning and policy in California," Ph.D. diss. UCLA, 1992. Metropolitan studies are more common in the transportation field. See, Robert M. Fogelson, The Fragmented Metropolis: Los Angeles. 1850-1930. Berkeley: University of California Press, 1967; Scott L. Bottles, Los Angeles and the Automobile: The Making of the Modem City. Berkeley:

University of California Press, 1987; Joel A. Tarr, Transportation Innovation and Changing Spatial Patterns in Pittsburgh, 1850-1934. Chicago: Chicago Public Works Historical Society, 1978.

[21]See endnote 1, above.

Chapter 1

"Treasures of an empire"[1]:

Federal Oil Lands in the San Joaquin Valley

Property rights fundamentally structured the California oil market in the early twentieth century. In settled areas such as Los Angeles, Huntington Beach and Ventura, private landowners found themselves locked in a competitive race to claim the subsurface oil deposits beneath their land. Where federal and state governments controlled oil resources, oil companies maneuvered for access in a changing political and legal environment. Their struggle with each other and with the government would determine how oil moved from the land onto the market. Who would reap the benefits of what nature and time had bequeathed? How fast would the oil be extracted, under what constraints, and at what cost?

The development of billions of barrels of California oil ultimately worth tens of billions of dollars rested on the answers to basic questions about property. One federal lawsuit against the Southern Pacific Company in the 1910s challenged title to 165,000 acres of land estimated at the time to contain oil worth $400 million. Another case against the Standard Oil Company, involving only 640 acres, resulted in a $6 million award to the federal government and concerned some five million barrels of oil.[2] Meanwhile, the state government wrestled with the question of what to do with great pools of oil found under the Pacific Coast tidelands, at Huntington Beach, Long Beach, and Elwood.

The struggle over access to California oil resources had political ramifications as momentous as the value of the oil. Congress considered the question of what to do with California oil lands during every session of the 1910s; by 1921, it had devoted more than twenty congressional hearings to the subject. During the 1920s, a scandal over bribery and naval oil leases forced Secretary of the Interior Albert Fall to resign in disgrace and badly embarrassed the presidential administrations of Warren Harding and Calvin Coolidge. During the 1930s, the political conflict over petroleum in the state tidelands similarly dominated legislative debate and helped propel New Deal Democrat Culbert Olson to the governor's house. Political struggles over California oil resources continued into World War II and beyond.

To understand how politics and law structured the California oil economy, we must begin with the nature of property rights. The establishment and enforcement of property rights constitutes one of the most basic tasks of governance. Sometimes this governance is formal, occurring through laws and judicial rulings carried out by a constitutional government. In other instances, particularly in small, isolated communities, governance takes place through the evolving custom and norms of an extended family or clan group. In either case, a social body must develop and enforce legal rules that allocate among its members access to crucial resources, including land, air, water, and animals, as well as ideas and technologies. Each society further establishes rules about who is and who is not a member entitled to such property rights. These rules distribute

wealth among a social group; they provide stability and order; and they can facilitate investment and accumulation. All governments, from national and international regimes to communal organizations, must address the fundamental question of property. Politics and culture shape these public decisions, and a property regime institutionalizes in law fundamental values of a society.

We often think of property as a tangible object, the dirt that makes up the land, or the metal, plastic, and rubber that constitutes an automobile. Yet property is better thought of as a bundle of enforceable social rights.[3] We can most easily understand this distinction by noting how a physical object, such as land, can bear multiple claims of ownership. There can be distinct rights to extract minerals, air rights, water rights, rights to surface use, rights to hunt wild animals, and rights to graze domestic animals. These rights are not entitlements to specific physical objects, necessarily, but rather enforceable claims allowing certain uses or actions.

Unlike tangible objects, which exist in the world regardless of society, the larger community must recognize a property claim for it to become a right, rather than mere physical possession. Politics in every society determine which social claims are respected and which are denied. The rules that govern property claims become a society's *property regime,* codified in law or passed on through evolving custom. Different property regimes have major consequences for the course of economic development and the distribution of wealth in society. They also structure the balance of power between rival claimants: neighboring landowners, the state and private actors, or private individuals and corporations.

The property regime that governed California oil lands changed dramatically during the first decades of the twentieth century. The oil sector began the century governed by land laws from an earlier age. These laws allocated to private owners of surface land the rights to subsurface petroleum deposits. Subdivision owners in Huntington Beach or Los Angeles, for instance, owned the oil rights to whatever lay beneath their small domain. Similarly, on the federal public lands, property laws allowed private individuals and associations to enter onto the land and claim mineral rights beneath that territory. Once reduced to private ownership, the "rule of capture" dominated extraction. Under this rule, the courts deemed oil analogous to a wild animal, reduced to property only when captured by an oil well.[4] Private ownership and the rule of capture pushed neighboring producers into a race to extract oil simply to protect their share of common oil pools.

During the first two decades of the twentieth century, the nineteenth-century property regime came under sustained assault. Beginning in 1909, the national government refused to let private individuals and associations claim outright ownership of remaining public petroleum lands. A decade-long battle over access to public mineral resources ensued, resulting in the new leasing system codified in the Mineral Leasing Act of 1920. The government retained title to the oil lands and negotiated contracts with private companies that paid for the privilege of extracting petroleum. How much would the companies pay? How much oil would be drained from the public domain? How much natural gas would be burned off as waste? On what terms would neighboring lessees compete for access to the same public petroleum pool? Which engineering,

environmental and labor practices would be followed? All of these questions, which had one set of answers under the previous petroleum regime, now had to be reevaluated in light of the federal government's increased capacity and mandate to manage public oil lands. Policymaking, litigation, and politics resolved the crucial economic issues.

Through the prolonged struggle that produced a new property regime, California and national politicians laid bare characteristic interactions among politics, policy and the American economy. These interactions conformed to the dynamics of what has been called the "American system."[5] During the nineteenth century, federal, state and local governments actively worked to promote economic development, principally by allocating natural resources and legal privileges.[6] State, federal, and local governments distributed land, corporate charters, tax exemptions, rights to levy tolls and dam streams, and other benefits.[7] The public lands played an important role in this process, for they served as inventory and currency for the state and federal governments. The federal government raised a considerable portion of its revenue from the sale of public lands. It also used land grants to encourage state governments and private enterprises to undertake developmental tasks. At the same time, the federal government made public lands available to homesteaders and land speculators.[8]

At the beginning of the republic, national leaders clearly distinguished mineral resources from agricultural land. Perhaps following the British Crown's retention of one-third rights to all gold and silver from the colonies, the Land Ordinance of 1785 similarly reserved one third of all gold, silver, lead and copper mines. After the Continental Congress dissolved and the Ordinance was not re-enacted, however, the one-third government interest disappeared and full mineral rights started to attach to agricultural lands.[9] The competition sparked by the rule of capture on private petroleum lands in the early twentieth century had its origins in this decision to grant full subsurface mineral rights with surface land ownership.

United States mineral policy remained unsettled until the late nineteenth century. Even as the United States conveyed agricultural lands with mineral rights, the national government experimented with public control over mineral resource development. For forty years the federal government administered a lead-leasing program in the Upper Mississippi Valley. The U. S. Supreme Court firmly upheld congressional power to lease as well as the principle that unauthorized mining on the public domain constituted actionable trespass. Congress abandoned the lead-leasing program in 1846, however, in the face of inadequate federal administration, proliferating false agricultural entries, and prolonged litigation over whether miners required federal permits to enter the public domain.[10] Soon afterwards, the California gold rush further unraveled national control over mineral development. Even more than in the Midwest, the federal government could not secure personal property or land titles in the California gold fields. Customary law developed to establish reliable property rights—not surprisingly, miners' custom did not allocate a share of placer gold deposits to the nation. Miners claimed it all for themselves, in the process also taxing and otherwise excluding many non-white miners. The federal government had thus cut itself out of the gold and silver bonanzas by its own administrative weakness, an outcome sealed by the swarming of settlers and entrepreneurs into the Mexican southwest.[11]

The search for new federal revenue during the Civil War again stimulated congressional interest in tapping the nation's mineral wealth for the public treasury. Proposals for a national mineral law ranged from taxes on mineral production to the seizure of the gold mines and the retention of title by the national government. In 1866, Congress passed legislation to open the public mineral lands to prospectors—but without any revenue-raising provisions. The new law enabled prospectors to secure "fee simple" title to lode mining claims, that is, title to unconditional rights over the property. The 1866 act thus thoroughly repudiated leasing, as the national government neglected to retain any mineral rights for the public. The 1872 mining law further codified a national policy of free mining. The law declared all valuable mineral deposits in federal lands available to be claimed. The act limited the acreage for mining claims, and required claimants to perform $100 of development work annually in order to preserve their claims. This generous land distribution policy governed the extraction of minerals from the federal public domain into the twentieth century, and the 1872 mining law remains in effect for hard rock mining today.[12] In 1897, Congress specifically extended these mineral laws to petroleum. Upon discovery of oil, a person could acquire public petroleum lands virtually free.[13] These mining laws set the stage for the rapid development of United States mineral resources.[14] In this period of tremendous economic growth and change, national and state governments assisted private economic development through generous land grants, mineral policies, and a stable, promotional legal regime.[15]

Breaking with Nineteenth Century Public Land Policies

In the first decade of the twentieth century, Theodore Roosevelt, Gifford Pinchot, and other nationalists sought to break away from the profligate nineteenth-century land system. They believed in the scientific management of natural resources. They also thought federal administrative agencies could manage the public lands in the public interest better than private individuals and companies. In 1906, Roosevelt withdrew some fifty million acres of the public domain to have it inspected for coal deposits. The administration wanted to prevent further agricultural entries on public coal lands, and also hoped to raise the price charged for mineral access. More fundamentally, Roosevelt questioned whether the mineral lands should ever be distributed into private hands. In February 1907, he declared to Congress that the national government "should retain its title to its fuel resources, and its right to supervise their development in the interest of the public as a whole."[16]

In September 1909 the Taft Administration extended Roosevelt's coal policy to petroleum. Taft ordered millions of acres of land in California and elsewhere in the West temporarily withdrawn from public entry and mineral claims. The United States Geological Survey, the agency within the Department of the Interior responsible for studying the mineral resources of the country, urged the petroleum land withdrawals. In February 1908, George Otis Smith, Director of the Geological Survey, warned the Secretary of the Interior of the rapid speed at which private parties were patenting the oil lands in California. The pace, Smith noted with alarm, would "make it impossible for the people of the United States to continue ownership of oil lands there more than a few months." The government would soon be "obliged to repurchase the very oil

that it has practically given away." The United States government verged on complete loss of control of its Pacific Coast fuel supply, which had grown strategically important to the Navy's new petroleum-powered ships.[17]

Over the next year, petroleum geologists working for Smith in California pressed for at least a temporary withdrawal of the federal oil lands. They also asked that the Land Office take measures to prevent the proliferation of fraudulent agricultural and gypsum claims on the oil lands.[18] In November 1908, California petroleum geologist Ralph Arnold and his colleagues advised Smith that to assure an adequate fuel supply for the government, "the withdrawal of public lands known to contain petroleum is an immediate necessity." At the same time, Arnold and his colleagues emphasized that the need to preserve the petroleum supply was "not due to the popularity of petroleum, but to the character of the production." Oil operators typically rushed to "realiz[e] on the petroleum contained in one lease before it can be pumped through the wells of an adjoining lease."[19] Property rights drove competitive production practices, and the government geologists sought to change that pattern.

During the transition to the Taft Administration, the oil issue simmered in the background until Secretary of the Interior Richard Ballinger warned President Taft that petroleum production showed signs of impending decline. Ballinger recommended that the President act to withdraw the remaining public oil lands to assure an adequate supply of petroleum for the government's own needs. Oil production exceeded the "legitimate demands of the trade," Ballinger observed. Since disposing "of the public petroleum lands at nominal prices simply encourages overproduction," Ballinger suggested that the Administration should press for legislation that would "provide for the sane development of this important resource." The conservation of the petroleum supply "demands a law," Ballinger wrote, a law that would liberate the public oil lands from the constraints of the rule of capture. The government should find a way to develop the land more efficiently, "in terms of barrels of oil rather than acres of land."[20]

Taft's oil land withdrawal in 1909 and the switch to a new leasing regime in 1920 opened a window of opportunity to restructure access to federal mineral resources. A range of decisions during this period about the property regime would determine future oil development on the public lands in California. What portion of the proceeds from oil extraction would the public treasury capture? Would the government address the enforced competitive problems that the liberal property regime created for oil? How quickly and carefully would the government seek to develop its oil reserves? How strongly would the government work to assert its claims to Southern California oil lands?

Taft's withdrawal of the federal lands proved insufficient to protect the public's claim to its oil resources, for the government still faced heavy odds in its attempt to retain and recover oil lands. Over the next few years, the government won the legal battle over the constitutionality of withdrawal. It also managed to win many individual cases to recover oil lands occupied by oil operators in defiance of Taft's order. Nonetheless, previous public largesse plagued the Justice Department's recovery effort, impairing its ability to protect the public interest. Many private claims on the public domain had been awarded under the generous terms of the nineteenth-

century system. At the same time, the politics of the 1910s, particularly the political strength of the western states, resulted in the government awarding additional legal recognition and preference to tenuous private claims.

Amid the fierce political maneuvering and legal wrangling, it quickly became apparent that the federal government would let most of these fresh opportunities pass by. In Washington, D.C., the titanic force of sectional politics pushing for western resource development clashed with a largely eastern-based conservation movement. If not for the strong interest of the Navy Department and its political allies in safeguarding the Navy's Pacific Coast oil supply, western influence would surely have rolled right over the conservationists. Even with the Navy supporting conservation, the national government only weakly asserted itself, instead subordinating the public interest to private claims on resources.

Soon after Taft's oil land withdrawal, Congress undercut the President's bold move. The Pickett Act of 1910 affirmed Taft's 1909 withdrawal yet expanded protections to shield many oil operators who had only just initiated their development work. Whereas under previous land law, operators had to strike oil before they could gain patents on the land, the Pickett Act provided that efforts "leading to discovery" could constitute grounds for a legal claim. As the economist John Ise notes, the Pickett Act ostensibly affirmed the President's power to make the withdrawals, but its most crucial provisions expanded the rights of the oil claimants.[21] Shortly afterwards, the Operating Agreements Act of 1914 authorized the Secretary of the Interior to enter into producing agreements with the oil operators who had brazenly proceeded to develop their claims in the shadow of the land withdrawal act. The Operating Agreements Act set aside in an escrow account a one-eighth royalty, which might be owed the government under a future leasing system.[22] The Operating Agreements Act thus protected certain oil royalties for the public treasury. Yet it also ensured that the operators could—and would—continue to develop the federal oil lands immediately. The one-eighth royalty on past production also set a low threshold that would become fixed in the Mineral Act of 1920.

Congressional acquiescence to private development did not, however, end executive action on the oil lands. The influential voices of Gifford Pinchot, Josephus Daniels (Wilson's Secretary of the Navy), Robert LaFollette, and others, demanded public action to protect the public interest in the petroleum deposits. After the Supreme Court upheld Taft's executive withdrawals in the Midwest case in 1915, the Wilson Administration undertook an aggressive course of litigation.[23] By the end of the summer, the Justice Department's lead lawyer, the aptly named E. J. Justice, had filed twenty-five new suits to recover lands within the withdrawn area, and more were on the way. Major suits against the Southern Pacific Railroad Company also sought to return railroad land grants to public ownership.

Sabin – Chapter 1

Could the Government Retrieve Oil Lands? The Southern Pacific Litigation

When the Justice Department attempted to recover title to lands granted to the Southern Pacific, the government's successes and failures illustrated the legal predicament inherent in trying to change the federal property regime. Once the public lands had been alienated, it was nearly impossible to retrieve them, unless the government built a successful case establishing fraud or other technical weaknesses in the patent. Federal lawyers did achieve a major victory in the Elk Hills case against the Southern Pacific in November 1919. Yet when the Justice Department broadened its Elk Hills strategy to challenge the Southern Pacific's ownership of a huge swath of the Southern San Joaquin Valley, its lawyers foundered in the legal framework that Congress had established.

In the epic legal battle over Southern Pacific holdings in the Elk Hills, District Judge Robert S. Bean and subsequently a unanimous U.S. Supreme Court ruled in favor of the government and reinstated its title. The courts concluded that the Southern Pacific Company had obtained the Elk Hills mineral lands contrary to the railroad land grant law, through outright fraud. Under the terms of the railroad land grants, the Southern Pacific could select alternate sections along each side of the railroad's right of way. But the law barred known mineral lands, not including coal and iron, from railroad selection. To compensate for excluded mineral sections, the land grant law allowed the railroad to substitute unoccupied agricultural lands within twenty miles of the railroad line. Southern Pacific had substituted the contested land in the Elk Hills for known oil lands along the railroad line. Now the litigation centered on whether the company knew that the substituted lands also were petroleum lands.

The lands at stake were not well suited to agriculture, the Supreme Court would determine, for they were "rough, semi-arid and unfit for cultivation . . . devoid of timber, springs or running water." In fact, the Court believed it "beyond dispute" that the lands had "no substantial value unless for oil mining." The lands lay within a recognized and productive oil region that the company's geologists had "systematically" examined for oil. The company's desire to patent the lands had been "wholly disproportionate" to their value for any other purpose. The District Court concluded that the Southern Pacific had violated the terms of the land grant by patenting the oil Lands; on appeal the Circuit Court of Appeal reversed, but in 1919 the Supreme Court unanimously upheld the original District Court decision.[24]

The Supreme Court buttressed its decision with evidence that the company had deliberately hidden information from the General Land Office in order to patent the lands as "non-mineral." Correspondence in the files of Southern Pacific land agent Charles Eberlein—part of which the company had "kept separate from the general office files and guarded with the utmost secrecy"—revealed that company officers had hidden and delayed their plans to lease surrounding lands to a subsidiary fuel deparrment.[25] "We have selected a large body of lands interspersed with the lands sought to be conveyed by this lease, and which we have represented as non-mineral in character," Eberlein, the land agent, warned his supervisor. "Should the existence of this lease become known it would go a long way toward establishing the mineral character of the lands referred to, and which are still unpatented. We could not successfully resist

a mineral filing after we have practically established the mineral character of the land." Eberlein's superiors recognized the "very ambiguous position in which we would be placed" and instructed Eberlein to withhold his signature from the lease and to keep all papers relating to the lease in a separate and private file not accessible to others. Based on this evidence, the Supreme Court could conclude only that "the officers of the railroad company were not acting in good faith."[26]

With the Supreme Court's favorable ruling, the lawyers for the Justice Department had indeed won a valuable victory. The lands in question lay at the heart of a new Elk Hills naval oil reserve and were worth millions of dollars at the time. With these lands in government control, the Navy and Interior Departments could realistically expect to safeguard the oil in the Elk Hills reserve for a time of need. Without the lands, the effort to maintain a reserve would have been hopeless. The checkerboard landholdings would have quickly brought competitive drilling throughout the reserve. Thus with the court victory, government had retained the oil from the Southern Pacific's claims and also enhanced its ability to control oil development on the other government lands within the reserve.

At the same time, the Elk Hills victory revealed the fundamental weakness of the government's efforts to recover Southern California oil lands. Even with correspondence indicating fraud and deception by Southern Pacific agents, District Court Judge Bean still found it difficult to determine whether the lands constituted "known oil lands" barred from patent under the terms of the railroad land grant. In this instance, Bean did decide ultimately that there was sufficient evidence to set aside the patents: "There had been no actual discovery of oil within the boundaries of the lands at that time," he wrote, "but this was not necessary to determine their oil character." The topography and structural formation, the proximity to and known extent of oil development to the South and West, and oil seepages on or near the lands—all persuaded to Bean that the acreage had been known petroleum lands at the time of its selection.[27]

The Ninth Circuit Court of Appeals underscored the vulnerability of Bean's conclusions in 1918 when it overturned his decision to rule for the company. The appellate court adopted Southern Pacific's reasoning. The company's brief conceded that the lands had indeed been suspected "oil territory," but argued that this did not make them "known" to be "valuable" for oil. The appellate decision stated that the government needed to meet a higher standard of proof than simply speculative potential. "To be mineral in fact," the court noted, the mineral deposits must be such that "would render their extraction profitable and justify expenditures."[28] The situation in Elk Hills, argued the court, differed from a coal vein that snaked its way predictably across the landscape. After nearby strikes in 1899, oil speculators had plastered this same land with mineral claims in a speculative rush. Most had not attempted to drill wells, and the two efforts made had been quickly abandoned. In short, the appellate court concluded that the conditions in the Elk Hills were such "only as to suggest the probability that they contained some oil, at some depth, but nothing to point persuasively to its quality, extent, or value."[29]

The court emphasized that one could only "know" that oil lay in the Elk Hills by sinking a well. The court quoted approvingly oil man Frank Barrett: "The true expert is the drill. You couldn't say that a territory is known oil ground till you put a drill in it." The court thought that this fact left the government tenuously arguing that the lands were "known oil lands" even though there had been no oil discovery on them sufficient to patent the lands under a mineral claim. The lands would thus fall into a legal vacuum from which they could not be patented at all, not having the character of either agricultural or mineral lands. "Manifestly, from this view, if adopted, it would necessarily follow that there are bodies of unreserved public lands for the private acquisition of which Congress has made no provision."[30] Congress could not have intended to create such a legal limbo, the court exclaimed.

The appellate court contended that events since the land had been patented had colored testimonial accounts about the potential of the Elk Hills. The price of oil had risen, a railway had been extended into the Midway valley, and the government had issued a bulletin commenting favorably on the petroleum potential of the Elk Hills. Even more important, the Honolulu Consolidated Oil Company had struck oil in nearby Buena Vista Hills. Back in 1904, the promise of the Elk Hills had not been clear. "The outstanding and undisputed fact is that, if there was faith at all in 1903-04, it was faith without works."[31] The Ninth Circuit court scoffed at the idea that the government now wanted to revisit the issue a decade later in order to retract the patents.

Although the U.S. Supreme Court overturned the divided Ninth Circuit opinion in the Elk Hills case in 1919, the appellate court's ruling indicated trouble ahead for the Justice Department. The Supreme Court victory failed to provide the Justice Department with a firm foundation for subsequent suits against the Southern Pacific Company and its successor landholders. The legal standard for recovering patented lands proved too high in most cases. Most lands had not been acquired through such obvious fraud, and on many holdings the mineral character had not been clear at the time of transfer. While the Elk Hills case was on appeal, federal lawyers initiated a sweeping challenge to the Southern Pacific's title to approximately 165,000 acres of land on the west side of the San Joaquin Valley, ranging from Coalinga to the Sunset oil fields. The government met resounding defeat. The patents in question numbered sixteen, issued at various dates between 1894 and 1902, and the government valued the land at more than $400 million. The litigation matched the interests at stake, with hundreds of witnesses called to testify in court and nearly 15,000 pages of testimony assembled.[32]

The government relied on its successful Elk Hills strategy, contending that the Company had fraudulently misrepresented the oil lands as non-mineral. In this case, however, District Judge Benjamin Bledsoe shredded the government's position. "Stripped to the core," Bledsoe wrote, the government claimed that the leadership of the Central and Southern Pacific Companies had carried out "a deliberate, long-enduring, and wide-embracing scheme" to wrongfully acquire "some of the richest oil lands that the world has ever known."[33] Bledsoe ridiculed the idea that "the most prominent, most forceful, most far-seeing men that our state has produced . . . consummat[ed] one of the greatest frauds of the age."[34] Bledsoe pointed out that the company had regularly sold off these lands at cheap agricultural prices, rather than retaining them for

mineral development or selling them as mineral lands.[35] The men who allegedly carried out the grand conspiracy had also neglected to take individual possession of "a single foot of producing or probable oil territory within the area in suit." Their failure to act in their individual interest, and their persistence in selling the valuable oil lands at nominal prices, he concluded, was "more consistent with honesty of purpose and bona fides of belief than with fraud and chicanery."[36] Dismissing the government's claim as "hardly within the realm of possibility," Bledsoe affirmed the railroad's ownership of the enormously valuable oil lands.

Bledsoe based some of his confident dismissal of the government's case on the Ninth Circuit's negative attitude towards the Elk Hills litigation, for the U.S. Supreme Court had not yet issued its opinion in that case. Even after the Supreme Court overruled the circuit court in the Elk Hills case three months later, however, the Justice Department did not appeal Bledsoe's ruling. A. Mitchell Palmer, the pro-business Attorney General appointed in 1919, was eager to rapidly close the oil litigation and be abandoned the suit.[37] Pinchot, Daniels, and other progressives attacked "Palmer's surrender," but the Attorney General stood his ground. "There may have been more unfaithful public servants than Mitchell Palmer," Pinchot commented bitterly, "but not many."[38] Palmer's abandonment of the suit affirmed the loose nineteenth-century land policies and ensured that Southern Pacific's patents would deeply compromise any future conservation policy for the oil lands. A map of the Southern Pacific's land shows the railroad's checkerboard holdings spread over the Buena Vista Hills naval reserve, part of the Elk Hills reserve, and up the San Joaquin Valley through all of the area's other major oil fields, including Kettleman Hills, Coalinga, and Kern River.[39] Given the common pool problems faced in the oil fields, Southern Pacific and then its successor, Standard Oil of California, held the keys to any future effort to control oil production in the San Joaquin Valley.

Another Attorney General likely would have appealed this case, and Palmer's decision apparently outraged his predecessor, Thomas Gregory. Palmer's failure to appeal further highlights the volatile mix of politics and law. As a social institution, law is the outcome of past politics, interpreted in light of present conditions. If Palmer had not abandoned the suit, the past politics and lax implementation of Congress' nineteenth-century railroad land grants likely would have derailed the government's case instead. The government had a difficult standard to meet to prove fraud by the railroad. Backpedaling from previous congressional largesse and administrative carelessness constituted an unenviable legal position for the federal lawyers.

Litigating the Taft Withdrawal to Determine Rights to California Oil Lands

Because of the extensive acreage involved, the Southern Pacific cases constituted the most significant litigation over federal oil lands in Southern California. At the same time, the Justice Department also pursued numerous other cases to recover California oil lands. Whereas the railroad cases hinged on the special terms of the railroad grant, the Department's other litigation turned more directly on the Taft oil land withdrawal.[40] Which claims would result in patents and which would be denied? The cases ranged from fraudulent gypsum claims to an absence of sufficient development work by prospective oil companies. The government won its victories on

the narrow ground available. The course of the litigation further illustrated the difficulty of recovering public claims once given away. The story also revealed the intimate relationship between conflicts resolved in the courts and related political struggles taking place outside the courtrooms.

In the landmark 1915 decision of *U.S. v. Midwest Oil Company*, the U.S. Supreme Court upheld the constitutionality of the Taft withdrawal, providing the Justice Department the first crucial building block for its litigation. The Justice Department had chosen this Wyoming test case carefully. The Midwest Company's predecessors had admittedly done nothing to advance their claim towards discovery prior to the executive withdrawal. The question in the Midwest case was simple: did the President have the right to suspend the federal land law, or was that right reserved to Congress? Lower courts in California and Wyoming had ruled that the President could not invalidate a normal location under the mining law, and that the withdrawal order had been unlawful. The Supreme Court, however, ruled that by previously permitting hundreds of similar actions, Congress had granted the President the implied power to make executive withdrawals. "Nothing was more natural than to retain what the Government already owed," the Supreme Court declared. "Prior to the initiation of some right given by law the citizen had no enforceable interest in the public statute and no private right in land which was the property of the people."[41] A jubilant legal team at the Justice Department took its *Midwest* victory back to the lower courts hoping to reclaim for the nation oil lands worth hundreds of millions of dollars.[42]

Back in California, however, federal lawyers encountered a generally unsympathetic judiciary. Western jurists skeptical of the executive intrusion into western resource development dominated the Ninth Circuit's federal courts. District Judge Benjamin Bledsoe, who decided many of the lower court cases along with Judge Bean and who had scoffed at the Justice Department's challenge to the Southern Pacific, was perhaps the most compromised of the judges. Bledsoe had invested and lost money of his own in the San Joaquin Valley oil development. Following the passage of the 1920 Mineral Leasing Act, he turned his expertise in oil litigation into a marketable asset, leaving the bench to join a firm that engaged in a number of high-profile California oil cases.[43] The personal connections of other judges to the oil economy were not so overt, but they made their western allegiances clear. Again and again the courts repeated to government lawyers that claimants had entered the public domain under nineteenth-century laws established for the very purpose of encouraging such efforts. The Ninth Circuit pointed out that Congress' policy had "always been to encourage the exploration of the public lands and the discovery and development of such minerals as may be found in them."[44] In the sweeping Southern Pacific case, Judge Bledsoe similarly pointed out that the company had operated according to the laws of the time. In fact, in exchange for its offer to build the government a railroad, the company had become entitled "as a matter of right" to every odd non-mineral section along its road. "In due course it was its duty to apply for [the lands], unless they were "mineral" or appropriated. It could not be deprived of them unless they were mineral or otherwise appropriated."[45]

In line with their generally sympathetic attitude towards the targeted oil companies, the lower court judges delivered a number of surprising defeats to the Justice Department. In the Western judiciary's eyes, it soon became apparent, Congress's 1910 Pickett Act had vitiated substantially the withdrawal order. Even if claimants had not achieved the legal discovery of oil required under the old mining rules, they often could still acquire title.[46] In the case of North American Consolidated Oil Company, for example, the company discovered oil after the 1909 withdrawal but before the Justice Department commenced litigation. The original locator, the Pioneer Midway Oil Company, had spent some $10,000 on development work by the time of the withdrawal, soon after which it sold out its interest. By 1917, when the district court finally decided the case, Pioneer Midway's successors had spent an additional half million dollars developing the property. If the federal government had moved quickly to assert the public's rights, it might have reclaimed the lands with far less trouble. But by the time the Justice Department initiated suits, the companies had established themselves on the land, with heavy investments and producing wells. Judge Bean concluded that the government would have imposed a "great hardship" if it had summarily dispossessed bona fide occupants working towards discovery; consequently, he thought the Pickett Act had recognized the government's "moral obligation" to protect their interests. "It is now too late for the government to question the defendants' right to the possession and to the oil contents," Bean concluded.[47] The government's delay as it waited for the Midwest decision created the opening for this moral claim. Whether the government in fact now had a moral obligation to recognize North American Consolidated's claim to the valuable property is open to question, but Bean's views decided the issue.

In other instances, even the strong aroma of fraud could not dislocate a private claim. L. B. McMurtry was a speculator and investor who became interested in the prospects of the Midway field in 1900. In 1903, in an irregular maneuver, he secured the power of attorney from 32 laborers in the Chicago stockyards. Then in 1907, McMurtry used these names to make separate mineral locations in the southern San Joaquin Valley. In the fall of 1908, he began to sell his claims and options on his claims to other individuals and companies. By all accounts, including McMurtry's own, the Chicago locators typified that common creature of nineteenth-century land fraud, the dummy entryman. The Chicago locations were "mere Paper locations" the court later determined. Upon the advice of a Bakersfield lawyer, McMurtry and one of his partners decided that the Chicago locations so tenuous that they needed to be replaced by more plausible ones. McMurtry, with associates in New York, arranged new associations to file again on the same California lands. His partners secured signatures from thirty-two new individuals, again granting McMurtry the power of attorney in their names. In January 1909 McMurtry re-located his "Chicago" locations under the New York names. According to the notes of Department of Justice investigators, McMurtry then used this power of attorney to locate the lands, enter agreements, leases, and contracts, and give options and sell portions of land—all without the "locators having any knowledge, whatever, that they were even located." McMurtry thus used the powers of attorney "for his own use and benefit, and as his own individual property." McMurtry later conceded that he had used the New York locators to shore up his claim to lands that he had given on option to someone else.[48]

The high standard for fraud, however, meant that the government could not even recover these lands. Bean discerned a plausible "good faith" explanation for McMurtry's behavior towards the New York principals. Bean's decision sketched an implausible narrative about how the New York locators had trusted McMurtry's capabilities in the oil industry. It was only late in the process, Bean argued, when McMurtry realized how much money he could make off the property, that he betrayed the trust of the New York principals. At that point he transferred the bulk of the property into his own name and pocketed the proceeds.

The narrative of Bean's decision converted the fraud of two sets of dummy entrymen into a scenario in which McMurtry simply violated the trust of his New York principals.[49] The tale had some weaknesses, Bean conceded in *United States v. Ca1ifornia Midway Oil Co.,* for McMurtry's conduct did not quite fit Bean's story line. And the New York locators, Bean noted, knew nothing about the mining laws and made no particular inquiry concerning them. After executing the powers of attorney, they did not "manifest any particular interest in what had been done, if anything, thereunder, but signed such papers and receipts, and accepted such sums of money as were presented and paid to them from time to time." But Bean posited that this incongruous situation all "may well have been because of their confidence in their principal and his associates."[50]

The McMurtry cases constituted the fraud that they appeared.[51] Yet Bean and the Ninth Circuit Court of Appeals declared that the breach of trust had been only against the principals whose power of attorney McMurtry had abused. Judge Ross's concurrence in the appellate decision declared that McMurtry "undoubtedly, in my opinion, committed a gross fraud upon those designated as the New York locators, but not against the United States." Returning to his fundamental principles about the public domain, Ross argued that McMurtry's actions were not fraud against the U.S. because "under its laws every citizen, and every person who has declared his intention to become a citizen, is invited to explore, locate, and develop its mineral land." The initial locations had been valid. What happened immediately afterwards did not concern the government, Ross asserted, glossing over a long sordid history of dummy entrymen used to subvert government acreage limits for individual acquisition.[52] Apparently, all that mattered for the western judges was that McMurtry had covered his tracks sufficiently by paying the locators enough to make his deal look credible."[53] Bean and the Ninth Circuit appellate judges held their noses and let the claims pass by, with the result that further valuable oil lands passed into the hands of the Associated Oil Company, the California Midway Company, and others that had purchased McMurtry's claims.

The courts thus set a high bar for the federal government. Proving fraud was exceedingly difficult, as indicated by the McMurtry cases. The Pickett Act loosened the discovery requirements for establishing a bona fide claim on the oil lands. Consequently, the government prevailed principally in those cases in which the claimant had not sufficiently advanced development work so as to be covered even under the Pickett Act's broad relief provisions. In *United States v. Midway Northern Oil Co*. (and five associated cases) in 1916, Judge Bean determined that if the companies had not "actually engaged in work looking to a discovery" then the Pickett Act could not provide them with relief.[54] "The defendants drilled the wells in

question, and made the other improvements with full knowledge of the withdrawal order," Bean wrote. "While they acted under an honest belief . . . they were nevertheless trespassers."[55] Similarly, in *United States v. Thirty-two Oil Company*, Bean determined that the case turned on whether the company had been engaged in work leading to discovery at the time of the 1909 presidential withdrawal. The claims on which the company had performed actual development work qualified for relief, but its other claims did not.[56]

Even when ruling in favor of the government in the instances in which companies had done little development work, the federal judges criticized the government for deceiving the companies after the Taft withdrawal. "Irrespective of what else the government may have done after the making of the withdrawal order," Bledsoe declared indignantly in *United &ales* v. *McCutchen*, "it sat by and permitted wells to be sunk upon this property, and permitted the oil to be produced, and permitted it to be sold, without saying a word or raising a hand in opposition until at least October, 1913." Bledsoe refused to rule that the companies had been guilty of willful trespass, and therefore allowed them to recover their expenses out of the value of the oil produced.[57] Bean similarly expounded that the oil companies were "not willful looters of the public domain, nor reckless trespassers." The oil companies had given great value to "a barren, arid waste," raising the land's value from $2 or $3 per acre to $2,500 to $3,000. Bean refused to countenance a harsh ruling against the trespassers.[58]

The course of federal litigation against the companies underscored the national government's legal difficulties. Once it had allowed private parties to slake claims on the public domain, the government could not easily break with past public policy and the former property regime. Previous generosity—"to encourage the development of its mineral resources"[59]—became the standard for the government's treatment of oil operators. The oil operators assumed their rights to the public's land and when proven wrong demanded "equitable" relief from Congress and the courts.[60] Both the courts and Congress then rewarded those enterprising individuals and companies who had pushed against the limits of the law.

The Taft Withdrawal Disrupts the Oil Market

Although the limits of federal litigation quickly became clear after 1915, the uproar and litigation over Taft's oil land withdrawal thoroughly shook the old property regime. The unsettled condition of the California oil market that resulted from withdrawal revealed how much the old property regime had depended on the federal government's acquiescence and abdication of rights. Because the petroleum property regime was in transition, the l9l0s appear at first glance to diverge from typical patterns of the oil economy. The terms on which private entities could gain access to public oil lands became very uncertain. Oil companies realized that their business revolved as much around the successful acquisition and disposal of property as it depended on the successful extraction of oil. But the l9l0s were not an anomaly. These unsettled years unveiled the inherently political nature of the oil market, and the property rights that underlay that institution.

The experience of the National Pacific Oil Company typified that of many smaller oil operators struggling in these fierce political winds. A group of Los Angeles investors, including Thomas Gibbon, a close associate of Harry Chandler, organized the National Pacific Oil Company in 1912 to enter the San Joaquin Valley oil boom. National Pacific began by purchasing the holdings of the Consolidated Midway Oil Company, the ill-fated company in which District Judge Bledsoe had invested his money. Gibbon spent much of 1913-1914 straightening out Consolidated Midway's convoluted finances and property rights to get the company on a solid footing. Gibbon's correspondence with business partner Frank Peard reveals the turmoil caused by government withdrawal suits in the California oil fields.

In December 1913, Gibbon enthusiastically described the company's promising oil lands and growing production. As the company prepared to drill on the company's "best land," Gibbon confidently expected wells that would produce a sizable 1,000 barrels per day. He anticipated that the company would quickly emerge from debt to pay solid dividends. "It has been a long hard fight, but we now feel that we can see daylight," he wrote his colleague Peard.[61] The next month, however, federal challenges to the National Pacific's land titles placed the company in a precarious position. The company no longer could market its oil. "We had a large contract with the Standard which was filled a short time ago," Gibbon reported, "and the company has announced it will not take any more oil from territory that is in dispute with the government."[62] Gibbon reiterated to Peard that the "property is in excellent condition, the wells are all producing or ready to be put in production." But the politics of the market had turned against the company. Gibbon concluded that there was "no use in getting a great deal of oil above ground in tanks." The lighter gasoline fractions in the oil would just evaporate.[63]

The company's situation deteriorated steadily through the spring. With federal title suits pending, Gibbon explained, marketing oil had become "impossible." The company's income plummeted and active development work had to be stopped. The president of the company agreed to forgo his salary, and wages for other positions were cut. Drilling work ceased and the drilling crew was dismissed. The company would only retain pumpers and teamsters to keep the existing wells going.[64] The company announced an additional 3/4¢ assessment on National Pacific stock. Peard complained of the "appalling" stream of assessments and looked to sell his interest in the company. "There seems to be no end to the difficulties," Peard lamented.[65]

Later in the spring of 1914, Gibbon grew optimistic about the prospects for either political or judicial relief. In April, he appeared before the House Committee on Public Lands to testify about the chaos current in the San Joaquin Valley's oil fields. The committee recommended a relief bill unanimously, Gibbon recounted, and the committee chairman assured him that it would be passed within the next month. "If this is so we can go right on operating our properties and selling our oil without difficulty. The stock of the company should respond at once." The bill did not pass that year. But Gibbon's hopes continued high through early summer, now because of the courts. Lower court rulings against the legality of the Taft withdrawal, he thought, might "wipe out our trouble with the government." At the same time, be hoped that legislation in Congress might enable them to continue with development work pending resolution of the litigation. With a judicial or congressional solution potentially imminent, Gibbon determined to

"protect his stock" and hope that he would come out safely with "a handsome profit."[66] National Pacific continued to struggle through the fall of 1914, when Gibbon acknowledged the company's political problems and brought in Thomas O'Donnell, an influential oil man, as company president. While the current management had been had been "honest and in certain respects efficient," Gibbon and his colleagues realized that the oil company's success depended more on O'Donnell's political and business connections.[67]

National Pacific's story highlights how federal land policies controlled the spigot of oil production in the San Joaquin Valley. Gibbon's preoccupation with federal court decisions underscores how he looked to the law to safeguard his access to oil lands and his position in the market. Ultimately, politicians, not the courts, protected investors like Gibbon. With the Operating Agreements Act of 1914, Congress rescued the National Pacific Company from bankruptcy. The measure authorized the Secretary of the Interior to make operating agreements with companies whose title was not secure, thus providing them with financial relief. The company's land title remained doubtful, however, and the company suffered a negative judgment against it for $20,159 in the 1916 *Midway Northern* case.[68] Its status would not be resolved conclusively until the 1920 leasing act, when the claim was ultimately converted to a lease.

Government delay filing suits against companies such as the National Pacific and Consolidated Midway meant that claimants invariably had started production when the withdrawal litigation reached the courts. At this point, the government could not actually shut down the wells because it might damage the oil structure. (Shut-in wells risked water infiltration into the oil pool and also threatened a slow leakage of natural gas, crucial to lifting oil up through the well.) At the same time, years of uncertainty and litigation had battered the oil companies and left many in a financially precarious position. As a result, the government continued to operate wells under court-appointed receiverships or the Operating Agreements Act.

Judge Bean noted the government's technological predicament in his decision in the *Midway Northern* case. Trespasses onto the California oil lands had forced the government's hand and compelled it to produce oil. "The lands were included in the withdrawn area to preserve them intact and undeveloped," Bean wrote. But the "opening up of the oil reservoirs" by oil operators had thoroughly interfered with this conservation policy. It is now necessary to continue to operate the wells and extract the oil, or lose it entirely."[69] As Bean noted in a separate case, "an injunction would probably result in serious damage to, if not the substantial destruction of, the property by the infiltration of water and otherwise." Bean also thought that an injunction would also cause the embattled companies greater damage than the appointment of a receiver, should the companies ultimately be awarded the property.[70] Judge Bledsoe similarly felt "impelled" to take into account the fact that after a well had been sunk and oil produced, "a stoppage of the operations of the well almost inevitably produces irreparable as well as incalculable injury to the property." An injunction would only "damage both parties and benefit neither."[71] With court-appointed receivers in place, the Midway oil field continued to produce through the years of

protracted litigation. As the San Francisco Chronicle recorded in January 1917,

> the question has been asked, 'Are not the deposits in question 'conserved' by this litigation and is not the Government's fuel oil supply preserved?' By no means is the answer. From the day of the Government receiverships in these unrelenting proceedings until the present, the receiver has been pumping the oil as vigorously as ever was done by the operators.

The Chronicle principally sought to cast aspersion on the "unrelenting proceedings," but it correctly described how federal land withdrawal did not lead to a coherent or effective oil conservation plan.[72]

Although the condition of the wells forced the federal government to continue production in many instances, new development work on public oil lands in the southern San Joaquin Valley stalled and production fell off. This cutback directly influenced the overall level of oil production in California, underscoring the importance of political and legal factors to the oil industry's development. Production did not fall as steeply as it might have if the federal government had enforced its withdrawal order more aggressively and effectively. But regional production figures declined substantially, after new wells did not come on line. Oil operators quickly complained about stagnating supply and an impending "oil shortage" caused by "the Government's refusal to permit development." In 1917, Roy Bishop of the Oil Industry Association of California declared somewhat hyperbolically that the shortage would "practically eliminate oil as a fuel from the commercial life of the State."[73] The government's actions in the San Joaquin Valley, Bishop warned, would increase prices and "lay an additional burden of millions of dollars annually upon the gas consumers and automobile owners of California." During World War I, the oil market did tighten and prices rose, allowing larger producing companies to draw down their extensive oil stocks. San Joaquin Valley development failed to replenish these supplies sufficiently. In 1919 and 1920, California crude output increased by less than three percent per year.[74] Gasoline demand in the postwar period rose far more swiftly. By significantly disrupting companies' production plans, the litigation and uncertainty surrounding San Joaquin Valley development helped set the stage for a severe gasoline famine in the spring and summer of 1920. The vast amount of oil at stake and the growing demand for crude oil intensified the pressure to resolve the drawn-out conflict by establishing a new property regime for California's federal oil lands.

Endnotes: Chapter 1

[1]Senator John Kendrick (Wyoming), Cong. Record, 65 Cong., 2 Sess., pp. 388-319, 17 December 1917, as quoted in J. Leonard Bates, The Origins of Teapot Dome: Progressives, Parties, and Petroleum, 1909-1921. Urbana: University of Illinois Press. 1963, 134.

[2]*United States v. Southern Pacific Co.*, United States District Court, 28 August 1919, 260 F. 511; *United v. Standard Oil Company of California*, United States District Court, 25 August 1937, 20 F. Supp. 427; *Standard Oil Company of California v. United States*, United States Court of Appeals for the Ninth Circuit, 16 November 1939 (as corrected 2 January 1940) 107 F.2d 402.

[3]C. B. Macpherson, ed., Property: Mainstream and Critical Positions. Toronto: University of Toronto Press, 1978, 3.

[4]For a helpful discussion of the rule of capture, see, Williamson and Daunt, The American Petroleum Industry: The Age of Illumination, Appendix E. Williamson and Daunt note that contemporaries perceived problems with the rule of capture, and that late nineteenth-century courts upheld unit operations in analogous enterprises of water drainage and irrigation. For this doctrine of ownership through "capture," espoused for the sake of "certainty, and preserving peace and order in society," see also, *Pierson v. Post*, the classic American wildlife case reprinted in law school property textbooks.

[5]Robert Lively, "The American System; A Review Article," Business History Review 29 (1955): 81-96; Harry N. Scheiber. "Government and the Economy: Studies of the 'Commonwealth' Policy in Nineteenth-Century America," Journal of Interdisciplinary History 3 (1972): 135-151.

[6]Richard L. McCormick. The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era. New York: Oxford University Press, 1986, Chapter 5. Some states went beyond distribution to "outright public enterprise," establishing public agencies to build, finance, and operate costly transport facilities such as canals. See, Scheiber, Ohio Canal.

[7]McCormick, Party Period, 204. See also, Hurst, Law and Economic Growth; Lawrence M. Friedman, A History of American Law. New York: Simon and Schuster, 1973; Harry N. Scheiber, "Property Law, Expropriation, and Resource Allocation by Government: the United States, 1789-1910." Journal of Economic History 33: 1-2 (1973): 232-295; Morton J. Horwitz, The Transformation of American Law, 1780-1860. Cambridge, MA: Harvard University Press, 1977, in addition to works cited in the Introduction, endnote 1.

[8]Land distribution occurred within a popular tradition peculiar to the republicanism of the early United States. Reacting against the aristocratic privileges of the British Empire, many American politicians like Thomas Jefferson idealized the small farmer and settler and rejected the idea that the public domain should be reduced to large private estates controlled by a small elite. At the same time, national politicians did not want to simply give away the public lands to its citizens. The United States thus navigated between large giants to influential people and a super-democratic headright system that would distribute the land to all free men. Jeffersonian populism had sharply defined limits. The national government began to sell the public lands to speculators for revenue, with the idea that they would in turn transfer it to settlers. Pressure from western settlers and politicians subsequently led to the passage of the Preemption and Homestead Laws, both of which provided for settlers to gain access to 160 acres of the public domain. The combination of these land policies created a mix of small properties and extensive speculator holdings. Paul W. Gates, "An Overview of American Land Policy," Agricultural History 50: 1 (January 1976), 213-229. For recent reviews of the debate over land speculation in western settlement, see Jon Gjerde, "'Roots of Maladjustment' in the Land: Paul Wallace Gates," Reviews in American History 19 (March 1991): 142-53; Stephen Aron, How the West was lost: The Transformation of Kentucky from Daniel Boone to Henry Clay. Baltimore: Johns Hopkins University Press, 1996.

[9]Robert W. Swenson, "Legal Aspects of Mineral Resources Exploitation," in Paul W. Gates, ed., History of History of Public Land Law Development. Holmes Beach, FL: Wm. W. Gaunt & Sons, Inc., 1987 (1968), 700-701.

[10]See *United States v. Gratiot* (39 U.S. 526) for the Supreme Court's upholding of Congressional leasing; see, *U.S. v. Gear* (44 U.S. 120) for Supreme Court's holding of actionable trespass in case of mining without a government permit. For a survey of this early period of mineral law, see, Robert W. Swenson, "Legal Aspects of Mineral Resources Exploitation," 702-706, and Hurst, Law and Economic Growth, 28.

[11]See Stephen Skowronek, Building a New American State: The Expansion of National Administrative Capacities, 1877-1920. New York: Cambridge University Press, 1982 (on weak federal capacity); Charles McCurdy, "Stephen J. Field and Public Land Law Development in California, 1850-1866: A Case Study of Judicial Resource Allocation in Nineteenth-Century America," Law and Society Review 10 (1976): 235-266; Rodman W. Paul, California Gold: The Beginning of Mining in the Far West. Cambridge, MA: Harvard University Press, 1947.

[12]Swenson, "Legal Aspects of Mineral Resources Exploitation," 714-724. In recent years, environmental groups have sought the repeal of the 1872 Mining Law to curtail hard rock mining on the public lands. Both Democratic presidential candidates in 2000, Al Gore and Bill Bradley, urged repeal of the nineteenth century law to force mining companies to pay higher prices for public mineral resources. Yet Congressional support for the law remains strong. "Gore Outlines Plan for Environmental Spending," Los Angeles Times, 15 November 1999, A12 (hereafter *LAT*); "Presidential Candidate Targets Mining to cut Federal Budget," Mine Regulation Reporter, 10 January 2000, v13: 1.

[13]Reginald Ragland, A History of the Naval Petroleum Reserves and of the Development of the Present National Policy Respecting Them. Los Angeles: Independently Published, 1942. 5.

[14]For an argument about the importance of natural resources to late nineteenth-century American industrial development, see, Gavin Wright, "The Origins of American Industrial Success," American Economic Review 80: 4 (Sept 1990): 651-668.

[15]Friedman, History of American Law; Scheiber, "Property Law, Expropriation, and Resource Allocation by Government"; Scheiber, "The Road to Munn: Eminent Domain and the Concept of Public Purpose in the State Courts," Perspectives in American History 5 (1971): 329-402; James Willard Hurst, Law and Economic Growth: The Legal History of the Lumber industry in Wisconsin. 1836-1915. Cambridge, MA: Belknap Press of Harvard University Press, 1964,

[16]Samuel P. Hays, Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920. Cambridge, MA: Harvard University Press, 1959 (1969), 85. Soon afterwards, Roosevelt dispatched a representative of the U.S. Geological Survey to Australia and New Zealand to study their leasing systems.

[17]Smith particularly feared loss of control because fuels were so scarce and expensive in California. George Otis Smith to Secretary of the Interior, 24 February 1908, as reprinted in Max Ball, Petroleum Withdrawals and Restorations Affecting the Public Domain. United States Geological Survey, Bulletin 623. Washington: U.S. Government Printing Office, 1917, 104-05.

[18]Ralph Arnold urged Smith to protest to the General Land Office the issuing of patents to oil land on the basis of gypsum development work. "This gypsum ruse to obtain oil land is one of the biggest steals that has ever been tried in this part of the country. All of the men who are working it admit they want the land for oil. If these men are allowed to use this method it will be but a short time until there is no vacant oil land whatever. And the gypsum proposition is being resorted to by the biggest companies, I am sorry to say— companies that ought to have better business standards. Cannot something be done now to stop this sort of thing." Ralph Arnold to George Otis Smith. 24 September 1908, as reprinted in Max Ball, Petroleum Withdrawals, 111-12.

[19]David T. Day, A. C. Veatch, and Ralph Arnold to Director, U.S.G.S., 11 November 1908, as reprinted in Max Ball, Petroleum Withdrawals, 117.

[20]R. A. Ballinger to President William H. Taft, 17 September 1909, as reprinted in Max Ball, Petroleum Withdrawals, 134-35.

[21]Ise, United States Oil Policy, 314-320.

[22]Gerald T. White, Formative Years in the Far West: A History of Standard Oil Company of California and Predecessors Through 1919. New York: Meredith Publishing Company, 1962, 437-444.

[23]White, Formative Years in the Far West, 444.

[24]*United States v. Southern Pacific Company*, U.S. Supreme Court, 17 November 1919, 251 U.S. 1, 8, 11.

[25]"*US. v Southern Pacific Company, et al.*— Case No. 221 In Equity, Evidence Taken Before Special Examiner," District Court of U.S., Southern District of California Northern Division, RG 21, National Archives-Pacific Sierra Region, 1747-1750.

[26]*United States v. Southern Pacific Company*, 251 U.S. 1, 10-12.

[27]Under the prevailing doctrine of the recent *Diamond Coal* case, Bean wrote, these facts constituted known surrounding conditions sufficient "to engender the belief" that the lands contained petroleum deposits of "'such quality and in such quantity as would render their extraction profitable and justify expenditure to that end.'" "*Southern Pacific Company*, *et al. v. U.S.* - Case No. 2958 Transcript of Record," Ninth Circuit Records, RG 276, National Archives-Pacific Sierra Region, 77.

[28]*Southern Pacific Co.,* v. *United States,* Ninth Circuit Court of Appeals, 6 May 1918, 249 F. 785, 798.

[29]*Southern Pacific Co.,* v. *United States,* 249 F. 785, 804.

[30]*Southern Pacific Co.,* v. *United States,* 249 F. 785, 794, 797.

[31]*Southern Pacific Co.,* v. *United States,* 249 F. 785, 803.04.

[32]*United States v. Southern Pacific Co.,* District Court, N.D. California, S.D.,28 August 1919, 260 F. 511, 512.

[33]*United States* v. *Southern Pacific Co.,* 260 F. 511, 513-14. Around the same time, Bledsoe similarly derailed the Department of Justice in a key California case involving agricultural cooperatives. Woeste, The Farmer's Benevolent Trust, 155-156.

[34]*United States* v. *Southern Pacific Co.,* 260 F. 511, 513-14. Bledsoe's glowing praise of the Southern Pacific founders is particularly striking as he wrote his decision in the midst of Progressive agitation against the railroad company. See, William Deverell, Railroad Crossing: Californians and the Railroad. 1850-1910. Berkeley: University of California Press, 1994.

[35]*United States* v. *Southern Pacific* Co., 260 F. 511, 516.

[36]*United States v. Southern Pacific Co*., 260 F. 511, 516-17.

[37]On Palmer's pro-business agenda, see Bates, The Origins of Teapot Dome, 172. Palmer indicated his intentions on the oil question by pushing out Francis J. Kearful, the assistant attorney general supervising the California oil litigation. Henry F. Clay, Coming To Terms: A Study in Memory and History. Berkeley: University of California, 1987, 158.

[38]Bates, The Origins of Teapot Dome, 211.

[39]Ragland, A History of the Naval Petroleum Reserves, exhibit II.

[40]The Section 36 litigation against the Standard Oil's claim within the Elk Hills naval oil reserve was another major case that did not involve the Taft withdrawal; it revolved instead around the school land grant law. As with the railroad cases, the Section 36 litigation turned on whether the land in question had been known mineral at the time that the State of California selected it in 1903. This case lasted into the l960s before it was definitively laid to rest. The government ultimately prevailed in a somewhat questionable legal proceeding whereby the Secretary of the Interior Harold Ickes reopened the case in the l930s and in an administrative ruling held that the land had been known "mineral." Ironically, after the long fight for the naval reserve, the federal government sold its rights to Occidental Oil Company in 1996 for $3.5 billion dollars. Martha Hamilton, "Federal Oil Reserve In Calif. Up for Auction," Washington Post, 22 May 1997:
E3; Peter Zipf, "Oxy Plans Major Divestitures Next Year," Platt's Oilgram News, 21 November 1997, v75:227, 1.

[41]*U.S. v. Midwest Oil Company,* U.S. Supreme Court, 23 February 1915, 236 U.S. 459, 470. Bates, The Origins of Teapot Dome. 55-59.

[42]Attorney General Gregory later recalled the Midwest case as "one of the greatest victories won by the Department of Justice in the last 20 years." Thomas Gregory to Attorney General William D. Mitchell, 31 August 1929, as cited in Bates, The Origins of Teapot Dome, 56.

[43]In one government case against the Honolulu Consolidated Oil Company, Bledsoe was asked to recuse himself because of his previous investments in the Consolidated Midway Oil Company. Bledsoe lost almost all of his $300 investment, largely as a result of the government litigation. His original stock in Consolidated Midway was exchanged for stock in the National Pacific Oil Company (discussed in text below). When Bledsoe sold the stock in order to remove the appearance of a conflict of interest, he received a mere $16.90 for his 1,125 shares. See, *In re Honolulu Consolidated Oil Co.*, Ninth Circuit Court of Appeals, 5 July 1917, 243 F. 348, 350-351. Bledsoe's firm was involved with a number of important oil cases: *Alphonzo E. Bell Corporation v. Bell View Oil Syndicate et al*, Court of Appeals of California, 3 September 1941, 46 Cal. App. 2d 684; *Alphonzo E. Bell Corporation v. Bell View Oil Syndicate*, Court of Appeals of California, 27 January 1938, 24 Cal. App. 2d 587, (a slant-drilling case in the Santa Fe Springs field); *Starr v. Slaney*, Court of Appeals of California, 20 January 1936, 11 Cal. App. 2d 311 (a major oil leasing case in which they represented Associated Oil Company; Pillsbury, Madison, Sutro opposed Bledsoe's client); *Hartman Ranch Co., v. Associate Oil Company,* Supreme Court of California, 26 November 1937, l0 Cal. 2d 232; *Alexander Anderson, Inc. v. Eastman Oil Well Survey Co.*, Ninth Circuit Court of Appeals, 7 February 1938, 94 f. 2d 1010, (representing Anderson in major patent case related to slant-drilling technology). It is unclear how many of these cases Bledsoe worked on himself, but they were all handled by his firm, Hill, Morgan & Bledsoe.

[44]*Consolidated Mutual Oil Company* v. *United States*, Ninth Circuit Court of Appeals, 20 August 1917, 245 F. 521, 523. Judge Ross reiterated this point in *United States v. California Midway Oil Co.*, Ninth Circuit Court of Appeals, 20 February 1922, 279 F. 516, concurrence by Ross at 279 F. 521. Judge Bean similarly observed that the government had sought "to encourage the development of its mineral resources and to offer every facility for that purpose." *United States v. California Midway Oil Co.*, United States District Court, 23 June 1919, 259 F. 343, 352.

[45]*United States v, Southern Pacific Co.*, 260 F. 511, 514.

[46]*United States* v. *Record Oil* Co.; *United States* v. *Consolidated Mutual Oil Co*.; *United States v. Caribou Oil Mining Co.*, United Stases District Court, 8 June 1917, 242 F. 746. In these bundled cases, the original claimant, McLeod, had only started drilling on one portion of the property in question and had erected skeleton derricks on the other parts. While the government delayed in filing the suits, the claimant filed for patent in the General Land Office, receiving from them a "final certificate." As for the government's contention that the Land Office had no jurisdiction to entertain an application for patent on these withdrawn lands, Bean ruled that this was simply too bad for the government. "In my judgment the effect of the Pickett Act was a congressional modification of the withdrawal order," he wrote. It provided relief to all bona fide occupants or claimants who were in diligent

prosecution of work leading to discovery at the time of the withdrawal order. "As to them, the matter stood, therefore, as if the land had never been withdrawn, it remaining subject to the disposition of the Land Department." *United States v. Record Oil Co.*, 242 F. 746, 749. The claimant, McLeod, then sold or leased his interest to the various oil companies named in the suits.

[47]*United States v North American Consolidated*, United States District Court, 8 June 1917, 242 F. 723, 728, 729; *United States* v. *North American Oil Consolidated,* Ninth Circuit Court of Appeals, 5 April 1920, 264 F. 336.

[48]C.W. Hamel, "Memorandum for Mr. Justice," Number 2, uncertain date, Department of Justice Records, Ninth Circuit, Box 21: 1, National Archives-Pacific Sierra Region; *United States* v. *Thirty-Two Oil Co.,* United Stares District Court, 8 June 1917, 242 F. 730.

[49]*United States* v. *California Midway Oil Co.,* United States District Court, 23 June 1919, 259 F. 343, 354.

[50]*United States v. California Midway Oil Co.,* 259 F. 343, 353.

[51]Even General Land Office Director Clay Tallman, generally sympathetic to the western claimants, thought that the McMurtry claims were clearly fraudulent. James N. Gillett to William Herrin, 25 June 1919, Gillett Papers, Box 1093: 8, CSL. Standard Oil lawyer Oscar Sutro considered the effort by Associated Oil and others to retain control of the McMurtry claims "a desperate case" with the facts and public opinion against the company. Oscar Sutro to Henry Ach, 24 June 1919, Gerald T. White History Project, Carton 155072: Government Relations— World War 1.

[52]*United States v. California Midway Oil Co.,* Ninth Circuit Court of Appeals, 20 February 1922, 279 F. 516, 520.

[53]After his experience with the Chicago dummymen, McMurtry had indeed treated his New York locators more carefully. He had made cash payments of $520 each ($250 in exchange for the initial awarding of the power of attorney) and turned over to each 1,000 shares of oil stock in the company that he organized. These gave the illusion that he worked for them. And it was not a bad deal, considering the five minutes spent signing over powers of attorney and the ten minutes ratifying that power a year later. For himself, however, McMurtry claimed 472,000 shares in the company. McMurtry defended his share on the basis of the effort he had expended. In comparison to the locators' brief participation, he said, he had worked for eleven years in the Midway field, defending his claims at times against armed intruders seeking to run him off. C.W. Hamel, "Memorandum for Mr. Justice." Number 1, uncertain date, Department of Justice Records, Ninth Circuit, Box 21: 1. National Archives-Pacific Sierra Region.

[54]*United States v. Midway Northern Oil Co.,* (and five other cases), United States District Court, 1 May 1916, 232 F. 619, p622.

[55]*United States* v. *Midway Northern Oil Co.* 232 F. 619, 633. Bean wrote of the Pickett Act, "There is no intention manifest in the statute, as far as I can see, to protect or confer any rights on those who had merely made a filing prior to the withdrawal order, but who were unable to engage in work looking to discovery, but only those who were at the date of the order bona fide occupants or claimants of the lands withdrawn and actually engaged in the diligent prosecution of such work. None of the defendants comes within this category." *United States* v. *Midway Northern Oil Co.* 232 F. 619, 626. Bean ruled similarly in the Chanslor-Canfield case, deciding that the company had performed inadequate development work to fall within Pickett Act. The Ninth Circuit supported his decision. *United States v. Chanslor-Canfield Midway Oil Co.,* 266 F. 142. See also, Ise, United States Oil Policy, 314-320.

[56]The defendants argued a group development theory, whereby they could lay claim to the larger area based on the work done on one portion of it. In keeping with nineteenth century law, which had mandated development work to force claimants to make use of their claim on the public domain, Bean rejected the idea. *United States v. Thirty-two Oil Co.,* District Court, S.D., 8 June 1917, 242 F. 730. Statement that group development or assessment work did not count towards a claim is on 242 F. 730, 735. Bledsoe similarly rejected the group development theory in *United States* v. *Stockton Midway Oil Co.,* United States District Court, 5 January 1917, 240 F. 1006.

[57]*United States v. McCutchen*, United States District Court, 29 July 1916, 238 F. 575, 595.

[58]*United States v. Midway Northern,* 232 F. 619, 632-633.

[59]*United States v. California Midway Oil Co.,* 259 F. 343, 352.

[60]Recognizing the reluctance of Bean and Bledsoe to penalize the trespassers, the Attorney General's office backed away from claiming willful trespass in the Chanslor-Canfield suit. Special Assistant to the Attorney General Henry F. May laid out the question of whether the department wished to seek damages based on willful trespass, which would have meant the entire gross proceeds without allowance for cost of extraction. The question was vital because it came up in "practically all the cases" and several of them would certainly be before Judge Bean. May noted that the judges had "indicated clearly that they were not inclined to regard trespasses as wil[l]ful in these oil cases in general." As he was sure that it would be "fruitless" to ask Bean to do otherwise, given his decision in Midway Northern, May thought the Department would "make a much better impression upon Judge Bean and upon the court here in general" if it only asked for the property and the net value of the oil extracted. Henry F. May to the Attorney General, 24 December 1918, RG 118, Case 601 Box 1: Folder 2, National Archives—San Bruno.

[61]Gibbon to Peard, 10 December 1913, Gibbon Papers, Box 17: 142. HL. Gibbon to Peard, 10 February 1913, Gibbon Papers, Box 17: 142, HL.

[62]Thomas E. Gibbon to Frank F. Peard, 16 January 1914, Gibbon Papers, Box 17: 142, HL.

[63]Thomas E. Gibbon to Frank F. Peard, 16 January 1914, Gibbon Papers, Box 17: 142, HL.

[64]Thomas E. Gibbon to Board of Directors of the National Pacific Oil Company, 5 March 1914, Gibbon Papers, Box 18: 151, HL.

[65]Thomas E. Gibbon to Frank F. Peard, 20 March 1914, Gibbon Papers, Box 17: 142, HL. Despite the company's "unfortunate condition," Gibbon noted, National Pacific had better prospects than others. "One of our neighbors has an accumulation of more than 300,000 barrels of oil in its tanks and is unable to dispose of it." "We are unable to make new contracts for the sale of oil," Gibbon explained again. Peard to Gibbon, 28 May 1914; Peard to Gibbon, 8 May 1914; Gibbon to Peard, 19 May 1914; Peard to Gibbon, 29 April 1914.

[66]Gibbon to Peard, 21 April 1914; Gibbon to Peard, 8 June 1914; Gibbon to Peard, 8 June 1914; Gibbon to Peard, 24 June 1914, Gibbon Papers, Box 17: 142, HL.

[67]Thomas E. Gibbon to Harry Chandler, 19 November 1914, Gibbon Papers, Box 18: 165, HL. O'Donnell had joined the company's Board of Directors in 1913 when he had purchased 50,000 shares of National Pacific stock. A prominent oil operator and lobbyist active in the passage of the 1910 Pickett Act, O'Donnell later became president of the American Petroleum Institute in the 1920s. Gibbon to Peard, 10 December 1913, Gibbon Papers, Box 17: 142, HL; Bates, The Origins of Teapot Dome, 106.

[68]"Oil Land Litigation," 1922'?, RG 118 Records of U.S. Attorneys and Marshals, General Correspondence 1913-50, Box 12: General Correspondence - Matson, National Archives-Pacific Sierra Region.

[69]*United Stares* v. *Midway Northern Oil Co.,* 232 F. 619,633.

[70]*United States v. Devil's Den Consolidated Oil Co; United States v. Lost Hills Mining Co.,* United States District Court, 4 October 1916, 236 F. 973,978.

[71]The damage occurs "because of an infiltration of water into the oil sands, because of interference with the established channels conveying the oil toward the well, and, not infrequently, because of depletion of the oil measures through operations on adjoining properties. Under the circumstances, then, the court will not, even in the face of the obvious waste being committed, issue its injunction." *United States* v. *Dominion Oil* Co., United States District Court, 5 March 1917, 241 F. 425,426.

[72] "U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA: State's Enormous Production of Minerals and Its Vast Timber and Power Resources Demand Federal Encouragement," *SFC,* 17 January 1917, 13:1.

[73] "U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA," *SFC,* 17 January 1917, 13:1.

[74] Alan L. Olmstead and Paul Rhode, "Rationing Without Government: The West Coast Gas Famine of 1920," American Economic Review 75:6 (December 1985): 1046.

Chapter 2

Shaping the new federal property regime:

The 1920 Mineral Leasing Act

"I personally congratulate you upon the success of the oil bill . . . it would not have occurred if you had not hung on like a bull dog."

Roy N. Bishop, President of the Oil Industry Association of California, to former California governor James N. Gillett, 26 February 1920

The politics behind the new leasing regime

California's unsettled oil market increased for oil operators the urgency of establishing a favorable new legal framework for oil development on the public domain. Because oil prospectors and oil companies had claimed most valuable oil lands in the San Joaquin Valley before the Taft withdrawal, the California oil companies focused their lobbying effort on the relief provisions of a general leasing bill. These provisions would determine whether oil companies like National Pacific would gain title to the lands that they claimed, receive leases, or be denied access. If the oil companies received leases, the leasing bill would also determine the rules of operation and the royalties owed to the government.

The California companies prepared carefully for their legislative struggle. They organized the Oil Industry Association of California to spearhead their political operations, with financing from the state's major firms.[1] Recognizing the fundamentally political nature of their problem, the companies recruited a stable of former politicians to help them make their case in Washington. Former governor James N. Gillett coordinated much of the Washington lobbying effort after 1916.[2] Gillett worked for the Oil Industry Association as well as for individual oil companies, and was paid handsomely for his efforts. Over the years that Gillett worked in Washington, the Honolulu Oil Company alone paid Gillett $50,000 for his efforts to help protect Honolulu's valuable claims in the Buena Vista naval oil reserve.[3]

In addition to Gillett, the oil industry enlisted many other former politicians from California and the West. Until Gillett's arrival, a former judge, Frank Short, carried out the Oil Industry Association work. The Standard Oil Company of California also employed the services of former Assistant Secretary of State F. B. Loomis, and former Lieutenant governor of California, John Eshleman. The industry distributed money liberally among past members of Congress. Former Minnesota and New York Congressman and Senator Charles A. Towne the oil industry shared with western potash interests also interested in the passage of a leasing bill. Towne helped to shore up the industry's connections among the Democrats, and, in the spring of 1916, he spent at least two days of every week in the Senate lobbying for oil relief.[4] Although Towne had served in the Senate for only two months as an appointee, he proved particularly helpful, F. B. Loomis

reported, for "by virtue of being a former United States Senat[or], he has access to the floor and cloak rooms of the Senate at all times and can go in and see men when they have leisure and are willing to hear the merits of our case discussed."[5] Some of the industry's political allies still in Congress, such as Nevada Senator Key Pittmann, a former Klondike miner, sought to invest in the oil boom themselves, and did so in collaboration with lobbyists like Gillett.[6]

Obtaining satisfactory relief from the national government became a delicate chess game in which the oil industry strategically maneuvered its political pieces. Gillett's private correspondence is replete with discussions of what various political representatives should do on the industry's behalf—including when they should present legislation, which meetings they should attend, and whom they should contact and lobby among their colleagues. "Cannot [Senators] Phelan and Pittman get [Navy Secretary] Daniels and [Attorney General] Gregory to approve," Gillett's boss Roy Bishop demanded in 1917, frustrated by a stalled relief bill. Bishop continued, "If you all concur that success depends upon [California politician Isadore] Dockweiler, I will disregard our beliefs and endeavor to raise money among associates."[7] Gillett sent a colleague to help retired California Senator George C. Perkins, former Chairman of the Naval Committee, write to his colleagues and friends declaring that "the oil relief legislation asked for by our California people is fair, just and equitable and should be granted."[8] Lieutenant-governor Eshleman and Senator Phelan were enlisted to influence Secretary of the Interior Franklin Lane, their long-time friend from California. According to F. B. Loomis, Eshleman proved "of great service . . . the best man to deal with the Interior Department by far."[9]

The industry lobbyists and political representatives worked closely on these nuts and bolts of American politics. Generally the industry called the shots with its political allies. In 1916, for example, Roy Bishop wired Gillett to instruct him on how to proceed with a legislative amendment. "Whether as tactical move it would be better to have Senator Phelan offer it as a concession in debate or whether it should be put at once into substitute depends on nature of opposition . . . You and your friends are on ground and must judge. If forced to an opinion, we would say put it in at once."[10] Similarly, Louis Titus, who represented oil investors with holdings in the Elk Hills naval reserve, informed Gillett, "Have just learned that executive committee of Navy League meets tomorrow to consider Phelan bill. Senators Weeks and Phelan are both members. Senator Weeks especially ought to be present to prevent adverse action."[11] Frank Short announced authoritatively to his boss at Standard Oil, Oscar Sutro, "We will doubtless proceed in the way of having the bill approved by this committee put into the pending leasing bill as an amendment and also have a separate bill introduced and have it passed through the Senate and reported over to the House, if possible; thus having two strings to our bow . . . I enclose copy of an amendment introduced a few days ago by Senator Phelan, at our request."[12] Sutro wrote to F. B. Loomis in Washington regarding one bill. "So far as the conference committee is concerned, we would like to see, in addition to Senator Meyers and Senator Smoot, Senator Smith and Senator Pitman."[13] At times, the oil lobbyists seemed on the very floor of Congress, introducing legislation that they had written, mustering votes and directing bills through committees and on the floor.

The executive branch of the government recognized that it negotiated with the oil industry directly, not just with politicians representing a broad western constituency. Gillett helped draft one amendment to a proposed oil bill in l9l5.[14] In 1919, Attorney General A. Mitchell Palmer urged Gillett to attend several informal conferences with various departments, so as to reach an agreement that "would put an end to the controversies which have vexed the Departments and the committees of Congress for several years."[15] William F. Herrin commented on one proposed bill that its details were "evidently intended as basis for negotiation."[16]

The oil industry lobbying team did not always play its hand flawlessly. After the 1916 elections, Gillett reported "a big mistake," which was that "the Mid West people in Wyoming refused or failed to render Senator Clark of that State any assistance in his campaign. Senator Clark was defeated. He is a member of the Public Lands committee of the Senate and for two years has been our warmest and strongest supporter. I feel a little delicate and ashamed now to go and talk to him."[17] Despite its money and influence, the oil lobby was not all-powerful, as the long-drawn out struggle over the oil lands clearly illustrated. Conservationists within the Taft and Wilson administrations constrained industry allies like Franklin Lane. Personality also factored into the oil lobby's success. According to one account, F. B. Loomis was "so cold" and unpopular with the Wilson administration that his political efforts were "not overly helpful."[18]

The major oil company Leaders in California, who tended to ally with the Republican Party, considered the national Democratic victory in 1916 a disaster for their efforts to claim the San Joaquin Valley oil resources.[19] But as California had been a pivotal state, they attempted to turn the election debacle to their advantage, reminding Democratic politicians that they owed California a political debt. Gillett, for example, urged the Democratic Governor of Kentucky to lobby for the California oil industry in Washington and to persuade that state's Democratic Senator to "take an active interest" in the industry's problems. "After what California did for the old Democratic Party it seems to me there should be reciprocity somewhere," Gillett wrote.[20]

At one level, the struggle over the withdrawn oil lands entailed a discovery of the new center of power growing in Washington, resilient before a barrage of industry propaganda and money. As oil lobbyist and former judge Frank Short explained to Senator John Weeks, "no such wanton injustice as is proposed to be produced upon the oil men could be carried out in any state, for within a state we always know something of the merits of every controversy of this kind. But the United States is so far away from remote localities of this character that but a remote and distant understanding can be obtained or arrived at as to what is being done"[21] The politicians in Sacramento better understood the oil men's predicament, and the industry faced no formidable Pinchot or Daniels in state government. To underscore this point, a California ex-governor and ex-lieutenant governor helped lead the oil industry's lobbying effort in Washington and the California senators advocated their cause.

In addition to the industry's allies in politics, major California newspapers, including the Los Angeles Times and the San Francisco Chronicle, lined up behind the California oil companies in their fight to retain rights to the federal oil lands. Harrison Gray Otis, President and General Manager of the Times-Mirror Co., decried the "ill[e]gitimate raids by the administration" and

assured Gillett that he wished him "the utmost success" in his efforts in the capital. "The Times has printed a good deal of matter on the subject," Otis wrote Gillett suggestively, "and is ready to print more when it can receive the facts from authoritative sources."[22]

The San Francisco Chronicle demonstrated similar allegiance to the industry. In 1914, a newspaper editorial blasted the "obstinacy" of the federal officials "persecuting" small operators and investors with suits "based on trivial technicalities" In January 1916, the newspaper editorialized on behalf of the Phelan amendment to the proposed leasing bill and claimed sole credit for legislative progress stimulated by "the force of public opinion, created almost entirely by this joumal."[23] In March 1916, the Chronicle declared that the Department of Justice may be "legally justified" in pursuing its suits, but it was "morally unjustified." The paper warned of the "ruin of hundreds of honest men" if the U.S. maintained a hard line on its right to the land and past oil production. The newspaper proposed that Congress allow the operators simply to "continue their operations, paying to the United States as proprietor the usual royalty."[24]

The Chronicle did not confine its sympathies to the editorial page. In December, 1916, the Chronicle's publisher telegrammed Gillett in Washington regarding the Chronicle's fifty-second annual edition. In exchange for "generous support from larger interests and their attorneys," DeYoung offered to print an article "which we will agree to write from such suggestions as you may give us." "You know the stand Chronicle has taken editorially [on] this matter," DeYoung assured Gillett. "Let us have your data or suggestion for article early . . . so article may have your approval before publication."[25]

DeYoung's telegram to Gillett made clear that the annual edition in January 1917 would not deliver objective, independent journalism. The Chronicle's articles in that issue on government withdrawal strongly favored the oil industry. Containing not one dissonant note on the subject of public rights to oil lands, the newspaper articles liberally quoted John M. Eshleman, industry supporter and former lieutenant governor, Roy Bishop, President of the Oil Industry Association of California, and the Chronicle's own pro-industry editorials. Withdrawal and the ensuing litigation had dealt California "the greatest blow" the state had suffered in years.[26] Government litigation following the Taft withdrawal was "primarily responsible for the failure of production to keep abreast of consumption."[27] Many operators faced "financial ruin" or had already suffered "irreparable loss." Over seventeen million dollars had been expended on wells and improvements, the Chronicle estimated, and the operating wells in question accounted for over 76 million barrels of oil.[28] The Chronicle complained that government litigation threatened title to approximately one quarter of the state's oil lands.[29]

If the federal government wanted more oil land for the Navy, the Chronicle argued, it could purchase the land or condemn it. The government did not need to "cheat" its citizens. "Sooner or later [the land] must go back to the individual, unless the Government is to go into the oil business." Since the U.S. Government had always previously allowed claimants to acquire title, passing over legal technicalities, why did it suddenly have to adopt a harsh stance? Instead of government meddling with federal oil lands, the Chronicle proposed that it develop hydroelectric power from the Sierra and the national forests. "The first step toward the conservation of fuel is

the total suppression of the entire cult of those who suppose they are conservators of power." Only "half-baked enthusiasts" like Gifford Pinchot let the streams run wastefully to the sea, preventing their development with "pinhead legislation and lack of legislation."[30]

Not everyone in the oil industry agreed that this strident advocacy by the California press, or even the public airing of the oil controversy, aided the industry. A. L. Pollak of the Miocene Oil Company thought that "the fewer statements regarding the oil men's side of the story that appear in the papers, the better will the eventual result be."[31] Gillett similarly favored back room bargaining to the public eye. Public exposure would only disadvantage the oil companies, he thought. As the mineral leasing bill neared final passage in 1920, industry lobbyists worked hard to prevent further public hearings and push the bill swiftly through Congress. "The Committee is very friendly," Gillett reported to William Herrin of Associated Oil. In accordance with the oil lobbyists' request, the House Committee on Public Lands, had "decided not to have any hearings on the Oil Leasing Bill." Gillett explained, "there are a number of people here who are anxious to nationalize the oil and coal industries of the country, and the President himself has some leanings in that direction . . . If we had hearings, these people would appear before the Committee and would take up considerable time in agitating this question." Sentiment in favor of national ownership had grown in the East, Gillen wrote to A. C. Diericx, head of the Honolulu Company. "It is not strong enough yet to defeat the passage of our Bill, though it might be if our Bill is delayed very long. Hence our anxiety to get it through as quickly as possible." Gillett thought that the bill was in "splendid shape" and that President Wilson would sign the bill "if passed before a strong propaganda grows for the public ownership and operation of the oil and coal industry."[32] Gillett particularly feared public attacks on the industry by eastern conservationists and Navy loyalists. "The fight is a hard one" Gillett acknowledged. The eastern newspapers, unlike their California counterparts, did not help the industry's cause, reporting that the proposed leasing bill was "a big oil steal."[33]

World War I added a new twist to political negotiations over the withdrawn oil lands. On the one hand, the war allowed the oil companies to demand that the government open the public lands in the name of patriotism and increased oil production. On the other hand, the war stimulated a counter movement to have the Navy commandeer the naval reserves and operate them itself.[34] The Secretary of the Navy, Josephus Daniels, with the on-going support of President Wilson, remained the principal obstacle to reaching a compromise. He refused to countenance private intrusions on the naval reserves. World War I strengthened his hand. Daniels used his leverage to aid his Progressive allies in the Justice Department and conservation movement, who sought to recover for the public the oil lands lying both inside and outside the naval reserves.[35] Alarmed by the waste described by government geologists working in California, Daniels and his allies sought to save oil in the ground for the Navy and to make oil production generally more efficient and less wasteful. They also sought greater royalties for the government, with some calling for outright government ownership and operation of oil wells on the public domain.[36]

After Daniels and others blocked a bill in 1916, the prospects for satisfactory relief looked bleak for the oil companies through 1918. But the end of the war and Republican victories in the 1918 election sharply changed the situation. As Gillett observed, "The danger with which we have

always been threatened, that the Government would take over our oil properties and operate them, vanished when the war closed; that is no longer a club held over our heads. Mr. Daniels could not get an order of that kind made now, and the Fuel Administration would never make it anyway." Gillett likewise thought that the Democrats would not want to be blamed for tying up the resources of the West for over six years and would not want to leave the oil issue for the new Republican Congress. "For these political reasons, I believe we will get some action soon, and if we don't I know the Republican Party will give it to us promptly." The situation had so improved that Gillett was optimistic that the departments had given up on the idea that claimants within the naval reserves would be granted only rights to the wells that they had already drilled. He thought permission to drill additional wells would be given.[37] Only a few short months before the election he had hoped only to get a wedge in the door with leases on existing wells, with the idea that it would "only be a short time before the President, knowing the necessities of the country for oil and gas, will extend the right to drill wells on other parts of the claim."[38]

As promising legislation began to shape up in the Congress, the California oil companies worked to shape the leasing bill to facilitate their activities. A. L. Pollak, president of the Miocene Oil Company, wrote Gillett to suggest ways to make the mineral leasing bill more favorable. He emphasized that the operator or occupant of a claim should be given preference and full protection. He recommended that the royalty be "fixed at one-eighth on all existing wells, which obviously would cover the past and future production." He also urged that the royalty for future wells be standardized, to "do away with any haggling or dissatisfaction upon the part of the operators or any Government agents." Furthermore, if royalties could be calculated on net production, subtracting development and operating costs from gross production, "it would be a very fortuitous saving for all of the companies."[39]

The most important provisions of the new leasing bill concerned relief for oil operators who claimed land withdrawn by President Taft. These invariably tended to involve narrow amendments to the bill that would deal with the unique aspects of each case. Pollak, for example, asked Gillett a "personal favor" that would give him a special edge in the competition for oil leases:

> As you probably recollect, I am a veteran of the Spanish-American War, with an honorable discharge. I therefore suggest that when Congress passes a land bill for the benefit of veteran soldiers . . . that you arrange it with some influential member so that a veteran who has lived on and asserted claim to any public land for a specified period, will be given a patent to the land which he claim, whether it is agricultural or mineral in character . . . You can easily have it worded so that it would be applicable to my rights and claims with the Miocene.

In this instance, Pollak then quickly reconsidered the boldness of his request. "Upon second thought," he continued, "I believe that the acreage should be limited to 160 acres, which would eliminate any suspicion."[40] William F. Herrin of the Associated Oil Company urged Gillett to change the date before which substantial development work had to have been done in order to qualify for the bill's relief provisions. Associated had acquired valuable properties from L. B.

McMurtry and wanted to hold onto them. But the company had not begun development until after the withdrawal orders. Not surprisingly, Herrin also urged Gillett to insert generous provisions dealing with the bona fide purchase of properties originally acquired through fraud.[41]

In addition to assisting his clients and associates, Gillett sought to make a quick dollar for himself in the passage of the mineral leasing bill. As the passage approached, he wrote his associates to alert them that he had introduced a provision into section 19 that might "enable us to pick up something upon good terms, if we can get at it quickly." Gillett instructed them to look for lands that might fit a little known section of the law, lands located prior to September 27, 1909, but upon which no well had been drilled or oil discovered.[42] "I may be mistaken, and no such locations may exist," Gillett noted, "But I had the bill prepared to take care of them if there are any, and of course this fact is not known by anyone in California, and will not leak out for some little time yet."[43] Gillett and his associates, the Pollak brothers, were not the only ones rushing to lay claim to the newly opened federal domain. Rudolph Pollak sped out to patent some land only to encounter others laying claim to the same territory.[44] Senator Albert Fall's secretary Charles Safford played a game similar to Gillett, with a different set of associates in New Mexico. Safford kept his associates apprised of Washington developments. Immediately after the leasing bill passed, he alerted them with a carefully worded telegraph intended to avoid leaks.[45] In exchange for Safford's efforts, there was a "little acreage reserved for you which possibly may sometime repay you for your trouble." With Safford's boss soon to take over at the Department of the Interior, Safford's personal involvement in oil development on the public domain boded poorly for future federal management. Safford's New Mexico colleague Stephen Davis wrote plainly that the "value of these locations" would "depend a great deal upon the regulations to be issued by the Department."[46] Loosening federal leasing regulations would be one of Albert Fall's top priorities in the Interior Department.

Gillett labored long and hard to insure the mineral leasing bill's ultimate passage. "The hardest thing I have to do today" he reported to his Honolulu employers, "is to keep track of people who come here and want to 'butt in' and amend the Bill in many ways. So far, I have succeeded very well."[47] When one lawyer proposed a number of amendments that would "prove ruinous" to the bill, Gillett provided damaging information about him "to our friends on the Committee." He hoped to ''sidetrack the whole matter quietly and without any trouble."[48] When a group of Wyoming interests seemed bent on derailing the bill in the process of making it better serve their interests, Gillett had "read the riot act" to them to get them to "settle their differences." He had also helped smooth things out between the powerful Representative Nicholas Sinnott from Oregon and Senator Reed Smoot.[49] The final version of the leasing bill pleased Gillett considerably, and he boasted to A. J. Pollak about his successes and influence. Sending Pollak a copy of the bill with "our provisions" underlined in the text. They had gotten the "bill in pretty good shape," Gillett crowed. "When I come home, Al, it will be up to you to give a good dinner to several of us, and help celebrate the occasion."[50]

Once the House Committee had reported out the bill, Gillett turned his attention to the tasks that would follow its passage. "When the Bill becomes law," he informed Herrin at Associated Oil, "the Secretary of the Interior will commence preparing rules and regulations to carry out its

provisions. These rules and regulations are going to be very important as much so as the Bill itself." The Mid-West people planned to have several representatives assist in the preparation of these rules and regulations. Gillett offered to stay in Washington to assist with this work, and also urged Herrin that there should be one or two oil experts in operation, production and refining there from California.[51]

In the years following the passage of the Mineral Leasing Act of 1920, Gillett continued his efforts to influence federal policies in a manner that would favor oil operators. In 1923, following Albert Fall's resignation. Gillett solicited guidance from his associate L. L. Aitken in Denver. "Have you any one in mind yet for Secretary of the Interior? If so I wish you would let me know so that I can help to put it over."[52] Gillett recalled that the Honolulu Oil Company had retained one of the candidates, Senator Frank Kellogg, prior to his joining the Senate. Gillett also persisted in shaping congressional policy development, going so far as to recruit sympathetic western Senators to serve on the Public Lands Committee.[53] In his legal practice, he developed a lucrative business as a consultant helping companies transform contested claims into leases. He also advised companies on how to acquire prospecting permits, incorporate their enterprises and sort out the complex web of land titles.[54] Overlapping claims created a legal mess. "Yours conflict with a homestead entry, three stockraising entries and lieu selection," Gillett observed in one letter to a client.[55] Gillen lobbied the Commissioner of the General Land Office, William Spry, to allow for group development of permitted areas[56] and the extension of permits.[57] In 1929, when Herbert Hoover's Secretary of the Interior placed a temporary moratorium on the issuance of oil prospecting permits, Gillett helped lead the California opposition to the new policy, becoming vice president of the "California Oil and Gas Permittees and Lessees' Association."[58] Gillett also joined an effort by oil operators, including the Standard Oil Company of California, to prevent the Interior Department from reviewing federal grants of mineral land to the states. Gillett and others pushed for Congressional legislation to secure title for those who had "acted in good faith and relied upon the title coming from the state."[59]

Gillett's years of labor in Washington unveil the politics of property that underlay the California oil economy and the American System as a whole. Gillett's skills had little to do with the technology of extraction or refining. Nor was he a businessman marketing a product. Yet he and his compatriots played as fundamental a role in the California oil business. They worked assiduously to establish and maintain the property regime within which the geologists, engineers and businessmen would work profitably. From the Taft land withdrawal in 1909 to the passage of the Mineral Leasing Act in 1920, the political representatives of the oil industry—elected officials and lobbyists—had worked to open the southern California oil lands to oil operators for immediate development. Their political efforts yielded a new leasing law, which would govern mineral development on the public domain through the rest of the twentieth century.

Sabin - Chapter 2

"Patent is now only a memory"[60]

"No one will ever know how much time, work and money" went into the drafting of the Mineral Leasing Act, Standard Oil of California's chief lawyer Oscar Sutro wrote James Gillett in 1920.[61] F. B. Loomis concurred, telling Sutro that "I do not believe a bill has ever had more work done for it and more persistent effort brought to bear upon it than the Oil Leasing Bill."[62] Controversial proposals for government oil development, steep royalty rates, and sharp restrictions on extraction had been aired during the decade-long struggle. But years of lobbying paid off for the oil companies. The new property regime differed only partly in its fundamentals from its predecessor.[63]

The mineral leasing act ended the patent system for mineral lands established in the 1860s and 1870s and replaced it with a new leasing system. The act also settled claims related to the 1909 Taft land withdrawal. The act dealt generously with longstanding claimants to oil lands outside the naval oil reserves in California and the Midwest. Oil operators who could not gain outright patents for their claims received preferential leases on the same properties. The bill did create a powerful incentive for claimants to settle for a lease: if a claimant held out for a patent for more than six months after the passage of the leasing act, he would lose his preferential rights to lease.[64] Although smaller oil operators had made many land claims originally, during the years of litigation and following the passage of the leasing act, larger oil companies purchased these claims and consequently received the preferential leases. The lease agreements charged the oil companies a light one-eighth royalty on the oil production of the previous ten years. The one-eighth figure also set a low minimum threshold for subsequent royalty payments. The one-eighth royalty dispensed the government's oil cheaply. Observers like former Attorney General Thomas Gregory thought the leases could command at least a one-fourth royalty, in addition to large initial bonus payments.[65] Although the leasing act disallowed fraudulent claims, the restriction only applied to those that remained in the hands of the original claimant. As people like L. B. McMurtry had passed their claims on rapidly in the California fields, the fraud provision applied to few claimants in 1920. So long as a company "had no knowledge" of the original fraud, it qualified as a "bona fide" claimant. By granting preferential leases to claimants, overlooking fraud, and charging a low royalty on past production, the mineral leasing act thus confirmed bold actions taken by oil operators in disregard of the Taft land withdrawal. The bill rewarded those who aggressively staked their claims, developed their wells, and moved to production as quickly as possible, despite a government land policy ostensibly intended to temporarily halt such activities.

As with any compromise bill, the new leasing law did not meet all of the oil operators' goals. Standard Oil of California and other companies which claimed lands within the naval oil reserves complained bitterly of "unjust" discrimination.[66] Within the naval reserves, the leasing act provided little relief, granting claimants only rights to the producing wells themselves. The strict ruling ironically rewarded bold defiance of withdrawal by an enterprising firm—more producing wells resulted in a more generous settlement. Although claimants within the naval reserve did not acquire full leases, the act offered the prospect of future relief by granting presidential discretion to allow further development within the reserves. Existing claimants would receive

preferential treatment. Under a friendly administration such as Warren Harding's, this discretion could greatly reward patient oil operators.

The terms for new oil exploration generally also did not entirely satisfy the oil companies. The leasing act increased the acreage of prospecting permits and leases to improve the efficiency of production in new territory. Two-year prospecting permits covered 2,560 acres outside known structures, while within known petroleum areas, the act provided for 640 acre leases under one-eighth minimum royalties. Companies could obtain these new leases through competitive bidding. Although the increased permit and lease size lessened the fragmentation of the oil fields, the acreage restrictions continued to disappoint many larger oil operators. They sought much larger lease tracts that would encompass large portions of oil fields, or even entire fields, and allow them to manage the holdings efficiently. But smaller operators fought such monopolistic control of the oil fields. The Chairman of the House Public Lands Committee spoke for many in 1918 when he asked sarcastically if Standard Oil should get all the government's oil fields "at one bite of the cherry." In 1916, Gillett wrote similarly to his associate Frank Short that many people in California had written Senator Phelan to argue against a lease size of 2,560 acres because the amount was "entirely too large and all wrong." Gillett and his colleagues successfully persuaded Congress to approve the 2,560 acre size, but they could not increase the lease parcels further.[67]

What bad the long and bitter struggle over the oil lands achieved in the new leasing regime? Standard Oil of California denounced the "carnival of litigation" and declared that "out of it has come nothing of value."[68] But there had been a change when the government recovered and retained title to much of its remaining oil land. As the oil companies knew when they fought for patent, ownership conferred significant privileges. To begin with, as proprietor the government acquired a one-eighth minimum interest in many new leases. The leasing act divided royalties from oil and gas leases among the general treasury of the federal government (l0%), the national reclamation fund (52.5%), and the state in which the oil was found (37.5%).[69] Over the ensuing years, these royalties would contribute hundreds of millions of dollars to public treasuries. The revenue built dams in the West, funded schools and roads in the oil-producing states, and paid for general federal expenses.

Ownership also gave the federal government considerably greater power to determine what happened on its land. Of course, the government always retains the power to regulate private land uses in the public interest, but this general "police power" is limited by constitutional restrictions and political constraints. With the leasing regime, the federal government had the full authority of a proprietor. In its contracts with lessees, the government could easily regulate drilling practices, for example. The government could stipulate that wells be set back from the lease boundaries, require the filing of reports, and demand the construction of waste pits and the following of proper procedures for well abandonment.[70]

Federal ownership also gave the government a clearer stake in labor relations. During the lengthy and bitter 1921 oil strike in the San Joaquin Valley oil fields, the federal government held the key to the strike's outcome. The Interior Department, through its royalty interest and its

ownership of the land, had the power to intervene between the strikers and their employers. As Albert Fall's subordinates informed their boss, taking control of certain properties to "prevent damage by water" would necessarily result in the Interior Department guaranteeing "certain wages to union men or else protection to no[n] union men." Either decision would "involve us in strike."[71] What position would the government take in this important post-war labor conflict?[72] Would the government do as the workers asked, continuing the role of mediator developed during the war? Or would the administration hold back and let the employers break the union as they pleased? Some officials in the Interior and Labor Departments urged the Harding Administration to mediate on the grounds that the strike threatened government oil interests.[73] Secretary of the Interior Albert Fall sided with the employers.[74] Fall recognized that the government as landowner possessed sufficient power to shape labor relations in the oil fields, but denied its "right" to do so. He scoffed at and distrusted the head of the Bakersfield mining bureau, who sympathized with the strikers and thought that "drillers must have autos to carry them to and from work and hence must have adequate salary"[75] Lacking federal support and faced with the united opposition of the oil operators, the strike ultimately collapsed.

In the 1920s and in the early 1930s, the ownership of oil lands proved the only successful means that the federal government had to achieve oil conservation. When competitive practices resulted in severe overproduction in the late 1920s, the government used its leverage as proprietor to institute California's only effective conservation program.[76] Under federal leadership, the operators of the Kettleman Hills oil field managed the area as a unit and allocated production among the numerous companies involved. Elsewhere, the state and federal governments lacked the facility of action that ownership provided. Voluntary efforts by the oil companies repeatedly failed and federal and slate oil initiatives were incomplete and unsuccessful.

Ownership of the public domain also allowed the government to change its mineral development policy, just as it had done with the Taft withdrawal in 1909. In 1929, President Hoover cancelled thousands of outstanding federal oil leases, declaring that "there will be complete conservation of government oil in this administration."[77] Hoover's Secretary of the Interior Ray Lyman Wilbur proposed to lease to continuing permittees only the minimum required by the Mineral Leasing Act. Wilbur explained that the nation's petroleum resources were "being dissipated at prices which bring no adequate return to the Federal and State Governments in royalties or to the industry." He perceived a government obligation to "reserve as much oil as possible against the time--unfortunately not far distant-- when our national supplies diminish."[78] Ownership of the land thus enabled the Secretary of the Interior to implement an oil conservation plan.[79]

Although ownership conferred important powers on the federal government, the compromises embedded in the Mineral Leasing Act and the political decisions of the Harding administration dissipated the potential of a new leasing regime. Federal discretion over production from the public lands remained severely impaired under the mineral leasing act's provisions. Most important, the new property regime failed to address satisfactorily the basic problem of competitive production. Because the litigation over withdrawal and the Southern Pacific holdings had not effectively prevented the fragmentation of the federal oil lands in California, the many operators granted leases under the mineral leasing act continued to produce in competition with

their neighbors. On new holdings, the leasing act mandated that prospecting permittees rapidly develop their acreage as well. Permittees were to begin drilling within six months. Within one year after receipt of the permit, they had to drill to no less than 500 feet; barring discovery of oil, within two years they had to have reached 2000 feet. These drilling rules—designed to prevent companies from unproductively tying up the public domain and to safeguard the government's royalty interest vis-à-vis neighboring private landowners— forcefully pushed operators towards discovery and production.

Even in the naval petroleum reserves, competitive forces compelled the federal government to develop its property. With the government's defeat at the hands of Judge Bledsoe, the Southern Pacific Company had retained title to checkerboard sections within the Buena Vista Reserve. "It is sheer folly for anyone to contend that the oil and gas may be held in reserve in the sands," commented C. Naramore of the Sinclair Exploration Company on the situation. Production by the Southern Pacific and other private operators would inevitably bring water encroachment, the exhaustion of gas pressure and the depletion of oil. Fragmented ownership had irreparably damaged the Buena Vista Reserve. It was "not suitable for a long time reserve," Naramore argued, for the government could protect its own interest "only by drilling as many wells as the Southern Pacific Company does in order to thereby get its share of the oil."[80] At the same time, although the federal government had recovered most of the Southern Pacific's claims in the nearby Elk Hills, rival holdings also compromised that naval reserve. By 1922, Standard Oil had forty-four wells on the Tupman property that bordered the eastern edge of the Elk Hills reserve. The wells drained the same oil pool, and they extracted oil fast, twenty one million barrels by September 1921. By 1922, the wells had already earned Standard a phenomenal $27 million on its $6 million investment.[81] Standard's actions forced the government to offset this production with wells of its own.[82] On a school section in the heart of the reserve, acquired from the State of California, Standard Oil also embarked on an aggressive drilling campaign. The federal government ultimately recovered the latter section after decades of expensive and controversial litigation, but not before Standard's development work had forced the government into a drilling campaign.[83]

By failing to address the underlying competitive situation, the leasing act thus failed to establish a property regime that effectively addressed the problems of California oil production. The federal government, like all other landowners in the California fields, lacked the discretion to match its oil production to market conditions. Unlike other landowners, however, who found themselves in a situation *not* of their own making, the federal government had granted its discretion away.

Even as the government confronted anew these problems of competitive production, executive authority over the rich oil lands created fresh political problems. Only part of the production from the two naval reserves resulted from the need to offset nearby private operators. The larger portion resulted from a spate of generous dealings by the Harding Administration, the most notorious of which made up the Teapot Dome scandal. At the center of this controversy was Secretary of the Interior Albert Fall, a former Senator from New Mexico who believed fervently that the government should open the public domain for rapid development. The natural resource

interests who backed Warren Harding's election in 1920 specifically backed Senator Fall as their candidate for Interior Secretary. According to one account, oil man Harry Sinclair had spent $600,000 ensuring Harding's election, and Fall in particular had been "bought like a steer."[84] In his brief tenure in the cabinet, Fall sought as much as possible to reverse the conservation policies adopted during the previous two decades.[85] As a Senator, Fall had urged a liberal leasing act.[86] As Interior Secretary, he now loosened federal regulations for oil and gas leasing, making lease terms more generous and operating conditions more flexible. Fall expanded the acreage and number of claims allowed to oil companies under the Mineral Leasing Act and enhanced the rights of permit applicants to gain lower prospecting royalty rates if the government declared an oil field "known" while processing the permit application.[87]

Fall's crusade against oil conservation particularly targeted the naval oil reserves. Soon after he joined Harding's cabinet, he negotiated generous deals with the Honolulu Consolidated Oil Company for production within the Buena Vista reserve. Fall's decision to re-open the Honolulu case and then grant the Honolulu leases poked further holes in an already-riddled Buena Vista reserve. Fall claimed that experts advised early development of the disputed lands to prevent water damage to the oil structure, but his obvious eagerness to side with the company belied these assertions.[88] Fall's announcement of the Honolulu leases made clear that he would have awarded patents, if the 1920 leasing bill did not prevent him from doing so. Fall praised the pioneering efforts of Honolulu which "created and gave value to . . . the Buena Vista field at a time when that region was apparently worthless for any purpose."[89] To compensate the company for its unjust treatment at the hands of the Wilson administration, Fall granted it generous terms on all its producing wells and seventeen additional claims. Fall set the royalties charged for thirteen of the claims at the minimum prescribed in leasing act, while the remainder he placed on a sliding scale from one-eighth to one-fourth.[90]

Meanwhile, in the Elk Hills, Fall similarly used the pretext of drainage or damage to the oil structure to lease the entire reserve to his associate, Edward Doheny. The scandal surrounding this lease, and a similar agreement for the Teapot Dome naval reserve in Wyoming, ultimately toppled Fall from power and ended his personal plans to open the western public lands for rapid development. Rival oil companies forced the Teapot Dome affair to light, outraged that they had been unable to bid for the lucrative leases.[91] (Fall had gone so far as to have the Marines evict claimants competing with Harry Sinclair, his favored lessee in Wyoming.[92]) Members of the Senate, including Robert M. LaFollette, still smarting over the McMurtry frauds in California, determined to pursue the naval leasing story to its conclusion. Few of Fall's opponents expected anything as outrageous as what they uncovered in the ensuing scandal, with Doheny's "little black bag" full of $100,000 cash for Fall, and Sinclair's gifts of over $300,000.[93] This blatant corruption ultimately derailed the Harding Administration's concerted assault on the tenuous gains of the 1920 Mineral Leasing Act.[94] Paradoxically, however, Fall's discretion as Secretary of the Interior to influence everything from labor relations to drilling conditions to leases on the naval reserves highlighted the additional rights and powers retained by the government in its new public land policy.[95]

Conclusion

The oil lands at stake in the San Joaquin Valley constituted some of the most valuable petroleum properties in the United States. The Midway-Sunset field alone became one of the four largest producing fields in the country (along with Prudhoe Bay, East Texas and Wilmington), producing over 2.4 billion barrels of oil by 1997. Other oil fields covered by the Taft withdrawal produced similarly stunning quantities of oil. Elk Hills and Buena Vista Hills, the two designated naval oil reserves, together yielded 1.75 billion barrels by 1997. Coalinga, Kettleman North Dome, and Belridge produced over 400 million barrels each, from either federal leases or former federal lands.[96]

Politics mediated between the forces of supply and demand to determine how these rich oil lands were developed. Politics structured property rights, which in turn shaped competitive relations among oil producers. Politics, then, played a key role in shaping the extent and nature of California oil production. The federal government embarked on a difficult effort to re-structure property relations during the 1910s. But formidable political opposition by the oil operators largely foiled any attempts to carry out an effective conservation policy. The largesse of the nineteenth century—represented by railroad and school land grants and a legacy of loose mineral laws—privatized and fragmented the public domain. Sympathetic federal judges in California weakened the Taft withdrawal by upholding tenuous private claims on the public domain. Western senators and representatives then led the effort to rewrite generously the withdrawal order to allow more of the public domain to slip into private hands. The shared nature and delicate workings of the oil pools sent contested wells into receiverships and forced the government to drill offset wells even in its naval reserves. From the U.S. naval oil reserves in Elk Hills and Buena Vista Hills to the lands more broadly opened up to leasing, the U.S. government surrendered control of how the petroleum lands would be developed. The government did not turn the land over to a private market governed by abstract laws of supply and demand. Now competition with neighboring landowners or leaseholders—rather than fluctuating oil prices—drove the production patterns of the resulting mixture of private holdings and public leases.

The politics that governed the struggle over federal oil lands followed the political traditions of the American system, distributing access to resources and generally promoting rapid development on the public domain. Money and special interests corrupted these petroleum politics. Albert Fall, with his acceptance of $400,000 in “loans” and “gifts” in exchange for hundred million dollar leases on the naval reserves, merely topped the lengthy list of government officials who mixed personal financial interests with political efforts on behalf of the oil industry. Many charged with creating and administering the petroleum property regime combined prominent public service with financial rewards in the oil business. Public office thus frequently provided a springboard for lucrative business opportunities. This was the case, for example, when a large portion of Wilson’s Interior Department took up employment in the oil industry following the 1920 election. Unlike Albert Fall, these men apparently all worked within the bounds of the law. Yet the ease with which they, and figures like James Gillett, moved from public office to oil company employment casts shadows over their political maneuvering and the legal regime that they helped to create.[97]

Sabin - Chapter 2

Endnotes: Chapter 2

[1]According to Gerald White, Standard contributed $22,000 to pay bills and salaries of $l19,000 in the first twenty months of the Association's work. White, Formative Years, 445.

[2]Frank Short to J. N. Gillett, 23 November 1916, Gillett Papers, Box 1092: 22, CSL.

[3]Honolulu Consolidated Oil Company to J. N. Gillett, 20 July 1922, Gillett Papers, Box 1092: 11, CSL. Honolulu employed Gillett directly and also contributed to the Oil industry Association in order to cover payments to Gillett for his work in Washington. Between Dec. 1914 and June 20, 1922, Honolulu paid Gillett at least $50,000 in fees and expenses. A. C. Diericx to J. N. Gillett, 20 July 1922 and Honolulu Consolidated Oil Co. to J. N. Gillett, 28 June 1922, Gillett Papers, Box 1092: 11, California State Library.

[4]Loomis to Sutro, 18 April 1916, Gerald T. White History Project, Chevron Archives (hereafter GTWHP), Carton 155072: Government Relations— World War I. According to the Congressional Biographical Directory, Towne served in the Senate for less than two months as an appointee from Minnesota, but this appointment gave him requisite access to the Senate chambers. Towne had previously served as a Minnesota representative and subsequently served in Congress again as a representative from New York in 1905-1907.

[5]Loomis (signed in code as "Grey") to Sutro, 12 April 1916, GTWHP, Carton 155072: Government Relations— World War I. Gillett concurred: "there is no man that can equal [Towne] for this particular job on account of his acquaintance, the right which he has to go upon the Senate floor, the fact that he is very well liked and highly thought of by all of the Senators, Republicans and Democrats alike and because he is active and energetic and does things." The oil association paid Towne at least $1000 and the potash group another $1000. J. N. Gillett to Roy Bishop, 27 November 1916, Gillett Papers, Box 1093: 1, CSL; Gillett to Charles A. Towne, 26 December 1916, Gillett Papers, Box 1093: 2, CSL. The oil industry lobbyists recruited Towne at a time when they were looking for another Democrat to balance their team. Towne's Senate connections, however, may not have satisfied the need for someone "of high standing and strong with the administration" to overcome opposition from Navy and Justice. Gillett to Sutro, 21 March 1916, GTWHP, Carton 155072: Government Relations— World War I; Frank Short to Oscar Sutro, 20 March 1916, GTWHP, Carton 155072: Government Relations— World War I.

[6]J. N. Gillett to Messrs. Allen & Knapp, 29 January 1919, Gillett Papers, Box 1093: 8, CSL. See also, Bates, The Origins of Teapot Dome. 13 1-132.

[7]Roy N. Bishop to J. N. Gillett, 1 March 1917, Gillett Papers, Box 1092: 3, CSL; Wm. F. Herrin to J.N. Gillett, 21 October 1918 and 2 June 1919, Gillett Papers, Box 1092: 10, CSL.

[8]George Hatton to Gillett, 7 December 1916, Gillett Papers, Box 1093: 1, CSL. See also, J. N. Gillett to George C. Perkins, 25 November 1916; Gillett to George Hatton, 25 November 1916; Gillett to Hatton, 6 December 1916, Gillett Papers, Box 1093: 1, CSL.

[9]F. B. Loomis to Oscar Sutro, 18 December 1915; Loomis to Sutro, 6 January 1916; Loomis (signing in code as "Blue") to Sutro, 8 January 1916; Loomis (signing in code as "Crimson") to Sutro, 6 March 1916, GTWHP, Carton 155072: Government Relations— World War I. According to Loomis, Phelan was "a lifelong friend of Mr. Lane's and they have been very close in politics." Loomis dined at Phelan's house in January and reported that he seemed "very friendly to us." Several months later, Loomis informed Sutro, "I am dining with Secretary Lane tonight and hope to have some satisfactory talk with him." Eshleman became ill, however, and had to leave after only two days in Washington. The oil operators considered Eshleman's illness and death a serious blow to their campaign. Loomis expressed great "regret" that Eshleman was "not here to talk with Kent. Kent intimated yesterday that he would be a good deal more influenced by Eshleman than by any of the other attorneys in the case." Short observed in retrospect, "The energy and aggressiveness of Eshleman, in view of his condition, was certainly marvelous. While it is true that

his work and argument was along lines that were studied out and laid before him I was very greatly impressed with the vigor and clearness with which he comprehended the situation and the definite and aggressive way in which he presented it." Short to Sutro, 6 March 1916, in ibid.

[10]Roy N. Bishop to J. N. Gillett, 30 December 1916, Gillett Papers, Box 1092: 3, CSL.

[11]Louis Titus to J. N. Gillett, 16 December 1916, Gillett Papers, Box 1092: 27, CSL.

[12]Frank Short to Oscar Sutro, 4 February 1916, GTWHP, Carton 155072: Government Relations— World War I. In a letter to A. L. Weil, Short reported that "we are arranging so that the desired amendments to be submitted to the Committee will probably be introduced in the Senate this afternoon and referred to the Committee for hearing." Short to A. L. Weil, 31 January 1916, in ibid. Gillett noted similarly that the clerk of the Senate Committee on Public Lands "requested me to prepare separately the amendments that we desired to offer to the House bill and give them to Senator Myers, the Chairman of the Committee, so that he could offer them." Gillett to Sutro, 19 February 1916, in ibid. About a separate piece of legislation, Gillett wrote Sutro, "I drew this section first and as drawn I provided that . . ." Gillett to Sutro, 21 March 1916, in ibid.

[13]Sutro to Loomis, 28 March 1916, GTWHP, Carton 155072: Government Relations— World War I.

[14]J. N. Gillett to Oscar Sutro, 29 December 1915, GTWHP, Carton 155072: Government Relations— World War I.

[15]A. Mitchell Palmer to J. N. Gillett, 26 May 1919, Gillett Papers, Box 1092: 29, CSL.

[16]William F. Herrin to J. N. Gillett, 11 December 1919, Gillett Papers, Box 1092: 10, CSL.

[17]J. N. Gillett to Roy N. Bishop, 25 November 1916, Gillett Papers, Box 1093: 1, CSL.

[18]H. P. Wilson to Herbert Fleishacker, 13 April 1916, GTWHP, Carton 155072: Government Relations— World War I.

[19]Gillett and others tended to ally with the Republicans. As Gillett wrote to George Hatton, "I saw Joe Keeling in Chicago and talked over the political situation with him. He feels that the whole campaign was mismanaged and we all feel it was." Gillett to George Hatton, 25 November 1916, Gillett Papers, CSL.

[20]J. N. Gillett to W. P. Thorn, 25 November 1916, Gillett Papers, Box 1093: 1, CSL.

[21]Frank Short to John W. Weeks, 5 January 1917, Gillett Papers, Box 1092: 22, CSL.

[22]Harrison Gray Otis to J. N. Gillett, 13 January 1917, Gillett Papers, Box 1092: 15, CSL.

[23]"The Oil Controversy: At Last It Seems Likely to Be Settled on an Equitable Basis." *SFC*, 13 January 1916, 22:2 (ed).

[24]"The Oil Lands Situation: It is the Duty of Congress to Protect All Who in Good Faith Have Risked Their Money," *SFC*, 6 March 1916, 14:1 (ed). Again in January 1917, the Chronicle declared that "Morally, the United States has no right to enforce its legal 'rights.'" "U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA," *SFC*, 17 January 1917, 13:1.

[25]M. H. DeYoung to J. N. Gillett, 13 December 1916, Gillett Papers, Box 1092: 7, CSL. Gillett demurred, commencing that he did not believe it advisable to publicly express his views on the western land problem even as he lobbied a Democratic Congress. Gillett to *SFC*, 21 December 1916, Gillett Papers, Box 1093: 2, CSL.

[26]"U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA," *SFC*, 17 January 1917, 13:1.

Sabin - Chapter 2

[27]"Oil Industry: Value of California's Petroleum Production of 1916 Is More than $5,000,000 Over That of 1915 Output," *SFC*, 17 January 1917, 21:1 (extra).

[28]"U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA," *SFC*, 17 January 1917, 13:1.

[29]"Oil Industry: Value of California's Petroleum Production of 1916 Is More than $5,000,000 Over That of 1915 Output," *SFC*, 17 January 1917, 21:1 (extra).

[30]"U. S. SHOULD REPAIR LAWS HAMPERING CALIFORNIA," *SFC*, 17 January 1917, 13:1.

[31]A. J. Pollak to J. N. Gillett, 13 August 1919, Gillett Papers, Box 1092: 17, CSL.

[32]J. N. Gillett to W. F. Herrin, 19 September 1919, Gillett Papers, Box 1093: 9, CSL; J. N. Gillett to A.C. Diericx, 19 September 1919, Gillett Papers, Box 1093: 9, CSL. In 1916, Gillett similarly sought to avoid public hearings on oil bills. He described to Oscar Sutro how the U.S. Attorney General wanted time to allow his lawyers to prepare a statement showing the condition of the litigation in California. "Of course he would like to put into the record affidavits and statements showing fraud, dummy locations and everything else of that kind that might tend to prejudice the minds of Members of Congress." Following Gregory's request to the Senate Committee, Gillett "I took up the matter with Secretary Lane about closing at once the hearings before the Committee and to get the bill reported out as quickly as possible so that the Senate could act upon it at an early date. . .. I then took the matter up with Mr. Finney and we agreed that action should be taken at once to have the matter submitted and our amendments considered so he said he would speak to his friends on the Committee and for me to speak to mine and have them there Wednesday of next week to vote for a motion to close the hearing at once and to proceed with the consideration of proposed amendments. This I think will be done." James N. Gillett to Oscar Sutro, 19 February 1916, GTWHP, Carton 155072: Government Relations— World War I.

[33]"Gillett to Bishop, 8 Dec. 1916, Gillett Papers, Box 1093: 1, CSL. For Gillett's defense of the California companies' claims in the Buena Vista naval reserve, see J. N. Gillett to Editor, New York Times, 2 January 1916 and Gillett Editor, Springfield Republican, 2 January 1916, Gillett Papers, Box 1093: 3, CSL.

[34]Bates, Origins of Teapot Dome, 139-141.

[35]Bates, Origins of Teapot Dome, Chapter 7.

[36]See, Ise, United States Oil Policy, 338. Writing in the 1920s, Ise advocated government ownership. Ise, United States Oil Policy, 497-504.

[37]J. N. Gillett to A.C. McLaughlin, 19 November 1918, Gillett Papers, Box 1093: 7, CSL. Bates oddly argues that the oil lobbyists were "disconcerted and weakened in 1919 by the change to Republican control of Congress." Gillett's correspondence suggests the exact opposite. Bates, The Origins of Teapot Dome, 183.

[38]J. N. Gillett to W. F. Herrin, 14 September 1918, Gillett Papers, Box 1093: 7, CSL.

[39]A. J. Pollak to J. N. Gillett, 20 May 1919, Gillett Papers, Box 1092: 17, CSL. For similar opposition to competitive bidding, see also James M. Sheridan to Scott Ferris, 3 June 1918, Albert Fall Papers, Box 61: 1.

[40]A. J. Pollak to J. N. Gillett, 20 May 1919, Gillett Papers, Box 1092: 17, CSL. "Please let me know what you think of this last proposition . . . Should you deem it advisable that I go to Washington, I shall be in readiness at any time."

[41]William F. Herrin to J. N. Gillett, 13 September 1918, Gillett Papers, Box 1092: 10, CSL; Wm. F. Herrin to J. N. Gillett, 21 October 1918, Gillett Papers, Box 1092: 10, CSL; Herrin to Gillett, 2 June 1919, Herrin to Gillett, 3 June 1919, Box 1092: 10, CSL

[42]J. N. Gillett to George E. Whitaker, 10 February 1920, Gillett Papers, Box 1093: 11, CSL.

[43]J. N. Gillett to A. J. Pollak, 7 February 1920, Gillett Papers, Box 1093: 11, CSL. Gillett also invested jointly with Pollak in other lands contested by the government. Gillett would earn a 5% interest in the Devils Den claim if the Pollak group received a lease, with an option to purchase an additional 10% interest. A. J. Pollak to J. N. Gillett, 4 June 1920, Gillett Papers, Box 1094: 30, CSL.

[44]Gillett subsequently lobbied the Commissioner of the General Land Office to persuade him to divide the land up among the different locators. J. N. Gillett to Clay Tallman, 25 September 1920, Gillett Papers, Box 1093: 12, CSL.

[45]C. V. Safford to Stephen B. Davis, 31 July 1919, 16 August 1919, 5 September l919, 24 October 1919, 3 November 1919, 11 February 1920, Fall Papers, Box 48: 11; Stephen B. Davis to Charles V. Safford, 12 February 1920; Safford to Davis, 25 February 1920; Safford to A.E. McGregor, 25 February 1920. Fall Papers, Box 48: 11.

[46]Stephen B. Davis to Charles V. Safford, 10 March 1919, Fall Papers, Box 48: 11.

[47]J. N. Gillett to Fred B. Henderson, 26 September 1919, Gillett Papers, Box 1093: 9, CSL.

[48]J. N. Gillett to W. F. Herrin, 2 October 1919, Gillett Paper, Box 1093: 10, CSL.

[49]J. N. Gillett to A.C. Diericx, 15 January 1920, Gillett Papers, Box 1093: 11, CSL; Gillett to W. F. Herrin, 7 February 1920, Gillett Papers, Box 1093: 11, CSL.

[50]J. N. Gillett to A. J. Pollak, 7 February 1920, Gillett Papers, Box 1093: 11, CSL.

[51]J. N. Gillett to W. F. Herrin, 16 October 1919, Gillett Papers, Box 1093: 10, CSL.

[52]J. N. Gillett to L. L. Aitken, 15 January 1923, Gillett Papers, Box 1095: 6, CSL; Aitken to Gillett, 18 January 1923, Gillett Papers, Box 1094: 1, CSL.

[53]J. N. Gillett to John T. Barnett, 14 May 1923, Gillett Papers, Box 1095: 6, CSL; J. N. Gillett to John T. Barnett, 12 September 1923, Gillett Papers, CSL.

[54]J. N. Gillett to Alaska Pioneer Oil Company, 23 October 1919, Gillett Papers, Box 1093: 10, CSL. See also, A. J. Pollak to B. M. Howe, Trojan Oil Company, 4 June 1920, Gillett Papers, Box 1094: 30, CSL. Gillett also assisted oil companies with the task of incorporation. J. N. Gillett to Corporation Company of Delaware, 28 May 1920, Gillett Papers, Box 1093: 12, CSL; Gillett to F. M. Phelps, 16 June 1920, Gillett to F. M. Phelps, 16 June 1920, and Gillett to Corporation Company of Delaware, 7 July 1920, all in Gillett Papers, Box 1093: l2, CSL. Others joined Gillett in this new line of work. For example, F. G. Matson requested referrals from Gillett, as he was "now making a specialty of applications before the General Land office for permits under the Oil, Gas and Coal leasing act." F. G. Matson to J. N. Gillett, 26 January 1921, Gillett Papers, Box 1094: 27, CSL.

[55]J. N. Gillett to W. L. McGuire, 27 January 1921, Gillett Papers, Box 1095: 2, CSL.

[56]Group development was desirable because it would allow claimants to join together to drill one well and thus share the costs of finding out whether there is oil under their properties. Group development conflicted, however, with the terms of the permit agreements, whereby the permittee was required to develop the property within an established period of time. J. N. Gillett to William Spry, 5 April 1921, Gillett Papers, Box 1095: 2, CSL; Gillett to Spry, 20 March 1922, Box 1095: 5.

[57]J. N. Gillett to William Spry, 21 June 1923, Gillett Papers, Box 1095: 6, CSL.

[58]"Oil Operators of California Organize to Fight Ruling," *SFC*, 13 April 1929, 1:8.

[59]J. N. Gillett to Raymond Benjamin, 1 April 1926, Gillett Papers, Box 1095: 9, CSL. Louis Titus joined Gillett in Washington in the effort to protect Standard Oil's Section 36 claim within the Elk Hills reserve. Louis Titus to Oscar Sutro, 25 March 1926; Titus to Sutro, 26 March 1926; Titus to Sutro, 26 March 1926, GTWHP, Carton 155072, Box Government Lands— Government Relations. On the 1926 conflict over state land grants, Alexander Vogelsang wrote to Sutro, "You will observe that the mountain labored prodigiously and brought forth a mouse. The legislation is of no value to us." Alexander Vogelsang to Oscar Sutro, 26 January 1927, GTWHP, Carton 155072, Box Government Lands— Government Relations.

[60]"Patent Is Now Only A Memory," California Oil World, 19 February 1920: 1.

[61]Oscar Sutro to J. N. Gillett, 12 February 1920, Gillett Papers, Box 1092: 24, CSL.

[62]F. B. Loomis to Oscar Sutro, 3 March 1919, GTWHP, Carton 155072: Government Relations—World War I.

[63]Oscar Sutro conceded as early as 1916 that leases on reasonable terms would "constitute substantial relief" to the oil operators. But he and others thought it too early to make such a strategic concession. "To abandon the demand for patent would be to show the white feather." By demanding full title to their claims, Standard and other oil companies toughened their negotiating position and held out for a more lenient leasing regime. Oscar Sutro to Frank Short, 29 February 1916, GTWHP, Carton 155072: Government Relations— World War I.

[64]"Peace After Ten Years' Strife," Standard Oil Bulletin 8: 5 (September, 1920): 2.

[65]Bates, Origins of Teapot Dome, 196.

[66]"Peace After Ten Years' Strife," Standard Oil Bulletin 8: 5 (September, 1920): 2.

[67]Bret Wallach, "The Geographic Consequences of Oil-Land Tenure as the Midway-Sunset Oil Field, California," Ph.D. diss., University of California Berkeley, 1969, 107, (citing US House 1918, 238, 227); Gillett to Short, 11 April 1916, GTWHP, Carton 155072: Government Relations— World War I.

[68]"Peace After Ten Years' Strife," Standard Oil Bulletin 8: 5 (September, 1920): 1.

[69]30 U.S.C. Sections 181-263,25 February 1920; Wallach, "The Geographic Consequences of Oil-Land Tenure," 111.

[70]H. Foster Bain, Director Bureau of Mines, Department of Interior, to Albert Fall, Secretary, 25 October 1921, Albert Fall Papers, Box 60: 30, HL; "Amendments. To the Regulations Approved August 26, 1915, Governing Leasing of Lands in the Osage Reservation, Okla., for Oil and Gas Purposes," 13 May 1919; F. B. Tough to A. W Ambrose, 22 October 1921, Albert Fall Papers, Box 60: 30, HL.

[71]Finney and Safford to Albert B. Fall, 19 September 1921, Fall Papers, Box 59: 10, HL.

[72]Nancy Quam-Wickham, "Petroleocrats and Proletarians: Work, Class, and Politics in the California Oil Industry, 1917-1925," Ph.D. diss., University of California, Berkeley, 1994, Chapter 5.

[73]H. Foster Bain, the Director of the Bureau of Mines, for example, thought the government should try to bring the strikers and employers together. Finney to Albert B. Fall, 15 September 1921, Fall Papers, Box 59: 10, HL.

[74]Fall to Safford, 18 September 1921, Fall Papers, Box 59: 10, HL; Fall to Safford, 14 September 1921, Fall Papers, Box 59: 10, HL; Albert B. Fall to Finney, 19 August 1921, Fall Papers, Box 59: 10, HL. Finney, Fall's subordinate and the Acting Secretary of the Interior during Fall's western travels, was more eager to intervene in the California strike. Fall warned that if the "operators are to be forced to act against their judgment," he would return immediately to Washington to prevent Finney from taking such action.

Sabin - Chapter 2

[75]Albert B. Fall to Finney, 15 September 1921, Fall Papers, Box 59: 10, HL.

[76]See Section Three. Even in Kettleman Hills, however, the Federal Government had to pursue a voluntary curtailment program because it did not control all of the acreage in the field. But its land ownership provided sufficient leverage to push the plan through.

[77]Burl Noggle, Teapot Dome: Oil and Politics in the 1920's. New York: W. W. Norton and Company, 1962, 209.

[78]"Purpose of President's Oil Policy Explained by Wilbur," *SFC*, 13 April 1929, 2:3; "Dissipation of Resources Held Danger," *SFC*, 13 April 1929, 2:1; "Oil Operators of California Organize to Fight Ruling," *SFC*, 13 April 1929, 1:8; "Walsh Seeks Modification of Oil Policy: Montana Senator Tells Hoover Proposal Would Injure State," *SFC*, 14 March 1929, 14:1. The District of Columbia Court invalidated Secretary of the Interior Wilbur's rejection of applications for oil and gas prospecting permits. Wilbur persevered with an appeal to the Supreme Court. "It is unthinkable that we should go ahead with the exploitation of small oil preserves in the face of over-production." "Wilbur insists on Oil Conservation," *SFC*, 11 April 1930, 6:5. The Supreme Court upheld Wilbur's actions in *United States* ex *rel. McLennan v.*
Wilbur, Secretary of the Interior; United States ex rel. Simpson v. *Wilbur; United States ex rel. Barton* v. *Wilbur: United States ex rel. Pyron v. Wilbur;* Supreme Court of the United States, 18 May 1931, 283 U. S. 414. The Secretary's authorization to grant prospecting permits left the Secretary with the "discretion to reject, or refuse to receive, all applications for such permits, by a general order made in pursuance of a policy of the President to conserve such deposits." The Chronicle supported Wilbur, complaining that, "Oil is flowing from existing developments faster than the market can absorb . . . faster than storage facilities are being developed." "Obstacles Many but the Oil Resources Must Be Conserved," *SFC*, 11 April 1930, 22:1.

[79]"Wilbur Details Oil Curb Steps," *LAT*, 4 November 1931, 11.

[80]C. Naramore to J. N. Gillett, 22 March 1921, Gillett Papers, Box 1092: 13, California State Library.

[81]"Yearly Comparative Statements," Carton 155033; Ragland, A History of the Naval Petroleum Reserves, 120-123.

[82]Wallach, "The Geographic Consequences of Oil-Land Tenure," 121. Ragland, A History of the Naval Petroleum Reserves, has the best details and map of the leases granted for Elk Hills. In 1938, Congress authorized the Secretary of the Navy to consolidate and protect the Government's oil holdings by contracting with private owners and lessees or by exchanging land, royalty production, or money owed to the government as a result of wrongful extraction. The act also provided that the Secretary could purchase or condemn the land necessary to achieve a satisfactory conservation program. Under this authorization, President Roosevelt extended the exterior boundaries of the Elk Hills reserve. The push to consolidate and protect the Elk Hills naval reserve came before Congress as early as 1930, but no action was taken until l938. "Oil Reserve Legislation Takes Shape," *SFC*, 2 July 1930, 19:3.

[83]The litigation did not end definitively until 1964, when the U.S. Court of Claims exhaustively reviewed the case and determined that the United Stases did not owe compensation to the heirs of one claimant. *Estate of Charles O. Fairbank* v. *The United States*, United States Court of Claims, 24 January 1964, 164 Ct. Cl, 1.

[84]Prior to backing Harding, by oil men seeking to control certain cabinet posts had approached the leading candidate, General Leonard Wood. Wesley Bagby, "The 'Smoke-Filled Room,' and the Nomination of Warren G. Harding," Mississippi Valley Historical Review, Vol.41:4 (March 1955): 657-674, 661,671.

[85]Fall similarly called for the liberalization of laws "to get individual capital into Alaska," rather than let it "rust." "Interviews of Secretary Fall with Representatives of the Press," 6 March 1922, Fall Papers, Box 49: 10, HL; Fall to Ballinger, 23 March 1922, Fall Papers, Box 46: 3, HL. Fall worked closely with the Alaskan delegation to develop legislation favorable to opening up the territory. Albert B. Fall to Charles F. Curry, 22 July 1921, Fall Papers, Box 48: 2, HL; Fall to Harry S. New, Chairman of Committee on Territories and Insular Possessions, U.S. Senate, 22 July 1921, Fall Papers, Box 48: 2, HL; Bates, The Origins of Teapot Dome. 226-228.

[86]"This measure is a compromise one," C. V. Safford wrote on Fall's behalf. Safford to J. W. Palmer, 4 September 1919. The proposed mineral leasing act was still "not as liberal . . . as the Senator hoped to secure." C. V. Safford to H. W. Loggins, 10 September 1919, Albert Fall Papers, Box 62: 2. Fall explained that he could not have proposed an amendment validating claims on which oil had not been discovered. "The Senate would not adopt it if offered and, in fact, it could not have received any vote in that body except my own . . . Of course if I had been able to get a better bill, I would not have accepted this. I would have opposed it under any circumstances had it not been for the provision by which 45% of all the proceeds go to the state." Albert Fall to Constituents, 5 September 1919, Albert Fall Papers, Box 62: 2.

[87]Albert B. Fall to Commissioner of General Land Office, 23 April 1921, Fall Papers, Box 49: 9, HL.

[88]"Fall's Decision Gives Navy Oil: Honolulu's Leases Keep Up Reserve," California Oil World, 1 December 1921, 1. The new Attorney General Harry Daugherty's abrupt dismissal of Special Assistant to the Attorney General Henry May foreshadowed Fall's action. May headed the San Francisco-based legal effort to recover federal oil lands in California, following the death of E. J. Justice. See, May, Coming To Terms, 157-163.

[89]"President is Final Judge of Honolulu Full Rights," California Oil World, 1 December 1921, 2.

[90]The settlement ended a long legal battle and released some $8 million impounded in the hands of a receiver, one-eighth to the government and the other seven-eighths to Honolulu. Fall cited "equitable considerations" and his desire to end "this apparently interminable controversy as justification for granting the leases on generous terms. "President is Final Judge of Honolulu Full Rights," California Oil World, 1 December 1921, 2. Ragland reports that by January 1, 1944, 300 million barrels of oil had been produced from the Buena Vista field. It is not clear what portion of that the Honolulu produced. Ragland, A History of the Naval Petroleum Reserves, 109.

[91]On behalf of rival companies, Senator Kendrick (Wyoming) demanded information from the Secretaries of the Navy and Interior about negotiations regarding Teapot Dome. Most important, was the question of whether there would be competitive bidding for the leases. Kendrick pointed out the comparatively lucrative 33 1/3% maximum royalty from Salt Creek. Congressional Record, 15 April 1922, 6071, in "Teapot Dome Government materials," April-May 1922, Fall Papers, Box 59: 23. In the same collection, see, "So The People May Know," Denver Post 15 August 1922. This long, strongly worded editorial about Teapot Dome criticized the low 12 1/2% royalty (versus 25 to 33 1/3% in Salt Creek) and the absence of a standard $1,000 per acre bonus payment, which would have yielded $9,000,000. According to Bates, Sinclair reportedly spent over a million dollars to placate rival claimants. Bates, The Origins of Teapot Dome, 238.

[92]"Marines to Eject Oil Land Squatters," New York Times, 30 July 1922; "Mutual Obeys Marine Orders Drilling Ends: Navy Upheld by Pres. Harding in Marine Trip to this State," Casper Daily Tribune, 2 August 1922, both clippings from "Teapot Dome Government materials," April-May 1922, Fall Papers, HL, Box 59: 23.

[93]Ironically, the jury convicted Fall of accepting a bribe from Doheny, but Doheny dodged the charge that he had bribed Fall. The actions of the Harding administration outraged the old Republican conservationists. Pinchot had supported Harding in the hopes that he could be won over to the cause, but soon broke with the administration. Noggle, Teapot Dome, 75, 190,211.

[94]Only the evidence of Fall's corruption persuaded Montana Senator Thomas Walsh, a decisive figure in the Teapot Dome investigation, to move against Fall. A western Senator committed to the development of the public lands, Walsh had little sympathy for Pinchot and his brand of conservation. Noggle, Teapot Dome, 49-51.

[95]For example, the Department had the power to require the proper abandonment of a drilling site on federal lands, C. H. Goard wrote to J. N. Gillett in 1922 to ask for help abandoning his drilling site in New Mexico without filling it in at his own expense. Goard asked Gillett "to take this matter up with the Department and assist me in securing a cancellation of the Permit without my being put to the expense of practically having to go to the field to do the work they ask done." C. H. Goard to J. N. Gillett, 22 November 1922, Gillett Papers, Box 1094: 13, CSL.

[96] 1997 Annual Report of the State Oil & Gas Supervisor. California Department of Conservation, Division of Oil, Gas, and Geothermal Resources: Sacramento, 1998, 57; Bill Rintoul, "Midway oil field steams along," *Bakersfield Californian*, 25 February 1996. The Elk Hills naval reserve generated revenue of $366 million in 1995 from the sale of crude oil; in 1997, the federal government sold its interest in the field to Occidental Petroleum for $3.5 billion. Martha Hamilton, "Federal Oil Reserve In Calif. Up for Auction," *Washington Post*, 22 May 1997: E3; Peter Zipf, "Oxy Plans Major Divestitures Next Year," Platt's Oilgram News, 21 November 1997, v75: 227, 1.

[97] Numerous prominent politica1 figures joined Albert Fall in mixing public service with oil ventures. The list includes: Judge Benjamin F. Bledsoe (left the bench in the early 1920s to join Hill, Morgan & Bledsoe, a California law firm that litigated a number of major oil cases); Oscar Lawler (left the Interior Department, where he worked on the Taft withdrawal, and the U.S. Attorney's Office, to begin a long career as Standard Oil of California's chief lawyer in Los Angeles); Alexander Vogelsang (Assistant Secretary of the Interior under Wilson, left government to become an oil lobbyist and legal advisor to Standard Oil in its Elk Hills Section 36 case); Franklin Lane (Wilson's Secretary of the Interior, left the government to take a $50,000/year position with the Doheny interests); Clay Tallman (Commissioner of the General Land Office under Wilson, left to work for the Midwest Oil Company); Joseph J. Cotter (Franklin Lane's personal assistant at Interior, left to become a vice-president of Doheny's Pan-American Petroleum Transport Company); F. B. Loomis (Assistant Secretary of State from the Roosevelt Administration, became one of Standard's chief advocates in Washington and abroad); Judge Frank Feuille (former Attorney General of Puerto Rico, became Standard Oil's chief negotiator in Latin America); Judge Frank Short (became prominent lobbyist for Standard Oil and California Oil and Gas Association); James Gillett (former governor of California and Congressman, become chief lobbyist for Honolulu Consolidated Oil Company in Washington and also a leading negotiator for Standard Oil and California Oil and Gas Association); John Eshleman (former Lieutenant-governor of California, employed to lobby for Standard and other California oil companies); Charles Towne (upon leaving the Senate, used his Senate perquisites to lobby former colleagues on behalf of oil and potash interests); Key Pittman (Senator from Nevada active in writing leasing legislation, also an active investor in western oil lands, along with his brother and with oil lobbyist James Gillett). See text above or Bates, The Origins of Teapot Dome, 197, 220. Others mentioned by Bates include: J. H. G. Wolf (formerly advisor to Commander Landis, went to work for Honolulu company, which sought lands in naval reserve #2); William G. McAdoo (California politician linked to Doheny); George Creel (prominent California politician who also worked for Doheny briefly and lobbied to open the naval oil reserves); Van Manning (formerly head of Bureau of Mines became industry spokesman for American Petroleum Institute); Mark Requa (Petroleum War Board chief became vice-president of Sinclair Consolidated Oil Company).

Chapter 3

Beaches vs. Oil in Southern California, 1921-1933

"In any state the individuals or officials responsible . . . would be very expeditiously removed from power if they undertook to perpetrate such an injustice," oil lobbyist Frank Short complained privately to Senator John Weeks in 1917, in the midst of the legislative conflict over federal oil lands in California.[1] Short sharply distinguished state politics from the oil companies' frustrating experience with public land policy in the national capitol. Although in 1920 Congress finally produced a leasing bill that was welcomed by most California oil companies, it had taken the companies ten long years to procure the satisfactory measure. At times oil lobbyists like Frank Short feared that the national government would provide no relief for the companies' San Joaquin Valley claims, or that the Navy might persuade the Wilson Administration to nationalize the oil fields.

By contrast, Short indicated to Senator Weeks, state governments naturally hewed closer to policies that their constituents and major industries desired. In 1921 the California legislature confirmed Short's faith in its responsiveness when it swiftly passed a state mineral leasing act modeled on the recent federal bill. The measure allowed petroleum prospectors to lease state lands at a generous five percent royalty rate. The comparative speed and ease of state approval underscored the oil industry's influence in Sacramento. Although the imitative nature of the 1921 state leasing act showed California following the national government—thus apparently confirming federal dominance in the American political system—the bill's quick passage more accurately reflected the state oil industry's political strength. The California oil companies largely welcomed the final federal leasing provisions. The California legislature quickly complied with industry wishes, opening state lands to oil development on terms similar to the federal government.[2]

Following this initial success, however, California politics proved much tougher on the oil industry than Short and others anticipated. California's petroleum politics followed independent political and legal rules, and traced original trajectories. Whereas the 1920 federal mineral leasing act capped ten years of fierce political wrangling, the 1921 California bill only opened the door for further conflict over state and municipal oil lands. Frank Short's faith in a responsive state government collided with the reality of California's divided economic constituencies and with the increasing vulnerability of extractive industry in the state. State politicians responded quickly to the demands of powerful economic interests, but the oil industry was not the only group active in Sacramento or southern California. In particular, wealthy coastal landowners and real estate developers, seeking to preserve ocean views and transform southern California into a people's playground, fought industrial encroachment along the coast. "Save the Beaches" groups, particularly powerful near Santa Barbara, denounced oil pollution and the ugliness of coastal oil operations.

In response to these increasingly vocal coastal advocates, California legislators barred further coastal leasing in 1929, completely cutting off access to several rich tidelands oil pools. California petroleum companies spent the next ten years struggling to reopen the coast to petroleum operations. Beach protection groups helped block these recurrent attempts to override the 1929 ban. After several bitter legislative and initiative battles, the legislature finally re-opened the coast to oil development with the State Lands Act of 1938. The 1938 State Lands Act reflected a fragile political consensus. Only the tremendous loss of public oil royalties during the depression, several petroleum-related political scandals, the threat of federal intervention, and the targeting of state oil revenues for beach protection enabled the 1938 measure to pass through the legislature.

The struggle between industrial oil and coastal recreation, tourism and real estate drew further energy from divisions within the oil industry. Because of the fluid nature of oil deposits, onshore operators could often drain tidelands oil fields from wells located upland on the coast. Some of these mainland operators, most notoriously the Standard Oil Company at Huntington Beach, relied on the “save the beaches” rhetoric to protect privileged access to the state’s offshore oil. In 1936, for instance, Standard Oil teamed up with the State Parks Commission to promote a ballot initiative that would have given the oil company a monopoly on the Huntington Beach offshore field and stipulated a low royalty payment. In exchange, the State Parks Commission would have reaped a portion of the state’s oil royalties.

Competition among oil companies for access to rich coastal oil fields also led to divergent claims based on distinct theories of ownership. Oil operators pushed allies in local, state and federal government to claim oil resources and then grant the companies preferential leasing rights. Local oil operators persuaded the Huntington Beach City Council to grant favorable leases and then fight in the state legislature to claim the land in question. Similarly, aspiring oil men Joseph Cunningham and Robert Lee Jordan pressed the federal government to claim coastal lands and validate their permit applications under the 1920 federal mineral leasing law.[3] Jurisdictional struggles provoked by narrow economic interests thus opened new arenas for conflict.

Leaders of different governmental entities also pursued an independent institutional interest in oil royalties, promising tax-free paradises and other political marvels. State and local officials struggled to claim royalties from the Huntington Beach and Wilmington oil fields. State Senator Culbert Olson and the End Poverty in California (EPIC) bloc in the legislature particularly fought to protect the public’s financial interest at Huntington Beach, where Standard Oil and numerous small independent oil companies illegally drained an enormous state tidelands pool. Secretary of the Interior Harold Ickes, a firm believer in federal power and in the superiority of federal management, pressed a national claim to the offshore oil lands. Although consonant with various corporate interests, these independent political actions spearheaded by Olson and Ickes sought to expand the capacity of public institutions to manage oil resources and alter the government’s revenue base.

The striking independence of state and local governments from federal dominance in the oil sector during the 1920s and 1930s highlights the continuing importance of federalism in

twentieth-century politics. While recognizing that the states dominated nineteenth-century political and economic development, American historians have generally ignored twentieth-century state governments.[4] The political history of the twentieth-century has split largely between local studies of urban politics and coverage of national political struggles. California oil politics confound this bifurcated perspective.

The California government dominated major transformations occurring in the state's oil economy in the first four decades of the twentieth century. In the next four chapters on the coastal petroleum controversy, I examine how state and local governments struggled over access to California's state and municipal oil lands. Then in the two chapters of Section Three, I explore how the state government and state-level industrial organizations sought to regulate oil production during the 1930s. Finally, in Section Four, I consider the dominant financial role that California's state government played in the construction of the state's highway network. From coastal oil development to the regulation of petroleum production to the development of the highways, statewide politics, more than national maneuvering, structured California's oil economy until World War II.

As with federal oil lands in the San Joaquin Valley in the 1910s, geology and previous political decisions framed the controversy over state petroleum properties. The terms of federal land grants to the states for educational purposes, for instance, specifically bared the states from receiving mineral lands. By chance and error, California received several parcels with significant oil deposits. But by the 1920s the state had sold the promising oil properties to individuals or companies. The school land grants thus did not provide the state with an extensive domain of oil and gas deposits, and virtually all of California's onshore oil fields lay in the federal public domain or in private ownership.

Pacific Coast geology, however, presented California with an extraordinary surprise. Rich pools of oil, totaling over five billion barrels, stretched along the coast from Huntington Beach to north of Santa Barbara. One and a half billion barrels of oil in the Wilmington field, one of the four largest oil fields in the United States, extended over tidelands in the Long Beach and Los Angeles harbors. Major petroleum deposits also abutted the coastal towns of Huntington Beach, Santa Barbara and Ventura. California's offshore fields would encompass nineteen percent of the state's total petroleum reserves.[5]

By the late 1920s, growing pressure to develop these promising coastal fields forced California's state and local governments to confront questions similar to those that had previously dominated federal politics. Who would gain the right to profit from the state's natural heritage? How fast would oil operators and the state develop state-owned petroleum deposits and how would the revenues from production be spent? Would beaches trump oil in a struggle for political dominance in the state? What kind of environmental protections would governmental entities establish to protect California's valuable coastal beaches? Control over the oil deposits also turned on questions of state and federal law: Where did coastal "tidelands" begin, and who owned them?

Although the California legislature passed a state mineral leasing act in 1921, state oil operators did not aggressively target the state-owned petroleum lands until 1927. Then as oil operations moved towards the Pacific near Santa Barbara, Venice, Huntington Beach, and Long Beach, public attention turned to state management of the coastal lands. The controversy over coastal drilling moved in waves along the shore. It first crashed fiercely in Santa Barbara County in the late 1920s. Then during the mid-1930s a high-stakes political clash broke at the Huntington Beach field. Finally, in the late-1930s, the coastal controversy swelled enormously on the discovery of the Wilmington field beneath harbor lands that California had granted to Long Beach. The Huntington Beach leasing scandal and the need to establish state claims to the riches of Wilmington ultimately forced California to adopt a state leasing bill. These conditions also prompted the federal government to investigate its own rights to California's offshore oil. Throughout, the oil industry's relationship with other coastal economic activities stayed at the center of the political conflict.

Part I: Battling the Drilling Front at Santa Barbara, Venice and Huntington Beach

Intensive oil exploration and development burst forth on the coast of Santa Barbara and Ventura in 1927. Small-scale operations had flourished at nearby Summerland since the 1890s. But these early efforts had produced little oil and had not adequately tested the potential of the coastal fields. Now operators returned with a vengeance, demanding prospecting permits from State Surveyor-General W. S. Kingsbury under the terms of the 1921 Mineral Leasing Act. At the same time, however, the prosperous twenties had further entrenched residential and commercial interests oriented around the area's beautiful coastline. Two competing yet interdependent coastal economies in the state— tourist, recreation and real estate interests and the resurgent oil sector—came into direct conflict. They clashed over the use of coastal resources—was the ocean front a site for raw materials extraction and harbor shipping or rather a serene site for relaxation, recreation and realty? Could the oil and beach economies co-exist on the California coast?

Although Surveyor-General Kingsbury at first granted prospecting permits as requested, he soon reversed this policy and sought to block the oil development. He declared that oil development would ruin the state's spectacular coastline and refused to issue any new prospecting permits. Kingsbury contended that 1923 amendments to the state leasing law gave him discretion to block the permitting process.[6] In addition to denying prospecting permits, in September 1928 Kingsbury further restricted oil development in the Elwood field northwest of Santa Barbara. He broadly defined the Elwood field's geologic boundaries, declaring that it stretched twenty-four miles along the coast, beginning one mile west of Santa Barbara, and extended three miles out to sea: once a field was known, Kingsbury gained additional legal grounds to refuse prospecting permits. Kingsbury acted with little time to spare. Oil operators shortly filed applications to drill along the entire Santa Barbara County coastline.[7]

As upland operators brought in substantial wells, thwarted tidelands oil operators and sympathetic observers criticized Kingsbury's obstructionism. Following several oil strikes at Seacliff near Santa Barbara, Howard Kegley, the petroleum correspondent for the Los Angeles

Times, remarked "Now that the 1000-barrel wells are beginning to drain off the State's rightful heritage, absolutely nothing is being heard from the 'petroleum experts' at the State capital." State officials "took a notion" several months earlier to issue no more drilling permits for Seacliff, where the better part of the field lay offshore in a relatively shallow bay. "Instead of being in a position to draw big oil royalties," Kegley observed, the state could now only "sit idly by and watch private land owners drain the oil from under State lands and pocket the royalty money." The Ventura County Chamber of Commerce undertook a "mass attack" to build support for tidelands oil development and silence naysayers. According to the sympathetic Los Angeles Times, the Chamber was "disseminating the truth" about beach drilling by sponsoring local speakers to talk before trade groups and organizations throughout Southern California. The local Oil Workers' Union in Ventura similarly passed a resolution calling for beach oil development, as did the Ventura County Building Trades Council and the Merchants' Credit Association of Ventura. The Ventura Realty Board also resolved that the Seacliff district of the coastline was not particularly suitable for "beach playground purposes" and should be put to some practical use such as oil development.[8]

Frustrated oil operators sued to compel the state surveyor general and director of finance to issue permits and leases under the 1921 leasing law. Yet the administration of Governor C. C. Young stood firm. Director of Finance A. R. Heron supported Kingsbury and warned Governor Young that oil development threatened to ruin the Santa Barbara County beaches.[9] California's long-time Attorney General Ulysses S. Webb aggressively defended Kingsbury's cautious, discretionary approach to coastal drilling. Webb questioned the constitutionality of the leasing laws. He argued fervently that a public trust doctrine protected the coast for navigation, fisheries, and recreation. "All civilized governments," Webb argued in the key case *Boone v. Kingsbury*, had recognized these public interests in the tidelands for more than a thousand years. "Their destruction has been at different times and devious ways attempted, but they have survived to this day against every attack." He called it "common knowledge" that the oil wells would pollute the water and make it uninhabitable for fish. It was similarly unnecessary to prove "a forest of derricks" unattractive, "except to the individual who is profiting." In short, Webb told the court, it was "physically impossible to exercise the privileges of one of these permits and leave in the people of the state their rights and their interests." Responding to criticism by oil operators of these "aesthetic grounds" for blocking oil permits, Webb denounced their "spur of greed . . . to seize that which has been stored for years and kept and safeguarded as the people's right." Webb scoffed at warnings that California would lose significant revenue if it failed to grant the leases. The mineral leasing act stipulated a royalty of only five percent, Webb noted accusatorily. Edward Doheny had obtained his Elk Hills naval reserve lease "through fraud, hypocrisy and deceit and crime," Webb observed, yet even that lease retained for the federal government thirty seven percent of the oil. "Drawn, I do not know by whom, nor do I know at whose instance," California's mineral leasing bill had been "an inconsiderate legislative act." Webb wondered plaintively about the leasing act before the California Supreme Court, "Why did the legislature do this?"[10]

In the test case of *Boone v. Kingsbury,* the California Supreme Court defended the oil economy against a state administration that sought to protect the beaches. The court scoffed at Kingsbury

and Webb's cautious and restrictive legal reasoning and ruled that the Surveyor-General lacked the discretionary authority to reject permit applications.[11] The court struck down on technical grounds 1923 amendments that granted discretion to the Surveyor-General.[12] The court simultaneously dismissed Kingsbury and Webb's public trust arguments, and in the process revealed the *Boone* ruling's deep ideological roots. In language that resembled federal court decisions in the San Joaquin Valley cases in the l9l0s and 1920s, the justices expressed awe at oil's "enormous" significance to the modern economy, with its unsurpassed contribution to commerce, industry and "the comfort of the race." The state legislature "recognized the use of gasoline and oil to be practically indispensable to the needs of rapid, expanding industry and commerce." The federal government likewise consistently adopted laws providing "the most liberal terms" to induce its citizens to explore and develop mineral resources. "In fact," the court declared,

> the development of the mineral resources, of which oil and gas are among the most important, is the settled policy of state and nation, and the courts should not hamper this manifest policy except upon the existence of most practical and substantial grounds.[13]

The California court's ruling in Boone swept aside administrative discretion and opened to prospecting all coastal lands not dedicated to public purposes. The high court had authorized a "Tidelands Oil Hunt." Within a short time, operators who obtained permits under the ruling would erect piers and drilling islands off the coast of Santa Barbara County, between Goleta and Ventura.[14]

The court's ruling in *Boone v. Kingsbury* did not convert coastal drilling opponents. California Supreme Court Justice John W. Shenk dissented from the majority ruling, reiterating that the state owned the coastal zone only in trust for the purposes of navigation and fishing. Shenk warned that operators would soon line the coastline with oil derricks, threatening water pollution, endangering the fish and interfering with navigation. Surveyor-General Kingsbury condemned the ruling on similar grounds and vowed to appeal to the U. S. Supreme Court. The tidelands belong to the State, Kingsbury declared, and they "must be held for the public good and not used for private gain."[15]

While Kingsbury and Webb petitioned for a rehearing and pursued an unsuccessful federal appeal, the state legislature swiftly and drastically counteracted *Boone*. In January 1929, one month after the court ruling, the legislature barred any new tidelands prospecting permits until September 1. This "urgency measure," effective immediately, would allow the legislature to craft a new tidelands oil policy. During the spring legislative session an assemblyman from Carpinteria, a seaside town twelve miles south of Santa Barbara, pushed through a bill that explicitly prohibited further state oil permits for state beaches or tidelands. Governor C. C. Young signed the bill in May. The measure, promoted by assemblyman George Bliss, preserved for the people "the highest use that our beach lands can be put, namely-- recreation." Not coincidentally, the same day that Governor Young signed the Bliss measure, he approved a bill curtailing the wastage of natural gas in the oil fields. This gas conservation act, discussed below in the text, provided a roundabout way to regulate oil production without violating federal and

state antitrust laws. The Young Administration, like President Hoover and Interior Secretary Wilbur in Washington, sought to tighten the spigot that continued to gush oil in the face of low market prices.[16]

Favoring the burgeoning beach economy over tidelands oil development, the California government cut off new access to coastal oil. Following the new policy, in the fall of 1929, the state government rejected seventy-two out of seventy three applications to prospect for oil and gas on state lands at Huntington Beach. The state's Huntington Beach oil field had been saved for future drilling, announced Alexander R. Heron, Governor Young's Finance Director. The administration's restrictive policy appropriately matched market conditions in the oil industry. The same day that Heron announced the rejected applications, Herbert Macmillan, president of the California Oil and Gas Association, declared overproduction "the most important problem confronting the oil industry." There is "no dispute of the fact that we have been and still are confronted with overproduction," Macmillan commented. At the same time, Surveyor-General Kingsbury continued his campaign against beach drilling and used legal technicalities to cancel as many as possible of the coastal permits that the *Boone* ruling had forced him to issue.[17]

The California courts adjusted quickly to the new legislative mandate. Whereas in *Boone* the California Supreme Court emphasized petroleum's overwhelming importance to modern society, an appellate court upheld the 1929 restrictions in language that echoed Kingsbury and Webb's position. In a 1933 ruling that the higher court allowed to stand, the appellate court found the state legislature warranted in preserving the scenic beauty of state coast lands, beaches and waterfronts against "an unsightly forest of oil-well derricks" and the "obnoxious fumes from overflowing crude oil." The court observed that:

> the legislature has a right to assume that it is wise and profitable to preserve the valuable minerals of the public domain for the benefit of the state. It may be reasonably assumed it would be profligate for the legislature to abandon valuable mineral resources of the state to the exploitation of private interests. Much criticism has been directed toward public officers in the past for recklessly abandoning natural resources of the public domain to the exploitation of private interests.

These "reasonable" assumptions reversed the tone and premises of *Boone*. The appellate court also endorsed the "urgency" stipulation of the January 17 emergency prohibition on prospecting permits. Shortly following the *Boone* decision in December, Kingsbury had received a flood of inquiries from oil operators eager to develop coastal lands. Only the legislature's speedy action had prevented a new round of prospecting permits, the court concluded.[18]

In the meantime, however, development proceeded apace on the permits that the California Supreme Court had forced Kingsbury to grant along the Santa Barbara County coast. Reports from Santa Barbara County in 1929 described wells like that of the General Petroleum Company, which broke loose "roaring like a giant blast furnace," spouting nearly one billion cubic feet of gas daily, "enough to supply the need of nearly half the state." In the fall of 1929, a "drilling race" raged at the tidelands of the nearby Elwood region. The Barnsdall, Rio Grande, Bankline

and Elwood Exploration companies all rushed to tap the "vaqueros" sand. Before long the Barnsdall and Rio Grande Oil Companies had brought in tideland wells at a high 5000 barrels per day of high quality (high gravity) oil, proving the existence of rich deposits in the ocean floor beneath their leases. A dozen other test wells around Santa Barbara County promised to map out the region's oil pools. Also in November, Pacific Western brought in a well producing 3500 barrels per day of 36.5 gravity oil, from a point located about 1200 feet from shore.[19] This prolific well produced $76,000 of high quality oil and gas in the last month and a half of 1929 alone.[20] In November, the Lincoln Drilling Company's wildcat well on the western edge of the city limits, on the beach below the La Mesa bluffs, proved up a separate oil field of low gravity petroleum.[21]

The San Francisco Chronicle declared Elwood the "most spectacular tideland development to date" and predicted that it would become "the next center of drilling and production activity in California." Seven producing wells, each of 3000-4500 barrels per day initial capacity, had been built in the open ocean on state leases or tideland permits during 1929. The wells indicated a remarkable quantity and quality of oil and promised low development costs and transportation charges. At Goleta, Carpenteria and Capitan in Santa Barbara County, extensive tideland development was also underway, with oil operators drilling twenty-six new wells. 1930 would prove as sensational as 1929. In September, the Barnsdall Oil Corporation brought in a well on an Elwood tideland lease that flowed 13,000 barrels per day. Located 300 feet offshore and down 3393 feet, this was the largest well in California at the time and the fourth Barnsdall well on the tidelands. "Not a drop of oil was spilled in the ocean," the Barnsdall Company boasted. Los Angeles Times oil correspondent Howard Kegley thought the Barnsdall Company's well "likely to rebuke the politicians who steadfastly opposed further tideland drilling." Kegley opined, "It is the impression of many an oil man that the State cheated itself out of vast fortunes in royalties by withdrawing the tidelands from drilling."[22]

Legislative restrictions on new coastal prospecting permits thus held firm in the face of extraordinary petroleum wealth. California had little need for a new source of oil in 1929 and 1930. The owners of the Barnsdall well, like the owners of other producing wells along the Santa Barbara coast, immediately curtailed its production in accordance with a statewide curtailment program. At Elwood this meant that the operators limited production to thirty percent of the well's potential.[23] Still, this was thirty percent more than would have been produced without the intervention of the California Supreme Court in *Boone* v. *Kingsbury*. If Kingsbury had prevailed in his opposition, oil operators would not have drilled tideland wells in Santa Barbara County at all.

The struggle between the beach and oil economies did not occur only around Santa Barbara. After a successful producing well came in near the city of Venice in 1929, an intensive drilling campaign began in the subdivided portion of that city. Before long, oil operators had pushed up against the Pacific Ocean. As oil operators encroached on the public beaches, the Los Angeles Playground Commission, the agency that controlled the municipal beach, proposed to lease a substantial portion of the Venice beachfront for oil operations.

Development associations and chambers of commerce along the coast in the Los Angeles basin resisted the placement of oil wells on the beaches and tidelands, seeking to save them for bathing and other recreational purposes. Beach protection groups mounted an aggressive publicity and legal campaign to protect the coast. On July 18, 1930, for example, the American Shore and Beach Preservation Association concluded its four-day convention at Long Beach with a tour of the coastline from San Diego to San Francisco. The Association aimed to draw public attention to California's problem of beach industrialization, principally through oil development. F. E. Wadsworth, president of the California Shore and Beach Preservation Association, and J. R. Hunt, acting in double capacity of secretary and treasurer of the national association and secretary of the Venice branch of the Los Angeles Chamber of Commerce, were on hand in Venice to discuss tidelands oil drilling. W. W. Newton, chairman of the Venice Beach Preservation Committee, also greeted the visitors. The following day, on July 19, 1930, the Del Ray Beach Improvement Association announced a meeting at the Westport Beach Club of chambers of commerce and other Southern California organizations. The Improvement Association called for a concerted drive against the proposed lease of submerged lands off Venice beach. Also on July 19, 1930, a superior court judge blocked the Playgrounds Commission from leasing the municipal lands for oil drilling. The temporary court injunction followed a petition by movie actor Lewis Stone, whose shoreline residence faced the ocean on the Venice beach. The beach protection groups also successfully sought the legal aid of state Attorney General U. S. Webb, who continued to oppose tidelands oil development. In August, Webb obligingly condemned Los Angeles' effort to lease the tidelands in Santa Monica Bay.[24] Through these varied political and legal strategies, the beach protection groups attacked the Venice beach drilling proposal.

Lewis Stone's suit ultimately blocked the Venice development plan in October 1930. The superior and appellate courts concluded that the municipality could not issue oil leases on lands granted by the state for harbor purposes.[25] The *Stone* ruling contrasted strikingly with California Supreme Court decisions in the Long Beach harbor cases in the late 1930s. In *Stone*, the Appellate Court ruled that a municipal oil lease necessarily resulted in the "alienation of a part of the freehold," contrary to the terms of the harbor grant. "Such a sale is expressly prohibited by the act granting the property to the city of Venice," the court concluded.[26] In the 1938 case *City of Long Beach v. Marshall*, however, the California Supreme Court repudiated *Stone* and embraced the earlier *Boone* ruling in order to allow Long Beach to proceed with municipal drilling on its tidelands. The court made an obscure distinction between oil leases proposed for Venice and the direct municipal drilling contemplated by Long Beach. The court further noted that the California legislature had recently approved a municipal charter for Long Beach that expressly authorized oil drilling and extraction. The *Stone* decision thus halted drilling on the Venice beachfront, but proved an aberration, doing little to influence tidelands drilling elsewhere in California.[27]

Although even the normally sympathetic Los Angeles Times opposed beach drilling in the Los Angeles basin, the paper pointed out that the Venice beach case was complicated. The *Times* warned that the beach could be "so badly damaged by contiguous private drilling" that it would lose its value as a place for public recreation. In this scenario, the city would lose the oil royalty

revenue, earmarked by the Los Angeles Playground Commission to purchase another public beach elsewhere; see its own oil drained away by nearby private wells; and keep for the public only a permanently impaired beach. The Playground Commission, the *Times* reported, "opposed heartily" any activities that would pollute the sands and render them unfit for public recreational use. But the City Council had forced the Commission's hand, granting city drilling permits on private property immediately contiguous to the beach and on the beach itself, in some places right down to the high tide mark. Active drilling rigs now hemmed in the public beach on all three land sides. It was a "fair question," the *Times* declared, "whether the city should not accept the consequences and get the public something in return" by using oil royalties to purchase a new bathing beach. Otherwise only the private oil operators along the waterfront would benefit from the ruination of the beach, by drawing out the oil from beneath the public lands "with no compensation to the public."[28] This conjuncture of beach protection, oil development, and the public's financial interest in oil—all provoked by the rule of capture discussed in Chapter One—would recur through the 1930s as private oil operators encroached on the shoreline at Huntington Beach and Long Beach.

Despite California's continuing restrictions on tidelands drilling and the low five percent royalty rate, by 1929 the state government recognized oil royalties as a serious potential source of state revenue. Where it had granted tideland leases, the State intervened to ensure that permittees could gain access to the beach to develop their leases. In one instance, the state unsuccessfully sought to condemn a right-of-way to allow permittees access to the coastline to offset upland wells. The State thus sought to protect itself against private upland operators at Elwood who drained oil from common pools that also underlay state beaches and tidelands.[29] The Department of State Lands also honed its administrative strategies in order to capture oil royalties more effectively.[30] The growing awareness of the money at stake foreshadowed struggles over oil revenues during the fiscal crises of the 1930s, particularly at Huntington Beach.

Development of the Huntington Beach offshore field followed the rapid rise and fall of an onshore field in the townlot section of that city. This townlot field, along with Long Beach's Signal Hill field and nearby Santa Fe Springs, had surged in production in the early 1920s, supplanting the San Joaquin Valley fields just emerging from federal litigation. These Los Angeles basin oil fields were located principally under privately owned lots, where oil operators drilled closely and rapidly. Competition structured into the legal regime thus propelled an orgy of oil production as landowners and their lessees rushed to claim common subsurface petroleum deposits. Competing landowners demanded aggressive development by lessees.[31] Derricks crowded next to each other on small town-lots. To raise the capital necessary for the flurry of drilling, oil promoters flooded the market with stock certificates and royalty interests.[32]

The competitive trap of highly subdivided fields wasted both capital and oil. Unnecessarily high ratios of wells per acre characterized Huntington Beach, Signal Hill, and Santa Fe Springs. Where Standard Oil preferred to space wells one to every eight to ten acres on its larger holdings, oil operators at Signal Hill and Santa Fe Springs crowded one well on every one and a half to two acres. The compulsion to drill offset wells meant that landowners drilled wells just across boundaries from each other to tap the same pool of oil. In addition to quickly depleting oil

reserves, these production methods rapidly exhausted the gas pressure that lifted the oil naturally, thereby leaving a large share of petroleum behind. The town-lot field at Huntington Beach had entered permanent decline by the end of the 1920s. Only the discovery of new oil strata at deeper levels prolonged the life of the Signal Hill field and prompted a new oil rush to tap the new oil sands.[33]

By 1928, the mad frenzy at Huntington Beach had somewhat cooled. The state finally stepped in to control oil pollution from haphazard production methods. In 1928 the State Fish and Game Commission successfully sued some seventy oil operators in 1928 to stop them from letting oil run through the Huntington Beach street gutters into the sea. After a court forced compliance, it seemed that Huntington Beach might begin moving towards the beach economy that ultimately lay in its future. The Los Angeles Times announced optimistically, "From now on ocean bathers at Huntington Beach will be enabled to cavort and gambol in the breakers and come out glistening with drops of pure salt water instead of having their bodies smeared with oil and oil refuse from the wells near the coast."[34]

But a new oil boom had just begun to hit the beachfront. Oil operators had started to shift operations towards the Huntington Beach coastline. In 1927 the Standard Oil Company of California purchased from the Pacific Electric Land Company rights to a narrow strip of land between the highway and the beach. Standard Oil then built a 1,500 foot retaining wall parallel to the bluff along the beach, filling the space between the bluff and the wall to create a solid base on which to erect oil derricks.[35] Many of the wells along this narrow strip drifted underground into the state-owned tidelands oil pool that extended from the beach out into the ocean. As the town-lot field played out, other companies sought to follow Standard Oil onto the beach and tidelands.

The presence of a large oil field off the coast of Huntington Beach fueled a clash with laws that clearly barred tidelands drilling there. The 1921 state mineral leasing act specifically prohibited the leasing of tidelands or submerged lands fronting on an incorporated municipality. After 1929, the Bliss measure blocked any new tidelands leases. In 1928, aspiring oil operators tried to circumvent the 1921 legal restrictions, on the grounds that the Huntington Beach tidelands might somehow be exempt from the municipal leasing prohibition. Surveyor-General Kingsbury interpreted the state leasing act narrowly, declaring the tideland area withdrawn from oil development. As in the Santa Barbara region, oil operators sued Kingsbury to force him to issue the coastal permits. Attorney General Webb continued his strong support of Kingsbury and personally appeared in the Orange County courthouse to oppose the petitions. Webb did not contend that the proposed drilling would injure Huntington Beach. He thought the city had already been "despoiled" by oil wells. Instead he sought to prevent a precedent-setting decision that might undermine the law against tideland drilling.[36]

The California appellate courts upheld Kingsbury and Webb's intransigence and rejected the permit demands.[37] The courts interpreted the mineral leasing law according to legislative intent. But where *Boone* had described a legislature eager to help industry tap state oil reserves, the courts now identified a "trend of the legislative mind toward the reservation of municipal

beaches free from mining operation for the enjoyment and recreation of the people of the state." If anything, the legislature had hardened its stance, Judge Marks wrote in *Carr* v. *Kingsbury*. The 1921 mineral leasing law had only limited drilling on tide and submerged lands fronting on coastal cities. Now the 1929 amendments to the leasing law barred oil and gas development along the entire California coast.[38]

Defeated in court, the oil companies and Huntington Beach City Council turned to politics to remove legal obstacles to tidelands drilling. If the law would not allow them to develop the offshore field, then they would change the law. The relationship between law and politics was thus fluid and dynamic. In the spring of 1931, politicians from Huntington Beach pushed a bill through the state legislature that would transfer to the city all tidelands fronting on the coastal town. At first presented as a beach development measure, it quickly became clear that facilitating oil development was its true aim. The Huntington Beach city attorney declared that modern devices could prevent pollution and the field's low gas pressure would prevent dangerous gushers. He attacked his opponents as shills for Standard Oil, which wanted to block the city from tapping the publicly owned oil and realizing any revenue. The Santa Ana City Council, the Orange County Board of Supervisors, and the Los Angeles County Board of Supervisors passed resolutions urging the Governor to approve the bill.[39]

Opponents of tidelands drilling prevailed. In private meetings in the state capitol, lawyers and lobbyists for Standard Oil of California quietly opposed the bill.[40] William Randolph Hearst publicly denounced coastal oil development.[41] At a lengthy and contentious June hearing in Sacramento, private property owners along the beaches near Huntington Beach came out in droves to protest coastal oil drilling. Rolph concluded the June hearing expressing surprise that Huntington Beach sought to "add to the evil of oil drilling on tidewater lands . . . I am opposed to drilling for oil on the beaches and I think the people of the entire State are opposed to it."[42] Rumors circulated that Standard Oil made a political payoff to achieve Rolph's veto, but they cannot be proven or disproven. The Mayor and City Attorney of Huntington Beach and Standard Oil's Sacramento lobbyist milled around the Governor's office until midnight on June 19, the last day on which Rolph could sign the bill. Standard Oil, upland property owners, and their beach protection allies prevailed, and Governor Rolph vetoed the tidelands transfer bill.[43]

Rolph's alliance with Standard Oil and the Southern California property owners forced the independent oil operators and their allies into new political strategies. Eager oil operators and city officials next tried to circumvent the governor and the legislature through a state ballot initiative that would open state oil lands along the entire coast. In May 1932, however, California voters rejected the proposition. The City Council continued to scheme to gain oil rights for the city and favored oil operators. Following the defeat of the May proposition, the City Council called for a state constitutional amendment that would transfer the tidelands to the city for recreational, harbor or mineral development purposes. The Council thus set in motion another statewide initiative campaign on tideland drilling. In connection with the proposed constitutional amendment, that same day in May 1932 the Huntington Beach City Council granted a thirty-year oceanfront lease to the Pacific Exploration Company. Pacific Exploration Company proposed to spend two million dollars building fourteen piers and drilling fifteen new wells offshore from

Huntington Beach. The new wells would offset 17 Standard Oil Company wells. Several prominent local oil operators served in Pacific Exploration's management. One company vice-president, Roy Maggart, had had his previous tidelands permit application rejected by Kingsbury and the California courts.[44]

Even as the city maneuvered to open the tidelands in 1932, it also tried to offset Standard Oil's wells from the onshore side. To get as close as possible to Standard's strip of land on the bluff above the beach, the city attempted to lease part of the coastal highway to the Carr Oil Company, a local enterprise. As with Roy Maggart and the Pacific Exploration Company, Arthur Carr had recently had his permit application rejected by Kingsbury and the California courts.[45] The lease covered thirty feet of highway, abutting the Standard Oil property for a little over a mile. Carr proposed to dig large underground pits beneath the road and place all the producing machinery there once the wells had been drilled. Carr's company promised to cover the machinery and to reinstate the highway to its former width of one hundred feet. The following spring the Huntington Beach City Council made similar leases to the Signal Oil and Gas Company for streets perpendicular to the Coast Highway. In exchange for a twenty percent royalty, the city granted leases on twenty-four foot strips down the center of the streets, leaving twenty-five foot passage on either side. Tens of millions of dollars rode on the leases. The city's willingness to embrace the unusual highway deals indicated its determination to open the offshore field to local oil operators.[46]

Political groups in the Huntington Beach area differed on these repeated efforts to offset Standard Oil's wells and develop the coastal lands. Former Huntington Beach Mayor Bowen filed suit to stop the highway lease. Standard Oil also demanded an injunction. And the very same day that the City Council granted the tidelands lease to the Pacific Oil Company, the Huntington Beach Chamber of Commerce adopted a resolution protesting the plan for oil drilling on the beach, by a vote of 10 to 4. The Chamber of Commerce called on the State to transfer the tidelands to Huntington Beach—but without the right to drill. The small businesses represented by the Chamber wanted local control, but for the purposes of recreational and commercial development, not oil operations.[47]

Huntington Beach's efforts to develop the tidelands field also provoked concerted opposition from other Southern California civic associations and business groups, which organized a "Save the Beaches" movement to mobilize opposition statewide. The Los Angeles Chamber of Commerce Board of Directors blasted Proposition 11, the November 1932 constitutional amendment on the ballot. The Board declared that tidelands drilling "would not only desecrate the beaches and prove detrimental to resorts, but it is opposed to the best interests of resorts." If one tideland well went out of control, they argued, it would ruin beaches from San Pedro to San Diego. Governor Rolph strongly allied with the beach protection groups. In a public letter to the mayor of Huntington Beach, Rolph denounced Proposition 11 as "the most flagrant abuse of the initiative ever attempted," and "an instrument to condone gross and palpable abuse." Before a gathering of the California Real Estate Association, Rolph publicly excoriated the oil industry, linking it to the economic demoralization of the state.

> To the oil industry belongs a large share of the blame for the conditions that exist in this State. Thousands of men that would otherwise be working are jobless because of the manner in which it is operated. The oil industry has already prostituted itself. Let us not allow it to prostitute our beaches.

Rolph criticized the oil companies for “again trying to appropriate State tidelands” after voters had rejected a similar measure in May and he had vetoed a tidelands transfer bill in June. Following Rolph’s address, the California Real Estate Association attacked Proposition 11, arguing that coastal drilling “tends to destroy real estate values” and pollute beaches so that they could not be used for recreation. The association denounced this “opening wedge” that would extend oil drilling up and down the California coast.[48]

The Mineral Resources Section of San Francisco’s elite Commonwealth Club similarly opposed the November ballot proposition, calling it simply a modification of the referendum issue defeated in May 1932. The new proposal limited the cession of rights to Huntington Beach. It also “‘sugar-coats the pill” by providing for new piers, wharves and recreational features and allocating half the oil royalties to the State’s general fund. But the Commonwealth group urged voters to reject the proposition for the same reasons as the May initiative: to “preserve the few remaining beaches still in public ownership” and because “the oil is not now needed.” In light of the general state of overproduction in the petroleum industry and considerable reserves available in the state’s other oil fields, the Commonwealth group urged that the state conserve the Huntington Beach petroleum. “If and when that day comes will be time enough to decide whether the oil or the bathing value of the beach is the greater and possibly for a time give it over to oil production to be returned to recreation afterwards.” In the meantime, land adjacent to Huntington Beach was worth $4,000 per acre far its recreational value alone, and real estate interests, land holders and people in the resort business actively opposed the expansion of coastal oil development. The Commonwealth Club thought the recreational value of the beaches should predominate. San Francisco Mayor Rossi and the San Francisco Board of Supervisors agreed and urged voters to reject the coastal drilling proposition.[49]

These appeals to protect coastal beaches resonated with California voters and they defeated the November 1932 proposition by a margin of 3 to 2.[50] Once more, the broad beach protection alliance had denied oil operators access to the Huntington Beach offshore field. Despite enormous political pressure on the state government to allow tidelands drilling at Huntington Beach, the 1921 and 1929 prohibitions held firm. The 1921 law barred prospecting leases on coastal lands fronting municipalities while the 1929 law more broadly blocked new tidelands leases. There the matter might have stood, with the Huntington Beach tidelands field untapped except for drainage by Standard Oil Company wells on the beach bluff. But local oil operators would not let the oil lie.

Endnotes: Chapter 3

[1]Frank Short to John W. Weeks, 5 January 1917, Gillett Papers, Box 1092, Folder 22, CSL.

[2]Ernest R. Bartley, The Tidelands Oil Controversy: A Legal and Historical Analysis. Austin: University of Texas Press, 1953, 67-68.

[3]Bartley, Tidelands Oil Controversy, 74.

[4]Historians writing about the nineteenth century, by contrast, emphasize the states' dominance over political and economic development. See writings by Louis Hartz, Oscar and Mary Handlin, Harry Scheiber, James Willard Hurst, Milton Heath, L. Ray Gunn and Morton Horwitz, cited above in the introduction, endnote 1. For exceptions to the focus on twentieth-century national politics, see, Nash, State Government and Economic Development; McEvoy, The Fisherman's Problem; Harry N. Scheiber, "State Law and 'Industrial Policy' in American Development," California Law Review 75(1987): 415-444; and, Vicky Saker Woeste, The Farmer's Benevolent Trust: Law and Agricultural Cooperation in Industrial America, 1865-1945. Chapel Hill: University of North Carolina Press, 1998. Biographies of major political figures who began their careers at the local or state level are frequently the best sources for information on state politics.

[5]California Department of Conservation, 1997 Annual Report of the State Oil & Gas Supervisor. Sacramento: Division of Oil, Gas, and Geothermal Resources, 1998, 55, 56, 57, 61.

[6]*Hollister v. Kingsbury*, Court of Appeal of California, 2 February 1933, 129 Cal. App. 420, 423. For criticism of Kingsbury's change of course, see, Howard Kegley, "Wells Reveal State Loss," *LAT*, 26 February 1928, Part I, 12:1; "Oil Drilling on Tidelands Up In Court: Several Cases Reach High Tribunal; Ventura Case Is Test," *SFC*, 7 December 1927, 7:3; "Oil Rush May Ruin Beaches," *SFC*, 27 September l928, 14:3.

[7]See, *J. R. Kelley* v. *W. S. Kingsbury*, Supreme Court of California, 18 July 1930, 210 Cal. 37, which upheld Kingsbury's discretion to define the boundaries of the Ellwood field and thus reject petitioner's permit application, and its companion case, *T. G. Kennedy* v. *W. S. Kingsbury*, Supreme Court of California, 18 July 1930, 210 Cal. 667. Kelley had petitioned the California Supreme Court for a writ of mandate, complaining that Kingsbury had barred access to tidelands permits on the grounds that the land is "within a known geological structure." J. R. Kelley, "Petition for Writ of Mandate: *J. R. Kelley vs. W. S. Kingsbury*, Surveyor-General State of California, Ex-Officio Register of the State Land Office," 28 January 1930, State Lands Commission— Correspondence 1930, CSA (hereafter CSA). The California Court of Appeals subsequently upheld Kingsbury's broad definition of the Ellwood field in *Leo I. Farry* v. *Lyman King*, Director of Finance, Court of Appeal of California, 22 January 1932, 120 Cal. App. 118. The *Farry* case reports Kingsbury's specifications for the field. See also, "Writ Refused in Tideland Oil Case," *SFC*, 17 February l929, 23:5 (describing how the Third District Court of Appeal refused Thomas A Joyner, Los Angeles, a writ of mandate under which he sought to force W. S. Kingsbury to issue a permit to prospect for oil and gas on State-owned tidelands inside Huntington Beach city limits).

[8]Howard Kegley, "Wells Reveal State Loss," *LAT*, 26 February 1928, Part I 12:1; "Favor Drilling Tidelands," *LAT*, 27 February 1928, Part I 15:1.

[9]"Oil Rush May Ruin Beaches," *SFC*, 27 September 1928, 14:3.

[10]"Webb Scores Oil Drilling In Tideland: Attorney Declares State Has Full Control Over Ocean Beaches," *SFC*, 24 January 1928, 9:3; U. S. Webb, "Brief of Respondent in *Boone v. Kingsbury*," January 1928, Supreme Court of California Records, Box WPA 24291-24311, Folder WPA 24310: *Boone v. Kingsbury*, S. F, No. 12707, CSA, 38, 43, 59, 70-71.

[11]State-level litigation over Kingsbury's refusal to issue state tidelands permits coincided with a similar struggle at the federal level. Secretary of the Interior Wilbur claimed discretion under the mineral leasing law to refuse permits

for federal oil lands. For both officials, their claims of administrative discretion faced tough going in the courts. At the federal level, Wilbur found his actions struck down by the District of Columbia Court, but subsequently upheld by the U.S. Supreme Court. See Chapter Two, endnote 78.

[12]*Boone v. Kingsbury*, Supreme Court of California, 31 December 1928, 206 Cal. 148, 165. The California Supreme Court voided the amendments on the narrow grounds that "the subject of the act is not embraced in its title." Consequently, the court saw no need to discuss the more fundamental question raised by the case: did the 1923 amendments unconstitutionally delegate to the surveyor-general, an officer of the executive branch, legislative discretion over the granting of state lands?

[13]*Boone v. Kingsbury*, 206 Cal. 148, 181-2.

[14]"Tidelands Oil Hunt Approved," *SFC*, 1 January 1929, 11:7; "Oil Well On Island of Steel," *LAT*, 14 November 1932, Part I 10:5.

[15]"Oil Drill Threat for Beaches Seen In Court Ruling," San Francisco Examiner, 6 January 1929, 7:5; "Tideland Oil Decision Hit By Justice: Judge Shenk Dissents in Permit Granted Drilling Firm," *SFC*, 6 January 1929, 4:8; "U. S. Will Rule on Oil Permits: State Surveyor-General to Carry Tideland Case to Supreme Court," *SFC*, 5 April 1929, 7:3; "Tidelands Oil Hunt Approved," *SFC*, 1 January 1929, 11:7. The U. S. Court dismissed Kingsbury's federal appeal for "want of a substantial federal question." *Workman v. Boone*, Supreme Court of the United States, 28 October 1929, 280 U. S. 517. *Workman v. Boone* was oddly titled in the U. S. court, since both Workman and Boone had been plaintiffs in the state court. Workman's claim for a lease conflicted with Boone's claim, as explained in the *Boone v. Kingsbury* decision.

[16]"Quick Curb Asked Against Tideland Oil Prospectors," San Francisco Examiner, 11 January 1929, 6:5. "Senate Passes Tideland Bill," *SFC*, 18 January 1929, 2:4. "Young Signs Tideland Bill," San Francisco Examiner, 18 January 29, 4:2; "Curb on Beach Drilling Urged," San Francisco Examiner, 9 January 1929, 9:5. "Bill Will Save State Beaches: Governor Signs Measure Banning Drilling; Natural Gas Waste Stopped," *SFC*, 29 May 1929, 13:5.

[17]"Oil Prospecting Pleas Rejected," *LAT*, 23 December 1929, Part I 12:7; "Oil Production Curb Discussed," *LAT*, 23 December 1929, Part I 12:5; "Decision on Oil Drilling Requested," *LAT*, 7 March 1930, 9:3.

[18]*Hollister v. Kingsbury*, 129 Cal. App. 420, 423, 429.

[19]"Gas Spouting Oil Well Still Balks Control," *SFC*, 9 August 1929, 1:4; "Drillers Race to Strike Oil On Tidelands," *SFC*, 6 September 1929, 17:2; "Third Well Planned At Santa Barbara," *SFC*,8 October 1929, 20:6; "Santa Barbara Oil Area Being Fully Tested," *SFC*, 21 October 1929, 15:8; "Pacific Western Brings in Well," *SFC*, 19 November 1929, 21:1.

[20]See, *Spalding v. United States*, United States District Court, 16 January 1937, 17 F. Supp. 957, 959. During 1930, the Spalding's State Oil Lease No. 93 produced $1.05 million in oil and gas. The Spalding couple, which owned State tidelands permits No. 92 and 93, then boldly attempted to avoid federal income tax on their stupendous good fortune, claiming that they had generated the income on a "tax-exempt" state lease. The District Court rejected the maneuver. The Spaldings were not the first California oil operators to attempt this method of tax evasion. See also, *A. T. Jergins Trust v. Commissioner of Internal Revenue*, United States Board of Tax Appeals, 5 March 1931, 22 B.T.A. 551 (ruling that income from an oil and gas lease upon lands owned by a municipal corporation is not exempt from Federal income anti profits taxes); *Burnet, Commissioner of Internal Revenue, v. A. T. Jergins Trust*, Supreme Court of the United States, 13 March 1933, 288 U. S. 508 (in which the Supreme Court declared that lessee income from a municipal lease did not qualify as tax-exempt because it was not connected to the municipality's governmental functions).

[21]"Wildcat Well Comes In 'Barefoot'; Proves Up New Santa Barbara Field," *SFC*, 28 November 1929, 15:2.

Sabin - Chapter 3

[22]"Tidelands Promise to Become Big Oil Field," *SFC*, 17 August 1929, 15:1; "Tideland Development Ellwood Field Promises to Become Great Producer," *SFC*, 16 February l930, I l:6; "Barnsdall Oil Hits Producer in Ocean Bed," *SFC*, 6 September 1930, 13:8; Howard Kegley, "Ocean Oil Wells Bonanza," *LAT*, 14 April 1930, 14:2.

[23]"Barnsdall Oil Hits Producer In Ocean Bed," *SFC*, 6 September 1930, 13:8.

[24]"Survey Begun on Beach Uses: Oil Drilling and Industrial Exploitation Studied," *LAT*, 19 July 1930, Section Two 3:5; "Meeting Will Launch Battle Against Leasing," *LAT*, 20 July 1930, Section Two 1:1; "Court Blocks Beach Drilling," *LAT*, 20 July 1930, Section Two 1:1; "Webb Blocks L.A. Tide Land Leasing," *SFC*, 22 August 1930, 4:5.

[25]*Lewis Stone v. City of Los Angeles*, Court of Appeal of California, 114 Cal. App. 192, 18 May 1932. "City Plea Lost On Oil Leasing," *LAT*, 19 July 1931, Part II 8:1 (reports California Supreme Court's denial of Los Angeles' appeal in Stone case). In 1917, the state legislature had granted the city of Venice trusteeship of the tidelands and submerged lands within its boundaries. In 1925, Venice consolidated with Los Angeles, bringing with it the tidelands rights.

[26]*Stone v. City of Los Angeles,* 114 Cal. App. 192, 203-204.

[27]*City of Long Beach v. Marshall*, Supreme Court of California, 28 July 1938, II Cal. 2d 609, 620-621.

[28]"Beaches and Oil," *LAT*, 9 October 1930, Section Two 4:2.

[29]"Oil Royalty Paid From Tidelands," *SFC*, 30 October 1929, 16:1; "Tidelands Promise to Become Big Oil Field," *SFC*, 17 August 1929, 15:1; "Tideland Oil Field Active," *SFC*, 23 August 1929, 23:3. In December 1929, Superior Court Judge Collier dismissed the suit brought by Attorney General Webb to open a road through the Barnsdall and Rio Grande Oil companies' leases at Ellwood to gain access to the beach. This was the second unsuccessful effort by those holding state leases in front of the Ellwood coastal field to get a right of way from the highway to the beach. The judge had also denied the suit brought by the county claiming a public road through the property. "Motion Granted to Dismiss Road Case," *SFC*, 2 December 1929, 16:3. After more than a year of struggling between oil operators having upland and tideland interests in the Ellwood oil fields, the parties finally compromised in March 1930. On one side in the struggle over leases worth more than $30 million were the successors of Nicholas A. Den, to whom Mexican governor granted Dos Pueblos Ranchos in 1842, the Barnsdall and Rio Grande Oil Companies, and Reservoir Oil and Gas Company. On the other side, the Bankline Oil and Gas Company, the Ellwood Exploration Company, and C. J. Mahoney, who possessed leases from the State. Under the agreement, the upland operators recognized the validity of the tidelands permits issued by Kingsbury and granted rights of way to tidelands lessees through the old Dos Pueblos Ranchos. Pending suits were dismissed. "Ellwood Tidelands Settlement Made," *SFC*, 7 March 1930, 20:1.

[30]See, Webb Shadle to Submarine Oil Company, 3 June 1930, State Lands Commission— Correspondence 1930, CSA; Webb Shadle to Submarine Oil Company, 29 August 1930, State Lands Commission— Correspondence 1930, CSA.

[31]For typical contractual arrangements that stipulated competitive production, see, *A. T. Jergins Trust v. Commissioner of Internal Revenue*, Docket No. 29940, United States Board of Tax Appeals, (5 March 1931), 22 B.T.A. 551, 553-554; "Banning Lease with T. F. Gessel," 29 August 1930, Banning Collection, Box 20, Folder 2, HL, 11; "Banning Lease with Superior Oil Company," 1925, Banning Collection, Box 20, Folder 2, HL; "Oil Conservation Program Gets First Results From Price Cut in Signal Hill," *SFC*, 23 October 1929, 21:1.

[32]Ise, United States Oil Policy, especially chapter 12; Jules Tygiel, The Great Los Angeles Swindle: Oil, Stocks, and Scandal During the Roaring Twenties New York: Oxford University Press, 1994.

[33]Ise, United States Oil Policy, 211, 216, 108.

[34]"State Wins-- If It Loses," *LAT*, 30 June 1928, Part II 6:5; "State Victor in Beach Fight," *LAT*, 3 July 1928, Part II 2:8.

[35]"Our Huntington Beach Retaining Wall," Standard Oil Bulletin, (February 1927): 10.

[36]"Court Forbids Ocean Drilling," *LAT*, 10 February 1930, 15:8.

[37]"Court Forbids Ocean Drilling," *LAT*, 10 February 1930, 15:8. The Superior Court halted the proposed development of the Huntington Beach offshore field by denying petitions by Joyner, Carr, Fiesthamel, Cummings and Maggart for writs of mandate against Surveyor-General Kingsbury. The previous denial of similar petitions by Plummer at district court of appeal decided the issue. Although Judge Scovel thought the appellate decision in error, he thought Plummer's decision bound the Superior Court. To convey this double message, Judge Scovel denied Webb's demurrer for a dismissal before denying the petitions on the basis of the appellate decision. Isadore Dockweiler, prominent Los Angeles attorney, represented the petitioners and "ridiculed" Justice Plummer's appellate ruling that territory within city's limits is covered by law which prohibits drilling on tidelands fronting on an incorporated city or w/in a mile in either direction.

[38]*Arthur Carr v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931, 111 Cal. App. 165, 169. See also, *Thomas A. Joyner v. W. S. Kingsbury*, Court of Appeal of California, 16 February 1929, 97 Cal. App. 17: *Roy Maggart v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931, 111 Cal. App. 765.; *C. C. Cummings. v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931, 111 Cal. App. 763; *Feisthamel v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931, 111 Cal. App. 762; *Thomas A. Joyner v. W. S. Kingsbury,* Court of Appeal of California, 16 January 1931, 111 Cal. App. 764; "Supreme Court Upholds State Oil Land Law," *SFC*, 20 October 1931, 3:8; "Oil Well Zone Review Denied," *LAT*, 20 October 1931, Part II 7:1.

[39]"Groups Appeal to Rolph," *LAT*, 27 May 1931, 14:7; "Supervisors Ask Rolph to Veto Tidelands Bill," *LAT*, 2 June 1931, Section Two 2:2; "Governor, Senator Speak: Two Officials Side with Santa Barbara Against Oil Drilling on Beaches," *LAT*, 11 May 1931, Section Two 10:4.

[40]Eustace Cullinan to William A. Smith, 22 May 1931, GTWHP, Carton 0155071, Folder Government relations. Standard Oil watched the bill suspiciously from its introduction in January. See, James E. Degnan to Felix T. Smith, 27 January 1931, GTWHP, Carton 0155081, Folder Producing— Huntington Beach.

[41]"The Tide Lands At Huntington Beach," *Newport News*, 28 May 1931.

[42]"Tidelands Oil Bill Vetoed," *LAT*, 18 June 1931, Part II 1:3.

[43]Felix T. Smith to Oscar Lawler, 27 June 1931, GTWHP, Carton 0155081, Folder Producing— Huntington Beach; Oscar Lawler to Vincent Butler, 7 July 1931, GTWHP, Carton 0155081, Folder Producing--Huntington Beach.

[44]"Tidelands Oil Battle Opens," *LAT*, 17 May 1932, Part I 6:4. See, *Roy Maggort v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931. 111 Cal. App. 765; Porter Flint, "Oil News," *LAT*, 11 September 1932. Pail I 21:1. After the electorate rejected the November 1932 proposition, the Pacific Exploration Company's lease option expired (because it was unable to carry out the drilling terms). In July 1933, the Huntington Beach City Council, meeting in secret session, negotiated a new lease with the Southwest Exploration Oil Company, affiliated with the prominent Hancock Oil Company. Most likely, the city council switched lessees hoping that Hancock would have more political clout and successfully push through legislation in 1934 allocating oil rights to the city. "Renewal of Tidelands Oil Battle Looms as Huntington Beach Grants Lease," *LAT*, 9 July 1933, Part I 14:7.

[45]*Arthur Carr v. W. S. Kingsbury*, Court of Appeal of California, 16 January 1931, 111 Cal. App. 165, 169.

[46]"Drilling Lease Made By City," *LAT*, 13 August 1932, Part I 13:1; "Friendly Suit Filed to Test Lease Validity," *LAT*, 18 August 1932, Part I 10:2; "Battle on Oil Will Be Bitter," *LAT*, 12 December 1932, Part II 8:1; "Six City Streets Leased for Oil Drilling by Huntington Beach City Council," *LAT*, 27 May 1933, Part II 6:8; Porter Flint, "Oil News," *LAT*, 1 June 1933, Part I 17:1.

[47]"Drilling Lease Made By City," *LAT*, 13 August 1932, Part I 13:1; "Oil Lease Injunction Explained," *LAT*, 4 November 1932, Part I 11:3; "Tidelands Oil Battle Opens," *LAT*, 17 May 1932, Part I 6:4. For a related discussion of local struggles for control over oil and gas development, see Paul Sabin, "Voices from the Hydrocarbon Frontier: Canada's Mackenzie Valley Pipeline Inquiry (1974-1977)," Environmental History Review 19: 1 (Spring 1995): 17-48; Sabin, "Searching for Middle Ground: Native Communities and Oil Extraction in the Northern and Central Ecuadorian Amazon, 1967-1993," Environmental History 3:2 (April 1998): 144-168.

[48]"Beach Oil Fight Pushed," *LAT*, 27 September 1932, Part II 6:4; "Oil Drilling Move Opposed," *LAT*, 14 October 1932, Part Two 1:2; "Rolph Raps Beach Oil Proposal," *LAT*, 6 November l932, Part I 14:5; "Rolph Orders Oil Drill Quiz," *LAT*, 29 October 1932, Part Two 1:3. "Realtors Battle Move to Drill on Tidelands: Beaches Belong to People Must Not Be Ruined, Rolph Asserts," *SFC*, 9 October 1932, 5:1.

[49]L. A. Barrett, "Joint Report of Mineral Resources Section and Forestry Section," Transactions of the Commonwealth Club 27: 5 (27 September 1932); "Rossi in Save Beaches Move: Mayor Works Against Oil Proposal," *SFC*, 14 October 1932, 5:2.

[50]"Vote on State Propositions," *LAT*, 11 November 1932, Part I 2:5.

Chapter 4

Breaking the Ban (and the Law) at Huntington Beach

California had proved itself repeatedly willing, even determined, to resist the full-scale industrialization of the coast. The courts, the electorate, and the Rolph administration all upheld the prohibition on coastal oil development at Huntington Beach. Political efforts to open the coastal oil lands continued and were rebuffed. In July 1933, for example, the Orange County Board of Supervisors called on the state legislature to cede the tidelands to Huntington Beach along with the authority to drill for oil. The Board of Supervisors accused private interests (i.e., Standard Oil) of draining the oil pool beneath the tidelands and argued that opening the tidelands field would create jobs, raise public revenue, and stimulate prosperity. Assemblyman Craig of Orange County promoted this measure to validate Huntington Beach's lease to the Hancock Oil Company. Under Craig's measure, the public royalties of sixteen percent would be divided among the state (eight percent), Orange County (four percent) and Huntington Beach (four percent).[1] In the face of Governor Rolph's veto of the previous tidelands drilling bill and the 1932 referendum defeat, the Los Angeles Times called passage of Craig's bill "futile as well as unwise." From the standpoint of Huntington Beach, however, the *Times* conceded that much could be said for the measure. "The beach has already been pretty well ruined for recreational purposes, and oil is being drained from beneath public lands by drillers on private land, so that offset drilling seems justified." But the *Times* worried about setting a dangerous precedent and opposed the bill. "The general rule that the recreational use of the beach is paramount to any other use, is so generally beneficial to the State of California that exceptions to it probably ought not to be granted."[2]

Frustrated on the political front, local oil operators took bolder, extra-legal actions to evade state restrictions. Advances in technology recently had given oil operators greater control over drilling and improved their ability to determine the course of a drill underground. Numerous pioneering operators located in the town-lot field tilted their drilling shafts towards the Pacific and sent diagonal oil wells out through Standard Oil's beach bluff property into the State's tidelands oil pool.

It is difficult to determine exactly when the first diagonal wells deliberately penetrated the Huntington Beach tidelands. A closely-watched test well by Superior Oil in the summer of 1931 produced only water, confirming for many that at Huntington Beach, unlike Signal Hill, no deep oil zone existed to replace the previously-tapped oil strata now in decline. Howard Kegley of the Los Angeles Times presciently reported that "Until the tidelands are thrown open for prospecting purposes the Huntington Beach oil field will probably remain quite dormant insofar as new drilling is concerned." In October of 1931, W. E. McCaslin confounded the expectations of many when he succeeded in developing commercial production at 7,700 feet from a well three blocks from the ocean. It is unclear whether this well drifted under the tidelands. Perhaps in response to McCaslin's well, other Huntington Beach operators began to redrill old producing wells in the summer of 1932 seeking a deeper oil sand. Statistics kept by the state oil umpire, in charge of

allocating production among the state's oil fields, indicated a steady decline in production in the late 1920s and early l930s and then a sharp increase in 1932. This signaled that operators had tapped a new source of oil, and by January 1933, Huntington Beach operators had begun to demand increased production allotments from the statewide oil conservation committee. By the summer of 1933, amid general surprise, Huntington Beach oil operators regularly reported major new producing wells, frequently drilled with the same derricks situated above diminished older wells. Wells that had been only "small strippers" from 1926 to 1930, and then abandoned, now produced a princely 1,000 barrels per day. Huntington Beach was "enjoying a real oil boom."[3]

According to the geology of the Huntington Beach area and the state's mineral leasing laws, this boom should not have occurred at this time. A fault running along the coast sharply separated the declining onshore field from the tidelands pool. This neatly prevented drainage into older Huntington Beach wells. There were two Huntington Beach fields. In order to produce from the offshore pool, an operator's well had to breach the fault. But except for Standard Oil's wells perched directly above the fault on the beach bluff and a lone permit north of the city limits that had been granted under *Boone*, no oil company was authorized to drill into the tidelands pool. The mineral leasing act of 1921 specifically prohibited the leasing of tidelands fronting on an incorporated municipality. The 1929 legislative changes further barred any tidelands leases for the entire California coast. Until the legislature addressed this conjuncture of geology, politics and law, the oil should ostensibly have remained in place.

In the beginning of July 1933, W. S. Kingsbury, now the Chief of the new Division of State Lands in the Department of Finance, asked a state petroleum production inspector to investigate reports that operators were using slanted wells to trespass on and extract petroleum from the Huntington Beach tidelands. Finance agent Arthur Alexander rented binoculars from a local store and set-up, at some distance away, to conduct long-range surveillance of well-drilling activity. He checked each drilling crew's activities at frequent intervals each day to determine whether the drilling units tilted to the southwest into the tidelands. In an affidavit filed in subsequent litigation over these trespasses, Alexander described how at four in the morning of August 1, 1933 he observed preparatory work for the drilling of a Termo Company well in the townlot area. When he returned in the late morning drilling had commenced. When he had surveyed the drilling site at four in the morning, the drilling rig was open so that "all operations could be clearly observed from the street." But upon his return at ten, "the rig was carefully covered for approximately eighteen feet from the ground." Even so, above the covered part of the rig Alexander could see that the travelling block that set the drill hole's direction was "approximately one foot northerly of the east-west center line of the derrick." This meant that the drill pointed towards the tidelands. During the next two days, Alexander saw drill pipe placed and removed at an angle from the well. Watching the workmen connect one joint of casing with another, Alexander saw that they had to "force the top of each joint or casing . . . away from the center line of the derrick" in order to make the threads mesh with the threads of the preceding joint coupling. A veteran oil well driller named C.M. Potter confirmed Alexander's observations. Potter stated in an affidavit that he had "never seen or heard of" a deliberately angled well before working at Huntington Beach. Oil operators generally began drilling with the rotary table perfectly horizontal and made every effort to drill an absolutely vertical well. According to

Potter, oil operators typically engaged in whipstocking, as they called tilted drilling, to deflect a drill around an obstacle in the well, not to drill the entire well hole at an angle. Potter suggested that the operators knew that they were breaking the law, for they took “unusual precautions . . . to conceal operations by carefully enclosing the derricks.”[4]

In September the Huntington Beach story burst into full public view. “In the face of some denials and diplomatic silence elsewhere,” the San Francisco Chronicle reported, “extreme perturbation exists in high State offices over oil drilling conditions at Huntington Beach.” Oil operators extracted thousands of barrels per day from slanted wells. The State had lost millions, and the losses continued “to pile up.” Attorney General Webb’s office began to investigate the situation, vowing to restrain illegal production and seek damages for the drainage of state oil.[5] Webb’s office began to file suits in Orange County Superior Court seeking court permission to determine whether operators had drilled diagonal shafts to extract oil from state-owned tidelands.

Governor Rolph’s Director of Finance Rolland Vandegrift vowed that the State would use “every legal means” to prosecute the state’s case and recoup revenue lost to trespassers. Vandegrift estimated that the case involved oil worth $100 million. “We expect to take the case through all of the courts, if necessary,” he declared. “We have the means to make any and every investigation needed.” Vandegrift met with Orange County oil company officials and labor leaders to discuss the situation. The companies proposed a compromise payment of royalties ranging from two and a half to five percent in exchange for the State’s withdrawal of its court actions. Labor leaders warned that the government suits, if successful, would cause further unemployment.[6]

Vandegrift initially urged forceful measures against trespassers. He wrote to the Corporation Commissioner Harry Daugherty to request his assistance containing the Huntington Beach situation. Vandegrift noted that many of the operators had formed corporations and obtained permits from Daugherty’s office to sell stock or interests in their “adventure.” Others would apply for permits. Vandegrift asked Daugherty to scrutinize permit applications carefully and protect investors from buying shares of companies producing oil that ‘belongs to the State of California.” Daugherty, Vandegrift asserted, had the power to protect these investors and the people of the State of California.[7]

In early November 1933, Vandegrift escalated his rhetoric. He called the state’s case against the oil operators “the biggest suit in the United States, in the entire world, in fact. It involves $300,000,000 worth of oil under the State tidelands and the interested operators are moving heaven and earth to stop us.”[8] A week and a half later, however, Vandegrift had apparently been stopped. Changing his public position, he now specified November 13, 1933 as the cut-off for any negotiations over slanted drilling. The State would settle with operators who had begun work before that point, but not afterwards. As with the legal controversy over federal lands in the San Joaquin Valley, political acquiescence and new legal rights rewarded early positioning and brazen defiance.

Although it is difficult to document exactly what changed Vandegrift's position, the policy shift certainly involved heavy lobbying and the lure of oil royalties. An anonymous letter that materialized in 1935 described how trespassing operators formed the Huntington Beach Townsite Association and hired J. M. Jefferson, a lobbyist for small loan interests and a major supporter of Orange County assemblyman and Assembly Speaker Edward Craig, to convince Vandegrift to settle. Subsequently, any oil operators hoping to settle with the state were forced to join this Townsite Association as a precondition. Another man named Brophy, supposedly close to Governor Rolph and his son, was alleged by this anonymous accuser to have made a written contract with certain producers "under which he was to receive $100,000 for securing a contract with the State on a five or six percent royalty basis."[9]

At the same time, the Rolph administration also eagerly sought oil royalties from the Huntington Beach field as part of its effort to fill gaping holes in the state budget. During the previous June, a major fight over how to restructure California's fiscal mix had roiled California politics. The state had imposed a new sales tax, slashed property taxes, and debated a new income tax and whether to shift highway revenues away from road construction and maintenance toward general fund relief. Finance Director Vandegrift understandably looked to royalties from the Huntington Beach oil pool to help make up the state budget shortfall. The financial interest was clearly not the dominant sentiment in the Rolph Administration, however; otherwise the state would have pushed for higher royalty arrangements at Huntington Beach. Liberal Democrats and Republicans in the state legislature would articulate a state budgetary interest far more strongly beginning in 1935. Still, in January 1934, Vandegrift did link state budget calculations and the ongoing Huntington Beach negotiations. Citing the resolution of the tidelands oil issue as one of two important fiscal achievements during the previous month, Vandegrift announced progress on legal agreements and a royalty schedule. He estimated revenue of one million dollars per year from the Huntington Beach field, providing crude oil prices exceeded one dollar per barrel. Vandegrift credited cooperation from Standard Oil with the settlements, citing the company's willingness to allow trespassing operators to continue to penetrate the tideland oil pool through the company's beach bluff land. Whether it was undue political influence on the administration or the government's desire for oil royalties, Rolph and Vandegrift clearly had softened their position vis-à-vis the oil operators and Rolph ordered that the Division of State Lands devise a suitable settlement.[10]

By mid-November, at least, if not from the very beginning of the public controversy in September, Governor Rolph and Director of Finance Vandegrift wanted to settle with the operators, but could not because they lacked clear legal authority. Attorney General Webb steadfastly opposed any deals. The legal tangle centered on the following question: In the face of the 1929 legislative ban on beach and offshore drilling, could the State legally enter into easement agreements and royalty arrangement, for slanted wells that tapped oil reserves beneath the State tidelands? When Vandegrift and oil operators from Long Beach and Huntington Beach appealed to the Attorney General for a favorable ruling, Webb challenged their legal arguments and refused to cooperate. Webb contended that Vandegrift lacked the authority to enter into agreements with the trespassing operators. In an October 3, 1933 ruling, Webb conceded that a 1933 legislative measure authorized the Surveyor-General to negotiate agreements with private

operators when wells drilled on private lands drained from state lands "upon which drilling is now prohibited by law." But Webb concluded that this 1933 legislative action "in no manner refers" to royalty arrangements with firms that slanted their wells into State-owned lands. Webb instead reasoned persuasively that the

> wells referred to are those drilled wholly upon 'private lands,' and that . . . the drainage referred to is that normal and lawful drainage, which in the oil industry has significant and definite meaning and refers to that resultant drainage that occurs when a well is started upon privately owned lands and is bottomed in such privately owned lands, but in such proximity to State owned lands that oil and gas therefrom are withdrawn through such well.[11]

In short, Webb contended, the legislature could not have meant to authorize illegal entries onto State lands. The legislature could have contemplated agreements only when adjacent wells drained oil from a common oil pool.

The Huntington Beach oil operators persisted in their efforts to obtain relief from the state government. They challenged Webb's ruling with a test case in Sacramento Superior Court. In a friendly action, James B. Utt, an Assemblyman from Orange County, sued Director of Finance Vandegrift to force him to settle with the oil operators. Utt acted on behalf of Long Beach and Huntington Beach oil interests. His lawyers included the firm of Eugene Overton, the Long Beach lawyer who directed the Huntington Beach Townsite Association, which the independent operators had to join as a condition of their easements and which allegedly paid lobbyists to influence the Rolph administration.[12]

In a surprising decision that turned more on expediency than any settled body of law, Sacramento Superior Court Judge Malcolm Glenn invalidated Webb's October ruling and ruled in Utt's favor. Glenn noted that before the enactment of the 1933 amendments a large number of oil wells on private lands in Huntington Beach, presumably meaning those drilled by Standard Oil, had been draining the oil deposit centered under the tidelands. He pointed out that this condition was now generally known throughout the state. Glenn contended that "no law existed by which the State of California could obtain any revenue or compensation for such drainage." The situation at Huntington Beach was dire, he thought. "Except for the powers given to the Director of Finance under the provisions of said Chapter 593 . . . the entire oil reserve of the State of California would, within a comparatively short space of time, be exhausted without any return or compensation whatever to said state." Without offering any evidence of legislative intent, Glenn reasoned that this legal vacuum and the threat to the State's oil reserve caused the legislature to act as it did. He did not address the crux of Webb's opinion, that the 1933 law allowed agreements for legal drainage, but not illegal trespass. Glenn authorized Vandegrift to make the royalty agreements.[13] Previous to his decision in *Utt v. Vandegrift*, Glenn had struck down as unjustified the urgency stipulation of the January 1929 Bliss measure, a decision overruled on appeal. Utt and Vandegrift had found a sympathetic judge for their friendly suit. Not surprisingly, Vandegrift did not appeal Glenn's favorable ruling, and thus the appellate court did not consider it.[14]

Following Judge Glenn's favorable December ruling, Vandegrift proposed a royalty schedule for operators tapping the States Huntington Beach field. Percentages would vary according to amount produced and prices obtained on the market. Under the sliding scale of the tentative schedule proposed on December 8, wells producing fifty barrels per day at a price of $.50 per barrel would pay the minimum royalty of five percent. Those producing a high three thousand barrels per day at the unlikely price of $1.75 would pay the maximum royalty of sixty six percent. Producers in-between that maximum and minimum would owe varying amounts— at the time that Vandegrift announced the royalty schedule, the lowest production in the field was six hundred and twenty barrels per day, which would have yielded a royalty of twenty two percent. The average royalty was expected to be around fifteen percent and the total annual net revenues to the state around one million dollars. Vandegrift called the schedule "fair." It was the State's "last word."[15]

To force unwilling Huntington Beach operators into royalty arrangements, the State continued to press litigation against the trespassing companies. The litigation proceeded smoothly. The evidence was overwhelming. By January 1934, the State had obtained confessions from E. E. Combs and Frende Combs, officials of the Termo Company, their test case.[16] By March 1934, the State Lands Division reported that California had collected more than $340,000 from operators who had signed royalty agreements. At the same time, however, Vandegrift anticipated that low oil prices and a statewide oil conservation program that lowered oil production would sharply cut state oil royalties. Royalty payments from the Huntington Beach operators would total only half his original estimate of one million dollars per year.[17]

In the spring of 1934, when many operators still resisted royalty agreements, Vandegrift continued to assert that the State would pursue "hard-boiled tactics" to recover revenues on oil drained from the Huntington Beach pool. In Los Angeles to meet with fifteen operators who reportedly desired to discuss a possible settlement, Vandegrift told the newspapers "Everybody has had plenty of time to settle. Some operators who have thought that we are easy are going to discover that we are not." Any operators draining from State lands who had not signed agreements with the State by April 15, would face suits to close their wells. The suits would claim one hundred percent of the petroleum products of the wells.[18]

Despite the compromising position in which trespassing oil operators found themselves, Orange County politicians still pressured the state government to back off. Lawyers for the city of Huntington Beach warned that the state's actions interfered with local property valuations and filed a complaint to stop the State from pursuing its suits against local oil operators. The Huntington Beach complaint, filed at the instigation of the City Council by Attorneys L. W. Blodget and George Bush, contended that the operators had the right to simply take the tidelands oil. According to their reasoning, California owned its tidelands in trust for the people only for the purposes of commerce, fishing and navigation, not for any other economic activity. Oil in the tideland pool was thus simply "free to anyone who can reduce it to possession, provided he commences to drill his well on his own land."[19] The lawyers also questioned whether the State truly had dominion over the tidelands, or whether title in fact rested with the federal government.

The real villain, argued attorneys Blodget and Bush, was Standard Oil, which would “benefit most by a decision restraining the independents.” As early as 1927, the lawyers reminded the superior court, the *Standard Oil Bulletin* had printed pictures of company wells at Huntington Beach.

> All the Court has to do is go to Huntington Beach, stand on the bluff and look at the row of Standard Oil wells actually drilled on the Beach, and he can and must take judicial notice that the wells of the Standard Oil Company are not only draining oil out from under the submerged and tide lands of the Pacific Ocean but that the wells are actually situated upon the said tide and submerged lands.

Until the independent operators drilled into the tidelands and agreed to easements with the state, the city complained, Standard Oil alone had drained the oil, without paying any compensation to the State of California.[20]

The City of Huntington Beach and Orange County politicians thus waded into the fray on behalf of local oil operators. Orange County Assemblyman Edward Craig demanded that Vandegrift investigate Standard Oil’s wells to determine whether they tapped the State pool and thus were subject to a royalty charge. And in the State’s case against the Wilshire Oil Company, Huntington Beach filed a cross-complaint against Standard and its affiliates, the Pacific Electric Railway Company, the Pacific Electric Land Company and the Huntington Beach Company. The complaint accused these codefendants of having joined the State “in harassing property owners and oil operators.” The city’s lawyers charged that Standard had conspired with the State: Standard would help arrange royalty agreements with independents, and, in exchange, the State would not undertake like action against Standard and its associates. Huntington Beach claimed that state officials had known for years that Standard and others had pumped state oil from coastal wells, and that more than six million barrels of oil had been extracted without any compensation to the State. The City Council’s aggressive position on slanted drilling contained an element of self-preservation for at least one member. The Huntington Beach Oil Company, operated by City Councilman John Marion, was among those named in suits over two wells that demanded $300,000 in damages.[21]

Vandegrift used the promise of generous deals with the state and the threat of aggressive litigation if operators rejected the offers to get the final independent operator, the W. K. Company of Los Angeles, to settle in December 1934. This was the sixty-sixth company against which the State had taken action to recover oil royalties. Webb Shadle, attorney for the Division of State Lands, estimated that the agreements together would yield about $100,000 a month. The State also would receive an additional $850,000 for oil and gas extracted before the State learned of the drainage of its properties.[22] A calculation done several years later indicated that the royalties averaged a little below twelve percent.[23] This royalty rate exceeded the five percent prospecting royalty stipulated in the state mineral leasing act and approximated the rate for proven oil lands. But the royalty percentage contrasted sharply with thirty to forty percent royalties proposed only a few years later.

In response to complaints by independent oil operators and city and county officials, Governor Rolph instructed a new Director of Natural Resources, George Nordenholt to investigate possible collusion between the State and Standard Oil.[24] Perhaps not surprisingly, the State did not uncover conspiracy. But state investigators did find that a number of Standard Oil's wells drained from the State tidelands. Vandegrift's successor in the Department of Finance, Arlin Stockburger, moved quickly to make royalty arrangements with Standard Oil on the same terms as with the independent operators at Huntington Beach. They "should all be treated alike," he maintained.[25]

The Rolph Administration Settlements in the Context of Private Litigation

Why did Rolland Vandegrift and the Rolph Administration settle out of court for relatively low royalties? The public capitulation to trespass underscored the mix of politics and law that shaped the management of publicly owned natural resources. No industry consensus supported the independent companies that slanted their wells under the tidelands. Many members of the California oil industry vocally disapproved of the tactics of the Huntington Beach oil operators. Proposed revisions to an August 1933 document on regulating oil production in California, for example, distanced statewide oil industry committees from the unethical behavior of the Huntington Beach operators. One key subsection underscored the fundamental point that "Subsurface equities are coincident in extent with surface ownerships and have the same inalienable and inviolable rights as property." In other words, diagonal drilling violated clear property rights and constituted unlawful trespass. Another subsection specifically attacked slanted drilling practices at Huntington Beach, declaring that the "abnormal and unconventional development of any field such as is now occurring in the Huntington Beach ocean front area . . . is so contrary to any conceivable code of ethics or regulation as to merit the utmost condemnation,"[26] The industry generally embraced vertical property rights and repudiated Huntington Beach diagonal drilling.

The California courts similarly rejected slanted drilling. In contemporaneous cases involving private parties, California courts protected landowners and lessees from trespassers who penetrated their land through slanted wells. The technique for controlling the direction of well drilling had spread quickly in the southern California oil industry. Even as the State made public the Huntington Beach trespasses in 1933, several oil operators used slanted wells to tap oil pools underlying neighboring private lands. The injured parties filed suit to stop production, as Vandegrift had to force easement agreements. They also requested monetary damages equal to the quantity of oil extracted from beneath their lands. These private legal actions provide further context for—and, indeed, run directly counter to—the policy decisions made by the California government at Huntington Beach.

In the spring of 1934, even as Vandegrift forced the Huntington Beach operators into relatively insubstantial royalty agreements, the Union Oil Company confronted a similar problem. Several small oil operators had drilled slanted wells into productive pools below Union leases. In one case, Union lawyers sent numerous warnings to the Marine Corporation and its successor

company, the Reconstruction Oil Corporation. The letters pointed out that well-drilling technology had advanced to such an extent that wells could be controlled and directed, bottoming at some distance from the original drill site. Union Oil advised the smaller companies that they should not let their wells come within the boundary line of Union's lease. The smaller operator did not reply to the letters and ignored Union's warnings. Through the spring, the Marine Corporation continued to develop the Hines No. 1 well at issue in the case. The subsequent trial revealed that during the course of drilling the well the Marine Corporation used "directional or deviational tools consisting of whipstocks, Lucey spud bits, and knuckle joints . . . for the purpose of changing the direction which the well was taking in the course of drilling." A survey of the well in November 1934, indicated that "all of Hines No. 1 well below a depth of 1700 feet was wholly upon and within the property covered by plaintiff's lease."[27]

While drilling its diagonal well, the Marine Corporation applied to the California State Corporation Commissioner for a permit to issue stock certificates. The corporations department, however, pursuant to Vandegrift's request for vigilance, refused to issue the permit until the company provided an affidavit stating that it did not intend "to trespass upon or under neighboring premises." For an unspecified reason, most likely the corporation officers' intent to trespass on Union Oil property, the Marine Corporation withdrew its permit application. In June 1934, dancing neatly around the California Corporation Commissioner, the company assigned its leasehold interest in the land to the Reconstruction Oil Company, newly incorporated in the State of Nevada.[28]

As the new Reconstruction Oil Company drilled under Union's Signal Hill lease, the Union Oil Company sought injunctive relief to stop them. The case thus began as an equitable claim in state court, meaning that instead of suing for monetary damages, Union Oil asked the court to block the actions of Reconstruction Oil Company. As the case proceeded, however, and Reconstruction brought its well to production, Union also initiated a legal action requesting damages for the lost oil as well.[29]

Union Oil prevailed on all counts. The court ordered Reconstruction Oil to stop producing from under Union Oil property, to pay damages of $22,557 plus interest equal to the value of the oil extracted, and to pay Union's legal expenses.[30] The Reconstruction Oil defendants appealed the decision, arguing that their right to a jury trial had been infringed upon, and that the calculation of damages had been flawed because it had not deducted the costs of the well. The appellate court harshly rebutted this appeal and affirmed the trial court decision. The appellate court concluded "a jury properly instructed and properly performing its duty could have returned no other verdict than one favorable to [Union Oil] for the precise amount which was here awarded as damages."[31] Slanted drilling would find little sympathy in the state courts.

Slanted-well operators like the Reconstruction defendants trespassed deliberately. They sought to take advantage of the hidden, underground nature of the oil wells, remaining uncertainty about whether drillers could control the direction of their wells, and the fluid ambiguity of oil itself (which already confused property rights in oil). A second Union Oil case suggests how deliberate the trespasses were. *Union Oil v. Mutual Oil Co.*, like *Union Oil v. Reconstruction Oil*, combined

a demand for an injunction with a Suit for monetary damages. The defendants lost in the trial court and in their first appeal,[32] as the courts found that Mutual Oil Co.'s Carpenter No. 1 well had been "intentionally and deliberately diverted and drilled so as to slant under and to trespass upon the Reyes lease" held by Union Oil.[33] Two thousand two hundred and sixty feet of the Carpenter No. 1 well trespassed on the Reyes lease, extending a horizontal distance within the latter lease of more than one thousand feet. After losing their first appeal, two of the company's organizers, Bysshe and Barratt, appealed again. They now disputed their personal liability for damages. Their second appeal turned on whether the trial court had correctly found that they had "knowingly caused the trespass to be made" and "knowingly participated in the intentional drilling of the trespass well under plaintiff's property and stealing the oil therefrom."[34] The lengthy account by the appellate court described in great detail the evidence that Bysshe and Barratt had knowingly perpetrated the trespass. Before they began their operations, at least one expert had warned the defendants that their lease was not promising and that "they might get in a jam if they drilled a crooked hole." But the defendants pressed ahead, hiring a former Union Oil employee with knowledge of Union's operations on the neighboring lease. In the process of drilling the well, the defendants had the drillers use special equipment to direct the well diagonally and to carefully track the course of the well below ground. Around January 1934, however, the defendants told the drilling superintendent to omit any reference to directional tools in the log of operations. Shortly afterwards the oil well penetrated Union's property.[35] Bysshe and Barratt had carefully organized to tap the oil field lying underneath their neighbor's lease and even concealed the deliberate trespass in their record-keeping for the drill hole. The trespassing operators at Huntington Beach who uncharacteristically hid their drilling equipment were thus part of a larger group of transgressors in the oil industry.

These two Union Oil cases were decided by the state court of appeals. When the California Supreme Court finally considered the issue in 1939 in *Pacific Western Oil Co. v. Bern Oil Company*, it similarly showed little sympathy for slanted-well drillers.[36] The California court fit migratory oil within traditional property law as much as possible, rejecting the idea that an oil company could freely drill beneath a neighbor's land. *Pacific Western* resembled the Huntington Beach situation in a number of ways. A fault prevented underground drainage between productive and non-productive oil lands. Similarly, the leaseholder of the surface land, like the State of California at Huntington Beach, may not have been exploiting the oil zone from which the trespasser had extracted oil.

In 1930 or 1931, Pacific Western Oil Co. leased 160 acres of land in Kern County and proceeded to develop seven producing wells on the land. In the process, Pacific Western discovered a fault running across the quarter section. As at Huntington Beach, the fault meant that the company could produce oil from only part of the lease. In May 1931, Pacific Western thus quitclaimed approximately two thirds of the lease (parcel B), retaining the one third (parcel A) from which oil could be and was being produced.

Two years later, in March 1933, the Bern Oil Company leased parcel B. Between June 1933 and January 1934, the same time that oil operators trespassed on the Huntington Beach tidelands, Bern Oil completed three wells, all forty feet or fewer to the east of the boundary between

parcels B and A. Under the direction of an expert on slant drilling, each well was "whipstocked" or slanted to the west, through the fault, and under parcel A. All three produced oil.[37]

The Pacific Western Oil Company grew increasingly concerned that its neighbor had drilled beneath its lease. In November 1933, even as Vandegrift proposed to settle generously with the Huntington Beach operators, Pacific Western demanded that Bern Oil cease its trespass. When Bern Oil did not respond, Pacific Western alerted the local district attorney's office. The district attorney brought the case before the local grand jury, which indicted the Bern Oil Company principals for grand theft in March 1934.[38] While the prosecutors organized their case, the Bern Oil defendants persisted with production. Pacific Western therefore began a civil action in July 1934, resulting in a preliminary injunction in early August. The Bern Oil defendants disobeyed the injunction, for which they were cited, judged guilty of contempt, and fined.[39]

The civil action moved through the courts and arrived at the California Supreme Court in 1939. The court faced questions similar to those before the appellate court in *Union Oil v. Reconstruction Oil*. First, when a case brought in equity— as when the Pacific Western sought an injunction to physically stop Bern Oil from drilling and producing— acquires a legal component in the form of monetary damages for the oil already extracted, did the defendant gain the right to a jury? A judge alone typically decides equity cases, whereas in legal proceedings defendants are entitled to a jury trial. Second, when determining monetary damages, could the defendants deduct the expenses of their slanted well, or should they pay one hundred percent of the oil produced without deducting expenses? In typical equity cases, courts often follow the equitable rule that "he who seeks equity must do equity." In this case, the rule might have meant that Pacific Western should reimburse Bern Oil for the cost of drilling the three wells.

The California Supreme Court ruled decisively against the trespassing oil operators. The court agreed with the defendants' claim that they were entitled to a jury trial when a legal action emerged in the midst of an equity claim. Yet the court saw no reason to retry the case in front of a jury. Upon reviewing the facts of the case, the court determined that the appellate courts in the Bern Oil case, as in the Union oil cases, had ruled correctly without a jury. A jury could have reached no other damage verdict in the case. The court wrote:

> The facts of the case clearly show that . . . the wells were located on the surface of [Bern Oil's] land only a few feet from the boundary line of [Pacific Western's] land. After the wells were drilled a comparatively short distance they were deliberately diverted . . . hundreds of feet beyond the boundary line . . . No jury properly instructed and properly performing its duty could have returned a verdict that the [Pacific Western] was not damaged by these acts of the [Bern Oil defendants]. As to the amount of damages . . . there is no contest whatever.[40]

Slanted drilling, in other words, was an open-and-shut legal case. On the question of reimbursement for expenses, the court similarly decided that there was no way that expenses should be deducted from this simple calculus of damages. The Bern Oil defendants had claimed reimbursement under the provisions of a recently added section of the Code of Civil Procedure.

The act adopting section 349 3/4 in 1935, after the proceedings had begun, noted that many oil and gas wells in California were not wholly within land owned or controlled by owners or operators. Until recent years, the act declared, operators could not determine the subsurface location of the well. In many cases, the wells were drilled innocently— with no intention of invading neighboring lands. Yet to the dismay of the Bern Oil defendants, the California court concluded that this legislation did not protect their actions. The state legislature had "not intended" relief "in a case where a well is intentionally diverted into the land of another," the court declared. Pacific Western owed no reimbursement to Bern Oil Company for the Bern Oil defendants who had "secretly and fraudulently" taken the oil "had no equities."[41]

The two Union Oil cases and the Pacific Western decision strongly indicate that Finance Director Vandegrift and the state government would have won easily injunctions to close the Huntington Beach slanted wells as well as suits to collect one hundred percent of the oil extracted. Nathan Newby, one of the Reconstruction Oil defendants, made this point when he complained bitterly that Standard Oil also should be held to one hundred percent of production. While the law permitted natural drainage from wells, the Huntington Beach operators intentionally had trespassed on State property. They might have been prosecuted more easily for theft than granted easements.[42] Attorney General U. S. Webb had prosecuted Bern Oil and its principals on similar grounds. Rolland Vandegrift, like U. S. Webb, knew that state law supported California's demand for an injunction and its claim to all the oil drained by trespassers Huntington Beach.[43] Vandegrift sued the Huntington Beach trespassers for full damages and an injunction, just as Union Oil and Pacific Western did in the cases discussed above.[44] But the finance director simply sought to pressure those operators who had resisted negotiations. Vandegrift dropped the suits as soon as he achieved settlements.

Vandegrift and Governor Rolph wanted the revenues from the Huntington Beach royalty deals. They also favored politically powerful oil operators, including Standard Oil and the smaller independent companies. As a result, the State transferred public resources into private hands for very low returns, contrary to the law barring coastal oil development. During the fiscal crisis of the 1930s, and amid the general overproduction of oil during that same time, this short-sighted generosity cost the stare tens, if not hundreds, of millions of dollars and led to the rapid and early development of publicly owned natural resources.

Vandegrift tread a fine line with his Huntington Beach policy. He wanted oil royalties to help balance the state budget. At the same time, oil operators throughout the state and California public officials worried that Huntington Beach crude further demoralized the oil market by contributing to overproduction and low prices. Huntington Beach operators were among the "chief offenders" disregarding state oil quotas, as Ralph Lloyd, the head of the state conservation committee complained.[45] Vandegrift also could not completely ignore the 1921 prohibition on tidelands leasing near municipalities and 1929 law barring leases along the coast generally. To allow some production, but not too much, Vandegrift struck deals with operators who had begun drilling wells by November 1933. But he would not negotiate with anyone who tried to get in afterwards. Vandegrift's solution, of course, rewarded oil operators guilty of trespass and theft while those who had obeyed the law could not access the same resources. Huntington Beach

landowners who had not brazenly drilled into the State tidelands were left begging to be included in the game. In January 1934, Orange County Assemblyman Craig asked Vandegrift to allow one hundred additional property owners in Huntington Beach to whipstock wells into the State pool on a royalty basis. Vandegrift refused the additional easements, declaring the Huntington Beach field overdrilled.[46]

Conclusion

This California struggle over coastal oil drilling in the 1920s and early 1930s underscored the increasingly uneasy relationship between coastal extractive industry and the booming tourist, recreational and residential economy. In the 1920s and l930s, the state confronted the question of how and whether these two economic sectors could coexist. Surveyor General W. S. Kingsbury and Attorney General Ulysses S. Webb favored beach protection and feared that widespread coastal drilling would imperil the recreational use of the beaches, the fishing industry, and other businesses dependent on the coast. Yet the California Supreme Court's decision in *Boone v. Kingsbury* scuttled Kingsbury and Webb's effort to block coastal drilling in the Santa Barbara region. The California court denied the surveyor general discretionary power to withhold state drilling permits from applicants.

Beach protection advocates in the legislature, however, spurred on by coastal real estate developers and small business groups, rejected the Court's *Boone* ruling one month later in 1929. They passed an emergency moratorium on new coastal oil permits and followed it several months later with an outright ban. Yet the clear legislative mandate of 1929 yielded only mixed results in terms of beach protection. The new legislation did not affect drilling permits that the California Supreme Court had already approved in *Boone*. As a result, a coastal drilling spree took off in the Santa Barbara region in 1929 and 1930. The 1929 statewide ban did pass before a similar tidelands oil rush in the Los Angeles region. But the temptations of rich oil pools prompted constant efforts to circumvent the ban. At Huntington Beach small oil companies and local government officials fumed as Standard Oil quietly established lucrative wells on the beach bluff. The oil companies and local government fought in the state legislature and on the popular ballot to open the tidelands to new oil operations. They also tried to compete with Standard's operations from the upland side by proposing to dig up the coastal highway and bury oil wells beneath it.

Repeatedly unsuccessful in legal and political maneuvers, enterprising independent oil operators at Huntington Beach finally tilted their drills towards the ocean and began to drain the state's valuable petroleum through slanted wells. These slanted wells clearly violated industry practice and legal norms, in addition to the 1929 drilling ban. Yet Governor James Rolph's administration did not enforce the coastal drilling ban or aggressively protect the state's financial interest in the Huntington Beach oil field. Instead the state administration and the trespassers agreed to generous easement agreements, settlements of dubious legality, seemingly in violation of the 1929 ban on new leases. This extraordinary transfer of publicly owned natural resources to numerous small private companies provoked little serious opposition in 1934. But in 1935 a

liberal group of largely Democratic politicians entered the state legislature. At the same time, a new Republican governor attempted to extend the generous easement terms to Standard Oil's trespassing wells. Over the next four years, until the gubernatorial election of 1938, the Huntington Beach controversy served as a lightning rod for conflicts between the state legislature and the Republican gubernatorial administration.

Endnotes: Chapter 4

[1]"Tidelands Oil Wells Approved," *LAT*, 19 July 1933, Part I 10:3; "Huntington Beach Oil Leasing Wins In Assembly," *LAT*, 22 July 1933, Part I 2:6.

[2]"Beach Oil Drilling," *LAT*, 25 July 1933, Part II 4:2.

[3]Howard Kegley, "Oil News," *LAT*, 12 August 1931, Part I 17:8; Howard Kegley, "Oil News," *LAT*, 14 October1931, Part I 19:1; Howard Kegley, "Oil News," *LAT*, 6 June 1932, Part I 15:1; R. E. Allen to Members Central Proration Committee, 30 January 1933, Lloyd Collection, Box LCL 8(l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL; Howard Kegley, "Oil News," *LAT*, 11 July 1933, Part I 14:8; Affidavit of C. M. Potter, 2 January 1934, *People of the State of California v. Termo Oil Company*, Case #31452 in Orange County Courthouse; Howard Kegley, "Oil News," *LAT*, 9 August 1933, Part I 13:4; "Six City Streets Leased for Oil Drilling by Huntington Beach City Council," *LAT*, 27 May 1933, Part II 6:8.

[4]Alexander described these surveillance activities when he requested funds to pay for the repair of binoculars rented for regular long-range observation of Huntington Beach drilling. Arthur Alexander, "Supplemental Expense Account," 1 November 1934, Finance- State Lands- Los Angeles, CSA; Affidavit of Arthur H. Alexander, 25 October 1933, in, *People of the State of California v. H. John Eastman, Ltd.*, (Case No. 31452, Orange County Superior Court); Affidavit of C. M. Potter, 2 January 1934, *People of the State of California* v. *Termo Oil Company*, Case #31452 in Orange County Courthouse.

[5]"Huge State Oil Loss in Beach Field Rumored: Official Reported Perturbed Over Talk of Pilfering," *SFC*, 6 September 1933, 4:1; "State to Restrain Illegal Oil Practice," *SFC*, 14 September 1933, 3:2.

[6]"State Will Press Fight in Oil Row," *LAT*, 29 September 1933, 3:2; "State to Press Oil Well Suits," *LAT*, 20 September 1933, 3:1.

[7]"State Finance Head in Oil Row," *LAT*, 19 October 1933, 8:2. In February 1934, Vandegrift again appealed to the Corporation Commissioner for help enforcing the ban on new drilling. Having learned that same people were preparing to drill new wells in order to tap the tidelands reservoir, Vandegrift announced, "I am placing more investigators in the field. As soon as we discover anyone drilling a new well, we shall seek an injunction. I am notifying the State Corporation Commissioner of my views and plans and asking him to proceed against any person who represents that he will produce oil from State tidelands. If any well has been started since November 13, he will seek to close it." "Dock Approved by Vandegrift" *LAT*, 4 February 1934, 18:1. Daugherty's office did require affidavits from some, if not all, companies applying for permits to issue stock in California. This blocked at least one company from going forward with its development plans. See, Reconstruction Oil Company case discussed in the case below.

[8]"Tidelands Row Aired," *LAT*, 2 November 1933, 1:1.

[9]Anonymous to Culbert L. Olson, 9 July 1935, Olson Papers, Box 3; for details on Jefferson, see, H. R. Philbrick, Legislative Investigative Report (Sacramento: Edwin N. Atherton and Associates, 28 December 1938), Sec. IV-42, Sec. II, 18.

[10]"State Revenue Increase Seen," *LAT*, 2 January 1934, 12:2; "Governor Is Due To Hold Hearing On Tideland Oil," *SB*, 10 July 1935, 1:7.

[11]U.S. Webb to Dudley D. Sales, C. R.. Smith, and Wm. H. Cree, 3 October 1933, in the complaint of Utt in *Utt v. Vandegrift.*

[12]*James B. Utt v. Rolland A. Vandegrift*, Sacramento Superior Court, 9 December 1933, Case No. 49963.

[13]*Utt v. Vandegrift*, Sacramento Superior Court, 9 December 1933, Case No. 49963.

[14]See, *Hollister v. Kingsbury*, 2 February 1933, 129 Cal. App. 420, (reversing Glenn's order that Kingsbury had to grant a prospecting permit to Hollister).

[15]Floyd J. Healey, "Oil Royalties Plan Drawn Up," *LAT*, 8 December 1933, 2:1.

[16]"Restrainment of State Oil Suits Sought: Beach City Asserts Action Interfering with Valuations." *SFC*, 5 January 1934, 25:7. The Department of Finance won a court judgment against the Termo oil company, but then settled for royalties under an easement. *People of the State of California* v. *Termo Oil Company*, Orange County Superior Court, Case 31452, "Judgment and Decree," 8 August 1938. Easement is "Amended State Oil and Gas Easement No. 272."

[17]"Beach Oil Pool Heads Warned," *SFC*, 24 March 1934, 7:7; "Vandegrift Will Submit Leases to Legislature," *LAT*, 24 February 1934, 2:1.

[18]"State to Push Oil Cases," *LAT*, 11 May 1934, 9:2; "Beach Oil Pool Heads Warned," *SFC*, 24 March 1934, 7:7.

[19]"Restrainment of State Oil Suits Sought: Beach City Asserts Action Interfering with Valuations." *SFC*, 5 January 1934, 25:7.

[20]George Bush and Lewis Blodget, "Reply Memorandum on Behalf of Certain Defendant Property Owners," April 1934, Olson Papers, Box 3, from the case *State of California v. Milroy Oil Co., Pacific Electric Railway Company v. Milroy Oil Co.*, Orange County Superior Court. 4-5.

[21]"State Demands $400,000 From Oil Operators: Suits Filed in Attempt to Shut Down Beach Producers," *SFC*, 31 January 1934, 20:8; "State's Share on Oil Set High," *LAT*, 24 January 1934, 3:1; "Beach City Accuses State In Oil Scheme: Municipality Says Group Promised Leniency to Large Firms," *SFC*, 4 February 1934, 13:2.

[22]"Tide Lands Oil Row Settled," *SFC*, 16 December 1934, 8:1

[23]"Production Data Huntington Beach Field," October-November 1936, Olson Papers, Box 3.

[24]"New Director Opens Probe of Oil Royalties: State Officials, Standard Oil Alleged Plot Under Investigation," *SFC*, 6 February 1934, 4:5.

[25]California Legislature. Special Committee on the Abstraction of Oil and Gas from Tidelands of the State of California. In the matter of the investigation by a Special Committee of the Senate of the State of California of the Abstraction of Oil and Gas from the Tidelands of the State of California: Reporter's Transcript of the Proceedings. Sacramento: California State Printing Office, l935-l937 (hereafter Olson Committee, Proceedings), 9 July 1935 and 10 July 1935, 8-15.

[26]R, E. Allen to Members Central Proration Committee, 14 August 1933, Lloyd Collection, Box LCL 8(l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL. These "Regulations for Development and Production of Petroleum in California" also condemned unconventional development along the Mount Paso fault, where similar drilling was apparently being done. See also, Emil Kluth to Ralph B. Lloyd, 26 October 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee, HL. Kluth reported that the Santa Fe Springs operators decided that NIRA petroleum code should contain adequate provisions to prevent "inequities caused by the intentional drilling of wells across property lines." The Santa Fe Springs operators felt, however, that the clause declaring that "subsurface ownerships as well as surface ownerships have inalienable and inviolable rights of property" should be deleted. Presumably in the closely drilled Santa Fe Springs field, wells could easily drift off small lots into neighboring property.

[27]*Union Oil Company of California v. Reconstruction Oil Company*, California Court of Appeals, 2 April 1937, 20 Cal. App. 2d 170, 176.

[28]*Union Oil v. Reconstruction Oil*, 20 Cal. App. 2d 170, 175.

[29]*Union Oil v. Reconstruction Oil*, 20 Cal. App. 2d 170.

[30]*Union Oil v. Reconstruction Oil*, 20 Cal. App. 2d 170, 173.

[31]*Union Oil v. Reconstruction Oil*, 20 Cal. App. 2d 170, l89.

[32]*Union Oil Co. v. Mutual Oil Co.*, Court of Appeals of California, 3 March 1937, 19 Cal. App. 2d 409.

[33]*Union Oil Company of California* v. *Mutual Oil Company*, Court of Appeals of California, 30 June 1937, 21 Cal. App. 2d 620, 621.

[34]*Union Oil v. Mutual Oil*, 21 Cal. App. 2d 620, 621.

[35]*Union Oil v. Mutual Oil*, 21 Cal. App. 2d 620, 622-623.

[36]*Pacific Western Oil Co. v. Bern Oil Company, Ltd.*, Supreme Court of California, 3 March 1939, 13 Cal. 2d. 60.

[37]*Pacific Western v. Bern Oil*, Supreme Court of California, 3 March 1939, 13 Cal. 2d. 60.

[38]*People v. Bert Brunwin*, Court of Appeals of California, 19 November 1934, 2 Cal. App. 2d 287. In *People v. Brunwin*, the Court of Appeals supported Attorney General Webb's contention that oil was attached to realty, even if it were not absolutely owned and could be extracted from neighboring property if part of a common pool. The case went to the heart of U. S. Webb's claim that oil could not lawfully be severed from the soil beneath another person's property except by natural drainage. In *People v. Brunwin*, the Court of Appeals reversed the extraordinary decision of the Kern County Superior Court to dismiss the indictment against Brunwin, et al. (Technically, the court sustained a demurrer to an amended indictment.) The appellate court rejected the trial court's reasoning and agreed with the district attorneys and the State Attorney General that the taking of oil from beneath another's property constituted grand theft. The files on this appellate case (the appeal of the Superior Court ruling against the district attorney) are missing from the appellate court records in Sacramento. Since relevant records from the California Department of Justice also appear unavailable, it is not clear how U. S. Webb became involved in the appeal or what connections he saw among these contemporaneous cases.

[39]*Bern Oil Co. v. Superior Court*, 5 Cal. App. (2d) 21; *Pacific Western Oil Co. v. Bern Oil Company, Ltd.*, Supreme Court of California, (3 March 1939) 13 Cal. 2d. 60, 64.

[40]*Pacific Western Oil Co.* v. *Bern Oil Company*, Supreme Court of California, 3 March 1939, 13 Cal. 2d. 60, 70-71.

[41]*Pacific Western Oil Co.* v. *Bern Oil Company, Ltd.*, Supreme Court of California, 3 March 1939, 13 Cal. 2d. 60, 72-73.

[42]Nathan Newby to Culbert L. Olson, 22 April 1937, Olson Papers, Box 3. Newby was particularly incensed about the case because Standard Oil held a significant stake in Union Oil and thus had been party to the prosecution of the case against Newby himself. Now Standard received lenient treatment and millions of dollars of the public's oil.

[43]"Beach Oil Pool Heads Warned," *SFC*, 24 March 1934, 7:7.

[44]"State Demands $400,000 From Oil Operators: Suits Filed in Attempt to Shut Down Beach Producers," *SFC*, 31 January 1934, 20:8; "State Files New Claim in Oil Dispute: Damages of $500,000 Sought From Calif. Producers," *SFC*, 1 February 1934, 21:4.

[45]Lloyd to Ickes, 18 September 1933, Lloyd Collection, Box LCL 8(l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[46]"State's Share on Oil Set High," *LAT*, 24 January 1934, 3:1.

Chapter 5

"The same unsavory smell of Teapot Dome"?[1]

Public Finance and Coastal Oil, 1934-1937

California Governor James Rolph's administration sought to use easement agreements to resolve the Huntington Beach trespassing scandal tidily. But changing slate politics during the Great Depression prevented a swift conclusion to the tidelands oil problem. Liberal Democrats elected to the state legislature in 1934 used the tidelands oil controversy to attack the dominant Republican Party. To these Democratic politicians, the tidelands oil controversy symbolized the Republican administration's eagerness to transfer millions of dollars of public natural resources to private economic interests, including the Standard Oil Company of California. Between 1934 and 1938, state politicians battled repeatedly over tidelands oil legislation. State Senator Culbert Olson, the state Democratic Party Chairman, particularly seized on the oil issue. Olson initiated a lengthy investigation of the Huntington Beach situation that helped position him for the 1938 gubernatorial race. Olson and his allies drew the debate over coastal oil into the complex economic politics of the 1930s. They underscored how the management of public natural resources was intertwined with questions of public finance. In general the Democratic group did not oppose coastal oil development. Rather, they advocated greater state control and dramatically higher state royalties. They also continued the effort to break Standard Oil's monopoly at Huntington Beach.

After years of fierce political struggle, passage of the State Lands Act in 1938 and the election of Governor Culbert Olson that same year temporarily ended two decades of wrangling over coastal oil reserves. The State Lands Act resolved tensions between industrial and other uses of the coast by tying beaches and oil together in an uneasy embrace. Coastal oil royalties would fund the rapid expansion of California's cash-strapped beach and park system. Drilling on state-owned lands would proceed on uplands or filled tidelands only. The state legislature also responded to allegations of corruption in state lands management by opening the management system to greater scrutiny through a new State Lands Commission. Throughout the tidelands oil conflict, California's petroleum politics evolved largely independent of the federal government. The state courts, legislature, and executive branch, as well as private economic interests often played similar institutional roles in familiar political dynamics. But additional political players at the state level, particularly coastal real estate and small business groups, and distinct political institutions like the initiative and referendum decisively shaped the course of state politics and the development of California's coastal oil lands.

Sabin - Chapter 5

The EPIC Democrats and California's New Petroleum Politics

After James Rolph died in office in June 1934, Lieutenant Governor Frank Merriam, a Long Beach real estate man and a stalwart conservative Republican, succeeded him as governor. Then in the November 1934 gubernatorial election, Merriam narrowly prevailed over Democratic candidate Upton Sinclair and his radical End Poverty in California (EPIC) movement.[2] The Republicans thus retained the governor's house, bucking a rising Democratic tide across the nation. But the election of many liberal Democrats who shared the ticket with Sinclair tempered Merriam's victory. Culbert Olson, Sinclair's appointee as chairman of the Democratic State Central Committee, was elected state senator from Los Angeles and he became a prominent leader of the state party, rallying progressive forces in the Assembly and Senate.[3] During the 1935 legislative session, progressive politicians in the state legislature fought the Republican administration on many issues, including Huntington Beach tidelands oil drilling. At the end of May 1935, the new bloc of twenty-six EPIC Democrats (and two liberal Republicans) denounced the inequities of the state budget and delayed its passage in the assembly. As the Sacramento Union described, the politicians "took their crusade for revenue and social reform to a state-wide radio audience," with State Senator Culbert Olson, the head of the Democratic State Central Committee, "lashing Governor Merriam as 'subservient to the reactionary minority.'" The EPIC bloc demanded that California restructure its system of public finance to favor the less well off. The tidelands oil problem now became thoroughly intertwined with larger conflicts over state finance. In the summer of 1933, California had radically restructured its tax system, sharply reducing property taxes and replacing the lost revenue with a two and a half per cent sales tax. Now in 1935, liberal Democrats and Republicans sought to reduce the new state sales tax (and exempt food), raise corporate and inheritance taxes, institute a progressive income tax and old age pensions, and pass new measures to protect natural resources and provide for their more equitable distribution.[4] "The problem of taxation," Olson declared, was the "most vital and serious" issue facing the new legislature. With millions of dollars in revenue at stake at Huntington Beach and elsewhere along the coast, fierce legislative battles ensued over state leasing policy.

In the face of dissent in the legislature, the Republican administration's compromises at Huntington Beach became less tenable. The vulnerability of the settlements increased when the Merriam administration extended the generous easement terms to the Standard Oil Company of California. In contrast to the planned Republican give-away, the EPIC bloc saw Huntington Beach oil as a potentially crucial source of income. The tideland oil fields were "unbelievably wealthy," according to assembly Democratic leader William Mosely Jones. The petroleum was "owned by the people" and it could make the state "almost free of taxation with proper exploitation." Huntington Beach alone could produce twenty-five million dollars annually for the state government, Jones claimed. "Our [in]tention is to see that every cent to which the State is entitled from the people's natural resources is brought into the State treasury,"[5] Yet former finance director Rolland Vandegrift informed the Assembly that the state would earn only nine million dollars from tidelands oil over the next eighteen years. Unhappy with the Republican administration's handling of the coastal oil situation, Democratic Assemblyman Jones and State Senator Olson pushed through resolutions establishing legislative committees to investigate the

State's negotiations with trespassing companies and its coastal oil policies more generally.[6] Although Jones and Olson chaired their investigatory committees, the membership was stacked against them. Speaker Edward Craig of Orange County named the Assembly committee, including two liberal Democrats from the Los Angeles region and three Republicans. Similarly the Senate Committee consisted of three pro-industry Senators: J. L. Wagy from Kern County, Ray Hays from Fresno County, and Edgar Stow of Santa Barbara. Olson and Nelson Edwards from Orange County were the only two Democrats.

The assembly investigation helped focus the political dispute in the spring of 1935, as Jones successfully deferred consideration of a bill permitting Huntington Beach leasing, primarily to Standard Oil, until after his inquiry.[7] Jones and Rosenthal, two liberal Democratic assemblymen from Los Angeles, hewed closely to views of the independent oil companies that California should lease its tidelands at competitive royalty rates. At a hearing in late April, William Kemnitzer, a geologist and technical advisor to the Independent Petroleum Association of California, testified before the assembly committee on the geology and development of the Huntington Beach field. He urged the legislature to survey all the wells drilled by Standard on property adjacent to the tideland pool. Kemnitzer criticized one-eighth royalty agreements as inadequate and very "lenient" for a proven field like Huntington Beach. The Merriam administration's proposed $471,000 settlement with Standard for past production constituted a "mere pittance." Kemnitzer advised the legislature to approve drilling directly on the beaches. Challenged on the beach drilling question by Assemblyman Claude Minard, Kemnitzer called the beach protection movement "idealistic":

> I've heard it said we are saving the beaches for the Standard Oil Company. With modern practices it is possible to build beautiful islands or piers on which the wells could be located and it would not interfere with the bathing on the beaches.

Kemnitzer contended that slant drilling would not result in full development of the field and would also grant Standard Oil a monopoly. Describing how the geologic fault at Huntington Beach sharply divided the uplands from the tidelands, Kemnitzer cautioned, "do not let the Standard or anyone else come in and tell you what they are going to pay. The oil is in the state pool on the ocean floor and not landward. The state holds control."[8] In keeping with Kemnitzer's testimony, Jones and Rosenthal, the two Democratic assemblymen from Los Angeles, called for beach drilling on a competitive basis, declaring it the only adequate way to develop the Huntington Beach pool.

The other three committee members, Phillips, Minard, and Frazier, followed the line of Standard Oil and the Southern California civic and municipal organizations that opposed beach drilling. They urged a ban on direct drilling and reliance instead on upland, slanted drilling. "The attractive beaches and beach resorts throughout the state are a source of considerable revenue," the three assemblymen noted in their reports "in addition to being of inestimable pleasure and aesthetic value." California had spent six million dollars acquiring beaches and the people of the state had twice voted against tideland drilling. The assemblymen urged the legislature to respect this public commitment to beach protection. They recommended that the State immediately

collect royalties on existing slanted wells and that the legislature pass two new pieces of legislation. One bill would empower the finance director to negotiate leases with upland owners having wells near the pool and drilling into pool; the second would prohibit a city like Huntington Beach from granting any tideland leases.[9] These recommendations would have endorsed the existing policy of the Republican administration in Sacramento. Not surprisingly, the three assemblymen were all Republicans.

The competing political forces represented by the rival assembly reports battled through a tumultuous legislative session in the spring of 1935. Legislators advanced a wide range of proposals, including direct beach and island drilling, competitive bidding for further slanted drilling from the uplands, slanted drilling without competition, and the simple ratification of the existing wells with no further drilling.[10] The 1935 Burns bill illustrates some of the interplay between the competing political forces. The Burns measure would have allowed slanted drilling into all state-owned tideland oil pools. In early May, following the Jones committee report, the oil industries committee recommended the Burns bill to the Assembly as a whole. This followed a rare appearance before the committee by the assembly speaker, Orange County legislator Edward Craig. Craig wanted the bill out on the floor. While shepherding the bill through the Assembly, Craig also attached an amendment providing for a royalty scale that began at five percent, the rate schedule being paid by the independents draining tidelands oil at Huntington Beach. Craig blocked a rival amendment that would have stipulated higher royalties, starting at 12-1/2 percent in unproven territory and 16-1/2 percent in proven territory. Craig complained, “That would be class legislation. What difference does it make as to whose wells are taking the oil?” Opponents such as Assemblyman Frank Wright of Los Angeles County countered that the state should not be bound by previous royalty agreements between the administration and the companies. “Just because a farmer received $1 for wheat last year is no reason why he should not be paid $1.50 this year . . . Simply because one kind of royalty deal was made with other companies is no reason why we should be bound in making new contracts. This bill would give the Standard concern a virtual monopoly.” According to the Division of State Lands, the Burns bill would permit Standard to drill approximately fifty new oil wells on its Huntington Beach property, paying the State royalties estimated at around $1 million per year.[11]

Bumped back and forth between the Assembly and the Senate, the bill’s meaning changed drastically in the process. At one point the measure provided for open competitive bidding on slanted wells. This version promised higher state oil royalties and opportunities for independent oil operators. Some of the more liberal members of the Assembly, Ellis E. Patterson of Monterey and John Gee Clark of Los Angeles, went even further. They urged that the State condemn Standard’s land and operate the wells itself. Patterson announced bluntly,

> It’s time the state should go into the oil business. With the state operating her own wells the scrapping between the independents and the major would be ended. The people should own and develop their own natural resources. I am confident that the state could make enough money with her oil resources to abolish all state taxes.

San Francisco assemblyman William Hornblower reportedly concurred, saying "The oil belongs to all of us."[12] After being sent from the House to the Senate, however, the Senate Oil Industries Committee cut all the text following the bill's enacting clause and substituted an entirely different measure. The Senate's action stripped the competitive bidding provisions entirely. Instead the new Senate bill allowed only non-competitive agreements with upland owners at a minimum royalty of 16 2/3 percent. In addition to keeping oil derricks off the tidelands, these changes guaranteed that Standard Oil would maintain control over the Huntington Beach oil and also pay non-competitive royalty rates to the State. Upon the return of the overhauled Burns bill, the Assembly concurred in the Senate's new version.[13]

As the Burns bill advanced to Governor Merriam for his signature, legislators allied with the smaller independent oil companies and also the EPIC Democrats charged that the bill would grant a "monopoly" to Standard and open the way for "another Teapot Dome scandal."[14] State Senator Olson and his Democratic allies accused Standard Oil of "steam rolling" the bill through the legislature and demanded that Governor Merriam return it for amendment. "If this pool, one of the richest in the world, is to be preserved for the benefit of the people instead of the benefit of the private interests," Olson proclaimed, "there must be at least 50 per cent of the total production saved for the state under any lease to a private company or companies."[15] Similarly, Assemblyman John O'Donnell declared, "To be fair to the people of California, you must put this bidding on a competitive basis." Olson and others warned that they would hold the Burns measure up on a referendum.[16] Rumors of undue influence on Huntington Beach legislation circulated the capitol. "Apparently there was nothing in writing," the Sacramento Bee reported, "but gossip was common around the corridors and Capitol grounds that from $50,000 to $200,000 changed hands."[17] Orange County Supervisor N. P. West alleged that bribery accounted for the overnight conversion of several legislators who had previously supported a competing measure to allow island drilling.[18]

Caught between several vocal and powerful constituencies, Merriam wavered on the oil leasing bill. Even as State Senator Olson started his Senate investigation of tidelands oil in July 1935, the governor conducted hearings in Sacramento on the measure. Merriam's hearing opened up "an ancient feud of California politics and industry," according to the Sacramento Bee. "Stored-up bitterness between independent producers fighting the bill and a larger group of proponents, including civic and municipal organizations, aligned with the Standard Oil Company of California, burst forth without little ado." Standing just a few feet from the Governor, William S. Kemnitzer, the technical advisor to the Independent Petroleum Association of California, warned Merriam that the independent oil companies would carry the issue to a referendum and perhaps even start a recall move if Merriam signed the bill. Orange County Supervisor N. E. West told Merriam that the bill should have permitted competitive bidding instead of the arbitrary assignment of leases by the Surveyor-General. West thought that royalties from the Huntington Beach field could easily reach as high as sixty percent.[19] Fearful of provoking a concerted attack on his administration, Merriam vetoed the Burns bill ten days after the hearing. The veto returned the coastal oil conflict to where it stood at the outset of the legislative session.[20]

Sabin - Chapter 5

Olson's Senate Investigatory Committee

As Merriam deliberated over the Burns bill, Culbert Olson's senate committee began a second investigation of the Huntington Beach situation. A tall, trim white-haired man of fifty nine when he entered the California State Senate in 1935, Culbert Olson was a lifelong progressive Democrat. His rise in California politics and election as Los Angeles' sole state senator constituted a political rebirth. Olson previously had served in the Utah State Senate from 1916-1920, where he chaired the judiciary committee and sponsored progressive legislation on a range of labor and public utility issues. After failing to get the Democratic nomination for U. S. Senate in 1920, Olson moved to Los Angeles and set up a law office. Except for his work on behalf of Robert M. LaFollette's third-party candidacy in 1924, Olson largely dropped out of politics. Then in the early 1930s, Olson jumped back into the political arena. He helped organize the Los Angeles Democratic Club and pushed the Roosevelt ticket in the 1932 election. As the president of the Democratic Club in 1934, Olson strongly supported Upton Sinclair's controversial candidacy for governor. Although he did not officially join Sinclair's EPIC movement, in 1934 Olson became chairman of the state Democratic Party with Sinclair's support. Olson was an idealistic and stubborn man. California Supreme Court Justice Stanley Mosk, who began his political career as Olson's executive secretary, later would describe Olson as the "most honest man I've known in public life," but a man whose principles could prevent effective political compromise.[21]

Olson aimed to use his senate investigatory committee to upset the Rolph and Merriam administration settlements. Carl Sturzenacker, Chief of the Division of State Lands, postponed a final settlement with Standard Oil until after Olson's investigation. Olson was determined to get the State its fair share of oil royalties.[22] He approached the tidelands drilling problem from the perspective of public finance in the midst of the l930s depression, and saw oil royalties as a crucial part of California's revenue mix. Olson denounced the Burns bill in July 1935 as "the clearest proof of the tremendous power in the State of California of the Standard Oil Company." Olson compared Standard Oil's influence to the Southern Pacific Railroad Company's sway prior to Hiram Johnson. Olson thought California could obtain perhaps fifty percent of future oil production in Huntington Beach, as well as proper payment for past production by trespassers. He pointed to an alternate proposal in the state legislature, the Gilmore island drilling proposition, and its promise of forty percent royalties, as evidence. Olson reiterated that he and his political allies opposed both the Gilmore island bill and the Burns bill. Instead they favored simply "securing as much revenue as possible from this great pool for the benefit of the people of this state." Olson thus sought to reframe the oil lands question around the idea that the State should use its natural resources to finance the expanding operations of the state government. Olson's viewpoint contrasted sharply with previous policies at both the federal and state level. Rarely had the government sought to maximize revenue from public resources.[23]

Re-focusing the Huntington Beach oil controversy on the public's financial interest in petroleum resources proved an arduous task for Olson. To secure the "necessary facts" about the activities at Huntington Beach, Olson wanted to commission a study of the extent of drilling along the tidelands and the amount of oil and gas produced. He also desired an accurate survey to

determine the location of the boundary line between the state's land and privately owned land. The cost of well surveys and an audit of the accounts to determine what happened to the oil royalties would total $20,000.[24] This sum, he said, would establish a factual basis that would conclusively settle "much controversy and speculation" about the Huntington Beach field.[25]

The contingent fund of the committee and of the State Senate itself, however, was inadequate to cover the expense. The Senate had appropriated only $2,500 for the committee, enough to pay the expenses of committee members and for a stenographic report of its hearings.[26] Olson requested financial assistance from the executive branch. "Inasmuch as the investigation involves the possible recovery to the state of several million dollars, this will be a comparatively small expense," Olson explained in a letter to Governor Merriam in early August.[27] Governor Merriam assured Olson that the executive branch would cover the cost.[28] At the August meeting of Olson's committee, the committee decided to survey many of the Huntington Beach wells to determine their underground direction.[29] Following the meeting, Olson entered into a contract with Alexander Anderson, Inc., the leading well-surveying company. At the end of August, however, Merriam withdrew his support, declaring it "impossible" to set aside the necessary $20,000. Merriam claimed that Attorney General Webb had ruled that the governor could not use executive branch funds for a Senate committee investigation.[30] Merriam indicated that if the committee would designate the people they wanted hired for the work, the Department of Finance would make the contract and pay for it.[31]

Olson heard nothing further on the well survey funding matter until the third week in September 1935, when he received a telephone call from Oscar Lawler, attorney for the Standard Oil Company of California. Lawler informed Olson that Director of Finance Arlin Stockburger had told him that the Executive Department would not provide Olson's committee with surveying funds. So the Standard Oil Company, Lawler blithely told Olson, had itself employed Alexander Anderson to survey the company's wells.[32] Soon after this conversation, Carl Sturzenacker, Chief of the Division of State Lands, wrote Olson to say how fortunate it was that Standard had agreed to survey the remaining wells that had any likelihood of being in the tideland pool.[33] Lawler similarly wrote to Olson stating that "As Mr. Anderson's integrity and ability are generally conceded, it seemed to me desirable and proper that he be employed for the purpose."[34]

At the October committee meeting, however, Olson noted how strange it was that neither the governor's office nor Standard Oil had consulted any member of his committee prior to Standard Oil employing Anderson. Olson did not trust the executive to carry out the surveys. Nor did he wish to rely on Standard Oil's forthrightness in revealing information that would lead to the payment of millions of dollars in oil royalties. Questioning Lawler about why Standard Oil had not informed the committee before employing Alexander Anderson, Olson asked belligerently what he thought the purpose of Olson's investigation was if the legislature believed that the Department of Finance was properly taking care of the situation at Huntington Beach.[35] In particular, Olson did not think that the Division of State Lands, now run by Carl Sturzenacker, had taken sufficient action to ascertain whether the Standard Oil Company drained oil and gas from the State tidelands.

Olson's fears about relying on a Standard Oil employee for technical information were realized at the October 1935 committee meeting. When the committee members asked Anderson about his surveys of the Standard wells, Anderson stonewalled them. He had in hand records on four wells he had surveyed and fourteen more whose direction he had determined. But Anderson refused even to indicate which wells he had tested. It was a "private order," he claimed, and had "nothing directly to do with the work of the Commirtee."[36] Anderson denied having signed a contract with the committee, despite Olson producing a letter from Anderson indicating his agreement to undertake the surveys. Oscar Lawler, Standard Oil's lawyer present at the Committee meeting, refused to authorize the release of the information to the Committee. He insisted that Standard's data could only be shown to engineers of the State Division of Oil and Gas or other mutually satisfactory petroleum engineers.[37] At the end of the October meeting, Olson's committee agreed to employ several geologists to examine the well survey data. Olson clashed with other committee members in the appointment of the members. He was determined to appoint some independent engineer, but the other members thwarted his efforts. His opponents on the committee particularly objected to Olson's plan to include William Kemnitzer on the committee of three. Kemnitzer had helped Olson collect information on which wells to survey. But as an outspoken advisor to the independent oil companies, Kemnitzer had made political enemies with the Standard group. "I would like to have some independent man that is not employed by the Standard Oil Company on these things," Olson fumed to himself, in frustration. "I don't know that I could ever get somebody that was not employed. I thought we had Anderson a while but they employed him."[38]

Olson's struggle to gain access to well survey data continued for another entire year. Calling the case a "public affair," he urged all involved to make the well information readily available. Others on the committee resisted, citing the dangers of revealing confidential information. Olson's efforts to obtain information for his committee were further confounded in November 1936. Emile Huegeinan, Deputy State Oil and Gas Supervisor in charge of the State Oil and Gas Division's offices in Los Angeles, refused to provide the Committee with production records and surveys of the Huntington Beach oil wells involved in the inquiry. Huegeinan declared, "I couldn't bring that data. Our law especially provides that they cannot be introduced in any court proceedings."[39] Confidentiality restrictions that the oil industry's legislative allies had written into the division's mandate in 1915 prevented any use of the information for the purposes of litigation or investigation in l936.[40] Olson embarked on a lengthy process of obtaining approval from each Huntington Beach oil operator for a committee of geologists to look at the well data filed with the state.[41]

In addition to his quest to obtain technical information regarding which wells produced how much oil from the tidelands, Olson questioned the legal reasoning behind the state's settlement with Standard Oil and the independent companies at Huntington Beach. Influenced by his knowledge of the recent *Union Oil v. Reconstruction Oil* case, Olson contended that Standard should pay the State the value of the entire production, minus Standard's costs, not just a royalty on the oil taken. Olson pointed out that Standard's Los Angeles lawyer, Oscar Lawler, had himself argued in *Union Oil v. Reconstruction Oil* that innocent trespassers owed total production minus costs, while intentional trespassers could not even recover costs.[42] Olson asked

Lawler and Carl Sturzenacker, Chief of the Division of Lands, why similar principles should not apply to the Huntington Beach trespassers. "I don't think we should be guided by any settlement made with independents," Olson argued. The independent operators had spent considerable money and lobbied hard to obtain a favorable settlement. Why did Sturzenacker think that because a policy had been adopted for the independents it should be followed here? Olson conceded that landowners commonly settled for an eighth or a sixth royalty when companies drilled on speculation. But were those terms "fair and equitable" in the case of a "known rich pool like this"? According to geologists, Olson said, this was one of the richest pools in the world. No speculation remained about producing oil from the pool, which was separated from the onshore field by a fault running along the beach. In reply, Sturzenacker made no legal arguments. He simply reiterated that the Department's policy had been to settle on a sliding scale royalty. Sturzenacker emphasized the Merriam administration's eagerness to complete its settlement with Standard and suggested that California sign the agreement with the vague condition that if new information came to light, the State could revise the agreement. He estimated that the royalty would average around about twelve percent. By contrast, Olson proposed that California find a company to extract the oil on a fifty percent royalty basis. The Gilmore Company had offered to pay a thirty percent royalty during the spring 1935 legislative session. Olson thought California could do even better. "I have felt there is a little over-anxiety on the part of your department to effect this settlement instead of waiting to find out the facts that this Committee might be able to, if it can get the right support, develop," Olson admonished Sturzenacker.[43]

Olson's frustration over his inability to obtain accurate information on the Huntington Beach situation and over the Merriam administration's eagerness to settle with Standard Oil poured out in a bitter report to the State Senate in May 1936. There "appears to be no willing support" for the investigation on the part of the some of the members of the committee, Olson declared, and "no cooperation or willing support from or on the part of the department of finance." On the contrary he noted, the Department of Finance appeared eager to accept less than $475,000 for between $5,000,000 and $8,000,000 in oil and gas extracted from the state lands by the Standard Oil Company up to February 15, 1934.[44]

While Olson fumed, the oil industry continued to push against the ban on tidelands drilling in order to open further the Huntington Beach field. In November 1936, an initiative allowing slant drilling from adjacent uplands appeared on the ballot. Like the vetoed Burns bill from the 1935 legislative session, this Proposition 4 would have granted preferential drilling rights to upland owners. The measure stipulated a royalty of only fourteen and two-sevenths percent, a full two points lower than the earlier Burns measure. The initiative's origins are difficult to ascertain. But it clearly deepened the alliance between the Standard Oil Company and powerful beach protection and development groups throughout the slate. The proposition linked slanted drilling from the uplands with a provision allocating half the State's oil royalties to the State Parks Commission. San Francisco Chronicle political columnist Earl Behrens joked that the measure was a buy-off backed by "The Independent Oil Companies, Consolidated, of Los Angeles." Behrens continued, "The proposed initiative provides that the company shall have exclusive right to drill slant wells on tidelands; that after all expenses are paid, 40 per cent of the proceeds from

the oil shall go to the State, and that 80 per cent of that 40 per cent shall go to persons qualified to vote in l936."[45]

Despite such skepticism from many quarters, the State Parks Commission and many civic, conservation, and Southern California development groups backed the measure. The slanted drilling proposition seemed unstoppable. The San Francisco Chronicle lobbied vigorously on its behalf, "for the benefit of the taxpayer, the beaches and the State park fund." Oil from the offshore field could provide the California taxpayer with substantial relief, the Chronicle noted. "But who wants drilling on the tidelands and the lovely California beaches messed up with sump oil?" Proposition No. 4 solved the dilemma. The measure would "get out the oil with profit to the State, stop present losses . . . from wells on contiguous properties, and at the same time prevent tideland drilling and protect the beaches." The State general fund would split the state revenue equally with the park fund.[46]

In its fervent advocacy for the measure, the Chronicle continued the skewed coverage that it had demonstrated in the controversy over federal lands in the 1910s. Proposition 4 news articles complemented strongly worded editorials. One news article began by announcing, "More than four hundred leading newspapers have given their endorsement to Proposition No. 4. Chambers of Commerce and countless other civic, business and fraternal organizations are actively lending their support to this measure." Summing up the measure's provisions, the Chronicle news article argued that the measure had been endorsed because of the host of benefits that it would bring:

> It raises revenue to develop and extend the States public parks and beaches without cost to the taxpayers.
> It protects the beaches.
> It prohibits tideland oil drilling.
> It authorizes slant drilling from the uplands.
> It reduces taxes.
> It protects, regulates and authorizes development of State-owned pools.

Following this litany of the Proposition's virtues, the Chronicle listed many individuals endorsing the proposition. The news article failed to mention any individuals or organizations that opposed Proposition 4, or to indicate to readers any reason they might suspect the good intentions of the measure.[47]

In one very brief article in late October the Chronicle reported some opposition to Proposition 4, but the report was quickly smothered. An article noted that Guy Finney of Los Angeles had sued the Secretary of State demanding that he remove Proposition 4 from the ballot. Finney claimed that the title of the proposition was defective because it was deceptively drawn and did not state the "true purpose" of the initiative measure, which was to give a monopoly to Standard Oil.[48] The Chronicle did not indicate Finney's declared goal, which was itself obscure. In an August letter to invite Los Angeles County Supervisor John Anson Ford to join the opposition to the measure, Finney declared his intent to defeat the "Standard Oil-sponsored" slant drilling measure and obtain legislation that would "clearly define the public's right to the full enjoyment of the

beach." Beach protection was a "burning question," Finney wrote Ford, "and must soon be settled, or there will be no recreational beach areas left."[49] Yet Finney had close ties with a number of independent oil companies and opposition to a monopoly by the "oil giant" may have been largely behind the suit.[50]

Irrespective of his motivations, Finney's opposition was quickly buried by the newspapers. The following day the Chronicle printed verbatim a long denunciation of Finney's suit by William Colby, head of the State Parks Commission. Colby denounced Finney's charges as "misleading" and "just for publicity purposes," merely "an attempt to nullify the work of hundreds of organizations and the press of the State to end tideland drilling through the adoption of Proposition 4." "No measure on the November ballot has received such widespread endorsement and support as Proposition 4," Colby reiterated. "It has marshaled men and women in all walks and groups because it is the answer to the conservation of a priceless resource and provides the necessary means for the protection of our beaches and the financing of a park program which, when completed, will give California the finest system of parks in the world."[51] The following day, the Chronicle continued its open advocacy for the proposition, printing an article about the important individuals and groups endorsing the measure. Once again, the news article mentioned no opponents.[52]

Yet the same groups that had forced Merriam to veto the Burns bill in 1935 bitterly fought the initiative measure. Ignored by the major newspapers, opponents took to the radio to express opposition. State Senator Olson denounced proponents' "unlimited expenditures" on "false propaganda," complaining that "the public's interest is not being protected by any publicity in opposition sufficient to inform the voters of the iniquity of the measure." The measure has been "very artfully publicized in a manner to deceive the public as to its real purpose," Olson declared. Proposition 4 would give the Huntington Beach oil away to Standard Oil for little public benefit. "Special oil interests" had "lobbied through" the similar Burns bill in 1935, Olson noted, but "Governor Merriam, to his credit, vetoed" it. Now Olson begged voters to reject the measure, broadcasting over the radio his statement from the ballot information pamphlet.

Please do not be fooled by the arguments that are being put out to induce you to vote for this proposition No. 4. If you would save the beaches and the natural resources along the beaches for the benefit of the state and its people, you will vote "no" on proposition No. 4.[53]

Olson attacked the beach conservation groups, and the Parks Commission in particular, for selling out the public to Standard Oil.[54] Olson's criticism of the measure was particularly influenced by his belief that tidelands drilling could be done safely, without endangering the beaches, and that, in any event, oil operators already had industrialized the coastline at Huntington Beach.[55]

By contrast, other opponents of the 1936 proposition opposed it on the grounds that it would endanger the beaches. The Shoreline Planning Association, claiming affiliations with the Chambers of Commerce of West Los Angeles, Santa Monica, Venice, Manhattan, Palos Verdes, Redondo, Hermosa and Playa Del Rey, blasted Proposition 4 as a dangerous measure. The

Association argued that the title of the measure "Prohibiting Tideland Surface Oil Drilling, Authorizing Slant Drilling from Uplands" concealed its threat by suggesting that development would occur well back from the beach. But as one official explained in a letter to L. A. Supervisor John Anson Ford, the text of section three of the measure "definitely provides that drilling can be done on the beach sands down to the mean high tide line. Anyone who has ever seen a beach knows that if oil derricks and the surface equipment are placed on the beach sands down to mean high tide line, the beach is definitely destroyed" Beach oil drilling would be an economic disaster, the Planning Association warned. "The amount of money left in the State of California each year by tourists is worth infinitely more than the temporary revenue which will come from any oil project; likewise, development of beautiful residential sections, business sections and beach improvements is worth infinitely more as a tax revenue source than any string of oil wells along the beach." Yet where oil wells encroach on the beach, "beautiful residential sections and business sections fade away and do not return."[56] The Planning Association claimed that the measure would destroy more miles of beaches than the revenue could purchase.[57]

Despite intense lobbying on behalf of the initiative, the opposition's message penetrated and the California electorate rejected the slanted-drilling proposition. Governor Merriam, putting his finger to the wind, sensed a popular mandate for more aggressive action. Following the 1936 election he moved quickly to counter Olson and position himself more favorably on the oil issue. Merriam now spoke out more forcefully about the need to raise public revenues from the public's oil. Within weeks of Proposition 4's defeat, Merriam announced at a news conference his new vision of a California freed of debt through the marketing of its oil and with resources left over to pay for unemployment relief. Merriam described to the media the two proposals that he was considering making to the legislature in the 1937 session. First, that the State itself mine the vast petroleum pools in its tidelands. Second, that the State director of finance negotiate leases for production by private interests, with the leases requiring considerably greater royalties than previously had been offered by the companies. The finance director should offer leases for slanted wells in competitive bidding to gain high royalties while also protecting beaches. If the bids proved unacceptable, then the State would go directly into drilling business and condemn rights of way where necessary to reach State-owned tideland oil pools through slanted wells.[58] "My theory is that the state owns this oil," Merriam now declared. "It is ours and the state should be competent to get it."[59]

As Merriam and Olson positioned themselves for a 1938 gubernatorial race, they rushed forward with tidelands oil legislation in 1937.[60] They did so in a landscape that had shifted further to the political left since the legislative session of 1935. With the 1936 election, the Democrats finally had won a majority in the State Assembly. William Mosely Jones, Democrat of Los Angeles, served as the new speaker. Republicans, largely from rural counties, continued to dominate the State Senate. As in 1935, the tidelands oil issue commanded considerable attention in another contentious legislative session. Political columnist Herbert Phillips anticipated a fierce battle over the Huntington Beach oil pool, "precipitated by Senator Culbert L. Olson." Olson and Merriam now both demanded that the state reorganize how it handled tideland oil production. "The gathering of a powerful lobby of the oil interests in Sacramento adds all that is necessary to set off the fireworks," reported Phillips in early January 1937.[61]

In the winter of 1937, Olson's committee finally concluded its investigation. The two Democrats and three Republicans could not resolve their differences. In January 1937, Olson submitted a minority report alone. Olson criticized Vandegrift's 1933 settlements as an illegal circumvention of the legislature's 1929 ban on tidelands oil operations.[62] Even under Judge Glenn's decision in *Utt v. Vandegrjft* in 1933, Olson argued, Vandegrift should have settled only for past drainage; he should not have granted easements for continued trespassing or authorized the drilling of new wells. Olson noted that additional wells drilled by Standard Oil and other companies likely drained from State lands. Obstructionism by the companies and his committee members, however, had prevented Olson from having them accurately surveyed for the State.

Olson advised the legislature to adopt urgency measures providing for the immediate development and production of oil from State lands at Huntington Beach. Leases should be awarded on the basis of competitive bids, with a stipulated minimum royalty. Alternately, the State should proceed with its own development program, empowered to condemn any property necessary for convenient access to the tide and submerged lands. Olson repudiated state settlements with the Huntington Beach operators, which had yielded on average ten or eleven percent of the value of the oil. He called on the Department of Finance and Attorney General to require the payment of the "full amount of the proceeds" derived from past production from the State tidelands.[63] Finally, Olson recommended that the legislature make all oil well records filed with the Division of Oil and Gas available for inspection by State officials and the Attorney General and his deputies.

The majority report, issued in March 1937, differed sharply from Olson's attack on the illegality of the Rolph and Merriam administration settlements. The majority called on the State to carry out agreements with trespassing companies in the name of "good faith" and "fair dealing." The committee recommended that the State proceed with tideland drilling only if it could not protect its interests through upland directional drilling. The committee members recommended that the State negotiate leases with private companies on a competitive basis. But unlike the Olson and Merriam proposals, the majority recommended against State oil drilling. Finally, the majority report urged that the State refrain from aggressively developing the State pools because of the condition of the oil market.[64]

"If you remain in the Senate long enough, you, too, will get smudged with oil."[65]

The defeat of the slanted-drilling proposition in November 1936 and the simultaneous discovery of the Wilmington field in the Long Beach and Los Angeles harbors both promised a protracted fight over oil policy in the 1937 legislature. The fierce political battle that ensued underscored how California petroleum politics mingled with larger questions of public finance and were intertwined with broader struggles between political forces in the state. The political outcome determined how and which companies gained access to coastal oil. It also shaped patterns of production and the timetable for coastal petroleum development.

Attempting to get out in front on the oil question, Governor Merriam navigated a contradictory political course. Even as he declared his openness to State-directed tidelands oil production, Merriam's Finance Department negotiated a weak settlement with Standard Oil for existing tidelands wells at Huntington Beach.[66] In January 1937, Merriam's legislative allies introduced administration-sponsored bills into the State Assembly and Senate. Proposed by Assemblyman Frank Waters in the Assembly and Senators W. P. Rich and Ralph Swing in the upper house, the bills provided for tidelands oil leases to highest bidder. The Administration measure would allow California to purchase or condemn adjacent property to allow for slanted wells from the uplands. If necessary, the measures also provided for direct beach drilling at Huntington Beach. If no satisfactory bids were received, then the state could go into the oil drilling business, although this state drilling provision was confined to the Huntington Beach field.[67]

The Republicans thus moved swiftly to co-opt Olson and the Democrats' use of the oil issue. Waters, Merriam's ally in the Assembly, went so far as to propose yet another assembly investigation of the Huntington Beach problem. Waters criticized both the Jones and Olson investigations for not having produced any legislation to allow for the protection of the State's interest at Huntington Beach. When the Democratic leadership rejected Waters' resolution by burying it in the Rules committee, Waters attempted to use the defeat to re-position the Republicans on the oil controversy. "We should throw party politics overboard on this issue," he declared.

> It's a case of the people on one side and the Standard Oil Company on the other. It's a question of whether the Standard Oil Company shall continue to dominate this legislature.

Waters attempted to tarnish the opponents of his resolution with having been influenced by Standard Oil lobbyists. He demanded all the available information on the Huntington Beach situation and asked "Are we going to lay down to the Standard Oil Company?"[68]

Assemblyman Waters sounded impressive populist notes, but his attacks on his opposition rang hollow. Senator Olson submitted his report and proposed legislation to the upper house that very same day. Olson "played a lone hand," the Sacramento Bee reported. His fellow committeemen had abandoned him to file their separate report in March. Olson's legislative proposal embodied the recommendations that he outlined in his report. The bill provided for a minimum royalty of at least thirty percent. It also permitted the state to go into the oil-drilling business if it did not receive satisfactory bids. Strict anti-monopoly provisions divided the pool into nine lease parcels and barred any one company from leasing two parcels. Olson also introduced a supplementary measure to prevent the state from entering into any lease or contract without the approval of the legislature and to open oil operator records to legislative committees and state inspectors.[69]

It was a sign of how far the Republicans had moved in Olson's direction that the *Bee* described Olson's bill as generally in accord with Merriam's statements and the Merriam-sponsored bills introduced by Waters, Rich and Swing. The chief differences now were that the latter measure did not provide for a minimum royalty and favored upland drilling more strongly over direct

tidelands operations. It also did not divide up the Huntington Beach pool to prevent monopoly. Olson's measure pushed the legislature further towards higher royalties, increased competition and a greater likelihood of direct beach drilling at Huntington Beach. In response, Merriam floor leaders W. P. Rich and Ralph Swing amended their competing Senate bill in early March. The amended bill provided for minimum royalties of 16 2/3 percent, made it easier for companies other than Standard Oil to negotiate for state leases, and allowed the state to enter the oil-drilling business if it could not make satisfactory lease arrangements.[70]

Additional measures in the Assembly fleshed out further options. Liberal Democrat John Clark and Republican Ellis Patterson (soon to switch to the Democratic side) both proposed separate bills stipulating that the State retain ownership of its oil and extract it through a public petroleum producing agency. Clark further proposed that the State appropriate $300,000 to a state oil drilling fund. By contrast, Los Angeles Assemblyman Ralph Welsh, the new Democratic Chairman of the Oil Industries Committee, proposed a measure favorable to Standard Oil, with provisions allowing upland drilling by littoral landowners only. Welsh set royalties at twenty percent and provided that half the State's income go to the Department of Natural Resources for acquiring and improving public ocean beaches. State legislators introduced at least twenty-four separate measures related to state tidelands oil development in January and February 1937. Many additional bills and motions would be introduced in subsequent months.[71] As in 1935, the Sacramento Bee's legislative analyst Harold Phillips noted, tidelands oil had emerged as one of the "top problems" in the 1937 legislature, if not the "most important single issue of the session."[72]

In a continuing effort to set the Swing-Rich and Olson bills against each other, the Senate Oil Industries Committee sent both bills out onto the Senate floor in mid-March for general consideration. Olson continued to attack rival bills for providing Standard Oil with a cheap monopoly on the State's tidelands oil. He denounced the Swing-Rich bill as practically the same as the slanted-drilling proposition defeated in the previous election. Because Standard Oil controlled the uplands, he reiterated, only that company would gain access under the bill.[73] Olson also continued to attack the State's proposed settlement with Standard Oil for past oil production.[74] Safeguarding the public's rights in these natural resources was "one of the most important things which the 1937 legislature has to decide," Olson declared. The other proposals "tend to sidestep the question of the State's best interests."[75] At the same time, Olson's extreme anti-Standard Oil provisions, which essentially would have barred the company from bidding on State leases at Huntington Beach, came under attack from his opponents. After five hours of "vigorous debate" on the Senate floor on March 22, the "most fiery in the upper house during the current session," the Senate referred both oil bills back to the oil industries committee. The full day of legislative argument had been "little more than a dress rehearsal" for the political struggle ahead.[76]

In the oil industries committee, Merriam's legislative allies tacked back towards the interests of the oil companies and beach protection. Swing amended his bill to remove his newly minted minimum royalty provision and to provide exclusively for slanted drilling from uplands at Huntington Beach.[77] W. P. Rich denounced Olson's plan as a "socialistic measure" to force the

state into the oil drilling business. Rich further criticized Olson's bill for proposing beach drilling, while conceding that much of the voter opposition might have been built up by Standard Oil.[78] Olson also moderated the extreme stance he had taken against Standard Oil and other trespassers, excising the portion of his bill that would have prevented trespassers and Standard Oil from bidding on new leases at Huntington Beach.[79] After further consideration in the oil industries committee and on the Senate floor, the Senate approved Olson's bill and defeated the rival Rich-Swing measure.[80]

Olson's bill now passed to the Assembly for consideration. Approval seemed unlikely as the Assembly Oil Industries Committee recently had stripped two bills of clauses providing for state drilling. The Assembly Committee refused to give Olson's bill a "do pass" recommendation and tied it up in committee for further hearings focused on the State-drilling clause. Committee Chairman Welsh contended that the cost of obtaining rights of way for the State to enter the Huntington Beach field would be excessive. Olson countered that easy access could be obtained by way of 23d St and a road constructed along the beach. The struggle between Olson and Welsh turned ugly with a "few hot oratorical passages" between the two Los Angeles Democratic politicians.[81] Olson attacked Welsh for a "change of front since you were elected in 1934." Welsh had "violated every campaign pledge" of the Democrats. Welsh in turn assailed Olson as a "political opportunist" The "game broke up before too much soiled party linen was given a washing," Chronicle political columnist Earl Behrens recounted, but it was clear that the Democrats could not present a wholly united front on the oil drilling issue.[82] The antagonism between Olson and Welsh continued several days later in an angry exchange over Olson's criticism of Welsh's bill, as Joseph Timmons of the Los Angeles Examiner recounted: "'You can't read, can you?' shouted the Assemblyman to the white-haired Senator. 'I think I can read,' Olson replied. 'It is plain to me yours is a perfect Standard Oil bill.' 'Standard Oil is not for my bill,' declared Welsh. 'You are able to read, but I would not give much for the interpretation. You either do not know much about the oil business or you are a poor lawyer.'"[83]

After Welsh twice blockaded the Olson bill in committee demanding that Olson remove state-drilling clauses, the Assembly as a whole forced the bill out of committee on a 62-7 vote. Olson's bill joined three rival Assembly bills on the Assembly floor.[84] Olson's bill alone provided for state drilling as last resort. His bill also carried the highest suggested royalty for the state, 30 percent as general rule. Continuing to hedge his political bets, Governor Merriam claimed not to care whose name was on the oil bill,

> just so it contains protection to the state and aid in developing this state-owned natural resources through leasing and-- in the case of satisfactory leases being unavailable-- through state drilling. There is no reason why the great State of California should sit idly by and let private interests appropriate her valuable oil resources, even though it is done on a small royalty basis.

Sufficient momentum had built to carry Olson's bill through the Assembly. "Let's do our duty this year," Stanislaus County Democrat Hugh Donnelly urged his Assembly colleagues. Donnelly recalled how "a powerful oil lobby" had tried to "choke legislation down our throats"

in 1935. "It was so oily back of the rail in this house that if you ventured there you were liable to slip." Assemblyman John B. Pelletier of Los Angeles County declared Olson's bill a sane and prudent measure to protect the state's interests at Huntington Beach. "The senate is not very liberal. And you know Senator Olson is not very reactionary. So when Olson and the senate can get together on anything, it must be a damn good bill."[85] At the end of April, Olson's bill passed the Assembly with a vote of 63 to 13, with an urgency clause protecting the measure from referendum added to bill. By contrast, the Assembly "snowed under" Assemblyman Welsh's oil bill by 54 to 24; James J. Boyle's proposal "went the same route," by 52 to 21. John O'Donnell's bill would go "to the Senate but probably will die there," the *Los Angeles Examiner* reported. Olson had won "a smashing personal victory." His bill now returned to the Senate for concurrence on the urgency clause.[86]

The Senate adopted by a safe majority the urgency clause that would make Olson's oil bill effective immediately.[87] As with the 1929 Bliss emergency measure, the clause precluded a referendum being called by opponents, thereby making the bill effective immediately rather than following the usual three month waiting period. Merriam indicated that he would sign Olson's bill. The measure required that high bidders on eleven parcels pay the State a minimum royalty of thirty percent on oil and gas extracted. Successful applicants would drill not less than ten wells from piers or island groins built out into the sea. This would yield approximately one well for every twelve acres of land leased by State, in contrast to the one to one and a half ratio in the townlot field. The Sacramento Bee strongly commended the legislature's passage of the Olson bill with its urgency clause, particularly for "resisting all attempts of the oil lobby to modify or emasculate the Olson bill"[88]

Signing the bill ten days later, Merriam claimed Olson's measure for himself, saying that it accorded with his own policy announcement of more than a year ago and his January budget message. The law would protect the State's interests by authorizing Finance Director to reject all bids if advisable and establish State-owned producing and distributing units. Merriam declared that "every precaution is provided to protect the beaches from pollution." The bill's requirements were "specific and rigid" and "so far as this administration is concerned no operations of any kind will be permitted in which the remotest doubt shall exist as to the complete protection of the beaches from oil pollution." Merriam noted that "the people themselves rejected at the 1936 general election a proposal for private drilling in the State-owned oil pool in the Huntington Beach area. This action by the voters undoubtedly was caused by the small royalties that would have accrued to the State Treasury." Financial returns to the State under Olson's Bill would now be "commensurate with value of the oil deposits involved."[89]

The passage of Olson's leasing bill proved only the first round in his struggle to protect the State's rights at Huntington Beach. "Much jockeying" continued over the various oil bills.[90] Ralph Welsh, whose oil measure had been "snowed under" by the Assembly in May, now made an "eleventh hour effort" to put his bill over. "Flaring tempers" and "charges and counter-charges" swirled around the Assembly as representatives fought into the early morning hours. The late-night row occurred on the last day that Merriam could sign the Olson measure. Olson questioned Welsh, "Do you have any idea how much money was spent to move this bill over

from the Assembly? . . . I think we're being sold down the river."[91] Sam Yorty similarly denounced the Welsh oil bill as a "steal" engineered by Standard Oil lobbyists trying to head off Olson's bill. The politicking surrounding the Welsh bill sparked a grand jury investigation of corrupt legislative practices and led to the indictment of one assemblyman.[92] After a protracted legislative showdown, the Welsh bill passed through the legislature to Governor Merriam's desk. Similarly, the O'Donnell bill, presumed dead on arrival in the Senate, staged a miraculous recovery, passing at the very close of the session.[93] When Merriam signed the O'Donnell measure, and declined to sign the tainted Welsh measure, the O'Donnell bill supplanted Olson's measure by virtue of having been passed at a later date. The O'Donnell measure shifted control over future production back towards the upland oil operators and set a lower threshold for royalty payments. Yet since the O'Donnell measure was not an urgency bill, it would not take effect until August 27. The Merriam administration was obligated in the interim to call for bids under the Olson Bill.[94]

Republican Attorney General Webb also continued to intervene in the tidelands oil debate and delivered a further beating to Olson's bill. Earlier in the legislative session Webb had cast doubt on the legality of Olson's bill, calling it unconstitutional special legislation because it dealt only with Huntington Beach, rather than the entire state.[95] Although that point of opposition did not prevail, Webb now concluded that the urgency provision of Olson's bill could not stand because the bill changed the duties of the Director of Finance, and thus violated restrictions on urgency measures. Urgency acts could not set up new duties for a public officer and Webb asserted that the Olson bill established new duties for the Director of Finance. Olson attacked Webb's ruling as one further aid by the Attorney General's office to "powerful private oil interests" that sought to delay and defeat state action to protect its interests. Olson complained "that so many constitutional questions are immediately raised when the state tries to protect its own natural resources."[96] Webb's opinion opened the Olson bill to a referendum, and opponents of the bill collected the necessary 128,000 signatures by the August 26 deadline to put the bill to a ballot. They submitted sufficient signatures to hold up the O'Donnell measure to a referendum as well. As the Sacramento Bee recounted, the referendums made "every scrap of legislation" enacted by the 1937 legislature to govern future oil production from Huntington Beach ineffective until voted on by the people in the fall of 1938. Continuing his effort to position himself in a progressive light on the oil issue, Merriam prepared a test case to determine whether the Olson bill could really be held up on referendum.[97] The fate of tens of millions of dollars in Orange County oil would ride on a suit for $2.50.[98]

At the conclusion of the 1937 legislative session, the State's negotiations with Standard Oil for past production at Huntington Beach also remained unresolved. Olson and his legislative allies had criticized the Huntington Beach settlements repeatedly during the session, calling the Rolph administration's ten to twelve percent royalty arrangements "absurd," "grossly inadequate," and a log-rolled settlement."[99] Opponents of the leasing deals demanded a court test of their validity. They contended that the settlements should be scrapped and renegotiated on a more advantageous basis for the State. They pushed for another Olson measure that would prevent any settlement between the State and the companies without legislative approval. Although the oil industries committee in the Senate did not generally vote with Olson, the committee

unanimously agreed to ask the Chief of the Division of State Lands Carl Sturzenacker to testify as to the legislative authority behind the State's agreements with private oil companies at Huntington Beach. Sturzenacker offered only a tepid explanation. Conceding that the State lacked the legal authority to grant leases under the 1929 law, he insisted that the easement agreements allowing oil production somehow differed from oil leases.[100]

In March 1937, the Finance Department announced its intention to settle with Standard Oil for $505,000. Olson lambasted the deal as "outrageously low." Assemblyman John O'Donnell of Yolo County, whose bill would later supplant the Olson oil measure, emphasized that Standard's offer had increased by $400,000. Of course, the increase was primarily due to the delay of settlement.[101] He proposed an Assembly measure that would validate all existing easement agreements at Huntington Beach, including the one with Standard Oil.[102] Senator T. H. DeLap of Contra Costa County, the site of Standard Oil's principal California refinery, similarly introduced a bill that ratified all agreements with operators at Huntington Beach. The Standard Oil Company had given him the bill, he admitted. In the Senate Oil Industries Committee, Olson and Harry Westover denounced the measure, but Senators Wagy, DeLap. Parkman and McBride pushed it through over their dissents.[103]

On the final day of the session, the Senate ratified the Merriam Administration's agreement with Standard Oil, whereby Standard would pay state $505,000 for oil and gas removed from HB field. Olson "objected strenuously to the ratification bill," but the Senate resoundingly rejected his amendments. Legislative approval of the settlements proved insufficient, however as the political heat on Governor Merriam dissuaded him from signing both the O'Donnell oil leasing bill and the O'Donnell measure that ratified the State's settlement with Standard. Merriam quietly let the O'Donnell ratification bill die on his desk. This returned the settlement issue to the Department of Finance. The question of the settlement with Standard thereby remained "almost as unsettled as it was last January," as the *Bee*'s Herbert Phillips reponed.[104]

In October 1937, Finance Director Arlin Stockburger finally settled as planned with Standard Oil, without legislative approval. The state agreed to the same terms as those negotiated with other Huntington Beach oil operators. Standard Oil and its affiliated companies would pay the State $518,628. Standard's stonewalling of Olson's committee had served the company's interests well. Olson's committee never had the opportunity to conduct a full survey of additional upland wells suspected of tapping the tidelands field. Although the State retained the power to cancel the agreement in light of new information, the case was closed. Yet to the dismay of Stockburger and others in the Merriam Administration, the state's settlement with Standard Oil did not cause the oil issue to go away. Olson denounced the agreement as a "$5,000,000 gift." Merriam's acceptance of the deal, he warned, made it "impossible for him to shift responsibility for this flagrant violation of the people's rights."[105] Petroleum politics would play an important role in the lengthy campaign for governor in 1938, providing Culbert Olson and others with a weapon with which to attack the Merriam Administration. Olson's 1938 election would depend significantly on this struggle over access to oil resources along the California coast.

Endnotes: Chapter 5

[1]N. P West, Orange County Supervisor, as quoted in "Oil Bill Veto Urged As Bribery Inquiries Loom." *SB*, 19 June 1935, 1:6.

[2]Greg Mitchell, The Campaign of the Century: Upton Sinclair's Race for Governor of California and the Birth of Media Politics. New York: Random House, 1992; Upton Sinclair, I, Candidate For Governor, and How I Got Licked (introduction by James N. Gregory). Berkeley: University of California Press, 1994.

[3]By the end of the 1935 legislative session, Olson was already seen as a potential gubernatorial candidate in 1938. Herbert L. Phillips, "Hatfield, Olson Loom as Governor Candidates," *SB*, 20 June 1935; "Epics and G.O.P Exchange Radio Raps On Budget," *SB*, 30 May 1935, 11:4. William T. Goodman, "Culbert L. Olson and California Politics, 1933-1943." M.A. Thesis, UCLA, June 1948.

[4]"Runs for Office," Belvedere Citizen, 10 May 1934, Olson Papers, Carton 8, Scrapbook 1934-5; "Sen. Olson Looks at Legislature," Independent Review, 7 February 1935; "Bourbons Seek Exemption Test on Lyon Bill," *SB*, 12 March 1935, 10:7; "EPICS Take Tax Fight to Radio Public," Sacramento Union, 25 May 1935; "Budget Again Defeated by 28 EPIC Votes," Sacramento Union, 28 May 1935; "Epics Block Passage of State Budget," *SFC*, 28 May 1935, 1; Edward Dickson, "Close of Legislature Is Seen As $352,282,000 Budget Passes Assembly," *SB*, 30 May 1935, 1:2; "Epics and G.O.P Exchange Radio Raps On Budget," *SB*, 30 May 1935, 11:4; "Indigent Ban Is Beaten On 22 To 11 Vote," *SB*, 12 June 1935, 3:2.

[5]"House Acts To Probe Leases of State Oil Lands," *SB*, 12 April 1935, 18:5. "Oil Tidelands Probe Ordered," *SFC*, 4 January 1936, 4:8.

[6]"State Will Net $9,000,000 From Tideland Leases," *SB*, 23 April 1935, 6:1. "Solon Seeks Senate Quiz On Oil Operations," *SB*, 9 April 1935, 5:5; "Olson Fails In Move To Rush Beach Oil Probe," SB, 11 April 1935, 25:8; "State Will Net $9,000,000 From Tideland Leases." *SB*, 23 April 1935, 6:1; "House Acts To Probe Leases of State Oil Lands," *SB*, 12 April 1935, 18:5; "Committee Is Named For Tideland Probe," *SB*, 15 April 1935, 11:5.

[7]"House Acts To Probe Leases of State Oil Lands," *SB*, 12 April 1935, 18:5.

[8]"State Beach Oil Drilling Is Asked," *SB*, 24 April 1935, 6:5.

[9]"Oil Committee Hits Drilling On State's Beaches," *SB*, 7 May 1935, 13:4.

[10]"Competitive Bids For State Oil Are Given Approval," *SB*, 21 May 1935, 10:4; "Well Drilling Bill Is Favored," *SB*, 12 March 1935, 10:8; "Assembly Committee Rejects Tidelands Oil Pool Measure," *SB*, 14 May 1935, 4:5; "Assembly Oil Group Tables Tideland Bill," *SB*, 1 June 1935, 4:1.

[11]"Bill Proposes Tidelands Oil Whipstocking," *SB*, 11 May 1935, 4:1.

[12]"Competitive Bids For State Oil Are Given Approval," *SB*, 21 May 1935, 10:4.

[13]Assembly Journal, 4 June 1935, 4174-4175.

[14]"Bill Proposes Tidelands Oil Whipstocking," SB, 11 May 1935, 4:1; "Assembly Group Votes Burns Bill," *SFC*, 12 May 1935, 13:1; "Huntington Production Probe Started: One Committee Swings into Action at Sacramento," *SFC*, 10 July 1935, 19:4; "Competitive Bids For State Oil Are Given Approval," *SB*, 21 May 1935, 10:4; "Tidelands Oil Lease Bill Sent to Governor: Epics Lose Bitter Fight to Block Rental Plan; New Scandal Seen," *SFC*, 5 June 1935, 4:4; "New Oil Bill Is Introduced," *SB*, 11 June 1935, 6:2; Herbert L. Phillips, "Assembly's Action Tangles Competitive Bid Oil Plan," *SB*, 12 June 1935, 3:2.

[15]Herbert L. Phillips, "Assembly's Action Tangles Competitive Bid Oil Plan," *SB*, 12 June 1935, 3:2; "Oil Scandal Is Charged In Tideland Lease Bill," *SB*, 4 June 1935, 1:1; Assembly Journal, 12 June 1935, 4553-4554.

[16]"Governor Is Due To Hold Hearing On Tideland Oil," *SB*, 10 July 1935, 1:7.

[17]"Gilmore Tideland Bill Is Killed In Eleventh Hour," *SB*, 15 June 1935, 11:3; "Oil Bill Veto Urged As Bribery Inquiries Loom," *SB*, 19 June 1935, 1:6.

[18]"Oil Bill Veto Urged As Bribery Inquiries Loom," *SB*, 19 June 1935, 1:6; "Federal Probe Of Tideland Oil Deal Is Demanded," *SB*, 20 June 1935, 2:4.

[19]"Recall Threat Hurled at Oil Bill Hearing: Merriam Defers Action in Old Controversy Over Tideland Development," *SFC*, 11 July 1935, 4:1.

[20]"Huntington Production Probe Started: One Committee Swings into Action at Sacramento," *SFC*, 10 July 1935. 19:4; "Governor Is Due To Hold Hearing On Tideland Oil," *SB*, 10 July 1935, 1:7; "Tidelands Oil Measure Falls Under Veto Ax," *SB*, 22 July 1935, 4:1.

[21]Stanley Mosk, Interview with the author, San Francisco, 16 June 1996. Mosk thought that Olson's commitment to his principles prevented compromises necessary for him to succeed as a governor faced with a hostile legislature. Robert E. Burke, Olson's New Deal in California. Berkeley: University of California Press, 1953, 6-8. "Pages See Them Like This," *SB*, 7 January 1937, 19:2 (Photo of Olson and Ed Fletcher, describing them as two tallest members of Senate, at 6'4").

[22]"Standard, State Oil Pact Held Up," *SFC*, 26 July 1935, 23:1.

[23]Culbert L. Olson, "Speech by Senator Culbert L. Olson, Los Angeles Trinity Auditorium," 19 July 1935, radio, Olson Papers, Box 4, Folder Olson Speeches, 1934-5.

[24]The well surveys would run approximately $450 per well, for about 20-30 wells, constituting an expense of about $15,000. An audit of accounts to determine what happened to the money derived from the disposition of state oil and gas would cost another $5000.

[25]Olson to Merriam, 5 August 1935, as reprinted in Olson Committee, Proceedings, 21 October 1935, 125-126.

[26]Culbert Olson to Frank Merriam, 5 August 1935, in Olson Committee, Proceedings, 21 October 1935, 125-26. Herbert Phillips, "Lack of Money Hits Treasury, Oil Well Probes," *SB*, 22 October 1935, 1:3.

[27]Culbert Olson to Frank Merriam, 5 August 1935, in Olson Committee, Proceedings, 21 October 1935, 125-26.

[28]"State Survey Of Oil Tidelands Is To Be Pressed," *SB*, 29 August 1935, 3:5; "Merriam backs Further Expense In Oil Inquiry," *SB*, 31 August 1935, 4:8; Olson Committee, Proceedings, 21 October 1935, 119.

[29]Olson Committee, Proceedings, 28 August 1935, 37-55.

[30]U. S. Webb to Olson, 7 October 1935, in Olson Committee, Proceedings, 21 October 1935, 130-131.

[31]Frank Merriam to Culbert Olson, 27 Aug. 1935, in Olson Committee, Proceedings, 21 October 1935, 120.

[32]Olson Committee, Proceedings, 21 October 1935, 128.

[33]Carl Sturzenacker to Culbert Olson, 18 September 1935, in Olson Committee, Proceedings, 21 October 1935, 129-130.

[34]Olson Committee, Proceedings, 21 October 1935, 135.

[35]Olson Committee, Proceedings, 21 October 1935, 136, 165-166.

[36]Olson Committee, Proceedings, 21 October 1935, 203-204; Olson Committee, Proceedings, 28 August 1935, 65, 81.82; Culbert Olson to Anderson, Inc., 28 August 1935, Olson Committee, Proceedings, 21 October 1935, 147.

[37]Olson Committee, Proceedings, 21 October 1935, 215; "Explanation of the Treatment of Well-Survey Records by the California State Senate Oil Investigating Committee," in Olson Committee, Proceedings, 21 October 1935, 118.

[38]Olson Committee, Proceedings, 21 October 1935, 237, 245-246, 247; Olson Committee, Proceedings, 28 August 1935, 42-43.

[39]Olson Committee, Proceedings, 16 November 1936, 117.

[40]Olson Committee, Proceedings, 28 August 1935, 66. In 1937, the state legislature revisited the question of state access to information when it considered the Philips Bill, SB 158. The proposed law would have required that state oil and gas permittees file drilling logs with the state division of lands. The state would still keep records secret, but could use them to enforce its rights under the permits. "Senate Measure Opens Oil Logs," *SB*, 9 March 1937, 21:6,

The problem of access to information returned during the investigation of Carl Sturzenacker and Arthur Alexander discussed below. An October 1938 hearing on the issue was marked by the censure of Tracy Atherton, engineer for State Lands Commission, for refusing to produce maps detailing drilling operations in the Huntington Beach pool. Only when threatened with outright dismissal did Atherton comply with information request. Webb Shadle opposed efforts to gain access to the maps, claiming that they were confidential and if admitted to public view might result in suits against State for technical trespass. "Drop Charges Officials Plead," *SFC*, 28 September 1938, 9:2.

[41]Culbert L. Olson to Huntington Beach Operators, 14 December 1936, Olson Papers, Box 3, BL.

[42]Olson Committee, Proceedings, 21 October 1935, 200-201. Olson's knowledge of this litigation may have come from Nathan Newby, embittered defendant in the *Reconstruction Oil* case. Newby attended many of the hearings regarding the Huntington Beach situation and appears to have had a strong personal desire to make sure that Standard Oil paid damages on the same terms as he and his company.

[43]Olson Committee, Proceedings, 21 October 1935, 261, 267-268, 269.

[44]"Olson Charges Refusal To Aid In Tideland Probe," *SB*, 27 May 1936, 4:1; "State to Collect $800,000 in Oil: Sum Estimated as Royalty From Standard," *SFC*, 31 May 1936, 13:4; "State Expects $800,000 From Standard Oil," *SB*, 30 May 1936, 2:1.

[45]"Political Gossip by Behrens," *SFC*, 25 May 1936, 6:1

[46]"For Profit to the State," *SFC*, 14 October 1936, 12:1 editorial.

[47]"Proposition 4 [E]ndorsed by Papers, Clubs: Act Would Prohibit Oil Drilling on Land Not Already Leased," *SFC*, 29 October 1936, 9:4.

[48]"Ban on Proposition 4 Sought in Suit," *SFC*, 29 October 1936, 20:1

[49]In August, Finney wrote John Anson Ford to ask him to join the advisory board for the campaign against the "Standard Oil-sponsored slant drilling initiative measure." Finney reported that after a month's effort he had succeeded in getting friends in Los Angeles, San Francisco, Bakersfield, Santa Barbara, and San Luis Obispo to join movement and subscribe to a fund to support statewide campaign: "We are tackling the 'oil giant' of course, but the thing is so necessary to do, as a public measure of large importance, that I am impelled to go in with my coat off and

make the best fight I know how." Guy W. Finney to John Anson Ford, 21 August 1936, John Anson Ford Papers, Box 11, Folder 1j, HL.

[50]For "oil giant," see, Guy W. Finney to John Anson Ford, 21 August 1936, John Anson Ford Papers. Box 11, Folder lj, HL. For relationship to independents, see, S. Z. Natcher to R. A. Broomfield, Jr., 1 March 1933. Lloyd Coll., Box LCL 8(3), Folder OPSA- Legislation, etc., HL (describing Finney as representing the Elliot group); Natcher to Broomfield, 17 March 1933 (describing Finney testimony in Sacramento on behalf of Superior Oil and the Independent Petroleum Association).

[51]"Suit on Oil Act Held Effort to Confuse Voters," *SFC*, 30 October 1936, 6:5.

[52]"State Park Commission Head Favors Slant Oil Drilling Act," *SFC*, 31 October 1936, 15:3; "Park Commission Head Urges Adoption of Financing Plan," *SFC*, 1 November 1936, 5:4. The Chronicle reported endorsements by the State Park Commission, the California Federation of Women's Clubs, Native Sons of the Golden West, California State Automobile Association, California State Chamber of Commerce, California Beaches Association, California State Board of Trade, the Sierra Club, Save the Redwoods League, California Alpine Club, and "several hundred other organizations and city and county governmental bodies throughout the State have indorsed Proposition 4."

[53]Culbert Olson, "Radio Broadcast by Senator Culbert L. Olson, Over Radio Station KMTR. At 8:45 PM, Friday, October 23rd, 1936, In Opposition to Proposition No.4 on the November Ballot," 23 October 1936, Olson Papers, Box 3, BL.

[54]Culbert L. Olson to [William Colby], 15 October 1936, Olson Papers, Box 3.

[55]Olson Committee, Proceedings, 16 November 1936, 54-67. Olson and Colby differed on the advisability of tidelands drilling at a hearing of Olson's committee following the proposition's defeat. Olson raked Colby over the coals for his complicity in misleading advertising during the initiative campaign, drawing out a number of embarrassing admissions from the Chairman of the State Parks Commission. Olson's self-righteousness and indignation was heightened by his sense that tidelands drilling was safe. Looking back on this exchange, one can view critically both Colby's crass compromise with Standard Oil in exchange for parks funding and Olson's undue optimism about technological advances. On the latter point, Olson was right in line with other New Deal conservationists. Olson's faith proved generally accurate for Long Beach tidelands development (from human-made islands), but not in the case of the rigs off the Santa Barbara coast.

[56]Glanton Reah to John Anson Ford, 21 August 1936, John Anson Ford Papers, Box 11, Folder lj, HL.

[57]Glanton Reah, "Warning! Our Beaches Threatened," September 1936, John Anson Ford Papers, Box 11, Folder lj, HL.

[58]"Merriam Seeks Income on Oil: Governor Will Consider Drilling, Royalty Plans," *SFC*, 24 November 1936, 3:3; Herbert Phillips, "Governor May Urge State To Go Into Oil Trade," *SB*, 23 November 1936, 1:3.

[59]"Oil Group Plans Move to Allow Beach Drilling," *SB*, 24 November 1936, 1:3.

[60]"Governor Speeds Oil Drilling Bill" *SFC*, 4 December 1936, 4:6.

[61]Herbert L. Phillips, "Tidelands Oil May Be Chief Issue Before Solons," *SB*, 2 January 1937.

[62]Olson's Report, Senate Journal, 21 January 1937, 293. As governor, Olson pursued this line of reasoning, instructing the State Auditor's Office to investigate the Division of State Lands. State of California, Division of Budgets and Accounts of the Department of Finance, Special Report In Connection With Our Current Audit of Records and Accounts of the State Lands Commission Division of State Lands Department of Finance Sacramento: California State Printing Office, 16 May 1941, 11-13 (hereafter, Division of Budgets and Accounts, Audit of the State Lands Commission, 16 May 1941.)

[63]"Production Data Huntington Beach Field," October-November 1936, Olson Papers, Box 3.

[64]"State Drilling Not Urged in Report on Oil: Senate Survey Differs From Ideas of Olson and Merriam," *SFC*, 5 March 1937, 4:3. "Report of Special Senate Committee to Investigate the Abstraction of Oil and Gas From State Lands," Senate Journal, 4 March 1937, 475-486.

[65]"Solon Demands Apology In Tiff Over Oil Bills," *SB*, 9 April 1937, 18:6.

[66]Herbert L. Phillips, "Tideland Oil May Be Chief Issue Before Solons," *SB*, 2 January 1937.

[67]"Assembly Gets Bill For State Oil Development," *SB*, 7 January 1937, 19:4: "Senate Gets Bill On Tidelands Oil," *SB*, 14 January 1937, 11:5.

[68]Edward Dickson, "Progressives Are Blocked in Utility, Oil Probe Moves," *SB*, 21 January 1937, 6:2; "Solon Says Company Is Trying to Halt Development of California Pools," *SB*, 22 January 1937, 12:6.

[69]"Senator Olson Offers Bill For Leasing of State Oil Pool," *SB*, 22 January 1937, 12:5; Herbert Phillips, "Tidelands Oil Drilling Is Ranked Among Top Problems in Legislature," *SB*, 16 February 1937, 1:6: "Two Beach Oil Revenue Bills Before Senate," *SFC*, 12 March 1937, 7:1.

[70]"SwingAmends Oil Bill To Give 15 Per Cent Royalty," *SB*, 5 March 1937, 15:2; "Swing Amends Oil Bill to Prevent Monopoly," *SFC*, 5 March 1937, 4:3. W. P. Rich from Marysville was a close ally to Merriam, as his consideration for a State Supreme Court position indicated. "Behrens' Political Gossip," *SFC*, 2 September 1937, 8:2.

[71]"Behrens' Political Gossip," *SFC*, 18 May 1937, 7:3; "Senate Demands Legal Support For Oil Pacts," *SB*, 19 March 1937, 15:1.

[72]Herbert Phillips, "Tidelands Oil Drilling Is Ranked Among Top Problems in Legislature." *SB*, 16 February 1937, 1:6.

[73]"Legislator Will Urge Action On Tide Line Bill," *SB*, 15 March 1937, 12:7 (Swing to request joint hearing of Olson and Swing-Rich bills); "Olson Flays Swing-Rich Bill as Measure for Standard Oil," *SB*, 18 March 1937.

[74]"Legislators Suspicious of State Private Oil Deal," *SFC*, 13 March 1937, 2:4.

[75]Herbert Phillips, "Showdown Is Due In Senate On Tideland Oil Measures," *SB*, 16 March 1937, 5:2.

[76]"Senate Is Set For Action On Tidelands Bills," *SB*, 1922 March 1937, 14:4; "State Royalty Oil Bills Go To Committee," *SFC*, 23 March 1937, 6:4. "Senators Are Deadlocked On Oil Bills," *SB*, 23 March 1937, 1:1.

[77]"Swing Drops Minimum Oil Royalty Clause," *SB*, 26 March 1937, 5:1; "Oil Bills Again Face Senate," *SFC*, 27 March 1937, 10:4. Swing further amended his bill to require successful bidders to commence condemnation proceedings immediately following their contract with the State (the previous version had allowed fifteen days). Opponents complained that only Standard could meet that condition.

[78]"Authors Predict Passage Of Two Oil Proposals," *SB*, 19 April 1937, 10:4. Swing conceded that Proposition No.4 had been "a wolf in sheep's clothing." But he denied that his bill resembled the defeated proposition. "Senate Approves Olson Oil Bill, Kills Swing Measure," *SB*, 20 April 1937, 2:5. In the Assembly debate, Olson emphasized that the state-drilling provision would put the State in a "bargaining position." "Olson Oil Bill Is Scheduled For Monday Hearing," *SB*, 24 April 1937, 11:1.

[79]"Olson Amends Tidelands Oil Drilling Bill," *SB*, 31 March 1937.

[80]"Senate Grants State right to Drill Oil Pool," *SFC*, 20 April 1937, 4:4. See political cartoon depicting Olson hitting a Huntington Beach drilling bill home run while the mangy dog (Swing-Rich bill) scurries away. "Olson Tideland Bill Is Passed By Senate 22-18," National Oil Derrick, 23 April 1937.

[81]"Lower House Passes Sales Tax Reduction," *SFC*, 24 April 1937, 9:3.

[82]"Behrens' Gossip on State Politics," *SFC*, 27 April 1937, 7:5. "Solon Moves To Force Vote On Oil Drilling," *SB*, 26 April 1937, 10:7.

[83]Joseph Timmons, "Assembly O.K.s Olson Oil Bill," Los Angeles Examiner, 29 April 1937.

[84]"Oil Bill Forced Out on Floor," *SFC*, 28 April 1937, 12:8.

[85]Herbert Phillips, "Lower House Will Act On Olson Bill," *SB*, 28 April 1937.

[86]Joseph Timmons, "Assembly O.K.s Olson Oil Bill," Los Angeles Examiner, 29 April 1937; "Assembly Passes Two Oil Proposals," *SFC*, 29 April 1937, 12:3.

[87]James Wagy of Kern County, Olson's investigatory committee colleague, led a last-minute effort to "knife the measure" but could only must two additional votes against the Olson bill. "Senate Finally Gives Approval of Olson Oil Bill" *SB*, 30 April 1937, 14:1.

[88]"Assembly Approves the Olson Oil Measure," *SB*, 30 April 1937, 14:1.

[89]Earl C. Behrens, "Olson Beach Drilling Bill Signed Into Law," *SFC*, 16 May 1937, 6:1.

[90]"Behrens' Political Gossip," *SFC*, 5 May 1937, 5:2.

[91]"Sardine, Oil Debates Rile Legislators," *SFC*, 15 May 1937, 6:2; Earl C. Behrens. "Olson Beach Drilling Bill Signed Into Law," *SFC*, 16 May 1937, 6:1; "Senate Votes to Ratify Pact With Oil Firm," *SFC*, 21 May 1937, 6:4.

[92]Although indicted and tried twice, on the charge of offering a bribe to promote the Welsh bill, Assemblyman Gene Flint from Los Angeles was not convicted. Welsh himself testified before the grand jury that Flint approached him twice soliciting money for his support of the Welsh bill. Flint's powerful friends came to his aid after his arrest. Clare Woolwine, a Los Angeles lobbyist, arranged his bond, and Clifford A. Russell, one of the most able and expensive defense attorneys in Sacramento represented Flint at no cost to Flint. H. R. Philbrick, Legislative Investigative Report. Sacramento: Edwin N. Atherton and Associates, 28 December 1938, sec. lll-pp2-6.

[93]"Senate Adopts Urgent Clause In Olson Oil Bill," *SFC*, 1 May 1937, 4:4; "Olson Calls Upon Governor To Veto O'Donnell Bill," *SB*, 15 June 1937, 17:1.

[94]"O'Donnell Tidelands Oil Bill Is Criticized by Senator Olson," *SB*, 5 July 1937, 3:4; "Olson Scores Oil Tidelands Drilling Bill," *SFC*, 4 July 1937, 8:6; "Governor Hints Favorable Action On O'Donnell Bill," *SB*, 19 June 1937, 3:3; "Move Is Made To Lease State Drilling Rights," *SB*, 24 June 1937, 14:5.

[95]Fred Wood, legislative legal advisor, had advised Olson previously that there was no obstacle to the State dealing in a special manner with a particular parcel of State property. "Webb Believes Senate Hunting[ton] Beach Oil Measures Are Invalid," *SB*, 5 April 1937; "Changes Follow Legal Opinion On Oil Measure" *SB*, 7April 1937, 17:1; Fred Wood to Culbert L. Olson, 9 April 1937, Olson Papers, Box 3, BL.

[96]"Senator and Webb Differ on Oil Bill Constitutionality," *SB*, 6 April 1937; "Webb Declares Oil Pool Bill Is Subject To Vote," *SB*, 9 August 1937, 1:2; Culbert L. Olson, "Statement by Senator Culbert L. Olson, 9 August 1937, Olson Papers, Box 3, BL.

[97]"Merriam Plans Court Fight On Oil Referendum," *SB*, 26 August 1937, 1:4; Culbert L. Olson, "Address By Senator Culbert L. Olson at Annual Convention of California Federation of Democratic Women's Study Clubs, at Long Beach, California," 17 August 1937, Olson Papers, Box 4, Folder Olson Speeches, 1936-1937; Culbert L. Olson, "Statement by Senator Culbert L. Olson," 9 August 1937, Olson Papers. Box 3.

[98]"State Files Suit To Halt Olson Bill Referendum," *SB*, 1 September 1937, 7:2; "Court Order Stops Opening of Bids On State Oil Drilling," *SB*, 8 September 1937, 5:2; "New Tideland Oil Suit Filed," *SFC*, 11 September 1937, 24:3; "Senator Olson to Argue Against Referendum on His Oil Bill," *SFC*, 5 October 1937, 5:5; "Time to File on Referendum Briefs Granted," *SFC*, 6 October 1937, 14:5.

[99]Herbert Phillips, "Solon Moves To Speed Oil Drilling Law." *SB*, 4 March 1937, 1:8: Herbert Phillips, "Action Starts On Oil Lease And Public Drilling Bills," *SB*, 11 March 1937, 18:2.

[100]"Senate Demands Legal Support For Oil Pacts," *SB*, 19 March 1937, 15:1; "Swing Drops Minimum Oil Royalty Clause," *SB*, 26 March 1937, 5:1. In May, Olson criticized Sturzenacker and Webb Shadle for openly lobbying on behalf of the more lenient tidelands oil bills. Carl Sturzenacker denied that he and Shadle had done so, calling Olson's remarks "the distorted ravings of an old man's disintegrated brain." "State Official Denies Lobbying Charge By Olson," *SB*, 28 May 1937.

[101]"Standard Oil, State Set Up Tideland Pact," *SB*, 12 March 1937, 1:3.

[102]"Legislators Puzzle Over Oil Easements," *SB*, 27 March 1937, 5:1; "Olson Tideland Bill Is Passed By Senate 22-18," National Oil Derrick, 13 April 1937.

[103]"Bill Ratifying Oil Agreements Is Approved," *SB*, 21 April 1937, 5:5; "Olson Tideland Bill Is Passed By Senate 22-18," National Oil Derrick, 23 April 1937.

[104]"Tidelands Oil Collections Put State In Dilemma.," *SB*, 13 July 1937, 2:2; "Behrens' Political Gossip," *SFC*, 14 July 1937, 5:3.

[105]"$5,000,000 Gift Declares Senator," *SFC*, 12 October 1937, 13:3; "State Finishes $518,621 Pact With Oil Firms," *SFC*, 12 October 1937, 13:3: "Counter Charges Made in Oil Pool," *SFC*, 14 October 1937, 7:4.

Chapter 6

The Petroleum Politics of 1938

In early 1938, Governor Frank Merriam scrambled to get on top of the oil issue. His administration's recent settlement with Standard Oil remained volatile and the Olson and O'Donnell leasing bills, held up on referendum, kept coastal oil in the public eye. In February 1938, Merriam announced that the state legislature would meet in special session the next month. The session's principal task: crafting an oil measure to address the longstanding Huntington Beach problem as well as new conditions in the Wilmington field.

The increasingly rapid development of the Wilmington field had intensified the need to revise California's oil leasing policies. By the summer of 1937, the state administration realized that Wilmington would prove larger than the Huntington Beach field. California already had begun to lose oil to private drainage there.[1] State legislators had noted the emerging coastal field at Wilmington during the spring legislative session. But their maneuvering had centered principally on the Huntington Beach situation. Neither the Olson nor the O'Donnell bills addressed the Wilmington problem. In the closing hours of the 1937 legislature, opponents killed a Merriam-sponsored measure to allow state permits in the Wilmington area. California had no legal way to protect its interests in the Wilmington field.[2]

The Wilmington situation worsened from the State's perspective in the fall of 1937, when the Long Beach city government claimed that the oil in the harbor belonged to the city, not the state. Decades before, the California legislature granted Long Beach tidelands for the purposes of harbor development. Now the city asserted that mineral rights had passed with the harbor grant.[3] Merriam's Finance Director Arlin Stockburger warned Long Beach to back down, asserting that California still legally owned all tidelands it had granted to the cities. Any tidelands drilling at Long Beach, by private companies or the city government, would amount to trespass, he declared. Stockburger further indicated that there was no authorization for tidelands drilling anywhere in the State except at Huntington Beach, and the authorizing bills were being challenged in court and at referendum.[4] Long Beach's assertive attitude further increased the pressure on the state government to formulate an effective policy governing the tidelands.

In the winter of 1938, California's tidelands oil problems came to a head. The California Supreme Court unanimously ruled that Olson's oil bill could not be an "urgency" measure because it technically changed the duties of the Director of Finance. The court thus definitively opened the Olson bill to referendum and left California without a statute to govern the development of the Huntington Beach offshore field until the November 1938 election, at the earliest. At the same time, continued private drainage at Wilmington, with wells as large as 7,000 barrels per day, threatened to repeat the Huntington Beach fiasco.[5] And on the public tidelands in the Wilmington area, the cities of Long Beach and Los Angeles prepared to push forward with their own drilling programs. Attorney General Webb sued to validate the State's claims to any oil wells drilled on the Long Beach and Los Angeles tidelands.[6] Webb and the Merriam

administration argued that California retained oil and mineral rights from under the land, and that drilling for oil would violate the harbor trust purposes. Los Angeles and Long Beach countered that they would use the money for harbor purposes only, thereby complying with the spirit of the grant.[7]

Meanwhile, rumblings about federal ownership began to be heard in Washington, D.C. The U.S. Secretary of the Navy urged Congress to grant the President the authority to seize California's coastal oil reserves. The previous summer North Dakota Senator Gerald Nye sponsored a bill requesting that the U.S. Attorney General file suit to recover the coastal lands for the nation. Now Navy Secretary Claude Swanson recommended more aggressive action: the invocation of the national defense power and direct takeover of the submerged lands.[8] In response, the Merriam administration broadly attacked federal land ownership in California. Finance Director Arlin Stockburger called the Elk Hills naval oil reserve "a subterfuge from beginning to end," noting that the government was developing the naval reserve and that federal royalties had gone to the federal general fund. Stockburger described Swanson's call for nationalizing the coastal fields and Senator Nye's demand for a court determination of who owned the tidelands, as ruses to steal California's state oil lands.[9] In turn, a Congressman from Long Beach blasted both the state and the city governments, accusing them of giving the tidelands away to private interests. Long Beach could be a "tax-free city" if it developed its harbor resources wisely, Representative Byron Scott insisted.[10]

The Long Beach city government, private operators, and the federal government circled around the Wilmington field and the Huntington Beach situation remained unresolved—all this in the face of the upcoming 1938 election. Merriam had to act. In February 1938 he called a special legislative session to pass a general leasing bill that would address the tidelands oil problem.[11] Merriam said that the State's court fight to protect its oil rights against private operators and Long Beach would not suffice. "About all we can expect from the court is either an injunction forbidding drilling, which we don't want, or an order impounding the oil. We don't want to interfere with oil operations. We simply want to gain for the State its full share of the oil."[12] Merriam thus indicated how much state policy had changed since 1929 when the legislature and Young Administration had sought to block coastal oil development entirely. Now the state focused on protecting its financial interests.

The special session in March got off to a rocky start. The Assembly began by censuring Merriam for having provided legislators with copies of the bills less than twenty-four hours before the session began. Lobbyists had seen the bills long before that time, the legislators complained.[13] Three separate approaches to the tidelands oil problem emerged at the outset of the special session. The Merriam administration bill, introduced by Alfred Robertson, a conservative Santa Barbara County Democrat, proposed a new state lands commission empowered to enter royalty leases with private companies. All new wells would be located on uplands or filled tidelands. Merriam frankly admitted that the tidelands oil bill had been drafted and revised three times by various interested parties.[14] The Democratic candidate for Lieutenant Governor, Ellis Patterson, submitted a competing measure that authorized state drilling where private companies threatened to drain public pools. Democratic Assemblyman John Gee Clark, in collaboration with Senator

Olson, proposed amendments to the Robertson bill that would convert it into a generalized Olson Bill. Clark's amendments authorized state drilling when private company bids were deemed too low and stipulated a minimum thirty percent royalty.[15]

In a separate measure, Ellis Patterson also asked the legislature to void the Huntington Beach easement agreements. He urged that the legislature demand that Merriam and Webb sue Standard Oil and the other trespassing oil companies for the full value of oil extracted. Patterson noted that under a recent court ruling, the State was "entitled to 100 cents on the dollar." State Department of Finance's settlement was "pitifully small."[16] Olson and Clark also proposed a compromise solution to the harbor oil problem, granting Long Beach and Los Angeles exclusive power to produce through municipal drilling or contract, with the state receiving fifty percent of the royalties.[17] Both these proposals were defeated.

Senator Culbert Olson's appearance on the Assembly floor to oppose the administration-sponsored bill was the "highlight of the oil bill consideration," according to the San Francisco Chronicle. Olson urged defeat of Merriam measure. Olson declared that he would not grant the Director of Finance nor the Chief of the Division of State lands "any power to lease state owned tidelands without some limitation on their authority." They were "agents of the special interests." Olson speculated whether "the whole purpose of this special session of the legislature wasn't to perpetuate the rights of Standard Oil." The Merriam bill was "made to order for the Standard Oil Company": no other bidders could comply with the terms of the bill, the measure would overturn the 1937 Olson bill, and the bill stipulated neither a minimum royalty nor any requirement for offsetting Standard's wells at Huntington Beach. Merriam's bill was more objectionable than the 1936 slanted drilling proposition, Olson asserted.[18] Olson's colleague John Gee Clark similarly expressed the fear that the new commission would lease all the lands before the people voted on the Olson bill in November. Clark successfully amended the Robertson bill in the assembly to prevent its application until after the November vote, but Senator Ray Hays, Olson's nemesis from the senate investigatory committee, subsequently blocked Clark's amendment in the Senate.[19]

Olson's Democratic allies broadly criticized the Merriam administration's close ties with major economic interests in California. Assemblymen George Miller and Henry Dannenbrink accused Carl Sturzenacker, Chief of the Division of State Lands, of having opposed a harbor grant to Oakland unless the Southern Pacific Railroad Company would receive a twenty five year franchise right in the Oakland harbor area. Assemblyman Paul Peek, an Olson ally, similarly questioned the actions of Merriam-backer Ralph Clock in the Wilmington field. Peek noted that Clock represented a Long Beach drug store clerk named Lauricella who had sued to force the state to issue a permit for a contested claim in the Wilmington field. Peek pointed out that Lauricella "is not a monied man and it takes money to go to court" Peek noted Clock's involvement in the case and that Carl Sturzenacker had indicated that California would simply allow the Lauricella claim to stand. "It looks very much like we're turning the oil pool over to private interests lock, stock and barrel," Peek complained.[20]

After battling over oil legislation until four in the morning, the state legislature returned to Governor Merriam substantially the same bill that he had submitted the previous week. The legislature rejected proposals providing for state drilling or granting Los Angeles and Long Beach exclusive rights for to develop their tidelands. Drilling would proceed from uplands or filled tidelands only. The State Lands Act limited state leasing to instances where onshore operators drained state oil deposits. The measure required competitive bids, but did not stipulate any minimum royalty. Because the Merriam-sponsored bill passed subsequent to Olson's measure, it automatically superseded Olson's bill. The new State Lands Commission would consist of the appointed Director of Finance, the State Controller, and the Lieutenant Governor. The bill granted the power to condemn drilling sites, but not state drilling. Merriam's bill had been amended in only two significant ways. The Assembly had slapped at the Merriam administration by replacing the appointed natural resources director with the independently elected Lieutenant Governor. The legislature also dedicated thirty percent of the state's oil royalties to park purposes.[21]

The bill's opponents continued to excoriate the measure. It was a "vicious" piece of legislation, according to John Gee Clark, "designed to serve private interests and not the state interests." The act would "throw the Huntington Beach tidelands wide open to private exploitation," but, without the Olson bill's safeguards, Standard Oil would control the oil from the uplands. Assemblymen Hugh Donnelly and John O'Donnell supported Clark, Peek, and Olson, with O'Donnell calling the new measure worse than the propositions rejected by the people at the ballot. San Luis Obispo Senator Chris Jesperson lamented, "We could so easily have written into this bill a protection to the State of California, but we didn't." Olson similarly commented, "It is a sad thing when the state bows to the domination of a powerful institution. It is such interests as the Standard Oil that dominate the activities of the state administration."[22] Olson threatened a referendum if Merriam signed the bill.

The bill's supporters continued to hedge their political bets on the oil issue. They seemed barely more enthusiastic about the new leasing law than their opponents. Rather than celebrate his victory, Governor Merriam sought to distance himself from his own general oil and minerals leasing bill—even as he signed it. The bill resulted from "a compromise between oil concerns" Merriam admitted. Those who wished to grant the commission greater powers "may ask future legislatures to make amendments in conformity with their opinions." Further powers were "impossible at the present time":

> The bill I have signed is the best available at this time and will afford the state a larger measure of protection and preserve the state's resources and secure its revenues therefrom. Even though it is not what I personally desired in all respects, it is a good beginning and will enable the state to meet the situation which is now an impossible one.[23]

Merriam's bill would become law in June if not held up by a referendum. Merriam stressed that the State's powers of eminent domain would substitute for the omitted state drilling provision. Assemblyman Gerald Kepple of L.A. similarly commented, "I don't like the bill and there are lots of 'bugs' in it but I will put my trust in the commission."[24]

By contrast, the outcome of the special session pleased some members of the oil industry so much that they began to circulate petitions requesting *another* special session, this time to consider an oil production control bill.[25] No second special session occurred, however. But nor did the referendum sought by the bill's opponents, who could not muster sufficient signatures to oppose the general leasing bill. The State Lands Act became law in June 1938. The Olson and O'Donnell bills remained held up on referendum until the November 1938 election.[26]

The Courts Cut Back the State Tidelands

The State of California ruled a diminished domain. In the spring and summer of 1938 the California Supreme Court upheld two appellate court decisions that stripped away the very tidelands that the state sought to manage. In *Bolsa Land Company v. Vaqueros Major Oil Company*, the California Supreme Court let stand a court decision that cut back state ownership of the tidelands to the United States' Geodetic Survey line of the mean high tide mark. This decision pushed the state's ownership down the beach towards the water, depriving it of much of the tidelands it might have leased in Huntington Beach and elsewhere.[27] The court decision deferred to federal boundary lines, dismissing the idea that the state could determine independently the boundary between private lands and public lands on its coastline.

The two senate reports submitted by Olson and his colleagues had differed sharply on this small but crucial technical point. Some one to two hundred feet of beach, along with millions of dollars of subsurface mineral rights, rode on the question of where the State tidelands boundary lay.[28] The state constitution stated that the state's title extended to the "ordinary high water mark," but what did that vague phrase mean? As the appellate court concisely stated the question, "Does the ordinary high water mark mean the run or reach of the water or waves upon the shore, or does it mean the vertical rise of the tide, and then the horizontal line projecting there from intersecting the shore?"

The March 1937 majority report by the senate investigatory committee argued that a federal definition of "tidelands" bound California. This limited tidelands to the rise of the tide projected horizontally to the shore. This conservative method of calculating the tidal boundary situated the tidal line closer to the ocean, discounting the wash of the waves along the beach. The U. S. Coast and Geodetic Survey detailed a Lieutenant Fish to survey the shore at Huntington Beach according to this method and it resulted in the most conservative statement of the public's ownership of the beach. Standard Oil similarly paid a retired U. S. Army Engineer, Colonel Leeds, to do the same task and he produced a slightly more generous estimate of the public's rights. (The difference between the Fish and Leeds lines lay in the differing slope of the beach at the time of their respective surveys.)[29]

Yet the California Supreme Court had never clearly ruled on the boundary question. Olson and his allies asserted that "ordinary high water mark" must mean the mark made by waves during their ordinary ebb and flow. If California took the Fish or Leeds line as the tideland boundary, Olson countered, "the State would own no beaches: the beaches would all belong to the private

landowners bordering thereon regardless of the fact that the tides and the waves, and the sand over which they are washed, extend inland from those lines."[30] Olson's committee employed two academic geologists to map the escarpment marking the upper edge of the shore ordinarily washed by the waves, significantly up the beach from either the Fish or the Leeds surveys.[31]

In the state legislature, Olson's allies pressed for a state-level determination of the tidal property line. Orange County State Senator Harry Westover advanced a bill asking the department of finance to set the tide line boundary on the south coast.[32] Westover wanted a political determination of the state boundary line that would set a benchmark for the California Supreme Court to follow. In February 1937, the Assembly also passed a resolution directing the Attorney General and the Finance Department to intervene in a suit by Standard Oil against Southern California Drilling Company for trespass.[33] The case turned on the tidal boundary question. But the California courts turned aside these attempts at political interventions, In February 1938, the California Supreme Court let stand an appellate court decision in the *Bolsa v. Vaqueros* case that the federal boundary line should prevail.[34]

In a second decision that summer, the Supreme Court of California further cut back state oil holdings. The court ruled California's harbor grant to Long Beach had included mineral rights, and the city could freely develop the oil. The State had made no attempt to reserve oil rights for itself, the court noted. Indeed, in 1937 the state legislature had approved a charter amendment authorizing drilling by the city. "If the State was inclined to commit itself to such an improvident transaction it is not the function of the courts to nullify it," wrote Associate Justice William Langdon in *Long Beach v. Marshall*.[35] The *Bolsa* and *Marshall* court rulings stripped California of its oil lands, transferring them to upland property owners all along the California coast and to Long Beach and Los Angeles in the case of the Wilmington field. The *Bolsa* case had even broader ramifications because it did not apply only to oil.

Parks and Political Corruption—Two Stories behind the State Lands Act

During the March 1938 special session that produced the State Lands Act, the California legislature made only two substantive changes to Governor Merriam's initial proposal. Both revealed deep political undercurrents in California's oil politics. First, the legislature dedicated thirty percent of state oil royalties to the State Parks System. Second, the legislators substituted an elected official, the Lieutenant Governor, for a gubernatorial appointee, the Director of Natural Resources, as the third member of the new State Lands Commission. These two modifications capped political trends that had dominated petroleum politics throughout the l930s. The dedication of oil royalties to parks reflected the fact that beach protection groups, often in alliance with factions of the oil industry, had blocked efforts to develop coastal oil resources since 1929. In the 1938 bill they now apparently acquiesced to coastal oil operations in exchange for funding for California's beaches and parks and for an agreement that oil operations would be kept off the beaches, on the uplands. This trade of tidelands oil for beaches and parks endured for decades and the abundance of coastal oil funded the rapid expansion of California's state park system.

Coastal oil royalties appeared as a fiscal savior at a pivotal moment for California's state beaches and parks. In 1927 the California legislature created a State Park Commission to administer the newly unified state park system. In 1928, voters approved a constitutional amendment authorizing six million dollars in state bonds to purchase state park lands, with the provision that an equal amount of matching funds be raised from private sources.[36] With these funds on hand, the 1930s were critical years for the state park system. Real estate prices dropped precipitously, making it less expensive to purchase lands for the state system.[37] From 1931-1938, the number of parks increased by four times, the financial investment by seven times, and the acreage by fifteen.

But the parks lacked a regular appropriation from the state government. After committing the 1928 six million dollar bond issue, the Parks Commission sought additional funds from the Merriam administration, but received little. Although publicly popular, the State park system proved quite vulnerable to budget-cutting during the depression years. Anti-tax groups like the California Taxpayer's Association opposed funding park maintenance and operation, "at a time when retrenchment in government is demanded by the people." The Taxpayer's Association's Assistant Tax Counselor, John Peirce declared that there were many other governmental activities "more necessary than public recreation." He recommended that the State finance its parks exclusively through user fees, rather than through general taxation. He thought the remotely located state parks did not benefit the state as a whole, but only the small portion of the population who could access them. "We build our state highways out of special revenues obtained from those who use them," Peirce contended. "It is equally reasonable to operate state parks on the same basis."[38]

Without the funds to complete its acquisition program or maintain its recently purchased properties, in 1936 the State Parks Commission made a sketchy alliance with the Standard Oil group and supported the 1936 slanted drilling initiative. William Colby, head of the Commission regularly endorsed the measure on behalf of the State Parks Commission on the radio and in print.[39] Colby promised that "this measure will make future park bond issues unnecessary, and will provide for the entire park system at no future expense to the taxpayers."[40] An expert in mining law, Colby was on friendly terms with Oscar Sutro, the chief lawyer for Standard Oil, and Robert Searl, the primary lobbyist for many of the mining groups in the slate capitol.[41] The 1936 initiative campaign was not Colby's first such compromise to raise funds for the state and federal parks. In the 1910s he had allied with the Automobile Associations, trading automobile access to the parks for the auto club's political support for park appropriations.[42]

Despite Colby's park-based appeal, the California electorate defeated the 1936 oil initiative. After the 1936 election, Culbert Olson had asked Colby to testify before his committee about his efforts on behalf of the defeated proposition.[43] Colby recounted that the George Nordenholdt had brought the measure to the State Parks Commission, indicated that the administration favored it, and urged the commission to consider endorsing it. Colby explained that the difficult financial position of the parks commission had persuaded him to support the oil measure. The proposition had been "the first measure that had taken care of the park situation," he recounted in mid-November 1936.

> We have been confronted with the fact that there are areas which we were unable to acquire under this bond issue, partly because of the fact the bond issue was not sufficient and also because we did not get sufficient private donations to carry out the entire program.

Colby noted that the Pacific Lumber Company was about to "cut down one of the finest redwood groves that we know of" at Woolrick Flats and Diablo Flats. He also pointed to threats to the Pepperville Grove and Jordan Creek Grove. The highway passed through them and their owners warned the Commission that they would cut the groves unless they were purchased for near a million dollars. There were also beaches to acquire, including Will Rogers Beach, Santa Monica Beach, and others. "We see no revenue in sight of any sort for their acquisition and I think that was what determined us to support the bill as much as anything."[44] The varied projects meant that the Parks Commission had an urgent need for cash.

During the last few years of the Merriam Administration, the state government allocated no new state monies for park development.[45] By 1938, the California State Parks System had become severely overextended. Despite the rapid growth in properties, the number of park employees had increased by only fifty-three per cent, and the budget by a meager ten percent. The park system averaged less than one field employee per park unit. "We are operating on limited funds," the State Parks Commission warned in 1938. The growth of the parks had "only been made possible" by the fact that the federal Civilian Conservation Corps and Works Progress Administration "have provided us with the man powers and the facilities." Federal assistance had advanced the development of public facilities in the State Parks by twenty years, the Commission estimated, a task otherwise "impossible without great cost to the State." But this condition could only be "temporary." The state government needed to make permanent arrangements to provide for state park employees. The state park system operated on a smaller annual budget than California's major cities provided for their individual park and recreational needs. With no new funds in sight, the Commission reluctantly reported, "the period of acquisition is nearing completion." The State Park System was "taxed to the utmost."[46]

In this moment of financial difficulty, the State Parks Commission again turned to oil royalties as a fiscal savior.[47] The special legislative session of 1938 consolidated an uneasy alliance between oil and the State Parks Commission. Because there is no public record of debates in the California legislature, except for special committee hearings on specific issues, it is difficult to discern exactly bow beach and park funding became tied up with the state's general mineral leasing bill. But as early as January 1938, the Shoreline Planning Association had begun a lobbying campaign to ensure that the state allocate a "reasonable portion" of state oil royalties for the acquisition of additional beaches and state parks and for the maintenance of beaches and parks within the state system.[48] Given the fiscal problems of the State Parks Commission and the long struggle against coastal oil in Southern California, it seems probable that the beach and park groups parlayed support for the leasing bill into a thirty percent share of oil royalties.

The deal paid off splendidly for the state beaches and parks. By December 1938 the fiscal outlook for the State parks had reversed itself completely. The proposed biennial parks budget of

approximately $1.37 million came almost exclusively from oil royalties deposited in the State Park Maintenance and Acquisition Fund. The State Parks Commission now anticipated continuing its acquisition program at a healthy rate of $300,000 per year for the next ten years. Oil royalties would fund the state's half and private matching funds the other. Oil royalties would thus carry the state government's entire park obligations. The State Parks Commission targeted two of California's signature natural features for park development: "recreational beaches in Southern California, which are in danger of being exploited to the exclusion of the public, and groves of California's world-famed Redwoods, which in the next few years will be destroyed, unless the state adopts a systematic program for their preservation." In addition to their conservation value, these projects rewarded powerful economic constituencies—on the one hand, the coastal development associations of Southern California, and on the other, the Redwood Empire Association, a Northern California development group.[49]

"California's $1,000,000,000 tideland oil scandal"[50]

The second major modification to Merriam's State Lands Act was the establishment of a State Lands Commission outside the Department of Finance, and the substitution of the Lieutenant Governor for the Director of Natural Resources as a member. These changes reflected a growing realization among California politicians that oil policy and politics had corrupted both the state legislature and the Rolph and Merriam administrations. Accusations of bribery and oil industry influence were rife in the legislative debates of 1937. During the 1938 special session, Olson and his allies made vague allegations questioning the integrity of Merriam officials charged with managing state lands. By replacing the Director of Natural Resources with the State Controller, they successfully shifted power in the State Lands Commission away from the governor towards another elected official. This modification opened the leasing process to greater public accountability. Soon after the 1938 session, evidence documenting petroleum-related corruption broke into public view, severely damaging Merriam's chances for reelection.

Allegations that economic interests improperly influenced California politics during the 1930s finally prompted an investigation of legislative corruption in the spring of 1938. Rumors of bribery in relation to the 1937 Welsh bill and, at the least, conflicts of interest related to the 1935 Burns bill, made petroleum-related corruption central to the investigation. According to investigator Howard R. Philbrick, Assemblyman Gene Flint of Los Angeles had solicited funds to deliver votes on the Welsh bill, while Assemblyman Hunt and his associates had been promised that they could get in "on the ground floor of a stock deal" if Merriam signed the Burns bill.[51] The oil industry, along with the railroad companies and Sacramento's pre-eminent lobbyist Arthur Samish, contributed considerable funds to legislative candidates at this time, but did not disclose them to investigators or the public. Between 1935-1938, for example, Samish controlled a slush fund of at least $97,000, which he disbursed in cash, destroying all records of its distribution.[52] This liquidity made Samish a powerful man. Among other triumphs, Samish claimed credit for squashing an oil bill sponsored by the administration on the last night of the regular session of the 1937 legislature.[53]

A Sacramento grand jury investigation of Samish in the summer of 1938 precipitated disclosures of petroleum-related corruption in the Merriam administration. Samish warned that he would not take a fall alone. In June, Samish was arrested on a contempt of court warrant for failing to testify before the grand jury. His lawyer, John Francis Neylan, demanded that the grand jury investigate the governor's office in addition to the legislature. Neylan threatened that Samish would reveal his contributions to legislators as well as information regarding oil legislation promoted by two Merriam's associates, former State Senator and Superior Court Judge Ralph Clock and Los Angeles lawyer, Merriam campaign manager and fundraiser Joe Rosenthal.[54]

Just hours after Neylan' s public remarks, Director of Finance Arlin Stockburger filed affidavits with the State Personnel Board detailing a conspiracy by state employees to file on rich oil lands in the Wilmington field. J. M. Midgley and Bert McAtee, both former land title draftsmen in the Los Angeles office of the State Lands Division, implicated Carl Sturzenacker, division chief, and Arthur Alexander, longtime state petroleum production inspector in southern California.[55] According to subsequent news reports, Stockburger had possessed the affidavits for several days, but only submitted them to the Personnel Board after Neylan warned that Samish would talk to the grand jury.[56] Now Stockburger ordered Sturzenacker stripped of power while the accusations were investigated.

Shortly after he joined the State Lands Division's Los Angeles office, J. M. Midgley recalled in his affidavit, Arthur H. Alexander approached him to discuss fourteen parcels in the Wilmington area that had not yet been filed upon. Alexander suggested that Midgley join a scheme to gain control of the oil lands. Relations of Alexander or friends and associates of Alexander and Carl Sturzenacker would file claims on the land. Among others, the group included Merriam-backer Joe Rosenthal and Sturzenacker's former secretary Edna May, now employed in Ralph Clock's law firm. Midgley, Alexander and their colleague McAtee worked nights preparing descriptions of the properties to be filed upon. Sturzenacker provided legal advice, Midgley recalled. According to Midgley, Sturzenacker assured him that there was no danger of the general public finding out. The investigation in the Huntington Beach scandal had come to nothing, they reasoned, and neither would this. McAtee supported Midgley's story.[57]

Sturzenacker denied the charges made by Midgley and McAtee and fought to retain a position with the new State Lands Commission.[58] It initially appeared that he might escape unscathed. A cursory investigation by the Los Angeles district attorney's office concluded that the state employees had committed no crimes in connection with the filing of the oil claims. But the state Personnel Board, at the insistence of its chairman, Fred Wood, decided to investigate whether the state employees had violated civil service regulations.[59] Although the Personnel Board possessed broad powers to dismiss State employees whom they found to be engaging in unethical practices, this was the first investigation ever instigated by the Personnel Board.[60] The Board hired San Francisco attorney Norris J. Burke to probe the administration of the southern California oil fields. Burke spent four weeks in LA interviewing witnesses. Burke examined the irregular filing of oil claims by relatives and associates of state employees. He also investigated charges that the state had granted new permits in the Huntington Beach field illegally and that Merriam-ally Rosenthal, who was not a state employee, vetted companies seeking permission to re-drill their

wells at Huntington Beach. Go "see Rosey," employees at the State Lands Division allegedly told applicants.

The Merriam administration tried to stop the release of Burke's report. In early August 1938, as Burke waited in Sacramento for guidance as to whether he should officially file his charges, Arlin Stockburger announced in Los Angeles that Sturzenacker and Alexander had resigned. Stockburger, Sturzenacker and Alexander evidently hoped that terminating their state employment would squelch a political firestorm by closing the Personnel Board proceedings. But Fred Wood, Chairman of the Personnel Board, thwarted their plan. As Stockburger rushed north through the night to Sacramento with the resignation letters in his pocket, Wood ordered Burke to file his report before the resignations became offlcial.[61] "VAST TIDELANDS OIL FRAUD," the San Francisco Chronicle headline blared.[62]

In his sixty-page report, Burke went considerably beyond the investigation by the Los Angeles District Attorney. Burke accused Sturzenacker and Alexander of "incompetence, inefficiency, dishonesty, discourteous treatment of the public, wrongful behavior and improper political behavior." Sturzenacker and Alexander had forced oil operators in the Huntington Beach offshore field to pay off Joe Rosenthal, Merriam political lieutenant, to get drilling permits. Representatives of the Huntington Beach Oil Company were told that they could obtain a permit more quickly if they gave a two percent interest to a relative of Arthur Alexander who lived in Chicago.[63] Burke also substantiated Midgley and McAtee's allegations that the state employees had conspired to control state tidelands in Wilmington. According to Burke, Alexander and Sturzenacker had tried subsequently to cover up their activities by having some of the parties reassign their interest in the land back to the State.[64]

Burke's charges went beyond the original affidavits. The Termo Oil Co., the first Huntington Beach operator to confess to trespass in 1934, had obtained permission to relocate wells into closed-off fields after others had been refused access. Similarly, Sturzenacker had authorized William Bonnelli, a member of State Board of Equalization and the head of the Magnor Oil Company, to drill sixty new wells. Sturzenacker secretly issued the Bonnelli permits in May 1937, even as the California legislature battled over how to dispose of the Huntington Beach field.[65] Another oil producer, Joseph Brain, disclosed that his own permit application had been denied, but when he sold his easement to the better-connected Bonnelli, the Magnor Oil Company received the authorization to drill into the tidelands.[66] Apparently, both the Termo and Magnor Oil Companies exchanged easements granted by Vandegrift and Rolph for more remunerative holdings. Under the loose governance of Sturzenacker and Alexander, an easement and political connections provided a ticket to lucrative tidelands oil production at Huntington Beach. Sturzenacker's secretary backdated a letter by a year to provide written precedent for these easement transfers.[67]

Burke criticized many aspects of Sturzenacker and Alexander's incompetent administration. He particularly attacked their generous determination of the tidal high water mark for land owned by the swank Belle Aire Bay Club on Malibu Beach. This had deprived the State of valuable coastal property.[68] Burke also described how Alexander and Sturzenacker had accepted royalties

incorrectly in the form of oil rather than cash in Huntington Beach, not installed an accounting system to track royalty payments accurately, and sold state royalty oil at seventeen percent below-market price to Mayor M. M. McCallen of Huntington Beach.[69] Burke reported that Sturzenacker had tried to amend the State Lands Act to make himself a member of the commission. He managed to get a friendly San Francisco assemblyman to introduce the amendment, but it did not pass. Finally, Burke accused Sturzenacker of pursuing active political work on behalf of Governor Merriam, in violation of civil service rules.[70]

The charges "veritably rocked the Capitol."[71] Director of Finance Stockburger weakly called Burke's filing of charges "an idle act" and "bad faith" in view of the officials' resignations.[72] But the State oil scandal—"festering since 1935," according to the San Francisco Chronicle—had broken out into the public record.[73] Sturzenacker withdrew his resignation, complaining that he had been doublecrossed. He did not want to resign under investigation. Wood in turn charged that Stockburger had engineered the resignations under unacceptable terms, including the filing of no complaint and a "clean bill of health." Wood accused the Merriam Administration of arranging the resignations to prevent Burke from filing his report."[74] Wood and Burke further claimed that Stockburger and Merriam knew of problems at Huntington Beach as early as 1935, and of the irregular sixty well permit granted to the Magnor Oil Co. in May 1937. A departmental investigation ordered by Stockburger in 1935 or 1936 uncovered corruption. But Merriam and Stockburger took no remedial or punitive action against Sturzenacker and Alexander. They simply reassigned the two men temporarily. Sturzenacker soon reassumed general supervision of Huntington Beach tide lands. Burke thought that Stockburger originally had released the affidavits thinking that he could limit the Personnel Board investigation to the irregular filing by Alexander and Sturzenacker's associates. Wood warned that there might be cause for criminal charges, and offered the Personnel Board's information to the District Attorneys of Los Angeles, Sacramento, and Orange County.[75]

As the oil issue became prominent in the Republican gubernatorial campaign, Stockburger dismissed the controversy as a "routine matter" exaggerated to revive George Hatfield's "lost cause." Stockburger claimed that Wood was a law associate of Hatfield and that Hatfield and Wood had together formerly employed Burke, the investigator.[76] Sturzenacker similarly attributed Burke's charges to George Hatfield's gubernatorial candidacy. Sturzenacker also said that Webb Shadle, Superintendent of the State Lands Division, had conspired to remove Sturzenacker from office so that Standard Oil, Signal Oil, and other oil companies could gain control of the Huntington Beach pool.[77] On the radio, Merriam denied Burke and Wood's charges against his administration.[78]

Whether an allegiance to Hatfield motivated Burke and Wood or not, "California's $1,000,000,000 tideland oil scandal" temporarily energized Lieutenant Governor George Hatfield's candidacy for governor. Three state Republican leaders publicly urged Hatfield's nomination to give California a "much needed house cleaning." Merriam could not win in November, these Republicans contended, because his administration was too closely associated with the spoils system and special favors. Merriam's administration had lost the public's confidence, they asserted. Hatfield accused the Merriam administration of smothering the

scandal probe. As a member of the new State Lands Commission, Hatfield voted with Controller Harry Riley to refuse the Sturzenacker and Alexander resignations and to suspend the two officials pending investigation. As the third member of the State Lands Commission, Arlin Stockburger did not oppose the action. The presence of the Lieutenant Governor on the commission already had tipped the balance of power over oil land administration away from the governor's administration.[79]

Meanwhile, Arthur Samish's lawyer, John Francis Neylan, declared the administration of state oil lands a "disgraceful episode." Noting that the state lands in question dwarfed the Teapot Dome oil field, Neylan criticized the investigation of legislative corruption—and his client, Artie Samish— as a mere diversion from the true oil scandal. Neylan further claimed credit for having flushed the original affidavits out from Stockburger with his June allegations. Merriam had to know what was going on, Neylan insisted. He demanded full disclosure from the government and provisions for honest administration of the oil lands.[80] "No sane person" would entrust the administration of the state's "greatest single material asset" to a group of "utterly incapable and inexperienced men," Neylan said.[81]

In April 1939, the Personnel Board upheld the charges made by Norris Burke and dismissed both Sturzenacker and Alexander from the state government.[82]

"Things will no longer be merely 'oil' right if I am elected governor."[83]

The uproar over the Division of State Lands scandal could not revive George Hatfield's candidacy for governor. Merriam and Olson squared off against each other in the fall election of' 1938. The bitter contest had gestated since 1934, when Merriam defeated Upton Sinclair and Olson, Sinclair's choice as head of the State Democratic Committee, joined the State Senate. Olson had marshaled his progressive allies through two bitter legislative sessions, battling Merriam every step of the way.[84]

Olson and the Democrats now pushed the oil issue hard, using the recent scandal to underscore Merriam's corrupt alliance with special interests. The Democratic Party platform issued in September 1938 condemned "Republican Misrule," declaring that "the functions of government have been perverted, natural resources, assets of the state, have been given away and public moneys have been wasted." By contrast, the platform announced, the Democrats would reserve for the state all oil and gas in state lands and develop them to secure the greatest possible revenue. "We condemn the abject subserviency of the Republican State Administration to special privileged interests," the Democratic platform announced. The Republicans had lost California millions of dollars worth of oil by allowing oil companies to extract petroleum "which rightfully belonged to the people of the state.[85]

In his campaign for governor, Olson particularly emphasized his years of labor on the tidelands oil problem. A 1938 campaign document listing the highlights of Olson's political career, for example, put his introduction of the Olson Oil bill in 1937 first. Following a brief summary of

the bill, the document called the Olson bill "the first time in California history in which the oil interests lost their grip in the legislature."[86] Similarly, an Olson campaign broadside from August 1938 celebrated his leadership of the "Progressive Democratic Forces" and used "The Olson Oil Fight" as its prime example.

> Perhaps the most conspicuous of his great services to the people has been Olson's fight— against overwhelming odds— to save the State's enormous oil reserves. He exposed the most wanton depredations perpetrated by large oil companies. He fought them to the point of securing laws to protect the people's interest; only for their purpose to be defeated and subverted by the Merriam-Hatfield regime, which, because of their behavior on this one issue, deserve dismissal by the people.[87]

In a major radio speech in October 1938 just weeks before the election, Olson spent one third of his time discussing the tidelands oil conflict. Immediately after outlining his own Democratic credentials and party principles, Olson accused Merriam of having made appointments "dictated by private interests seeking privilege and profit at the expense of the state." The most important department in the California government, Olson said, was the Department of Finance, which also contained the Division of State Lands where Carl Sturzenacker and Arthur Alexander worked. "Measured by the acts of the appointees of Governor Merriam in those offices," Olson argued, "it can be truthfully said that public offices under Governor Merriam have become the agencies of private interests." Olson then recounted the story of the Huntington Beach oil fight. He accused the Merriam administration of having attempted a secret settlement with Standard Oil in 1935, only to be prevented by progressive Democrats and Olson's investigation in particular. Olson's committee—"with the unwilling attendance of Senators in sympathy with the Merriam administration and opposed to the investigation"—revealed that private interests had drained oil and gas that the state should have developed on behalf of the public. And the Merriam administration simply intended to permit the continuation of this drainage, without taking any action to offset it or secure greater revenue. "Everything possible was done by the Director of Finance and the Chief of the Division of State Lands to embarrass and obstruct this investigation, instead of cooperating, as was their duty," Olson charged. Olson specifically criticized Merriam for first promising to fund well surveys, and then, when private interests objected, withdrawing the aid. Merriam later vetoed a bill passed unanimously by the legislature to pay for technical services rendered to the committee.[88] Olson's investigation had indicated necessary improvements in public land management and the need to recover moneys due to the state. But the administration's Finance Director and Chief of State Lands "actually lobbied on the floors of the legislature" against Olson's bill to recover the full value of the petroleum from Standard Oil. With the help of lobbyists, Merriam had pushed through a bill approving the settlement with Standard. The legislature then passed Olson's oil bill "only to witness delay in its execution by the Merriam administration until it was held up by referendum." Merriam then called a special session to force the passage of another oil bill satisfactory to private interests in control of the coastal uplands. These same interests are "now obtaining rights to slant drill into and are controlling the production from the tidelands." Finally, to top off this sordid story, officials in charge of the state lands had joined "with private interests not only to aid them in their deals with the state, but for their own profit in handing out permits."[89]

Merriam dodged the oil issue and unsuccessfully returned to the Republicans' red-baiting strategy of the 1934 election. Merriam's campaign propaganda warned of the "Olson menace" and the "Lewis-Bridges-Olson dictatorship," the latter broadside linking Olson to two prominent labor leaders. Merriam's campaign claimed that Olson had endorsed a California "Little Wagner Act" in exchange for the political support of communists in the CIO. By contrast, Merriam cloaked himself in labor policies from the Hiram Johnson administration two decades earlier, apparently seeking to associate the Merriam administration with an earlier reform wing of the Republican party.[90] In November 1938, however, California voters repudiated Merriam and sent Olson to the governor's office. He was California's first Democratic governor in forty years. Ellis Patterson, longtime Olson ally as well as a constant advocate of state oil drilling, joined Olson in Sacramento as Lieutenant Governor.

Olson's election would seem to affirm the Democratic party platform and perhaps indicate voter disgust with corruption in the Merriam administration. As with all elections, it is difficult to determine how much one issue, in this case coastal oil development, factored into the popular vote. Coastal petroleum politics certainly had dominated state legislative sessions during the previous decade and the coastal oil question had appeared on the popular ballot at least four times since 1929. Tidelands oil issues became particularly prominent in 1938, underscored by the special legislative session in March and the oil scandal that erupted in June.

At the same time, however, California voters did not deliver incontrovertible support for Olson's oil policies at the polls. While electing Olson and Patterson, voters rejected both the Olson and the O'Donnell oil bills on referendum. It is dangerous to read too much into these referendum votes. Initiative and referendum battles in California are rarely simple, clear contests on the issues.[91] These specific initiative votes are particularly difficult to interpret. The general leasing bill signed by Merriam in June made the votes largely irrelevant. The state entered new Huntington Beach leases in September, before the November referenda.[92] Neither Olson nor O'Donnell campaigned hard for their ballot measures. While Olson relied heavily on his overall oil record, he did not make the referendum vote a centerpiece of his electoral strategy. John O'Donnell argued *against* his own measure, contending that the oil bill passed in the special session had repealed the general leasing act that his own bill amended. Upholding the O'Donnell bill would be only "an idle act," O'Donnell wrote in the ballot pamphlet distributed to voters.[93]

Still, the electorate cast votes on the two measures. The opposing ballot arguments—circulated to California voters before the general election—posed the referendum questions in a now familiar framework: protecting the State's financial interest in the Huntington Beach field versus barring oil drilling from the beaches. Olson and his senatorial colleagues Harry Westover and J. C. Garrison contended that Olson's bill would protect the public's rights in the Huntington Beach tidelands oil. Their ballot argument earnestly outlined the Olson bill's provisions and recited the urgency clause that had been passed by two thirds of the legislature. Olson and his colleagues presented the referendum vote as a procedural matter brought on by the supreme court's invalidation of the bill's urgency stipulation.[94]

By contrast, the opponents of both the Olson and the O'Donnell bills returned to their tested political strategy: "save the beaches." The Shoreline Planning Association of California coordinated a state-wide campaign against the Olson proposition, persuading the Chambers of Commerce in coastal cities like Huntington Beach, Culver City, and Santa Monica to approve resolutions opposing tidelands drilling. The resolutions condemned tidelands drilling because it would pollute the ocean waters and make bathing unsanitary, thereby destroying the beaches for recreational use.[95] In one of two ballot statements against the measure, Lynn Hossom, a Long Beach Harbor Commissioner as well as legal counsel for the Associated Property Owners of Long Beach, warned that if the "vicious act" became law, it would lead to the destruction of the Long Beach tidelands, "one of the finest beaches on the Pacific Coast." "What if the State does receive a few dollars from the oil produced from these tidelands? It will be small compensation, whatever the amount, for the ruination of our public beaches."[96] In the other opposing statement, the publishers of the *Huntington Beach News* and the Laguna Beach *South Coast News* attacked the Olson bill as a dangerous precedent. The measure would lead to the pollution and ruination of California's beaches, "robbing the State of its chief playground." The two publishers similarly sidestepped the revenue question, asserting that the state already had an "established method that brings in the same revenue by harmless means."[97]

Although the meaning of the referendum votes is ambiguous, the consistency of public antipathy to coastal oil drilling in the numerous ballot votes since 1929 suggests that the California public did not share Olson's faith that coastal oil development could proceed without endangering treasured recreational values. Olson and his allies claimed either that beach drilling was safe with new technologies or that the Huntington Beach coastline already had been ruined. At one of the senate investigatory committee's meetings in 1936, Olson had argued at length about this subject with state parks advocate William Colby. Olson pressed Colby to concede that coastal oil development would not lead to pollution, or at least that it would be no greater than a blowout on the uplands that would "still flood the beaches." And regardless, Olson contended, the Huntington Beach coastline already had been damaged by Standard Oil's operations along the water's edge.[98] Colby conceded that the technology for coastal drilling had improved greatly, but he maintained that if a gusher broke loose in the ocean it would damage beaches up and down the coast. Colby and other beach drilling opponents viewed beach drilling technology more cautiously than Olson, who saw the beach protection groups as simply a front for Standard Oil. Senator Stow from Santa Barbara described the situation in Santa Barbara county, where "the marine life for several miles above and below those wells is all dead, the clams and the sand fleas and all these things have perished." Stow described how one Elwood dry gas well "blew for two weeks before it could be controlled . . . All the engineering ingenuity and everything was used but it couldn't be controlled."[99]

Although the Olson Oil Bill did not survive the special legislative session and the November popular vote in 1938, the long struggle to protect California's petroleum rights had strengthened state management of the tidelands oil. Following the 1938 State Lands Division scandal, the new State Lands Commission tightened its administrative structure and introduced new mechanisms to insure accountability. Additional staff and more effective tracking of royalty payments would prove particularly important. The involvement of three different elected officials—the state

finance director (representing the governor), the lieutenant governor, and the state controller—also brought new openness to a previously shady process of resource allocation and development.[100] The Commission's emphasis on maximizing financial returns from state lands would provoke criticism from conservationists of a later generation who wanted state lands protected, rather than exploited.[101]

Soon after becoming governor, Culbert Olson managed a final word on the long controversy. He asked the California state auditors to investigate the earlier activities of the Division of State Lands. The December 1941 audit generally followed Olson's line of reasoning during his years in the State Senate. The auditors did not discover significant evidence that agency officials had profited personally, directly or indirectly, from transactions that were "obscure, manipulative in character and open to question." Yet the report sharply criticized the division's operations and questioned many administrative rulings and practices that had opened the tidelands up to development. "It is evident that statutory and contract provisions have been misinterpreted, misconstrued or ignored entirely," the auditors concluded.[102]

The auditors reported a long list of questionable actions. They asked whether the surveyor general had acted properly when he granted prospecting leases to companies after the boundaries of the Elwood field were known, when new operations no longer would constitute "prospecting." (The difference in royalty owed to the state was at least $3.6 million.) They doubted the legality of Huntington Beach easements granted after 1933, in light of the legislature's 1929 ban on tidelands drilling. The auditors endorsed Olson's position that the Rolph and Merriam administrations had used easements to circumvent legislative prohibitions on tidelands leasing. The auditors further described how state officials had shifted at least one lease in the Elwood field three times in order to position it most effectively for maximum production. This account matched reports during the summer of 1938 that Alexander and Sturzenacker had allowed Huntington Beach operators to transfer drilling permits to new locations in order to maximize their production. With regard to these questionable leases at Elwood and Huntington Beach, the auditors asked repeatedly whether the state might recover one hundred percent of value of oil extracted or some lesser percentage.[103] The state auditors also identified re-drilling permits for old wells as a means to dodge laws that barred tidelands drilling. While re-drilled wells in the industry typically deviated by only one hundred feet as to where they bottomed, wells in the Huntington Beach field moved laterally by as much as 2,394 feet![104] These redrillings really constituted new wells to tap the tidelands. In the auditor's precise style, the 1941 report confirmed many earlier allegations regarding the irregular tactics that had forced open the California coast to oil operations. The report was written for posterity, however. There is no indication that Governor Olson or his successors pursued any of the auditor's controversial recommendations.

Conclusion

The 1938 creation of the State Lands Commission, the Sturzenacker-Alexander scandal and the election of Culbert Olson as governor closed one phase of California's coastal petroleum

conflict. In 1921 California had passed a generous mineral leasing policy modeled on the federal law of 1920. Government leasing thus provided a baseline state land policy from the outset along the California coast. But contrary to the expectations of many state oil operators, the federal solution broke down quickly at the state level. Outrage over coastal oil operations in Santa Barbara County and the Los Angeles region created a strong counterforce to the oil lobby. In the 1928 *Boone* decision, the California Supreme Court brushed aside this opposition and forced the state administration to issue oil leases around Santa Barbara. But a month later in early 1929 legislative opponents of tidelands oil drilling completely blocked the state mineral leasing act from applying to any new operations in the rich coastal fields.

To force open the coastal lands, California oil operators resorted to illegal trespass at Huntington Beach and high pressure lobbying in Sacramento. It took them a decade to pry apart the 1929 ban. Oil industry factionalism and continuing opposition from coastal development groups crushed initiative measures and legislative bills that would have overridden the 1929 law. In 1938 California finally achieved a settlement that satisfied these groups, so that they could not block the State Lands Act through a referendum. Even then the measure's provisions for upland leases in cases of private drainage established a responsive, rather than proactive, state policy. The state's oil royalties also had to be earmarked for beaches and parks to placate opponents.

These political developments underscored how California politics differed from national politics in ways that significantly shaped the petroleum sector. The initiative and referendum process particularly disrupted state policy-making. The electorate rejected numerous legislative decisions during the long fight over oil policy. Without the referendum mechanism, legislators certainly would have resolved the tidelands oil question more quickly. Standard Oil's legislative influence most likely would have produced a measure favorable to that company. But the smaller independents successfully mounted expensive referendum campaigns that defeated leasing legislation. Standard and its allies similarly bypassed the state legislature in 1936 by proposing an initiative measure that provided for low royalty, limited access drilling at Huntington Beach. Although promoted as a "Save the Beaches" measure that would keep oil drilling off state beaches, Standard Oil's opponents resisted the measure and the electorate resoundingly defeated the proposal. Direct democracy at work thus turned away numerous proffered solutions.

In addition to state-level political processes, state politicians also felt the influence of different political constituencies. As at the federal level, state public officials responded to the powerful, although divided, oil sector. But they also juggled other state economic interests: those of the real estate developers and wealthy landowners who sought to make the Southland a recreational paradise. With southern California growing rapidly between 1920 and 1940, coastal property owners and business people worried deeply about beach oil pollution and the unappealing aesthetics of the industry. They had resisted the spreading oil front in Santa Barbara and at Venice. Then they blocked new tidelands oil development in 1929. Through the 1930s they defended this 1929 ban. After the 1938 compromise, beach protection groups continued to oppose coastal oil drilling. A 1944 shoreline planning study financed by the Greater Los Angeles Citizens Committee, Inc. a private association, warned that the region's heritage—"a varied coastline of picturesque beauty," "rugged cliffs and jutting headlands," "clear water coves

teeming with marine life," and "miles of wide beaches of clean white sand"—was being despoiled by "man, unguided by a co-ordinated plan." The report urged a prohibition on oil drilling "in any area within a minimum of 2500 feet of the shoreline" and recommended submitting an initiative measure to secure such a ban.[105] The 1938 compromise settlement tying coastal oil extraction to beach and park development thus sustained a delicate alliance, one further reinforced in 1941, when the legislature increased the percentage of state oil royalties dedicated to beaches and parks from thirty to seventy percent.[106]

During the 1940s and the 1950s, tidelands oil royalties financed the rapid expansion of the California beach and park system.[107] California's Division of Beaches and Parks' budget for 1956-57, for example, proposed five and a half million dollars in spending on state park projects that included Santa Monica Beach, Pfeiffer Big Sur, Salton Sea, and Folsom Lake. California's entire contribution came from oil royalties. By facilitating the State Lands Act of 1938, the royalty arrangement obviously had served the interests of the oil industry. Less obviously, but equally true, the earmarking of tidelands oil royalties for the parks program protected the parks budget from being slashed. Parks and beaches remained highly vulnerable in the budget process after World War II, and funding their development and maintenance was difficult. In 1947, for example, after the United States Supreme Court decision that California did not own its tidelands, the Sacramento Bee reported a state budget committee discussion of how the loss of tideland oil royalties threatened the continuation of the state beach and park program. Members of the committee opposed financing state parks, beaches and historical monuments from the state general fund. "Maybe we better start liquidating," State Assembly Speaker Collins reportedly declared. "This is a good time to sell real estate." At the time, California had 40 state parks, 27 beaches and 20 historical monuments. A large scale expansion program involving the acquisition of additional property was under way, the state's share entirely financed by oil royalties. After California decided to carry the state parks program for another ten years, hoping in part that the federal government would return the impounded oil royalties, taxpayer advocacy groups continued to demand that the state cease to pay for parks and beaches out of the general fund. Even with this tight fiscal link, however, the beach-oil pact remained fragile and contentious, and the Santa Barbara oil spill of 1969 thoroughly disrupted it.

Democratic Assemblyman John McCarthy may have exaggerated in 1935 when he claimed that California's coastal oil conflict would make the Teapot Dome scandal "look like a pigmy."[108] Yet the lesser known state controversy certainly equaled in importance the earlier federal struggle over oil resources. The oil lands at stake off the California coast matched in value the federal petroleum lands in the San Joaquin Valley. The fight over coastal oil also equaled the national controversy in its political significance at the state level. Tidelands oil plagued the state legislature from 1929 to 1938, appeared regularly on the state ballot in the form of initiatives and referenda, erupted into scandal, and played a central role in the gubernatorial election of 1938.

Although state and federal politics followed distinct and relatively independent trajectories, common institutions resulted in many continuities. Competitive problems caused by the fluid nature of the coastal oil pools resembled the San Joaquin Valley experience. Common oil pools and laws that allowed unrestrained extraction increased pressure on governmental entities in both

situations. With private derricks perched on the bluffs above Huntington Beach and encroaching on the Wilmington tidelands, the California state government and municipal governments rushed forward with oil development partly to protect the public's share of the petroleum pools. In the San Joaquin Valley, such competition had prompted oil production by federal receiverships and within the naval oil reserves. This production helped protect the public's financial interest, but it hardly conserved oil. The competitive threat to the public's "natural heritage" also provided a loophole for state officials, as it had for Albert Fall in his handling of the naval oil reserves. At Huntington Beach a geologic fault separated the offshore oil field from the onshore pool, so there would be little drainage from upland operators, excepting Standard Oil's wells on the bluff. But the state and the Huntington Beach operators used the pretext of private drainage to transgress legislative barriers that prevented coastal oil leases.

California's state courts played a role in state politics similar to that of the federal courts in the federal controversy over oil lands. The state courts intervened as independent political actors, as in *Boone v. Kingsbury*, when the California Supreme Court concluded that oil's importance to modern commerce outweighed widespread concerns about coastal oil pollution. The courts also enforced "improvident" past political decisions, as in *Long Beach v. Marshall*, when the California court declined to nullify the state's gift of mineral rights to Long Beach. Similarly, in *Bolsa v. Vaqueros*, the courts deferred to political and judicial precedents that allocated the beaches—and millions of dollars in subsurface oil rights—to upland owners rather than retaining them for the public. Some forum-shopping may also have occurred, for instance when Orange County Assemblyman James Utt and Finance Director Rolland Vandegrift brought their friendly suit before Sacramento Judge Glenn to get Glenn to authorize the highly questionable Huntington Beach easement agreements. Glenn previously had struck down the urgency provision of the 1929 Bliss coastal leasing ban. Now Glenn obliged in a weakly argued decision.

The State Lands Division scandal and the Philbrick report on legislative corruption, both in 1938, opened a window on financial and natural resource politics in Sacramento. As with the federal conflict and its culmination in the Teapot Dome scandal, the long state controversy over California oil lands similarly dissolved in a scandal over public employees who used official positions to distribute favorable access to oil lands that by law should have remained undeveloped. Albert Fall and his colleagues in the Harding Interior Department thus had lesser known counterparts in Carl Sturzenacker and Arthur Alexander in the Merriam Administration. Sturzenacker and his colleagues opened the coastal lands further than the law provided through lax enforcement of leasing contracts and generous and sometimes outrageous administrative interpretations and decisions. Sturzenacker shifted one lease in the Elwood field three times in a way that maximized its value, for example, and issued sketchy re-drilling permits for wells that shot out far into the state's offshore field. Sturzenacker and Alexander developed a cozy relationship with Huntington Beach politicians as well. Outright personal corruption played a role in this process, as when Sturzenacker and Alexander and colleagues tried to file their own claims on land at Wilmington. Political corruption also was evident, as represented by Merriam-associate Joe Rosenthal's collection of payments in exchange for favorable action by the Division of State Lands. The original settlements with Vandegrift and Rolph also appear to have been orchestrated through secret backroom deals by political insiders, although the historical record is frustratingly slim.

Political corruption is hard to prove, but rumors of hundred thousand dollar slush funds swirled around the capitol and also surfaced in the Philbrick report. Olson himself appears to have been honest and committed to the broad public interest, but some of his colleagues were either for sale or very closely allied with private economic interests. Others favored the growth and prosperity of the oil industry that brought jobs and tax revenue to localities throughout California and provided the state with a crucial energy source. Olson and his allies generally did not have the votes to prevail in the state legislature. Olson, who entered California politics as part of a progressive Democratic faction in 1934, found his own four years as governor undermined by the defection of conservative Democrats, just as Upton Sinclair had in the 1934 gubernatorial campaign. Although Olson left his mark on California politics—particularly through his appointments to the California Supreme Court—he became a lame duck shortly after the 1938 election.[109]

As at the federal level, where the 1920 Mineral Leasing Act provided a crucial turning point in a debate about federal lands that continues today, the political closure achieved by California in 1938 proved illusory. Heated politics would continue to determine who controlled the extent and pace of coastal petroleum operations in California. In 1938 alone, fresh political questions emerged to ensure that coastal oil controversies would continue. The California Supreme Court's 1938 decision in *Long Beach v. Marshall*, which favored Long Beach's claims in the Wilmington field, sparked a tense legal struggle between the state government and the city. California fought for ownership or a share of the oil royalties, and sued to force Long Beach to spend its oil revenues only on harbor purposes, the justification for the original state grant.[110] By 1944, Long Beach already had spent five million dollars on new piers, berths, streets, buildings and landfill and the city was well on its way to becoming a dominant harbor of the West Coast, principally because of the oil royalties it had won.[111] Ultimately the state government and Long Beach would come to share the Wilmington royalties, with the state's portion going to the California State Water Project and Long Beach's revenue funding further harbor development.

Also in 1938, officials in the United States Navy, Justice and Interior Departments came to agree that the federal government should control coastal oil deposits off California. Their consensus partly reflected a growing sense in Washington that California managed the coastal oil lands poorly. The federal government soon afterward sued California (as well as Texas and Louisiana) to claim the offshore oil. In 1947 the U. S. Supreme Court sided with the federal government, concluding that the nation, not the state governments, had paramount rights in the coastal waters.[112] This decision threw the entire tidelands oil situation into renewed turmoil, only to be resolved in 1952 when Republican congressional majorities and a new Republican President returned the near shore lands to state control. California's difficulties with U. S. intervention into offshore oil development intensified in the l960s, when the federal government pressed forward with risky petroleum leases beyond the state-controlled three-mile limit. The 1969 Santa Barbara oil spill confirmed the worst fears of coastal oil opponents, and also brought a fresh leasing moratorium.[113]

The remarkable irony of these struggles to gain access to oil on state and federal public lands is that the effort to force open the oil lands coincided with periods of intense overproduction. During the late 1920s and 1930s, for instance, when the state and federal governments struggled to conserve petroleum in the ground and to prop up oil prices for the companies, the California state courts and state administration bent over backwards to open the coastal oil lands to new drilling. These governmental entities created new competitive production scenarios at Santa Barbara, Huntington Beach and Wilmington. In the following chapter I examine how the oil industry and the state and federal governments responded to the problem of overproduction that their own petroleum politics, property law and public land policies had created.

Endnotes: Chapter 6

[1]"Officials Seek To Guard State Rights In Oil," *SB*, 29 July 1937, 26:2; "Extra Session May Be Called On Oil Issue," *SB*, 19 July 1937, 1:1.

[2]Edward Dickson, "Olson's Oil Bill Is Passed by Assembly" *SB*, 29 April 1937, 1; "Behrens' Political Gossip," *SFC*, 20 July 1937, 26:2.

[3]"Court Order Stops Opening of Bids On State Oil Drilling," *SB*, 8 September 1937, 5:2.

[4]"Cities Receive State Warning Upon Tidelands," *SB*, 21 September 1937, 5:1.

[5]"State Board Sifts Tidelands Oil Snarl," *SFC*, 21 January 1938, 5:8; Earl C. Behrens, "Referendum on Tideland Oil Ordered," *SFC*, 15 February 1938, 30:1; "Olson Oil Bill is Held Subject To Referendum," *SB*, 14 February 1938, 1:7; "Oil Ruling Paves Way For Action On Extra Session," *SB*, 15 February 1938, 4:5. "State Acts To Guard Interest In Oil Property," *SB*, 1 February 1938, 4:4.

[6]"Four Tideland Oil Well Suits Filed by State," *SFC*, 5 February 1938, 10:7.

[7]"State Denies Tideland Oil Rights to L. A.," *SFC*, 23 January 1938, 7:2.

[8]William S. Neal, "U. S. Navy Moves For Control of State Tidelands," *SB*, 22 February 1938, 1:2.

[9]"Stockburgcr Says Navy Oil Reserve Is A Subterfuge," *SB*, 28 February 1938, 1:6.

[10]"Merriam Is Hit On Plan To Take Over Oil Lands," *SB*, 24 February 1938, 1:7.

[11]"Stockburger Says Navy Oil Reserve Is A Subterfuge," *SB*, 28 February 1938, 1:6.

[12]"Oil Legislation Termed Vital In State Fight," *SFC*, 2 February 1938, 14:8.

[13]Herbert Phillips, "Battle Looms Over Oil Legislation As Solons Convene Extra Session," *SB*, 7 March 1938, 1:7; Herbert Phillips, "Move To Divert Taxes On Gasoline To Assist Span Finance Is Hit," *SB*, 8 March 1938, 1:7.

[14]Merriam similarly denied responsibility for the bill proposing that the Bay Bridge be refinanced with a pledge of gasoline taxes from northern counties if the bridge tolls proved inadequate. Herbert Phillips, "Move To Divert Taxes On Gasoline To Assist Span Finance Is Hit," *SB*, 8 March 1938, 1:7.

[15]Herbert Phillips, "Battle Looms Over Oil Legislation As Solons Convene Extra Session," *SB*, 7 March 1938, 1:7; Herbert Phillips, "Tideland Oil Drilling Measures Face Action By Solons Tomorrow," *SB*, 10 March 1938, 1:7; "Tidelands Oil Bill Presented to Legislature," *SFC*, 11 March 1938, 4:5.

[16]"Move To Sue Oil Companies Is Defeated," *SB*, 10 March 1938, 12:5.

[17]Herbert Phillips, "Battle Looms Over Oil Legislation As Solons Convene Extra Session," *SB*, 7 March 1938, 1:7; Herbert Phillips, "Tideland Oil Drilling Measures Face Action By Solons Tomorrow." *SB*, 10 March 1938, 1:7; "Tidelands Oil Bill Presented to Legislature," *SFC*, 11 March 1938, 4:5.

[18]"Tideland Oil Vote Due Today," *SFC*, 12 March 1938, 11:2.

[19]Herbert Phillips, "Solons Pass Oil Measure, End Session," *SB*, 14 March 1938, 1:4.

Sabin - Chapter 6

[20]"Memam Aids Are Scored In Bill Debate," *SB*, 12 March 1938, 1:1; "Drilling permit sought," *SB*, 28 February 1938, 4:6.

[21]"State Lands Act of 1938" Stats. Ex. Sess. 1938, chap. 5, p. 23.

[22]Herbert Phillips, "Solons Pass Oil Measure, End Session," *SB*, 14 March 1938, 1:4.

[23]"Merriam Signs Oil Leasing Bill," *SFC*, 25 March 1938, 14:3; Herbert Phillips, "Tideland Oil Bill Is Signed By Governor," *SB*, 25 March 1938, 1:6.

[24]Herbert Phillips, "Solons Pass Oil Measure, End Session," *SB*, 14 March 1938. 1:4.

[25]Herbert Phillips, "Olson Predicts Referendum On Oil Legislation," *SB*, 18 March 1938, 2:4.

[26]"Referendum Is Sought Against New Oil Act," *SB*, 24 March 1938, 3:1; "State's Oil Lease Bill Now A Law," *SFC*, 12 June 1938, 8:4.

[27]"State Loses Another Round In Oil Fight," *SB*, 15 April 1938, 25:4.

[28]Estimate of 100-200 feet is from Olson Report, Senate Journal, 21 January 1937, 287.

[29]Majority Report, Senate Committee, Senate Journal, 4 March 1937, 477-478.

[30]Olson Report, Senate Journal, 21 January 1937, 287.

[31]Olson Report, Senate Journal, 21 January 1937, 286.

[32]"Legislator Will Urge Action On Tide Line Bill," *SB*, 15 March 1937, 12:7.

[33]The Merriam administration refused to intervene, arguing that a different case before the State Supreme Court would settle the issue pending in Orange County Superior Court. "State Refuses to Intervene in Beach Oil Suit: Supreme Court to Rule Later in Action over Tideland Rights," *SFC*, 11 February 1937, 10:5.

[34]*Bolsa Land Company v. Vaqueros Major Oil Company; State of California, Intervener*, 25 Cal. App. 2d 75, 81.

[35]"State Acts To Get Ruling On Rights To Oil," Sacramento Bee, 23 March 1938, 21: 1; "Court Backs Long Beach On Oil Lands," *SFC*, 29 July 1938, 16:1.

[36]California State Park Commission, 1940 Annual Report. Sacramento: California State Parks Commission, 1 March 1941.

[37]William Colby to Frank F. Merriam, 1 April 1933, Mernam Papers, Box 5, BL.

[38]John M. Peirce, "Financing State Parks: Should State Parks be Self-Supporting?" Tax Digest (June 1933): 194-196.

[39]"State Park Commission Head Favors Slant Oil Drilling Act," *SFC*, 31 October 1936, 15:3; "Suit on Oil Act Held Effort to Confuse Voters," *SFC*, 30 October 1936, 6:5; "Park Commission Head Urges Adoption of Financing Plan." *SFC*, 1 November 1936, 5:4.

[40]As quoted in, Culbert Olson to William Colby, 15 October 1936, Olson Papers, Box C-B 442: 3, BL.

[41]Oscar Sutro to William E. Colby, 16 June 193[4?], Colby Papers, Box 2, BL (offering "My Dear Colby" a Chinese vase at the price Sutro had paid for it); Robert Searls to William E. Colby, 11 April 1950, Colby Papers, BL.

[42]William Colby to G. Frederick Schwarz, 31 July 1913, Colby-Members' Papers, Box 38, Folder 3, BL.

[43]Olson Committee, Proceedings, 16 November 1936, 60.

[44]Olson Committee, Proceedings, 16 November 1936, 62-63.

[45]George P. Larsen to John Anson Ford, 18 June 1939, John Anson Ford Papers, Box 11, Folder 1j, HL.

[46]California State Park Commission, 1938 Annual Report. Sacramento: California State Printing Office, 1938; George D. Nordenholt, "Report to Governor Frank F. Merriam on the Department of Natural Resources, 1935-1938 inclusive," 1939, Institute for Governmental Studies Collections.

[47]In addition to the 1936 slant drilling initiative, in 1936 a proposal circulated for a twenty year operating contract with a corporation for private slant drilling. After deducting all costs, profits under the plan would have been split 60:40, between the company and the state. The proposed measure, opposed by Governor Merriam, would then have required the State to spend half its oil revenue on the acquisition, improvement and maintenance of beaches and parks. Except for dominance of one firm, this proposal closely resembled the bill that ultimately passed. "Oil Group Plans Move to Allow Beach Drilling," *SB*, 24 November 1936, 1:3. The Huntington Beach bill from 1932 earmarked funds for harbors, wharves and recreation.

[48]Letter from the Shoreline Planning Association to the Los Angeles City Council, 28 January 1938, in Minutes of the Los Angeles City Council 269: 574, file #518, Office of the City Clerk of Los Angeles.

[49]"Division of Parks: Proposed Biennial Budget- 91st and 92nd Fiscal Years," December 1938, IGS Library, IGS Library.

[50]Edward Dickson, "State Suspends Sturzenacker and Alexander," *SB*, 23 August 1938, 1:8.

[51]H. R. Philbrick, Legislative Investigative Report. Sacramento: Edwin N. Atherton and Associates, 28 December 1938, Sec. III-2-6, 16.

[52]Philbrick, Legislative Investigative Report, Sec. IV-33.

[53]Earl C. Behrens, "Merriam Challenges Samish in Graft Quiz," *SFC*, 18 June 1938, 1:6.

[54]"Samish Gives Up; Merriam Staff Probe Is Asked," *SFC*, 17 June 1938, 1:4; Earl C. Behrens, "Oil, Legislative Probes Will Be Speeded Today," *SFC*, 20 June 1938, 15:1.

[55]Harry Lerner, "State Land Chief and Aid Quit to Bar Oil Charges," *SFC*, 12 August 1938, 1:2.

[56]"Two State Aids Resign in Oil Land Plot Quiz," *SB*, 12 August 1938, 1:4; "Investigator Hits Statement of Samish Aid," *SFC*, 21 June 1938, 12:l; "Webb Delays Oil Land Action," *SFC*, 21 June 1938, 12:1. Neylan's diversionary tactic covered for Samish's refusal to turn over books and records to investigator H. R. Philbrick. The legislative and oil investigations proceeded in tandem and shared front-page coverage.

[57]$1,000,000 State Oil Scandal Revealed; High Official, Others Accused," *SFC*, 18 June 1938, 1:8. Midgley testified that the group visited the Wilmington field on Nov. 18, 1937 and staked out claims that they filed with the county recorder. The day before the visit, McAtee quit his position in the lands division. Edna May, former secretary of Sturzenacker, now employed at Ralph Clock's legal firm in Los Angeles, prepared the application forms. Harry Lerner, "State Land Chief and Aid Quit to Bar Oil Charges," *SFC*, 12 August 1938, 1:2.

[58]"Land Chief Denies Charges," *SFC*, 30 June 1938, 6:8.

Sabin - Chapter 6

[59]"Oil Land Charges Held Unfounded," *SFC*, 2 July 1938, 2:7; "Webb Delays Oil Land Action," *SFC*, 21 June 1938, 12:1; "Second Inquiry Looms In State Oil Lease Scandal," *SFC*, 22 June 1938, 16:2.

[60]"Action on State Oil Plot Due," *SFC*, 7 July 1938, 14:3; Harry Lerner, "State Land Chief and Aid Quit to Bar Oil Charges," *SFC*, 12 August 1938, 1:2.

[61]"Two State Aids Resign in Oil Land Plot Quiz" *SB*, 12 August 1938, 1:4; Harry Lerner," State to File Oil Fraud Case Against Officials Despite Resignations." *SFC*, 13 August 1938, 1:8; "Wood Declines Personal Responsibility for Report," *SB*, 12 August 1938, 11:6. After Wood thwarted Stockburger's deal with Alexander and Sturzenacker, Sturzenacker attempted to withdraw his resignation to continue to fight the charges. "Resignation Deal Double Cross Seen By Sturzenacker," *SFC*, 16 August 1938, 1:2

[62]Harry Lerner, "TWO OFFICIALS CHARGED WITH VAST TIDELANDS OIL FRAUD!" *SFC*, 14 August 1938, 1:8.

[63]"Oil Quiz Links Alexander," *SFC*, 20 October 1938, 12:1

[64]Lerner, "TWO OFFICIALS CHARGED"; "Complaints Are Filed Against State Aids in Oil Land Investigation," *SB*, 13 August 1938, 1:7.

[65]Lerner, "TWO OFFICIALS CHARGED."

[66]"Alteration of Records Cited," *SFC*, 29 September 1938, 3:5.

[67]"Sturzenacker Oil Deal Told Board," *SFC*, 18 October 1938, 5:1; "Bonnelli's Fee Stirs Hearing," *SFC*, 19 October 1938,7:1.

[68]Lerner, "TWO OFFICIALS CHARGED."

[69]Lerner, "TWO OFFICIALS CHARGED"; "Complaints Are Filed Against State Aids in Oil Land Investigation," *SB*, 13 August 1938, 1:7; "State Oil Inspector Testifies at Probe," *SFC*, 30 October 1938, 6:5; "Alteration of Records Cited," *SFC*, 29 September 1938, 3:5.

[70]Lerner, "TWO OFFICIALS CHARGED"; Harry Lerner, "Check Held As Evidence of Oil Fraud," *SFC*, 15 August 1938, 1:5.

[71]"Wood Declines Personal Responsibility for Report," *SB*, 12 August 1938, 11:6.

[72]"Complaints Are Filed Against State Aids in Oil Land Investigation," *SB*, 13 August 1938, 1:7.

[73]Lerner, "TWO OFFICIALS CHARGED."

[74]Harry Lerner, "Burke Hits Merriam in Oil Charges," *SFC*, 17 August 1938, 1:6; "Resignation Deal DoubleCross Seen By Sturzenacker," *SFC*, 16 August 1938, 1:2

[75]"Ousted Officials May Face Oil Prosecution," *SFC*, 26 August 1938, 5:1; "Criminal Action in Case Seen," *SFC*, 27 August 1938, 3:4.

[76]"Oil Probe Labeled Hatfield Politics," *SFC*, 17 August 1938, 7:4.

[77]"Sturzenacker Files Affidavit," *SFC*, 27 September 1938, 10:5.

[78]Edward Dickson, "State Suspends Sturzenacker and Alexander," *SB*, 23 August 1938, 1:8.

[79]"Hatfield Wins New Backers," *SFC*, 24 August 1938, 12:3; Edward Dickson, "State Suspends Sturzenacker and Alexander," *SB*, 23 August 1938, 1:8.

[80]"Resignation Deal Double Cross Seen By Sturzenacker," *SFC*, 16 August 1938, 1:2; "Neylan Statement Hits State Oil Administration," *SFC*, 16 August 1938, 92.

[81]"Neylan Suggests Board To Protect State Oil Lands," *SFC*, 18 August 1938, 4:2.

[82]"Sturzenacker and Alexander Are Dismissed," *SB*, 7 April 1939, 1:1; "Sturzenacker Case Is Halted By Court Order," *SFC*, 10 December 1938, 4:5.

[83]Olson For Governor, "If Olson Is Nominated," 1938, Behrens Collection, RG 3981, Folder 50, California State Historical Society.

[84]Anticipation of an Olson-Merriam showdown in 1938 began as early as 1935. See, for example, Herbert L. Phillips, "Hatfield, Olson Loom as Governor Candidates," *SB*, 20 June 1935, and "Farewell to EPIC," *San Francisco News*, 14 February 1936. Based on a personal interview with Olson, Robert Burke reports that Olson originally wanted to enter the race for Senator to confront his longtime enemy McAdoo. Burke, Olson's New Deal in California, 10.

[85]"Platform of the Democratic Party of California," 15 September 1938, Behrens Collection, RG 3981, Folder 43, California State Historical Society, 2.

[86]"Highlights in Political Record of Culbert Olson. Democratic Candidate for Governor of California 1938," 1938, Behrens Collection, RG 3981, Folder 50, California State Historical Society.

[87]"Culbert Olson Our Next Governor," 22 August 1938, Olson Papers, Carton 7, Folder August 1938. In August, the Democratic Leader, a party organ, reprinted a similar *SB* article of uncertain date in 1938, which declared that "The only [tideland oil] bill toward which the finger of suspicion and distrust never has been pointed is that sponsored by Senator Olson of Los Angeles County and supported by the McClatchy Newspapers. But what happened? This measure was too fair to the public. And so the private oil interests turned loose their money and their agents and held it up on referendum." "Republicans Blind to Phony Stock Deals, Charges Olson," Democratic Leader, 26 August 1938, 2.

[88]One of Olson's early acts as governor was to arrange to pay William Kemnitzer and the geologists who had worked to determine the tidelands boundary. See Kemnitzer's letter of thanks, recounting his memories of "those long hours of thankless work. . . standing alone behind you at hearings where everyone was against you." William J. Kemnitzer to Culbert L Olson, 4 March 1939, Olson Papers, Box 3.

[89]"Radio Speech by Senator Culbert L. Olson," October 13, 1938, Behrens Collection, RG 3981, Folder 50, California State Historical Society.

[90]The Northern California Merriam-Franklin Campaign Committee, "Let's Stop Telling Ghost Stories," campaign pamphlet from 1938, Behrens Collection, RG 3981, Folder 50, California State Historical Society.

[91]V.O. Key, Jr. and Winston W. Crouch, The Initiative and the Referendum in California. Berkeley: University of California, 1939; David B. Magleby, Direct Legislation: Voting on Ballot Propositions in the United States. Baltimore: Johns Hopkins Press, 1984; Peter Schrag, Paradise Lost: California's Experience, America's Future. Berkeley: University of California Press, 1999; Harry N. Scheiber. "The Direct Ballot and State Constitutionalism," Rutgers Law Journal 28 (Summer 1997): 787-823.

[92]For example, the Southwest Exploration Company entered into an Agreement for State Easement No. 392 with the State Lands Commission on 26 September 1938. See, *Huntington Beach Company v. United States*, United States Court of Claims, 12 July 1955, 132 Ct. Cl. 427, 440.

Sabin - Chapter 6

[93]John O'Donnell, "Argument Against Leasing State-Owned Tidelands for Oil Drilling Referendum Measure," in State of California, Proposed Amendments to Constitution, Propositions and Proposed Laws (General Election, November 8, 1938), Sacramento: California State Printing Office, 45.

[94]Culbert L. Olson, Harry C. Westover, and J. C. Garrison. "Argument in Favor of Oil Leases on State-Owned Tidelands at Huntington Beach Referendum Measure," in State of California, Proposed Amendments to Constitution, Propositions and Proposed Laws, (General Election, November 8, 1938), Sacramento: California State Printing Office, 21.

[95]"Proposition 10: Beaches Periled By Oil Drilling," *SFC*, 24 October 1938, 5:4.

[96]Lynn O. Hossom, "Argument Against Oil Leases on State-Owned Tidelands at Huntington Beach Referendum Measure," in State of California, Proposed Amendments to Constitution, Propositions and Proposed Laws, (General Election, November 8, 1938), Sacramento: California State Printing Office, 21-22.

[97]James S. Farquhar and A. C. Peterson, "Argument Against Oil Leases on State-Owned Tidelands at Huntington Beach Referendum Measure," in State of California, Proposed Amendments to Constitution, Propositions and Proposed Laws, (General Election, November 8, 1938), Sacramento: California State Printing Office, 22. John O'Donnell's bill had similar beach protection arguments entered against it, with opponents warning about the "needless destruction of their recreational and business interests." James Farquhar and W. W. Crosby, "Argument Against Leasing State-Owned Tidelands for Oil Drilling Referendum Measure," in State of California, Proposed Amendments to Constitution, Propositions and Proposed Laws, (General Election, November 8, 1938), Sacramento: California State Printing Office, 45.

[98]Olson Committee, Proceedings, 16 November 1936, 68; see also, Burke, Olson's New Deal for California, 9. In 1937, John Gee Clark similarly asserted that he was "convinced that drilling can be done in the tidelands from piers or artificial islands without any fear of polluting the beaches," Edward Dickson. "Olson's Oil Bill Is Passed by Assembly," *SB*, 29 April 1937, 1. Harry Westover, Senator from Orange County, also declared that the beach fronting the Huntington Beach oil pool had already been destroyed for recreational purposes, and that therefore the argument for "saving the beaches" to prevent tideland drilling did not apply in that area. "Destruction of Beach Is Laid To Oil Drilling," *SB*, 29 March 1937, 11:4. See also, "Beach Oil Drilling," *LAT*, 25 July 1933, Part II, 4:2,

[99]Olson Committee, Proceedings, 16 November 1936, 68, 72-73. G. L. Andrews, a petroleum engineer for Standard, heightened such concerns by asserting that although there had been no blowouts in the Huntington Beach field thus far, "there is always likelihood of blowouts where you are dealing with high pressure gas." Olson Committee, Proceedings, 28 December 1936, 371-372. L. B. Little, general superintendent of Standard Oil Company's southern district, which includes Huntington Beach, similarly averred that, although no Standard wells had gone out of control in the Huntington Beach field, they "don't always control all wells." Olson Committee, Proceedings, 28 December 1936, 387. J. R. Pemberton, a former California oil umpire, warned that a break in an ocean well might cause oil to spread in a thin scum over hundreds of miles of water. "State Is Urged To Lease Huntington Beach Oil Pool," *SB*, 30 December 1936, 13:6.

[100]"Report on Examination of the Books and Records of Account of the Division of State Lands, Department of Finance For the Period November 1, 1934 to June 30, 1940," 8 December 1941, Finance Audits, Series AC 91-04-19, Box Audit #'s 82-130, CSA, 5.

[101]Michael Harris, "Our 19th-Century State Lands Commission," Cry California 4 (Fall 1969) 18-40. Perhaps unaware of the State Lands Commission's origins in the tidelands oil scandal, Harris bemoans the fact that "no vote was given to a spokesman concerned with natural resources." Harris correctly evaluated the problems posed by a State Lands Commission that sought purely financial returns, lacked the power to acquire land, and operated with little input from the public.

[102]"Report on Examination of the Books and Records of Account of the Division of State Lands, Department of Finance For the Period November 1, 1934 to June 30, 1940," 8 December 1941, Finance Audits, Series AC 91-04-

19, Box Audit #'s 82-130, CSA, 3. State auditors under Earl Warren expressed similar dissatisfaction with the operations of the State Lands Commission. They wrote in 1944 that "The obscure legal history of the execution of many leases, the rulings in the past years which apparently have been based on expediency rather than on sound statutory authority, and the acceptance over long periods of time of practices not strictly in consonance with law or contracts militate against satisfactory audit performance. There exist legal questions of magnitude which have a direct bearing on major sources of revenue." Many of the legal questions had been submitted to the Attorney General, but "The major problems, however, which have existed for many years continue to confront us and in consequence it is necessary to state that our findings are based on the acceptance of some data of which the legal status is undetermined." Division of Budgets and Accounts of the Department of Finance, State of California, "Report on Examination of the Books and Records of Account of the State Lands Commission For the Period July 1, 1940 to June 30, 1943," 27 January 1944, Finance Audits, Series AC 91-04-19, Box Audit #'s l-81, CSA, 3.

[103]Division of Budgets and Accounts, Audit of the State Lands Commission, 16 May l941, 23-24: "Report on Examination of the Books and Records of Account of the Division of State Lands, Department of Finance For the Period November 1, 1934 to June 30, 1940," 8 December 1941, Finance- Audits. Series AC 91-04-19, Box Audit #'s 82-130, CSA. 4.

[104]Division of Budgets and Accounts, Audit of the State Lands Commission, 16 May 1941, 23-24, Exhibit F: "Statement Showing Horizontal Displacement of Bottom Hole Locations of Wells Redrilled Prior to Promulgation of Uniform Redrill Regulations By State Lands Commission." Even if the Chief of the Division of State Lands had the legal authority to permit redrilling of wells, the auditors thought easement 368 merited special consideration. In this case, operators redrilled a well into the tidelands contrary to specific assurances that this would not be the case. The Attorney General obtained an injunction restraining production from the well. Efforts were made to obtain permission to place the well on production, none of which were successful prior to Sturzenacker's appointment. Then in April 1935, a letter in the Division of State Lands files, addressed to the Huntington Beach Townsite Association, indicated that the state would
grant permission to place the well on production. The state would transfer an easement from a well nine blocks away to the illegally drilled well, on the condition that the well's owner secure a membership in the Huntington Beach Townsite Association. Then, after the easement had been "transferred," Sturzenacker apparently attempted to revive the easement in its original location. "There appears to be no authority to transfer rights which were doubtful in the first place to another party at a different location," the auditors commented. In another instance, the auditors determined that one company had avoided royalty payments on over $140,000 worth of state oil. "Report on Examination of the Books and Records of Account of the Division of State Lands, Department of Finance For the Period November 1, 1934 to June 30, 1940." 8 December 1941, Finance- Audits, Series AC 91-04-19, Box Audit #s 82-130, CSA, 42-44.

[105]Carl C. McElvy, "Shoreline Development Study: Playa Del Rey to Palos Verdes, a portion of a proposed Master Recreation Plan for the Greater Los Angeles Region," April 1944, John Anson Ford, Box 17, Folder 3e, HL, 34. These regional developers and promoters sought to remove Southern California's industrial history and replace it with idyllic beach communities. Oil production and storage caused the "most evident disfigurement of our shoreline," the report asserted. The report conceded that the development of coastal oil deposits was "vital and necessary to our economy," but thought that it did not necessarily follow that "the shore should be disfigured by oil derricks and drilling equipment." The report recommended slanted drilling from significantly back from the shoreline as the solution. Three years later, the Shoreline Planning Association organized a discussion group about oil drilling, as part of its search for ways to make the oil industry more compatible with the coast's recreational uses. Shoreline Planning Association of California, Inc., "Agenda (Advance Copy)," 21 April 1947, John Anson Ford Papers, Box 70, Folder3o, HL.

[106]Division of Budgets and Accounts of the Department of Finance, State of California, "Report on Examination of the Books and Records of Account of the Department of Natural Resources For the Period January 1, 1942-December 31, 1943," 20 July 1944, Finance- Audits, Series AC 91-04-19, Box Audit #'s 418-523, CSA, Audit 503, 84-85.

Sabin - Chapter 6

[107]See, for example, Department of Natural Resources. Division of Beaches and Parks," 1956-57 Budget," December 1955, John Anson Ford Papers, Box 69, Folder 3e; *SB*, 14 November 1947, 4: 6 (reporting that "loss of tideland oil royalties under the recent United States Supreme Court decision threatens continuation of California's beach and park program").

[108]Herbert L. Phillips, "Assembly's Action Tangles Competitive Bid Oil Plan." *SB*, 12 June 1935, 3:2.

[109]For a thorough account of the woes of the Olson administration, see Burke, Olson's New Deal for California.

[110]In December 1947, the Supreme Court rebuffed an effort by Long Beach to transfer twenty five percent of the harbor fund to a public improvement fund that could be used outside of the harbor. In the opinion by Justice Roger Traynor, an Olson appointee, the court held that revenue from the lands in trust could only be used for the purposes of the trust. *City of Long Beach v. H. C. Morse, as City Treasurer*, Supreme Court of California, 31 Cal. 2d 254, 30.

[111]"Long Beach Plans Postwar Port Development.' The Log, July 1944.

[112]Bartley, The Tidelands Oil Controversy.

[113]Contrary to Frank Short's political analysis, the federal government alone, and not the state administration, reopened federal oil lands off California's shores during the 1970s energy shocks. Pressure from state politicians then blocked federal pliancy and obtained a two decades long moratorium on offshore oil development in California. First imposed by President George Bush, the moratorium was extended for a second ten years by Bill Clinton in 1998. On federal-state relations in California offshore oil development, see, Daniel S. Miller, "Offshore Federalism: Evolving Federal-State Relations in Offshore Oil and Gas Development," Ecology Law Quarterly 11(1984): 401-450; Biliana Cicin-Sain, "Offshore Oil Development in California: Challenges to Governments and to the Private Interest." Public Affairs Report 27: 1 and 2 (1986); Nash, et al,, Oil Pollution and the Public Interest.

Chapter 7

The Struggle to Regulate California Oil Production, 1910-1931

> In his condemnation of the present efforts of the petroleum leaders of the Nation to place the industry back on a stable basis [economist Lewis Haney] makes the following remark: "Proration merely prolongs uncertainty, depression and inadequate profits. The only way to shut down production effectively (and legally) is to let market prices fall according to the law of supply and demand. Low prices make it unprofitable to drill more wells, for they remove the incentive to produce."
>
> What a lovely time the industry would have if it decided to follow the learned New Yorker's views.[1]
>
> Carl Wakefield, Financial Editor, San Francisco Chronicle, October 31, 1930.

By the mid-1920s, petroleum development in the San Joaquin Valley oil fields and at Huntington Beach, Seal Beach and Long Beach in the Los Angeles Basin led California oil production surging upwards. In the late 1920s, oil also began to flow from the new Kettleman Hills oil field and from California's coastal fields in Santa Barbara County. Rapidly rising production drove prices for crude oil and gasoline sharply downward. In August 1921, California oil prices ranged from $1.10-$2.45 per barrel, depending on quality. By early January 1923, crude oil prices fell to between $.60-$1.04 per barrel, and by October 1923, the highest grade of oil had dropped to a mere seventy-six cents per barrel. Retail gasoline prices slid along with crude oil prices. Standard Oil gasoline opened 1923 retailing at twenty-two cents per gallon. By September the price had fallen to thirteen. Small retailers sold "bootleg" gasoline at ten cents per gallon, with sales even reported at six cents.

Although state and federal public land policies and property law had been designed to produce exactly this competitive surge in production, public officials and many within the oil industry responded with alarm. From the late 1920s until World War II, politicians and industry leaders struggled to contain the overproduction that resulted from the rule of capture, from excessive investment in oil exploration and development, and from the rapid disposal of public oil lands. They searched for an effective political and legal mechanism to bring order to the marketplace.

Efforts to control California's oil market fluctuated between four often overlapping strategies. First small and large oil operators together voluntarily cooperated to match production with demand and allocate "allowable" production. This cooperation occurred at the pool, field, and statewide level, with the encouragement and support of state and federal officials. Second, the largest oil companies acted unilaterally, using their market power to discipline smaller producers that refused voluntarily to curtail production. Third, the state government regulated oil production. In California, State regulation occurred only indirectly through a natural gas

conservation law. California voters defeated at referendum two attempts to regulate oil production administratively through a state oil commission. Fourth, the federal government enforced oil production controls under the National Industrial Recovery Act. (California never joined the Interstate Oil Compact and interstate collaboration did not become a significant California strategy.)

Each effort to control the oil market posed distinct organizational and legal challenges that stymied its success. Voluntary cooperation among operators constantly faltered because of insufficient control of the market. Non-compliant operators, or “free riders,” undercut cooperative agreements by refusing to curtail production according to the agreed plan. These free riders demoralized the price structure, reaping higher prices while others carried the burden of compliance. In order to sustain curtailment, complying operators often had to curtail their activities even further to keep statewide production within bounds. Even among these complying operators, conflicts constantly erupted over how allowable production should be allocated.

In order to constrain free riders and enforce the voluntary curtailment arrangements Standard Oil and the other major oil companies took unilateral action, slashing prices in fields where oil operators produced more than their share of petroleum. Standard’s heavy-handed strategy sparked public concerns about monopoly or oligopoly, and risked unleashing countervailing antitrust laws. Unilateral private actions also hinged on complete dominance of the flow of oil. Without a firm grip on the market, independent refiners could purchase excess oil production and undercut the monopoly.

State regulation delivered firm control of California oil production. Yet oil operators varied widely in their attitudes towards state oil production controls. Larger and more established companies generally viewed state controls favorably as a means to stabilize their operations, while smaller operators criticized state regulation as a proxy for domination by the major companies. Even those oil operators that favored state intervention struggled to contain it at the same time. They desired governmental enforcement that would resolve the oil industry’s collective action problems, but that would not bring new public claims to petroleum resources. The oil companies feared that recognition of a public interest in petroleum might open the door to production taxes, environmental and labor regulation, and other public interference. State regulation was also vulnerable to constitutional challenges on the grounds that it interfered with trade or constituted a taking of property. Thus the California legislature carefully crafted its natural gas conservation bill to target the “physical waste” of natural gas under the state’s police power. Alternate legislation to restrain “economic waste,” by matching oil production with a specified “market demand,” faced significant constitutional questions. The national and international trade in petroleum further constrained state enforcement. Although the California oil market remained relatively isolated, the state industry remained vulnerable to cheaper imports from other states and overseas.[2]

Federal regulation resembled state regulation, but California oil operators feared federal action more than state intervention. Oil operators turned to federal regulation during the early New Deal only after California had failed to address its chronic overproduction problem. Enthusiasm for

the federal petroleum code waned in almost as little time as it took for the Supreme Court to strike down the National Industrial Recovery Act as a whole in l935.[3]

The various private, state, and federal efforts to control the oil market in California and the nation underscored contradictory impulses in the oil sector. First, property laws, public land policies, and antitrust laws divided the California oil industry into small competitive units that maximized production; every effort to control production sought to counter these public policies, without changing them. Oil production controls under both private and public auspices coordinated firm behavior and allocated market share among oil producers. Production control policies thus re-aggregated competitive units created by the law into new cooperative production and marketing arrangements. Second, public policies rewarded exploration and development, even as oil production controls sought to stem the flow the oil. Production controls elevated prices, ironically stimulating the growth of further over-capacity. All of the conservation plans granted new wells access to the market, only partially restricting their production. Production by new wells under a statewide production cap forced other producers to make corresponding reductions in output to make room. Thus even under a statewide limit on California production, oil operators still had a powerful incentive to open new wells simply to maintain market share. Third, California oil operators demanded many conflicting policies from their government. Independent producers and refiners called particularly for antitrust enforcement that would constrain the market power of larger producing, transport, and refining companies. The independents also sought to cut back on oil imports. The independents celebrated the laws of supply and demand—but with important restraints on the market behavior of the larger entities, restraints that would create a window for successful business for the independents. By contrast, the officers of the major oil companies tended to desire state or federal production curtailment policies. Alternately, they called for the elimination of antitrust laws so that the major companies could take private action to control the market. At the same time, the majors resisted import controls and other scare regulatory interventions.

These contradictory tendencies ensured fierce political wrangling over what kind of order or disorder would reign in the California oil market. California seesawed between different regulatory strategies, none of which successfully addressed the problem of overproduction. In the end, California solved its oil problem in an old-fashioned way. It rapidly drained its older fields and found few new fields to replace them. This caused the flood of oil to recede. Major offshore fields of the post-war period were also developed in large lease tracts that were less vulnerable to competition between neighboring producers. At the same time, World War II and rising consumer demand expanded the market for oil, soaking up excess California production. By the end of World War II, one of the nation's largest oil-producing states had become a net oil importer.

Background to 1924

The overproduction that plagued California in the late 1920s and 1930s was part of a recurrent pattern in the American oil industry. Fractured land holdings and the rule of capture pushed landowners and oil operators into a boom-bust cycle of competitive production. From the

original discoveries in Pennsylvania to Spindletop in Texas and the California fields, operators quickly drained each newly discovered field and sent oil prices plummeting. Prices would then slowly stabilize until the next big discovery. In the late nineteenth century, the Standard Oil Trust "solved" the problem of excess oil production and excess refining capacity through vertical integration and monopoly. Over-capacity had been a principle rationale for the formation of the trust in the 1870s. By controlling oil refining and transportation, the Standard Oil Trust disciplined the market and smoothed its disruptive cycles, ensuring steady profits for the company. Standard Oil's rigorous governance of the oil sector was not an entirely private solution, of course; maintaining the Standard monopoly required adept political intervention.[4]

In the 1890s, new oil fields at Coalinga, McKittrick, and Kern River in California's San Joaquin Valley followed this predictable pattern of development. Operators rushed to open their wells, competing to get oil onto the market, certainly, but also competing with neighbors to capture a share of a common pool. California production climbed from two million barrels of oil in 1897 to near thirty million seven years later. Prices plummeted by nearly two thirds and millions of barrels of oil accumulated in storage in earthen sumps or tanks. Operators also capped hundreds of oil wells to save production for higher prices.[5] As flush production subsided and California crude oil demand climbed, the market tightened and prices rose again. Then new strikes in the San Joaquin Valley again sent production up and prices plummeting. At this time, the federal government reversed course and transformed the property regime governing federal oil lands in an effort to restrain California oil production.

In the spring of 1915, with oil prices ruinously low, the California legislature considered regulatory measures to reshape the turbulent state industry. Assemblyman Harris of Bakersfield, for example, introduced bills to declare the oil business a "public utility" under the jurisdiction of the state railroad commission. Senator William Carr of Los Angeles introduced a similar measure in the state senate. The oil industry reportedly developed the proposal as a way to limit production. Under the proposed legislation, an oil operator seeking to construct a new well, pipeline, refinery or distributing plant would need to apply to the railroad commission for a certificate of public convenience and necessity. By restricting the development of new wells in periods of surplus, the railroad commission would prevent overproduction. In one formulation, when California had more than fifty million barrels of oil stored in the state, the commission would stop issuing permits for new drilling.[6] The California bill matched similar regulatory measures in Oklahoma and Texas.[7] The legislation was premised on the idea that the price mechanism did not function effectively in the oil industry and that operators had to be saved from themselves.

Although the California senate ultimately rejected the public utility proposal, the idea received considerable public backing.[8] The Los Angeles Times endorsed the bill, decrying the "feverish haste" with which producers drained oil from under their own and their neighbors' lands. "We should not fritter away the only cheap fuel supply we have," warned the Times. "Conservation of our oil supply is an imperative necessity."[9] The California Oil World similarly favored declaring oil a "public utility" so the state could "regulate every act that appertains to it from the spudding in to final delivery to the consumer." This regulation would prevent future floods of oil, the

journal explained. “It is the only way by which order can be brought out of disorder, the only way by which the oil business can be made stable and profitable, alike to the seller of the product and the buyer.” Under the proposed system, the California Oil World noted approvingly, “no well could be drilled unless a showing were made that the oil produced would meet a public need and would serve a public convenience.”[10] By contrast, however, the Standard Oil Company of California opposed the measure. Referring to the Oklahoma example, the Standard Oil Bulletin cited this “lesson on the futility of legislative meddling with unchangeable principles of business.”[11]

Although California chose not to subordinate its oil industry to “public convenience,” the state expanded its regulatory involvement in the rapidly expanding industry. At the urging of mining engineers employed by the state and by the major oil companies, California established an agency to monitor oil well drilling and to ensure that oil operators abandoned wells properly to prevent water intrusion into the oil strata. This 1915 legislation created the State Oil and Gas Supervisor’ office, which would serve the industry by collecting information and enforcing proper drilling techniques.[12] R. P. McLaughlin, a leading proponent of the bill and the first state supervisor, explained that the measure resulted from “haphazard and inefficient” oil field operations that “seriously interfered with the profits of persons engaged in the production of oil.” Prevailing production practices also threatened to waste the oil resources on which the state depended.[13]

The momentum behind state regulation of oil production waned with the onset of World War I. Oil markets tightened as a result of the war and ongoing litigation over the federal oil lands in the San Joaquin Valley. After the war, prices remained high for a brief period. Demand had risen and supply expanded more slowly. The situation caused a short-lived energy crisis in 1920, leading to fuel rationing. As the base price shot up above two dollars per barrel in the summer of 1920, the Navy struggled to obtain Pacific Coast oil at a “reasonable” price, and even sought to commandeer oil supplies.[14]

California’s oil shortage lasted only briefly. As early as July 1921, the Standard Oil Bulletin declared that the oil industry had shifted from “a famine of crude petroleum,” returning to “a period of oversupply.”[15] The San Joaquin Valley fields moved towards fuller production and operators such as Standard Oil made new discoveries. In the last six months of 1920, for example, the thirty-four new wells in the Elk Hills field contributed six million barrels of oil, or eleven percent of the state total.[16] The center of production soon shifted towards the Los Angeles basin, however. By 1921 oil operators had made stunning new discoveries at Huntington Beach, Santa Fe Springs, and Signal Hill. Discoveries at Rincon, Playa del Rey, and Venice followed soon afterward. Whereas in 1920, more than fifty percent of California production came from the San Joaquin valley fields, by the end of 1923, almost seventy percent of state production came from the flush Huntington Beach, Long Beach, and Santa Fe Springs Fields[17] In addition to the new discoveries, technological advances in refining pushed yields of gasoline per barrel of crude up from 25% to almost 40% during the 1920s.[18]

By the end of 1922, oil and gasoline production had begun a steep upward climb. Between January 1922 and January 1923, California's average daily production increased from 315,000 barrels per day to 530,000 barrels per day. This tremendous surge in production resulted from the highly intensive development of small land holdings at Santa Fe Springs, Signal Hill, and Huntington Beach.

As prices plummeted, larger companies, including Standard Oil and Associated Oil, closed wells in the older fields, shutting in potential production estimated at 109,000 barrels per day.[19] The Associated Oil Company, for example, closed in four hundred seventy nine wells in the Kern River field. At the same time, Standard Oil called on its suppliers to curtail deliveries by twenty-five percent. Yet in general, dramatic price reductions and calls for cuts in production had little effect. The fixed terms of leases, terms that themselves reflected landowner competition over joint oil pools, bound oil operators to continue producing. Production in April 1923 climbed to 690,000 barrels per day and Standard Oil's remaining available tank storage dropped to 70,000 barrels.[20] Standard Oil spent $35 million building huge new storage reservoirs near its southern California El Segundo refinery. The last reservoir completed in 1923 could hold three million barrels of oil.[21] By 1924, tanks and reservoirs in California held approximately 97 million barrels of oil.[22] Cheap California oil began to cut deeply into Eastern markets, undercutting mid-continent producers.[23]

The California spectacle shocked many industry observers. Progressive economist John Ise captured the alarm and incomprehension. The California situation in early 1923 was "a strange chapter," Ise wrote.

> The spectacle of a vast over-production of this limited natural resource, growing stocks, overflowing tanks, and declining prices, frantic efforts to stimulate more low and unimportant uses, or to sell for next to nothing, passed dividends and bankruptcy for helpless producing companies; and yet dozens of new wells, and more oil, more oil, and more cries that it was bringing ruin to all in the industry![24]

In 1923, the California companies attempted to coordinate a voluntary reduction in crude oil output in order to boost the price of crude oil. Yet at the same time, as Ise reports, "hundreds of new wells were being drilled in the same territory."

From industry obstruction to demands for action, 1924-1929

Alarmed by the oil industry's apparent inability to conserve oil in the ground in California, Texas, and Oklahoma, and feeling the continuing political reverberations from the Teapot Dome scandal, President Calvin Coolidge created the Federal Oil Conservation Board (FOCB) in l924.[25] "The future of the oil industry," Coolidge declared in his letter of appointment, "might be left to the simple working of the law of supply and demand but for the patent fact that the oil industry's welfare is so intimately linked with the industrial prosperity and safety of the whole people."[26] Consisting of the Secretaries of Interior, War, Navy, and Commerce, the FOCB would

study conditions in the oil industry and recommend actions to achieve greater conservation and efficiency.[27] Between 1924 and 1927, the FOCB blamed inefficient production and consumption methods, not excess supply, for the nation's overproduction of oil. The FOCB distinguished between appropriate and inappropriate uses of petroleum, arguing, for example, that burning oil for industrial fuel was inefficient because other fuels could substitute for petroleum.[28] The FOCB confronted the problem that competitive production and generous public land polices (and tax policies) had yielded such low prices that only these "inefficient" end uses provided sufficient markets to absorb all of the petroleum.

Although prices plummeted as oil gushed out of flush fields around Los Angeles, the California industry resisted the FOCB initiatives. Major companies like Standard Oil believed that low prices and oversupply would not last and therefore resisted a government re-adjustment of market dynamics. In its 1923 annual report, Standard Oil predicted that the year's "abnormal conditions" would correct themselves gradually as flush production declined and consumption increased. In June 1924, the company announced that "we seem to be on the threshold of another phase. Production is falling. Shipments to the Atlantic and elsewhere are about half what they were last July . . . Supply and demand are approximately in balance." Barring the discovery of prolific new fields, Oil stored during 1923 would be tapped to supply demand in 1924, the company predicted.[29]

Convinced that the industry would regain its balance quickly once the flush fields declined, the oil industry stonewalled the Federal Oil Conservation Board. Standard Oil of California director H. M. Storey and the company's chief legal advisor, Oscar Sutro, laid bare the industry's disdain for the FOCB in a humorous exchange of internal memos. Storey wrote Sutro, "The President's Oil Conservation Board now seeks information on the following query: 'What is the future of the electric driven car and truck, and the return of the horse, and the reduction of gasoline consumption?' Apparently this is a legal problem, and we invite your opinion." After "exhaustively" examining these questions, Sutro replied to Storey in kind. "I find that the future of the electric driven car and truck is that its use has been exclusively reserved for long-legged crooks with curly hair. So far as the return of the horse is concerned: It is expected to keep pace with the gradual decay of the oil man, and the reduction of the gasoline consumption will increase with the consumption of booze. If you have any doubt as to the correctness of this conclusion, I will be glad to show you the authorities."[30]

In public, industry leaders criticized federal action harshly and more directly. Speaking to the fifth annual meeting of the American Petroleum Institute (API), API President Thomas A. O'Donnell declared, "The oil industry is something akin to a man with a broken leg. But I, for one, do not care to go to Washington for a doctor. If we did we might wake up to find that we had no legs at all."[31] In 1925 the API issued a report challenging the shortage thesis predominant in the federal administration. The nation had one billion acres of oil-bearing land, the report asserted, and little waste attended domestic oil production. The API report also noted the vast unexplored, promising territory in the United States and abroad. It also argued that deposits of oil shale, coal and lignites, could substitute for petroleum in the production of liquid fuel and lubricants. All these factors, the Standard Oil Bulletin reported, "present an aspect of unlimited

supply, which will be drawn upon as price of products justifies development."[32] In keeping with the API report, Kenneth R. Kingsbury, President of the Standard Oil Company of California, denied that any great waste of oil existed. There had been too much talk of shortage, Kingsbury informed the Secretary of the Interior Hubert Work in 1925. "Personally, I do not believe that such shortage irnpends."[33] The API hired the Republican politician and jurist Charles Evans Hughes to present a strict constructionist view of federal regulation of the industry. At the FOCB's final meeting in 1926, Hughes presented a "splendid analysis" of the petroleum situation, according to the Standard Oil Bulletin. Hughes celebrated the price mechanism in the oil sector and warned against federal action. The key to finding oil reserves in the future, he declared, "must be freely moving prices" that would "furnish an incentive for men and capital to take the large risks incident to an uncertain and hazardous enterprise."[34]

Hughes' mid-l920s celebration of the price mechanism was intended to head off federal action and to defend against criticism of potentially rising prices in the future. In his reply to a FOCB questionnaire about aspects of the industry, Standard Oil Lawyer F. B. Loomis similarly warned against "any unnecessary governmental limitation or regulation of business, particularly when directed in part toward governmental control or operation." Government regulation, Loomis thought, would bring "instability, insecurity, and uncertainty, which will be reflected in confused management, violently fluctuating and eventually permanently higher prices."[35] Some industry arguments against government intervention were clearly disingenuous—for example, Kenneth Kingsbury claimed that his company simply had stored excess oil from the rapidly drilled fields, rather than pushing it onto the market. California storage had increased to an estimated 97 million barrels, but increasing sales and the plummeting crude oil prices meant that California and the nation were in fact consuming more and cheaper oil.[36]

In late 1926, the flood of oil from the southern California fields temporarily abated. It appeared that higher prices would reward Standard Oil's having shut down active wells and stored crude oil. The "scene now is changed," the Standard Oil Bulletin declared. After five years of steady increases in stored crude oil, in 1926 the California industry drew down its stocks. Consumption increased fourteen percent over 1925, while at the same time the over-drilled southern California fields had begun a rapid decline.[37] 1926 proved a strong year for the Standard Oil and the company reported strong profits and paid an extra dividend.[38] But major discoveries in Texas, Oklahoma and California soon reversed the situation again. In April 1927, the Standard Oil Bulletin nervously noted that the development of new fields was "enough to make anyone wonder if the oil industry has really but scratched the surface." To talk of a national shortage was somewhat "superfluous" for there was "considerably more than enough crude oil to meet all the requirements of the oil industry."[39]

The new discoveries and their frenetic development undermined the crude price structure and cut sharply into industry profits. In the summer of 1927, Standard Oil's F. B. Loomis noted that the oil industry had entered an "unusually severe period of overproduction" around November 1926. Between that date and June 1, 1927, the price of crude oil in the Mid-Continent field and Rocky Mountain region fell by nearly half, and California crude by more than a third. Producers lost hundreds of millions of dollars as a result of this price change. In the older fields, the "price of

crude actually had fallen below the cost of production," when capital investment was taken into account. "A condition approaching almost complete demoralization ensued." Refineries lost gross revenue of $1.6 million per day from gasoline sales alone. The value of oil securities declined substantially. By May 21, 1927, the shares of thirty larger petroleum companies had experienced a price decline of nearly $600 million in comparison to high prices of l926.[40] Over the course of 1927, the Standard Oil of California saw its net profits on operations decrease by $9.35 million as a result of the "great overproduction of crude oil." California storage declined by eight million barrels, but only because the industry had shut in an average of 77,000 barrels per day. If those wells had been opened, storage would have increased by twenty million barrels during the year.[41]

Low oil prices and declining profits in 1927 prompted Standard Oil and other California companies to call for action to boost prices.[42] The 1927 F. B. Loomis memo that described "almost complete demoralization" in the industry devoted the bulk of its twelve pages to legal considerations related to different forms of government action. Loomis had warned against government measures as a source of instability in 1925. Now he explicitly rejected the idea that the oil market could achieve a satisfactory equilibrium solely on the basis of price. He saw "no adaptable method available to the Industry to restore the balance between supply and demand." Loomis described how "an aggravated condition of overproduction" subjected the oil industry to an "extremely burdensome program of readjustment." He thought the financial loss was "infinitely greater" than with a similar state of affairs to any other industry.[43]

Loomis proposed two forms of legislation: first, a law to empower a majority of operators in a pool to "devise and enforce a uniform plan" for its development and operation; and, second, a law empowering the state conservation agency to enforce the unit method of operation. Because any act that constrained an individual oil operator's ability to develop his property risked a constitutional challenge, Loomis emphasized that the state police powers needed to back the measure. The U. S. Supreme Court might uphold a police measure that mandated that natural gas found in an oil sand must be "utilized to the fullest possible extent to produce oil." The "economic importance" of this proposal, Loomis thought, was "supreme."[44] His strategy for using gas-oil ratios to regulate the California oil fields would be adopted by the California legislature two years later.

Well before the stock market crash of 1929, momentum in the oil sector had shifted towards governmental action to re-adjust market relations. "We are about to enter a period which will witness more legislative proposals to control the production of oil and gas than have ever before appeared at any one time," Standard Oil employee Earl Wagy wrote company president Kenneth R. Kingsbury in September 1927. In 1926, excellent conditions in the industry had encouraged the FOCB to let the oil companies work out their problems alone, or with the help of the state governments. Then came "the worst overproduction in history" and a "vast amount of adverse comment," particularly in the Hearst newspapers. The FOCB had "changed its feelings" toward the oil industry, Wagy commented. It was "assuming the attitude that the industry has been given its chance, that it has failed, and that national conservation and safety requires not only state but federal legislation." Noting calls for railroad-style regulation, Wagy urged vigilance— many of

the legislative proposals would "not be to the best future interests of the industry or this company."[45]

In 1928, Standard Oil of California's net profit increased fourteen percent and the company again paid an extra dividend. Yet the company's annual report highlighted the "disturbing" overproduction of crude oil in California and other producing areas of the world. "Only by constructive measures of proration and other restrictions was a more serious overproduction condition prevented," the company reported. Standard Oil now fully embraced the idea that the market, and prices, needed to be managed through cooperative action. California had drawn substantially from its stocks of gasoline and gasoline-bearing crude, but excess production of heavy crude and fuel oil added to "an already abnormal accumulation." The company reported many conferences held during the year "to devise legally constituted plans to bring production of crude oil in closer balance with demand." These efforts were critical. "If further restrictive measures are not brought into effect," the company warned, the year 1929 would be another of overproduction. Standard Oil continued to acquire prospective oil properties. But on account of the unfavorable market it limited development "to lease obligations and to defense against drainage of its holdings."[46]

To address this ongoing crisis in the oil sector, in October 1927 California Governor C. C. Young appointed a conservation committee of five state officials.[47] The committee included senior state officials: F. G. Stevenot, Director of Natural Resources; A. B. Heron, Director of Finance; B. B. Meek, Director of Public Works; U. S. Webb, Attorney General; and W. J. Carr, member of California Railroad Commission. Young instructed his committee to convene representatives of the oil industry and to devise a plan to end the waste of the state's oil and gas resources. Young linked the waste of natural gas to the overproduction of oil, believing that the former "cannot be considered separate and apart from the latter." In a public-private partnership, the Governor's committee established a statewide committee of oil operators to administer the new conservation regime through sub-committees from each important fleld.[48] The Standard Oil Company and other industry leaders welcomed Young's initiative and in March 1928, the conservation committee and the oil operators' general committee agreed that Ventura field operators should cut back production by 70-80 barrels of oil per day and 100,000,000 cubic ft. of natural gas/day. California had taken its first major step towards conservation of the state's oil and gas resources under governmental auspices.[49]

Governor Young's conservation initiative fit neatly into the national policy of the Coolidge and Hoover administrations. Coolidge and Hoover emphasized industry cooperation and state legislative action as the primary solutions to the oil situation. In February 1928, an industry-government "Committee of Nine"—a mixture of governmental representatives from Interior, Commerce and the Federal Trade Commission, and oil industry leaders like J. Edgar Pew, Thomas O'Donnell, and W. S. Farish—reported to Coolidge's FOCB on possible legislative actions to aid conservation. "An almost necessary feature of any cooperative plan is the control of production," the Committee wrote. Because of this feature, the companies and states feared violating antitrust law. The Committee of Nine recommended state and federal legislation to explicitly authorize the cooperative development and operation of single pools. The Committee

also urged legislation to permit independent agreements between oil producers to curtail production in times of excess supply.[50]

The Committee of Nine blamed the oil industry's problems on the fundamental laws of property in oil. "There is no property, in the strict sense, in the oil until it is recovered any more than there is in underground water," noted the committee. After oil operators opened a new field, "it is a race between all the owners in the field to recover all each can." A "flood" of oil was produced, "regardless of economic demand for it." Only joint action by oil operators could prevent this scenario. The importance of natural gas to extracting oil intensified the competitive race. Proper use of gas brought greater and more orderly recovery of oil, at lesser cost. But oil field operators could practice the best methods of gas use only in unison. Without cooperative management, the wells that first tapped a field's oil-bearing strata dissipated its natural gas pressure.[51]

The committee rejected the idea of changing the fundamental law of property in oil as "wholly impracticable" and constitutional questionable. The Committee also opposed coercion as a "drastic and difficult expedient." Instead it proposed state-level encouragement of cooperative field development, either by voluntary agreement or coercive state power. Antitrust laws had stood in the way of these voluntary agreements and states should remove the obstacles. The Committee also advocated state legislation to prohibit gas waste as a means to encourage cooperative development and operation of oil fields. The Committee insisted that this regulation must be through the police powers of the states, not the federal government.[52]

Like the Committee of Nine, many industry observers blamed state and federal antitrust laws for the problem of overproduction, believing that the laws prevented common-sense cooperative responses. Their attack on antitrust law harked back to the Standard Oil Trust's solution to overproduction decades before. Industry leaders sought the freedom to eliminate destructive competition and rationalize the industry—in other words, to replace market prices with cooperative agreements and consolidations. They argued that the dire situation required jettisoning outdated concepts about industry cooperation. "Instead of leaving their oil in its natural storage place in the ground," the editorial page of the San Francisco Chronicle complained, "the producers are forced to hurry and get it out before the other fellow drains the field." Oil was expensive to store, and the "avoidable waste" left a "big bill piling up" against the consumer. The Chronicle favored congressional legislation that would differentiate between "combinations in the public interest and combinations intended to gouge the people."[53] When the antitrust laws were passed, "people could see only one kind of a trade combination," the Chronicle argued. "That is why the oil producers . . . are up against a stone wall when they try to put a stop to the waste."[54] Even with federal permission, the Chronicle pointed out that oil producers would still face the antitrust laws in the various states. Oscar Sutro, Standard Oil's chief lawyer, commented bitterly on the Committee of Nine's cautious warning about the legality of agreements to restrict production. "I do not believe that there is any restraint of commerce," Sutro insisted, in agreements to abstain from "producing something which cannot be the subject of competition because it cannot be sold at all." Sutro conceded that his reasoning applied only to unusual circumstances. "But that extreme case is exactly what we have. I don't believe the law requires a man to produce something which he cannot sell or dispose of."[55] A stricter reading of

oft-cited laws of supply and demand, such as economist Lewis Haney's suggestion that oil prices simply be allowed to drop, would suggest that each oil operator should decide independently when it remained profitable to produce oil. This would drive down the cost of oil toward the marginal cost of production.[56] Antitrust critics rejected out of hand the idea that fluid market prices should determine the trade and use of a commodity. At the same time, the American oil industry resisted the government supervision that existing anti-trust laws made a pre-condition for industrial cooperation.[57]

In 1929, the new Hoover administration initiated more aggressive actions to conserve the United States' petroleum reserves. The Committee of Nine had called on the federal government to use its powers as the owner of oil lands retained under the Mineral Leasing Act of 1920 to restrict oil production from public lands. In particular, the committee recommended that Congress authorize the Interior Department to permit government lessees to cooperatively develop and operate single pools. In an April 1929 letter to the governors of Utah, Wyoming and Colorado, Ray Lyman Wilbur, Secretary of the Interior, announced the Hoover administration's intention to "reserve as much oil as possible" against the time when national supplies would diminish. Wilbur told the western governors that their oil resources were "being dissipated at prices which bring no adequate return" to either the industry or the federal and state governments in the form of royalties. The new federal leasing strategy would not compel overproduction, as in the past. For leases issued following discovery, the Interior Department would release the lessee from contractual obligations to drill additional wells or produce from existing wells. Similarly, although prospecting permits required permittees to pursue development diligently to discovery, the Secretary indicated that he might request the cessation of development in a certain area, extending the permitted development time. Finally, Wilbur announced that federal leases would be sharply curtailed. The government would recognize existing permits, but would not issue new permits. Furthermore, the government planned to lease to prospectors applying for leases only the minimum portion of land required under the mineral leasing act. "Lease of the remainder is discretionary," Wilbur declared, and further leases would not issue "unless and until such action is required in the public interest"[58]

California similarly modified its leasing policies along the coast where the state controlled oil lands. Surveyor General W. S. Kingsbury attempted, like Secretary Wilbur, to use discretion to cut back on coastal oil development. But in December 1928, the California Supreme Court ruled in *Boone v. Kingsbury* that California law required Kingsbury to issue the requested coastal permits. Consequently, during the winter of 1929, the legislature approved the Bliss coastal drilling ban, as discussed in the previous section.

Revoking and denying federal and state permits could not contain the oil rushing onto the California market. Private landowners and valid government permittees on the coast and in the San Joaquin Valley controlled too much of California's petroleum lands. Disciplining the California oil market required industry leaders and the state and federal government to regulate production more directly. In the winter of 1929, industry and government leaders embraced three distinct oil conservation strategies that mobilized different legal and political mechanisms:

1) state enforcement of curtailment and managed development under the guise of a natural gas conservation law;

2) federally-sponsored unitization of the Kettlemnan Hills field in the San Joaquin Valley; and,

3) continued efforts to achieve conservation through voluntary proration and curtailment agreements.

California's 1929 Gas Conservation Measure

Fearful of violating anti-trust laws with direct production controls, in the spring of 1929 the California legislature attempted to regulate the oil industry indirectly by targeting the waste of natural gas that occurred with oil production. On average, in the spring of 1929 the California fields blew into the air more than 620,000,000 cubic feet of natural gas every day.[59] According to one estimate, in 1928 seventy-seven billion cubic feet of natural gas had wasted in California from the operation of the state's oil wells.[60] The massive release discarded an increasingly prevalent source of energy in San Francisco, Los Angeles, and other urban centers.[61] Yet California oil operators and the state government valued natural gas principally as a proxy for oil production and as a propulsive mechanism that lifted oil to the surface. Because oil operators produced natural gas and oil in concert, controlling the "waste" of natural gas would allow the state to limit oil production in flush fields as well.[62]

The gas conservation bill that Governor C. C. Young signed in May 1929 therefore "originated in the oil industry" and coasted through by the industry-friendly Senate Oil Industries Committee.[63] As an emergency measure, the gas conservation act became effective immediately, thus avoiding a costly and risky referendum battle. In the name of the "public interest," the bill prohibited the "unreasonable waste" of natural gas. "The blowing, release or escape of natural gas into the air shall be prima facie evidence of unreasonable waste," the measure declared. That same day, Governor Young also signed a companion conservation bill, the Bliss coastal leasing ban.

Procedurally, the natural gas conservation act empowered the Department of Natural Resources to conduct investigations and pursue court actions in the name of gas conservation. Upon a complaint to the Department of Natural Resources, the State Oil and Gas Supervisor would hold a hearing to determine whether "waste" was occurring or threatened, and the extent to which the waste of gas was "unreasonable." Following the hearing, the Supervisor could issue orders demanding that the responsible parties desist from wasting the gas. If companies did not comply, the gas conservation law authorized the Department of Natural Resources to sue in superior court to enjoin waste of gas.[64]

The oil industry's response to the gas conservation measure underscored that the legislation aimed to control oil production. In a July 1929 editorial on the gas measure, for example, the Standard Oil Company of California gestured in a vague way towards the "inestimable worth" of

natural gas "in some possible day of the future when California's oil and gas supply approaches exhaustion." Natural gas was a "valuable fuel," the Standard Oil Bulletin editorial acknowledged, and its huge wastage "economically criminal."[65] The growing importance of gas for industrial and domestic uses suggested that perhaps the availability of gas had been "one of the important factors in the rapid development" of southern California. Yet Standard's concern about the waste of this "natural heritage" did not run deep. The company principally worried about natural gas' role lifting oil through oil wells, and thus with gas production as a proxy for oil production. The Standard editorial highlighted the role natural gas conservation would play in turning the oil industry away from "demoralization and chaos":

> There is an excess of gas now only because the oil industry is producing too much crude oil. If the gas is shut in the overproduction of crude will be curtailed, bringing supply and demand more nearly into balance. Slower and more orderly development, enabling the gas to perform its most valuable functions of driving oil to the well and lifting if to the surface, will result in a greater ultimate recovery of oil. More orderly development will prevent periods of great overproduction, and eliminate the great expense of storing surplus petroleum. All this will work for a more prosperous industry. It will prolong California's supply of both oil and gas, and defer a possible day of importation of petroleum by California.[66]

The gas law had resulted from years of discussing "'conservation' and the control of the production of crude oil." "Full success in the enforcement of this measure is of the greatest consequence," the Standard Oil Bulletin intoned. "Its importance can hardly be overstated."[67] The San Francisco Chronicle similarly wrote that the conservation of natural gas in California would reduce production by almost exactly the amount of overproduction nationally. The law would also furnish "a working example for regulatory measures in other States." The Chronicle called California's success with natural gas conservation "the key factor" nationally.[68] American Petroleum Institute president E. B. Reeser proclaimed optimistically that overproduction would be "solved within a year, with California holding the key to the solution."[69]

Enthusiasts for the new gas law believed that it would solve the collective action problem facing the oil industry. The optimistic response by major industry figures and investors reflected the fact that the conservation measure principally targeted smaller oil producers that had refused to comply with California's voluntary curtailment program. The small producers, whose limited landholdings left them vulnerable to neighboring competitors, typically felt compelled to rapidly drain oil and gas. By cutting back their flush production, the law would bolster the crude oil prices. In October 1929, the major companies postponed a price re-adjustment in the hopes that the natural gas law's implementation would cut production and allow them to reduce their stored oil.[70]

The indirect approach to oil production controls represented by natural gas conservation resulted in a convoluted oil policy. The Department of Natural Resources lacked direct control over oil production, only able to influence it through enforcement of the gas act— issuing notices of gas wastage and pursuing Superior court injunctions if the wastage persisted.[71] One of the chief

problems with regulating on the basis of gas waste was that some operators had contracts to dispose of their natural gas while others did not. Thus two wells might produce the same excess gas, but only one would waste it. The regulation made sense if the gas legislation targeted wasted gas, but not if excess oil was the real problem. Oil and Gas Supervisor R. D. Bush sought to ease this "inequitable situation" by arranging for operators to have the opportunity to produce gas in proportion to his neighbors. According to Bush's plan, companies with gas contracts would offer "all operators an equal pro rata opportunity" to dispose of natural gas. Bush indicated that gas would be taken from all at a pro rata basis, "but the companies having the contracts shall receive the payment for such gas in accordance with the terms of their contract as though their own gas had been delivered thereunder."[72]

Apparently the major operators adopted the Bush plan, agreeing to pool resources to make storage and distribution facilities available to the smaller operators.[73] The independents debated whether to accept the proposal. They wanted a "new form of contract that would guarantee to the smaller operators any distribution of gas and production of oil." The smaller operators split on the issue, with some of them displaying "considerable bitterness" while others sought to keep open relations with the majors and advocated signing the proposed deal. Many of those opposing the deal argued that the new gas law was either unconstitutional or irrelevant to their operations. They contended that the "best economic use of gas is bringing out oil from wells and that any operation that did not use more gas than was necessary to bring out the oil was not a wasteful operation under the new law."[74] Ultimately, however, the Independent Oil Operators' Association reportedly agreed to a contract offered by majors to pool gas and produce oil on even ratio.[75]

When California's new gas conservation law became effective in September 1929, many smaller oil operators struggled to block its enforcement. The independent and smaller oil operators of southern California joined together to counter the seven major operators that had formed the Gas Conservation Association.[76] The new law set the stage for a confrontation between the state and a range of oil operators, with the state in the role of enforcer. On 11 September 1929, Fred G. Stevenot, California Director of Natural Resources sought a preliminary injunction in Superior Court to control natural gas wastage in the flush Santa Fe Springs field. The state named forty-three oil operators as defendants. All of the companies complied with the injunction except three—the Twin Bell Syndicate, Second Twin Bell Syndicate, and Star Petroleum Company—that opposed gas curtailment and appealed the injunction. The court fixed the "total gas escapage" at 285,000,000 cubic feet of gas per day in the field, and distributed according to a schedule the estimated potential production of oil—237,576 barrels per day—among lessees and other operating property units. The oil production cut amounted to fifty percent of the field's potential.[77]

In early October 1929, Oil and Gas Supervisor R. D. Bush announced that the Ventura field would come next. The state's gas production order under the new law would become effective in the Ventura Avenue field on October 14. As the implementation date grew near, however, alarmed Ventura landowners warned that the action would cut oil production by twenty-five percent.[78] Attorneys for the Ventura oil operators attacked Bush for having exceeded his

mandate. Shell's Julian Beck called Bush's order "unreasonable and arbitrary," while Howard Robertson (the attorney for Bolsa Chica) and Frederick M. Kincaid (counsel for Ralph B. Lloyd, the largest landowner in the area) challenged Bush's jurisdiction and declared the order void.[79] The Lloyd interests, controlling approximately three-quarters of the Ventura Avenue field, opposed gas curtailment because it would force their lessees, Associated Oil and Shell Oil, to cut back on oil production. Ralph Lloyd instructed the two companies to ignore the order and warned them that compliance with the gas order would constitute a violation of their lease agreement. Although as major producers and refiners, Associated and Shell presumably supported curtailment, as lessees to Lloyd and others, their contracts did not allow arbitrary output reductions.[80] The "drastic provisions" of the Ventura Avenue field order apparently limited gas waste to 5,000,000 cu ft /well/24 hr period.[81] This would have cut natural gas output by more than half, sharply reduced the production of light refinable oil in the field, and adversely affected continuing drilling efforts.[82] In response to this local resistance, the Department of Natural Resources agreed to reconsider the action. But Supervisor R. D. Bush announced his intention to proceed as planned and the Ventura operators sued to test the constitutionality of law.[83]

As state implementation of the gas law stalled, a frustrated Standard Oil Company of California pursued more unilateral action in concert with California's other major refiners. In October 1929 the company slashed prices in a number of oil fields to pressure producers to curtail output. Within three days, the other major refiners, including Union, Associated, Richfield, General Petroleum and others, followed Standard's lead. Together, the refiners handled virtually all of the oil produced in California, and their joint enforcement of curtailment brought swift results. By early November, for example, over-producing oil operators at Seal Beach had reduced their output to the maximum designated acceptable by refiners. Standard immediately restored the previous price scale at Seal Beach, thereby raising prices approximately fifty cents per barrel. The other major refiners again followed suit. The major companies apparently worked closely with representatives from the state oil supervisor's office, seeking written agreements from producers in the heavy producing fields.[84] Compliance with curtailment in other overproducing fields was thought to be the key to restoring prices in those fields as well. The selective price changes and the written agreements underscored that the major companies sought an orchestrated outcome, not gradual price equilibrium. Otherwise, why would curtailed Seal Beach oil be worth fifty cents more than oil from nearby Huntington Beach or Long Beach?

By November 9, 1929, the major oil companies had caused production to drop by 212,000 barrels per day. A "new era" was heralded as production lowered to the level of demand. Curtailment was made possible by cooperation between a group of independent producers, led by E. D. Reiter, and the major companies. Oil companies signed ninety-day curtailment agreements that the oil umpires Grimm and Anderson would supervise. Reiter praised the independent operators who had "swung into line with the curtailment movement despite threatened litigation over lease contracts by land owners." The San Francisco Chronicle exclaimed that California curtailment alone had eliminated the "evil" of the United States' 200,000 barrel per day over-production.[85] In December, the Chronicle trumpeted the apparent success of the oil conservation plan, declaring that curtailment had fared so well its first six weeks that there was "now no

hesitation in extending it throughout December in all the prorated fields." The newspaper credited conservation efforts in California and elsewhere with having yielded sustained prices in East Coast markets.[86] Later that same month, the Chronicle reported predictions that nationwide curtailment, coupled with an increase in gasoline consumption, had stabilized the industry and improved the earnings positions of many of the oil companies.[87]

Despite these initial signs of success, however, the voluntary oil curtailment program remained vulnerable to free-riding, non-compliant producers (as discussed more fully below). In January 1930, the Chronicle reported, problems in Santa Fe Springs and Kettleman Hills placed California's curtailment program "in danger of being blown up." At Santa Fe Springs, an operator "with a number of flush wells" was reported to have "opened up his wells" and begun producing more than twice his daily allowable production. Another group of companies was similarly "far in excess of its allowable production." In fact, the group of companies had "never been within its limit during the time the curtailment has been in effect." If another company broke, the Chronicle warned, "the whole program may collapse in this field." Meanwhile, at Kettleman Hills, a group of royalty owners had demanded that the Petroleum Securities Company's Felix No. 1 well be put on production. This new producing well threatened to set off a cycle of spiraling well development. "This will call for completion of four offset wells" the Chronicle moaned, "and these four will call for several more."[88]

From the other side, independent oil operators in fields like Santa Fe Springs protested bitterly about Standard Oil's actions. In June 1930, for example, H. C. Greenlee, a stockholder in the Occidental Oil Company, wrote to U. S. Attorney General William Mitchell to call attention to Standard Oil's "latest outrage." For almost a year, Greenlee complained, Standard had been "'hounding' the small independent oil operators at the Santa Fe Springs field in this state and doing their best to cripple and put them out of business." First Standard had pushed "a so-called 'Anti-Natural Gas Wastage' law" through the State legislature and "endeavored to club them to death with it." When that did not entirely succeed, Standard had forced the independents "by threats and by slashing the price of crude oil" to sign agreements to curtail production for sixty and ninety day periods. "Their last move was to order production at Santa Fe Springs by the independents curtailed 47%, and to last for 5 1/2 months." When seven of the smaller companies refused, on May 16 Standard slashed posted prices at Santa Fe Springs in half. "Prices have been slashed only at Santa Fe Springs and to intimidate the operators there." Practically all those resisting signed, except for Wilshire group which had its own producing, refinery, and distributing system. As a stockholder of the Occidental Oil Company, Greenlee protested the situation as "unjust and unwarranted discrimination."[89]

California's natural gas conservation act, as well as the possibility of further state regulation, hovered behind "voluntary" curtailment agreements. In November 1929, during the price-cutting intimidation by the major companies, Attorney General U. S. Webb sued all the Signal Hill oil operators to enjoin them from further wasting natural gas. Webb asked the court to order operators to limit natural gas production to that necessary to lift crude oil from wells. He demanded that operators install appliances to reduce the gas pressure. Webb estimated that if gas were produced in the "lowest amount necessary" to lift the oil, the wells would remain

productive twice as long as under present conditions. Webb thus sought to conserve natural gas almost exclusively as a lifter of oil, not as an energy source in its own right.[90]

By early 1930, the state had issued gas orders or sued for injunctions in Santa Fe Springs, Ventura, and Kettleman Hills. Angry oil operators pursued a series of legal defenses and countersuits to block state enforcement.[91] Defendants in the natural gas cases challenged the constitutionality of the natural gas conservation act, arguing that it constituted a "taking" of property without due process of law or compensation. The defendants also criticized the standard of "unreasonable waste" as too vague and indefinite to be applied fairly. They contended that "arbitrary" gas production orders violated their due process and equal rights guarantees under the state and federal constitutions.[92] The Bandini Petroleum Co, Commodore Petroleum Co, Wilshire Oil Co, Inc., Wilshire Annex Oil Co, and the Ambassador Petroleum Co., all operating in Santa Fe Springs, petitioned the appellate court to prevent enforcement of an injunction order against natural gas wastage. No market existed for the natural gas, the operators argued, and if they were to use gas as lifting force for oil, then some must escape. The companies' lawyers made three main arguments. First, the natural gas conservation act deprived them of property without just compensation and without due process. Second, the statute was void because of its uncertainty and the absence of any legislative standard for conduct. And third, the law permitted "the use of gas for lifting purposes in a reasonable proportion to the amount of oil produced" and there were "no other or greater uses." The lawyers particularly attacked the "unreasonable waste" clause giving the director of natural resources discretion to act.[93]

In the fall of 1930, the California oil industry anxiously awaited court rulings on the constitutionality of the natural gas conservation statute. The Chronicle reported that the industry was in "a bad way from conditions beyond its own practical control" and expressed its hope that the Court would uphold the act "to put an end to the waste of resources and the cutthroat competition."[94] Finally, at the end of November 1930, a California appellate court upheld the measure's constitutionality.[95] Four days later, in *People v. Associated Oil*, the California Supreme Court also ruled the gas law constitutional, declaring that the state had the power to regulate the use of natural resources and prohibit unreasonable waste under the state police power. The California Supreme Court called the standard "plainly adopted" that "gas may not be produced in quantities exceeding a reasonable proportion to the amount of oil produced." The legislative enactment legitimately had sought to "conserve for present and future needs" natural resources in which public was interested.[96] The supreme court ruling forced three Santa Fe Springs companies, the Twin Bell Oil Syndicate, Twin Bell Syndicate, and Star Petroleum Co., to comply with a temporary court injunction. The court dismissed the companies' contention that the temporary injunction excessively cut production, harmed properly, or unduly failed to recompense for alleged loss.[97]

In its December 1930 ruling, the California Supreme Court commented on the tremendous economic importance of the oil and gas industry, as well as many reports of the "pressing demand for conservation" of these natural resources. The court noted with confidence a long line of cases establishing that the public interest in these resources sufficiently justified public intervention to prevent their waste.[98] The distinction between the waste of natural resources and

"economic waste" protected the gas law from the oil companies' constitutional challenges. The court dismissed arguments that "the real purpose of the statute is to curtail the production of oil so as to regulate and stabilize the market price." The gas act instead targeted "the continuing and increasing waste of the propulsive energy of gas underground and of its full energy above ground" in the interest of the "public convenience" and "general prosperity of the commonwealth." The California Supreme Court repeated estimates that operators ultimately recovered only ten to twenty-five per cent of oil deposits, depending on the natural characteristics of the reservoir and the efficiency of use of the lifting power of the natural gas. The court thus defined gas waste principally in terms of its role in maximizing the recovery of oil.[99]

> It may be that the enforcement of the statute throughout the gas and oil producing sections of the state may have an effect upon the market price of oil . . . But the fact that the field of economic law to some extent may thus be invaded may not justify the avoidance of the statute. As we view the terms of the act the primary function of gas in the production of oil is recognized, and its complete utilization in that respect, without unnecessary waste, is attempted to be safeguarded. The additional function of the gas in providing light and heat for manufacturing and domestic purposes is also recognized, and the effort is made to compel the fullest utilization as to both functions.[100]

Almost a year later in November 1931, the United States Supreme Court upheld the state court rulings on the gas conservation law.[101]

Yet by 1931, it had become generally apparent that natural gas conservation would not necessarily reduce oil production sufficiently to tame the oil market. A. L. Weil, chairman of Public Relations Committee of California Oil and Gas Association, now called it "obvious" that the gas law would "fail in controlling oil production to any substantial degree." The problem with the state gas law was that it did not stipulate anything directly about oil production. In the rich Kettleman Hills field, Weil noted, operators could maintain production such that it would "absolutely swamp the Los Angeles Basin area and other fields, and at the same time not result in a waste of any gas."[102] Standard Oil President K. R. Kingsbury, whose company dominated Kettleman Hills, agreed. In October 1931, Kingsbury wrote Secretary of the Interior Ray Lyman Wilbur to tell Wilbur that he was "unduly alarmed" about gas waste at Kettleman Hills. The natural gas blown into the air a year ago had been three hundred million cubic feet. Now it was only seventeen million feet, and Standard Oil was installing compressors to allow its eight million cubic feet to enter the transmission lines. Soon Standard would blow no gas into the air at Kettleman Hills. The problem of gas waste had been "definitely overcome as far as this field is concerned," Kingsbury wrote.[103]

In the hopes of continuing to use gas waste as the lever to control overproduction, Wilbur commended Standard's cooperation but asked whether the company could take further measures. He noted that because of Standard's extensive holdings, the company had "wide freedom of action." He asked Standard whether it could share with other companies the market that it had secured for its Kettleman gas, and refrain from developing its own oil properties. Wilbur thought

that the company might "make a reasonable profit" purchasing surplus gas from other sources to meet part of the market demands, and conserving its own gas for future use. This action would help keep other oil operators in line with the State proration program for oil. Wilbur proposed that Standard either supply the natural gas market from other sources, or compensate neighboring oil producers to dissuade them from drilling competing offset wells. But Wilbur's suggestion that Standard Oil put its hard-won natural gas capacity at the service of other oil producers met little enthusiasm at the company. The exchange between Wilbur and Kingsbury underscores the long-term ineffectiveness of the natural gas conservation act as a mechanism for controlling oil production. By investing in equipment to capture and market the gas that previously blew into the air, Standard could produce oil at will.[104]

Kettleman Hills Conservation Plan

The second major conservation strategy pursued in California beginning in early 1929 attempted to resolve the problem of split ownership of oil pools. Common pools provoked fierce competition among neighboring operators who struggled to maximize their share of production. Ray Lyman Wilbur, Herbert Hoover's Secretary of the Interior, searched for a legal mechanism through which the federal government could promote oil and gas conservation in these common pools. Federal power to regulate private economic activities remained circumscribed. Because the federal government had transferred most California oil lands into private hands, federal officials could not specify production practices, shut down oil wells in the name of conservation, or regulate gas production. These police powers rested with the state government alone in the late 1920s.

Casting about for a suitable leverage point, Wilbur honed in on the new Kettleman Hills oil field in the San Joaquin Valley. The three geologic domes of Kettleman Hills, located to the north of the contested Elk Hills and Buena Vista Hills, offered Secretary Wilbur a unique opportunity to exercise conservation leadership. Because the petroleum trapped beneath the North, Middle, and South Domes of Kettleman Hills lay 7000 feet below ground, oil operators did not have the drilling capacity to strike oil there until the late 1920s. This fortuitous delay in drilling enabled Wilbur to intervene before competitive development spun out of control.

The delay in development also meant that the federal government had sold to prospectors comparatively less of the oil land in Kettleman Hills prior to the Mineral Leasing Act of 1920. Federal ownership of approximately one-quarter to one-third of the Kettleman Hills oil lands strengthened Wilbur's hand considerably. Private landowners typically forced operating companies to develop landholdings rapidly. Wilbur envisioned that a far-sighted government could lean the opposite way and slow development by federal lessees amid low prices and a flooded petroleum market. Wilbur also perceived that the Standard Oil Company of California could become a key federal partner in this effort. Standard Oil owned approximately half the potential oil lands in the Kettleman Hills field, following its purchase of the Southern Pacific Railroad Company's alternate parcel landholdings. Furthermore, major oil companies controlled

most of the federal and private leases in the area. They could satisfy their need for petroleum elsewhere in California and afford to leave Kettleman Hills leases untapped.

Secretary Wilbur proposed his joint conservation plan at an opportune moment. Only the North Dome of Kettleman Hills had been drilled in April 1929 and only General Petroleum and Milham had wells in operation. Drilling new wells in the field would take at least nine months, allowing time to negotiate a complicated plan. Wilbur urged federal permittees and other oil operators interested in government oil and gas permits in Kettleman Hills to discuss ways to conserve oil in the field. About sixty persons met in mid-April and appointed a committee, chaired by Judge E. D. Reiter, to devise a conservation plan.[105] The federal government pressured the participants to take action. During an April 29 meeting in the Los Angeles offices of the California Oil Umpire, George Otis Smith, Director of the United States Geological Survey, described Kettleman Hills as a menace to nation's oil markets, Smith urged the assembled group to agree on a voluntary conservation plan. At the same time, Smith also warned his audience that the Interior Secretary believed that the federal government had the power to take legal action to enforce conservation if they could not reach a voluntary agreement. Natural gas wastage would provide the crucial rationale for canceling or regulating federal leases, as at the state level.[106] Wilbur and Smith's low-pitched threat to federal lessees underscored the legal powers that came with federal land ownership. Without ownership, the federal government did not have clear authority to prevent the waste of natural gas.

In early June 1929, Wilbur and Smith announced their first success at Kettleman Hills: the Interior Department and six oil companies had agreed to shut off oil production in the Middle Dome until January 1931.[107] Speaking during a visit to the San Joaquin Valley, Wilbur framed the agreement in the context of his larger conservation vision. Through this policy, the Department of the Interior hoped to make producers "see the wastefulness of drilling when oil is not needed. It is all the oil and gas we are ever going to get, and yet in some fields wastage runs as high as 85 percent. Gas is allowed to run out and only 15 percent of the oil is ever brought to the surface." Wilbur and other Interior Department officials had invested considerable effort brokering the Kettleman Hills agreements and deserved ample credit for the achievement. George Otis Smith, director of the U. S. G. S., spent several months in California working out the proposed oil conservation program.[108] After his success with the Middle Dome, Smith negotiated a similar agreement among South Dome operators, lessors, royalty owners and other interests in early July.[109]

Negotiations over North Dome drilling proved far more difficult than in the South or Middle Domes, as a drilling campaign had begun in the northern sector. In May 1929, newspapers reported that a number of companies, including Bolsa Chica, Getty, Pacific Western and Petroleum Securities, had begun to build roads and commence other preparatory work for drilling. Each well could potentially provoke offset drilling by adjoining landowners. For example, Standard and Milham anticipated two offsets as a result of the Getty well. A Petroleum Securities well would likely trigger drilling by Shell and Marland.[110] By contrast, in the Middle Dome, only Shell had drilled a well and the company agreed to delay development on the condition of unanimous agreement in the field.[111]

Further complicating the North Dome situation, Milham Exploration Company's discovery well, Elliott No. 1, continued to blow wildly out of control nine months after being tapped in October 1928. To tame the well, the government and the field's operators proposed to drill four wells in its vicinity. In theory, these four wells would deplete the tremendous gas pressure driving the Elliott well, after which the four would be capped. But the proposed wells posed fresh problems throughout the field. Neighboring operators feared that their holdings would lose oil or vital gas pressure. Considerable negotiation ensued, in which George Otis Smith played a crucial role resolving the differences on drilling and future production curtailment in the North Dome. Following a deadlocked meeting in mid-July, resistant operators like Ellsworth McGowan, representing the Kettleman Oil Corporation, accepted an agreement to receive a share of the oil from the four wells offsetting Elliot 1.[112]

On behalf of the federal government, George Otis Smith embraced the new plan to shut down the North Dome. He began a strenuous effort to collect signatures from the field's operators and landowners. Observers like the San Francisco Chronicle urged approval of the agreement, declaring that the industrial future of the San Francisco Bay region hung on the agreement. Kettleman Hills was the closest large natural gas field to San Francisco and the discovery well alone produced more natural gas than the entire bay region used. "The Kettleman field ought not to be opened up except and as the gas can be utilized," the Chronicle declared.[113]

By early September a majority of the operators had signed and drilling in Kettleman Hills, the newest and largest California field discovered in recent years, slowed dramatically. The federally brokered pact halted production among the signatories until January 1, 1931. Secretary of the Interior Wilbur hailed this "striking result," calling the North Dome agreement a model for how governments and companies could manage other oil fields in California and the nation through conferences and mutual consent. Smith assessed Interior's achievement more judiciously, noting that government control of more than a third of the North Dome oil lands accounted for the successful deal.[114] Still, the North Dome agreement had broken new ground in industry-government relations.

Looking beyond the narrow agreement to postpone development, in September 1929, Interior Secretary Wilbur called on the companies to negotiate an arrangement to operate the North Dome field jointly as a single producing unit. A unit plan would avoid destructive competition, thereby conserving gas and yielding a greater volume of oil.[115] Kettleman Hills operators initially responded coolly to Wilbur's unit plan, believing that delaying development went far enough.[116] Within two months, however, a crisis in the North Dome radically altered their position. Petroleum Securities, a Doheny company, situated on fee lands in the territory and not a party to the previous agreement to halt development, completed a well that stood capped and ready to be brought in. The landowners reportedly insisted that the company open the well. A general drilling race threatened to ensue. Six offset wells by neighboring companies were immediately anticipated. Wilbur and the companies thus rushed the unit plan forward to save the existing conservation plan threatened by Petroleum Securities' Felix No. 1 well.[117]

At this point in January 1930, California intervened to bolster the deteriorating Kettleman Hills situation. Director of Natural Resources Fred Stevenot requested a court injunction to restrain North Dome oil operators from unreasonable waste of gas. Felix No. 1 was the principal defendant in the case. The state also named most of the other oil companies in the North Dome field and twenty-five additional individual royalty and landowners. According to the complaint, the four producing wells in the North Dome wasted two hundred thirty million cubic feet of gas each day. The companies captured only twenty million cubic feet daily. The state feared that the Felix well would prompt the opening of other wells, potentially unleashing up to five hundred million cubic feet of natural gas daily into the air. The state and federal government thus used the gas act as a legal lever to prompt a "voluntary" conservation agreement on the North Dome.[118] Instead of clubbing the companies into compliance with an injunction, however, Superior Court Judge S. L. Strother approved a continuance until April 1930 to allow the parties to come to a voluntary agreement. Any court-approved agreement would become part of the unit or co-operative plan for oil production under consideration for Kettleman Hills.[119]

At the end of January 1930, Secretary Wilbur traveled to Fresno to meet with landowners to salvage his Kettleman Hills unit plan. Doheny officials were conspicuously absent. The previous week, Petroleum Securities had brought in the 4,000 barrels per day Felix well and now the company refused to shut it down. A Texas Company absorption plant would take the well's natural gas, helping the well evade gas restrictions. To those present at the meeting, Wilbur stressed the voluntary nature of his program. Yet he warned listeners they "might find California's gas conservation law jammed down their throats." Wilbur asked private landowners in each of three domes, including the Doheny group, to submit to the control of Kettleman Hills operators committee.

Under Wilbur's plan, the operators committee would determine levels of production and divide pooled output on a pro rata basis. This arrangement would eliminate short-sighted greed and competition and allow technical experts to "tell us what to do and how to do it," thereby increasing efficiency and conserving oil. "The problem is in the split ownership," Wilbur acknowledged. "If the Government, which owns about one-third of the field, owned all of it or one large company owned it all, the matter would be simple."[120] Wilbur urged operators to "speed toward any workable program" that would conserve this "treasure pot." He noted three principal options: unit management of the whole pool; division of the field into smaller zones; or, proration of production among all operators and permittees. Wilbur advocated joint management of the entire field.[121]

The federal government could not compel acceptance of a conservation program on private lands. Many questioned its legal authority even to enter into joint management plans with private parties. Consequently, during the spring of 1930, Wilbur and President Hoover pushed a measure through Congress authorizing the government to cooperate with private firms to reduce wasteful competition. The act, signed by Hoover in July 1930, granted Wilbur until January 1931 to effect an oil conservation agreement.

The federal law authorizing government-industry agreements to control oil production reflected changing sentiment toward cooperation and industrial planning more generally. In support of congressional authorization of federal agreements with landowners and operators, for example, the San Francisco Chronicle ridiculed the state and national antitrust statutes. "What a law- this Sherman act- which has to be chained up by a special act of Congress to permit some useful thing to be done!" The Sherman Act made "no distinction between friends and foes," the Chronicle complained. The Sherman Act and California's Cartwright law needed to distinguish between "vicious and useful trade combinations." Even "more ridiculous," the new congressional measure permitted combination only in those fields where the federal government owned oil lands. If the policy made sense for Kettleman Hills, shouldn't it apply to other fields? "But in all other cases the operators, if they should combine to limit production, would stand in danger of the anti-trust laws, which do not know the difference between a sheep and a wolf."[122]

The Hoover Administration's advocacy of cooperative management forthrightly sought to eliminate competition. Describing how a unit program would function, Wilbur explained that the unit eliminated competitive pressures by disregarding surface property lines to achieve economy and maximize recovery. In the typical scenario, Wilbur explained, operators rushed to develop their holdings, regardless of market demand or consequent waste. "The man who gets his well down first, and who sucks the hardest, is the man who wins." By contrast, under a unit plan, all the parties together produced oil only when there was a market for it. With his new congressional authorization, Secretary Wilbur headed west from Washington to seek a Kettleman Hills unit agreement and the "stupendous conservation of a great national resource." Wilbur believed widespread unit development would double the value of the nation's oil fields.[123]

In the fall of 1930, Wilbur and Smith pressed forward with their unit plan for the North Dome, warning of the dire consequences of failure. "If the lid was taken off the Kettleman wells all of the other wells of California would be forced to shut down," Wilbur said.[124] "We have been sitting on the lid out there for some months, working on a cooperative plan, but the lid is getting tilted more all the time. If we don't fasten it down and get controlled production in Kettleman Hills it may be a source of disaster rather than a benefit to the country." Wilbur thought an agreement among the Kettleman Hills North Dome operators and landowners could model joint operation for other fields, demonstrating the financial savings, gas conservation, and engineering efficiency.[125] Smith, Wilbur's representative, returned to California to meet with the Kettleman committee.

While Wilbur and Smith pursued their unit plan, litigation over an injunction to prevent natural gas waste at Kettleman Hills moved slowly through the state courts. At a hearing in early October 1930, Felix Oil Company attorney John O. Covert questioned the power of the state to intervene, arguing that state action violated personal rights without due process. Twenty-eight oil companies were fighting state action, all contending that unreasonable waste remained undefined and involuntary conservation constituted an unconstitutional taking of property. On the other side, state attorney James S. Bennett warned that oil and gas conservation would break down in California if the courts held the gas act invalid.[126] On November 1, Judge S. L. Strother of Fresno, presiding in Kings County superior court, upheld the constitutionality of the law, basing

the state's power to control gas and oil production on the theory that the State was ultimate owner of all property.[127]

Under the shadow of the gas litigation, the Kettleman Hills companies worked out their difficulties in the North Dome. In mid-October 1930, William Reinhardt, vice president of Shell Oil Company, announced the creation of a formal corporate association. The companies would operate the North Dome in two units, each controlling about fifty percent of the productive acreage. One unit consisted solely of Standard Oil, on the old Southern Pacific sections. The other unit would combine all other operators into the Kettleman North Dome Association (KNDA)—a non-profit corporation to provide for unified development and production of oil, gas, and related products, under agreement with the Secretary of Interior and various landowners and operators. Individuals representing the major companies dominated the KNDA board of directors, including John Brown (General Petroleum), William McDuffie (Pacific Western), Mosher (Signal). Collom (Continental), Rush Blodget (Getty), William Reinhardt (Shell), M. E. Lombardi (Standard), and William Humphrey (Associated).[128]

The KNDA plan provided for one well to every twenty acres in the field, in contrast to common townlot drilling of one well to less than two acres.[129] A central goal of the association would be to eliminate the gas waste. Because the Kettleman Hills wells ran approximately 7500-9000 feet in depth, natural gas pressure to lift oil was crucial.[130] Government royalties would range from 12 1/2% to 33 1/3 %, depending on production levels. To justify a lower royalty scale, Wilbur asserted that increased efficiency would increase overall royalties to the public treasury.[131]

Congress had authorized Wilbur to sign the agreement, but to protect the administration politically, Wilbur submitted the unsigned plan to Congress for comment. Some royalty owners apparently opposed the agreement and sought to stir up congressional opposition. Hayden Jones of Fresno, representing the Kettleman Hills Land Owners' Association, urged the California delegation to oppose the unit plan. A royalty owner in the field and president of the Fresno realty board, Jones warned that the pact would relinquish to Standard Oil the destiny of the Kettleman Hills field.[132] Nonetheless, Congress signaled its approval and Wilbur signed the Kettleman North Dome Association agreement the day before congressional authorization expired. In the end, only Pioneer Kettleman Company, Union Oil Company, Superior Oil Company and the Whelpley Oil Company, holding fee acreage refused to sign.[133] Wilbur considered the Kettleman Hills agreement, a product of two hard years of negotiation, "one of the major steps toward conservation taken by this depamnent."[134]

The struggle to establish mechanisms to conserve Kettleman Hills oil continued unabated after the KNDA agreement. In July 1931, F. S. Bryant, working in Standard Oil's Land and Lease Division in the Los Angeles Producing Department, described to a former colleague Standard Oil's continuing difficulties in Kettleman Hills.[135] Bryant's lengthy letters provide an unusual window into the operators' perspective on the Kettleman program, showing how they struggled to negotiate favorable production agreements.

California's statewide voluntary curtailment program allocated 60,000 barrels of oil per day to the Kettleman Hills North Dome. Under the KNDA agreement, the association had to obtain a minimum of 25,000 barrels per day. That stipulation presented a "serious obstacle" since it left only 35,000 barrels for Standard Oil and other companies outside the KNDA agreement. Bryant wrote that for four days the oil company representatives had "argued and fought over these figures." To balance the numbers, Standard Oil agreed to produce only eighty percent of the KNDA allotment, despite having equal or greater acreage in the field. Once the question had been settled, however, Bryant thought that the North Dome agreement would hold for the next six months, helping to keep California production within its overall allowable.[136] Standard Oil's President K. R. Kingsbury privately blamed Doheny and the Petroleum Securities Company as the "real stumbling block." "If he can find an outlet for his oil he may easily upset the Kettleman Hills allowable of 60,000 barrels per day by forcing overproduction in that part of the Hills in which he is located."[137]

Following their successful North Dome agreement, Standard Oil and the other major Kettleman Hills operators turned quickly to the other Kettleman fields. John Brown of General Petroleum particularly urged a proactive effort to unitize development prior to the onset of production.[138] Yet suspicion and fear of the federal government complicated Middle Dome negotiations. Many operators were "highly incensed," Standard Oil's F. S. Bryant reported, over a perceived lack of federal cooperation with the Kettleman North Dome Association. Particularly in its early stages, "when the Association is having considerable difficulty in getting straightened out," Bryant wrote, the oil operators expected leniency, not the "same old high-handed attitude." Bryant did not note specific complaints, describing the Interior Department simply as "not inclined to cooperate."

Many Los Angeles oil companies also apparently viewed with alarm Congress' recent extension of the Secretary of the Interior's authority to enter into unit or cooperative plans. The operators feared the Secretary would become the "arbiter" of a given unitized area. "This they do not intend to stand for," Bryant reported. Bryant himself criticized how the Interior Department had "endeavored to create a trading position for itself" in the Middle Dome by refusing to extend permits that were about to expire. The original Middle Dome shutdown agreement had been "predicated on the theory that . . . permittees would be granted further extensions of time within which to commence drilling." Yet the Interior Department had warned Pacific Western that it would grant no extensions until the companies arranged either a cooperative agreement or an additional shutdown contract. Standard and Petroleum Securities had begun drilling in the Middle Dome, but others had held back believing that the government would extend their permits. Companies "objected to leaving a whip in the Government's hands" that might force them to agree to conditions stipulated by Wilbur. "It was felt that the Secretary was not playing fair." Pacific Western insisted on an extension and threatened to drill, thereby undermining Interior's conservation program. Wilbur agreed to extend permits contingent on creation of a unit, or if a unit planned failed, with a provision against drilling within first year of extended term, except under necessity to protect against drainage. "We felt that this was a considerable victory," said Bryant. Still, the Secretary's "extreme reluctance . . . to carry out the promises of his former representative, and his obvious intention to hold a club over the companies, has not

served to create a very cooperative attitude. It seems to me that something is radically wrong in the Interior Department." The operators feared that the government would not give them credit for having refrained from development work.[139]

The Interior Department and oil executives like General Petroleum's John Brown predicted that a unit plan in the Middle Dome would be easier since the field remained largely undeveloped. But their optimism proved inaccurate. In the absence of the competitive crisis that forced action in the North Dome, the field operators would not cooperate. In late 1932, Bryant described this "disheartening experience." The Middle Dome unit plan was "mired to the ears" and he thought it would "probably be a dead issue" until Petroleum Securities or Standard Oil put a commercial well on production.[140]

The difficulties that Bryant described in concluding agreements in the North Dome and Middle Dome underscored why California's other oil fields did not quickly replicate the Kettleman Hills unit plan. If it took the Interior Department, Standard Oil, and the other major companies two years to conclude the North Dome arrangements, how could operators and landowners in Santa Fe Springs, Signal Hill, or Huntington Beach ever negotiate similar agreements? In these fields, small landowners desiring quick oil royalties would not allow their lessees to delay drilling or even cooperate with neighboring producers to develop a common pool more efficiently. The Mineral Leasing Act of 1920 accounted for the difference between Kettleman Hills and the other formerly public lands in the San Joaquin Valley and elsewhere. At Kettleman, the federal government retained significant ownership and could pressure its lessees into a conservation plan; elsewhere, the federal government retained only a bully pulpit.

"Voluntary" Statewide Curtailment

California's natural gas conservation act and the federally sponsored unit agreements at Kettleman Hills applied to only select parts of the California industry. Where companies wasted relatively little gas or where a unit plan lay far beyond reach, these conservation strategies could not contain oil production. Many in the California oil industry thus sought more direct statewide control of production. Statewide oil curtailment began fitfully on a volunteer basis in early 1929, orchestrated by an oil operators committee sponsored by Governor C. C. Young's conservation committee. Under the voluntary curtailment system, the oil industry committee hired several oil "umpires" to estimate statewide demand and allocate production fairly among the different fields and producers.[141] Under this arrangement, as the head of Shell's California operations explained, the oil umpires did not work for the state government, but rather were "a branch of our own business and wholly financed by us."[142] Companies were supposed to produce only the allowable share specified by the oil umpires.

The voluntary curtailment program encountered immediate resistance from many smaller oil operators who refused to comply with the umpire's orders to cut production. As a result, following passage of the gas conservation act in the spring of 1929, the oil industry temporarily set aside its voluntary curtailment program. The larger oil operators who had pushed for

curtailment hoped that the state gas law, as the San Francisco Chronicle reported enthusiastically, would forcibly "curtail many small well owners who have been content to get the oil and waste the gas."[143]

Yet the gas law proved inadequate. Constitutional challenges delayed its full implementation, sending it to both the United States and California Supreme Courts before being upheld. Furthermore, gas conservation only controlled oil production indirectly. As oil producers improved their ability to capture and market natural gas, it quickly became evident that gas conservation alone would not restrain state oil production. Continued opposition to the gas law and the measure's indirect approach to controlling oil production prompted the oil industry to revive statewide voluntary curtailment shortly after the gas law's troubled implementation in the fall of 1929.

In late February 1930, California's statewide oil curtailment committee announced that in order to match production to estimated demand the California oil industry would cut state production back fifteen percent, from 703,000 to the 609,000 barrels per day. The new curtailment agreement would extend until April 30. Santa Fe Springs declined to support the curtailment program initially, but five days later the field had agreed to comply with curtailment.[144] The Wilshire Oil Interests and Mohawk Oil Co., however, continued to reject the agreement. Getty, Inc, had opposed the plan, but now reportedly had signed on. Under the agreement, the flush producing fields would curtail 43% while the next class of fields would cut 40%.[145]

On March 1, 1930, statewide curtailment under the direction of the "Committee of Fifteen" began—to last "indefinitely." Field committees consisting of oil operators in each field would administer the curtailment order. The nine leading flush fields in the state, with a potential daily output of 644,966 were limited to daily production of 379,031 barrels. Santa Fe Springs would predominate, with 149,502 barrels, followed by Signal Hill at 89,432 and Ventura Ave. with 42,277. Thirty settled fields with an estimated potential production of 365,420 barrels would be cut back less drastically, to 216,464 barrels per day. P. N. Boggs, vice-president of Union Oil and chairman of the state curtailment committee, declared it a "new era" for the California petroleum industry.[146]

By early March the industry had reduced production significantly. Within a week, Santa Fe Springs had dropped to within 8,000 barrels of the stipulated allowable production and Ventura within 2000. In some fields, including Richfield, Huntington Beach, and Signal Hill, however, operators largely ignored the curtailment program. Still, by March 15, California oil operators had cut daily production from 750,000 barrels to 644,464 barrels. Signal Hill and Santa Fe Springs were the most significant fields that remained out of compliance. The statewide curtailment committee adjusted production quotas for these two fields upwards. Oil operators had brought in ten new wells at Signal Hill during the first two weeks of curtailment.[148]

As California's curtailment program dragged on through the spring of 1930, independent oil operators in southern California resisted its constraints on their activities. Many independent producers believed that the major oil companies manipulated curtailment to cut domestic

production and enable greater imports of foreign petroleum Vern Dumas, President of the Independent Petroleum Association of California, complained bitterly that there was “neither equity nor justice” in severely cutting domestic production, “while unrestricted foreign oil is permitted to come into this country at the rate of 300,000 or more barrels a day.” Dumas feared that the major companies would “completely monopolize the industry and stifle all competition.” What was the point of all this sacrifice, he asked, if the industry did not restrict imports?[149] Since the independent producers suspected trickery behind curtailment, they saw little reason to do anything but maximize their economic prospects. Even with low prices, many smaller oil companies had to keep their wells flowing to meet their short-term financial obligations.

As a result of the opposition of many smaller producers, in several fields the curtailment programs faced “absolute failure,” the San Francisco Chronicle reported in May 1930. At Signal Hill twenty-five producers refused to adhere. Their recalcitrance prompted a crackdown by the major companies. “To whip mutinous operators into line,” the Chronicle recounted, the major pipeline companies agreed to stop taking oil from these operators. In its vocal support for curtailment, the Chronicle endorsed this coercion, noting that the “gravity of the situation” warranted “drastic action.”[150]

The Signa1 Hill situation underscored how much the “voluntary” curtailment program depended on coercion. To penalize the Signal Hill field for recurrent violations, the curtailment committee cut back the field’s allotment.[151] Likewise, to discipline Playa Del Rey producers for doubling their allotted output of 20,000 barrels per day, the purchasing companies refused Playa Del Rey oil until the field complied.[152] And when Santa Fe Springs resisted the curtailment order, major oil companies cut prices sharply in the field to bring recalcitrant operators into line. Describing this coercive action in Santa Fe Springs, Herbert MacMillan, President of the California Crude Oil and Gas Association, oddly praised the “cooperative” spirit whereby California operators curtailed production. Difficulties at Santa Fe Springs would be “ironed out within a few days,” MacMillan promised.[153]

Even as California struggled to attain its initial curtailment goals, industry leaders issued further calls to cut California production below 600,000 barrels per day. These additional reductions over a period of six months would eliminate surplus production from the previous six months.[154] By the end of the summer of 1930, slightly decreased production and increased shipments to Atlantic Coast markets in fact did reduce California crude oil supplies by nearly eight and a half million barrels in six months.

At the same time, however, oil operators continued to drill many new oil wells, worsening overproduction. California operators completed forty-seven new wells in July 1930 and another fifty-nine in August. The August wells increased California’s potential by an estimated 53,064 barrels per day. The coastal oil boom in Santa Barbara County had just begun to heat up in the fall of 1930. Pacific Western Oil Company brought in 12,000 and 15,000 barrel per day wells at Elwood. After having established a potential output for curtailment purposes, the company “pinched” the wells, but they still continued to produce.[155] To make room for new wells at Signal Hill, Venice, Elwood, and Kettleman Hills, operators in other California fields, particularly

settled fields such as Midway-Sunset, Elk Hills, and McKittrick, had to cut their production further.[156]

In late August 1930, the Curtailment Committee called for further production cuts in response to declining gasoline consumption. Travel and transportation had fallen off throughout the Pacific Coast states as a result of the end of the summer and the continuing economic depression. Paul N. Boggs, chairman of statewide general curtailment committee, called for an additional ten percent reduction to 550,000 barrels per day. Boggs said, "Gasoline today is the cheapest commodity which goes into transportation and is being sold at less than actual cost on the present 19 1/2-cent price structure." Gasoline could bring a higher price, he thought, but would not "so long as enormous inventories are pressing the market." Production consistently had exceeded the stipulated 596,000 limit and rapidly increased, even as demand lessened.[157]

In September 1930 independent oil refiners in Los Angeles called on Standard Oil of California to raise the price of gasoline. Higher retail prices had to support the higher prices for crude oil, they argued. So long as higher crude oil prices remained in effect, the Los Angeles refiners wrote to the larger company, "none of the independent refiners in the State of California can operate at a profit with gasoline selling at the price recently established by your company." Because Standard Oil's prices set the standard for contracts, the independent refiners demanded higher retail prices and threatened to overturn the entire curtailment program. Without "quick action" on the part of Standard Oil, they wrote, those refiners who also produced oil would open their wells to full capacity to obtain crude at the cheapest price possible.[158]

Two days after the refiners publicized their complaint, Standard Oil increased the retail price of gasoline by one cent per gallon. At the same time, Standard also lowered its payment for crude oil by an average of eight to twelve cents per barrel. According to the company, only public acquiescence to higher retail gasoline prices and oil producer acceptance of lower crude oil prices could sustain the petroleum conservation program. Neither the producers nor the refiners could bear the "burden of conservation" alone, Standard explained. The public had to do its share through paying higher gasoline prices.

> The theory of conservation is that our natural resources shall be utilized only to the extent of a reasonable demand. The result will be a stabilized value and price over a long period of years, rather than low prices during the periods of excessive production, with high prices when the time of shortage arrives.

Standard Oil resisted the Federal Oil Conservation Board's early initiatives, but now quoted Coolidge's 1924 appointment letter. "Overproduction in itself encourages cheapness, which in turn leads to wastefulness and disregard of essential values."[159]

Shell, Union and Gilmore Oil followed Standard's lead, raising prices by one cent and lowering their payment for crude by approximately ten cents per barrel. Other major companies planned to follow suit.[160] Statisticians scurried to calculate the impact of Standard's move. The increased window between crude oil prices and gasoline retail prices clearly would help small refiners and

the major integrated companies. Standard's action promised "salvation" to Richfield Oil. Savings of ten to twelve cents per barrel and additional income from higher gasoline prices would raise earnings by $325,000-$375,000 per month, "closely equivalent to the monthly dividend requirement."[161]

By December 1930, the California industry thoroughly repudiated free-floating prices, choosing instead to continue its efforts to manipulate the price structure for oil and gasoline. Calling for a further production cut of 50,000 barrels per day, state operators committee chairman Paul N. Boggs called curtailment the only way to "maintain a semblance of prosperity in the oil industry." Boggs predicted that curtailment would remain in effect in California "over a period of several years."[162] The curtailment program still fell short of its goals, however, with fields such as Venice and Santa Fe Springs producing significantly more than their share.

Why was voluntary curtailment so difficult to execute? As with the gas act and the unit plans, the divergence of interest between different sectors of the industry undermined efforts to control the oil sector. Larger oil companies stood to benefit most from restrictions on oil production. They could afford to hold oil off the market in anticipation of higher prices. Smaller oil operators and refiners often had to continue to move their product, regardless of price, and many opposed all three efforts to limit oil production, fearing that they would bring financial ruin. Restrictions on oil well output increased an oil producer's average cost per barrel and the time required to amortize the investment. Simply in order to meet overhead costs, the small independent producer might want to increase output in violation of statewide curtailment orders or natural gas restrictions. The proration system further exacerbated the plight of independent producers by constantly ratcheting back allowable production to make space for new wells. Curtailment programs also limited the quantity of oil available to independent refiners, threatening their business survival.[163] Many companies thus had sound financial reasons for continuing to produce in the face of low market prices.

The fractured nature of property ownership further disrupted efforts to manage oil production. Divided ownership of oil lands spurred competitive production between neighboring oil producers. Divisions also existed within an individual lease. To comply with voluntary curtailment in the Ventura Field, for example, Ralph Lloyd struggled to control the entire amount of oil produced through his leases.[164] Lloyd had to gain the approval of each of the royalty owners to restrict oil production to the level set by the State Oil Umpire.[165] Lloyd persuaded his associates to comply with curtailment. But not all royalty-owners and landowners agreed to cut back production. The Bakersfield and Fresno Oil Company, for example, sued the Associated Oil Company for breach of contract when Associated tried to curtail its output.[166]

Court-appointed receivers who operated bankrupt oil companies constituted another recurring source of overproduction. Legally obligated to represent the interests of creditors in their management of a company, oil company receivers perceived a mandate to maximize production. The courts supported this interpretation. In some cases the court directly ordered companies in receivership to disregard voluntary curtailment orders. During the early 1930s frustrated oil operators repeatedly blamed receivers for undermining the curtailment program through non-

compliance. When the Playa Del Rey field exceeded its allowable level of production in the summer of 1931, part of the blame fell on receivers who refused to cooperate with curtailment.[167] In May 1932, the Executive Committee for Equitable Curtailment requested a court order "to force all receivers to curtail production under their receiverships."[168] And again in September 1933, the Central Proration Committee and state Oil Umpire wrote to the United States District Judges in California to ask them to force the receivers to obey curtailment orders. Yet company lawyers recognized that these appeals held little legal merit.[169]

Even those oil operators who supported voluntary curtailment disagreed about how to implement it. Companies pressed for curtailment programs that favored their interests. Many major companies complained that they bore too much of the burden of the program and they sought to adjust allowable production to increase their share. In February of 1931, for example, J. A. Brown of General Petroleum circulated a draft report to the committee responsible for recommending governing principles for a future oil curtailment program. Brown's report proposed three fundamental goals for statewide curtailment: to develop partially developed fields in an orderly manner, to prevent the destruction of the remaining reserves of the fully drilled fields, and to discourage the rapid and wasteful drilling and operation of new areas. Brown urged that the oil umpires base curtailment on a company's total oil reserves, rather than the potential production of its completed wells. The report attacked the inefficiencies of the present system, complaining that curtailment based on estimated potential of each field, lease, or well, "forces companies to drill so as to increase their potentials in order to maintain their production position." Brown further argued that over the previous year, purchasing companies such as General Petroleum had seen its own production possibilities restrained while "the group selling to them has increased its production potential until this condition has reached an economic absurdity." Brown insisted that the situation must change or the "purchasing group will be unable to find the funds to continue such unbalanced purchasing."[170] Brown's proposal reflected the difficult position of General Petroleum, Pacific Western, and many other producers. The companies held considerable undeveloped oil land but either had no desire or insufficient capital to develop them. They therefore sought to maintain their relative level of production without having to develop their reserves.[171]

By contrast, other companies sharply criticized these alternate plans. Ralph Lloyd's lawyer considered General Petroleum's proposal to substitute total reserves for potential production a blatant effort to enhance General Petroleum's competitive position, rather than a statement of principle.[172] Lloyd's concentrated Ventura landholdings did not include extensive untapped oil lands to justify a high allowable under a total reserve system. Lloyd thus preferred the existing system, in which allowable production depended on a combination of acreage and reserve size and the potential production of individual wells.

Success under the existing curtailment system, however, often required the continuous development of new wells. Ventura landowner Lloyd illustrated this problem in letters to his lessee, Associated Oil, in 1933. Shell Oil, a Ventura field competitor, had announced plans to develop an adjoining lease. If Shell developed a new well far on the western side of its leased property, Lloyd noted, Shell could claim "an acreage of proven oil lands" equal to Associated

and gain an equal share of Ventura's allowable production. At that time, the State Oil Umpire allocated 18,000 barrels per day to Associated and 13,000 barrels to Shell. Lloyd urged Associated to counter Shell's gambit by drilling on the eastern edge of its lease to prove the extension of the oil field and maintain its superior proven acreage over Shell. This would protect "our present relative position in the daily production of oil in the Ventura Avenue Oil Field."[173] In this manner, rather than resolve underlying competitive pressures causing overproduction in California, the state's voluntary conservation program introduced new gamesmanship, with landowners and operators drilling new wells to protect their share of allowable production.

Conclusion

Beginning in early 1929, California experimented with three strategies to control oil production: a state natural gas conservation law, federally sponsored unit agreements, and voluntary statewide curtailment. Many in the oil industry, particularly the major oil companies, supported these initiatives out of a desire to raise oil prices. Every promising advance in curtailment brought renewed optimism about the state of the industry, a paradoxical situation in which drastic reductions in output signified progress and success. In February 1930, for example, L. P. St. Clair, executive vice president at Union Oil, optimistically announced to Union shareholders that "For the first time in the history of the oil industry in this State, production is on the way to be placed under control." Shareholders could expect "prosperous times." Of course, St. Clair insisted contradictorily, this "did not mean that prices were going to be rigged up, and the consumers made to bear the burden."[174] Signs of success with curtailment quickly translated into shifts in company stock prices. In April 1930, for example, reports that average daily oil production in the United States had fallen off 11,805 barrels sent Standard, Union, and other shares upward on the San Francisco Stock Exchange. This gain reflected the growing belief that the California situation had improved permanently and national crude oil production would continue to decline. "Is a bull market in the oil shares developing?" asked San Francisco Chronicle financial reporter Carl Wakefield. If the oil industry had "finally conquered the problem" of curtailment, Wakefield wrote, then oil shares would "enjoy wider popularity than they have for several years."[175]

But the California oil industry had not, in fact, "conquered the problem." Competition and non-compliance continued to subvert all three conservation strategies. In early 1931, excess oil continued to weaken market prices. Consequently, politicians and California oil operators sought sterner state and federal action to discipline the oil sector and compel compliance with statewide curtailment.

Endnotes: Chapter 7

[1]Carl C. Wakefield, "N.Y. Professor Would Have Oil Industry Discard Proration Agreements," *SFC,* 3 October 1930, 17:7.

[2]Arthur M. Johnson, "California and the National Oil Industry," Pacific Historical Review 39: 2 (May, 1970): 155-170. Johnson argues that "the California oil industry as of 1940 was still a regional one, unable to affect, and largely unaffected by, prices east of the Rockies." (165). Yet Johnson's own evidence somewhat undercuts this claim of isolation, since he describes substantial imports to and exports from California, shifting rapidly on the basis of price. Fifty-three million barrels went eastward in 1923 alone, Johnson notes, and in early 1924, tankers of California crude almost exceeded combined tanker and pipeline movements from the Gulf and mid-continent fields. The fact that these exports dropped off sharply after production surged in Texas and the mid-continent does not mean that California prices or exports were immune from fluctuations in the national market. California operators closely watched mid-continent field prices and developments. It is true, however, that higher costs disadvantaged, and therefore lessened, California exports to the East.

[3]*Panama Refining Co. v. Ryan*, Supreme Court of the United States, 7 January 1935, 293 US 388 and *Schechter Poultry Co. v. U.S.*, Supreme Court of the United States, 27 May 1935, 295 U.S. 495.

[4]On vertical integration and the Standard Oil Trust, see Alfred Chandler, The Visible Hand; Yergin, The Prize; Williamson and Daum, The American Petroleum Industry: The Age of Illumination; Ronald Chernow, Titan: The Life of John D. Rockefeller, Sr. New York: Random House, 1998; Allan Nevins, John D. Rockefeller: The Heroic Age of American Enterprise. New York: Charles Scribner's Sons, 1940.

[5]Mansel G. Blackford, The Politics of Business in California. Columbus: Ohio State University Press, 1977, 41.

[6]Western Engineering 13 (March 1915): 361-362.

[7]Oklahoma passed a natural gas law limiting gas output in 1913 and a similar crude oil measure in 1915. In 1915, Texas empowered its corporation commissioner to close down any industry when there was danger of waste through overproduction. Blackford, The Politics of Business in California, 46.

[8]Blackford, The Politics of Business in California, 48.

[9]"State's Oil Supply Should Be Conserved," *LAT*, 21 April 1915, Part II: 4.

[10]As quoted in "To Prevent Overproduction," Oil and Gas Journal 13 (25 June 1914): Part I: 4.

[11]"The Law's Limitations," Standard Oil Bulletin 3: 2 (June 1915): 3. See also, Western Engineering 13 (June 1915): 491, which expressed relief that the state legislature had not passed bill introduced by the Independent Oil Producers Agency classifying oil as a public utility. "All will agree that waste of any natural resource is bad" but the magazine called it "doubtful" that the bill would have helped. Its provisions were "so radical" as to "have shocked even the California legislature."

[12]White, Formative Years, 428; R. B. Bartlett, "H. M. Shappell Interview," 7 January 1952, GTWHP, Canon 155070, Box Conservation.

[13]California State Mining Bureau, Second Annual Report of the State Oil and Gas Supervisor, Bulletin No. 82. Sacramento: California State Printing Office, 18 February 1918, 7. McLaughlin believed that "The most obvious and serious cause of waste in California oil fields has been due to water, which floods productive formations and quickly lowers their productiveness. Consequently, legislation has been aimed directly at that feature." R. P. McLaughlin, "California Conservation Methods," Oil and Gas Journal, 30 April 1920, 70. Another California bill sought to push the Southern Pacific Railroad Company out of the oil business by prohibiting common carrier

railroads from engaging in any branch of the oil business or holding stock in companies engaged in business. This bill also separated the oil well suppliers from other branches of the business. Western Engineering 13 (March 1915): 361-362.

[14]Alan L. Olmstead and Paul Rhode, "The Farm Energy Crisis of 1920," Agricultural History 62: 1 (1988): 48-60; Alan L. Olmstead and Paul Rhode, "Rationing Without Government: The West Coast Gas Famine of 1920," American Economic Review 75: 6 (December 1985): 1044-1055. "Navy Must Pay Fair Prices— Judge Bledsoe," California Oil World, 24 June 1920, 1; "Standard Raises Crude 12 Cts.; Fuel to $2." California Oil World, 15 July 1920, 1; "Navy is Refused Diesol Oil Demanded," California Oil World, 15 July 1920, 1; "Payne Asks Royalty Oil For Ships," California Oil World (19 February 1920): 1.

[15]"The Nation's Oil Industry," Standard Oil Bulletin 9:3 (July 1921): 1.

[16]Between July 1, 1920 and December 31, 1920, the California oil fields produced 55 million barrels of oil. Fifty percent of that oil came from the San Joaquin Valley fields at Midway-Sunset, Elk Hills, McKittrick-Temblor, Lost Hills-Belridge, and Kent River. Another fourteen percent came from the valley fields at Coalinga. At this point, the Los Angeles-Orange County district contributed only 15.4 million barrels, or twenty-eight percent. California State Mining Bureau, Summary of Operations, California Oil Fields. Sacramento: California State Printing Office, February 1921, 11. The Elk Hills field was not even listed in the "Production Statistics of California Oil Fields (Fiscal Year- July 1, 1919, to June 30, 1920)" in California State Mining Bureau, Sixth Annual Report, Summary of Operations. Sacramento: California State Printing Office, 6: 3 (September 1920), 6-7. This September 1920 report reported that the Huntington Beach field had produced only 238 barrels of oil and Santa Fe Springs 24, 895.

[17]"Review of the Year 1923," Standard Oil Bulletin, 11: 11 (February 1924): 10.

[18]Clark, Energy and the Federal Government, 160.

[19]"Annual Statement- 1923," Standard Oil Bulletin, 12, no 1 (May 1924): 1.

[20]"The Crude-Oil Situation," Standard Oil Bulletin 11: 2 (June 1923).

[21]"Our Million-Barrel Concrete-Lined Reservoir," Standard Oil Bulletin 10: 1 (May 1922): 2; "Oil Reservoirs At El Segundo," Standard Oil Bulletin 11: 7 (November 1923): 5-7.

[22]"The Crude-Oil Situation," Standard Oil Bulletin 12: 2 (June 1924): 1.

[23]Ise, United States Oil Policy. 111-118; Joe S. Sam, The Economics of th~ Ppcifi~ Coast Petroleum Industry. Pan II: Price Behavior and Competition. Berkeley: University of California Press, 1945, 62-64.

[24]Ise, United States Oil Policy, 109. Mark Requa declared similarly that California had "witnessed an orgie of reckless production and dissipation of our greatest mineral resource." The lost gas alone could have supplied San Francisco for the next thirty years—"half a billion dollars gone up in irretrievable loss to make forsooth a petroleum holiday." "We are, nationally, trustees for posterity. To date we have shamefully betrayed the trust." M. L. Requa?, Untitled Statement on California Oil Production, 1923, GTWHP, Carton 155070, Box Conservation (The Gerald White project identified this statement as Requa's, but it was unsigned.)

[25]Nash, United States Oil Policy, 81-85.

[26]Coolidge's letter of appointment to Secretaries of War, Navy, Interior, and Commerce, quoted in "Cut-Throat Oil Production Is Our National Disgrace," San Francisco Examiner, 14 August 1928, 28:1.

[27]Clark, Energy and the Federal Government, 156-158.

[28]Clark, Energy and the Federal Government, 159-160. Ise similarly complained that low oil prices caused waste. "When crude oil is selling for 10 cents or 50 cents or even $1 a barrel, it may be profitable for the individual operator to drill carelessly, to take relatively few precautions against water infiltration, and to abandon wells long before they are entirely exhausted." Ise, United States Oil Policy, 148.

[29]"Annual Statement- 1923," Standard Oil Bulletin, 12: 1 (May 1924): 2; "The Crude-Oil Situation," Standard Oil Bulletin 12: 2 (June 1924): 1.

[30]H. M. Storey to Oscar Sutro, 27 February 1925, GTWHP, Carton 155070, Box Conservation; Sutro to Storey, 27 February 1925.

[31]"Pres. of A.P.I. Rejects Doherty Plan, No Cure For Any Existing Evil," California Oil World, 11 December 1924, 1. The California Oil World indicated its general attitude towards all government intervention in an article criticizing the establishment of the Oil and Gas Supervisor's office in San Francisco, 200 miles from the nearest producing well and 300 to 450 miles from the bulk of the producing oil fields. Placing the office in San Francisco exemplified "the lack of efficiency and common sense that almost invariably characterize all attempts of the state, city or nation to supervise, direct, control or assist industrial operations." "State Inefficiency," California Oil World, 11 September 1924, 3.

[32]Clark, Energy and the Federal Government, 149; "The Future Supply of Oil," Standard Oil Bulletin 13:4 (August 1925): 1-2.

[33]K. R. Kingsbury to Hubert Work, 9 March 1925, GTWHP, Carton 155070, Box Conservation. The Standard Oil Bulletin blamed Coolidge's entire FOCB effort on "alarmist statements" that the country faced a shortage of oil. "The Future Supply of Oil," Standard Oil Bulletin 14: 3 (July 1926): 1.

[34]"The Future Supply of Oil," Standard Oil Bulletin 14: 3 (July 1926): 1.

[35]F. B. Loomis to Hubert Work, 11 April 1925, GTWHP, Carton 155070, Box Conservation.

[36]For 97 million barrels, see, "The Crude-Oil Situation," Standard Oil Bulletin 12:2 (June 1924): 1.

[37]"Petroleum Demand Exceeds Supply," Standard Oil Bulletin 14: 10 (February, 1927): 1. In California, town-lot drilling in places like Alamitos Hills at Seal Beach meant that new fields surged onto production and then quickly declined. The Alamitos Hills field, with its wells drilled almost two per acre, peaked in mid-June 1927 at 53,000 barrels per day and by mid-July had already dropped to 31,000 barrels per day. Standard Oil, among others, considered the Alamitos Heights situation "a financial misfortune." Operators could have recovered the oil "with far fewer wells and a much smaller outlay of money." By contrast, the company argued, "where a field is broken into small landholdings there seems to be no brake that can be applied to operations . . . It would be a fine thing from all points of view if some means could be devised for a more orderly and less expensive development of such oil-fields." "Another Town-Lot Area," Standard Oil Bulletin 15: 1 (May 1927): 1; "Town-lot Drilling At Alamitos Heights," Standard Oil Bulletin, 25, no 3 (July, 1927), 1. See, J. Paul Getty story about his inability to sell his oil from an Alamitos lease and his belief that the major oil companies had subjected him to "a well-organized squeeze play." After desperately seeking storage for his oil, and finding it in an defunct refinery, he persuaded Shell Oil to take his oil. Shell was apparently not party to the "boycott" of independents in the Alamitos Hills area. J. Paul Getty, My Life and Fortunes. New York: Duell, Sloan & Pearce, 1963, 90-94.

[38]"Annual Statement- 1926," Standard Oil Bulletin 14: 11 (March, 1927): 1.

[39]"The Oil Supply," Standard Oil Bulletin 14: 12 (April 1927): 1. The proliferation of automobiles and the rising consumption of gasoline kept pace with gasoline production, and the Standard Oil Bulletin confidently noted that "the oil industry faces no threat of a diminishing demand for its principal product." Gasoline consumption on the Pacific Coast in 1927 was more than 2.33 times five years earlier. "Growing Gasoline Demand," Standard Oil Bulletin 15: 5 (September 1927): 1. "Gasoline is the cheapest commodity in universal use, priced lower than the

average of the last eleven years." "Oil Industry Crisis Declared 'Bogey': California Law Held Key to Situation," *SFC*, 16 August 1929, 17: 2.

[40]F. B. Loomis?, Statement on Overproduction, 1927, GTWHP, Carton 155070, Box Conservation (Unsigned, untitled statement in file—labeled Loomis by GTWHP. It does not matter who it was for this reference. Presumably a Standard Oil lawyer.).

[41]"Annual Statement- 1927," Standard Oil Bulletin 15: 11 (March, 1928): 1-7.

[42]"Annual Statement- 1927," Standard Oil Bulletin 15: 11 (March, 1928): 1-7.

[43]F. B. Loomis?, Statement on Overproduction, 1927, GTWHP, Carton 155070, Box Conservation.

[44]F. B. Loomis?, Statement on Overproduction, 1927, GTWHP, Carton 155070, Box Conservation.

[45]Earl W. Wagy to K. R. Kingsbury, 30 September 1927, GTWHP, Carton 155070, Box Conservation.

[46]"Annual Statement- 1928," Standard Oil Bulletin 16: 11 (March 1929): 1-7.

[47]"Young Names Commission to Investigate Wasting of Gas," *SFC*, 20 October 1927, 1:6.

[48]"Industry Adopts Young's Oil and Gas Conservation Plan: Steps Halting Waste to be Started Soon," San Francisco Examiner, 6 January 1928, 3:1.

[49]"Ventura Field Shut Down In Conservation Agreement," San Francisco Examiner, 8 March 1928, 1:8. For favorable commentary on Young's committee, see, "Annual Statement- 1927," Standard Oil Bulletin 15:11 (March 1928): 1-7.

[50]"Committee of Nine Urges Legislation To Conserve Oil," U. S. Daily, 6 February 1928, 1:1. The committee included Thomas O'Donnell, J. Edgar Pew, W. S. Farish (Humble Oil), Henry Bates (University of Michigan), James A. Veasey (Carter Oil Company), Warren Olney, Jr., Edward Finney (Interior Department), Walter Brown (Commerce Department), Abram Myers (Federal Trade Commission). "True conservation does not mean the withholding from present use of the Nation's natural resources."

[51]"Committee of Nine Urges Legislation To Conserve Oil," U. S. Daily, 6 February 1928.

[52]"Committee of Nine Urges Legislation To Conserve Oil," U. S. Daily, 6 February 1928.

[53]"Oil Conservation Committee Is Making the Best Haste It Can," *SFC*, 13 March 1928, 28:1.

[54]"Oil Conservation Committee Is Making the Best Haste It Can," *SFC*, 13 March 1928, 28:1.

[55]Oscar Sutro to A. L. Weil, 17 February 1928, GTWHP, Carton 155070, Box Conservation.

[56]Carl C. Wakefield, "N. Y. Professor Would Have Oil Industry Discard Proration Agreements," *SFC*, 31 October 1930, 17:7.

[57]For an attack on the "old line oil concerns" that "refuse to accept the Government supervision," see, "Cut-Throat Oil Production Is Our National Disgrace," San Francisco Examiner, 14 August 1928, 28:1.

[58]"Dissipation of Resources Held Danger," *SFC*, 13 April 1929, 2:1; "Purpose of President's Oil Policy Explained by Wilbur," *SFC*, 13 April 1929, 2:3 (reprinting text of Wilbur's letter); "Wilbur Insists on Oil Conservation," *SFC*, 11 April 1930, 6:5; "Obstacles Many but the Oil Resources Must Be Conserved," *SFC*, 11 April 1930, 22:1. See also, endnote 78 in Chapter 2 on suits over Wilbur's permit restrictions.

Sabin - Chapter 7

[59]"New Oil, Gas Law Is Signed By Governor," *SFC*, 30 May 1929, 13:1.

[60]People of the State of California on Relation of Fred G. Stevenot, etc., el at,. Respondents, v. Associated Oil Company et al., Defendants; Twin Bell Oil Syndicate el at., Appellants, 3 December 1930, Supreme Court of California, 211 Cal. 93, 95.

[61]"$2,500,000 Gas Line Planned," *SFC*, 6 October 1929, 15:6.

[62]"By the control of gas wastage, conservation of oil will result, according to the proponents of the plan approved tonight." "State Bill To Curb Wastage In Oil Fields," *SFC*, 4 April 1929, 2:4.

[63]"State Bill To Curb Wastage In Oil Fields," *SFC*, 4 April 1929, 2:4: "New Oil, Gas Law Is Signed By Governor," *SFC*, 30 May 1929, 13:1.

[64]"New Oil, Gas Law Is Signed By Governor," *SFC*, 30 May 1929, 13:1; "Oil and Gas Division Created," *SFC*, 4 June 1929, 3:3.

[65]"Gas Waste in California," Standard Oil Bulletin, 17:3 (July 1929): 1, as reprinted in Carl C. Wakefield, "Success of Gas Conservation Law Is Declared of Vital Importance by Standard Oil," *SFC*, 1 August 1929, 19:2.

[66]"Gas Waste in California," Standard Oil Bulletin, 17:3 (July 1929): 1.

[67]"Gas Waste in California," Standard Oil Bulletin, 17:3 (July 1929): 1.

[68]"Conservation Act Expected to Cut Output," *SFC*, 16 August 1929, 17:4.

[69]"Oil Industry Crisis Declared 'Bogey': California Law Held Key to Situation," *SFC*, 16 August 1929, 17:2. Reeser clearly did not anticipate the East Texas boom.

[70]"Cut In Price of Crude Oil Held Unlikely," *SFC*, *6* October 1929, 15:4.

[71]"Conservation Act Expected to Cut Output," *SFC*, 16 August 1929, 17:4.

[72]"Bush Plan of Conservation Is Outlined," *SFC*, 22 August 1929, 29:4.

[73]"Cut In Price of Crude Oil Held Unlikely," *SFC*, 6 October 1929, 15:4.

[74]"Independent Oil Operators Organized," *SFC*, 4 October 1929, 19:1.

[75]"Cut In Price of Crude Oil Held Unlikely," *SFC*, 6 October 2929, 15:4.

[76]"Independent Oil Operators Organized," *SFC*, 4 October 1929, 19:1.

[77]*People v. Associated Oil*, 211 Cal. 93, 96.

[78]"Gas Cut Order Opposed," *SFC*, 4 October 1929, 19:6; "Cut In Price of Crude Oil Held Unlikely," *SFC*, 6 October 1929, 15:4; "Ventura Producers Fight State Gas Waste Ban: Conservation Act Facing Court Test on Legality," *SFC*, 7 October 1929, 1:5.

[79]"Gas Cut Order Opposed." *SFC*, 4 October 1929, 19:6.

[80]"Land Owners in Gas Fight," *SFC*, 6 October 1929, 15:2.

[81]"Land Owners in Gas Fight," *SFC*, 6 October 1929, 15:2.

Sabin - Chapter 7

[82]"Ventura Producers Fight State Gas Waste Ban: Conservation Act Facing Court Test on Legality," *SFC*, 7 October 1929, 1:5.

[83]"Gas Cut Order Opposed," *SFC,* 4 October 1929, 19:6.

[84]"Price of Crude Oil Put Back On Old Basis," *SFC*, 7 November 1929, 19:5.

[85]"Major Oil Companies Curtail Production in California To 653,000 Barrels Daily," *SFC*, 9 November 1929, 15:1.

[86]"Oil Conservation Plan Continues to Stabilize Industry in All Fields," *SFC*, 11 December 1929, 17:2.

[87]"Curtailment to Stabilize Oil Industry," *SFC*, 25 December 1929, 17:8.

[88]"Oil Curtailment Endangered by Overproduction in Two Large Areas," *SFC*, 8 January 1930, 15:2.

[89]H. C. Greenlee to William D. Mitchell, 4 June 1930, GTWHP, Carton 155070, Box Conservation; K. R. Kingsbury to William D. Mitchell, 13 June 1930, GTWHP, Carton 155070, Box Conservation (draft letter by Sutro).

[90]"State Starts Fight to Stop Gas Wastage," *SFC*, 9 November 1929, 15:2.

[91]In the Santa Fe Springs field, a group of smaller oil operators resisted the State's effort to establish a gas-oil ratio. Their attorneys argued that the gas law was unconstitutionally vague, as it did not specify clearly what was meant by a "reasonable" amount of waste was. On the other side, the government attorneys who sought an injunction for Santa Fe Springs insisted that the gas conservation law was valid and that the oil operators should be enjoined. "New State Gas Law Assailed By Attorneys," *SFC*, 4 February 1930, 15:8. In Kettleman Hills, the state brought injunction proceedings against 19 oil companies and 25 individuals interested in development of Kettleman Hills oil field. "Oil Injunction Suit Continued," *SFC*, 11 February 1930, 17:2. In May 1930, the Bakersfield and Fresno Oil Company filed suit in Bakersfield demanding
$320,000 in damages from Associated Oil Company, "alleging producing wells have been shut down needlessly on leases." Associated had complied with a gas conservation order and cut back on oil production. The lessors claimed a breach of contract. "Oil Conservation Brings $320,000 Suit," *SFC*, 17 May 1930, 22:1.

[92]*People* v. *Associated Oil*, 211 Cal. 93, 98.

[93]"Appeals Court Upholds Oil Conservation," *SFC*, 30 November 1930, 1:7.

[94]"Oil Industry Tensely Awaits Decision on Conservation Act," *SFC*, 13 October 1930, 18:1.

[95]"Appeals Court Upholds Oil Conservation," *SFC*, 30 November 1930, 1:7.

[96]"State Oil, Gas Act Upheld By Highest Court," *SFC*, 4 December 1930, 6:5.

[97]"State Oil, Gas Act Upheld By Highest Court," *SFC*, 4 December 1930, 6:5.

[98]*People* v. *Associated Oil*, 211 Cal. 93, 100, 106.

[99]*People* v. *Associated Oil*, 211 Cal. 93, 106-107.

[100]*People* v. *Associated Oil*, 211 Cal. 93, 110.

[101]"California Gas Ruling Upheld by U. S. Court," *SFC*, 24 November 1931, 3:1.

[102]A. L. Weil to Roland Rich Woolley, 4 March 1931, Lloyd Corp., Box LCL 6 (2), Folder 1, HL.

Sabin - Chapter 7

[103]K. R. Kingsbury to Ray Lyman Wilbur, 8 October 1931, GTWHP, Carton 155083, Box Conservation.

[104]Ray Lyman Wilbur to K. R. Kingsbury, 21 October 1931, GTWHP, Carton 155070, Box Conservation. M. E. Lombardi to K. R. Kingsbury, 27 October 1931, in ibid.

[105]"South State Oil Men Back Drilling Curb: Kettleman Operators Indorse Conservation in Principle," *SFC*, 20 April 1929, 15:6; "Reiter Calls Meeting For Kettleman Hills," *SFC*, 25 April 1929, 19:7.

[106]"Curtailment of Kettleman Oil Discussed," *SFC*, 30 April 1929, 14:5.

[107]"Six Oil Firms Agree to Quit Drilling in Kettleman Hills," *SFC*, 6 June 1929, 17:4.

[108]"Wilbur Seeking Definite Plan to Conserve Kettleman Hills Oil," *SFC*, 25 June 1929, 12:4.

[109]"Kettleman Hills Agreement Nears," *SFC*, 7 July 1929, 20:7.

[110]"New Kettleman Drilling Looms," *SFC*, 3 May 1929, 21:7.

[111]"May Reach New Conservation Program at Kettleman," *SFC*, 30 May 1929, 13:3.

[112]"Kettleman Hills Meeting Deadlocked," *SFC*, 18 July 1929, 20:1; "Kettleman Oil Conservation Plan Adopted," *SFC*, 20 July 1929, l3:3; "Kettleman Hills Awaits Oil Halt," *SFC*, 22 July 1929, 13.3.

[113]"Bay Region's Industrial Chance Hangs on Kettleman Agreement" *SFC*, 22 July 1929, 22:1.

[114]"Oil Men Act to Curb Flow," *SFC*, 2 August 1929, 4:2; "Oil Curbing Plans Near Completion," *SFC*, 5 August 1929, 5:7; "Oil Men Agree on Kettleman Conservation," *SFC*, 6 August 1929, 4:2.

[115]"Kettleman Oil field Drilling Coming to Halt," *SFC*, 14 September 1929, 15:4; "Oil Men Agree to Cease Output at Kettleman Hills," *SFC*, 24 September 1929, 1:7.

[116]Operators at Kettleman Oppose Plan," *SFC*, 12 November 1929, 19:3.

[117]"Kettleman Oil Men Vote for Unit Plan" *SFC*, 12 December 1929, 20:1.

[118]"State Files Suit to Stop Waste of Gas," *SFC*, 23 January 1930, 15:3; "Judge Grants Continuance of State Suit Against Kettleman Oil Firms," *SFC*, 3 June 1930, 16:6.

[119]"Injunction Suit Continued," *SFC*, 11 February 1930, 17:2; "Agreement to End Gas Waste Near By Continuance of State Injunction," *SFC*, 3 April 1930, 17:6.

[120]"Wilbur's Oil Conservation Plea Indorsed," *SFC*, 26 January 1930, 5:1.

[121]"Kettleman Field Meeting Called," *SFC*, 4 February 1930, 17:5; "Wilbur's Oil Conservation Plea Indorsed," *SFC*, 26 January 1930, 5:1; "Wilbur Urges Conservation At Kettleman," *SFC*, 29 January 1930, 7:6; "Wilbur In S. F. Tells Of Oil Conservation," *SFC*, 19 January 1930, 14:4.

[122]"Watch Dog Cannot Tell Household Friend Front Tramp," *SFC*, 11 July 1930, 24:1.

[123]"Hoover Signs New Oil Bill," *SFC*, 10 July 1930, 6:8; "Wilbur Coming West to Curb Oil Output," *SFC*, 12 July 1930, 5:5.

[124]"Wilbur Hopeful For Unit Plan," *SFC*, 26 September 1930, 15:4.

Sabin - Chapter 7

[125]"Kettleman Oil Curtailment In Limelight," *SFC*, 14 October 1930, 15:1.

[126]"Gas Wastage Case In Hanford Court," *SFC*, 7 October 1930, 15:7; "Gas Conservation Hearing Continues," *SFC*, 8 October 1930, 17:3; "State Scores in Gas Suit," *SFC*, 10 October 1930, 17:6.

[127]"State Gas Law Legality Held," *SFC*, 1 November 1930, 13:7; "State Defendants Win Point in Gas Waste Suit," *SFC*, 17 December 1930, 16:7.

[128]"Kettlernan Oil and Gas Producers Form Ass'n," *SFC*, 31 December 1930, 13:2.

[129]"Operators at Kettleman File Output Agreement," *SFC*, 31 January 1931, 15:6.

[130]"Kettlenian Oil Control Plan Nears Accord," *SFC*, 18 October 1930, 4:1; "Kettleman Hills Companies Join to Conserve Oil, Gas," *SFC*, 17 October 1930, 1:7. Smith represented the Federal government as a political entity and as the "landlord." For the maneuvering behind the KNDA agreement, see J. Paul Getty's account of how he ensured that his company was included. George F. Getty, Inc had acquired the Armstrong Lease in Kettleman Hills in April 1928 and the drilling of two test wells had been suspended pending unit agreement negotiations among operators. Getty recounted, "The heart of the unit plan then in the process of negotiation would be a line drawn on a map and enclosing the participating acreage. Producers with all or a considerable portion of their leased acreage inside the line would fare well; those who had only scant acreage inside it would not be so fortunate." Getty feared that George F. Getty, Inc., as a smaller company, "might be entirely 'frozen out' in a unit-operation agreement dominated by major oil companies." To protect the Getty interests, Getty purchased significant amounts of stock in larger companies so that as a minority stockholder his own company could gain their support and insure that fair Getty acreage was inside the unit lines. In September 1930, for example, Getty, Inc purchased $3 million of Pacific Western and Mexican Seaboard Oil Company stock. In October, the Kettleman Hills operators met in the San Francisco offices of Standard Oil Company. Getty recalled that "I was able to face all of them with comparative assurance and equanimity. George F. Getty, Inc., was no longer a pint-sized independent producing company standing alone." As a result, Getty had total of 1,080 acres of Armstrong lease inside the unit lines— which Getty thought "entirely fair and just." Getty attributed his company's share to the support of Pacific Western and Mexican Seaboard. Getty, My Life and Fortunes, 130-132.

[131]"Kettleman Plan Goes To Congress," *SFC*, 16 January 1931, 13:4; "Oil Unit Plan Agreed Upon In Kettleman," *SFC*, 13 January 1931, 7:1.

[132]"Kettleman Plan Goes To Congress," *SFC*, 16 January 1931, 13:4; "Jones Asks State to Block Kettleman Hills Unit Plan," *SFC*, 17 January 1931, 13:6.

[133]"Operators at Kettleman File Output Agreement," *SFC*, 3l January 1931, 15:6. Around the same time, Wilbur and the Commissioner of the General Land Office rejected applications of Pioneer Kettleman Company and Associated Oil Company for leases on 1336 acres of oil bearing land near Coalinga. Wilbur wanted the holdings in a more compact acreage-now broken up into forty-acre blocks. It is unclear whether these companies had a longstanding conflict with the Interior Department over this issue, or whether perhaps Wilbur and the General Land Office sought to pressure the companies into the unit agreement. "Wilbur Considers Kettleman Leases," *SFC*, 22 January 1931, 20:6.

[134]"Unit Plan Approved by Wilbur," *SFC*, 1 February 1931, 12:8. The federal unit plan remained intertwined with California's natural gas law. In April 1931, the Superior Court finally approved an injunction that prohibited Kettleman Hills oil operators from using more than 10,000 cubic feet of wet gas per barrel of oil produced. The court also limited and controlled the depth of drilling and ordered inspections by state supervisors to ensure that wells could resist high pressures. The court order curtailed six wells: Elliott No 1., a Continental Oil Company well, three Standard Oil Company wells and Associated's Whelpley well. "Court Acts to Cut Oil Field Waste," *SFC*, 10 April 1931, 17:1.

[135]Bryant replaced Richard Morrison in Los Angeles in the Land and Lease Division of the Producing Department. Morrison was promoted to Texas and wrote to inquire what was happening with his previous work. The letters from Bryant to Morrison explained recent developments, particularly in the Kettleman Hills negotiations.

[136]F. S. Bryant to Richard H. Morrison, 24 July 1931, GTWHP, Carton 155083, Box Conservation; F. S. Bryant to Richard H. Morrison, 22 May 1931, GTWHP, Carton 155083, Box Conservation.

[137]K. R. Kingsbury to Walter Teagle, 12 June 1931, GTWHP, Carton 155083, Box Conservation. F. S. Bryant to Richard H. Morrison, 22 May 1931, GTWHP, Carton 155083, Box Conservation.

[138]F. S. Bryant to M. E. Lombardi, 28 February 1931, GTWHP, Carton 155083, Box Conservation.

[139]F. S. Bryant to Richard H. Morrison, 22 May 1931, GTWHP, Carton 155083, Box Conservation.

[140]F. S. Bryant to Richard H. Morrison, 17 October 1932, GTWHP, Carton 155083, Box Conservation.

[141]Joe S. Bain, The Economics of the Pacific Coast Petroleum Industry, Part II: Price Behavior and Competition. Berkeley: University of California Press, 1945, 69-70.

[142]S. Belither to K.R. Kingsbury, 28 May 1936, GTWHP, Carton 155083, Box Conservation. The statewide oil industry committee fixed the umpire's salary and supervised the umpire's actions. Industry leaders made their authority quite clear whenever they scrutinized the Oil Umpire's office expenditures and demanded greater economies or efficiency. See, P.N. Boggs to Neal H. Anderson and H. P. Grimm, 28 April 1931, Lloyd Corp. Archive, Box LCL 6(1), Folder B, HL; California Oil and Gas Association, "Minutes of the Meeting of the Oil Operators' General Committee, 28 July 1931, Lloyd Collection, Box LCL 6(1), Folder California Oil and Gas Curtailment Committee, HL; R. A. Sperry to P.N. Boggs, 25 August 1931, Lloyd Collection, Box LCL 6(1), Folder California Oil and Gas Curtailment Committee, HL. As Standard Oil's William Berg wrote in 1936 during a controversy over the oil umpire's unauthorized
release of statistics to the Board of Equalization, the Oil Umpire's office was "a creation of the oil industry." The Umpire had no right to distribute information "without the consent of the producers," particularly not information that might lead to revised and higher tax assessments on oil companies. W. H. Berg to K. R. Kingsbury, 2 June 1936, GTWHP, Carton 155083, Box Conservation; S. Belither to A. L. Weil, 3 June 1936, GTWHP, Carton 155083, Box Conservation. As a result of the statistics given by J. R. Pemberton to a Mr. Terry of the State Board of Equalization, the Board called upon the County Assessors to increase the assessments on oil properties. Belither called this unauthorized disclosure "absolutely preposterous." Belither, the head of Shell's operations in California, complained privately to General Petroleum's lawyer A. L. Weil that the oil umpire and his staff, "being nothing more or less than a branch of our own business and wholly financed by us, have no right whatever to disclose any information of any kind without first obtaining the approval of the companies financing them." A. L. Well sought to defend Pemberton, saying that Pemberton had given Terry only field data that was "commonly published" and "readily available to the State Board anyway." But Belither thought this "quite immaterial." The Board could easily break down field data by properties and companies. Belither to Weil, 3 June 1936; S. Belither to K. R. Kingsbury, 28 May 1936. L. P. St. Clair declared himself "heartily in accord" with Belither's ideas and thought they should take action at once "to regulate the affairs of the Umpire's office so that incidents like you mention will not occur again. If the activities of the Umpire cannot be controlled, then I think the position should be abandoned completely and some other machinery set up for the allocation of the State's allowable production." Kingsbury scrawled to W. H. Berg on the bottom of this note, "I think the time has come lo let Bill P. out. This is not the first time he has used very poor judgment." L, P. St. Clair to S. Belither, 5 June 1936. After Belither or St. Clair apparently proposed abolishing the Umpire's office, Kingsbury responded that he agreed "one hundred percent." Kingsbury thought that competent statisticians could handle the industry's information collection needs. "The real work of proration has fallen on Mr. Vander Leck's committee," Kingsbury thought. Eliminating the umpire's office would reduce expenses and "Our affairs also will be in much safer hands." Kingsbury to Belither, 10 June 1936; W. H. Berg to K. R. Kingsbury, 2 June 1936, GTWHP, Carton 155083, Box Conservation.

[143]"Curtailment of Oil Output Called Off," *SFC*, 23 June 1929, 16:5.

[144]"Producers Confer on Curtailment," *SFC*, 8 February 1930, 4:4; "Stare Oil Committee Says Output Will Be Cut to 611,000 Barrels Daily," *SFC*, 22 February 1930, 13:2.

[145]"State Effects Curtailment In Oil Output," *SFC*, 27 February 1930, 15:3.

[146]"New Oil Curb Program Goes into Effect," *SFC*, 2 March 1930, 12:1.

[147]"Oil Curtailment Plans Progressing." *SFC*, 7 March 1930, 18:3.

[148]"California Oil Output Cut Within 3.2 Per Cent of 609,000-Bbl Quota," *SFC*, 15 March l930, 17:2.

[149]"Independent Oil Men Ask Import Check," *SFC*, 28 April 1930, 15:3; "Oil Industry To Cut Down Field Output: Standard Head Says Reduced Crude Will Cure Ills, Correct Prices," *SFC*, 8 February 1930, 4:4.

[150]"State's Crude Curtailment Plan in Peril," *SFC*, 12 May 1930, 15:1.

[151]"Oil Producers Agree to New Curtailment," *SFC*, 15 May 1930, 19:4.

[152]"Plan to Cut Oil Output Perfected," *SFC*, 9 January 1931, 13:6.

[153]"Curtailment Plan Winning," *SFC*, 20 May 1930, 15:7.

[154]"Oil Producers Agree to New Curtailment," *SFC*, 15 May 1930, 19:4.

[155]Howard Kegley, "Oil News," *LAT*, 29 November 1930, 13:1.

[156]"Curtailment Will Continue," *SFC*, 1 July 1930, 17:4; "Stocks of Crude Oil Drop as Result of Decline in California Production," *SFC*, 20 September 1930, 13:2; "State Plans Further Curtailment of Oil Output as Potential Flow Gains," *SFC*, 17 August 1930, 14:7; "Crude Output Cut Accepted," *SFC*, 20 September 1930, 13:5.

[157]"Curtailment Committee To Meet Tuesday," *SFC*, 30 August 1930, 15:5.

[158]"Boost Sought In Retail Cost of Gasoline," *SFC*, 10 September 1930, 1:1.

[159]"Gasoline Price Jump Ordered," *LAT*, 13 September 1930, Part II, 1:7; "Major Firms Will Follow Standard Lead," *SFC*, 13 September 1930, 1:1.

[160]"Others Join Gasoline Rise," *LAT*, 14 September 1930: Part II, 1:4; "Gasoline to be Boosted Cent Today," *LAT*, 15 September 1930, 1:4; "Four Concerns Raise Prices To 21 Cents," *SFC*, 14 September 1930, 1:5; "Major Firms Will Follow Standard Lead," *SFC*, 13 September 1930, 1:1; "Autoists Rush for 'Cheap' Gas," *SFC*, 15 September 1930, 9:4. The San Francisco Chronicle and the Los Angeles Times reported that service stations kept busy the day before "filling 'em up" in anticipation of the price rise. The "motoring public, warned of the advance, yesterday was ordering 'all she'll hold.'"

[161]"Oil Situation Affects Returns: Integrated Companies Win Benefit," *SFC*, 18 September 1930, 24:4.

[162]"Oil Operators' Committee Agrees to Cut Production," *SFC*, 18 December 1930, 15:6; Carl C. Wakefield, "California Oil Chiefs Meet to Plan Further Production Curtailment," *SFC*, 8 January 1931, 15:4.

[163]"When anyone suggests abandonment of the proration system, this largely fictitious potential is used to reinforce the argument that demoralization and chaos would result if all wells were opened to capacity." William J. Kemnitzer, Rebirth of Monopoly; A Critical Analysis of Economic Conduct in the Petroleum Industry of the United States, New York: Harper & Brothers Publishers, 1938, 112.

[164]Ralph Lloyd to Neal Anderson, 22 April 1931, Lloyd Collection, Box LCL 6(3). Folder OPSA, HL.

[165]In early April 1931, for example, Lloyd wrote to the various landowners and royalty-owners requesting their approval of a ninety day extension of curtailment. Lloyd justified curtailment purely on the basis of oil prices. "The bottom has gone out of the price structure," Lloyd wrote to the Hartman Ranch Company. "Ventura oil at 23¢ to 35¢ a barrel is simply terrible." Ralph Lloyd to Hartman Ranch Company, 4 April 1931, Lloyd Corp., Box LCL 6(2), Folder H, HL. See also, Lloyd to Alfred S. McGonigle, 4 April 1931, Lloyd Corporation Ltd. Archive, Box LCL 6(3), Folder M- 1931, HL.

[166]"Oil Conservation Brings $320,000 Suit," *SFC*, 17 May 1930, 22:1.

[167]Minutes of Meeting of Board of Directors of OPSA, 5 August 1931, Lloyd Collection, Box LCL 6(3), Folder OPSA-minutes, HL; Minutes of Meeting of Board of Directors of OPSA, 8 July 1931, Lloyd Collection, Box LCL 6(3), Folder OPSA-minutes, HL.

[168]"Minutes of the Special Meeting of the Board of Directors of the OPSA," 23 May 1932. One hope for the Sharkey Bill had been that it would allow courts to force receivers to comply with curtailment. See, E. B. Reeser to James Rolph, Jr., 10 February 1932, Lloyd Collection, Box LCL 7(4), Folder OPSA, HL.

[169]Kincaid to Ralph B. Lloyd, 22 September 1933, Lloyd Collection, Box LCL 8(l), Folder Central Proration Committee, HL. Frederick Kincaid, Ralph Lloyd's personal lawyer, underscored the problem with the receivers. While Kincaid thought the letter to the judges "well worded" and its "meaning . . . clear," he dismissed its legal theories out of hand. The arguments were based on "purest hearsay" and did "not relate to matters of which the courts can take judicial notice." Kincaid pointed out that courts do not run the business, the receiver does. The court simply ensures that creditors' interests are protected. Kincaid says that it is "not self evident" that the production by receiver of more oil or marketing of more gas than he is entitled to produce or market is detrimental to the creditors for whom he acts.

[170]J. A. Brown to Wm. Reinhardt, W. C. McDuffie, Ralph Lloyd, and Paul Boggs, 6 February 1931. Lloyd Collection, Box LCL 6(1), Folder California Oil and Gas Curtailment Committee, HL.

[171]Pacific Western lawyer W. N. Craddock similarly argued that basing production allowables on well potential gave a "decided advantage in favor of the drilled property, as compared with a property that has been partly drilled." In order to compete with neighbors producing from the same common pool, parties operating under the plan must develop additional wells. "An operator who holds a property that is comparatively undeveloped against an adjoining property that has no greater reserve, but is more fully developed, is compelled to drill in order to receive an allotted production which would not cause unfair losses." Craddock recommended that "if the operator of such a property has already developed a sufficient amount of production to be able to produce an amount of oil which would not cause his properly to be drained, then he should be given such an allotment." Under Craddock's plan, companies would share production fairly, but would not drill extra, unnecessary, wells. W. N. Craddock to R. R. Templeton, "Discussion of the Proposed Sliding Scale Proration Plan," 25 April 1931, Lloyd Collection, Box LCL 6 (1), Folder California Oil and Gas Curtailment Committee, HL.

[172]Frederick Kincaid to Lloyd and Smith, 9 February 1931, Lloyd Collection, Box LCL 6(l), Folder California Oil and Gas Curtailment Committee, HL.

[173]Since Lloyd doubted that Associated wished to shoulder the entire burden of a new well, he proposed splitting evenly the costs and royalties. Ralph B. Lloyd to William F. Humphrey, 17 August 1933, Lloyd Corp. Ltd. Archive, Box LCL Letter 1933 (A-C), Folder Associated Oil Company, HL; Ralph B. Lloyd to Associated Oil Company, 28 September 1933, Lloyd Corp. Ltd. Archive, Box LCL Letter 1933 (A-C), Folder Associated Oil Company, HL.

[174]"Oi1 Revival Seen By State Curtailment," *SFC*, 26 February 1930, 19:4.

[175]Carl C. Wakefield, "Leading Oil Stocks Drawing Attention of Investors as Industry Regains Stability," *SFC*, 3 April 1930, 1:6; "California Oil Stocks Rise As Reports Indicate Steady Curtailment of Production: Standard Hits New High for Year on Heavy Turnover," *SFC*, 2 April 1930, 18:2; Harold W. Anderson, "Betterment in California Oil Situation Promises Increased Profits for Large Producers," *SFC*, 11 June 1930, 18:2.

Chapter 8

Federalism and the Unruly California Oil Market, 1931-1939

> The present deplorable conditions should be corrected, There are only two methods available. One is what is generally known as the 'survival of the fittest,' or . . . 'the law of the jungle.' We cannot believe this old theory will be acceptable. The only sound remedy is 'Curtailment' or 'Equitable Proration.'[1]
>
> American Petroleum Institute President E. B. Reeser to Governor James Rolph, Jr., 10 February 1932.

Overview of 1931 and the Passage of the Sharkey Bill

In early 1931, government and industry leaders in California intensified their search for a mechanism that would coordinate and control the oil market. Despite moments of optimism, the three strategies attempted in California since 1929—voluntary curtailment, natural gas conservation, and unit development— all had failed to stem the flow of oil. These measures promised little for the period ahead. The industry was "out of hand."[2]

In early 1931, industry and government leaders explored the possibility of a national solution to the oil problem, but quickly turned away. In January 1931, the governors of Kansas and Oklahoma called a conference in Washington, D. C. of representatives from major oil producing states. Federal restrictions on cheap foreign imports to protect small oil operators dominated their agenda.[3] Kansas' Democratic Governor Harry H. Woodring accused Standard Oil of Indiana of "laying waste" to the Kansas oil fields by importing inexpensive oil from abroad.[4] California Governor James Rolph sent twenty-three men to the conference, including many from outside the major companies, such as Kemnitzer, Arnold, Broomfield, Jergins, Elliott, Machris, and others.[5] Independents thus dominated the Washington conference. The meeting participants demanded a partial embargo on crude oil imports and an outright ban on refined imports. The conference attendees urged a tariff as a secondary option and approved a petition calling for crude oil imports to be limited to twenty percent of 1928 levels in order to protect the independent oil companies. These actions would relieve unemployment and economic distress in the oil-producing states, they claimed.[6]

Yet these protectionist measures did not resonate with the Hoover administration's oil policy. Ray Lyman Wilbur, Hoover's Secretary of the Interior, stuck to his longstanding policy positions, resisting pressure from the Washington conference. Wilbur submitted to the conference copies of suggestions from the President Hoover's 1929 Colorado Springs oil meeting, calling for a congressionally approved interstate compact. An interstate compact would provide for uniform conservation laws and consistent enforcement. Only an interstate compact, Wilbur thought, could bring "fair play, reasonable and sensible planning, unit operation where

ever possible, and proper protection of established fields." Wilbur also emphasized the importance of preserving the gas content of oil pools, permitting unit development, and prolonging the life of fields.[7] Wilbur dismissed a tariff or embargo as impracticable. He thought it would take too long to implement, and that it would simply cause the larger companies to open shut-in domestic production, thereby offsetting any conservation program. Wilbur thought new markets would solve the problem of a glut of oil. He also expressed optimism about the future of unit plans, pointing to the Kettleman Hills field and the Little Buffalo gas field in Wyoming as examples.[8]

Interior Secretary Wilbur and Treasury Secretary Andrew Mellon, a leader in the Gulf Oil Corporation, came under fire at the January 1931 conference, but the Hoover administration had sent a clear message.[9] Oil conservation would have to proceed at the state level. As Wilbur declared in April 1931, "The States, which possess the necessary police power, must be the active factors."[10] Wilbur rejected more aggressive federal measures. When Standard Oil of California's Francis B. Loomis demanded federal action, Wilbur replied that the constitution prevented the federal government from intervening in the oil market, for oil production did not constitute interstate commerce. "I have gone over your letter with care and have reviewed the whole situation," Wilbur wrote. "I realize exactly how it looks to you and your associates, but we have to face the practical problem that until the law is changed those charged with duty must see it through." Wilbur urged Standard Oil to "control this California situation within the State and through the state authority on the basis of gas conservation, if it can be done." Wilbur proposed a California program to ease production from high gas producing fields. "If made part of a state order to save gas, and assuming cooperation by operators affected," Wilbur thought the companies then could substitute stored oil for prohibited wasteful production.[11] In April 1931, Secretary of the Interior Wilbur urged the governors of the ten principal oil states to implement recommendations of oil states advisory committee. He assured them that the federal government would cooperate as much as legally possible, and that the Hoover administration would help seek congressional approval of any interstate conservation agreement.[12]

Rebuffed at the federal level, in early 1931 the major California oil companies turned to the state legislature to put the muscle of the state government behind oil conservation. The major oil companies particularly sought to bolster the faltering statewide curtailment program.[13] Some looked to the mid-continent states for model legislation. For example, lawyers with the Texas Company advocated a bill along the lines of the Oklahoma conservation law. Such a measure would base allowable production on nine classifications of producing pools in the state, categorizing them according to quality and marketability of oil produced. Within one year the production schedule would attempt to bring stocks down to a forty-day supply for gasoline, sixty-day supply for light crude, and one hundred and eighty-day supply for heavy crude and fuel oil. In addition to controlling production from existing wells and fields, the Texas Company plan would have discouraged the development of wildcat wells. "As a penalty for bringing in new pools of oil during the curtailment period," the plan would permit new discovery wells to produce but ten percent of their initial production.[14]

As Texas Company lawyer C. C. Stanley outlined to his superiors, California needed to regulate oil production directly. Under the current system of natural gas conservation, the state government could influence the quantity of oil produced only indirectly. Stanley urged statewide oil curtailment measures, "handled by some central governing body." A Board of Commissioners elected by the industry would generate too much opposition because the major operators would control it. He recommended instead that curtailment orders should "emanate from an impartial tribunal and with the power of the state behind them." To Stanley, the "logical place to vest this power" was the Railroad Commission.[15] Stanley's proposal died quickly in the California legislature, however, because most of the California oil industry feared a strong regulatory agency like the Railroad Commission.

To provide a more palatable alternative, A. L. Weil, lawyer for General Petroleum, drafted three bills that the Chair of the Oil Industries Committee, Senator Will Sharkey from Contra Costa County, introduced into the state legislature. The most significant one, SB 362, commonly known as the Sharkey Bill, would establish a commission consisting of five oil industry representatives and the state oil and gas supervisor. The second, SB 363, sought to eliminate town-lot drilling and thus reduce competitive production by setting well spacing requirements for new drilling. The third, SB 364, proposed to repeal the gas-oil ratios that served as the basis for enforcing the natural gas Conservation act.

Optimistic about these industry-sponsored initiatives in the state legislature, the major California companies resisted interstate collaboration. They viewed the interstate effort as a distraction from and potential threat to their state-based legislative agenda. In early March 1931, California was invited to send representatives to an oil states advisory committee meeting in Texas.[16] C. R. Stevens, lobbyist for the California Oil and Gas Association, explained to the lawyers of the major companies that "any scheme that might be brought back by a representative of the Governor from a meeting of these states might imperil our own conservation program."[17]

In the state legislature, the major companies unanimously advocated creating a state oil commission.[18] Under the terms of the proposed Sharkey Bill (SB 362), oil companies in each of the state's five oil districts would elect the five industry representatives. The representatives would serve without pay for four years. Each company would have one vote. The oil commission would determine whether wasteful overproduction of oil existed, issue orders setting forth the amount of non-wasteful production, and fix allowable production for each field. The oil commission would order any person or corporation found to be wasting oil to cease doing so. Upon a second offense, the commission would request that the Superior Court order the property closed until the operator obeyed the proration order. The Sharkey Bill required that producers allow the commission to inspect records and the producing properties. Refusal would constitute a misdemeanor, and the state could sue persistent violators. The Sharkey Bill required public hearings on the determination of wasteful production. Forty percent of the oil operators in a district also had the power to force a recall election.[19]

Although the major oil companies strongly advocated the oil commission as a means to bring "financial security" to the industry, many California oil operators opposed the Sharkey Bill. The

more strident independent operators, represented by the Independent Petroleum Association of California (IPA), opposed both SB 362 and 364. A. T. Jergins, an IPA leader, denounced the two bills, declaring that they would "work great hardship upon all the independent operators." Jergins blamed the oil industry's problems on Congress' failure to pass a protective tariff or embargo. The real need was for independents to gain "a voice in the price they shall receive for their product instead of having it controlled by the major companies."[20] The IPA's opposition reflected the independent companies' continued suspicion of oil curtailment and their differing solutions to the problem.

Despite this undercurrent of opposition, the major companies successfully garnered the backing of smaller finms like Pacific Western, Barnsdall, and Rio Grande Oil Co. and independent oil operators such as Ralph Lloyd. At a May 1931 meeting of the Oil Operators General Committee, these smaller entities joined Standard, Union, Texas Company, and General Petroleum in urging that Governor Rolph sign SB 362.[21] The Oil Producers Sales Agency (OPSA), a cooperative marketing group for the non-major companies, cultivated support for the bill from George Machris of the Wilshire Oil Company. The Wilshire Oil Company had been one of the chief offenders in the Santa Fe Springs Field, refusing to comply with the natural gas orders.[22] In late June, OPSA'S Board of Directors also unanimously passed a resolution favoring the Sharkey Bill.[23]

In June 1931, Governor James Rolph signed two of the three Sharkey bills into law. One established a state oil commission and the other barred future town-lot drilling. The third Sharkey measure, which would have revised the gas conservation act and which Standard Oil and others opposed, failed to pass. Many oil industry operators and observers celebrated approval of the state oil commission. Petroleum company stock prices rose on the passage of the bill, amid anticipation of higher gasoline prices and general optimism that the industry was being put on a "sound basis."[24] In a private letter to Walter Teagle, his counterpart at Standard Oil of New Jersey, Standard Oil of California president K. R. Kingsbury optimistically described "a very general feeling throughout the industry here that overproduction of crude and gasoline must stop." Everyone realized that he must do his share, Kingsbury wrote. He did not know how long this feeling would last "as soon as they get out of the red and into the black." But he trusted the Sharkey Bill to stabilize the industry. "Our new law which has some real teeth in it will be effective in August," Kingsbury wrote Teagle, "and then I expect the recalcitrant operators can be made to toe the mark."[25]

Legislative debate on the Sharkey Bill highlighted the ambiguous relationship between oil production controls and gasoline prices and industry profits. If the state government intervened to cut oil production and stabilize prices, who should reap the resulting profits from higher prices? Quite simply, higher prices for oil and gas would artificially increase costs for consumers and other industries in the state. James S. Bennett, the lawyer employed by the state to enforce the natural gas conservation act, raised this issue in a private letter to Will Sharkey. "In nearly all industries of the state, prices have been lowered in the face of a supply exceeding current market demands . . . Anything that increases cost of supplies used by these other industries in the face of lowered market prices for their products increases their difficulties." Bennett supported oil

production controls, but he expressed concern that the new state oil commission properly safeguard the public against price gouging by the companies. Bennett asked rhetorically, “Why does the oil and gasoline industry require public authority to interfere with the law of supply and demand any more than other industries suffering from price depression under competition by reason of over-supply?” Bennett answered that the Kettleman field had created a condition of “permanent oversupply” that threatened to drive out of business “all producers of crude oil in other fields not having marketing facilities in population centers of large demand.” A company could produce gasoline at a cost of seven cents per gallon in the Kettleman Hills field and sell it at retail, without loss, at seventeen cents per gallon. By contrast, in many of the other fields, crude could not be put through the refinery at less than eighteen cents or retailed at a cost of less than twenty-eight cents per gallon. Bennett believed only oil curtailment would avert the disaster of “unregulated competition”:

> the bankruptcy of the producers of heavy crude without marketing facilities, followed by intermittent gasoline prices wars in population centers, with excessively high prices beyond the radius of effective competition by companies with limited marketing facilities.

Oil curtailment thus promised to “protect the independent producers of crude oil” to the advantage of the public, Bennett explained. But production controls had to be carefully designed to avoid “untoward economic effects elsewhere.”[26]

The industry’s push for an oil control bill came amid a popular uproar over startlingly low gasoline prices that the major companies sought to diffuse. Assemblyman Jesperson introduced a resolution calling for an investigation of recent price-cutting. California Oil and Gas Association lobbyist Stevens reported to his corporate employers that the Assembly Oil Industries Committee would give the measure “careful consideration.” Stevens described a delicate political situation in which the major companies sought to diffuse the price issue without causing it to explode in their faces. “In view of my very friendly relations with the Speaker, if this resolution is ‘bottled’ in rice the committee, it may be possibly charged that the industry is afraid to meet the issue . . . but so far as I am concerned this resolution will not be brought out unless it is agreeable.” Stevens was “also positive” that Jesperson could not secure the necessary forty-one votes to bring out and pass the resolution “unless we are agreeable.”[27] Soon afterwards, Senator Sharkey introduced a substitute measure to diffuse the pressure caused by Jesperson’s initiative. On March 18, 1931 Sharkey supervised a price investigation hearing at which the major marketing companies answered questions about their practices.[28]

The day after the price investigatory hearing, Standard Oil’s Felix Smith wrote Will Sharkey to drive home Standard’s views on price regulation. Hostile questions during the hearing by Senator Inman prompted Smith’s letter to Sharkey, it appears. Inman, Smith wrote, seemed to believe that “if the State intervened on behalf of the oil companies to prevent overproduction it was only fair that the state intervene on behalf of the public to prevent overcharging for gasoline.” But there existed “grave constitutional difficulties” with state regulation of gasoline prices. Courts have confined state price regulation to public utilities, Smith noted, and the U.S. Supreme Court

had ruled that the sale of gasoline was not a public utility. Smith argued that sufficient competition existed among the seven major companies and numerous minor companies to “allow the free play of the economic law of supply and demand” within the context of preventing overproduction. Rather than regulate gasoline prices directly, Smith suggested, the state authorities should instead influence gasoline prices indirectly by regulating the supply of crude oil. Smith’s letter exposed the contradictory rhetoric of Standard Oil and other supporters of oil curtailment. They urged regulation of the oil supply in order to stabilize oil prices, but then insisted that production controls differed from price regulation. They blithely asserted that prices and production would remain subject to the “operation of economic laws.”[29]

The Oil Producers Sales Agency—Controlling Overproduction through Private Contract and Marketing Clout

The Sharkey legislation to create a state oil commission promised to control California petroleum production by placing state authority behind the faltering voluntary curtailment program. As this legislative solution developed in the spring of 1931, some smaller oil operators simultaneously pursued a private effort to eliminate free riders and bind independent oil operators to compliance with the curtailment schedules set by the oil umpires.[30] Led by Ventura landowner Ralph Lloyd, representatives of the Getty, Pacific Western, Superior and other oil companies created a non-profit sales corporation, the Oil Producers Sales Agency (OPSA), to “bring order out of chaos” and obtain higher oil prices.[31] OPSA grew rapidly. By August 1931, OPSA sold 3,500,000 barrels of its members oil, and, according to one estimate, represented forty percent of the California industry.[32]

OPSA offered an alternative way to discipline and control the oil market, without direct state oil regulation. The organizers of OPSA concurred that “some form of control [was] absolutely necessary” to prevent excess productive capacity from becoming “destructive.” But instead of state-enforced production mandates, Lloyd called for revisions to antitrust laws to allow “all units of an industry” to be brought together and synchronized.[33] Within the confines of existing antitrust law, OPSA attempted to solve the oil problem through private coordination and cooperation. In return for strict compliance with voluntary curtailment orders, OPSA promised its members outlets for their production. The agency would also bargain with the major companies to obtain “favorable and fair terms” for the oil. At the time of its formation, OPSA attributed low oil prices on market dominance by the major companies rather than on overproduction. Citing as examples “the walnut growers, the citrus growers, and the milk association,” the OPSA organizers clothed their initiative in populist rhetoric about fairness and cooperation.[34] In an April 1931 recruitment letter sent to all California oil producers, Ralph Lloyd denounced “the buyers” for setting crude oil prices “without consulting producers having the product for sale.” This method of selling crude oil was “unsound.” A “proper sales value” existed that producers could determine through study of the costs of production, transportation, refining, marketing and of the retail price for the refined product and the amount of demand. The producers “must organize . . . to negotiate a fair price for their crude petroleum production and apportion to each of their members a ratable share of the available market at such a price.”

"Bitter experience" had taught them that only curtailment and proration could avoid the "disastrous result of overproduction."[35]

The new Oil Producers Supply Agency carefully specified that the organization would not seek to control the state oil supply or fix the price for crude oil. OPSA simply sought to obtain as members a sufficient number of producers "to render their collective bargaining beneficial."[36] OPSA would simply seek the full facts, data and statistics so that it could ascertain a "fair, proper and reasonable price." This just price would "permit producers to live, labor to receive a fair wage, and the consumer to receive the refined product at a price that is fair and reasonable." The lack of adequate information available to independent and smaller operators and producers had left them "groping blindly."[37]

Antitrust laws constantly factored into planning by oil operators and government officials dealing with the overproduction problem. OPSA's leaders watched carefully the progress of their counterparts in other oil producing states. In October 1931, for example, Rush Blodget circulated among the OPSA Directors a message from the Oil Producers Sales Agency of Texas. The report described how a Texas State Senate committee had rejected production control legislation after the Attorney General and an ex-governor had testified that the measure would violate Texas antitrust laws. The Texas Oil Producers Sales Agency telegrammed that it had set aside its plans, believing that "if we tried to operate without the bill a law this Attorney General probably sue us."[38]

To avoid anti-trust problems, OPSA hired William Hazlett, a former Los Angeles Superior Court Judge, on retainer to advise the new organization.[39] While on the bench, Hazlett had heard a series of natural gas injunction suits and gained valuable experience in oil and gas law. Now Hazlett counseled OPSA to stay on the "straight and narrow path." The agency had limit its activities to assisting members with product sales, in addition to gathering and disseminating to members information on costs, methods, and best practices. OPSA must arrange its sales efforts carefully to comply with anti-trust laws. OPSA's goal was to obtain, "by fair dealing in the open competitive market, reasonable and just prices." It could never limit production or fix prices in order "to artificially or otherwise raise prices or stifle competition." Lawful Agency goals were not enough, according to Hazlett. Even in private discussions, OPSA organizers should not unofficially attempt "to increase the price of the refined pmducts."[40]

OPSA's thus maneuvered carefully around the antitrust laws.[41] The agency set its membership goal at no more than 48% of California production to indicate clearly that it did not wish to control crude output. OPSA also cautiously watched the boundaries between its activities and those of the larger purchasing companies. In June 1932, General Manager Rush Blodget explained privately to Ralph Lloyd that the legality of pending negotiations with crude oil buyers depended on the independence of action by the producers. There were two steps to curtailment: first, cutting down and prorating production, and, second, calculating demand. Producers were "in the saddle" with regard to proration, but Blodget worried that the independents had not "openly and frankly fixed" demand. "If, by any stretch of legal implication we can be said to have accepted the figures of the 'buyers,' we might face a difficult legal fight," he observed.

"This is especially significant in view of the fact that complaints are now in the hands of the Department of Justice." Therefore, he wrote, independents must fix their own demand figures. "If the buyers follow in curtailment, well and good-- that is their own business."[42] Later that summer, Blodget argued that curtailment was less likely to violate the Sherman Act "if there is bona fide absence of concert of action by the whole industry." To Blodget, this meant that only the independent producers, through their Executive Committee for Equitable Curtailment, should ascertain demand and estimate allowable production. Purchasing companies could voice their opinion, but "the decision must be made by the Executive Committee." Requests that the purchasers "'curtail' should be avoided," Blodget wrote.[43] Blodget's intense focus on antitrust laws reflected OPSA's evident desire to do whatever it could within the law to limit production and raise prices. Above all, OPSA sought to deliver "gratifying news of the increased price of crude as a reward for curtailment and industrial stabiLization.[44]

OPSA's aggressive pursuit of industrial cooperation in 1931 reflected a deep desire to avoid stronger public action. At an organizational meeting in 1931, OPSA's leaders advocated "Cooperative action under the law but not by the force of law." The meeting agenda declared that "curtailment under law is the path of litigation and delays."[45] Yet OPSA recognized the gravity of the situation and the need for action. Public intervention loomed on the horizon. Judge Hazlett warned Lloyd that the U. S. Supreme Court had affirmed that the public's interest in natural resources justified actions to prevent their waste. Similarly, the California Supreme Court had upheld the legislature's right to enact statutes to prevent waste. Hazlett further noted that one superior court had recently "gone so far as to declare that the natural products in place belong to the public." Other people thought the "industry should be declared a public utility and placed under state or national control." Hazlett advised Lloyd that the industry had to "control the situation, and very soon, if the threats of public control are not made realities" and the industry turned into a "political football." Government's "slow-going machinery" could not "meet the startlingly varying conditions that frequently arise in the life of the industry," Hazlett believed.[46] Lloyd similarly excoriated government intervention. "The history of government" was "a woeful record of mistakes and inefficiency, overtaxation and misrule," he wrote in OPSA's journal, <u>The Stabilizer</u>. "The only method of staying or curing this tendency of society to lean upon the government, as I see it, is by means of an intelligent co-operation of individual citizens, either in industrial or personal co-operation or both." OPSA represented a movement along these lines to use "educational and moral pressure' to lift "the greatest of our industries . . . to a plane of activity far above that which has heretofore existed."[47]

At the start of their efforts to bring order to the California oil market, Lloyd and his associates thus believed that the oil industry could solve its problems by achieving more effective compliance with industry-determined curtailment orders.[48] The early stance taken by Lloyd and OPSA in 1931 neither idealized a free market in oil nor demanded government action to mandate production schedules. OPSA called for a cooperative effort to limit oil production in the name of ethical business behavior. OPSA also sought to bargain collectively with the major purchasing companies on behalf of independent producers. It quickly became apparent to OPSA's leading organizers, however, that ethical business behavior alone could not bring the market into line. OPSA's core leadership thus strongly supported the Sharkey Bill when it came up on referendum in the spring of 1932.

Sabin - Chapter 8

The Sharkey Bill Referendum Defeat— 1932

After the Sharkey Bill passed during the 1931 legislative session, the measure's opponents turned to the referendum process to continue their fight. By the middle of July, the bill's opponents had collected over 100,000 names on referendum petitions, forcing a special vote to determine the fate of the oil measure.[49] The measure's supporters worked closely with Governor Rolph to defeat the referendum. On the advice of the lobbyists for the major oil companies, Governor Rolph set the referendum vote for May 3, 1932, the same date as the Presidential primary. California Oil and Gas Association lobbyist C. R. Stevens explained privately to Republican political leader Theodore Roche that while he anticipated "no particular opposition," he thought the May date would strengthen the industry's hand. Sharing the date with the presidential primary neutralized the charge that a special referendum vote imposed an undue monetary burden on the counties. More important, Stevens predicted an "extremely light" turnout for the May Primary. This meant that the oil industry could convey the "merits of this bill" to the electorate for "very much less money" than in a general election.[50] Stevens further elaborated the major companies' referendum strategy. The California Oil and Gas Association thought it unwise to submit the Sharkey Bill alone to the electorate. Stevens suggested that Roche tell Rolph to submit the fourteen constitutional amendments adopted by the last legislature for ratification at the same time.[51]

To build support for the Sharkey Bill, Governor Rolph asked E. B. Reeser, President of the American Petroleum Institute, to review the "chaos" of the California oil sector and report on "the urgency and advisability of the Sharkey oil conservation act."[52] In early February 1932, Reeser delivered his ringing endorsement of the Sharkey Bill. The state must alleviate the "present deplorable conditions," Reeser declared, and the "only sound remedy is 'Curtailment' or 'Equitable Proration.'" California and the nation would not discover new oil reserves indefinitely, Reeser warned. Because of reduced gas pressures and depletion, Reeser believed the present rate of production could be maintained for little more than five years and present proven reserves would be exhausted in about twenty years. California therefore must demand conservation of its petroleum reserves and "enact laws giving it the authority to enforce curtailment."

> Experience has proven that equitable proration or curtailment on a voluntary basis cannot be relied upon. Foolish selfishness on the part of a few has invariably defeated the constructive efforts of the majority. The helpful influence of the State is necessary.

Reeser considered the Sharkey Bill the "only tangible hope available to stop the drift towards disintegration of capital investment of companies operating exclusively in the older producing fields of the State." The Sharkey Bill would "prevent prices of petroleum products from going to extreme high levels and present unremunerative prices would be replaced by reasonable prices."[53]

Standard Oil and other major companies worked closely with government officials to build support for the Sharkey Bill. Fred Stevenot, a Railroad Commissioner and Rolph's former

Director of Natural Resources, for example, coordinated his efforts with Standard Oil attorney Felix T. Smith. In February 1932, Stevenot wrote Smith to inform him of his progress enlisting the editorial support of the Sacramento Bee and the public backing of the Trainmen's Association.[54] In the closing weeks before the May vote, Governor Rolph, his director of natural resources Daniel Blood, and the state treasurer Charles G. Johnson, all strongly endorsed the Sharkey Bill attacking the "very small minority" who opposed the measure.[55] Rolph and Governors Ross Sterling from Texas and William H. Murray of Oklahoma broadcast joint radio appeals to urge California voters to support the oil conservation measure. Sterling and Murray described their states' difficulties containing oil production in the absence of legislation. They warned Californians of potential chaos and the possible need to invoke martial law.[56]

OPSA leaders like Ralph Lloyd had expressed only lukewarm enthusiasm for the Sharkey Bill the previous year, choosing to emphasize instead the need for business cooperation and ethics. Now, in the spring of 1932, they actively backed the Sharkey Bill. Changed circumstances influenced their new enthusiasm. In late 1931, both the independent and major companies had attacked voluntary curtailment, for a variety of reasons claiming that the curtailment orders were unfair. The small producers were particularly discontent. OPSA General Manager Rush Blodget described the situation as "bordering closely to a rebellion."[57] In order to prevent "a possible collapse of curtailment" in California in January 1932, OPSA's Executive Committee instructed OPSA members to maintain their production at the previous and higher curtailment order of 487,500 barrels (instead of the new 456,700). The new curtailment order would be revised, the committee anticipated.[58]

With curtailment thus teetering, OPSA viewed government action more favorably. Blodget described the California oil industry as at a "cross roads" between "greater stabilization" and "greater confusion and disorder." He hoped for stabilization through a tariff on imported oil and through the Sharkey Bill, "which will give us industrial self-control, within the law."[59] As Blodget's description of the Sharkey Bill suggests, however, OPSA sought to minimize the state government's role under the Sharkey Bill. Although the Sharkey Bill's major innovation was placing official state power behind oil production controls, Blodget characterized the measure as "a step to forestall further government regulation of the oil industry." The Sharkey Bill allocated to an industry-elected Conservation Commission the policy initiative, subject to vetoes by the Director of Natural Resources. The bill thus would allow a form of industrial "self government." "Who will enforce the allocations under the Sharkey Bill?" Blodget asked. "The industry, to a great extent." If the Sharkey referendum failed, however, the state would "govern us by injunction" or through regulation by a commission of appointed officials."[60] If the Sharkey Bill did not survive, then a "bill of sterner stuff may be thrust upon our industry— perhaps on all industry."[61]

In February, the OPSA Board of Directors adopted a resolution favoring the Sharkey Bill, with only one dissenting vote. The bill was a "practical, a true conservation enactment" that should appeal to those who oppose the "reckless exploitation of our natural resources."[62] The Sharkey Bill would empower the responsible members of the oil industry to apportion production fairly among the oil operators, forcing the "selfish minority" to prorate with their fellows. Under the

Sharkey Bill, each operator would "produce his fair share and only his fair share." Blodget harshly attacked the measure's opponents, declaring that the bill required additional curtailment only "of that unfair oil now being produced by those who object to the Sharkey Bill."[63]

OPSA's membership proved less enthusiastic about the Sharkey Bill than the Board of Directors and the general manager, but the leadership went its own way. After an tally of OPSA members' opinions apparently indicated a 32 to 32 tie on the issue, the Directors initially backed away from their endorsement and become neutral on the bill.[64] But this neutrality lasted only briefly. One month after voting to remain neutral, the directors again overwhelmingly urged approval of the Sharkey Bill and instructed OPSA's officers to do anything in their power to obtain public support for the measure.[65] A press release from Ralph B. Lloyd and Frederick D. Anderson expressed a "plea from the independent oil producers," arguing that the legislation would provide "the oil industry an opportunity to work out some of its present difficulties." The Sharkey Bill would give "legal force" to voluntary curtailment, thus disciplining the "selfish or recalcitrant operator."[66] OPSA's Executive Committee instructed General Manager Blodget to send out 1,000 letters, to members of oil industry and others, "calling particular attention to the threat from flush fields and deep sands and the function of the Sharkey Bill in protecting the small operator in this situation."[67] The Executive Committee also approved an advertisement by the major-dominated California Oil and Gas Association publicizing OPSA's endorsement of the measure. OPSA made public a telegram from E. B. Reeser, President of the API, expressing his surprise that a "comparatively small group of independent oil producers" opposed the Sharkey Bill. Reeser asked, "Is the experience and financial results of the mid-continent field to be disregarded? Notwithstanding great potential production very few companies are in the hands of receivers, while in California- without regulation- many companies are under receivership or in bankruptcy, while many others are approaching this condition." "Unrestrained competition, especially in natural resources, belongs to the dark ages," Reeser wrote. Opposition to the Sharkey Bill could come only from "ignorance or foolish selfishness."[68]

The Rolph Administration, the major oil companies, and OPSA assembled impressive endorsements in their struggle to build a consensus around the necessity of the Sharkey Bill. Yet they failed to persuade many suspicious independent operators and their associates. Heated opposition to the Sharkey Bill engendered a spirited political campaign to defeat the measure. Smaller companies affiliated with the Independent Petroleum Association sent representatives throughout the state to campaign against the bill.[69] Minor companies like Mohawk Petroleum, Hancock, Dabney-Johnson, Superior Oil, spent their still considerable financial resources attacking the bill. They recruited support from other organizations, including local labor unions like the typographical, street and electric railway employees, plumbers, pasterers, and cement finishers, and others.[70]

There was nothing good about the Sharkey Bill "but the title," declared Bakersfield lawyer F. E. Borton. Borton complained about the "Chinese puzzle" whereby the commission would be selected, for example, with only the oil operators, and not the landowners, royalty-owners, or others voting for the commissioners. Borton also belabored the cost of the act. He criticized the treatment of storage under the act. Storage received the same status as current production, so

major companies could accumulate storage and then drive down production, he thought. The functioning of the act was further complicated by the fact that the commission had no power to regulate imports, yet had to take them into account. This meant that the state Oil Commission would regulate California production "in relation to a larger market over which they can have no control whatsoever." Borton called for a new organization of independents that could pressure the situation and demand higher prices.[71]

Other oil operators, such as Alfred Marsten of the IPA and A. Wardman of OPSA, attacked the "specious arguments" on behalf of the Sharkey Bill. Marsten complained that the bill would "put all oil operations . . . in hands of politicians or servants of an oil monopoly. It is in no sense a conservation measure. It is drafted and fostered by identically the same interests that were behind the gas conservation act." The major oil companies would use the act to dominate independent producers, refiners, marketers, and royalty owners. "Watch every move made in support of this unprecedented legislation."[72] Oil operator A. Wardman similarly thought the Sharkey Bill "one of the most vital matters" that faced the oil industry. He had supported the Sharkey Bill when it passed the legislature, but now opposed it on referendum. Wardman used the gas bill to explain his changed position. He had originally supported the gas bill, but now thought it was being used unfairly "to stop production entirely of some of the smaller producers in the different fields." At Santa Fe Springs, for example, when smaller producers had to emit gas into the air, others, because of contracts and other advantages, could dispose of it. Similarly, at Kettleman Hills, one major company, through control of pipelines and disregard of law was, "disposing of this gas at considerable financial advantage to themselves."[73] Wardman doubted that the Sharkey Bill or any other curtailment method could be applied in a just and equitable manner because the curtailing operator had to cut production to the point "where he is unable to operate at a profit." The dismal financial situation had no end in sight. "Many producers operating at a loss are only adding to their obligations and it is a question if it would not be better for them to abandon their wells and thus not only save this additional loss, but also taxes on property, etc." The tapping of deeper zones in established and wildcat territory meant production would exceed consumption "for an unlimited number of years."

Wardman thought that overproduction resulted primarily from this continuing opening of new fields. New production was already coming on line at Montebello, Kettleman Hills, Santa Rosa and Santa Cruz Islands, Huntington Beach and Santa Fe Springs. He proposed an alternative policy that would permit each well to open "in its chronological order" as the oil was needed. "I do not believe the people of this State would approve of wrecking a large number of small companies, where they have drilled in good faith and have an investment to protect, and approve at the same time of the drilling of additional zones, or fields that are not necessary."[74] Wildcatting and exploration could continue, but under Wardman's scheme, all existing discoveries would produce in full before any new zones or discoveries would be permitted to produce.

The independent operators opposing the Sharkey Bill bitterly attacked the misleading information that they thought the major companies and their supporters were disseminating. H. A. Bardeen disputed a Los Angeles Chamber of Commerce claim that the Sharkey Bill was

supported by majority of the independents. Bardeen believed that when the independents had expressed an opinion on the subject they had either been overwhelmingly opposed or evenly split. Bardeen demanded that Chamber of Commerce withdraw its statement prominently.[75] Similarly, Robert Bromberg wrote the Chamber to cancel his membership and complain about the Board's support for "one of the most vicious forms of legislation that was ever jammed through the State Legislature."[76]

Opponents of the Sharkey Bill thought recent developments in the Santa Fe Springs gas litigation demonstrated the dangers of state intervention. As Wardman and Bardeen wrote to all the members of OPSA, "Only a few days ago, in an action in the courts for the modification of an injunction applicable to Santa Fe Springs, independent operators were prorated gas insufficient to keep their wells producing. In other words, it was calmly proposed to put them out of business by order of the court." This highhanded court action was to be expected "when legal power to regulate an industry is placed in the hands of state officials or a commission upon whom great influence may be brought to bear." If the Sharkey Bill passed, they warned, "independent producers would soon be prorated out of business."[77]

The day before the Sharkey Bill vote, the California Oil and Gas Association lobbyist C. R. Stevens called for a big turnout from north of Tehachapi, "as the chief opposition to the oil control act comes from Los Angeles County." The State Chamber of Commerce, International Brotherhood of Teamsters, William May Garland of Los Angeles, and C. C. Teague of the California Fruit Growers' Exchange all issued statewide appeals on behalf of the measure. The Sharkey Bill's passage would "do something toward ending the depression and bringing better times," they declared.[78] Yet the vigorous campaign by the major oil companies, the Rolph Administration, and their allies came to no avail. The electorate resoundingly defeated the Sharkey Bill on the May 3 ballot, by an almost 4 to 1 margin.[79]

Thrown Back on Voluntary Curtailment:

"We have no enforceable rule at this time," OPSA informed its members in mid-May 1932, after voters defeated the Sharkey Bill.[80] Conditions in the U. S. were "bordering on economic chaos" due to "excessive competition and overproduction." The Board reaffirmed its commitment to the fundamental principle of curtailment that it was "economically sound and for the public welfare that production in the oil industry, or in any industry, be kept within reasonable limits of demand." "Even a short period of overproduction," introduced "destructive elements" into an industry.[81] In the OPSA journal, The Stabilizer, Ralph Lloyd warned that competition was crushing smaller economic units, rather than sustaining a vibrant market. He asked sourly, "If unlimited competition is, as some claim, the life of trade, why not extend it to a world condition and let every nation of the world use the limits of its competitive ability, including that of war, to find out who is entitled to survive?" To avoid catastrophe, the nation's industries needed to alleviate "the destructive qualities of this intensive competition" and keep production "within reasonable limits of demand." If those within the different industries "have preserved unto them their just allowable proportion of the outlets for their production," then the smaller and weaker units might be saved.[82]

The Sharkey Bill had been such an effort to prevent destructive competition, but the people foolishly had rejected it. “No constructive result has been achieved,” Lloyd complained. “The state’s greatest industry is therefore truly thrown back upon itself.” Members of the industry now had to “search out and find a way to prevent a competitive warfare within our industry that, if carried to its ultimate conclusion, would result in only a handful of those originally engaged in the oil business remaining to carry on.” Lloyd pointed to the potential chaos that would result if California unleashed its potential production of one million barrels. Major purchasers could act no longer as “bankers” for independents by producing and storing production. “We must choose between efficient voluntary curtailment or a competitive warfare to the finish.”[83]

OPSA’s embrace of the defeated Sharkey Bill placed the organization uncomfortably close to the reviled major companies. According to General Manager Rush Blodget, the Sharkey Bill fight had weakened the agency significantly. “Propaganda that we are ‘tools of the majors’” undermined OPSA’s growth. In order to regain credibility among the independents, in June 1932 Blodget began to distance OPSA from the majors and highlight the “necessity for solidarity of the independents if they are collectively to aid the industry.” Blodget published a purposefully “slanted” article in the OPSA Stabilizer in order to underscore OPSA’s sympathy and mutual understanding with independents outside the organization and to show its independence from the major buyers. Blodget explained to Lloyd that “the buyers were sufficiently sophisticated to appreciate the effort, and even be grateful for it.” Blodget’s article questioned the buyers’ practices in buying heavy crude, suggesting that statistics on storage did not reflect the heavy crude market. He said that buyers were not storing heavy crude, and they should be buying more of it from the independent producers.[84]

OPSA and other sectors of the oil industry pressed anew for voluntary curtailment, hoping for greater cooperation in the wake of the Sharkey Bill’s defeat. Blodget prayed that the state oil producers now would realize that their “economic salvation depends entirely upon their own voluntary actjon.”[85] OPSA, the Independent Petroleum Association of California, the Central Proration Committee (selected by field operators) and three representatives from outside the industry formed a new “Executive Committee for Equitable Curtailment of the oil industry for the State of California.” The Executive Committee, consisting of twelve individuals representing equally OPSA, the IPA, oil field committees, and the public, would “take immediate control of curtailment.”[86] The Executive Committee adopted an emergency measure providing for a minimum allotment for every well in the state, to be determined by the productivity of average producing wells in each of the various fields.[87] The committee planned to ascertain the amount of the demand for oil in the state and fix the amount of oil that would supply such demand without waste, making allowance for storage.

The Executive Committee for Equitable Curtailment turned quickly to Standard Oil and the other major purchasers as price-setters and curtailment enforcers. They urged Standard and the other purchasers to raise the price of oil, arguing that further curtailment could not be obtained without a price increase or assurances that one would be forthcoming.[88] Standard Oil President K. R. Kingsbury promised to raise the price approximately twenty-five cents per barrel if the industry complied with the state allowable of 476,700 barrels per day by 17 June 1932.[89] Kingsbury

pointed out that purchasing companies had "overburdened storage" as a result of purchasing production but not selling it. He warned that Standard would withdraw the higher prices if California's production exceeded allowable production for one week. As a further effort to discipline the California producers, Kingsbury said that the new price structure depended on each and every field staying below its stipulated share of the state quota.[90]

The oil umpire and the Executive Committee for Equitable Curtailment seized on Standard's promise and appealed to California oil operators for compliance. Following Kingsbury's offer, Ralph Lloyd declared curtailment's success "up to independent operators. Our resolution put the purchasing companies on the spot. Now Standard has reversed the situation by placing responsibility back on us. Our only answer is curtailment to the Slate's allowable. It must be done." The ball had returned to the independents' court. "Our committee and the independent producers must ring the bell on or before the seventeenth."[91] Oil umpire Neal Anderson announced to all California operators Standard's promised price increase as well as the company's threat to "materially reduce its purchases of crude oil" if curtailment was not effected. Anderson warned that if the large purchasing companies ceased their purchasing, it would dash hopes for a price increase and result in the "probable collapse of the present price structure."[92]

When Standard's June 17 deadline arrived, California's production figures indicated that state production had dropped to 465,000, well under the stipulated 476,700 state allowable. But fields varied in their compliance. For example, the Ventura Avenue field underproduced by 11,722 on June 20, 1932. By contrast, Long Beach overproduced by 3,048. Underproduction, as at Ventura, would not offset overproduction in other fields, Standard informed the industry.[93] Standard Oil refused to pay the premium price until every field met its specified allowable.

Standard Oil's recalcitrance infuriated the oil producers. After President Kingsbury refused to raise the crude oil price, the Executive Committee complained that Kingsbury had "not fully considered the impracticability of continuously balancing the whole curtailment program." The committee noted that it was "actually . . . quite impossible" to have all of the state's fields under or at their allowable all at the same time. The goal of curtailment was "to reduce production in the whole state, and is not so intimately related to each field as to prevent enjoyment by the industry and the public of an increased price." The Executive Committee complained that Standard's decision would deter further compliance because operators would not want to be penalized for the small overages of a few others. Many operators openly doubted that Standard would ever come through with the higher price. From the perspective of the members of the committee, voluntary compliance with curtailment had been extraordinary. On May 17, when the committee began its effort to reduce crude output, California oil production stood at 505,535 barrels per day; by June 17 the voluntary effort had succeeded in getting production down to 461,750, well under State allowable of 476,700. This had not come easily, the committee reminded Kingsbury. Curtailment had forced many small producers to operate at a "disastrous" loss, in expectation of higher prices. The committee warned Standard that curtailment would collapse quickly if the purchasing company did not come through with higher prices.[94]

After Standard refused to pay the premium price, non-compliance rose quickly in the fields and overages occurred more frequently. Whereas on June 25, four fields were over for a total of 310 barrels, by July 6th, fourteen fields exceeded their allowable, for a total of 9,117 barrels. By July 8, overages reached 16,043 barrels, with 4,698 from Kettleman and 3,491 from Long Beach. Although the state total hovered around the stipulated allowable state production, field-by-field adherence to curtailment slipped.[95]

The industry-employed oil umpire Neal Anderson's frustration with this situation finally drove him to resign in early July 1932. Anderson's bitterness had built steadily over the previous months. In April 1932, a month before Sharkey referendum vote, Anderson distributed a plaintive note to all the California operators. He did not mention the Sharkey Bill specifically, but his message underscored the need for a control bill. Instead of the industry situation improving, he observed, "conditions are getting worse." Anderson thought operators had "lost track of the big thing that we have been trying to do for the last two and a half years . . . to stabilize our market so that we might get a fair living price for our crude production." The industry had passed its "big test." The Santa Fe Springs, Long Beach and Playa del Rey fields all had gone through their spasms of initial high production and had been "rapidly declining for the past six months." Yet non-compliance by operators prevented the situation from easing. Anderson warmed to his real subject. "In this decline of production," Anderson observed, operators had been

> forcing wells to capacity, selling here and there, paying no attention to the curtailment program, disregarding the offset conditions, drainage, and competitive production in town lot sections . . . in fact, inviting disaster to themselves and to all their friends and employees. These men today have exhausted their resources, exhausted their properties, exhausted themselves as well as the industry and what have they accomplished-- nothing.

Because of these transgressors, some of the fields were "failing miserably in their performances."

Anderson reminded the oil operators that his powers as "umpire" depended on their acceptance of his authority. "I have not the power to go into these fields and adjust the production properly among the operators under the voluntary plan if I do not have the entire cooperation of the operators themselves." Anderson warned that the industry was "walking as straight as we can walk towards a very drastic state enforcement." State regulation would not be necessary if the operators could simply "get together and honestly work out their problems." Yet it "seems that this cannot be done."

Anderson had grown "tired and disgusted" with the "pitiful attempts and gestures" made by companies "pretending to curtail their production and play the game." What if the large marketing companies produced at full capacity and "quit buying from non-refining companies"? The operators produced only at the forbearance of the major companies. Anderson pleaded with California oil operators to "put the shoulder to the wheel" and make voluntary curtailment work.[96] Now three months after his sour April message, Anderson abandoned the umpire job. He

put a bright face on his departure, describing himself as "very happy" with the cooperation he had received. But he commented bitterly that it was "almost impossible" to strictly enforce curtailment "when there is no legal method to compel obedience."[97]

As 1932 drew to a close, the majority of the California industry shared Anderson's dissatisfaction with voluntary curtailment. Renegade companies that disregarded the curtailment orders continued to undermine the cooperation of their peers. Howard Kegley of the Los Angeles Times reported in January 1933 that some producers, "growing tired of having their lands drained, are opening up their wells and producing more oil than they have for weeks." The outlook on prices was "anything but rosy" and Kegley predicted an imminent "showdown on production and prices."[98] At Huntington Beach, Standard Oil had opened a group of townsite wells and added 3,520 barrels to its daily output. The competition between Standard Oil and nearby offset wells pushed Huntington Beach production up from its quota of 19,000 per day to 26,000 per day.[99] Voluntary statewide curtailment was failing to stem the tide of oil.

Continuing frustration with voluntary curtailment made the California industry increasingly receptive to federal action. Thus when the Roosevelt Administration launched its drive for general industrial legislation in 1933, OPSA and other leading segments of the California oil industry called openly for federal. The industry desperately needed stabilizing legislation to prevent more "receiverships or worse."[100]

Federal Regulation—1933-1935

Following the passage of a national oil code in the summer of 1933, California oil operators moved swiftly to gain control of the national program. In late August, Ralph Lloyd and R. E Allen wrote Federal officials to endorse the new industry code on behalf of the Central Proration Committee. Lloyd and Allen requested that the federal government use the Central Proration Committee and the committee's oil umpire to carry out the production provisions of the code. The Central Committee, they asserted, was the "duly elected representative body of the oil producers of Califontia."[101] Thanking the Central Committee for its "rapid cooperation," the Interior Department designated the industry-organized Central Proration Committee as the official California agency to "carry out the production provision of the code in California." In September, the Central Proration Committee moved quickly to set a production schedule that allocated California's 480,000 barrels per day production quota among the state's fields.[102]

The new code-based system differed from voluntary curtailment because the Central Proration Committee now had the authority of the federal government behind its actions. The Central Proration Committee relied heavily on this federal support to overcome opposition to production quotas. A week after issuing its first production orders, for example, the Central Proration Committee reported to Ickes that some California crude oil producers "question the authority of central committee to allocate production quotas to individual operators." These producers felt that Ickes' September 2, 1933, authorization of the committee did not extend the authority to allocate production to individual operators, as opposed to fields as a whole. The Central

Proration Committee requested specific authorization to make well quotas, or, alternately, that Ickes officially approve well quotas set by the California Oil Umpire.[103] Ickes affirmed that he had "fully authorized" the committee "to exercise all powers" conferred upon state regulatory bodies under the petroleum code.[104] Ickes' clarification produced the desired results. Only two days later, Lloyd and Pemberton telegrammed that the "uncertainty in many producers minds" as to the authority of this committee "has to a large degree disappeared . . . fine spirit of cooperation is becoming evident"[105] When some operators continued to refuse to comply with the code, Ralph Lloyd wrote Ickes noting that "There are at present some intentional violators of the Petroleum Code. We recommend that you request us to send the names to you with simultaneous release to Local press." Lloyd also asked Ickes to send a representative of the Interior Department "to assist us in many things that we are being confronted with."[106] Ickes agreed to send George Holland, an Interior Department lawyer familiar with the California situation, to the Central Proration Committees next meeting. But in a further interesting blend of public and private, Ickes said that he would do so only if the committee would guarantee Holland's expenses.[107]

The California oil industry thus essentially sought federal enforcement of industrial self-government. Standard Oil used the federal code to organize the California refiners. Company president Kenneth Kingsbury explained in May 1934 that he had spent the previous month in Los Angeles negotiating an agreement among the state's thirty-five refiners. All but five had signed up, and he thought the remaining ones would come around soon. Kingsbury called the federally sanctioned agreement "the only effective weapon to enforce proration." It would "deny a market" to any producer producing oil in excess of his federally specified allowable. Kingsbury was confident in the power of the unified refiners to crush any violators of the federal code. "Of course, it is always possible that some producer of 'hot' oil may want to stick his neck out by building his own little refinery, but if we cannot find some way to stop that we are not much good."[108]

Even as it relied on federal authority, the industry continued to fear the federal government as an active participant. The Central Committee of California Producers struggled to establish independent authority under the new federal law. In December 1933, for example, Blodget proposed a resolution on the curtailment program that would help establish the Central Committee as the entity to determine allotment schedules and estimated demand for the Interior Secretary. Blodget aimed to establish precedent for industrial self-government, backed by federal enforcement. He noted the perception of some that the Secretary had the "'authority to allocate' and that the California 'Agency' is merely advisory." Blodget wanted the Central Committee to establish a paper trail and track record to bolster its authority. If the Secretary's sole authority were sustained in court, he warned, then "autocratic Federal Control will have lost all semblance of 'industry control.'" Blodget urged the Central Committee to compile "a record of industry control, which the courts may rely on."[109] Blodget thus articulated the California oil industry's complex strategy: rely on federal power to enforce curtailment, while denying the federal government unilateral authority. The industry tread a delicate line.

The proration committee's arrangement with the federal government allowed considerable discretion over the state industry. For instance, in late September 1933, Lloyd informed George Holland that the Central Proration Committee had decided not to permit any withdrawals from storage. Instead, it would allocate the quota of 455,000 entirely to current production in the state. Following discussions with other members of the committee, Lloyd commented that "it would be cardinal error to withdraw oil from storage in California at this particular time."[110] The Central Proration Committee showed similar autonomy when it refused a demand by small refiners to allocate oil production specifically to their refineries, contending that this was beyond its jurisdiction.[111]

Discretion over California production did not mean that the California operators, even the empowered members of the Central Proration Committee, were entirely pleased with the new national code. In late September 1933, OPSA protested the proposed cut in state production under the national system. The reduction from 480,000 to 455,000 barrels per day would cause "a severe blow to California," greatly increasing resistance to efforts to work out "an acceptable Code for California production." The production cut also would make it difficult to maintain current levels of employment in the oil sector. To no avail, OPSA requested that California be allowed to supply the full estimated demand of 491,000.[112]

In December 1933, it appeared that the California oil industry soon would have its "fourth code in as many months," according to Howard Kegley of the Los Angeles Times. "It had its first in September, the same with alterations for October, the California supplemental code for November, and now the Central Proration Committee is about to promulgate a revised edition of the supplemental code which, it is declared, merely changes the formula." Different sectors of the industry had settled quickly into predictable patterns of political behavior under the federal oil code. Oil operators who had resisted earlier state-level regulation of production now contested the national program. Kegley reported "Without having seen a copy of the new formula or having heard it discussed, some of the independent operators said yesterday that early next week they probably will file objections to the new set-up."[113]

For other small California producers, however, the adoption of the National Recovery Act relieved them of the burden and uncertainty of voluntary curtailment. With a national law setting the boundaries, these independent operators again could push production activities to the limit of the law. Federal law thus supplanted private agreements in establishing the rules of the playing field. Landowners like Ralph Lloyd cancelled curtailment agreements with lessees to rely instead on mandatory federal curtailment orders. Ralph Lloyd instructed Associated Oil to operate the property "strictly in accordance with your lease contract with us." Lloyd explained that he and the other lessors had "from time to time in the interest of the conservation of gas" consented to restricted production levels. But the situation now had changed. The adoption of the National Industrial Recovery Act and establishment of agencies to administer an oil code had "eliminated the necessity and made inoperative" these voluntary agreements.[114] Lloyd instructed Associated Oil to adhere strictly to its lease, which specified levels of production and competitive drilling to protect lessor interests as much as possible within the framework of the federal law.[115]

The petroleum code also changed the calculus of oil development in other ways. Under the previous voluntary curtailment program, the state production committees always rewarded oil operators by making allowances for new wells. The federal code was less generous. “Code regulations have pinched most of the new wells down to comparatively small amount,” reported Howard Kegley of the Los Angeles Times. Consequently, California oil operators increased their wildcat well drilling in search of new petroleum reserves. “The drillers had rather hunt for something new and find it for future development,” Kegley explained, “than drill new holes in proven acreage.” Oil operators tested at least twelve counties from Corning and Marysville to Imperial Valley to find new sources of supply.[116] The change from the voluntary curtailment program to federal regulation thus shifted firm behavior accordingly.

Federal officials cracked down on the companies that had been chief offenders under the voluntary program and state gas act. In December 1933, lawyers from the Justice Department and interior Departments petitioned for injunctions against the Wilshire Oil Company and its subsidiaries for producing excess crude at Huntington Beach and Santa Fe Springs, in violation of the federal code of fair competition. The federal suit against the oil operators contended that they had produced 800,000 barrels of crude oil in the previous three months in excess of their allowable production under federal law. This overproduction caused “unreasonable and unwarranted waste and depletion of the country’s natural resources.” Oil in storage “constantly threatens the price” and the code violations “drain[ed] and deplet[ed] the oil reserves of the government” and demoralized the market.[117]

Although federal regulation helped limit California oil production, the divided California industry quickly soured on federal oil controls. When the U. S. Supreme Court struck down the National Industrial Recovery Act in 1935, few mourned the passing of federal regulation.[118] Disillusioned with the experiment in federal authority, many California politicians and industry operators now called for a renew push for state-level natural resource management. Thus, in the spring of 1935, when national legislators sought to pass new oil regulation that could withstand judicial scrutiny, the California State Assembly unanimously protested against the proposed Thomas bill and condemned federal encroachment on California’s “exclusive power” to control the production of its own natural resources. The Assembly resolution claimed that California had “rigidly enforced” its oil and gas conservation statutes “to prevent physical waste in the production of crude petroleum or natural gas, and to protect the underlying strata that held these natural resource reserves.” The California Assembly saw no need for federal regulation and thought it far more important to “jealously guard the States’ rights” against federal intrusion. Federal regulation of oil production, the Assembly declared, was “contrary to the principles of our dual form of government in that it provides for an attempted invasion of the sovereign powers of California.”[119] Along the same lines, Rush Blodget, General Manager of the Oil Producers Agency, formerly OPSA, called the U. S. Supreme Court’s decision “an emancipation proclamation for industry, divorcing American industry from centralized dictatorship by the federal executive through codes.” Blodget previously had been hopeful about the industry’s ability to use federal authority to its advantage. Now he warned that the new Thomas bill would reduce the California industry to “serfdom” and lead to the “usurpation of power.” Blodget described the Thomas bill as particularly dangerous for California because the state did not have its own law allocating production within the state.[120]

Sabin - Chapter 8

State-level Struggles to Fill the Vacuum 1935-1938

During the spring of 1935, California legislators proposed a variety of new oil control measures, provoking a fierce fight among the different sectors of the oil industry. In May 1935, the Assembly revenue and taxation committee killed a revised version of the Sharkey Bill when it tabled Assemblyman Meisinger's AB163. Meisinger's measure would have empowered a gubernatorial commission of seven members to curtail oil production in the state. Supporters of the new conservation measure argued that the fact that the governor would appoint the commissioners removed the objection that the industry, and particularly the major oil companies, would dominate the commission. But many independents opposed all state-mandated oil controls, seeing them as a route to further monopoly by the majors.[121]

Soon after the demise of the Meisinger proposal, State Senator D. Jack Metzger of Tehama County proposed an alternate curtailment bill in the senate.[122] Rush Blodget had given Metzger the bill creating an industry-dominated commission with broad powers to control state oil production. The governor would appoint commissioners, but from a pool of people handpicked by the industry. The Director of Natural Resources would become a fourth commissioner, giving the industry the balance of power. Metzger claimed no "burning personal interest in the bill" and admitted that he had introduced it by request of Oil Producers Sales Agency and two unnamed members of senate. Proponents of the Metzger bill justified it on the basis of the federal Thomas Bill, warning that unless California controlled state production, the federal government might do so. Oil union leaders also urged passage to stabilize employment and prevent chaos in industry. Supporters sought to attach an urgency provision to the Metzger bill to block the kind of referendum that had defeated the Sharkey Bill.[123]

The recalcitrant independent operators geared up their political machines and tore away at the new bill. John B. Elliott, an independent oil producer, prominent Democrat, and a leader of opposition to Sharkey Bill, denounced the Metzger proposal on behalf of the Independent Petroleum Association (IPA) of California. Elliott called the new oil control bill a cross between the Sharkey Bill and the National Industrial Recovery Act. The major companies would control the commission and "place the people of the state at the mercy of major company domination." California did not waste oil, Elliot contended. "The people will pay the bill for a strictly limited production," Elliott warned, "with the profits flowing into the coffers of those who expect to completely control the business if this bill becomes a law."[124] Introducing the Metzger bill "with all its sinister purposes" so close to the end of the legislative session was "outrageous," Elliot said. George Rochester of Los Angeles and J. M. Inman of Sacramento, two former senators who had opposed the Sharkey Bill, similarly attacked the new Metzger measure as unfair to independents and a step towards price control. Inman warned that the motoring public soon would pay thirty cents per gallon. The measure sought to extract "the maximum amount of profit from the consumer of petroleum products for the benefit of those large integrated organizations."[125] William Kemnitzer, technical adviser to the IPA, similarly argued "The purpose of production control is not conservation, because there is no benevolence in the oil industry . . . the definition of waste is not as physical waste but on a supply and demand basis,

which means only one thing." The ultimate end of the legislation was "price control." The major companies sought to limit production in order to liquidate their storage at good prices.[126]

At the end of May, in a 5 to 4 vote the Senate Oil Industries Committee killed this "eleventh hour attempt" to push through an oil control bill. Culbert Olson and his committee allies Edwards and Jesperson joined with Sharkey and Seawell to table the measure. Sharkey apparently favored federal regulation over the state measure. Opposing them were senators loyal to OPSA and the majors: Duval, Wagy, Stow, and Mixter. Smarting from the political defeat, Metzger turned on Blodget and OPSA, complaining that they had misrepresented the bill to him. Metzger now repudiated his own measure, calling it "one of the most vicious bills introduced at this session." These people "seem to feel that the oil resources of the state exist only for their own selfish interests and the exploitation of the public." He declared himself happy that his bill had been tabled.[127]

As the state legislature struggled and failed to regulate California oil production, turmoil crept back into the California oil fields. With the ending of federal regulation, some independent producers decided to "throw their wells wide open" in the Playa and Santa Fe fields. The Federal Oil Administration no longer had any authority to act, they said, and they intended to produce as much as possible. To slow the disintegration of statewide cooperative action, California's Central Proration Committee voted to empower a new governing regime to fill the vacuum. Its oil umpire J. W. Pemberton, Chairman Ralph Lloyd, and a subcommittee would allocate the daily output for June 1935 using the same quota prorated by the Secretary of the Interior under the NRA. Lloyd threatened overproducing operators that the Committee would reduce their allowable share of production. Still, Lloyd was cautiously optimistic that supply and demand would come into line independently. Demand was rising, production was declining in the older fields, and there had been no major discoveries of new fields in California.[128]

California thus returned to voluntary curtailment, because, despite the Assembly's claims of effective state-level governance, California remained unable to pass a state oil conservation bill. An industry Committee of Seven appointed at a meeting of producers in June 1935 prepared a new "Producers' Agreement." The agreement laid out a fresh plan "for industrial self-government, within the law." The return to voluntary action emphasized "cooperation" with the government but, in keeping with the April Assembly resolution, repudiated "federal regimentation or dictation." Still, the new arrangement also sought formidable control over the California market. The new producers' agreement called for signed contracts from producers enforceable in the courts and aimed to reach 95% of the state and fields.[129]

The industry's renewed efforts to restrict production through a cooperative agreement confronted the same problems of the pre-NRA period. Over the summer of 1935, portions of the industry steadily broke away from the curtailment program. By August the California industry produced in excess of 600,000 barrels per day, compared to an estimated demand of 520,000 barrels per day. In late August, Standard slashed crude oil prices to discourage production. Excess production presented the problem of large additions to storage, which Standard was "unwilling to undertake." Voluntary efforts since the beginning of June to obtain a producers agreement "have

not been successful," Standard noted. "When it is again demonstrated that production can be controlled to keep within consumptive demand it is to be hoped conditions will justify a return to higher prices."[130]

In early September Ralph Lloyd wrote Standard Oil President K. R. Kingsbury a letter reminiscent of his message following the Sharkey Bill's defeat in 1932. Lloyd again begged Standard's help bolstering the voluntary curtailment program. "It would be a waste of words for me to describe the chaotic condition that now exists in the oil business of the State of California," Lloyd wrote. Kingsbury knew the "disastrous disintegration" that the industry faced if current conditions continued. Lloyd insisted that the vast majority of the independent operators complied with curtailment, estimating that less than five percent of the industry had a poor curtailment record. In recognition of the "good faith" and "willingness to cooperate" on the part of so many independent producers, Lloyd asked Standard Oil to "see its way clear" to purchasing California oil at a price similar to that prevailing during the previous two years, under the NRA:

> Someone has to assume the responsibility of leadership in every undertaking. The oil producers of the state, in mass meeting, chose the Committee of Seven and through this committee's work the many signatures to the sales agreement have been obtained. However, this effort alone will not suffice at this time, hence I can see only one course to follow at this critical period and that is to address the largest single entity in the industry in presenting this suggestion as a gesture on your part in bringing about a happier condition in the oil industry.[131]

Once again, in the absence of effective state or federal action, the cooperating independent producers turned to Standard Oil as price-setter to enforce and support California's curtailment program.[132]

In October, Standard agreed to raise crude oil prices and gasoline prices to reward the high percentage of state operators that had complied with curtailment. "Although the problem of overproduction of crude oil has not been solved," the company announced, "a great deal of effort has been made in that direction." It hoped that better prices would help accomplish the curtailment goals, and that higher gasoline prices would support higher crude oil prices. The Company sought to achieve "balance and stability in what has been a very demoralized and unsound market."[133]

Standard Oil hoped in vain that higher prices would encourage compliance with curtailment. In December 1935, California oil operators produced an average 680,250 barrels per day. As a result of this increased production, the major purchasing companies added to their storage 3.7 million barrels of oil during the month. In January, the Central Proration Committee proposed an allowable of 600,000 barrels per day, sparking outraged protest on the part of the purchasers. In a telegram to Lawrence Van der Leck, chairman of Central Proration Committee, the presidents of Associated, General Petroleum, Richfield, Shell, Standard, Texas, and Union estimated demand at only 537,000 barrels per day. The Central Proration Committee's proposed allowable so greatly exceeded the state's average daily requirements "that it threatens immediate exhaustion

of the available storage for crude oil in this State, with disastrous results to the whole industry." The oil company presidents insisted that the committee revise its figure to bring it into accord with the facts.[134]

In response to this angry telegram from the major companies, the Central Committee of California Oil Producers capitulated and matched California crude oil production with the specified 537,000 barrels per day. But since the Central Committee lacked the authority to enforce a production cut, it simply advised the various fields of the need to achieve an average reduction of twenty-two percent in all fields in the State. The Central Committee acknowledged the "impracticability of asking a uniform curtailment of this magnitude for all fields of the State, there being certain fields which could not meet such a figure without serious economic hardship, and others which could meet such a figure without difficulties." With curtailment voluntary, committee declined to set up an "arbitrary production schedule" that would only "result in controversy and criticism." Instead, it advised the field committees themselves of the purposes of the proposed curtailment and leave them with the responsibility of participating. The field chairmen would meet with the field committees to explain the situation and to obtain cooperation so that the field could cut production as near to twenty-two percent as possible. After ten days, the Central Committee would regroup to assess statewide progress. At that point, the difference between curtailment achieved and the desired curtailment would be prorated against those fields "capable of further curtailment."[135]

To support the Central Committee's concession to the major companies' position, Standard Oil promised to boost the price for oil if the state met the proposed production level. K. R. Kingsbury described the "critical" condition of the California oil industry. "During the period when the Petroleum Code was administered under the N.R.A. as well as the period several years prior thereto, curtailment was more or less effective," Kingsbury recounted. Since the termination of the NRA, "conditions have gone from bad to worse. We are approaching disaster." The industry verged on filling "all available storage for crude oil." But if the industry achieved 537,000 barrels per day, the Company believed an advance in price would be "economically justified."[136]

In February 1936, Standard Oil continued to flex its muscles as state-wide price setter and curtailment enforcer. The company essentially paid cooperating fields to restrain their production. On February 25, the company announced that since so many operators had met already the lower production figure and the company believed that all fields would cooperate shortly, Standard would make higher prices effective in those fields in which lower production had been reached. In other fields, prices would remain unchanged. Barred from the higher prices, however, were many of the major producing fields in the state: Signal Hill, Alamitos Heights, Huntington Beach, Playa del Rey, Dominguez, Santa Fe Springs, Kern Front, Elk Hills, and the Lakeview area of MidwaySunset.[137] Voluntary curtailment continued to stumble over fundamental problems with prices and competition.[138]

During 1936, the competing major companies in California notably became a significant source of overproduction. In January 1936, M. E. Lombardi informed K. R. Kingsbury that the company

expected "trouble" at Ventura, as Lombardi had heard that William Humphrey was demanding that Associated have a share of at least 36,000 barrels per day in that field.[139] In February, Standard's W. H. Berg reported that General Petroleum, Union and Shell were holding firm, "verbally impressing" upon their lessors and producers the need for curtailment and promising to pay a price that would "maintain the income of the lessors and producers at a level somewhat equivalent to that received at the present time."[140] But by the fall of 1936, S. E. Belither, President of Shell Oil in California, had threatened to break with curtailment, accusing Union, Associated, Richfield, and Texas of having significantly exceeded their share—and then being rewarded with an increased allowable. Standard, General and Shell produced only 29,000 of the 223,000 "overproduced" by the major companies, with Union, Associated, Richfield, and Texas producing the rest.

Shell's Belither attacked Central Proration Committee policy as "grossly unfair," subverting the "guiding principles" of curtailment. The Committee had increased California's allowable to 551,000 barrels despite heavy overproduction during the previous several months. Furthermore, the Committee allocated a considerable part of this increased allowable to overproducing fields. A curtailment policy that rewarded overproducers penalized not only compliant operators, Belither complained, but also "lessors in fields which have loyally and conscientiously supported curtailment for many years." Shell henceforth would maintain its production on a fully competitive basis in fields that presently or in the future overproduced. Shell no longer would consider this overproduction. "In other words, we will not curtail below allowables in other fields in order to bring down our total state production to our total state allowable."[141] Belither predicted that the following spring there would be a steady increase in California's allowable. If handled in the same fashion by Central Proration Committee—with overproducing fields rewarded and those who cut back penalized—"complete chaos" would result. "I want the industry to know that I have no intention of being left at the gate," he warned. "Curtailment should be on a basis of equity, which means the same percentage of curtailment in all fields."[142]

Overproduction by major companies became an increasingly sore and divisive issue. In April 1937, Standard's Warner Clark submitted a series of memos to company president K. R. Kingsbury detailing comparative overproduction by the major companies. In one he compared the Associated Oil Company's curtailment record with that of Standard, pointing out that in the fields where both produced oil, his data indicated that Standard generally curtailed significantly more. In comparison to other companies in the Dominguez and Ventura fields, Associated curtailed significantly less than Shell and Union in Dominguez, and less than Shell in Ventura (but more than General Petroleum and Pacific Western). "In Ventura," Clark noted, "they are the aggressor." From February to December 1936, Associated overproduced by 4.26% while Standard underproduced by 0.14%. As a result of this production record, Clark noted, Associated transferred very little oil from underproducing fields to other fields to compensate for its overproduction. By contrast, Standard transferred 5,097 barrels per day to meet overproduction and protect its holdings against drainage. Standard reduced production at Buena Vista, Coalinga East, Kern River, McKittrick, Midway-Maricopa, and others, while increasing production at North Belridge and Lake View. Of the major companies' overproduction, Associated contributed 14.77%. The degree of curtailment of producing wells was: 31.77% by Standard (highest of

majors); 21.99% by Associated; and 27% and 26% respectively by Shell and Union. General Petroleum, Richfield and Texas all came under 20%. Standard contributed 25.6% of California's curtailment, versus 4.6% by Associated. Shell and Union were next highest at 13.3% and 10.6% respectively.[143] These disparities among the major companies provoked bitter feelings and weakened support for the curtailment program.

In his second memo on the California curtailment situation, Warner Clark noted steadily increasing state production in the first week in April. "This situation is undoubtedly being encouraged by the activities of the Associated, and the passive satisfaction of the General Petroleum," Clark reported.

> The essence of the Associated's position is that under the revised schedule they did not get as much at Ventura as they wanted, and consequently they are doing everything they can to upset the present picture. The argument against Lake View et cetera, is nothing more than the best available excuse.

Clark described A. L. Weil and his colleagues as having "their noses very much out of joint" because revived activity by Van der Leck and the Central Proration Committee meant "they ceased to run the whole show." Aubert, Clark reported, is "refusing to have anything to do with curtailment, and is evidently basking in the orgy of over-production which— as he sees it— is resulting from the fact that his advice and leadership were not accepted as final." Clark thought that Van der Leck was in a "very difficult place." The majors in Los Angeles except for Shell were "either inimical or indifferent" to the curtailment program. "If there is anything we can do to strengthen Mr. Van der Leck's hand, we should do so." He thought that if Union gave its support to Van der Leck along with many of the best minors, that would "swing production back into line."[144]

By the fall of 1937, Standard Oil blamed the major companies, not the small renegade independents, as primarily responsible for overproduction. Standard calculated that the seven major companies had produced an excess of 2.6 million barrels of oil between January 1 and September 16. "If our company had over-produced at the same average rate of the other six companies, we would have produced, during the same period, an additional 1,283,000 barrels." Standard emphasized that it had over-produced by only 39 barrels per day, while all the other companies other than Tidewater Associated were above 1,000 barrels per day. Richfield and Union were the worst transgressors, going over 2,000 barrels per day. Richfield exceeded its allotment by 21%.[145]

The other major companies responded tepidly to these complaints, promising little action. General Petroleum's A. L. Weil conceded that he had "been watching this myself with a great deal of concern." It was "obviously impossible to obtain even a measure of curtailment from the Independents so long as they can point to flagrant violations of the Umpire's orders by the major companies." Well attributed his company's high average to the spring period when "Ford would not allow us to curtail against the Union Pacific." But Weil insisted that in early September the company was under its allowable. "We do run over occasionally when a new well comes in but

until the Long Beach development gets under way I don't expect that there will be much more of this."[146]

C. E. Olmsted, of Texas Company, agreed that he disliked seeing any oil company overproducing "at such times as allotments are fair." But that was not the case. "Unfortunately, the operations of others unwilling to curtail in many fields, forces some of us to protect our own and lessors' interests against drainage and avoid liability to Lessors on account of drainage. We as a company do not have sufficient fee properties that at present can be shut in, or partially shut in, without material drainage or damage, to offset this forced overproduction." He believed that similar constraints accounted for overproduction by many other companies. "I regret that I can not suggest a remedy, either as to the operator not willing to abide by allotments, or as to the operator willing to curtail but forced through circumstances to overproduce."[147]

As 1937 drew to a close, the California curtailment program foundered on the same issues that had plagued it for almost a decade. The major companies continued to support curtailment and proration, but even they could not stick to the program under the competitive field conditions. Compliance also faltered as the older fields began to decline. Many began to envision a time when artificial curtailment no longer would be necessary in California. The discovery of the Wilmington field around 1937, however, gave renewed energy to the push for oil production controls. Observers described the huge Wilmington field in terms similar to Kettleman Hills in 1931-32. Beginning around 1937, California companies began to position themselves for access to the Wilmington oil.[148] Just as Wilmington compelled resolution of the tidelands drilling problem, the field also provoked another pitched battle over oil production controls.

Passage and Repudiation of the 1939 Atkinson Oil Control Bill

In the legislative session of 1939, Maurice Atkinson, a Democratic assemblyman from Long Beach, introduced the "California Oil and Gas Control Act of 1939." The Atkinson Bill, as it was called, proposed a new oil commission that would possess broad powers over "all matters" related to the conservation of oil and gas. The commission would allocate production among fields in the State, control drilling of new wells by regulation, and order new wells drilled to prevent waste. The commission would investigate and collect complete data regarding present and potential production and prices of oil and gas. Atkinson freely admitted that the bill had been written by labor union leaders seeking to stabilize the industry and protect oil worker jobs.[149] In turn, the Atkinson bill imitated the New Mexico conservation code.[150]

The conservation commission's structure and powers reflected the embrace of public authority by many of its supporters. In deliberate contrast to the industry-dominated commission created by the 1931 Sharkey Bill and backed by Governor James Rolph, the new Oil Control Commission would be composed exclusively of public officials.[151] The Commission would include three officials appointed by the governor: the State Director of Natural Resources, the Public Works Director and the Finance Director. After Governor Culbert Olson's unsuccessful fight over the Huntington Beach field, it was no coincidence that the Atkinson oil control bill

contained greater protections for the public interest. Olson wanted "control by the State and not by any group engaged in the oil production."[152] Unlike the State Lands Commission created in 1938 with three separate lines of electoral authority protecting its fiscal integrity—controller, lieutenant governor, and gubernatorial appointee—all three members of the new oil commission would have been gubernatorial appointees.

The Atkinson Bill emerged from the Oil Industries Committee at the very end of the legislative session and moved quickly through the legislature. Legislative leaders "stopped the clock" to push it through even after the time when bills from the Assembly were not supposed to be considered. An eclectic coalition backed the bill, including Olson, the major oil companies, some of the independent oil companies, and the CIO oil workers' union. Enormous pressure was brought to bear on members of the legislature. According to three Democratic assemblymen, "Our vote for the Atkinson oil control bill was not cast on the basis of our own knowledge, and we regret the precipitate manner in which, necessarily, the subject was considered . . . We voted our confidence in the judgment and wishes of the Governor."[153] Olson's unusual alliance with major oil companies in support for the Atkinson Bill placed him in an awkward position, alienating independent oil producers who had sided previously with Democrats against the major oil companies. Democratic politicians demanded to know when their "great liberal Governor changed his mind."[154] Even Senator Kenny, an Olson legislative leader, spoke out against the bill and voted against it.[155] Lieutenant Governor Ellis Patterson, Olson's longtime ally on the Huntington Beach problem and other progressive causes, broke with him on the measure. J. Frank Burke, Olson's southern California campaign leader during the 1938 primary, also split with the administration.[156] Some charged that the Olson administration had "sold out" to Standard Oil. Yet Olson, with Ickes and Roosevelt leaning on him, defended the measure and signed it. The Atkinson Bill was one of the only major administration measures to survive a generally hostile 1939 legislature.

In many ways, the fight over the Atkinson Oil Bill replayed the fight over the Sharkey Bill from seven years earlier. John A. Smith, president of the Independent Petroleum and Consumers' Association, announced the circulation of referendum petitions almost immediately. The independent producers attacked the major oil companies for writing the Atkinson Bill in an effort to "put the little fellows completely out of business."[157] Walter Stalder, for instance, a consulting petroleum geologist, denounced the oil bill as "essentially the same proposition" as the Sharkey measure. The Atkinson bill would reveal whether Sacramento lawmakers "will carry out the previously expressed mandate as given in that public vote against the Sharkey measure or whether special interests and political plums still have the larger appeal." The Atkinson bill was "put forth under the cloak of conservation of natural resources." Yet in the "final analysis the public pays the bill, while monopolistic interests and politicians profit."[158] Stalder warned of the threat of "'SOCOISM' or government of the people for the Standard Oil Company and by the Standard Oil Company."[159]

Atkinson Bill supporters Like the San Francisco Chronicle also returned to venerable themes. "Voluntary curtailment is not enough," declared the editors. "The chiselers, though delighted to have other operators curtail, will not let the voluntary method succeed. Experience in California

and the other oil States has proved to the hilt that curtailment of production, to succeed, must have legal enforcement behind it." The Chronicle urged that the Atkinson bill be "given a chance to prove itself in operation. Defeat of the Sharkey Bill by referendum in 1932 only continued for seven years the ruinous chaos in the oil fields."[160]

As with the Hoover Administration and the 1932 Sharkey referendum, Roosevelt, Ickes, and other administration officials threw their considerable political weight behind state-level oil conirols.[161] Navy Commander W. D. Greenwood also endorsed the measure, citing concerns over waste of oil and gas in California. The Atkinson Bill drew further support from labor unions seeking to stabilize the employment situation for oil workers. Union officials and others warned of an impending market collapse or a complete industry shutdown in June or July if California did not substitute compulsory curtailment for the voluntary system. Voluntary curtailment was a failure, union officials declared, and a forced stoppage of production in order to gain control of the oil sector threatened to throw 20,000 men out of work.[162]

Some of the parties had switched sides during the previous seven years. After having spearheaded the fight against the Sharkey Bill in 1932, Edwin V. McKenzie, attorney for the Mohawk Oil Company and Northern California Manager for the "Yes on 5" Committee, now supported oil production controls. McKenzie distinguished oil curtailment from curtailment and proration in other sectors, such as agriculture, where excess production is destroyed to create scarcity and sustain prices. "When we curtail oil we double the amount of recoverable oil," he insisted. Competitive production on a virgin structure cut recoverable oil in half, he said. The thirty seven billion cubic feet of gas wasted in California would have lifted naturally twenty eight million barrels of oil. That oil was now "gone forever." McKenzie urged the Atkinson Bill as a public policy measure. "Disregard the oil companies," he said. "Go to the principle fundamental in law, that the oil resources of California belong to the people and not to any oil company." He cited federal naval engineers who had "lost the commercial sense" and did not care whether "one group of oil companies makes a little more money than another." Californians should trust the naval engineers' support for the conservation bill.[163]

Following legislative passage of the Atkinson Bill in late June 1939, the bill's opponents immediately mounted an aggressive referendum campaign. Despite the formidable political coalition supporting the measure, the Atkinson Bill continued to follow the trajectory of the Sharkey Bill. Rammed through the legislature by the major companies in alliance with the oil worker unions and the Olson administration, the bill was soundly rejected by the California electorate at the polls in November 1939.

Sabin - Chapter 8

Conclusion

"California is the one great oil state maintaining the law of supply and demand and with no artificial controls running the oil business," contended Harold C. Morton, a Los Angeles Attorney and independent producer during the 1939 campaign against the Atkinson Bill.[164] Morton was correct that when the California electorate spurned the Sharkey and Atkinson Bills, it rejected the strict state oil regulation occurring in Texas, Oklahoma, and other states.

But had California maintained the "law of supply and demand" or did "artificial controls" run the oil business? Since 1927, many oil operators in California struggled tirelessly to control oil production in the state. In early 1929, oil operators pushed through a natural gas conservation act to restrain flush producers from too rapidly draining their oil reserves and the gas pressure of entire fields. Oil companies also obtained the passage of a townlot drilling bill in 1931 to prevent the repetition of destructive and wasteful competition at Santa Fe Springs, Huntington Beach, Signal Hill, and elsewhere. Beginning in 1929, California oil operators organized voluntary curtailment programs that worked, through cooperative agreement, to overrule the "law of supply and demand" and replace it with the rule of a statewide industry committee. When the industry proved unable to compel production cuts as deep as desired, Standard Oil of California flexed its market power, selectively slashing crude oil prices to reward compliant operators and punish continuing overproducers. A group of independents organized the Oil Producers Sales Agency to create a cooperative bargaining unit that would reward operators who complied with the curtailment program. Many of the California operators also sought federal intervention to bolster the faltering state voluntary program. Although the Sharkey and Atkinson Bills never became law, competition among firms occurred within a market framework profoundly shaped by myriad industry cooperative arrangements and state and federal regulation.

What were the consequences of these attempts to discipline and control an unruly oil market? Oil production controls—which boosted oil prices and allocated production among the different fields and producers—disrupted the "law of supply and demand" and kept marginal fields and wells in production. If the laws of supply and demand functioned as Harold Morton claimed, efficient and high quality producers at Kettleman Hills might well have driven out of business the older, low quality producers at Ventura or in the older San Joaquin fields. By many accounts, Kettleman Hills oil producers could undercut prevailing gasoline prices significantly. Yet the industry curtailment committee sharply limited Kettleman Hills output while sustaining producing wells elsewhere, for instance at Ventura. Distributing production in this way aided many Kettleman Hills operators too, since they had extensive holdings in older fields. By boosting prices to a "living wage" in the less efficient fields, the Kettleman Hills operators obtained valuable "rents" on their Kettleman Hills oil and also earned a tidy profit on holdings elsewhere in the state.

At the same time, the structure of curtailment also guaranteed a market to new wells, rewarding continued drilling and development. Each new production allocation further stimulated new development at the local level. The new producing well potentially drained from a common pool, and, more generally, increased overall output, forcing corresponding cutbacks by other operators

in the field and state. This in turn prompted another cycle of development. As small-time Maricopa operator J. B. Wells complained, “All this development of new production calls on the operators of older properties to ‘move over’ until we are sick of it.”[165] Because industry cooperation and government action sustained prices at an artificially high level and every new well received an allocation, the curtailment system encouraged operators to drill expensive, deep wells, guaranteeing that they would recoup their investments.[166]

The extent and type of new development encouraged by oil production controls depended on the specific rules of the curtailment program. Political conflict within the industry mediated economic competition through the structuring of the curtailment program. Some operators sought to protect early entrants like J. B. Wells, barring all new production until sufficient market demand existed, regardless of whether the older wells were as cost-efficient as new ones, as at Kettleman Hills. Others attempted to reward operators based on their expenditures, seeking to allocate greater production to deeper and more expensive wells.[167] Exclusively California-based oil operators attempted to bar or restrict oil imports from other states or countries. Operators without storage attacked restrictions on production intended to allow the major companies to unload stored oil at solid prices. Under voluntary curtailment before federal regulation, allowable production for each operator varied with well production potential. This encouraged landowners like Ralph Lloyd to drill new wells in order to prove the extent of their holdings and gain a greater proportion of the production allocated to Ventura. By contrast, the federal codes did not award generous production allowables to new wells in settled fields. The NRA code discouraged drilling in settled fields and sent operators on a wildcat search for new fields throughout the state.

Although California operators frequently embraced publicly the abstract idea of free-floating prices and the law of supply and demand, in retrospect, it is clear that no one in the industry seriously advocated any such thing. Oil operators sought to eliminate destructive competition by ordering and controlling the oil market to their advantage. Whether they believed in public or private controls amounted merely to a difference in the proper mechanism for achieving control. Independent oil operators appealed to, feared, and battled the market power of Standard Oil, just as they did state and federal regulation. Standard Oil and other companies first sought to limit oil production through cooperative agreements, and then turned to public enforcement in order to achieve the same ends—boosting the price of oil and stabilizing the industry.

It is easier to identify and chronicle the constant political struggle over the contours of the market than it is to calculate the ultimate impact of diverse attempts to control oil production. Consumers certainly paid higher prices in the short run and oil companies captured greater returns on their production. One economic study of the Pacific Coast petroleum industry reported consistent average profits for the industry throughout the depression, except in 193l.[168] Oil production controls sustained a window of profit between the cost of production and the market price, preventing overproduction from driving the oil price down to levels that would cause widespread closure of wells.

Sabin - Chapter 8

Endnotes: Chapter 8

[1]E. B. Reeser to James Rolph, Jr., 10 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[2]Mark L. Requa to Ralph Lloyd, 13 May 1931, Lloyd Collection. Box LCL 6 (1), Folder California Oil and Gas Curtailment Committee, HL. Mark L. Requa to Ralph Lloyd, 18 May 1931, ibid.

[3]"Meet Called to Discuss Oil Industry," *SFC*, 5 January 1931, 29:6.

[4]"Governor of Kansas Asks Hoover's Aid," *SFC*, 29 January 1931, 15:3.

[5]"Rolph Appoints Oil Conferees," *SFC*, 11 January 1931, 4:1.

[6]"Governors' Oil Relief Conference Maps Drive to Aid Independent Firms: Crude Import Embargo, Ban on Refined to Be Proposed to Congress," *SFC*, 17 January 1931, 13:1.

[7]"Governors' Oil Relief Conference Maps Drive to Aid Independent Firms: Crude Import Embargo, Ban on Refined to Be Proposed to Congress," *SFC*, 17 January 1931, 13:1.

[8]"Wilbur Prefers Sales to Tariff for Oil Relief," *SFC*, 8 January 1931, 15:4,

[9]"Governors' Oil Relief Conference Maps Drive to Aid Independent Firms: Crude Import Embargo, Ban on Refined to Be Proposed to Congress," *SFC*, 17 January 1931, 13:1.

[10]"Wilbur Says Oil Problem Up To States," *SFC*, 11 April 1931, 12:6.

[11]Ray Lyman Wilbur to Francis Loomis, 12 May 1931, GTWHP, Carton 155070, Box Conservation.

[12]"Wilbur Says Oil Problem Up To States," *SFC*, 11 April 1931, 12:6.

[13]"Oil Men Believe Several States Will Enact Legislation to Conserve Gas," *SFC*, 9 February 1930, 13:6.

[14]J. A. Bermingham to J. A. Brown, 12 January 1931, Lloyd Corp. Archive, Box LCL 6 (l), Folder California Oil and Gas Curtailment Committee, HL, including attached letter from C. C. Stanley to C. E. Olmsted suggesting revisions to proposed law.

[15]Charles C. Stanley to C. E. Olmsted, "Regulation of Production of Petroleum," 9 January 1931, Lloyd Corp. Archive, Box LCL 6 (1), Folder California Oil and Gas Curtailment Committee, HL.

[16]James Rolph to Members of the State Assembly, 2 March 1931, GTWHP, Carton 155070, Box Conservation.

[17]C. R. Stevens to A. L. Weil, Chas. C Stanley, Paul M. Gregg, F. F. Thomas, Felix Smith, Edwin Higgins, and A. R. Bradley, 3 March 1931, GTWHP, Carton 155070, Box Conservation.

[18]Although the major companies shared common interests and collaborated on their 1931 legislative agenda through the California Oil and Gas Association, they occasionally worked at cross-purposes. For example, Standard Oil apparently worked behind the scenes to ensure that one of the three Al Weil measures introduced by Senator Sharkey, SB 364, would not become law. The measure would have eliminated the use of gas-oil ratios as the basis for enforcing the 1929 Natural Gas Conservation Act. Weil's amendments eviscerated the 1929 act, since the ability to link oil and gas production had enabled state gas enforcement. Standard plotted to defeat the measure if an attempt were made to push it through. A. L. Weil to Roland Rich Woolley, 4 March 1931, Lloyd Corp., Box LCL 6 (2), Folder 1, HL; James E. Degnan to Felix T. Smith, 9 March 1931, GTWHP, Carton 155070, Box Conservation; C. R. Stevens to A. L. Weil, Charles C. Stanley, Paul M. Gregg, F. F. Thomas, Felix Smith, Edwin Higgins, and A.

R. Bradley, 10 March 1931, GTWHP, Carton 155070, Box Conservation; James S. Bennett to Will R. Sharkey, 6 March 1931, GTWHP, Carton 155070, Box Conservation.

[19]"New State Oil Conservation Laws Will Become Effective on August 15," *SFC*, 7 June 1931, 12:1.

[20]A. T. Jergins to "Dear sir," 28 March 1931, GTWHP, Carton 155070, Box Conservation.

[21]Minutes of the Meeting of the Oil Operators' General Committee, I think of the California Oil and Gas Association, 27 May 1931.

[22]Minutes of Meeting of Board of Directors of OPSA, 29 May 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL.

[23]Minutes of Meeting of Board of Directors of OPSA, 24 June 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL.

[24]"Petroleum Stocks Gain on Prospects of Early Rise in Gasoline Prices," *SFC*, 7 June 1931, 12:4.

[25]K. R. Kingsbury to Walter Teagle, 12 June 1931, GTWHP, Carton 155083, Box Conservation.

[26]James S. Bennett to Will R. Sharkey, 20 March 1931, GTWHP, Carton 155070, Box Conservation.

[27]C. R. Stevens to A. L. Weil, Chas. C. Stanley, Paul M. Gregg, F. F. Thomas, Felix Smith, Edwin Higgins, and A. R. Bradley, 3 March 1931, GTWHP, Carton 155070, Box Conservation.

[28]A. L. Weil to Felix Smith, 13 March 1931, GTWHP, Carton 155070, Box Conservation.

[29]Felix T. Smith to William R. Sharkey, 19 March 1931, GTWHP, Carton 155070, Box Conservation. Sharkey thanked Smith for his letter, noting that "I will doubtless have the opportunity to make good use of your suggestions." Sharkey to Felix Smith, 23 March 1931, GTWHP, Carton 155070, Box Conservation.

[30]Neal Anderson to Ralph Lloyd, 6 June 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[31]Ralph Lloyd to Hartman Ranch Company, 4 April 1931, Lloyd Corp., Box LCL 6 (2), Folder H, HL. Lloyd and a few others whom he recruited financed the establishment of OPSA. The Lloyd Corporation carried many of the initial operating expenses and Lloyd and the others each agreed to subscribe $500 to support the establishment of the Agency. Other early sponsors included Geo. F. Getty, Pacific Western, and Superior Oil Company. The initial meetings were held in the California Oil and Gas Association offices. For Lloyd's $500 subscription, see Ralph Lloyd to R. R. Templeton, Secretary Treasurer, OPSA, 17 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL. See also, R. R. Templeton to Geo. F. Getty, Superior Oil Company, Pacific Western Oil Company, Ralph Lloyd, 10 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[32]R. M. Blodget, "Report of General Manager for Calendar Month of August, 1931," September 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL; "Oil Price Boosted As Troops Complete Shutdown in Texas," *SFC*, 19 August 1931, 1:3.

[33]Ralph Lloyd to E. S. Rochester, 16 February 1932, Lloyd Collection, Box LCL 7 (2), Folder F, HL. See also, Oscar Sutro, "The Anti-Trust Law: A Proposal," 193?, BL.

[34]Lloyd wrote in another instance "the world is becoming smaller and all business intercourse more delicately adjusted, so that without intelligent co-operation it will be difficult to hold industrial activity to a firm and stable plane. In fact, if we do not use co-operative methods in meeting both our industrial and political problems, I am fearful that a retroactive condition will set in and this may be very detrimental to the welfare of the white race." "Untitled draft statement," March 1931?, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL; "Oil and Gas

Meeting," 20 March 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL; Ralph Lloyd to G. Legh-Jones, 16 October 1931, Lloyd Collection, Box LCL 6 (5), Folder Shell Oil Co- Letters, etc., HL.

[35]Ralph Lloyd to To the Producers of Crude Petroleum Products, 23 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[36]Ralph Lloyd to To the Producers of Crude Petroleum Products, 23 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[37]OPSA. "Draft Letter to Oil Producers," March 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL; "Untitled draft statement," March 1931?, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[38]Rush Blodget to Directors, OPSA, 14 October 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[39]Hazlett to Lloyd, 2 June 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[40]William Hazlett to Ralph Lloyd, 29 May 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[41]OPSA, "Minutes of the First Meeting of the Board of Directors," 7 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL; Minutes of Meeting of Board of Directors of OPSA, 27 April 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL.

[42]Rush M. Blodget to Ralph B. Lloyd, 29 June 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL; Rush M. Blodget to Ralph B. Lloyd, 6 July 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[43]Rush M. Blodget to Ralph B. Lloyd, 6 July 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[44]Neal H. Anderson to Lloyd Corporation, Ltd., 23 June 1931. "Independents Join Major Companies in Gasoline Price Raise." *SFC*, 20 June 1931, 13:1. Independents joined majors in raising prices to 16-l/2¢ after prices had dipped to 9-10¢ during price war. For every penny increase in gasoline, an additional twenty million dollars would be returned to the marketing companies.

[45]"Oil and Gas Meeting," 20 March 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA-minutes, HL.

[46]William Hazlett to Ralph Lloyd, 29 May 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[47]Ralph Lloyd, Draft Statement of the President, September 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL. "Prosperity is a moral issue," Lloyd contended in the February issue of the Stabilizer. "The laws of a nation cannot rise above the spirit of the people governed by them." As quoted in Rush M. Blodget, "Annual Report of the General Manager," 5 April 1932, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[48]Ralph Lloyd, Press Statement, June 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL; OPSA, "An Interview with Ralph B. Lloyd," June 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[49]Earl C. Behrens, "Referendum Blocks Gas Saving Law," *SFC*, 15 July 1931, 1:1.

[50]C. R. Stevens to Theodore Roche, 12 January 1932, GTWHP, Carton 155070, Box Conservation.

[51]Stevens also asked Roche to submit Assembly Bill Chapter 3652 approved by Rolph in May 1931. This administration bill passed without a "joker" being detected that authorized the Director of Finance to lease tidelands for the production of petroleum. A subsequent measure had been passed eliminating this authority to lease the tidelands, but apparently it required approval through a referendum. Stevens had consulted with Wesley Barr of the Los Angeles Evening Herald, who represented the Hearst interests in the passage of the bill. He said that Barr agreed that the tidelands measure should also be submitted at the May primary, but that both would stand a better chance of

passage if mixed in with the innocuous constitutional amendments. C. R. Stevens to Theodore Roche, 12 January 1932, GTWHP, Carton 155070, Box Conservation.

[52]Earl C. Behrens, "Rolph Calls Conference on Oil Industry," *SFC*, 24 January 1932, 7:1; Earl C. Behrens, "Expert Chosen to Study State Oil Problems," *SFC*, 28 January 1932, 17:2.

[53]E. B. Reeser to James Rolph, Jr., 10 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[54]Fred G. Stevenot to Felix T. Smith, 17 February 1932, GTWHP, Carton 155070, Box Conservation. Stevenot asked Walter P. Jones at the Sacramento Bee to advocate for the Sharkey Bill as a means to attaining an "orderly program of oil and gas production." Stevenot warned that if California did not substitute "statutory control for 'gentlemen's agreements,'" Kettleman Hills oil production would force the less favored oil fields to suspend production. This would mean idle wells and refineries as well as an increase in unemployment" Stevenot thought that the Director of Natural Resources and the state courts would retain ample power to protect the public interest and the rights of corporations and individuals. Fred G. Stevenot to Walter P. Jones, 16 February 1932, GTWHP, Carton 155070, Box Conservation.

[55]Sharkey Bill's Support Asked," *SFC*, 23 April 1932, 3:4 (State Director of Natural Resources, Daniel H. Blood); "Closing Drives Launched on Sharkey Bill," *SFC*, 26 April 1932, 3:2 (State Treasurer Charles G. Johnson).

[56]"Three State Executives in Oil Bill Plea," *SFC*, 20 April 1932, 4:1.

[57]Blodget to Members, OPSA, 22 December 1931, Lloyd Collection, Box LCL 6 (3), Folder OPSA, HL.

[58]"Minutes of the Regular Meeting of the Executive Committee of the OPSA," 6 January 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL.

[59]Rush Blodget to All Members of OPSA, 15 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[60]Rush M. Blodget to Members, OPSA, 10 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[61]Rush M. Blodget to Members, OPSA, 18 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[62]Rush M. Blodget to Members, OPSA, 4 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[63]Rush M. Blodget to Members, OPSA, 13 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[64]"Minutes of the Regular Meeting of the Executive Committee of the OPSA," 16 March 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL.

[65]"Minutes of the Special Meeting of the Board of Directors of the OPSA," 25 April 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL.

[66]Ralph B. Lloyd and Frederick D. Anderson, "Memorandum for the Press," 25 April 1932, Lloyd Collection. Box LCL 7 (4), Folder OPSA., HL. To justify the OPSA Board's new stance, Rush Blodget indicated the new and highly productive deep sands at Ventura and Middle Dome, also deep sands at Elwood, Inglewood, Coyote, Dominguez and Montebello. These new sources of oil had persuaded the Board of Directors to endorse the Sharkey Bill: "The problem was, what can prevent these vastly productive fields and sands from opening up and flooding the market, and pushing the independent, with his little wells, to the wall? The only hope is the Sharkey bill. It is far from perfect, but the same may be said of any new law." Rush Blodget to All Members of OPSA, 28 April 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[67]"Minutes of the Regular Meeting of the Executive Committee of the OPSA," 27 April 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL.

[68]OPSA, "Memorandum for the Press," 22 April 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[69]L. C. Kelly to Independent Petroleum Association, 25 April 1932, Lloyd Collection, Box LCL 7 (3), Folder K, HL. After Kelly and his family decided to support the Sharkey Bill, he wrote the IPA that "we are bringing back Claude Thomas from the north where we had sent him to work against the Sharkey Bill."

[70]"Closing Stages of Sharkey Bill Battle Started," *SFC*, 25 April 1932, 20:5.

[71]"Attorney F. E. Borton Declares Sharkey Bill Is Dangerous Measure," Bakersfield Californian, 20 April 1932, 9. Borton's opposition to the Sharkey Bill had a further twist. He handled a number of Bakersfield-area cases for the Standard Oil Company of California, which urged passage of the bill. Standard Oil's chief lawyer, Oscar Sutro, soon wrote F. E. Borton to pressure him to keep his opinions to himself. Sutro quoted meaningfully from a letter that he claimed to have received, in which a stockholder declared that he wanted Borton "stopped." Sutro then said that Borton's "definite and hostile" public attitude towards the Sharkey Bill has been "a matter of great surprise to me and to my associates." Sutro underscored his belief that opponents of the Sharkey Bill consisted of a "handful of operators who have refused to do their share in curtailing production, and have done their best to disrupt what little there is left of peace and order in the industry." He concluded, "One is prepared for hostility emanating from those who are ignorant and from the camp of the enemy. One does not expect it to come from the house of a friend- and certainly not without fair notice." Oscar Sutro to F. E. Borton, 2 May 1932, GTWHP, Carton 155070, Box Conservation.

F. E. Borton replied scathingly, "When it comes to the matter of my personal views as a citizen, I wish you to understand that I do not give them away like a pound of tea as a premium with the purchase of my legal services. Any client who feels that he is entitled to them cannot take his business elsewhere too quickly to suit me." Borton claimed that he had nor waged a campaign against the bill and had refused many requests for him to speak at public meetings or over the radio. But if he had received Sutro's letter or anticipated it, then he would nave undertaken "a vigorous and unremitting campaign against the passage of the Sharkey Bill, in sheer vindication of my personal independence." Bolton told Sutro that he no longer cared to handle Standard's business, now that he understood Sutro's impression of "the scope of its implied disqualitications." He requested instructions on how he should dispose of the two cases that he was handling for the company. F. E. Borton to Oscar Sutro, 3 May 1932, GTWHP, Carton 155070, Box Conservation.

[72]Alfred Marsten to Ohio Oil Company, 14 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[73]A. Wardman to Rush M. Blodget, 11 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[74]A. Wardman to Rush M. Blodger, 11 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[75]H. A. Bardeen to Los Angeles Chamber of Commerce, 14 March 1932, Lloyd Collection, Box LCL 7 (2), Folder H, HL.

[76]Robert Bromberg to Los Angeles Chamber of Commerce, 8 March 1932, Lloyd Collection, Box LCL 7 (2), Folder H, HL.

[77]H. A. Bardeen and A. Wardman to Members, OPSA, 18 February 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[78]"Voters Decide Tomorrow on Sharkey Bill," *SFC*, 2 May 1932, 2:1.

[79]Earl C. Behrens, "Sharkey Oil Bill Defeated," *SFC*, 4 May 1932, 1:1; "41,000 Sharkey Bill Drive Expense Listed," *SFC*, 4 June 1932, 1:4.

[80]"Order of Business for Special Meeting" 16 May 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL.

[81]"Minutes of the Regular Meeting of the Executive Committee of OPSA," 11 May 1932. Lloyd Collection, Box LCL 7 (4), Folder OPSA Minutes, HL.

[82]Ralph Lloyd. 'Thrown Back Upon Ourselves," article prepared for May 1932 Stabilizer, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[83]Ralph Lloyd, "Thrown Back Upon Ourselves," article prepared for May 1932 Stabilizer, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL; Ralph Lloyd to Rush M. Blodget and George M. Swindell, 6 June 1932, Lloyd Collection, Box LCL 7 (l), Folder B, HL.

[84]Rush M. Blodget to Ralph B. Lloyd, 29 June 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA, HL.

[85]California Oil and Gas Association, "Yearly Report of the Managing Director," 30 June 1932, Lloyd Collection, Box LCL 7 (l), Folder California Oil and Gas Association- Letters, Minutes of Meetings, etc., HL.

[86]"Minutes of the Special Meeting of the Board of Directors of the OPSA," 16 May 1932, Lloyd Collection, Box LCL 7 (4), Folder OPSA-Minutes of Meetings, HL. After the passage of the National Industrial Recovery Act, in 1933, this committee dissolved, to be replaced by the Central Proration Committee. OPSA, "Minutes of the Meeting of the Board of Directors of OPSA" 19 April 1933, Box LCL 8 (4), Folder OPSA-Meetings, HL.

[87]"Oil Men Form Committee for Curtailment," *SFC*, 22 May 1932, 12:8.

[88]Neal Anderson to All Operators, 13 June 1932, Lloyd Collection. Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL.

[89]K. R. Kingsbury to William M. Keck., Chairman of Executive Committee for Equitable Curtailment of the Oil Industry in California, 11 June 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL.

[90]Neal H. Anderson to Members Executive Committee, Central Proration Committee, 11 June 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL.

[91]Ralph Lloyd to Executive Committee for Equitable Curtailment of the Oil Industry in California, 13 June 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL; "Oil Restriction Plan Expected to End War," *SFC*, 27 June 1932, 7:6.

[92]Neal Anderson to All Operators, 13 June 1932, Lloyd Collection, Box LCL 7 (l), Folder California Oil Curtailment- Letters, etc., HL.

[93]Neal Anderson, "Daily Oil Production Report" 20 June 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL.

[94]Executive Committee for Equitable Curtailment of the Oil Industry in California to K. R. Kingsbury, 22 June 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment- Letters, etc., HL.

[95]Neal Anderson, "Daily Oil Production Report" 28 June- 6 July 1932, Lloyd Collection, Box LCL 7 (l), Folder California Oil Curtailment- Letters, etc., HL.

[96]Neal Anderson to All Operators, 9 April 1932, Lloyd Collection, Box LCL 7 (1), Folder California Oil Curtailment, HL

[97]Neal H. Anderson to All Oil Operators, 11 July 1932, Lloyd Collection, Box LCL 7 (l), Folder California Oil Curtailment- Letters, etc., HL.

Sabin - Chapter 8

[98]Howard Kegley, "Oil News," *LAT*, 11 January 1933, Part I 17:1.

[99]"Oil Production Gain Explained," *LAT*, 21 January 1933, Part II 12:1.

[100]Blodget to Lloyd, 26 May 1933, Lloyd Collection, Box LCL 8 (3), Folder OPSA- Letters, etc., HL.

[101]Lloyd and R. E. Allen to Franklin D. Roosevelt, Harold Ickes, and Hugh Johnson, 21 August 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[102]The California oil umpire then allocated the field quotas to designated producers and properties. Central Proration Committee to Harold Ickes, 4 September 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL; J. H. Ward to Central Committee of California Oil Producers, 24 August 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[103]Central Committee of California Oil Producers to Ickes, 12 September 1933, Lloyd Collection, Box LCL 8 (l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[104]Ickes to Lloyd, 16 September 1933, Lloyd Collection, Box LCL 8 (l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[105]Lloyd and Pemberton to Ickes, 18 September 1933, Lloyd Collection, Box LCL 8 (l), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[106]Lloyd to Ickes, 22 September 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[107]Ickes to Lloyd, 12 October 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[108]K. R. Kingsbury to Amos L. Beaty, 4 May 1934, GTWHP, Carton 155083??, Box NRA.

[109]Rush Blodget to A. L. Weil and Paul Gregg, 5 December 1933, Lloyd Collection, Box LCL 8 (3), Folder OPSA- Letters, etc., HL.

[110]Lloyd to Holland, 29 September 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL.

[111]Lloyd and Pemberton to Ickes, 18 September 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Proration Committee and Planning and Coordination Committee, letters, etc., HL

[112]OPSA to Harold Ickes, 26 October 1933, Lloyd Collection, Box LCL 8 (3), Folder OPSA- Letters, etc., HL.

[113]Howard Kegley, "Oil News," *LAT*, 2 December 1933, Part I 9:6; "Minutes of Special Meeting of the Central Committee of California Oil Producers and Protestants to the Supplemental Code", 20 November 1933, Lloyd Collection, Box LCL 8 (1), Folder Central Committee of California Oil Producers-Minutes of Meetings, HL.

[114]Ralph B. Lloyd, et al. to Associated Oil Company, 26 September 1933, Lloyd Corp. Ltd. Archive, Box LCL Letter 1933 (A-C). Folder Associated Oil Company, HL.

[115]Ralph B. Lloyd, President, Lloyd Corporation Ltd., and Louis Dabney, President, South Basin Oil Company, to Associated Oil Company, 13 November 1933, Lloyd Corp. Ltd. Archive, Box LCL Letter 1933 (A-C), Folder Associated Oil Company, HL; Ralph B. Lloyd to William F. Humphrey, 13 July 1933, Lloyd Corp. Ltd. Archive.

Box LCL Letter 1933 (A-C), Folder Associated Oil Company, HL; Associated Oil Company to Lloyd Corporation, South Basin Oil Company and Ventura Land & Water Company, 6 October 1933.

[116]Howard Kegley, "Oil News," *LAT*, 16 November 1933, Part I 13:7.

[117]"Oil Curb Asked of Court," *LAT*, 15 December 1933, Part II 1:3.

[118]See, Clark, Energy and the Federal Government, chapter nine, for an overview of federal production controls, albeit with little attention to California.

[119]"Assembly Votes Sharp Protest to Congress Scoring Oil Measure," *SFC*, 26 April 1935, 25:7.

[120]Rush M. Blodget, "Press Release," 27 May 1935, Lloyd Corporation Ltd. Archive, Box RBL 5 (2), Folder O.P.S.A.- Letters, HL; Rush Blodget to Members OPSA, 29 May 1935, Lloyd Corporation Ltd. Archive, Box RBL 5 (2), Folder O.P.S.A.- Letters, HL.

[121]"Oil Control Act Is Defeated By Committee Vote," *SB*, 15 May 1935, 20:5.

[122]"Bill To Control Oil Industry Is Under Scrutiny," *SB*, 24 May 1935, 18:3.

123Steve Kyle, "New Oil Bill Is Denounced As Attempt At Monopoly," *SB*, 25 May 1935, 1:8; "Committee Kills Oil Control Bill Following Fight," *SB*, 30 May 1935, 1:3.

[124]"Elliott Charges Monopoly Will Ask New Oil Bill," *SB*, 20 May 1935, 6:5.

[125]"New Oil Prorate Act Proposal Is Scored As Unfair," *SB*, 27 May 1935, 4:1.

[126]"Committee Kills Oil Control Bill Following Fight," *SB*, 30 May 1935, 1:3.

[127]"Committee Kills Oil Control Bill Following Fight," *SB*, 30 May 1935, 1:3; "Metzger Denounces His Own Oil Prorate Bill," *SB*, 3l May 1935, 14:6.

[128]"Oil Industry Voluntarily Curbs Output," *SFC*, 29 May 1935, 6:3.

[129]Committee of Seven to All Operators, 2 August 1935, Lloyd Corporation Ltd. Archive, Box RBL 5 (2), Folder O.P.S.A.- Letters, HL.

[130]Standard Oil Company of California, "Statement to the Press," 28 August 1935, GTWHP, Carton 155083, Box Conservation. "Standard Drops Price For Purchasing Oil," *SB*, 29 August 1935, 3:5.

[131]Ralph Lloyd to K. R. Kingsbury, 11 September 1935, GTWHP, Carton 155083, Box Conservation. Standard denied reports that it had warned the oil umpire that it would stop purchasing crude from the open market if a new proration plan was not adopted. Standard Oil Company of California, "Statement to the Press," 5 September 1935, GTWHP, Carton 155083, Box Conservation.

132For example of Standard Oil's position as enforcer and price-setter, see the correspondence between the Hallmark Oil Company and Standard over the Lakeview pool. Charles H. Forward to K. R. Kingsbury, 28 February 1936 and J. H. Tuttle to Charles Forward, 28 February 1936, GTWHP, Carton 155083, Box Conservation.

[133]Standard Oil Company of California, "Statement to the Press," 31 October 1935, GTWHP, Carton 155083, Box Conservation.

[134]W. F. Humphrey, A. L. Weil, W. C. McDuffie, S. Belither, K. R. Kingsbury, C. E. Olmsted, L. P. St. Clair to Lawrence Van der Leck, 16 January 1936, GTWHP, Carton 155083, Box Conservation.

Sabin - Chapter 8

[135]R. E. Allen to K. R. Kingsbury, 17 January 1936, GTWHP, Carton 155083, Box Conservation.

[136]K. R. Kingsbury to Our Lessors and Producers From Whom We Purchase Crude Oil, 18 January 1936, GTWHP, Carton 155083, Box Conservation.

[137]Standard Oil Company of California, Statement for the Press, 25 February 1936. GTWHP, Carton 155083, Box Conservation.

[138]Under one plan to reward operators who complied, a "Producers' Conservation Board" would pay producers a set premium to restrict production to the specified allotment. R. K. Davies to K. R. Kingsbury, 1936, GTWHP, Carton 155083, Box Conservation.

[139]M. E. Lombardi to K. R. Kingsbury, 29 January 1936, GTWHP, Carton 155083, Box Conservation.

[140]W. H. Berg to K. R. Kingsbury, 3 February 1936, GTWHP, Carton 155083, Box Conservation.

[141]M. E. Lombardi to K. R. Kingsbury, 25 November 1936, GTWHP, Carton 155083, Box Conservation.

[142]S. Belither to A. L. Weil, 27 November 1936, GTWHP, Carton 155083, Box Conservation.

[143]Warner Clark to K. R. Kingsbury, 8 April 1937, GTWHP, Carton 155083, Box Conservation.

[144]Warner Clark to K. R. Kingsbury, 9 April 1937, GTWHP, Carton 155083, Box Conservation.

[145]K. R. Kingsbury to A. L. Weil, C. S. Jones, L. P. St. Clair, C. E. Olmsted, S. Belither, and W. F. Humphrey, 27 September 1937, GTWHP, Carton 155083, Box Conservation.

[146]A. L. Well to K. R. Kingsbury, 30 September 1937, GTWHP, Carton 155083, Box Conservation.

[147]C. E. Olmsted to K. R. Kingsbury, 29 September 1937, GTWHP, Carton 155083, Box Conservation.

[148]See, for example, Standard's efforts to position itself to gain access to Union Pacific oil from Wilmington. There was M. E. Lombardi to K. R. Kingsbury, 23 June 1937, GTWHP, Carton 155083, Box Conservation.

[149]"Proration: Oil Collapse Is Pictured," *SFC,* 22 March 1939, 10:7; "Olson Signs Oil Bill: Repeal Threatened," *SFC,* 23 June 1939, 4:1; Burke, Olson's New Deal for California, 116-118.

[150]"Proration: Oil Collapse Is Pictured," *SFC*, 22 March 1939, 10:7.

[151]A promotional pamphlet during the referendum campaign differentiated between the Sharkey and Atkinson measures on the basis of who would be represented on the regulatory commission. Where the Sharkey Bill would have "set up an oil regulatory commission elected by the oil industry itself in such a way that chose with the most production had the most votes," by contrast, the Atkinson Bill "creates an impartial, disinterested public commission, composed of the three highest constitutional officers in the state." "Yes on 5" Committee of Citizens for Conservation and National Defense, "An Economic and Scientific Analysis of the Oil and Gas Control Act of 1939," copy in the possession of the author, 1939.

[152]"Thumbs Down on Oil Bill," *SFC*, 17 May 1939, 12:2.

[153]As quoted in Burke, Olson's New Deal, 117.

[154]Earl C. Behrens, "Oil Control Bill Wins in Assembly After 34-Hr. Fight," *SFC*, 16 June 1939, 1:2, quoting Assemblywoman Jeanette Daley from San Diego.

Sabin - Chapter 8

[155]Earl C. Behrens, “Oil Control: Senate O.K’s Bill, Sends It to Olson,” *SFC*, 20 June 1939, 1:5.

[156]Burke, Olson’s New Deal, 118.

[157]“Oil Prorate: Independents Attack Bill,” *SFC*, 5 April 1939, 4:1.

[158]“Large Controversy Over Oil Bill,” *SFC*, 17 June 1939, 16:5.

[159]“November Ballot Measures: 5. Oil and Gas Control (Referendum of Legislative Act),” Transactions of the Commonwealth Club of California 34: 3 (24 October 1939): 115.

[160]“Oil Control Act Should Have Its Chance,” *SFC*, 21 June 1939, 20:2.

[161]Federal support for the Atkinson Bill reflected growing concern about the waste of oil on the Pacific Coast. Interior Secretary Ickes and Navy officials had begun to push legal action to establish U. S. title to offshore oil, partly because of their perception that California oil was being rapidly and wastefully withdrawn. William S. Neal, “Navy Starts Drive To Claim Deposits Of Under Sea Oil,” *SB*, 3 May 1938, 4:5.

[162]“Proration: Oil Collapse Is Pictured,” *SFC*, 22 March 1939, 10:7.

[163]“November Ballot Measures: 5. Oil and Gas Control (Referendum of Legislative Act),” Transactions of the Commonwealth Club of California 34: 3 (24 October 1939): 106-107.

[164]Harold C. Morton, Los Angeles Attorney and Independent Oil Producer, in “November Ballot Measures: 5. Oil and Gas Control (Referendum of Legislative Act),” Transactions of the Commonwealth Club of California 34: 3 (24 October 1939): 107.

[165]J. B. Wells, “Oil Curtailment and New Drilling,” *SFC*, 16 May 1938, 8:4.

[166]See, Alfred E. Kahn, “The Combined Effects of Prorationing, the Depletion Allowance and Import Quotas on the Cost of Producing Crude Oil in the United States,” Natural Resources Journal 10 (January 1970): 54.

[167]See, Joseph Jensen, “A Maximum and Minimum Method of Curtailment,” 4 February 1935, Lloyd Corporation Ltd. Archive, Box RBL 5 (1), Folder Central Committee of California Oil Producers- J. R. Pemberton, Oil Umpire-letters, etc., HL.

[168]Bain, Pacific Coast Petroleum Industry, Part II, 86-87.

Chapter 9

"Many millions are urgently needed":

California Tax Politics and Highway Construction, 1923-1933

> Because the Standard Oil Company (California) manufactures and sells asphaltum, because it manufactures and sells motor oil and gasoline, because its own service operations from the Canadian line to the Mexican border are so largely dependent upon motor vehicles—from tank-trucks to salesmen's runabouts . . . the Standard Oil Company also believes thoroughly in good roads. It is as interested as anybody in the construction and maintenance of highways.[1] Standard Oil Bulletin, August 1919

By 1940, forty percent of each barrel of oil in the United States went to roadway use by motor vehicles.[2] The rapid development of streets and highways in California and the nation thus helped establish and solidify the market for petroleum. What role did politics and public policy play in determining the extent and nature of the infrastructure of consumption? This chapter shifts from access to resources and industrial regulation to transportation finance and investment. Abundant supplies of petroleum, made accessible on generous terms by the state and federal governments, stimulated the California oil market by driving down oil prices. Regulation sought to moderate this price decline and stabilize the oil market to insure industry profits and the long-term health of the oil sector. At the same time, government agencies invested vast public resources in an extraordinary network of roads and highways. How did the state government decide how much to spend on its new state highways? How much did public investment matter to the rise of the automobile and the dynamism of the oil sector?

At the opening of the twentieth century, Americans relied largely on streetcars and railroads for their mechanical transport over land. Not long after World War II, many of the streetcars had disappeared or declined, replaced by automobiles and buses, and railroads were losing their competition with the trucking industry. This shift in the transportation economy profoundly increased energy consumption, particularly petroleum use. Although California's railroads also burned petroleum, having switched quickly from imported coal to local oil, railroads were more energy efficient than the new automobiles and trucks. Electric streetcars in Los Angeles and San Francisco likewise concentrated energy use through mass transportation and used energy more efficiently than individual automobiles. Streetcars also relied on different energy sources and delivery mechanisms.

The enormous energy demands of the motor vehicle revolution prompt the central question of this chapter: why did highways replace mass transit so completely and so rapidly in California? Pure consumer demand for the autonomy, flexibility, and social status promised by motor vehicles explains much of the shift.[3] Yet simple desire cannot fully explain the transformation. Political and economic conditions also strongly promoted public investment in roads and highways and decisively shaped consumer demand.

Sabin - Chapter 9

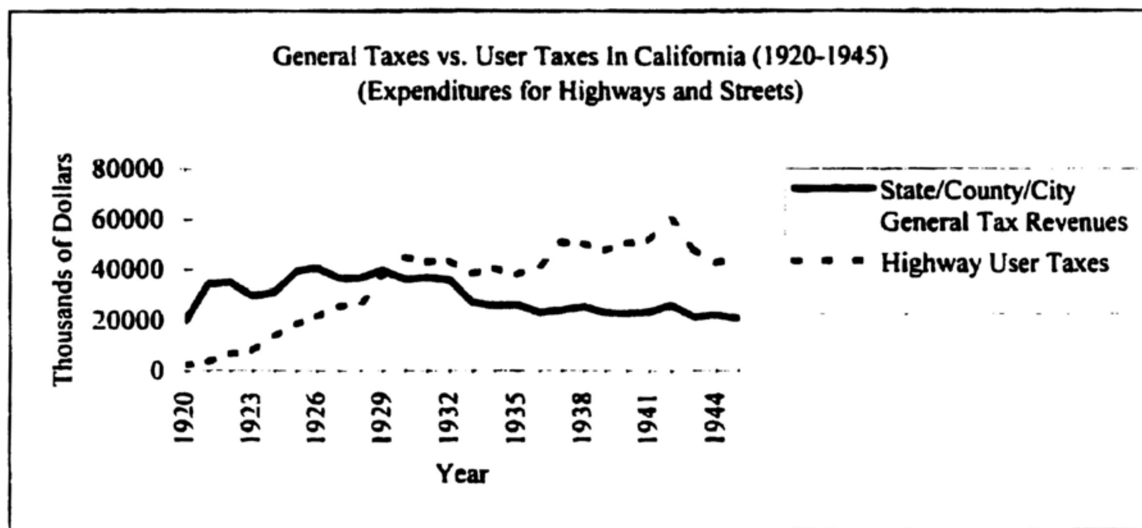
This chapter analyzes how state financial policy helped determine the *relative* balance between different forms of land-based transportation in California. I begin by discussing the new institutions of user financing for highways. In the early l920s, California imposed two gasoline taxes and increased motor vehicle registration and license fees, levies on motorists that were earmarked for highways. I then describe how highway advocates defended the user financing system against the financial and political pressures of the depression, when politicians sought to spend motorist taxes on things other than highway construction and maintenance. Successful defense of highway funding protected the tremendous revenue stream flowing into infrastructure development. Political action by highway advocates culminated in 1938, when California voters approved a constitutional amendment that guaranteed that California would continue to earmark motor vehicle taxes for highway development. This constitutional amendment defined state highway financing until 1974, when it was partially revised, and it powerfully shapes state highway policy to the present day. Finally, after surveying this political struggle over highway funding, I consider how public finance and comparative tax burdens help explain the relative balance between motor vehicles, streetcars and railroads in California.

Many historians may find it difficult to see railroads and streetcars as beleaguered businesses suffering from financial discrimination at the start of the twentieth century. American railroads received substantial aid from state, local and federal governments in the process of achieving dominance over American transportation in the nineteenth century.[4] In addition to direct financial assistance, railroads benefited from lenient franchises, limited legal liability for both public and employee injuries, broad powers of eminent domain, outright grants of state and federal land, and occasional exemptions from taxation.[5] Similarly, streetcars often originated in a complicated mix of entrepreneurial initiative and political influence. Commonly built as infrastructure essential to opening real estate to development, streetcar monopolies became the focus of frequent conflicts over fares, overcrowding, and safety.[6]

But by the early twentieth century motor vehicles had become the newly favored mode of transportation. County and state highways benefited from assistance comparable to that received by the railroads, canals, and turnpikes a century before. At first, highway subsidies came directly from general property taxes, as with three California bond issues arranged before 1923. The switch to a user financing system reduced that direct subsidy while conferring on highways a unique combination of public and private rights. Newly defined as a private good— financed and consumed by users— highways enjoyed valuable public exemptions from real estate and sales taxes and also benefited from generous rights to tax users and condemn land. As California's highways flourished with this public assistance, the "private" nature of the user financing system simultaneously freed the highway program from the pressures of competing public objectives, most noticeably during the difficult depression years. The mix of public assistance and institutional autonomy combined to give the highway system a substantial comparative advantage over forms of mass transit. Governmental assistance to motor vehicles thereby helped to entrench long-term patterns of motor vehicle transportation in California and the nation.

Many critics of the automobile's expansion have noted how governments at all levels directly subsidized road construction and maintenance.[7] This chapter moves beyond direct subsidies to

evaluate how the system of user financing itself played a crucial role in state highway development before World War II. During the period between 1920 and 1945, California state, county and municipal general funds paid for some $766 million of highway and street expenditures while highway user taxes— including motor fuel taxes and motor vehicle registration fees— paid for $902 million.[8] The balance between general funds and user taxes shifted considerably over the time period. User fees contributed only ten percent of total expenditures in 1920 but climbed to sixty five percent by 1945. This movement away from local property taxes and state bonds represented the establishment of a user financing system in California.[9]



Source: Zettel, An Analysis of Taxation for Highway Purposes, 113-114.

Highway critics and advocates, past and present, generally have characterized the switch from direct subsidy to user financing as having brought greater equality of competition to the different forms of transportation and as having more fairly allocated the costs of highway construction and maintenance. While the increase in user fees did sharply reduce the burden of highways on the general fund, the substitution of user fees for general fund support aided highway development in new and equally important ways. In this chapter, I examine how the earmarking of user taxes for highway construction and maintenance changed the politics and economics of highway financing by freeing the highway program from earlier constraints on growth.

At the end of the late nineteenth century, residents of California relied on railroads, streetcars, and water transport as their primary forms of transportation. Dusty paths in summer and muddy morasses in winter, California roads were constructed and maintained as "temporary expedients resorted to only when forced by necessity."[10] Local governments met their responsibility for the roads by exacting property taxes, poll taxes, or labor from area residents. In the closing decade of the nineteenth century, California's bicyclists and then motorists sought better roads for their vehicles.[11] Farmers also called for improvements in rural road transportation. "Good roads"

advocates— increasingly led by the motorists and a growing group of highway engineers— cried out for road reform through the provision of roads by the state government.[12] In 1909, motorists pressed for and obtained state general funding with the first of three state bond issues for highway construction. Between 1909 and 1919 Californians approved highway bonds totaling $73 million.[13] These bond issues made California's general taxpayers, rather than the localities, responsible for the new state highways and defined those highways as a common good shared by all Californians.

The bond issues helped transform hundreds of miles of graded roads into paved highways.[14] Still, the bonds did not provide sufficient funds for highway expansion and maintenance, according to highway officials and motorist clubs. As a result, in 1923, the California State Legislature invoked principles of "fairness" and "benefit" and created a segmented user financing system. According to this "benefit theory" of taxation, taxes should have a clear relation to the benefits received by an individual taxpayer.[15] In California's new system, motorists paid "user taxes" to the state in the form of motor fuel taxes and motor vehicle registration fees. Justifying the taxes as payments in proportion to benefits received, the state legislature separated highway user taxes from the general fund and treated them as capital to be invested exclusively in highways by the state and county highway divisions. Among the "recognized merits" of this form of taxation were that "those who use the roads pay for the privilege, and also that they pay in proportion both to the amount and kind of use."[16] Gasoline usage served as a proxy for road usage, and the tax thereby allocated the burden among motor vehicle users.

By switching from general financing to user financing, California redefined its highways from a common good provided by the state to a substantially private good financed by a particular group of users. Most Californians agreed that it was unfair to charge property-owners who drove little to make travel cheap for more frequent road users. In an effort to be fair to property taxpayers, then, and because of weak political support for more bond issues, California abandoned bond financing. Instead, the state asserted a benefit theory of taxation that made the highways a "private" good (yet with many "public" rights, including the power to tax, the power of eminent domain, the authority to implement a statewide highway plan. and an exemption from several general state taxes). California's experience, however, revealed some of the inherent limitations of "privatizing" transportation. However much highway supporters asserted that motor vehicle taxes followed the "benefit" logic of user fees, the relationship between the fee and the special benefit conferred was never as direct as with other user charges. A marriage license fee, for example, legally authorizes the marriage of two individuals at a certain point in time. By contrast, the gasoline tax and motor vehicle fees supported a wide-ranging governmental enterprise that, after education, constituted the largest single expense in the California budget during the late 1920s and 1930s. Highways could not be consumed privately without shaping the entire transportation network. California's user financing system and government aid determined the transportation options of people who were not taxed and who did not "consume" highways. The benefit theory of taxation assumes that benefits can, and should, be segregated into distinct units. California's experience with highways underscores the need to look at transportation as a single system.

In its "benefit" justification and in its ultimate consequences, California's privatized user financing for highways shared many attributes with the older nineteenth century system of special property assessments for public works. Typically, local governments used special assessments to fund local construction projects and assessed nearby property owners on the basis of the roads' value to them. The special assessment system led easily to a "segmented" provision of public works. Wealthy residents who could afford sidewalks, sewers, lights, and roads paid for them while poorer neighborhoods went without.[17] California's new highway financing system resulted in a similarly unequal distribution of public goods among different groups of citizens. Motor vehicle users received California's renowned highway network, but left those people who relied on mass transit, like railroads and streetcars, with declining infrastructure.

In the 1920s and 1930s, "motorists" was not a term that encompassed the whole public. Similarly, a particular group of roadway users, not all motorists, acted as the primary advocates for the state highway system. Highway advocates included middle and upper-class recreationalists, inter-city commercial carriers and farmers. Touring Topics, for example, the magazine of the Southern California Automobile Club, catered to a middle and upper-class clientele with the time to tour in their automobiles.[18] The magazine is replete with pictures of women in riding clothes or fur coats and full of articles on the national parks, prominent Los Angeles individuals, or an Arabian horse in California. Relations to the means of consumption, automotive transportation defined this distinctly 1920s sort of "class."[19] Other powerful supporters of the highways included those with an economic stake in the expansion of highways and the highway budget, such as highway contractors, automobile manufacturers, petroleum companies, and highway department officials. In the 1920s and 1930s, for example, California's largest petroleum company, the Standard Oil Company of California, strongly promoted the combination of automobiles and parks that has come to define American tourism.[20]

Detailed statistics on the "motorist class" are not easily found. Automobile ownership rose rapidly during this time period, so the boundaries changed constantly. In April 1931, California averaged one motor vehicle for every 2.7 persons.[21] Yet registered vehicles do not reliably indicate vehicle use. Los Angeles had one motor vehicle for every 2.9 persons in 1929, compared to one for every 1.7 persons in 1979, yet the role of those automobiles within the transportation system changed dramatically over the time period.[22] In the 1920s and l930s, Californians did not generally rely solely on motor vehicles for transport. In 1931, California's electric railways reported carrying a total of 577 million passengers in the population of roughly 5.6 million, yielding an average of 105 rides per capita each year.[23] Fare passenger statistics from 1928 indicate even more rides per capita in urban areas alone, reaching 216 in Los Angeles, 260 in San Diego, and 414 in San Francisco.[24] A similarly large portion of the population probably walked to their destinations. Automobiles were thus part of a hybrid transportation system, one in which the relative composition and emphasis shifted over time.

As more of the population joined the "motorist class"— in part because of the dominant infrastructure created by a successful financial program— the uneven balance in transportation became less an indicator of conflict between different classes of consumers than an inefficient provision of transport options to the public as a whole. Even as Californians used both mass

transit and motor vehicles, the state's unbalanced fiscal structure narrowed the public's transport options by strongly favoring highways. By the l960s, as California's renowned roads overwhelmed the state with smog and congestion, many Californians realized that their user financing system had succeeded too well.

Establishing a "fair" system of highway finance: 1923-1933

Before the institution of user financing in 1923, California highway maintenance and construction suffered for lack of money. The1922 biennial report of the California Highway Commission reveals the agency scrambling for funds to support the basic maintenance of the state system. The commission depended on a legislature reluctant to appropriate money for highways. The legislature had refused funds for repair "in advance of actual deterioration of the roadbed," the commission complained. Without this money, during the previous two years the highway commission could carry out this work only "where emergency conditions existed."

> The work can not be carried on indefinitely unless funds for this special purpose are provided. Given these funds the loss to the state of its original investment will be very small. Denied them, the destruction of hundreds of miles of roads can be expected. Those in charge of financing the state highway system face a heavy responsibility in this matter, a responsibility that can not be avoided for another two years.

Announcing "an urgent necessity for widening and thickening the paving on the main highways of the state," the highway commission expressed its dismay at the lack of funds for road repair, and saw a gasoline tax as the proper solution to the problem. The commission had hoped that the legislature would adopt a gasoline tax during the previous session. But the legislature had failed to do so. Consequently, the commission had "been unable, during the past two years, to carry on more than a very limited widening and thickening program." The commission declared that there was an "imperative need for augmented motor vehicle funds, or perhaps better, for a new fund such as might be created by a gasoline tax, which can be devoted exclusively to the work of widening and thickening the 15-foot bases."[25]

Faced with declining funds from the third bond issue, the highway commission complained about how the uncertain financial situation caused disorderly highway policy. "The hit-and-miss, happy-go-lucky plan under which the road work in California has been financed in the past must give way to a carefully thought out and scientifically planned policy of highway financing," the commission urged. Casting about for more reliable funding, the commission presented three financial options: payments from the state general fund, a bond issue, or a combination of a bond issue and higher user fees. The commission recommended the third option, that another bond issue should be raised and that "users of the roads should be asked to bear a larger share of the highway burden than has been placed on them in the past." The institution of a gasoline tax and the increase of motor vehicle fees, particularly on commercial vehicles, would constitute a "practical and fair method for imposing a larger share of highway costs upon highway users."

Finally, the commission asked the legislature to cease adding road mileage to the state highway system unless "finances for their improvement and maintenance are provided."[26]

The dismay of the highway commission proved brief. In 1923, the California Legislature finally heeded the commission's dire warnings and approved a fresh flow of money for the highway program. Simultaneously, the legislature sought to reduce the burden of the expensive highway program on the general taxpayer. All the new money came from highway users. The state's new financing scheme thus transformed the highways from a wholly common good, funded by a general state bond issue, into a partially private benefit, whose maintenance and reconstruction would be financed by users. The state legislature followed the guidance of the State Board of Equalization, which had concluded in 1922 that "the benefit theory of taxation applies and a tax in proportion to use is indicated." The new highway program relied on several general principles of "benefit" taxation.[27] First, highway users, rather than the general public, would bear the financial burden beyond the provision of local roads and streets serving specific property owners. Since construction continued to be supported by the third state highway bond issue, the legislature still designated construction a common state responsibility to be paid from the general fund. But users would pay for all maintenance and improvement. Second, taxes would be paid in proportion to highway use. A tax per gallon of gasoline, in this case two cents per gallon, would provide a rough approximation of highway mileage use, and thus distribute the burden of maintenance and reconstruction onto those who most benefited from the roads. Third, trucks and buses, whose weight caused the roads to deteriorate more than the lighter automobiles did, would pay more for the greater benefits they received from the highways. Consequently, the legislature also raised state registration fees, with higher fees for heavy commercial vehicles. The legislature also determined that there should be a special tax for the commercial use of the highways. The legislature passed a transportation license tax that provided for a four per cent gross receipts levy on for-hire motor vehicle carriers.[28] All the new revenues from fees and taxes were reserved specifically for highway development.

In the Biennial Report of 1924 the highway commission cast aside the grim disappointed tone of its 1922 report. The influx of cash as a result of the 1923 measure made possible a range of new highway work. "The reconstruction and improvement of about 200 miles of highway will be accomplished during 1924 by this measure, and the maintenance of the existing highways has been brought to a high state of efficiency." The commission estimated that the gasoline tax measure plus the greater license fees would produce $18 million per year. The state highway division would control half that revenue, while the remainder would be allocated to the counties on the basis of their proportional automobile registration. This proportional distribution of user taxes reflected the "benefit" rationale of user financing.

Following legislative approval of the new funding, the state highway department affirmed its alliance with the motorists who supported it financially. The department reminded motorists of the benefits that they received from the charges, and of the "fair" principles that lay behind them. In the highway department's California Highway and Public Works, for example, pictures and diagrams of widened highways and eliminated railroad grade crossings bore captions declaring that they were "A gasoline tax job" or that they had been "financed with gasoline tax and motor

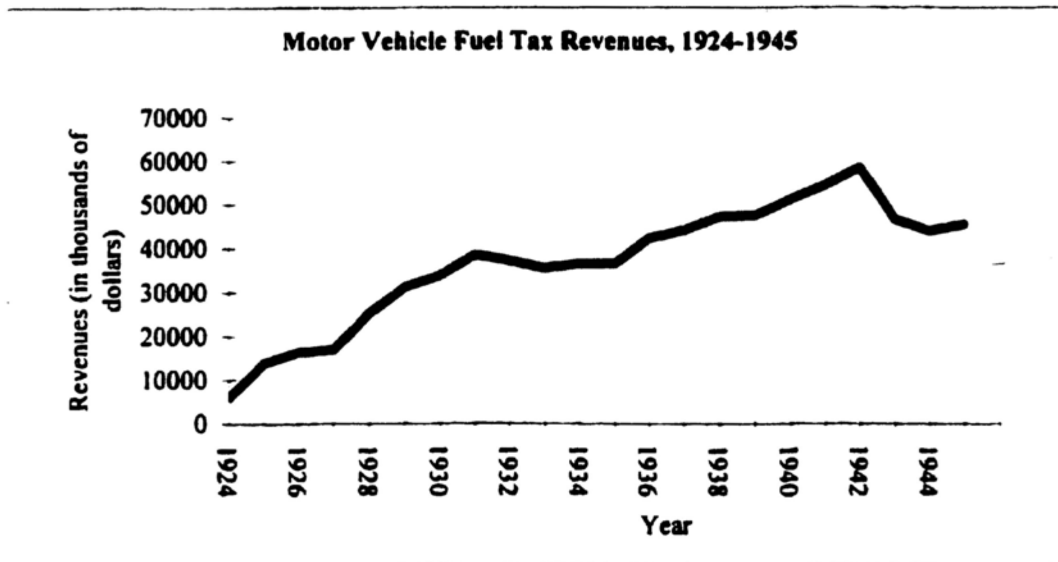
vehicle revenues."[29] With each mention of the gasoline tax, the magazine similarly affirmed that the funds received are "reserved by law for maintenance and reconstruction of existing state highways and can not be used for new construction."[30] These constant reminders of the benefits and logic of the gasoline tax promoted the work of the highway administration and built popular support for an imminent increase of the gasoline tax to fund new construction. California Highway and Public Works emphasized that the gasoline tax was a unique fiscal tool "sweeping the United States on a wave of popularity even in these days of public clamor against taxation":

Its popularity is held due to the fact that it is 'painless'— hardly felt because paid indirectly in nickels and dimes at filling stations on just the number of gallons put into the tank at the time— and yet it produces large sums for good roads. Also, it is held the fairest tax because the most used cars and heavy ones pay in proportion to their benefits from good roads and the wear and tear they inflict upon them, and because tourists are made to pay toward the roads they use. It is the cheapest of all taxes to collect."[31]

The highway department was not alone in declaring the popularity of the gas tax. While it is difficult to determine how individual motorists viewed the levy, the gas tax received strong support from motorist representatives, including the automobile clubs and highway supporters in the state legislature. Partly because gas prices generally were in decline in the early 1920s and also because motorists paid the tax in small increments, highway departments in California, like those around the country, received few complaints about the new tax.[32]

Given the success of the gasoline tax in raising revenue for maintenance, the highway commission pleaded for more funds to allow it to complete the construction of the state highway system. "Many millions are urgently needed," the commission announced. While the first gasoline tax had enabled the most essential repair work, the "completion of the [highway] system demands a continuous and adequate income for the State Highway Commission for new construction, reconstruction, and maintenance." The commissioners estimated that completing the state highway system would cost $200 million and pointed out that an additional "tax on the users of the highways" could provide the commission with a total annual income of at least $20,000,000.[33] The State Highway Engineer, R. M. Morton, agreed with the commission and argued that "the highway organization should be placed on a permanent revenue basis, be the revenue large or small." He criticized the disruptive influence of uncertain finances. "More effective work can be done through a permanent organization than by a temporary one such as is required by spasmodic increments in funds from time to time."[34]

By 1926, California bad spent the last of its $73 million in highway bond money.[35] But the state legislature resolved the financial difficulties bemoaned by the highway department and highway advocates by passing a one-penny gasoline tax for highway construction in 1927. The tax was instituted for a period of at least twelve years. Ralph Bull, chairman of the California Highway Commission, noted that financing new construction, "the most acute problem of all," had been solved. The one-cent gas tax was "important, not only for the revenues that it will make available for building roads, but also because it establishes a policy of continuous financing for our highways."[36]



Source: Zettel, An Analysis of Taxation Purposes, 36

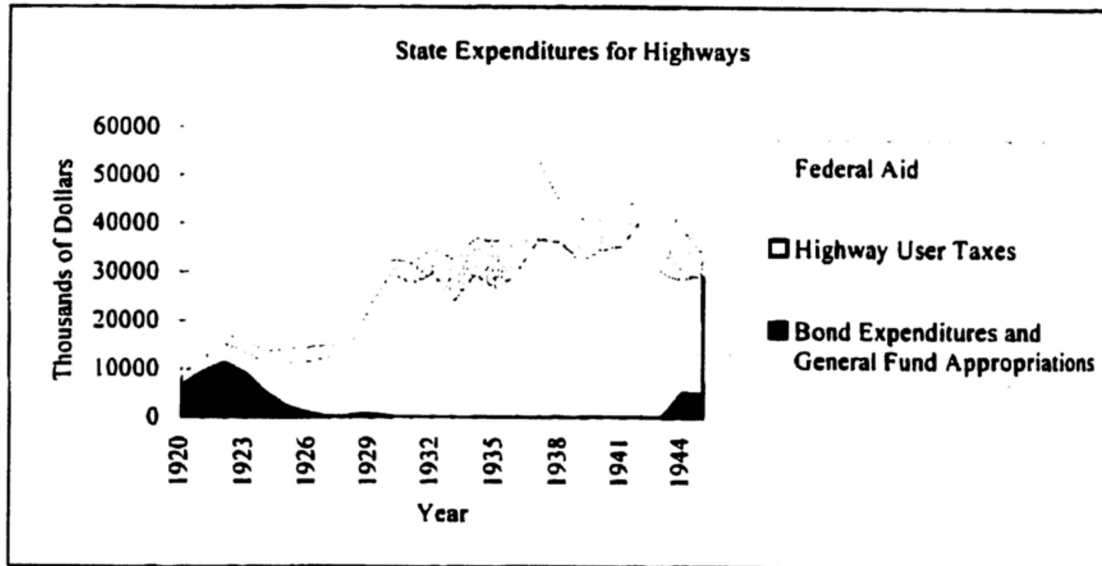
Highway officials received such a windfall of money from the additional one-penny tax that they initially did not know how to spend it. Remarking on the $7,500,000 estimated for expenditure in 1928, the highway department magazine described a rush of planning to prepare a construction program for the new revenues: "the rapidity of construction will be governed by the fact that the one-cent gasoline tax . . . is received in half-yearly periods." Spending needed to proceed apace, the magazine indicated in November, for "Another payment will be made in May."[37] Soon the highway commission required vendors to submit gasoline tax receipts at progressively shorter intervals, going from quarterly payments in 1927 to monthly installments in 1931, providing the department with continuous funding for its growing array of projects.[38]

Once California established its user financing system, the steady stream of money that flowed from motorists to the highway administration decisively altered the economics and politics of highway finance. In addition to adding huge sums to the highway budget, continuous financing— called the "pay-as-you-go plan"— yielded substantial savings by eliminating interest charges and allowing budgeting and long-term planning. The new user financing system also effectively removed the state legislature from financial and political participation in the California highway program.

The pay-as-you-go plan provided significant savings over bond financing and also facilitated financial planning. California's three highway bond issues raised a total of $74 million for the highways, but with interest charges their final repayment would soar to $132 million.[39] User financing through highway taxes eliminated the interest charges altogether. Other "radical" changes in state accounting that resulted from the pay-as-you-go plan, announced E. Roy Higgins, Chief Accountant for the Department of Public Works in 1928, included the institution of a highway budget.[40] For the first time, the highway program could engage in long-term

planning based on a secure funding base. Highway officials welcomed their newly established position. B. B. Meek, Director of Public Works in 1930, celebrated "the carefully planned-in-advance building program that follows as a necessary result of the budget system." According to Meek, the budget enabled engineers to plan highway projects ahead of schedule and create a "reservoir of available highway projects."[41] Soon the highway department extended the biennial planning system to ten-year planning. C. H. Purcell, the State Highway Engineer described similarly in 1932 how "current continuous revenues" allowed for an efficient administrative organization that could work consistently at maximum capacity.[42] Bond issues, Purcell maintained, pushed an organization into a disruptive cycle; bonds required the rapid creation of a large organization to handle the large influx of money, and as the money was spent, the organization would persist, thus raising overhead expenses.

The political impact of California's new financing program equaled the financial benefits of eliminating interest and enabling long-term financial planning. By approving the user financing measures of 1923 and 1927 the state legislature substantially withdrew from financial participation in the highway program. Between 1920 and 1943, the state appropriated only $2.2 million to highway expenses, other than interest and redemption on the earlier state bond issues. This legislative contribution paled beside the $676 million expenditure of highway user taxes and federal aid. Even more striking, after the last of the third bond issue was spent in 1926, the state appropriated almost no funds to highways until 1944. During the years of deepest economic crisis and World War II, between 1931 and 1943, the state allocated a mere $20,000 to highway expenses, excluding previously scheduled bond interest and redemption charges. By comparison, federal aid and highway user taxes contributed $532 million during that same period of time. (Federal aid provided only a small fraction of state highway expenditures, as indicated in the graph below.) These figures do not mean that the state withdrew permanently from active participation in highway finances, as would be revealed when the state legislature again appropriated $5 million in 1944 and $4.7 million in 1945.[43] In 1947, however, the legislature passed the Collier-Bums Act, again turning to highway user fees to pay for further expansion of the California's roadways. Once the California legislature discovered user financing, it never again spent substantial general fund monies on highways. Reduced financial participation by the state legislature and the state general fund decreased California's direct subsidy of highways. But it also meant that non-highway users had a lesser stake in highway finances and a more difficult task if they sought to challenge the rapid growth in highway expenditures.



Sources: Zettel, Analysis of Taxation for Highway Purposes, 70; California Highway Commission, Fifth Biennial Report, 1926, 170.

As user financing separated the highways' revenue stream from general fund revenues, the highway program simultaneously reorganized its administrative structure, establishing the highway department as a separate entity within the state government, largely isolated from legislative or executive control. Administrative reorganizations thus followed each of the gasoline tax increases. The 1923 reorganization removed the highway commission from the Department of Public Works and made the commission a separate state department, led by the State Highway Engineer. In 1927, the state legislature returned highway responsibilities to the Department of Public Works, but also created a separate five member highway commission, whose members were unpaid but had the power to alter highway routes, allocate money, and authorize condemnations of land for rights of way.[44] The state legislature evidently sought to combine independence from "political" influence with integration into the state bureaucracy. After 1927, the State Highway Engineer and the Director of Public Works prepared the biennial highway budgets in a process involving only minimal legislative participation. Free from the burden of asking for a legislative appropriation, the California Highway Commission automatically received its revenue from the gasoline tax, motor vehicle fees, and federal apportionment. The commission then allocated the funds to state highway projects according to a percentage system.[45] California's highway user tax laws mandated how the commission would distribute revenues between institutions (proportionately among the state, county and municipal governments) and between geographic regions (split between northern counties and southern ones, and urban and rural areas).[46] In this allocation by formula, the legislature and the Director of Public Works, a gubernatorial appointee, had to agree only that the budgeted projects met the mandated criteria. The contest over the allocation system remained fiercely political, of course, and disputes over mandated percentages raged for decades.[47] But debates over proper formulas

and percentages involved only a narrow range of questions, none of which included how much to spend on highways or how highway spending fit into state public policy more generally.

In effect, by 1927, the state legislature had eliminated most of the potentially controversial questions about financing California's massive highway program. The new system of gas taxes and registration and license fees worked more or less automatically. This system isolated highway finances from the pressures of competing public enterprises, most importantly in the 1930s when the state plunged into fiscal crisis. No wonder the San Francisco Examiner declared of the 1927 one penny gasoline tax that IT WILL END OUR HIGH WAY TROUBLES. No more bond issues, no more legislative squabbles, no more waste of time. Every part of the state upbuilt."[48]

Sabin - Chapter 9

Endnotes: Chapter 9

[1]"Extending the Highway Mileage," Standard Oil Bulletin 7, no.4 (August 1919): 5.

[2]89% of gasoline went to highway use, and 44.4 percent of oil was used for gasoline— yielding 40% for gasoline on highways. Energy in the American Economy, 119, 122.

[3]Warren James Belasco, Americans on the Road: From Autocamp to Motel. 1910-1945. Cambridge, MA: MIT Press, 1979; James J. Flink, The Automobile Age. Cambridge, MA: MIT Press, 1988; Virginia Scharff, Taking the Wheel: Women and the Coming of the Motor Age. New York: Free Press, 1991; Scott Bottles, Los Angeles and the Automobile: The Making of the Modern City. Berkeley: University of California Press, 1987.

[4]George Rogers Taylor. The Transportation Revolution, 1815-1860 New York: Rinehart & Company, 1951.

[5]In California, the Southern Pacific Railroad Company particularly dominated state politics in the late nineteenth century and shaped the legal regime to its advantage. See, William Deverell, Railroad Crossing: Californians and the Railroad, 1850-1910. Berkeley: University of California Press, 1994; George Mowry, The California Progressives. Chicago: Quadrangle Paperback, 1963 (1951); Spencer Olin, Jr., California's Prodigal Sons: Hiram Johnson and the Progressives, 1911-1917. Berkeley: University of California Press, 1968. More generally on the relationship of law to transportation development, see, Lawrence M. Friedman. A History of American Law. New York: Simon and Schuster, 1973; Morton J. Horwitz, The Transformation of American Law, 1780-1860. Cambridge, MA: Harvard University Press, 1977; Wex S. Malone, "The Formative Era of Contributory Negligence," Illinois Law Review 41 (1946); Harry N. Scheiber, "Property Law, Expropriation, and Resource Allocation by Government: the United States, 1789-1910," Journal of Economic History 33: 1-2 (1973): 232-295; Gary T. Schwartz, "Tort Law and the Economy in Nineteenth-Century America: A Reinterpretation," Yale Law Journal 90: 8 (JuIy 1981): 1717-1775.

[6]See, for example, Bottles, Los Angeles and the Automobile, 29-34.

[7]Kenneth Jackson, Crabgrass Frontier: The Suburbanization of the United States. New York: Oxford University Press, 1985; Paul Barrett, The Automobile and Urban Transit: The Formation of Public Policy in Chicago, 1900-1930. Philadelphia: Temple University Press, 1983. Direct subsidies include money spent on highway costs not covered by user fees, while indirect assistance encompasses externalities borne by the entire public, such as air and water pollution, personal injury costs, or opportunity costs of land. For an estimate of public subsidies, see Mark E. Hanson, "Automobile Subsidies and Land Use: Estimates and Policy Responses," Journal of the American Planning Association 58: 1 (Winter 1992): 60-71.

[8]Richard M. Zettel, An Analysis of Taxation for Highway Purposes in California, 1895-1946: Submitted to the Joint Fact-Finding Committee on Highways, Streets and Bridges. Sacramento: California State Printing Office, 1946, 113-4: "Adjusted Statement of Highway User and General Tax Revenues Expended for Highway and Street Purposes by the State, Counties and Cities of California, 1920-1945." Included in Zettel's calculation are $36 million of transportation license taxes that I believe should be credited to the general fund. They were taxes on commercial activity comparable to the gross receipts taxes paid into the general fund by the public utilities, like railroads and streetcars. To make the calculations easier, however, I have not altered Zettel's figures.

[9]For a discussion of the rapid rise of the gasoline tax generally, see John Chynoweth Burnham, "The Gasoline Tax and the Automobile Revolution," Mississippi Valley Historical Review 48 (Dec. 1961): 435-459.

[10]Caiifomia Bureau of Highways, Biennial Report, 1896, 8, as quoted in Zettel, An Analysis of Taxation for Highway Purposes, 6.

[11]On Los Angeles, see Robert M. Fogelson, The Fragmented Metropolis: Los Angeles, 1850-1930. Berkeley: University of California Press, 1967, 94. Taylor, Transportation Revolution, describes how the turnpike boom of the early nineteenth century petered out with the rise of the railroads and canals. Locally constructed interurban and

rural roads remained muddy quagmires until the growing popularity of the bicycle and automobile led good roads advocates and farmers to push for better roads at the end of the nineteenth century. In response to pressure from "good roads" advocates as well as farmers, this late nineteenth century read improvement led slowly to centralized, state-financed road administration. Hal S. Barron. "And the Crooked Shall Be Made Straight: Public Road Administration and the Decline of Localism in the Rural North, 1870-1930," Journal of Social History 26: 1 (Fall 1992): 81-103.

[12]See, Bruce E. Seely, Building the American Highway System: Engineers as Policy Makers. Philadelphia: Temple University Press, 1987.

[13]Zettel, An Analysis of Taxation for Highway Purposes, 17-18. "A committee of twenty-one representing the State Highway Commission, the automobile clubs, and other interested groups" carried out the campaign for the third bond issue of $40 million. Key, Jr. and Crouch, The Initiative and the Referendum in California, 464.

[14]"Extending the Highway Mileage," Standard Oil Bulletin 7, no.4 (August 1919): 5.

[15]Edwin R. A. Seligman. "Progressive Taxation in Theory and Practice, Second Edition," American Economic Association Quarterly IX: 4 (1908): 150. By the early twentieth century, American governments had begun to move away from a benefit calculation towards tax assignment based on an individual's ability-to-pay (or the equality of sacrifice on the part of each individual). Yet motor vehicle taxes still came to be viewed through a "benefit" framework, seen as user fee payments for special privileges provided by the government. For movement away from the benefit theory, see Edwin R. A. Seligman, Essays in Taxation, Tenth Edition. Boston: Macmillan and Co., 1928, 336. Seligman defines a fee as a "payment for a service or privilege from which a special measurable benefit is derived"; by contrast, a "tax is a payment where the special benefit is merged in the common benefit or is converted into a burden" (412). Highway levies fit somewhere between user fees and taxes; they paid for a special privilege, but in the form of such a broad and extensive program of government investment that it went far beyond the "specific measurable benefit" of a user fee.

[16]L. D. Gifford, "What Value Highways?," Tax Digest 12:11 (November 1934): 367. Judge William Raymond Green's complimentary remarks on the gasoline tax in 1938 highlighted the theoretical underpinnings of the user financing system as it functioned throughout the nation: "it is doubtful whether there is any tax as to which there are so few objections from a scientific standpoint and so few complaints from the taxpayers . . . The tax finds its justification in the fact that it is largely expended for the direct benefit for those who principally pay it, namely the owners of motor vehicles." William Raymond Green, The Theory and Practice of Modern Taxation, 2nd Edition. New York: Commerce Clearing House, Inc., 1938, 186.

[17]Robin L. Einhorn, Property Rules: Political Economy in Chicago, 1833-1372. Chicago: University of Chicago Press, 1991.

[18]See, for example, Touring Topics 21:10 (Oct 1929).

[19]Many recent studies on consumer culture address this question of class defined through consumption. See, for example, Richard Wightman Fox and T. J. Jackson Lears, eds., The Culture of Consumption: Critical Essays in American History, 1880-1980. New York: Pantheon, 1983; and, Richard Wightman Fox and T. J. Jackson Lears, eds., The Power of Culture: Critical Essays in American History. Chicago: University of Chicago Press, 1993. I take the term "class" from the newspapers and auto clubs themselves. See, for example, "Owners pay big portion of sales tax," *SFC*, March 3, 1935, 9:8. "Federal Gas Tax Under fire," Motorland 36: 4 (June 1935): 1, ("Motorists of the United States are now subjected to special, class taxation"); *SFC*, 26 March 1933; 8:1 (motorists "strongly object to class legislation that would exist if the gas taxes are dumped into the general funds for carrying on the State government"); "Pyramiding Motor Taxes," Motorland 38: l (Jan/Feb'36): 1 ("motor car owners deserve recognition of the fact that they are not just another group of taxpayers actuated by a mere self-interest. They form a group that is already far more heavily taxed than any other class of property owners."). It might also be possible to see the self-consciousness of this class as being produced, or at least articulated, from its taxpayer status.

[20]For typical support of contractors, see D. H. Hill to Arthur Hastings Breed, 4 April 1925, Breed Papers, BL. Writing as secretary of the San Fernando Valley Better Roads Association, “An Association Composed of Material Dealers and Contractors for the Furtherance of Good Roads,” Hill reported his group’s resolution endorsing Breed’s bill to increase the gas tax two cents per gallon for road construction. For Standard Oil’s vision of automobile tourism, see, for example, the description of Pinnacles National Monument in “The Pinnacles’ Spires and Caves,” Standard Oil Bulletin 22: 1 (May 1934): 5-6. “Although officially created twenty-six years ago, the Pinnacles Monument waited until this spring for an adequate highway to reveal its fantastic beauties to motorists. Three years ago the turn-off road from the state highway led to within two miles of the Pinnacles. A trail extended from the end of this road, following the cañon through privately owned property, over which hikers adventured into the region.” W. I. Hawkin, custodian of the monument under National Park Service then worked to get a motor-road to the site. The result: Leaving the state highway, the motorist now rolled through “pleasant pastoral country studded with graceful oaks and past acres of California poppies- a flaming gold carpet spread over the green fields of spring.” After passing through a cañon, “the car sweeps out into a small natural basin between the grotesque hills— the ‘civic center’ of the monument, the location of the rustic Pinnacles Lodge, sleeping-cabins, Chief Ranger Hugh Schilling’s headquarters, the public campground and the parking area. Naturally enough, Standard Gasoline Unsurpassed and other Standard Products are used and dispensed in this area.” For the mixture of Standard’s products and the new automobile tourism, see also, “Yosemite By Tunnel Approach” Standard Oil Bulletin 20: 4 (August, 1932): 3-7; “Winter Sports in California,” Standard Oil Bulletin 16: 8 (December, 1928): 2-11.

[21]Bureau of Research, Statistic & Traffic Safety. “California Motor Vehicle Statistics.” Sacramento: Division of Motor Vehicles and California Highway Patrol, April 1, 1931, 4.

[22]James J. Flink, The Automobile Age. Cambridge. MA: MIT Press, 1988, l43.

[23]Railroad Commission of the State of California. Annual Report, July 1, 1930, to June 30, 1931. Sacramento; California State Printing Office, 1932. 377, Table No. 4-A. I have excluded free transfer passengers, totalling 160 million, from this measurement of total passengers carried.

[24]J. G. Hunter. “Effect of Fare Changes on Street Railway Operations in California,” (San Francisco: California Railroad Commission Engineering Department, Transportation Division, 18 October 1929), 21.

[25]California Highway Commission, California’s Highways: A Discussion of State Highway Problems and Policies. Introduction to First Biennial Report of the Division of Highways, Sacramento: Department of Public Works of the State of California, 1 November 1922, 14, 58-9. In part, the Legislature did not approve the earlier gasoline tax because the auto clubs refused to support it without prior improvements in the state highway administration.

[26]California Highway Commission, California’s Highways, 2.

[27]State Board of Equalization, Biennial Report, 1922, 8-10, as quoted in Zettel, An Analysis of Taxation for Highway Purposes, 23. See also the chapter entitled “The Classification of Public Revenues,” in Seligman, Essays in Taxation. Ray Riley correctly pointed out how the turn to special taxes reflected the increasing difficulty of gaining approval for outlays from the general fund. Consequently, interested groups arranged a private financing mechanism via the state government “As state expenses mounted and taxation increased a tendency developed to raise revenue by special methods and apply it to special purposes. An example of this is the present motor vehicle and gasoline tax. This is collected directly from a certain part of the community and is applied to a use that is particularly for that part of the community.” Ray L. Riley, Press Release, November 1924?, Breed Papas, BL.

[28]Zettel, An Analysis of Taxation for Highway Purposes, 23-24.

[29]California Highway and Public Works 2:1 (January 1925): 1, 10. See also California Highway and Public Works 2:2 (February 1925): 13, and California Highway and Public Works 2:3 (March 1923): 9.

Sabin - Chapter 9

[30]See, for example, "Reconstruction and Maintenance Income for 1924, $8,825,101.67," California Highway and Public Works 1:12 (December l924): 5.

[31]"Gas Tax Popular Because Painless," California Highway and Public Works 1:10 (October 1924): 15.

[32]See, Burnham, "Gasoline Tax and the Automobile Revolution," 446-7, which describes one 1922 Nevada survey of highway officials nationwide that found little protest to the new tax.

[33]California Highway Commission, Fourth Biennial Report of the Division of Highways. Sacramento: Department of Public Works of the State of California, 1 November 1924, 25.

[34]Report of the State Highway Engineer, R. M. Morton, in California Highway Commission, Fourth Biennial Report of the Division of Highways, 44.

[35]California State Highway Commission, Fifth Biennial Report. Sacramento: California State Printing Office, 1 November 1926, 170. There may have been a half million dollars remaining by the time of the Commission report, but it was spent within the following half year. Bond redemption and interest payments by the general fund were scheduled to continue until 1966. Zettel, Analysis of Taxation for Highway Purposes, 72.

[36]Ralph Bull, "State Highways— Past, Present. Future," California Highway and Public Works (November 1927): 6. The 1927 measure resulted from a compromise following a split between the northern and southern automobile clubs in 1926. The northern CSAA had proposed a one-cent gas tax for construction while the southern ACSC had fixed a proportion to go to southern California and had called for the construction money to come from existing revenues for highways. The cement companies, contractors, and other members of the road construction industry supported the gasoline tax measure, in addition to the CSAA. Voters rejected both measures but the one cent legislative compromise followed the next year. Key, Jr. and Crouch, The Initiative and the Referendum in California, 455.

[37]"1928 Road Program in Preparation; Involves $23,500,000 Expenditure," California Highway and Public Works (November 1927): 24.

[38]Marvel Stockwell, Studies in California Taxation. Berkeley: University of California Press, 1939, 95.

[39]Nash, State Government and Economic Development, 333.

[40]E. Roy Higgins, Chief Accountant, Department of Public Works, "Keeping Books on the Highway Budget," California Highway and Public Works (May-June 1928): 11.

[41]B. B. Meek, "A Report on State Highways," California Highway and Public Works (July-August 1930): 1.

[42]C. H. Purcell, State Highway Engineer, "Building Roads Under Budget Plan Has Materially Reduced Overhead Costs," California Highway and Public Works (October 1932): 1.

[43]These figures are drawn from Zettel, Analysis of Taxation for Highway Purposes, 70; Table 18: "Sources and Amounts of Revenue Expended by the State for Highway Purposes, 1920-1945." Between 1920-26, the Highway commission spent the $42.6 million remaining from the state highway bonds. I have excluded repayment of the highway bonds since that investment was approved prior to 1920, and thus does not indicate continuing financial participation by the Legislature. The bond expenditures are added to the general appropriations in the chart. The conflict over how to repay the bonds is discussed below in the text.

[44]Division of Highways, State of California. California highways and public works: centennial edition, September 9, 1850- September 9, 1950. Sacramento: Department of Public Works, State of California, 1950, 80-84. In 1925, the Legislature approved provisions which simplified the process for condemning land for rights of way and which gave

the Highway commission the power to acquire an additional parallel right of way for the preservation of timber. California Highway Commission. Fifth Biennial Report, 1926, 23.

[45]G. T. McCoy, "Our State Highways," Tax Digest 12:9 (September 1934): 294, 312-314.

[46]B. B. Meek, "The Distribution of State Highway Moneys" Tax Digest 6:8 (August 1928): 264-66. See for example, the percentages used for allocation in Governor James Rolph's budget in 1933. State of California, Budget of the State of California for the 85th and 86th Fiscal Years July 1, 1933, to June 30, 1935. Sacramento: California State Board of Control and Budget, 1933, 437.

[47]The cities finally obtained a portion of the gasoline tax in 1933, after complaining that urban highway taxes went primarily to rural areas. For a disgruntled analysis of payments of highway taxes and expenditures of highway dollars in Los Angeles, see Bureau of Budget and Efficiency, "Gasoline and Motor Vehicle License Taxation and Tax Distribution in Los Angeles County," Los Angeles: Bureau of Budget and Efficiency, City of Los Angeles, (November, 1935). Using the benefit rationale of the gasoline tax, the cities argued that their residents paid far more in gasoline taxes than they received back from the state. In particular, they complained that they were subsidizing rural roads. "The retention of 69 per cent of state apportionment to counties for expenditures on county roads upon which only 10.91 per cent of the daily vehicle mileage occurs amounts to a subsidy by the cities for rural county roads that is out of proportion to benefits received by cities from these roads." League of Municipalities, Streets and highways Committee,
Sub-committee on Research, "Streets and Highways Financing in California, 1931-32 to 1936-37, Preliminary Report," August 1938, p. 13, Public Works- Administration Correspondence, 1938, CSA. For a discussion of conflicts between rural and urban interests in northern states, see Barron, "And the Crooked Shall Be Made Straight." The north-south allocation in California constantly changed; it initially favored the north (55:45), with the north's greater road mileage, but gradually shifted towards the growing southern counties.

[48]"Count the Advantages of the Gasoline Tax," San Francisco Examiner, 7 October 1926, 34:1. See also, Gen. A. J. Gooch to Arthur H. Breed, 22 April 1925. Breed Papers, BL: "The main thing is to provide the funds and once that is accomplished there need be no feelings of jealousy over allotments for certain highways for we will have enough to build them all and everybody will be happy."

Sabin - Chapter 10

Chapter 10

Defending the User Financing System: 1933-1938

> Historians of the future recounting this present period of the motor age can be expected to dwell upon the fact that the motorist of these times was constantly faced with efforts to harass and penalize him for owning and operating an automobile. On the brighter side, those same historians will also note that it was largely by vigilant, organized action that the motorist of these years was able to protect himself against such efforts.[1] Motorland 1939

During the flush 1920s, when California regularly posted general fund surpluses, the highway user financing system experienced little interference by members of the legislature. After the onset of the Great Depression, however, revenue from motor vehicle users became an increasingly attractive source of money for alternate projects. Republican Governor James Rolph and some state legislators soon proposed using gasoline tax revenues for a variety of expenses, such as paying off state highway bonds and local special assessment bonds or funding unemployment relief.[2]

California's auto clubs and their legislative allies fought back with marked success against efforts to increase or re-allocate highway taxes. They defined the acceptable expenditure of highway user charges narrowly, labeling alternate spending, even on streets or state highway bonds, as diversions from the "legitimate objectives" of gasoline tax revenues. A 1931 editorial in Touring Topics, the magazine of the Southern California Automobile Association, warned of "raids upon the gasoline tax and motor vehicle registration fees." According to the southern automobile club, these "raids" included using money for local grade crossing separations (separating the streets from the railroads), aiding joint county highway construction and city street development, and paying interest on outstanding highway bonds.[3] Perhaps the most remarkable thing about these "diversions" was how closely related they actually were to motor vehicle use. Their classification as "raids" illustrates the intense focus of automobile clubs on the state highway system itself. Motorland echoed Touring Topics and revealed the northern auto clubs core interest in the touring value of the highways. Arguing against diversion in February 1933, Motorland declared that the earmarking of highway user fees had given California "its great highway system of today":

> Were it not for the explicit dedication of the money to highways and the further principle of spending the money where roads are needed, the Redwood Highway might still be a narrow winding dust-covered road. Yosemite might still be a two-days' tiresome trip, instead of accessible in a few hours over fine highway the year round.[4]

Touring Topics and Motorland, the official voices of California's powerful auto clubs, opposed spending motorist taxes on mundane, local issues like city streets or grade crossings. The clubs

also saw no need to repay the highway bonds, preferring that the general fund continue to carry that burden.

By 1931, high property taxes relative to an actual decline in property values resulted in lower tax revenues (partly due to default) and also prompted a determined movement to shift the tax burden away from property-owners. By 1932, the California state budget clearly was headed for a substantial deficit. High fixed charges (charges stipulated by the constitution) gave little discretion to the governor or legislature. State Controller Ray Riley warned of a $17 million general fund deficit in 1933 and a $36 million deficit in 1934. Riley advised that he might have to issue state warrants in order to pay California's obligations, a revenue-raising strategy last used in the state in 1893.[5] Mere economies would not balance the state budget, Riley asserted. He predicted an "ad valorem" property tax at the state level and raised the possibility that California would impose a sales tax or income tax, or equalize the tax rate on public utilities with taxes on real or personal property.[6]

Governor James Rolph's Director of Finance, Rolland Vandegrift, sought to avoid the radical solutions advocated by Riley. Instead he aimed to cobble together a patchwork solution to California's fiscal problems. Vandegrift did not want to overhaul the system; rather he sought to weather hard financial times through an across the board trimming of all programs. Vandegrift proposed some of these economies and reductions in 1932. He called for cutting the education budget by $11 million, making salary cuts of $1.3 million, saving $2 million by increasing the old age pension eligibility from seventy to seventy five, and paying off state highway bonds with $8.5 of gas tax money.

At the 1932 November elections, voters rejected proposals to restructure the state tax system, including propositions to limit property taxes and allocate to the general fund the states portion of revenues from a tax on highway transportation companies. As the state government prepared the 1933-35 biennial budget in the winter and spring of 1933, California faced fiscal crisis. Vandegrift sought to cut into the highway budget to balance state finances. Noting that other states had dipped into their gas tax funds, he declared, "I cannot agree with those who would not cut the public works program and the State highway expenditures in the same relationship as other governmental expenditures."[7] To avoid restructuring the California tax system, Vandegrift proposed addressing the state's financial problems by eliminating many fixed charges, around $48 million, and then making up two-thirds of the remaining $12 million gap by paying off state highway bonds with gasoline tax funds.[8]

Part of the struggle over state finances in 1933 thus revolved around whether to use $17 million of gasoline tax revenues to pay the interest and redemption on outstanding state highway bonds. Governor Rolph declared in his 1933 budget message that payments on the bonds constituted too great a demand for the crippled general fund:

> Had the diversion of general fund moneys for highway purposes been discontinued with the enactment of the gas tax law, as is commonly believed by the taxpayers of the State to have been done, there would have been no need for concern regarding the condition of the general fund. There is no logical reason, considering the enormous sums derived for highway purposes from the gas tax, the motor vehicle tax, the tax on highway transportation companies and federal aid, why the general fund should be called upon to continue to pay such a large annual amount for highway purposes.[9]

Rolph's finance director, Rolland A. Vandegrift, reiterated that spring that the Rolph Administration thought that bond repayment constituted "expenditures for highway purposes" and therefore should be borne by the highway users. Vandegrift urged that the state use abundant highway funds "in this emergency" to help relieve the deficit. "We should be more concerned with the welfare and happiness of the individual citizen than we are concerned with the building of inanimate roads," Vandegrift declared. "It should be of greater concern to relieve the taxpayers of some of their load by preventing the increase in the tax burden . . . than to maintain the theoretical contention that gasoline taxes should be used for no other purpose than the building of highways."[10] Following Rolph and Vandegrift's lead, the state senate voted to place the highway bond question before the electorate in a June 1933 referendum. Supporters of the idea in the senate claimed that the "avowed purpose of the gas tax was to provide for all highway expenditures" yet the general fund continued to repay the highway bonds. The senators argued that it was "only logical that these highway bonds . . . should be paid for by the motorists and truckmen who are making use of the highway system rather than by the taxpayers of the State generally."[11] The Joint Legislative Tax Committee of the Senate and Assembly advised against "any more radical changes in the system of State taxation than are absolutely necessary" and thought that diverting the gas tax would allow California to weather the rough times of the depression.[12]

Motorist advocates— the auto clubs and their supporters in the legislature and the press— attacked this effort to shift bond repayment from the general fund to highway users. "The roads built under the original bond issue," senate opponents argued, "have long since disintegrated and have had to be rebuilt by the gas tax on the 'pay-as-you-go-plan.'" Propositions 9 and 10, which would have allowed California to use gas tax revenues to make two biennial bond payments, constituted an "opening attack to divert this fund for general fund needs now and for all future time. It is a raid pure and simple upon easily collected funds— easily collected because those paying have done so willingly with the realization of the benefits that accrue from such form of special tax."[13] The senate opposition also underscored the number of jobs at stake, for "diversion of $17,229,076 for relief of the general fund will throw out of employment 10,630 men for a year. . . ninety-one cents of every dollar paid for highway construction work goes directly into the pockets of labor." They painted the vote on Propositions 9 and 10 as a referendum on the federal government's plan for economic stimulus through public works. A vote for diversion meant a vote to "continue the depression."[14]

The California oil industry vigorously opposed the June propositions. The Standard Oil Bulletin warned of the "peril in abandonment of the principle" that California would spend gas tax

revenues solely to maintain and improve existing roads and build new ones. "Diversion in this case is too likely to lead to diversion for other general purposes." The oil companies would support a gasoline tax targeted to highway development, but they were alarmed at the prospect of special taxation of gasoline to support general state expenditures. Consequently, the Standard Oil Bulletin declared,

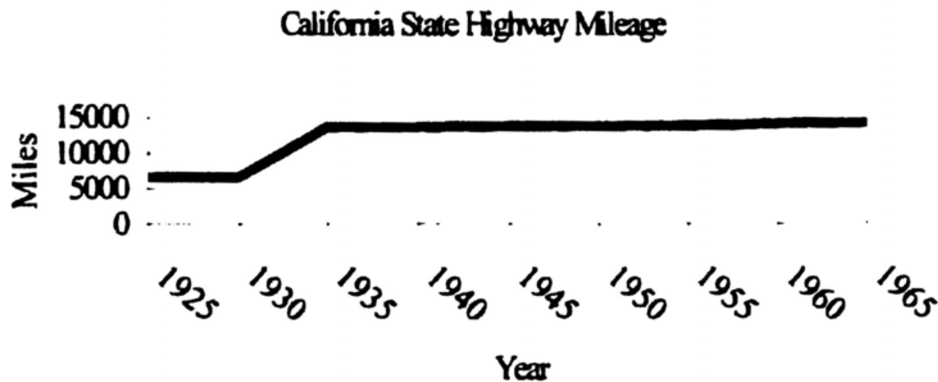
> If the state highway program can spare this $17,000,000 it is proved that there is no real necessity for 'socking' the motorists for the total of gasoline taxes they are now paying. If such a huge sum can thus easily be taken from highway funds, the gasoline tax should be reduced."

With California's highway bonds valued at a total of $93 million, Standard Oil warned that diverting the funds would "destroy any chance of gasoline tax reduction in the future, which should be possible as the highway system is finished." The "gasoline tax joke is being carried too far," the Bulletin complained.[15]

Instead of diversion, California auto clubs and their legislative advocates proposed that the state offer "genuine tax relief" by incorporating more roads and streets into the state system, thereby relieving local property taxpayers.[16] They intended this proposal to show that highway advocates recognized their obligation to help ease the overall tax burden. San Francisco Chronicle automobile editor Leon Pinkson articulated this strategy in his regular newspaper column. "Efforts have been made by the diversionists to place their opponents in the position of advocating lavish expenditures on new highway construction in disregard of the bad condition of State government finances," Pinkson wrote.

> This charge is definitely disposed of by the fact that opponents to diversion are energetically sponsoring a proposal to have State highway funds spread more widely under a plan to have the State take over approximately 6600 miles of county roads and through routes in cities as part of the State Highway System. Local taxpayers would be relieved of a considerable part of the burden they now carry in taxes for road and sweet purposes.[17]

Better to risk diluting state highway funds by expanding the state highway system than to allow the highway program to relinquish control of any portion of the gasoline tax revenue, reasoned Pinkson, the auto clubs, and other highway supporters. With city and county budgets extremely tight, incorporating city and county road mileage into the state highway system protected these roads from competition for general funds at the local level as well. The maneuver thus had two payoffs— it guaranteed coverage of county roads by the motor vehicle fund and it deflected the pressure to divert state highway revenues to other pressing state needs. The one-time doubling of the state highway system is clearly illustrated in a graph of California state highway mileage. (The data points are five-year intervals.)



Source: U.S. Department of Transportation, Highway Statistics, Summary to 1965, 152.

Highway supporters claimed to urge the continued earmarking of highway revenues to provide employment during hard economic times. Yet it is difficult to see in their position genuine concern for the poor or unemployed. Their recalcitrance helped to prompt a thorough reorganization of the state tax system, one that would not favor the interests of less wealthy Californians. The June 1933 vote left the legislature with a $50 million budget deficit and few means to fill it. In particular, the defeat of the gas-tax measures obligated the general fund to make $17 million in highway bond payments and to repay $5 million of highway funds borrowed between May and August of 1933.[18] The two gas-tax votes were compounded by voters' approval of the Riley-Stewart Act at the same June 1933 special election. The Riley Stewart Act was a constitutional amendment that limited revenues from property taxation and shifted the burden of educational financing to the state. The June 1933 special election thus squeezed California's system of public finance. The state legislature had to fill the budget shortfall with a new revenue source. Formidable opposition to a state income tax restricted that option. As a result, two months after the June referendum, the California State Legislature instituted a general two and a half percent sales tax.[19]

California taxed sales of staples like bread and milk for the general fund, but did not tax sales of gasoline.[20] Because gasoline already carried state and federal taxes, motorist advocates in the legislature, in particular Senate President pro tempore Arthur Breed (also a director of the California State Automobile Association), successfully exempted gasoline from the new state levy. While the sales tax revenue went to the general fund, however, the gasoline tax continued to support only highway maintenance and construction. In 1933, motorists thus ensured that the state general fund—propped up by the new sales tax— would continue to repay state highway bonds. Motorist advocates also protected gasoline from the new sales tax while continuing to earmark gasoline taxes for highway purposes. This victory of the motorist "class" did not completely relieve automobile owners of levies, since they continued to pay a sales tax on purchases of motor vehicles and accessories.[21] The substantial gas-tax revenues, however, totaling $35.5 million in 1933 alone, remained safe from use even for highway bonds. The losses

to the general fund as a result of the sales tax exemption for gasoline climbed steadily with the rise in gasoline consumption, totaling some $72 million between 1933 and 1945.[22] Gasoline remained exempt from the state sales tax until approximately 1970, even as highway advocates emerged as among the strongest supporters for retaining the sales tax on other goods.[23] Motorist advocates recognized the general sales tax as a key safeguard of the health of the general fund, a protection that eased political pressure to divert highway tax revenues.[24]

After California voters rejected the proposed diversion of the gasoline tax to pay off highway bond debt, the legislature used other motor vehicle taxes for that purpose, charges unrelated to the "user tax" ideology that backed the earmarking of the gasoline tax or the motor vehicle registration fees. Initially California repaid the bonds with a three percent gross receipts tax on for-hire motor carriers that passed in 1933.[25] Although this tax went into the general fund, it had been designated for highway use from its inception. Some members of the legislature tried to make this levy entirely available for general purposes, like similar gross receipts taxes on railroads and streetcars. At the November 1932 election, the Senate had placed a proposition before the voters to allow the state government to use its half of the transportation tax revenues for general state purposes. The counties' portion would continue to be designated for road purposes only. Citing a 1929 California Tax Commission Report, State Senators Charles H. Deuel and Herbert J. Evans argued that the gross receipts tax was not a user tax:

> Other such taxes upon steam or electric transportation companies go into the general fund. It is a tax upon the business of transporting passengers and freight and not a tax for the use of the highways; the latter is met by the gasoline tax and the vehicle weight tax.[26]

Most important, the senators argued that the allocation of the transportation tax revenues should respond to fluctuations in California's financial situation. "The highway department no longer needs the money involved in these taxes while the general fund does need them."[27] But voters rejected the proposition in the November 1932 election. Now in 1933, California used the transportation tax revenue for the highway bonds.

After 1935, the legislature did direct revenues from this three percent gross receipts tax to the general fund. A new "in lieu" tax, a substitute for the personal property tax on automobiles, now would cover bond interest and redemption. This "in lieu" tax emerged in 1935 from the tumultuous reorganization of California's tax system in the mid-1930s. In 1935, the legislature abandoned the separation of sources policy instituted in 1910, by which only local or county governments taxed certain sources of revenue and only the state taxed other sources. The cornerstone of that policy, whereby the state removed the property of public utilities from local tax rolls and instead taxed the utilities on the basis of their gross receipts, was dismantled in 1935, when the legislature returned utility property to local jurisdictions.[28] In order to compensate the state for the loss of revenue, the legislature simultaneously switched the property tax on automobiles from the local level to the state level. The state legislature made this change in part because local tax collection on automobiles had varied widely. A high percentage of motor vehicles went unassessed, and others were assessed unequally.[29] As part of the overhaul, the legislature replaced the ad valorem property tax on automobiles with a motor vehicle license

fee assessed "in lieu" of the property tax. In the process of changing the means of collection, however, the legislature partially converted a property tax assessment on valuable motor vehicles into a highway user tax. The California Supreme Court went so far as to rule that the "in lieu" tax no longer taxed personal property, but instead had been mysteriously transformed into an excise levy.[30] The law establishing the "in lieu" tax (one and three quarters percent of market value) stipulated that the revenue pay for such highway related expenses as interest and redemption of old highway bonds and law enforcement and regulation and control of highway traffic.[31]

As a result of this legislative and judicial sleight of hand, between 1933 and 1945, interest and redemption of the highway bonds consumed $50 million that reasonably might have gone into the general fund for general governmental expenses.[32] By comparison, annual highway budgets during this period, excluding the bond payments, averaged $44 million.[33] Non-highway governmental expenditures, including education, in the biennium 1933-1935 totaled only some $67 million per year.[34]

The federal government strongly supported the campaign by motorist advocates to continue the earmarking of highway user taxes. In 1934, Congress passed the Hayden-Cartwright Act, a federal highway assistance law that included in its provisions the threat that the federal government would withhold federal aid from states that diverted money excessively from their highway funds.[35] Under this law the federal government punished states like Massachusetts and New Jersey, which sought to use gas-tax money for unemployment relief or other purposes, by withdrawing federal highway aid. The Department of Agriculture withheld $472,000 from Massachusetts in 1938, fourteen percent of the intended apportionment of $3,171,423. New Jersey lost $250,000 in 1937. The threat of federal penalties loomed larger than their implementation, as William Ullman of the New York Times reported in 1937:

> Despite widespread reports that various States have been penalized by the Federal Government for diversion of their gasoline and other automotive tax revenue to non-highway purposes, no final action has been taken in any case. Even Maryland, branded the first State to feel the teeth of the penalty clause of the Hayden-Cartwright act . . . may escape punishment. New Jersey, unofficially slated to be next penalized, has not been as yet.[36]

Yet the threat of punitive action alone successfully pressured many states to leave motor vehicle revenues alone. The Bureau of Public Roads reported in 1939 that "Committees and members of State legislative assemblies, State highway officials, and citizens' organizations submit numerous inquiries each time that such assemblies are in session as to whether certain proposed legislation will constitute a diversion of the proceeds of the motor-user taxes."[37] Cited as violators by the Department of Agriculture, Maryland and Pennsylvania restored diverted funds as a result of federal pressure.[38] The New Jersey legislature resisted federal pressure when it voted to divert money first in 1937 and then again in 1938 with an $8 million relief bill financed by motor vehicle taxation.[39] The loss of Federal aid in New Jersey, however, further incensed that state's opponents of diversion, as shown by the New Jersey Grange's bitter complaints that it lost twice, first because of the initial diversion to relief, and then as a result of federal penalties.[40]

In California, where the federal government never applied penalties, the Hayden-Cartwright Act bolstered arguments against the diversion of highway funds. Between 1934, when Congress passed the Hayden-Cartwright Act, and 1938, when California passed its own constitutional amendment prohibiting diversion, the federal law figured constantly in controversies over diversion.[41] Following the passage of the federal law, Leon Pinkson, automobile editor of the San Francisco Chronicle, warned his readers that "All California has to do to wave goodbye to more than $3,000,000 of Federal aid highway money is to divert gasoline taxes or other highway revenues." It would be a "simple matter of arithmetic" to determine the amount "definitely and completely lost to California" as a result of diversion. The implications of the Hayden-Cartwright Act were clear, according to Pinkson:

> No amount of figure-juggling by gasoline tax diversion advocates could discount the fact of a dead loss of more than $3,000,000, which would be redistributed to other States which have the good judgement and honesty to keep their highway funds intact for highway purposes.

After quoting extensively from the exact text of the federal law, Pinkson specifically noted that "the gasoline tax never has been and never was intended to be pledged to retirement of California highway bonds. Consequently, diversion of gasoline taxes for bonds payments would invoke the penalty against California the same as any other diversion of highway money from present pledged purposes."[42] When the Department of Agriculture finally penalized New Jersey in 1937 for diverting highway funds to unemployment relief, the Chronicle editorialized:

New Jersey has found diversion of gas tax funds from highway purposes to be a costly sport. For such a diversion the Federal Government has charged New Jersey a quarter of a million dollars . . . New Jersey took the chance and now knows that the Federal Government meant what it said. The State gets from the Federal road fund $250,000 less than it would have received if it had not nicked from the gas tax fund.

Chronicle editors emphasized how a proposed constitutional amendment in California would bar diversion permanently and thus remove the danger of losing federal funds. "When that amendment is adopted the gas tax money will be safe for the highways and this State will be in no danger of losing a big chunk of its Federal road allotment," the Chronicle declared in support of the measure.[43]

The threats and penalties of the Hayden-Cartwright Act created a significant obstacle to state-level efforts to use highway revenues for other purposes during the remainder of the l930s. Even so, the threats did not entirely stifle legislative or local initiatives in California. California governments did manage to use some highway user taxes for economic relief during this period. In July 1936, as the general funds declined at the end of the 1935-36 biennium, the state's relief fund borrowed $5 million of "surplus" gasoline tax money in order to avoid dealing with private financiers. State officials said the move would save the state thousands of dollars in interest.[44] Counties repaid another unemployment relief loan made to them in 1933 out of motor fuels tax apportionments totaling $21.6 million between 1937 and 1945.[45] Highway advocates and the oil

industry defeated more substantial outlays for relief based on the gasoline tax, including a one-penny increase proposed in 1935. The Standard Oil Bulletin argued that "If there is any one tax which ought to be borne by the public at large, rather than by a single class of population, in this case the motorists, it is the tax that will take care of the unemployed." The "only justification" for the gasoline tax is that its revenue be used for highway purposes, the Bulletin insisted.[46]

In addition to financing relief, state legislators repeatedly introduced measures to permit the payment of state and local highway and street bonds with motor vehicle user taxes. Republican Assemblymen E. V. Latham and Frank Wright introduced a bill in 1935 to use highway fund revenues to repay the state highway bonds in the 1935 and 1937 bienniums.[47] By paying for the highway bonds, this law would have shifted $16.5 million of the "in lieu" tax into the general fund. Opponents argued that the "in lieu" vehicle license fee already covered these payments, thereby again using this substitute for a property tax as a shield to block the diversion of actual highway user taxes. Alternately, San Bernadino state senator Ralph E. Swing proposed in 1937 that California allow cities or counties, upon a four-fifths vote, to use their gasoline tax allocation to pay off special assessment district bonds. Such bond repayments could only be made if the street or highway served more than the local area. Swing's proposed measure would have eliminated the previous cap of twenty percent of the city or county apportionment available to pay off assessment bonds. Swing's bill also would have allowed cities or counties to use highway funds to repay special assessment bonds issued for any highway mileage added to the state highway system. Swing's legislation passed the California State Senate but was defeated in the Assembly. Writing against Swing's proposal, one of six seeking to allocate highway funds for special assessments, San Francisco Chronicle legislative reporter Earl C. Behrens warned that Northern California would suffer most. Behrens quoted alarmed officials of the Department of Public Works who feared that such a "direct diversion" would mean the loss of millions of dollars of federal aid and provoke a sharp decline in local and state expenditures on highways.[48]

At the local level, in addition to the state legislature, conflicting fiscal priorities threatened to divert highway funds to non-highway uses. The struggle between the city of Los Angeles and the County Board of Supervisors over the use of gas tax funds illustrates the challenge to dedicated highway funds. The city sought to alleviate the local tax burden by using its gas tax allocation to cover costs previously borne by the city's general fund or some other source of revenue. The installation of street lighting, in particular, expanded the definition of road improvements to expenses previously borne by the general fund.[49] Members of the Board of Supervisors attacked these maneuvers by the city. Yet at the same time, the County sought to use gas tax money to offset spending by road improvement districts. The Board of Supervisors unanimously agreed to spend the maximum amount of gasoline and motor vehicle funds allowed by law to relieve public improvement assessment districts. The supervisors also looked to the gas tax fund "as reserves to carry the County over a dry period."[50] City politicians criticized county policy for unduly favoring rural districts. Carl Bush, the Executive Secretary of the Hollywood Chamber of Commerce, complained to Supervisor John Anson Ford that county relief for road improvement districts had expended some $1.4 million over the past two years, but only $197,000 had been spent within the city.[51] Bush further complained that the county sought to eliminate all general county taxes for roads and replace them with the county gas tax allocation. "It is my opinion that

the property in the unincorporated districts of the County should pay a reasonable tax for maintaining streets and roads— which is a proper part of County Government expenses."[52] These conflicts over how to use gas tax money are representative of how many local and county government leaders thought too much money was being spent on roads; they sought to use extra gas tax money to replace general fund expenses, thereby lowering general taxes or expending general funds elsewhere.[53]

The constant, though largely unsuccessful, legislative efforts to re-allocate highway funds prompted the Automobile Club of Southern California to agitate for a constitutional amendment that would prohibit such "diversions." In this effort, the motor club allied with the California Highway Commission and the newly formed California Highway Council. The highway commission, acting in a strongly partisan manner, passed a resolution endorsing the initiative that would preserve the motor vehicle taxes for highway purposes.[54]

The 1936 constitutional amendment split highway advocates and ultimately met defeat at the November election. The northern-based California State Automobile Association (CSAA) led the opposition. The CSAA called the amendment merely a covert attempt to limit the taxation of diesel vehicles. Among other provisions, the amendment would have required fees and taxes to "be equal notwithstanding type of fuel or engine."[55] At the time untaxed, diesel fuel was under consideration for a new state levy. Since diesel produced more miles per gallon than gasoline, an amendment that fixed the diesel tax equal to the gasoline tax would leave diesel users with a lesser burden per mileage driven. The northern auto club's magazine, Motorland, urged that California leave the legislature "with a free hand to deal with the Diesel tax question." The measure "simply would tie the hands of the legislature."[56] Leon J. Pinkson, the Chronicle automobile editor who frequently articulated the northern California motor club's positions, labeled the amendment as a "shrewd attempt to hoodwink the public" and a "smoke screen for slipping through an array of 'jokers.'"[57] The Chronicle's editorial page concurred that the gas tax amendment was "suspect."[58] Motorland declared that "To pretend that there is any danger to gasoline tax funds is simply to set the stage for a sham battle."[59] Pinkson, following the motor club, argued that "attempts to divert gasoline tax money have been so decisively rebuked by the people of California at two state-wide elections" that he could not see "any need for a constitutional amendment."[60] The split between the northern and southern automobile clubs sent a confusing message to the California electorate, and voters rejected the 1936 anti-diversion amendment in the November election.

Although the CSAA declared in 1936 that "the fight to 'save the gas tax' HAS ALREADY BEEN WON," within a year the northern motor club led the way in proposing two new constitutional amendments to protect the highway program's revenue base and organizational independence.[61] Two close allies of the California State Automobile Association, Oakland State Senator William Knowland and Assemblyman Arthur Breed, Jr. (son of the state senator and CSAA director), shepherded a revised constitutional amendment against diversion through the legislature in 1937, this time without the diesel fuel tax provision. In addition, the northern and southern California auto clubs together put forward an initiative constitutional amendment to establish a quasi-independent Highway and Traffic Safety Commission. Modeled in part on the

University Regent system, this commission would have further isolated the highway program from regular political involvement by the legislature and governor. Both the anti-diversion amendment and the restructured highway commission represented attempts by highway advocates to end the struggle over highway funds by entrenching in the California constitution the user financing system and an autonomous highway agency. The amendment barring diversion passed in the fall election of 1938, while voters rejected the new commission.

The 1938 anti-diversion amendment consisted of a fairly straightforward revision of the 1936 amendment, now without the controversial equal tax on fuels clause. (A higher tax on diesel had passed in the 1935-37 legislature.) In early May 1937, William Knowland introduced his bill for a constitutional amendment to prevent the diversion of motor vehicle funds from "legitimate to illegitimate purposes." Prepared jointly by the northern and southern Californian automobile clubs, the amendment received strong backing from the Department of Public Works, the County Supervisors Association, and the California Chamber of Commerce. The Chronicle gave strong support to the proposal, immediately publishing virtually verbatim Knowland's press release justifying the amendment. As with the 1936 debate over a slanted drilling proposition for Huntington Beach, the newspaper did not offer readers any reasons why anyone might oppose such an amendment.[62] According to Motorland, the anti-diversion amendment promised a "permanent closing of the doors to all danger of raids on gasoline tax revenues and registration fee money." With other states proposing or having already approved similar legislation, Motorland called the amendment part of a

> virtually nationwide determination to throw permanent safeguards around gasoline tax money and other highway funds. This determination is regarded as an inevitable reaction to long-standing threats of diversion of such funds to non-highway purposes, and actual instances of diversion outside of California running into huge sums.[63]

The proposed constitutional amendment would "end the danger once and for all."[64]

The anti-diversion amendment contained several key concessions to make it palatable. The "in lieu" tax and the three percent transportation tax on commercial vehicles would not be affected by the measure. The general fund could continue to borrow temporarily from the highway funds under the legislation, but the general fund would have to repay the money as soon as possible. Under the state constitution, the public schools and the university possessed the first right to all state revenues in a case of fiscal crisis, but they also would have to make repayment to the highway fund their top priority.[65] These provisions meant that education could rely on the highway funds on a short-term basis but the general fund would always have to return any borrowed money. The legislature could not simply re-allocate highway funds to education or other general fund purposes.

Where the anti-diversion amendment would safeguard the user financing revenues, the second constitutional proposal in 1938 sought to ensure the highway program's independence from democratic political control. According to the amendment that would have created the Highway and Traffic Safety Commission, the Governor would appoint five commissioners, subject to

Senate approval, with no more than three of five being of the same political party. Each would serve for ten years. Commissioners would work full-time at their positions, subject to removal by the Senate only with a two-thirds vote.

The amendment proposed far-ranging powers for the commission. The law declared that the commission would exclusively perform "all the duties and exercise the powers, functions and jurisdiction relating to highways, outdoor advertising, toll bridges, other highway crossings, and vehicles." The commission would absorb the functions of the Department of Public Works, the Director of Public Works, and the Department of Motor Vehicles (except vehicle registration and tax and fee collection). The assumption of these powers meant that the commission could "change, consolidate, or abolish" any division absorbed from the Departments of Public Works and Motor Vehicles as necessary. The commission could also appoint members of the civil service, including the State Highway Engineer and the Chief of the California Highway Patrol, this latter appointment giving them substantial control of the highway police force.

Although the state legislature would retain the authority to change the powers and duties of the commission, proponents of the amendment intended the new commission to function with minimal legislative or executive involvement. Under the amendment, the State Highway Engineer would recommend to the commission how to allocate funds for highway purposes, including proposed budgets of biennial expenditures and the proposed location, design, method and type of all highway work. With the approval of the commission, the State Highway Engineer would carry out the necessary work related to "acquiring, designing, constructing, improving and maintaining highways, toll bridges and other highway crossings under its jurisdiction."[66] If the highway program— particularly its budget, which constituted a full third of California's overall state expenditures— previously had been relatively free from legislative control, this new law established even greater barriers to executive and legislative involvement. Comparing the proposed commission to the Regents of the University of California or the State Prison Board, Motorland argued that the extended terms of commissioners would enable them to "perform their duties efficiently, effectively, and free from outside interference."[67]

Motorland editorials promoting the two 1938 amendments combined the rhetoric of "benefit" taxation and a private business model. Arguing that a vote for the 1938 anti-diversion amendment would bring "fair play in taxation," Motorland presented succinctly the "benefit" rationale:

> The gasoline tax is a special tax, levied on motorists only. When its receipts are properly allocated to highway purposes it is one of the fairest of taxes. But diversion of the receipts to general governmental purposes constitutes double taxation on the motorist. A fair share of the cost of government is paid by the motorist through regular and generally imposed taxes.[68]

The state should invest special user fees solely on behalf of California motorists, and in an efficient manner. Like the business investor, the motorist needed to "receive the fullest possible returns for his highway dollars." With publicly traded companies, company officers were

supposed to maximize returns and value for shareholders. Similarly, Motorland declared in May 1938, “public highways are today Big Business . . . And they happen to be the business of the motorist.” The 1938 amendments were innovations necessary for the successful functioning of California’s highway business. “The situation which the voters will be asked to remedy next November is one under which no business, large or small, can be operated with full success—constantly threatened capital and antiquated business methods.”[69]

The proposed Highway and Traffic Safety Commission provoked strong criticism. It is difficult to determine exactly how critics made their voices heard, however, as there is little public record of their opposition. Opposing arguments presented in the California voters’ ballot pamphlets offer a sample critique. Good-government advocate Helen Swain Gilmore made a particularly compelling argument against the loss of legislative control over highway matters. Gilmore contended that the proposed measure would take “out of the hands of the people” control over the distribution of highway funds, the construction of highways, the construction or abolishment of toll bridges, and the regulation of highway traffic. The amendment would put “not only the highways but our present highly efficient highway patrol neatly in the pocket of a super-political hierarchy.” Gilmore called the proposal for a highway commission statute law, not a constitutional matter, and warned that, once in place, the commission would retain its powers “forever.” Gilmore also criticized the proposed ten-year terms for commissioners and underscored the dangers of requiring a two-thirds Senate vote to remove a commissioner. Echoing Gilmore’s fears about the commission’s constitutional autonomy, the California highway patrolmen’s association criticized the automobile clubs’ active role in developing the amendment, and warned that the clubs could “usurp and exercise governmental functions.” The commission overall would create new forms of political patronage and “inject politics into law enforcement.” State Senator W. P. Rich, co-author of the Swing-Rich tidelands oil bill discussed earlier, denounced as diversion both the payment of high salaries to commissioners and the independent authority of commissioners to allocate gas tax funds.[70] In response to these varied warnings about the dire implications of the constitutional amendment creating a Highway and Traffic Safety Commission, California voters rejected the ballot proposal.

As with the proposal for a new highway commission, fiscal analysts criticized the earmarking of highway user taxes that the other 1938 amendment successfully embedded in the state constitution. Some commentators criticized the way earmarking restricted the legislature’s budgetary discretion and wondered whether the highway user financing system favored highways to the exclusion of other desirable public goods. In a May 1937 letter to William Knowland, Assistant State Legislative Counsel J. Gould outlined legal arguments related to the earmarking of highway revenues.[71] In favor of highway advocates’ arguments against diversion, Gould wrote, advocates like Knowland might argue that the tax’s primary goal was to raise money for highway construction and improvement. The state indicated this intention in the way that it handled the money, depositing the tax revenues in the ‘Motor Vehicle Fuel Fund’ and from there appropriating it for state and county road purposes. But Gould questioned whether the commonly-used trust fund model could properly apply to highway user taxes. Citing California rulings that characterized special revenues as “a trust fund raised for a particular purpose in the exercise by the state of its police power,”[72] Gould contended that

moneys collected under statutes like the Motor Vehicle Fuel License Tax Act, whose object is not primarily one of regulation under the police power, but rather to secure revenue for carrying on essential governmental functions, are not in any sense to be treated as special or trust funds which cannot be diverted to any purposes other than those specified in such statutes.

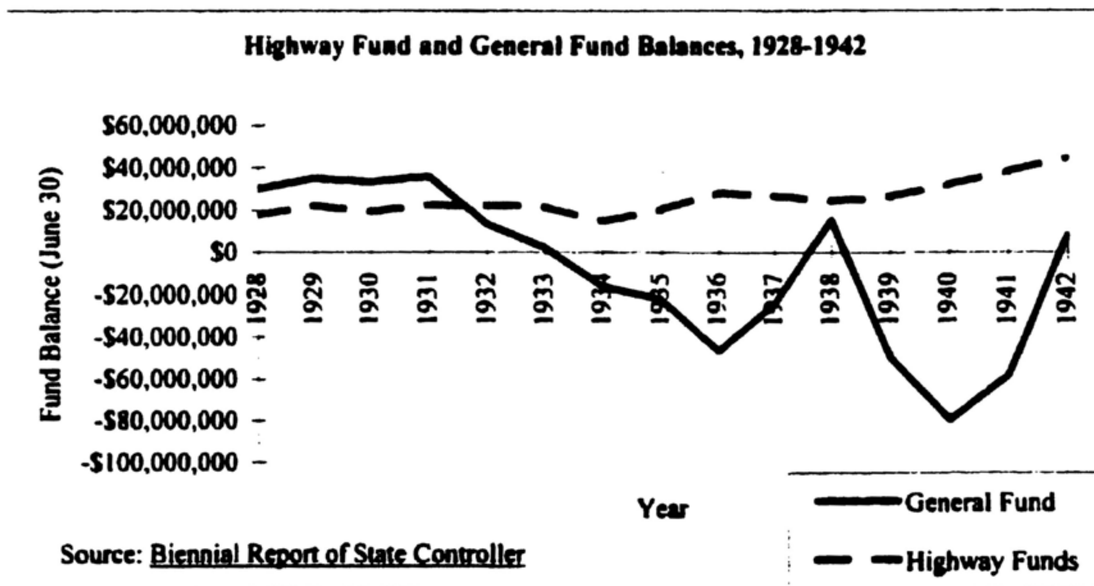
Gould believed that the "mere fact" that the legislature had "customarily appropriated" such moneys to highways did not prohibit its using the money for any other purpose. "To hold otherwise," Gould warned, would segment state finances, whereby "the moneys derived from all revenue bearing statutes could be earmarked for specific purposes, to the possible strangulation of the functions of government and education."[73] Berkeley economist Malcolm M. Davisson similarly charged in the 1938 ballot pamphlet that the proposed constitutional amendment violated the basic principles of representative democracy. He particularly attacked the permanency of the anti-diversion provision. "It is entirely unnecessary to grant constitutional protection to so large a group" as motor vehicle owners for "their voting strength is enough to protect their interests." According to Davisson, "an adequate program of expenditure in any field is a relative matter." Highway expenditures should vary with the need for highway development relative to other public demands and the burden of raising revenues.[74] A constitutional provision unduly constrained the legislature's ability to adjust to changing financial circumstances. Despite Davisson's arguments against a constitutional protection for motor vehicle funds, California voters approved the measure at the 1938 election.

This successful 1938 constitutional amendment barred California from spending highway user taxes on anything but highway construction and maintenance. This measure concluded a lengthy political struggle by highway advocates to establish and defend a user financing system in California. The need to pass a constitutional amendment to protect user financing suggests that California's rapidly growing highway spending did not reflect a simple societal choice about how to develop transportation in the state. If state politicians, and by extension their constituents, valued highways so thoroughly and exclusively, why were motorist advocates compelled to make one great push to entrench the user financing system in the state constitution?

The political controversies of the 1930s indicate that a desire for highways constituted only one of a number of reasons why California spent so much money on road construction in the 1930s and afterwards. What else accounted for the robust character of the state highway program? First, *automatic investment* by the gasoline tax system. Without any legislative action or popular vote, the user financing system ran continuously and grew with the increase in gasoline consumption. The tax mechanism removed politics from highway finance, and particularly avoided the balancing of highways against competing public goods through the budgetary process. Second, principles about *fairness* in taxation. According to the concept of benefit taxation, California could spend motorist taxes only for the benefit of motorists. Federal law enforced this privatized system, and the 1938 amendment embedded it in the state's constitution. These laws mandated that principles of taxation, rather than a vision of a desirable transportation balance in the state would determine transportation finance. Third, *employment.* Road construction provided a key part of the New Deal solution and the state pushed forward with highways partly to create public works projects. Labor backed highways for jobs not for roads. State officials similarly pushed for

roads for the potential patronage jobs involved. Although ostensibly unrelated to transportation, these three political factors—automatic investment, tax principles, and job creation—all contributed mightily to the dominance of highways in California's transportation system.

The institutional and political strength of the user financing system brought the California highway program through the Great Depression largely unscathed, as illustrated by the Graph of Highway Fund and General Fund Balances, 1928-1942. State highway funds posted average end-of-year surpluses of $20 million while the general budget seesawed radically with the economic cycles of the thirties.



Some California tax analysts in the 1930s recognized that protected highway funds could result in an over-investment in roads. In her Studies in California Taxation (1939), Marvel Stockwell explained that:

> Since California is so highly motorized, these taxes . . . are so productive that the highway fund has more money than it needs; not more than it can use, for good roads are unlimitedly greedy, but more than is necessary to supply an adequate arterial system. In fact, through the years of deficit . . . while there is an outcry against increased State taxes, the State Highway Commission has continued its program, in order to use the funds at hand.[75]

Similarly, in 1935, State Controller and fiscal conservative Ray L. Riley had underscored the simple connection between earmarked gasoline taxes and highway expenditures. Riley thought California had spent too much on roads, solely because of a rich motor vehicle fund. Riley recalled telling the state legislature that the two-cent gas tax could easily provide the $25 million

per biennium that legislators proposed to spend on roads. But the legislature increased the tax to three cents over his protests—and soon came to spend $40 million per biennium. "Merely because we had the money," Riley argued, "the amount spent was increased $15,000,000."[76] The Oil Producers' Sales Agency agreed in 1932, exclaiming at the "staggering sum" of more than $100 million that had been raised from gasoline taxes in the previous three years. "But a few years ago organized 'ballyhoo' was necessary to effect the passage of a relatively nominal bond issue for highway construction. Truly, this alleged 'painless method' of extracting taxes has been so fruitful that it tends toward profligacy."

Comparative Taxation: motor vehicles, streetcars, and railroads

Comparative taxation helps explain the relative speed and extent of the shift towards greater motor vehicle use. Motor vehicle users benefited from a user financing system that offered them a unique mix of public and private rights. While exempt from certain general taxes, motorists had their highway user taxes reinvested in highway development on a continuous basis. By contrast, railroads and streetcars suffered from their distinctly private classification. Mass transit paid relatively high taxes to the general fund and even paid some special taxes that directly aided their motoring competition.

During this period of conversion to motor vehicles, some California observers recognized the inequities of the financial system. They saw that the tax system caught streetcars, for example, in an inverted form of the public-private combination that so benefited motor vehicles. On the one hand, the California Railroad Commission required the streetcars, as public utilities, to keep fares low. The institutional inertia of the five-cent fare had the opposite effect of stubbornly earmarked motor vehicle taxes in the 1930s.[77] Low streetcar fares persisted although insufficient to support streetcar operations. On the other hand, as private corporations, streetcars bore the brunt of paving and franchise taxes and general gross receipts taxes. Unlike the case of earmarked highway user taxes, state and local governments did not reinvest these taxes on streetcars in the transit system.[78]

As early as 1919, the California Railroad Commission investigated the financial situation of Los Angeles street railways. In addition to specifically approving a fare increase for the Pacific Electric Line and denying one for the Los Angeles Railway, the commission urged southern California municipalities to aid streetcars by relieving them of the paving tax that obligated them to pave the road surface alongside their tracks. According to the commission's report, the paved road surface did not serve the streetcar companies, but rather provided for the automobiles and trucks that competed with streetcars for passengers and clogged the railway routes. The financial burden on the railways— and subsidy to their competition— amounted to an annual cost of $500,000 or eight percent of the gross revenues of the Los Angeles Railway and over $400,000 or twelve percent of net revenue from the Pacific Electric Railway.[79] The municipalities did not adopt the commission's recommendations for tax reduction, however. Another transportation engineer from the Railroad Commission, J. G. Hunter, examined the financial condition of street railways again, ten years later. Hunter concluded similarly that "it would be in the public interest

to relieve the street car companies from the expense of [the] paving and franchise tax."[80] Once more the municipalities ignored the recommendation.

According to Robert Fogelson's analysis of the decline of Los Angeles' street railways, the position of the railways improved in the early 1920s, but the companies lacked money to finance extensions to their networks. A city commission studying the railway situation in 1925 recommended that the city municipalize local transport, citing the potential savings to streetcars in taxes. Savings would include California's five and one quarter percent gross receipts tax as well as the city's paving requirements. Municipal ownership would also lower bond interest by two or three per cent, thus sharply reducing the cost of short term capital to the streetcar system. These were the kinds of financial advantages that motorist advocates had celebrated in the user financing system in the 1920s.

The effort to municipalize failed, however, and the streetcars continued to lose ground to automobiles. When the Los Angeles Railway found it necessary to request a rise in fares from the Railroad Commission in 1927, the company argued that its current fares did not yield enough net profit to constitute "just compensation for the use of the property." Although the railroad commission initially denied the fare increase, the Los Angeles Railway appealed the decision and won approval from the courts. The impact of increased fares on the Los Angeles Railway, however, revealed a striking further difference between profit-seeking streetcars and the highways. Highway "profits"— user taxes in excess of actual costs— automatically were reinvested in highway expansion. The higher fares improved the Los Angeles Railway's operating revenue and increased net income substantially. Yet the company made few service improvements to attract more patrons. An improved balance sheet had boosted the rate of return from 4.6 to 7.1 percent, but the company had done little to prepare itself for the difficult depression years ahead.[81]

How influential was taxation in determining the ability of street railways to expand or improve service to meet demand for transportation? According to my calculations, in 1922, when many streetcars were still profitable, they carried a tax burden equal to twenty four percent of their net revenue and six percent of their gross revenues. Unlike highway taxes, none of this money was invested in infrastructural expansion. In fact, in an ironic twist of the public and private spheres, streetcar taxes helped finance the expansion of the competing roadway system. By 1930, when the streetcars had begun to suffer from declining patronage, their average tax burden, still at six percent of gross revenues, equaled fifty percent of net annual revenues.[82] These taxes did not cause the decline of the streetcars, but they had a significant marginal impact at a critical time.

Recognizing the disadvantages faced by street railways, state legislators proposed amending the state constitution in 1930 to reduce gross receipts taxes on street railways from five and one quarter to four and one quarter percent. Assemblymen Bert B. Snyder and Fred B. Noyes described how "automobile competition and excessive taxation have resulted in increased fares" on those railway lines not already abandoned. Yet "electric Railways are an essential public utility," Snyder and Noyes maintained. "They are still a public necessity. They are the backbone of local transportation, giving dependable service at reasonable rates."[83] The strong support that

the amendment received in the legislature and from the electorate, which approved the measure by two to one, suggested that Californians recognized inequities in transportation taxation, or at least favored the interests of the streetcars.[84] The new measure did not make a significant change, however, and only partially resolved the financial problem.

By the 1930s, government financial policy gave highway users a competitive edge over long-distance railroads as well as streetcars. Writing in 1936 in the Annals of the American Academy of Political and Social Science, railroad economist C. S. Duncan identified many competitive advantages held by highway users. Raising money through private bonds versus publicly backed bonds was one crucial difference, he argued. The financial risk of railroad investment depended "directly on the earnings of the property" while financiers valued highway bonds "not on the basis of the earning capacity of a transportation agency but on the credit standing of that government unit, whether state, county, or municipality, issuing the bonds."[85] Duncan noted similarly that the use of highway construction as a means for unemployment relief disregarded "the obvious fact that such publicly provided improvements are used by private enterprise for private profit, in competition with another agency not so favored."[86]

The unequal taxation of railroads and highways particularly favored highways, Duncan further contended. "Every payment . . . by motor vehicle operators is generally called a tax," he continued, but "property tax should be compared with property tax." In all states, for example, highway rights-of-way went untaxed, providing motor carriers with thousands of miles of tax-free real estate over which to drive. Similarly, state governments frequently dedicated personal property taxes on automobiles to highway expenses rather than state general funds. In California and thirteen other states, state governments eliminated personal property taxes on motor vehicles altogether and replaced them with vehicle license fees. These "in-lieu" taxes often did not pay for the general functions of government, but rather were earmarked for highway improvement and maintenance.[87] In the case of California, the "in lieu" tax instituted in 1935 helped pay for state highway bonds.

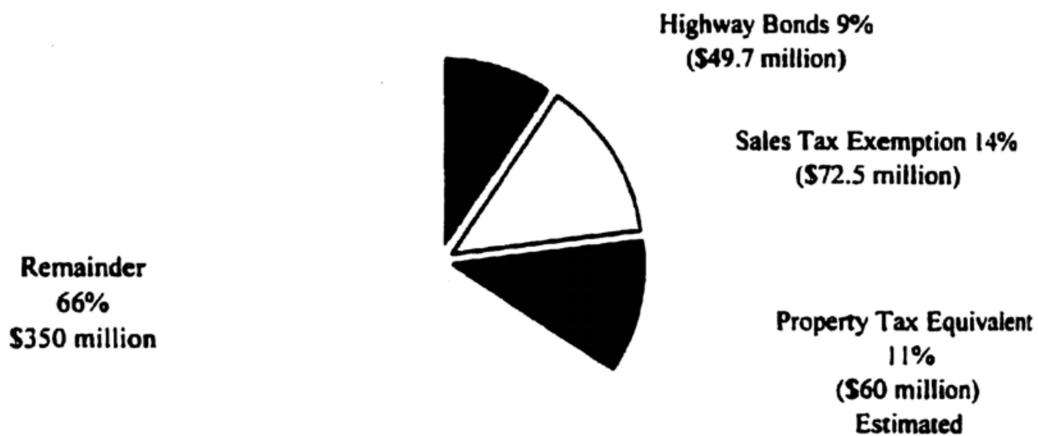
In the late 1930s and early 1940s, railroad advocates repeatedly called on government to equalize the property tax burden. While they recognized the difficulties of administering a property tax on highway land, railroad spokesmen warned that:

unless a property tax equivalent is collected from carriers using government facilities, they gain a competitive advantage over carriers providing their own facilities and paying taxes on them. If the charge for the use of a public facility for private purposes is to be sufficient to cover its full cost to the public, it must include taxes that the facility escapes by reason of being under government rather than private ownership.[88]

An investigation of carrier taxation funded by the United States Congress in the mid1940s estimated that a property-tax equivalent for 1940— a levy based on the properly taxes lost because of public ownership of the roads— would have equaled a charge to highway users nationally of ninety million dollars.[89] The report did not provide estimates for each state, but we know that California invested more in its highways than perhaps any other state. California spent

$45 million on roads in 1940. A hypothetical property-tax equivalent of $5 million would thus have exceeded ten percent of California's highway budget and presumably reduced substantially California's investment in highways in that year. If we sum the different tax assistance to highways— including a hypothetical $5 million annual property tax on highway land, the sales tax exemption of gasoline, and the use of the "in lieu" tax and transportation gross receipts tax to repay highway bonds— we find that between 1933 and 1945, this tax assistance was equivalent to *thirty-four percent* of total state and federal highway expenditures in California.[90] Although this figure certainly does not fully explain the rise of the automobile, it suggests that the *relative* speed and depth of the automobile revolution reflects complex political and institutional factors.

Tax Assistance as Fraction of $532 Million Spent by State and Federal Governments on Highways in California, 1933-45



Based on Zettel, An Analysis of Taxation for Highway Purposes, 70, 72, 111.

Although representatives of the privately held railroads correctly identified an inequitable tax situation, railroad advocates could not identify a satisfactory solution to the problem of public ownership of the highways. Federal transportation analyst Wilfred Owen proposed in 1942 that the railroads be placed on a similar basis as the highways, with publicly owned railroad rights-of-way financed by user fees paid by private rail carriers.[91] The Association of American Railroads, however, denounced Owen's proposal for the "partial socialization of the railroad industry" and condemned in general a larger national trend towards public ownership. The Association proposed instead the politically infeasible "property-tax equivalent." Yet American roads always had been exempt from property taxation. The chances were slim that the railroads would change that "public" classification (as exempt) simply to equalize competition among the different forms of transportation.

Even had the government devised a property-tax equivalent for commercial truckers, the tax would not have evened the competitive advantage held by commercial carriers unless all road

users, including private automobiles, also paid the tax. If governments did not assess automobiles with a property tax equivalent for the road, commercial motor carriers alone would have had to pay the full property-tax equivalent in order to equalize competition between truckers and railroads. Doing so would have required commercial truckers to subsidize automobile users, but most transportation analysts agreed that the reverse generally held true, with automobiles subsidizing heavier vehicles.[92]

In his analysis of the competitive situation of railways and highways, railroad economist C. S. Duncan described the Pan-American Bus Lines, a common carrier of passengers and baggage between New York City and Miami, Florida, as a typical beneficiary of the generous governmental assistance to highway users. This applicant (for a permit to continue operations), Duncan wrote,

> had no concern for, no financial participation in, no financial responsibility for, the fourteen hundred miles of expensively improved highways which he intended to use. They were there before he inaugurated service. They will remain and be maintained regardless of his use. They were constructed out of taxes, maintained out of taxes, and sustained by public credit. He was able, therefore, to establish a common carrier service over a fourteen hundred-mile route by expenditures and obligations of $43,000.[93]

Some of Duncan's complaints about how a private carrier benefited by operating on public highways with multiple users highlighted the inherent advantages of flexible, shared roadways.[94] Yet the advantages of public credit, public subsidies, and tax exemptions had little to do with the superiority of motor vehicles and their infrastructure. As Duncan concluded, "This is 'transportation by taxation.'"[95]

Conclusion

California's experience with user financing helps to explain the enormous investment in highways that began nationally in the 1920s, providing critical infrastructure for explosive growth in oil consumption. The public investment in highways took place primarily at the state level, as did political struggles over transportation taxation and finance. After World War II, with the user financing system in place, slight increases in gasoline taxes at the state and federal level unleashed a flood of money for highway expansion. In 1972 alone, the states collected $11.2 billion in highway user taxes and the federal government $5.4 billion.[96] Between 1947 and 1970, local, state, and federal highway expenditures totaled $249 billion, with most of the money coining from specia1 motor vehicle taxes.[97] According to one estimate, seventy-five percent of government transportation expenditures went to highways, while only one percent assisted mass transit.[98]

As with railroads in the nineteenth century, government assistance developed the highway network in ways that private capital never would have supported. Government aid carried highways into infrequently traveled regions and encouraged roadway proliferation in urban

areas.[99] The national experience with toll roads in the twentieth century illustrated the American tendency to over-develop highways. The national government had considered constructing toll roads, as had been done with limited success in the nineteenth century, but the Bureau of Public Roads decided as early as 1939 that "only a small portion of present traffic could be attracted to the toll system."[100] A short postwar boom in turnpike construction confirmed the Bureau's prediction. During the 1940s and 1950s, only 3,000 miles of toll road were constructed in thirteen states. With the grandest plans for toll roads reaching only 8,000 miles nationally, it quickly became clear that toll roads could never yield the 40,000 miles proposed for the interstate highway system.[101] To meet that ambitious larger goal, the federal government and the states increased their investment of highway user taxes and decisively pushed the nation further towards an almost exclusive reliance on motor vehicle transportation.

By providing highway departments with a steady revenue source protected from legislative control, the segmented financing system served a particular "public" and distorted state finance. As with nineteenth century special assessments, user financing converted highways into a private good— but with many public rights. Holding up the substantial investment of user fees as representative of the fairness of the system, few people questioned whether government should have allowed private interests to determine so freely the overall transportation infrastructure of the state and nation.

Just as user financing altered the balance between highways and mass transit, it also distributed transportation benefits unequally among the population. As with special assessments for public works, the needs of the poor went mostly unmet. Funding for urban and inter-city mass transit declined, forcing people to rely on more expensive motorized transportation. Highway advocates seeking to protect highway user funds revealed their class bias when they fought determinedly to establish California's state sales tax in 1933, and to maintain that tax, even on staple foods, in the years when it came under fire. At the same time, they successfully made gasoline exempt from the sales tax until the 1970s.

The "benefit" theory of transportation pretended to exemplify market competition, whereby those who used mass transit would pay for it and those who desired highways would finance them. Highway advocates pointed to user taxes to illustrate their competitive success in the transportation market. Yet this market was not free. Federal, state, and local governments directly subsidized highway expansion and granted generous tax exemptions to the "public" roads. The unequal means of the different classes of consumers further complicated the struggle over transportation. Middle and upper-class motorists— allied with farmers, highway departments, and the motor vehicle and petroleum industries— led the movement for the highways, leaving behind deteriorating mass transit systems. Wealthier motorists could afford higher user charges, while mass transit patrons jealously guarded the five-cent fare. As a result, highway taxes, and thus investment in highways, could rise with little consequence, while higher transit fares stranded the poor.

Yet even in the ostensibly free market terms of "benefit" transportation, the controversy has never been about whether highway funds should cover non-roadway costs. Highway user taxes

never paid entirely for the roads, and certainly not for the costs of pollution and motor vehicle injuries.[102] Instead, Californians, and Americans nationally, battled first over how much the general fund should underwrite highway and street development.[103] Critics of general financing for highways thought that they had improved the situation by instituting the user financing system in the 1920s. User financing removed the burden of highways from the general fund but also allowed highway advocates to capture part of the state government and to overdevelop the state highway system. California economist Thomas Anderson argued in 1951 that, among its many attributes, the gasoline tax "aids railroads to compete with trucks and buses."[104] But Anderson had his logic reversed. Rather than equalize the tax burden among different forms of transportation, user taxation exacerbated inequalities in transportation finance and *enabled* a more rapid replacement of mass transit by motor vehicles. Motorist advocates fought with great determination and success to protect the user financing system, ultimately codifying its principles in the state constitution in 1938. They continued to defend the system in California and the nation during the postwar years.

Sabin - Chapter 10

Endnotes: Chapter 10

[1]"A Familiar Battlefront," Motorland 44: 3 (March 1939): 1.

[2]J. Allen Davis, Raids on the Gas Tax. Los Angeles: Automobile Club of Southern California, 1960, 23, 25.

[3]"Highway Legislation," Touring Topics 23:2 (February 1931): 11.

[4]"Hands Off the Gas Tax," Motorland 32:2 (February 1933): 1.

[5]"Legislators Start Move to Cut Huge State Costs," *SB*, 24 November 1932, 1:1; "Riley Warns Registering of Warrents is Impending," *SB*, 26 November 1932, 1:8.

[6]"Riley Predicts Ad Valorem Tax," *SB*, 1 December 1932, 5:5.

[7]"Gas Tax Raid Proposed as Budget Aid," *SFC*, 24 December 1932, 1:8.

[8]"Gas Tax Raid Proposed as Budget Aid," *SFC*, 24 December 1932, 1:8. Vandegrift's strategy corresponded to his analysis of new budget procedures in California, which included all expenditures and resulted in better preparation and efficiency. The groundwork for Vandegrift's attack on fixed charges had been laid by the budget reforms of several years earlier, which had made budget preparation more systematic and comprehensible. Now it was possible to easily ascertain how the State spent its revenues. In a 1931 speech to the Western States Taxpayers Conference in Reno, Vandegrift described how the 1929 California budget had been divided into three sections, one for the general budget, a second for education, and a third for the highway program. This new format had quickly made clear that not all state appropriations were subject to "current legislative or administrative control." Legislative acts or the state constitution mandated the spending levels for highways and education. These rules radically limited the administration's flexibility to adjust the state budget in hard financial times. "The expenditures for the general activities of the State comprised less than twenty-five per cent of the entire budget. Approximately one-third was expended for educational purposes and nearly forty-five per cent of the total budget was disbursed for highway purposes." The revenues supporting the highways, Vandegrift wrote, were "available only for highway purposes. The acts authorizing such revenue definitely, specifically, and continuously appropriate all of the funds obtained from these sources. Obviously such fixed charges cannot be reduced, increased, or in any manner controlled through the operation of the executive budget. Their inclusion in the budget document is important, however, in order that information may be given as to the complete expenditure program of the State." As with Stanley Surrey's struggle against tax expenditures in the 1960s, Vandegrift's effort to expose the "complete expenditure program of the State" represented an effort to institute greater executive control over fixed expenditures. Where Surrey wanted to achieve clearer policy and greater equity, it appears that Vandegrift sought to unveil the fixed charges in order that economies might be achieved. Rolland Vandegrift, "Control of State Expenditures Through Budgeting and Budgetary Procedure," Speech Delivered at the Meeting of the Western States Taxpayers Conference, Reno, Nevada, 4 September 1931, 8, 12, IGS Library, University of California, Berkeley; Stanley S. Surrey, "Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures," Harvard Law Review 83:4 (February 1970): 705-738; Stanley S. Surrey, "Federal Income Tax Reform: The Varied Approaches Necessary to Replace Tax Expenditures with Direct Governmental Assistance," Harvard Law Review 84 (1970): 352-408.

[9]Stockwell, Studies in California Taxation, 111. Stockwell agreed with Rolph, asserting that "California highways need no help from the general fund of the state; yet up to the present time they have received a subsidy in that the interest and redemption charges of the highway bonds have been met from the general fund, an amount totaling $4,052,000 a year." Stockwell, Studies in California Taxation, 111.

[10]Rolland A. Vandegrift, “Taxes Must Be Reduced: Governor’s Plan to Balance State Budget,” Tax Digest v. 11:4 (April 1933): 119-20. Rolph’s proposal to use gasoline taxes to repay highway bonds was tied up in the state legislature in January. “New Gas Tax Raid to Meet Deficit Seen,” *SFC*, 29 December 1932, 1:2; “Autoists Will Battle Plan of Raid Gas Tax,” *SFC*, 5 January 1933, 4:1; Editorial, “They Do Not Pass,” *SFC*, 26 January 1933, 8:2.

[11]“Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same,” Sacramento: Secretary of State of California, 27 June 1933. These ballot propositions and the arguments are searchable online at the Hastings Law Library web site, accessible at http://holmes.uchastings.edu:80/Welcome.html.

[12]“Report of Joint Legislative Tax Committee,” Tax Digest 11:6 (June 1933): 187.

[13]“Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same,” 27 June 1933.

[14]“Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same,” 27 June 1933. William Mosely Jones warned of the unemployment that would result from the cancellation of highway contracts, estimating that the loss of $27 million through diversion would mean loss of 4,864,000 men days of work. Jones added a further twist to Vandegrift’s efforts to tap the gasoline tax funds. When Vandegrift proposed using gasoline tax funds for the highway bonds, Jones countered by suggesting that the legislature eliminate the gasoline tax refunds for various purposes, arguing that “If highway funds are to be taken for general purposes, then all users of gasoline should be treated alike. There should be no refunds and their elimination would produce more than the amount required to reimburse the general fund for outstanding road bond interest and redemption payments.” Jones seems to have wanted to protect the gasoline tax as a special tax, warning of the danger posed by some twenty bills in the legislature that sought to use highway funds for different purposes. But if the gas tax money were to be used for general purposes, then Jones wanted the tax turned into a more general tax by eliminating refunds. The move seems to have been largely aimed at derailing Vandegrift’s proposal. “Bill Drafted to Halt Gas Tax Refunds,” *SFC*, 22 January 1933, 1:3.

[15]“Gasoline Tax Diversion,” Standard Oil Bulletin 21, no. 2 (June 1933): 1. The Bulletin wrote similarly in 1934, “If diversions of gasoline-tax revenues to general funds are permitted, which itself proves that such revenues are not absolutely essential for roads, there will be little hope of ever bringing about a reduction of gasoline taxes.” “Raiding the Gas-Tax Funds,” Standard Oil Bulletin 21, no. 11 (March 1934): 1.

[16]“Gas Tax Diversion Moves Protested,” Motorland 32:2 (February 1933): 7. See also Leon Pinkson, “Six Representative State Groups Denounce Gasoline Tax Diversion,” *SFC*, 19 March 1933, 9:1.

[17]Leon J. Pinkson, “Highway Fund Raiders Get Sharp Repulse,” *SFC*, 7 May 1933, 7:1. The California Highway Commission selected the 6600 new miles of highway and then submitted the selections to the legislature for approval. John W. Howe to P.A. Stanton, 14 March 1933, California Highway Commission-General Correspondence. Correspondence, Internal, Jan-Aug. 1933. Some opponents of the state’s takeover of county highways distributed counter-propaganda to small papers throughout the state. John W. Howe to Harry A. Hopkins, 21 February 1934, CHC-General Correspondence. Correspondence, Internal, 1934. State control over the local highways could shape local development prospects significantly. In Tracy, for example, local entrepreneurs put up signs to direct highway traffic onto a county road through their town, in the hopes of bringing business to the area. The highway department ordered them to take down the signs and rejected the idea of diverting traffic “over a parallel county road, with dangerous railroad grade crossings and other road conditions which are not comparable to the existing state highway.” Earl Lee Kelly to J. B. Casselman, 27 September 1937, Public Works Administration-Correspondence, 1936-3 7, CSA. Still, some county Boards of Supervisors supported incorporation of county roads into the state system to ease their own budgetary situation. See, for example. D. F. Hunt to Frank F. Merriam, 4 April 1933, Merriam Papers, Box 35, Folder 1933, BL. Hunt informed Merriam that the Santa Barbara County Board of Supervisors unanimously opposed proposal to give three-quarters of a cent of the gas tax to cities and instead advocated “the economy plan now before the Legislature, whereby 6600 miles of county highways would be taken into the State secondary system, thus relieving local taxpayers.”

By contrast, the Los Angeles County League of Municipalities pressed for the assembly bill giving cities an additional three-quarter cent of the gas tax. The league threatened to push for the measure as an initiative if it did not succeed in the legislature. See, F. A. Baughan to Frank F. Merriam, 21 March 1933, Merriam Papers, Box 35, Folder 1933, BL. The Los Angeles County Board of Supervisors also opposed Breed's proposal to expand the state system. The board observed that "a close examination of these legislative measures indicates that little or no relief will be given the common property taxpayer and small home owner, particularly in the County of Los Angeles and Southern California." The board urged aggressive opposition to diversion of the gas tax, as well as to its use for expanding the state highway system. County of Los Angeles Board of Supervisors, "Resolution Opposing Any Diversion of Gasoline Tax also Senate Bill No. 563; and Urging Adoption of Principles Set Forth in Assembly Bill No. 1172," l9 April 1933, Merriam Papers, Box 35, Folder 1933.

[18]"California Borrows Five Millions of Gas Taxes," *SFC*, 13 September 1933, 11:3.

[19]"State Sales Tax Passed; Income Levy Battle On," *LAT*, 27 July 1933, 1:7.

[20]"Sales Tax Bill Signed; Effective Tomorrow," *SB*, 31 July 1933, 1:4.

[21]"Owners pay big portion of sales tax," *SFC*, 3 March 1935, 9: 8. The Chronicle reported that motor vehicle owners paid nearly fifteen percent of the total sales tax revenue.

[22]Zettel, An Analysis of Taxation for Highway Purposes, 111.

[23]An attempt to extend the 5% sales tax to gasoline tailed in 1967, with strong resistance from Senator Randolph Collier. By 1974, a sales tax had been instituted and was raising $180 million per year in revenue. See Bob Simmons, "The Freeway Establishment," in Cry California (Spring 1968) and also California Secretary of State, "Proposed Amendments to the Constitution: Propositions and Proposed Laws, June 4, 1974," 22-23. According to James Dunn, only ten states in the United States applied their general sales tax on gasoline as late as 1993. James Dunn, "The Politics of Motor Fuel Taxes and Infrastructure Funds in France and the United States," Policy Studies Journal 21: 2 (1993): 275.

[24]In 1934, for example, Axtell Byles, President of the American Petroleum Institute, criticized the excessive taxation of motorists and the oil industry, and called for a general manufacturer's sales tax as a preferable alternative. Axtell J. Byles, "Petroleum and Taxation," Review of Reviews, September 1934, 31. J. Allen Davis, former General Counsel of the Automobile Club of Southern California, described in 1960 the threat posed by repeal or reduction of the state sales tax: "An initiative measure to repeal the sales tax and to substitute what amounted to a single tax on land qualified as No. 20 on the November ballot in 1938. The enactment of this measure would have been fatal to the State General Fund and would have invited diversion of highway revenues to General Fund revenues." Davis described a similar scenario in 1958, when opponents defeated a proposed sales tax reduction. The consequent "loss of General Fund revenues would mean that other sources of revenue would have to be found. It would be permissible for the state to borrow gasoline tax and motor vehicle fee revenues to meet the cost of public schools and for other General Fund purposes. A continuing General Fund deficit would be disastrous to the street and highway programs of the state." Davis, Raids on the Gas Tax, 55, 75.

[25]Stockwell, Studies in California Taxation. 111. Protests against this three percent gross receipts tax continued through the 1930s. There are five folders of letters submitted with tax payments, all protesting the tax, collected in the state archives. A typical letter accompanying payment of a monthly bill of $152.08 declared that "this protest is made with the belief that, among other things, this act is class legislation and therefore unconstitutional." The form letter was repeated until 1938 at least. C. Don Field to State Board of Equalization, 10 July 1935, Controller-Division of Tax Collection and Refund-l935, CSA. The controller's office and attorney general's office undertook thousands of legal actions to force delinquent taxpayers to pay the gross receipts tax. Actions ranged from two dollars to hundreds of dollars. "Transportation Tax- Court Actions," 1924-47, Controller-Accounting-etc. 1924-37, CSA.

[26]"Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same." (Sacramento: Secretary of State of California, 8 November 1932).

[27]"Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same," 8 November 1932.

[28]Zettel, An Analysis of Taxation for Highway Purposes, 44.

[29]Stockwell, Studies in California Taxation. 108-9. Senate Constitutional Amendment 18, rejected by the voters in November 1930, would have authorized the legislature to fix an assessment in lieu of the personal property tax to be collected by the division of motor vehicles at the time license plates are issued. Supporters maintained that only three of four registered taxable automobiles paid the personal property tax. Ninety-five percent of the revenue would have been returned to the counties. "Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same," Sacramento: Secretary of State of California, 4 November 1930, 23.

[30]In 1936, in the case of *Ingels v. Riley* (1936) the California Supreme Court declared the "in lieu" tax to be an excise or privilege tax rather than a property tax. In this case, Ingels, the Director of the Department of Motor Vehicles, sought to process veterans' exemptions for the "in lieu" tax. Veterans had been exempt from the personal property tax on automobiles that the "in lieu" tax replaced. State Controller Ray Riley refused to allow Ingels to process the claims, and the Director of Motor Vehicles petitioned the California Supreme Court. Citing decisions by the United States Supreme Court and the Supreme Court of Massachusetts, the California court declared that veterans' exemptions from the tax were no longer valid. In this instance of a revenue-maximizing state, the auto interests and highway department sought to preserve the veterans' exemption as part of maintaining their alliance with motorists. See American Law Reports Annotated v. 103, 1-9. For a wide-ranging argument that views the evolution of governments principally as a function of their character as revenue maximizing, predatory institutions, see Margaret Levi, Of Rule and Revenue. Berkeley: University of California Press, 1988.

[31]The "in lieu" license fee raised approximately 511 million per year during the mid-l930s. The general fund received 62 1/2% of that revenue, but 66% of its allocation paid for interest and redemption on the old highway bonds. After the allocation to the general fund, 25% of the original money raised went to the cities to finance law enforcement, and the regulation and control and fire protection of highway traffic. Finally 12 1/2% paid for the administration of the vehicle license fund (up to 3%), with the remainder going to the cities with no restrictions on how it should be spent. These percentages (62 1/2; 12 1/2 (3); 25) were written into the Vehicle License Fee Act. Victor W. Killick, Chief, Bureau of Statistics. "California Taxes on Motorists." Department of Motor Vehicles, 20 May 1940. The percentages were subsequently altered in 1939 when the revenues were apportioned first to administration (3%) and the interest and redemption of highway bonds. The balance was distributed between the state general fund, the counties, and the cities (20:40:40). For a summary of the fee, see Zettel, An Analysis of Taxation for Highway Purposes, 54-60.

[32]Zettel, An Analysis of Taxation for Highway Purposes, 70.

[33]Zettel, An Analysis of Taxation for Highway Purposes, 70.

[34]Budget of the State of California for the 85th and 86th_Fiscal Years July 1, 1933, to June 30, 1935. Sacramento: California State Board of Control and Budget, January 17, 1933, xxiv.

[35]Finla G. Crawford, Motor Fuel Taxation in the United States. Syracuse, New York: By the Author, 1939, 76-77. For the text of the law, see H. R. 878: June 18, 1934, 48 Stat, 995.

[36]William Ullman. "Tax Diversion May Entail Penalty," New York Times, 2 May 1937, XII. 8:3.

[37]United States Report of the Chief of the Bureau of Public Roads, 1938-39. Washington, D.C.: US Public Roads Administration, Federal Works Agency, 1939, 8.

Sabin - Chapter 10

[38]Crawford, Motor Fuel Taxation in the United States, 76-77.

[39]William Ullman. "Tax Diversion May Entail Penalty," New York Times, 2 May 1937, XII, 8:3.

[40]"Fund Diversion Scored," New York Times, 16 August 1937: 14:6.

[41]"Barriers to Gas Tax Raids," Motorland 38:2 (March 1936): 1. See also "Reports on Legislation Affecting Motorists" Motorland v36:3 (May 1935): 8; "VOTE NO on NO. 10: Protect Our Highways," Motorland 39:3 (September/October 1936): 2; "Plan to Divert Gas Tax Stirs Strong Protest," *SFC*, 10 January 1935, 5:4; Earl C. Behrens, "Gas Tax Fund Diversion Bill Perils Roads. California will Lose Much Federal Aid Through Scheme, Officials Warn," *SFC*, 9 May 1937, 1:5; and Westways (July 1937) as cited in Davis, Raids on the Gas Tax, 58.

[42]Leon J. Pinkson. "Diverting Gas Tax funds Will Mean Yearly Loss to California of $3,000,000," *SFC* (June 24. 1934): Al: 1. The California State Automobile Association also believed that the federal law sufficiently guaranteed that California would not divert state highway user taxes. "There are other reasons why diversion is unthinkable and no longer a threat worthy of serious concern," the CSAA wrote in 1936. "The folly of diversion is now too well recognized. Diversion would, by Federal law, subject California to a penalty of losing more than a million dollars a year in Federal Aid highway money, and in other ways would cause harm to the highway system, one of the state's greatest assets." "VOTE NO on NO. 10: Protect Our Highways," Motorland 39: 3 (September/October 1936): 2.

[43]"Protecting Gas Tax Funds Holds Federal Road Money," *SFC*, 17 September 1937, 10:2. In May 1938, the Chronicle described a new amendment before the US Congress that proposed to increase federal penalties for diversion at the state level from 1/3 to 2/3 of the Federal apportionment. The Chronicle reported a statement by the CSAA which "emphasiz[ed] the severity of the penalty" and highlighted the loss of funds by NJ ($250,000) and MD ($341,600). The article held out the promise that the proposed constitutional amendment would forever remove that threat in California. "Diversion of Gas Tax Perils US Road Aid," *SFC*, 8 May 1938, A1:1.

[44]"State Diverts Gas Taxes to Relief Funds," *SFC*, 18 July 1936, 3:8.

[45]Zettel, An Analysis of Taxation for Highway Purposes, 111. According to J. Allen Davis, the counties were obligated to repay the unemployment relief bonds out of their gas tax apportionment unless they had made alternate arrangements at the time of the original borrowing in 1933. Efforts to force the county general funds to repay the bonds failed in 1939 when the Attorney General held that the Legislature could not change the form of payment at that juncture. Davis, Raids on the Gas Tax, Appendix, 11.

[46]"New $12,000,000 Tax for California Motorists," Standard Oil Bulletin 22, no. 10 (February 1935): 1.

[47]"State Operation of Mines as Unemployment Aid Proposed in Senate: Income Need Stressed in Control Bill," *SFC*, l7 January 1935, 12:1. See also, Davis, Raids on the Gas Tax, 55.

[48]Earl C. Behrens, "Gas Tax Fund Diversion Bill Perils Roads: California will Lose Much Federal Aid Through Scheme, Officials Warn," *SFC*, 9 May 1937, 1:5; for six bills allocating funds to special assessments, see, Davis, Raids on the Gas Tax, 55.

[49]Everett W. Mattoon to Los Angeles County Grand Jury, 4 August 1934, John Anson Ford Papers, Box 23, Folder 4k(2), HL; Everett W. Mattoon to Harry M. Baine, 24 September 1934, John Anson Ford Papers, Box 23, Folder 4k(2), HL.

[50]"Board of Supervisors, Motion to declare policy," 6 February 1935, John Anson Ford Papers, Box 23, Folder 4k(3), HL; "Meeting of the Los Angeles Board of Supervisors," 30 August 1935, John Anson Ford Papers, Box 22, Folder 4d, HL.

[51]Carl Bush to John Anson Ford, 21 February 1935, John Anson Ford Papers, Box 23, Folder 4k(3), HL.

[52]Carl Bush to John Anson Ford, 4 March 1935, John Anson Ford Papers, Box 23, Folder 4k(3), HL.

[53]Randolph Collier, the leader of the highway lobby in the legislature, criticized these tendencies after World War II and threatened to penalize those who violated "sound highway policy": "With regard to land access roads and streets, investigation has revealed that many counties are not levying any local property tax or general tax for roads, and that certain cities are expending gasoline tax revenues, or other user revenues, for the maintenance of residential streets. These are gross violations of sound highway policy and should be corrected immediately." Randolph Collier, "Financial Aspects of California's Road Problem," 1 April 1946, John Anson Ford Papers, Box 70, Folder 3f, HL.

[54]"Bill to Halt Diversion of Taxes Filed," *SFC*, 26 July 1936, 4:1.

[55]"Proposed Amendments to Constitution, Propositions, and Proposed Laws," Sacramento: Secretary of State of California (3 November 1936), 17.

[56]"VOTE NO on NO. 10: Protect Our Highways," Motorland 39:3 (September/October 1936): 2.

[57]Leon J. Pinkson, "Beware of Jokers Hidden in Proposed Gasoline Tax Constitutional Amendment," *SFC*, June21, 1936, Al:1.

[58]"Gas Tax Amendment Is Suspect," *SFC*, July 7, 1936, 6:1.

[59]"VOTE NO on NO. 10: Protect Our Highways," Motorland 39:3 (September/October 1936): 2.

[60]Leon J. Pinkson, "Beware of Jokers Hidden in Proposed Gasoline Tax Constitutional Amendment," *SFC*, June21, 1936, Al:1.

[61]"VOTE NO on NO. 10: Protect Our Highways," Motorland 39:3 (September/October 1936): 2.

[62]"Amendment to Protect State Gas Tax Proposed," *SFC* (May 7, 1937): 6:5. See Knowland's press release in the Knowland Archive, BL, Carton 136. The State Federation of Labor supported the amendment because of highway employment.

[63]"Auto Clubs' Gas Tax Amendment Presented to Legislature," Motorland 40: 5 (June 1937): 8. States that had already instituted a constitutional ban included Colorado (1934), Kansas (1928), Minnesota (1920), Missouri (1928; 1945 revised). California, Michigan, and New Hampshire approved amendments in 1938. National Highway Users Conference. "Texts of Good Roads Amendments." Washington, D. C.: National Highway Users Conference, 1949, 6.

[64]"Vote YES- Propositions 3 and 4," Motorland 43:4 (October/November 1938): 3.

[65]AP Press Release, Knowland Archive, BL, Carton 136.

[66]"Proposed Amendments to Constitution, Propositions, and Proposed Laws," (Sacramento: Secretary of State of California, 8 November 1938): Part II, 11-13.

[67]Motorland 43:3 (September 1938): 3.

[68]"Save the Gas Tax for Highways," Motorland 43:3 (September 1938): 2.

[69]"Highway Dollars," Motorland 42:3 (April 1938): 1. "Wanted: Better Business in Highways Motorists' Initiative Seeks More for Road Investment," Motorland 42:4 (May 1938): 10.

[70]"Proposed Amendments to Constitution, Propositions, and Proposed Laws," (8 November 1938): 11.

Sabin - Chapter 10

[71]J. Gould to William Knowland, 8 May 1937, William Knowland Archive, Carton 136, BL. Gould's letter specifically concluded that the public schools and university had a constitutional right to support out of money deposited in the Motor Vehicle Fuel Fund."

[72]Quote from *Daugherty v. RiIey* (l Cal. (2nd) 289), as cited in Gould to Knowland, 8 May 1937, William Knowland Archive, Carton 136, BL, emphasis in the original. Gould suggested that the trust fund model might rather be "confined in its operation to statutes of a purely regulatory nature, imposing taxes, licenses or fees to be used for the purpose of regulation only"

[73]Gould to Knowland, May 8, 1937.

[74]"Proposed Amendments to Constitution, Propositions, and Proposed Laws," (8 November 1938): 9.

[75]Stockwell, Studies in California Taxation, 111.

[76]Ray L. Riley, in Commonwealth Club of California, Transactions of the Commonwealth Club of California, 29 (May 7, 1935), 326, as cited in Stockwell, Studies in California Taxation, 123, footnote 119; Oil Producers' Sales Agency to All Members, 23 January 1932, Lloyd Coll., Box LCL 7(4), Folder OPSA, HL.

[77]See Terrence J. McDonald. The Parameters of Urban Fiscal Policy: Socioeconomic Change and Political Culture in San Francisco, 1860-1906. Berkeley: University of California Press, 1986.

[78]Paul Barrett offers a fine example from Chicago of how even taxes intended for reinvestment did not serve streetcar expansion. Beginning in 1907, transit companies in Chicago paid approximately $2 million per year into a "traction fund" that was stockpiled until it was finally used to begin a Central Business District subway in 1938. The traction fund and city and federal taxes absorbed nearly $37 million of Chicago transit-users money, yet the funds were not reinvested in the transit system in the concerted manner of highway user taxes. Barrett, The Automobile and Urban Transit, 123, 127.

[79]Fogelson, Fragmented Metropolis, 169.

[80]Hunter, "Effect of Fare Changes on Street Railway Operations in California."

[81]Fogelson, Fragmented Metropolis, 172-178, 180,

[82]California Railroad Commission, Annual Report. Sacramento: California State Printing Office, 1931, 366-372.

[83]"Proposed Amendments to Constitution and Proposed Statutes, with arguments respecting the same," Sacramento: Secretary of State of California, 4 November 1930. Citing the Tax Commission report, Snyder and Noyes emphasized that electric railways "are paying 53.06 per cent of their net revenue in State and local direct and indirect taxes." The streetcars potentially covered by the amendment included interurban electric railways and gasoline propelled railways.

[84]California Secretary of State, "Propositions, Constitutional Amendments and Initiative Measures," 4 November 1930, 25. Proposition 4 passed with 65% approval.

[85]C. S. Duncan, "Railways and Highways: Finance, Taxation, and Subsidy," Annals of the American Academy of Political and Social Science 187 (September 1936): 74.

[86]Duncan, "Railways and Highways," 75.

[87]Duncan, "Railways and Highways," 75-6.

Sabin - Chapter 10

[88]Association of American Railroads, “Inequality of Taxation Among the Several Forms of Transportation: A Report by the Subcommittee on Taxation of the Railroad Committee for the Study of Transportation” (December 1946) 6, emphasis in the original.

[89]Board of Investigation and Research. Carrier Taxation, Washington, D. C.: Government Printing Office, 1945, 185. The investigators estimated a $16.1 billion unamortized investment in highways and streets at the beginning of 1940. They claimed that if it had produced “equivalent market values and had been taxed at the average rate applicable to the full market value of private property,” it would have yielded $300 million in property taxes. After various deductions, including $150 million in benefits to property owners and a 40% discount rate to cover bad investments, they arrived at the figure of $90 million. The authors compared this estimate to a figure for 1932 of $76 million, calculated using different assumptions by the research staff of the Federal Coordinator of Transportation. Board of Investigation and Research, Carrier Taxation, 185. Charles Dearing discusses briefly some of these competitive inequalities in American Highway Policy. Washington, D. C.: Brookings Institution, 1942, 189-200.

[90]The figures are calculated from Zettel, 70, 72, 111. These estimates do not include expenditures of general or highway user taxes at the county or city level.

State Tax Assistance Versus State Highway Expenditures (1933-1945)	
Highway bond payments (1933-1945)	49,760,000
Sales tax exemption (1933-1945)	72,571,000
Property tax equivalent (55 million/year estimate)	60,000,000
Estimated State Tax Assistance (1933.1945)	182,331,000
State and Federal Expenditures on Highways (1933-1945)	532,175,000
State Tax Assistance as a Percentage of Expenditures	34.26

[91]Wilfred Owen, “Transportation and Public Promotional Policy,” National Resources Planning Board Report, May 1942, 257-264, reprinted in Association of American Railroads. “Inequality of Taxation Among the Several Forms of Transportation,” December l946, 26.

[92]Automobile users subsidized commercial motor carriers because automobile user taxes as well as truck taxes funded the roads built to withstand truck weights. In 1929, C. J. Bullock of Harvard University noted that a road wide and thick enough for a motor truck or bus cost some $40-60,000 more per mile than a simple improved surface for cars. While heavier vehicles paid higher taxes that partly covered the greater damage that they caused to the roads, they did not cover the additional costs of building a road network to accommodate their size and weight. C. J. Bullock, in Proceedings of the National Tax Association (1929): 521, as cited in Stockwell, Studies in California Taxation, 119, footnote 65. Based on extensive financial analysis, Zettel argued in 1945 that taxes calculated according to vehicle ton-mile showed that automobiles paid higher taxes than heavier vehicles. Zettel does not address the more basic expense of building roads to accommodate the larger vehicles in the first place. Zettel, An Analysis of Taxation for Highway Purposes, 128.

[93]Duncan, “Railways and Highways,” 75.

[94]See Dearing, American Highway Policy, 199-200.

[95]Duncan, “Railways and Highways,” 75.

[96]James A. Dunn, Jr., Miles To Go: European and American Transportation Policies. Cambridge, MA: MIT Press, 1981, 117.

[97]Flink, Automobile Age, 175-6.

[98]Flink, Automobile Age, 176.

[99]Board of Investigation and Research, Carrier Taxation, 165.

Sabin - Chapter 10

[100]Bureau of Public Roads, Annual Reports of the Department of Agriculture. Washington, D. C.: US Public Roads Administration, Federal Works Agency, 1939, 5.

[101]Dunn, Miles to Go, 119.

[102]See Hanson, "Automobile Subsidies and Land Use: Estimates and Policy Responses."

[103]For example, Marvel Stockwell proposed in 1939 that "either the special highway taxes should bear the entire burden of highway costs, thus relieving other taxes for other purposes, or the special highway taxes should be reduced." Stockwell, Studies in California Taxation, 111. The report on Carrier Taxation also made the point that there was no state "in which the total cost of rural roads and urban streets does not exceed total highway user revenues (including Federal Aid). Until such an excess does exist, any so-called diversion is merely an accounting fiction by which money is transferred from one pocket to another." Board of Investigation and Research, Carrier Taxation, 215.

[104]William H. Anderson, Taxation and the American Economy: An Economic, Legal, and Administrative Analysis. New York: Prentice-Hall, Inc., 1951, 435.

Sabin - Conclusion

Conclusion

"The Economic Stimulus of Price"

> Any estimate of future supply and demand that did not embrace the price factor would be futile. Price finds the oil and produces it. Price controls and limits its use.
>
> Charles Evans Hughes, 1926[1]

In 1925, Kenneth R. Kingsbury, president of Standard Oil of California, wrote a private letter to Secretary of the Interior Hubert Work regarding federal oil policy. Kingsbury argued that the United States should not fear shortages of crude oil and that there was no need for the federal government to further regulate the oil market. Kingsbury assured Secretary Work that petroleum companies would discover new oil reserves if oil supplies declined. Similarly, consumers would use oil more efficiently. Refiners like Standard Oil could learn to recover more high value products from each barrel of oil. Automobile manufacturers similarly could "double the supply of gasoline" by doubling automobile mileage per gallon. Kingsbury warned, however, that this further oil exploration and technological advance depended on the "economic stimulus of price."[2] Kingsbury urged Secretary Work to allow prices to rise naturally in order to spur exploration and innovation.

Kingsbury portrayed correctly dynamic interactions among prices, resource consumption, and technological development. Comparative market prices are one of the primary ways that our society sorts out the relative balance between different economic activities. On the basis of price, producers and consumers make complex calculations that determine how they mix and combine economic options. Small price differences can influence these decisions and determine the viability of enterprises and the successful entry of new technologies. Rising petroleum prices historically have sparked new oil exploration, increased efficiency in petroleum use, and prompted fresh consideration of alternate energy sources.

Behind Kingsbury's embrace of the "economic stimulus of price," however, lurked an unsettling contradiction. On the one hand, Kingsbury appealed to market prices as independent measures of scarcity and abundance, natural arbiters of resource use and technological change. If government refrained from economic interventions, he implied, then "true," efficient pricing of goods would allocate natural resources and other commodities correctly. On the other hand, Kingsbury's letter to Secretary Work acknowledged how profoundly public choices and government policies influenced prices. Known oil supplies and existing technology only partly determined the price of a barrel of California oil. Public decisions about access to resources, business regulation, public investment, and taxation also deeply shaped market dynamics and thereby influenced prices. Even the inaction requested by Kingsbury constituted a public choice among various policy options.

Sabin - Conclusion

Legal and political struggles over property rights, regulatory rules, and infrastructure investment profoundly influenced the contours of the oil economy. Their outcomes fundamentally shaped the California oil market by increasing oil production, moderating overproduction, and building an infrastructure for consumption. Evolving in creative tension with each other, law and politics established an ever-changing framework of market rules that oil producers and consumers relied upon to make economic decisions. These economic rules were continually renegotiated in the political sphere and the courts. California's political economy was extraordinarily dynamic. Changing economic conditions and political sentiment repeatedly raised fundamental questions about the basic structure of the oil economy. Who would control access to oil in the San Joaquin Valley or in the Huntington Beach offshore field? How would California regulate petroleum output, if it did so at all, during the flush production of the 1930s? What public investment would California make in its highways, key infrastructure for oil consumption? Through the entire time period under consideration in this study, the oil market and price structure depended on the answers to these hotly contested policy questions.

Because prices are so important in the balancing of competing economic activities, California petroleum politics often circled around knotty questions of public finance. Controversial budgetary and policy issues had significant bottom-line implications for California oil producers and consumers. When the government distributed rights to property, for example, it determined which resources to keep for the public and the government and how to incorporate oil revenues into state and national fiscal systems. Hundreds of millions of dollars in industry profits or oil royalties turned on state and national struggles over leasing laws, naval oil reserves, and state tidelands. A broad recurring public policy question was also at stake: what role would public oil lands and natural resources generally play in the public revenue mix?

Similarly, California's efforts to stabilize oil prices by controlling petroleum production aided the oil industry, a major state and county taxpayer, and raised fresh questions about the distribution of profits. At the same time, production controls threatened county per-barrel taxes on oil extraction and provided a possible rationale for the institution of a state severance tax on oil in the 1930s. County taxes and the severance tax raised the same financial issue: how should the government and oil operators split profits (or rents) created by production controls? State production controls sharply increased profits on each barrel of oil. Should oil operators capture that entire revenue stream?

In the transportation sector, public financial policy and transportation policy were synonymous. The state highway infrastructure was funded entirely through public institutions and, in turn, state highway expenditures dominated the state budget. With up to a third of public revenues dedicated to highway development—and increasing the consumption of oil—every aspect of state finance linked back to transportation. Motor vehicle advocates worked continually to segregate dedicated highway funds from the remainder of the state budget. Petroleum and automobile interests also sought fiscal stability through a general sales tax in order to protect highway funds from diversion to non-highway uses and to make unnecessary further taxes on oil production.

These fights over public finance commonly resulted in public policy decisions that generously aided oil producers and consumers. More interestingly, perhaps, the conflicts reveal the myriad ways that public finance integrated seemingly disparate aspects of public life. State budget negotiations in California wove together all the different facets of the state's petroleum policy. Gasoline taxes, automobile property taxes, royalties from the tidelands oil fields, revenue-sharing from federal oil lands, and a severance tax on statewide petroleum production— these issues mixed with efforts to reduce the sales tax, provide for education and unemployment relief, and institute a state income tax. The stark balancing of competing public goals in the 1930s highlighted in a particularly dramatic way the complex political economy of petroleum, with the oil industry and motor vehicle advocates protecting privileged spheres by fighting back progressives who wanted to alter the state's revenue mix.

Just as political developments shaped the oil economy's market structure and distribution of profits, the constant struggles over petroleum policy profoundly influenced California and national politics before World War II. From Teapot Dome in the 1920s to the Huntington Beach scandal of the 1930s, from crushing electoral defeats of oil control bills to the longstanding contest over highway funds, oil stayed on center stage in state and national politics. Oil would assume an even more prominent political role after World War II. Oil helped power the rise of Texas Democrats like Sam Rayburn and Lyndon Johnson, and they, in turn, defended oils privileged place in American public finance. Republicans also rode oil to electoral success, as when Dwight Eisenhower helped clinch his 1952 presidential bid by promising Texas and California that he would return offshore oil lands that the U. S. Supreme Court and the Truman Administration had claimed for the nation. In the post-war years, public outcry against Los Angeles smog, the Santa Barbara oil spill, and a proliferating freeway maze provoked a profound change in California and the nation's political sentiments and alliances. A powerful environmental movement—sparked partly by these California oil politics—achieved sweeping institutional change, including the establishment of the Environmental Protection Agency and passage of the National Environmental Policy Act, the California Environmental Quality Act, and the Clean Air Act. Federal and state environmental agencies emerged with broad-ranging powers to shape economic development. At the same time, the OPEC oil embargo and the sharp rise in energy prices dominated U. S. politics for the remainder of the 1970s. In the early 1990s, American concerns about petroleum supplies brought the United States into a large-scale military conflict (the Gulf War) for the first time since Vietnam. At the close of the century, fossil fuel driven climate change and the requisite international policy response cast a long shadow over the years ahead.

What did these political developments mean for the oil economy? This dissertation has sought to explain how the politics of access, regulation, competition, and public investment shaped the American policy regime and established a framework for economic activity in a large and fast-growing state. In the specific case of oil, I have documented how state and federal politics influenced the California petroleum industry, stimulating oil production through public land laws and tax policies, restraining overproduction, and creating a market through transportation development. Additional areas are ripe for analysis, including labor relations and other forms of petroleum consumption. But property law, regulation, public investment and tax policy

sufficiently illustrate the extensive, fundamental, and on-going role played by politics and government. Although we may criticize past petroleum policies, the point is not to re-fight the battles of the past. This history of the California oil economy yields one simple lesson: hotly contested political decisions, as much as the mundane consumption choices of our everyday lives, have greatly shaped our development as a petroleum society. Politics, which brought us here, can also lead us away.

Endnotes: Conclusion

[1]"The Future Supply of Oil," Standard Oil Bulletin 14, no. 3 (July 1926): 1.

[2]K.R. Kingsbury to Hubert Work, 9 March 1925, GTWHP, Carton 155070, Box Conservation. The American Petroleum Institute voiced similar themes in a 1925 report, discussed in Section III.

Bibliography of Materials Consulted

Newspapers and Periodicals

American City
Among Ourselves
Bakersfield Californian
California Democrat
California Highway and Public Works
California Oil World
California Journal of Development
Christian Science Monitor
Cry California: The Journal of California Tomorrow
Epic News
Illustrated Daily News
Independent Review
Legislative Problems
Los Angeles Examiner
Los Angeles Times
Motorland
National Oil Derrick
Newport News
Oil & Gas Journal
Parks and Recreation
Platt's Oilgram News,
Review of Reviews
Sacramento Bee
Sacramento Call-Bulletin
Sacramento Union
San Francisco Chronicle
Standard Oil Bulletin
Tax Policy
Touring Topics
Transactions of the Commonwealth Club of California
U. S. Daily
Washington Post
Western Engineering
Westways

Personal and Corporate Papers

Ralph Arnold Papers, Huntington Library
Banning Company Papers, Huntington Library
Earl Behrens Collection, California State Historical Society
Arthur H. Breed Papers, Bancroft Library
Albert Fall Papers, Huntington Library
John Anson Ford Papers, Huntington Library
Thomas Gibbon Papers, Huntington Library
James N. Gillett Papers, California State Library
Franklin Hichborn Papers, UCLA Special Collections
Henry E. Huntington Corporate Papers, Huntington Library
Ralph Lloyd Papers, Huntington Library
Lloyd Corporation Papers, Huntington Library
Frank Merriam Papers, Bancroft Library
Henry Miller and Charles Lux Papers, Bancroft Library
Culbert L. Olson Papers, Bancroft Library
John W. Shenk Papers, Special Collections, Stanford University
Paul Shoup Papers, Special Collections, Stanford University
Gerald T. White History Project, Chevron Archives

Sabin - Bibliography

Records in the California State Archives

California Department of Finance
California Department of Public Works
California Division of Oil and Gas
California Division of State Lands
California Highway Commission
California State Lands Commission
California State Park Commission
California Supreme Court

Records in the National Archives, College Park, MD

United States Department of the Interior, Office of the Secretary
United States Department of the Interior, Records of the Geological Survey

Records in the National Archives-Pacific Sierra Region, San Bruno, CA

United States Department of Justice
United States Ninth Circuit Court of Appeals
United States District Court, Southern District of California Northern Division

Additional Libraries or Archives Consulted

Orange County Superior Court
Long Beach Public Library
Institute for Governmental Studies, University of California

Government Publications

Annual Report of the State Oil and Gas Supervisor, California State Mining Bureau.

Annual Report, California State Park Commission.

Annual Report, Summary of Operations, California State Mining Bureau.

Assembly Journal.

Biennial Report of the Division of Highways California Highway Commission.

Biennial Report, Board of Equalization.

Biennial Report, State Controller.

Sabin - Bibliography

Biennial Report, State Highway Commission.

Board of Investigation and Research. Carrier Taxation. Washington, D. C.: Government Printing Office, 1945.

Budget of the State of California

Bureau of Public Roads. Annual Reports of the Department of Agriculture. Washington, D. C.: US Public Roads Administration, Federal Works Agency, 1939.

Bureau of Research, Statistic & Traffic Safety. "California Motor Vehicle Statistics." Sacramento: Division of Motor Vehicles and California Highway Patrol, April 1, 1931, 4.

California Legislature. Partial Report of Senate and Assembly Joint Committee on Revenue and Taxation, Hearing Concerning Assembly Bills 2647, 2648, 2649, 2650, 2651, and 2652. March 1, 1939. Sacramento: California State Printing Office, 1939.

California Legislature. Partial Report of Senate and Assembly Joint Committee on Revenue and Taxation, Hearing Concerning Assembly Bill 2662, March 1, 1939. Sacramento: California State Printing Office, 1939.

California Legislature. Special Committee on the Abstraction of Oil and Gas from Tidelands of the State of California. In the matter of the investigation by a Special Committee of the Senate of the State of California of the Abstraction of Oil and Gas from the Tidelands of the State of California: Reporter's Transcript of the Proceedings. Sacramento: California State Printing Office, 1935-1937.

California. Highway Advisory Committee. Report of a Study of the State Highway System of California. Sacramento: California State Printing Office, 1925.

Division of Highways, State of California. California highways and public works: centennial edition, September 9, 1850- September 9,1950. Sacramento: Department of Public Works, State of California, 1950.

Hunter, J. G. "Effect of Fare Changes on Street Railway Operations in California," San Francisco: California Railroad Commission Engineering Department, Transportation Division, 18 October 1929.

Killick, Victor W. Chief, Bureau of Statistics. "California Taxes on Motorists." Department of Motor Vehicles, 20 May 1940.

Merriam, Frank F. Governor's Message to Legislators: Special Session Legislature. Sacramento: California State Printing Office, 7 March 1938.

Minutes, Los Angeles City Council.

Secretary of State. State of California. Proposed Amendments to the Constitution and Proposed Statutes, Propositions and Proposed Laws. Sacramento: California State Printing Office.

Senate Daily Journal.

State Lands Commission. A Program For Managing the Ocean and Tidal Areas. Sacramento: State Lands Division, 1 December 1970.

Summary of Operations, California Oil Fields. California State Mining Bureau

The Joint Committee on Public Domain. The Administration of State Owned Tidelands. Sacramento: Division of State Lands, 15 August 1974.

U. S. Congress. House of Representatives. Committee on Ways and Means. Percentage Depletion and Option on Intangible Costs, Revenue Revision of 1942. March 23, 24, April 16, 17, 1942.

U. S. Congress. Senate. A Bill To amend section 3 of the Act of Congress of June 28, 1906, entitled "An Act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes." S.4039 Cong., 8 March 1920. 66th.

United States Report of the Chief of the Bureau of Public Roads, 1938-39 (Washington, D.C.: US Public Roads Administration, Federal Works Agency, 1939.

Zettel, Richard M. An Analysis of Taxation for Highway Purposes in California, 1895-1946: Submitted to the Joint Fact-Finding Committee on Highways, Streets and Bridges. Sacramento: California State Printing Office, 1946.

Court Cases

A. T. Jergins Trust v. Commissioner of Internal Revenue, United States Board of Tax Appeals, 5 March 1931, 22 B.T.A. 551.

Alexander Anderson, Inc. v. Eastman Oil Well Survey Co., Ninth Circuit Court of Appeals, 7 February 1938, 94 F. 2d 1010.

Alexander Anderson, Inc. v. Eastman; same v. Eastman Oil Well Survey Co., United States District Court, 26 September 1936, 16 F. Supp. 513.

Alphonzo E. Bell Corporation v. Bell View Oil Syndicate et al, Court of Appeals of California, 3 September 1941, 46 Cal. App. 2d 684.

Sabin - Bibliography

Alphonzo E. Bell Corporation v. Bell View Oil Syndicate el al, Court of Appeals of California, 27 January 1938, 24 Cal. App. 2d 587

Arthur Carr v. W. S. Kingsbury, Court of Appeals of California, 16 January 1931, 111 Cal. App. 165.

Bern Oil Co. v. Superior Court, Court of Appeals of California, 27 February 1935, 5 Cal. App. (2d) 21.

Bolsa Land Company v. Vaqueros Major Oil Company, Court of Appeals of California, 15 February 1938, 25 Cal. App. 2d 75.

Burnet, Commissioner of Internal Revenue, v. A. T. Jergins Trust, Supreme Court of the United States, 13 March 1933, 288 U. S. 508.

C. C. Cummings, v. W. S. Kingsbury, Court of Appeal of California, 16 January 1931, 111 Cal. App. 763.

City of Long Beach v. H. C. Morse, Supreme Court of California, 30 December 1947, 31 Cal. 2d 254.

City of Long Beach v. Marshall, Supreme Court of California, 28 July 1938, 11 Cal. 2d 609.

Consolidated Mutual Oil Company v. United States, Ninth Circuit Court of Appeals, 20 August 1917, 245 F. 521.

Estate of Charles O. Fairbank v. The United States, United States Court of Claims, 24 January 1964, 164 Ct. Cl. 1.

Feisthamel v. *W. S. Kingsbury,* Court of Appeal of California, 16 January 1931, 111 Cal. App. 762.

Hartman Ranch Co., v. Associate Oil Company, Supreme Court of California, 26 November 1937, 10 Cal. 2d 232.

Hollister v. Kingsbury, Court of Appeal of California, 2 February 1933, 129 Cal. App. 420.

Huntington Beach Company v. United States, United States Court of Claims, 12 July 1955, 132 Ct. Cl. 427.

I. O. Sutphin v. Frederick A. Speik, Supreme Court of California, 29March 1940, 15 Cal. 2d 195.

In re Honolulu Consolidated Oil Co., Ninth Circuit Court of Appeals, 5 July 1917, 243 F. 348.

Ingels v. Riley, Supreme Court of California, 14 January 1936, 5 Cal. 2d 154.

Ira Gosnell and Lena Bowyer v. Ralph B. Lloyd and Lloyd Corporation, Supreme Court of California, 28 March 1932, 215 Cal. 244.

J. R. Kelley v. W. S. Kingsbury, Supreme Court of California, 18 July 1930, 210 Cal. 37.

James B. Utt v. Rolland A. Vandegrift, Sacramento Superior Court, 9 December 1933, Case No. 49963.

Leo I. Farry v. Lyman King, Court of Appeal of California, 22 January 1932, 120 Cal. App. 118.

Lewis Stone v. City of Los Angeles, Court of Appeal of California, 18 May 1931, 114 Cal. App. 192.

Pacific Western Oil Co. v. Bern Oil Company, Ltd., Supreme Court of California, 3 March 1939, 13 Cal. 2d. 60.

Panama Refining Co. v. Ryan, Supreme Court of the United States, 7 January 1935, 293 US 388

People v. Associated Oil Company et al, Supreme Court of California, 3 December 1930, 211 Cal. 93.

People v. *Bert Brunwin,* Court of Appeals of California, 19 November 1934, 2 Cal. App. 2d 287.

People v. H. John Eastman, Orange County Superior Court, Case No. 31452.

People v. Termo Oil Company, Orange County Superior Court, 8 August 1938, Case No. 31452.

Roy Maggart v. W. S. Kingsbury, Court of Appeals of California, 16 January 1931, 111 Cal. App. 765.

Schechter Poultry Crop. v. U.S., Supreme Court of the United States, 27 May 1935, 295 U.S. 495.

Southern Pacific Co., v. United States, Ninth Circuit Court of Appeals, 6 May 1918, 249 F. 785.

Spalding v. United States, United States District Court, 16 January 1937, 17 F. Supp. 957.

Standard Oil Company of California v. United States, Ninth Circuit Court of Appeals, 16 November 1939 (as corrected 2 January 1940) 107 F.2d 402.

Starr v. Slaney, Court of Appeals of California, 20 January 1936, 11 Cal. App. 2d 311.

Sabin - Bibliography

T. G. Kennedy v. W. S. Kingsbury, Supreme Court of California, 18 July 1930, 210 Cal. 667.

Thomas A. Joyner v. W. S. Kingsbury, Court of Appeals of California, 16 February 1929, 97 Cal. App. 17

Thomas A. Joyner v. W. S. Kingsbury, Court of Appeals of California, 16 January 1931, 111 Cal. App. 764.

U. S. v. Hezekiah Gear, Supreme Court of the United States, January 1845, 44 U.S. 120.

U. S. v. Midwest Oil Company, Supreme Court of the United States, 23 February 1915, 236 U.S. 459.

Union Oil Co. v. Mutual Oil Co., Court of Appeals of California, 3 March 1937, 19 Cal. App. 2d 409.

Union Oil Co. v. Mutual Oil Co., Court of Appeals of California, 30 June 1937, 21 Cal. App. 2d 620.

Union Oil Co. v. Reconstruction Oil Co., Court of Appeals of California, 2 April 1937, 20 Cal. App. 2d 170.

United States ex rel McLennan v. Wilbur, Secretary of the Interior; United States ex rel. Simpson v. Wilbur, United States ex rel. Barton v. Wilbur; United States ex rel. Pyron v. Wilbur; Supreme Court of the United States, 18 May 1931, 283 U. S. 414.

United States v. California Midway Oil Co., Ninth Circuit Court of Appeals, 20 February 1922, 279 F. 516.

United States v. California Midway Oil Co., United States District Court, 23 June 1919, 259 F. 343.

United States v. Chanslor-Canfield Midway Oil Co., United States District Court, 10 September 1918, 266 F. 142.

United States v. Devil's Den Consolidated Oil Co; United Slates v. Lost Hills Mining Co., United States District Court, 4 October 1916, 236 F. 973.

United Stales v. Dominion Oil Co., United States District Court, 5 March 1917, 241 F. 425.

Un lied States v. John P. Gratiot, et al., Supreme Court of the United States, January 1840, 39 U.S. 526.

United States v. McCutchen, United States District Court, 29 July 1916, 238 F. 575.

United Slates v. Midway Northern Oil Co., (and five related cases), United States District Court, 1 May 1916, 232 F. 619.

United States v. North American Consolidated, United States District Court, 8 June 1917, 242 F. 723.

United States v. North American Oil Consolidated, Ninth Circuit Court of Appeals, 5 April 1920, 264 F. 336.

United States v. Record Oil Co.; United States v. Consolidated Mutual Oil Co.; United States v. Caribou Oil Mining Co., United States District Court, 8 June 1917, 242 F. 746.

United States v. Southern Pacific Co., United States District Court, 28 August 1919, 260 F. 511.

United States v. Southern Pacific Company, Supreme Court of the United States, 17 November 1919, 251 U.S. 1.

United States v. Standard Oil Company of California, United States District Court, 25 August 1937, 20 F. Supp. 427.

United States v. Stockton Midway Oil Co., United States District Court, 5 January 1917, 240 F. 1006.

United States v. Thirty-two Oil Co., United States District Court, 8 June 1917, 242 F. 730.

Workman v. Boone, Supreme Court of the United States, 28 October 1929, 280 U.S. 517.

Books, Articles, and Unpublished Theses

Anderson, William H. Taxation and the American Economy: An Economic, Legal, and Administrative Analysis. New York: Prentice-Hall, Inc., 1951.

Andreano, Ralph. “The Structure of the California Petroleum Industry, 1895-1911,” Pacific Historical Review 39: 2 (May 1970): 171-192.

Ankli, Robert E. and Alan L. Olmstead, “The Adoption of the Gasoline Tractor in California,” Agricultural History 55: 3 (1981): 213-30.

Aron, Stephen. How the West Was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay. Baltimore: Johns Hopkins University Press, 1996.

Bagby, Wesley. “The ‘Smoke-Filled Room’ and the Nomination of Warren G. Harding,” Mississippi Valley Historical Review, Vol. 41:4 (March 1955): 657-674.

Sabin - Bibliography

Bain, Joe S. The Economics of the Pacific Coast Petroleum Industry, Part I: Market Structure. Berkeley: University of California Press, 1944.

Bain, Joe S. The Economics of the Pacific Coast Petroleum Industry. Part III: Public Policy Toward Competition and Pricing. Berkeley: University of California Press, 1947.

Barn, Joe S. The Economics of the Pacific Coast Petroleum Industry. Part II: Price Behavior and Competition. Berkeley: University of California Press, 1945.

Bain, Joe S. "War and Postwar Developments in the Southern California Petroleum Industry," Los Angeles: The Haynes Foundation, 1944.

Ball, Max. Petroleum Withdrawals and Restorations Affecting the Public Domain. United States Geological Survey. Bulletin 623. Washington: U.S. Government Printing Office, 1917.

Barham, Bradford, Stephen G. Bunker, and Denis O'Hearn, eds. States, Firms, and Raw Materials: The World Ecology of Aluminum. Madison: University of Wisconsin Press, 1994.

Barrett, Paul. The Automobile and Urban Transit: The Formation of Public Policy in Chicago, 1900-1930. Philadelphia: Temple University Press, 1983.

Barron., Hal S. "And the Crooked Shall Be Made Straight: Public Road Administration and the Decline of Localism in the Rural North, 1870-1930," Journal of Social History 26, no. 1 (Fall 1992): 81-103.

Bartley, Ernest R. The Tidelands Oil Controversy: A Legal and Historical Analysis. Austin: University of Texas Press, 1953.

Bates, J. Leonard. The Origins of Teapot Dome: Progressives, Parties, and Petroleum, 1909-1921. Urbana: University of Illinois Press, 1963.

Belasco, Warren James. Americans on the Road: From Autocamp to Motel, 1910-1945. Cambridge, MA: MIT Press, 1979.

Blackford, Mansel G. The Politics of Business in California. Columbus: Ohio State University Press, 1977.

Blair, John M. The Control of Oil. New York: Pantheon, 1976.

Bottles, Scott. Los Angeles and the Automobile: The Making of the Modern City. Berkeley: University of California Press, 1987.

Sabin - Bibliography

Broude, Henry W. "The Role of the State in American Economic Development. 1820-1890" in Hugh G. J. Aitken, ed., The State and Economic Growth, New York: Social Science Research Council, 1959, 4-25.

Brownlee, W. Elliot. "Taxation," in Stanley Kutler, ed. Encyclopedia of the United States in the Twentieth Century, Volume III, Part 5: The Economy. New York: Charles Scribner's Sons, 1996, 1309-1329.

Burke, Robert E. Olson's New Deal for California. Berkeley: University of California Press, 1953.

Burnham, John Chynoweth. "The Gasoline Tax and the Automobile Revolution," Mississippi Valley Historical Review 48 (Dec. 1961): 435-459.

Caro, Robert. The Power Broker: Robert Moses and the Fall of New York. New York: Knopf, 1974.

Chandler, Jr., Alfred D. The Visible Hand: The Managerial Revolution in American Business. Cambridge, MA: Harvard University Press, 1977.

Chernow, Ronald. Titan: The Life of John D. Rockefeller, Sr. New York: Random House, 1998.

Childs, William R. "Texas, the interstate Oil Compact Commission, and State Control of Oil Production: Regionalism, States' Rights, and Federalism during World War II," Pacific Historical Review (1995): 567-598.

Childs, William R. Trucking and the Public Interest: The Emergence of Federal Regulation, 1914-1940. Knoxville: University of Tennessee Press, 1985.

Chaudry, Kiren Aziz. "The Price of Wealth: Business and State in Labor Remittance and Oil Economies," International Organization 43: 1 (Winter 1989): 101-145.

Cicin-Sain, Biliana and Robert W. Knecht. "Federalism Under Stress: The Case of Offshore Oil and California" in Harry N. Scheiber, ed., Perspectives on Federalism, Berkeley: Institute of Governmental Studies, 1987.

Cicin-Sain, Biliana. "Offshore Oil Development in California: Challenges to Governments and to the Private Interest," Public Affairs Report 27: 1 and 2 (1986).

Citizens for a Better Environment. Richmond at Risk: Community Demographics and Toxic Hazards from Industrial Polluters. Citizens for a Better Environment. February, 1989.

Clark, John G. Energy and the Federal Government: Fossil Fuel Policies, 1900-1946. Urbana: University of Illinois, 1987.

Sabin - Bibliography

Colby, William E. “The American Mining Law.” Mining and Scientific Press, 21 May 1910, 707.

Crawford, Finla G. Motor Fuel Taxation in the United States. Syracuse, New York: By the Author, 1939.

Cronin, Thomas E. Direct Democracy: The Politics of Initiative, Referendum, and Recall. Cambridge, MA: Harvard University Press, 1989.

Cronon, William. “The Uses of Environmental History,” Environmental History Review 17: 3 (Fall 1993): 1-22.

Cronon, William, ed. Uncommon Ground: Toward Reinventing Nature. New York: W. W. Norton and Company, 1995.

Cronon, William. Nature’s Metropolis: Chicago and the Great West. New York: Norton, 1991.

Cronon, William. Changes in the Land: Indians, Colonists, and the Ecology of New England. New York: Hill and Wang, 1983.

Cronon, William, George Miles, Jay Gitlin, eds. Under an Open Sky: Rethinking America’s Western Past. New York: Norton, 1992.

Danbom, David. The Resisted Revolution: Urban America and the Industrialization of Agriculture, 1900-1930. Ames, Iowa: University of Iowa, 1979.

Davis, J. Allen. Raids on the Gas Tax. Los Angeles: Automobile Club of Southern California, 1960.

Davis, Mike. City of Quartz: Excavating the Future in Los Angeles. New York: Vintage, 1992.

Dearing, Charles. American Highway Policy. Washington, D. C.: Brookings Institution, 1942.

Deverell, William. Railroad Crossing: Californians and the Railroad, 1850-1910. Berkeley: University of California Press, 1994.

Deverell, William and Tom Sitton, eds. California Progressivism Revisited. Berkeley: University of California Press, 1994.

Duncan, C. S. “Railways and Highways: Finance, Taxation, and Subsidy,” Annals of the American Academy of Political and Social Science 187 (September 1936): 74.

Dunn, James. “The Politics of Motor Fuel Taxes and infrastructure Funds in France and the United States,” Policy Studies Journal 21: 2 (1993): 275.

Sabin - Bibliography

Dunn, James. Miles To Go: European and American Transportation Policies. Cambridge, MA: MIT Press, 1981.

Easton, Robert. Black Tide: The Santa Barbara Oil Spill and Its Consequences. New York: Delacorte Press, 1972.

Einhorn, Robin L. Property Rules: Political Economy in Chicago, 1833-1872. Chicago: University of Chicago Press. 1991.

Ellickson, Robert C., Carol M. Rose, and Bruce A. Ackerman, eds. Perspectives on Property Law. New York: Little, Brown and Company, 1995.

"Environmental History: A Round Table," Journal of American History (March 1990): 1087-1147.

Evans, Peter, Dietrich Rueschemeyer and Evelyne Huber Stephens. States versus Markets in the World-System. London: Sage, 1985.

Evans, Peter, Dietrich Reuschemeyer, and Theda Skocpol, eds. Bringing the State Back In. New York: Cambridge University Press, 1985.

Fligstein, Neil. "Markets as Politics: A Political-Cultural Approach to Market Institutions," American Sociological Review 61 (August 1996): 656-673.

Flink, James J. The Automobile Age Cambridge, MA: MIT Press, 1988.

Fogelson, Robert M. The Fragmented Metropolis: Los Angeles, 1850-1930. Berkeley: University of California Press, 1967.

Foster, Mark S. "The Model-T, the Hard Sell, and Los Angeles's Urban Growth: The Decentralization of Los Angeles during the 1920s." Pacific Historical Review 44: 4 (November 1975): 459-484.

Foster, Mark S. From Streetcar to Superhighway: American City Planners and Urban Transportation, 1900-1940. Philadelphia: Temple University Press, 1981.

Fox, Richard Wightman, and T. J. Jackson Lears, eds., The Culture of Consumption: Critical Essays in American History, 1880-1980. New York: Pantheon, 1983

Fox, Richard Wightman, and T. J. Jackson Lears, eds., The Power of Culture: Critical Essays in American History. Chicago: University of Chicago Press, 1993.

Freudenburg, William R., and Robert Gramling. Oil in Troubled Waters: Perceptions, Politics, and the Battle over Offshore Drilling. Albany: State University of New York, 1994.

Sabin - Bibliography

Friedman, Lawrence and Harry N. Scheiber, eds. American Law and the Constitutional Order: Historical Perspectives. Cambridge, MA: Harvard University Press, 1978, 1988.

Friedman, Lawrence M. A History of American Law. New York: Simon and Schuster, 1973.

Friedman, Lawrence M. Contract Law in America: A Social and Economic Case Study. Madison: University of Wisconsin Press, 1965.

Friedman, Lawrence M. Robert A. Kagan, Bliss Cartwright, and Stanton Wheeler. "State Supreme Courts: A Century of Style and Citation," Stanford Law Review 33 (May 1981): 773-818.

Garreau, Joel. Edge City: Life on the New Frontier. New York: Doubleday, 1991.

Garton, William A. "The State Versus Extraterritorial Pollution: States' 'Environmental Rights' Under Federal Common Law," Ecology Law Quarterly 2 (1972): 3 13-332.

Gates, Paul W. Land and Law in California: Essays on Land Policies. Ames, Iowa: Iowa State University Press, 1991.

Gates, Paul W. History of Public Land Law Development. Holmes Beach, FL: Wm. W. Gaunt & Sons, Inc., 1987 (1968).

Gates, Paul W. "An Overview of American Land Policy," Agricultural History 50: 1 (1976): 213-229.

Getty, J. Paul. My Life and Fortunes. New York: Duell, Sloan & Pearce, 1963.

Gjerde, Jon "'Roots of Maladjustment' in the Land: Paul Wallace Gates," Reviews in American History 19 (March 1991): 142-53.

Goodman, William T. "Culbert L. Olson and California Politics, 1933-1943." Master's Thesis, UCLA, June, 1948.

Goodrich, Carter. "Internal Improvements Reconsidered," Journal of Economic History 30:2 (1970): 289-311.

Goodrich, Carter. Government Promotion of American Canals and Railroads, 1800-1890. New York: Columbia University Press, 1960.

Goodrich, Carter, ed. Carter Canals and American Economic Development. New York: Columbia University Press, 1961.

Sabin - Bibliography

Gordon, Robert. "Introduction: J. Willard Hurst and the Common Law Tradition in American Legal Historiography," Law and Society Review 10: 1(1975): 9-56.

Grayson, Jr., C. Jackson. Decisions Under Uncertainty: Drilling Decisions by Oil and Gas Operators. Cambridge, MA: Harvard University Press, 1960.

Green, William Raymond The Theory and Practice of Modern Taxation. 2nd Edition. New York: Commerce Clearing House, Inc., 1938.

Gunn, L. Ray The Decline of Authority: Public Economic Policy and Political Development in New York State, 1800-l860. Ithaca: Cornell University Press, 1988.

Hall, Kermit. The Magic Mirror: Law in American History. New York: Oxford University Press, 1989.

Handlin Oscar and Mary Flug Handlin, Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861. Cambridge, MA: Harvard University Press, 1969 (rev. ed; 1st ed. 1947).

Hanson, Mark E. "Automobile Subsidies and Land Use: Estimates and Policy Responses," Journal of the American Planning Association 58: 1 (Winter 1992): 60-71.

Harring, Sidney and Barry Strutt. "Lumber, Law and Social Change: The Legal History of Willard Hurst," American Bar Foundation Research Journal 113: 1 (1985): 123-144.

Hart, John, ed. The New Book of California Tomorrow: Reflections and Projections from the Golden State. Los Altos, CA: William Kaufman, Inc., 1984.

Hartz, Louis. Economic Policy and Democratic Thought: Pennsylvania, 1776-1860. Cambridge, MA: Harvard University Press, 1948.

Hawley, Ellis W. The New Deal and the Problem of Monopoly: A Study in Economic Ambivalence. Princeton: Princeton University Press, 1966

Hays, Samuel P. Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920. Cambridge, MA: Harvard University Press, 1959 (1969).

Heath, Milton Constructive Liberalism: The Role of the State in the Economic Development of Georgia to 1860. Cambridge, MA: Harvard University Press, 1954.

Hichborn, Franklin. California Politics, 1891-1939. Los Angeles: Haynes Foundation, (1951) 1957-1961.

Sabin - Bibliography

Hidy, Ralph W. "Rise of Modern industry: Government and the Petroleum Industry of the United States to 1911," Journal of Economic History 10, Issue Supplement: The Tasks of Economic History (1950): 82-91.

Horrow, Harry R. "A Career in the Practice of Tax Law at Pillsbury, Madison & Sutro," an oral history conducted 1986-87 by Carole Hicke, Regional Oral History Office. Berkeley: The Bancroft Library, University of California, 1988.

Horwitz, Morton J. The Transformation of American Law, 1780-1860. Cambridge, MA: Harvard University Press, 1977.

Hurley, Andrew. Environmental Inequalities: Class, Race, and Industrial Pollution in Gary, Indiana, 1945-1980. Chapel Hill: University of North Carolina Press, 1995.

Hurst, James Willard. The Growth of American Law: The Law Makers. Boston: Little, Brown, 1950.

Hurst, James Willard. Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915. Cambridge, MA: Belknap Press of Harvard University Press, 1964.

Hurst, James Willard. Law and Markets in United States History: Different Modes of Bargaining Among Interests. Madison, University of Wisconsin Press, 1982.

Hurst, James Willard. Law and Social Process in United States History. Ann Arbor, University of Michigan Law School, 1960.

Hurst, James Willard. Law and the Conditions of Freedom in the Nineteenth Century United States. Madison: University of Wisconsin Press, 1956.

Ise, John. The United States Oil Policy. New Haven: Yale University Press, 1926.

Jackson, Kenneth. Crabgrass Frontier: The Suburbanization of the United States. New York: Oxford University Press, 1985.

Jakle, John A. and Keith A. Sculle. The Gas Station in America. Baltimore: Johns Hopkins Press, 1994.

Johnson, Arthur M. "California and the National Oil Industry," Pacific Historical Review 39: 2 (May 1970): 155-170.

Johnson, Marilynn S. The Second Gold Rush: Oakland and the East Bay in World War II. Berkeley: University of California Press, 1993.

Jones, Jr., David W. California's Freeway Era in Historical Perspective. Berkeley: Institute of Transportation Studies, University of California Berkeley, 1989.

Kagan, Robert A., Bliss Cartwright, Lawrence M. Friedman, Stanton Wheeler. "The Evolution of State Courts," Michigan Law Review 76 (May 1978): 961-1005.

Kagan, Robert A., Bliss Cartwright, Lawrence M. Friedman, Stanton Wheeler. "The Business of State Courts, 1870-1970," Stanford Law Review 30 (November 1977): 121-156.

Kahn, Alfred E. "The Combined Effects of Prorationing, the Depletion Allowance and Import Quotas on the Cost of Producing Crude Oil in the United States." Natural Resources Journal 10 (January 1970): 53-41.

Keir Nash, A.E. Dean E. Mann, Phil G. Olsen, Oil Pollution and the Public Interest: A Study of the Santa Barbara Oil Spill. Berkeley: Institute of Governmental Studies, 1972.

Kemnitzer, William J. Rebirth of Monopoly: A Critical Analysis of Economic Conduct in the Petroleum Industry of the United States. New York: Harper & Brothers Publishers, 1938.

Key, Jr., V.O. and Winston W. Crouch. The Initiative and the Referendum in California. Berkeley: University of California, 1939.

Krier, James E., and Edmund Ursin. Pollution and Policy: A Case Essay on California and Federal Experience with Motor Vehicle Air Pollution. 1940-1975. Berkeley: University of California Press, 1977.

Kunstler, James Howard The Geography of Nowhere: The Rise and Decline of America's Man-Made Landscape. New York: Touchstone, 1993.

Kuttner, Robert. Everything For Sale: The Virtues and Limits of Markets. New York: Knopf, 1997.

Landis, James P. "The Impact of the Income Tax Laws on the Energy Crisis: Oil and Congress Don't Mix," California Law Review 64: 4 (1976): 1040-1084.

Lawler, Oscar. Oscar Lawler, 1875-1966. Lawler, Felix & Hall, 1983.

Leuchtenburg, William Edward. Franklin D. Roosevelt and the New Deal, 1932-1940. New York: Harper & Row, 1963.

Levi, Margaret. Of Rule and Revenue. Berkeley: University of California Press, 1988.

Lewis, Alfred. Clean the Air! Fighting Smoke, Smog, and Smaze Across the Country. New York: McCraw Hill Book Company, 1965.

Sabin - Bibliography

Lively, Robert. "The American System: A Review Article," Business History Review 29 (1955): 81-96.

Lotchin, Roger. Fortress California 1910-1961: From Warfare to Welfare. New York: Oxford University Press, 1992.

Macpherson, C. B. ed., Property: Mainstream and Critical Positions. Toronto: University of Toronto Press, 1978.

Magleby, David B. Direct Legislation: Voting on Ballot Propositions in the United States. Baltimore: Johns Hopkins Press, 1984.

Malone, Wex S. "The Formative Era of Contributory Negligence," Illinois Law Review 41 (1946): 151-182.

Marshall, Francis N. "Looking Back: A Lifetime Among Courts, Commissions, and PM&S Lawyers," an oral history conducted in 1986 by Carole Hicke, Regional Oral History Office. Berkeley: The Bancroft Library, University of California, 1988.

May, Henry F. Coming To Terms: A Study in Memory and History, Berkeley: University of California, 1987.

McCormick, Richard L. The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era. New York: Oxford University Press, 1986.

McCraw, Thomas K. Prophets of Regulation: Charles Francis Adams, Louis D. Brandeis, James M. Landis, Alfred E. Kahn. Cambridge, MA: Belknap Press, 1984.

McCurdy, Charles. "Stephen J. Field and Public Land Law Development in California, 1850-1866: A Case Study of Judicial Resource Allocation in Nineteenth-Century America," Law and Society Review 10 (1976): 235-266.

McCurdy, Charles. "The Knight Sugar Decision of 1895 and the Modernization of American Corporation Law, 1869-1903," Business History Review 53: 3 (1979): 304-342.

McDonald, Terrence J. The Parameters of Urban Fiscal Policy: Socioeconomic Change and Political Culture in San Francisco, 1860-1906. Berkeley: University of California Press, 1986.

McEvoy, Arthur. The Fisherman's Problem: Ecology and Law in the California Fisheries, 1850-1980. New York: Cambridge University Press, 1986.

McShane, Clay. Down the Asphalt Path: The Automobile and the American City. New York: Columbia University Press, 1994.

Sabin - Bibliography

McWilliams, Carey. Southern California: An Island on the Land. Santa Barbara: Peregrine Smith, (1946)1973.

Melosi, Martin V. Coping with Abundance: Energy and Environment in Industrial America. Philadelphia: Temple University Press, 1985.

Merchant, Carolyn. Ecological Revolutions: Nature, Gender, and Science in New England. Chapel Hill: University of North Carolina Press, 1989.

Miller, Daniel S. "Offshore Federalism: Evolving Federal-State Relations in Offshore Oil and Gas Development," Ecology Law Quarterly 11(1984): 401-450.

Mitchell, Greg. The Campaign of the Century: Upton Sinclair's Race for Governor of California and the Birth of Media Politics. New York: Random House, 1992.

Molotch, Harvey. "Oil in Santa Barbara and Power in America," Sociological Inquiry 40 (Winter, 1970): 131-144.

Mowry, George. The California Progressives. Chicago: Quadrangle Paperback, (1951) 1963.

Nash, Gerald D. State Government and Economic Development: A History of Administrative Policies in California, 1849-1933. Berkeley, CA: Institute of Governmental Studies, University of California, 1964.

Nash, Gerald D. "Oil in the West: Reflections on the Historiography of an Unexplored Field," Pacific Historical Review 39: 2 (May 1970): 193-204.

Nash, Gerald D. United States Oil Policy 1890-1964: Business and Government in Twentieth Century America. Pittsburgh, PA: University of Pittsburgh Press.

Nash, Roderick. "American Environmental History: A New Teaching Frontier," Pacific Historical Review XLI (1972): 362-372.

Nash, Roderick. Wilderness and the American Mind. Third Edition. New Haven: Yale University Press, (1967) 1982.

Nevins, Allan. John D. Rockefeller: The Heroic Age of American Enterprise. New York: Charles Scribner's Sons, 1940.

Noggle, Burl. Teapot Dome: Oil and Politics in the 1920's. New York: W. W. Norton and Company, 1962.

Novak, William J. The People's Welfare: Law and Regulation in Nineteenth-century America. Chapel Hill: University of North Carolina Press, 1996.

Sabin - Bibliography

Olin, Jr., Spencer. California's Prodigal Sons: Hiram Johnson and the Progressives, 1911-1917. Berkeley: University of California Press, 1968.

Olmstead Alan L., and Paul Rhode, "Rationing Without Government: The West Coast Gas Famine of 1920," American Economic Review 75: 6 (December 1985): 1046.

Olmstead Alan L., and Paul Rhode. "The Farm Energy Crisis of 1920," Agricultural History 62: 1 (1988): 48-60.

Olmstead Alan L., and Paul W. Rhode. "The Agricultural Mechanization Controversy of the Interwar Years," Agricultural History 68: 3 (1994): 35-53.

Olmsted, Frederick Law. Report of State Park Survey of California. Sacramento: California State Printing Office. 1929.

Paul, Rodman W. California Gold: The Beginning of Mining in the Far West. Cambridge, MA: Harvard University Press, 1947.

Philbrick, H. R. Legislative Investigative Report. Sacramento: Edwin N. Atherton and Associates, 28 December 1938.

Pratt, Joseph A. "Growth or a Clean Environment? Responses to Petroleum-related Pollution in the Gulf Coast Refining Region," Business History Review 12: 1 (Spring 1978): 1-29.

Pratt, Joseph A. "Letting the Grandchildren do it: Environmental Planning during the Ascent of Oil as a Major Energy Source," The Public Historian 2: 4 (Summer 1980): 28-61.

Pratt, Joseph A. "The Ascent of Oil: The Transition from Coal to Oil in Early Twentieth-Century America" in Lewis Perelman, Gus Giebelhaus, and Michael Yokell, eds. Energy Transitions: Long Term Perspectives, Boulder, CO: Westview Press, 1980.

Pratt, Joseph A. The Growth of a Refining Region. Greenwich, CT.: JAI Press, 1980.

Prindle, David F. Petroleum Politics and the Texas Railroad Commission. Austin: University of Texas Press, 1981

Quam-Wickham, Nancy. "'Cities Sacrificed on the Altar of Oil': Popular Opposition to Oil Development in 1920s Los Angeles." Environmental History 3: 2 (April 1998): 189-209.

Quam-Wickham. Nancy. "Petroleocrats and Proletarians: Work, Class, and Politics in the California Oil Industry, 1917-1925." Ph.D. dissertation, University of California, Berkeley, 1994.

Sabin - Bibliography

Ragland, Reginald. A History of the Naval Petroleum Reserves and of the Development of the Present National Policy Respecting Them. Los Angeles: Independently Published, 1942.

Ratner, Sidney. "Taxation," in Glenn Porter, ed. Encyclopedia of American Economic History: Studies of the Principal Movements and Ideas. Volume II. New York: Charles Scribner's Sons, 1980, 451-467.

Reinhardt, Forest L. Down to Earth: Applying Business Principles to Environmental Management. Boston: Harvard Business School Press, 2000.

Reisner, Marc. Cadillac Desert: The American West and Its Disappearing Water. New York: Penguin, 1987.

Rister, Carl Coke. OIL! Titan of the Southwest. Norman. OK: University of Oklahoma Press, 1949.

Rogin, Michael Paul, and John L. Shover. Political Change in California: Critical Elections and Social Movements, 1890-1966. Westport, CT: Greenwood, 1970.

Rose, Mark H. Interstate: Express Highway Politics 1941-1956. Lawrence: Regents Press of Kansas, 1979.

Sabin, Paul. "A Dive Into Nature's Great Grab-bag': Nature, Gender and Capitalism in the Early Pennsylvania Oil Industry," Pennsylvania History 66: 4 (Autumn 1999): 472-505.

Sabin, Paul. "High Tide of Equal Protection: Justice Raymond L. Sullivan's Opinions in *Serrano* and *Westbrook,"* The California Supreme Court Historical Society Yearbook 2 (1995): 133-157.

Sabin, Paul. "Home and Abroad: the Two 'Wests' of Twentieth-Century United States History." Pacific Historical Review LXVI: 3 (August 1997): 305-335.

Sabin, Paul. "Searching for Middle Ground: Native Communities and Oil Extraction in the Northern and Central Ecuadorian Amazon, 1967-1993," Environmental History 3: 2 (April 1998): 144-168.

Sabin, Paul. "Voices from the Hydrocarbon Frontier: Canada's Mackenzie Valley Pipeline Inquiry (1974-1977)," Environmental History Review 19: 1 (Spring 1995): 17-48.

Sampson. Anthony. The Seven Sisters: The Great Oil Companies and the World They Shaped. New York: Bantam Books, 1975.

Scharff, Virginia. Taking the Wheel: Women and the Coming of the Motor Age. New York: Free Press, 1991.

Sabin - Bibliography

Scheiber, Harry N. "American Federalism and the Diffusion of Power: Historical and Contemporary Perspectives," University of Toledo Law Review 9 (1978): 619-680.

Scheiber, Harry N. "At the Borderland of Law and Economic History: The Contributions of Willard Hurst," American Historical Review 75 (1970): 744-756.

Scheiber, Harry N. "Federalism and the American Economic Order, 1789-1910," Law and Sociew Review 10 (1975): 57-118.

Scheiber, Harry N. "Federalism and the Constitution: The Original Understanding" in American Law and the Constitutional Order, Cambridge, MA: Harvard University Press, 1978 (1988).

Scheiber, Harry N. "Government and the Economy: Studies of the 'Commonwealth' Policy in Nineteenth-Century America," Journal of Interdisciplinary History 3 (1972): 135-151.

Scheiber, Harry N. "Property Law, Expropriation, and Resource Allocation by Government: the United States, 1789-1910," Journal of Economic History 33: 1-2 (1973): 232-295.

Scheiber, Harry N. "Public Economic Policy and the American Legal System: Historical Perspectives," Wisconsin Law Review (1980): 1159-1189.

Scheiber, Harry N. "Regulation, Property Rights, and Definition of 'The Market:' Law and the American Economy," Journal of Economic History 41(1981): 103-110.

Scheiber, Harry N. "State law and 'Industrial Policy' in American Development," California Law Review 75 (1987): 415-444.

Scheiber, Harry N. "The Direct Ballot and State Constitutionalism," Rutgers Law Journal 28 (Summer 1997): 787-823

Scheiber, Harry N. "The Road to Munn: Eminent Domain and the Concept of Public Purpose in the State Courts," Perspectives in American History 5 (1971): 329-402.

Scheiber, Harry N. Ohio Canal Era: A Case Study of Government and the Economy, 1820-1861. Athens, OH: Ohio University Press, 1969.

Scheiber, Harry N., and Charles W. McCurdy, "Eminent Domain law and Western Agriculture," Agricultural History 49 (1975): l12-30.

Scheiber, Harry N., ed. Persvectives on Federalism, Berkeley: Institute of Governmental Studies, 1987.

Schmidt, David D. Citizen Lawmakers: The Ballot Initiative Revolution. Philadelphia: Temple University Press, 1989.

Sabin - Bibliography

Schrag, Peter. Paradise Lost: California's Experience, America's Future. Berkeley: University of California Press, 1999.

Schwartz, Gary T. "Tort Law and the Economy in Nineteenth-Century America: A Reinterpretation," Yale Law Journal 90: 8 (July 1981): 1717-1775.

Seely, Bruce E. Building the American Highway System: Engineers as Policy Makers. Philadelphia: Temple University Press, 1987.

Seligman, Edwin R. A. "Progressive Taxation in Theory and Practice. Second Edition," American Economic Association Quarterly IX: 4 (1908).

Seligman, Edwin R. A. Essays in Taxation, Tenth Edition. Boston: Macmillan and Co., 1928.

Sinclair, Upton. I, Candidate For Governor, and How I Got Licked (with an introduction by James N. Gregory). Berkeley: University of Caiifornia Press, 1994.

Sinclair, Upton. Oil! Berkeley, University of California Press, (1926) 1997.

Sklar, Martin J. The Corporate Reconstruction of American Capitalism, 1890-1916: The Market, The Law, and Politics. Cambridge: Cambridge University Press, 1988.

Skowronek, Stephen. Building a New American State: The Expansion of National Administrative Capacities, 1877-1920. New York: Cambridge University Press, 1982.

Souder, Jon A., and Sally K. Fairfax, State Trust Lands: History, Management, and Sustainable Use. Lawrence: University Press of Kansas, 1996.

Starr, Kevin. Endangered Dreams: The Great Depression in California. New York: Oxford University Press, 1996.

Steinberg, Theodore. Nature Incorporated: Industrialization and the Waters of New England. New York: Cambridge University Press, 1991.

Stockwell, Marvel. Studies in California Taxation. Berkeley: University of California Press, 1939.

Surrey, Stanley S. "Tax Incentives as a Device for Implementing Goverment Policy: A Comparison with Direct Government Expenditures." Harvard Law Review 83: 4 (February 1970): 705-738.

Surrey, Stanley S. "Federal Income Tax Reform: The Varied Approaches Necessary to Replace Tax Expenditures with Direct Governmental Assistance." Harvard Law Review 84 (1970): 352-408.

Sabin - Bibliography

Swenson, Robert W. "Legal Aspects of Mineral Resources Exploitation," in History of Public Land Law Development. ed. Paul W. Gates, 699-764. Holmes Beach, FL: Wm. W. Gaunt & Sons, Inc., 1987 (1968).

Tarr, Joel A. Transportation Innovation and Changing Spatial Patterns in Pittsburgh, 1850-1934. Chicago: Chicago Public Works Historical Society, 1978.

Taylor, Brian D. "Public Perceptions, fiscal realities, and freeway planning: the California case," Journal of the American Planning Association 61: 1 (Winter 1995): 43-56.

Taylor, Brian D. "When Finance Leads Planning: The influence of public finance on transportation planning and policy in California" Ph.D. dissertation, University of California, Los Angeles, 1992.

Taylor, C. W. Bench and Bar of California. San Francisco: By the Author, 1937.

Taylor, George Rogers. The Transportation Revolution, 1815-1860. New York: Rinehart & Company, 1951.

Tushnet, Mark. "Lumber and the Legal Process," Wisconsin Law Review (1972): 114-132.

Tygiel, Jules. The Great Los Angeles Swindle: Oil. Stocks, and Scandal During the Roaring Twenties. New York: Oxford University Press, 1994.

Key, Jr. V. O., and Winston W. Crouch, The Initiative and the Referendum in California Berkeley: University of California, 1939.

Viehe, Fred W. "Black Gold Suburbs: The Influence of the Extractive Industry on the Suburbanization of Los Angeles, 1890-1930," Journal of Urban History 8: 1 (November, 1981): 3-26.

Vietor, Richard H. K. Contrived Competition: Regulation and Deregulation in America. Cambridge, MA: Harvard University Press, 1994.

Vietor, Richard H. K. Energy Policy in America since 1945: A study of business-government relations. New York: Cambridge University Press, 1984.

Walker, Richard A., and David B. Large, "The Economics of Energy Extravagance," Ecology Law Quarterly 4 (1975): 963-985.

Wallach, Bret. "The Geographic Consequences of Oil-Land Tenure at the Midway-Sunset Oil Field, California" Ph.D. dissertation, University of California Berkeley, 1969.

Warren, Louis S. The Hunter's Game: Poachers and Conservationists in Twentieth-Century America. New Haven: Yale University Press, 1997.

Wheeler, Stanton, Bliss Cartwright, Robert A. Kagan, Lawrence M. Friedman. “Do the OHaves’ Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970,” Law& Society Review 21:3 (1987): 403-445.

White, Gerald T. “California’s Other Mineral,” Pacific Historical Review 39: 2 (May 1970): 135-154.

White, Gerald T. Formative Years in the Far West: A History of Standard Oil Company of California and Predecessors Through 1919. New York: Meredith Publishing Company, 1962.

White, Gerald T. Scientists in Conflict: The Beginnings of the Oil Industry in California. San Marino, California: Huntington Library, 1968.

White, Richard. “American Environmental History: The Development of a New Historical Field,” Pacific Historical Review LIV (1985): 297-335.

White, Richard. The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos. Lincoln: University of Nebraska Press, 1983.

White, Richard. Land Use, Environment, and Social Change: The Shaping of Island County, Washington. Seattle: University of Washington Press, 1980.

Wigley, Tom M. L. The Science of Climate Change: Global and U.S. Perspectives. Pew Center on Global Climate Change, 1999.

Williams, James C. Energy and the Making of Modern California. Akron: University of Akron Press, 1997.

Williams, Raymond. The Country and the City. New York: Oxford University Press, 1973.

Williams, Raymond. Problems in Materialism and Culture: Selected Essays. London: Verso, 1980.

Williams, T. Harry. Huey Long. New York: Knopf, 1969.

Williamson, Harold F., and Arnold R. Daum. The American Petroleum Industry: The Age of Illumination 1859-1899. Evanston: Northwestern University Press, 1959.

Williamson, Harold F., Ralph L. Andreano, Arnold R. Daum, and Gilbert C. Close. The American Petroleum Industry: The Age of Energy 1899-1959. Evanston: Northwestern University Press, 1963.

Woeste, Vicky Saker. The Farmer’s Benevolent Trust: Law and Agricultural Cooperation in Industrial America, 1865-1945. Chapel Hill: University of North Carolina Press, 1998.

Sabin - Bibliography

Worster, Donald, ed. The Ends of the Earth: Perspectives on Modern Environmental History, New York: Cambridge University Press, 1988.

Worster, Donald. Dust Bowl: The Southern Plains in the 1930s. New York: Oxford University Press, 1979.

Worster, Donald. Rivers of Empire: Water, Aridity and the Growth of the American West. New York: Pantheon, 1985.

Wright, Benjamin F. The Growth of American Constitutional Law. Chicago: University of Chicago Press, 1942.

Wright, Gavin. "The Origins of American Industrial Success," American Economic Review 80: 4 (September 1990): 651-668.

Yergin, Daniel. The Prize: The Epic Quest for Oil, Money and Power. New York: Simon and Schuster, 1991.

The Department of the Interior Mission

As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The Department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

The Minerals Management Service Mission

As a bureau of the Department of the Interior, the Minerals Management Service's (MMS) primary responsibilities are to manage the mineral resources located on the Nation's Outer Continental Shelf (OCS), collect revenue from the Federal OCS and onshore Federal and Indian lands, and distribute those revenues.

Moreover, in working to meet its responsibilities, the **Offshore Minerals Management Program** administers the OCS competitive leasing program and oversees the safe and environmentally sound exploration and production of our Nation's offshore natural gas, oil and other mineral resources. The MMS **Royalty Management Program** meets its responsibilities by ensuring the efficient, timely and accurate collection and disbursement of revenue from mineral leasing and production due to Indian tribes and allottees, States and the U.S. Treasury.

The MMS strives to fulfill its responsibilities through the general guiding principles of: (1) being responsive to the public's concerns and interests by maintaining a dialogue with all potentially affected parties and (2) carrying out its programs with an emphasis on working to enhance the quality of life for all Americans by lending MMS assistance and expertise to economic development and environmental protection.